

Application Number	2019/1381/OTS
Case Officer	Nikki White
Site	Land South Of 17 Elm Close Wells Somerset
Date Validated	5 June 2019
Applicant/	Gladman
Organisation	Gladman Developments Ltd
Application Type	Outline - Some Matters Reserved
Proposal	Application for Outline Planning Permission with some matters reserved for erection of up to 100 dwellings with public open space with only details of access considered.
Division	Mendip West Division
Parish	St Cuthbert Out Parish Council
Recommendation	Approval
Divisional Cllrs.	Cllr Heather Shearer Cllr Ros Wyke

### **What3Words:**

Spellings.dozens.resonates

### **Background and Procedural Clarifications:**

This outline planning application for up to 100 new dwellings and access was received on 05 June 2019.

This application was considered by the Mendip District Council Planning Board on 20 November 2019. Members deferred making a decision on the application to allow the applicant an opportunity to address the issues including obligations, provision of an additional access and traffic control measures.

Following discussion with officers and the submission of additional information, the application was reconsidered by the Planning Board on 22 January 2020. Members approved the application subject to conditions and a S106 legal agreement.

Following agreement of the wording of the S106 legal agreement, and shortly before finalising the document and issuing the decision, the Local Planning Authority was notified of the phosphate deficit situation. As such, the application could not be approved without

phosphate mitigation.

After lengthy discussion between the applicant and Natural England, the applicant has now confirmed its phosphate mitigation package. This includes onsite treatment through the sustainable urban drainage system and the purchase of nutrient credits from the established scheme at Manor Farm. In addition any approval would require the inclusion of additional planning conditions, it is being taking to the now Somerset East Planning Committee for a final decision.

Other than phosphate mitigation, there are no changes in the development proposed. Conditions and obligations have been reviewed to ensure they remain suitable, and there are some minor changes proposed as outlined below. Updated ecology information has been submitted and considered, to ensure a decision is made on the current site situation.

Reconsultation has been undertaken with consultees as necessary to confirm the recommendation, conditions and obligations remain suitable. All other consultation comments remain relevant and are considered in the assessment. The Local Planning Authority has met its obligations in relation to notification and consultation on this application.

Appendix 1 contains the previous reports considered on 20 November 2019 and 22 January 2020. It is noted that the Local Planning Authority Planning Board voted in favour of approval subject to conditions and legal agreement on 22 January 2022.

### **Summary of Consultation Responses Since Planning Board on 22 January 2020:**

Some comments are summarised below for brevity.

St Cuthbert Out Parish Council: (summary of verbal and written comments)

- Contributions towards the 67 bus route are no longer required.
- Agree that bus stop enhancements would be necessary in the local area as an alternative.
- Request that the developer takes on delivery and installation.
- Request a second bus stop be installed on the north side to facilitate Wells-bound traffic. Options to be explored.

Somerset Highways: no objection subject to conditions and obligations (summary of verbal comments)

- The proposal remains acceptable in highway safety and capacity terms.
- Off site highway works agreed and can be secured in the S106 legal agreement.

Somerset Ecology: no objection subject to conditions/S106

- Due to the lapse in time, an update Ecological Appraisal was completed by FPCR on 25 April 2023. Previous to this a Phase 1 Habitat survey was completed on 14 January 2019 and previous data was collected over the course of the 2013/14 and 2019 survey seasons.
- Surveys indicate that hedgerows are important features of the application site and therefore measures should be taken to protect, retain and enhance these features, as well as to provide no overall biodiversity net loss within the proposals.
- Importantly to note is the requirement of low lux levels along the retained hedgerows and retained/enhanced habitats for horseshoe bats and other light sensitive species to not be impacted.
- Nutrients - Following minor clarifications, the proposed nutrient mitigation as set out in Nutrient Neutrality Assessment and Mitigation Strategy (NNAMS) is acceptable, subject to conditions/S106. The phosphorus budget for the Proposed Development before mitigation, including increased wastewater and changes in land use has been calculated as 13.87kgP/year (16.64 kgP/year with a 20% buffer). In order to mitigate the phosphorus surplus associated with the proposed development, Sustainable Urban Drainage Systems (SuDS) have been proposed within the drainage strategy, including swales, ponds, soakaways, permeable paving and bioretention zones. These measures are expected to reduce the surface water phosphorus load by approximately 50% reducing the nutrient load in surface water from 5.83 kgP/year to 2.94 kgP/year and the overall nutrient budget from 16.64 kgP/year to 13.18 kgP/year. The SuDs elements of the strategy will be maintained according to the appropriate maintenance schedule as listed in the CIRIA SuDS Manual C753. The remaining phosphorus surplus will be offset through the purchase of credits from the Manor Farm Limited.
- Updated shadow HRA is acceptable and endorsed for consideration by Natural England to ensure that they consider that these proposals will result in no Likely Significant Effect on the Somerset Levels and Moors Ramsar and Special Area of Conservation.
- Recommended conditions including: compliance with recommendations in the updated Ecological Appraisal; Construction Ecological/ Environmental Management Plan (CEMP): Biodiversity; CEMP reporting; protective fencing around hedgerows; Landscape and Ecological Management Plan (LEMP); sensitive lighting for bats; bat habitat enhancement area; submission of biodiversity net gain as part of reserved matters; badgers; hazel dormice; reptiles; on site ecological enhancements; development to accord with NNAMS and sHRA; submission and agreement of SuDs scheme in accordance to show a 50% reduction as per the CIRIA 808 guidance.

- S106 recommendations for nutrient mitigation including: no occupation until 2025 when the upgrade to the Wells WWTWS is to be completed (allowing 1mg/l to be used in the calculations); 14kg total phosphorous (TP) credits to be legally secured through the purchase of credits from Mendip Farm Limited, from land related to Manor Farm; and a LEMP will need to be secured for the maintenance of the SuDS.

Natural England:

*Somerset Levels and Moors Ramsar Site – No Objection Subject to Securing Mitigation*

Based on the information provided, the proposed mitigation strategy included in the NNAMS demonstrates nutrient neutrality. The following must be secured in any permission given:

- The phosphorus budget calculations have used the permit limit from Wells WwTW post AMP7 improvements being undertaken, a condition must therefore be attached to any permission given to prevent occupation of the proposed dwellings before 2025 when the upgrade to the Wells WwTW is to be completed.
- The phosphorus budget has included a 50% reduction in phosphorus content from surface water runoff due to SuDS. A condition must be attached to any permission give to provide an agreed SuDS scheme that can be shown to deliver the 50% reduction as per the CIRIA 808 guidance.
- To achieve nutrient neutrality, the applicant proposes to purchase 14kg TP credits, these credits must be legally secured.

*Habitats Regulations Assessment*

- We note that the Shadow HRA (Urban Edge Environmental Consulting, August 2023) only assesses the potential impact of the proposed development on the Somerset Levels and Moors Ramsar Site. Natural England have previously provided comments on this application (October 2019) stating that we agree with the conclusions of a HRA (Larry Burrows, Somerset County Council, August 2019) which assessed the potential impact of the proposed development on the North Somerset and Mendip Bats SAC, this HRA concluded that provided all mitigation measures considered in the HRA were secured in any permission given the proposed development would not result in an adverse effect on the integrity of the SAC.
- Neither report considers the impact to both the Somerset Levels and Moors Ramsar Site and the North Somerset and Mendip Bats SAC. For clarity, we recommend that the assessments are combined into a single report which assesses the potential impact of the proposed development on both designated sites.

Housing Enabling: no objection subject to conditions/obligations

- Having reviewed previous comments and taking into account that there is no

requirement for First Homes, no new or additional comments to make at this stage.

- On this basis, content that previous affordable housing consultation comments including 40% affordable housing and the stated mix and tenure requirements remain valid.

#### Public Rights of Way (PROW):

- PROW diversion condition not required as plans show the paths retained. If this changes as part of a reserved matters application then further consideration and a condition may be required at that time.
- We are seeking connective ped/cycle links to Campkin Road and Burcott Road in the interests of connective options for active travel. This should be in the s106 Heads of Terms as an obligation. It's not clear whether third parties would need to be signatories, but it is possible. The alternative to the Campkin Road connection would be providing a footway along Burcott Road to link up to the existing one further east.

Contaminated Land: no objection subject to conditions

Education: no objection subject to obligations (informal comments)

- Education contributions of £700,034 at the time of the previous decision have been increased to £708,398.
- These obligations are subject to change during the finalisation of the legal agreement.

#### Local Representations:

1 further neighbour objection has been received since the previous Planning Board decision. Planning matters are summarised below:

- Do not agree with Government policy of housing
- Unaffordable prices likely
- Insufficient social housing
- Harm to ecology
- Water pollution
- Insufficient infrastructure, services and facilities
- Air pollution
- Highways capacity
- Brown field sites should be considered first , empty homes
- Landscape harm

- Councils have insufficient resources for appeals

All comments summarised in the other officer reports attached at Appendix 1 are also relevant.

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

[somerset.gov.uk](https://www.somerset.gov.uk)

### **Updated Policy Position:**

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 current Development Plan comprises:

- Mendip District Local Plan Part I: Strategy and Policies (2014)
- Mendip District Local Plan Part II: Sites and Policies – Post JR Version (2021)
- Somerset Waste Core Strategy (2013)
- Wells Neighbourhood Plan (emerging; referendum 25 January 2024)

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

- CP1 - Mendip Spatial Strategy
- CP2 - Supporting the Provision of New Housing
- CP10 - Wells City Strategy
- DP1 - Local Identity and Distinctiveness
- DP2 - Open Areas of Local Significance
- DP3 - Heritage Conservation
- DP4 - Mendip's Landscapes
- DP5 - Biodiversity and Ecological Networks
- DP6 - Bat Protection
- DP7 - Design and Amenity of New Development
- DP8 - Environmental Protection
- DP9 - Transport Impact of New Development
- DP10 - Parking Standards
- DP11 - Affordable Housing
- DP14 - Housing Mix and Type
- DP16 - Open Space and Green Infrastructure

- DP19 - Development Contributions
- DP23 - Managing Flood Risk

The following policies of the Local Plan Part II (post RJ Version) are relevant to the determination of this application:

- Policy WL5 - Land at Elm Close

After examination on 04 November 2023, it was confirmed that the Wells Neighbourhood Plan would be taken to referendum. A referendum is scheduled for 25 January 2025. This plan is now a material planning consideration. As this plan has not been 'made', it does not carry full weight in the planning balance. As there are no outstanding objections it is concluded to carry moderate weight in the planning balance. Relevant policies include:

- Policy HBE1: Heritage and the Built Environment
- HBE2: Local Heritage Assets
- Policy H1: Responding to Local Housing Demand and Needs
- Policy H2: High Quality Housing Design
- Policy H3: Housing Fit for the Future
- MA1: Constraints and Opportunities on the Local Highway, Cycleway and Footpath Network
- Policy ENV1: Protecting the Character of the Landscape, Views and Setting
- Policy ENV2: Wells Nature Recovery Network (including protected areas of biodiversity, geodiversity and habitat)
- Policy ENV3: Local Green Space

Other possible Relevant Considerations (without limitation):

- National Planning Policy Framework
- National Planning Practice Guidance
- The Somerset Countywide Parking Strategy (2013)
- Wells Conservation Area Appraisal (2011)
- Wells Design Guide (2022)
- Landscape Assessment of Mendip District (1997)
- Mendip District Landscape Character Assessment (2020)

### **Assessment of Relevant Issues:**

### **Principle of Development:**

It is noted the Local Planning Authority (LPA) has already confirmed the proposal is acceptable, through a decision made by the Planning Board on 25 January 2025. The

Planning Committee is asked to remake this decision, considering the additional phosphate mitigation, and relevant information, which do not alter principle of development considerations.

The site is allocated for development in Local Plan Part 2 (LP2) under policy WL5. This allocation is for the delivery of at least 100 new dwellings, an extension to the adjacent cemetery, replacement bat habitat, and other necessary features and measures.

When this proposal was previously considered by the Planning Board, LP2 was emerging. This policy has since been adopted and therefore carries full weight.

Policy WL4 states that development should come forward from 2024-25. Considering the likely time needed to agree any reserved matters application and build out the scheme, the proposal is considered to accord with this timescale policy requirement.

This timescale is explained within the policy as to allow *“an opportunity for community use is to be incorporated into masterplanning of the site.”* This is taken to refer to the policy requirement to include land for an extension to the adjacent cemetery, which would need to be incorporated into any masterplanning. As the application is submitted in outline, and includes land for a potential cemetery extension, as well as all other requirements set out in policy WL5, the proposal is concluded to accord with this policy.

The Council is currently unable to demonstrate a five-year housing supply. As a result of recent appeals it is concluded that supply is in the range of 2.87 to 2.94 years.

The National Planning Policy Framework (NPPF) advises that, where the Council cannot demonstrate a five-year supply, the presumption in favour of sustainable development, as set out in paragraph 11(d) of the NPPF, applies. Paragraph 11(d) sets out that where there are no relevant development plan policies, or the policies which are the most important for determining the application are out-of-date, planning permission should be granted unless:

- i) the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
- ii) 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.

The above is a significant material consideration that will be considered in the overall



planning balance section at the end of this report.

The development would result in the loss of agricultural land. Whilst there is no local policy to retain agricultural land, the NPPF explains that decisions should recognise the wider benefits from the best and most versatile agricultural land. The loss of the land is recognised but it should be noted that the land is grade 3 which is not the best and most versatile land. This is not considered a reason to withhold planning permission.

The Wells Neighbourhood Plan is a material consideration in the assessment of this application now. The proposal is considered to accord with all relevant parts of this emerging but well progressed document.

### **Nutrients:**

The application site is mapped by Natural England as falling within the water catchment flowing into the Somerset Levels and Moors Ramsar site, designated for its rare aquatic invertebrates, which is currently in an unfavourable condition. Any new housing, including single dwellings, would result in an increase in phosphates contained within foul water discharge. As the designated site is in 'unfavourable' condition any increase, including from single dwellings is seen as significant, either alone or in combination with other developments.

A shadow Habitat Regulations Assessment (sHRA) and a Nutrient Neutrality Assessment and Mitigation Strategy (NNMAS) have been submitted by the applicant demonstrating the development can achieve nutrient neutrality. This can be achieved through on site Sustainable Urban Drainage System (SUDS) including the use of swales, ponds, soakaways, permeable paving and bioretention zones. These measures are expected to reduce the nutrient load by circa 50%.

The applicant has confirmed the remaining load will be offset through the purchase of 14kg total phosphorous (TP) off site credits. Credits have been agreed at the Manor Farm site, which has agreement from the Local Planning Authority and Natural England. Credits can now be secured by conditions, which are recommended accordingly. A further condition is recommended which would see SUDS measures introduced to reduce the impact in line with the agreed details. These conditions have been agreed with Natural England.

As the nutrient calculations rely on planned upgrade works to the Wessex Water treatment works (AMP7 improvements), Natural England has stated a condition is required to restrict occupation until the water treatment works completed, which has been recommended accordingly (subject to minor wording edits), and confirmed with the Ecology team.

In conclusion on this matter, the impact of the development on a Ramsar site, by way of the potential to increase phosphate levels, is a material consideration. Therefore, the drainage details, with particular regard to phosphate generation and mitigation, are required to inform the Habitat Regulations Assessment for the current application, in order for the LPA to discharge its legislative duties in this respect. Taking all of the above into consideration, including the suite of controls as set out in the recommended conditions and legal agreement, sufficient information has been submitted to confirm that the proposal would not result in an unacceptable increase in phosphate levels within the foul water discharge and not affect the current unfavourable status of the Somerset Levels and Moors Ramsar site and as such passes Regulation 63 of the Habitat Regulations 2017. Therefore, the proposed development accords with Policies DP5, DP6 and DP8 of the adopted Local Plan Part 1 (2014) and Part 15 of the National Planning Policy Framework.

### **Ecology:**

Adopted policy WL5 confirms the site is within the consultation zone of the North Somerset and Mendip SAC (band C) and confirms that greater and lesser horseshoe bats are present in the locality. WL5 requires development masterplanning on the site to include 0.93ha of replacement bat habitat and minimal loss or fragmentation of hedgerows on the site.

The development framework and indicative masterplan demonstrate that 0.93ha of replacement habitat can be achieved. All hedgerows, which represent high ecological value, would be retained, except on the front boundary to facilitate the accesses; and two gaps within the site to facilitate circulation. The proposal therefore meets the policy requirements of WL5 in this regard.

Development proposals also include:

- Retention or replacement of the Lesser Horseshoe bat roost on site.
- Creation of enhanced habitat corridors with buffers along boundaries on the west, south and east of the application site.
- Two SUDs ponds and green space along the southern boundary of the site, with creation of additional habitat foraging resources for the remaining common and widespread species of bat recorded and rough / species-rich grassland to be managed / planted in suitable locations within the green space to encourage invertebrates;
- Woodland planting within the open space in the south of the development providing a corridor along the southern edge of the development well-connected with the widened landscape corridor on the western boundary that would serve to enhance

the existing hedgerow to provide continued connectivity with the wider local environment.

The application as first submitted included an Ecological Appraisal which assessed species and habitats and made various recommendations. As the ecological assessment work and consideration is now over two years old, an updated Ecological Appraisal (dated August 2023) was submitted to ensure an up-to-date understanding of the site and appropriate mitigations can be put in place. The updated ecological assessment confirms there have been no material changes in baseline conditions:

- *“The site or habitat within the site has no more capacity to support a mobile protected, rare or otherwise notable species that could have moved on to the site since when previously surveyed.*
- *There have been no significant changes to habitats present (and/or the ecological conditions/functions/ecosystem functioning upon which they are dependent) since the previous surveys were undertaken; and*
- *The local distribution of a species in the wider area around a site has not changed (nor knowledge of it increased), increasing the likelihood of its presence since the previous surveys were undertaken.”*

The hedgerows have high ecological value. Evidence of badger, bat, bird and slow worm activity was identified on the site. No great crested newts or dormice were recorded. A number of measures are recommended in relation to mitigation and protection through development and construction. These are recommended to be controlled via conditions.

There is one bat roost within the site boundary, which is proposed to be retained and protected as outlined below in the applicant’s ecological submission. No objections have been received from Somerset Ecology or Natural England on this matter. Conditions are recommended to secure this.

*“7.27 The small occasionally used night roost used seasonally by lesser horseshoe bats (refer Appendix E) will remain within the current building in its current location within the Green Infrastructure of the Proposed Development where it will be appropriately fenced in a manner which does not inhibit access to bats but will prevent interference or vandalism by people. Were proposals to change and the removal of the building later required then an appropriate alternative roost would need to be provided within this area of Green Infrastructure in order to compensate. Significant woodland planting will be implemented within this area of Green Infrastructure forming a wide corridor along the southern edge of the development and well connected with the widened landscape corridor on the western boundary that will serve to enhance the existing double hedgerow to*

*provide continued connectivity with the wider local environment.”*

North Somerset and Mendip Bat SAC and Mendip Woodlands SAC are located in proximity to the site. A Habitat Regulations Assessment (HRA) was submitted and agreed with Natural England before the Planning Board’s decision in January 2020. A further Shadow HRA has been completed by the applicant team and endorsed by the Somerset Ecology team. This particularly considers the impacts of nutrients on the Somerset Levels and Moors Ramsar site. No objections to this have been raised by Natural England. Natural England’s comments recommended linking the assessment of HRA’s, which the applicant has completed and set out in the report. The HRA is therefore concluded to be acceptable subject to conditions as recommended.

Conditions previously recommended and approved by the Planning Board include:

- Submission and agreement of external lighting
- Ecological habitat provision of at least 0.93ha (in line with the policy allocation requirements)
- Submission and agreement of a Landscape and Ecological Management Plan (LEMP)
- Submission and agreement of a Construction Environmental Management Plan (CEMP): Biodiversity
- Protection or replacement of the bat roost
- Implementation of the ecological recommendations.

The Ecologist has recommended all these conditions remain, with updates as necessary. Not all wording on the conditions is exactly as per the wording of the Ecologist, but the conditions as recommended refer to the additional information received and meet the national conditions tests.

The Ecologist has recommended an additional condition requiring reports prepared by an Ecological Clerk of Works are submitted and agreed at each phase of development confirming compliance with the CEMP. This is controlled by the CEMP condition and other legislation therefore does not meet the conditions test for being reasonable or necessary.

Further to the CEMP condition, the Ecologist has recommended another condition requiring fencing details. This is recommended to be incorporated into the CEMP condition rather than a standalone condition. It is noted that details of fencing are expected to include all protective fencing and warning signs, which would be maintained during the construction period. A separate detailed condition on protective fencing for trees and hedgerows is already recommended as part of the conditions so a further

condition is not necessary. The recommended tree protection plan condition (condition 4) is recommended to be amended to clarify fencing relates to hedgerows as well as trees.

The LEMP condition has been amended to refer to the dark buffer along the western side of the site, as well as details of dust and pollution protections. Further detailed recommendations for the LEMP condition from the Ecologist do not meet the tests and some are covered by the other condition requiring compliance with the ecological recommendations and other legislation.

The additional lighting condition recommended by the Ecologist is not necessary as this is covered by another condition.

The Ecologist has also recommended a condition requiring the reserved matters application demonstrate biodiversity net gain. This is covered in the condition specifying additional information to be submitted, in order to ensure this is quantified in any reserved matters application.

The conditions recommended by the Ecologist in relation to badgers, hazel dormice and reptiles do not meet the tests. Protective measures are covered by the applicant's ecological recommendations, which is covered by condition already.

The Ecologist has also set out detailed requirements for on site ecological enhancements and biodiversity net gain. As this application is considered in outline, and the condition includes very detailed and specific recommendations, it is instead recommended that the relevant reserved matters submission include these details, and these comments from the Ecologist can inform detailed design.

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

### **Highways:**

The application when first submitted included one access point onto Elm Close. Following the Board's deferral, the applicant submitted updated plans showing two access points.

More recent discussions with the Highway Authority (HA) have confirmed the proposal continues to be acceptable in relation to highway safety, including safe visibility on the access points. The HA has also confirmed there is sufficient capacity on the local highway network to support the additional vehicle trips associated with the development.

Following the previous deferral, the applicant has agreed to introduce a 3m footway/cycleway across the full frontage of the site. This would be secured through the legal agreement.

The previous report included a potential pedestrian crossing point at the junction of Elm Close and Portway, pending highway safety audits. These audits have now been undertaken and the highway authority has confirmed that a zebra crossing would be unsuitable. Instead an uncontrolled pedestrian controlled crossing has been agreed and its provision will form part of the legal agreement.

A £20,000 contribution to the Strawberry Line was previously agreed. Using the Bank of England's online Inflation Calculator this figure has been amended to £24,280. This has been agreed with the applicant.

As part of the previous Planning Board decision, the applicant agreed to pay £16,500 towards the local 67 bus route, which equated to the £3,300 cost St Cuthbert Out Parish Council paid per year, for a 5 year period. Following recent discussions with the parish council, it has been confirmed that these obligations are no longer necessary. As an alternative, the applicant has agreed to provide bus stop shelters on both the north and south side of Elm Close. This would make bus travel more appealing. This obligation would serve the residents of the development, and other nearby residents, and meets the CIL tests for planning obligations. The applicant has agreed to include this in the legal agreement, and submitted an updated plan showing the location of the bus shelters.

These works are on top of other standard measures including highways works associated with the accesses and a travel plan, which are recommended to be incorporated into the legal agreement.

### **Public Rights of Way:**

The original officer report explains the context of the site in this regard thus:

*“There are 2 Public Rights of Way (PROW) running through or on the boundary of the application site. WS 10/63 runs along the eastern side of the site in a north south direction. This PROW runs through the part of the site proposed for the cemetery extension. WS 10/55A runs along the western boundary of the site in a north south direction. There is a network of other PROW's in proximity to the application site.*

*The proposed development includes retention of the existing PROW's. The indicative plan also shows proposed new footways/cycleways running north south between the cemetery extension and the proposed housing; and in an east west direction along the southern part of the site through public open space. Although detailed layouts have yet to be submitted at this outline stage, the applicant has demonstrated capacity within the scheme to enhance permeability within the site for non-car users."*

Updated comments have been received from the PROW team which confirm the previously recommended condition requiring diversion of any footpaths is not necessary as these are shown to be unobstructed in the indicative masterplan and development framework. If PROW's would be affected by development in any reserved matters application, this can be dealt with at that stage. As such, this condition is no longer recommended, but an informative is retained which reminds the applicant of their obligations in this regard.

Updated PROW comments request pedestrian/cycle connections to the south west of the site through to Campkin Road. The existing PROW WS10/63 extends to Burcott Road from the north to the south of the site. Maximising active travel is a high priority so this has been discussed with the applicant. It is understood that there is an area on the edge of Campkin Road owned by a third party and it has not been possible to agree access onto Campkin Road. It is noted that consultation comments from residents in Campkin Road have referred to amenity concerns. This matter should be fully scoped out prior to any reserved matters application, and any applicant will be required to demonstrate active travel measures have been maximised. Conditions were attached to the previous recommendation requiring details of footpath and cycle path connections to be submitted and agreed and details of green infrastructure to be submitted and agreed prior to any reserved matters application. The wording of these conditions has been amended slightly.

In conclusion on this matter the application is considered acceptable in relation PROW.

### **Education:**

Updated comments have been received from the Education team, which confirm the obligations have increased from £700,034 at the previous decision to £708,398. It is noted that this figure is subject to change during the finalisation of the legal agreement.

### **Planning Obligations:**

In accordance with LP1 policy DP19, the following planning obligations have been triggered and agreed with the applicant, which are set out in a table to show changes since

the previous decision in January 2020:

<b>Obligations as Approved in January 2020</b>	<b>Summary of Changes/Updated Obligations</b>
Affordable Housing at 40%	No changes
Safeguarding 1ha of land for cemetery expansion	No changes
Provision of at least 0.93ha of replacement habitat on site	No changes
£81,852 contribution towards local off site open space provision	No changes
Provision and management of on-site public open space and a local equipped area of play (LEAP)	No changes
Education contributions of £700,034	Obligations increased to £708,398 (noting this is subject to change as the legal agreement is finalised and obligations will relate to the educational need to come from the development)
£20,000 contribution towards Strawberry Line	This has been increased to £24,280
Travel Plan – including green travel vouchers; welcome packs and travel information packs; and travel mode monitoring	No changes
Provision of a new accesses	No changes
Provision of 3m foot path/cycle path across the full frontage of the site	No changes
Offsite highway works - a pedestrian controlled crossing at the junction of Elm Close and the Portway	No changes
Public transport contribution of £16,500 payable towards the costs of improving the number 67 bus service (£3,300 for five years)	Bus shelters provided on the north and south side of Elm Close
Management company	No change

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

Given the LP1 policy requirements and infrastructure needs arising from the development, all of the above obligations are necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and



kind to the development. They would accord with Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended).

The application is concluded to be acceptable in relation to planning obligations.

### **Other Matters:**

The application remains acceptable as per previous recommendations, including in relation to design (noting this application is submitted in outline at a quantum consistent with the policy); landscape impact; impact on residential amenity; environmental protection; highways; heritage; carbon reduction; open space (including on site open space and play park); affordable housing (which remains at 40% in line with policy requirements); education contributions (noting these have been slightly updated); trees and hedgerows; drainage and flooding; and Environmental Impact Assessment. Further information on these matters can be found in the previous Board reports, attached at Appendix 1.

Although policy requiring First Homes has been introduced since previous consideration by the Planning Board, as this site is allocated there is no requirement for First Homes and the proposal will consist of 80% social rented properties and 20% shared ownership properties.

### **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.

### **Health:**

The proposal is considered acceptable in relation to the health of future occupants and existing nearby occupants.

### **Conclusion:**

This application was approved by the Mendip District Council Planning Board in January 2020. At a late stage in the finalisation of the legal agreement, Natural England confirmed

that this and other applications could not be determined due to nutrient levels in the area. A robust nutrient mitigation package has since been agreed with the applicant, Ecology team and Natural England which confirms the proposal can achieve nutrient neutrality.

Relevant updated information has been received from the applicant to confirm the ecological impacts and mitigations. Relevant updated consultee comments have been sought to confirm the application remains acceptable. A comprehensive review of conditions and planning obligations has been undertaken and some changes and updates have been recommended – most notably to include nutrient mitigation controls. All conditions and obligations are suitable for the development as proposed at this location.

This site remains allocated for development in the Local Plan. The proposed development, submitted in outline with access reserved, accords with the policy requirements in relation to the quantum and scope of development.

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.

As set out above it is accepted that the Council cannot demonstrate a 5 year land supply and the 'presumption in favour of sustainable development' as set out in paragraph 11(d) of the NPPF applies (the 'tilted balance'). This advises that permission should be granted unless any adverse impacts of doing so are identified and would significantly and demonstrably outweigh the benefits when assessed against the NPPF taken as a whole.

This site has an opportunity to contribute to housing supply on an allocated site which has already been approved by the Planning Board. The proposals have been developed to achieve a sustainable extension to Wells. The provision of 100 homes, including 40 affordable homes, is given significant weight in the planning balance, particularly in the context of the significant lack of 5 year land supply in the district. The application proposals would also deliver simultaneously, economic, social and environmental benefits. Whilst limited in time, the development would generate economic benefits through the construction period. Economic benefits would also be associated with the future spending of occupants of the development in local shops and services and council tax receipts. Public open space and ecological enhancement measures would offer potential biodiversity enhancements.

Although it is noted that there would be some landscape impact, particularly before mitigation is fully established, this harm is not significant given the surrounding built form in the context of the site. The development would result in the loss of agricultural land, but this is not the highest quality or most versatile land.

The application is therefore represented for approval in accordance with the provisions of the development plan as referred above and the provisions of 11d of the NPPF subject to terms of the completion of a legal agreement to cover the matters confirmed in the table above and the conditions as set out below.

## **Recommendation**

Approval

## **Conditions**

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

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

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

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

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

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

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

This decision relates to the following drawings/documents:

5730-L-03 LOCATION PLAN - received 04.06.2019

P18123-222 - POTENTIAL CROSSING SCHEME - received 10.12.2019

5730-L-02-V - DEVELOPMENT FRAMEWORK - received 10.12.2019

P18123-103 - UPDATED ACCESS PLAN - received 28.09.2023

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

4. **Tree Protection Plan (Pre-commencement)**

No development shall take place until an annotated tree protection plan following the recommendations contained within BS 5837:2012 identifying measures (fencing and/or ground protection measures) to protect the trees and hedgerows to be retained has been submitted to and approved in writing by the Local Planning Authority. The plan shall include proposed tree protection measures during site preparation (including clearance and level changes), during construction and landscaping operations. The plan shall include the design of fencing proposed and take into account the control of potentially harmful operations such as the position of service runs, storage, handling and mixing of materials on site, burning, and movement of people and machinery.

Reason: To ensure that the trees are protected from potentially damaging activities in accordance with Policy DP1 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014). This is a condition precedent because the works comprising the development have the potential to harm retained trees. Therefore these details need to be agreed before work commences.

5. **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.

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.

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

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

- (a) size, species and positions for new trees and plants,
- (b) boundary treatments,
- (c) surfacing materials (including roadways, drives, patios and paths) and
- (d) any retained planting / hedgerows.
- (e) a detailed programme of phasing and implementation

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

Reason: To ensure the provision of an appropriate landscape setting to the development in accordance with Policy DP1, DP3, DP4 and DP7 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

**7. 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).

**8. Provision and Storage of Recycling and Waste Containers (Pre-occupation)**

The development hereby approved shall not be occupied until provision for the storage of recycling and waste containers has been made within the site in accordance with details that have first been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of the character and appearance of the area, residential amenity and highway safety having regards to Policies DP3, DP7 and DP9 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

**9. Surface Water Drainage (Pre-commencement)**

No development shall be commenced until details of the surface water drainage scheme based on sustainable drainage principles together with a programme of implementation and maintenance for the lifetime of the development have been

submitted to and approved in writing by the Local Planning Authority. The drainage strategy shall ensure that surface water runoff post development is attenuated on site and discharged at a rate and volume no greater than greenfield runoff rates and volumes. Such works shall be carried out in accordance with the approved details.

These details shall include: -

- o Details of phasing (where appropriate) and information of maintenance of drainage systems during construction of this and any other subsequent phases.
- o Information about the design storm period and intensity, discharge rates and volumes (both pre and post development), temporary storage facilities, means of access for maintenance (6 metres minimum), the methods employed to delay and control surface water discharged from the site, and the measures taken to prevent flooding and pollution of the receiving groundwater and/or surface waters.
- o Any works required off site to ensure adequate discharge of surface water without causing flooding or pollution (which should include refurbishment of existing culverts and headwalls or removal of unused culverts where relevant).
- o Flood water exceedance routes both on and off site, note, no part of the site must be allowed to flood during any storm up to and including the 1 in 30 event, flooding during storm events in excess of this including the 1 in 100yr (plus 40% allowance for climate change) must be controlled within the designed exceedance routes demonstrated to prevent flooding or damage to properties.
- o A management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by an appropriate public body or statutory undertaker, management company or maintenance by a Residents' Management Company and / or any other arrangements to secure the operation and maintenance to an approved standard and working condition throughout the lifetime of the development

Reason: To ensure that the development is served by a satisfactory system of surface water drainage and that the approved system is retained, managed and maintained throughout the lifetime of the development, in accordance with National Planning Policy Framework and the Technical Guidance to the National Planning Policy Framework. This is a condition precedent because it is necessary to understand the drainage scheme in detail prior to any initial construction works which may prejudice the foul drainage strategy.

#### 10. **Footway/Cycleway Provision (Compliance)**

The vehicular access hereby approved shall not be brought into use until it has been constructed in accordance with details including a 3m footway/cycleway along Elm Close, as shown on P18123-103 UPDATED ACCESS PLAN received 28.09.2023. The vehicular access and pathways shall thereafter be permanently retained in

accordance with the approved plans.

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

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

The proposed estate roads, footways, footpaths, cycleways, bus stops/bus lay-bys, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, drive gradients, car, motorcycle and cycle parking, street furniture and tactile paving shall be constructed, laid out and maintained in accordance with details to be approved by the Local Planning Authority in writing before the construction of any aspect of the new section of the highway begins. For this purpose, plans and sections, indicating as appropriate, the design, layout, levels, gradients, materials, method of construction and proposals for future maintenance shall be submitted to the Local Planning Authority.

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

12. **Parking Area (Bespoke Trigger)**

No construction above slab level shall commence until plans showing a parking area and turning areas (providing for parking spaces for each of the dwellings in accordance with the SCC parking strategy), including full details of the surfacing materials, has been submitted to and approved in writing by the Local Planning Authority. No occupation of any individual dwelling shall commence until the parking area for that dwelling has been constructed in accordance with the approved details and shall not thereafter be used other than for the parking of vehicles in connection with the development hereby permitted.

Reason: To ensure that adequate and safe parking 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).

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

No occupation of the development shall commence until the visibility splays shown on drawing P18123-103 UPDATED ACCESS PLAN received 28.09.2023 has been provided. There shall be no on-site obstruction exceeding 300 millimetres above adjoining road level in advance of lines drawn 2.4m metres back from the carriageway edge on the centre line of the access and extending to points on the nearside carriageway edge 120m either side of the access. 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).

14. **Cycle and Footpath Connections (Pre-occupation)**

No occupation shall commence until a phasing plan showing the timetable of construction of the network of cycleway and footpath connections across the site shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be constructed in accordance with the approved details and retained in perpetuity.

Reason: To ensure that suitable access for cyclists and pedestrians is provided and thereafter retained in the interests of amenity and highway safety in accordance with Policies DP9 and DP10 of the Mendip District Local Plan Part 1: Strategy & Policies 2006- 2029 (Adopted 2014) and Policy FR3a of the Mendip District Plan Part 2.

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

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

Reason: To avoid harm to bats and wildlife in accordance with DP5 and DP6 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

16. **Sustainability Statement (Pre-commencement)**

No development shall take place until a Sustainability Statement has been submitted and approved by the Local Planning Authority confirming mechanisms and provision that will reduce omission levels arising from the development during the construction process and when it is occupied. The development will thereafter be carried out in accordance with the approved details, unless otherwise agreed in writing with the Local Planning Authority.

Reason: To ensure the development meets the Council's climate change objectives in accordance with policy DP7 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014). This is a condition precedent because it is necessary to understand the scheme in detail prior to any initial construction works.

17. **Highways Drainage (Pre-commencement)**

No work shall commence on the development site until an appropriate right of discharge for surface water has been obtained before being submitted to and approved in writing by the Local Planning Authority. A drainage scheme for the site



showing details of gullies, connections, soakaways and means of attenuation on site shall be submitted to and approved in writing by the Local Planning Authority. The drainage works shall be carried out in accordance with the approved details, unless otherwise agreed in writing with the Local Planning Authority.

Reason: To ensure sufficient drainage on the highway in accordance with Policy DP9 and DP23 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014). This is a condition precedent because it is necessary to understand the drainage scheme in detail prior to any initial construction works.

**18. Replacement Ecological Habitat (Pre-commencement)**

No work shall commence on the development site until a habitat enhancement area for bats has been provided on site which is at least 0.93ha. The replacement habitat shall be of long sward meadow, scrub and woodland, which is accessible to Greater and Lesser Horseshoe bats. The layout of and a planting schedule for the habitat creation / enhancement of this open space will be submitted to and agreed with the local planning authority prior to work commencing on site. The approved habitat enhancement area will be retained in perpetuity.

Reason: In the interests of the integrity of a European site and in accordance with Policy DP5 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014). This is a condition precedent because it is necessary to understand the scheme in detail prior to any initial construction works to safeguard species.

**19. Landscape and Ecological Management Plan (LEMP) (Pre-commencement)**

No work shall commence on the development site until a Landscape and Ecological Management Plan (LEMP) has been submitted to and approved in writing by the local planning authority. The content of the LEMP shall include the following.

- a) Description and evaluation of features to be managed including the western corridor to be enhanced with further planting and a 10m dark buffer and with particular focus on the replacement Annex II bat habitat.
- b) Ecological trends and constraints on site that might influence management.
- c) Aims and objectives of management.
- d) Appropriate management options for achieving aims and objectives.
- e) Prescriptions for management actions.
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).
- g) Details of the body or organization responsible for implementation of the plan.
- h) On-going monitoring and remedial measures.
- i) Details to ensure the protection of the retained habitats in relation to pollution and dust.
- j) Dog waste management strategy.

The LEMP shall also include details of the legal and funding mechanism(s) by which

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

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

20. **CEMP: Biodiversity (Pre-commencement)**

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.
- b) Identification of "biodiversity protection zones".
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
- 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 and lines of communication.
- 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) Details of protective fencing measures.

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: A pre-commencement condition in the interests of European and UK protected species, biodiversity generally and in accordance with Policy DP5 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014). This is a condition precedent because it is necessary to understand the scheme in detail prior to any initial construction works to safeguard protected species.

21. **Retained or Replaced Bat Roost (Bespoke Trigger)**

The existing corrugated shed structure shall be maintained and/or replaced as a

night roost for Lesser Horseshoe bats. If replaced the design for a new night roost must be submitted to and approved in writing by the local planning authority, demonstrating licence agreement from Natural England as necessary, and constructed prior to the existing shed being demolished. The night roost shall be fenced off in such a way that it deters interference from members of the public.  
Reason: In the interests of the integrity of a European site and in accordance with Policy DP5 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014)

22. **Implementation of Ecological Recommendations (Compliance)**

No occupation of the development hereby approved shall commence until the recommendations of the Ecological Assessment received 04.06.2019 and updated Ecological Appraisal dated August 2023 have been implemented.

Reason: To ensure that the implementation and success of the Ecological Assessment and 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).

23. **Design, Green Infrastructure and Energy (Bespoke Trigger)**

Prior to the submission of a reserved matters application the following supporting information shall be submitted to and approved in writing by the Local Planning Authority:

i) Illustrated urban design and architectural principles, including block types and principles, parking, boundaries, public realm codes for character areas and architectural guidelines

ii) A strategy for the management and maintenance of all green infrastructure across the application site. The strategy document shall set out the management, maintenance, access and use arrangements and a deliver date identifying a trigger date for completion

iii) A low emissions/renewable energy strategy.

Reason: To ensure the development meets the Council's design, green infrastructure and climate change objectives in accordance with policies DP1, DP7 and DP16 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014) and the NPPF.

24. **Reserved Matters (Pre-commencement)**

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.

25. **Ecological Enhancement at Reserved Matters (Compliance)**

Details to be submitted for approval of reserved matter(s) shall include details of ecological enhancements and biodiversity net gain. The development shall thereafter be carried out in accordance with the approved details.

Reason: This is an outline permission and these matters require detailed consideration by the Local Planning Authority.

26. **Foul Drainage Nutrient Mitigation (Pre Commencement)**

No development shall commence until a detailed Sustainable Urban Drainage Scheme including maintenance plan has been submitted to and agreed in writing by the Local Planning Authority. The Sustainable Urban Drainage Scheme will accord with CIRIA 808 guidance and demonstrate the proposal will deliver a reduction in surface water phosphorus load to 2.94 kgP/year and accord with the Nutrient Neutrality Assessment and Mitigation Strategy dated August 2023 and Shadow Habitats Regulation Assessment dated 30 August 2023.

Reason: In order to ensure the provision of satisfactory drainage and avoid pollution of the environment with specific regard to the Somerset Levels and Moors Ramsar Site and associated potential impact on ecology. This is a condition precedent because it is necessary to understand the drainage scheme in detail prior to any initial construction works which may prejudice the foul drainage strategy in accordance with policies DP5, DP6, DP8 and DP23 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014) and part 15 of the NPPF.

27. **Water Usage (Compliance)**

No individual dwelling hereby approved shall be occupied until the optional requirement for potential consumption of wholesome water by persons occupying that dwelling in Part G of Schedule 1 and Regulation 36 of the Building Regulations 2010 of 110 litres per person per day has been complied with.

Reason: To improve the sustainability of the dwellings in accordance with the policies DP5, DP6, DP8 and DP23 the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014) and part 15 the National Planning Policy Framework.

28. **Phosphate Credits (Pre Commencement)**

The development hereby permitted shall not be commenced until an Allocation Certificate has been submitted to and approved in writing by the Local Planning Authority which addresses the additional nutrient input arising from the development within the fluvial catchment area upstream of the Somerset Levels and Moors Ramsar site and on the same hydrological pathway.

The Allocation Certificate shall be a written certificate issued by the phosphate

credit provider confirming the allocation of the full phosphate credit requirement generated by the development (14kg total phosphorous), thereby mitigating the additional nutrient load imposed on the Somerset Levels and Moors Ramsar site by the development when fully occupied enabling the local planning authority to conclude on the basis of the best available scientific evidence that such additional nutrient loading will not have an adverse effect on the integrity of the protected site, having regard to the conservation objectives for the site.

Reason: To ensure that the proposed development is phosphate neutral in perpetuity in accordance with policies DP5, DP6, DP8 and DP23 the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014) as well as part 15 of the National Planning Policy Framework.

#### 29. **AMP7 Improvements (Pre Occupation)**

The development hereby approved shall not be occupied until written evidence that the Asset Management Plan 7 (AMP7) planned upgrades to the Wells Waste Water Treatment Works by Wessex Water to provide additional treatment capacity and improvement to nutrient capture have been completed and that the increase in phosphorus arising from occupation of the development will accordingly be no more than the permit licence of 1 mgP/l total phosphorous.

Reason: To ensure that the proposed development is phosphate neutral in perpetuity in accordance with policies DP5, DP6, DP8 and DP23 the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014) as well as part 15 of the National Planning Policy Framework.

## **Informatives**

### 1. **Condition Categories**

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

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

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

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

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

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

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

Where approval of further information is required you will need to submit a conditions application and pay the relevant fee, 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. In order to discharge conditions relating to the approval of external walling and roofing materials, please ensure that materials are left on site for approval and NOT brought to the Council Offices. When applying for the approval of materials, you must state precisely where on site any samples have been made available for viewing.
4. The responsibility for ensuring compliance with the terms of this approval rests with the person(s) responsible for carrying out the development. The Local Planning Authority uses various means to monitor implementation to ensure that the scheme is built or carried out in strict accordance with the terms of the permission. Failure to adhere to the approved details will render the development unauthorised and vulnerable to enforcement action.
5. 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.

6. This permission is accompanied by an agreement under Section 106 of the Town and Country Planning Act 1990.
7. Please note that your proposed work may also require Building Regulations approval, which is a separate consent process to the consideration of a planning application. The Council's Building Control team are available to provide Building Regulations advice from pre-application stage to completion of a development and can be contacted on 0300 303 7790. Further details can also be found on their website <https://buildingcontrol.somerset.gov.uk/>
8. Development, insofar as it affects the rights of way should not be started, and the rights of way should be kept open for public use until the necessary Order (temporary closure/stopping up/diversion) or other authorisation has come into effect/ been granted. Failure to comply with this request may result in the developer being prosecuted if the path is built on or otherwise interfered with.
9. The applicant will be required to enter into a suitable legal agreement with the Highway Authority to secure the construction of the highway works necessary as part of this development. Please ensure that an advisory note is attached requesting that the developer contact the Highway Authority to progress this agreement well in advance of commencement of development.
10. **Nutrient Credits**  
If development is commenced without supplying the Local Planning Authority with an Allocation Certificate in respect of phosphate credits, then the implementation of planning permission may be rendered unlawful. This requirement is considered to go to the heart of the permission and therefore the developer must obtain formal discharge of the condition prior to commencing any works on site.

Planning Board

DATE: 22nd January 2020

NOTES:

1. Items may be taken out of order and therefore we are unable to advise the time at which an item will be considered.
2. Applications can be determined in any manner notwithstanding the recommendation being made
3. Councillors who have a query about anything on the agenda are requested to inspect the file and talk to the case officer prior to the meeting.
4. Any members of the public wishing to make late additional representations should do so in writing or contact their Ward Councillors prior to the meeting. Please give a day's notice if you wish to inspect a file if this is possible.
5. Letters of representation referred to in these reports together with any other background papers may be inspected at any time prior to the Meeting and these papers will be available at the Meeting.
6. For the purposes of the Local Government (Access to Information) Act 1985, unless otherwise stated against a particular report , 'background papers' in accordance with section 100D will always include the case officer's written report and any letters or memoranda of representation received.



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Planning Board - 22nd January 2020

Item	Page	Application Number	Ward/Site	Case Officer
DM01	4	2019/1381/OTS	Land Off Elm Close, Wells, Somerset,  <b>Wookey And St Cuthbert Out West</b>	Ms Nikki White

Agenda Item No.	DM01
Case Officer	Ms Nikki White
Site	Land Off Elm Close Wells Somerset
Application Number	2019/1381/OTS
Date Received	5th June 2019
Applicant/ Organisation	Gladman
Application Type	Outline - Some Matters Reserved
Proposal	Application for Outline Planning Permission with some matters reserved for erection of up to 100 dwellings with public open space with only details of access considered. (amended plans rec'd 10.12.2019).
Ward	Wookey And St Cuthbert Out West

Parish	St Cuthbert Out Parish Council
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**What3Words:**

Spellings.dozens.resonates

**Reasons for deferral:**

This report is an update report with reference to the reserved matters application considered by members at Development Management Board on 20 November 2019. Attached to this update report is the original report (Appendix A).

Members agreed to defer making a decision on the application to allow the applicant an opportunity to address the following issues:

1. Further consideration of photo-voltaic panel provision
2. Increased green space
3. An additional access
4. Traffic control/calming
5. Obligations towards community facilities
6. Obligations towards public transport

**Scope of changes proposed by applicant to seek to redress referral reasons:**

1. Further consideration of photo-voltaic panel provision

The applicant has agreed to the principal of the inclusion of an additional condition which would require the submission of a low emissions/renewable energy strategy prior to the reserved matters stage.

## 2. Increased green space

In addition to on site open space proposed, the applicant has now also agreed to contribute £81,852 towards local off site open space provision.

## 3. An additional access

Revised plans have been submitted showing an additional access point off Elm Close.

## 4. Traffic control/calming

When the application was considered by the Board in November 2019, the footpath was proposed to be widened to 3m from the proposed site access to Portway. This was to allow use by pedestrians and cyclists. Following a request from St Cuthbert Out Parish Council, revised plans have now been submitted showing a 3m wide shared footpath/cyclepath across the entire frontage of the site.

The applicant has also submitted revised plans showing a potential uncontrolled crossing to the west of the site. This shows a pedestrian and cycle crossing to the splitter island and across to Portway to the north.

## 5. Obligations towards community facilities

This has been considered but no changes are proposed (see below).

## 6. Obligations towards public transport

The applicant has offered £16,500 towards the local 67 bus route. This equates to the £3,300 cost St Cuthbert Out Parish Council pays per year, for a 5 year period.

## **Summary of consultation responses:**

Some comments are summarised below for brevity.

St Cuthbert Out Parish Council:

Comments expected 9<sup>th</sup> January 2020 and will be added to the Board Update Report.

Wells City Council: Objection

Recommend refusal on the grounds that 6 months deferral, which was put in place at MDC Board meeting on 20<sup>th</sup> November 2019, should be honoured. Also, a vehicle survey needs to be carried out before access points are considered.

Wookey Parish Council: Objection

- Part 2 Local Plan is at examination stage but it should still carry some significant weight in determining applications. However there are items relating to this particular site, like release dates and odour issues, that are yet to be officially adopted
- Recent changes to the Local Plan clearly state that "Given the level of significant short time supply and its focus in one location on the edge of the City, early development of this site is not considered necessary in the short term. The site is therefore identified for release after 2024-5"
- There is currently a very good supply of housing and if more suitable sites are made available over the coming 5 years then this site may not need to be developed and therefore another field saved.
- There are brownfield sites that should be developed before we approve this site and start to use green fields for housing. Most importantly the Tincknells site in Wells town centre.
- This is a sensitive open countryside area to consider for development as Part 2 Local Plan clearly states 'Previous landscape studies have highlighted the ridgeline as a feature in the wider setting of Wells and the contribution of this general location as a backdrop to Wells.'
- Granting permission now will further add to the shortage of primary school places. According to the LEA, SCC, 100 houses here will require a further 20 school places.

Local schools are either at, or over, capacity and our own primary school has recently had a temporary classroom permission further extended.

- Mendips Draft Infrastructure Plan highlights that 'developer contributions' and Community Infrastructure Levy (C.I.L) have been identified by SCC and MDC as the way to fund new schools. This council has yet to adopt C.I.L even though it forms a major part of funding sources for its Draft Infrastructure Plan!!!
- All other Somerset LPA's (Sedgemoor, South Somerset, Taunton & W Somerset and Bath & NE Somerset) have C.I.L in place and operational therefore providing funding towards infrastructure.
- This application appears to have been brought forward ahead of its Part 2 release date status mainly because it is a very cheap site with green field development and no C.I.L commitments payable at this time unlike other LPA's. Therefore approving this application at this point in time in no way benefits our community.
- Using an average of rates set by surrounding local authorities, and an average house square meterage for Wells developments, this application could bring forward £475,000 in C.I.L towards building a school that there is currently no money available for.
- In fact had MDC adopted C.I.L at the appropriate time in the planning process then the houses already built and under construction on the land west of Wells and south of Wookey Hole Road could already have contributed £2.4 million towards our infrastructure including the new school. An opportunity lost.
- This application does not need to be decided or developed now. Doing so would add further strain on local infrastructure. It would be more appropriate for this site to be considered as a full application later in the plan period.
- This administration of MDC could by then have responsibly adopted the Community Infrastructure Levy (C.I.L) and fair proportional contributions could then be sought to address any new infrastructure issues that development brings.

Highway Authority: Traffic Counts - The HA can confirm that the application documents have been reviewed as set out in the HA response dated 31<sup>st</sup> July 2019.

Education:

Revised plans do not change previous Education comments.

Wessex Water:

No further comments.

Natural England:

The advice provided in our previous response applies equally to this amendment.

Neighbour objections: 11 neighbour objections have been received, as summarised below:

- Principle – Local Plan II is not adopted; greenfield site; inadequate infrastructure to support; not sustainable development; not enough local employment opportunities; no policy basis; no need for the development; this site should not come forward until 2024/25.
- Process – not enough time to comment; developer did not wait 6 months; Wells City Council was not consulted; could not find previous reports on website; LPA should confirm Gladman’s account of consultation is correct
- Highways – highway safety concerns; access from Burcott Lane would be dangerous; increased traffic movements; inadequate parking; 2 access points will make it more dangerous; highway capacity concerns; updated traffic count is required; upgraded access from Burcott Lane should be considered
- Ecology – harm to bats; ecological value of gardens will depend on occupants; loss of hedgerow
- Drainage – concerns re storm water management
- Landscape – harm to views
- Amenity – harmful for neighbours re sense of place
- Other - revisions do not address issues raised at Board; application does not address previous refusals; harm to public right of way; site backs on to a cemetery; overdevelopment; harm to air quality; additional anti-social behaviour; smaller houses may become investment buy to lets; supporting documents are not independent; errors/typos in submission by applicant; light pollution; insufficient community facilities to support the local community, for all ages; inadequate consideration of carbon reduction.

**Officer assessment following revisions:**

1. Further consideration of photo-voltaic panel provision

This application is submitted in outline, therefore the provision of photo-voltaic panels would usually be considered alongside a subsequent reserved matters application.

An additional condition is recommended which would require the applicant to submit a low emissions/renewable energy strategy. The applicants have agreed to the principle of this approach.

This would be in accordance with Local Plan Policy DP7 and is considered acceptable at this outline stage.

## 2. Increased green space

Whilst the original application includes capacity for on-site public open space, Members concluded that further provision should be provided.

Paragraph 92 of the National Planning Policy Framework (NPPF) supports the provision of open space and recreation areas:

*92. Access to a network of high quality open spaces and opportunities for sport and physical activity is important for the health and well-being of communities. Planning policies should be based on robust and up-to-date assessments of the need for open space, sport and recreation facilities (including quantitative or qualitative deficits or surpluses) and opportunities for new provision. Information gained from the assessments should be used to determine what open space, sport and recreational provision is needed, which plans should then seek to accommodate.*

The standard formula for Mendip for off-site contributions is £1,364.20 per dwelling proposed. This excludes any affordable housing units or sheltered housing units. Open space contributions are not sought for affordable housing units within this formula as affordable housing is a contribution in itself. This accords with Policy DP16, where it is considered that off-site contributions should be secured.

The application includes 40 affordable units and 60 private units. The applicant has agreed to pay a contribution of £81,852, which equates to the full £1,364.20 for each of the 60 private units proposed.

### 3. An additional access

Revised plans show an additional access point off Elm Close. This has been reviewed by the Highways Engineer at Somerset County Council (SCC) who has not objected.

Although this element of the scheme was not required to comply with highway safety requirements, it is considered to benefit the scheme in terms of traffic calming as passing vehicles would be required to pass 2 access points and slow accordingly. Furthermore, the additional access point is likely to enhance the scheme in an emergency situation; and from a design point of view.

### 4. Traffic control/calming

As well as the benefits from 2 access points as outlined in section 3 above, revised plans have been submitted showing a 3m shared pedestrian and cycle way along the full frontage of the site, which would enhance sustainable travel options and connectivity to the west and east.

When the application was considered in November 2019, it included a £20,000 contribution towards an uncontrolled crossing to the north west of the site, as planned by the Strawberry Line.

The revised plans now label a 'potential uncontrolled crossing over A371 and Elm Close'. This crossing is currently subject to a feasibility audit by engineers at SCC, who are considering a zebra crossing or an uncontrolled crossing. If a zebra crossing is confirmed to meet safety and traffic flow requirements then the applicant has agreed to implement this as a further enhancement to the local environment. If a zebra crossing is not deliverable, an uncontrolled crossing would be considered, and the applicant has agreed to implement it if this is supported by the Highway Authority. If a crossing point is



deliverable then this would enhance the local area in terms of connectivity and traffic calming.

As the deliverability of this crossing point has not been confirmed at this stage, officers recommend delegated authority from the Planning Board to issue a decision (with associated legal agreement) subject to the outcome of the feasibility audit.

There is a further uncontrolled crossing being considered as part of the Persimmon/Taylor Wimpey scheme to the north of Portway. If this comes forward it would be an additional crossing.

## 5. Obligations towards community facilities

St Cuthbert Parish Council has stated the 1ha area of the site safeguarded for a future extension to the adjacent cemetery is not necessary. St Cuthbert Parish Council has requested this part of the site is instead safeguarded for a community facility, such as a village hall.

This nonetheless remains a key part of emerging Local Plan Part II Policy WL5, which has been examined and is considered to have significant weight. Officers have discussed this issue with the Legal team to understand if the use of this part of the site could be revised from a cemetery extension to a community hall.

The justification for the cemetery extension was considered at the Local Plan Part II Examination. In February 2018, in response to the pre-submission Local Plan Part II, Wells City Council submitted the following representation:

*“Wells City Council is in support of this policy in principle but there should be clearer definition from the start:*

- i. Any development approval will automatically include a condition that an area will be provided for an extension to the Wells City Cemetery. This extension portion will be of a size at least equivalent to the Cemetery extension field opened in 2016, and*

*adjoining at least half of the common boundary with that field. The lower part of the slope is liable to surface flooding and is therefore not suitable for burial land. The ridgeline would be suitable for burial land, whereas building development there could have adverse impact on the visual landscape.”*

This was accepted as a change to Policy WL5 with additional explanatory text being added as follows:

*“The site should provide around 1Ha of land to enable an extension to the Wells Cemetery. This should adjoin the existing site and be located on the ridgeline. The lower parts of the allocated site are not suitable”*

The wording of Policy WL5 itself includes the following requirement:

*“2. The potential and need to include land for an extension to the cemetery in any scheme should be assessed in masterplanning the development.”*

St. Cuthbert Out PC did not raise the question of the need for the cemetery extension, nor the suggestion that the land could be used for a community use. The Council has not considered whether such alternative uses would be suitable on the safeguarded area.

The Local Plan Part II Inspector’s Interim Note sought a situation update on consultation with the relevant regulatory authorities in relation to odour impact at WL5, but made no other comment regarding the allocation. The expectation is that the current wording regarding the cemetery extension will be retained in the adopted Part II plan.

Given that the need for a cemetery extension which explicitly included this requirement in Policy WL5, it is not possible to agree to a different use without convincing evidence to the contrary.

However, if the requirement for a cemetery extension does not come forward within the plan period, then the need to retain this land could be assessed again in a future plan review.

It is therefore concluded, following advice from the legal team, that it is not possible to change the use of the 1ha of the site which should remain safeguarded for a cemetery extension.

If this planning application is approved, whilst the S106 Legal Agreement is being completed officers would continue to explore options for an alternative community use.

## 6. Obligations towards public transport

The 67 bus route connects the villages of Wedmore, Theale, Henton, Bleadney, Wookey, Wookey Hole and others along the B3139 into the City of Wells. The service is provided on behalf of Somerset County Council and is supported by local Parish Councils.

St Cuthbert Out Parish Council contributes £3,300 per year towards this service. The applicant has agreed to pay this contribution for 5 years, resulting in a total additional contribution of £16,500.

The 67 bus route would be available for the occupants of the proposed development, to connect them to the surrounding area. This contribution is considered to accord with Regulation 122 of the The Community Infrastructure Levy Regulations 2010.

Paragraph 103 of the NPPF supports the provision of sustainable transport options:

*103. The planning system should actively manage patterns of growth in support of these objectives. Significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. This can help to reduce congestion and emissions, and improve air quality and public health. However, opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making.*

## Other Matters:

Members also discussed the need for high quality design at the site, which is a gateway into Wells. Whilst this issue can be fully considered at reserved matters stage, it is important for Members to know design will be fully considered. The additional condition recommended for the submission of a low emissions/renewable energy strategy as discussed above, would also require the submission of illustrated urban design and architectural principles for agreement prior to the formal submission of any reserved matters application. This also includes the requirement for a green infrastructure strategy to be agreed. This is considered a robust mechanism to maximise potential for high quality design.

Wookey Parish Council has expressed concerns that the Council is not operating a Community Infrastructure Levy. This is not relevant to the determination of this planning application.

Wells City Council has stated that the local roads should be subject to a traffic count / highway capacity assessment. This has formed part of the submission process by the applicant, and has been assessed by the Highway Engineer at SCC to inform the planning application consideration. The application remains acceptable in highway safety and highway capacity terms, as confirmed by the Highway Engineer at SCC.

In terms of timescale, although the Planning Board deferred this application for 6 months so that additional information could be submitted, the applicant is seeking a decision on the application as soon as possible. The application is now more than 6 months old, therefore the applicant does have the right to lodge an appeal against non-determination if the LPA is not able to make a decision.

The applicant has submitted revised changes since the November planning Board meeting. These changes have been subject to a 14 day consultation period, which is in accordance with legislation. The LPA has met its statutory obligations in terms of publication and consultation. Where additional time has been requested this has been agreed where possible.

All other relevant planning issues raised as part of the consultation have been addressed as part of the previous officer report (Appendix A).

### **Conclusion:**

The applicant has submitted a number of alterations to address concerns raised by Members in November. These changes are concluded to enhance the scheme including in terms of highways and contributions.

As per the report presented to the Board in November 2019, the officer recommendation remains to approve the application subject to the recommended conditions as set out below which have been update since the November report (Appendix A).

### **Recommendation:**

Delegate to permit subject to completion of a section 106 agreement and following the completion of advertising the application scheme as a departure from the development plan.

### **Reason/s for Recommendation**

1. The proposed scheme which has been submitted as an outline application with all matters reserved except access is considered acceptable in relation to character and appearance; amenity; landscape; highway safety and parking; ecology; drainage; trees; and environmental protection. Furthermore the application scheme has been tested against the following Development Plan policies, and subject to conditions the proposal is acceptable:-
  - DP1 - Local Identity and Distinctiveness
  - DP2 - Open Areas of Local Significance
  - DP3 - Heritage Conservation
  - DP4 - Mendip's Landscapes
  - DP5 - Biodiversity and Ecological Networks
  - DP6 - Bat Protection

- DP7 - Design and Amenity of New Development
- DP8 - Environmental Protection
- DP9 - Transport Impact of New Development
- DP10 - Parking Standards
- DP11 - Affordable Housing
- DP14 - Housing Mix and Type
- DP16 -Open Space and Green Infrastructure
- DP19 - Development Contributions
- DP23 - Managing Flood Risk

Finally given the proposals respond positively to the emerging policy allocation as set out at Policy WL5 (Local Plan Part II including proposed changes), the weight in the application assessment given to this policy has been reflected accordingly. On this basis the application scheme is considered in accordance with the Emerging Policy:

Pre-submission Local Plan Part II (including proposed changes) and the National Planning Policy Framework.

## **Conditions**

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

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

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

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

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

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

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

This decision relates to the following drawings/documents:

Received 04 Jun 2019:

5730-L-03 - Location Plan

AIR QUALITY ASSESSMENT

ECOLOGICAL APPRAISAL

FLOOD RISK ASSESSMENT

FOUL SEWAGE

LANDSCAPE AND VISUAL IMPACT APPRAISAL

NOISE IMPACT ASSESSMENT

PLANNING STATEMENT

SOCIO-ECONOMIC SUSTAINABILITY

SOILS AND AGRICULTURAL QUALITY REPORT

TRANSPORT ASSESSMENT

TRAVEL PLAN

TREE SURVEY

DESIGN AND ACCESS STATEMENT

STATEMENT OF COMMUNITY INVOLVEMENT -

Received 06 Aug 2019:

ODOUR REPORT

Received 10.12.2019:

P18123-222 - POTENTIAL CROSSING SCHEME

5730-L-02-V - DEVELOPMENT FRAMEWORK

P18123-102 - UPDATED ACCESS PLAN

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

**4. Tree Protection Plan (Pre-commencement)**

No development shall take place until an annotated tree protection plan following the recommendations contained within BS 5837:2012 identifying measures (fencing and/or ground protection measures) to protect the trees to be retained has been submitted to and approved in writing by the Local Planning Authority. The plan shall include proposed tree protection measures during site preparation (including clearance and level changes), during construction and landscaping operations. The plan should include the design of fencing proposed and take into account the control of potentially harmful operations such as the position of service runs, storage, handling and mixing of materials on site, burning, and movement of people and machinery.

Reason: To ensure that the trees are protected from potentially damaging activities in accordance with Policy DP1 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014). This is a condition precedent because the works comprising the development have the potential to harm retained trees. Therefore these details need to be agreed before work commences.

**5. Construction Management Plan (Pre-commencement)**

No development shall take place until a Construction Method Statement 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.



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.

#### **6. Hard and Soft Landscaping (Pre-occupation)**

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

- (a) size, species and positions for new trees and plants,
- (b) boundary treatments,
- (c) surfacing materials (including roadways, drives, patios and paths) and
- (d) any retained planting / hedgerows.
- (e) a detailed programme of phasing and implementation

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

Reason: To ensure the provision of an appropriate landscape setting to the development in accordance with Policy DP1, DP3, DP4 and DP7 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

#### **7. 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).

**8. Provision and Storage of Recycling and Waste Containers (Pre-occupation)**

The development hereby approved shall not be occupied until provision for the storage of recycling and waste containers has been made within the site in accordance with details that have first been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of the character and appearance of the area, residential amenity and highway safety having regards to Policies DP3, DP7 and DP9 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

**9. Surface Water Drainage (Pre-commencement)**

No development shall be commenced until details of the surface water drainage scheme based on sustainable drainage principles together with a programme of implementation and maintenance for the lifetime of the development have been submitted to and approved in writing by the Local Planning Authority. The drainage strategy shall ensure that surface water runoff post development is attenuated on site and discharged at a rate and volume no greater than greenfield runoff rates and volumes. Such works shall be carried out in accordance with the approved details.

These details shall include: -

- Details of phasing (where appropriate) and information of maintenance of drainage systems during construction of this and any other subsequent phases.
- Information about the design storm period and intensity, discharge rates and volumes (both pre and post development), temporary storage facilities, means of access for maintenance (6 metres minimum), the methods employed to delay and control surface water discharged from the site, and the measures taken to prevent flooding and pollution of the receiving groundwater and/or surface waters.
- Any works required off site to ensure adequate discharge of surface water without causing flooding or pollution (which should include refurbishment of existing culverts and headwalls or removal of unused culverts where relevant).

- Flood water exceedance routes both on and off site, note, no part of the site must be allowed to flood during any storm up to and including the 1 in 30 event, flooding during storm events in excess of this including the 1 in 100yr (plus 40% allowance for climate change) must be controlled within the designed exceedance routes demonstrated to prevent flooding or damage to properties.
- A management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by an appropriate public body or statutory undertaker, management company or maintenance by a Residents' Management Company and / or any other arrangements to secure the operation and maintenance to an approved standard and working condition throughout the lifetime of the development

Reason: To ensure that the development is served by a satisfactory system of surface water drainage and that the approved system is retained, managed and maintained throughout the lifetime of the development, in accordance with National Planning Policy Framework (Feb 2019) and the Technical Guidance to the National Planning Policy Framework. This is a condition precedent because it is necessary to understand the drainage scheme in detail prior to any initial construction works which may prejudice the foul drainage strategy.

#### 10. **Access (Compliance)**

The vehicular access hereby approved shall not be brought into use until it has been constructed in accordance with details including a 3m footway/cycleway along Elm Close, as shown on Proposed Site Access Layout Dwg No: P18123-102 received on 10.12.2019. The vehicular access and pathways shall thereafter be permanently retained in accordance with the approved plans.

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

#### 11. **Public Right of Way (Bespoke Trigger)**

No development hereby approved which shall interfere with or compromise the use of footpath WS 10/55A or WS 10/63 shall take place until a path diversion order has been made and confirmed, and the diverted route made available to the satisfaction of the Local Planning Authority.

Reason: To ensure the public right of way is not compromised.

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

The proposed estate roads, footways, footpaths, cycleways, bus stops/bus lay-bys, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, drive gradients, car, motorcycle and cycle parking, street furniture and tactile paving shall be constructed, laid out and maintained in accordance with details to be approved by the Local Planning Authority in writing before the construction of any aspect of the new section of the highway begins. For this purpose, plans and sections, indicating as appropriate, the design, layout, levels, gradients, materials, method of construction and proposals for future maintenance shall be submitted to the Local Planning Authority.

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

13. **Parking Area (Bespoke Trigger)**

No construction above slab level shall commence until plans showing a parking area and turning areas (providing for parking spaces for each of the dwellings in accordance with SCC parking strategy), including full details of the surfacing materials, has been submitted to and approved in writing by the Local Planning Authority. No occupation of any individual dwelling shall commence until the parking area for that dwelling has been constructed in accordance with the approved details and shall not thereafter be used other than for the parking of vehicles in connection with the development hereby permitted.

Reason: To ensure that adequate and safe parking 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).

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

No occupation of the development shall commence until the visibility splays shown on drawing number P18123-102 dated 10.12.2019 has been provided. There shall be no on-site obstruction exceeding 300 millimetres above adjoining road level in advance of lines drawn 2.4m metres back from the carriageway edge on the centre

line of the access and extending to points on the nearside carriageway edge 120m either side of the access. 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).

**15. Cycle and Footpath Connections (Pre-occupation)**

No occupation of the development shall commence until a network of cycleway and footpath connections has been constructed within the development site in accordance with a scheme submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of sustainable development and highways safety in accordance with Policy DP9 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

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

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

Reason: To avoid harm to bats and wildlife in accordance with DP5 and DP6 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

**17. Sustainability Statement (Pre-commencement)**

No development shall take place until a Sustainability Statement has been submitted and approved by the Local Planning Authority confirming mechanisms and provision that will reduce omission levels arising from the development during the construction process and when it is occupied. The development will thereafter be carried out in accordance with the approved details, unless otherwise agreed in writing with the Local Planning Authority.

Reason: To ensure the development meets the Council's climate change objectives in accordance with policy DP7 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014). This is a condition precedent because it is necessary to understand the scheme in detail prior to any initial construction works.

**18. Highways Drainage (Pre-commencement)**

No work shall commence on the development site until an appropriate right of discharge for surface water has been obtained before being submitted to and approved in writing by the Local Planning Authority. A drainage scheme for the site showing details of gullies, connections, soakaways and means of attenuation on site shall be submitted to and approved in writing by the Local Planning Authority. The drainage works shall be carried out in accordance with the approved details, unless otherwise agreed in writing with the Local Planning Authority.

Reason: To ensure sufficient drainage on the highway in accordance with Policy DP9 and DP23 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014). This is a condition precedent because it is necessary to understand the drainage scheme in detail prior to any initial construction works.

**19. Replacement Ecological Habitat (Pre-commencement)**

No work shall commence on the development site until a habitat enhancement area for bats has been provided on site which is at least 0.93ha. The replacement habitat shall be of long sward meadow, scrub and woodland, which is accessible to Greater and Lesser Horseshoe bats. The layout of and a planting schedule for the habitat creation / enhancement of this open space will be submitted to and agreed with the local planning authority prior to work commencing on site. The approved habitat enhancement area will be retained in perpetuity.

Reason: In the interests of the integrity of a European site and in accordance with Policy DP5 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014). This is a condition precedent because it is necessary to understand the scheme in detail prior to any initial construction works to safeguard species.

**20. Landscape and Ecological Management Plan (LEMP) (Pre-commencement)**

No work shall commence on the development site until a Landscape and Ecological Management Plan (LEMP) has been submitted to and approved in writing by the local planning authority. The content of the LEMP shall include the following.

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

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

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

21. Construction Environmental Management Plan: Biodiversity (Pre-commencement)

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.
- b) Identification of "biodiversity protection zones".

- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
- 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 and lines of communication.
- 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.

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: A pre-commencement condition in the interests of European and UK protected species, biodiversity generally and in accordance with Policy DP5 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014). This is a condition precedent because it is necessary to understand the scheme in detail prior to any initial construction works to safeguard protected species.

## 22. **Retained or Replaced Bat Roost (Bespoke Trigger)**

The existing corrugated shed structure shall be maintained and/or replaced as a night roost for Lesser Horseshoe bats. If replaced the design for a new night roost must be submitted to and approved in writing by the local planning authority and constructed prior to the existing shed being demolished. The night roost shall be fenced off in such a way that it deters interference from members of the public.

Reason: In the interests of the integrity of a European site and in accordance with Policy DP5 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014)

## 23. **Implementation of Ecological Recommendations (Compliance)**



No occupation of the development hereby approved shall commence until the recommendations of the Ecological Assessment received 04.06.2019 have been implemented.

Reason: To ensure that the implementation and success of the Ecological Assessment and 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).

#### 24. **Design, Green Infrastructure and Energy (Bespoke Trigger)**

Prior to the submission of a reserved matters application the following supporting information shall be submitted to and approved in writing by the Local Planning Authority:

- i) Illustrated urban design and architectural principles, including block types and principles, parking, boundaries, public realm codes for character areas and architectural guidelines
- ii) A strategy for the management and maintenance of all green infrastructure across the application site. The strategy document shall set out the management, maintenance, access and use arrangements and a deliver date identifying a trigger date for completion
- iii) A low emissions/renewable energy strategy.

Reason: To ensure the development meets the Council's design, green infrastructure and climate change objectives in accordance with policies DP1, DP7 and DP16 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014) and chapters 8,12 and 14.

### **List of Advices**

#### 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 £116 per request (or £34 where it relates to a householder application) and made payable to Mendip District Council. The request must be made in writing or using the Standard Application form (available on the council's website [www.mendip.gov.uk](http://www.mendip.gov.uk) ). For clarification, the fee relates to each request for the discharge of condition/s and not to each condition itself. There is a no fee for the discharge of conditions on a Listed Building Consent, Conservation Area Consent or Advertisement Consent although if the request concerns condition/s relating to both a planning permission and Listed Building Consent then a fee will be required.

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

3. In order to discharge conditions relating to the approval of external walling and roofing materials, please ensure that materials are left on site for approval and NOT brought to the Council Offices. When applying for the approval of materials, you must state precisely where on site any samples have been made available for viewing.
4. The responsibility for ensuring compliance with the terms of this approval rests with the person(s) responsible for carrying out the development. The Local Planning Authority uses various means to monitor implementation to ensure that the scheme is built or carried out in strict accordance with the terms of the permission. Failure to adhere to the approved details will render the development unauthorised and vulnerable to enforcement action.
5. 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.
6. This permission is accompanied by an agreement under Section 106 of the Town and Country Planning Act 1990.
7. Please note that your proposed work may also require Building Regulations approval, which is a separate consent process to the consideration of a planning application. The Council's Building Control team are available to provide Building Regulations advice from pre-application stage to completion of a development and can be contacted on 0300 303 7790. Further details can also be found on their website <http://www.sedgemoor.gov.uk/SomersetBCP/>
8. Development, insofar as it affects the rights of way should not be started, and the rights of way should be kept open for public use until the necessary Order (temporary closure/stopping up/diversion) or other authorisation has come into effect/ been granted. Failure to comply with this request may result in the developer being prosecuted if the path is built on or otherwise interfered with.

9. The applicant will be required to enter into a suitable legal agreement with the Highway Authority to secure the construction of the highway works necessary as part of this development. Please ensure that an advisory note is attached requesting that the developer contact the Highway Authority to progress this agreement well in advance of commencement of development.

## **APPENDIX A – Planning Board Report – 20 November 2019**

### **What3words:**

Spellings.dozens.resonates

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

This application is referred the Development Management Board at the request of officers.

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

The application relates to land at Elm Close in Wells. The application site consists of 3 agricultural fields south of Elm Close and north of Burcott Lane on the western edge of Wells.

The application seeks outline planning permission for residential development of up to 100 units and public open space. Details of access are submitted for consideration. Details of appearance, landscaping, layout and scale are proposed to be considered at a later stage under a reserved matters application.

The application site is within the SSSI Impact Risk Zone; the sewerage treatment buffer; the drainage board consultation area; radon information zone; and 2 public rights of way (PROW) are within the site.

The site has been put forward as a housing allocation for up to 100 dwellings in the emerging Local Plan Part II.

### **Relevant History:**

- 2014/0437/OTS - Outline application (all matters reserved except access) for residential development (up to 145 dwellings), access, parking, landscaping, public open space and associated infrastructure. – Refused - 25.06.2014 – appeal withdrawn
- 2015/1428/OTS - Residential development (of up to 145 units), access, parking, landscaping, public open space and associated infrastructure – Refused - 17.09.2015

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

Ward Member: Cllr Taylor-Hood: Call to Planning Board

- Parish Council has recommended refusal on the application.
- There are widespread concerns and objections from residents with regards to the application.
- Broadly speaking, most of the local residents have objected due to concerns about the impact the development could have on an already dangerous road (B3139), as well as on the natural environment/ biodiversity and appearance within the surrounding area.
- Refer to planning Board if recommended for approval. Delegated decision is acceptable if the application is recommended for refusal.

St Cuthbert (Out) Parish Council: Objection

- Does not comply with the Local Plan

- Premature in policy
- Drainage concerns
- No plans
- Reasons for refusal of planning application 2015/1428/OTS are still valid.
- Should be consulted in detail on S106.

#### Wells City Council: Objection

- Highway access
- Landscape harm

#### Wookey Parish Council: Objection

- Premature in policy, housing need and infrastructure
- Policy refers to future growth potential
- Good supply of housing is available and more sites may be available over the coming 5 years.
- Contrary to CP1 of Local Plan Part I.
- Landscape harm - setting of Wells, views of the Special Landscape Feature at Ben Knowle Hill.
- Insufficient infrastructure support

#### Lead Local Flood Authority: No objection subject to condition

- Detailed design should include high quality surface SUDS features as part of a management plan, and set aside suitable space within the whole development for these features. These should not be lost at detailed design stage.
- There are great opportunities here to reduce the piped network, utilising more swales. The applicant suggests these are not appropriate due to the slope, but such features can be designed to incorporate check dams/controls which potentially allow them to be used on such sites. Smaller features such as raingardens and tree pits offer treatment for example. We welcome the use of rainwater harvesting and re-use, and permeable surfacing.
- Providing the IDB position is not compromised by the current proposals, we request a standard pre-commencement sustainable drainage condition based as a minimum on the principles and features within the outline FRA and drainage scheme.

## Somerset Drainage Boards Consortium: No objection subject to condition

- Drainage pre start condition required.
- Detailed design must ensure high quality SUDS scheme in addition to other elements such as open space and landscaping.

## Highways Authority: No objections subject to conditions

- Elm Close is a classified un-numbered road (B3139) that is subject to a 40mph speed restriction along the sites frontage.
- Recorded PIC's (Personal Injury Incidents) for the last five years there have been none within 500m of the proposed access however there are 2no recorded in 2014 at the Elm Close (B3139) / Portway junction (A371).
- Conditions recommended on footway and pedestrian dropped crossing point; access plan; parking standards; visibility splays; construction management plan; estates road; footpaths, parking and turning areas in place; and drainage scheme.
- S106 for travel plan required.

## Traffic Impact:

- The submitted Transport Assessment (TA), Prime Transport Planning, May2019 has been fully reviewed. The modelling review of the submitted TA found no major issues and is considered acceptable on balance.
- It can therefore be concluded that the traffic impact of the proposed development is not considered severe in traffic modelling terms and therefore there is no Highway Authority objection to the planning application due to traffic impact.

## Proposed Access Arrangement including footway widening along Elm Close:

- The proposed access would provide visibility splays of 120m in either direction which is acceptable.
- The footway along the site frontage is proposed to be widened, which should be 1.8m footway along the site frontage together with at least one dropped kerb pedestrian crossing facility to allow for pedestrian connectivity.
- The applicant should note that the access and off site highway works would be subject to a Highway Authority legal agreement.

## Travel Plan:

- The Travel Plan should be secured via S106 agreement.

#### Highways Drainage:

- Proposed surface water management strategy relates to both the existing public highway and the proposed estate roads serving the development. Acceptable subject to highway rights to discharge to watercourse being maintained; a gully is installed to channel run-off water; and detailed design safeguard maintenance access.

#### Internal Estate Road:

- Details submitted as part of a subsequent reserved matters application should meet highways authority standards for adoption.

#### Parking:

- Any future parking associated with the development should be in accordance with SCC parking strategy.

Officer Note: Confirmation of the speed limit on Elm Close is pending and Members will be updated in due course.

Wessex Water: No comments received to date

Environmental Protection: No objection

- Whilst it is noted that the site is situated near to the water recycling centre, no objection to the application on the grounds of odour or potential fly nuisance due to the distance from the water recycling centre; existing sensitive receptors are closer; modelling shows that odour isopleth is below 5 OU and 3OU; and there is a lack of history of fly or odour complaints.
- Recommend a condition requiring a construction management plan.

Ecology: No objection subject to conditions

- HRA submitted to Natural England



- Overall bird assemblage was typical of an edge of settlement farmland with the wooded features during the scoping bird survey. Three species were recorded as probably breeding including two of red conservation status. A low number of slow-worms were recorded on site. Mitigation methods to prevent harm to these species could be covered within a Construction Environmental Management Plan.
- Conditions recommended regarding replacement habitat; Landscape and Ecological Management Plan; lighting design for bats; retained or replacement bat roost; and provision for bee bricks and bird boxes.

#### Natural England: No objection subject to conditions

- The application site is located within Band C of the Bat Consultation Zone of the North Somerset and Mendip Bats Special Area of Conservation (SAC). The site lies within Band B of the maternity roost of Lesser Horseshoe bats at Glencott which is considered to support the SAC wintering population at Wookey Hole.
- Ecological surveys have been carried out between 2014 and 2019 (FPCR, Ecological Appraisal dated May 2019). In May 2019, all fields were managed for a hay/silage cut but they have previously been grazed. Ten separate hedgerows on the site were identified and surveyed. These vary in height and ecological significance but at least 3 are over 2m in height and also contain mature trees. Both Greater and Lesser Horseshoe bats were recorded using hedgelines on the site for commuting and foraging. There is not enough data from the submitted surveys to be able to conclude how significant the site is as a foraging resource for either Greater or Lesser Horseshoe bats (see Appropriate Assessment). There is a Lesser Horseshoe roost on the site in the form of a dilapidated shed with a corrugated roof, in the south east corner of the westernmost field.
- The proposed development would result in the loss of all three semi-improved grassland fields. While the hedgerows are proposed to be retained within the development, the effects of urbanisation, light spill and severance by roads are likely to mean that only hedges H5, H6, H7 and H8 will remain available for use by Horseshoe bats (the vast majority of insects ((over 90%)) found near hedge lines do not originate in the hedge but come from other habitats brought in on the wind, therefore loss of wider habitat significantly reduces the amount of insect prey close to the hedge where Horseshoe bats hunt).
- The development proposals include the retention of the Lesser Horseshoe bat roost on site and the creation of:
  - enhanced habitat corridors with buffers along boundaries on the west, south and east of the application site;
  - two SUDs ponds and green space along the southern boundary of the site, with creation of additional habitat foraging resources for the remaining common and widespread species of bat recorded and rough / species-rich grassland to be

managed / planted in suitable locations within the green space to encourage invertebrates;

- woodland planting within the open space in the south of the development providing a corridor along the southern edge of the development well-connected with the widened landscape corridor on the western boundary that will serve to enhance the existing double hedgerow to provide continued connectivity with the wider local environment.
- The Appropriate Assessment concludes that your authority is able to ascertain that the proposal will not result in adverse effects on the integrity of any of the Bat SAC sites in question. Having considered the assessment, and particularly the measures proposed to mitigate for all identified adverse effects that could potentially occur as a result of the proposal, Natural England advises that we concur with the assessment conclusions, providing that all mitigation measures set out in Section 19 of the Appropriate Assessment are appropriately secured in any permission given.

Mendip Hills AONB: No objection. Landscape consideration required.

The Countryside and Rights of Way (CRoW) Act 2000 confirmed the significance of AONBs and Section 85 places a statutory duty on all relevant authorities to have regard to the purpose of conserving and enhancing natural beauty when discharging any function in relation to, or affecting land within an Area of Outstanding Natural Beauty. The primary purpose of the AONB designation is to conserve and enhance natural beauty. The proposed development lies outside of the Mendip Hills AONB; however, development proposals outside of the boundaries of AONBs that may have an impact within the designated area are also covered by the 'duty of regard'. Planning Practice Guidance (PPG) confirms that *'Land within the setting of these areas often makes an important contribution to maintaining their natural beauty, and where poorly located or designed development can do significant harm. This is especially the case where long views from or to the designated landscape are identified as important, or where the landscape character of land within and adjoining the designated area is complementary. Development within the settings of these areas will therefore need sensitive handling that takes these potential impacts into account.'* (Paragraph: 042 Reference ID: 8-042-20190721)

The National Planning Policy Framework (NPPF) 2019 under paragraph 172 sets out that *'Great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty which have the highest status of protection in relation to these issues.'*

The Mendip Hills AONB Partnership produced the Mendip Hills AONB Management Plan 2019-2024 which under paragraph 1.4 sets out a Statement of Significance on the special qualities of the Mendip Hills AONB that create the Mendip Hills AONB sense of place and identity and these include views to and from the Mendip Hills, the dark skies, tranquillity, sense of remoteness and naturalness of the area.

Natural England's National Character Area (NCA) profile for the Mendip Hills (141), highlights that the area is '*renowned for its tranquillity and inspirational qualities ...*' Within the NCA Statement of Environmental Opportunity under SEO1 it sets out '*Safeguard inward and outward views and to the distinctive hill line and conserve and enhance the special qualities, tranquillity, sense of remoteness and naturalness of the area*'.

The proposed site is outside of the Wells Development Limit. The Submission Document of the Local Plan Part II which is currently at examination, under Section 10 includes a plan *Proposed Housing and Employment Allocations, Local Green Spaces and Changes to Development Limit - Wells West* and the proposed site is also shown outside of the Development Limit although shown as future housing growth area. Proposed policy WL5: Development Requirements and Design Principles as relates to land off Elm Close sets out that the site is designated as a Future Growth Area for up to 100 dwellings to be developed after 2024-5. In terms of landscaping it set out that '*The site should be designed sensitively to ensure no harm to the nearby Special Landscape Feature*' and '*Have particular regard to site layout, building height and soft landscaping to minimise the visual impact of the development in this edge of town location.*'

It is unclear as to why this site is proposed to come forward in advance of allocated housing sites. The development would represent an extension of the western edge of Wells into the countryside and this is evident from a number of viewpoints shown within the Landscape and Visual Impact Appraisal. I note that the Landscape and Visual Impact Appraisal includes photography from various viewpoints, however does not include details of the photography. Viewpoints 15 and 16 within the LVA, particularly show the proposed site with views to the Mendip Hills AONB as backdrop. As highlighted above, views towards the Mendip Hills AONB will be an important consideration and any development within this setting will need sensitive handling that should take potential impacts into account. Views towards the Mendip Hills AONB should be protected particularly when considering the appropriate scale of the development, layout, design (including height, materials and lighting) and landscaping. The impact of any development on the protected landscape would need to be carefully considered and supported by appropriate and acceptable mitigation measures.

Housing Enabling Officer: No objection subject to S106

- The application proposes a figure of 40% affordable housing provision in line with Policy DP11 Affordable Housing of the Mendip Local Plan Part One which is satisfactory. It is noted that no proposals with regards to tenure are presented at this stage.
- Having regard to sustainability and the benefits of the provision of balanced affordable housing tenure, the following affordable housing percentages are suggested for provision in any subsequent reserved matters application: 40% x 1 & 2 bed flats/apartments; 25% x 2 bed houses; 20% x 3 bed houses; and 10% x 4 bed houses
- 80:20 split for social rented units and shared ownership units.
- The layout and design of the affordable housing provision should be well integrated with the open market units. We would welcome early discussion with regards to this.

Education, SCC: No objection subject to contribution as part of S106

100 dwellings would generate the following planning obligation requirements:

- 9 Early Years  
9 x 17,074=£153,666 for pre school
- 32 Primary  
32 x 17,074=£546,368 for primary

Arboriculture: No objection subject to conditions

- Arboricultural Assessment submitted gives a fair appraisal of the arboricultural features on site and their retention values using the British Standard (BS) 5837:2012 – Trees in relation to demolition, design and construction – recommendations.
- As this is an Outline application with access, the information is sufficient to consist of a “Tree Constraints Plan / draft Tree Protection Plan” and, going forward, MDC would require “Detailed Arboricultural Method Statement, Arb Impact Assessment / final Tree Protection Plan” i.e. for reserved matters applications.

- Recommended conditions: recommendations within the Arboricultural Assessment/Tree Retention Plan/Tree Protection measures; and Landscape Framework must be followed.

Somerset County Council Public Rights of Way (PROW): No objections subject to condition/obligation and informative.

- There are public rights of way (PROW) that run through the site at the present time (public footpaths WS 10/55A and WS 10/63).
- Condition/ obligation to secure a pedestrian/cycle link to Campkin Road, which may require the consent of a third party if the land is not in the control of the applicant. The Council would be supportive of adopting such a link provided the proposed estate roads are formally adopted.
- The southern-most section of path WS 10/63 between the requested link to Campkin Road and Burcot Road should be appropriately surfaced for cycle provision.
- All of the potential improvements will need to be captured within a suitable legal agreement and secured by a condition.
- The path alignment shown on the applicant's Block Plan is not entirely accurate and may need to be revised to ensure that there is no obstruction to the PROWs.
- Any proposed works must not encroach onto a PROW.

Local Representations:

45 neighbour objections have been received, as summarised below:

- Principle – Local Plan II is not yet adopted; distance from services; outside development limit; no emerging policy to support housing on the site; loss of green agricultural land; no employment to support new residents; inadequate community services to support development; new town should be considered instead of housing allocations; delivery should be delayed to allow infrastructure investment; other sites should come forward first; no benefits to existing residents of Wells; site may be deleted from Local Plan II; comments on Local Plan II need to be taken into account
- Flooding – surface water flooding of existing properties; neighbouring properties have wells; existing flooding problems locally; need to avoid flooding in cemetery; very deep basins required, structural uncertainty, high fences required for safety
- Amenity – flies due to standing water on drainage basins; noise and disturbance from play park, loss of outlook; smell; noise; loss of privacy; disruption; noise and dust during construction

- Landscape – harm to views; harm to tourism; harm to AONB; inadequate landscape justification; highly visible in long distance views which is harmful to the sensitive setting of Wells
- Design – high quality design needed; light pollution from additional street lights; houses may be too tall
- Loss of trees
- Process – no notification from the Council; would like to be consulted on later processes
- Highways – highways safety; highways capacity; inadequate highway assessment; parking; inadequate pathways within site and to Wells; footpaths too narrow locally; Elm Close has a 30MPH limit
- Maintenance – who will maintain boundaries and hedgerows?
- Ecology – ecological harm; loss of hedgerow habitats; harm to bats; harm to badgers; inadequate ecology study submitted
- Conservation – harm to historic setting of Wells
- Other – aspirations of outline, including open space and affordable housing, may be lost at reserved matters stage; utilities pipes run through application site; previous reasons for refusal remain; lots of housing development in Wells; no need for the development; threats to Wells as England’s smallest city; need broadband connectivity; poor mobile phone reception in the area; no justification for building on the green belt; occupants may not be local, may be second homes and may push prices up; light pollution; no need for affordable housing; CO2 emissions and need to address climate change emergency; house prices may drop; increased crime; cemetery should have capacity to expand; cemetery expansion may not be safeguarded; inadequate percentage of affordable housing; concerns re quality of the houses built; harm to farming industry; loss of views; parish council meeting discussed land purchase to safeguard from development; cemetery extension is not suitable, applicant should have discussed this with St Cuthbert Out PC; ; inadequate play / open space provision

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

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

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

The Council's Development Plan comprises:

- Mendip District Local Plan Part I: Strategy and Policies (December 2014)
- Somerset Waste Core Strategy

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

- CP1 – Mendip Spatial Strategy
- CP2 – Supporting the Provision of New Housing
- CP10 – Wells City Strategy
- DP1 – Local Identity and Distinctiveness
- DP2 – Open Areas of Local Significance
- DP3 – Heritage Conservation
- DP4 – Mendip's Landscapes
- DP5 – Biodiversity and Ecological Networks
- DP6 – Bat Protection
- DP7 – Design and Amenity of New Development
- DP8 – Environmental Protection
- DP9 – Transport Impact of New Development
- DP10 – Parking Standards
- DP11 – Affordable Housing
- DP14 – Housing Mix and Type
- DP16 – Open Space and Green Infrastructure
- DP19 – Development Contributions
- DP23 – Managing Flood Risk

Other possible Relevant Considerations (without limitation):

- National Planning Policy Framework
- National Planning Practice Guidance
- The Countywide Parking Strategy (2013)
- Wells Conservation Area Appraisal (2011)

Emerging Policy:

Pre-submission Local Plan Part II (including proposed changes):

- Policy WL5 - Land at Elm Close

**Assessment of relevant issues:**

**Principle of the Use:**

Within the context of the adopted development plan the site is not promoted for any development and falls outside of the settlement boundary for Wells, and therefore there would not be development plan policy support provided by Local Plan Part I policies CP1, CP2 and/or CP10.

However members will be aware that the site is allocated in the Pre-submission Local Plan Part II (including proposed changes). It is identified as Policy WL5 - Land at Elm Close for 100 dwellings, which should come forward after 2024-5. The principle that this is a sustainable location is therefore agreed as acceptable in emerging policy terms. Local Plan Part II and this site have been subject to recent examination in public. Although the examination process is ongoing and policies remain subject to the Inspector's final report, the Inspector's 'Interim Note - Post Hearing Advice' (ED20) which was published on 10<sup>th</sup> September makes no comment on Land at Elm Close or the need for Main Modifications. In addition it is noted that the Inspector has made reference to a general need for additional housing allocations within the district.

The emerging policy framework suggests that development (new housing) on the site should come forward after 2024-5. In timescale terms if the officer recommendation for approval is agreed, the process still requires the completion of a legal agreement. It is likely the land would then be sold. Before any works could begin on site the applicant would need to secure approval for the detailed design under a reserved matters application and discharge any pre commencement conditions. It is therefore concluded that construction may take a number of years to come forward.



On this basis although there is a significant level of local objection to the proposal, it is considered reasonable to apportion weight to the emerging policy in favour of the principle of development. Although development could come forward before 2024-5, delivery timescales are considered reasonable.

In this case it is considered that there are reasonable grounds as set out above, and in accordance with Paragraph 12 of the National Planning Policy Framework (NPPF), to determine this application for approval as a departure from the adopted development plan.

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

This application is submitted in outline therefore the detailed design has not been confirmed at this stage, and would come forward at reserved matters stage. The principle of 100 houses on the site has been assessed by the Council and put forward as a housing site in the emerging Local Plan Part II document, which is considered sufficient at this outline stage.

### **Landscape:**

The application site is located circa 1.4km from the Mendip Hills Area of Outstanding Natural Beauty (AONB) in fields on the western edge of Wells.

The site lies within Natural England's National Character Area (NCA) profile 143 'Mid Somerset Hills'. Ben Knowle Hill is to the southwest of the site and is considered a Special Landscape Feature.

The site is identified in the Landscape Assessment of Mendip District (1997) as being within the Polsham Lodge Hills sub character area, where the features include steep hillocks, pasture and occasional arable, varied, irregular field patterns and scattered farmsteads.

The applicant has submitted a Landscape and Visual Impact Assessment (LVIA) that considers the effect of the proposed development on the landscape and its surroundings, including the Mendip Hills AONB and other landscape designations.

The main characteristics of the site are that it is gently undulating and sloping agricultural land, rising northwards. It has a network of strong field boundaries made up of hedgerows.

In terms of the effects of development, the applicant's LVIA argues the site is an intermediate character area of limited distinctiveness between the Mendip Hills and it is described as having an 'urban fringe' character due to the urbanising influences of adjacent Wells.

It is argued that views of the site are localised as a result of the intervening built form, vegetation structure and topography.

In respect of longer distance views, including from the Mendip Hills AONB, it is said that the proposals would form only small component within the context of an urban fringe landscape adjacent to built-up areas and so would integrate without detriment to the quality of views to and from the Mendip Hills AONB.

The LVIA includes a number of viewpoints taken from the surrounding area to demonstrate the visibility of the site, including from the AONB to the north. The LVIA includes detailed analysis that grades the degree of impact and concludes there is likely to be moderate impact on the landscape once the scheme is built out, with higher levels of impact during the construction phase.

It should also be recognised that the land to the north of the A371 has planning permission for residential development, as does the land to the north of Wookey Hole Road.

Taking all of these points together, it is considered that the proposal would have some adverse effect on the character and appearance of the landscape because of the change from rural, open greenfield land to urban development.

The extent and impact to the landscape needs to be balanced in light of the findings of the landscape assessment and the emerging Local Plan Part II policy. Overall it is considered that the landscape harm does not justify refusal in this particular case.

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

It is acknowledged that the proposed development would have an impact on the current living environment of the residents of adjoining properties, most notably occupants of Elm Close, Campkin Road and Burcott Road. However, that alone is not a reason for refusal as the planning system is concerned with the prevention of unreasonable planning harm being caused sufficient to bring a development into material conflict with the relevant policies, most notably DP7.

It is acknowledged that the residential development of the site would have some impact on the amenity of the occupiers of those properties closest to the application site in respect of changing their existing outlook and environment which they currently enjoy. However the scheme as proposed is not considered significantly harmful to neighbouring amenity.

Consideration has been given to the impact of the development on existing and proposed occupiers' living conditions. In respect of living conditions (overlooking, loss of light, etc.) the layout for this site has not been confirmed at this outline stage but there is no reason to conclude that the development proposed could not be achieved acceptably in terms of dwellings' amenities.

Overall at this outline stage it is considered that the 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 Mendip District Local Plan Part I: Strategy and Policies (December 2014) and part 12 of the NPPF.

### **Flooding and Drainage:**

The application site falls entirely within flood zone 1. The site is therefore considered to have a low probability of flooding i.e. land assessed as having a less than 1 in 1,000 annual probability of flooding (<0.1%). In this respect the Technical Guidance to the National Planning Policy Framework advises that this zone is appropriate for housing development in principle drainage terms.

Given the nature of the development, it would result in hard surfaces and potential matters of surface water run-off. The application submission includes a Flood Risk Assessment and a Foul Drainage Analysis. Although the application is submitted in outline, the Local Lead Flood Authority and the Drainage Board have confirmed that the applicant has adequately demonstrated that a technical solution to drainage can be found.

It is noted that this greenfield site has potential for high quality SUDS features which would integrate to the development and contribute towards amenity for residents and biodiversity gain. Supporting documents submitted with the application show a commitment to a more comprehensive drainage approach, which is reflected in the recommended drainage condition. Any details submitted as part of a discharge of condition application and reserved matters application are required to respect this approach.

In conclusion on this matter, the application is submitted in outline with all matters, save for the means of access, reserved for subsequent approval. The applicant has demonstrated that a technical solution can be secured to deal with these matters. Therefore it is concluded that adequate drainage and infrastructure provision can be dealt with by condition. As such the application is considered to accord with the requirements of Local Plan Policy DP23 and chapter 14 of the NPPF.

### **Environmental Protection:**

The Wells Sewerage Treatment Works is located c.200m from the southern boundary of the site. Policy WL5 of the emerging Local Plan Part II makes it clear that any development proposals must demonstrate housing can be delivered with an acceptable relationship in terms of odour.

The applicant has submitted an odour report to support the planning application. The report considers results of the odour modelling over 5 consecutive years (2014-2018). Modelling and odour complaint history are said to demonstrate the proposed development would be in accordance with the Institute for Air Quality Management (IAQM) and EA guidance, as well as the benchmark criteria stipulated by Wessex Water. The odour report states that a small area of the site within the south east corner is shown within the lower levels of odour contour modelling, but this area is proposed for drainage ponds rather than residential. The report concludes that it is not necessary to recommend a standoff distance for the proposed development site, as residential uses are not planned in the small area of the site where the C98, 1-hour 3.0µg/m<sup>3</sup> benchmark criteria is predicted to be exceeded; and all areas of the site where residential uses are proposed are predicted to experience odour concentrations of less than the C98, 1-hour 1.5µg/m<sup>3</sup> odour contours in all years considered in the assessment. A condition is recommended to ensure the recommendations of the odour report are followed, and excluding development from the south west corner of the application site.

Environmental Protection officers have reviewed the technical submission documents and have not objected to the proposed development on the grounds of odour or potential fly nuisance due to the distance from the water recycling centre; existing sensitive receptors are closer; modelling shows that odour would be within acceptable levels; and a lack of history of fly or odour complaints.

A condition is recommended requiring the submission and agreement of a construction management plan which would control hours of operation, deliveries, etc.

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

An important consideration is the effect on highway safety. The application includes access as a matter to consider at this stage, and this involves a new direct access off Elm Close. The applicant has submitted a Transport Assessment and a Travel Plan.

As set out in detail above, the Highway Authority has assessed the Transport Assessment and raised no major concerns. Details associated to the Travel Plan are subject to a S106 legal agreement.

The applicant has submitted a revised access plan showing a 3m wide pathway adjacent to Elm Close, exceeding the 1.8m requirements of the highway authority.

The proposed access arrangements off Elm Close are considered acceptable in highway safety terms. This includes road capacity and visibly splays. The highway authority has specified the need for widening of existing footpaths, minimum footpath widths, dropped curbs to facilitate pedestrian crossing across the access road and access road standards. The details submitted are considered acceptable, subject to conditions to secure these standards.

It is noted that detailed design of internal roads and footpaths would be subject to a legal agreement with Somerset County Council before they could be adopted as part of the highway network.

On the basis of the Highway Authority's response, set out above, it is considered that the application is acceptable in highway safety terms.

Officer note: The speed limit for Elm Close is being checked, and will be confirmed to Members in due course.

### **Footpaths, Cycle Paths and Public Rights of Way:**

There are 2 Public Rights of Way (PROW) running through or on the boundary of the application site. WS 10/63 runs along the eastern side of the site in a north south direction. This PROW runs through the part of the site proposed for the cemetery extension. WS 10/55A runs along the western boundary of the site in a north south direction. There is a network of other PROW's in proximity to the application site.

The proposed development includes retention of the existing PROW's. The indicative plan also shows proposed new footways/cycleways running north south between the cemetery extension and the proposed housing; and in an east west direction along the southern part of the site through public open space. Although detailed layouts have yet to be submitted

at this outline stage, the applicant has demonstrated capacity within the scheme to enhance permeability within the site for non-car users.

The Somerset County Council PROW team has not objected to the application; but recommended a condition for the new pathways, which would be considered for adoption by SCC if the estates roads are adopted. An informative is also recommended reminding the applicant that existing PROWs should not be blocked or damaged.

The applicant has also entered into discussions with Strawberry Line East, which is understood to be working towards increasing cycling opportunities in the city. A plan has been submitted showing a 3m shared foot path/cycle path from the proposed site access to the triangular splitter island at the junction of Elm Close and Portway. This would include land inside and outside the application site, but the applicant has agreed to include this within the legal agreement.

It is also understood that Strawberry Line East has plans to provide a cycle crossing point at the junction of Elm Close and Portway. This would link cycle ways through the application site to the north across Portway. Although detailed specifications and timescales have not yet been confirmed by Strawberry Line East, the applicant has agreed to contribute £20,000 towards these works. This is proposed to be secured as part of the S106 Agreement, which is consistent with the 3 tests set out in CIL regulation 122.

In conclusion on this matter the application is considered acceptable in relation to retention of existing PROW. Additional footways/cycleways would enhance the connectivity via more sustainable forms of transport.

### **Heritage:**

There are no listed buildings within the immediate vicinity of the application site. Listed buildings further away would not be harmed by the development proposal to warrant refusal. During to the siting of the proposed development, it is not considered harmful to the Wells Conservation Area or the setting of Wells.

## **Sustainability:**

Other than a commitment to meeting building regulations, the applicant has not set out any other mechanism help reduce carbon emissions. A condition is therefore recommended which requires the developer to submit and agree a Sustainability Statement demonstrating how this issue would be addressed through the development. This information is more likely to come forward closer to the detailed design and reserved matters stage.

On this basis the application is considered acceptable in this regard.

## **Open Space:**

Policy DP16 Open Space and Green Infrastructure of Local Plan Part 1 requires that proposed for new residential development make provision for public open space on the basis of the National Playing field Association's long standing standard of 2.4ha of new space per additional 1,000 people.

Based on this standard and an average dwelling occupancy of 2.1 persons per dwelling, this equates to approximately 210 people living on site (2.4 persons x 220 units). This means that the required area of Open Space based on the proposed population is 0.5ha (2.4ha /1000 x 210).

The indicative layout proposes areas of open space that are directly accessible to the public for recreation, essentially consisting of green fingers through the development leading to amenity areas including a play area, public open space and 2 drainage ponds to the south of the site. This area would exceed the requirements of the adopted Local Plan policies and the provision of open space is therefore acceptable. The open space provision is proposed to be included as part of the S106 agreement.

Is it noted that the application relates to up to 100 dwellings. Although the applicant has demonstrated that open space could be provided on site as well as 100 houses, ecology space and drainage basins, if this could not be delivered in practice then the number of dwellings delivered on the site would be expected to be reduced.



In conclusion on this matter, the application has demonstrated that sufficient open space can be provided on the site to comply with policy. This is expected to include a play park (LEAP) and open space.

### **Education:**

The Education Authority has confirmed 100 dwellings would generate planning obligation requirements of £153,666 for pre-school and £546,368 for primary. The applicant has confirmed this is agreeable. This is proposed to be secured via legal agreement.

Contributions would be secured as part of the S106 Agreement in order to tie in with SCC's schools investment programmes locally.

As such the proposed development is acceptable in terms of education contributions in accordance with DP9 and the 3 tests set out in CIL regulation 122.

### **Affordable Housing:**

Adopted policy DP11 sets out that an expectation that in Wells and on its fringes 40% of the dwellings should be affordable and provided on site. This is based on the Council's viability study and evidence of local housing need. This would equate to a requirement of 40 dwellings at this site.

The applicant has accepted the need for this level of affordable housing provision and has agreed to enter into a legal agreement securing this provision.

This accords with the council's policy and is considered acceptable at outline stage.

### **Ecology:**

An important consideration is the impact of the proposed development on protected species, and particularly bats. This is because the site provides a foraging area for horseshoe bats in the North Somerset and Mendip Special Area of Conservation (SAC).

The Local plan Part II as examined in July 2019 considered this site as a housing allocation. The examined policy wording includes the requirement for 0.93ha of replacement habitat. The indicative masterplan shows 0.93ha of replacement habitat can be provided within the site at detailed design stage.

An Ecological Appraisal was submitted with the application which assesses various species and habitats and makes recommendations. All hedgerow would be retained, except on the front boundary to facilitate the access; and 2 gaps within the site to facilitate circulation.

Development proposals include:

- Retention or replacement of the Lesser Horseshoe bat roost on site
- Creation of enhanced habitat corridors with buffers along boundaries on the west, south and east of the application site
- Two SUDs ponds and green space along the southern boundary of the site, with creation of additional habitat foraging resources for the remaining common and widespread species of bat recorded and rough / species-rich grassland to be managed / planted in suitable locations within the green space to encourage invertebrates;
- Woodland planting within the open space in the south of the development providing a corridor along the southern edge of the development well-connected with the widened landscape corridor on the western boundary that would serve to enhance the existing hedgerow to provide continued connectivity with the wider local environment.

The SCC Ecologist has not objected to the scheme, subject to the inclusion of various conditions including replacement habitat; Landscape and Ecological Management Plan; lighting design for bats; retained or replacement bat roost; and provision for bee bricks and bird boxes.

A Habitat Regulation Assessment (HRA) has been submitted to Natural England which concludes the proposed development is acceptable, subject to the inclusion of conditions.

Natural England has agreed with the conclusions of the HRA and not objected to the scheme, subject to conditions confirming that all mitigation measures set out in Section 19 of the Appropriate Assessment are secured.

In conclusion on this matter, it is considered that the proposed development would be unlikely to have an adverse effect on the integrity of nearby protected habitat or species subject to the inclusion of conditions as recommended.

### **Tree and Hedgerows:**

An Arboricultural Assessment has been submitted in support of the application which includes a tree survey of the site. All trees are proposed to be retained within the site, with the exception of parts of hedgerow removed to facilitate access and circulation. The hedgerow on the northern boundary is labelled H1, and is a category B (trees of moderate quality with an estimated remaining life expectancy of at least 20 years) which would be partly removed to facilitate the access and visibility splays. Other hedgerows proposed to be partly removed include H5 on the frontage to Elm Close; and H4 and H5 within the site where gaps are proposed to facilitate vehicular circulation. These 3 hedgerows are all considered to be category C specimens (trees of low quality with an estimated remaining life expectancy of at least 10 years, or young trees with a stem diameter below 150 mm).

The submitted Arboricultural Assessment includes recommendations in terms of tree retention, including buffer zones, additional planting and root protection zones during construction.

It is considered that some loss of hedgerow is acceptable subject to the creation of replacement hedgerow and other replacement planting. The applicant would be required to demonstrate how existing trees and hedgerows would be protected as part of a reserved matters application when the detailed design has been set out. The Tree and Woodland Officer has not objected to this outline application on this basis. Accordingly a tree condition is recommended.

### **Other Matters:**

Other matters raised through consultation which are relevant to planning and not addressed above as addressed in this section of the report.

- Although there may be some disruption to existing occupants through the implementation of a permission, this in itself is not a reason to refuse the application. This would be controlled by the recommended condition for the submission and agreement of a construction management plan.
- The technical documents as submitted and revised are considered acceptable to determine the planning application.
- The Local Planning Authority has met its obligations in terms of notification of the planning application. Any future planning applications would be subject to legal obligations in relation to neighbour notification.
- A development of this size would be expected to include lighting, which would form part of a legal agreement for the internal estates roads to be adopted by the highway authority. However, there is scope to agree a sensitive lighting scheme which can meet highway requirements and also limit light pollution. This could consider existing and future occupants as well as bats.
- The recommended S106 agreement would include details of a management company responsible for maintenance of the development.
- The site is not within designated green belt and is therefore not subject to consideration under green belt policy.
- There is no planning reason to assume the proposed development would lead to increased crime levels.
- Aspirations of a parish council to purchase land is outside the scope of the assessment of this planning application.
- Safeguarding land for potential cemetery expansion is proposed to be included in the S106 agreement, which is considered robust.

- Although the Local Planning Authority (LPA) encourages applicants to consult with parish councils prior to the submission of planning applications, this is not a statutory requirement which the LPA can insist on.

### **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:**

The overall thrust of Government Policy as set out in the updated NPPF is to encourage the delivery of sustainable development, and requires Local Authorities to boost significantly the supply of housing. The application reflects the emerging policy framework which covers the period 2006-2029. The application scheme offers a proposal which would provide 100 residential units, including the provision of affordable housing to respond to current policy requirements. In addition the proposed means of access to serve the development which is also proposed is considered acceptable.

The assessment of the application as set out in this report has not identified any other adverse impacts that would arise, and the application scheme is considered acceptable including in relation to the landscape impacts; amenity of neighbouring residents and the locality generally; public safety of the surrounding highway network; ecological and environmental impact.

In summary it is recommended that that planning permission be granted, as a departure from the development plan for the reasons set out above in this report, and subject to a S106 agreement to cover the following heads of terms:

7. Travel Plan
8. The provision of a new access and 3m foot path/cycle path, generally in accordance with Drawing No. P18123-001B received 04.11.2019
9. Affordable Housing at 40%
10. Management and provision of public open space
11. Management company
12. Education contributions (£700,034)
13. Safeguarding 1ha of land for cemetery expansion
14. Provision of at least 0.93ha of replacement habitat
15. Provision of at least 0.5ha of public open space and LEAP
16. £20,000 towards Strawberry Line crossing point at the junction of Elm Close and Portway

### **Recommendation:**

Delegate to permit subject to completion of a section 106 agreement and following the completion of advertising the application scheme as a departure from the development plan.

### **Reason/s for Recommendation**

1. The proposed scheme which has been submitted as an outline application with all matters reserved except access is considered acceptable in relation to character and appearance; amenity; landscape; highway safety and parking; ecology; drainage; trees; and environmental protection. Furthermore the application scheme has been tested against the following Development Plan policies, and subject to conditions the proposal is acceptable:-
  - DP1 - Local Identity and Distinctiveness
  - DP2 - Open Areas of Local Significance

- DP3 - Heritage Conservation
- DP4 - Mendip's Landscapes
- DP5 - Biodiversity and Ecological Networks
- DP6 - Bat Protection
- DP7 - Design and Amenity of New Development
- DP8 - Environmental Protection
- DP9 - Transport Impact of New Development
- DP10 - Parking Standards
- DP11 - Affordable Housing
- DP14 - Housing Mix and Type
- DP16 - Open Space and Green Infrastructure
- DP19 - Development Contributions
- DP23 - Managing Flood Risk

Finally given the proposals respond positively to the emerging policy allocation as set out at Policy WL5 (Local Plan Part II including proposed changes), the weight in the application assessment given to this policy has been reflected accordingly. On this basis the application scheme is considered in accordance with the Emerging Policy:

Pre-submission Local Plan Part II (including proposed changes) and the National Planning Policy Framework.

## **Conditions**

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

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

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

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

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

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

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

This decision relates to the following drawings/documents:

Received 04 Jun 2019:

5730-L-03 - Location Plan

AIR QUALITY ASSESSMENT

ECOLOGICAL APPRAISAL

FLOOD RISK ASSESSMENT

FOUL SEWAGE

LANDSCAPE AND VISUAL IMPACT APPRAISAL

NOISE IMPACT ASSESSMENT

PLANNING STATEMENT

SOCIO-ECONOMIC SUSTAINABILITY

SOILS AND AGRICULTURAL QUALITY REPORT

TRANSPORT ASSESSMENT

TRAVEL PLAN

TREE SURVEY

DESIGN AND ACCESS STATEMENT

STATEMENT OF COMMUNITY INVOLVEMENT -

Received 06 Aug 2019:

ODOUR REPORT

Received 10.12.2019:

P18123-222 - POTENTIAL CROSSING SCHEME

5730-L-02-V - DEVELOPMENT FRAMEWORK

P18123-102 - UPDATED ACCESS PLAN

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



#### **4. Tree Protection Plan (Pre-commencement)**

No development shall take place until an annotated tree protection plan following the recommendations contained within BS 5837:2012 identifying measures (fencing and/or ground protection measures) to protect the trees to be retained has been submitted to and approved in writing by the Local Planning Authority. The plan shall include proposed tree protection measures during site preparation (including clearance and level changes), during construction and landscaping operations. The plan should include the design of fencing proposed and take into account the control of potentially harmful operations such as the position of service runs, storage, handling and mixing of materials on site, burning, and movement of people and machinery.

Reason: To ensure that the trees are protected from potentially damaging activities in accordance with Policy DP1 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014). This is a condition precedent because the works comprising the development have the potential to harm retained trees. Therefore these details need to be agreed before work commences.

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

No development shall take place until a Construction Method Statement 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.

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.

## **6. Hard and Soft Landscaping (Pre-occupation)**

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

- (a) size, species and positions for new trees and plants,
- (b) boundary treatments,
- (c) surfacing materials (including roadways, drives, patios and paths) and
- (d) any retained planting / hedgerows.
- (e) a detailed programme of phasing and implementation

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

Reason: To ensure the provision of an appropriate landscape setting to the development in accordance with Policy DP1, DP3, DP4 and DP7 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

## **7. 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).

## **8. Provision and Storage of Recycling and Waste Containers (Pre-occupation)**

The development hereby approved shall not be occupied until provision for the storage of recycling and waste containers has been made within the site in accordance with details that have first been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of the character and appearance of the area, residential amenity and highway safety having regards to Policies DP3, DP7 and DP9 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

## **9. Surface Water Drainage (Pre-commencement)**

No development shall be commenced until details of the surface water drainage scheme based on sustainable drainage principles together with a programme of implementation and maintenance for the lifetime of the development have been submitted to and approved in writing by the Local Planning Authority. The drainage strategy shall ensure that surface water runoff post development is attenuated on site and discharged at a rate and volume no greater than greenfield runoff rates and volumes. Such works shall be carried out in accordance with the approved details.

These details shall include: -

- Details of phasing (where appropriate) and information of maintenance of drainage systems during construction of this and any other subsequent phases.
- Information about the design storm period and intensity, discharge rates and volumes (both pre and post development), temporary storage facilities, means of access for maintenance (6 metres minimum), the methods employed to delay and control surface water discharged from the site, and the measures taken to prevent flooding and pollution of the receiving groundwater and/or surface waters.
- Any works required off site to ensure adequate discharge of surface water without causing flooding or pollution (which should include refurbishment of existing culverts and headwalls or removal of unused culverts where relevant).
- Flood water exceedance routes both on and off site, note, no part of the site must be allowed to flood during any storm up to and including the 1 in 30 event, flooding during storm events in excess of this including the 1 in 100yr (plus 40% allowance for climate change) must be controlled within the designed exceedance routes demonstrated to prevent flooding or damage to properties.
- A management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by an appropriate public body or statutory undertaker, management company or maintenance by a Residents' Management Company and / or any other arrangements to secure the operation

and maintenance to an approved standard and working condition throughout the lifetime of the development

Reason: To ensure that the development is served by a satisfactory system of surface water drainage and that the approved system is retained, managed and maintained throughout the lifetime of the development, in accordance with National Planning Policy Framework (Feb 2019) and the Technical Guidance to the National Planning Policy Framework. This is a condition precedent because it is necessary to understand the drainage scheme in detail prior to any initial construction works which may prejudice the foul drainage strategy.

#### **10. Access (Compliance)**

The vehicular access hereby approved shall not be brought into use until it has been constructed in accordance with details including a 3m footway/cycleway along Elm Close, as shown on Proposed Site Access Layout Dwg No: P18123-102 received on 10.12.2019. The vehicular access and pathways shall thereafter be permanently retained in accordance with the approved plans.

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

#### **11. Public Right of Way (Bespoke Trigger)**

No development hereby approved which shall interfere with or compromise the use of footpath WS 10/55A or WS 10/63 shall take place until a path diversion order has been made and confirmed, and the diverted route made available to the satisfaction of the Local Planning Authority.

Reason: To ensure the public right of way is not compromised.

#### **12. Estate Roads (Bespoke Trigger)**

The proposed estate roads, footways, footpaths, cycleways, bus stops/bus lay-bys, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, drive gradients, car, motorcycle and cycle parking, street furniture and tactile paving shall be constructed, laid out and maintained in accordance with details to be approved by the Local Planning Authority in writing before the construction of any aspect of the new section of the highway begins. For

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

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

### **13. Parking Area (Bespoke Trigger)**

No construction above slab level shall commence until plans showing a parking area and turning areas (providing for parking spaces for each of the dwellings in accordance with SCC parking strategy), including full details of the surfacing materials, has been submitted to and approved in writing by the Local Planning Authority. No occupation of any individual dwelling shall commence until the parking area for that dwelling has been constructed in accordance with the approved details and shall not thereafter be used other than for the parking of vehicles in connection with the development hereby permitted.

Reason: To ensure that adequate and safe parking 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).

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

No occupation of the development shall commence until the visibility splays shown on drawing number P18123-102 dated 10.12.2019 has been provided. There shall be no on-site obstruction exceeding 300 millimetres above adjoining road level in advance of lines drawn 2.4m metres back from the carriageway edge on the centre line of the access and extending to points on the nearside carriageway edge 120m either side of the access. 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).

### **15. Cycle and Footpath Connections (Pre-occupation)**

No occupation of the development shall commence until a network of cycleway and footpath connections has been constructed within the development site in

accordance with a scheme submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of sustainable development and highways safety in accordance with Policy DP9 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

#### **16. External Lighting (Bespoke Trigger)**

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

Reason: To avoid harm to bats and wildlife in accordance with DP5 and DP6 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

#### **17. Sustainability Statement (Pre-commencement)**

No development shall take place until a Sustainability Statement has been submitted and approved by the Local Planning Authority confirming mechanisms and provision that will reduce omission levels arising from the development during the construction process and when it is occupied. The development will thereafter be carried out in accordance with the approved details, unless otherwise agreed in writing with the Local Planning Authority.

Reason: To ensure the development meets the Council's climate change objectives in accordance with policy DP7 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014). This is a condition precedent because it is necessary to understand the scheme in detail prior to any initial construction works.

#### **18. Highways Drainage (Pre-commencement)**

No work shall commence on the development site until an appropriate right of discharge for surface water has been obtained before being submitted to and approved in writing by the Local Planning Authority. A drainage scheme for the site showing details of gullies, connections, soakaways and means of attenuation on site shall be

submitted to and approved in writing by the Local Planning Authority. The drainage works shall be carried out in accordance with the approved details, unless otherwise agreed in writing with the Local Planning Authority.

Reason: To ensure sufficient drainage on the highway in accordance with Policy DP9 and DP23 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014). This is a condition precedent because it is necessary to understand the drainage scheme in detail prior to any initial construction works.

#### **19. Replacement Ecological Habitat (Pre-commencement)**

No work shall commence on the development site until a habitat enhancement area for bats has been provided on site which is at least 0.93ha. The replacement habitat shall be of long sward meadow, scrub and woodland, which is accessible to Greater and Lesser Horseshoe bats. The layout of and a planting schedule for the habitat creation / enhancement of this open space will be submitted to and agreed with the local planning authority prior to work commencing on site. The approved habitat enhancement area will be retained in perpetuity.

Reason: In the interests of the integrity of a European site and in accordance with Policy DP5 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014). This is a condition precedent because it is necessary to understand the scheme in detail prior to any initial construction works to safeguard species.

#### **20. Landscape and Ecological Management Plan (LEMP) (Pre-commencement)**

No work shall commence on the development site until a Landscape and Ecological Management Plan (LEMP) has been submitted to and approved in writing by the local planning authority. The content of the LEMP shall include the following.

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

h) On-going monitoring and remedial measures.

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

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

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

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.
- b) Identification of "biodiversity protection zones".
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
- 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 and lines of communication.
- 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.



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: A pre-commencement condition in the interests of European and UK protected species, biodiversity generally and in accordance with Policy DP5 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014). This is a condition precedent because it is necessary to understand the scheme in detail prior to any initial construction works to safeguard protected species.

## **22. Retained or Replaced Bat Roost (Bespoke Trigger)**

The existing corrugated shed structure shall be maintained and/or replaced as a night roost for Lesser Horseshoe bats. If replaced the design for a new night roost must be submitted to and approved in writing by the local planning authority and constructed prior to the existing shed being demolished. The night roost shall be fenced off in such a way that it deters interference from members of the public.

Reason: In the interests of the integrity of a European site and in accordance with Policy DP5 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014)

## **23. Implementation of Ecological Recommendations (Compliance)**

No occupation of the development hereby approved shall commence until the recommendations of the Ecological Assessment received 04.06.2019 have been implemented.

Reason: To ensure that the implementation and success of the Ecological Assessment and 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).

## **List of Advices**

### **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 £116 per request (or £34 where it relates to a householder application) and made payable to Mendip District Council. The request must be made in writing or using the Standard Application form (available on the council's website [www.mendip.gov.uk](http://www.mendip.gov.uk)). For clarification, the fee relates to each request for the discharge of condition/s and not to each condition itself. There is a no fee for the discharge of conditions on a Listed Building Consent, Conservation Area Consent or Advertisement Consent although if the request concerns condition/s relating to both a planning permission and Listed Building Consent then a fee will be required.

2. In determining this application the Local Planning Authority considers it has complied with the aims of paragraph 38 of the National Planning Framework by working in a positive, creative and pro-active way.
3. In order to discharge conditions relating to the approval of external walling and roofing materials, please ensure that materials are left on site for approval and NOT brought to the Council Offices. When applying for the approval of materials, you must state precisely where on site any samples have been made available for viewing.
4. The responsibility for ensuring compliance with the terms of this approval rests with the person(s) responsible for carrying out the development. The Local Planning Authority uses various means to monitor implementation to ensure that the scheme is built or carried out in strict accordance with the terms of the permission. Failure to adhere to the approved details will render the development unauthorised and vulnerable to enforcement action.
5. 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.
6. This permission is accompanied by an agreement under Section 106 of the Town and Country Planning Act 1990.
7. Please note that your proposed work may also require Building Regulations approval, which is a separate consent process to the consideration of a planning application. The Council's Building Control team are available to provide Building Regulations advice from pre-application stage to completion of a development and can be contacted on 0300 303 7790. Further details can also be found on their website <http://www.sedgemoor.gov.uk/SomersetBCP/>

8. Development, insofar as it affects the rights of way should not be started, and the rights of way should be kept open for public use until the necessary Order (temporary closure/stopping up/diversion) or other authorisation has come into effect/ been granted. Failure to comply with this request may result in the developer being prosecuted if the path is built on or otherwise interfered with.
  
9. The applicant will be required to enter into a suitable legal agreement with the Highway Authority to secure the construction of the highway works necessary as part of this development. Please ensure that an advisory note is attached requesting that the developer contact the Highway Authority to progress this agreement well in advance of commencement of development.