

# Public Agenda Pack



Notice of Meeting of

## **PLANNING COMMITTEE - EAST**

**Tuesday, 4 July 2023 at 2.00 pm**

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

To: The members of the Planning Committee - East

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

Councillor Adam Boyden	Councillor Barry Clarke
Councillor Dawn Denton	Councillor Martin Dimery
Councillor Susannah Hart	Councillor Bente Height
Councillor Helen Kay	Councillor Martin Lovell
Councillor Tony Robbins	Councillor Claire Sully
Councillor Alex Wiltshire	

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For further information about the meeting, including how to join the meeting virtually, please contact Democratic Services – see contact details below.

Requests to speak at the meeting about a planning application must be made to the Democratic Services Team no later than **12 noon on Monday, 3 July 2023** by email to [democraticserviceseast@somerset.gov.uk](mailto:democraticserviceseast@somerset.gov.uk). Further information on the public speaking arrangements at Planning Committee is provided in the Public Guidance Notes near the front of this agenda pack.

The meeting will be available to watch live on Teams and a recording made which will be available YouTube following the meeting.

Members of the public are welcome to attend the meeting.

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.

Issued by David Clark, Monitoring Officer (the Proper Officer) on Thursday 22 June 2023.

# **AGENDA**

**Planning Committee - East - 2.00 pm Tuesday, 4 July 2023**

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

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

### **1 Apologies for Absence**

To receive any apologies for absence and notification of substitutions.

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

To approve the minutes from the previous meeting.

### **3 Declarations of Interest (Pages 29 - 30)**

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.)

### **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 Thursday 29 June 2023.

**5 Planning Application 2022/1945/REM - Land North East Of Tor View, Top Road, Westbury Sub Mendip, Wells, Somerset (Pages 31 - 48)**

To consider an application for approval of reserved matters following outline approval 2020/0364/OTA for the erection of a single dwelling. Matters of access/appearance/landscaping/layout/scale to be determined.

**6 Planning Application 2023/0411/FUL - Stonecot, Frys Lane To Mill Lane, Batcombe, Shepton Mallet, Somerset (Pages 49 - 58)**

To consider an application for the change of use from agricultural land to residential garden. Creation of driveway, hardstanding, turning and parking area.

**7 Planning Application 2023/0431/FUL - Westhayes, Springers Hill, Coleford, Frome, Somerset (Pages 59 - 70)**

To consider an application for change of use from land in the open countryside to residential garden.

**8 Planning Application 2021/0050/FUL - Land at 378206 147347, Adderwell Road, Frome, Somerset (Pages 71 - 122)**

To consider an application for residential development comprising 25 dwellings, new vehicular access, landscaping, sustainable urban drainage and other associated infrastructure works.

**9 Planning Application 2022/0258/FUL - Blostins Restaurant, 29 - 33 Waterloo Road, Shepton Mallet, Somerset (Pages 123 - 130)**

To consider an application for part change of use from restaurant Class E(b) to residential Class C3.

## **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.

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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 June 2023 at 2.00 pm

**Present:**

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

Cllr Barry Clarke  
Cllr Martin Dimery  
Cllr Helen Kay  
Cllr Tony Robbins  
Cllr Alex Wiltshire

Cllr Dawn Denton  
Cllr Susannah Hart  
Cllr Martin Lovell  
Cllr Claire Sully

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

Apologies for absence were received from Councillors Bente Height and Adam Boyden. Councillor Philip Ham substituted for Councillor Height.

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

The Committee was asked to consider the Minutes of the meeting held on 2 May 2023. Councillor Edric Hobbs proposed and Councillor Martin Lovell seconded that they be accepted.

These Minutes were taken as a true and accurate record and were approved.

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

Councillor Tony Robbins declared a personal and prejudicial interest in Agenda Item 9 - Planning Application 2023/0528/HSE 10 Lewmond Avenue, Wells because he was friends of the applicant. He advised he would leave the room for this item and not participate in the discussion or vote.

Councillors Edric Hobbs, Nick Cottle, Martin Lovell, Claire Sully and Alex Wiltshire declared a personal but non-prejudicial interest in the same Agenda Item. They advised that the applicants were the parents of a fellow Liberal Democrat councillor but that they did not know the applicants personally. They advised that they would participate in the discussion and vote.

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

There were none.

**14 Schedule of Applications - Agenda Item 5**

The schedule of applications was noted.

**15 Planning Application 2021/2387/FUL - Land At 373638 144529, Burts Hill To Nunney Catch Roundabout - Agenda Item 6**

**Change of use of agricultural land to a haulage depot (sui generis) and the construction of an HGV workshop, associated yards, depot infrastructure and access.**

The Officer's Report stated that this application had been referred to the Planning Board as the Officer Recommendation was contrary to the Parish Council's. The Recommendation was for approval.

Trudoxhill Parish Council had recommended refusal for various reasons including that it is was a rural parish that valued the agricultural community and greenfield setting and was wary of setting a precedent in converting productive agricultural land to other use.

Other consultees, such as the Highways, Drainage and Environmental Protection Officer's, had no objections, subject to various conditions. There had been 27 letters of objection and 20 of support. Objections included:

- Development should not take place on "Green Belt" land.
- Loss of agricultural land for food production and countryside preservation.
- Noise and disturbance, vibration, poor air and light pollution to the detriment of residential amenity.
- Fumes and noise from the vehicles will have a negative impact on the environment and on the health of neighbouring residents.

Comments from the letters in support included:

- Would provide a long-term base for a well-established local transport business which is very important to the long-term future of this family grown business.
- Important investment and growth to support the local quarry and construction industry and wider economy.
- Will secure local jobs and enable the business to expand and create further employment opportunities.

In conclusion, the Officer's Report said that the proposal was considered to be provided in a manner and a scale that was appropriately sensitive to the location and surroundings, especially given the specific locational needs of haulage business related to the local quarries, its benefits to the rural economy and the lack of a suitable alternative sites in the district. All technical matters had been adequately addressed, including highways, environmental protection and drainage, and there were no objections from statutory consultees. The residential amenity concerns had been mitigated by the provision of an acoustic fence, landscaping, the site layout and conditions that had been shaped by the noise impact assessment and Council's Environmental Protection team. The application was therefore recommended for approval.

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

The Committee was then addressed by 4 objectors to the application. Their comments included:

- 'Green Belt' land should not be built on for this purpose. There are other brownfield sites located away from residential areas which would be more suitable.
- The development would devalue the properties of local, hardworking families by 10 to 20%. They should not be penalised so that an industrial unit can be built next to their residential properties.
- This size of development should have had a consultation process.
- The impact from noise, fumes, lorry washes, car parking and external lighting would be massive for the local residents.
- The 24-hour operation will affect the mental and physical health and well-being of the local residents.
- Policy CP1 is clear that development in the open countryside should be strictly controlled.
- The acoustic barrier will be obtrusive and will not help much as the prevailing winds are from the Southwest.

- If approved, it will set a precedence for other industrial units to be built on agricultural land.

The Committee was then addressed by 2 speakers in support of the application.

Their comments included:

- The business needs space to expand and it has developed an excellent apprenticeship scheme.
- The site is well screened from the roadside and is almost entirely hidden.
- Vehicle movements will be limited to morning when the lorries leave, and they will have returned before peak time. It will not be a 24-hour operation.
- The applicants have a strong reputation for safety and it is a green rated operator by the DBSA.
- It is a family business which is looking to expand the apprenticeship workforce, employing local people.
- Concerns from residents are understood and the design and layout has been carefully considered to minimise any disruption.

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

- The application had been refused twice before.
- It is agricultural farming land and should stay that way.
- The local families will be severely impacted.
- There are other industrial units nearby which would be more suitable.
- The land is outside the Parish plan and the Parish Council are concerned that, if granted, it would set a precedence and this area of Frome would become industrialised.
- It would cause light pollution on the edge of the Cranmore Chase AONB.

The final speaker was the applicant's agent who made the following comments:

- It is a family business currently employing 12 people and there is a desire to expand. The current rented site was not suitable for expansion.
- There has been a long search for alternative sites. The planning officer has assessed the application as sound and acceptable.
- Residents' concerns have been taken into account and the proposed workshop would be 15 metres from the nearest residence.
- There is already substantial activity in the vicinity and the impact of noise and lighting will be controlled by conditions.

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

- Had a viability assessment been carried out on other sites in the area, such as Commerce Park? The Planning Officer confirmed that no viability assessments had been carried out but added that Commerce Park was not a



possibility as the business was 'land heavy' and not clean.

- The existing site was a difficult place to try to run a haulage company from. The proposed site was close to the main road and would not necessitate lorries to have to travel through any villages.
- The site is greenfield land, not Green Belt.
- The acoustic screen is a fence of 3m high rather than a bund. There was concern that winds from the Southwest would cause noise and dust disturbance to the residential amenity nearby.
- Concern about drainage to Marston Pond which was already silting up.
- Concern about loss of agricultural land and effect on bats and wildlife.
- Had the previous Highways Officer's concerns been overcome? The Highways Officer advised all concerns had been checked and the applicants had supplied a transport and access statement which had addressed all issues.

It was proposed by Councillor Helen Kay and seconded by Councillor Martin Dimery that the application be refused contrary to the Officer's recommendation for the following reasons:

- Insufficient information on traffic movement and safety thereof
- Inappropriate manner, scale and location
- Biodiversity loss
- Loss of amenity to local residents.

On being put to the vote, the motion was lost with 5 votes for and 7 against. The Team Leader – Development Management reminded Members that many of the concerns raised were addressed by the tight conditions that would be applied if the application was approved and that in the Officers' opinion, the harms identified were not outweighed by the economic benefits.

At the conclusion of the debate Councillor Barry Clarke proposed that the application be approved in accordance with the Officer's Recommendation set out in the Report. This was seconded by Councillor Philip Ham. On being put to the vote the proposal to approve was carried by 7 votes in favour and 5 votes against.

#### **RESOLVED**

That planning application 2021/2387/FUL be approved in accordance with the Officer's Recommendation.

#### **16 Planning Application 2023/0380/OUT Paddocks End Vinney Lane Tytherington - Agenda Item 7**

**Application for Outline Planning Permission (All Matters Reserved, except**

**Access) for the erection of a detached single storey Eco dwelling to replace Riding School and buildings (existing commercial equestrian use).**

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

The Report continued that both the Parish Council and Divisional Member were supportive of the application, with the Parish Council commenting that it was a sustainable development with a strong environmental design focus, on essentially a 'brownfield site' (currently a yard and stables), which would not extend the footprint of the current built form (i.e. stable block).

There had been no objections from the consultees and 3 letters of support had been received from local residents.

The Officer's Report concluded that given that the application would provide an additional dwelling on land that was previously developed which would positively contribute toward housing supply, and that no material harm had been identified, the application was recommended for approval as a departure from the Development Plan.

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

The Committee was then addressed by one of the Divisional Members, Councillor Shane Collins. He said he fully supported the application. It was a good, sustainable development, with solar panels and ground source heat pumps. It was an excellent proposal which he was pleased to support.

As the agent for the applicant James U'Dell then addressed the Committee. He said he was very pleased that the application had been recommended for approval and that there had been unanimous support from the Planning Officers and residents. The development would replace an existing riding school and the site was a brownfield site without any areas of special interest. It was not affected by the Phosphates issue. The proposed dwelling would have sustainable access and with the removal of the riding school, there would be less vehicle movement and activity at the site. It would enable the current occupier to remain in the village where she had lived for the past 40 years.

In the discussion which followed, Committee Members agreed that it was a good application which ticked many boxes and provided positive gains. The Team Leader – Development Management reminded Members that the application was for outline

permission with all matters reserved except access. Any conditions they wished to place regarding the building itself were not relevant to this application.

It was proposed by Councillor Edric Hobbs and seconded by Councillor Philip Ham that the application be approved in accordance with the Officer's Recommendation set out in the Report. On being put to the vote, the Members were unanimously in favour.

### **RESOLVED**

That planning application 2023/0380/OUT be approved in accordance with the Officer's Recommendation.

## **17 Planning Application 2023/0231/FUL Holly Cottage Pound Lane Oakhill - Agenda Item 8**

### **Change of Use of Agricultural Land to Domestic Curtilage with associated access/parking.**

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

The proposal sought to create a new access and parking area on a section of land to the west of the main property. This would involve the change of use of this area of land and additional garden space from agricultural to residential.

There had been no objections from the consultees and the Parish Council had recommended approval.

The Officer's Report concluded that the application scheme was considered on balance to represent a sustainable form of development and it was therefore recommended that planning permission be granted as a departure from the development plan.

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

In the discussion which followed, one Member requested clarity regarding the plans for the double garage on site as the Parish Council had pointed out that it was currently being used as accommodation and there would be no entrance to the garage from the new access point. The Team Leader – Development Management referred to Condition 6 which restricted the car parking area and new access only for

the use of Holly Cottage. If Members approved the application, it would not mean they would be approving a separate residence on the site. A separate application would need to be made for this.

Councillor Edric Hobbs was in support of the application and proposed it be approved. This was seconded by Councillor Tony Robbins. On being put to the vote the proposal to approve was unanimously approved.

### **RESOLVED**

That planning application 2023/0231/FUL be approved in accordance with the Officer's Recommendation.

## **18 Planning Application 2023/0528/HSE 10 Lewmond Avenue Wells - Agenda Item 9**

### **Erection of single-storey rear extension and internal alterations.**

Before the Planning Officer explained the application to the Committee, Councillor Robbins left the room due to his personal and prejudicial interest in the item.

The Officer's Report stated that for probity reasons, given that the applicants were direct relations of a member of the Council, the application had been referred to the Planning Committee in accordance with the published Scheme of Delegation. The Recommendation was for approval.

The Report continued that the proposal was for a single-storey rear extension to the property. It would be a relatively modest extension that would square off the back elevation of the house. The small addition to the floor space would allow better scope for internal alterations to reconfigure the layout of the ground floor of the house.

Glastonbury Town Council had recommended approval of the application. There had been no further comments received.

The Planning Officer confirmed that the application was recommended for approval.

After a brief discussion, it was proposed by Councillor Edric Hobbs and seconded by Councillor Helen Kay that the application be approved in accordance with the Officer's Recommendation set out in the Report. On being put to the vote, the Members were unanimously in favour.

## **RESOLVED**

That planning application 2023/0528/HSE be approved in accordance with the Officer's Recommendation.

### **19 Planning Application 2022/2407/FUL Plot at Hornblotton Farm Mill House to Fosse Way - Agenda Item 10**

#### **Conversion of agricultural barn to create a new dwelling.**

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

The Report continued that the application sought full planning permission for the conversion of a barn to a two-bed dwelling, which included a workshop within the existing building at the southwestern end of the barn. Storage was proposed in the roof. The finishes included pre-cast concrete panels, profiled sheeting and wood cladding. The existing vehicular access was proposed to be utilised.

There had been no objections from the consultees and there had been one letter of support.

The Officer's Report concluded that, whilst the site was located outside the settlement limits, it had the benefit of an extant consent in the form of a prior approval for a residential use in the application building. The revisions to the consented scheme raised no new design, amenity or highway issues over and above the scheme that can be implemented at the site. Given that the application scheme would not result in any significant adverse impacts was recommended that planning permission was granted as a departure from the development plan.

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

In response to questions from Members, the Legal Advisor confirmed that the rules pertaining to phosphates came into effect on 5 August 2020. As the site already had the benefit of a consented scheme, the current application was not affected by the phosphates issue.

Another Member asked about the proposed roof lights and the effect on dark skies to which the Planning Officer replied that the existing barn already had roof lights.

After a brief discussion, it was proposed by Councillor Dawn Denton and seconded by Councillor Alex Wiltshire that the application be approved in accordance with the Officer's Recommendation outlined in the Report. On being put to the vote, the Members were unanimously in favour.

### **RESOLVED**

That planning application 2022/2407/FUL be approved in accordance with the Officer's Recommendation.

## **20 Planning Application 2021/0644/FUL Laurel Farm Laurel Farm Lane Sticklych** - Agenda Item 11

### **Demolition of outbuilding; replacement with first floor holiday flat, ground floor storage, and studio.**

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

The Report continued that the site was relatively isolated with open views to the north. The existing workshop/storage building was in a poor state of repair, finished in brick and block, with corrugated low-pitched roof, approximately 6 metres high. Connected to this on its east side was an older low stone building with tiled roof also used for storage. An ecologist had identified that this had been used as a bat roost.

West Pennard Parish Council had recommended approval of the scheme and other consultees had provided no objections. There had been no representations made by local residents.

However, the Officer's Report concluded that the principle of development was unacceptable as the site was in the countryside outside the development limits where development is strictly controlled. The proposal did not represent sustainable development by virtue of its distance and poor accessibility and connectivity to local services and facilities. Any limited economic benefits that could be attributed to the development given the proposed use as tourist accommodation did not outweigh the harm identified. For this reason, it was recommended that planning permission be refused.

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

The applicant, Mr Simon Cellan-Jones was invited to address the Committee. He made a number of points including:

- The existing building is very unsafe and cannot be converted.
- Due to delays in the handling of the application, the application is now being considered by the new Unitary Somerset Council where there has been a change of interpretation. It has now been recommended for refusal which seems unfair.
- Previously tourist accommodation would have been encouraged. They had wished to provide bed and breakfast.
- A lot of time and money had been spent on the application with careful consideration to the ecological effects.

Division Members Councillors Claire Sully and Alex Wiltshire were in support of the application and made the following points:

- The scale of the development for tourism is of a size that would not lead to much extra traffic travelling on the small lanes.
- The building would soon fall down and it would make sense to demolish it and re-develop the site.

It was proposed by Councillor Claire Sully that the application be approved contrary to the Officer's recommendation.

In the Members' discussion the following points were made:

- The derelict building is not suitable for conversion.
- The applicant had made a strong case regarding the effect that the delay on the determination of the application had made on the Officer's Recommendation.
- The bat roost would be demolished which was not appropriate.

In response, the Team Leader – Development Management advised Members that the economic benefits had been considered not to outweigh the impact of the scheme on the rural and isolated location. Also, if Members were minded to approve, the bat roosts would be addressed in the planning conditions.

Councillor Helen Kay said that the application should not be refused on the grounds of sustainability and location. The economic benefits outweighed the harm and seconded the proposal to approve, contrary to the Officer's Recommendation. Conditions would be delegated to Officers in consultation with Chair, Vice and Division Members.

On being put to the vote, there were 11 votes in favour of approval and 1 vote against.

## **RESOLVED**

That planning application 2021/0644/FUL be approved contrary to the Officer's Recommendation with planning conditions delegated to Officers in consultation with Chair, Vice and Division Members.

### **21 Planning Application 2022/2441/FUL Lower Stoke Farm Barrow Wood Lane Rodney Stoke - Agenda Item 12**

#### **Change of use of agricultural building to ancillary accommodation. Part demolition and extension to existing dwelling. Erection of ancillary outbuilding and construction of wildlife swimming pool.**

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

The Report continued that the application was for part demolition and construction of extensions to the south and north of the existing house, considerably increasing the overall footprint. It also incorporated the conversion and alteration of the adjacent barn to continue accommodating three stables and a tack room, a three-bed annex, an office and domestic storage. The alterations to the barn included its roof form being fundamentally altered to present an 'L' shaped, steeper pitched, gable-ended roof. It also proposed a wildlife swimming pond and a further workshop/hobby building.

Rodney Stoke Parish Council had recommended approval with the following comments:

- To condition that the main property and the development stay as a single-family unit.
- There was concern over light pollution in the open countryside due to the size of the development, and the Parish Council requested that the use of smart glass and/or automatic blinds are required to protect the dark skies.

There were no other comments from local residents and no objections made by consultees.

In conclusion, the Officer's Report stated that, although the site was located outside the settlement limits, where development is strictly controlled, on the basis that the annexe remained ancillary to the main house as proposed it was considered acceptable. Although the development proposed was extensive, given that no recognisable harm had been identified, it was therefore recommended for approval



as a departure to the development plan.

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

The agent for the applicant, Nigel Salmon, was invited to address the Committee. He made the following comments:

- The site is in an isolated location and had a complicated history.
- The agricultural building does not have a tie on it.
- The design is of high quality and is sustainable.

In the brief discussion which followed, Members liked the style of the development. Division Councillor Heather Shearer said that she and fellow Division Councillor had confirmed there would be no roof lights to cause light pollution to the dark skies and were happy to support the application.

At the conclusion of the debate, it was proposed by Councillor Edric Hobbs and seconded by Councillor Claire Sully that the application be approved in accordance with the Officer's Recommendation outlined in the Report. On being put to the vote the proposal was carried unanimously.

#### **RESOLVED**

That planning application 2022/2441/FUL be approved in accordance with the Officer's Recommendation.

## **22 Planning Application 2022/1991/FUL Brookover Farm Frome to Radstock Road Buckland Dinham - Agenda Item 13**

### **Conversion of Barn & Garage to form a 2 Bedroom Dwelling. Small Lobby Extension.**

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

The Report continued that the application related to a disused farm complex situated within the open countryside, a bat consultation zone, an historic park and garden and within a flood zone. This application sought full planning permission for the conversion of a barn & garage to form a 2-bedroom dwelling to include a small lobby extension. Permission had already been given for the conversion of the barn and garage to ancillary accommodation to the house, granted under a Householder

Application where the Council concluded that buildings formed part of the existing domestic curtilage. This application proposed to convert the barn into a separate dwelling with a modest schedule of external alteration to enable that to happen, all as per the previously approved householder application.

There had been no objections from consultees and 5 letters received in support from local residents.

The Officer's Report concluded that the benefits when assessed against the policies in the NPPF it confirmed that the dwelling as proposed would result in no identified harm. The application was therefore recommended for approval subject to conditions.

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

The applicant, Natalie Revie, was then invited to address the Committee. She made a number of points including:

- Whilst this application is a departure from the local plan, the national plan came in at a later date than the local plan and it is compliant with the national plan.
- It will be a family home after 2 decades of renting and will fulfil a lifelong desire to self-build.
- Have taken great care to ensure it harmonises with the area and is sustainable. It includes air source heat pumps.
- There had been no objections from statutory consultees and 5 letters of support from local residents.

In the brief discussion which followed, the boundary of the development was clarified by the Planning Officers. Concerns were noted by the applicant regarding ensuring the rooflights were covered by blinds at night to avoid light spill. Members were happy with the proposals and said it made good use of the existing buildings.

It was proposed by Councillor Martin Dimery and seconded by Councillor Philip Ham that the application be approved in accordance with the Officer's Recommendation outlined in the Report. On being put to the vote the proposal was carried unanimously.

#### **RESOLVED**

That planning application 2022/1991/FUL be approved in accordance with the Officer's Recommendation.

**(The meeting ended at 5.00 pm)**

.....  
**CHAIR**

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**Somerset**  
Council

**SOMERSET COUNCIL**

**COUNCILLORS WHO ARE ALSO CITY, TOWN AND/OR  
PARISH COUNCILLORS**

<b>SOMERSET COUNCILLOR</b>	<b>CITY, TOWN AND/OR PARISH COUNCIL</b>
Theo Butt Philip	Wells City Council
Simon Carswell	Street Parish Council
Nick Cottle	Glastonbury Town Council / St Edmunds Parish Council
Philip Ham	Coleford Parish Council
Edric Hobbs	Shepton Mallet Town Council
Martin Lovell	Shepton Mallet Town Council
Tony Robbins	Wells City Council
Dean Ruddle	Somerton Town Council
Peter Seib	Brympton Parish Council / Chilthorne Domer Parish Council
Heather Shearer	Street Parish Council
Ros Wyke	Westbury-sub-Mendip Parish Council

**The memberships of City, Parish or Town Councils will be taken as being declared by these Councillors to be other registerable interests in the business of the Somerset Council meeting and need not be declared verbally.**

**Monitoring Officer of Somerset Council**

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Case Officer	Kelly _Pritchard
Site	Land North East Of Tor View Top Road Westbury Sub Mendip Wells Somerset
Application Number	2022/1945/REM
Date Validated	27 September 2022
Applicant/ Organisation	Mr & Mrs P Schroeder
Application Type	Reserved Matters Application
Proposal	Application for approval of reserved matters following outline approval 2020/0364/OTA for the erection of a single dwelling. Matters of access/appearance/landscaping/layout/scale to be determined.
Division	Mendip West Division
Parish	Westbury Sub Mendip Parish Council
Recommendation	Approval
Divisional Cllrs.	Cllr Ros Wyke

### 3. **Referral to Chair and Vice-Chair:**

In accordance with the scheme of delegation, this application for approval of reserved matters was referred to the Chair and Vice-Chair of the Planning Committee following no response from the Divisional Member, the case officer recommendation is to approve with conditions, and the Parish Council recommended refusal. Following the referral process, the Chair has requested that this application is referred to the Planning Committee for decision on the reserved matters that are proposed.

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

This site lies to the north east side of Top Road, Westbury Sub Mendip.

The site is lined by rough vertical rock walls, the upper slopes are wall lined by a stone wall. It is set within a slope in the land which is surrounded by agricultural land and vineyard. The slope generally slopes down from the north and north east to the south. The proposed development is set within the cut out in the slope. It is accessed via an existing farm gate enclosed on either side by hedgerow.

The site is located within the Mendip Hills Area of Outstanding Natural Beauty (AONB) on its southern edge. It is located outside the settlement limits as defined by Mendip District

Local Plan Part I: Strategy and Policies (December 2014) (MDLP). The edge of the development limit boundary and the conservation area boundary are approximately 35m from the application site to the north west. It is also within the phosphate catchment area affecting the Ramsar site on the Somerset Levels and Moors.

The location of the site within the slope gives views out over the Somerset Levels to the south.

There is an extant permission, reference 2020/0364/OTA, for a dwelling on this site although there are outstanding pre-commencement conditions. When planning permission was granted all matters were reserved for future consideration. Since outline permission was granted the application site has been included within the phosphate catchment area which affects the Somerset Levels and Moors Ramsar which has an impact on the delivery of the foul water management/drainage arrangements as proposed

Following the outline approval, a reserved matters application, reference 2020/1678/REM, was submitted and refused for one reason, which was due to phosphates and foul drainage issues, see history section below.

The current application seeks approval of all the reserved matters for the erection of a dwelling and it seeks to overcome the previous single reason for refusal.

Matters for consideration are access, appearance, landscaping, layout and scale. The submitted drawings for this current application are the same as the drawings submitted for the previously refused application (2020/1678/REM) albeit for the alternative drainage arrangements and phosphate mitigation.

Approval is sought for a dwelling designed with a mono pitched roof with rendered walls to most of its sides with the front being mainly glazed. The house is split level with the parking and home office sunk into the site and the main accommodation over.

It also proposes woodland tree planting to the north of the site, as mitigation for phosphorous impacts. This area of land is within the applicant's ownership.

#### **Relevant History:**

- 2020/0364/OTA – Outline Approval – Erection of a dwelling. 08.07.20
- 2020/1678/REM – Refusal - Application for approval of reserved matters following outline approval 2020/0364/OTA for the erection of a single storey two bedroom dwelling with subterranean garage and ancillary accommodation, reserved matters



of site layout/access, appearance, landscaping, scale submitted for approval.  
27.05.22

Reason for refusal:

*Insufficient information has been submitted to assess whether the proposal would result in an unacceptable increase in phosphate levels within the foul water discharged from the development affecting the current unfavourable status of the Somerset Levels and Moors Ramsar site. Furthermore, the proposed use of a chemical dosing package treatment plant to treat foul water is considered harmful to invertebrates. Finally, a means of securing the long term maintenance and management of the package treatment plant for 80/120 years has not been submitted. As such the proposal fails Regulation 63 of the Habitat Regulations 2017, including information on any necessary control mechanisms for delivery, monitoring and maintenance. The development therefore conflicts with Policies DP5 and DP8 of the adopted Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014) and Part 15 of the National Planning Policy Framework.*

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

Divisional Member: No comments received.

Westbury Sub Mendip Parish Council: Refusal.

- Dwelling is too tall.
- Window design is inappropriate in terms of light pollution in the AONB.
- Dwelling is not sympathetic to the needs / existing character of the village.

Environmental Protection: No comment.

Contaminated Land: No objection, subject to an informative about a watching brief.

Land Drainage: No objection.

- The outline permission (2020/0364/OTA) has pre-commencement foul and surface water drainage conditions in place, these will need to be discharged separately. However, considering the information provided with this application in relation to the foul and surface water drainage requirements. Foul drainage is proposed to a PTP discharging via a Leca Filtrate P System to a drainage field. Percolation tests have been undertaken and show the foul drainage meets the requirements of building regulations part H.

- Surface water will be directed to a soakaway, testing results and calculations in accordance with BRE Digest 365 have been provided and demonstrate the suitability of the soakaway for use on the site.

Mendip Hills AONB: No comments received.

Ecology: No objection subject to a legal agreement to secure the phosphate mitigation and management strategy and a landscape and ecological management plan. The approval should also include CEMP, PTP, nutrient neutrality statement, and maintenance plan conditions.

Natural England: No objection subject to securing mitigation.

Natural England notes that your authority, as competent authority, has undertaken an appropriate assessment of the proposal in accordance with regulation 63 of the Conservation of Species and Habitats Regulations 2017 (as amended). Natural England is a statutory consultee on the appropriate assessment stage of the Habitats Regulations Assessment process.

Your appropriate assessment concludes that your authority is able to ascertain that the proposal will not result in adverse effects on the integrity of any of the sites in question. Having considered the assessment, and the measures proposed to mitigate for all identified adverse effects that could potentially occur as a result of the proposal, Natural England advises that we concur with the assessment conclusions, providing that all mitigation measures are appropriately secured in any planning permission given.

Local Representations:

One letter of objection has been received and their comments are summarised as follows.

- The reserved matters application has not overcome our concerns which were raised at the outline stage and on the previously refused application.
- Objection in principle to the location of the site in the AONB outside the settlements.
- It is detrimental to the character of the area and will result in light pollution.
- It is too high, and the materials and design proposed make the building more dominant and prominent.
- The outline application indicated a green sedum roof, this application proposes something different.
- Submitted reports make no reference to water courses with the limestone of the Mendips, spring line and two working wells downhill with yards of the proposed septic discharge which makes it difficult to give credence to the professional reports.

Six letters of support have been received and their comments are summarised as follows.

- The development is in keeping with surroundings.
- The Ph of the land stands at 0.02 the development will be for 2 people and as such it will not change.

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

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
- 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 outside of the development limits as defined by the Local Plan Part 1 where development is strictly controlled. However the principle of a dwelling on this site is established through the approval of the extant outline permission 2020/0364/OTA.

This application is for approval of the matters that were reserved for subsequent approval and therefore the key considerations for this application relate to the access arrangements and matters in relation to the layout, appearance and scale of the dwelling and the overall landscaping arrangements for the site.

As set out above in this report, since outline application was permitted the site has been included within the phosphate catchment area which affects the Somerset Levels and Moors Ramsar. Legal advice has been taken which has confirmed that as reserved matters is an 'implementing decision', despite the granting of outline permission, the development still needs to demonstrate that it is phosphate neutral, and has no impact on the Ramsar site, before reserved matters can be approved. The effect the proposal would have on the Somerset Levels and Moors Ramsar natural habitat in terms of phosphate loading will be discussed later in this report.

As discussed earlier, following the outline approval a reserved matters application, reference 2020/1678/REM, was refused. There was one reason for refusal which was the foul discharge and the impact on the Somerset Levels and Moors Ramsar natural habitat. This current application seeks to overcome the previous reason for refusal and to determine the matters reserved by the outline approval.

In summary the principle of a dwelling has been established by the outline permission. The submitted drawings for this current reserved matters application are the same as the drawings submitted for the previously refused application (2020/1678/REM) but the application details now include alternative drainage arrangements and phosphate mitigation.

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

Policy DP4 says within the AONB the conservation and enhancement of the natural beauty, wildlife and cultural heritage will be the primary consideration in the determination of development proposals.

The dwelling proposes a garage and home office with parking at approximately the same level as the existing access to the site with the main accommodation proposed above.

The site is a piece of land cut into the landscape so is surrounded on three sides by higher land, therefore the dwelling would be set within the bowl of the landscape.

It is clear from the drawings submitted that there will be some soil removal from the site to accommodate the dwelling and its height will be below the existing rear face wall to the north. Whilst part of it may be visible from some vantage points when viewed from the west this is not considered so harmful to warrant refusal of the application. There is no doubt that a dwelling in this location will be visible, however the principle of a dwelling in this location was accepted at outline stage and the scale and design of the dwelling set within the bowl of this site is considered acceptable.

The rendered walls are in the main set to face the walls of the bowl so will barely be visible from public vantage points. The applicant has chosen a grey coloured roof so that it blends with the stone face of the existing bowl wall.

There have been some objections raised to the amount of light spill from the development. There are no roof lights proposed and the roof overhangs which reduces light spill upwards.

It is considered that the appearance, scale and layout of the proposed development is sympathetic to its rural location in will not harm the character and appearance of the area or the setting of the nearby conservation area or AONB.

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

The site has no immediate neighbours and therefore, the siting of a dwelling raises no adverse amenity issues to warrant refusal of the application.

### **Impact on Ecology:**

The ecological benefits of the site were discussed at the outline planning stage and appropriate

conditions, including biodiversity enhancement, were imposed on that permission. These would need to be discharged via a separate application.

In response to the ecologist's concern about bird strike on the previous reserved matters application the glass balustrades proposed at the edge of the terraces was amended to stainless-steel frame and vertical cables. This design feature has been carried through to the current proposal. Equally, window alert decals have again been submitted in the interests of reducing bird strike. The window alert decals contain a component which brilliantly reflects ultraviolet sunlight which is invisible to humans, but glows like a stoplight for birds and therefore they avoid striking the glass. The use of stickers is not considered to meet the test for planning conditions, but an informative note will be imposed on the decision, should the application be approved, to encourage the applicant to utilise this method to reduce the risk of bird strike. A compliance condition for the balustrade is considered reasonable.

In terms of ecological matters on the site, a further informative note would be necessary reminding developers of the legal protection afforded to badgers and their resting places.

The application site is located within the phosphate catchment area which affects the Somerset Levels and Moors Ramsar. The Somerset Levels and Moors Ramsar is designated for its rare aquatic invertebrates. There is a major issue with nutrients entering watercourses which adversely changes environmental conditions for these species. The application therefore needs to demonstrate that it is phosphate neutral, and therefore would not have a harmful impact on the Ramsar site, before reserved matters can be approved.

The previous reserved matters application, 2020/1678/REM, was refused (see above history section of the report), due to insufficient information with regards to the phosphate impacts of the proposal.

The documents now submitted include a phosphate budget calculator, a package treatment plant (PTP) just outside the application site but within land that the applicant owns, and the provision of a minimum of 0.290 hectares of phosphate mitigation habitat comprising of woodland planting to the north of the application site.

The proposals have been subject to assessment under the Habitat Regulations and both the Ecologist and Natural England have confirmed their acceptance of its recommendations. The ecologist as requested further conditions which include securing a construction environmental management plan (CEMP), the provision of the appropriate PTP and a maintenance plan for it and that the development is carried out in accordance

with the Nutrient Neutrality Assessment and Mitigation Strategy (NNAMS). All of these additional conditions are necessary and reasonable.

Subject to the suggested conditions and signing of the legal agreement it is considered that the proposal has overcome the previous reason for refusal.

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

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

Top Road is an unclassified road with a 30mph speed limit although traffic speeds are likely to be lower due to the narrowness of the road. There have been no recorded road traffic accidents on this road in the last 5 years.

With regard to highway safety there is an existing vehicular access serving the site. The visibility shown on the plans in a westward direction is 33m and to the east is 43m. Whilst this distance falls short of the visibility required by standing advice, the nature of the highway and level of use by both vehicle and pedestrian traffic it is not considered significant. As such it is considered that the development is acceptable in highway safety terms.

### **Land Drainage:**

There were pre-commencement conditions to secure the details of the foul and surface water details imposed on the outline permission. However, as part of the current application, these details have been provided and are considered acceptable.

Surface water will be directed to a soakaway, testing results and calculations in accordance with BRE Digest 365 have been provided and demonstrate the suitability of the soakaway for use on the site. The foul drainage design meets the requirements of Building Regulations part H.

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

### **Refuse Collection:**

The site is considered capable of providing adequate storage space for refuse and recycling.

## **Environmental Impact Assessment:**

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

## **Equalities Act:**

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

## **Conclusion:**

There has not been a significant shift in policy since the determination of the outline permission which establishes the principle of a dwelling on this site or the reserved matters application which was refused for a single reason based on phosphates. It is considered that it would be unreasonable for the Local Planning Authority (LPA) to reach a different conclusion in relation to issues of access, appearance, landscaping, layout and scale. As set out above and subject to a legal agreement to secure the provision of phosphate mitigation habitat comprising of woodland planting and a landscape and ecological management plan (LEMP), which will ensure retained habitats and the phosphates mitigation are managed appropriately for the lifetime of the development, the application is recommended for approval.

## **Recommendation:**

Approval subject to conditions following completion of a legal agreement under Section 106 of the Act to secure phosphate mitigation habitat comprising of woodland planting and a landscape and ecological management plan (LEMP).

## **Conditions**

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



This decision relates to the following drawings: drawing 1435/LOC, 1435/04, 1435/03, 1435/01 received 26.09.22, 1435/05 Rev A received 25.10.22, 1435/02 Rev L received 24.01.23 and Nutrient Neutrality Assessment and Mitigation Strategy Revision 2 (dated January 2023) received 24.01.23.

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

2. **Parking (Compliance)**

The areas allocated for parking and turning on the submitted plan shall be kept clear of obstruction and shall not be used other than for the parking of vehicles in connection with the development hereby permitted.

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).

3. **Visibility Splay (Pre-occupation)**

No occupation of the development shall commence until the visibility splay shown on drawing number 1435/02 Rev L has been provided. There shall be no on-site obstruction exceeding 900mm above ground level within the visibility splay. The visibility splay shall be retained 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).

4. **Materials (Compliance)**

The development hereby approved shall be carried out using natural external facing and roofing materials as specified on the application plans.

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

5. **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 to the development in accordance with Policy DP4 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

6. **Balustrades (Compliance)**

The balustrades shown to be erected on the terraces shall be implemented as specified on drawing number 1435/05 Rev A and shall thereafter be retained in that form.

Reason: In the interests of reducing bird strike, preventing ecological harm in accordance with Policy DP5 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

7. **Removal of Permitted Development Rights - No extensions or alterations to roof (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 external alteration, extension or enlargement to the roofs of the dwelling hereby approved unless a further planning permission has been granted by the Local Planning Authority.

Reason: In the interests of the appearance of the development and the surrounding area and to prevent light spill in accordance with Development Policies 1, 4, 7 and 8 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

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

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

- 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) for highlighted species either confirmed onsite or potentially utilising the site on occasion.
- d) The location and timing of sensitive works to avoid harm to biodiversity features.
- e) The times during construction when specialist ecologists need to be present on site to oversee works.
- f) Responsible persons, lines of communication and written notifications of

operations to the Local Planning Authority.

- g) The role and responsibilities on site of an Ecological Clerk of Works (ECoW) or similarly competent person.
- h) Use of protective fences, exclusion barriers and warning signs.
- i) Ongoing monitoring, including compliance checks by a competent person(s) during construction and immediately post-completion of construction works.

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

Reason: In the interests of the integrity of a European site, the 'Favourable Conservation Status' of populations of European Protected Species and UK protected species, UK priority 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. This is a condition precedent as harm to protected species needs to be prevented from the earliest stages of the development.

**9. PTP Requirements in Phosphate Affected Area (Pre-Occupation)**

The dwelling hereby approved shall not be occupied until:

- i. 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; and
- ii. a notice specifying the calculated consumption of wholesome water per person per day relating to the dwelling as constructed has been given to the appropriate Building Control Body and a copy of the said notice provided to the Local Planning Authority.

Reason: To improve the sustainability of the dwellings in accordance with Paragraphs 134, 154 and 180 of the National Planning Policy Framework (July 2021).

**10. Nutrient Neutrality Statement (Compliance)**

The development hereby approved shall be carried out in full accordance with the approved 'Nutrient Neutrality Assessment and Mitigation Strategy (NNAMS) Revision 2' reference 'NNAMS REPORT' (Southwest Environmental Limited's, January 2023). This will also have a set trigger level, where by if Phosphate concentration after treatment rises above 0.02mg/litre/annum (99% efficiency) the filter media will be replaced at the earliest opportunity.

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 Policies DP5 and DP8 of the Mendip Local Plan and Chapter 15 of the National Planning Policy Framework 2021.

11. **Maintenance Plan PTP (Pre-Occupation)**

No occupation of the development shall commence until a detailed Maintenance Plan has been submitted to and approved in writing by the Local Planning Authority. The Maintenance Plan shall include:

- a. Details of management arrangements to ensure the package treatment plan adheres to the 'Nutrient Neutrality Assessment and Mitigation Strategy (NNAMS) Revision 2' reference 'NNAMS REPORT' (Southwest Environmental Limited's, January 2023).
- b. Formal confirmation of management arrangements of an OFWAT registered provider in perpetuity.
- c. Details of ongoing annual monitoring arrangements
- d. Confirmation of permit arrangements with the Environment Agency

The development shall accord with the Maintenance Plan in perpetuity.

Reason: In the interests of the integrity of a European site, the 'Favourable Conservation Status' of populations of European Protected Species and UK protected species, UK priority and habitats listed on s41 of the Natural Environment and Rural Communities Act 2006, and in accordance with Policy DP5 and DP8 of the Mendip Local Plan and Chapter 15 of the National Planning Policy Framework 2021.

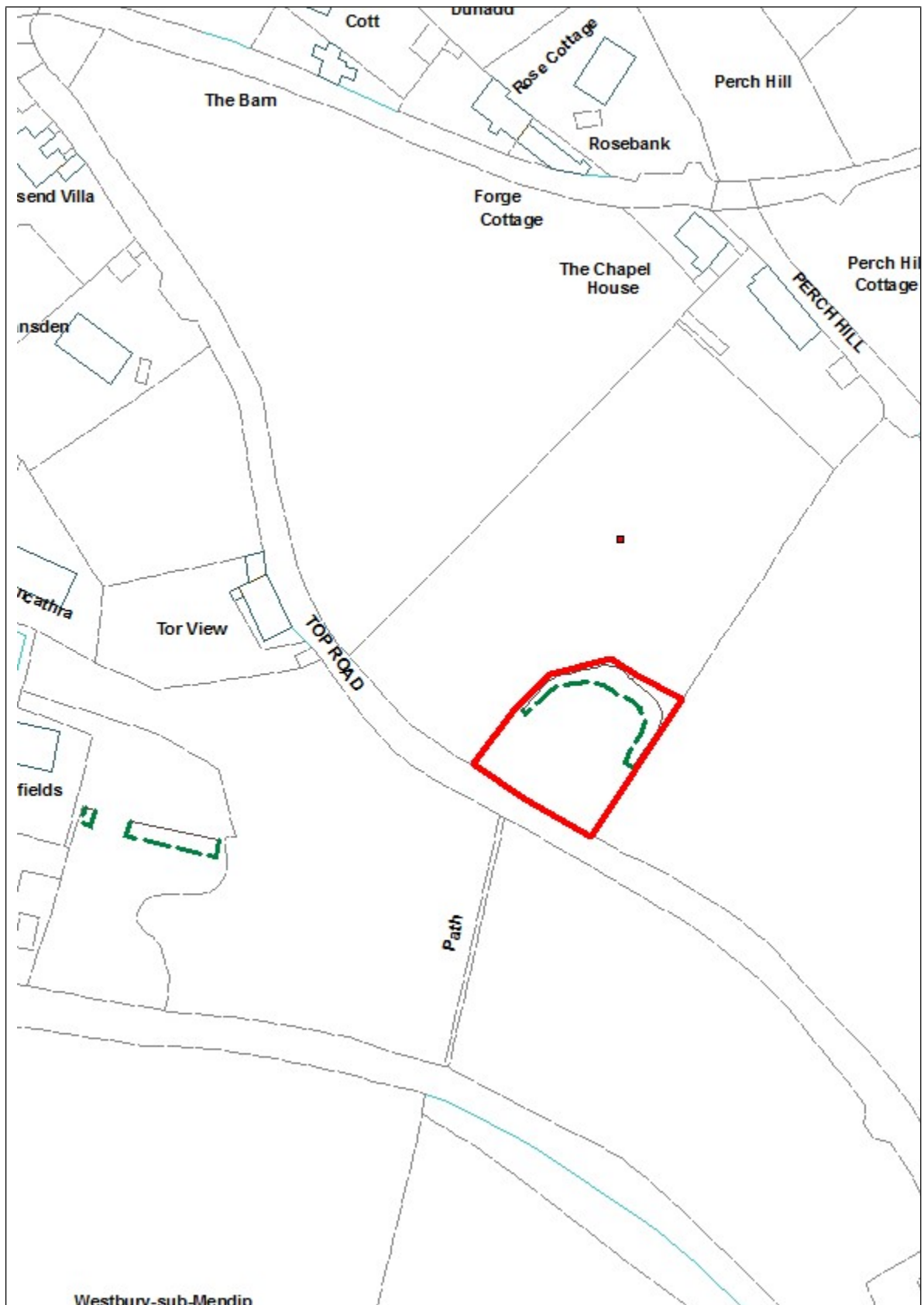
**Informatives**

1. This permission is accompanied by an agreement under Section 106 of the Town and Country Planning Act 1990.
2. Due to the possible historic uses of this site 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.

3. 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 un-expectantly 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.
4. The applicant is advised to utilise window alert decals that reflect ultraviolet sunlight in the interests of reduceing the risk of bird strike.





Planning Board Report 4th July 2023  
Land North East Of Tor View  
Top Road  
Westbury Sub Mendip  
Wells  
Somerset

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Case Officer	Jennifer_Alvis
Site	Stonecot Frys Lane To Mill Lane Batcombe Shepton Mallet Somerset
Application Number	2023/0411/FUL
Date Validated	20 March 2023
Applicant/ Organisation	Mr & Mrs J Cox
Application Type	Full Application
Proposal	Change of use from agricultural land to residential garden. Creation of driveway, hardstanding, turning and parking area.
Division	Mendip South Division
Parish	Batcombe Parish Council
Recommendation	Approval
Divisional Cllrs.	Cllr Michael Gay

5.

## **What3Words -**

### **Ward Member/ Chair and Vice Chair Referral**

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

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

The application site relates to a property known as Stonecot, Frys Lane to Mill Lane, Batcombe. The host property is an existing detached dwellinghouse with an area of open agricultural land to the east and north which also makes up part of the application site. The site lies within a Conservation Area, Somerset Levels and Moors Ramsar Risk Area.

The proposal seeks to create a new access and parking area on a section of land to the north of the main property which would involve the change of use of this area of land from agricultural to residential.

### **Relevant History:**

No relevant history

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

Ward Member: No response

Parish Council: Recommended approval subject to Highways not raising any objection. The creation of off street parking would greatly ease difficulties with large vehicles passing parked cars and provide a safer access to the property.

Highways: The application should be considered against the recommended Standing Advice.

Local Representations: No letters of local representation have been received.

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

[www.mendip.gov.uk](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)
- Somerset Waste Core Strategy

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

- CP1 – Mendip Spatial Strategy
- DP1 – Local Identity and Distinctiveness
- DP4 - Mendips Landscapes
- DP7 – Design and Amenity of New Development
- DP9 – Transport Impact of New Developments
- DP10 – Parking Standards
- DP23 - Flood Risk

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

- National Planning Policy Framework
- National Planning Practice Guidance

- The Countywide Parking Strategy (2013)
- House Extension Design Guide

**Assessment of relevant issues:**

**Principle of the Use:**

The application relates to a small parcel of land that is directly adjacent to the existing residential curtilage of the host property and although the site is outside development limits, the parcel of land in question is closely associated with the main house. While the site is outside developments, the proposal is for a parking area which would be ancillary to an existing dwelling and not for an independent use. As such the development would not be considered to result in an increase in vehicle movements or other impact that would make this an unsustainable development. In addition, the creation of off street parking for a property which currently doesn't have any, would increase highway safety.

Given the siting and size of the plot it is not considered that the change of use to residential curtilage for the purpose of parking, will affect the agricultural use of the remaining field area.

Therefore, although the proposal for the change of use would not have policy support and therefore be considered a departure from the Local Plan, the overall scheme is considered acceptable in terms of potential harm and the manner in which the new use will function associated with the existing on plot dwelling.

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

While the change of use of a section of the adjacent field to provide additional parking for the main house would affect the character of this section of land, no structures are proposed and as such the development would largely only consist of ground works. The proposed access would result in the loss of some hedgerow however accesses are a common feature along this section of highway and as such would not look out of character.

There is already residential development along this section of road with several properties located opposite and to the south of the application site, with domestic features facing onto the highway, so it's not considered an isolated rural location.

Given the above, it's considered that the proposal won't result in a significant detrimental impact on the character of the area and therefore complies with DP1, DP4 and DP7 of the Mendip Local Plan Part 1.

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

Given the limited building works proposed within the application, it's not considered the proposal would have a detrimental impact on neighbouring residential amenity.

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

### **Highway Safety:**

Prior to submitting the application the applicant sought advice from the Highway Authority in terms of the proposed access arrangements.

The proposed arrangements involve realigning and repositioning the existing retaining wall to allow for greater visibility splays when measured from 2.4m back from the highway. Positive drainage has also been incorporated into the scheme to prevent water discharging onto the highway. When measured from the Proposed Block Plan, the visibility splays achieved when measured 2.4 back from the highway are approx 30m in both directions, this visibility extends considerably as the vehicle egresses towards the highway.

No specific comments have been submitted by the Highway Authority regarding the new access for this proposal, instead referring to Standing Advice.

While the visibility splays proposed don't conform with the requirements for the national speed limit, Frys Lane to Mill Lane is a single lane carriageway and given the nature of the highway, the 85th percentile speed (the speed at or below which 85 percent of all vehicles are observed to travel under free-flowing conditions) is likely to be much lower than 60mph. Given the rationale as set out above it is considered that the visibility splays as provided allow adequate visibility onto the lane. In addition, the splays are also within the ownership of the applicant which would allow maintenance as required.

Given the number of existing accesses along this stretch of road, including to the south and west of the application site, it's not considered that the new access would result in any greater impact on highway safety, in fact it could be argued that the removal of parked vehicles from the narrow lane would improve highway safety. There would be ample space within the site for the parking and turning of vehicles which would allow for vehicles to exit

the site in a forward gear. Relevant conditions are recommended to control the access and parking as proposed.

Given the above the proposals are not considered to have a detrimental impact on highway safety and therefore it is concluded that policies DP9 and DP10 of the adopted Local Plan Part 1 (2014) and Part 9 of the National Planning Policy Framework are satisfactorily addressed.

### **Environmental Impact Assessment:**

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

### **Equalities Act:**

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

### **Planning Balance & Conclusion:**

In terms of the proposed access and new parking area on part of an existing agricultural field, whilst it is acknowledged that the development will be outside development limits, it will abut an existing residential property (and will be restricted in terms of its future use). From an assessment point of view given the scope of the proposals, the extent to which the proposed use of the land is to be controlled the proposed use is not considered to have a detrimental impact on the adjoining land uses, and or highway safety.

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

### **Recommendation**

Approval

### **Conditions**

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

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

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

2. **Plans List (Compliance)**

This decision relates to the following drawings: Location Plan, Existing Block Plan, Proposed Block Plan and 25/22/1A

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

3. **Vehicular Access (Compliance)**

The vehicular access hereby approved shall not be brought into use until it has been constructed in accordance with details shown on Proposed Block Plan and 25/22/1A. The vehicular access shall thereafter be permanently retained in accordance with the approved plans.

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

4. **Bound/Compacted Vehicle Access (Bespoke)**

No use of the access hereby approved shall commence until the approved vehicular access has been constructed with a bound and compacted surfacing material (not loose stone or gravel) for the first 5 metres of its length as measured from the edge of the adjoining carriageway. The access shall be retained as such thereafter.

Reason: To prevent loose material spilling onto the highway in the interests of highways safety in accordance with Policy DP9 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

5. **Erection of Gates (Compliance)**

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), any gates erected or installed at the vehicular access hereby approved shall be permanently hung to open away from the public highway and set back a minimum of 6 metres from the adjoining carriageway edge.

Reason: To ensure that vehicles do not cause an obstruction in the interests of highway safety in accordance with Policy DP9 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

6. **Ancillary Use Only (Compliance)**

The car parking area and new access hereby approved shall not be used other than in connection with the residential dwelling referred to as Stonecot and as shown on the location plan hereby submitted and approved.

Reason: In accordance with the proposals as submitted and given that there would be no policy support for a separate residential use or occupation on the site, and in accordance with policies CP1, CP2 and CP4 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

## **Informatives**

### **1. Condition Categories**

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

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

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

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

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

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

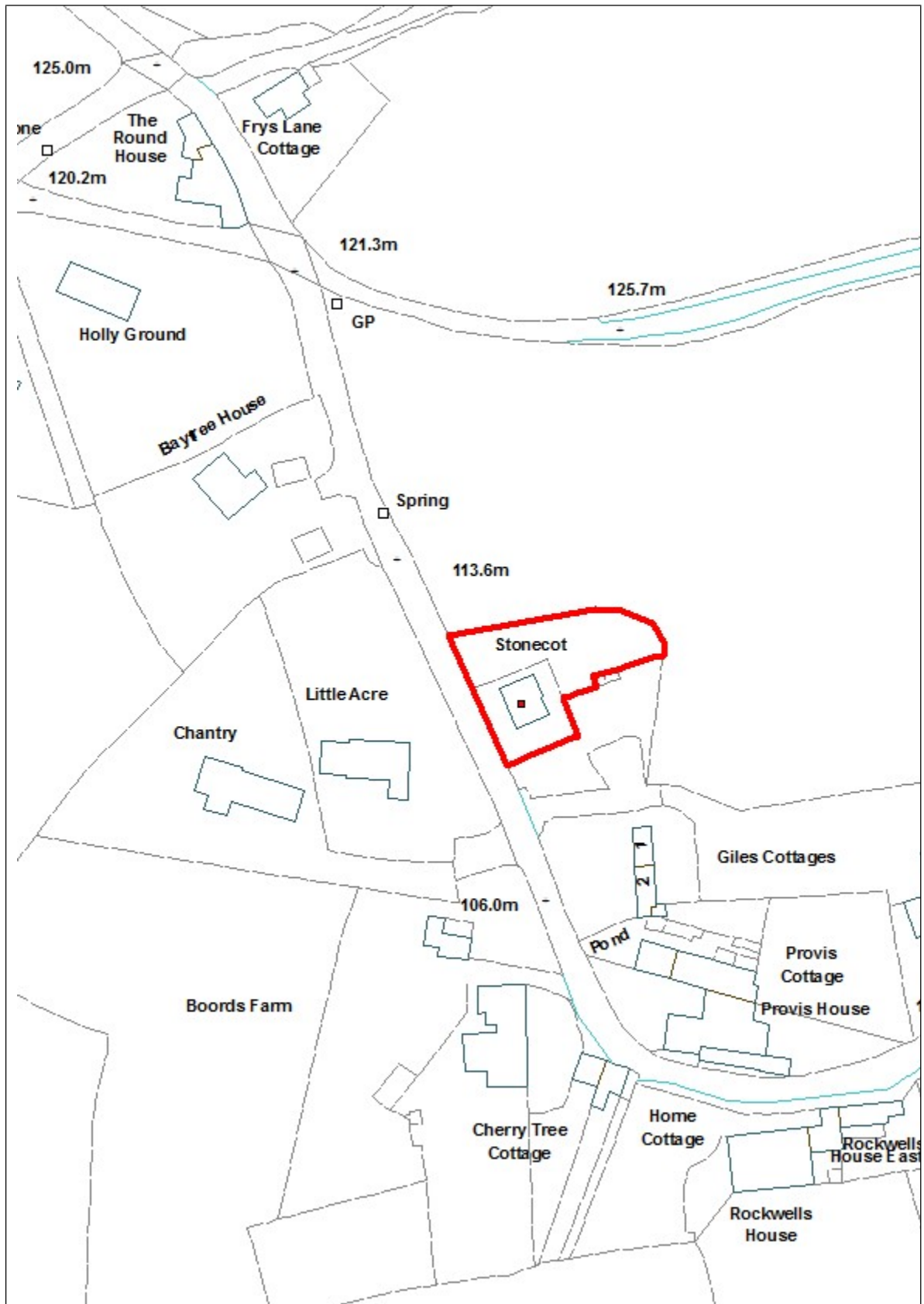
Failure to comply with these conditions may render the development unauthorised and liable to enforcement action.

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

although if the request concerns condition/s relating to both a planning permission and Listed Building Consent then a fee will be required.

2. The responsibility for ensuring compliance with the terms of this approval rests with the person(s) responsible for carrying out the development. The Local Planning Authority uses various means to monitor implementation to ensure that the scheme is built or carried out in strict accordance with the terms of the permission. Failure to adhere to the approved details will render the development unauthorised and vulnerable to enforcement action.
3. In determining this application the Local Planning Authority considers it has complied with the aims of paragraph 38 of the National Planning Framework by working in a positive, creative and pro-active way.
4. Please note that your proposed work may also require Building Regulations approval, which is a separate consent process to the consideration of a planning application. The Council's Building Control team are available to provide Building Regulations advice from pre-application stage to completion of a development and can be contacted on 0300 303 7790. Further details can also be found on their website <https://buildingcontrol.somerset.gov.uk/>





Planning Board Report 4th July 2023  
Stonecot  
Frys Lane To Mill Lane  
Batcombe  
Shepton Mallet  
Somerset  
BA4 6HD

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Case Officer	Jane_Thomas
Site	Westhayes Springers Hill Coleford Frome Somerset
Application Number	2023/0431/FUL
Date Validated	10 March 2023
Applicant/Organisation	P Taylor
Application Type	Full Application
Proposal	Change of use from land in the open countryside to residential garden.
Division	Mendip Central And East Division
Parish	Coleford Parish Council
Recommendation	Approval
Divisional Cllrs.	Cllr Barry Clarke Cllr Philip Ham

5. What 3 words

Reporters.enjoyable.sound

### **Scheme of Delegation:**

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

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

Westhayes is a detached dwelling located in an elevated position on Springers Hill, Coleford, to the south of the village. The curtilage of the property runs west to east adjacent to the road with the main garden area lying to the east of the house. The Development Limit of Coleford lies along the existing southern boundary of the curtilage of Westhayes, and therefore the application site lies outside of the development limits of Coleford.

This proposal seeks a change of use to incorporate an area of the unallocated land into the garden of Westhayes.

The proposal site lies within the Mells Valley Bat Consultation Zone C and within the Impact Zone for the Edford Woods and Meadows SSSI. There are no other special land designations at this location relevant to this application.

Westhayes is not listed and there are no listed buildings in the vicinity. It lies outside a local area of High Archaeological Potential. Coleford does not have a designated Conservation Area.

No footpaths or other Public Rights of Way cross or run adjacent to the proposal site.

### **Summary of representations/consultations**

Coleford Parish Council: Object – ‘Coleford Parish Council has considered the abovementioned and recommends that the application should be refused on the basis that the bio-diversity checklist does not appear to have been completed correctly and is lacking information’. Please see consideration of this comment below.

Neighbours: No comments received

Public consultations (Site Notice and Local Press): No comments received

### **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) (Post JR version)

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

- DP1 Local Identity and Distinctiveness
- DP4 Mendip’s Landscapes
- DP5 Biodiversity and Ecological Networks
- DP6 Bat Protection
- DP7 Design and Amenity of New Development

Other possible Relevant Considerations (without limitation)

National Planning Policy Framework (NPPF)

North Somerset and Mendip Bats Special Area of Conservation (SAC) Guidance on Development: Supplementary Planning Document (January 2018)

### **Relevant Planning History:**

2013/0764 Change of use/conversion from garage/store to a two-bedroom dwelling with associated alterations and parking. Application withdrawn.

### **Principle of the Use:**

Springers Hill is a residential area within the Development Limits of Coleford, the southern edge of which runs along the southern boundary of the existing curtilage of Westhayes.

Whilst the change of use of land proposed by this application will extend the garden area of Westhayes beyond the boundary of the Development Limits, the garden areas of neighbouring dwellings Spring Hill Cottage and Noone Cottage already extend beyond this line. The proposed change of use will bring the southern boundary of the garden of Westhayes into line with those of its neighbours.

The addition of this land into the garden at Westhayes will not result in an excessive area of garden for the size of the property.

Conditions are proposed that will restrict Permitted Development Rights on the area of garden gained under this change of use application.

Therefore, although the proposal for the change of use would not have policy support and therefore be considered a departure from the Local Plan, the overall scheme is considered acceptable in terms of potential harm and the manner in which the new use will function associated with the existing on plot dwelling, and the surrounding area (please refer to further assessment sections below).

### **Impact on the Street Scene and Surrounding Area:**

The garden at Westhayes is not visible from the street, nor from the nearest footpath FR4/17. However, Part II of the Mendip Local Plan recognises that the landscape setting is particularly important to the character of this lower part of Coleford village.

Following a site visit the applicant indicated that they intend to maintain the newly adopted area of garden as an area of semi-natural habitat with a number of biodiversity enhancement features including a pond and native species wildflower and other planting.

To ensure that the proposed change of use of land does not impact adversely upon the landscape setting conditions are proposed to control the landscaping of the site and to

restrict Permitted Development Rights on the area of garden gained through this change of use.

The proposal by reason of the above is acceptable, contributes and responds to the local context, and maintains the character and appearance of the surrounding area. The proposal is therefore considered to be in accordance with Policies DP1, DP4 and DP7 of the Mendip District Local Plan Part I (2014).

**Impact on Residential Amenity:**

The garden at Westhayes is visible in only glimpsed views from the gardens and upper floor windows of neighbouring properties. The change of use of the piece of land will not cause any additional issues of overlooking either from or into the site.

The change of use of land proposed will enhance the garden facilities at Westhayes which will be of amenity benefit to current and future occupants.

The proposal respects the amenity and privacy of occupants of both the dwelling and neighbouring dwellings and is therefore considered to be in accordance with Policy DP7 of the adopted Mendip District Local Plan Part I (2014).

**Impact on Ecology:**

The Objection to this proposal from Coleford Parish Council relates to the bio-diversity checklist submitted with the application which they considered 'does not appear to have been completed correctly and is lacking information'.

The Mendip Bio-diversity checklist is only a validation requirement for Change of Use applications that include physical works. These do not form a part of this proposal and the submission of the Biodiversity Checklist was therefore additional information voluntarily provided by the applicant.

This is therefore not a material planning condition that justifies refusal of this application.

However, given the location of the proposal site consideration of the ecological impact of any change of use is important.

The area of land that is the subject of this proposal has at various points in the past been cleared by the previous landowner but is currently covered with bramble growth. There is a mature hedgerow to the western side which will be unaffected by this proposal to change the use of the land. There is no mature tree growth (trunk diameter greater than 20cm at a height of 1.5m) on the proposal site.

The proposal site does lie within Mells Valley Bat Consultation Zone C. The North Somerset and Mendip Bats Special Area of Conservation (SAC) Guidance on Development: Supplementary Planning Document (SPD) (January 2018) includes guidance of a 'Test of Significance' for any proposed development within a Bat Consultation Zone. This specifies that:

Development within Consultation Zone C that does not have the potential to affect a feature of value to bats reduces the impact on the SAC. However, local plan policies on biodiversity would still be likely to apply.

Development that would be deemed to have a minor impact likely to be acceptable subject to mitigation as appropriate.

This proposal will not affect any linear features and will have no impact on any hunting habitat used by bat species. It is therefore appropriate to consider this application against the policies within the Local Plan.

The SPD seek to maintain the quality of all semi-natural habitats. This is an opportunity to secure improvement to the quality of this habitat through the application of appropriate planning conditions relating to soft landscaping and biodiversity.

It is considered that the proposed change of use of the land at Westhayes 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 I (2014).

## **Equalities Act**

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

## **Planning Balance & Conclusion:**

In terms of the proposed extension to the existing garden at Westhayes whilst it is acknowledged that the development will be outside development limits, it will abut the

existing residential property and be representative in terms of garden extent to that of the neighbouring properties.

From an assessment point of view given the scope of the proposals, the proposed use is not considered to have a detrimental impact on the adjoining land uses and or any ecological habitat. On this basis the application scheme is considered on balance to represent a sustainable form of development, and it is therefore recommended that planning permission be granted as a departure from the development plan subject to various conditions as recommended. Approve with conditions

## **Recommendation**

Approval

Conditions

1. Standard Time Limit (Compliance)

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

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

2. Plans List (Compliance)

This decision relates to the following drawings: Block Plan, Location Plan and Site Plan validated 09.03.2023

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

3. 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, 4, 5 and 7 of the Mendip District Local Plan Part I: 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 free standing buildings shall be erected within the area of permitted change of use of land hereby approved, 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 site, the landscape setting, and the amenities of the surrounding area and residents, in accordance with Development Policies 1, 4, 5 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 116GBP per request (or 34GBP where it relates to a householder application). The request must be made in writing or using the Standard Application form (available on the council's website [www.mendip.gov.uk](http://www.mendip.gov.uk) ). For clarification, the fee relates to each request for the discharge of condition/s and not to each condition itself. There is a no fee for the discharge of conditions on a Listed Building Consent, Conservation Area Consent or Advertisement Consent although if the request concerns condition/s relating to both a planning permission and Listed Building Consent then a fee will be required.

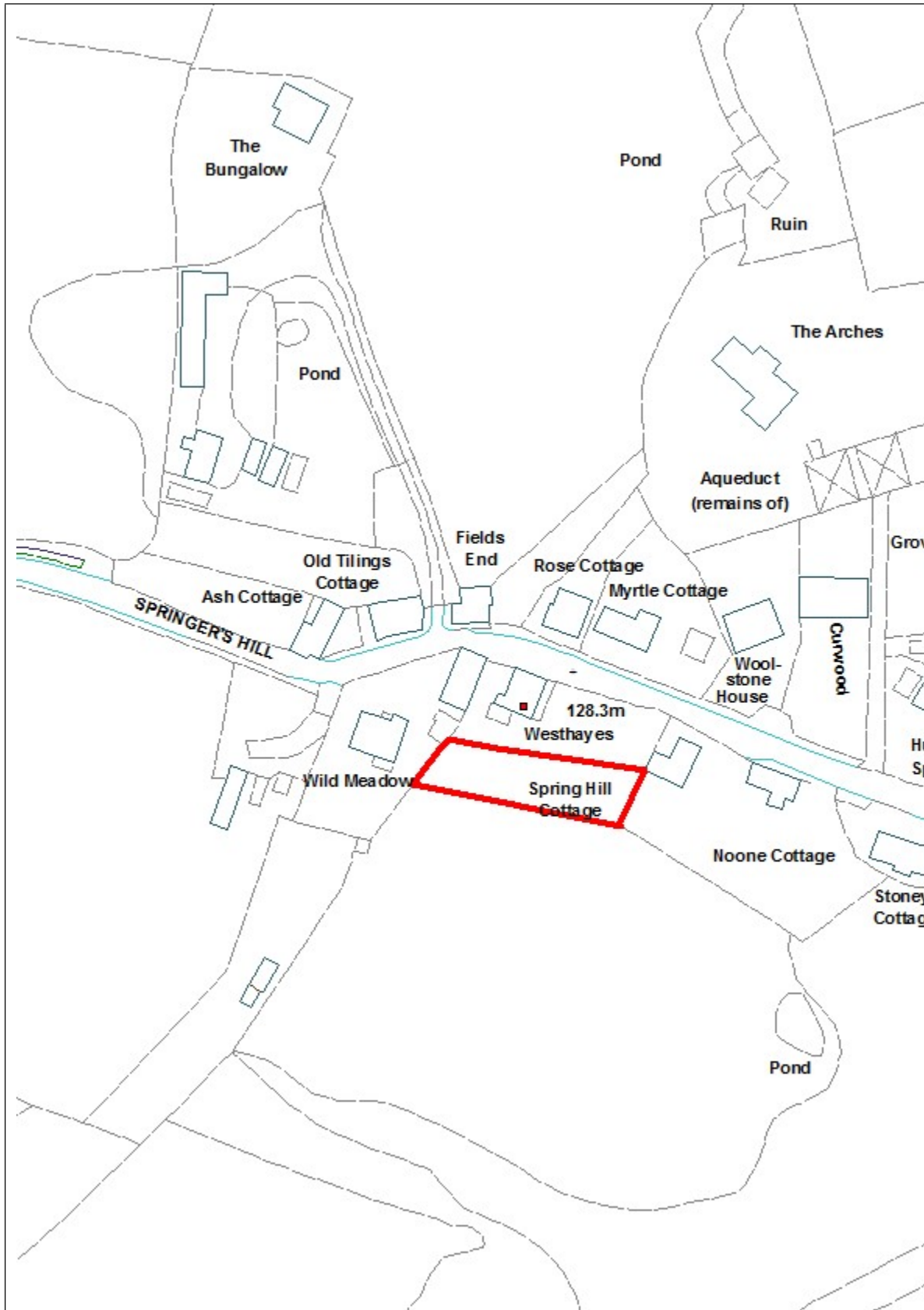
2. The responsibility for ensuring compliance with the terms of this approval rests with the person(s) responsible for carrying out the development. The Local Planning Authority uses various means to monitor implementation to ensure that the scheme is built or carried out in strict accordance with the terms of the permission. Failure to adhere to the approved details will render the development unauthorised and vulnerable to enforcement action.
3. In determining this application the Local Planning Authority considers it has complied with the aims of paragraph 38 of the National Planning Framework by working in a positive, creative and pro-active way.
4. Any vegetation in the proposal area should initially be reduced to a height of 10 centimetres above ground level by hand, brushings and cuttings removed and the remainder left for a minimum period of 48 hours of fine warm weather (limited rain and wind, with temperatures of 10½°C or above) before clearing to minimise the risk of harming/killing any reptiles that may be present and to encourage their movement onto adjoining land.
5. **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.

6. **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). In the event that badgers, or signs of badgers are unexpectedly encountered during the implementation of this permission it is recommended that works stop until advice is sought from a suitably qualified and experienced ecologist at the earliest opportunity.

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Planning Board Report 4th July 2023  
Westhayes  
Springers Hill  
Coleford  
Frome  
Somerset  
BA3 5LN

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Case Officer	Nikki White
Site	Land At 378206 147347 Adderwell Road Frome Somerset
Application Number	2021/0050/FUL
Date Validated	18 January 2021
Applicant/ Organisation	Persimmon Homes Ltd
Application Type	Full Application
Proposal	Residential development comprising 25 dwellings, new vehicular access, landscaping, sustainable urban drainage and other associated infrastructure works
Division	Frome East Division
Parish	Frome Town Council
Recommendation	Approval
Divisional Cllrs.	Cllr Shane Collins Cllr Helen Kay

## **Scheme of Delegation:**

In accordance with the scheme of delegation, this application is referred to the Planning Committee for decision. This is because the case officer recommendation is to approve with conditions, and the Divisional Councillors have objected/called for a referral to the Planning Committee.

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

The application site is off Adderwell Road/Primrose Court in Frome. The site was formerly occupied by an industrial unit, which has been demolished. The site is currently vacant, with some vegetation and scrub. The local area is largely residential. The site sits north of the Knights Maltings established residential development, south of the recent Printworks residential development and east of the River Frome. A railway line is located circa 60m east of the site (outside the application site).

In terms of planning constraints, the site is within the development limits of Frome, the bat consultation zone, the SSSI Risk Impact Zone, and the tip interest zone. Public Right of Way (PROW) FR20-39 runs along the southern boundary of the site.

This full application relates to the erection of 25 new dwellings, a new vehicular access, landscaping, sustainable urban drainage and other associated works.

**Procedure:**

Through the life of the application consultation comments were received from the Urban Design Officer which recommended the attenuation pond originally proposed in the southern corner of the site, adjacent to the vehicular entrance, be replaced with an area of public open space. The applicant followed this recommendation and submitted revised plans and drainage details accordingly.

As revised plans and information have been received through the life of the application, consultation with the local community and statutory consultees has been undertaken as necessary.

Publication of this application has taken place in line with legal requirements, including advertisements in local press, site notices and letters to neighbours. The Council has met its obligations in relation to notification and publication of the application.

The submitted plans and documentation state that the site is bounded to the south and would be accessed off 'Primrose Court'. Frome Town Council has clarified that this is actually known as 'Primrose Crescent', as 'Primrose Court' is a different cul-de-sac road further south and is part of the Knights Maltings development. GIS mapping and highways mapping does not name the road on the southern boundary of the application site. This report refers to the road on the southern boundary of the application site as 'Primrose Court' to avoid confusion with the application submission. If referring to the 'Primrose Court' within the Knights Maltings development, this will be explicitly referenced.

**Relevant History:**

No known relevant planning history.

**Summary of Ward Councillor Comments, Town Council Comments, Representations and Consultee Comments:**Divisional Member - Cllr Collins:

Objection – 03.02.2021

- Insufficient commitment to carbon reduction
- Parking levels too high with walking distance to town
- Design concerns

Objection – 30.06.23



- Whilst heat pumps, subject to grid capacity, is good it would be far better, cheaper and less emissions with a higher standard of insulation, EV charging, solar PV and battery. Acorn next door have triple glazing, so it can be done. We are in a climate emergency which developers in Somerset need to recognise if they are to build houses in the county.
- Also more than 2 parking spaces per dwelling seems a lot as it is within walking distance of town and easy cycle distance to supermarkets.

Ward Member - Cllr Kay:

Referral to Planning Board - 18.02.2021

- Concerned the red line boundary on the south west edge of the site does not meet up with the red line boundary of the Caxton Rd site. It is vital that they meet up and allow for proper access between the two sites, and that the roads can be adopted or otherwise properly maintained.
- Unnecessary to take out the hedgerow labelled G2 on the Aboricultural report and I prefer the original layout proposed in the Design and Access statement which would have retained it.
- Not convinced we need an attenuation pond here.
- For these reasons refer this to Planning Board/Committee

Comments - 04.02.2023

- Welcome vehicular access to the Acorn site as this was a key concern.
- Disappointed not a walkway through to shops which would psychologically connect this site with the adjacent Acorn site and be good for building a sense of community between all the new residents. Understand level changes but this could have been overcome.
- Advice from Community Safety officer is overcautious, e.g. opportunities for antisocial behaviour.
- Would have preferred if the site had maintained the 2 levels and that all the trees and wildlife along the edge of the narrow top "terrace" could have been preserved. This could have been used for parking, or a few bungalows, or small park, or allotments. If there is a resubmission in future, I urge Persimmon to consider this.
- Welcome some of the ornamental species be replaced with native species as per my request. Suggest this is controlled via condition.
- Welcome amended boundary treatment from fence to native hedge adjacent to Caxton Road - urban design improvement, habitat creation and hawthorn would be a prickly barrier.

- Welcome commitment to air source heat pumps and understand it is one of Persimmon's first sites to do so in this region, so I would like to offer any help I can to ensure this is followed through.
- Would encourage roof mounted solar panels in combination, or connections for future installation and triple glazing.
- Encourage shutters for cooling, or window depths to allow for future installation.
- Frome is a sustainable location with a train station – fewer parking spaces is justified.
- Would have preferred more open space. Preferred more terraced and semi detached housing in order to save energy loss from exterior walls. 9 houses are still detached, almost one third of the development.
- Material finish unclear as there are inconsistencies in the documents.
- Concerns following LLFA comments 20th December 2022 and unclear if applicant has addressed the points raised. As this site is only about 200 metres from the River Frome, I am particularly concerned about how fast the water could come off the highway and be discharged into the river via the combined sewers in heavy rains. Also lack of pollution control etc. Refer to Planning Board if drainage queries not addressed.

Frome Town Council: no objection

Objection - 03.02.2021

- Welcome the provision of 30% affordable housing but would prefer to see it integrated throughout the site.
- The permeability of the site must be improved to make the access path through to Caxton Road and Primrose Court suitable for cyclists as well.
- The building for life document makes reference to Trowbridge rather than Frome so is inaccurate.
- The energy efficiency statement is not sufficient and we would expect to see much higher standards of energy efficiency in line with the Climate Emergency declared by all three tiers of Council.
- We agree with the Civic Society comments regarding the attenuation pond and would like to see an alternative provided.
- We would also ask that the layout is amended to provide parking courts enabling the road/streets to be used for play in the absence of any on-site open space.
- As the site will link up with the footpath leading to the river, we would ask for a S106 contribution to the proposed footbridge across to/from Edmund Park.

Comments - 07.09.2022

- Welcome the alterations to the site layout and the attenuation pond, we are pleased to see the improvements made in the sustainability statement including the use of air source heat pumps, however we would prefer to see the inclusion of solar panels as well.
- It would be ideal if community charge points could be added to visitor parking bays too.
- We would like to see bee bricks added to the dwellings.
- Would like to suggest that the open space is managed by the community, rather than a management company.
- The Design and Access statement refers to Trowbridge and trams which are not present in Frome.
- We are satisfied that the applicants have explored the possibility of a pedestrian link through to Caxton Rd and that it is not possible to provide this.

24.05.2023 – no objection

- The Frome Town Council comments, posted on 07 Sep 2022 in response to the application below, can be recorded as No Objection.

#### Urban Design:

- Explore options for community spaces/LAP. Proposed SUDS pond could be reconsidered in favour of a ‘pocket park’ to provide additional space for the community and enhance the entrance in urban design terms. Obligations for open space should be explored.
- Greater connections/integration to Old Printworks site recommended.
- Greater spread of AH units recommended
- House types design - recommend avoiding front facing gables as not characteristic of Frome; architectural detailing recommended on some plots; corner plots should have windows on both sides facing the road; removal/amendments to canopies/porches to simplify some designs
- Materials - Use of buff coloured brick throughout is welcome – recommend same bricks as Old Printworks site.
- Landscaping to break up private drives recommended
- Confirmation of bin and bicycle storage details suggested
- Visitor space – better integration on green verge and use of grasscrete recommended
- Commitment to carbon reduction needed in a sustainability statement. Dwellings should be easily adaptable.
- Management and maintenance responsibilities could be clearly defined.

Lead Local Flood Authority (LLFA): no objection subject to conditions (summary of final comments)

- Following the submission of revised plans showing the attenuation pond removed and additional supporting information, the LLFA has no objections.
- The applicant has demonstrated how the applicant has considered the use of wider SuDS across the site and the LLFA is satisfied that adequate measures are now included within the proposed strategy.
- Approval from Wessex Water has been confirmed. Although this was associated with an older version of the proposed plan, this does not affect the connection arrangements for Wessex Water and this connection agreement is acceptable.
- Standard planning conditions are recommended to cover the submission of the detailed design for approval and for the provision of the full maintenance strategy and details of the body responsible for ongoing maintenance.

Highways Development Officer: no objection subject to conditions (summary of final comments):

- Further information has been received including a revised technical note, site layout, swept path refuse vehicle, access and intervisibility and swept path car.
- Whilst further improvements have been suggested by the Highway Authority in terms of increasing the access/highway width and radii enlargement to assist with refuse vehicle manoeuvres and intervisibility, the applicant has stated these elements help reduce a highway dominant layout, assist with reducing traffic speeds and decreased crossing distances for pedestrians respectively.
- It is also noted in the applicant's comments that it is established the proposed access is consistent with SCC design guidance and is acceptable in its current design as follows: *'The proposal is compliant with SCC Streets in Residential Development – Design Guidance Notes. This states that for both Street Type 3 (Access Streets) and Type 4 (Shared Surface Streets) the minimum carriageway width should be 5m with widening on bends, or elsewhere, subject to vehicle tracking, if required. The guidance also states that for waste management any highway/access road should be 5m minimum in width. Vehicular access to the site will consist of a new access in the form of a simple priority junction at the southern boundary from Primrose Court. The access is consistent with SCC design guidance and comprises a 5m internal access road with a mixture of 2m footways on both sides of the carriageway, shared surface streets and private driveways'*
- Within Appendix C, drawing number SL01 Rev R (Site Layout), the issue regarding the visitor parking safe margins has been addressed. The applicant confirms the areas considered as safe margins for pedestrians are designed as 1m service margins and are not designed for pedestrian use. The internal road shared surface design will offer pedestrian use.

- Within Appendix D, drawing SP02 Rev E (Swept Path Analysis Refuse Vehicle) of the Technical Note does show that a refuse vehicle of 10.4m x 2.9m can enter and exit the site in forward gear. Likewise, it has also demonstrated the vehicle can manoeuvre within the site without entering those areas demarcated as private drives. The applicant considers the level of intervisibility at the access has been addressed by way of proposed access visibility splays, which are considered to be acceptable. Whilst the tracking shows pinch points within the site, it does demonstrate that it is possible for a refuse vehicle to manoeuvre within the site.
- Appendix E, drawing number 20-443\_SK01 Rev E (Access and Internal Visibility Assessment), has been submitted to demonstrate the accepted visibility splays at the proposed new junction.
- Appendix F has been submitted to demonstrate not only how vehicles can simultaneously access/egress the site but also how two cars (estate vehicles) can pass each other throughout the internal road layout. It also shows how parking for plots 10, 1 and the adjacent visitor space can all be accessed.
- Whilst suggestions were made by the Highway Authority for certain improvements to the parking, it is accepted that within the wider site the parking arrangement is considered to be largely acceptable and the marginal changes suggested would not justify a refusal.
- Conclusion - The proposal has been improved in line with the comments provided by the Highway Authority, however, not all advice has been followed. This is a finely balanced application, whilst there are elements of the proposal that could be improved, it is not considered the severity of impact to highway safety posed by these elements are such as to warrant a refusal.
- Recommended planning conditions: cycle parking details; electric vehicle charging; visibility splays; estates road details; surface water drainage; construction management plan; construction of roads and footways before occupation; confirmation of highways legal agreement

Environmental Protection: no objection subject to conditions

- Satisfied the development would have a satisfactory impact on amenity, subject to conditions.
- Recommend a Construction and Environmental Management Plan (CEMP) is submitted prior to determination of the application.
- Recommended conditions: CEMP
- Recommended informative: clarification of the Council's authority under other legislation to control amenity impact.

Contaminated Land: no objection subject to conditions

- As this site is located in an area where there have been historic potentially contaminative uses nearby, including a printworks and malthouse, recommend the full contaminated land conditions.

Housing Enabling: no objection (summary of final comments)

- 30% affordable housing provision (8 units) is in line with Policy DP11.
- Proposed tenure mix is acceptable.

Education: no objection subject to planning obligation

- 25 dwellings in this location would generate 3 early years, 6 first school and 4 middle school places.
- This development is in the catchment for Christchurch First school, Selwood Middle school and Frome Community College. There is a lack of capacity and pressure on places for all early years up to middle school. We therefore require education contributions to enable the expansion of the facilities. The new school planned in Frome will accommodate early years and first school pupils and Selwood will require expansion.
- £51,222 for early years at £17,074 per pupil
- £102,444 for first school at £17,074 per pupil
- £83,870 for middle school at £20,967.50 per pupil
- There are sufficient places available in Frome college, therefore we will not require contributions for that school at present.

Police Designing Out Crime Officer: no objection (summary of final comments)

- Footpath adjacent to plot 11 should be well overlooked with landscape buffer recommended.
- Each dwelling should include a secure cycle store.
- Achieving compliance with Secured by Design (Homes 2019) continues to provide a 'police preferred specification' for new developments (Proving compliance with Part Q of building Regulations). Enquiries and applications are welcome.

Somerset Waste Partnership: no objection

- Waste containers should be presented at the front of the property, adjacent to the public highway. Green dots on Refuse Strategy Layout perhaps refer to storage areas, not collection areas.

NHS England: no objection

There are no GP capacity justifications for planning obligations at this time.

NHS RUH Bath: no objection subject to planning obligation (summary of final comments)

- £28,825.00 is required to go towards the gap in the funding created by potential increased patients from this development.

Procurement, Facilities and Assets, MDC: no comments

Neighbourhood Services, MDC: no comments

Ecology: no objection subject to conditions

- Conditions – to include a CEMP, reptile removal strategy, lighting design for bats, compliance with ecological recommendations, removal of invasive species and soft planting.
- Planning obligations – LEMP and BEMP

Environment Agency: no comments received.

Wessex Water: no comments received.

Building Control: no comments received.

Planning Policy: no comments received.

Economic Development: no comments received.

Tree and Woodland Officer: no comments received.

Frome Civic Society: objection

- No objection to loss of employment land – market testing and residential surrounds the site.
- Affordable housing – welcome in principle, would prefer more dispersed through the site.
- Highways – connection through Primrose Court is important. Condition should require Primrose Court is adopted to safeguard its continued use associated with adjacent Printworks development. Cul-de-sac layout should be redesigned. Site should connect to Caxton Road to north.
- Ped and cycle links to Caxton Road required.
- Poor design

- Attenuation basin poor in urban design terms
- Poor parking design

Network Rail: no objections subject to condition

- Network Rail has no objection in principle to the above proposal but due to the proposal being next to Network Rail land and our infrastructure and to ensure that no part of the development adversely impacts the safety, operation and integrity of the operational railway we have included asset protection comments which the applicant is strongly recommended to action should the proposal be granted planning permission.
- Any works on this land will need to be undertaken following engagement with Asset Protection to determine the interface with Network Rail assets, buried or otherwise and by entering into a Basis Asset Protection Agreement, if required
- Soakaways / attenuation ponds / septic tanks etc, as a means of storm/surface water disposal must not be constructed near/within 5 metres of Network Rail's boundary or at any point which could adversely affect the stability of Network Rail's property/infrastructure. Storm/surface water must not be discharged onto Network Rail's property or into Network Rail's culverts or drains. Network Rail's drainage system(s) are not to be compromised by any work(s). Suitable drainage or other works must be provided and maintained by the Developer to prevent surface water flows or run-off onto Network Rail's property / infrastructure. Ground levels – if altered, to be such that water flows away from the railway. Drainage is not to show up on Buried service checks.
- Recommended condition requiring the PROW be stopped up and/or diverted

Local Representations:

*Neutral*

Five people have submitted neutral comments as summarised below:

- Principle – There is a need for housing. This proposal should be considered as brownfield development. Understand the need for more affordable dwellings locally.
- Highways – Highways safety concerns. Highway capacity concerns. Any approval must specifically require the adoption of Primrose Court and the necessary connection to the public highway and be capable of being used as a second access for all vehicles to enter and exit the Acorn development. Secondary vehicular access into Printworks site is needed. Insufficient parking. Site used for local residents for parking.
- Pedestrian and cycle connections into Printworks site needed



- Ecology – General support for ecological appraisal, recommendations need to be secured by condition. Impact on bats.
- Amenity – request 21m distances between properties.
- Submission – Street elevation/levels needed.
- Concerns re subsidence impacts on nearby properties.
- Drainage and flooding concerns.

### *Objections*

Three people have submitted objections as summarised below:

- Principle of use – Other uses should be progressed which could create jobs.
- Highways – Insufficient parking for development. Site used by nearby residents for parking.
- Use of the site – Commercial development should have been included in the proposal
- Insufficient planting
- Insufficient carbon reduction commitments
- Insufficient biodiversity net gain
- Insufficient consultation

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

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)
- CP6 (Frome Town Strategy)
- CP7 (Glastonbury Town Strategy)
- DP1 (Local Identity and Distinctiveness)
- DP4 (Mendip's Landscapes)
- DP5 (Biodiversity and Ecological Networks)
- DP6 (Bat Protection)
- DP7 (Design and Amenity of New Development)
- DP8 (Environmental Protection)
- DP9 (Transport Impact of New Development)
- DP10 (Parking Standards)
- DP11 (Affordable Housing)
- DP14 (Housing Mix and Type)
- DP16 (Open Space and Green Infrastructure)
- DP19 (Development Contributions)
- DP20 (Reuse of Employment Sites)
- DP23 (Managing Flood Risk)

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

- DP25: Employment Land

The following policies of the Frome Neighbourhood Plan (2016) are relevant to the determination of this application:

- H1 – Building a Balanced Community
- H2 – Building by Design (refer to in design section)
- BE1 – Protection of Employment Land
- Section 7.3 Public Open Space
- D1 – Design in Urban Landscapes

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

- National Planning Policy Framework (NPPF)
- National Planning Practice Guidance (NPPG)
- The Countywide Parking Strategy (2013)
- Somerset County Council Highways Development Control Standing Advice (June 2017)
- Somerset Council Electric Vehicle Charging Strategy (2020)

- MDC Marketing and Business Evidence to Support Planning Applications SPD (March 2017)
- Supplementary Planning Document: Design and Amenity of New Development, Guidance for Interpretation of Local Plan Policy DP7 (2022)
- Frome Town Design Statement SPD (2015)
- Somerset Habitat Evaluation Procedure Methodology (2016)
- Somerset Council Electric Vehicle Charging Strategy (2020)
- Somerset Council Travel Planning Guidance (2011)

**Assessment of relevant issues:**

**Principle of the Use:**

Core Policy 1 (CP1) of the adopted “Mendip District Local Plan - Part 1” says that to enable the most sustainable pattern of growth for Mendip District the majority of development will be directed to towards the five principal settlements (Frome, Shepton Mallet, Wells, Glastonbury and Street). The Local Plan’s emphasis is on reusing previously developed land within existing settlement limits.

Core Policy 2 (CP2) of the Local Plan states that the delivery of new housing will be secured from three sources (a) Infill, conversions and redevelopments within Development Limits defined on the Proposals Map, (b) Strategic Sites identified on the Key Diagrams for each town associated with Core Policies 6-10 and (c) other allocations of land for housing and, where appropriate, mixed use development, outside of Development Limits through the Site Allocations process. As the application site is within the development limits of Frome, the proposal accords with this policy.

The application site is located within the Development Limits of Frome, which is one of Mendip’s principal settlements, where policies CP1 and CP2 of the LP1 support the general principle of development.

Core Policy 6 (CP6) indicates that the overarching aim of the Local Plan in Frome is to improve the level of self-containment, which is also set as a priority within the Frome Neighbourhood Plan.

The Local Planning Authority (LPA) cannot currently demonstrate a 5 year housing land supply in accordance with the requirements of the NPPF. As such, para 11d of the NPPF requires planning permission to be granted in accordance with the presumption in favour of sustainable development unless adverse impacts of doing so would be significant and demonstrable.

The application site, although now vacant, was formerly used for industrial purposes and is therefore a brownfield site.

Policy DP20 of the LP1 deals with the reuse of employment sites and looks to resist the loss of current, former or allocated B-class employment (B1, B2 and B8) unless it can be demonstrated that comparable employment can be secured. The site was previously used for industrial purposes therefore policy DP20 is relevant.

LP2 Policy DP25 protects a list of specifically identified employment sites, which includes the application site. The requirements for assessing proposals for the change of use to non-employment sites are set out in the Council's Marketing and Business Evidence SPD (2017). The Marketing and Business Evidence SPD requires evidence of marketing in circumstances including the following which is relevant to this application:

*"2.2 The loss of premises or land either currently or last used for employment purposes and no equivalent replacement employment is provided. This would apply to offices and light industrial uses (use class B1); industrial uses (use class B2) and storage and distribution (use class B8)"*

This SPD confirms when viability information and marketing information is required. This application has been submitted with a Market Feasibility Report, which has been prepared by a FRICS surveyor at Carter Jonas. This summarises marketing of the site as vacant passion suitable for employment uses. This concludes that sufficient marketing has been undertaken with no employment sale; and suggests this may be because the site is surrounded by residential units making future employment uses more difficult. The submitted Market Feasibility Report has been reviewed and considered. It is concluded that marketing exercises have adequately demonstrated the site is unlikely to come forward for employment uses and a residential use on the site would accord with the requirements set out in DP20 and the SPD.

FNP policy BE1: Protection of Employment Land protected 'valuable employment sites' for future employment use. These sites are shown in figure 9 of the FNP, and the application is included as part of site number 13 'BTD depot'. As such the FNP policy is that any non-employment uses on the site should be resisted.

Para 30 of the NPPF says that: *"Once a neighbourhood plan has been brought into force, the policies it contains take precedence over existing non-strategic policies in a local plan covering the neighbourhood area, where they are in conflict; unless they are superseded by strategic or non-strategic policies that are adopted subsequently"*.

The policies relating to this site are non-strategic, and in the event of a conflict between

LP2 and FNP, LP2 would take precedence due to the respective adoption dates.

It is therefore concluded that the proposed development is not contrary to the most up to date planning policy.

In conclusion, the principle of development is acceptable on this site.

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

Policy DP1 of the LPP1 states that development proposals should contribute positively to local identity and distinctiveness; and be formulated with an appreciation of the built and natural context of their locality. Policy DP7 states that proposals should be of a scale, mass, form, and layout appropriate to their local context.

Policy D1 (Design in Urban Landscapes) of the Frome Neighbourhood Plan (FNP) states that "*Development that fails to take account of the design guidance in the Frome Town Design Statement (October 2015) or the Frome Conservation Area Character Appraisal and Management Proposals (18 June 2008) will be refused*". Policy H2 (Building by design) of the FNP seeks "*To encourage good urban design that contributes positively to the fabric of the Town and to prevent further proliferation of estate housing*".

The site is currently brownfield and is not located within a conservation area or within the setting of any designated heritage assets or special landscape designation.

Characteristics of the immediate locality include suburban residential and commercial. The residential area includes a relatively mixed make-up of designs and materials. Residential properties include detached, semi-detached and terraced houses. Materials include render, brick and stone. New dwellings recently built at the neighbouring Printworks site have a material palette which includes buff coloured brickwork.

The proposed development of 25 dwellings would be accessed off Primrose Court from Adderwell Road. The development would be in a cul-de-sac formation including areas of shared surfaces. As well as the main entrance, a further pedestrian link from the development to Primrose Court adjacent to plot 11 is proposed. Although discussed in detail with officers, the application does not include a pedestrian/cycle connection on the northern side of the site through to Caxton Road. The applicant states this has been explored but cannot be achieved due to levels and visibility splay issues. Although this may have been overcome with some more significant redesign, and perhaps a reduction in the quantum of development, on balance this is not considered as a reason for refusal in this case. There are alternative pedestrian/cycle routes through to community shops on Caxton Road.

The dwellings are proposed over 2 storeys and are laid out as detached and semi-detached houses, with 2 flats at plots 1 and 2. Although terracing has been encouraged as a more efficient use of land, the configuration of dwellings is concluded to be acceptable.

The density is broadly consistent with the surrounding area, and (following discussions with the Urban Design Officer) a small public open space is proposed at the entrance of the site to significantly enhance the setting and allow for community interactions.

On balance the quantum of development and overall layout arrangement is considered acceptable. The height, scale and massing are also concluded to be complementary of the context.

The proposed material palette is set out on the Materials Strategy Layout. This includes buff brickwork and grey concrete roof tiles. Buff brickwork is a common material in Frome. Considering the scale of development and the context of the site, this is considered acceptable. A condition is recommended that would see a schedule of materials and material samples agreed with the LPA.

In relation to boundary treatments, the proposed Materials Strategy Layout confirms that brick walls are proposed on key views (which is preferable to fencing) adjacent to plot 13 when viewing from Primrose Court and plots 15 and 16 when viewing from the internal road. A Landscaping Masterplan shows areas of greening on the main frontage along Primrose Court, in front gardens, in front of brick boundary walls and between some of the plots and parking areas. Following discussion with officers and the Divisional Councillor, a revised boundary treatment is proposed on the northern boundary of the site to include natural hedge planting. As the Landscape Masterplan is a broad indication of the landscaping intention, a condition is recommended which would see details agreed including species. This would also require replacement planting in the event that planting should fail in the first 5 years. A standard requirement of legal agreements includes a management company to be appointed to manage maintenance of public areas and planting.

Crime prevention comments have been discussed with the applicant and it is considered that updated plans have addressed comments such to justify approval.

Conditions are recommended including agreement of external materials and installation of boundary treatments.

In conclusion on this matter, the proposal has been subject to an internal design review and changes have been incorporated, such as introduction of a public open space, enhanced landscaping/trees and changes to the external appearance of proposed dwellings. Although not all suggestions have been incorporated into the final plans, the

design is considered acceptable for the reasons outlined in this report. 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); Policies H1, H2, D1 and section 7.3 of the Frome Neighbourhood Plan (2016); Frome Town Design Statement SPD (2015); and Part 12 of the National Planning Policy Framework.

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

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

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

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

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

A degree of disruption is to be expected from any construction project, but this is not reason to withhold planning permission. The Environmental Protection team has recommended the application be supported by a Construction and Environmental Management Plan (CEMP) before a decision is made; but also recommended a condition requiring a CEMP. Although this site is near to other residential properties, this is true of many development sites, and it is reasonable to conclude that appropriate measures can be in place during the construction period to reduce impact on neighbours. Although there would be some inconvenience, this is short term and case law has well established that this alone is not a reason to withhold planning permission. Inclusion of a Construct Traffic Management Plan via condition meets the conditions tests and is recommended accordingly.

Permitted development rights should only be removed where it is clearly reasonable and necessary, in accordance with guidance contained within the NPPG, and then only when

the rights to be removed are clearly defined. In this case, it is not considered reasonable or necessary to remove any permitted development rights.

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

### **Affordable Housing:**

Adopted LPP1 Policy DP11 sets out an expectation that 30 per cent of the dwellings should be affordable and provided on site. In this case 8 affordable housing units are proposed including 6 x 3 bed houses and 2 x 1 bed flats.

The Housing Enabling Officer raises no objections in respect of the scheme. It is concluded that the proposed development would provide a suitable number and mix of affordable dwellings of an appropriate variety in size, type and tenure to accord with policy DP11 of the adopted Local Plan and the NPPF.

Since the application has been submitted there is now a requirement to secure First Homes, which may form part of the legal agreement.

The proposal therefore accords with Local Plan Policy DP11, and the affordable housing provision (30%) would need to be secured by a S106 legal agreement, in the event that permission is granted.

The affordable housing is directed to the northern side of the site in two clusters (clusters usually being preferred by registered providers for maintenance reasons). Considering the scale of development, and that the two clusters are separated by market dwellings of a similar size, this layout is considered acceptable.

The affordable housing proposed is therefore concluded to accord with relevant planning policy and the proposal is acceptable in this regard.

### **Housing Mix:**

LP1 policy DP14: Housing Type and Mix and FNP policy H1: Building a Balanced Community both require a suitable mix of types and sizes of dwellings.

The proposed mix of this development would be 2 x 1 bed flats and 23 x 3 bed houses.



Although most are 3 bed units, they vary in size.

The mix of the development is considered to be acceptable and in compliance with Policy DP14 of the Mendip District Local Plan and policy H1 of the Frome Neighbourhood Plan.

### Education:

The County Education Officer has confirmed a financial contribution would be required to deliver service requirements off site in this case as follows.

	<b>Number of Pupils Generated by Development</b>	<b>Strategy</b>	<b>Obligation</b>
Early years	3		£51,222 for early years at £17,074 per pupil
First school	6	Current catchment - Christchurch First School. The new school planned in Frome would support this development.	£102,444 for first school at £17,074 per pupil
Middle school	4	Current catchment - Selwood Middle school – will require expansion	£83,870 for middle school at £20,967.50 per pupil
Senior		Current catchment - Frome Community College. There is sufficient capacity.	£0
<b>Total</b>			<b>£237,536</b>

The comments from education need to be updated and are therefore subject to change. It is understood the build costs have increased following the comments submitted by the Education officer, therefore these figures are subject to change in the legal agreement in line with updated figures.

Subject to the inclusion of education contributions to allow for expansion of schools as outlined above, the application is concluded to be acceptable in this regard.

## **Health Services:**

NHS England has confirmed that no obligations are triggered for GP services as part of this proposal.

NHS RUH Bath has confirmed a contribution of £28,825.00 is required towards the gap in the funding created by potential patient increases from this development. This is recommended as part of the legal agreement. Subject to inclusion of this in the legal agreement, the development is concluded to be acceptable in this regard.

## **Public Open Space:**

Policy DP16 Open Space and Green Infrastructure of LP1 and supporting text requires that proposals for new residential development make provision for different open space typologies. Following amendments to the design, an area of public open space has been designed next to the site entrance. This includes planting and a footpath. It's prominent siting would offer opportunities for social interactions for future occupants and existing neighbouring occupants.

DP16 requires development to make provision for formal public open space (POS) on the basis of the National Playing field Association's (NPFAs) long standing standard of 2.4ha of new space per additional 1,000 people.

The 2011 census gives an average occupancy rate of 2.3 people per dwelling. Based on this standard and an average dwelling occupancy of 2.3 persons per dwelling, this equates to approximately 58 people living on site (2.3 persons x 25 dwellings) meaning that the required area of POS, based on the proposed population of the development, is 0.14ha (2.4ha/1000 x 58). The area of public open space proposed in the northern corner of the site is approximately 400m<sup>2</sup> (0.04ha).

'Fields in Trust Guidance for Outdoor Sport and Play' states that developments between 10-200 dwellings require both a LAP (Local Area for Play) and a LEAP (Locally Equipped Area for Play) as well as a contribution towards a MUGA (Multi-Use Games Area). The application does not include a LAP or LEAP. Given the constraints of the site and its location, it is highly likely that off-site contributions would be appropriate, especially as Frome Town Council generally requests contributions to improve other more established public open spaces within the town. Contributions towards off-site provision would be to the sum of £34,105 (25 x total off-site MDC POS contribution fee of £1,364.20 per dwelling).

In conclusion on this matter, the onsite POS proposed on the site together with offsite contributions are considered acceptable in relation to open space and compliance with

**Impact on Ecology:**

The site is not subject to any ecological designations, although it is within the bat consultation zone for the Mells Valley SAC. An Ecological Appraisal prepared by Aspect Ecology has been submitted with the application. The submitted Ecological Appraisal summarises the results of a desk study and site survey work and sets out recommendations. The proposal is summarised in the Ecological Assessment thus:

- v) **Habitats.** The site itself is a brownfield site (formerly a warehouse and associated car parking). The southern section is occupied by areas of semi-improved grassland, scrub, ruderal vegetation, hard standing and gravelly bare ground. In addition, there is a small hardstanding area in the north of the site (a car park). There are scattered trees around the north-east and north-west boundary of the site, as well as a sparse line of trees separating the two parts of the site. Features of ecological importance include semi-improved grassland and trees which are of local level value. The tree line situated in the middle of the site will be lost under the proposal. This loss will be compensated by 100 new planted trees located around the boundaries of the site enhancing the existing linear features. The remaining habitats within the site are not considered to form important ecological features and their loss to the proposals is of negligible significance.
- vi) **Protected Species.** The site generally offers limited opportunities for protected species. However, a small population of reptiles were found to be present. In addition, a number of foraging and commuting bats were recorded during the bat activity surveys. Appropriate mitigation measures will therefore be implemented to safeguard these species.
- vii) **Enhancements.** The proposals present the opportunity to secure a number of biodiversity net gains, including tree planting, wildflower planting, bird boxes and bat boxes.

The broad results of assessments and surveys is set out in Table 5.3 of the submitted Ecological Assessment which is replicated below:

**Table 5.3.** Evaluation summary of fauna forming important ecological features.

Species / Group	Supported by or associated with the site	Level of Importance
Bats – Roosting	Potential habitat in the form of trees and buildings	Likely Absent
Bats – Foraging / Commuting	Confirmed presence on site	Local
Badger	No evidence of activity	Likely Absent
Great Crested Newt	No on-site ponds, or off-site ponds within 250m	Likely Absent
Reptiles	Confirmed presence on site	Local
Birds	Confirmed presence on site	Site

The current site has ecological habitat value, including birds, foraging and commuting bats and reptiles, possible bat roosts nearby and reptiles (slow worms) within the site. As such, the Ecological Statement makes a number of recommendations in relation to mitigation and biodiversity net gain.

The submitted ecological survey and recommendations are considered acceptable in relation to assessment of current ecological value, proposed mitigation and recommendations.

Biodiversity enhancements have been agreed with the applicant and are recommended to be secured via planning condition, including:

- A) 25 bat boxes*
- B) 13 bird nesting boxes*
- C) A cluster of five swift bricks*
- D) Four House Martin nests*
- E) Two Sparrow terraces*
- F) At least 10 bee bricks*
- G) All new fencing must have accessible hedgehog holes*
- H) At least four log piles for reptiles and or amphibians*
- I) At least two hedgehog nest domes*
- J) Areas of wildflower grassland*

Measures go beyond those originally proposed by the applicant but have since been agreed as reasonable and suitable measures.

The applicant's suggestion of a payment for grassland has no mechanism. The biodiversity measures as outlined above have been enhanced instead.

A number of planning conditions are recommended including agreement of lighting details; agreement of landscaping details; a Construction Environmental Management Plan (CEMP): Biodiversity; a reptile mitigation strategy; invasive species controls; and compliance with the recommendations set out in the submitted Ecological Appraisal. The wording of some of the conditions has been amended slightly, and the reptile condition as recommended by Ecology has been reduced to ensure it meets the national conditions tests.

It is noted that invasive plant species Cotoneaster has been identified at the site, and recommendations include measures to remove it and appropriately dispose of it to reduce risks of it spreading to new areas. The Ecologist has recommended a specific condition on this to ensure robust control of this matter.

The condition recommended by Ecology for hedgerows and trees is covered by other conditions already recommended and summarised under the trees part of this report. It is not necessary to duplicate conditions.

A Landscape and Ecological Management Plan (LEMP) is recommended to be included as part of the legal agreement, to ensure there is a robust legal mechanism for securing ongoing ecological management of the site. This would be expected to 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 organisation responsible for implementation of the plan.*
- h) On-going monitoring and remedial measures.*
- i) Where the results from monitoring show that conservation aims and objectives of the LEMP are not being met, confirmation of 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.*

In conclusion on this matter, and subject to the inclusion of planning conditions and a legal agreement, the proposed development would 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.

### **Trees:**

There are no trees within the site that are covered by Tree Preservation Orders (TPO) and the site is not within a conservation area. As such the trees are currently unprotected. The site has been vacant for some time and there are a number of trees and some vegetation on the site which contribute to the character and appearance of the area.

An Arboricultural Impact Assessment (AIA) has been submitted with the application. In relation to the existing situation, the AIA concludes all trees/hedges/vegetation on site are within category C or category U and are not worthy of protection. The AIA concludes the current situation as follows:

*“1.3.1 The site is of low arboricultural interest and contains few trees that are worthy of individual distinction or which hold any value beyond their collective canopy coverage or role in defining boundaries. A total of five individual trees and six groups of trees/scrub were recorded as part of the tree survey; they have all been considered in full during the design stage of the project in accordance with BS5837:2012.*

*1.3.2 The northern boundary is defined by an early mature collection of low quality Leyland Cypress and remnants of a lapsed hedgerow (refer to G1 and G3 within appendix B). The Cypress have established large crowns as a consequence of lapsed (hedge) management and have reached a size whereby intervention will be necessary within the foreseeable future to manage them within their current setting. Owing to their large size and the species inability to produce new growth from old wood, the most appropriate option is likely to be their removal and replacement, irrespective of the development proposal. In any event, their contribution to the visual amenity could be readily replaced through the introduction of replacement planting.*

*1.3.3 Following the demolition of the former development, self-seeded scrub has intermittently colonised areas of bare/disturbed ground within the interior and adjacent to the eastern boundary (refer to G2, G5 and G6 within appendix B). This has in part been facilitated by the absence of regular maintenance which has enabled fast growing pioneer species such as Goat Willow, Buddleia, Elm, Crack Willow, Blackthorn, Hawthorn and Silver Birch to establish quickly. 1.3.4 There are a number of trees which remain present from when the site was last occupied (G2), however these too primarily comprise of pioneer species and do not hold any particular value beyond their collective canopy coverage. They typically represent unremarkable examples of their type that are in poor condition or which could be readily replaced with new planting.”*

The AIA confirms that most trees would be removed as part of the proposal, all but 3 trees in the western corner of the site, on the corner of Primrose Court and Adderwell Road. Protective measures are set out on a Tree Protection Plan (TPT) in the AIA. Replacement planting is proposed which in this case is considered acceptable.

Conditions are recommended which would require the measures set out in the TPT and AIA are followed. A further recommended condition would require new landscaping details to be agreed, new planting to be delivered, and any planting lost in the first five years would need to be replaced. This includes native planting on the boundary with Caxton Road. Mechanisms in the legal agreement would cover management and maintenance of trees and planting in communal areas.

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

## **Assessment of Highway Issues:**

Policies DP9 and DP10 of the LP1 sets out a range of criteria including ensuring that new development provides safe access arrangements that avoid causing traffic or environmental issues on the transport network; demonstrate how sustainable modes of transport would be promoted; and provide appropriate parking levels.

Following consideration by officers, the proposal is concluded to be acceptable in relation to capacity within the highway network. Although the development would see an increase in vehicle movements, there is capacity within the highway network and a refusal could not be justified in this regard.

Following the submission of additional information and detailed consideration by the Highway Authority (HA), the revised plans are considered safe and suitable for the scale of development in this location. The revised plans show adequate access arrangements into and out of the development; and adequate manoeuvring within the development itself, including private drives and turning areas.

The Somerset Parking Standards set 'optimum' parking levels throughout Somerset. Within this part of the district (zone B) parking standards are set at 1.5, 2 and 2.5 space for 1, 2 and 3 bedroom properties respectively. For the development as proposed, the Somerset Parking Standards would suggest 60.5 spaces would be 'optimum'. In this case, a total of 47 spaces are proposed (including 9 in garages). Considering the sustainable location of the site with good access to services, facilities and public transport, this parking figure is concluded to be acceptable. The Divisional Members have suggested a reduction in parking. Parking consideration needs to be balanced. Although encouraging a reduction in car use is important, in this location some car ownership is likely and lower parking levels could risk parking pressures within the development in future – including impacts on amenity, disputes and unsafe parking practises. In this case, considering the scale, scope and location of development, the parking as proposed is concluded to be appropriate.

Some nearby residents have objected to the application on the basis that the application site is used for informal parking for nearby dwellings, some of which have no allocated parking and rely on on-street parking to which there is limited capacity. There is no known formal agreement for nearby residents parking on the application site, which is private land. It is not possible for this development to address parking pressures in nearby areas, and there is no obligation on the developer here to continue informal parking practises. As such this is not a reason for refusal and carries low weight in the overall planning balance. This highlights the need to ensure parking levels are right.

The layout of parking is considered acceptable in this case also. Following design discussions, some parking has been amended and broken up by landscaping. Grasscrete is proposed for the visitor spaces adjacent to plots 15 and 16, in line with design recommendations.

Community electric vehicle (EV) charging points have been suggested by FTC. Although this aspiration is understood, there is no policy requirement for this in the Somerset Councils Electric Vehicle Charging Strategy (2020) or other policy. Considering the scale and scope of development the lack of EV charge points for the community is considered acceptable.

Consultation comments have requested Primrose Court, which connects the access to the application site to Adderwell, be adopted to safeguard its continued use associated with the adjacent Printworks development. Records indicate this is indeed a private road. This has not been suggested by the applicant or the Highway Authority. This is not required as part of this planning application.

The proposal does show a vehicular and pedestrian link into the Printworks development. This has been requested by various parties through consultation and is concluded to be a benefit, allowing connectivity and permeability.

Considering the site context and the scale of development, the overall site layout is acceptable. Although a route through to Caxton Road was strongly encouraged, the applicant has not been able to incorporate this.

A cul-de-sac arrangement is considered acceptable for this scale of development in this context.

Frome Town Council (FTC) comments refer to a possible contribution towards a footbridge. Following further discussions with FTC, it has been confirmed that as part of another development at Edmond Park to the east of the railway line (2013/1635), planning obligations were secured for a bridge to connect this development to the town and railway station. Upon further investigations it has been confirmed that further obligations from this development would not meet the national tests for planning obligations as set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010 as this would not be 'necessary to make the development acceptable in planning terms'. As such, this has not been progressed further. Various other planning obligations have been agreed however, as outlined below.

The highway authority (HA) has recommended conditions on cycle parking details; electric vehicle charging; visibility splays; estates road details; surface water drainage; construction



management plan; construction of roads and footways before occupation; and confirmation of highways legal agreement.

The cycle condition as recommended by the HA would require details to be submitted and agreed before occupation of the dwellings. Instead the template condition for Somerset East is recommended which would see cycle storage installed in line with Somerset standards and retained in perpetuity. This would require installation before occupation of each dwelling, but would not require details to submitted and agreed with the LPA.

A condition on electric vehicle charging is recommended, although with slightly amended wording than recommended by the HA – to include the technical specifications needed and remove the need for LPA sign off.

In line with the HA recommendations, conditions are recommended with minor wording changes to control visibility; estates road details; a construction management plan; and construction of roads and footways before occupation. Minor changes include, for example, the dwelling access condition includes delivery of parking and turning areas as well.

The HA recommended condition on highways drainage is not recommended, as this is covered under other legislation. Instead an informative is recommended reminding the applicant of their responsibilities in this regard.

An informative is recommended notifying the applicant that implementation of planning permission would require a S278 legal agreement with the highway authority.

In line with the Somerset Council Travel Plan Guidance (2011), a measures-only travel plan has been submitted with the application which is considered broadly acceptable to the travel plan team within the HA, although minor amendments/clarifications are needed. As such, a condition is recommended to require submission and agreement of a final travel plan prior to occupation of the development.

Further standard conditions are recommended including restricting garage use to storage of private motor vehicles and domestic storage in order to retain off street parking; and development of the main access.

The HA has recommended an informative on the Advance Payment Code, this is duly recommended, although with different wording.

In conclusion on this matter, the means of access and parking arrangements are considered to be acceptable and would maintain highway safety standards. The proposal therefore accords with the provisions of Policy DP9 and DP10 of the adopted Local Plan

Part 1 (2014) and Part 9 of the National Planning Policy Framework.

**PROW:**

Although Public Right of Way (PROW) 20/39 is adjacent to the application, the proposal would not affect the route or access to this PROW. A standard informative is recommended reminding the applicant of the controls and requirements around PROW. Although Network Rail comments refer to the need to divert this PROW, this is not necessary.

**Land Drainage:**

The application site is in flood zone 1, meaning it is acceptable for development in principle drainage terms.

As outlined above, amendments were made through the life of the application to remove an attenuation pond on the southern corner of the site with an area of public open space in order to enhance the scheme in urban design terms, and allow greater opportunities for community interactions in this location. The applicant prepared and submitted updated drainage information accordingly, which has been subject to detailed review and discussions with the Lead Local Flood Authority (LLFA). This includes an updated drainage strategy, with results of soakaway tests and flood risk assessment. This confirms the following in relation to surface water management measures proposed:

**Surface Water Management**

- 3.22. A sustainable drainage strategy, involving the implementation of SuDS, is proposed for managing the disposal of surface water runoff from the proposed development on the site.
- 3.23. As there is varied infiltration across the site, it is proposed to use flow balancing methods in order to store and attenuate surface water runoff so that the rate of discharge is controlled. Pervious pavements are also proposed to allow infiltration to occur where possible, and further reduce surface water runoff from the proposed development.
- 3.24. There are no accessible watercourses or ditches within the immediate vicinity of the site and so it is therefore proposed that surface water runoff is discharged at a controlled rate to the existing 225mm diameter public combined sewer located in the southern corner of the site at Manhole 2256. This existing sewer provided the means of drainage for the former use on the site.
- 3.25. Wessex Water has previously agreed a maximum discharge rate of 15 l/s for a combined connection from the site to the existing public sewer in the southern corner of the site. A copy of Wessex Water's email dated 4 December 2012, agreeing the maximum discharge rate, is reproduced in **Appendix 6**.
- 3.26. A preliminary surface water drainage strategy is shown on the Proposed Drainage Strategy Plan, Drawing No. P936/03 Revision B, a copy of which is contained in **Appendix 7**.
- 3.27. The proposed surface water drainage measures incorporate flow balancing facilities, to attenuate and store surface water runoff, comprising a cellular storage tank. Where required, underground

storage is provided in the form of over-sized sewers. Outflow from the cellular storage tank is controlled by means of a suitable flow control device and ultimately discharged to the combined sewer.

- 3.28. Pollution control measures include infiltration devices in the form of pervious pavements and the use of deep trapped gullies and separator systems. All road areas and other areas that drain to gullies should pass through deep trapped gullies. All larger parking areas should drain via pervious pavements or pass through a separator, which meets the requirements of BS EN 858 'Separator systems for light liquids (e.g. oil and petrol)', before discharging into the downstream drainage system.
- 3.29. The proposed drainage strategy would ensure that surface water arising from the developed site would be managed in a sustainable manner to mimic the surface water flows arising from the site prior to the proposed development, while reducing the flood risk to the site itself and elsewhere, taking climate change into account.

The submission also confirms that permeable paving is proposed within the shared surface areas, which would be maintained by a management company.

Following various rounds of consultation and the submission of further information and clarifications, the LLFA has confirmed the application is acceptable in relation to drainage and flood management, SUDS commitments, pollution controls and connections to the sewer network (as agreed with Wessex Water).

Previous LLFA comments were highlighted by the Divisional Member in comments dated 04.02.2023 which include a call for the application to be referred to the Planning Board (now committee) if these issues are not addressed. The LLFA has since confirmed all issues raised at that time have now been resolved.

The LLFA has recommended standard conditions which are attached accordingly, including the submission of the detailed drainage design for approval and for the provision of the full maintenance strategy and details of the body responsible for ongoing maintenance. Detailed information is therefore required via standard conditions. A management strategy including arrangements for drainage responsibility is recommended to form part of the legal agreement, as with other major dwelling permissions.

A standard informative is also recommended, reminding the applicant that it is illegal to discharge surface water onto the highway.

In conclusion on this matter, 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 14 of the National Planning Policy Framework.

### **Sustainability and Renewable Energy:**

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

Part VC0 3 (Sustainability) of the three golden threads identified by the FNP looks "*To provide the framework for a town-wide transition to a low carbon economy*" and confirms that the principles of 'One Planet Living', where they relate to the development and use of land, and the definition of sustainable development, as set out in the National Planning Policy Framework, should inform all future development in Frome.

Following discussion with the applicant, an Energy and Sustainability Statement was submitted in August 2022 confirming the following commitments:

1. Fabric first technologies:

- “The construction specification of every home will include high levels of insulation in the ground floor, external walls and roof.
- The detailed house type designs will incorporate the thermal bridging guidance produced by constructive details, thereby reducing a significant source of heat loss.
- Energy efficient lamps will be installed in every light fitting.
- Each property will be naturally ventilated using efficient extract fans to ensure the internal living environment will be healthy and comfortable.
- The dwellings will be of timber frame construction with a low thermal mass driving further efficiencies from heating systems.”

2. An air source heat pump (ASHP) will be fitted in each dwelling:

*“In domestic heating use an ASHP absorbs heat from outside air and releases it inside the building, as hot air via hot water-filled radiators, under floor heating and/or domestic hot water supply. An ASHP works best with a well-insulated home with high standards of air-tightness because heat pumps are most effective in homes with good heat retention. When considering the fabric first approach Persimmon use across their developments and based upon the size of the development and dwelling mix proposed on this site ASHP are considered a suitable renewable technology to be utilised to lower carbon emissions.”*

3. Electric Vehicle (EV) charging:

*“EV charging points will be provided to all dwellings with on plot parking.”*

Conditions are recommended to secure an ASHP is installed into each dwelling before it is occupied. To ensure appropriate noise controls of the ASHP units, the recommended condition includes the requirement to agree detailed specifications including siting and noise to ensure residential amenity is maintained. Informal comments have identified some concerns in relation to delivery of the ASHP's. In the event that ASHP's cannot be installed for any reason, the applicant would need to apply to the LPA to agree to amend or remove this condition. As this is given weight in the planning balance, any alternative measure would need to include suitable alternative measures to the satisfaction of the LPA.

EV charging is recommended via conditions. Although some provision is required under building regulations, the technical specification is set out in the Somerset EV Strategy.

In conclusion on this matter, solar panels and triple glazing have been strongly encouraged but not agreed by the applicant. On balance the measures proposed are considered acceptable. A number of conditions are recommended.

#### **Refuse Collection:**

The proposed plans show the dwellings would have sufficient room to store waste containers. As per comments from the Somerset Waste Partnership, the label 'Standard curtilage collection' on the Refuse Strategy Plan is concluded to be an error. There is sufficient room for storage, and collection. The Somerset Waste Partnership has not objected to the proposal.

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

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

#### **Network Rail:**

Comments from Network Rail refer to a level crossing, Network Rail owned land and the PROW.

There is a PROW adjacent to the site, and the proposed development does not include alterations to this.

The Network Rail website maps level crossings, and a crossing circa 300m. It is unclear from the comments received from Network Rail how the proposed development would impact on this, or any other rail assets.

The condition recommended by Network Rail would restrict any development coming forward until the stopping up or diversion of the PROW has been agreed. As the PROW is not proposed to be stopped up or diverted, and there is no known impact on Network Rail which would justify this condition, it is not recommended.

### **Contaminated Land:**

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

### **Environmental Impact Assessment:**

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

### **Planning Obligations:**

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

- Affordable housing (30%)
- Sustainable urban drainage provision and management
- Development and maintenance of the on-site public open space
- Management company including maintenance of communal areas
- Programme of implementation and compliance
- NHS - £28,825
- Education - £237,536
- Off site POS contributions - £34,105
- Landscape and Ecological Management Plan (LEMP)
- Biodiversity Enhancement (BEMP)

If the application is approved these matters can be secured via a legal agreement.

### **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.

### **Other Matters Raised Through Consultation:**

- This assessment considers the proposal as submitted. Employment proposals do not form part of the application.
- The red line boundary of the application site sits immediately adjacent to the red line boundary of the neighbouring Printworks site, as shown application 2022/0496/NMA, which was approved on 08.04.2022.
- The documents as submitted are considered sufficient to be able to understand and determine the development.
- The developer is responsible for ground stability, and this is controlled through building regulations.
- FTC has requested the community areas are managed by a community group rather than a management company. Whilst the rationale for this is understood, there is no mechanism to require this and the recommended S106 legal agreement may accept a management company. It is anticipated that legal agreements may include standard provisions for possible future community led control options. The planning application is considered acceptable in this regard.
- The Building for Life Assessment in the submitted Design and Access Statement refers to Trowbridge with associated tram access. Frome does not have tram access. The remaining parts of the document refer to the correct site, and the impacts of the proposal can be understood to allow the application to be determined.

### **Conclusion:**

As the Council cannot demonstrate a 5 year housing land supply, the 'tilted balance' set out in para 11d of the NPPF is engaged, meaning the spatial strategy carries reduced weight in the planning balance and residential proposals should only be refused if they would result in 'significant and demonstrable harm' which outweighs the benefits of the proposal.

As the application site is within the development limits of Frome (one of the five key settlements), and within a brownfield site, it meets the spatial strategy as set out in the Local Plan and LP policies CP1 and CP2. The site is not safeguarded for employment uses

in LP2 and as a former employment site, sufficient marketing has demonstrated that it is unlikely to come forward for employment uses.

The scheme would be acceptable (subject to the inclusion of relevant conditions and obligations) in relation to impact on the character of the area; affordable housing provision; housing mix; education; highways, access and parking; contaminated land; refuse and recycling; trees; landscaping; carbon reduction; and ecology.

Benefits of the scheme include housing and affordable housing delivery; commitments to carbon reduction mechanisms including air source heat pumps; biodiversity measures; public open space provision; and limited economic benefits. Harms include some impact on the character of the area; additional pressures on services; and increased traffic. Considering the application under the 'tilted balance' including the scale and scope of development in this context, the harms are not considered 'significant and demonstrable' to justify refusal in this case.

It is therefore recommended that planning permission be APPROVED subject to recommended planning conditions and a legal agreement as set out in this report.

## **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:

Overall site:

LP.01 REV B - Location Plan (clarified) - 22.03.2023

Site Layout - SL01 Rev R - received



SL.02 REV A - PART SITE LAYOUT - 16.11.2022

ML.01 REV F - MATERIALS STRATEGY LAYOUT - 08.08.2023

P936/11 Rev G - PROPOSED DRAINAGE LAYOUT PLAN - 23.11.2022

Highways Technical Note, prepared by rappor, dated May 2023

Housetypes:

HT.1BF.PE\_D - HT.1BF FLOOR PLANS & ELEVATIONS - 22.03.2023 - plots 1, 2

HT.3520.pe\_C - HT W3 FLOOR PLANS & ELEVATIONS - 22.03.2023 - plots 3, 4

HT - 3520 (W2) FLOOR PLANS & ELEVATIONS 08.08.2023 - plots 7, 8, 9, 10

HT.3520.PE REV B - HT - CHARNWOOD - OPTION 1 FLOOR PLANS AND ELEVATIONS - 08.08.2023 - plot 13

HT.CH-2.PE REV B - HT - CHARNWOOD - OPTION 2 FLOOR PLANS AND ELEVATIONS - 08.08.2023 - plots 15, 16, 25

HT.DAN.PE REV B - HT - DANBURY FLOOR PLANS & ELEVATIONS - 08.08.2022 - plots 19, 20, 23, 24

HT.SA.E REV C - HT - SAUNTON ELEVATIONS - 08.08.2023 - plots 5, 6, 21, 22

HT.SA.P REV C - HT - DANBURY FLOOR PLANS & ELEVATIONS - 08.08.2023 - plots 5, 6, 21, 22

HT.SH.PE REV B - SHERWOOD FLOOR PLANS & ELEVATIONS - 08.08.2023 - plots 11, 12, 14, 17, 18

SG.PE REV A - SINGLE GARAGE FLOOR PLANS & ELEVATIONS - 08.08.2023

TG.PE REV A - TWIN GARAGE FLOOR PLANS & ELEVATIONS - 08.08.2022

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

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

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

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

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

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

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

5. **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 policy DP7 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).

6. **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 policy DP7 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (adopted 2014)

7. **Contaminated Land 1 - Investigation and Risk Assessment (Pre-commencement)**

No development shall commence unless an investigation and risk assessment of the nature and extent of contamination on site and its findings have been submitted to and approved in writing by the Local Planning Authority. This assessment shall be undertaken by a competent person, and shall assess any contamination on the site, whether or not it originates on the site. The assessment shall consider all previous uses and shall be conducted in accordance with DEFRA and the Environment Agency's 'Land contamination Risk Management (LCRM) 2019'. The assessment and written submission shall include:

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

Reason: In order to ensure that the land is suitable for the intended uses and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors and in accordance with 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 harmful contamination. Therefore these details need to be agreed by submission of an assessment report before work commences in addition to any assessment provided with the planning application. This condition does not restrict commencement of enabling works provided that these may be demonstrated to be entirely for the purposes of ground investigations deemed necessary to inform the risk assessment.

**8. Contaminated Land 2 - Remediation Scheme (Pre-commencement)**

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

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

The remediation scheme shall be designed to ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

The approved remediation scheme shall be carried out prior to the commencement of development (other than those works required to carry out remediation) or in accordance with the approved timetable of works.

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

9. **Contaminated Land 3 - Remediation Scheme (Pre-commencement)**

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

Reason: In order to ensure that the land is suitable for the intended uses and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors and in accordance with sections 11 and 15 of the National Planning Policy Framework.

10. **Contaminated Land 4 - Verification Report (Pre-occupation)**

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

Reason: In order to ensure that the land is suitable for the intended uses and to ensure that the development can be carried out safely without unacceptable risks to human health, controlled waters and other offsite receptors and in accordance with section 11 and 15 of the National Planning Policy Framework.

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

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

- a) Construction vehicular routes to and from site.
- b) Expected number of construction vehicles per day.
- c) The parking of vehicles of site operatives and visitors.
- d) Locations for loading/unloading and storage of plant, waste and construction materials
- e) Storage of plant and materials used in constructing the development.
- f) Wheel washing facilities.

- g) Measures to control the emission of dust and dirt during construction.
- h) Delivery and construction working hours.
- i) Specific measures to be adopted to mitigate construction impacts in pursuance of the Environmental Code of Construction Practice.
- j) A scheme to encourage the use of public transport amongst contractors.
- k) 24 hour emergency contact number.
- l) Measures to protect vulnerable road users (cyclists and pedestrians).
- m) Any necessary temporary traffic management measures.
- n) Arrangements for turning vehicles.
- o) Arrangements to receive abnormal loads or unusually large vehicles.
- p) Methods of communicating the Construction Management Plan to staff, visitors and neighbouring residents and businesses.

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

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

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

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

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

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

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

Reason: In order to ensure the provision of satisfactory drainage and avoid pollution of the environment. This is a condition precedent because it is necessary to

understand the drainage scheme in detail prior to any initial construction works which may prejudice the foul drainage strategy.

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

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

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

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

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

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

16. **Visibility Splay (Pre-Occupation)**

No occupation shall commence until the visibility splay shown on drawing number No 20-443\_SK01 Rev E (as set out in the Technical Note prepared by rappor, dated May 2023) has been provided. There shall be no on-site obstruction exceeding 300mm above adjoining road level. The visibility splay shall be retained permanently thereafter.

Reason: To ensure sufficient visibility is provided in the interests of highways safety in accordance with Policy DP9 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

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

The proposed estates road; footways; sewers; service routes; vehicle overhang margins; visibility splays; carriageway gradients; drive gradients; verges; street lighting; pedestrian and cycle routes; vehicular accesses and crossings; means of enclosure and boundary treatments; tactile paving; proposed levels; and highway drainage shall be constructed, laid out and maintained in accordance with details to be approved by the Local Planning Authority in writing before the construction of any aspect of the new section of the highway begins. For this purpose, plans and

sections, indicating as appropriate, the design, layout, levels, gradients, materials, method of construction and proposals for future maintenance shall be submitted to the Local Planning Authority.

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

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

No occupation of any individual dwelling shall commence until its access, parking and turning areas have been constructed (properly consolidated and surfaced) in accordance with details shown on the approved plans. The vehicular access, parking and turning shall thereafter be kept clear of obstruction and shall not be used other than for the access and parking of vehicles in connection with the development hereby permitted.

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

19. **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 Policy DP9 and DP10 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

20. **Access (Compliance)**

The vehicular access hereby approved shall not be brought into use until it has been constructed in accordance with drawing number No 20-443\_SK01 Rev E (as set out in the Technical Note prepared by rappor, dated May 2023). The vehicular access shall thereafter be permanently retained in accordance with the approved drawings.

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

21. **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).

22. **Invasive Species Removal (Pre Commencement)**

Prior to the commencement of development, an invasive non-native species protocol shall be submitted to and approved by the local planning authority, detailing the containment, control and removal of Cotoneaster on site. The measures shall be carried out strictly in accordance with the approved scheme.

Reason: It is an offence under the Wildlife and Countryside Act 1981, as amended, to introduce, plant or cause to grow wild any plant listed in Schedule 9, Part 2 of the Act. Cotoneaster is included within this schedule. All Cotoneaster (the plant itself or material containing its rhizomes) is classed as a controlled/special waste and therefore needs to be disposed of in accordance with the Environmental Protection Act 1990 and the Environmental Protection Act Duty of Care Regulations 1991.

This is a pre commencement condition as any construction works could spread this invasive species.

23. **Construction Environmental Management Plan: Biodiversity (Pre-Commencement)**

No development shall commence (including demolition, ground works, vegetation clearance) until a Construction Environmental Management Plan (CEMP: Biodiversity) has been submitted to and approved in writing by the Local Planning Authority. The CEMP: Biodiversity shall include the following:

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of 'biodiversity protection zones'
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction, including nesting birds habitat clearance measures, badgers buffer zones, reptile/amphibian sensitive habitat clearance, and safeguarding measures for bats.
- d) The location and timing of sensitive works to avoid harm to biodiversity features.
- e) The times during construction when specialist ecologists need to be present on site to oversee works.
- f) Responsible persons, lines of communication and written notifications of operations to the Local Planning Authority.
- g) The role and responsibilities on site of an Ecological Clerk of Works (ECoW) or similarly competent person including regular compliance site meetings with the Council.
- 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 construction of the development shall thereafter be carried out strictly in accordance with the approved CEMP: biodiversity.

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

24. **Reptile Mitigation Strategy (Pre-Commencement)**

No development shall commence, including vegetative clearance and ground works, until a detailed Reptile Mitigation Strategy has been submitted to and approved in writing by the Local Planning Authority. The strategy shall include the following:

- a) The proposed construction working practices to avoid harming reptiles.
- b) Details of proposed location including receptor area(s), to accommodate any reptiles discovered during works.
- c) The timing of works to minimise the impact on reptiles.
- d) If required, details of the location and status of the translocation site.

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

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

25. **Lighting Design for Bats (Bespoke Trigger)**

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

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).

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

The development hereby approved (including demolition, ground works, and vegetation clearance) shall be carried out in strict accordance with the recommendations set out in the approved Ecological Appraisal prepared by Aspect

Ecology dated November 2020. The Ecological Appraisal shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

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

27. **Biodiversity Enhancement and Management Plan (BEMP) (Bespoke Trigger)**

Prior to any development above level slab, a Biodiversity Enhancement and Management Plan (BEMP) shall be submitted to, and be approved in writing by, the Local Planning Authority. The BEMP shall include the following which will also be identified on a plan to be submitted to and agreed by the LPA:

A) 25 Habitat 001 bat boxes or similar will be built into the structures at least four metres above ground level and away from windows of the west or south facing elevation (one on each of the dwellings)

B) 13 suitable bird nesting boxes will be mounted in suitable trees comprising Vivara Pro Woodstone Nest Boxes (32mm hole version) or similar and Vivara Pro Barcelona Woodstone Bird Box (open front design) or similar. Boxes will be mounted between 1.5m and 3m high on the northerly facing aspect of trees.

C) A cluster of five Schwegler 1a swift bricks or similar built into a wall at least 60cm apart, at least 5m above ground level on a north facing elevation.

D) Four Vivra Pro Woodstone House Martin nests or similar will be mounted directly under the eaves of a north facing elevation.

E) Two Schwegler 1SP Sparrow terraces or similar will be mounted at least one metre apart directly under eaves and away from windows on north elevations of dwellings.

F) At least 10 bee brick built into the walls about 1 metre above ground level on the south or southeast elevation of the dwellings

G) All new fencing must have accessible hedgehog holes, measuring 13cm x 13cm to allow the movement of hedgehogs into and out of the site

H) At least four log piles as a resting place for reptiles and or amphibians constructed within the public open space within the site

I) At least two hedgehog nest domes in suitable locations.

J) Areas of wildflower grassland are created within the site.

Reason: To provide biodiversity enhancements in accordance with Policies DP5 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 170(d) of the National Planning Policy Framework.

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

The development hereby approved shall be carried out in full accordance with the

approved Arboricultural Method Statement and Tree Protection Plan.

Reason: To ensure that trees which contribute to the character and appearance of the area, and are to be retained, are not adversely affected by the development proposals in accordance with DP1 and DP4 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

29. **Tree Protection Plan - Implementation (Compliance)**

No development activity shall commence until the protective measures as stated in the approved annotated tree protection plan are implemented.

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

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

No occupation shall commence until a detailed hard and soft landscape scheme has been submitted to and approved in writing by the Local Planning Authority.

Notwithstanding the approved plans, the Hard and Soft Landscaping Scheme will be in general conformity with 100 Rev C 'Landscape Masterplan' received 08.08.2022 and 500 Rev C 'Planting Plan' received 08.08.2022 with native hedge planting adjacent to Caxton Road as shown on SL.02 REV A 'Part Site Layout' received 6.11.2022. 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)
- (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).

## **Informatives**

### **1. Condition Categories**

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

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

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

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

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

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

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

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

2. 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 applicant is advised of the need to consult the Highways Department, Somerset Council (Tel:- 0300 123 2224) prior to commencing works adjacent to the public highway.

4. In order to discharge conditions relating to the approval of external walling and roofing materials, please ensure that materials are left on site for approval and NOT brought to the Council Offices. When applying for the approval of materials, you must state precisely where on site any samples have been made available for viewing.
5. The responsibility for ensuring compliance with the terms of this approval rests with the person(s) responsible for carrying out the development. The Local Planning Authority uses various means to monitor implementation to ensure that the scheme is built or carried out in strict accordance with the terms of the permission. Failure to adhere to the approved details will render the development unauthorised and vulnerable to enforcement action.
6. This permission is accompanied by an agreement under Section 106 of the Town and Country Planning Act 1990.
7. 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/>
8. **Highways Advance Payments Code (APC)**

The applicant should be aware that the internal layout of the site represents the laying out of an estate road / private street, and as such, under Sections 219 to 225 of the Highways Act 1980, will be subject to the Advance Payments Code (APC). A security, in the form of a cash deposit or bond will be required for the value of the road works; in order to ensure that funds are available to complete the new estate roads, should for any reason the developer cannot. This is a statutory duty placed on the County Council by the Government.

All such roads, whether proposed as private or for adoption for maintenance at public expense, will need to be constructed to an acceptable standard as determined and approved by the Highway Authority.

Once the APC notice has been served (after Building Regulations approval), and activated by the laying of house foundations, SCC needs to be satisfied that the estate road infrastructure has been designed, built and will be maintained to a suitable standard. Once satisfied in this regard SCC can then 'exempt' the APC liability, release the security (bond/cash deposit) and remove the APC liability from local searches, for the house buyers/owners.

Non-refundable fees are payable to SCC to cover the costs of undertaking this 'superintendence' of APC legislation.

9. **Highways Legal Agreement and Licence**

Works in the existing highway require a signed, bonded and sealed Section 278 or Section 38 agreement.

To work in or adjacent to the existing highway a Section 171 Licence is required.

Unless there is a pre-existing access to the site, no works should be carried out in the highway / highway verge (such as forming an access to the site) until a Section 171 license has been obtained.

10. **Public Right of Way**

The health and safety of the public using the PROW must be taken into consideration during works to carry out the proposed development. Somerset County Council (SCC) has maintenance responsibilities for the surface of a PROW, but only to a standard suitable for the public use. SCC will not be responsible for putting right any damage occurring to the surface of a PROW resulting from vehicular use during or after works to carry out the proposal. It should be noted that it is an offence to drive a vehicle along a public footpath, public bridleway or restricted byway unless the driver has lawful authority (private rights) to do so. If it is considered that the development would result in any of the outcomes listed below, then authorisation for these works must be sought from Somerset County Council Rights of Way Group:

- o A PROW being made less convenient for continued public use.
- o New furniture being needed along a PROW.
- o Installing any apparatus within or across the PROW.
- o Changes to the surface of a PROW being needed.
- o Changes to the existing drainage arrangements associated with the PROW.

If the work involved in carrying out this proposed development would:

- o make a PROW less convenient for continued public use; or
- o create a hazard to users of a PROW,

then a temporary closure order will be necessary and a suitable alternative route must be provided. For more information, please visit Somerset County Council's Rights of Way pages to apply for a temporary closure:

<http://www.somerset.gov.uk/environment-and-planning/rights-of-way/apply-for-a-temporary-closure-of-a-right-of-way/> .

11. **Highways Drainage**

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

Any systems provided for the purposes of draining the site shall be constructed and maintained privately until such time as the drainage is adopted. At no point will this Authority accept private infrastructure being connected into highway drainage

systems. Consent from the riparian owner of any land drainage facilities affected, that are not within the developer's title, will be required for adoption.

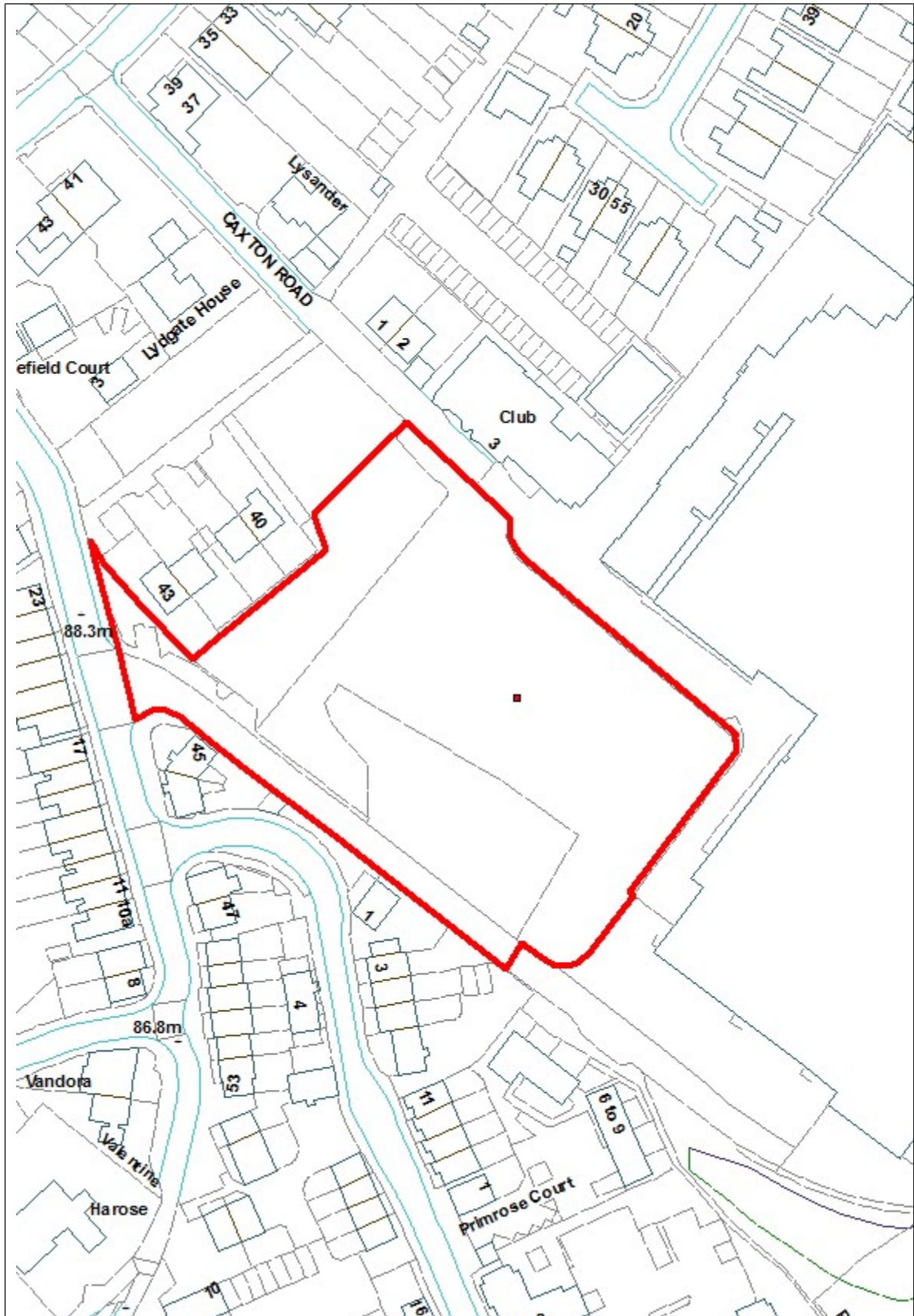
12. **Environmental Protection Legislation**

The applicant is reminded that compliance with the conditions attached to this consent or the legitimate use thereof, does not preclude the Council from taking action under legislation intended to protect quality of life including inter-alia the statutory nuisance provisions of Part III of The Environmental Protection Act 1990, The Licensing Act 2003 and the provisions of the Anti-social Behaviour, Crime and Policing Act 2014.

13. 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.

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Planning Board Report 4th July 2023  
Land At 378206 147347  
Adderwell Road  
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Somerset

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# Agenda Item 9

Case Officer	Lorna Elstob
Site	Blostins Restaurant 29 - 33 Waterloo Road Shepton Mallet Somerset BA4 5HH
Application Number	2022/0285/FUL
Date Validated	28 February 2022
Applicant/ Organisation	N & L Reed
Application Type	Full Application
Proposal	Part Change of use from restaurant Class E(b) to residential Class C3
Division	Shepton Mallet Division
Parish	Shepton Mallet Town Council
Recommendation	Refusal
Divisional Cllrs.	Cllr Bente Height Cllr Garfield Kennedy

#### 14. What3words: tresspass.tragedy.hotel

Chair comments (D Hooton): I disagree with Officer Recommendation of Refusal. Surely a change from Restaurant to residential will reduce the amount of waste water being produced therefore a comparable reduction in potential phosphates.

I therefore to overturn Officer recommendation and Approve this application as, notwithstanding the loss of a business it will compensate by providing much needed housing that the District is desperately short of. If this means the application must be referred to Planning Board then so be it.

Vice Chair comments (N. Hewitt-Cooper): I agree with your recommendation. If refused for this reason alone the principle for the proposed development would stand for a re-application.

The application was referred to the Chair and Vice Chair following the referral to the Ward Members and the receipt of their comments:

Cllr Kennedy: I have no objection to this application being considered under delegated powers. Of course I regret that this important restaurant is to close but we have to accept in the current economic climate there are many challenges to running a public facing business. The restaurant sits in a residential street, not in the town centre, so there really can be no strong reason to prevent the property reverting to its original purpose as a dwelling.

Cllr Height: I do not agree to use delegated powers with regards to this application. The application is not doing any harm to road safety, conservation protection, nor other impacts in Waterloo Road. The application will transfer a part of the restaurant back to what it original was a house. I disagree that there will be an adverse impact on the plains. This application protects a couple of vital issues in Shepton Mallet.

1. It maintains a very important restaurant ( we have lost the Italian restaurant and The Shrubbery Hotel)
2. It creates a dwelling and since no building has been started at the prison and the old Midsomerset Showground, Shepton Mallet has fallen dramatically behind regarding housing buildings target.

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

Blostins Restaurant occupies the ground floor of 29-33 Waterloo Road, the rest of the building is a single residential unit. The proposal is for the change of use of the restaurant to residential with the overall result being two dwellings. The site is located within a conservation area and is within the development limits of Shepton Mallet. The site is also located within the Somerset Levels and Moors Ramsar catchment.

**Relevant History:**

2022/0286/DUB – Demolition of rear extension as part of change of use. Approved 12.09.22

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

Ward Member: No comments received.

Shepton Mallet Town Council: Support application.

Planning Policy: Lack of information with regards to phosphates.

Highways Development Officer: Standing Advice.

Local Representations: No comments have been received as a result of public consultation.

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 2 - December 2021 (Post JR version)
- Somerset Waste Core Strategy (2013)
- Somerset Mineral Plan (2015)

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

- CP1 – Mendip Spatial Strategy
- CP2 – Supporting the Provision of New Housing
- DP1 – Local Identity and Distinctiveness
- DP3 – Heritage Conservation
- DP7 – Design and Amenity of New Development
- DP10 – Parking Standards

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

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

**Assessment of relevant issues:**

**Principle of the Use:**

The application site is located within the Development Limits of Shepton Mallet, where Policy CP1 of the Mendip District Local Plan supports the general principle of housing development. The applicant has demonstrated, via suitable marketing, that there is no demand for the re-use of the building for commercial purposes. As such the loss of employment floor-space is considered to be acceptable and in accordance with Policy DP17 of the Mendip District Local Plan and the supplementary planning document (SPD) on marketing.

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

There are no external changes to the front of the building (other than the removal of the signage relating to the public house). At the rear of the building a small extension is proposed to be removed (approved 2022/0286/DUB) therefore there will be no adverse impact on the street scene or the surrounding area.

**Impact on Residential Amenity:**

There are no proposed changes to the exterior of the building and no change to the impact on neighbouring properties. The closure of the restaurant will result in less traffic and visitors to the site which will, overall, improve the amenity of the adjacent dwellings.

**Conservation:**

There is a duty placed on the Council under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the preservation or enhancement of the character of the surrounding Conservation Area. In this case it is considered that no harm to the significance of the heritage asset or its setting would occur and that the proposed development would at least preserve the character and appearance of this part of the Conservation Area and its setting. The proposal accords with Policy DP3 of the adopted Local Plan Part 1 (2014) and Part 16 of the National Planning Policy Framework.

**Assessment of Highway Issues:**

The existing restaurant does not provide any on site parking. Somerset County Council have responded to the consultation with a reference to Standing Advice. Usually this would determine the number of parking spaces required to be provided. In this case it is felt that the decrease in number of visitors to the site will decrease the volume of traffic, and parking associated with the building and therefore there will be no adverse impact on highway network or highway safety as a result of the change of use.

**Refuse Collection:**

There is sufficient space on site for the storage of both refuse and recycling. As the property is within a residential area there is an existing domestic waste collection which will be available for the proposed dwelling.

**Phosphates:**

The application site falls within the catchment flowing into the Somerset Levels and Moors Ramsar, designated for its rare aquatic invertebrates. There is a major issue with nutrients entering watercourses which adversely changes environmental conditions for these species. Any new housing, including single dwellings, will result in an increase in phosphates contained within foul water discharge. As the designated site is in 'unfavorable'

condition any increase, including from single dwellings, is seen as significant, either alone or in combination with other developments.

No Nutrient Neutrality Assessment and Mitigation Statement (NNAMS) has been provided. Based on the information currently available, it is not possible for the Council to determine whether the proposal would have an acceptable effect in relation to the Somerset Levels and Moors Ramsar site, and as such it fails Regulation 63 of the Habitat Regulations 2017. Nor is it currently possible to confirm that the proposal would have an acceptable effect in relation to protected species in accordance with Policies DP5, DP6 and DP8 of the adopted Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014), and Part 15, including paragraph 182 of the National Planning Policy Framework 2021.

### **Environmental Impact Assessment**

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

### **Equalities Act**

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

### **Recommendation**

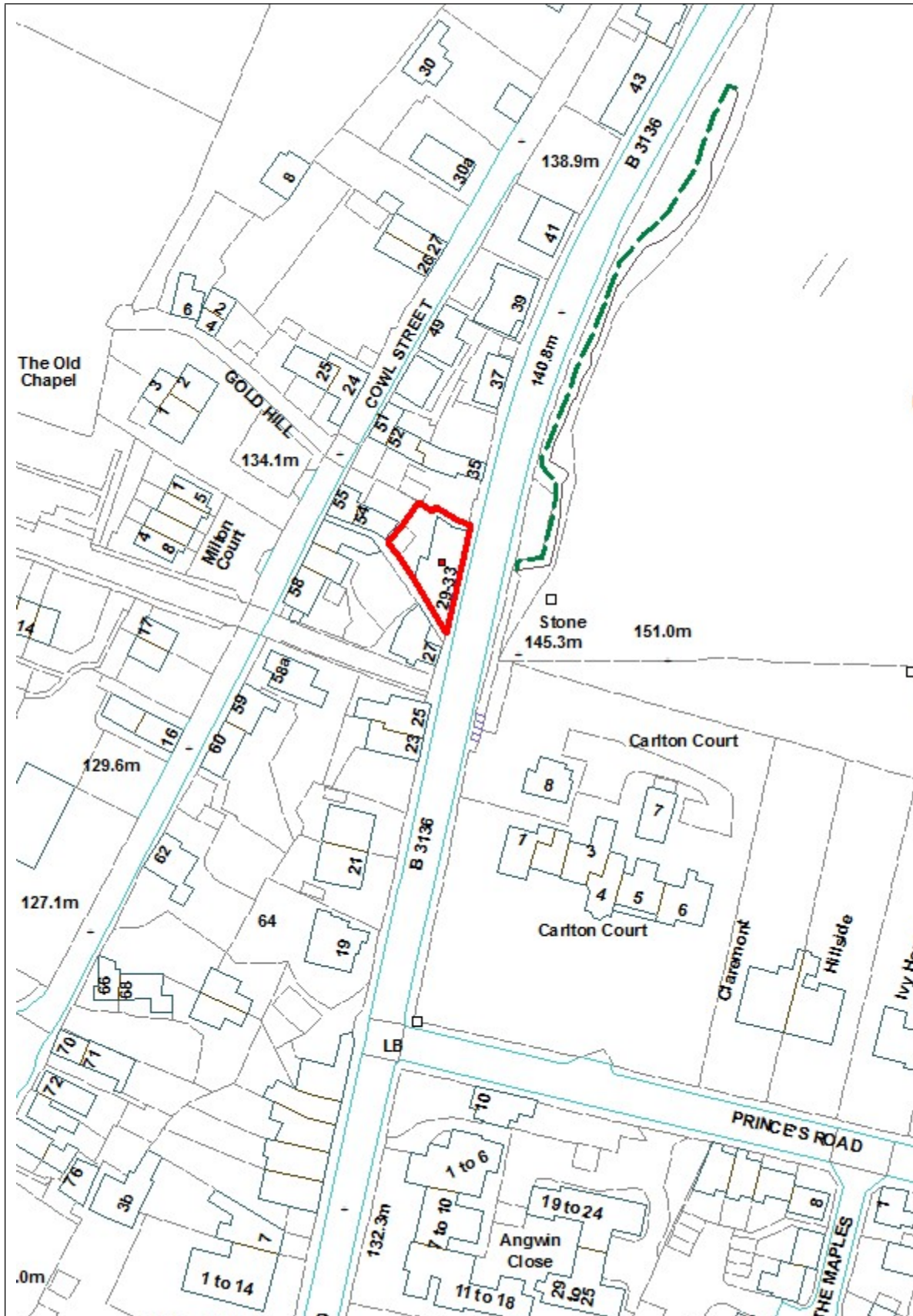
#### Refusal

1. In the absence of an appropriate phosphate mitigation scheme, it is not possible to demonstrate that the proposal would not result in an unacceptable increase in phosphate levels within the drainage discharged from the development affecting the current unfavourable status of the Somerset Levels and Moors Ramsar site and, as such, the proposal fails Regulation 63 of the Habitat Regulations 2017, including information on any necessary control mechanisms for delivery, monitoring, and maintenance. The proposal is therefore also considered to be unsustainable development pursuant to paragraph 182 of the National Planning Policy Framework. The development therefore conflicts with Development Policies 5 and 8 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014), and paragraph 182 and Part 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 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 A221/10/01, A221/10/02, A221/10/03, A221/10/04, A221/10/12, A221/10/13 and A221/10/14.





Planning Board Report 4th July 2023  
Blostins Restaurant  
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Shepton Mallet  
Somerset  
BA4 5HH

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