



Notice of Meeting of

PLANNING COMMITTEE - EAST

Tuesday, 5 September 2023 at 2.00 pm

**Council Chamber – The 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	

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

All members of the public are welcome to attend our meetings and ask questions or make a statement **by giving advance notice** in writing or by e-mail to the Monitoring Officer at email: democraticservicesteam@somerset.gov.uk by **12 noon on Friday, 1 September 2023**.

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

The meeting will be webcast and an audio recording made.

Issued by David Clark - the Proper Officer - on Friday, 25 August 2023

AGENDA

Planning Committee - East - 2.00 pm Tuesday, 5 September 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

The minutes from the previous meeting dated 1 August 2023 will be available to review at the next Planning Committee to be held on 3 October 2023.

3 Declarations of Interest

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

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

4 Public Question Time

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

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

5 Planning Applications 2023/0540/FUL & 2023/0541/LBC - The Grange, Farm Road, Street, Somerset (Pages 13 - 38)

To consider applications 2023/0540/FUL & 2023/0541/LBC - The Grange, Farm Road, Street, Somerset.

Part demolition and replacement of existing buildings with a new two-storey building to connect the Grange and the Barn and alterations to existing buildings and landscaping across the site to create a new museum with a cafe and shop, whilst retaining offices and archive storage.

6 Planning Application 2021/2805/FUL - Multi-User Path, Shepton Mallet, Somerset (Pages 39 - 70)

To consider Planning Application 2021/2805/FUL – Multi-User Path, Shepton Mallet, Somerset.

Construction of a multi-user path along disused railway from Hamwood Viaduct through Windsor Hill tunnel and across Bath Road Viaduct to link to Shepton Mallet.

7 Planning Application 2023/0338/FUL - Land at Paul Street, Shepton Mallet, Somerset (Pages 71 - 88)

To consider Planning Application 2023/0338/FUL – Land at Paul Street, Shepton Mallet, Somerset.

Change of use of land from agriculture to use class E (f) and erection of Nursery and Pre-School building and associated access and parking.

8 Planning Application 2023/0959/FUL - Tadhil Farm Cottage, Leigh on Mendip, Somerset (Pages 89 - 100)

To consider Planning Application 2023/0959/FUL – Tadhil Farm Cottage, Old Wells Road, Leigh on Mendip, Shepton Mallet, Somerset.

Alteration to an existing access and installation of a new access track (extension to residential curtilage).

9 Planning Application 2022/2076/OUT - Land at Tynning Hill, Faulkland, Somerset (Pages 101 - 122)

To consider Planning Application 2022/2076/OUT - Land At 373487 154309, Tynning Hill to Faulkland, Faulkland, Radstock, Somerset.

Outline Planning Permission for 5no. residential dwellings with details of access and all other matters reserved.

10 Planning Application 2023/0693/FUL - Ivy Cottage, Quarry Lane, Leigh on Mendip, Shepton Mallet, Somerset (Pages 123 - 136)

To consider Planning Application 2023/0693/FUL - Ivy Cottage, Quarry Lane, Leigh on Mendip, Shepton Mallet, Somerset.

Creation of new access and driveway.

11 Planning Application 2023/1084/FUL - Land at Quarry Lane, Leigh on Mendip, Shepton Mallet, Somerset (Pages 137 - 154)

To consider Planning Application 2023/1084/FUL - Land at 369311 147357, Quarry Lane, Leigh On Mendip, Shepton Mallet, Somerset.

Demolition of existing barn to form terrace of 3no. single storey dwellings.

12 Planning Application 2023/0516/ADV - Land on the South Side of Station Approach, Frome, Somerset (Pages 155 - 164)

To consider Planning Application 2023/0516/ADV - Land On The South Side Of Station Approach, Frome. Somerset.

Erection of 1 No.48 Sheet Externally Illuminated Paper and Paste Advertising Display.

Other Information:

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

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

Exclusion of the Press and Public

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

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

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

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Public Guidance Notes for Planning Committees

Can I speak at the Planning Committee?

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

The order of speaking will be:-

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

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

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

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

Although not an exhaustive list, these might include:

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

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

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

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

How do I register to speak at Planning Committee?

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

Can I present information to the Committee?

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

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

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

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

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

Presentation of planning applications

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

The role of Officers during the debate of an application

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

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

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

Recording of the Meeting

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

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

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Agenda Item 5

Application Number	2023/0540/FUL & 2023/0541/LBC
Case Officer	Anna Clark
Site	The Grange Farm Road Street Somerset BA16 0BQ
Date Validated	5 May 2023
Applicant/	R Martin
Organisation	Alfred Gillett Trust
Application Type	Full Application
Proposal	Part demolition and replacement of existing buildings with a new two-storey building to connect the Grange and the Barn and alterations to existing buildings and landscaping across the site to create a new museum with a cafe and shop, whilst retaining offices and archive storage (additional and revised info received 14-16th August 2023).
Division	Street Division
Parish	Street Parish Council
Recommendation	Refusal
Divisional Cllrs.	Cllr Simon Carswell Cllr Liz Leyshon

5. **What three words:** ///sock.classmate.bandage

Reason for referral to Planning Committee:

The application has been referred to Planning Committee as the officer recommendation for refusal is contrary to that of the parish council and divisional member.

Procedural Matters/ Format of Report:

This report covers both the full planning application ref: 2023/0540/FUL for the Part demolition and replacement of existing buildings with a new two-storey building to connect the Grange and the Barn and alterations to existing buildings and landscaping across the site to create a new museum with a café and shop, whilst retaining offices and archive storage and the parallel listed building application ref: 2023/0540/LBC relating to the physical internal and external works to the listed building involved. Given the elements requiring listed building consent are associated with the wider development proposed by the full planning application many of the consultation responses apply to both applications.

Accordingly, to avoid duplication both applications are dealt with together in this report with separate conclusions and recommendations to distinguish between the two applications at the end.

Description of Site, Proposal and Constraints:

The site is “The Grange”, Farm Road, Street. The site has vehicular access via a private road off Farm Road and lies to the north and west of Clarks Village retail outlet with pedestrian entrances to the retail outlet and associated car park. Beyond the car park, to the north is the A39 main road and to the east of the site is a close of residential properties. The site is within in the development limits of Street.

The Grange site includes the attached barn, the archive building and Hoddinotts Cottage. The Grange building itself is a grade II listed building and the barn is also included in the listing. The site lies to the west of the Street Conservation Area.

The Orchard within the site is a priority habitat. The site is within a SSSI impact risk zone and in the Somerset Levels and Moors SPA Ramsar catchment area, but these are not relevant to the nature and scale of this application. Similarly, the site is within the Mineral consultation area but as previously developed site this is not relevant to the determination of this application.

The full planning application seeks the part demolition and replacement of existing buildings with a new two-storey building to connect the Grange and the Barn and alterations to existing buildings and landscaping across the site to create a new museum with a café and shop, whilst retaining offices and archive storage.

The parallel listed building application seeks consent for the associated physical internal and external works to the listed (including curtilage listed) structures.

Relevant History:

Various historic applications, then:

- 2010/2158 - Demolition of Hoddinotts Cottage and erection of archive building (phased construction), erection of a bat roost, formation of access and staff parking area, repairs and alteration to Grange, Link Building and Barn and use of the ground, first and second floors of The Grange, Link Building and Barn as a museum support facilities for the archive building, offices, storage, library and conference/seminar rooms. Approved with conditions 08.02.2011.

- 2010/2169 [LBC] - Demolition of Hoddinotts Cottage and erection of archive building and repairs and alterations to The Grange. Approved with conditions 08.02.2011.
- 2011/0676 - Application to approve details reserved by condition for planning consent 2010/2158, conditions 3 (schedule and sample of materials), 4 (sample panel), 5 (external doors), 6 (sample panel of boundary wall on western boundary), 7 (soft landscaping) and 8 (protective fences). Approved 20.04.2012.
- 2011/0677 - Application for approval of details reserved by condition for listed building consent 2010/2169, conditions 2 (schedule of materials and samples) and 3 (sample panel). Approved 20.04.2012.
- 2011/0911 - Application for a non-material amendment to permission 2010/2158 to omit two fire escapes and doors from the north elevation of the archive building. Approved 19.05.2011.
- 2011/0955 - Application for approval of details reserved by condition for listed building consent 2010/2169, conditions 4 (repair and removal of paint), 5 (cleaning and removal of ceramic tiles), 6 (reinforcement of floor), 7 (door joinery) and 8 (tying and repairs to north wall and chimney). Approved 16.09.2011
- 2012/1026 - Structural strengthening works to the floors in rooms F.02 and F.09 on the first floor, replacement of the 11 no. dormer windows at roof level and provision of two new boiler flue chimneys. Approved with conditions 03.04.2013.
- 2014/0227/FUL - Demolition of an existing boundary wall to facilitate the erection of a replacement boundary wall and the creation of new areas of paving and associated landscaping. Approved with conditions 08.05.2014.
- 2015/0405/APP - Application for approval of matters reserved by condition 4 for planning application 2014/0227/FUL. Approved 20.04.2015.
- 2017/1440/LBC - Replacement of existing roof tiles and removal of asbestos sheeting. Approved 17.11.2017
- 2022/1697/FUL- Use of land for the purposes of an Ice Rink in conjunction with Clarks Village for a temporary period (October 2022-January 2023) Approved 12.10.2022

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

Street Divisional Member (Cllr Leyshon): Support

This weekend I attended an event at the Alfred Gillett Trust in The Grange in Street, regarding the above application for planning permission for a new Shoemakers Museum. The presentations helped me understand the scale and content of the application.

I am writing to express my support for this project. The loss of the former Shoe Museum was a sadness although its inaccessibility always presented significant issues. The Clarks archive and collection is of national significance, and the opportunity to learn more of the industrial heritage of Street, Clarks and the Quakers will be equally significant. As Clarks Village already provides the facilities needed for parking and access to the Grange, it feels as if the application is in the right place.

The collection of Ichthyosaurs is also of national significance and I would also welcome their permanent display so that people can better understand why Street is such an interesting place.

If the application goes to Planning Committee East, I would like to speak as one of the Street Councillors please.

Street Parish Council: Recommend Approval.

- The developments will offer immense opportunities for Street's ever-growing tourism.

Local Highway Authority: Re-consultation response outstanding following submission of additional and revised information

- Initially raised objection due to lack of information as follows:
 - No objection to the principle of the proposal
 - Seek further information as follows:
 - A parking layout drawing to show the available parking within the site.
 - A Travel Plan Statement.

Lead Local Flood Authority (LLFA): Re-consultation response outstanding following submission of additional and revised information.

- Latest response, objection due to lack of information as follows:
 - The applicant has not attached a copy of the geotechnical report. Please could this be submitted. As set out in the applicant's email (14/07/2023)

can the applicant provide confirmation that the swales will not interact with any below ground features.

- The LLFA welcome the proposal of roof top attenuation and green infrastructure. However, a copy of the correspondence with Wessex Water should be provided to show that there is an agreement that surface water may be discharged into their network. If this is not possible, then an alternative method of discharge should be provided.
- The LLFA are not happy to condition, and require full micro drainage calculations to demonstrate that the proposed surface water drainage system has been designed to prevent surcharging in all events up to and including the 1 in 2 annual probability storm event, prevent any flooding of the site in all events up to and including the 1 in 30 annual probability storm event, and demonstrate that surface water runoff up to the 1 in 100 year event plus climate change (currently 45%) will be controlled without causing harm to people or properties. The entire system should be modelled including new and existing pipework to demonstrate that this has the capacity to take surface water from the development, this should include the hardstanding areas and the swales. Details should be provided on the existing system capacity, condition etc. including any previous CCTV survey, models, pipe sizes and levels to ensure that the proposed drainage system will work.
- Due to the low discharge rates associated with the blue roof, and possibility of blockages, the applicant may wish to consider increasing discharge rates from the blue roof and flow control. Storage could then be provided elsewhere within the system to offset the increased rates from the blue roof to ensure that discharge rates from the new building and hard landscaping are controlled to greenfield being managed within the entire system.
- Please can the applicant clarify if the exceedance routes shown are existing and will be unchanged by the proposal, and if not, what are new/increased from the application or any changes to these routes.
- As previously mentioned, the LLFA are happy that the maintenance strategy is conditioned and provided at detailed design stage. This should include details of the flow control chambers and pipework.

Somerset Ecology Services: No objection, subject to conditions

Tree Officer: No objection, subject to conditions

Planning Policy: No objection

Environmental Protection: No objections, subject to condition

- Condition sought to restrict hours of construction operations due to proximity of other residential.

Historic Environment Service: No objection

Historic England: No comments

- Historic England provides advice when our engagement can add most value. In this case we are not offering advice. This should not be interpreted as comment on the merits of the application. We suggest that you seek the views of your specialist conservation and archaeological advisers.

Conservation Team: Object, scope for revision

- Principle of the of the demolition of the existing linking building and its replacement in order to create a new shoe museum, along with works to The Grange itself to create a café and other community spaces, is generally acceptable, but has some outstanding specific concerns.

The Georgian Group: Comments against LBC only

- Recognises that the new Shoemakers Museum is an exciting and welcome prospect for Street as a community.
- Suggest the applicant be required to provide further justification both for the works of demolition proposed and for the scale, massing and materials of the new additions.
- It will then be for your authority as decision maker to weigh any harm to the fabric and setting of the listed building and harm to the Conservation Area against the undoubted public benefits of the museum.
- Concerned that the new two-storey addition will overpower the eastern elevation whose construction in the early nineteenth century marked the evolution of the Grange from a vernacular building into a higher status house of classical design.

The Victorian Society: Comments against LBC only

- The demolition of the late 19th century parts of the building to accommodate new development for the proposed museum use would harm the significance of the listed building by removing historic fabric that contributes to understanding the development of the building. - Disagrees with the conclusion of the Heritage Assessment which labels this fabric as 'intrusive' on the significance of the building and recommend that they should be accounted 'low'.

- Also concerned by the general level of demolition across the site. Historic buildings have a high level of embodied carbon, and demolition and new construction is not a sustainable way of redeveloping historic buildings.

The Society for the Protection of Ancient Buildings: Comments against LBC only

- Happy with the proposed new uses of the buildings in principle
- Concerned with the extent of the demolition overall given the amount of embodied carbon that will be released during the demolition and the loss of and relocation of historic fabric.
- The proposed replacement structure is a deeper and taller creation at the heart of the site that although not taller than the listed buildings either side of it, threatens to overpower the earlier ranges that would be retained adjacent to it.

Crime Prevention Design Advisor: No objection, subject to comments

- Makes comments for the applicant to consider.

NHS: No response

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

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 Local Plan Part II: Sites and Policies, Post-JR version, 16 December 2022.
- Somerset Waste Core Strategy (2013)
- Somerset Mineral Plan (2015)

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

- CP1 – Mendip Spatial Strategy
- CP3 - Business Development and Growth
- CP8 - Street Parish Strategy

- DP1 - Local Identity and Distinctiveness
- DP3 - Heritage Conservation
- DP5 - Biodiversity and Ecological Networks
- DP6 – Bats Protection
- DP7 - Design and Amenity
- DP8 - Environmental Protection
- DP9 - Transport Impact of New Development
- DP10 - Parking Standards
- DP21 - Managing Town Centre Uses
- DP23 - Managing Flood Risk

Other possible Relevant Considerations (without limitation):

- National Planning Policy Framework
- National Planning Practice Guidance
- Design and Amenity of New Development; Guidance for interpretation of Local Plan Policy DP7 SPD (2022)
- The Countywide Parking Strategy (2013)
- Somerset County Council Highways Development Control Standing Advice
- Somerset County Council Highways Electric Vehicle Charging Strategy (EVCS) (adopted June 2021)

Assessment of relevant issues:

Principle of the Use:

This site is within the development limits of Street, one of the principal settlements identified in the Policy CP1: Mendip Spatial Strategy of the Mendip District Local Plan Part I: Strategy and Policies (LPP1). Through this policy the spatial strategy directs the majority of development to these settlements and has an emphasis on maximising the re-use of appropriate previously developed sites and other land within existing settlement limits.

Policy CP3: Supporting Business Development and Growth states that proposals will be supported which extend the attraction of the area to visitors. This proposal will provide a museum, a café and shop, space for events, a school education room, and a research/reading room, thereby attracting between 50,000 and 75,000 visitors per year. With many visitors also linking their trip to Clarks Village and the wider Street area, this proposal will provide a boost to the local economy. An additional 5FTE jobs will be created.

Additionally, Policy CP8 Street Parish Strategy supports further development to Clarks Village Factory Outlet Centre in order to maintain the individuality of the town centre. Whilst this site is adjacent to, rather than within the Clarks Village boundary, it will complement the factory outlet and further increase the individuality of the town centre by detailing the history of Clarks shoemaking. It is believed a previous Clarks shoe museum closed in September 2019.

The proposal will also function as a community hub which is supported.

Policy DP21: Managing Town Centre Uses states that the vibrancy of town centres will be maintained and enhanced in areas around the Primary Shopping Area by encouraging mixed development or any other uses which attract trade or activity to the wider town centre. Whilst this site is not within the town centre boundary (being approx. 200m from the northern tip), it is likely many visitors will also link their trip to the wider Street area. This will therefore increase trade and activity to the town centre.

Bringing all these points together the principal of development is clearly acceptable and there are some clear public benefits, as explored further in the planning balance section below.

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

Policy DP1 of the Local Plan states that development should contribute positively to the maintenance and enhancement of local identity, and proposals should be formulated with an appreciation of the built and natural context. Policy DP4 recognises the quality of Mendip's landscapes and states that development that would individually or cumulatively significantly degrade the quality of the local landscape will not be supported. It suggests that proposals should demonstrate that their siting and design are compatible with the pattern of natural and man-made features. Policy DP7 states that proposals should be of a scale, mass, form, and layout appropriate to the local context.

This site currently consists of piecemeal development which has evolved since the C16th. The proposal will remove those elements that are of lower heritage value and replace them with a new, modern development that will be up to current building standards with improved accessibility to the public and workers.

Together with the landscape proposals the scheme would create a more coherent and comprehensive development across the site plus improved connectivity to Clarks Village.

As could be further secured by condition if the scheme was otherwise acceptable, the materials for the building and landscaping would be appropriate to the host buildings and wider area.

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

Trees

The walled orchard in the northern part of the site and the lawns and mature trees across the rest of the site contribute to the setting of the Grange. The Council's tree officer is satisfied that the most important trees and key soft landscape features are being retained. The retention of these key soft landscape features is welcomed. Whilst the proposal involves the loss of a pear, laburnum and holly tree, as accepted in the tree officer's response this is justified. If the application was otherwise acceptable, conditions would be required to ensure adequate measures (a Tree Protection Plan and Arboricultural Method Statement) are put in place to protect the retained trees to avoid accidental damage prior to or during any development.

The proposed development will not have an adverse impact on a tree which has significant visual or amenity value. The proposal accords with Policy DP4 of the adopted Local Plan Part 1 (2014) and Part 15 of the National Planning Policy Framework.

Conservation Area

There is a duty placed on the Council under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act to pay special attention to the preservation or enhancement of the character of the surrounding conservation area. In this case by

virtue of the design, scale, massing, position, and the external materials of the proposed development; having regards to the Conservation Area Assessment of Street; plus taking into account the distance from the conservation area, it is considered that the 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.

Impact on the Setting of a Listed Building

When first listed in 1949 The Grange listing was entitled “The Grange and the Barn”. The barn expressly included presumably as the concept of curtilage was not to be developed until 1969. When the listing was revised in 1986, the barn was then attached to the Grange by the 1972 link structure, thus becoming included in the listing through attachment, and this continues to be its status. (Note that between 1969 and 1972 the barn would have been considered a curtilage structure and converted by the listing through that mechanism).

There is a duty under Section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990, when considering development within the setting of a listed building, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

When considering the impact of a development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Any harm should require clear and convincing justification. It is therefore important to understand that considerable importance and weight must be given to the conservation of the heritage asset when carrying out the balancing exercise.

Loss of link building

Whilst the amenity societies as a result of the initial consultation raise concerns about the loss of some of the more recent historic fabric associated with the link buildings, following submission of further justification, as agreed by the Council's Conservation Officer, the demolition of these elements is acceptable.

Since the Conservation Officers latest comments, further clarity via section plans has been provided to resolve concerns regarding the impact of the link to the new museum building will impact on the west elevation of The Grange.

Loss of stair from 1st floor to attic in The Grange to enable access to new lift in the new building

Whilst the Conservation Officer does not consider that it is essential to provide an access at first floor from The Grange into the link and therefore has concerns about what she considers to be the unjustified loss of the stair, it is considered that the proposed solution for step free access to the first floor would have minimal effect to the historic fabric.

Whilst the removal of the stair of the Grange does involve the loss of, and change to, some historic fabric that this would be outweighed by the benefits of inclusivity in providing simple step-free access to all parts of the building for the public, in particular the link to the library and reading room in the Grange from the first floor of the new museum. It is also noted that The Equalities Act 2010 requires every effort to ensure equal access, for both the public and those working in the building.

It is accepted that the historic fabric being lost is of lower significance, being the service staircase between first floor and the attic and that elevational features (windows and hood moulds) would be retained, and their significance better revealed as a result of the proposal through increased public visibility from the new staircase.

The existing spiral staircase would be retained to allow staff access to the attic.

Overall, given the competing heritage, operational, accessibility (though the Equalities Act) and economic concerns, it is considered that the harms involved in the above elements of the scheme have clear and convincing justification.

Whilst the above matters are justified there remain two outstanding areas of concern:

Reduction of Low wall in garden courtyard

There is insufficient justification for the lowering of the low wall in the courtyard (north-south axis from the north elevation). There is no clear and convincing justification for lowering to a sitting wall as this function could easily be achieved by alternative means. The loss of historic fabric which would result from lowering the wall would cause “less than substantial harm” to the significance of the designated heritage asset without clear and convincing justification (NPPF para 200), and it has not been demonstrated that there would be any specific public benefit of this particular work to outweigh the harm (NPPF para 202).

Extractor within window in Grange

The application refers to the proposal to install an extractor within the window of the proposed kitchen, yet this is not shown on the proposed north elevation drawing. Further details of this are required to assess its visual and heritage impact, and other options considered. In response to the Conservation Officers query, the Somerset

Building Control Partnership have verbally confirmed the café offer would have genuine need for an extractor.

The other matters raised by the Conservation Officer (interpretation sign for Relocation and reuse of architectural features; fire doors, detailing and materials of rear (west) and side (south) elevations; covering and ventilation of excavated area) could be adequately deal with by conditions if the application was otherwise considered acceptable.

Overall, the proposal would result in “less than substantial harm” to the significance of The Grange. Furthermore, it is considered that the harm the development would have on the significance of the Listed Building, by virtue of the reduction of the courtyard wall and potential impact of the extractor fan on the historic fabric of the building is not justified.

When considering these heritage harms with the outstanding highway concerns, it is considered that on balance the public benefits of the scheme in terms of the economic and archive preservation and accessibility benefits would not outweigh the harms identified.

Therefore, having due regard to Sections 16(2) and 66(1) of the Planning (Listed Building and Conservation Area) Act 1990, the National Planning Policy Framework and Policy DP3 of the Mendip District Local Plan 2006-2029 Part 1: Strategies and Policies (adopted 15th December 2014) planning permission and Listed Building Consent should be refused.

Archaeology

The site is not within an Area of High Archaeological Potential however an Archaeological Desk-Based Assessment was submitted with the application. The Senior Historic Environment Officer at the South West Heritage Trust has confirmed there are limited or no archaeological implications to this proposal and has no objections on archaeological grounds.

The proposal is therefore considered acceptable in archaeological terms in accordance with policy DP3 of the adopted Local Plan Part 1 (2014) and part 16 of the National Planning Policy Framework.

Assessment of Highway Issues:

It is noted that the drive linking the site to Farm Road is private, yet it is not shown in the application site red line. As a procedural point, this would need amending and the appropriate notice served before planning permission could be granted if the application was otherwise acceptable.

Without this agreement the proposed staff parking and access cannot be relied on and hence the application would be unacceptable in highway terms.

Otherwise, if proof of access rights to the highway were secured to deal with this procedural point, there would be no changes to the access or parking for the site. Staff parking would continue to be on site, accessed via the private drive off Farm Road. This access is acceptable for continued access for this proposal.

Public parking would continue to be within the adjoining public car park (Grange 1 Car Park - Clarks Village). The application details how the applicant has an arrangement with Clarks village that means that should anything happen to Clarks Village or the adjoining Grange car park in the future, 70 spaces would be retained.

It is noted that the proposal would change the characteristics of the site by making the museum more public facing and introduce a café. Given the more public facing characteristics could be achieved without the need for planning permission; the likely linked trips with the adjoining retail outlet village; and the fact most traffic would be utilising the public car park, the proposal is not considered to have a significant impact over and above the existing or fallback position situation in terms of highway safety.

A travel plan statement has been submitted in response to concerns raised by the Highways team. This statement is acceptable but would need to be secure by condition if the application was otherwise acceptable. Whilst the local highway authority request that the travel plan is secure by legal agreement, this and the associated payment is not considered necessary and reasonable given the nature and scale of the scheme compared to existing and the above justification.

In the absence of proof of access rights to the highway the application would be unacceptable in highway terms due to a lack of access and insufficient parking arrangements, which would have a knock-on effect for adverse impacts on highway safety. The proposal is therefore contrary to Policy DP9 and DP10 of the adopted Local Plan Part 1 (2014) and part 9 of the National Planning Policy Framework.

Impact on Residential Amenity and adjoining properties:

It is noted that no objections have been received from local residents as a result of the public consultation process, and the parish council have recommended approval.

The Council's Environment Protection officer has no objection subject to a condition to control the construction hours. Given the proximity of residential properties this condition would be reasonable if the application was to be approved.

The proposed development would be no closer to the nearest residential properties than the existing development and the nature of the use beyond that which would already be permissible under the sites current planning use, would have no unacceptable detrimental impact on these residents or any other adjoining uses.

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

Ecology

The Orchard within the site is a priority habitat, yet this is to be retained and is not directly affected by the proposal.

Although the site is within a SSSI impact risk zone and in the Somerset Levels and Moors SPA Ramsar catchment area, these are not relevant to the nature and scale of this application.

The ecology surveys revealed the presence or potential for the presence of various protected and priority species (bats, badgers, reptiles and amphibians, hedgehogs) and nesting wild birds. Accordingly, to comply with the local and national policy, wildlife legislation, and the requirements of the mitigation hierarchy and for biodiversity net gain, as per Somerset Ecology Services advice various conditions would be required to mitigate ecological harm to these species and to provide sufficient biodiversity net gain on the site.

Phosphates

The application site is mapped by Natural England as falling within the water catchment flowing into the Somerset Levels and Moors Ramsar site, designated for its rare aquatic invertebrates, which is currently in an unfavourable condition. However, given the proposal would not result in an increase in households, employees would

originate from within the Ramsar catchment, the proposal would not result in an increase in net phosphate outputs in the area. It is therefore considered unlikely that the proposed development would pose a risk to the designated features of the SPA and Ramsar, and the LPA has taken the view that a Habitats Regulations Assessment in this instance is not required.

In summary, if the application was otherwise acceptable, conditions could provide sufficient mitigation and measures to ensure the proposed development would adequately safeguard for ecology and provide sufficient biodiversity net gain. 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.

Flood Risk and Drainage

The site lies within flood zone 1 – low risk and is a previously developed site.

The application site area does not exceed a hectare and so a flood risk assessment is not required but is supported by a sustainable drainage strategy. Although the overall footprint of the development would not be much larger than existing, the combined floor area of the floor space to replace that demolished plus the extended area exceeds 1000sqm and so the LLFA is a statutory consultee in this instance.

In their last comments, the LLFA sought some additional information. The applicants have responded to this, but at the time of writing a response from the LLFA has not yet been received so the LLFA's numbered queries are summarised below with case officer's update on what has been submitted and where possible their view on the latest position.

It should also be noted that due to uncertainty about the point of connection for both surface and foul water the applicant has re-commissioned a Drainage survey to gain a full and comprehensive understanding of the details of the onsite drainage and connections offsite.

1. The LLFA requested a copy of the geotechnical report and confirmation that the swales would not interact with any below ground features.

- The geotechnical report has now been provided and it has been confirmed that the swales will not interact with any below ground features.

2. The LLFA welcome the proposed roof top attenuation and green infrastructure but seek confirmation there is an agreement from Wessex Water that surface water may

be discharged into their network. Proof of an alternative method of discharge is sought otherwise.

- The applicants have confirmed that they do not propose an increase in flow rates to the Wessex Water combined sewer, and that if the entire existing network is found to be connected to the combined sewer, the proposals (including incorporation of further onsite roof scape) will result in a significant reduction (approximately 50%) in flow to the combined network. This would result in a significant betterment over the current fallback situation.

3. The LLFA are not happy to leave the proposed surface water drainage to condition and require full micro drainage calculations to demonstrate that the proposed surface water drainage system has been designed to prevent surcharging in all events up to an including the 1 in 2 annual probability storm event, prevent any flooding of the site in all events up to and including the 1 in 30 annual probability storm event, and demonstrate that surface water runoff up to the 1 in 100 year event plus climate change (currently 45%) will be controlled without causing harm to people or properties.

- The applicant advises that they continue to work on detailed drainage design, but it will need refining once the full drainage survey & CCTV has been completed. However, they confirm they will carry out a full detailed drainage design, including flows from hard landscapes and green infrastructure to confirm pipe sizing in line with our role and responsibility to our client. They intend to comply with the DEFRA Non-statutory technical standards for sustainable drainage and have identified that in addition to diverting more of the site's roof space to green infrastructure a below ground attenuation tank could be installed to the West of the link thus improving the drainage strategy.

4. The LLFA seek clarification as to whether the exceedance routes shown are existing and will be unchanged by the proposal

- The exceedance routes follow the existing contours and will remain after the development. Regrading local to the building thresholds will further improve the situation providing building protection.

The LLFA have otherwise confirmed they are happy that the maintenance strategy is conditioned and provided at detailed design stage.

Bringing all these points together, given the overall impermeable floor area would not be any more extensive than existing (when taking into account the originally proposed blue roof and landscaping); and the additional options now being explored for

increasing the amount of surface water drainage to the green infrastructure and attenuation tank, it is considered that there is a workable surface water drainage solution on site that would result in a betterment over the existing situation. Accordingly, if the application was otherwise acceptable the surface water drainage could be adequately dealt with by condition.

The site is already connected to mains water and sewage and so foul water discharge would be subject to Wessex Water approval outside of the planning system.

The proposed development is therefore considered acceptable, in flood risk and drainage terms and would not have an adverse impact on flood risk or represent a danger to water quality. The proposal accords with Policies DP7, DP8 and DP23 of the adopted Local Plan Part 1 (2014) and Part 14 and 15 of the National Planning Policy Framework.

Sustainability and Renewable Energy:

Although there are concerns from the amenity societies that the loss of original fabric would result in the release of embodied carbon, the proposal would improve the building's overall operational efficiency and sustainability. The target of achieving net zero carbon (or as close to this as is practically possible) is supported.

All practical measures for the conservation of energy have been included in the design, layout and siting of the proposal, especially given the limitations due to the listed status of the building.

Refuse Collection:

The proposal results in the extension of an existing business with waste storage and collection arrangements. Sufficient storage for refuse and recyclables has been shown on the plans and is detailed along with collection arrangements in the Design and Access Statement to cope with the increased generation as a result of the proposal.

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 application 2023/0540/FUL

Planning Balance / Conclusion:

Recommendation:

Refusal

1. The loss of existing fabric resulting from the reduction in the courtyard wall and potential impact of the extraction system (due to a lack of information) for the café would fail to preserve and enhance the grade II listed host building, The Grange, and thus result in less than substantial harm to this heritage asset. Furthermore, no clear and convincing justification for this work has been provided and it is not considered that there are any public benefits arising from the development that would sufficiently outweigh the harm that has been identified. Additionally the extract equipment has the potential to be out of character and appearance of the local area. On this basis the development would be contrary to policy DP3 and DP7 of the Mendip District Local Plan 2006 - 2029 Part I (adopted December 2014) and the National Planning Policy Framework, particularly in regard to sections 2,12 and 16.
2. In the absence of proof of access rights to the highway the application would be unacceptable in highway terms due to a lack of access and insufficient parking arrangements, which would have a knock-on effect for adverse impacts on highway safety. The proposal is therefore contrary to Policy DP9 and DP10 of the adopted Local Plan Part 1 (2014) and part 9 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 by working in a positive, creative and pro-active way. Despite negotiation, the submitted application has been found to be unacceptable for the stated reasons. The applicant was advised of this, however despite this, the applicant chose not to withdraw the application 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:

10321A-LA-01 REV.A	LANDSCAPE MASTERPLAN WITH EXCEEDANCE FLOW ROUTES
241742-GRA-PUR-ZZ-SL-DR-A-0050	SITE LOCATION PLAN
00909_SAM_1 OF 1 0	SUBSURFACE ASSET MAPPING
241742-GRA-PUR-ZZ-GF-DR-A-0400 B	BASEMENT - PROPOSED PLAN
241742-GRA-PUR-ZZ-GF-DR-A-0402 A	FIRST FLOOR PLAN - PROPOSED
241742-GRA-PUR-ZZ-SL-DR-A-0100	SITE PLAN - AS EXISTING
241742-GRA-PUR-GR-ZZ-DR-A-0220 A	SECTION AA - AS EXISTING
241742-GRA-PUR-GR-ZZ-DR-A-0221 A	SECTION BB - AS EXISTING
241742-GRA-PUR-ZZ-01-DR-A-0202 A	FIRST FLOOR GENERAL ARRANGEMENT PLAN - AS EXISTING
241742-GRA-PUR-ZZ-02-DR-A-0203 A	SECOND FLOOR GENERAL ARRANGEMENT PLAN - AS EXISTING
241742-GRA-PUR-ZZ-GF-DR-A-0200 A	BASEMENT GENERAL ARRANGEMENT PLAN - AS EXISTING
241742-GRA-PUR-ZZ-GF-DR-A-0201 A	GROUND FLOOR GENERAL ARRANGEMENT PLAN - AS EXISTING
241742-GRA-PUR-ZZ-RF-DR-A-0204 A	ROOF LEVEL GENERAL ARRANGEMENT PLAN - AS EXISTING
241742-GRA-PUR-ZZ-ZZ-DR-A-0210 A	NORTH ELEVATION (SIDE) - AS EXISTING
241742-GRA-PUR-ZZ-ZZ-DR-A-0211 A	EAST ELEVATION (FRONT) - AS EXISTING
241742-GRA-PUR-ZZ-ZZ-DR-A-0212 A	SOUTH ELEVATION (SIDE) - AS EXISTING
241742-GRA-PUR-ZZ-ZZ-DR-A-0213 A	WEST ELEVATION (REAR) - AS EXISTING
241742-GRA-PUR-ZZ-ZZ-DR-A-0214 A	ELEVATIONS - THE GRANGE - EXISTING
241742-GRA-PUR-GR-ZZ-DR-A-0420 A	SECTION AA - PROPOSED
241742-GRA-PUR-GR-ZZ-DR-A-0421 A	SECTION BB - PROPOSED

241742-GRA-PUR-ZZ-ZZ-DR-A-0410 A	NORTH ELEVATION (SIDE) - PROPOSED
00909_SAM_10F1	SUBSURFACE ASSET MAPPING
00909_TOPO_10F1	TOPOGRAPHICAL SURVEY
RA-PUR-ZZ-01-DR-A-0301 REV.B	REVISED DEMOLITION PLAN - FIRST FLOOR
GRA-PUR-ZZ-GF-DR-A-0300 REV.D	REVISED DEMOLITION PLAN - GROUND FLOOR
GRA-PUR-ZZ-GF-DR-A-0401 REV.B	REVISED GROUND FLOOR PLAN - PROPOSED
GRA-PUR-ZZ-ZZ-DR-A-0310 REV.B	REVISED EAST ELEVATION - DEMOLITION
GRA-PUR-ZZ-ZZ-DR-A-0311 REV.B	REVISED NORTH ELEVATION - DEMOLITION
GRA-PUR-ZZ-ZZ-DR-A-0314 REV.B	REVISED SOUTH ELEVATION - DEMOLITION
GRA-PUR-ZZ-ZZ-DR-A-0315 REV.B	REVISED WEST ELEVATION - DEMOLITION
241742-GRA-PUR-ZZ-01-DR-A-0301 B	DEMOLITION PLAN - FIRST FLOOR
241742-GRA-PUR-ZZ-RF-DR-A-0403 B	ROOF PLAN - PROPOSED
241742-GRA-PUR-ZZ-SL-DR-A-0150 B	SITE PLAN PROPOSED
241742-GRA-PUR-ZZ-ZZ-DR-A-0310 B	EAST DEMOLITION - PROPOSED
241742-GRA-PUR-ZZ-ZZ-DR-A-0311 B	NORTH ELEVATION - DEMOLITION
241742-GRA-PUR-ZZ-ZZ-DR-A-0314 B	SOUTH ELEVATION - DEMOLITION
241742-GRA-PUR-ZZ-ZZ-DR-A-0315 B	WEST ELEVATION DEMOLITION
241742-GRA-PUR-ZZ-ZZ-DR-A-0411 B	EAST ELEVATION - PROPOSED
241742-GRA-PUR-ZZ-ZZ-DR-A-0412 B	WEST ELEVATION - PROPOSED
241742-GRA-PUR-ZZ-ZZ-DR-A-0413 B	SOUTH ELEVATION - PROPOSED

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Listed Building Consent application 2023/0541/LBC

Conclusion:

The proposal would result in “less than substantial harm” to the significance of The Grange. Furthermore, it is considered that the harm the development would have on

the significance of the Listed Building, by virtue of the reduction of the courtyard wall and potential impact of the extractor fan on the historic fabric of the building is not justified.

When considering these heritage harms with the outstanding highway concerns, it is considered that on balance the public benefits of the scheme in terms of the economic and archive preservation and accessibility benefits would not outweigh the harms identified.

Therefore, having due regard to Sections 16(2) and 66(1) of the Planning (Listed Building and Conservation Area) Act 1990, the National Planning Policy Framework and Policy DP3 of the Mendip District Local Plan 2006-2029 Part 1: Strategies and Policies (adopted 15th December 2014) planning permission and Listed Building Consent should be refused.

Recommendation:

Refusal

1. The loss of existing fabric resulting from the reduction in the courtyard wall and potential impact of the extraction system (due to a lack of information) for the café would fail to preserve and enhance the grade II listed host building, The Grange, and thus result in less than substantial harm to this heritage asset. Furthermore, no clear and convincing justification for this work has been provided and it is not considered that there are any public benefits arising from the development that would sufficiently outweigh the harm that has been identified. On this basis the development would be contrary to policy DP3 of the Mendip District Local Plan 2006 - 2029 Part I (adopted December 2014) and the National Planning Policy Framework, particularly in regard to sections 2 and 16.

Informatives:

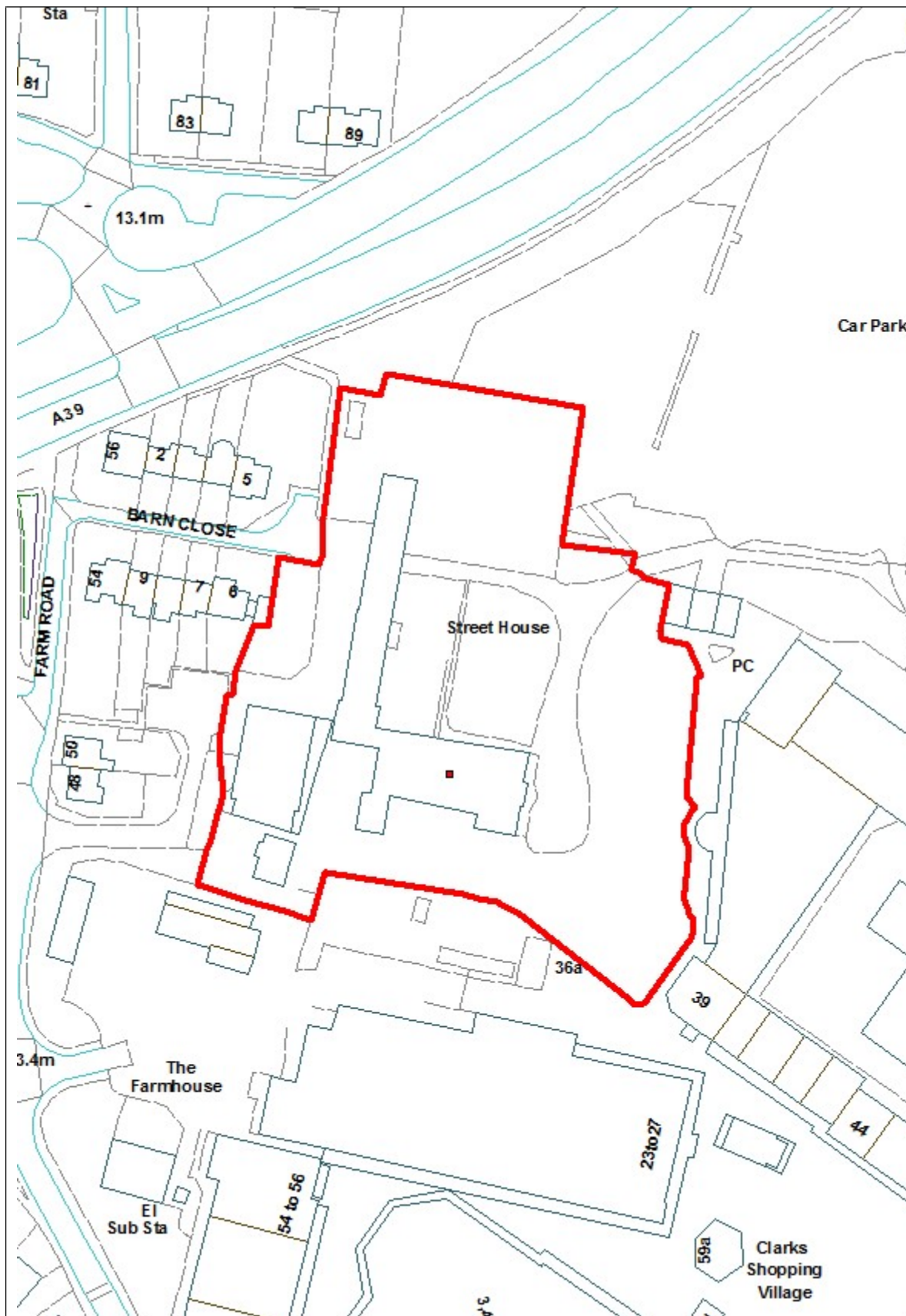
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241742-GRA-PUR-ZZ-GF-DR-A-0402 A	FIRST FLOOR PLAN - PROPOSED
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241742-GRA-PUR-ZZ-02-DR-A-0203 A	SECOND FLOOR GENERAL ARRANGEMENT PLAN - AS EXISTING
241742-GRA-PUR-ZZ-GF-DR-A-0200 A	BASEMENT GENERAL ARRANGEMENT PLAN - AS EXISTING
241742-GRA-PUR-ZZ-GF-DR-A-0201 A	GROUND FLOOR GENERAL ARRANGEMENT PLAN - AS EXISTING
241742-GRA-PUR-ZZ-RF-DR-A-0204 A	ROOF LEVEL GENERAL ARRANGEMENT PLAN - AS EXISTING
241742-GRA-PUR-ZZ-ZZ-DR-A-0210 A	NORTH ELEVATION (SIDE) - AS EXISTING
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241742-GRA-PUR-ZZ-ZZ-DR-A-0212 A	SOUTH ELEVATION (SIDE) - AS EXISTING
241742-GRA-PUR-ZZ-ZZ-DR-A-0213 A	WEST ELEVATION (REAR) - AS EXISTING
241742-GRA-PUR-ZZ-ZZ-DR-A-0214 A	ELEVATIONS - THE GRANGE - EXISTING
241742-GRA-PUR-GR-ZZ-DR-A-0420 A	SECTION AA - PROPOSED
241742-GRA-PUR-GR-ZZ-DR-A-0421 A	SECTION BB - PROPOSED
241742-GRA-PUR-ZZ-ZZ-DR-A-0410 A	NORTH ELEVATION (SIDE) - PROPOSED
00909_SAM_10F1	SUBSURFACE ASSET MAPPING

00909_TOPO_10F1	TOPOGRAPHICAL SURVEY
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GRA-PUR-ZZ-GF-DR-A-0300 REV.D	REVISED DEMOLITION PLAN - GROUND FLOOR
GRA-PUR-ZZ-GF-DR-A-0401 REV.B	REVISED GROUND FLOOR PLAN - PROPOSED
GRA-PUR-ZZ-ZZ-DR-A-0310 REV.B	REVISED EAST ELEVATION - DEMOLITION
GRA-PUR-ZZ-ZZ-DR-A-0311 REV.B	REVISED NORTH ELEVATION - DEMOLITION
GRA-PUR-ZZ-ZZ-DR-A-0314 REV.B	REVISED SOUTH ELEVATION - DEMOLITION
GRA-PUR-ZZ-ZZ-DR-A-0315 REV.B	REVISED WEST ELEVATION - DEMOLITION
241742-GRA-PUR-ZZ-01-DR-A-0301 B	DEMOLITION PLAN - FIRST FLOOR
241742-GRA-PUR-ZZ-RF-DR-A-0403 B	ROOF PLAN - PROPOSED
241742-GRA-PUR-ZZ-SL-DR-A-0150 B	SITE PLAN PROPOSED
241742-GRA-PUR-ZZ-ZZ-DR-A-0310 B	EAST DEMOLITION - PROPOSED
241742-GRA-PUR-ZZ-ZZ-DR-A-0311 B	NORTH ELEVATION - DEMOLITION
241742-GRA-PUR-ZZ-ZZ-DR-A-0314 B	SOUTH ELEVATION - DEMOLITION
241742-GRA-PUR-ZZ-ZZ-DR-A-0315 B	WEST ELEVATION DEMOLITION
241742-GRA-PUR-ZZ-ZZ-DR-A-0411 B	EAST ELEVATION - PROPOSED
241742-GRA-PUR-ZZ-ZZ-DR-A-0412 B	WEST ELEVATION - PROPOSED
241742-GRA-PUR-ZZ-ZZ-DR-A-0413 B	SOUTH ELEVATION - PROPOSED

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Planning Board Report 5th September 2023
The Grange
Farm Road
Street
Somerset
BA16 0BQ

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Agenda Item 6

Application Number	2021/2805/FUL
Case Officer	Anna Jotcham
Site	Multi-User Path Shepton Mallet Somerset
Date Validated	13 December 2021
Applicant/ Organisation	Greenways and Cycleroles Limited
Application Type	Full Application
Proposal	Construction of a multi-user path along disused railway from Hamwood Viaduct through Windsor Hill tunnel and across Bath Road Viaduct to link to Shepton Mallet.
Division	Shepton Mallet Division
Parish	Croscombe Parish Council
Recommendation	Approval
Divisional Cllrs.	Cllr Bente Height Cllr Martin Lovell

WHAT 3 WORDS

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

Ham Wood viaduct: ///vowing.insurance.happily

Windsor Hill tunnel: ///eggshell.browsers.delay

Forum Lane junction: ///paramedic.quick.winner

Bath Road viaduct: ///gossiped.sensible.zapped

A37 junction: ///blinking.liver.condition

SCHEME OF DELEGATION

The application has been called to Planning Committee by the Vice Chair of Planning Committee (Cllr. Edric Hobbs) on the basis that there is a great deal of interest in this route and quite a few objections.

SITE DESCRIPTION AND PROPOSAL

The application seeks permission for a multi-user path along the former Somerset and Dorset Railway. The section of path, 2.4km long, will go over the Ham Wood viaduct, through the Windsor Hill tunnel, across Forum Lane and over the Bath Road viaduct to meet the A37 (Kilver Street Hill). The construction of the path will unlock further land either side and is a key component of the wider 'Somerset Circle' project. The Somerset Circle is a 76-mile circuit of mostly traffic free path across the greater Somerset area linking Bristol, Bath, the Mendip Hills, the Somerset Level, and the coast with spurs to significant nearby towns (50 miles already completed).

The route of the proposed path is protected and allocated in the Mendip Local Plan through policy DP18 (Safeguarding Corridors for Sustainable Travel).

Other constraints affecting the route include the Mells Valley Special Area of Conservation (SAC) including bat consultation zone, Somerset Levels and Moors risk area, Site of Special Scientific Interest (SSSI) impact risk zone, local wildlife sites, priority habitat, contaminated land, and public rights of way.

The application submission comprises a site location plan, more detailed route maps and a report titled 'The Shepton Viaducts Project' which describes the various aspects of the project through text, maps, notes and sketches.

At the request of officers, further information and clarification has been submitted in respect of a trees, ecology, and highway and public rights of way matters. A phasing plan has also been received which splits the development of the path into three phases:

Phase 1: Ham Wood viaduct to (and including) Bath Road viaduct (1.7km)

Phase 2: Eastern edge of Bath Road viaduct to A37 (0.7km).

Phase 3: A37 to A361 via Charlton Viaduct (a future phase; not part of this planning application) (0.6km).

RELEVANT PLANNING HISTORY

A listed building application (ref: 2022/1419/LBC) was granted in February 2023 for works to the Grade II listed Bath Road viaduct. Details are as follows:

2022/1419/LBC – Strengthening exposed edge of existing waterproofing, replacing missing copings, surfacing of viaduct and removal of security fencing – APPROVED – 17.02.2023.

SUMMARY OF ALL PLANNING POLICIES AND LEGISLATION RELEVANT TO THE PROPOSAL

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

The Council's Development Plan comprises:

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

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

- CP1 – Mendip Spatial Strategy
- DP1 – Local Identity and Distinctiveness
- DP3 – Heritage Conservation
- DP4 – Mendip's Landscapes
- DP5 – Biodiversity and Ecological Networks
- DPD6 – Bat Protection
- DP7 – Design and Amenity of New Development
- DP8 – Environmental Protection
- DP9 – Transport Impact of New Development
- DP18 – Safeguarding Corridors for Sustainable Travel
- DP23 – Managing Flood Risk

Other possible relevant considerations (without limitation):

- National Planning Policy Framework

- National Planning Practice Guidance
- The Countywide Parking Strategy (2013)
- Rights of Way Improvement Plan 2 (2015)

SUMMARY OF CONSULTATION RESPONSES

The consultation responses are summarised below. Full comments can be viewed on the public website.

Shepton Mallet Town Council – Support.

Croscombe Parish Council – No objection.

Cllr. Edric Hobbs – Call to Planning Board on the basis that there is a great deal of interest in this route and quite a few objections.

Contaminated Land Officer – No objection, subject to condition / advisory note.

Land Drainage Officer – No objection, subject to condition.

Highways Officer – No objection, subject to conditions.

Public Rights of Way Officer – No objection, subject to conditions and informatives.

Conservation Officer – More information is required to establish the impact of the proposal on heritage assets. The Bath Road Viaduct (alternatively known as Waterloo Road Viaduct) is Grade II listed building, while Ham Wood Viaduct and Windsor Hill Tunnel are considered to be non-designated heritage assets. Listed Building Consent would be required for works to the Bath Road Viaduct.

[Officer note: a separate listed building application for the proposed works to the Bath Road Viaduct was approved in February 2023 (ref: 2022/1419/LBC)].

Environment and Community Protection Officer – No objection.

Ecologist – No objection, subject to mitigation measures being secured.

Natural England – No objection, subject to mitigation being secured.

Tree Officer – Holding objection. Arboricultural information provided is inaccurate and has not been provided by a suitably qualified arboricultural professional.

Travel and Tourism Officer – Support. Most of the proposed route has been accessed by the public for many years through links to the Mendip Way (a 50-mile trail between Frome and Weston-super-Mare) and many other footpaths in the area. When the tunnels and Bath Road viaduct were closed, the ‘Friends of Windsor Hill Tunnel’ began a rights of way claim, backed with evidence of decades of use. Although the proposed route is already well used, it is currently only accessible to walkers. The plans detailed in the application would improve access opening the route for wheelers and equestrians.

Other Local Groups / Organisations –

North Somerset Council (Active and Sustainable Transport) – Support. North Somerset have ambitions to progress the Strawberry Line extension at the northern end between Yatton and Clevedon. The proposed path would help realise the goal of extending the Strawberry Line and improve the connection further south into neighbouring Mendip District. We will be completing our Weston-Super-Mare to Clevedon (‘Pier to Pier’) Cycle Route this summer which will add further ride possibilities at the north of the route. Safe walking, cycling and equestrian infrastructure has the potential to increase tourism and commuting in the area, which in turn can provide an economic boost and tackle climate change.

CPRE Somerset – Support. This project will encourage more walking and cycling to improve our wellbeing and help cut carbon emissions. It will bring sustainable tourism and recreation opportunities to Shepton Mallet, benefitting the local economy, environment and community. It would also be a significant step in the development of the Somerset Circle which will benefit people from a much wider area.

Taunton Area Cycling Campaign (TACC) – Support. TACC is working to improve active travel links (e.g. Wellington-Taunton, Kingston-Taunton). The existing proposal will help bring Somerset into the cycling age and will provide economic, health benefits and social inclusion benefits. We understand that some are demanding that the path should be tarmacked at the outset. When the hugely popular Bristol Bath Railway Path was built the rural sections were stone with limestone dust rolled finish. This provided a serviceable path. Later these sections were hard surfaced with machine laid bitmac

when resources became available, and demand justified it. A limestone dust on rolled stone would be perfectly acceptable, with horse riders using a parallel grass verge.

The Trails Trust (TTT) – TTT is very encouraged by and supportive of the project but has concerns about access for all. The application does not appear to treat equestrians equally. Key concerns relate to equestrian access to / use of the viaducts and position of mounting blocks.

Cycling UK – Support with conditions. There is no justification to exclude horses from the trail. We encourage the use of a ‘sealed’ surfacing rather than natural materials – e.g. next generation surfacing material which are less obtrusive than ‘Bitmac’ and ‘Asphalt’, such as fibre sec, or hybridised multi-user surfacing such a KBI flexipave or No-Phalt/NU-Flex which mix aggregate with recycled tyre crumb to create a porous surface material with an element of give (preferred by runners and horse rider, and has benefits for cyclists in reduction of standing water and black-ice). Formal dedication of the main track-bed as bridleway or restricted byway should be carefully considered. Access controls, such as spaced rocks or gates, can have negative effects on disabled and other users so should be prevented or at least stipulated to be compliant with the least restrictive option principles and physical specifications outlined in BS5709:2018 (Gaps, Gates and Stiles).

National Highways Historical Railways Estate – Support with conditions. Whilst listed as a multi-user path, the proposal and caveats are such that this is effectively a cycling and walking route only. The surfacing appears to be unsuitable for disabled ramblers, particularly given the location, and the wording of the application caveated with regards to future equestrian use, and possible exclusion of that group. The granting of a permissive agreement by the Department for Transport, for use of the tunnel and viaducts, would be subject to the proposal catering to all users. The viewing platforms proposed for the viaducts will not be permitted. They act to block sections of the viaduct width, funnelling equestrians away from the middle of the deck and closer towards the edges. Funding for a sealed surface (as expected for such a scheme in the local environment of the town) should be secured from the outset.

Disabled Ramblers – Support with conditions. The surface should be built to tarmac, or similar standard, up to approximately 1 mile from the edge of Shepton Mallet town. All signage should reflect the rights of disabled people to use this path.

Railway Ramblers Club – Support. The path in question makes excellent use of the former railway and will be a clear asset to both locals and visitors to the area.

Strawberry Line Association (SLA) – Support. The application would link with the Strawberry Line at Shepton Mallet and form a further link in the Somerset Circle. It is fully consistent with Local Plan policy DP18 "Safeguarding Corridors for Sustainable Travel" and offers benefits to health both directly through exercise and indirectly by reducing carbon emissions. The impressive railway architecture which it uses would make the path a destination in itself and help promote the economy of Shepton Mallet. Objections from horse riders arguing that the proposal treats them unfairly seem extreme. The proposal clearly provides for use by horses (it provides mounting blocks for example). It simply recognises, as does the Highway Code, that cyclists should give way to pedestrians, and horse riders to both. To ask that the shared use of an unlit tunnel should be carefully monitored and that horse riders be asked to dismount when using it, and when crossing the viaducts, would seem a sensible precaution. To ask that horse riders use a grass verge rather than risk damaging the stone dust surface of the path seems hardly unreasonable, given the provision of such a verge.

Frome's Missing Links – Support. We have been slowly progressing a 5km stretch of similar pathway between Frome and Great Elm, which will eventually close a gap in the NCN route 24 and will connect with the greater Somerset Circle route. The proposal would help realise the goal of extending and improving the network of safe multi-user paths across Somerset and Mendip District. We have considered the objections put forward by some equestrian users but have concluded that these can be overcome at a later stage once the initial construction phase has been completed and desire lines become clearer. There is a short political and financial window available now; to delay the project because of subjective differences of opinion may scupper it completely.

Mendip Bridleways and Byways Association (MBBA) – Object. MBBA would like to see an all-weather, surface throughout the length of the route. Segregation is unacceptable so this route should be accessible by every user, for twelve months of the year. This surface should not exclude either those in wheelchairs or equestrians. MBBA would like to see the removal or re-sighting of the pyramid viewing platforms on the viaducts to allow equestrians to use the centre line across the viaduct. There should be the option to use mounting blocks sighted at each end so that horses may be led if required.

British Horse Society – Object. The application does not allow for multi-use, specifically it discriminates against equestrians and disabled users. The application will lead to unnecessary obstacles being placed in the path of multi-users. Equestrians are required to dismount over viaducts, use a segregated grass verge and are subjected to an open-ended trial use of Windsor Hill Tunnel. The application should not be determined until this route can be multi-use from the outset.

Other Local Representations –

109 supporting comments have been received on the basis that the proposal will (summarised):

- Form an essential part of the ‘Somerset Circle’.
- Be a valuable amenity asset for residents and visitors.
- Improve mental and physical health.
- Encourage sustainable travel.
- Restore and repurpose derelict heritage assets (viaducts and tunnels).
- Be sensitive to biodiversity.
- Boost the local economy through tourism.
- Provide a soft surface, which is preferred by runners, walkers and dogs (it is also cheaper so more deliverable).

1 of the supporting comments raised concerns about (summarised):

- Construction traffic accessing the site of works via the southern end of Forum Lane (which is a narrow and twisting road with blind bends and a steep gradient used by walkers and horse riders).
- Unintended consequences – e.g. the path may become a ‘path to nowhere’ at its northern end which may increase traffic and encourage parking at Forum Lane (as this will be an easier way to access the viaducts and tunnels).

20 objections have been received raising the following issues (summarised):

- Application is not inclusive for all – it discriminates against equestrians and disabled users (so is not a multi-user path).
- Equestrians should not be forced to dismount on the viaducts or subjected to a trial basis through the tunnels.

- The path should not be segregated, and equestrians should not be forced onto a separate grass verge on the side of the path.
- The surface should be made of a resilient, weatherproof material suitable for horses as well as wheelchairs and prams (a dust surface is unsuitable).
- The central seating / viewing platforms on the viaduct will push users to the outside which is dangerous.
- Signage should encourage safe passing and harmony amongst users.
- Harm to / loss of trees.
- Security (e.g. bike theft) and human safety.

4 neutral responses were received giving general support but raising concerns about:

- Lack of understanding of the needs of the equestrian community.
- Lack of formal consultation for properties which border the proposed route.
- Lack of details of fencing and planting along Windsor Hill Wood (a woodland refuge which borders the proposed path for over 250 metres, between the tunnels and nearly up to the viaduct at the western end of the proposed route).

ASSESSMENT OF RELEVANT ISSUES

PRINCIPLE OF DEVELOPMENT

The change of use of the land to a multi-user path is acceptable. This application is part of a phased scheme that links into the wider 'Somerset Circle' project. The proposal is supported by policy DP18 (Safeguarding Corridors for Sustainable Travel) and Section 9 (Promoting Sustainable Transport) of the National Planning Policy Framework (NPPF) which prioritise cycle and pedestrian routes.

LANDSCAPE CHARACTER, DESIGN AND VISUAL IMPACT CONSIDERATIONS

Policy DP1 (Local Identity and Distinctiveness) provides that development proposals should contribute positively to the maintenance and enhancement of local identity and distinctiveness across the district. Where a development proposal would adversely affect or result in the loss of features or scenes recognised as being distinctive, a balance should be made between the significance of the features or scene to the locality, the degree of impact the proposal would have upon it, and the wider benefits which would arise from the proposal if it were approved.

Similarly, Policies DP4 (Mendip's Landscape) and DP7 (Design and Amenity of New Development) seek to protect Mendip's landscape and ensure that high quality design results in usable, durable, sustainable and attractive places. To accord with these policies, development proposals should be compatible with the pattern of natural and man-made features, and appropriate to the local context in which they are proposed.

The proposed route follows the line of the disused railway taking in two viaducts (Ham Wood and Bath Road), a 120-metre tunnel at Windsor Hill and sections of the countryside. The path effectively feeds into and amalgamates a series of well-established paths and designated public rights of way to create one fluid route.

The path surface will be at least 3 metres wide finished in a consolidated (e.g. tarmac / asphalt) surface, accompanied by a grass verge where possible. Earthworks to create ramps in certain locations along the route (e.g. Forum Lane and Princes Lodge Drive near the A37) are necessary to allow easy access for those on wheels. Details of ramps, along with a series of cross sections, have been provided in the submission. All excavated materials will be retained on site and shaped into landscaped mounds which will be planted with trees and wildflower mixes.

Farm gates will be installed at field entrances and the railway boundary will be fenced off with stockproof fencing on timber posts along the route. These are not unfamiliar features in the open countryside.

Mounting blocks either side of the viaducts and tunnel will allow equestrians to dismount and walk across the viaduct if they wish. Central seating / viewing platforms on the viaducts have been removed from the application following concerns raised about the safety of pushing users to the side of these structures.

The proposal will inevitably change the character of some of the land by virtue of the proposed surfacing material and associated loss of trees and vegetation where the path cuts through. However, the route is well established in places and does not go through designated / protected landscape. It is therefore likely that the visual impact of the proposed surfacing and associated paraphernalia (e.g. mounting blocks and signage along the route etc.) will be localised.

The loss of trees and vegetation to accommodate parts of the linear route is regrettable on a localised level but is unlikely to significantly affect far reaching views. Existing

vegetation and trees either side of the path, which already screen the route, will remain. Paths are a common feature of the countryside, and the impact of the proposed path will soften over time as existing and proposed vegetation matures around it. Furthermore, there is potential for the proposed works to lead to an enhancement to the area through general use and maintenance.

IMPACT ON HERITAGE ASSETS

Policy DP3 (Heritage Conservation) confirms proposals and initiatives will be supported which preserve and, where appropriate, enhance the significance and setting of the district's heritage assets, whether statutorily or locally identified, especially those elements which contribute to the distinct identify of Mendip.

The Bath Road viaduct (alternatively known as Waterloo Road viaduct) is Grade II listed, while Ham Wood viaduct and Windsor Hill tunnel are considered to be non-designated heritage assets (NDHA).

There is a duty under Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 in considering whether to grant planning permission for development which affects a listed building or its setting to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

It is one of the core principles of the National Planning Policy Framework (NPPF) that heritage assets should be conserved in a manner appropriate to their significance. Chapter 16 of the NPPF at paragraph 195 sets out that the local planning authority should identify and assess the particular significance of any heritage asset. They should take this assessment into account when considering the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal.

A listed building application has already considered the impact of the proposed path on the Bath Road Viaduct. The Bath Road viaduct has demonstrable architectural and historic interest in its age, fabric, design and craftsmanship, and its connection with the history of the railway infrastructure in Somerset, which are the major contributors to its significance. It is an important structure as it frames an entrance into the town from the north.

The listed building consent (ref: 2022/1419/LBC, granted in February 2023) gave permission to resurface the trackway over the viaduct, replace some missing coping blocks from the south parapet, remove security fencing and insert field gates. No works were proposed to the arches or the underside of the viaduct. The initial idea of installing steel brackets and wires on top of the parapet walls due to safety concerns was removed from the original scheme due to the harm that they would cause the asset's significance without clear and convincing justification that they were required. The trial of this arrangement is still visible on some of the photographs in the submission material but should now be removed.

Overall, it is concluded that the setting and significance of Bath Road Viaduct will be unaffected by the proposals. The same conclusion can be reached for the two NDHAs. The proposed deck of Ham Wood viaduct is essentially the same as for Bath Road. Works to Windsor Hill Tunnel are of least concern as the creation of the pathway through the tunnel will not physically affect a historic structure as it is part of the ground.

ARBORICULTURAL IMPLICATIONS

There are a significant number of trees associated with the application, both on and adjacent to the proposed route of the path. The contribution that trees make in collectively generating a distinct sense of place and local identity is recognised in policy DP1 (Local Identity and Distinctiveness). The policy provides that where proposals would adversely affect or result in the loss of such features, a balance should be made between the significance of the feature or scene to the locality, the degree of impact the proposal would have upon it, and the wider benefits which would arise from the proposal if it were approved.

The full extent of the tree loss associated with the project has not been clearly identified in the application and this has resulted in an objection from the Council's Tree Officer. The main area of concern relates to the level of excavation required adjacent to existing trees. The two significant areas of excavation are where the path crosses Forum Lane, and at the eastern end of the proposal between the area identified as 'Underpass West', Princes Lodge Drive and the junction with the A37. The proposed works require level changes within the root protection area (RPA) of retained trees and the removal of trees to achieve the desired gradient changes and create satisfactory junctions with the roads (Forum Lane and A37).

No topographical survey has been carried out and the application is lacking in detailed arboricultural information (tree constraints plan, arboricultural impact assessment, tree protection plan, arboricultural method statement etc.). A site visit with the applicant and Council's Tree Officer in April 2023 clarified the extent of tree loss in the vicinity of Forum Lane (and remaining phase 1 of the development), which has regrettably already taken place. Following the meeting the applicant provided a planting plan and a tree protection plan in an attempt to overcome the Tree Officer's objection, but this was not deemed sufficient to overcome the concerns raised.

The application is therefore determined with a holding objection from the Council's Tree Officer. This will be discussed in the overall planning balance at the end of this report.

ECOLOGICAL IMPLICATIONS

Part of the application site intersects with consultation Band B (upgraded from Band C during the course of this planning application) of the Mells Valley Special Area of Conservation (SAC), which is designated in part for its horseshoe bat population. It was therefore determined in consultation with Natural England that the application required a Habitats Regulations Assessment (HRA) / Appropriate Assessment (AA).

The Shadow HRA (sHRA), prepared on behalf of the applicants, has been filed as the HRA record for the determination of the planning application. This concludes that there will be likely significant effect on the integrity of the Mells Valley SAC, and therefore mitigation is required. The mitigation measures proposed are set out in detail in the sHRA but largely comprise:

- Restrictions on artificial lighting.
- Precautionary construction measures.
- Habitat replacement and enhancement measures.
- Resurfacing the path within the Windsor Hill 'Up' Tunnel with a smooth surface (less noise).
- Installation of information boards at entrances of Windsor Hill 'Up' Tunnel to make sure users are aware of the presence of bats and the need to reduce noise.
- Extending the height of gates at the entrance of the Windsor Hill 'Down' Tunnel.
- Construction of a pond south of Windsor Hill 'Down' Tunnel to deter public access.
- Creation of low bund (c. 1m height) at northern approach to Windsor Hill 'Down' Tunnel to deter public access.

- Installation of 'private land' signs at the turning point from the proposed route on the up line to the down line.
- Enhancement of roosting opportunities within the Windsor Hill 'Up' Tunnel through walling up alcoves.

The Council finds the mitigation measures are acceptable, and subject to these the development will not adversely affect the integrity of the SAC either alone or in combination with other plans or projects. The Council, as the competent authority, adopts the sHRA to fulfil its responsibilities under Regulation 63 the Conservation of Habitats and Species Regulations 2017 (as amended). Natural England supports this view.

It is noted that the Council's Ecologist has suggested that some of the mitigation measures be secured via a legal (section 106) agreement, however in this instance, this is not considered necessary or reasonable given the scale of the development and the obligations being secured. Conditions offer an appropriate mechanism to achieve the desired aims and have been included where appropriate rather than a legal agreement. Providing these conditions are adhered to, the proposal is considered ecologically acceptable.

HIGHWAY ISSUES

The proposed path will be used by non-motorised road users (i.e. pedestrians, cyclists and equestrians). The Council does not own the land or assets (including structures) along the route of the proposed path. However, it is responsible to maintain public use, adopted highway at the A37 and Forum Lane, plus definitive rights of way.

Construction of the path is likely to result in users establishing a 'desire line' and demand to cross over the A37 at the start / end of the route. In a drawing (titled by the Council as 'Access Arrangements A37'), received on 20 July 2023, it has been confirmed that no new access is to be opened onto the A37. Instead, users of the path will utilise the existing right of way and the vehicular access. This will give the applicant time to consider suitable and sufficient highway infrastructure provision to cater for the safe crossing across the A37 as part of future Phase 3 works. The Highways Authority has confirmed that it is comfortable with this approach.

Plans have been received demonstrating visibility when emerging from the path at the Forum Lane junctions. These show that from a set-back of 3 metres (determined by the

set-back required by horse riders which is greater than cyclists or pedestrians), visibility of 16 metres and 13 metres (north side) and visibility of 16 metres and 20 metres (south side) can be achieved. The level of visibility is below the expected level, however due to the lightly trafficked nature of Forum Lane and the types of users of the multi-user path they are considered acceptable in this instance. The gradient approaches to the Forum Lane junctions will be 1:20, which is welcomed.

The gate on the southern side of the Forum Lane approach is shown on a drawing to be set back 5 metres from the highway. This is not sufficient as the Highway Authority require this gate to be set back a minimum of 12 metres to allow for tractors and trailers to exit the highway prior to opening / closing the gate. It has been verbally confirmed with the applicant that the gate should not be moved closer to the highway. The position of the gate can therefore be secured via condition.

The Highways Authority would require a staggered approach to the northern side of Forum Lane, which could be secured at the section 278 stage. The Highway Authority would also require 'SLOW' markings and advanced warning posts on Forum Lane to warn vehicle drivers of the possibility of users crossing the road, these could also be secured during the detailed design stage for the S278.

Concern about the parapet heights of the viaducts have been considered and details have been sought from the British Horse Society. The optimum height as recommended by the British Horse Society is 1.8 metres high if the horse and rider are within 2 metres of the edge of the crossing, otherwise they should be 1.5 metres high. The parapet heights proposed through this application are 1.4 metres. Given that this is only 10 cm lower than the standard minimum, it would be unreasonable to object. On this basis the proposed parapet heights are acceptable.

Taking the above into account, the development is not considered to result in any significant and severe highway safety issues, nor would it have any detrimental effect on the existing highway network. No highway objection is raised, subject to a number of planning conditions.

ACCESS FOR ALL USERS

Third party objection comments relating to the exclusion of certain users have been considered. The proposed path is not too far from existing routes used by horse riders, and presumably cyclists and walkers too. Therefore, in the context of future potential and

connections there is a case to promote access to all users. Furthermore, it would not be unreasonable to suggest that users follow a 'there and back' approach if they feel that certain parts of the route are not safe or suitable for their needs (main roads, viaducts, tunnels etc.).

The application has therefore been determined in the spirit of allowing access to all users, including horse riders, cyclists, walkers, and those with visual and mobility impairments. This aligns with the Council's policy with regard to the adopted Rights of Way Improvement Plan 2 (2015), which forms part of the Local Transport Plan.

However, it would be remiss to not mention that the success of the scheme relies upon landowner goodwill for access. It is not possible to attach a planning condition to ensure that the route is made available to all users and there is a potential civil / criminal trespass matter if landowner permission does not allow certain users to cross their land. It is therefore encouraged that the applicant works with the Council, landowners and others to ensure that walkers, cyclists and horse riders have access to the route that is proposed.

DRAINAGE AND FLOODING

The route is in Flood Zone 1 and is shown to be at very low risk of surface water flooding on the Environment Agency's Long Term Flood Risk Map. Ground conditions along the route are commensurate with the broadscale soils mapping which shows freely draining soils.

For most of its length, surface water from the path will be shed directly adjacent to the path. There are several locations where this will not occur, and further consideration is required regarding surface water drainage. These have been outlined within Section 6 of 'The Shepton Viaduct's Project' report. Subject to compliance with this (which can be secured through condition), there is no objection to the proposal on drainage and / or flooding grounds.

IMPACT ON RESIDENTIAL AMENITY

The path follows the line of a disused railway track and would be sufficiently distanced and set back from residential properties. The Environmental Protection Officer has reviewed the submission and has not raised any objection. As such, no adverse impact on residential amenity is identified.

OTHER MATTERS

Concerns about the impact of traffic during the construction process are noted, however, disruption will be short-lived and temporary. Compliance with the mitigation measures outlined in the sHRA (secured through condition) will provide adequate controls.

Parking on nearby roads / residential areas may occur near access points (so people can park up and use the path) but again, this is likely to be short-lived (i.e. the length of a walk) and occasional.

Concerns surrounding security (e.g. bike theft) and human safety are understood but are not considered to be exacerbated by the current proposal. Users of the path do so at their own risk. Furthermore, if the path is well-used, natural surveillance will increase in this part of the countryside.

Details of replacement planting along Winsor Hill Wood are set out in the sHRA and compliance with these measures will be secured via condition.

Matters surrounding contaminated land can be secured via an informative.

PLANNING BALANCE / CONCLUSION

The scheme will help deliver the wider 'Somerset Circle' project and is supported by policy DP18 (Safeguarding Corridors for Sustainable Travel) in the Local Plan.

In terms of benefits, the project offers access to the countryside for a range of users, including horse riders, cyclists and pedestrians. The scheme would improve the general health and wellbeing of local residents, and indirectly cut carbon emissions. It would also boost the local economy through indirect spending by bringing sustainable tourism and recreation opportunities to Shepton Mallet.

Harm to trees is clearly a negative consequence of delivering the project. However, this needs to be balanced against the wider benefits of the proposal if it were approved. In this instance, the benefits of the proposal as outline above are far reaching. Loss of trees along parts of the proposed route is regrettable, but the mitigation measures outlined in the sHRA with regard to existing and proposed planting offers some

compensation and enhancement. Furthermore, a condition requiring further arboricultural information to be submitted for phase 2 of the development, could be attached. This would allow phase 1 of the path to be constructed unhindered whilst retaining control over phase 2.

Whilst there will be some landscape impact through the loss of trees, this harm is not considered to be significant given the context of the site and the surrounding built form.

The setting and significance of heritage assets will be unaffected by the proposals.

There are no highway, flooding or drainage issues which are not capable of being resolved through the attachment of appropriate conditions.

Natural England and the Council's Ecologist are satisfied that, subject to the proposed mitigation measures, the development will not adversely affect the integrity of the Mells Valley SAC.

Overall, the development is sustainable development, and the application is therefore recommended for approval, subject to conditions.

ENVIRONMENTAL IMPACT ASSESSMENT

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

EQUALITIES ACT

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

Recommendation

Approval

Conditions

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

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

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

2. **Plans List (Compliance)**

This decision relates to the following drawings:

10 Dec 2021 - THE LOCATION PLAN

09 Dec 2021 - MAP 1 OF 3

09 Dec 2021 - MAP 2 OF 3

09 Dec 2021 - MAP 3 OF 3

16 Feb 2023 - PHASING PLAN

20 Jul 2023 - ACCESS ARRANGEMENTS A37

13 Jun 2023 - VISIBILITY SPLAYS FORUM LANE

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

3. **Phasing Plan (Bespoke trigger)**

The construction of the development hereby approved shall not proceed other than in accordance with the approved phasing plan, received 16 February 2023 or in accordance with an amended phasing plan as submitted to and approved in writing by the Local Planning Authority. An amended plan may be approved before or after the commencement of development.

Reason: It is necessary that the stages of development and the provision of associated technical documents to support each phase follow a co-ordinated sequence. This is a condition precedent because otherwise development may

commence outside of the agreed co-ordinated sequence. The ability to seek approval of an amended phasing plan acknowledges the fact that the development will be carried out in phases and may be carried out by different developers and that an alternative phasing sequence may be equally acceptable in terms of delivering the development.

4. **Arboricultural Method Statement and Tree Protection Plan (Bespoke Trigger)**

No development beyond the proposed works for Phase 1 shall commence, other than those required by this condition, until a Detailed Arboricultural Method Statement following the recommendations contained within BS5837:2012 has been submitted to and approved in writing by the Local Planning Authority. The Detailed Arboricultural Method Statement shall contain full details of the following:

- (a) Timing and phasing of arboricultural works in relation to the approved development;
- (b) Construction exclusion zones;
- (c) Protective barrier fencing;
- (d) Ground protection;
- (e) Details of any works within the RPA (Root Protection Area) and the proposed arboricultural supervision;
- (f) Service positions; and,
- (g) details of any special engineering requirements, including 'no dig construction'.

Further arboricultural information shall be made available at the request of the local planning authority.

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

Reason: To ensure that trees to be retained are not adversely affected by the development proposals in accordance with Development Policy 1 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014). This is a pre-commencement condition because the works comprising the development have the potential to harm retained trees and therefore these details need to be agreed before work commences.

5. **Phase 1 Construction Environmental Management Plan (Compliance)**

All associated works concerning Phase 1 of the development will be undertaken in accordance to the reports produced by Greenways and Cycle Routes Limited titled 'Construction Environmental Management Plan (CEMP) July 2023 - for works between and including Hamwood Viaduct and Bath Road Viaduct' and Focus Environmental Consultants report titled 'ECOLOGICAL MITIGATION & ENHANCEMENT STRATEGY' (Robert Pelc, Focus Environmental Consultants, July 2023).

Reason: In the interests of the Favourable Conservation Status of populations of European protected species and protecting the character and appearance of the countryside in accordance with Development Policies 1, 4, 5, 6, 7, 8 and 22 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

6. **Ecological Scheme (Bespoke Trigger)**

No development beyond the proposed works for Phase 1 as outlined in the 'Construction Environmental Management Plan (CEMP) July 2023' for works between and including Hamwood Viaduct and Bath Road Viaduct' (GREENWAYS AND CYCLEROUTES LIMITED, July 2023) shall commence until an ecological scheme has been submitted to include the following:

- Bat habitat of the equivalent minimum of 0.203 hectares of optimal habitat which is accessible to greater horseshoe bats. This shall comprise of replanting/planting/installation of Broadleaved woodland; 200sqm pond; Meadow Mixture for chalk and Limestone Soils EM6; and native wildflower seed mixture. illustrated in Figures 9 - 11.
- Buffer zones a minimum of 5m in width between retained hedgerows and the edge of built development to maintain connectivity and provide viable foraging and commuting habitat for greater horseshoe bats. a buffer a minimum of 5m in width between retained woodland and hedgerows and the edge of built development to maintain connectivity and provide viable foraging and commuting habitat for greater horseshoe bats.
- Biodiversity Enhancement (Biodiversity Net Gain).
- Landscape and Ecological Management Plan (LEMP).
- Programme of implementation.
- Long-term maintenance and management scheme for the bat habitat, buffer, public open space and landscaped areas of the site.

- Beyond general enhancements as outlined above, plans showing enhancement of roosting opportunities within the 'Up' tunnel through walling up alcoves as shown in Figure 9 of the Shadow HRA.
- Creation of low bund (c. 1m height) at northern approach to 'Down' Tunnel to deter public access.
- Installation of 'private land' signs at the turning point from the proposed route on the up line to the down line.
- Extending the height of gates at the entrance of the 'Down' Tunnel.
- Extending the height of gates at the entrance of the 'Down' Tunnel.
- Construction of pond at south of 'Down' Tunnel to deter public access.
- Resurfacing path within the Windsor Hill 'Up' Tunnel with a smooth surface.
- Installation of information boards at entrances of 'Up' tunnel to make users aware of the presence of bats and the need to reduce noise.

All plans concerning the above must take into consideration and broadly be in line with the submitted 'ECOLOGICAL MITIGATION & ENHANCEMENT STRATEGY' produced by Focus Environmental Consultants (Robert Pelc, July 2023).

Reason: In the interests of the integrity of a European site, the 'Favourable Conservation Status' of populations of European Protected Species and UK protected species, UK priority species and habitats listed on s41 of the Natural Environment and Rural Communities Act 2006, and in accordance with Mendip District Council Local Plan Part 1 Policies DP5 and DP6; Policy FR2 of the Mendip District Council Local Plan Part 2 and Chapter 15 of the National Planning Policy Framework 2021. This is a condition precedent as harm to protected species needs to be prevented from the earliest stages of the development.

7. Construction Ecological Environmental Management Plan (Bespoke Trigger)

No construction works beyond those proposed for Phase One ('Construction Environmental Management Plan (CEMP) July 2023 - for works between and including Hamwood Viaduct and Bath Road Viaduct' (GREENWAYS AND CYCLEROUTES LIMITED, July 2023) shall take place (including ground works or vegetation clearance) until each subsequent Construction Ecological Environmental Management Plan (CEEMP) concerning that Phase has been submitted to and approved in writing by the Local Planning Authority. During the process of approving the subsequent Phased CEEMPs, this condition will be discharged in several parts, until such a time when the final Phased CEEMP is

received and approved in writing by the LPA. At which point this condition can be discharged in full. This shall include the following:

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of "biodiversity protection zones".
- c) Practical measures for species impacted at each respective development Phase (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements), which are broadly in line with those outlined in Focus Environmental Consultants report titled 'ECOLOGICAL MITIGATION & ENHANCEMENT STRATEGY' (Robert Pelc, Focus Environmental Consultants, July 2023).
- 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) If relevant, how precautionary measures as outlined in Section 15 of the submitted sHRA are being implemented and fulfilled including:

- Toolbox talks provided to relevant development personnel (e.g. surfacing contractor etc.) by the Ecological Clerk of Works prior to works commencing to ensure contractors are aware of how to identify bat field signs, such as the presence of droppings, and to ensure that contractors are able to comply with the method of works described within this document.

- Use of motorised vehicles within the tunnel being minimised and other than for track/drainage works, all works will be carried out by hand.

- Use of motorised vehicles within the tunnel being minimised and other than for track/drainage works, all works will be carried out by hand.

- All construction works within and in proximity to the Windsor Hill Tunnels being carried out within the period between 1 April and 30 September. The construction works within the Windsor Hill Tunnels being avoided at time of year when hibernating/ torpor bats are least likely to be present (November - March)

- All construction works being carried out during the hours of daylight, therefore outside the period when night roosting/ swarming greater horseshoe bats could

be present. Construction activities will only be permitted not less than one hour after dawn and finish at least one hour before dusk.

- All construction works being carried out during the hours of daylight, therefore outside the period when night roosting/ swarming greater horseshoe bats could be present. Construction activities only be permitted not less than one hour after dawn and finish at least one hour before dusk.

j) Ongoing monitoring, including compliance checks by a competent person(s) during construction and immediately post-completion of construction works, in accordance with Section 14 of the sHRA.

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

Reason: In the interests of the integrity of a European site, the 'Favourable Conservation Status' of populations of European Protected Species and UK protected species, UK priority species and habitats listed on s41 of the Natural Environment and Rural Communities Act 2006, and in accordance with Mendip District Council Local Plan Part 1 Policies DP5 and DP6; Policy FR2 of the Mendip District Council Local Plan Part 2 and Chapter 15 of the National Planning Policy Framework 2021. This is a condition precedent as harm to protected species needs to be prevented from the earliest stages of the development.

8. **Construction Ecological Environmental Management Plan - Reports (Bespoke Trigger)**

Upon completion of Phase 2, a report will be produced by the Ecological Clerk of Works or similarly competent person certifying that the required mitigation and compensation measures identified in the CEMP for each phase, (as summarised wholly in Focus Environmental Consultants report titled 'ECOLOGICAL MITIGATION & ENHANCEMENT STRATEGY' (Robert Pelc, Focus Environmental Consultants, July 2023)) have been completed to the Local Planning Authorities (LPA) satisfaction, and detailing the results of site supervision and any necessary remedial works undertaken or required, shall be submitted to the LPA for approval before commencement of each phase or sub-phase of the development or at the end of the next available planting season, whichever is the sooner. Any approved remedial works shall subsequently be carried out under the strict supervision of a professional ecologist following that approval.

Reason: In the interests of the integrity of a European site, the 'Favourable Conservation Status' of populations of European Protected Species and UK protected species, UK priority species and habitats listed on s41 of the Natural Environment and Rural Communities Act 2006, and in accordance with Mendip District Council Local Plan Part 1 Policies DP5 and DP6; Policy FR2 of the Mendip District Council Local Plan Part 2 and Chapter 15 of the National Planning Policy Framework 2021. This is a condition precedent as harm to protected species needs to be prevented from the earliest stages of the development.

9. **Biodiversity Monitoring Strategy (Bespoke Trigger)**

A biodiversity monitoring strategy will be submitted to, and approved in writing by, the local planning authority upon completion of Phase 2. The purpose of the strategy shall be to demonstrate how monitoring will be undertaken in accordance to details provided in Section 15 of the sHRA, produced by 'ECOLOGICAL MITIGATION & ENHANCEMENT STRATEGY' produced by Focus Environmental Consultants (Robert Pelc, July 2023), July 2023. The content of the Strategy shall include the following:

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

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

accordance with the approved details.

Reason: In the interests of the integrity of a European site, the 'Favourable Conservation Status' of populations of European Protected Species and UK protected species, UK priority species and habitats listed on s41 of the Natural Environment and Rural Communities Act 2006, and in accordance with Mendip District Council Local Plan Part 1 Policies DP5 and DP6; Policy FR2 of the Mendip District Council Local Plan Part 2 and Chapter 15 of the National Planning Policy Framework 2021. This is a condition precedent as harm to protected species needs to be prevented from the earliest states of the development.

10. **Lighting and bats (Bespoke Trigger)**

No permanent external lighting or temporary construction lighting shall be erected or provided on the site unless a "lighting design for bats" has been submitted to and approved in writing by the Local Planning Authority. The design shall show how and where external lighting will be installed (including through the provision of technical specifications, and through the provision of lighting contour plans illustrating Lux levels accords with Step 5 of Guidance Note 08/18 Bats and artificial lighting in the UK and does not impact in retained or created Bat Habitats) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory or having access to their resting places, and will not cause harmful light pollution in the countryside. All external lighting shall thereafter be installed in accordance with the specifications and locations set out in the design, and these shall be maintained thereafter in accordance with the design.

Reason: In the interests of the Favourable Conservation Status of populations of European protected species and protecting the character and appearance of the countryside in accordance with Development Policies 1, 4, 5, 6, 7, 8 and 22 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

11. **European Protected Species Mitigation Licence (Badgers) (Bespoke Trigger)**

The works, including groundworks and vegetative clearance within 30 metres of the known badger sett, shall not in any circumstances commence unless the Local Planning Authority has been provided with either:

a) a copy of the licence issued by Natural England pursuant to The Protection of

Badgers Act 1992 authorising the development to go ahead; or
b) a statement in writing from the ecologist to the effect that he/she does not consider that the development will require a licence.

Reason: Section 6.1 of Focus Environmental Consultants report titled 'ECOLOGICAL MITIGATION & ENHANCEMENT STRATEGY' (Robert Pelc, Focus Environmental Consultants, July 2023)) does not provide enough certainty that a licence issued by Natural England pursuant to The Protection of Badgers Act 1992 will not be required.

12. **Vehicle Visibility Splay (Compliance)**

At both of the proposed accesses on Forum Lane there shall be no obstruction to visibility greater than 600 millimetres above adjoining road level within the visibility splays shown on the submitted visibility splay drawing received 13 June 2023. Such visibility splays shall be constructed prior to the commencement of the development hereby permitted and shall thereafter be maintained in perpetuity.

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

13. **Entrance Gates (Compliance)**

Any entrance gates erected shall be hung to open inwards, shall be set back a minimum distance of 12 metres from the highway edge and shall thereafter be maintained in that condition in perpetuity.

Reason: To ensure that vehicles do not cause an obstruction in the interests of highway safety in accordance with Development Policy 9 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

14. **Access onto the A37 (Compliance)**

Notwithstanding the route map (Map 3 of 3) received 9 December 2021, no new access is to be opened onto the A37 as per the drawing (titled by the Council as 'Access Arrangements A37'), received on 20 July 2023. Instead, users of the path will utilise the existing right of way and the vehicular access.

Reason: For the avoidance of doubt and in the interests of highway safety in

accordance with Development Policy 9 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

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

The development shall only be carried out in accordance with the approved Surface Water Drainage Strategy as detailed within The Shepton Viaducts Project Report, Friends of Windsor Hill Tunnel with Greenways & Cyclerooutes Ltd and Shepton Mallet Town Council, July 2022.

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).

Informatives

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

2. **Condition Categories**

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

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

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

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

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

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

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

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

3. The responsibility for ensuring compliance with the terms of this approval rests with the person(s) responsible for carrying out the development. The Local Planning Authority uses various means to monitor implementation to ensure that the scheme is built or carried out in strict accordance with the terms of the permission. Failure to adhere to the approved details will render the development unauthorised and vulnerable to enforcement action.
4. Under Section 163 of the Highways Act 1980 it is illegal to discharge water onto the highway. You should, therefore, intercept such water and convey it to the sewer.
5. The development hereby approved includes the carrying out of work on the adopted highway. You are advised that before undertaking work on the adopted highway you must enter into a highway agreement under Section 278 of the Highways Act 1980 with the Council, which would specify the works and the terms and conditions under which they are to be carried out.

NB: Planning permission is not permission to work in the highway. A Highway Agreement under Section 278 of the Highways Act 1980 must be completed, the bond secured and the Highway Authority's technical approval and inspection fees paid before any drawings will be considered and approved.

6. 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.
7. You are advised to keep a watching brief for potential hotspots of contamination and assess for visual / olfactory evidence of contamination during any groundworks. If any unforeseen contamination is found during excavations Environmental Health must be notified immediately. This may include obvious visual or olfactory residues, asbestos including asbestos containing materials such as roofing, buried drums, drains, interceptors, additional fuel storage tanks or any other unexpected hazards that may be discovered during site works.

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



Planning Board Report 5th September 2023
Multi-User Path
Shepton Mallet
Somerset

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Agenda Item 7

Application Number	2023/0338/FUL
Case Officer	Carlton Langford
Site	Land At 362158 143509 Paul Street Shepton Mallet Somerset
Application Number	2023/0338/FUL
Date Validated	23 February 2023
Applicant/	E Dukes (Manager)
Organisation	Willow Nursery and Pre-School Ltd
Application Type	Full Application
Proposal	Change of use of land from agriculture to use class E (f) and erection of Nursery and Pre-School building and associated access and parking.
Division	Shepton Mallet Division
Parish	Shepton Mallet Town Council
Recommendation	Refusal
Divisional Cllrs.	Cllr Bente Height Cllr Martin Lovell

9. Referral to Planning Committee:

The application has been referred to Planning Committee for the reason of overwhelming support including from the Town Council and Ward Cllr.

Description of Site, Proposal and Constraints:

This application relates to land to the north of the A361 (Paul Street) situated within the development limits of Shepton Mallet but within part of a larger area designated as Open Area of Local Significance under policy DP2 of the Local Plan.

The site has boundaries with a residential property to the west a school car park and further land designated as an Open Area of Local Significance to the east and north and predominantly residential properties to the south.

The application site is also situated within the Shepton Mallet Conservation Area, an Area of High Archaeological Potential and within the Somerset Levels and Moors Ramsar Catchment.

This application seeks full planning permission for change of use of land from agriculture to use class E (f) and erection of Nursery and Pre-School building and associated access and parking. The applicant suggests that the proposed development

will replace/relocate the existing nursery use operating further along Paul Street (Charlton Road) which is still in operation.

Planning history shows that Willow Nursery under Planning Permission Ref: 2019/1516/FUL gained permission for the use of a dwellinghouse at 1 Charlton Road as a new nursery building but for unexplained reasons, the plot was subdivided and the house sold on, with the subdivide land now forming the application site for a new nursery.

Relevant History:

2019/1516/FUL - Change of use of dwellinghouse (Class C3) to state registered nursery and pre-school (Class D1) and use of adjacent land for associated access and parking. Approved Sept 2020.

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

Ward Member: I have no personal interest in this application, I am not a member of the planning board. I would like to see this application being passed, if there were a doubt, I would prefer the application being deferred to full planning board.

Town Council: Support.

Planning Policy: Careful consideration should be given to the planning balance between the harm caused by loss of part of the Open Area of Local Significance and the benefits of the continued provision of childcare.

Conservation: Object – Less than substantial harm. The development would result in “less than substantial harm” to the significance of this heritage asset (Shepton Mallet Conservation Area) which must be outweighed by public benefits in the planning balance, bearing in mind the Section 72 duty to pay “special attention” to the desirability of preserving or enhancing the character or appearance of the conservation area.

Highways Development Officer: No objections subject to standard highway safety conditions.

Council Archaeologist: No objections.

Land Drainage: No objections.

Somerset Education: Support - Willow have offered early years provision since the 1960s, so are an established and well-regarded setting within the town. We have recently visited the current setting and know from a condition report completed in May 2023 that the building is at the end of its life and is no longer conducive to the delivery of an early years curriculum. If they are unable to build a new setting, there is a very real risk that they will be forced to close.

Environmental Protection: No objections to this proposal, however, due to the location. a Construction Environmental Management Plan will be necessary in the interests of safeguarding neighbouring amenities.

Contaminated Land: No objections but due to what appears to be a mound of waste on site, it would be advised to keep a watching brief for potential hotspots of contamination and assess for visual/olfactory evidence of contamination during any groundworks.

Ecology: No objections subject to the imposition of conditions in the interests of protecting wildlife and wildlife habitats.

Natural England: No comment to make on this application.

Local Representations: 8 letters of objection have been received raising the following summarised issues:

1. Development should be directed to a brownfield site and not on this greenfield site.
2. Highway safety issues – Impact on existing access points opposite.
3. Poor design (modular building)
4. Impact on wildlife – loss of a green wildlife corridor
5. Impact on the Conservation Area
6. The same green space is also included within the proposed protected green space in the Shepton Mallet Neighbourhood Plan, currently being assessed before adoption.

10 letters of support have been received supporting the proposal to relocate and continue the nursery school use.

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

Policies/Legislation:

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

The Council's Development Plan comprises:

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

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

- CP1 – Mendip Spatial Strategy
- CP3 – Supporting Business Development
- DP1 – Local Identity and distinctiveness
- DP2 – Open Areas of local Significance
- DP3 – Heritage Conservation
- DP4 – Mendip Landscapes
- DP5 – Biodiversity
- DP6 - Bats
- DP7 – Design and Amenity
- DP9 – Transport
- DP10 – Parking

Other possible Relevant Considerations (without limitation):

- National Planning Policy Framework
- National Planning Practice Guidance
- Historic Environment Good Practice Advice in Planning Notes issued by Historic England
- Conservation Area Character Appraisals

- Somerset County Council Highways Development Control Standing Advice (June 2017)
- Greenspace Supplementary Planning Document

Assessment of relevant issues:

Principle of the Use:

Core Policy 1 of the Local Plan outlines the spatial strategy for Mendip, which seeks to direct the majority of development towards the five principal settlements which contribute positively towards delivering components of the vision for the district and the associated strategic objectives. The site is within development limits for Shepton Mallet, a principal settlement.

Core Policy 3 encourages a diverse, robust, thriving and resilient local economy.

Policy DP2 - Open Areas of Local Significance, says that permission will not be granted for development which would harm the contribution to distinctive local character made by Open Areas of Local Significance as identified on the Policies Map. The site is within an Open Area of Local Significance defined by Local Plan Part 1 and defines the site as part of an Open Area of Local Significance, designated for its significant contribution to the quality of the built environment. The designation is applied to spaces which contribute to the locally distinctive character of an area for a variety of reasons, including allowing views out of an otherwise built-up street scene, allowing views of significant local features, enhancing the setting of a settlement or creating a sense of space.

Part 1 of the plan makes a commitment to reviewing the OALS and considering whether they should be designated as Local Green Spaces as set out in NPPF para 101-103 as part of the preparation of LPP2.

Policy DP2 is part of the adopted Local Plan Part 1 and says that the areas defined as OALS have value because of their contribution to local distinctiveness and does not permit development which would harm that contribution.

A review of the approach to Local Green Space designation is required and, in addition to consideration in Neighbourhood Plans, this will be carried out in the future Local Plan Review.

Local Plan Part 2 confirms that LPP1 Policy DP2 will continue to provide guidance on the protection of open spaces (para 5.3).

Greenspace Supplementary Planning Document (SPD) does not designate Open Areas of Local Significance which were identified within Part of LPP1. However, it provides more detail of the value of each existing site. In Annex 2 the following description of the value of the site is provided:

OALSSHEP007; “Demonstrably special due to being an open area amongst quite dense housing which will be intensified as a result of the development of the prison site”.

The site is also identified in the Shepton Mallet Conservation Area Appraisal maps as a “Positive Open Space” which, although not a designation itself, does concur with the Open Area of Local Significance (OALS) and allows for views out across the valley to the north from the built-up area. It should be taken into account when considering any development within the Conservation Area where the development is expected to preserve or enhance its character or appearance, in accordance with both the definition of a conservation area and Policy DP3.

The Council’s Conservation officer has made a full assessment of the proposal on heritage assets to include the Shepton Mallet Conservation Area and nearby Listed Buildings. (See full assessment below). The outcome of which is that the only designated heritage asset to be impacted by the proposal is the Shepton Mallet Conservation Area, and the development would result in “less than substantial harm” to the significance of this heritage asset which must be outweighed by public benefits in the planning balance, bearing in mind the Section 72 duty to pay “special attention” to the desirability of preserving or enhancing the character or appearance of the conservation area.

The Childcare Act (2016) placed a duty on Local Authorities to secure places free of charge to parents and the Council’s Childcare Sufficiency Statement gives an overview of childcare and the Community Profiles notes that additional provision may be required in Shepton Mallet due to proposed housing development although, current demand is being met by the established Willow Nursery.

The adopted Local Plan identifies the site as part of an as OALS and within the Shepton Mallet Conservation Area. The Local Plan protects OALS sites from development which would harm the contribution to distinctive local character, and Conservation Areas from

development which fails to preserve or enhance the character or appearance of the Conservation Area.

Taking all of the above into consideration in the planning balance, whilst it is recognised that the proposed development will benefit the local economy at a modest level and could provide alternative facilities should the existing Willow Nursery close, but it must be recognised that the current nursery is still operating and is meeting existing demand.

To this end, it is considered that the harm as identified outweighs the modest economic benefits as identified and as there remains a facility (nursery) in place currently meeting existing public demands. As such, there are currently no public benefits which might outweigh the harms identified in both the loss of part of an OALS and the less than significant harm to the character of the Conservation Area and despite the development being within the development limits of Shepton Mallet, it fails to contribute positively towards the objectives of Policy CP1 of the Local Plan and considered unacceptable in principle.

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

The application site is on undeveloped greenfield land and sloping downhill away from Paul Street where access is proposed. The site is planted with grass with one key specimen mature tree.

The proposal will see a breach of an existing stone boundary wall to create an access similar to that already approved under planning permission ref: 2019/1516/FUL which gained permission for a change of use of 1 Charlton Road (dwellinghouse) to state registered nursery and pre-school.

Beyond the access to the front of the proposed building will be a large parking and turning area to serve the development.

Towards the centre of the site will be a modular type 'L' shaped building with a flat roof. Using the sloping topography of the site, the building will at the rear be 2 storey creating a store and plant room at a lower level.

To the rear of the building, will be a hard surfaced outside play area and a soft grassed area.

Whilst the applicant has sought to limit the impact the development through the flat roof design, the scale of the overall scheme is such that it will no doubt have a significant visual impact on the street scene considerably altering the existing open character of this land for which is it designated under Policy DP2 of the LP (OALS) and furthermore, the open character of this part of the Shepton Mallet Conservation Area.

Whilst it is appreciated that the Council has previously allowed a new access and access track on part of the application site, this was very much restricted to a small part of the site immediately adjacent to the highway and where the benefits of creating the new access in terms of highway safety outweighed the limited visual harm on the open character of the OALS.

To this end, the proposed development by reason of its excessive scale, form, layout and appearance would be inappropriate within context contrary to the provisions of Policies DP1, DP2, DP3 and DP7 of the LP.

Impact on the Conservation Area:

There is a duty 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.

It is one of the core principles of the NPPF that heritage assets should be conserved in a manner appropriate to their significance. Chapter 16 of the National Planning Policy Framework at paragraph 195 sets out that the local planning authority should identify and assess the particular significance of any heritage asset. They should take this assessment into account when considering the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal.

Paragraphs 194-204 sets out the framework for decision making in planning applications relating to heritage assets and this application takes account of the relevant considerations in these paragraphs.

The site is identified in the Shepton Mallet Conservation Area Appraisal maps as a "Positive Open Space" which, although not a designation itself, does concur with the Open Area of Local Significance (OALS) and allows for views out across the valley to the north from the built-up area. It should be taken into account when considering any development within the conservation area where the development is expected to

preserve or enhance its character or appearance, in accordance with both the definition of a conservation area and Policy DP3.

In assessing the overall impact of the proposal, the car parking area off Paul Street on the highest part of the site significantly dilutes the “positive open space” experienced from Paul Street, and despite attempts to keep the building low at its south end, it would be visible and contribute to the impact on the openness of this identified part of the conservation area.

The development would result in “less than substantial harm” to the significance of this heritage asset which must be outweighed by public benefits in the planning balance, bearing in mind the Section 72 duty to pay “special attention” to the desirability of preserving or enhancing the character or appearance of the conservation area.

The development will bring forward modest economic benefits but there remains a nursery facility in place currently meeting existing public demands.

Having regard to the above, the proposal will have less than substantial harm to the significance of the designated heritage asset. In line with paragraph 196 of the NPPF it is necessary to weigh this against any public benefit. In this instance the harm to the significance of the designated heritage asset is not outweighed by the public benefit identified which are considered modest at best and therefore, having due regard to Section 72 of the Planning (Listed Building and Conservation Area) Act 1990 and Policy DP3 of the Mendip District Local Plan 2006-2029 (Part 1 Strategies and Policies - adopted 15th December 2014) permission should be refused.

Impact on the setting of Listed Building:

There is a duty under Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 In considering whether to grant planning permission for development which affects a listed building or its setting to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

It is one of the core principles of the NPPF that heritage assets should be conserved in a manner appropriate to their significance. Chapter 16 of the National Planning Policy

Framework at paragraph 195 sets out that the local planning authority should identify and assess the particular significance of any heritage asset. They should take this assessment into account when considering the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal.

Paragraphs 194-204 sets out the framework for decision making in planning applications relating to heritage assets and this application takes account of the relevant considerations in these paragraphs.

The Grade II* listed prison (along with its Grade II listed Gatehouse and Perimeter Walls) lies to the west of Frithfield Lane and, due to its proximity, there is the potential that the development of the site could affect the setting of these heritage assets. However, the application site does not make a valuable contribution to the setting of the prison – its setting being primarily predicated upon its immediate surroundings within the prison walls and surrounding narrow lanes. The site is shielded from the prison on the east of Frithfield Lane by a high wall, albeit not as high as the prison wall opposite, so there is little intervisibility, other than what might be glimpsed from the upper floors of the prison through its small, high windows. It is, therefore considered that no harm would be caused to the significance of the prison or the walls by this development due to impact on their settings.

Therefore, no material harm to the designated heritage asset has been identified and the proposal would accord with Section 66(1) of the Planning (Listed Building and Conservation Area) Act 1990 and Policy DP3 of the Mendip District Local Plan 2006-2029 (Part 1 Strategies and Policies - adopted 15th December 2014).

Impact on Residential Amenity:

The site has only one neighbour at 1 Charlton Road which might be impacted by the proposed use. However, the layout of the site ensures that the proposed building acts as an effective screen between the dwelling and the outside play areas and the limited use of the car park, is unlikely to have such a significant impact on the amenity of the occupiers of 1 Charlton Road as to warrant the applications refusal bearing in mind the existing noise levels from the busy A361.

The proposal accords with Policy DP7 of the LP.

Assessment of Highway Issues:

A similar access for a very similar use was allowed under planning ref: 2019/1516/FUL within the same location and is considered to be acceptable in terms of highway safety.

There is sufficient off-street parking to serve the proposed use along with sufficient on-site turning to allow cars to arrive and leave the site in forward gear and to allow safe drop-off and pick-up from the Nursery.

Whilst third party concerns have been realised regarding highway safety and pedestrian safety, the width of the highway at the access with the site is sufficient to allow ease of turning both into and out of the site and there is a safe pedestrian footpath along both Paul Street and Charlton Road.

The proposal is acceptable in terms of highway safety and sufficient off-street parking will be provided in accords with Policies DP9 and DP10 of the LP and the Countywide Parking Strategy.

Ecology:

The application was accompanied by an ecological report and a further badger assessment. The Council's Ecologist has supported the recommendations within the report and assessment subject to the imposition of standard wildlife conditions in the interests of protecting Badgers, Bats, Nesting birds, Amphibians and Reptiles and ensuring the provision of biological enhancements.

Whilst it is recognised that part of a larger greenfield site with ecological benefits will be lost to the development, the recommendations and enhancements proposed are considered sufficient to ensure no harm to protected wildlife or protected habitats in accordance with Policies DP5 and DP6 of the LP.

The site fall within the Somerset Levels and Moors Ramsar Catchment where before determining a planning application that may give rise to additional phosphates within the catchment, competent authorities must undertake a Habitats Regulations Assessment (HRA).

However, with no overnight accommodation proposed the development falls outside of that requiring an assessment (HRA) and the authority is therefore confident that the

development will not give rise to unfavourable levels of additional phosphate within the catchment.

Waste and Refuse:

Provided at the roadside.

Environmental Impact Assessment

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

Equalities Act

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

Conclusion and Planning Balance:

Having regard for the above, the proposed development poses no adverse amenity, highway safety, pedestrian safety or ecological concerns and it is recognised that the proposed development will benefit the local economy at a modest level and could provide alternative facilities should the existing Willow Nursery close.

However, it must be recognised that the current nursery is still operating and is meeting existing demand and therefore at present the proposal would provide little public benefit.

Notwithstanding the above, the harms identified in both the loss of part of an OALS and the less than significant harm to the character of the Conservation Area carry significant weight and, in this case, outweigh the modest economic benefits brought by the proposed development.

The proposal is considered to be contrary to the provisions of policies DP1, DP2, DP3 and DP7 of the Local Plan and recommended for refusal.

Recommendation

Refusal

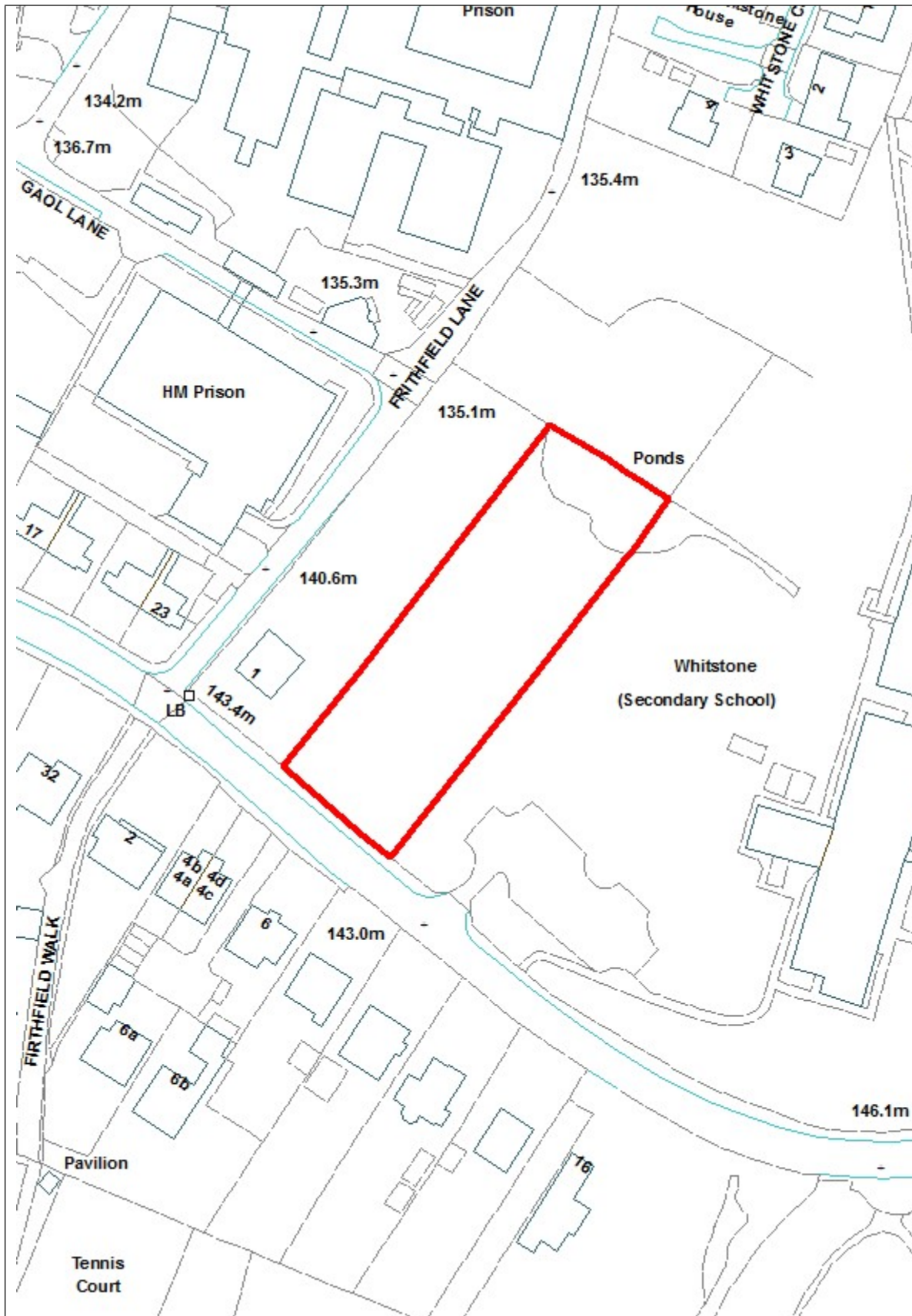
1. The application site forms a significant area of a designated Open Areas of Local Significance in this part of Shepton Mallet under Policy DP2 of the Mendip District Local Plan 2006-2029 (Part 1 Strategies and Policies - adopted 15th December 2014). The Policy, seeks to protect the importance of the site as a designated open space and clarifies that permission will not be granted for development which would harm the contribution to distinctive local character made by Open Areas of Local Significance as identified on the Policies Map. The application site is described as demonstrably special due to it being an open area amongst quite dense housing. In summary the cumulative impact of the proposed development will have a significantly harmful impact on the openness of this designation especially when viewed from the Paul Street and Charlton Road. Whilst it is recognised that the scheme might deliver modest economic benefits, any public benefits are minimal with the demand for nursery facilities already being met by existing facilities. The benefits of the proposal do not in this case, outweigh the harm as identified and the development is contrary to the provisions of Policies DP1, DP2 and DP7 of the Mendip District Local Plan 2006-2029 (Part 1 Strategies and Policies - adopted 15th December 2014).
2. The proposed development by reason of its cumulative visual impact on this positive open space which defines the character and appearance of this part of the Shepton Mallet Conservation Area will result in less than substantial harm to the significance of the heritage asset. In line with paragraph 196 of the NPPF it is necessary to weigh this against any public benefit. In this instance the harm to the significance of the designated heritage asset is not outweighed by the public benefit identified which are considered modest at best with the demand for nursery places already being met by existing facilities. The proposed development therefore, fails to accord with the provisions of Section 72 of the Planning (Listed Building and Conservation Area) Act 1990 and Policy DP3 of the Mendip District Local Plan 2006-2029 (Part 1 Strategies and Policies - adopted 15th December 2014).

Informatives

1. In determining this application the Local Planning Authority considers it has complied with the aims of paragraph 38 of the National Planning Policy Framework by working in a positive, creative and pro-active way. Despite negotiation, the submitted application has been found to be unacceptable for the stated reasons. The applicant was advised of this, however despite this, the applicant chose not to withdraw the application 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:
 - 0275_WN_22-S.01
 - 0275_WN_22-PL.100
 - 0275_WN_22-PL.101
 - 0275_WN_22-PL.102
 - 0275_WN_22-PL.103
 - 0275_WN_22-PL.104
 - 0275_WN_22-PL.105
 - 0275_WN_22-PL.106
 - 0275_WN_22-PL.107
 - 02.00 B
 - 08.00 B
 - 09.00 B
 - 10.00 B
 - SK03.00(SM) C

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Planning Board Report 5th September 2023
 Land At 362158 143509
 Paul Street
 Shepton Mallet
 Somerset

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Agenda Item 8

Application Number	2023/0959/FUL
Case Officer	Carlton Langford
Site	Tadhill Farm Cottage Old Wells Road Leigh On Mendip Shepton Mallet Somerset
Application Number	2023/0959/FUL
Date Validated	29 May 2023
Applicant/	Mr & Mrs Davis
Organisation	
Application Type	Full Application
Proposal	Alteration to an existing access and installation of a new access track (extension to residential curtilage).
Division	Mendip Central And East Division
Parish	Leigh On Mendip Parish Council
Recommendation	Approval
Divisional Cllrs.	Cllr Barry Clarke Cllr Philip Ham

6. **What3words:**

The application site can be found by entering the following into www.what3words.com:

tile.prowling.gems

Scheme of Delegation:

In accordance with the Scheme of Delegation, this application is automatically referred to the Planning Committee. This is because the proposal to extend the residential curtilage represents a change of use of land within the open countryside which cannot be supported in policy terms and therefore represents a departure from the development plan.

Description of Site, Proposal and Constraints:

This application relates to scrub land and agricultural land adjacent to Tadhill Farm Cottage situated within the open countryside. The site is within a Bat Consultation Zone,

a Minerals Consultation Zone, a Ground Water Protection Zone and adjacent to a Grade II Listed Building (Tadhill Farm Cottages).

This application seeks full planning permission for alterations to an existing access and installation of a new access track (extension to residential curtilage) to serve as a separate domestic access separate from the main farm access.

Relevant History:

No relevant planning history.

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

Ward Member: No response

Parish Council: Recommend approval.

Highways Development Officer: Standing advice

Ecologist: No objections subject to the imposition of conditions to ensure the protection of wildlife throughout the construction stage and to ensure the implementation of the proposed new hedgrows.

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

Policies/Legislation:

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

The Council's Development Plan comprises:

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

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

- CP1 – Mendip Spatial Strategy
- DP1 – Local Identity and distinctiveness
- DP3 – Heritage conservation
- DP4 – Mendip Landscapes
- DP5 – Biodiversity
- DP6 – Bats
- DP7 – Design and amenity
- DP9 – Transport
- DP10 – Parking

Other possible Relevant Considerations (without limitation):

- National Planning Policy Framework
- National Planning Practice Guidance
- Historic Environment Good Practice Advice in Planning Notes issued by Historic England
- Somerset County Council Highways Development Control Standing Advice (June 2017)

Assessment of relevant issues:

Principle of the Use:

Development within the open countryside is strictly controlled. Whilst this proposal will result in an increase in domestic curtilage which will result in the loss of countryside which should be protected for its own sake, the extension relates purely to the proposed route of the track and off-street parking which, subject to the usual planning controls of design, amenity, highway safety, ecology and impact on the setting of a nearby Listed Buildings, would in this case, seem acceptable in principle in that it will allow safer

traffic and pedestrian management on site and therefore enhancing the overall developments at Tadhill Farm.

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

The site forms a small part of a wider section of scrubland to the west of Tadhill Cottages which has previously been used in association with the farm and a small part of a larger agricultural field. The proposal will allow the creation of a short section of track to the side of the cottages and allow a parking area to the rear of the cottage off an existing access which currently served one of the 2 cottages and which has its own off-street parking. The cottage to the east, has its parking to the rear and uses the separate busy farm access. The proposal will allow this cottage to have its own parking area (not shared with the farm) but use the same domestic access as the other cottage.

The nature of the works will be minimal having little visual impact on the character of the street scene or wider landscape. It is proposed to create a new hedgerow along the west boundary of the track which will not only provide a natural and typically distinctive boundary with the countryside beyond but also provide improved biodiversity.

The proposal is considered to be of a scale, form and layout appropriate to the local context in accordance with policy DP7 of the LP.

Impact on the Listed Building:

There is a duty under Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 In considering whether to grant planning permission for development which affects a listed building or its setting to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

It is one of the core principles of the NPPF that heritage assets should be conserved in a manner appropriate to their significance. Chapter 16 of the National Planning Policy Framework at paragraph 195 sets out that the local planning authority should identify and assess the particular significance of any heritage asset. They should take this assessment into account when considering the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal.

Paragraphs 194-204 sets out the framework for decision making in planning applications relating to heritage assets and this application takes account of the relevant considerations in these paragraphs.

The land is adjacent to the two Grade II Listed Cottages but has never formed a formal part of their historic curtilages.

As already described, the proposed works will be minimal and have very little impact on the wider landscape nor street scene. No listed boundary treatments will be lost to the development and whilst the domestic area surrounding the cottages will increase in area, this will have no significant impact on the setting of the cottages or the wider farm complex.

Having regard to the above, no material harm to the designated heritage asset has been identified and therefore, having due regard to Section 66(1) of the Planning (Listed Building and Conservation Area) Act 1990 and DP3 of the Mendip District Local Plan 2006-2029 (Part 1 Strategies and Policies - adopted 15th December 2014) consent should be approved.

Impact on Residential Amenity:

Both cottages are in the same ownership and there are no other immediate neighbours which would be impacted by the proposal.

The proposal accords with Policy DP7 of the LP.

Assessment of Highway Issues:

The existing access from which the track will extend has sufficient visibility in both directions to ensure continued highway safety from its proposed increased in use and together with a reduction in use of the existing farm access to the east, highway safety is likely to improve overall.

The proposed parking area to the rear will again have sufficient space for vehicles to turn in order to leave the site safely in forward gear and the number of off-street parking spaces proposed accords with the Countywide Parking Strategy.

The proposal accords with Policies DP9 and DP10 of the LP.

Ecology:

Having regard for the limited impact of the works proposed together with the creation of the new stock boundary hedge, the development will not adversely impact on existing wildlife or wildlife habitats and will provide commensurate ecological enhancements.

Subject to a suitable qualified ecologist overseeing site clearance and the implantation of the proposed hedgerow, which can be achieved through condition, the proposal accords with policies DP5 and DP6 of the LP.

Environmental Impact Assessment

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

Equalities Act

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

Conclusion:

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

Whilst the development is contrary to Policies C1 and CP4, which seek to restrict development in the open countryside, there are material considerations which justify a departure from these policies constraints where, in this case, the benefits of the development outweigh the harm.

The development is therefore recommended for approval.

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
SITE PLAN EXISTING DRAINAGE FIELD
SITE PLAN WITH PROPOSED TRACK AND PARKING
PLANTING SPECIFICATION
Reason: To define the terms and extent of the permission.

3. **Hard and Soft Landscaping (Compliance)**
All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the first use of the access and access track hereby approved 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 and ecological enhancements for the development in accordance with Policies DP4 and DP5 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

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

No vegetation removal works around the site shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check of the trees, shrubs and scrub and tall ruderal vegetation to be cleared for active birds' nests immediately before works proceed and provides written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should be submitted to the Local Planning Authority by the ecologist accompanied by dated photos showing the site before and after clearance. In no circumstances should netting be used to exclude nesting birds.

Reason: To protect nesting birds and prevent ecological harm in accordance with DP5 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

5. **Site clearance (Compliance)**

Any vegetation in the construction area should initially be reduced to a height of 10 centimetres above ground level by hand, brushings and cuttings removed and the remainder left for a minimum period of 48 hours of fine warm weather (limited rain and wind, with temperatures of 10½C or above) before clearing to minimise the risk of harming/killing any reptiles that may be present and to encourage their movement onto adjoining land. This work may only be undertaken during the period between March and October under the supervision of competent ecologist. Once cut vegetation should be maintained at a height of less than 10cm for the duration of the construction period. A letter confirming these operations and any findings will be submitted to the Local Planning Authority by the ecologist responsible.

Reason: In the interests of UK protected and priority species and in accordance with policy DP5 of the Mendip Local Plan

Informatives

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

2. **Condition Categories**

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

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

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

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

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

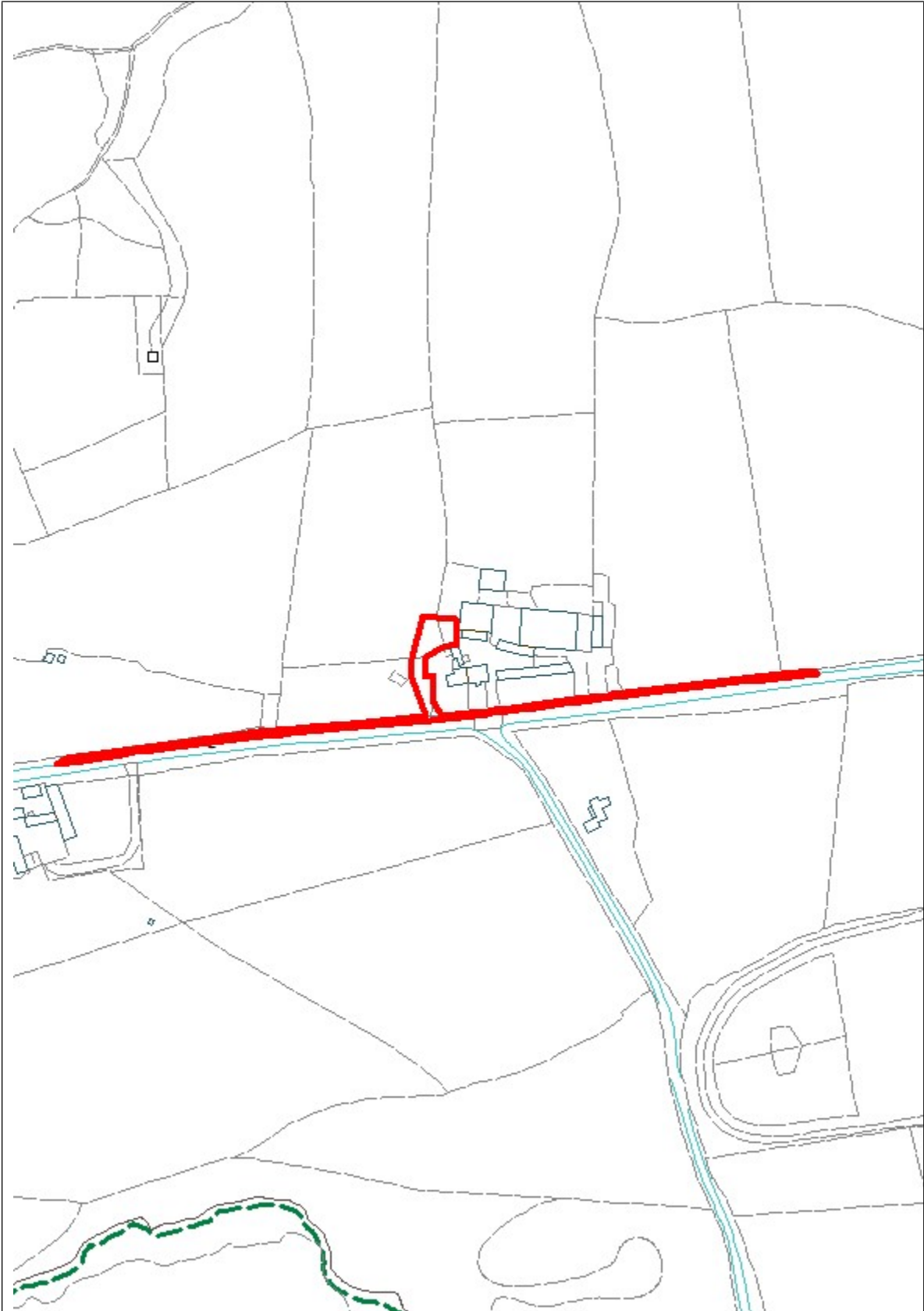
Please note all conditions should be read fully as these headings are intended as a guide only.

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

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

both a planning permission and Listed Building Consent then a fee will be required.

3. The applicant is advised of the need to consult the Highways Department, Somerset Council (Tel:- 0300 123 2224) prior to commencing works adjacent to the public highway.
4. Under Section 163 of the Highways Act 1980 it is illegal to discharge water onto the highway. You should, therefore, intercept such water and convey it to the sewer.
5. 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.



Planning Board Report 5th September 2023
Tadhil Farm Cottage
Old Wells Road
Leigh On Mendip
Shepton Mallet
Somerset
BA3 5QX

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Case Officer	Jennifer Alvis
Site	Land At 373487 154309 Tynning Hill to Faulkland Faulkland Radstock Somerset
Application Number	2022/2076/OUT
Date Validated	9 March 2023
Applicant/ Organisation	M Wilkins
Application Type	Outline Application
Proposal	Application for Outline Planning Permission for 5no. residential dwellings with details of access and all other matters reserved.
Division	Mendip Central And East Division
Parish	Hemington Parish Council
Recommendation	Approval
Divisional Cllrs.	Cllr Barry Clarke Cllr Philip Ham

Referral to Chair and Vice Chair

This application has been referred to Planning Board as the application site lies outside any defined development limits and the recommendation is for approval as a departure from the development plan.

Description of Site, Proposal and Constraints:

This application relates to a triangular site on the corner of the A366 and Tynning Hill, Faulkland which is currently an area of open grassland. Access to the site is via the Greenway.

This application seeks outline planning permission for the principal of developing the site for 5 residential dwellings with all matters reserved, except for access.

The application includes an indicative site layout suggesting 3no. 4 bedroom detached dwellings and 2no. 3 bed detached dwellings, each with it's own detached garage.

Access is proposed to the five dwellings from the Greenway via four driveways (two dwellings will have a shared driveway)

Relevant History: There is no relevant planning history for the site.

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

Ward Member: No response

Parish Council: Recommend refusal on the following grounds:

- Highway is unsuitable for additional traffic resulting in safety concerns
- The junction of Tying Hill and the A366 has poor visibility and high speeds
- Visual impact on the existing properties

Environmental Protection: No objections.

Highways Development Officer: No objection subject to conditions.

- Whilst the speed survey results demonstrate that vehicles are travelling in excess of the 30mph posted speed limit the proposed visibility splays have taken the higher speeds into account and are considered acceptable.
- The average dwelling represents between 6 and 8 vehicle movements, therefore this proposal would see between 30 and 40 movements across the day, of which 3-4 would be within the peak hours. This cannot, and is not, be seen as a significant or severe impact on the local highway network.
- Conditions should be imposed in relation to:
 - Creation and maintenance of the visibility splays for the individual properties and the access onto the A366
 - Details for the provision of cycle storage and EV charging
 - Consolidation of the first 6 metres of the accesses and suitable drainage solutions
 - Provision to be made within the site for the disposal of surface water so as to prevent its discharge onto the highway

Ecology: No objection subject to conditions regarding

- Implementation of the green bridge
- Construction and environmental management plan
- Tree protection plan
- Survey of any trees to be felled for the presence of bats
- Lighting design for bats
- Badger sett survey
- Biodiversity net gain.

Land drainage: Objection due to insufficient details provided in regards infiltration testing.

Contaminated Land: No objections subject to conditions.

Tree Officer: No objection in principle subject to conditions regarding a full arboricultural survey, tree protection plan and landscaping

Local Representations: 2 letters of objection have been received raising the following points:

- Will impact on existing on-street parking for properties to the south

- Increase in vehicle movements will be hazardous
- Impact on views
- Residential amenity will be harmed through loss of light and noise
- Harmful to ecology
- Impact on the character of the area

1 letter received neither objecting nor supporting the scheme but raised the following points:

- Addition of ponds would benefit local wildlife but who is responsible for long term maintenance
- Land to be built on is lower than existing built up area to the south so views not significantly impacted
- The improved safety of the junction with the A366 should be supported

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

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

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

The Council's Development Plan comprises:

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

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

- CP1: Mendip Spatial Strategy
- CP2: Supporting the Provision of New Housing
- CP4: Sustaining Rural Communities
- DP1: Local Identity and Distinctiveness
- DP4: Mendips Landscapes
- DP5: Biodiversity and Ecological Networks
- DP6: Bat Protection
- DP7: Design and Amenity of New Development
- DP8: Environmental Protection
- DP9: Transport Impact of New Development
- DP10: Parking Standards
- DP23: Managing Flood Risk

Other possible Relevant Considerations (without limitation):

- National Planning Policy Framework
- National Planning Practice Guidance
- The Countywide Parking Strategy (2013)

Assessment of relevant issues:

Principle of the Use:

The application site is located in the open countryside and outside of any development limits as defined in the Local Plan where development is strictly controlled however it lies adjacent to the development limits of Faulkland, a secondary village as identified within the Local Plan Part 1.

Policy CP1 (Mendip Spatial Strategy) of the Mendip District Local Plan directs most of the growth in the plan area to the five principal market towns of Frome, Glastonbury, Shepton Mallet, Street and Wells, to enable the most sustainable pattern of growth. In the rural parts of the plan area, and in accordance with the defined settlement hierarchy, the policy seeks development to meet local needs within the villages. Faulkland is identified in the strategy as a secondary village. Policy CP2 (Supporting the Provision of New Housing) defines the housing requirement for the plan area and sets out the growth to be distributed within the various settlements. It provides minimum housing figures for the towns and an overarching figure for all the villages (primary, secondary and other). Table 9 in the supporting text of the policy indicates that the housing requirement for Faulkland is 20 dwellings during the plan period. The latest monitoring confirms that 36 dwellings have been completed in the village over the period.

The application site is on the edge, but lies outside the development limits for Faulkland, therefore in planning policy terms it is in the open countryside. Development in the open countryside will be strictly controlled but may exceptionally be permitted in line with policy CP4 (Sustaining Rural Communities). This allows rural affordable housing, for the benefit of the community where there is evidence of local needs and to be held in perpetuity. Whilst Faulkland is recognised as a sustainable settlement, and the site is close to village services and facilities, there is no development plan policy support for the application scheme.

Notwithstanding the assessment above and to be completed as part of the planning balance the scope of the development proposed is not considered isolated development as defined by paragraph 80 of the NPPF.

The Council is currently unable to demonstrate a five-year housing supply of housing land, based on the local housing need figure. Accordingly, the presumption in favour of sustainable development as defined in paragraph 11(d) of the NPPF applies. This means planning permission should be granted, unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole. An assessment of the Local Plan policies which are the most important to the determination of the application will therefore be made, but the 'tilted balance' should be applied to their assessment. This will be considered in the overall planning balance section of the end of this report.

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

The site is enclosed on the south and east boundaries by residential development of a similar scale and type as that proposed. It is therefore considered that despite the application being outline with all matters reserved for further consideration, the site could support 5 buildings of a style/type shown on the indicative layout plans without having an adverse impact on the character of the area.

Full details of appearance are to be agreed on a reserved matters application.

Impact on Residential Amenity:

The indicative layout as submitted would suggest that the site could accommodate up to 5 additional dwellings without harm to current and future occupants. Objections have been received from local residents in regards the harm through a loss of light and noise. The proposed indicative layout suggests there is adequate spacing between the proposed dwellings and the existing properties to the south so that overshadowing would not occur. Any noise produced during the construction phase would be temporary and can be managed through suitability worded conditions which restrict construction hours.

Impact on views are not a material planning consideration and as such cannot be taken into account when making a determination.

Given the location of the site in its context, which is set away from the existing dwellings and separated by a lane and parking areas it is not considered that the development of 5 houses on the site would impact on residential amenity of the neighbouring occupiers. A condition is recommended to control the construction hours.

Whilst the details of sitting will be confirmed at the reserved matters stage it is considered that the application scheme would accord with policies DP7 and DP8 of the Local Plan Part 1.

Assessment of Highway Issues:

The layout proposes separate access for each property from Greenway, a single lane carriageway with a 30mph limit running to the south of the site which already supports a number of accesses. Each proposed access will have visibility splays of 43m in each direction which complies with the Manual for Streets for 30mph zones.

The visibility from Greenway onto the A366 is partially obscured in the westerly direction given the roadside hedgerow which is present along the length of the application site. The proposals will deliver a betterment to this junction by relocating the hedgerows from the edge of the carriageway to behind the visibility splays, and to ensure that vegetation is kept at or below a height of 0.6m. This will achieve a visibility splay of 124m in the westerly direction which complies with national standards and will benefit all road users. Visibility when looking east from this junction is already good and accords with policy.

Therefore overall given the proposed access arrangements and the improvements to the junction with A366 as referred above it is considered that a safe means of access can be achieved in accordance with Policy DP9 of the Local Plan.

The indicative layout also suggests that adequate off-street parking to serve the development can be achieved in accordance with Policy DP10 of the Local Plan, details of which can be secured through reserved matters.

All conditions as suggested by the Highway Authority should be imposed on any permission granted.

Ecology:

The application is supported by a Preliminary Ecological Appraisal which found that the site had moderate suitability for the roosting and foraging of bat and high suitability for the nesting of birds. All other potential species habitats were considered to be of low or negligible suitability. The site lies within Bat Zone Band C of the Mells Valley Special Area of Conservation (SAC).

Due to the potential for roosting and foraging bats to be present on the site within the trees and hedgerows, a green bridge is proposed which will branch over the proposed accesses onto Greenway, to create an unbroken foraging path for bats and provide additional habitat for roosting bats and nesting birds.

County Ecology Services, in their response to the application, have raised no objection on ecology grounds subject to conditions as mentioned in Consultee Responses section above.

Therefore, and subject to suitability worded conditions, the proposal is considered to comply with Policies DP5, DP6 and DP8 of the adopted Local Plan Part 1.

Trees:

The tree officer raised no objection in principle subject to a full arboricultural survey, tree protection plan and landscaping being provided, however some concerns were raised over the loss of hedgerow to create accesses and future maintenance of the remaining hedgerow. A green bridge is proposed to replace the hedgerows which will act as mitigation for this loss however, as this application is currently only at outline stage with landscaping held back as a reserved matter, further details can be conditioned to be provided with the reserved matters application.

Refuse Collection:

There is ample space on site for an area to be allocated which is accessible from the highway for collection. To be agreed on a reserved matters application.

Planning Balance/Conclusion

Whilst it is acknowledged that the development will be beyond the edge of the Faulkland Village and therefore would represent a departure from local plan policies regarding its spatial strategy for new residential development as set out at policy CP1 and CP2, the application site cannot be described as being in isolated open countryside.

Given that the Council does not have a five year housing land supply the tilted balance of Paragraph 11 (d) of the NPPF applies. The additional 5 dwellings will make a modest contribution to housing in the district, which is of some weight. There will also be limited economic benefits through the construction period, and new occupants of the village may use local services and facilities contributing to their long term viability. This again has limited economic and social benefits. Furthermore it has been demonstrated that the application site is accessible to some local services and facilities, and therefore future occupants would not be wholly reliant on the private car.

Following the assessment of the application as set out above, any impacts arising from the application scheme are not considered significant and would not demonstrably outweigh the benefits delivered. On balance, it is recommended that planning permission be granted as a departure from the Development Plan.

Environmental Impact Assessment

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

Equalities Act

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

Recommendation

Approval

Conditions

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

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

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

2. **Reserved Matters - Specific details required (Compliance)**

Approval of the details of the (a) layout (b) scale (c) appearance and (d) landscaping of the site (hereinafter called the reserved matters) shall be obtained from the Local Planning Authority before any development is commenced.

Reason: This is an outline planning permission and these matters have been reserved for the subsequent approval of the Local Planning Authority under the provisions of Section 92 of the Town and Country Planning Act (as amended) and Parts 1 and 3 of the Development Management Procedure Order 2015.

3. **Reserved Matters Time Limit (Compliance)**

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

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

4. **Plans List (Compliance)**

This decision relates to the following drawings: 1985-CMS-XX-XX-DR-A-LOC01 A, 1985-CMS-XX-XX-DR-A-PL01, 1985-CMS-XX-XX-DR-A-PL02 C, 1985-CMS-XX-XX-DR-A-PL04 E, 1985-CMS-XX-XX-DR-A-PL05 A and 1985-CMS-XX-XX-DR-A-PL07.

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

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

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

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

6. **Flood Risk Assessment and Surface Water Drainage Strategy (Compliance)**

The development shall only be carried out in accordance with the approved Flood Risk Assessment and Drainage Strategy by Jomas Engineering Environmental dated 18th January 2023, and the details contained within it.

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).

7. **Contaminated Land - 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 Environment Agency's Land Contamination Risk Management(LCRM).

The assessment and written submission shall include:

(i) a survey of the nature, extent and significance of any contamination;

(ii) an assessment of the potential risks to:

- human health,
- property (existing or proposed) including buildings, crops, livestock, pets, woodland and service
- lines and pipes,
- adjoining land,
- groundwaters and surface waters,
- ecological systems,
- archaeological sites and ancient monuments;

(iii) an appraisal of remedial options, and proposal and justification for the preferred option(s).

Reason: In order to ensure that the land is suitable for the intended uses and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors and in accordance with 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 (undertaken in accordance with the relevant National Guidance). This condition does not restrict commencement of enabling

works provided that these may be demonstrated to be entirely for the purposes of ground investigations deemed necessary to inform the risk assessment.

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

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

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

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

The development shall not commence until the approved remediation scheme has been carried out, excepting those works required to carry out remediation, or in accordance with the approved timetable of works.

Reason: In order to ensure that the land is suitable for the intended uses and to ensure that the development can be carried out safely without unacceptable risks to human health, controlled waters and other offsite receptors and in accordance with sections 11 and 15 of the National Planning Policy Framework. This is a condition precedent because the works comprising the development have the potential to uncover or affect pathways for harmful contamination. Therefore these details need to be agreed before work commences.

9. **Contaminated Land - Verification Report (Pre-occupation)**

No occupation shall commence until a verification report has been submitted to and approved in writing by the Local Planning Authority, unless the findings of the approved investigation and risk assessment has confirmed that a remediation scheme is not required. Where a phasing plan has been approved no occupation shall commence of each phase until a verification report dealing with that phase has been submitted to and approved in writing by the Local Planning Authority. 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 human health, controlled waters and other off-site receptors and in accordance with section 11 and 15 of the National Planning Policy Framework.

10. Contaminated Land - Unexpected Contamination (Compliance)

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 off-site receptors and in accordance with section 11 and 15 of the National Planning Policy Framework.

11. Construction Management Plan (Pre-commencement)

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

- a) the parking of vehicles of site operatives and visitors;
- b) loading and unloading of plant and materials;
- c) storage of plant and materials used in constructing the development;
- d) wheel washing facilities;
- e) measures to control the emission of dust and dirt during construction;
- f) delivery and construction working hours; confirmation that noise emissions from the site during the development, i.e. the demolition, clearance and redevelopment of the site, shall not occur outside of the following hours:

Mon - Fri 08.00 - 18.00

Sat 08.00 - 13.00

The development shall thereafter be constructed in accordance with the approved Construction Method Statement.

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. **Arboricultural Method Statement and Tree Protection Plan (Pre-commencement)**

No development shall commence, other than those required by this condition, until a Detailed Arboricultural Method Statement following the recommendations contained within BS5837:2012 has been submitted to and approved in writing by the Local Planning Authority. The Detailed Arboricultural Method Statement shall contain full details of the following:

- (a) Timing and phasing of arboricultural works in relation to the approved development;
 - (b) Construction exclusion zones;
 - (c) Protective barrier fencing;
 - (d) Ground protection;
 - (e) Details of any works within the RPA (Root Protection Area) and the proposed arboricultural supervision;
 - (f) Service positions; and,
 - (g) details of any special engineering requirements, including 'no dig construction';
- The development shall thereafter be carried out in strict accordance with the approved details.

Reason: To ensure that trees to be retained are not adversely affected by the development proposals in accordance with Policy DP1 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014). This is a pre-commencement condition because the works comprising the development have the potential to harm retained trees and therefore these details need to be agreed before work commences.

13. **Construction Environmental Management Plan (Compliance)**

No development shall take place (including demolition, ground works, vegetation clearance) until a construction environmental management plan (CEMP: Biodiversity) has been submitted to and approved in writing by the Local Planning Authority. The CEMP (Biodiversity) shall include the following:

- a) Risk assessment of potentially damaging construction activities, including the use of artificial lighting after sunset during construction.
- 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 method statements), including sensitive measures for reptiles and amphibians etc.
- d) The location and timing of sensitive works to avoid harm to biodiversity features and protected species.
- 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; and

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: 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 as the commencement of works without these details could have a harmful impact on protected species.

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

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

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

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

15. **Badger Protection (Pre-commencement)**

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

Reason: This condition must be a pre-commencement condition to safeguard

badgers from the outset of the development, to comply with the Protection of Badgers Act 1992 and in accordance with policy DP5 of the Mendip Local Plan.

16. **Bat Protection (Pre-commencement)**

Any trees to be removed will be inspected by a suitably qualified ecologist prior to being felled. If it is further considered that a roost is not present (i.e. absence of a bat or bat field signs), then the tree may be immediately soft felled. If a bat roost is confirmed, then felling will need to be delayed and an EPS licence sought from Natural England. A letter confirming these operations and any findings will be submitted to the Local Planning Authority by the ecologist responsible.

Trees shall be 'soft felled', which would involve sensitively lowering the sections with Bat Roost Potential features to the ground. Once on the ground, features should be kept upright and angled at 90 degrees to the ground to enable bats to exit in the unlikely event of single or low numbers of bats being present. The felling shall avoid the maternity period when bats are most sensitive to disturbance (May to August inclusive) and to avoid the hibernation period (mid-October to mid-March inclusive). Written confirmation of the supervision will be submitted to the Local Planning Authority by the licensed bat ecologist within one week of completing the operations.

Reason: In the interests of the 'strict protection' of European protected species and in accordance with policy DP5 and DP6 of the Mendip Local Plan.

17. **Wildlife Protection and Enhancement (Pre-commencement)**

No development shall take place until full details of a Wildlife Protection and Enhancement Scheme have been submitted to and approved in writing by the local planning authority. These details shall include:

a) A minimum of two bird nest boxes to be implemented on the new dwellings and to be installed 3-4m above ground level between north and east to avoid direct sunlight and prevailing wind and rain. Choices of box include Vivara Pro WoodStone House Sparrow Nest Box, Woodstone Build- in Open Nest Box and Schwegler Brick Nest Boxes.

b) A minimum of two bird nest boxes to be installed 3-4m above ground level on suitably mature trees between north and east to avoid direct sunlight and prevailing wind and rain. Birds must have a clear flight path to and from the boxes. A choice of 1B Schwegler bird box, Vivara Pro Seville 32mm WoodStone nest box, 2GR Schwegler nest box are to be implemented.

c) A minimum of two integrated bat boxes to be installed in or on the external elevations of the proposed building and/or built into the walls (e.g. 1FR Schwegler bat tube, Vivara Pro Build- in Woodstone bat tube, Istock Enclosed bat box, Beaumaris Woodstone bat box, 2FE Schwegler wall- mounted bat shelter are all suitable choices).

d) A minimum of two bat boxes to be installed on a suitable mature tree (e.g. 2F

Schwegler bat box, Low Profile WoodStone bat box, 1FF Schwegler bat box). Bat boxes must be installed at least 3 - 4 m above ground level, ideally facing to the south, south- west and/or south- east, located away from windows and other artificial light sources, and with a clear flight path to and from the entrance.

e) A bee brick built into the wall about 1 metre above ground level on the south or southeast elevation of 1-2 dwellings. Please note bee bricks attract solitary bees which do not sting.

f) All new fencing must have accessible hedgehog holes, measuring 13cm x 13cm to allow the movement of hedgehogs within the local landscape;

g) One log pile to be installed as a resting place for reptiles and or amphibians or hedgehog constructed on the western boundary ideally away from a private garden;

h) New hedgerow/s and green bridges (as shown on drawing: 1985-CMS-XX-XX-DR-A-PL07) to be planted up with native species comprised of a minimum of five of the following species: hazel, blackthorn, hawthorn, field maple, elder, elm, dog rose, bird cherry and spindle. The hedgerow will be ancient coppiced and laid on reaching maturity and cut on a 3-year rotation thereafter. Any gaps in existing hedgerow will be planted with native shrub and tree species to fill gaps and thereby increase value as foraging and commuting habitat; and

i) Wildflower meadow and/or native species rich marginal vegetation is to be created around the proposed pond and to be managed as a wildlife feature.

All bird and bat boxes are to be installed under the guidance of the Ecologist.

Photographs of and/or plans showing the installed features will be submitted to and agreed in writing by the Local Planning Authority. All works within the scheme shall be carried out in accordance with the approved details prior to the occupation of the development.

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).

18. **Individual Property Visibility Splays (Pre-occupation)**

At the proposed accesses there shall be no obstruction to visibility greater than 600 millimetres above adjoining road level within the visibility splays shown on the submitted plan. Such visibility splays shall be constructed prior to the commencement of the development of each dwelling hereby permitted and shall thereafter be maintained in perpetuity.

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).

19. **Visibility Splay (Pre-commencement)**

At the junction of Greenway and the A366 there shall be no obstruction to visibility greater than 600 millimetres above adjoining road level within the visibility splays

shown on the submitted plan. (Drawing No. 811.0002.004 Rev A in the Transport Assessment) Such visibility splays shall be constructed prior to the commencement of the development hereby permitted and shall thereafter be maintained in perpetuity.

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).

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

The development hereby approved will not be occupied until it is served by at least 1no. active electric vehicle charging point per dwelling 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).

21. **Bound/Compacted Vehicle Access (Pre-occupation)**

Prior to first occupation of the development hereby permitted the proposed accesses over at least the first 6metres of their length, as measured from the edge of the adjoining highway, shall be properly consolidated and surfaced (not loose stone or gravel) and drainage installed in accordance with details which shall have been submitted to and approved in writing by the Local Planning Authority. Once constructed the accesses shall thereafter be maintained in that condition in perpetuity.

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).

22. **Drainage onto Highway (Pre-occupation)**

Provision shall be made within the site for the disposal of surface water so as to prevent its discharge onto the highway, details of which shall have been submitted to and approved in writing by the Local Planning Authority. Such provision shall be installed prior to development above damp-proof course level and thereafter maintained in perpetuity. NOTE: 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.

Reason: To ensure that suitable drainage is provided to prevent surface water discharge onto the public highway, and thereafter retained 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).

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.

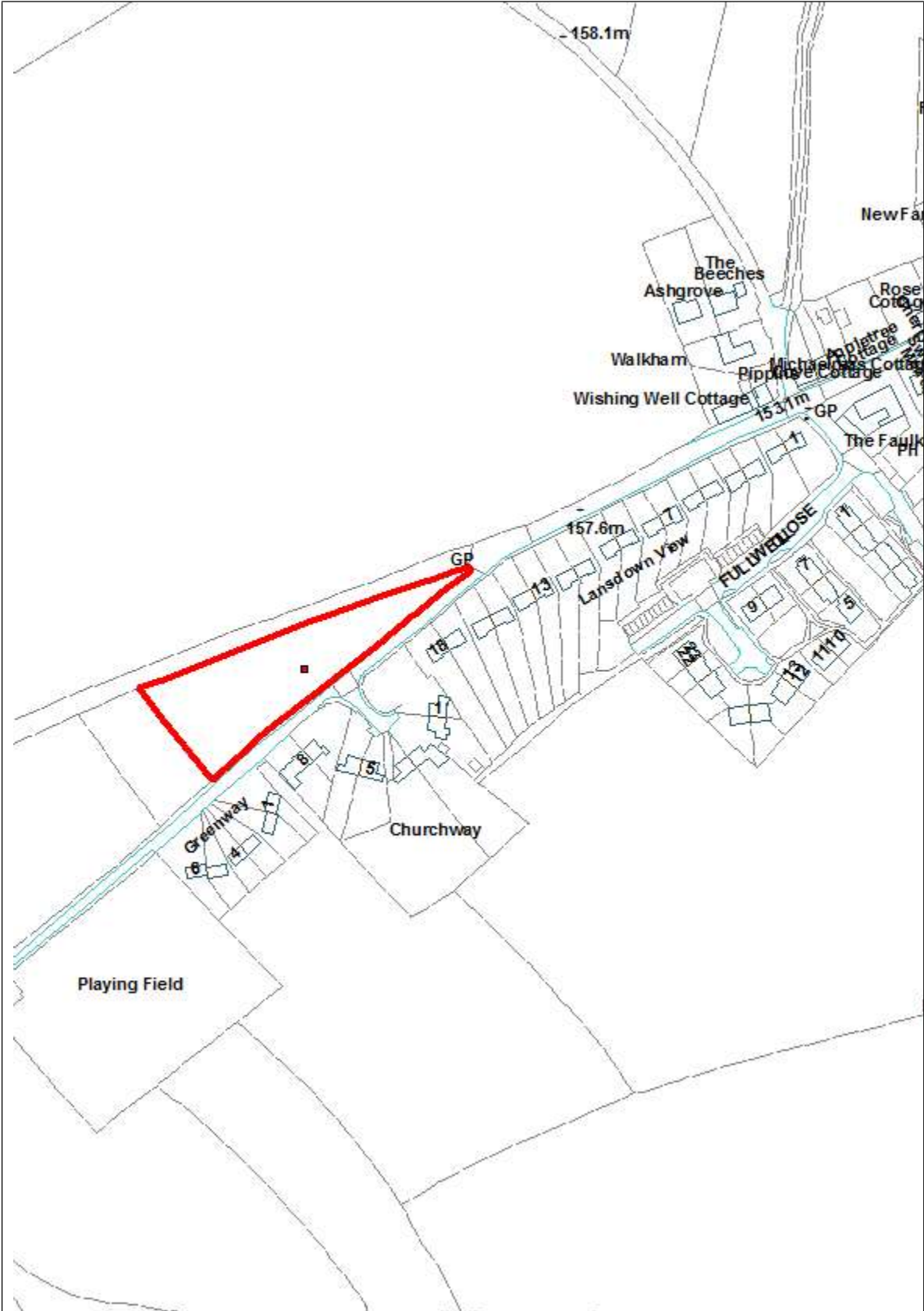
Where approval of further information is required you will need to submit a conditions application and pay the relevant fee, which is 116GBP per request (or 34GBP where it relates to a householder application). The request must be made in writing or using the Standard Application form (available on the 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 responsibility for ensuring compliance with the terms of this approval rests with the person(s) responsible for carrying out the development. The Local Planning Authority uses various means to monitor implementation to ensure that the scheme is built or carried out in strict accordance with the terms of the permission. Failure to adhere to the approved details will render the development unauthorised and vulnerable to enforcement action.
4. Please note that your proposed work may also require Building Regulations approval, which is a separate consent process to the consideration of a planning application. The Council's Building Control team are available to provide Building Regulations advice from pre-application stage to completion of a development and can be contacted on 0300 303 7790. Further details can also be found on their website <https://buildingcontrol.somerset.gov.uk/>
5. 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.
6. The Planning Authority is required to erect a Site Notice on or near the site to advertise development proposals which are submitted. Could you please ensure that any remaining Notice(s) in respect of this decision are immediately removed from the site and suitably disposed of. Your co operation in this matter is greatly appreciated.
7. The development hereby approved, and any associated highway works required, is likely to impact on the operation of the highway network during its construction (and any demolition required). You are advised to contact S106andS278LegalAgreements@somerset.gov.uk before undertaking any work, to discuss any temporary traffic management measures required, such as footway, Public Right of Way, carriageway closures or temporary parking restrictions a minimum of eight weeks prior to any activity on site to enable Temporary Traffic Regulation Orders to be prepared and a programme of Temporary Traffic Management measures to be agreed.

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

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Planning Board Report
 Land At 373487 154309
 Tynning Hill To Faulkland
 Faulkland
 Radstock
 Somerset

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Application Number	2023/0693/FUL
Case Officer	Jennifer Alvis
Site	Ivy Cottage Quarry Lane Leigh On Mendip Shepton Mallet Somerset
Date Validated	14 April 2023
Applicant/	J Hudson
Organisation	
Application Type	Full Application
Proposal	Creation of new access and driveway.
Division	Mendip Central And East Division
Parish	Leigh On Mendip Parish Council
Recommendation	Approval
Divisional Cllrs.	Cllr Barry Clarke Cllr Philip Ham

4. **Referral to Ward Member/Chair and Vice Chair/Planning Board**

Referred to Planning Board as the application is a departure from the Local Plan and the officer recommendation is for approval and the parish council have raised objections.

Description of Site, Proposal and Constraints:

The application relates to land north of Ivy Cottage, Leigh on Mendip. The application site is currently a section of an agricultural field with an existing field access on an unclassified road.

The application site falls outside of designated development limits as defined by Mendip District Local Plan Part I: Strategy and Policies (December 2014) (MDLP). The application site also falls within Band C of the Mells Valley Special Area of Conservation (SAC), a Bat Consultation Zone, a SSSI Impact Risk Zone and a Coal Development Low Risk Area. Additionally, the site is close to Halecombe Quarry and Barn Close Quarry and hence is within the mineral safeguarding area in the Somerset Minerals Plan (2015).

The application seeks planning consent for the change of use of this section of field to residential to create a new access for a proposed development of 3no. terraced dwellings (ref: 2023/1084/FUL) which is still pending consideration. The existing field access is proposed to be blocked up and the new access created approx 10m to the north.

A revised Location Plan was submitted during the life of the application which adds clarification to the extent of the agricultural field that would be effected by the application in order to provide the new access.

Relevant History:

2023/1084/FUL - Demolition of existing barn to form terrace of 3no. single storey dwellings. - Pending Consideration

2020/1877/OTS - Application for Outline Planning Permission with some matters reserved (access considered) for the erection of up to 40 dwellings and provision of school playing field and car park - Refusal - April 2021 - Appeal Dismissed

The following application which relates to an adjoining site is relevant to this application

2022/0053/OTS - Application for Outline Planning Permission with some matters reserved for the erection of 3 no. dwellings with details of access. - Approved - May 2023

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

Ward Member: No response

Town/Parish Council: Objects to the application on the following grounds:

- Proposed materials and street lighting results in an suburbanising impact on the character of the area
- Impact on the landscape character given excessive excavation works required
- Loss of historic wall
- The fields proposed for the access were highlighted as making a positive contribution to the setting of the Grade I listed church in the appeal for 2020/1877/OTS
- The existing access was previously found acceptable under 2017/3266/PAA
- Highways safety concerns
- The barn conversion can be accommodated without this harm using the existing access

The parish council also commented that a site notice hadn't been erected. A general site notice was not required for this type of application given that neighbours were directly consulted. A site notice advertising the development as a departure from the Local Plan has been erected since these comments were received.

Highways Development Officer: Raise no objections to the proposal. The location of the proposed access was previously found acceptable at appeal under ref: 2020/1877/OTS and given the reduction in intensity of the use, the access would still be considered acceptable subject to conditions.

Local Representations: Four letters of objection have been received on the following grounds:

- Impact on landscape - urbanisation
- A formal roadway would include lighting which is not acceptable in this rural area
- No evidence provided as to why the existing access is inadequate
- Loss of hedge, trees and wall
- Impact on the setting of the listed building
- Exceeds the requirements for 3no. dwellings
- Inspector highlighted the importance of the rural nature of this field on the setting of the church in their determination of 2020/1877/OTS
- Wall is historic and should be a heritage asset

Five letters of support have also been received

- Will take pressure of the existing access
- Relocation of the 30mph limit is welcome
- Existing access gets obstructed during school drop off and pick up times
- Safer for school children
- Increased visibility
- Existing field access was blocked for security reasons only
- Farming of this land stopped in approx 2017
- Wall was rebuilt approx 10yrs ago so not historic

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

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

The Council's Development Plan comprises:

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

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

- CP1 - Mendip Spatial Strategy
- CP2 - Supporting the Provision of New Housing
- CP4 - Sustaining Rural Communities
- DP1 - Local Identity and Distinctiveness
- DP3 - Heritage Conservation
- DP4 - Mendip's Landscapes
- DP5 - Biodiversity and Ecological Networks
- DP7 - Design and Amenity
- DP8 - Environmental Protection
- DP9 - Transport Impact of New Development
- DP10 - Parking Standards
- DP23 - Managing Flood Risk

Other possible Relevant Considerations (without limitation):

- National Planning Policy Framework
- National Planning Practice Guidance
- Design and Amenity of New Development, Policy DP7 SPD (March 2022)
- Historic Environment Good Practice Advice in Planning Notes issued by Historic England
- Somerset County Council Highways Development Control Standing Advice (June 2017)
- Mineral Products Association/Planning Officer Society (POS) practice guidance for mineral safeguarding

Assessment of relevant issues:

Principle of the Use:

The application site is situated within the open countryside where under core policies CP1 and CP2 of the Local Plan, development is strictly controlled however this application relates to a change of use of a small section of agricultural land to create a new access to a proposed residential development (ref: 2023/1084/FUL). The parcel of land is directly adjacent to the proposed residential curtilage of the dwellings and runs to the north east where it will join Quarry Lane at the proposed access.

Para 11 of the NPPF states that there should be an assumption in favour of development where a sustainable pattern of development can be established. While the site is outside developments, the proposal is for a access which would be ancillary to 3no. dwellings and not for an independent use. As such the proposed access and change of use would not be considered to result in an increase in vehicle movements or other impact that would make this an unsustainable development.

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

The usual planning controls of design, amenity, highway safety and other relevant considerations are addressed in more detail below.

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

While the proposal will result in a change to the appearance of the area, a development for 3no. dwellings was recently granted (ref: 2022/0053/OTS) on the land to the south and the associated proposal for 3no. terraced dwellings is pending consideration to the south west. Therefore the change of use to a residential access would not look out of character in this area given it is not in an isolated location.

The access from the public highway would require the formation of a new opening in the roadside boundary wall however the existing field access will be blocked up and therefore the overall character of the street scene would, on balance, be retained.

From within the site the proposed route will utilise an existing field gate in order to break through to the site area where the residential dwellings are proposed.

Given the above, it's not considered that the proposal would have a significant impact on the appearance of the wider area or on the scene street, and is therefore considered acceptable in regard to policies DP1 and DP7 of the MDLP

Setting of Heritage Asset:

In respect of the setting of the Grade I Listed Church site to the west of the application site the case officer has concluded that there are existing developments between the application site and Church and therefore it is not considered that the setting will be adversely harmed by the proposal.

To expand on this conclusion and having regard for the Good Practice Advice provided by Historic England (2017), setting is the surroundings in which an asset is experienced and may therefore be more extensive than its curtilage.

In assessing the wider setting surrounding the Grade I Listed Church and other nearby listed buildings, it is concluded that the development as proposed is for a new access as such would not be highly visible within the landscape. A lighting condition to control external lighting can be applied to further mitigate against the harm to the setting. The access is located close to existing development and any loss of historic wall will be re-sited through the infill of the existing field gate.

Impact on Residential Amenity:

The proposal would not require the creation of any structures above ground works or boundary treatments and as such would not impact on residential amenity.

The proposal is considered acceptable in regard to policies DP7 and DP8 of the MDLP.

Assessment of Highway Issues:

Policy DP9 and DP10 of the MDLP sets out a range of criteria to ensure that new development provides safe access arrangements that avoid causing traffic or environmental issues on the transport network; avoid direct access onto National Primary or County Routes; and, where appropriate, demonstrate how sustainable modes of transport would be promoted.

An important consideration is the effect on highway safety. The application proposes a new direct access off Quarry Lane, a classified un-numbered road within national speed limit. However, given the proximity of the proposed access to the 30mph village speed limit sign, and the curved nature of the road, it's unlikely that vehicles will be travelling at national speed limit.

A previous scheme for up to 40 houses (ref: 2020/1877/OTS) was refused and dismissed at appeal however, there were no highways issues raised. The current proposal seeks to form the access as proposed, from the same position in terms of the junction with the public highway, albeit serving a much lower level of movements on and off the highway than the appeal scheme.

The current proposal also includes visibility splays of 2.4m x 60m to the north and 2.4m x 55m to the south which reflects the visibility proposed and which is considered acceptable in this location. The visibility splays are within the ownership of the applicant and as such can be managed to ensure visibility is achieved and maintained as such. This can be secured through condition.

No objections have been raised by the Highway Authority subject to conditions regarding disposal of surface water run off, blocking up of the existing access, creation and maintenance of visibility splays and construction in compliance with details provided.

There is ample space within the site for the parking and turning of vehicles.

Whilst the Parish Council allude to concerns about the access and highway safety, no further details as to these concerns have been provided. The Parish Council also mention the fact that the existing access was previously considered capable of serving the proposed dwellings under the prior approval process, and whilst this is recognised it is considered that the proposed new access would result in a betterment in terms of highway safety.

Accordingly, against the test of the NPPF (para 109) and Policy DP9 and DP10 of the adopted Local Plan Part 1 (2014) Part 9 the proposal is considered acceptable in highway terms.

Ecology

The site is greenfield and lies with Band C of the Bat Consultation Zone for the Mells Valley SAC however the proposal seeks to utilise existing managed farm land for the access which would be of low ecological value. While the proposed access does require the removal of a section of field boundary, this is a stone wall and therefore not considered valuable foraging habitat. The gateway between the two fields is existing.

Pending the inclusion of conditions which restrict external lighting to protect foraging corridors, the proposal is considered to safeguard ecology in accordance with policies DP5 and DP6 of the Local Plan Part 1 (2014) and Part 12 of the National Planning Policy Framework.

Environmental Impact Assessment:

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

Equalities Act

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

Conclusion and Planning Balance:

Whilst it is acknowledged that the development will be beyond the edge of the village and therefore would represent a departure from local plan, it is only proposed in association with the proposal for 3no. terraced dwellings (ref: 2023/1084/FUL).

From an assessment point of view, given the scope of the proposals and the extent to which the proposed use of the land is to be controlled the proposed use is not

considered to have a detrimental impact on the adjoining land uses, landscape and visual impact, impact on heritage assets 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: 2023010, 2023011A and 2023012
Reason: To define the terms and extent of the permission.
3. **Closure of Access (Bespoke Trigger)**
The new access hereby approved shall not be brought into use until the existing field access has been permanently closed in accordance with details which have first been submitted to and approved in writing by the Local Planning Authority.
Reason: To ensure that the development is served by a safe access 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).
4. **Visibility Splay (Pre-occupation)**
The access hereby approved shall not be brought into use until the visibility splay shown on drawing number 2023011A has been provided. There shall be no on-site obstruction exceeding 300mm 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 Policy DP9 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

5. **Drainage (Bespoke Trigger)**

Provision shall be made within the site for the disposal of surface water so as to prevent its discharge onto the highway, details of which shall have been submitted to and approved in writing by the Local Planning Authority. Such provision shall be installed prior to the access hereby approved first being brought into use.

Reason: To ensure that adequate and drainage is provided 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).

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

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

Reason: In the interests of the Favourable Conservation Status of populations of European protected species and to protect the visual amenity of the area in accordance with DP1, DP4, DP5, DP6 and DP7 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

Informatives

1. **Condition Categories**

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

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

Pre-commencement - The condition requires the submission and approval of further information, drawings or details before any work begins on the approved

development. The condition will list any specific works which are exempted from this restriction, e.g. ground investigations, remediation works, etc.

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

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

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

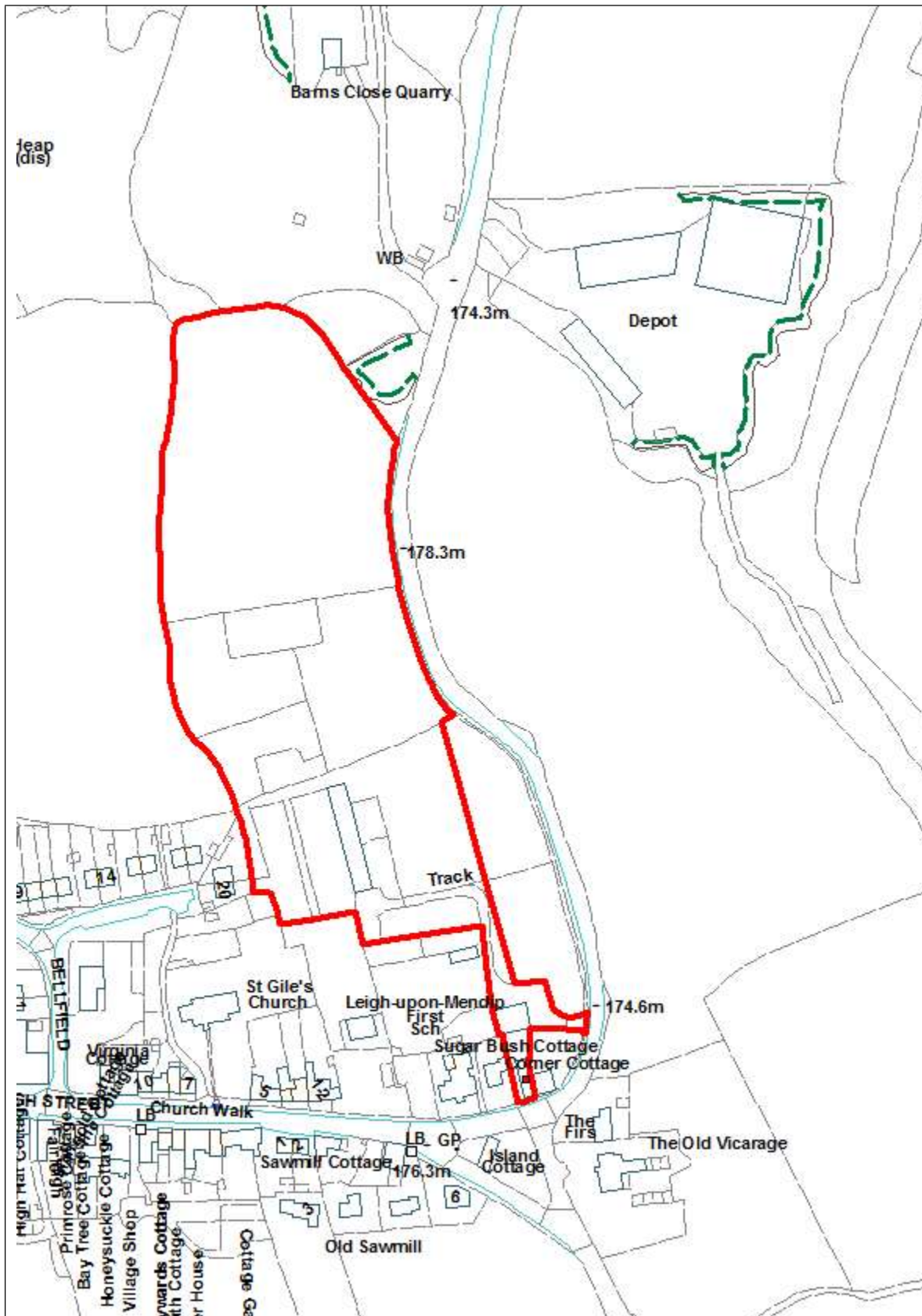
Failure to comply with these conditions may render the development unauthorised and liable to enforcement action.

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

2. The responsibility for ensuring compliance with the terms of this approval rests with the person(s) responsible for carrying out the development. The Local Planning Authority uses various means to monitor implementation to ensure that the scheme is built or carried out in strict accordance with the terms of the permission. Failure to adhere to the approved details will render the development unauthorised and vulnerable to enforcement action.
3. In determining this application the Local Planning Authority considers it has complied with the aims of paragraph 38 of the National Planning Framework by working in a positive, creative and pro-active way.
4. Please note that your proposed work may also require Building Regulations approval, which is a separate consent process to the consideration of a planning

application. The Council's Building Control team are available to provide Building Regulations advice from pre-application stage to completion of a development and can be contacted on 0300 303 7790. Further details can also be found on their website <https://buildingcontrol.somerset.gov.uk/>

5. No removal of buildings, structures, trees or shrubs shall take place between 1st March and 31st August unless an experienced ecologist has checked the Site for breeding/nesting birds. If there is evidence of breeding birds the work must be delayed until the chicks have fledged or suitable working distances observed so as not to disturb the birds.



Planning Board Report 5th September 2023
 Ivy Cottage
 Quarry Lane
 Leigh On Mendip
 Shepton Mallet
 Somerset
 BA3 5QG

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Application Number	2023/1084/FUL
Site	Land At 369311 147357 Quarry Lane Leigh On Mendip Shepton Mallet Somerset
Date Validated	23 June 2023
Applicant/ Organisation	J Hudson
Application Type	Full Application
Proposal	Demolition of existing barn to form terrace of 3no. single storey dwellings.
Division	Mendip Central And East Division
Parish	Leigh On Mendip Parish Council
Recommendation	Approval
Divisional Cllrs.	Cllr Barry Clarke Cllr Philip Ham

6. **What 3 Words:**

Site Access: chosen.confining.juggler

Development Site: zones.poem.dentistry

Planning Board Referral

Referred to Planning Board as the proposal is considered a departure from the Mendip Local Plan, and the officer recommendation is for approval. The parish council have also recommended refusal of the application.

Description of Site, Proposal and Constraints:

This application relates to a building to the rear of Land at Ivy Cottage, Leigh Street, Leigh on Mendip, Somerset, BA3 5QG. The building is located on the edge of Leigh on Mendip and within a Bat Consultation Zone, Mineral Consultation Zone and Source Water Protection Zone.

The application seeks full planning permission for the demolition of the existing barn (refer to section below for relevant planning history), to be replaced by 3no. terraced

houses. The application is part retrospective as a section of the barn has already been demolished and new build construction has commenced.

The access to the dwellings with this application is proposed to utilise an existing access that serves the site. However a separate application (ref; 2023/0693/FUL) is also currently under consideration for the creation of a new access to serve the three units.

As stated above the proposal is part retrospective given that the barn has already been partially demolished and construction has commenced on the right and centre units. The terrace of dwellings will be over a single storey and will occupy approximately 354sqm, accommodating 2 x 3 bedroom dwellings and 1 x 4 bedroom dwelling which is reflective of the scheme approved through the prior approval process.

While the total ridge height is to be increased above that of the former barn (already partially demolished under this new application, the proposed new building form is to be set down lower into the ground to match the surrounding levels.

Planning History

108035/003 - Conversion and extension of outbuilding to farm shop and ancillary accommodation to Ivy Cottage - Approved - June 2007

2010/1362 - Variation of condition 3 (limiting source of goods) and removal of condition 4 (type of produce) of consent no 108035/003. - Approved - August 2010

2017/3266/PAA - Prior Approval for a proposed change of use of agricultural building to No. 3 dwellinghouses (Class C3) and for associated operational development. - Prior Approval Given - Feb 2018

2018/0411/CLP - Application for a proposed lawful development certificate for the erection of 3 No. Dwellinghouses (Class C3) and for associated operational development. - Development is Lawful - April 2018

2021/1611/PAA - Prior Approval for a proposed change of use of agricultural building to 3No. dwellinghouses (Class C3) and for associated operational development. - Granted under Deemed Consent - Sept 2021

2021/2273/CLP - Application for a proposed lawful development certificate to confirm that application 2021/1611/PAA (change of use of agricultural building into 3 dwellings (Class C3) with Associated Operational Development has deemed Consent and the works proposed are permitted Development under Class Q - Development is Lawful - Nov 2021

2021/2273/CLP - Application for a proposed lawful development certificate to confirm that application 2021/1611/PAA (change of use of agricultural building into 3 dwellings (Class C3) with Associated Operational Development has deemed Consent and the works proposed are permitted Development under Class Q - Development is Lawful - Nov 2021

The following applications on land directly adjacent to the application site are considered relevant to the application scheme

2020/1877/OTS - Application for Outline Planning Permission with some matters reserved (access considered) for the erection of up to 40 dwellings and provision of school playing field and car park - Refusal - April 2021 - Appeal Dismissed

2022/0053/OTS - Application for Outline Planning Permission with some matters reserved for the erection of 3 no. dwellings with details of access. - Approved - May 2023.

2023/0693/FUL - Creation of new access and driveway. - Pending Consideration

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

Ward Member: No response

Town/Parish Council: Refusal on the following grounds:

- Within the mineral safeguarding area for nearby quarries
- Unsustainable location
- Impact on the setting of the Grade I listed church
- Impact on the landscape character of the area
- Proximity to Mells Valley Special Area of Conservation and impact on bats
- Highway safety concerns from increase in traffic

Highways: No response

Contaminated Land Officer: No objection

Environmental Protection: No objection subject to a condition restricting construction hours to protect neighbouring properties from noise disturbance.

Ecology: No response

Somerset Minerals Planning Policy: No response

Somerset Waste Partnership: Recommend that there is a hardstanding area/fenced off bin storage area at the entrance of the site. The access road is private and quite narrow, our contractor's vehicles would therefore not access it.

Local Representations: One letter of objection was received raising the following concerns

- Within the safeguarding distance of Halecombe Quarry and thus risks limiting future extraction and employment
- Does not meet any identified need as set out in the Housing Need Survey
- Does little to reflect the Village Design Statement
- Fails to reflect the character of the existing barn
- No justification given as to why the barn couldn't be converted as per the Structural Survey
- Impact on the setting of the Grade I Listed church

An objection was received from the Parochial Church Council raising the following concerns:

- Not a conversion as the original barn isn't being reused
- No longer retains the character of the original barn
- The application site is within the minerals safeguarding distance of Halecombe Quarry and objections were raised by Minerals and Waste Policy on a similar application nearby
- Barn was previously found to be suitable for conversion as per the structural survey submitted with the Class Q application, why was this not fulfilled?
- Impact on the setting of the Grade I Listed church

Two letters of support have also been received and one letter neither objecting nor supporting the application but supporting the use of similar materials as seen on a nearby development at Broad Bean

These comments reflect an update on the previous officer report published for the agenda for August Planning Board.

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

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

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

The Council's Development Plan comprises:

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

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

- CP1 (Mendip Spatial Strategy)
- CP2 (Supporting the provision of new housing)
- CP4 (Sustaining Rural Communities)
- DP1 (Local Identity and Distinctiveness)
- DP4 (Mendip's Landscapes)
- DP5 (Biodiversity)
- DP6 (Bats)
- DP7 (Design and Amenity)
- DP8 (Environmental Protection)
- DP9 (Transport Impact of New Development)
- DP10 (Parking Standards)

- DP22 (Reuse and Conversion of Rural Buildings)

Other possible Relevant Considerations (without limitation):

- National Planning Policy Framework
- National Planning Practice Guidance
- The Countywide Parking Strategy (2013)

Assessment of relevant issues:

Principle of the Use:

The application site is located in the open countryside and outside of any development limits as defined in the Local Plan where development is strictly controlled. Furthermore Leigh on Mendip as a village falls within an open countryside location.

The strategic Core Policies within the Local Plan which seek to prevent new housing outside the development limits as referred above are now out of date and therefore have limited weight. In addition, and as a result of the adoption date of LP1, the Local Planning Authority (LPA) cannot currently demonstrate a 5 year housing land supply in accordance with the requirements of the NPPF. Therefore, whilst regard is had to the specified policies in the Local Plan, the policies in the NPPF are engaged and have substantial weight.

As such, Paragraph 11(d) will be taken into account in determining this application, where the LPA will make an assessment as to whether any adverse impacts of the development would be significantly and demonstrably outweighed by the benefits associated with the proposal.

In completing this assessment it will be necessary to assess the scope of harm of this current planning application scheme in the context of the barn conversion allowed under the 2021/1611/PAA for 3no. residential units. The footprint of this scheme requires the existing barn to be demolished, as such the number of residential units that could be delivered on site remains the same as the previously approved scheme through the prior approval process.

The Parish Council raised a query as to why the barn wasn't converted as per the details provided within the Structural Survey submitted with the original change of use application (2021/1611/PAA), which found the barn was capable of conversion. The applicant has clarified that the conversion couldn't take place due to the low beam heights of the original barn which would have required extensive ground works to comply with building regulations. Notwithstanding the applicants response on this point there is confirmed that the applicant no longer has the benefit of an implementable fall back position.

The policies within the NPPF seek to direct new residential development towards sustainable locations and similar to CP4 a number of exceptions are provided for within paragraph 80 where a dwelling in the countryside might be acceptable.

However, paragraph 80 reads:

"Planning policies and decision should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply..."

Whilst falling outside of designated development limits, the proposal falls on the edge of the built village of Leigh-on-Mendip.

Whilst there is a lack of regular running public transport services within the village, Leigh-On-Mendip benefits from the following services: a school, a free house and café and a Church. The village itself which falls 5 miles equidistance from both Frome and Shepton Mallet as the closest principle settlements and approximately 1 mile from Coleford and 2 miles from Stoke St Michael, which are both Primary Villages as designated by the Local Plan.

It is therefore considered that residential development as proposed here would not be isolated, when judged against the policies in NPPF framework.

Finally, the site lies within a Mineral Safeguarding Area and as such proposed residential development within this area has the potential to impact mineral extraction at Halecombe Quarry and Barn Close Quarry. Paragraph 206 of the NPPF notes that development should not be permitted if there is potential to constrain mineral working.

Given the history on the site for an extant consent for 3no. dwellings, and that there are other residential properties, both existing and proposed (ref: 2022/0053/OTS - as

referred above in the planning history section), which lie closer to the quarries and have been considered acceptable it is considered that the existing mineral working and the currently permitted resource being extracted at Halecombe Quarry would not be physically impacted by this latest proposal.

Design of the Development and Impact on the Listed Building and Surrounding Area:

The site is located in a rural area to the east of Leigh on Mendip and is bordered to the west and south by existing properties and to the north and east by fields. The access to the site is via an existing track from Quarry Lane. Given the rural nature of the site, the distance from the surrounding public highways, and existing screening from established planting and other buildings, the proposed dwelling is unlikely to be highly visible when viewed from the nearest public vantage points.

The height scale and massing of the proposed dwellings largely matches that of the historic barn with the only exception being a minor increase in ridge height which is offset by the proposed dwellings being set down into the ground, whereas the barn sat at a raised ground level. Overall the ridge height of the barn and proposed properties would sit at the same height when measured using the surrounding ground levels.

The site lies within the setting of the Grade I listed St Giles Church however given the height, scale and massing of the dwellings, which will largely match the historic barn, it's not considered that the proposal would result in any additional impact to the setting of the church than the existing building. In addition, the proposed materials of cedar cladding and zinc roof would retain an agricultural character and result in an improvement in visual terms. The overall built form on the site will be largely reflect the former barn.

In summary on this matter, it is therefore considered the development would be acceptable in visual terms and in terms of how it would affect the wider landscape character. On this basis the proposals are considered to be in accordance with policies DP1, DP3, DP4 and DP7.

Impact on Residential Amenity:

As mentioned above, the overall height, scale and massing of the proposal remains largely the same as the former barn and as such would not be considered to result in harm through overbearing or loss of light. The proposed dwellings are single storey and set back from any neighbouring properties therefore mitigation any potential harm through overlooking.

On this basis it is therefore considered that the proposed development would not cause significant harm to the amenities of local residents and/or future residents of the proposed dwelling through loss of light, overshadowing, overbearing impact, and loss of privacy, noise, smell, traffic or other disturbance. The proposal is therefore considered in accordance with Policy DP7 of the adopted Local Plan Part 1 (2014) and Part 12 of the National Planning Policy Framework.

Assessment of Highway Issues:

The access is via an existing track, which also serves the property known as The Broad Bean, from a Class 3 highway, Quarry Lane. This track has been in use for many years to serve the application site, including consideration for a residential use as was approved through the prior approval process. In summary the creation of 3no. dwellinghouses on this site is not considered to result in any significant increase in traffic accessing the site. There is ample space within the site for the parking and turning of vehicles.

An application (ref; 2023/0693/FUL) running concurrently with the current proposal seeks to create a new access further to the north to serve these properties however this application is still pending consideration.

In summary the current means of access to the site is considered acceptable to serve a further 3 dwellings whilst maintaining highway safety standards, with sufficient car parking proposed. The proposal accords with Policy DP9 and DP10 of the adopted Local Plan Part 1 (2014) and Part 9 of the National Planning Policy Framework.

Ecology:

The existing barn has been mostly demolished with the roof entirely removed and as such any roosting or nesting opportunities have been lost. Bat roost and bird nests are protected under the Wildlife and Countryside Act 1981 and as such, the requirements of the Act should have been adhered to prior to these demolition works taking place.

Given that the barn no longer has a roof, it's considered to have negligible roosting or nesting opportunities however the site does lie within a Bat Consultation Zone and as such bats could be foraging in the area so a sensitive lighting scheme for the proposal is recommended which can be secured via a condition.

In addition to the above, the NPPF requires biodiversity net gain to be incorporated within any planning application. Given the location of the site, it's considered that suitable enhancements for the site, such as additional bat tubes/shelters and bird boxes, should also be secured through a condition.

On this basis the application scheme is considered to be in accordance with the requirements of Policy DP5 and DP6 of the adopted Local Plan Part 1 (2014) and Part 179 of the National Planning Policy Framework.

Environmental Impact Assessment:

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

Equalities Act:

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

Conclusion & Planning Balance:

Whilst it is acknowledged that the development will be beyond the edge of the village and therefore would represent a departure from local plan policies regarding its spatial strategy for new residential development, CP1 and CP2, It cannot be described as being in isolated open countryside. The Council does not have a five year housing land supply therefore the tilted balance of Paragraph 11 (d) of the NPPF applies. The additional 3 dwellings will make a modest contribution to housing in the district, which is of some weight. There will also be limited economic benefits through the construction period, and new occupants of the village result may use local services and facilities contributing to their long term viability. This again has limited economic and social benefits

The assessment of the application has not identified any harm in terms of landscape and visual impact, impact on heritage assets and/or highway safety concerns. Whilst the new dwellings will be visible, they will be seen against the backdrop of the village behind, and largely reflect what would have been constructed if the historic barn was converted in accordance with the terms of 2021/1611/PAA. Furthermore it has been demonstrated that the application site is accessible to some local services and facilities, and the future occupants are not wholly reliant on the private car.

Overall any harm arising from the application scheme are not considered to significant and would not demonstrably outweigh the benefits delivered. On balance, it is recommended that planning permission be granted as a departure from the Development Plan..

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: 2023013, 2023014, 2023015, 2023016, 2023017, 2023018, 2023019 and 2023020

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

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

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

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

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

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

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

5. **Wildlife Protection and Enhancement (Bespoke)**

Within three months of the date of the decision, full details of a Wildlife Protection and Enhancement Scheme shall be submitted to and approved in writing by the local planning authority.½ These details shall include:

- a. Two 1FF or 2F Schwegler Bat Box or similar will be installed on nearby trees at least four metres above ground level, away from artificial light spill and orientated to face the south, south-west or south-east.
- b. Two Vivra Pro Woodstone House Sparrow nest boxes or similar will be integrated into the north and/or east elevations of the proposed buildings at least

three metres above ground level.

c. An externally fixed 'Bee Box or Bee Hotel' shall be fixed about 1½ metres above ground level on the south or southeast elevation of the dwelling. Please note bee boxes attract solitary bees which do not sting.

All works within the scheme shall be carried out in accordance with the approved details prior to the occupation of the development.

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).

6. Hours of Construction Works (Compliance)

Noise emissions from the site during the development, i.e. the demolition, clearance and redevelopment of the site, shall not occur outside of the following hours:

Mon - Fri 08.00 - 18.00

Sat 08.00 - 13.00

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

Reason: To safeguard the amenities of adjoining occupiers having regards to Policies DP7 and DP8 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

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

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

Reason: Any further extensions require detailed consideration by the Local Planning Authority to safeguard the appearance of the development and the amenities of the surrounding area and residents in accordance with Policies DP1 and DP7 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

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

Notwithstanding the provisions of the Town and Country Planning (General

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

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

Informatives

1. Condition Categories

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

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

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

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

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

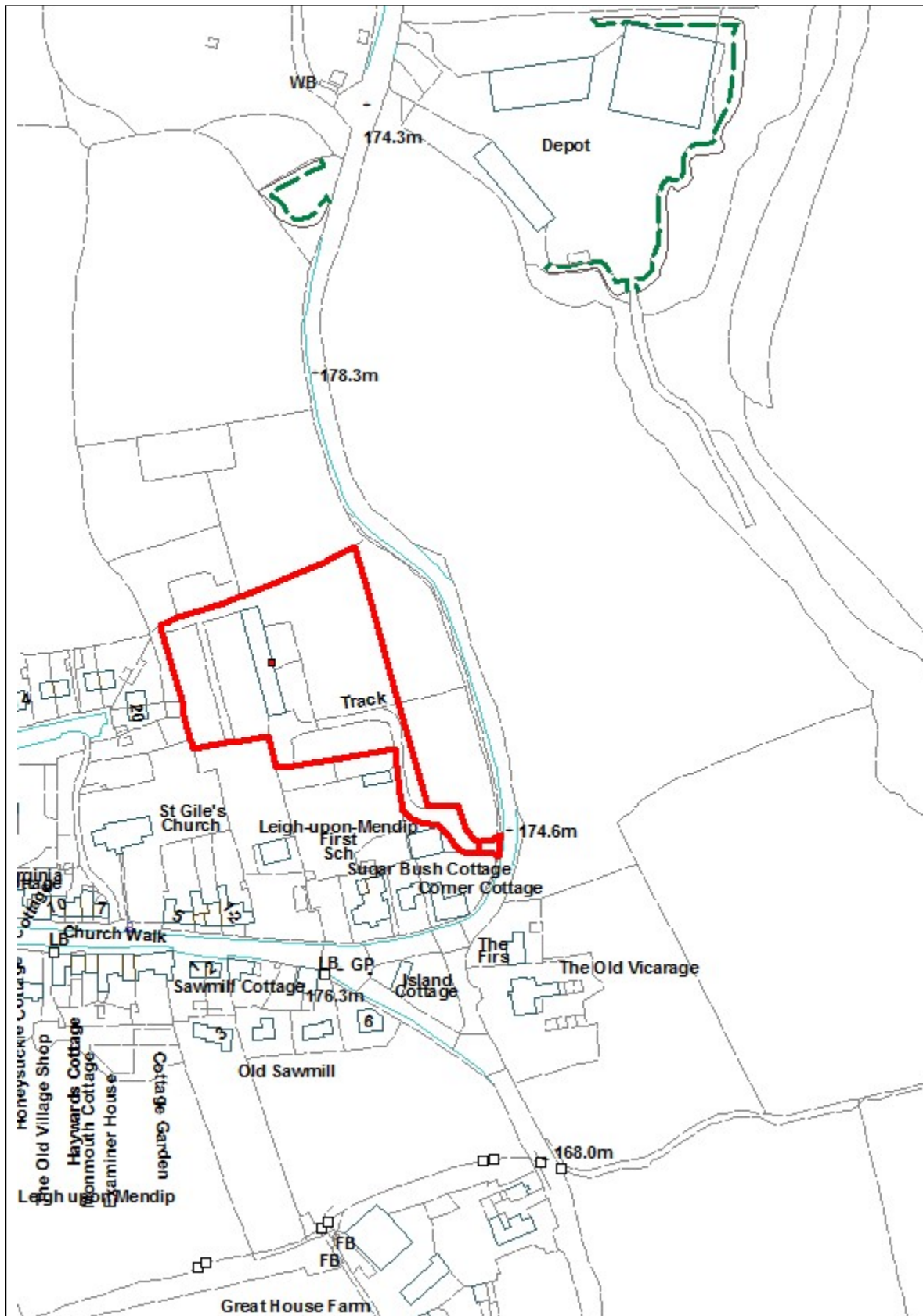
Please note all conditions should be read fully as these headings are intended as a guide only.

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

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

2. The responsibility for ensuring compliance with the terms of this approval rests with the person(s) responsible for carrying out the development. The Local Planning Authority uses various means to monitor implementation to ensure that the scheme is built or carried out in strict accordance with the terms of the permission. Failure to adhere to the approved details will render the development unauthorised and vulnerable to enforcement action.
3. In determining this application the Local Planning Authority considers it has complied with the aims of paragraph 38 of the National Planning Framework by working in a positive, creative and pro-active way.
4. Please note that your proposed work may also require Building Regulations approval, which is a separate consent process to the consideration of a planning application. The Council's Building Control team are available to provide Building Regulations advice from pre-application stage to completion of a development and can be contacted on 0300 303 7790. Further details can also be found on their website <https://buildingcontrol.somerset.gov.uk/>
5. Before commencing any works to trees or existing structures, please note that, under the provisions of the Wildlife & Countryside Act of 1981, between the 1st March to 31st August, no works should be undertaken to trees or structures which would result in disturbance or loss of habitat of nesting birds. Contravention of the Act is a criminal offence. It should also be noted that bats and their habitats are protected by law and if bats are found to be present in the trees or structures works should immediately cease until specialist advice has been obtained from Natural England.

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Planning Board Report 5th September 2023
 Land At 369311 147357
 Quarry Lane
 Leigh On Mendip
 Shepton Mallet
 Somerset

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Application Number	2023/0516/ADV
Case Officer	Oliver Down
Site	Land On The South Side Of Station Approach Frome Somerset
Date Validated	11 May 2023
Applicant/ Organisation	Wildstone Estates Limited
Application Type	Application to Display Adverts
Proposal	Erection of 1 No.48 Sheet Externally Illuminated Paper and Paste Advertising Display
Division	Frome East Division
Parish	Frome Town Council
Recommendation	Approval
Divisional Cllrs.	Cllr Shane Collins Cllr Helen Kay

3. **WHAT 3 WORDS**

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

///washed.back.stay

SCHEME OF DELEGATION

This application was referred to the Vice Chair and Chair of planning board due to the Divisional Member requesting the proposal to go to planning committee. The Chair decided that the application should go to the committee, due to the amount of public interest ,and concerns raised by the local Members.

Description of Site, Proposal, and Constraints:

The proposal seeks advertisement consent to erect one no.48 sheet externally illuminated paper and paste advertising display. A previous application has been approved that allows a digital board to be erected. This proposal puts forwarded an alternative scheme.

Relevant History:

2022/2286/ADV: Erection of 1 no. Digital Advertising Board – Approval

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

Divisonal Member: I object to this revised application for an illuminated 6m x 3m billboard and would like it to be called in to be decided on in public by the planning board. This is based on:

- Amenity
- Affect on Conservation Area
- Highway safety

Frome Town Council: Frome Town Council appreciates the steps that the applicant has taken after listening to residents' concerns regarding the previous application for a digital billboard. FTC have no objection to the proposed paper-and-paste display.

Frome Civic Society: objects to this gigantic, intrusive advertising board on the following grounds. (1) Vehicle, cyclist and pedestrian safety. Harm to the character of the Conservation area which extends along the opposite side of the road.

Local representations: 5 local representations in objection have been received and these are based on these points as raised:

- Residential amenity
- Traffic and highways

The comments received are based on similar points, with the advert considered as being detrimental to the character of the area, a distraction to highways users and an unnecessary use of energy.

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

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

- CP1 – Mendip Spatial Strategy
- DP1 – Local Identity and Distinctiveness
- DP3 – Heritage and Conservation
- DP7 – Design and Amenity of New Development
- DP9 – Transport Impact of New Development

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

- D1 – Design in Urban Landscapes

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:

Advertisements

A digital billboard has been approved under the reference number: 2022/2286/ADV in the same location as the advertisement applied for under this application. This application, therefore, proposes an alternative scheme which is understood to have been submitted to address comments received by third parties.

The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (as amended) and the National Planning Policy Framework (National Planning Policy Framework) adverts can be implemented in the interests of 'local amenity' and 'public safety'. The area currently has adverts and signage, the additional advert in the paper is an improvement over the digital format previously approved.

The advertisements shall be sited by the entrance to a retail area and Frome Train station. Currently, there are numerous adverts in the area to each side of the highway and across the main road. The proposed advert will not result in an unacceptable proliferation of advertisements

Objections have been raised on the subject of light pollution that would be created by the advert. It must be taken into account that the lighting used on the paper paste advert would be considerably reduced when compared to the previously approved digital board. The A369 has a busy street scene with lighting, the additional lighting from the advert would not be detrimental to visual amenities. Therefore, this is an improvement to the scheme when compared to the previously granted advertisement consent.

For the above reasons, the proposal would be acceptable taking into account the context of the area. By reason of the design, scale, materials, colours, the extent of illumination, and the number of signs, the proposed advertisement display(s) would have an acceptable impact on the visual amenity of the locality.

Highway safety

Given the siting, scale, extent of illumination, and height above the highway, the proposed advertisement display would not pose a hazard to drivers on the highway or cause any obstruction to pedestrian safety.

The proposal would therefore comply with saved Policy DP1, DP7, and DP9 of the adopted Local Plan Part 1 (2014) and the aims of the National Planning Policy Framework.

Conservation Area

The siting of the advert is near the edge of the Conservation Area. There are numerous adverts, in the area, and whilst this would be one of the largest, in the context of the retail park the advert would have a limited impact and would preserve the character and appearance of the Conservation Area.

There is a duty 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. The proposal meets these tests.

Impact on listed buildings

There is a duty under Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 In considering whether to grant planning permission for development which affects a listed building or its setting to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

Nos 7-11 on Wallbridge close are set back from the A369. The advert would be set a sufficient distance from the listed buildings to ensure that their significance is not harmed. The impact on the listed building is therefore acceptable.

Equalities Act

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

Recommendation

Approval

Conditions

1. **Plans List (Compliance)**

This decision relates to the following drawings: Planting plan: 01, The location plan: 19979/PA/01, Site location plan, elevations and photos: 19979/PA/01, 02, 03 REV A, 04, 05, 06

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

2. **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.

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

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

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

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

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

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

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

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

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

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

Informatives

1. **Condition Categories**

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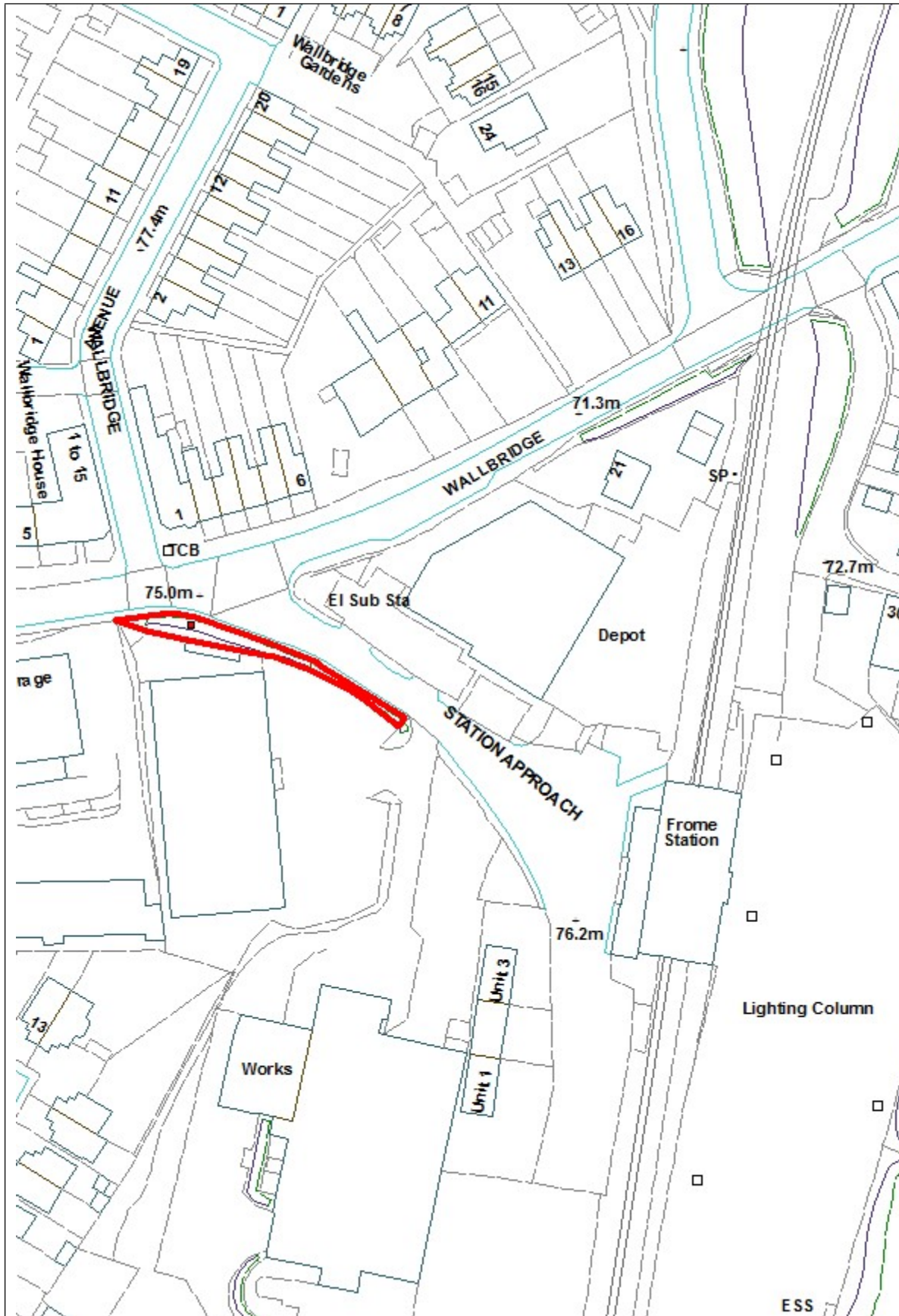
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Planning Board Report 5th September 2023
Land On The South Side Of Station Approach
Frome
Somerset

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