

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 Cyclerroutes 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 as 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 stages 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.