

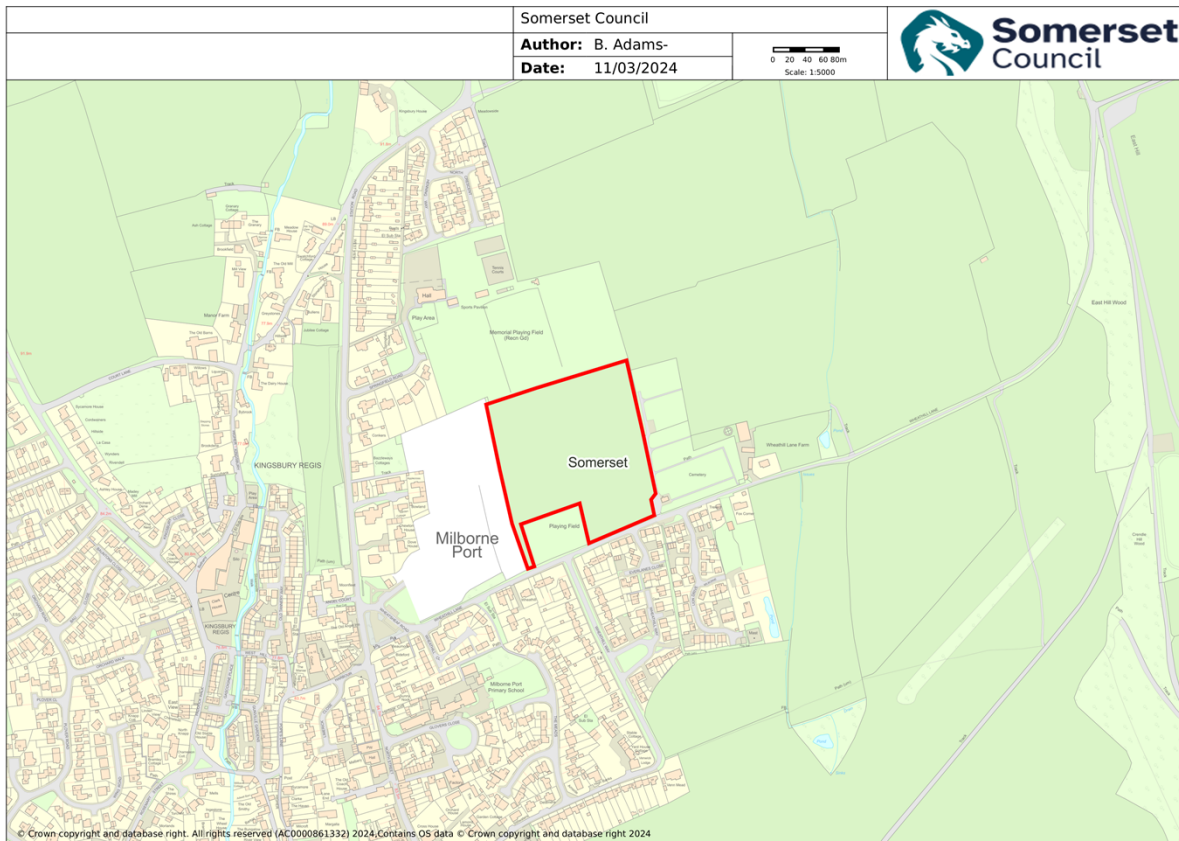
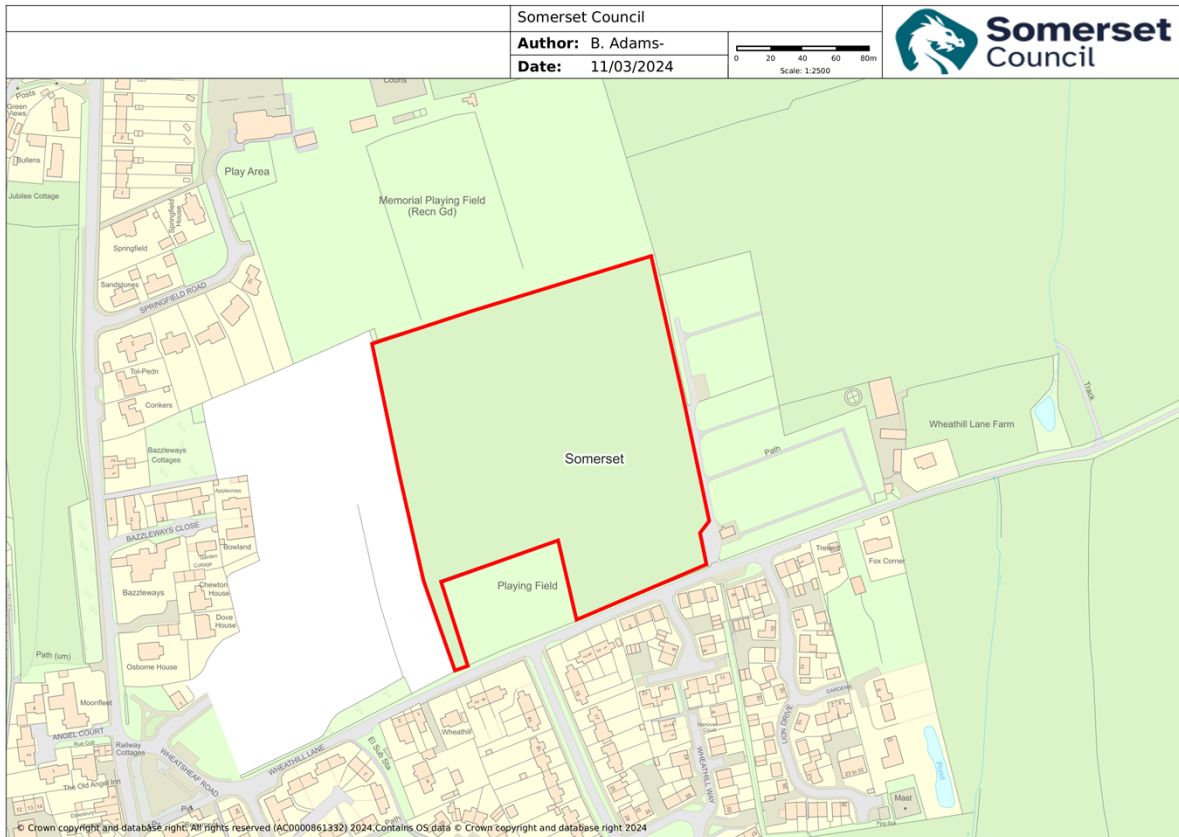
## **Officer Report On Planning Application: 22/00180/OUT**

<b>Proposal:</b>	Outline planning application for up to 58 dwellings, sustainable drainage infrastructure, new open space including allotments, parking area for neighbouring cemetery, landscaping and associated infrastructure with all matters reserved except access.
<b>Site Address:</b>	Land Adjoining, Wheathill Lane, Milborne Port, Sherborne, Dorset,
<b>Parish:</b>	Milborne Port
<b>BLACKMOOR VALE Division</b>	Cllr Nicola Clark Cllr Sarah Dyke
<b>Recommending Case Officer:</b>	David Kenyon (Principal Specialist)
<b>Target date:</b>	22nd April 2022
<b>Applicant:</b>	Messrs Parker, Davis and White
<b>Agent: (no agent if blank)</b>	Mr Nigel Jones, Motivo House, Bluebell Road, Yeovil BA20 2FG
<b>Application Type :</b>	Major Dwlgs 10 or more or site 0.5ha+

### **REASON FOR REFERRAL TO COMMITTEE**

This application is referred to the Area South Planning Committee for consideration as there are concerns raised by Milborne Port Parish Council. As a major planning application, under the Council's Scheme of Delegation, this is automatically referred to Committee for determination.

# SITE DESCRIPTION & SURROUNDING CONTEXT



The application site comprises an agricultural field measuring approximately 3 hectares. The site is bounded to the north by the Memorial Recreation Ground, to the east by Milborne Port Cemetery, to the south by residential development along Wheathill Lane and to the west by a development site for 65 new dwellings, a community hub, public open space and associated works pursuant to outline approval (planning ref. 17/03985/OUT) and associated reserved matters approval (planning ref 19/02244/REM). The south west corner of the site also adjoins a former school sports pitch adjacent to Wheathill Lane.

The site is formed by a single L-shaped field (around the disused sports pitch). The land is relatively level and bounded by hedgerows on all boundaries, save for part of the eastern boundary which is fenced. An existing electricity pole is located centrally within the site and a Public Right of Way runs along the western boundary. The site is within Flood Zone 1 (i.e. lowest risk) and there are no relevant statutory designations on the site.

The site is within the surface water catchment area of the Somerset Levels and Moors Special Protection Area (SPA) which is subject to phosphates and as such planning applications will be subject to Habitats Regulations Assessment (HRA) and must demonstrate nutrient neutrality.

The land is classified as grade 3a agricultural land.

The centre of Milborne Port is approximately 500 metres from the application site. The designated central Conservation Area boundary is approximately 300 metres from the site and an additional Conservation Area is situated at New Town on the western edge of Milborne Port, approximately 1km from the site. Other heritage designations include Ven House Historic Park and Garden (approximately 300 metres south of the site) and a Scheduled Monument (medieval urban remains) at Church Street (approximately 600 metres southwest of the site). There are numerous listed buildings within Milborne Port, but none within or adjoining the application site.

Within Milborne Port there is an abundance of services and facilities including a primary school, shops, post office, doctors' surgery, village hall, library, churches, pubs and restaurants, sports facilities, and places of worship. There is an hourly bus service between Milborne Port and Yeovil, which is situated approximately 13 km to the west. The same bus service calls through Sherborne, situated approximately 5 km west of Milborne Port. Yeovil is the nearest principal urban settlement and Sherborne benefits from having a railway station with links between Exeter St Davids and London Waterloo.

## THE PROPOSAL

The proposal seeks outline planning permission (with all matters reserved except for access), for up to 58 dwellings, sustainable drainage infrastructure, new open space including allotments, parking area for the neighbouring cemetery, landscaping and associated infrastructure, and vehicular access from Wheathill Lane. All details in relation to appearance, landscaping, layout, and scale are reserved for consideration at the detailed application stage and are not to be considered as part of this outline application.

An indicative plan has been submitted with the application that shows a central spine road running from the south of the site, broadly in a north direction, deriving from a single point of access onto Wheathill Lane. Pedestrian and cycle connectivity is maximised throughout the proposed development and links with adjoining land, including connecting to the existing Public Right of Way that runs along the western site boundary. The layout shows mixed housing to either side of the central spine road, some of which is accessed from sub-roads forking from the main spine road. The layout shows a drainage feature at the south-eastern corner of the site, and areas of green public open space and allotments at the northern and eastern sides of the site.

The illustrative layout, prepared by Clifton Emery design, demonstrates how development will be accommodated across the site:

- Up to 58 homes, comprising a mix of 2 bed apartments, and 2, 3, 4 and 5 bed houses
- A policy compliant 35% of the new homes would be provided as affordable homes (21 homes)
- Vehicular access off Wheathill Lane including footways either side
- Pedestrian and cycle links, including enhancements to the adjacent public footpath
- Public open space, including allotments
- Dog walking route
- Additional cemetery parking
- Sustainable drainage and surface water attenuation, including improvement to the surface water run-off into the cemetery
- Ecological enhancements including bat and bird boxes, insect bricks and hotel, log piles and hedgehog domes.

Details are sought to be agreed for access as part of this application. The proposed vehicular access to the site is proposed from Wheathill Lane and would include footways either side. Off-site highway and pedestrian improvement works to Wheathill

Lane are also proposed and could be secured via a section 106 legal agreement and dealt with under relevant highways legislation. Key features of the proposed access arrangements include:

- Priority junction off Wheathill Lane with a 5m wide access road width
- Improvements to existing pedestrian conditions with 2m footways connecting the site with the surrounding area and
- Enhancements to the adjacent public right of way.

In addition to the completed application forms, the following documents and drawings have been included within the application submission:

### Documents

- Planning Statement (Issue 2) prepared by LRM Planning Ltd dated January 2022
- Statement of Community Involvement prepared by LRM Planning Ltd dated January 2022
- Draft S106 Heads of Terms prepared by LRM Planning Ltd dated 12th January 2022
- Design and Access Statement prepared by Clifton Emery Design dated January 2022
- Design and Access Statement - Addendum and Updated Illustrative Masterplan - prepared by Clifton Emery Design dated May 2022
- Landscape and Visual Appraisal ref. 201203 R 04 02 prepared by Clifton Emery Design dated December 2021
- Sustainable Drainage Strategy and Level 2 Flood Risk Assessment Report ref. 539-FRA2 V2 prepared by Teign Consult dated 30th December 2021
- Arboricultural Impact Assessment ref. 1261-AIA-MU prepared by GE Consulting dated 16th December 2021
- Ecological Impact Assessment ref. 1261-EcIA-MD prepared by GE Consulting dated 16th December 2021
- Transport Assessment (Issue V02) Project ref. 4480 Trace Design Transport and Civil Engineering dated 16th December 2021
- Technical Note (as addendum to the Transport Assessment) - Review of Highway Safety and Footway Provision - (April 2022) prepared by Trace Design Transport and Civil Engineering
- Technical Statement Footway Provision - Revised Route of Proposed Footway - (February 2023) prepared by Trace Design Transport and Civil Engineering
- Framework Travel Plan (Issue V03) Project ref. 4480 prepared by Trace Design Transport and Civil Engineering dated 22nd February 2024
- Biodiversity Metric 3.0 Calculation Tool 16.12.2021
- Nutrient Neutrality Assessment and Mitigation Strategy V1

- Appropriate Assessment under Habitats Regulations prepared by David Hiscox, Woodrow Dairy Ltd

### Drawings

- Drawing no. 201203 L 01 01. Location Plan
- Drawing no. 201203 L 02 02 Revision G. Illustrative Layout
- Drawing no. 4480-004 Revision D. Proposed footway extension
- Drawing no. 201203 SK220830. Access Landscape Plan
- Drawing no. 201203 SK221114. Access General Arrangement

NOTE: As originally submitted during January 2022, the application sought outline permission for up to 60 dwellings. However, during April 2022, this was amended by the applicant to the current maximum number of 58 dwellings, following receipt of Milborne Port Parish Council's initial comments.

### **RELEVANT PLANNING HISTORY**

While the application site has no recent planning history, the following planning applications have been determined on the land adjoining the west of the application site which are of relevance:

17/03985/OUT: Land at Wheathill Lane Milborne Port, Sherborne

Outline planning application for a mixed-use development comprising the erection of up to 65 dwellings and convenience store (Class A1), community hub (Class B1); and associated access and landscaping works on land at Station Road with access and associated works.

Outline planning permission granted 30th July 2019.

19/02244/REM: Land at Wheathill Lane Milborne Port, Sherborne

Application for approval of reserved matters following outline approval for appearance, landscaping, layout & scale for the erection of 65 No. dwellings, community hub, public open space, and associated works (reserved matters pursuant to outline planning permission 17/03985/OUT).

Approval of reserved matters 16th July 2020.

21/03727/REM. Reserved Matters application for appearance, landscaping, layout and scale, following outline approval (17/03985/OUT) for the erection of Convenience Store (Class E) and associated works.

Approval of reserved matters 29th April 2022.

In addition, there have been several other applications relating to the discharge of several of the conditions attached to the above approvals and also the agreement of some non-material amendments.

## **PLANNING POLICY**

Section 38(6) of the Planning and Compulsory Purchase Act (2004) and paragraphs 2, 11, 12 and 47 of the NPPF require that planning applications are determined in accordance with the development plan unless material considerations indicate otherwise.

For the purposes of determining current applications the adopted Development Plan comprises the policies of the South Somerset Local Plan 2006 - 2028 (adopted March 2015).

### **Policies of the South Somerset Local Plan (2006-2028)**

Policy SD1 - Sustainable Development

Policy SS1 - Settlement Strategy

Policy SS4 - District Wide Housing Provision

Policy SS5 - Delivering New Housing Growth

Policy SS6 - Infrastructure Delivery

Policy HG3 - Provision of Affordable Housing

Policy HG5 - Achieving a Mix of market Housing

Policy TA1 - Low Carbon Travel

Policy TA4 - Travel Plans

Policy TA5 - Transport Impact of New Development

Policy TA6 - Parking Standards

Policy HW1 - Provision of open space, outdoor playing space, sports, cultural and community facilities in new development

Policy EQ1 - Addressing Climate Change in South Somerset

Policy EQ2 - General Development

Policy EQ4 - Biodiversity

Policy EQ5 - Green Infrastructure

Policy EQ7 - Pollution Control

### **National Planning Policy Framework - December 2023**

Chapter 2 - Achieving sustainable development

Chapter 4 - Decision-making

Chapter 5 - Delivering a sufficient supply of homes

Chapter 8 - Promoting healthy and safe communities

Chapter 9 - Promoting sustainable transport

Chapter 12 - Achieving well-designed and beautiful places

Chapter 14 - Meeting the challenge of climate change, flooding, and coastal change

Chapter 15 - Conserving and enhancing the natural environment

## **National Planning Practice Guidance**

### **National Design Guide - September 2019**

#### **Other Relevant Documents**

Somerset County Council Parking Strategy (SPS) (September 2013) and Standing Advice (June 2017) South Somerset Landscape Character Assessment (October 1993)

## **CONSULTATIONS**

### **Milborne Port Parish Council**

Various detailed responses have been received from the Parish Council. In general, the full comments will not be repeated in this report, but these responses have been uploaded onto Somerset Council's website in full for consideration.

On 7th March 2022, the Parish Council objected to the application in its then current form for up to 60 dwellings. The response was very detailed in its content comprising 10 pages of comments setting out the reasons for the objection, together with various requests, under sub-headings of:

1. External Roads & Access - Wheathill Lane, Wheathill Way, East Street, North Street, A30.
2. Internal Roads and Parking.
3. Housing Numbers, Mix, and Planning Policy.
4. Drainage and Water Supply.
5. Environment.

Further consultation responses dated 18th May 2022 and 22nd March 2023 were received from the Parish Council following consideration of amended details generally relating to the reduction in the number of dwellings from 60 to 58 and revised details relating to footpath provision and improvements in Wheathill Lane. Further comments dated 20th December 2023 from the Parish Council confirmed support for the phosphate mitigation proposals.

The Parish Council has provided a summary of its position in respect of this



application proposal in a letter dated February 2024. As with its previous comments, this latest correspondence has also been uploaded onto the website for public information but, for the Committee's convenience, the Parish Council's position is set out below.

*Milborne Port Parish Council cautiously supports this application, subject to a number of considerations. This is articulated in our formal comments as consultee of March 2022, 18 May 2022, 22 March 2023, and 20 December 2023.*

### *Sustainability*

We note that a number of residents have submitted objections to the application, many echoed by the Parish Council in its submissions, and these should be given weight. We therefore request that the application should be considered by Committee even if formal guidelines mean this is not technically required. The objections are partly in respect of the specifics of the plans, and partly in respect of the overall sustainability of further material development within the community.

Milborne Port has been subject to disproportionately high levels of new building over the past thirty years, well in excess of guidelines set out in the Local Plan to the point that its position in the Settlement Hierarchy has in practice altered. At the same time there has been a loss of economic activity, meaning it is less able to fulfil all the functions of a community of its size, let alone a community in the tier above. Given proximity to Sherborne, the Parish Council anticipates it is unlikely that this loss of economic facilities will be reversed. Most recently, Somerset Council have advised that the 58 bus route, the primary local public transport facility for the community, is likely to be reduced or cancelled, further reducing the sustainability of the community, particularly for the less socially advantaged and transport poor, and hence its viability for further development.

As a consequence, the Parish Council believes that only the best of applications, with the highest benefits and greatest level of mitigation of environmental damage, and community impact through s.106 funding, at the most optimal of locations should be considered for approval by Somerset Council.

### *Benefits of this application*

- Provision of a car park for the cemetery and related pedestrian access
- Provision of a semi-wilded buffer zone between the playing fields and the built-up area
- A circular footpath around the site, suitable for dog walking
- Access to the Parish Council owned land to the northeast of the site
- Improvement of the footpath to the west of the site to remove existing marshy

areas

- A new pedestrian footway along the south of Wheathill Lane
- Diversion of surface water runoff away from the cemetery and into a destination area which contains limited residences
- Indirect improvement of the business viability of the business facility in the neighbouring Redcliffe site
- Four new allotments and related parking
- On-site mitigation of environmental harm
- Priority to be given to those with a Milborne Port connection in access to below market housing.

During discussions it was also suggested that the existing track through the cemetery be upgraded but this proposal does not seem to be included in the plans as they stand.

### *s.106 Considerations*

The Parish Council would like to ensure that the benefits outlined above are secured through appropriate conditions and/or provisions in the s.106 agreement.

For clarity, we do not believe that community project s.106 funds should be earmarked for projects outside our immediate community.

We would like to be consulted prior to the signing of any s.106 agreement so as to ensure that the most up to date needs of the community are addressed, and that any obligations placed upon the Parish Council are clear and understood. In the event that draft Heads of Terms have been established, we would be happy to review the Community Projects components of these and provide comment.

MPPC submitted a summary of projects to be considered for s.106 in March 2022. In the intervening two years, community need has moved forward, and this summary now needs to be updated. MPPC would be happy to submit a revised summary of need prior to the final agreement of Heads of Terms.

We note the shortfall of provision of pre-school education places within the Parish, and that this should be focused upon in determining the education element of the s.106 agreement.

Excluding CIL, the s.106 funding for the adjacent site when approved in the summer of 2019 was £3,010 per property. Inflation since then has been, cumulatively, 25.24% so we would anticipate s.106 of circa £3,750 per property.

### *Roads and Access*

We welcomed the proposed improvements to Wheathill Lane, with the completion and widening of the footpath along the south, and the widening of the carriage way to the north. However, Wheathill Lane remains narrow, and our concerns remain regarding cars parking on the footpath rendering the proposed improvements

redundant. We are disappointed that our suggestions as to how these issues might further be improved have not been considered.

Since the application and our related comments, the revised access from Wheathill Lane onto Station Road has been completed, and this has proven to fall well short of what was envisaged when planning was granted, particularly in terms of lines of sight and the effect of cars being parked on the west side of Station Road. We would encourage the Planning team, Highways and the applicant to consider what changes, particularly around road markings and parking restrictions might be looked at to improve the new layout, especially in terms of access of larger vehicles to Wheathill Lane.

### *Surface Water Drainage*

Recent flood events have heightened focus upon our changing environment and the levels of flood risk. This application has a clear benefit in that surface water will drain into the unnamed watercourse to the east of the village, where there are comparatively few residences, rather than the more heavily populated valley of the Gascoigne River. This significantly favours it as a site for development compared with other locations.

MPPC still remains concerned regarding the increased use of the unnamed watercourse to the east of the site, and the sump to the south, as the surface water destination for various recent developments along Wheathill Lane and also for the Solar Farm, and notes that there has been no response from the LLFA on this point. Its capacity appears to be being assumed rather than confirmed.

Further, the proposed means of conveying surface water to its destination is initially to direct it down Wheathill Lane but then to connect it into the surface water drainage for the Wheathill Gardens development, rather than running all the way down Wheathill Lane to the watercourse at the foot of the topography (see maps on pages 24 and 25 in the Sustainable Drainage Strategy of December 2021 posted 18 July 2022). It appears to be assumed that the surface water drainage systems within Lion Drive and Everlanes Close will cope with the additional supply of water. These developments, as we understand, have no SUDS systems in place, and the capacity within the surface water pipes form part of their surface water drainage strategy, as well as the means by which surface water is conveyed away. MPPC is therefore concerned that the ability to use the existing surface water infrastructure within these sites is being assumed, rather than verified. We request that it be clearly established that the infrastructure along the proposed route of surface water drainage is adequate to handle the additional run off from the proposed development, or that suitable alternative arrangements are put in place.

We also note understand, ultimately, the surface water run-off will arrive the junction between East Street and Wheathill Way, and thence be taken via the existing surface water piping to the sump in the small copse of trees to the south east close to the start of the racing gallops. Our understanding is that this piping was laid many years ago when East Street itself was constructed, and whilst there have been various improvements made in the infrastructure to the point of departure at the East Street/Wheathill Way junction, the piping from there has not been upgraded since. It is possible that we are incorrect, but we also understand that the surface water out flow from the adjacent site on Wheathill Lane that is currently under construction is installing new surface water drainage down Wheathill Way, but that it too will utilize the existing piping from that junction to the sump (though this is not what was articulated within the approved plans). MPPC requests that it be confirmed that the drainage infrastructure from the East Street/Wheathill Way junction to the sump by the gallops can cope with the proposed additional run off from the site. We note that if it is found that the infrastructure within Lion Drive/Everlanes Close cannot cope (see above) then this request may be redundant.

There have been a series of issues with the drains along Wheathill Lane, and are advised that, during the construction of the adjacent site, some of these have been investigated in detail, determining that the historic drains have been infiltrated by roots and damaged. We are delighted that the developer of the adjacent site has, so we understand, fixed those immediately adjoining that development. However, we understand that there may be further damage down Wheathill Lane that has not been addressed.

We have reviewed the detailed calculations submitted in the Sustainable Drainage Strategy regarding SUDS and surface water drainage. As far as we can make out, the "maximum" figures on page 82 of the plans focus upon winter rainfall in a 100 year event, highlighting rainfall over a period of 960 minutes (16 hours) at 4.837mm per hour. This would be a total of 77.39mm during the assessed period. Page 86 then adjusts these figures for 40% climate change - generating a total of 108.35mm of rainfall. The data on the 1440 minutes (24 hour) line would generate figures of 84.36mm and, with 40% adjustment 118.10mm. The LLFA noted (correspondence of 25 August 2022) that the climate change adjustment has been altered to 45%. Further, the LLFA has stated on a separate local application that daily rainfall of 150mm should be considered (see communication of the LLFA dated 29/9/23 regarding application 21/02767/FUL at Court Lane). The plans for surface water management may need to be revised for the more recent requirements, and that assuming the higher levels indicated above, the size of the SUDS infrastructure may need to be materially increased.

Given issues with surface water run-off and mud pollution from other construction sites within the community, MPPC requests that the installation of surface water management infrastructure be effected prior to the commencement of construction of other components of the site, and that this be required by condition.

### *Sewage*

Unlike surface water, there is comparatively little focus upon sewage in the application. Point 2.4 on page 5 of the Sustainable Drainage Strategy states that the existing sewage pipe down Wheathill Lane that turns into Wheathill Lane cannot be used via gravity feed from the site. Pages 27 and 28 show foul sewers and manhole covers along Wheathill Way, whilst page 29 shows similar at Everlanes Close. What is not clear is how sewage from the development would connect into the existing infrastructure nor whether that part of the village infrastructure (in this case Everlanes Close/Lion Drive/Wheathill Way) has capacity to handle the additional volumes. In their communication of 21 March 2022, Wessex Water advise that they have done a desk top appraisal of where the new development sewer will connect into the existing network, though the location of this is not communicated. They state they will look at capacity if the application is approved. This does not appear to be a good planning assessment of whether the site is appropriate in terms of sewage, nor what costs might be to facilitate any necessary infrastructure improvements.

We note that Wessex Water have advised that Milborne Port's Waste Water Management Plant is approaching capacity (it can handle the waste of an equivalent of 4,794 people, and Milborne Port has the equivalent of 4,482 as of August 2023). MPPC would be interested what the "safe" margins would be in this regard.

### *Environment*

The applicant has indicated they will come close to being able to mitigate the environmental harm of the development almost entirely on site. We have previously suggested that a small amount of additional planting may even allow full on-site mitigation. This is very much welcomed, and again, as with flood risk, this significantly recommends the site as a favourable location within the community.

Since the application was made, some of the trees on the northern border have been felled by the Electricity Authorities so as to avoid them interfering with overhead cables, and we do not know how this might affect the environmental impact assessment.

We would also note that Bechstein bats have been identified foraging and transiting at the site (as well as all other Milborne Port sites where bat surveys have taken place). This may indicate a roost within the Parish. We understand this will not affect

the immediate merits of the site, but given the position of Bechstein bats on the Red List of protected species it would be helpful to identify where these bats do actually roost so as to avoid any inadvertent harm in future planning decisions.

#### *Electricity Charging, Ultra Fast Broadband*

We note and support Somerset Council's requirement that new housing be fitted with Electrical Charging infrastructure for Electric Vehicles. However, we request that agreement be put in place such that the actual chargers installed are of the generation and standard current at the time of construction, and not some years out of date.

We request that all residences have ultra-fast broadband fibre connected to them during construction.

#### *Mix of Housing*

In our previous observations we asked that the overall number of houses be reduced and that the mix of housing between 2- to 3- bedroom starter homes (which are desperately needed within the community) and 4-5 bedroom 'executive' homes (which are more commercially attractive but less socially impactful) be reviewed.

We note and welcome both the overall reduction in the number of residences and the slight shifting of the mix towards smaller properties. We request that consideration be given to a further shift in this mix, which would further add to the sustainability of the application.

#### **Highway Authority**

Detailed comments have been received from the Highway Authority, including responses to various concerns/objections raised by the Parish Council and third parties. In essence, the Highway Authority raises no objections and is satisfied that the proposed development would not create a severe highway safety or efficiency issue. The Highway Authority's responses have been uploaded onto Somerset Council's website. but are also set out below, mindful some relate directly to observations raised by Milborne Port Parish Council.

Initial comments dated 9th March 2022 received from the Highway Authority were in response to highways related issues and questions raised by the Parish Council in its consultation response of 7th March 2022. The Highway Authority provided a detailed response dated 22nd April 2022 directly to Milborne Port Parish Council. The Highway Authority advised that 60 dwellings would, according to the nationally recognised TRICS Database which is the data from which is accepted by this and many Authorities across the country, generate in the region of 30-35 vehicles in the peak hour. Whilst a lot of households own two vehicles, not all vehicles would leave

the housing estate at the same time in the morning. The trip generation figures take into account aspects such as parents who walk their children to school, people working from home, and age demographics such as retired residents who do not accord with workday trip patterns. 30 vehicles over the course of the peak hour equates to approximately one vehicle every two minutes. This cannot be considered a severe impact on the highway network.

Further, this could be offset against mitigation measures such as improved footway facilities, and links to the existing PROW network, and implementation of a Travel Plan. In addition to this, the diversion of Wheathill Lane agreed under application 19/02244/REM (relating to the development site to the west of the current application site) would create a bespoke junction onto Station Road which would accord with current policy standards. Adding into this the fact that there are several property accesses in existence along Wheathill Lane which do not accord with policy by reason of insufficient visibility splays, if accessing property in this location were inherently dangerous, it would be reflected in the collision data held by this Authority. The Highway Authority has checked this data and there is nothing shown where access to property is a contributory factor.

The Highway Authority commented further on 19th May 2022 following consideration of the amended details where it was noted the number of dwellings to be provided had been reduced to no more than 58 units and amended plans provided showing a range of pedestrian infrastructure improvements now being proposed. Any agreed Travel Plan would need to be the subject of a s106 Agreement and should be secured prior to commencement. The Agreement should also cite s278 Highways Act 1980 in order for the developer to carry out the works in the highway to construct the access and footways prior to occupation. Also, in the event of permission being granted, the Highway Authority recommended the imposition of conditions, including the submission of a Construction Environmental Management; provision of on-site surface water disposal; phasing and provision of highway infrastructure construction; provision of parking and turning spaces (including electric vehicle charging points); and creation of visibility splays.

Further comments were received from the Highway Authority on 28th February 2023 and 2nd May 2023 following consideration of revised details relating to footpath provision and improvements in Wheathill Lane. In principle the Highway Authority raised no objections to the proposed pedestrian infrastructure improvements. The improvements can be secured by planning condition and would require the developer entering into a s278 Agreement with the Highway Authority. The previously requested conditions were reiterated. In support of the application, the Highway Authority was mindful of several considerations, namely:

- The road layout would be secured via either s278 or s38 and therefore would accord with current policy standards.
- Widening of the carriageway would add to the available space for on street parking.
- New footways were being provided on desire lines.
- All matters of the new construction would be/have been through safety audits.
- In future, if inappropriate/indiscriminate parking occurs and causes a safety issue in proximity to the new junctions, the local constabulary have powers to move on those vehicles causing the problem.

Most recently further comments/queries relating to highways matters have been raised by the Parish Council in its summary comments dated February 2024. Those comments/queries are in italics with the Highway Authority's response dated 29th February 2024 immediately below.

PC Comments.

*Wheathill Lane remains narrow, and our concerns remain regarding cars parking on the footpath rendering the proposed improvements redundant. We are disappointed that our suggestions as to how these issues might further be improved have not been considered.*

Highway Authority reply.

Further to the Highway Authority comments previously provided, the Highway Authority requests that a contribution of £3300 be taken from the developer via the s106 Agreement to be held for no longer than 5 years to pay for a traffic regulation order to install yellow lines on the junction in the event that the parking situation in the area becomes a hindrance to the safe performance of the highway in the area.

PC Comments.

*Since the application and our related comments, the revised access from Wheathill Lane onto Station Road has been completed, and this has proven to fall well short of what was envisaged when planning was granted, particularly in terms of lines of sight and the effect of cars being parked on the west side of Station Road. We would encourage the Planning team, Highways and the applicant to consider what changes, particularly around road markings and parking restrictions might be looked at to improve the new layout, especially in terms of access of larger vehicles to Wheathill Lane.*

Highway Authority reply.

The aforementioned contribution noted above would also answer this concern.



A revised Framework Travel Plan, submitted during February 2024, has been approved by the Highway Authority. Its implementation, and payment of associated Travel Plan fee (£2,000) and a Safeguarding Sum (£7,800), to be paid prior to commencement of development, are to be secured through the S106 Agreement process.

### **Public Rights of Way Team**

No objections. Potential improvements to the path WN 17/35 to cope with any increase in future use, as well as the connecting links to the PROW, should be secured through a s106 agreement and can be technically approved under a s38 adoption agreement. In the event that there is not a s38 agreement, then a separate s278 agreement will be required. Any proposed works must not encroach onto the width of the PROW.

### **Somerset Ecology Services**

*Ecology:* No objection subject to imposition of ecological mitigation and enhancement conditions.

*Phosphates:* The proposed development will be connected to Milborne Port Wastewater Treatment Works. A proposed phosphate mitigation scheme includes an agreement for the applicants to purchase 7.63kg of Phosphorus Credits from the approved Woodrow Farm Phosphorus Credits Scheme to mitigate the AMP7 (post December 2024) phosphorus load. The development site and Woodrow Farm are both located within the River Parrett Catchment Site. Somerset Ecology Services concludes that these proposals will result in no Likely Significant Effect on the Somerset Levels and Moors Ramsar and Special Area of Conservation subject to the completion of a Section 106 Agreement requiring no occupation until after December 2024 and imposition of a planning condition requiring the submission by the applicants/developer to the LPA of an Allocation Certificate 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.

### **Natural England**

No objections. The LPA should be mindful of the need to secure the mitigation measures including:

- (i) Ensuring that the proposed new development is required to limit water use to 110 l per person per day
- (ii) Ensuring the new dwelling is not occupied until after the improvements at the Milborne Port WWTWs
- (iii) Ensuring the requisite phosphorus credits are secured by any permission.

### **Lead Local Flood Authority (LLFA)**

Various detailed responses have been received from the LLFA which have been uploaded onto Somerset Council's website in full for consideration. The most recent response from the LLFA is dated 21st February 2024 and has been provided in response to the Parish Council's summary comments of February 2024 (the Parish Council's comments have been set out in full above).

The LLFA advises that, when reviewing the topography, it would appear that the site would most likely drain to the eastern watercourse under current baseline conditions. Furthermore, reviewing Tables 4 and 5 within the submitted Flood Risk Assessment dated December 2021 indicates that for the design storm events (i.e 1 in 2 year, 1 in 30 year, 1 in 100 year, 1 in 100 year+40% climate change) discharge rates will be lower than the calculated greenfield rates for the site impermeable areas. The LLFA would be expecting the 100 year+45% climate change event at the next planning (reserved matters) stage should outline permission be granted.

In addition, the Flood Risk Assessment indicates a direct connection to the eastern watercourse rather than a connection into Lion Drive and Everlanes Close. The LLFA notes that the culverted watercourse to the east appears to be a Somerset Council Structure, and as such it would be unlikely that the Council would allow a connection. However, the LLFA believes that there are several other feasible options to provide a connection to the eastern watercourse. The applicant should be aware that this may require upgrade/repair of existing structures, restriction of discharge rates further and agreement with relevant authorities/landowners. However, taking consideration that this is an outline application for all matters with all matters reserved except access, these details could be secured by a suitably worded condition attached to any grant of outline permission.

To clarify, in regard to the 150mm/hr rainfall, this is not a daily rainfall figure, rather this acts as a cap within the modelling software. Rainfall is calculated using several different factors and setting the mm/hr to a higher number ensures that the outputs do not underestimate the volume of surface water. The calculations provided for this application use a different modelling software and the calculations show instances of results over 100mm/hr (e.g. 100 year 15 min Winter at 101.040mm/hr) showing that this has not been capped at a lower number.

As such, whilst further information may be required for the surface water drainage scheme, the LLFA recommends no objections subject to the imposition of a detailed condition requiring the submission and approval of details of the sustainable surface water drainage scheme for the site prior to commencement of development. The scheme should aim to meet the four pillars of SuDS (water quantity, quality,

biodiversity, and amenity) to meet wider sustainability aims as specified by the NPPF and the Flood and Water Management Act (2010).

### **Wessex Water**

Comments dated 21st March 2022 were received from Wessex Water in response to various drainage related issues/questions raised by the Parish Council in its response dated 7th March 2022.

The Parish Council requested explicit confirmation that sewage capacity in this part of the village could accommodate the proposed additional housing with a significant margin to spare. Wessex Water's advice was that, at this stage, a desktop appraisal has been completed to indicate a point of discharge to the public foul sewer network. If this proposal was to gain approval, computer modelling would then be arranged to assess the need for any capacity improvements. The infrastructure charge paid by all new development would be used to plan and construct capacity improvements for new development flows. Wessex Water manages capacity improvements (where necessary) in collaboration with developers.

In addition, the Parish Council requested explicit confirmation that water pressure in this part of Milborne Port is adequate, both in its own right, and also in terms of accommodating the demands of this proposed development. Wessex Water's advice was that a desktop appraisal has been completed indicating that off-site reinforcement to the water supply network may be necessary to supply the requisite amount of pressure to the development. If the proposed development was to be approved, Wessex Water would arrange for computer modelling to assess the need for capacity improvements.

In addition, Wessex Water noted that the submitted Design and Access Statement advises (2.6.2) "The surface water drainage proposals will include rainwater harvesting, porous paving areas, ditches, swales and wetland basins before a restricted discharge to the nearest watercourse." This outline strategy is acceptable in principle to Wessex Water. There must be no surface water connections to the foul sewer network.

Most recently further comments/queries relating to foul sewerage have been raised by the Parish Council in its summary comments dated February 2024. Those comments/queries are in italics with Wessex Water's response dated 22nd February 2024 immediately below.

PC Comments.

*What is not clear is how sewage from the development would connect into the*

*existing infrastructure nor whether that part of the village infrastructure (in this case Everlanes Close/Lion Drive/Wheathill Way) has capacity to handle the additional volumes. In their communication of 21 March 2022, Wessex Water advise that they have done a desk top appraisal of where the new development sewer will connect into the existing network, though the location of this is not communicated. They state they will look at capacity if the application is approved. This does not appear to be a good planning assessment of whether the site is appropriate in terms of sewage, nor what costs might be to facilitate any necessary infrastructure improvements.*

Wessex Water reply.

For 58 dwellings a 150mm foul connection will be required. There is a 150mm public foul sewer in Wheathill Lane, and a 150mm public foul sewer in Everlanes Close. As sewerage provider for this area, we have an obligation to provide foul sewerage services for granted development. Developers can apply to connect to the nearest public foul sewer, at their cost, on a 'size for size' basis and Wessex Water will manage the foul sewer network to accommodate the additional foul flows from granted development. If outline planning is subsequently granted, we will review the network, and plan any improvements we deem necessary, which would be undertaken at our cost and funded by our infrastructure charging arrangements for new development.

PC comments.

*We note that Wessex Water have advised that Milborne Port's Waste Water Management Plant is approaching capacity (it can handle the waste of an equivalent of 4,794 people, and Milborne Port has the equivalent of 4,482 as of August 2023). MPPC would be interested what the "safe" margins would be in this regard.*

Wessex Water reply.

As previously advised, if the proposal gain outline approval, we will undertake a network review to determine the need for any necessary capacity improvements to maintain current levels of service and compliance, and (where necessary) programme any works in collaboration with developers to agree timescales for connections and occupations.

In addition, Wessex Water has provided comments regarding surface water sewerage. There must be separated systems and no surface water discharge to the public foul sewer either directly or indirectly.

The FRA & drainage strategy advises surface water runoff from the proposed development will drain via swales, ditches, and pipes to a wetland attenuation basin with restricted outfall to the nearby watercourse. The illustrative surface water drainage strategy shows an off-site sewer with an outfall to a watercourse. Adoption

of sewers and elements of the surface water arrangements will be subject to their compliance with the Sewer sector Codes for adoption. For an adoption application to proceed the applicant will need the relevant permissions and discharge consent from third parties for the outfall to the watercourse.

The surface water strategy and discharge rates are to the approval of the LLLFA and must be agreed with the LLFA prior to application to Wessex Water.

In summary, Wessex Water is raising no objections to the application proposals.

### **Education Authority**

The Education Authority provided its initial response on 18th March 2022 to the original proposal for up to 60 dwellings and submitted an amended response on 17th May 2022 to the revised proposal to reduce the number of dwellings to 58.

A proposal of 60 dwellings in this location would generate 6 pupils for Early Years, Beeches play group. The cost to build per pupil for early years expansion would be £17,941.00. There are sufficient places in the primary school and the secondary school in this area at present but an education contribution of £107,646.00 (6 pupils x £17,941) is recommended to enable the Beeches play group to expand its capacity.

For the purpose of the S106 Agreement, as this is an outline application the contributions would be based on a per dwelling cost as follows;  $£107,646.00/60 = £1,794.10$  per dwelling. The Education Authority would expect this total per dwelling to be agreed in a S106 to ensure that this proposal is acceptable in planning terms by providing the required early years infrastructure funding to support the expansion and enable sufficient capacity to be available for the pre-school children from this development.

Subsequently, the reduction in the number of dwellings proposed on this application from 60 to 58 does not make a difference to the education contributions required as this many dwellings will still generate 6 early years pupils.

Early Years - 6 pupils will require £107,646.00 towards 'Sticky Fingers Pre-School' to ensure that the children from this development will have a place at the local pre-school.

In 2024, there has been an increase in costs. In respect of early years expansion, the cost to build per pupil has risen to £19,261.81. A 10% increase due to achieving carbon zero standards raises the figure to £21,188.00 (net zero uplift, 10%).

Therefore, in 2024, the total costs for 6 early years pupils would be £127,128.00 (6 pupils x £21,188) to enable the Beeches play group to expand.

For the purpose of the S106 Agreement, as this is an outline application the contributions would continue to be based on a per dwelling cost as follows; £127,128.00/58 = £2,191.86 per dwelling. The Education Authority would expect this updated total per dwelling to be agreed in a S106 Agreement to ensure that this proposal is acceptable in planning terms by providing the required early years infrastructure funding to support the expansion and enable sufficient capacity to be available for the pre-school children from this development.

### **Planning Policy team**

No objection to the proposal in principle and acknowledges that the tilted balance in paragraph 11 d) of the National Planning Policy Framework (NPPF) now applies to the decision-making process in light of the Council (in the South Somerset area) having between 2.98 and 3.10 years housing land supply. In conclusion, any recommendation will need to be made in the context of paragraph 11 d) of the NPPF having regard to the weight that should be given to policies within the adopted South Somerset Local Plan 2006-2028 and taking into account the nature and extent of the shortfall in housing land supply.

The following comments dated 9th March 2022 were made in response to the housing numbers, mix and planning policy issues/questions raised by the Parish Council on 7th March 2022. The Planning Policy team's comments are in italics.

- The LPA should seek to reduce the number of dwellings to the low 50s, rather than the 60 applied for.

*The site is identified in the Local Plan Review Preferred Options Policy MP1. Whilst the emerging Local Plan Review has limited weight, it does provide an approximation on the number of dwellings to be achieved on the site as a whole (including the extant permission to the west 17/03985/OUT and 19/02244/REM), which is 'about 110 dwellings'. the site to the west with extant permission for 65 homes, and this proposal for 60 homes, amount to 125 homes. This is not a significant increase on the proposed estimate for the whole site in the Local Plan Review Preferred Options. However, the overall scale, layout and density of the development is one of planning judgement when all other matters are considered including having regard to Policy EQ2 General Development to ensure that places are attractive, durable and function well, which aligns with the aim of the National Design Guide to create beautiful, enduring and successful places.*

- Amend the mix of homes to increase the numbers of two and three bedroom dwellings and seek explicit understanding regarding the proposed size mix and location of affordable homes.

*As indicated in the Planning Policy Consultation Response (18/02/22), the Local*

*Housing Needs Assessment (LHNA) 2021 for South Somerset demonstrates the mix of housing needed over the period 2020-2040. Whilst the Planning Statement provides the housing mix for the entire development of 60 homes, it is clear that the proportion of 4 or more bedroom homes is higher, at 37%, than the LHNA identifies (20%). It is likely that once the detail of the affordable housing mix is provided it will result in the percentage of 4 bed market homes being considerably higher, which is inconsistent with the evidence used to support Policy HG5 Achieving a Mix of Market Housing. The LHNA also provides the mix of affordable homes to be achieved across the district over the period 2020-2040. However, it is recognised that each settlement may have its own particular identified needs informed by additional housing-led evidence.*

### **Strategic Housing Team**

No objections subject to Section 106 agreement covering affordable housing provision.

### **Council's Environmental Services**

Consideration has been given as to whether the proposed development would provide sufficient Informal Open Space in accordance with Local Plan Policy HW1. (Open space Strategy 2011 - 2015: Quantity Standards). The plans shown on the "Illustrative Layout" identifies approximately 0.52ha of *useable* Public Open Space (POS), an amount in excess of the 0.23ha that is actually required for a development of 50 dwellings.

It is encouraging to note the variety of spaces, including the green corridor style area through almost the centre of the site, nicely linking the other areas of POS and making them more accessible for all residents, as well as the circular walk around the outside of the site and the buffer land to the east making sure the new development connects well to the existing area.

The areas housing the attenuation features have not been included in the calculation of useable POS; however, if they are designed thoughtfully will still provide areas of enjoyment for those on site and the necessity of including them where they are on the current plan is understood.

There are no objections to this application proceeding with the POS provided and designed as it is on the current plans and would request the developer to be mindful of the minimum width of 7m for areas of POS as stipulated in the Design Guide and its Addendum as some areas are only just wider than this.

### **Council's Strategic Planning Team (South)**

Based on 58 dwellings, requests off-site financial contributions towards the following, together with associated maintenance commuted sums.

Equipped play space at the play areas at the Gainsborough site to address the needs generated by the proposed development.

Youth facilities. Renovation of the Gainsborough skate park.

Playing pitches. Provision of football nets to protect the development site as well as the Recreation Ground Pavilion and Child's play area.

Changing rooms provision at the Recreation Ground's Pavilion.

The overall contribution total requested is £174,602 (or £3,010 per dwelling).

### **Council's Consultant Landscape Architect**

Provides detailed responses on 4th July, 26th August, and 16th November 2022, and 28th February 2023 which have been uploaded in full on the website. He has taken into account conclusions set out in the 'Milborne Port Peripheral Landscape Study' which did not conclude against development and that, done sensitively, there is scope for some development of the site.

Retention and protection of perimeter vegetation is of paramount importance, and these must be retained, protected, and reinforced with additional planting and appropriate longer-term management.

Whilst this is an outline application that seeks to establish the principle of development, the matter of access is not reserved for future consideration. Initial concerns were raised about the extent of loss of the roadside hedge fronting Wheathill Lane and thus the full impact on the character of the lane. Additional details have been submitted in respect of the extent of roadside hedge retention and the Consultant Landscape Architect has confirmed that his primary concern being the retention and protection of the road frontage hedge has been addressed in a positive manner. No objection is raised to this proposal subject to the imposition of an appropriately worded condition to ensure ongoing protection of this hedge.

He recommends no objections subject to the imposition of conditions to cover the detailed landscape design and implementation and to ensure ongoing protection of boundary features and especially the retained part of the roadside boundary hedge.

### **Council's Trees, Hedgerows & Landscape Specialist (Planning)**

Other than some hedgerows and a handful of trees on the peripheries, the site itself is rather bare and quite open to views from the wider landscape (particularly from the elevated scarp ridge to the North-East). Being mindful of the requirement for robust green infrastructure and 'tree-lined streets' advocated in the NPPF, the indications of



planting measures are welcomed. However, the well-meaning but rather restrictive emphasis upon a 'native' palette of plantings can be unhelpful when the aim is to secure the resilience of a scheme that is able to meet the long-term challenges of climate-change adaptation. There are positive opportunities to sustainably establish a meaningful number of larger-growing trees, but the indicative landscape measures do not yet appear to have taken advantage of this. Locations that seem particularly well suited for larger sized tree plantings would be alongside the 'inclusive' attenuation ponds, alongside the road frontage and peripheries of the sports field, alongside the existing Public Right of Way to the west, and the open space areas adjoining the site entrance, plus those northern and eastern boundaries.

Subject to imposing suitable conditions relating to tree and hedgerow protection measures and submission of a suitable hard and soft landscaping scheme, he raises no objections to this outline proposal.

### **Ministry of Defence**

The application site occupies the statutory safeguarding zone surrounding Yeovilton RNAS. In particular, the aerodrome height safeguarding zone surrounding the aerodrome and is approximately 13.5 km from the centre of the airfield. In principle the MOD has no safeguarding objections to this proposed development, but due to the proposed site location within the height safeguarding zone, the MOD will need to complete a more detailed assessment once plans and further information about the heights become available. Once further information is submitted, the MOD requests that it is consulted again in order to complete a more detailed safeguarding assessment.

### **South West Heritage Trust**

There are limited or no archaeological implications to this proposal and therefore no objections are raised on archaeological grounds.

### **Devon and Somerset Fire and Rescue Service**

Comments offered in response to a specific item raised by the Parish Council seeking confirmation that water pressure in this apart of Milborne Port is adequate, both in its own right, and also in terms of accommodating the demands of this proposed development. The Fire and Rescue Authority are unable to provide explicit confirmation to the Parish Council's request. However, any mains installed at a new development will be designed to meet water company statutory obligations in terms of constancy and pressure. The pre-determined attendance for Milborne Port is appropriate, with three appliances to be mobilised.

Means of escape in case of fire should comply with the Building Regulations 2000

and as such should satisfy the provisions contained in either Approved Document B (ADB) or some other suitable and accepted standard. Detailed recommendations pertaining to these matters will be made later at Building Regulations consultation stage.

Access and Facilities for the Fire & Rescue Service Access and facilities for Fire and Rescue Service appliances, should comply with the provisions contained within ADB, Part B5 of the Building Regulations 2010.

### **Police Designing Out Crime Officer**

No objection and provision of comments relating to courtyard parking, provision of knee-high fencing, window positions in active rooms that abut parking spaces, landscaping and defensible space in respect of crime prevention and anti-social behaviour, all to be considered at detailed design stage.

### **Sport England**

Views awaited. Any comments received will be reported orally at the Committee meeting.

### **Environmental Health**

No comments.

### **NHS**

No comments.

## **REPRESENTATIONS**

Over 40 representations have been received from third parties, which have been placed on the website for consideration prior to the determination of this application. All but one out of the total comments received have raised objections to the proposed development,

The most common concerns expressed included matters such as:

- Overlooking and loss of privacy.
- Wheathill Lane is a single country lane which is not suitable for additional traffic.
- The surrounding roads are narrow and not suitable to support further development.
- Increased volume of traffic will impact on the safety of the roads.
- Visibility of the junction is heavily impacted by parked vehicles.
- Pollution generated from increased traffic, lighting, and noise.

- Strain on existing services, including Milborne Port Medical Centre and the Primary School.
- Drainage issues.
- The design is not sympathetic to the character of the village.
- Density of the proposal is too high.
- Building on land of a high landscape value.
- Impact on wild birds and other animals

## **CONSIDERATIONS**

### **Principle of Development**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications must be determined in accordance with the Development Plan unless material considerations indicate otherwise.

### Settlement Policy Context

Policy SD1: 'Sustainable Development' of the Local Plan states:

*"When considering development proposals, the Council will take a proactive approach to reflect the presumption in favour of sustainable development contained in the NPPF and seek to secure development that improves the economic, social and environmental conditions within the District. Planning applications that accord with the policies in the Local Plan will be approved without delay, unless material considerations indicate otherwise.*

Where there are no policies relevant to the application or relevant policies are out of date at the time of making the decision then the Council will grant permission unless material considerations indicate otherwise, taking into account whether:

- Any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when assessed against the policies in the National Planning Policy Framework as a whole; or
- Specific policies in that Framework indicate that development should be restricted or refused.

The overall spatial strategy and settlement hierarchy for the District in relation to housing growth is contained within adopted Local Plan Policies SS1, SS4 and SS5.

Local Plan Policy SS1: 'Settlement Strategy' places each settlement in a tier within the 'settlement hierarchy', based on their role and function within the district, where provision for development will be made that meets local housing need, extends local services, and supports economic activity appropriate to the scale of the individual

settlement. In accordance with policy, the scale of development envisaged for each settlement should be commensurate with its tier, thereby reinforcing the hierarchy.

Local Plan Policy SS5 attributes a level of growth to each of the main settlements within the hierarchy. The overall scale of growth and wider policy framework are key considerations in relation to housing proposals with emphasis on maintaining the established settlement hierarchy and ensuring sustainable levels of growth for all settlements. These considerations will apply when considering housing proposals adjacent to the development area at Milborne Port.

Policy SS5 sets out the minimum expectation for the number of dwellings to be built in each settlement during the local plan period. Milborne Port is a Rural Centre within the settlement hierarchy with a requirement for 279 dwellings. Monitoring demonstrates that from the beginning of the adopted Local Plan period (2006) to 31st March 2023, 304 dwellings have been delivered within Milborne Port. As at the 31st March 2023, there are commitments (extant planning permissions) for a further 77 dwellings. As a result, there is potentially a total of 381 dwellings to be delivered within the Plan period (2006 - 2028) and this figure would rise to 439 dwellings should this application be granted planning permission. It should also be noted that there is a further application at Court Lane, Milborne Port pending decision for 22 dwellings.

The level of growth coming forward through existing completions and commitments (381 dwellings) over the plan period 2006-2028 aligns with the Local Plan housing requirement for the higher tier Local Market Towns of Ansford/Castle Cary (374), Langport/Huish Episcopi (374), and Somerton (374). However, the Local Market Towns have also experienced significant growth over the plan period, beyond their respective Local Plan housing requirements. Whilst the amount of growth in Milborne Port is higher than the requirement in the adopted Local Plan Policy SS5, it is consistent with the growth at other Rural Centres such as Martock and South Petherton.

In addition, it must be noted that the number of houses specified in Policy SS5 is a minimum target, and if it is exceeded that does not indicate a conflict with policy. Policy SS5 makes it clear that a permissive approach will be taken when considering housing proposals adjacent to the development area in Rural Centres. The application site is such a site and, as such, the principle of residential development in this location is considered to comply with local plan policy.

#### Affordable Housing

Local Plan Policy HG3 requires 35% of the total number of dwellings to be affordable.

A development of 58 dwellings would be expected to deliver 20 affordable homes. The Council's Housing Specialist has confirmed that affordable housing should be split 75:25 Social Rent: First Homes, noting also that the NPPF requires 10% of the site overall to be provided for affordable home ownership. Based on an overall number of 58 dwellings, the split should be 15 dwellings for social rent and 5 dwellings for First Homes. This would be subject to inclusion within a Section 106 Agreement.

Housing Mix and Layout

Policy HG5 'Achieving a Mix of Market Housing' sets out that a range of market housing types and sizes should be provided across the district that can reasonably meet the market housing needs of the residents of South Somerset. The latest Local Housing Needs Assessment (2021) for South Somerset demonstrates the mix of housing needed over the period 2020-2040. The mix of dwelling sizes is provided by Figure 1 of the LHNA and set out as percentages in the table below. The illustrative housing mix schedule for the entire development of 58 homes, as indicated on the submitted illustrative layout plan no. 201203 L02 02 Rev G, demonstrates that the proportion of 4-bedroom homes (21 dwellings, 36%) and 5-bedroom homes (3 dwellings, 5%) is considerably higher (overall 41%) than the proportions identified in the LHNA (17% for all homes/20% for market homes). This is inconsistent with the evidence used to support Policy HG5.

No. of bedrooms	1 bed	2 bed	3 bed	4 bed+	Total dwellings
LHNA -total housing mix	7%	23%	53%	17%	100%
LHNA - market housing mix	6%	15%	59%	20%	100%
Proposed scheme (illustrative schedule)		14 dwellings 24%	17 dwellings 30%	24 dwellings 41%	55 dwellings
(3 x 2 bed Apartment/Flat Over Garage)		5%			3 apts/FOG

In respect of the affordable housing element, the Council's Housing Specialist notes that the development proposal consists of a mix of 2- to 4- bedroom dwellings. However, the Housing Specialist recommends the following mix of affordable units which does include a small number of 1 bedroom accommodation, and which is based on the expressed demand for the Parish and the South Somerset Local Housing Needs Assessment 2021 (LHNA).

- 20% x 1 bedroom house, flat or bungalow
- 41% x 2 bedroom house or bungalow
- 28% x 3 bedroom house or bungalow
- 11% x 4 bedroom house (to be provided for social rent)

Based on an overall number of 20 affordable units being provided, this would equate to:

- 4 x 1 bedroom house, flat or bungalow
- 8 x 2 bedroom house or bungalow (this can be increased to 9 if the 1 bed total is reduced to 2)
- 6 x 3 bedroom house
- 2 x 4 bedroom house (to be provided for social rent)

In addition, the prevailing minimum internal space standards below should be adhered to for all affordable dwellings on the site:

1 bedroom flat	(2 person)	47 sqm	
2 bedroom flat	(4 person)	66 sqm	
1 bedroom house	(2 person)	55 sqm	
2 bedroom house	(4 person)	76 sqm	(86 sqm if 3 storey)
3 bedroom house	(6 person)	86 sqm	(94 sqm if 3 storey)

The affordable units should be 'pepper potted' throughout the site in clusters and the units developed to blend in with the proposed housing styles. A preference would be for the dwellings to be houses/bungalows or, if flats, to have the appearance of houses and should be in clusters of no more than 8 with a mix of affordable tenures in each cluster. The affordable dwellings would form an integral and inclusive part of the layout.

The various comments raised by the Housing Specialist in respect of the affordable housing units can be included as part of any Section 106 Agreement. In respect of the open market dwellings, notwithstanding the submitted illustrative schedule, the current application is in outline form only (except for access details). As such detailed matters, including the types and sizes of dwellings, can be determined at the 'reserved matters' stage rather than at this outline stage where it is the principle of the development proposal that is being considered. A condition is recommended along the lines that, notwithstanding the illustrative details of the schedule of types of dwelling units to be provided as part of this outline submission, proposals for the size, type, tenure, and range of housing to be developed (including both market and

affordable housing) shall be submitted to and approved in writing by the Local Planning Authority for approval as part of the 'reserved matters' application relating to layout and scale. Development shall thereafter be implemented only in strict accordance with the approved scheme.

### Climate Change

Whilst the submitted Planning Statement references and summarises the relevant policies in the adopted Local Plan, including Policy EQ1 'Addressing Climate Change in South Somerset', it does not adequately set out how the development will ensure that climate change mitigation and adaptation would be delivered. References are made to the further detailed stage ('reserved matters') and choices in building fabric. However, it is recognised that green infrastructure provision, orientation and pedestrian connectivity does set a foundation to mitigate and adapt to the effects of climate change.

It is considered that the current outline proposal could make direct reference to how climate change mitigation and adaptation has been specifically considered to meet the aims of Policy EQ1, the Council's wider ambitions to tackle climate change, and more generally the clear national direction of reducing carbon emissions to net zero by 2050. Nevertheless, officers are satisfied that climate change mitigation and adaptation proposals can be adequately considered at the more detailed 'reserved matters' stage should outline permission for this development be approved.

### Emerging Local Plan Review (2106-2036)

Work on the emerging Local Plan Review (LPR) has ceased and will no longer be progressed following the formation of the current Somerset Council on 1st April 2023. A Local Development Scheme for the new Somerset Local Plan was agreed by the Executive Committee on 4 October 2023.

Two consultations took place under Regulation 18 of the Town and Country (Local Planning) (England) Regulations 2012, the most recent consultation on Preferred Options ending in September 2019.

The site is part of a proposed allocation (Policy MP1) within the Local Plan Review Preferred Options document. Policy MP1 allocates 110 dwellings on land comprising the current application site and the field to the west of the application site (the latter now benefits from a planning approval for 65 dwellings).

Consultation responses were received in relation to the site. This included some concerns raised in relation to the site allocation MP1 'Housing Provision North of Wheathill Lane' regarding traffic congestion along Wheathill Lane, heritage, and the

cumulative impact of growth in the settlement. Further evidence has been gathered in relation to heritage, and a Historic Environment Assessment was published for the site allocation MP1 following concerns raised by Historic England. The HEA did not identify any significant harm to the historic environment although a number of sensitivities were identified; this is within the site context as a whole and therefore includes the western area of MP1 which has already secured planning permission.

However, a number of policy recommendations were made as part of Policy MP1 that should be considered in the context of this proposal, particularly at the detailed stage of application process. Development should:

1. Preserve the historic town silhouette in panoramic views from Wheathill Lane through appropriate building heights.
2. If feasible, create framed views to Milborne Port Methodist Church from within the site.
3. Incorporate a buffer and/or screening at the eastern end of the site to shield the cemetery from noise and light spill and provide screening in views from Ven
4. House Park.
5. Be of a traditional scale - two storeys.
6. Require archaeological assessment through planning process.

It is noted that together, the site to the west with extant permission for 65 homes, and this proposal for 58 homes, amount to 123 homes. This is not a significant increase on the proposed estimate of 110 dwellings for the whole site in the Local Plan Review Preferred Options. However, as the emerging Local Plan Review reached an early stage in its preparation and objections have not been considered, it is judged that limited (if any) weight can be attached to it (paragraph 48 of the NPPF).

#### HELAA 2021

The Housing and Employment Land Availability Assessment (2021) continues to identify the site as suitable and available for housing under site reference number E/MIPO/0023 - North of Wheathill Lane. This HELAA site includes the site to the west of the proposal which has permission for 65 dwellings and a convenience store (application ref. 19/02244/REM).

#### Neighbourhood Planning

Milborne Port parish has been formally designated as a Neighbourhood Area on 13th December 2019. To date, no Neighbourhood Plan has been prepared for consultation.

#### Planning Balance

Milborne Port is a Rural Centre within the settlement hierarchy, which has a defined retail and community role and benefits from a range of community facilities and



services. With regard to the overall scale of growth, the number of homes built during the plan period so far equates to about 18 dwellings per year (304 dwellings / 17 years (2006-2023) = 17.88). If existing commitments are to be built out and a further 58 dwellings were to be approved this would potentially equate to 20 dwellings per year over the entire plan period (439 dwellings (304 completions, 77 commitments, 58 proposed) / 22 years (2026-2028) = 19.95). The applicants have engaged with the community and have included a number of additional community benefits including parking for the cemetery and allotments.

The Council published a Five-year Housing Land Supply 2023-2028 for the former South Somerset area in October 2023 which shows it can demonstrate a housing land supply equivalent to **3.29 years** - a situation that is predominantly a result of the requirement to mitigate phosphates affecting the condition of the Somerset Levels and Moors Ramsar Site and River Axe Special Area of Conservation. Since the publication of the October 2023 report, while preparing for an appeal on a site in Yeovil, the Council has accepted that it has a Five -Year Housing Land Supply position which ranges between **2.85 and 2.96 years**.

A revised NPPF was published on 19th December 2023 along with the Housing Delivery Test (HDT) Measurement 2022. The HDT result for the former South Somerset area is 135%. The NPPF removes the requirement to include a 5% buffer on five-year housing land supplies and now only imposes a 20% buffer where HDT indicates delivery below 85%. The removal of the 5% buffer means that the former South Somerset position would now range between **2.98 and 3.10 years**. The Council therefore acknowledges that this means that the tilted balance in paragraph 11 d) of the NPPF now applies to the decision-making process.

The lack of a five-year housing land supply means the presumption in favour of sustainable development is a significant material consideration and any recommendation will need to be made in the context of paragraph 11 d) of the NPPF, 2023 having regard to the weight that should be given to policies within the adopted South Somerset Local Plan 2006-2028 and taking into account the nature and extent of the shortfall in housing land supply

There is third party local concern about the level of development proposed and the impact on the provision of local infrastructure. In particular, in relation to the primary school and medical facilities provided within the village. However, such concerns are not supported by consultee responses. Based on a proposal for 58 dwellings, the Education Authority has requested a contribution of £127,128.00 (£2,191.86 per dwelling) towards Sticky Fingers Pre-School, to ensure that the children from this development will have a place at the local pre-school. In addition, no comments have

been offered by the NHS, despite having been consulted about this proposal.

Furthermore, the application proposal would indirectly enhance existing community facilities via payment of S106 monies towards community facilities. The Council's Strategic Planning Team (South) has advised that there is a current deficiency in provision in outdoor equipped play space within the Milborne Port locality, which would be further increased as a result of this development. The current skate park facility is also due for maintenance and without funding may lead to a reduction in Youth facilities for the locality, the need for which would also be increased as a result of this development. As such, to address these needs, off-site equipped play space contributions and youth facility contributions are sought to address these needs. In addition, as a result of the development, there will be a greater need for playing pitch and changing room provision within the Milborne Port locality. To address these needs, off-site contributions are sought to increase the provision of changing rooms at the Recreation Ground Pavilion, as well as for the provision of funds to install football nets to protect the Pavilion and associated child play area sites, in addition to the development itself from the abutting pitch.

The proposed development of 58 dwellings would generate a need for 258.68 square metres of space for equipped play, 64.67 square metres of space for youth facilities, 1,552.08 square metres for playing pitches, and 13.58 square metres for changing rooms. In accordance with Local Plan Policies HW1 and SS6, it is considered that the best way to mitigate the generated need would be to increase the provision of improvements to these types of facilities through off site financial contributions.

Appropriate financial contributions towards the following, together with associated maintenance commuted sums would be secured through a Section 106 Agreement (including the payment of relevant legal fees and administration costs):

Equipped play space at the play areas at the Gainsborough site to address the needs generated by the proposed development.

Youth facilities. Renovation of the Gainsborough skate park.

Playing pitches. Provision of football nets to protect the development site as well as the Recreation Ground Pavilion and Child's play area.

Changing rooms provision at the Recreation Ground's Pavilion.

The overall contribution total requested is £174,602 (or £3,010 per dwelling).

### Summary

In determining this planning application, in line with para 11d of the NPPF, the housing policies of the Local Plan are out-of-date. As there are not any restrictions under footnote 7 which disengage the tilted balance, the decision-maker is required to undertake the planning balancing exercise, weighted towards granting planning

permission. There must therefore be compelling reasons for planning permission to be withheld.

As the Council is only able to demonstrate a sufficient supply of deliverable sites to meet between 2.98 and 3.10 years' worth of housing land, in accordance with the NPPF, the relevant housing land policies for the determination of this application are considered out-of-date. To this end, reduced weight should be applied to Local Plan housing policies SS1, SS4, and SS5, and the "tilted balance" towards granting planning permission is engaged, unless the adverse effects significantly and demonstrably outweigh the benefits. With that in mind, it is considered that the benefits outlined within this report, namely the delivery of new homes to meet an identified housing need, the provision of up to 20 affordable homes, the community benefits including additional cemetery parking and provision of allotments, as well as stimulus to the local economy, significantly outweigh any adverse impacts. In addition, whilst no longer a significant material consideration, due regard is given to the application site's promotion for residential development in the Housing and Employment Land Availability Assessment (2021) and the former SSDC's Local Plan Review (Policy MP1).

### **Visual Impact, Landscaping and Open Space**

Local Plan Policy EQ2 refers to development in general and requires development proposals to preserve and enhance the character of the district. Development proposals must, amongst other criteria, seek to conserve and enhance the landscape character of the area, reinforce local distinctiveness and respect local context and have due regard to site specific considerations.

Chapter 12 of the NPPF encourages the achievement of well-designed and beautiful places. Paragraph 135 advises that planning decisions should ensure that developments will function well and add to the overall quality of the area for the lifetime of the development and are visually attractive as a result of good architecture, layout and appropriate and effective landscaping. Also, being sympathetic to the local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities), and optimising the potential of the site to accommodate and sustain an appropriate amount and mix of development.

The site does not fall within any landscape designations, nor does it feature within key views from Registered Parks and Gardens or Conservation Areas. The site is considered to sit well in the surrounding built form and development of this site will not protrude unduly into open countryside.

The landscape strategy has been prepared having regard to a detailed understanding of the site's landscape quality and its context, building upon the green infrastructure assets within the site and seeking to maximise multifunctional benefits. On the whole, changes to the landscape and visual baseline will be localised within the immediate context of the site and to views gained from the elevated vantage of East Hill Escarpment where the proposals would be seen within the context of adjacent residential development. There will however be an inherent effect with the loss of greenfield land.

The scheme proposes to bolster existing perimeter vegetation with additional proposed tree planting, with specific attention given to the northern and eastern boundaries, to ensure appropriate mitigation to landscape and visual impact receptors. Further tree planting and layout adjustments have also been included following feedback from the Parish Council. It is therefore considered that any landscape impact arising from the proposed development can be effectively mitigated through the proposed enhancement to the landscape structure.

The details shown on the "Illustrative Layout" identifies approximately 0.52ha of useable public open space (POS), which is an amount that is in excess of that required for a development of this size, which has been confirmed by the Council's Environmental Services. The proposal shows a variety of spaces, including the green corridor style area through almost the centre of the site, nicely linking the other areas of POS and making them more accessible for all residents, as well as the circular walk around the outside of the site and the buffer land to the east making sure the new development connects well to the existing area.

The streets are shown to be tree lined in accordance with the NPPF which states that *"planning decisions should ensure that new streets are tree-lined and opportunities are taken to incorporate trees elsewhere in developments."* (paragraph 131). It is acknowledged that the revised illustrative layout development reinforces the opportunity for tree-lined streets within the development to enhance overall quality of place, and green infrastructure provision within the scheme; this is consistent with Local Plan Policies EQ2 General Development and EQ5 Green Infrastructure.

The Council has sought advice from an independent Consultant Landscape Architect who has visited the site and surrounds. An LVIA has been submitted with the application and is, in the opinion of the Landscape Architect, appropriately detailed for this proposal. Local landform and existing vegetation and built form dictates the extent of any intervisibility. Other than some hedgerows and a handful of trees on the peripheries, the site itself is rather bare and quite open to views from the wider landscape (particularly from the elevated scarp ridge to the North-East).

The 'Milborne Port Peripheral Landscape Study' (MPPLS) notes that the site is -

- 'An area of moderate landscape sensitivity'
- 'An area of moderate visual sensitivity'
- 'A landscape with a moderate capacity to accommodate built development'

It is accepted that these conclusions were reached in October 2008, long before the adjacent development was consented, and which has obviously changed the baseline criteria. Notwithstanding that, it is considered that these broad conclusions are still correct, and importantly, the MPPLS did not conclude against development. Done sensitively, there is scope for some development on this site, as indeed was recognised by the allocation of this site for residential development in the former SSDC's emerging Local Plan Review.

Retention and protection of perimeter vegetation would be of paramount importance, and these must be retained, protected, and reinforced with additional planting and appropriate longer-term management. Broadly speaking, the internal layout of the scheme as indicated on the submitted illustrative layout drawing achieves this. In addition, the existing roadside hedge fronting Wheathill Lane would be retained as far as possible whilst still having regard to the provision of new access, visibility splays and footpath provision. The site access drawing shows the retained hedge to the west of the site, trimmed back to align with HMPE (Highways Maintainable at Public Expense) ownership. Only a small section of hedgerow is proposed to be removed, i.e. a section of hedgerow either side of the access to be translocated slightly to the north to allow for the required visibility splays. Details of hedgerow translocation/replanting within the site have been noted on the submitted illustrative layout.

The broader proposal would have a good relationship with the village and that this proposed residential extension would be logical and does include 'defendable boundaries' in the form of the Cemetery to the east and the Memorial Recreation Ground to the north. Additional details have been submitted in respect of the extent of roadside hedge retention and the Consultant Landscape Architect has confirmed that his primary concern being the retention and protection of the road frontage hedge has been addressed in a positive manner.

He recommends no objections subject to the imposition of conditions to cover the detailed landscape design and implementation and to ensure ongoing protection of boundary features and especially the retained part of the roadside boundary hedge.

The Council's Trees, Hedgerows & Landscape Specialist (Planning) is mindful of the

requirement for robust green infrastructure and 'tree-lined streets' advocated in the NPPF. Therefore, the indications of planting measures are welcomed in principle. There are positive opportunities to sustainably establish a meaningful number of larger-growing trees, but the indicative landscape measures do not appear to have taken advantage of this. Locations that seem particularly well suited for larger sized tree plantings would be alongside the 'inclusive' attenuation ponds, alongside the road frontage and peripheries of the sports field, alongside the existing Public Right of Way to the west, and the open space areas adjoining the site entrance, plus those northern and eastern boundaries.

Nevertheless, this is an outline application which seeks to establish the principle of development and access. The matters of appearance, landscaping, layout, and scale are reserved for future submission, consideration, and determination. Subject to imposing suitable conditions relating to tree and hedgerow protection measures and submission of a suitable hard and soft landscaping scheme, he raises no objections to this outline proposal.

Having due regard to the comments received from the Council's Consultant Landscape Architect and its Trees, Hedgerows & Landscape Specialist, it is considered that residential development could be provided on the site without causing unacceptable detriment to the landscape character and appearance of the area. Furthermore, it is considered that the illustrative layout plan has demonstrated that the proposed quantum of residential development (together with associated curtilages, residential paraphernalia, garaging/parking areas, access roads and drives thereto), land made available for community uses including the additional cemetery parking and provision of allotments, public open space, landscape planting, biodiversity enhancements, vehicular access from Wheathill Lane, and associated infrastructure works can all be accommodated on the site without resultant unacceptable detriment to the character and appearance of the area.

Third party objection raises concerns over the loss of valuable greenspace in the village. Whilst greenspace is valued in any village setting, this land is not publicly accessible and as such does not offer any value to the village except in relation to visual amenity and as farmland.

No play space or leisure facilities are proposed as part of the application. Nevertheless, as stated above, the Council's Strategic Planning team has confirmed, based on the proposed population from the development, that a financial contribution of £174,602 (£3,010 per dwelling) towards outdoor equipped play and youth facility provision, playing pitches and changing rooms is required. This contribution can be secured via a s106 agreement.

As such, mindful that no objections are being raised by the Council's Consultant Landscape Architect and the Council's Trees, Hedgerows & Landscape Specialist (Planning), it is suggested that it would be difficult for the LPA to sustain a refusal on this basis. Subject to the recommended conditions, the required financial contribution and a satisfactory detailed design at the reserved matters stage, there would be no significant adverse impact on landscape setting and the character of the area. It is considered that the proposed development would comply with Policies EQ2 and EQ5 of the Local Plan.

### **Access and Highway Safety**

Local Plan Policy TA5 requires all new development to securing inclusive, safe and convenient access on foot, cycle, and by public and private transport that addresses the needs of all, and to ensure that the expected nature and volume of traffic and parked vehicles generated by the development would not have a detrimental impact on the character or amenity of the area and would not compromise the safety and/or function of the local or strategic road networks in terms of both volume and type of traffic generated.

Policy TA6 states that parking provision in new development should be design-led and based upon site characteristic, location, and accessibility. The parking arrangements within SCC's Parking Strategy will be applied within the District.

Paragraph 115 of the NPPF states that development should only be prevented or refused on highways grounds if there would be unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Paragraph 112 of the NPPF advises that maximum parking standards for residential and non-residential development should only be set where there is clear and compelling justification that they are necessary for managing the local road network.

Access is considered at this stage. The proposed development would provide for a vehicular and pedestrian access off Wheathill Lane. A new footway would be constructed to the south side of Wheathill Lane to provide continuity and tie in with existing footway provision. A relatively new section of 2.0m footway would be provided, westbound from the new developments off Lion Drive and Everlanes Close. A short section would be 1.5m in width. This reduced width would still be compliant with highways standards but would need to be of the reduced width to maintain current on street residential parking. Also, to achieve this and maintain existing road widths, a 500mm strip of new carriageway would be provided on the north side of Wheathill Lane; this would all be within the highway-maintained land. Drop kerbs

would be provided at the appropriate locations.

West of Wheathill Way junction the existing footway facility would be improved by the removal of the existing small verge strip.

The provision of a continuous footway link on the south side of Wheathill Lane would provide a benefit to all users and would also provide continuous linkage with existing footway facilities on Wheathill Way and south to East Street and on to the town centre. The proposal would be compliant with the highway and transport elements of the NPPF and the Planning Practise Guidance.

Much local concern has been raised about the inadequacies of the highway infrastructure to cope satisfactorily with not only existing volumes of traffic but also the increased traffic generations that would result from this proposed development, including through increased congestion, as well as about the proposed access arrangements and highway implications of the development.

The Highway Authority's comments and recommendation have been set out in full previously in this report. The Highway Authority calculated that the original proposal for 60 dwellings would generate in the region of 30-35 vehicles in the peak hour. 30 vehicles over the course of the peak hour equates to approximately one vehicle every two minutes, which the Highways Authority does not consider to be a severe impact on the highway network. The Highway Authority concluded that any harm associated with the development could be offset against mitigation measures such as improved footway facilities, and links to the existing PROW network, and implementation of a Travel Plan.

Concerns have been raised by the Parish Council over the obstruction of parked vehicles and the impact they would have on road safety. The Highway Authority initially responded by advising that the proposed widening of the carriageway would add to the available space for on street parking, and still allow traffic to pass in a safe manner. If inappropriate/indiscriminate parking occurs and causes a safety issue in proximity to new junctions, the local constabulary would have powers to move on those vehicles causing the problem.

Subsequently however it has been brought to the Highway Authority's notice that traffic flow through the recently amended junction of Wheathill Lane and Station Road is being hindered by inappropriate parking of vehicles. Having regard to the fact that this current development proposal would further intensify the use of this junction, the Highway Authority considers it appropriate for a sum of £3300 to be taken from the applicant/developer to pay for a Traffic Regulation Order should further inappropriate



parking on the junction be caused by the increase of traffic generated by this development. The sum would be taken as part of the mitigation measures included within a s106 Agreement and would be kept for a period of no longer than 5 years. It would only be used as described and would be returned to the applicant/developer in the event that the increased hindrance to traffic flow does not transpire.

In addition, the application proposes improvements to the existing public right of way (PROW) which runs through the site from north to south. The Rights of Way Officer has been consulted on the proposals and has raised no objections to the proposal, subject to ensuring the improvements to the path and connecting links to the PROW are secured through a s106 agreement.

A Framework Travel Plan (TP) has been submitted which proposes a series of practical measures to be implemented by the developer of the site designed to improve sustainability and reduce single occupancy car use. The TP combines a range of "hard measures" such as site design and infrastructure with "soft measures" such as marketing and information provision. The TP seeks to promote the use of alternative modes of transport that will help to reduce journeys made by private vehicle to and from the site. It provides walking, cycling, public transport, and car sharing initiatives in order to achieve a reduction in the level of additional car-borne traffic generated by the proposed development. The measures proposed aim to achieve more sustainable travel patterns from the outset in order to take advantage of the fact that travel behaviour change is more likely to come about when other lifestyle changes such as moving house are occurring, rather than cutting existing car use.

The Highway Authority has considered the most up-to-date TP document (February 2024) and advises that its contents are acceptable. The Travel Plan is to operate from commencement of development to a period of 5 years after 80% occupation, to allow its objectives to be fulfilled. There would be a requirement for the applicant/developer to pay a Travel Plan Fee of £2000 and a Safeguarding Sum of £7800 prior to commencement of the development. These objectives could be achieved through the requirements of a S106 Agreement.

If planning permission were to be granted for this development proposal, the Highway Authority has recommended various highways related conditions and mitigation measures reflected in Section 106 requirements, planning conditions and informatives. As stated above, the section 106 Agreement should secure the Travel Plan and the proposed pedestrian infrastructure improvements along Wheathill Lane, a possible Traffic Regulation Order, together with footpath links to the adjoining Public Right of Way to the west of the site and the cemetery to the east of the site.

Conditions are recommended relating to the submission and approval of a Construction Environmental Management; provision of on-site surface water disposal; phasing and provision of highway infrastructure construction; provision of parking and turning spaces (including electric vehicle charging points); and creation of visibility splays.

Whilst the Highway Authority accepts local third-party opinion may not support the proposal, in highway terms the Authority's assessment does not highlight any grounds on which to base an objection. The Highway Authority is content the development will not create a severe highway safety or efficiency issue.

Overall, the application site is in a sustainable location, having regard to the scale of development proposed and the role and function of the settlement which benefits from a variety of local facilities and amenities. The increase in vehicle movements as a result of the proposed development does not give rise to an objection on traffic generation or highway safety grounds from the Highway Authority and is therefore deemed to be acceptable in accordance with Local Plan Policies TA5 and TA6 and relevant guidance within the NPPF.

### **Flooding and Drainage**

The application site is at a low risk of flooding, lying as it does within Flood Zone 1. A flood risk assessment (FRA) and drainage strategy have been prepared by the applicant's drainage consultants, Teign Consult, to assess the impact of development on the site, in relation to flood risk and drainage. Ground investigation has proven that infiltration is not viable on the site, instead the surface water drainage proposals will include rainwater harvesting, porous paving areas, ditches, swales, and wetland basins before a restricted discharge to the nearest watercourse.

The LLFA has considered the scheme in detail and has confirmed that, overall, it is content that a satisfactory means of drainage can be achieved on the site. The imposition of drainage conditions on any permission issued has been recommended.

Wessex Water has also confirmed that the outline strategy is acceptable in principle to Wessex Water.

As such, subject to suitable conditions to control surface water drainage and foul drainage, the proposals are considered to be in accordance with Local Plan Policy EQ1 and relevant guidance within the NPPF.

### **Ecology**

Local Planning Authorities have a statutory duty to ensure that the impact of

development on wildlife is fully considered during the determination of a planning application under the Wildlife and Countryside Act 1981 (as amended), Natural Environment and Rural Communities Act 2006, The Conservation of Habitats and Species Regulations 2017 (Habitats Regulations 2017).

Policy EQ4 of the Local Plan also require proposals to pay consideration to the impact of development on wildlife and to provide mitigation measures where appropriate.

The site comprises a single species poor, improved grassland field, with hedgerows bounding the site to the north, south and southeast. The application proposals would result in the loss of improved grassland but would deliver approximately 300m of new hedgerow, along with new grassland and wetland habitats associated with open space and the drainage strategy.

Somerset Ecology Services has had regard to the results of the submitted Ecological Impact assessment (EcIA) at the site.

#### *Protected Species*

##### Amphibian

The eDNA analysis confirmed the absence of Great Crested Newts from these ponds. The site is likely to be of value to common amphibian species at a local level albeit this is limited by the lack of waterbodies within and adjacent to the site. As such, the site is of negligible value to GCN.

##### Badger

No confirmed evidence for the presence of badger was recorded within or adjacent to the site. Mammal paths were recorded at the northern and eastern site boundaries; however, there was no corroborating evidence to establish what species had made these paths. No evidence for the presence of setts was recorded at the site, although there is some potential that dense hedgerows obscured evidence. Given the minimal evidence of badger recorded at the site, it is considered that the site provides some foraging opportunities as part of a wider home range, and also habitat suitable for sett building, although none was confirmed. Badgers are not listed as a species of principal importance for the conservation of biodiversity in England and have therefore not been assigned a scale of importance in this case but are considered in this assessment in relation to their legal protection only.

##### Bats

No features were identified within any of the trees on site that could be used by roosting bats, whilst no buildings are present within or adjacent to the site.

Accordingly, the site provides negligible importance for roosting bats.

The results of transect surveys indicate that the hedgerows on site are used by a low number of species, and that activity is concentrated along the northern boundary of the site, as this offers a linear dark flight corridor. Hedgerows bounding the site provide good navigational features and foraging resources connecting to other similar suitable habitat in the local area in an otherwise built-up environment. These habitats are therefore considered to be of Local importance for commuting and foraging bats.

The grassland dominating the internal area of the site supported very little bat activity, limited to occasional passes by bats, and as such is considered to be of value a less than the local level.

### Birds

The site is likely of use to a small assemblage of common urban edge birds, with the hedgerows forming suitable nesting and foraging habitat, and the grassland also providing some foraging habitat. As such the site is likely to be of no more than local value to birds.

Given the small size of the site, it is very unlikely that a notable assemblage of birds would make use of the site, whilst the habitats of highest value, namely the hedgerows, are largely retained under the proposals in any event. As such, it is considered that birds are not a constraint to the proposals at the site.

### Dormouse

A total of 50 nest tubes were installed in April 2021 at approximately 10 m intervals within the boundary hedgerows. The tubes were subsequently checked in June and September 2021. During the survey visit of September 2020, two new dormouse nests were identified in the northern and southern hedgerows. Given the presence of this species at the site, but the comparative small amount of suitable habitat present in comparison to the wider surrounds, it is considered the site is of value at the Local level for this species.

### Invertebrates

Hedgerows and grassland provide habitats suitable to support a range of species. However, as the habitats are common and widespread in the area, the site is considered to be important at no more than local level for invertebrates.

### Reptiles

The hedgerows and associated margins at the site provide some habitat for common reptiles such as slow worm; however, the short mown sward and improved character of the grassland is of limited value to this species group. As such, the site is considered to be of less than local value to common reptiles.

### Other Notable Species

The site and habitats in its immediate surrounds offer foraging and refuge opportunities for hedgehogs. The site is up to local importance for the species. Given the lack of aquatic habitat within the site and its near surrounds, there is negligible potential for riparian fauna such as otter to make any use of the site.

Based on the assessment and conclusions in the submitted EcIA and having considered the proposed scheme and its potential impact on protected species and existing ecological features, Somerset Ecology Services has not raised any objections to the proposal but has recommended that several mitigation and enhancement conditions be attached to any grant of planning permission. These include the requirement for the applicant to obtain a Natural England licence relating to dormice protection or a statement in writing from the licensed dormouse ecologist to the effect that he/she does not consider that the specified development will require a licence. Also, that all ecological measures and/or works are carried out in accordance with the enhancement measures set out in the submitted EcIA report. In addition, a Construction Environmental Management Plan relating to various biodiversity interests, a Landscape and Ecological Management Plan, and a lighting strategy to show that areas to be lit would not disturb or prevent bats using their territory should be submitted to and approved by the LPA.

As such, subject to the suggested conditions and a satisfactory detailed design at the reserved matters stage, there would be no significant adverse impact on biodiversity in accordance with Policy EQ4 of the South Somerset Local Plan and the aims and objectives of the NPPF.

### **Phosphates**

The site falls within the catchment area for phosphates affecting the Somerset Levels and Moors. The proposed development would be connected to Milborne Port Wastewater Treatment Works. As per the Somerset Phosphorus Calculator, the current change in phosphorus load is 35.13 kgP/yr and AMP7 (post December 2024) change in phosphorus load is 7.63 kgP/yr.

The proposed phosphate mitigation for the scheme involves an agreement having been made to purchase 7.63kg of Phosphorus Credits from the approved Woodrow Farm Phosphorus Credits Scheme to mitigate the AMP7 (post December 2024) phosphorus load. The application site and Woodrow Farm are both located within the River Parrett Catchment Site. The shadow Habitats Regulations Assessment provided by David Hiscox, Woodrow Dairy Ltd, demonstrates that, provided the correct number of credits are purchased, no impacts are anticipated on the Ramsar Site.

Based on the above Somerset Ecology Services conclude that these proposals would result in no Likely Significant Effect on the Somerset Levels and Moors Ramsar and Special Area of Conservation. It is recommended that the applicant enters into a S106 Agreement confirming no occupation of the development until after December 2024 (AMP7 upgrades) and that a condition is imposed requiring the submission of an Allocation Certificate to the LPA 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 would comprise a written certificate issued by the phosphate credit provider confirming the allocation of the full phosphate credit requirement generated by the development, thereby mitigating the additional nutrient load imposed on the Somerset Levels and Moors Ramsar site by the development when fully occupied, enabling the LPA to conclude on the basis of the best available scientific evidence that such additional nutrient loading would not have an adverse effect on the integrity of the protected site, having regard to the conservation objectives for the site.

A further condition is recommended relating to water consumption.

Natural England notes that the submitted nutrient statement concludes that, after the Milborne Port WWTW improvements to take place by 2025, the scheme would result in the discharge of an additional 7.63 kg TP yr to the R Brue hydrological catchment of the Somerset Levels and Moors Ramsar site which will be offset through acquisition of phosphorus credits from the Yew Tree Farm approved phosphorus mitigation scheme. Natural England accepts the nutrient budget for the scheme and the proposed approach to delivering phosphorus mitigation and, on this basis, agrees with the submitted shadow Habitats Regulations Assessment.

Natural England advises that there will be a need to secure the mitigation measures including:

- Ensuring that the proposed new development is required to limit water use to 110 l per person per day.
- Ensuring the new dwelling is not occupied until after the improvements at the Milborne Port WWTWs.
- Ensuring the requisite phosphorus credits are secured by any permission.

Appropriate S106 requirements and conditions can be suitably imposed on the grant of planning permission to address such requirements, and this is recommended accordingly.

## **Residential Amenity**

Due to the application site's edge of village location, potential for residential amenity concerns is limited to impacts on existing residential properties on the opposite side of Wheathill Lane to the south of the site. Concern has been expressed by nearby residents about impact on amenity.

However, the application proposal is in outline form and therefore future detailed matters relating to scale, layout and appearance of the proposed dwellings are reserved for future consideration by the Council. As such, the submitted layout shown on the submitted illustrative layout drawing is indicative only. It is considered that the site is adequate to enable an appropriate scheme to be designed that would avoid any substantive harm to neighbour amenity in terms of significant and unacceptable dominance, overbearing impact, overshadowing, overlooking and loss of privacy.

It is acknowledged that any proposed residential development on the site could result in loss of views currently enjoyed by some existing residents. However, planning decisions must be based solely on material planning considerations. The scope of what constitutes a material consideration is very wide. In general case law has taken the view that 'planning' is concerned with land use in the public interest, so that the protection of purely private interests such as the impact of a development on the value of a neighbouring property or loss of private rights to light could not be material considerations. In this same vein, the loss of private view is not an overriding material planning consideration that can be taken into account.

Nevertheless, mindful of the proximity of the proposed development to nearby existing properties, it is recommended that a site-specific Construction Environmental Management Plan (CEMP) condition is attached to any grant of permission in order to safeguard residential amenity during the construction process. The Plan would need to demonstrate the adoption and use of the best practicable means to reduce the effects of noise, vibration, dust and site lighting.

For these reasons, and with the inclusion of the recommended CEMP condition, the proposal is not considered to give rise to any demonstrable harm to residential amenity that would justify a refusal based on Policy EQ2 of the Local Plan.

## **Other Matters**

### Archaeology

Paragraph 200 of the NPPF advises that, where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, developers should submit an appropriate desk-based

assessment and, where necessary, a field evaluation.

Paragraph 211 requires developers to record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact, and to make this evidence (and any archive generated) publicly accessible.

South West Heritage Trust advises that, as far as it is aware there are limited or no archaeological implications to this proposal and therefore raises no objections on archaeological grounds.

### Loss of Agricultural Land

Agricultural Land Classification is a system used in England and Wales to grade the quality of land for agricultural use.

Grade 1 - excellent quality agricultural land with no or very minor limitations.

Grade 2 - very good quality agricultural land with minor limitations which affect crop yield, cultivations or harvesting.

Subgrade 3a - good quality agricultural land with moderate limitations that affect the choice of crop, timing and type of cultivation/harvesting or level of yield. This land can produce moderate to high yields of a narrow range of crops or moderate yields of a wide range of crops.

Subgrade 3b - moderate quality agricultural land with strong limitations that affect the choice of crop, timing and type of cultivation/harvesting or level of yield. This land produces moderate yields of a narrow range of crops, low yields of a wide range of crops and high yields of grass.

Grade 4 - poor quality agricultural land with severe limitations which significantly restrict the range and level of yield of crops.

Grade 5 - very poor quality agricultural land with very severe limitations which restrict use to permanent pasture or rough grazing with the exception of occasional pioneer forage crops.

The application site comprises agricultural land classified as being Grade 3a, so is considered to be good quality agricultural land. the best and most versatile. The NPPF, in footnote 62, advises that *"Where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of higher quality. The availability of land for food production should be considered alongside the other policies in the Framework, when deciding what sites are most appropriate for development."*

There is no relevant policy within the Local Plan specifically applicable to agricultural land protection.



In this case, whilst the benefits of the land to the economy and in other ways is recognised, it is not considered that the loss of approximately 3 hectares of this land from the significant stock of such land in South Somerset and around Milborne Port specifically, is significant. It should be considered as an adverse impact of the scheme but, given the scale of the loss, it should not be afforded significant weight in the planning balance and should not override the significant benefits of the scheme.

### Broadband

The Parish Council has requested that all residences have ultra-fast broadband fibre connected to them during construction. This is not an unreasonable request. Nevertheless, when attaching conditions to any grant of planning permission, Government has provided specific advice about the 'Use of Planning Conditions'. Conditions requiring compliance with other regulatory requirements (e.g. Building Regulations, Environmental Protection Act) will not meet the test of necessity and may not be relevant to planning. Use of informatives to remind the applicant to obtain further planning approvals and other consents may be more appropriate.

The Building etc. (Amendment) (England) (No.2) Regulations 2022 (known as the "Amendment Regulations") and new requirements RA1 and RA2 to Part R in Schedule 1 to the Building Regulations introduce new infrastructure and connectivity requirements upon developers to install the following for newly erected dwellings:

- The gigabit-ready physical infrastructure necessary for gigabit-capable connections (ducts, chambers etc. and network termination points at each dwelling) up to a network distribution point, or as close as is reasonably practicable where the developer does not have the right to access land up to the distribution point; and
- Subject to a £2,000 cost cap per dwelling, a functioning gigabit-capable connection (fibre optic cable or other technological means of facilitating such a connection) or where a developer is unable to secure a gigabit-capable connection within the cost cap, the next fastest technology connection available, provided this can be done without that connection also exceeding the cost cap.

In the first instance this should be a superfast broadband connection and failing that a standard public electronic communications network connection. Where a next fastest technology connection (also referred to as a 'next best' technology connection) or no connection can be secured within the cost cap, a developer must still install gigabit-ready physical infrastructure.

Mindful of these requirements under the Building Regulations and having regard to

the Government's advice as to the appropriateness of using planning conditions, it is not considered necessary to impose a planning condition along the lines requested by the Parish Council as this would duplicate other statutory non-planning regulations. Nevertheless, an informative is suggested which will make reference to the requirements under the Building Regulations.

### **Section 106 Contributions and CIL**

The financial contributions requested by the Education Authority and the Council's Strategic Planning Team are noted, as is the recommendation from the Highway Authority regarding securing Travel Plan provisions and various highway mitigation measures.

The proposal involves the provision of affordable housing that would require a legal obligation to be entered into ahead of issuing any planning permission.

Access links to the existing public right of way to the west of the site and to the cemetery to the east of the site would need to be secured and provided prior to occupation of any dwelling and thereafter retained and maintained for public use in perpetuity.

In addition, there would be a need for the submission of details of any public body or statutory undertaker, Resident's Management Company, other management company or any other arrangements to manage and maintain public open space; landscape "buffer zones", including any retained and new trees and hedgerows along the boundaries of and within the application site; dog walking areas; proposed allotments and associated parking area for users of the allotments; the proposed car park for visitors to the cemetery to the east of the site; any surface water attenuation features; and any roads and/or footpaths that may not be adopted by the Highway Authority.

Finally, in terms of phosphate mitigation, because the proposed development would be connected to Milborne Port Wastewater Treatment Works and upgrades to the Treatment Works will not be completed until the end of 2024/into 2025, there will need to be a requirement confirming that there would be no residential occupation of any of the dwellings until after December 2024 (AMP7 upgrades).

The application is also liable to CIL.

### **Conclusions and the Planning Balance**

With no five year supply of housing land in Somerset, footnote 8 to paragraph 11 of the NPPF is engaged, which explains that, for applications involving the provision of housing, relevant policies are considered out-of-date where the local planning

authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 77) or where the Housing Delivery Test indicates that the delivery of housing was substantially below 75% of the housing requirement over the previous three years.

As such the tilted balance set out in paragraph 11 of the NPPF is the measure against which the development should be assessed. This states that *"For decision-taking this means...where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:*

- i. the application of policies in this 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 this Framework taken as a whole."

In this case there are no specific policies in the NPPF that indicate development should be restricted, so an assessment must be made as to whether the adverse impacts of the development significantly and demonstrably outweigh the benefits.

The benefits of the proposed development include the proposal bringing forward several contributions towards education provision, community, sport and leisure provision, through S106 obligations and CIL. Whilst these are designed to alleviate the impacts of the proposed development, they also serve to increase the sustainability of the settlement as a whole and, as such, should be afforded at least moderate weight as a benefit of the scheme.

Further benefit of the scheme would be that the proposed development offers benefits in terms of delivery of both market and affordable dwellings which assist in helping the Council towards a five year housing land supply, improving the sustainability of existing village services and facilities and providing contributions in the form of Community Infrastructure Levy (to be calculated at reserved matters). The proposal would also provide economic benefits. These would be both in the short-term during construction and in the longer-term as residents access local services.

Given the issues surrounding phosphates, which is currently holding up delivery of housing in the area, and that this site is available now as it has a phosphate solution in place, the benefit of housing in this case should be given substantial weight.

Weighed against the benefits outlined above, the scheme would also cause some

harm. There would be some harm to the character and appearance of the surrounding area. There would also be conflict with development plan policies setting out the Council's strategy for delivering housing, which is a matter of great importance in a plan-led planning system. Policies SS1 and SS5 have more than fulfilled their objectives in terms of providing housing within Milborne Port; therefore, they attract full weight. Finally, there is some limited harm in terms of a loss of Grade 3a good quality agricultural land. Further areas of some harm, albeit limited, are the disturbance likely to be caused during the construction phase of the development.

Notwithstanding local objections, no other areas of harm have been identified by statutory consultees, notably the Highway Authority, or by any other consultees who have been invited to comment, except in respect of Sport England. It should be noted that at the time of compiling this report, the consultation period inviting comments from Sport England had not lapsed. Any comment received from Sport England will be reported orally at the Committee meeting, although it is not anticipated that any overriding objections will be received from Sport England. Material planning considerations in respect of highways, drainage, ecology, landscape, possible contamination, phosphate mitigation and neighbour amenity can be addressed through reserved matters submissions and/or suitably worded planning conditions and/or S106 requirements.

Given all of the above and having due regard to the 'tilted balance', and on the assumption that Sport England raises no objections that would be deemed to be 'overriding' when assessing the 'tilted balance', it is considered that the identified harm does not significantly and demonstrably outweigh the benefits of the scheme and, as such, outline planning permission should be granted.

In conclusion, and again subject to comments received from Sport England, the application is recommended for approval subject to completion of a Section 106 Agreement and various planning conditions and informatives, which include those recommended by consultees.

## **RECOMMENDATION**

Permission be granted subject to -

The prior completion of a section 106 agreement (in a form acceptable to the Council's solicitor(s)) before the decision notice granting outline planning permission is issued to secure the following:

## **a) Affordable Housing Provision**

- i) 35% affordable housing, split 75 / 25, Social Rent / First Homes on a pro rata basis.

Of this 35%, at least 10% of the total number of affordable homes must be available for affordable home ownership as part of the overall affordable housing contribution from the site.

Based on an overall number of 58 dwellings, this would equate to 20 affordable homes, split:

- 15 dwellings for social rent
- 5 dwellings for First Homes

- ii) Numbers, type, and bedroom mix of affordable housing to be based on the South Somerset Local Housing Needs Assessment 2021 and having regard to the expressed demand on Homefinder Somerset, comprising the following:

- 20% x 1 bedroom house, flat or bungalow
- 41% x 2 bedroom house or bungalow
- 28% x 3 bedroom house or bungalow
- 11% x 4 bedroom house (to be provided for social rent)

Based on an overall number of 20 affordable units being provided, this would equate to:

- 4 no. x 1 bedroom house, flat or bungalow
- 8 no. x 2 bedroom house or bungalow
- 6 no. x 3 bedroom house or bungalow
- 2 no. x 4 bedroom house (to be provided for social rent only)

- iii) Exact details of tenure and locations on site shall be to the satisfaction of the Lead Specialist Planning in consultation with the Council's Housing Specialist.

- The affordable units shall form an integral and inclusive part of the layout.
- The affordable units shall be 'pepper potted' throughout the site with the affordable units in clusters of no more than 8 with a mix of affordable tenures in each cluster, unless the Lead Specialist Planning in consultation with the Council's Housing Specialist agree to any variation in the numbers of units within each cluster.
- The affordable units shall be developed to blend in with the proposed housing styles. The affordable dwelling units should comprise houses or bungalows or, if flats, have the appearance of houses.

iv) Adherence to the following minimum space standards (GIA) for the affordable units:

1 bedroom flat	(2 person)	47 sqm	
2 bedroom flat	(4 person)	66 sqm	
1 bedroom house	(2 person)	55 sqm	
2 bedroom house	(4 person)	76 sqm	(86 sqm if 3 storey)
3 bedroom house	(6 person)	86 sqm	(94 sqm if 3 storey)
4 bedroom house	(8 person)	106 sqm	(114 sqm if 3 storey)

v) Timing of the construction of the affordable units and its phasing in relation to occupancy of the market housing. Completion and fitting out so as to be available for occupation of not less than 33% (rounded down to the nearest whole number) of the affordable dwellings prior to occupation of 33% (rounded down to the nearest whole number) of the open market dwellings; and all the affordable dwellings to be completed and fitted out so as to be available for occupation prior to occupation of 67% (rounded up to the nearest whole number) of the open market dwellings.

vi) Prior to commencement of development, the Council's Housing Specialist to be informed of the selected affordable housing association partner for the delivery of the affordable units and arrangements for the transfer of the affordable units to that affordable housing association partner. The following is a list of the Council's main housing association partners, but this is not to be considered as exhaustive:

- LiveWest Housing
- Magna Housing
- Stonewater Housing and,
- Abri

vii) The affordable housing to be made available to people with a local connection to the primary parish first, then people with a connection to adjoining parishes, then the former administrative area of South Somerset, and then the County of Somerset as a whole on a priority basis, to the satisfaction of the Council's Housing Specialist.

viii) Arrangements to ensure that the provision of affordable units is affordable for both first and subsequent occupiers of the affordable units, and the occupancy criteria to be used for determining the identity of occupiers of the affordable units and the means by which such occupancy criteria shall be enforced.

**b) Education Financial Contribution**

- i) Overall financial contributions of £127,128.00 (calculations based on 58 dwellings) to be paid to Somerset Council as Education Authority towards the improvement and/or expansion of early years/pre-school education.
- ii) Flexible formulae to be included should fewer than 58 dwellings be constructed, based on £2,191.86 per dwelling for early years.
- iii) Initial payment prior to occupation of 33% of dwellings, second payment prior to 66% occupation of dwellings and final payment prior to 100% occupation of dwellings.
- iv) All education payments to be calculated with Building Cost Information Service (BCIS) indexation.
- v) The education financial contribution figures set out in i) and ii) above shall be subject to review/update by the Education Authority in light of any new evidence and data that may arise should the section 106 agreement not be completed within 6 months of the Area South Planning Committee's resolution to grant permission.

**c) Equipped Play Area, Youth Facilities, Playing Pitches and Changing Rooms Financial Contribution**

- i) Overall off-site financial contribution of £174,602.00 (calculations based on 58 dwellings) (including 1% Locality Service administration fee of £1,729.00) or £3,010.00 per dwelling towards equipped play space at the play areas at the Gainsborough site to address the needs generated by the proposed development, renovation of the Gainsborough skate park, provision of football nets to protect the development site as well as the Recreation Ground Pavilion and Child's play area, and changing rooms provision at the Recreation Ground's Pavilion.
- ii) Contributions towards the equipped play space and youth facilities (£92,636.00) to be payable upon occupation of the first 25% of the proposed dwellings (15 dwellings based on a 58 total) and towards the playing pitches and changing rooms (£81,966.00) to be payable upon occupation of 50% of the proposed dwellings (29 dwellings based on a 58 total).

iii) All contributions to be indexed linked.

**d) Travel Plan**

- i) The implementation of the approved Framework Travel Plan dated February 2024 (Trace Design Transport and Civil Engineering, Project Ref: 4480, Issue V03 dated 22nd February 2024), or any subsequent amended Travel Plan that may be required to be submitted to and approved in writing by the Highway Authority, to operate from commencement of development to a period of 5 years after 80% occupation, to allow its objectives to be fulfilled, (such date of first occupation having been notified in writing to the Local Planning Authority by the applicant/developer either prior to said occupation commencing or no later than 7 days from the date of said first occupation having occurred).
- ii) Payment of the Travel Plan Fee of £2000.00 and a Safeguarding Sum of £7800.00 by the applicant/developer prior to commencement of development.

**e) Highway Mitigation Measures**

Completion of the highways works including, but not necessarily confined to, the access into the site from Wheathill Lane, the footway works, pedestrian infrastructure improvements, and all aspects of adoptable highway construction associated therewith prior to commencement of development or first occupation of any new dwelling (depending on the works) to include the S278 Highways Act obligations within the S106 Agreement. Such Highway Works will include those works set out below:

- Development of the internal layout of the development designed to facilitate pedestrian connections to the site boundaries.
- Extension of the existing footway on the southern side of Wheathill Lane connecting the existing footway serving the new development off Everlanes Close with the junction with Wheathill Way.
- Provision of footway on the northern side of Wheathill Lane connecting the eastern side of the proposed site access to Wheathill Way.
- Provision of two dropped kerbs on both sides of Wheathill Lane plus an additional short section of footway on the northern side of Wheathill Lane providing access to Public Right of Way WN 17/35.
- Provision of internal footpaths providing access between the proposed site access and the Milborne Port Cemetery.
- A contribution of £3,300.00 to be kept for no longer than 5 years to pay for



a Traffic Regulation Order to install yellow lines on the junction of Wheathill Lane and Station Road to remove any incidents of inappropriate parking should this transpire.

f) **Public Footpath and Cemetery Links**

- i) Completion of a minimum of two new pedestrian footpath links from within the application site onto and connecting to the public right of way (path WN 17/35) that runs to the west of the site, together with any alterations deemed necessary to improve access onto the public right of way from Wheathill Lane. Any proposed works must not encroach onto the width of the public right of way.
- ii) Completion of one new pedestrian footpath link from within the application site connecting to Milborne Port Cemetery to the east of the site.
- iii) The completion of the pedestrian footpath links from within the application site onto and connecting to the public right of way (path WN 17/35), together with any alterations deemed necessary to improve access onto the public right of way from Wheathill Lane, and the completion of the one new pedestrian footpath link from within the application site connecting to Milborne Port Cemetery to the east of the site shall all be undertaken prior to the occupation of more than 30% of the proposed dwellings (17 dwellings based on a 58 total), or in accordance with an alternative phased period of such occupation as may be deemed necessary and previously agreed in writing by the Local Planning Authority.
- iv) Thereafter, the approved pedestrian footpath links to the public right of way (WN 17/35) and to the cemetery shall be retained and maintained and remain open for public access in perpetuity and shall, at no times, be obstructed and public use prevented, unless there is a need for the carrying out of essential repairs and maintenance to any part of the footpath links, in which case prior written notification from the applicant/developer shall be submitted to the Local Planning Authority with clear details provided as to the extent of repair or maintenance works to be carried out and the length of time such obstruction will occur, and subsequent written approval provided by the Local Planning Authority.
- v) Carrying out of upgrades and improvements to the existing public right of way (WN 17/35) in accordance with details to be submitted to and approved in writing by the Local Planning Authority (in consultation with the Highway

Authority) and in accordance with an approved timetable for carrying and completing such upgrade/improvement works. Such details and timetable for implementing the upgrades/improvements to be submitted to the Local Planning Authority for consideration prior to commencement of development.

- vi) Development, insofar as it affects the public right of way, should not be started, and the public right 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.

g) **Public Open Space, Landscaping, Allotments and Parking, Car Park for Cemetery Visitors**

- i) Prior to the occupation of more than 30% of the proposed dwellings (17 dwellings based on a 58 total), or in accordance with an alternative phased period of such occupation as may be deemed necessary and previously agreed in writing by the Local Planning Authority, the provision, construction and completion of allotments, the associated car park for users of/visitors to the allotments, a car park for visitors to the cemetery to the east of the site, and a footpath link from that cemetery car park to the eastern boundary of the site.
- ii) Prior to the occupation of more than 60% of the proposed dwellings (35 dwellings based on a 58 total), or in accordance with an alternative phased period of such occupation as may be deemed necessary and previously agreed in writing by the Local Planning Authority, the provision, construction, planting and completion of an area or areas of public open space, together with any potential surface water attenuation features, landscape "buffer zones", dog walking areas, retention of hedgerows and trees along the boundaries of and within the application site, planting of any new trees/hedgerows along the boundaries of the site and/or within the area of public open space, and any unadopted footpaths and cycleways (except those subject to i) above).
- iii) Provision for the management and maintenance in perpetuity of the public open space areas, potential surface water attenuation features, landscape "buffer zones", dog walking areas, all newly planted and retained hedgerows and trees along the boundaries of and within the application site's boundaries, the allotments and associated car park, the car park to be used for parking of vehicles belonging to visitors to the adjoining cemetery, and all unadopted footpaths and cycleways.

- iv) Option for management and maintenance of the public open spaces by an approved management company or for the Council or Parish Council to adopt the public open space areas, together with the features therein, including payment by the applicant to the Council or Parish Council (or a management company created by either Council) of a commuted sum for such adoption

h) **Management Company or Other Arrangements**

Submission of details of any public body or statutory undertaker, Resident's Management Company, other management company or any other arrangements to manage and maintain any public open space areas, dog walking areas, allotments and associated car park, car park to be used by visitors to the cemetery, landscaped areas and hedgerows (excluding landscaped areas and hedgerows within domestic curtilages) that may not be adopted by the Council and maintained by the Council's management company, and any roads and/or footpaths and cycleways that may not be adopted by the Highway Authority prior to first occupation of any dwelling hereby permitted (such date of first occupation having been notified in writing to the Local Planning Authority by the applicant/developer either prior to said occupation commencing or no later than 7 days from the date of said first occupation having occurred) or in accordance with an alternative phased period of such occupation as may be deemed necessary and previously agreed in writing by the Local Planning Authority.

i) **Phosphate Mitigation**

The proposed development is to be connected to Milborne Port Wastewater Treatment Works. However requisite upgrades to the Treatment Works will not be completed until the end of 2024/into 2025. Therefore, there shall be no residential occupation of any of the dwellings until after December 2024 (AMP7 upgrades).

And for the following reason:

- 01. The Council's lack of a five year housing land supply lends significant weight when considering the planning balance. In this case, the site is located in a sustainable location with access to a high range of services and facilities. The proposal is not considered to result in such a significant and adverse impact upon visual amenity, residential amenity, highway safety, flood risk/drainage or ecology/biodiversity, including impact on the Somerset Levels and Moors Ramsar site and Special Area of Conservation as to justify a refusal of planning

permission. Therefore, in terms of the 'planning balance', it is considered that there are no adverse impacts that would 'significantly and demonstrably' outweigh the benefits of providing up to 58 dwellings in this sustainable location. The proposal is considered to be in accordance with Policies SD1, SS1, SS4, SS5, SS6, HG3, HG5, TA1, TA4, TA5, TA6, HW1, EQ1, EQ2, EQ4, EQ5 and EQ7 of the South Somerset Local Plan 2006-2028 and the aims and objectives of the NPPF.

**SUBJECT TO THE FOLLOWING:**

01. Approval of appearance, landscaping, layout, and scale (hereinafter called 'the reserved matters') shall be obtained from the Local Planning Authority in writing before any development is commenced.

Reason: To accord with the provisions of Article 3 of the Town and Country Planning (General Development Procedure) Order 2015.

02. 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(2) of the Town and Country Planning Act 1990.

03. The development hereby permitted shall be begun not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

Reason: In accordance with the provisions of S92 (2) Town and Country Planning Act 1990 (as amended by S51 (2) Planning and Compulsory Purchase Act 2004).

**Details and drawings subject to which the planning permission is granted**

04. The development hereby permitted shall be restricted to no more than 58 dwellings.

Reason: To avoid any ambiguity as to what is approved.

05. Unless otherwise indicated by other conditions attached to this decision, the development hereby permitted shall accord with the following approved plans in

respect of the extent of application site to which this grant of outline planning permission relates and also the proposed access details:

Drawing no. 201203 L 01 01. Location Plan

Drawing no. 201203 L 02 02 Revision G. Illustrative Layout (as applicable to proposed new and/or improved vehicular and pedestrian accesses onto Wheathill Lane and connections to the public right of way WN 17/35 and Milborne Port Cemetery)

Drawing no. 4480-004 Revision D. Proposed footway extension

Drawing no. 201203 SK220830. Access Landscape Plan

Drawing no. 201203 SK221114. Access General Arrangement

Reason: for the avoidance of doubt and in the interests of proper planning.

06. The landscaping scheme submitted in accordance with condition 01 of this outline grant of planning permission shall include details of:
- (a) Planting plans (to a recognised scale) and schedules indicating the location, numbers of individual species, density, spacings, sizes, forms, root types/root volumes and size of proposed tree, hedge, and shrub. All planting stock must be specified as UK-Grown, unless otherwise previously agreed in writing by the Local Planning Authority.
  - (b) The method and specifications for operations associated with installation including ground preparation, the use of bio-degradable weed-suppressing geo-textile, tree pit design, earth-moulding, staking/supporting, tying, guarding, strimmer-guarding and surface-mulching; and planting establishment, protection, management and maintenance of all retained and new tree, hedge and shrub planting.
  - (c) Written specifications including cultivation and other operations associated with tree, plant and grass establishment.
  - (d) Existing landscape features such as trees, hedges and shrubs which are to be retained and/or removed, accurately plotted (where appropriate).
  - (e) The position, design, materials, means of construction of all site enclosures and boundary treatments (e.g. fences, walls, railings, hedge (banks)), where appropriate;
  - (f) An on-going management and maintenance plan of all the approved landscaping features.
  - (g) All ecological enhancement and compensation measures referred to in Sections 5 and 7 and Appendix 10 of the submitted document 'Ecological Impact Assessment' ref. 1261-EcIA-MD prepared by GE Consulting dated 16th December 2021.

- (h) A timetable for the implementation of the approved hard and soft landscaping scheme.

The approved hard and soft landscaping scheme shall be carried out strictly in accordance with the approved timetable of implementation (within the dormant planting season between November to February inclusively) and shall thereafter be protected, managed, and maintained in accordance with the approved scheme.

Reason: To clarify the level of detail of landscaping to form part of any subsequent application for reserved matters in order to safeguard and enhance the landscape character and visual amenity of the area; to help assimilate the development into its immediate surrounds; and to provide ecological, environmental and biodiversity benefits, having regard to Policies EQ2, EQ4 and EQ5 of the South Somerset Local Plan and relevant guidance within the NPPF.

07. Notwithstanding the illustrative details of the schedule of types of dwelling units to be provided (as indicated on the illustrative layout drawing no. 201203 L 02 02 Revision G), details of the size, type, tenure and range of housing to be developed (including both market and affordable housing) shall be submitted to the Local Planning Authority for approval as part of the reserved matters application relating to layout and scale in accordance with condition 01 of this outline grant of planning permission. Development shall thereafter be implemented only in strict accordance with the approved scheme.

Reason: This permission is in outline only and this condition is imposed to ensure the provision of inclusive, balanced, and mixed communities, to meet the present and future housing needs of the area, by requiring delivery of the most appropriate size, type, tenure, and range of additional housing, having regard to Policies SD1, HG3 and HG5 of the South Somerset Local Plan and relevant guidance within the NPPF.

### **Pre-commencement conditions**

08. Prior to commencement of development, site vegetative clearance, groundworks, heavy machinery entering site or the on-site storage of materials,
- (a) a scheme of tree and hedgerow protection measures must be prepared by a suitably experienced and qualified arboricultural consultant in accordance with British Standard 5837: 2012 - 'Trees in relation to design, demolition and construction' (in accordance with item 6.3, the scheme must include a

- sequenced scheme of supervisory monitoring of the installation and maintenance of protective measures and the supervision of specialist working techniques - by a competent Arboriculturalist) and shall be submitted to and approved in writing by the Local Planning Authority; and
- (b) the tree and hedgerow protection measures shall be fully installed and completed (in particular, any required fencing, signage and ground-protection installations) in accordance with the details approved in writing by the Local Planning Authority and confirmed as such in writing by the Local Planning Authority within 21 days from written notification of completion of the approved protection scheme by the applicant/developer.

The approved tree and hedgerow protection scheme shall remain installed in its entirety for the duration of the construction of the development (inclusive of any hard and soft landscaping operations) and shall only be moved, removed, or dismantled with the prior written consent of the Local Planning Authority.

Reason: The submission and agreement of a scheme of tree and hedgerow protection measures prepared by a suitably experienced and qualified arboricultural consultant, and the subsequent full implementation of the approved protection measures, prior to commencement of development is fundamental to enable the Local Planning Authority to consider all tree and hedgerow protection measures in order to preserve existing landscape features (trees and hedgerows), in the interests of visual amenity and biodiversity having regard to Policies EQ2, EQ4 and EQ5 of the South Somerset Local Plan and relevant guidance within the NPPF.

09. No development shall commence, including any demolition, groundworks, or vegetation clearance, until details of the sustainable surface water drainage scheme, based on sustainable drainage principles which aim to enhance biodiversity, amenity value, water quality and provide flood risk benefits (i.e. four pillars of SuDS) to meet wider sustainability aims, together with measures to control and attenuate surface water, how provision shall be made within the site for disposal of surface water so as to prevent its discharge onto the highway, and details of 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.

These details shall include, but not limited to:

- (a) Drawings / plans illustrating the proposed surface water drainage scheme including the sustainable methods employed to delay and control surface water discharged from the site, sewers and manholes, attenuation features,

pumping stations (if required) and discharge locations. The current proposals may be treated as a minimum and further SuDS should be considered as part of a 'SuDS management train' approach to provide resilience within the design.

- (b) Detailed, network level calculations demonstrating the performance of the proposed system are required and this should include:
  - (i) Details of design criteria etc and where relevant, justification of the approach / events / durations used within the calculations.
  - (ii) Where relevant, calculations should consider the use of surcharged outfall conditions.
  - (iii) Performance of the network including water level, surcharged depth, flooded volume, pipe flow, flow/overflow capacity, status of network and outfall details / discharge rates.
  - (iv) Results should be provided as a summary for each return period (as opposed to each individual storm event and include the 100 year event with the most up to date climate change figure).
  - (v) Evidence may take the form of software simulation results and should be supported by a suitably labelled plan/schematic to allow cross checking between any calculations and the proposed network.
- (c) Detail drawings including cross sections, of proposed features such as infiltration structures, attenuation features, pumping stations and outfall structures. These should be feature-specific.
- (d) Details for provision of any temporary drainage during construction. This should include details to demonstrate that during the construction phase measures will be in place to prevent unrestricted discharge, and pollution to the receiving system. Suitable consideration should also be given to the surface water flood risk during construction such as not locating materials stores or other facilities within this flow route.
- (e) Further information regarding external levels and surface water exceedance routes and how these will be directed through the development without exposing properties to flood risk.
- (f) Details on the final discharge location, including but not limited to (where relevant), CCTV surveys of existing features upgrade/repair of existing structures, restriction of discharge rates further if required, agreement with relevant authorities/landowners/riparian owners/third party land owners, and demonstration that the receiving system has capacity and condition to take flows from the site.

Reason: The agreement of details of a surface water drainage scheme prior to commencement of development is fundamental to ensure that the development is served by a satisfactory system of surface water drainage, which will aim to



enhance biodiversity, amenity value, water quality and provide flood risk benefits (i.e. four pillars of SuDS) to meet wider sustainability aims as specified by the National Planning Policy Framework (September 2023) and the Flood and Water Management Act 2010, and that the approved system is retained, managed and maintained throughout the lifetime of the development, in accordance with Policies SD1, EQ1, EQ2 and EQ5 of the South Somerset Local Plan, relevant guidance within the NPPF and the Technical Guidance to the NPPF.

10. No development shall commence, including any demolition, groundworks, or vegetation clearance, until a Construction Environmental Management Plan (CEMP), including a method statement detailing the working methods to be employed on site during the construction works (and preparation associated with construction works), has been submitted to and approved in writing by the Local Planning Authority. Thereafter, throughout the construction period, the approved details within the CEMP shall be strictly adhered to.

The CEMP shall include the following:

- (a) Details of the phasing of construction traffic for the development, including expected numbers of construction vehicles per day, temporary highway vehicle and pedestrian routings, means of access, times and days of large vehicle movements to and from the site, and suitable off-highway parking for all construction related vehicles.
- (b) Construction vehicular routes to and from site including any temporary construction access points and haul roads required. This information should also be shown on a map of the route.
- (c) Measures to avoid traffic congestion impacting upon the Strategic Road Network.
- (d) A plan showing the location area(s) to be used for the parking of vehicles of site operatives, contractors and visitors during the construction phase. Any vehicles visiting or attending at the site shall not be parked on any access roads serving the site which would cause obstruction to the free passage of other vehicle users of said roads.
- (e) A schedule and location plan for the delivery, removal, loading and unloading of all plant, waste and construction materials to and from the site, including the times of such loading and unloading; details of how deliveries and removals, loading and unloading of plant and materials would not take place during peak-time hours of the highway network in the vicinity of the application site; and details of the nature and number of vehicles, temporary warning signs to be used, and measures to manage crossings across the public highway with guidance of a trained banksman.
- (f) Arrangements to receive abnormal loads or unusually large vehicles.

- (g) The hours of construction operations, and deliveries to and removal of plant, equipment, machinery and waste from the site. Such construction works and deliveries shall be carried out only between 08.00 hours and 18.00 hours Mondays to Fridays; 08.00 hours and 13.00 hours on Saturdays, and at no times on Sundays and Bank or Public Holidays, unless the Local Planning Authority gives prior written agreement to any changes in the stated hours. Procedures for emergency deviation of the agreed working hours shall be in place, the details of which shall be agreed with the Local Planning Authority.
- (h) Details of temporary site compounds including temporary structures/buildings, fencing and proposed provision for the storage of plant and materials to be used in connection with the construction of the development.
- (i) A scheme for recycling/disposing of waste resulting from any demolition and construction works. There shall be no burning of materials arising on site during any phase of demolition and site clearance works and during the construction process unless prior written approval is obtained from the Local Planning Authority.
- (j) The siting and design of wheel washing facilities and management of any subsequent run-off resulting from their use, together with the regular use of a road sweeper for the local highways.
- (k) Measures to control the emission of dust, mud/dirt, noise, vibration and external lighting (including security lighting) during the construction period. Regard shall be had to mitigation measures as defined in BS 5228: Parts 1 and 2: 2009 Noise and Vibration Control on Construction and Open Sites.
- (l) Details of any piling together with details of how any associated vibration will be monitored and controlled.
- (m) The location and noise levels of any site electricity generators.
- (n) Management of surface water run-off from the site in general during the construction period.
- (o) Specific measures to be adopted to mitigate construction impacts in pursuance of the Environmental Code of Construction Practice.
- (p) A scheme to encourage the use of Public Transport amongst contractors.
- (q) Contact telephone number/s and email address/es of the site manager(s) and/or other person/s associated with the management of operations at the site.
- (r) Methods of communicating the CEMP to staff, visitors and neighbouring residents and businesses and procedures for maintaining good public relations including complaint management, public consultation and liaison (including with the Highway Authority and the Council's Environmental Protection Team).

Reason: The agreement of details of a Construction Environmental Management Plan prior to the commencement of development is fundamental to ensure a satisfactory level of environmental protection; to minimise disturbance to residents; the prevention of harm being caused to the amenity of the area; and in the interests of highway safety during the construction process, having regard to Policies TA5, EQ2, EQ4 and EQ7 of the South Somerset Local Plan and relevant guidance in the NPPF.

11. No development shall commence, including any demolition, groundworks, or vegetation clearance, until the applicant/developer has submitted to the Local Planning Authority either:
  - (a) a copy of the licence issued by Natural England pursuant to Regulation 55 of The Conservation of Habitats and Species Regulations 2017 authorising the development to go ahead; or
  - (b) a statement in writing from a competent licenced dormouse ecologist to the effect that he/she does not consider that the specified development will require a licence.

The Local Planning Authority shall acknowledge receipt and confirm its acceptance in writing of either the Natural England licence or the ecologist's written statement within 21 days following its receipt.

Reason: Given the presence of this species (dormice) at the site, but the comparative small amount of suitable habitat present in comparison to the wider surrounds, it is considered the site is of value at the Local level for this species. As such, the submission to, and written confirmation of acceptance by, the Local Planning Authority of either a copy of the licence issued by Natural England or a written statement from a qualified competent dormouse ecologist to the effect that he/she does not consider that the development will require a licence prior to the commencement of development is fundamental to ensure there is strict protection afforded to a European protected species, having due regard to Policy EQ4 of the South Somerset Local Plan, relevant guidance within the NPPF and relevant statutory legislation.

12. No development shall commence, including any demolition, groundworks, or vegetation clearance, until a Construction Environmental Management Plan (CEMP: Biodiversity) has been submitted to and approved in writing by the Local Planning Authority.

The CEMP (Biodiversity) shall include the following:

- (a) Risk assessment of potentially damaging construction activities.

- (b) Identification of "biodiversity protection zones".
- (c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements), including nesting birds habitat clearance measures, badgers safeguarding measures, dormouse mitigation measures, precautionary safeguarding measures for bats, reptile and amphibians clearance measures, hedgehog clearance measures, etc.
- (d) The location and timing of sensitive works to avoid harm to biodiversity features.
- (e) The times during construction when specialist ecologists need to be present on site to oversee works.
- (f) Responsible persons, lines of communication and written notifications of operations to the Local Planning Authority.
- (g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person, including regular compliance site meetings with the Council's Biodiversity Officer and Landscape Officer (frequency to be agreed, for example, every 3 months during construction phases).
- (h) Use of protective fences, exclusion barriers and warning signs.
- (i) Ongoing monitoring, including compliance checks by a competent person(s) during construction and immediately post-completion of construction works.

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

Reason: The agreement of details of a Construction Environmental Management Plan (Biodiversity) prior to the commencement of development is fundamental to ensure a satisfactory level of environmental protection and prevention of harm being caused to the amenity of the area, having regard to Policies EQ2, EQ4 and EQ7 of the South Somerset Local Plan and relevant guidance in the NPPF, and In the interests of European and UK protected species, UK priority species and habitats listed on s41 of the Natural Environment and Rural Communities Act 2006.

13. A Landscape and Ecological Management Plan (LEMP) shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development. The content of the LEMP shall include the following details:
- (a) Description and evaluation of features to be managed.
  - (b) Ecological trends and constraints on site that might influence management.

- (c) Aims and objectives of management.
- (d) Appropriate management options for achieving aims and objectives.
- (e) Prescriptions for management actions.
- (f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).
- (g) Details of the body or organisation responsible for implementation of the plan.
- (h) On-going monitoring and remedial measures.

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)/new residents 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 shall be implemented in accordance with the approved details.

Reason: The agreement of details of a Landscape and Ecological Management Plan prior to the commencement of development is fundamental to ensure the development contributes to the Government's target of no net biodiversity loss as set out in the National Planning Policy Framework, Policy EQ4 of the South Somerset Local Plan, and in the interests of the 'Favourable Conservation Status' of populations of European and UK protected species, UK priority species and habitats listed on s41 of the Natural Environment and Rural Communities Act 2006.

14. No removal of hedgerows, trees or shrubs, or works to or the demolition of buildings or structures shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check for active birds' nests immediately before the vegetation is cleared or works to or demolition of buildings commences and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should be submitted to the Local Planning Authority by the ecologist and written agreement from the Local Planning Authority so obtained.

Under no circumstances should blocking bird access to certain areas and features in using plastic bird netting hung over the gaps and apertures be carried out, as this can lead to entrapment from birds caught in netting.

Reason: To provide adequate safeguards for nesting birds, which are afforded protection under the Wildlife and Countryside Act 1981 (as amended), having regard to Policy EQ4 of the South Somerset Local Plan and relevant guidance within the NPPF.

15. No development relating to the elements listed below shall commence until the following information has been submitted to and approved in writing by the Local Planning Authority (in consultation with the Highway Authority). For this purpose, plans and sections, indicating as appropriate, the design, layout, levels, gradients, materials, and a method of construction implementation programme shall be submitted to the Local Planning Authority.
- (a) Estate roads, footways, tactile paving, cycleways, pedestrian, and cycle routes and associated vehicular accesses and crossings, and junctions.
  - (b) Sewers, highway drainage and service routes.
  - (c) Retaining walls, vehicle overhang margins and embankments.
  - (d) Visibility splays.
  - (e) Proposed levels and all carriageway and drive gradients.
  - (f) Car, motorcycle, and cycle parking.
  - (g) Hard and soft structural landscape areas, means of enclosure and boundary treatment.
  - (h) Street lighting and street furniture.
  - (i) Lay-bys or alternative facilities.
  - (j) Swept path analysis for a vehicle of 11.4m length.
  - (k) Central pedestrian reserves, bollards, and lighting.
  - (l) Service corridors.

There shall be no first occupation of any dwelling until the development has been constructed in accordance with the approved details as set out in the method of construction implementation programme unless otherwise previously agreed in writing by the Local Planning Authority (in consultation with the Highway Authority) and retained in perpetuity thereafter.

Reason: The agreement of details relating to highways infrastructure prior to the commencement of development is fundamental in the interests of highway safety and public convenience, having regard to Policies TA5, EQ2, EQ4 and EQ7 of the South Somerset Local Plan and relevant guidance in the NPPF.

16. There shall be no obstruction to visibility greater than 600mm above adjoining road level in advance of lines drawn 2.4m back from the carriageway edge on

the centre line of the access onto Wheathill Lane and extending to points on the nearside carriageway edge 33 metres to the west and 36 metres to the east either side of the access. Such visibility shall be fully provided before the development hereby permitted is commenced and shall thereafter be maintained at all times.

Reason: Having regard to the size of vehicles to be accessing the site during the construction phase, the provision of the full visibility splays prior to commencement of development works on the site is fundamental in the interests of highway safety further to Policies TA5 and EQ2 of the South Somerset Local Plan and relevant guidance within the NPPF.

### **Pre-occupancy or other stage conditions**

17. The on-site surface water drainage scheme, approved pursuant to condition 09, shall be implemented and installed in accordance with the approved details prior to the construction of development above slab or damp-proof course level, or as otherwise may previously be agreed in writing by the Local Planning Authority (in consultation with the Highway Authority and Lead Local Flood Authority) and maintained and retained at all times thereafter.

Reason: In the interests of highway safety and convenience and to avoid flooding of the site and the adjoining highways, in accordance with Policies EQ1, EQ2 and TA5 of the South Somerset Local Plan and relevant guidance within the NPPF.

18. No part of the development hereby permitted shall be occupied or brought into use until a plan for the future responsibility and maintenance of the surface water drainage system has been submitted to and approved in writing by the Local Planning Authority (in consultation with the Highway Authority and Lead Local Flood Authority). Thereafter, the approved drainage works shall be completed and maintained in accordance with the details agreed.

Reason: To safeguard the long-term maintenance and operation of the proposed system to ensure development is properly drained in accordance with the NPPF.

19. The development hereby permitted shall not be occupied until an Allocation Certificate has been submitted to and approved in writing by the Local Planning Authority which addresses the additional nutrient input arising from the

development within the fluvial catchment area upstream of the Somerset Levels and Moors Ramsar site and on the same hydrological pathway.

The Allocation Certificate shall be a written certificate issued by the phosphate credit provider confirming the allocation of the full phosphate credit requirement generated by the development, thereby mitigating the additional nutrient load imposed on the Somerset Levels and Moors Ramsar site by the development when fully occupied enabling the local planning authority to conclude on the basis of the best available scientific evidence that such additional nutrient loading will not have an adverse effect on the integrity of the protected site, having regard to the conservation objectives for the site.

Reason: To ensure that the proposed development is phosphate neutral in perpetuity in accordance with Policies EQ2, EQ4 and EQ7 of the South Somerset Local Plan and relevant guidance within the NPPF, including paragraphs 180 and 186-188.

20. No individual dwelling hereby permitted 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 Policies SD1, EQ1 and EQ2 of the South Somerset Local Plan and relevant guidance within the NPPF, including paragraphs 139, 159 and 186.

21. No dwelling hereby permitted shall be occupied until the proposed access connecting the site to Wheathill Lane has been fully provided, constructed and made available for use in accordance with the details indicated on the approved drawings referenced in condition 05 of this permission, or unless as may be previously agreed in writing by the Local Planning Authority in consultation with the Highway Authority that occupation of any dwelling may take place prior to the completion of the requisite works to the access. The proposed access shall be properly consolidated and surfaced (not loose stone or gravel and to a minimum of base course level) and drained in accordance with details which shall have been previously submitted to and approved in writing by the Local Planning Authority.



Reason: In the interests of sustainable development and highway safety, further to Policies TA5 and EQ2 of the South Somerset Local Plan and relevant guidance within the NPPF.

22. Prior to the occupation of more than 30% of the proposed dwellings hereby permitted, or in accordance with an alternative phased period of such occupation as may be deemed necessary and previously agreed in writing by the Local Planning Authority, all footpaths (and cycleways if applicable) connecting the site to the existing public right of way WN 17/35 and to Milborne Port Cemetery shall be fully provided to the boundaries of the application site, constructed and made available for use in accordance with the details indicated on the approved drawings referenced in condition 05 of this permission. The proposed footpath/cycleway links shall be properly consolidated and surfaced (not loose stone or gravel) and drained in accordance with details which shall have been previously submitted to and approved in writing by the Local Planning Authority.

Thereafter, the approved footpaths (and cycleways if applicable) shall be retained and maintained and remain open for public access in perpetuity and shall, at no times, be obstructed and public use prevented, unless there is a need for the carrying out of essential repairs and maintenance to any part of the footways/cycleways, in which case prior written notification from the applicant/developer (or from the Highway Authority if said cycleways and footways to be repaired are adopted) shall be submitted to the Local Planning Authority with clear details provided as to the extent of repair or maintenance works to be carried out and the length of time such obstruction will occur, and subsequent written approval provided by the Local Planning Authority.

Reason: In the interests of sustainability and allowing ease of movement for pedestrians and cyclists from the application site to Wheathill Lane, the existing public right of way and the cemetery in perpetuity in accordance with Policies EQ2 and TA5 of the South Somerset Local Plan and relevant guidance in the NPPF.

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

Reason: In the interests of highway safety and in accordance with Policies TA5 and TA6 of the South Somerset Local Plan and relevant guidance within the NPPF.

24. All garaging, vehicular and bicycle parking and turning spaces shall be provided, laid out, properly consolidated, surfaced, drained and (where appropriate) delineated in accordance with plans to be submitted to and approved in writing by the Local Planning Authority prior to first occupation of the dwellings hereby permitted to which they serve. Thereafter they shall be maintained and retained for such purposes of parking and turning of vehicles (including motorcycles and bicycles) incidental to the occupation and enjoyment of the dwellings and kept permanently free from any other forms of obstruction. Nor shall any proposed garages be used for, or in connection with, any commercial trade or business purposes.

Reason: To protect the visual and residential amenities of the site and surrounds and to ensure that adequate on-site parking and turning spaces are provided and thereafter retained to enable vehicles to turn on-site without having to reverse onto the County highway, in the interests of and for the safety of persons and vehicles using the development and the adjoining roads, having regard to Policies EQ2, TA1, TA5 and TA6 of the South Somerset Local Plan and relevant guidance within the NPPF.

25. No dwelling hereby permitted shall be occupied until electric vehicle charging points (EVCP's) rated at a minimum of 16 amps have been provided for each dwelling within its associated garage and/or parking space. Such provision shall be in accordance with details indicating siting, numbers, design, rating, and appearance of the EVCP's which shall be previously submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure provision of EVCP's for low emission vehicles as part of the transition to a low carbon economy, having regard to Policy TA1 of the South Somerset Local Plan and relevant guidance within the NPPF.

26. No dwelling hereby permitted shall be occupied until refuse and recycling storage areas have been provided to serve each dwelling in accordance with details previously submitted to and approved in writing by the Local Planning Authority. Such details shall include the siting, area and means of hardening, draining, and screening of such refuse/recycling storage areas. The refuse/recycling storage areas shall thereafter be retained and maintained as

such unless the Local Planning Authority gives prior written approval to any subsequent variations.

Reason: To provide adequate provision of on-site refuse and recycling storage to serve the proposed dwellings to ensure that any impact on visual and residential amenity is kept to a minimum, having regard to Policies TA5 and EQ2 of the South Somerset Local Plan and relevant guidance within the NPPF.

27. The gradients of the proposed drives to the dwellings hereby permitted shall not be steeper than 1 in 10 and shall be permanently retained at that gradient thereafter at all times.

Reason: In the interests of highway safety, further to Policies TA5 and EQ2 of the South Somerset Local Plan and relevant guidance within the NPPF.

28. Prior to first occupation of any dwelling hereby permitted, or in accordance with an alternative timetable for submission as may previously be agreed in writing by the Local Planning Authority, all the ecological compensation and enhancement features, as referred to in condition 06, shall be fully installed and photographs (and a plan showing their respective locations) of the installed ecological compensation and enhancement features shall also be submitted to the Local Planning Authority prior to first occupation and the Local Planning Authority shall acknowledge receipt and confirm its acceptance of the photographs within 21 days thereafter following its receipt.

Reason: The provision of, and submission to, and written confirmation of acceptance by, the Local Planning Authority of the photographs of the stated ecological enhancement measures is fundamental to ensure that the development contributes to the Government's target of no net biodiversity loss as set out in the NPPF and Policy EQ4 of the South Somerset Local Plan, and obligations for biodiversity under the Natural Environment and Rural Communities Act 2006.

29. Prior to the installation, construction, and provision of any external lighting on the site (excluding any temporary lighting provided during the construction phase of the development), details of all external lighting to be installed/provided on the site, including a lighting design for bats, shall be submitted to and approved in writing by the Local Planning Authority.

The strategy shall:

- (a) identify those areas/features on site that are particularly sensitive for bats and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory, for example, for foraging,
- (b) show how and where external lighting will be installed (through the provision of lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places,
- (c) accord with Step 5 of Guidance Note 08/18, including submission of contour plans illustrating Lux levels, showing that lighting will be directed so as to avoid light spillage and pollution on habitats used by light sensitive species, and will demonstrate that light levels falling on wildlife habitats do not exceed an illumination level of 0.5 Lux. Shields and other methods of reducing light spill will be used where necessary to achieve the required light levels, and
- (d) include details of the equipment and supporting structures, positions, sizes, heights, type, luminance/light intensity, direction and cowling of all external lights to the buildings and any other parts of the application site and the hours at which such lighting is to be operated.

All external lighting shall be installed in accordance with the specifications and locations set out in the design strategy, and these shall be maintained thereafter in accordance with the design. Under no circumstances shall any other external lighting be installed on the site without prior written approval from the Local Planning Authority.

Reason: To safeguard the rural character and appearance of the locality; to safeguard the residential amenities of owners/occupiers of neighbouring property; to safeguard any biodiversity interests in the interests of the Favourable Conservation Status of populations of European protected species; and in the interests of public safety and convenience, having regard to Policies EQ2, EQ4, EQ5, EQ7 and TA5 of the South Somerset Local Plan and relevant guidance within the NPPF.

### **Conditions relating to post occupancy monitoring and management**

- 30. Except for any trees, hedges or shrubs that may be identified for removal on the approved landscaping plans and schedule approved pursuant to condition 08, if

within a period of five years from the date of the completion of the dwellings or completion of the approved landscaping scheme pursuant to condition 06 (whichever is the later), any retained tree, hedge or shrubs are felled, removed, uprooted, destroyed or die, or become in the opinion of the Local Planning Authority seriously damaged, diseased or defective, it/they shall be replaced by planting as originally approved, unless the Local Planning authority gives its written approval to any variation. This replacement planting shall be undertaken before the end of the first available planting season (October to March inclusive for bare root plants), following the removal, uprooting, destruction or death of the original trees or plants.

Reason: To ensure the environment of the development is improved and enhanced, having regard to Policies EQ2, EQ4 and EQ5 of the South Somerset Local Plan and relevant guidance within the NPPF.

31. All the approved ecological compensation and enhancement features, as referred to in condition 06, shall be retained and maintained in-situ and shall not be removed, either in whole or in part, without the prior written approval of the Local Planning Authority. Under no circumstances should blocking of approved bat boxes or roosts, bird boxes or other ecological enhancement features be carried out and they shall be kept free from vegetation.

Reason: In accordance with Government policy for the enhancement of biodiversity within development as set out in the National Planning Policy Framework and the Draft Environment (Principles and Governance) Bill 2018.

32. Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any Order revoking, re-enacting, or modifying that Order), no development of the types described in the following Classes of Schedule 2 shall be undertaken without the express grant of planning permission, other than that expressly authorised by this permission:
- (a) Part 1, Class A (enlargements, improvements, or other alterations)
  - (b) Part 1, Class AA (enlargement of a dwellinghouse by construction of additional storey)
  - (c) Part 1, Class B (roof additions)
  - (d) Part 1, Class C (other roof alterations) and
  - (e) Part 2, Class A (gates, fences, walls, or other means of enclosure)

Reason: To enable the Local Planning Authority to exercise control over development in order to safeguard the character and appearance of the locality in general, by ensuring there are no inappropriate extensions to dwellings and means of enclosure when viewed from public vantage points; to prevent unacceptable harm being caused to the residential amenity of occupiers of adjoining property; and to safeguard on-site parking and circulation areas, having regard to Policies EQ2, TA5 and TA6 of the South Somerset Local Plan and relevant guidance within the NPPF.

33. Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any Order revoking, re-enacting or modifying that Order), no construction of any gas compounds, electricity substations, buildings for the purposes of electronic communications or water pumping stations shall commence prior to the submission to and written approval from the Local Planning Authority relating to details of the siting, levels, elevations, dimensions, external materials, access arrangements, boundary treatments and landscaping for each of those utility buildings or compounds. Development shall thereafter be undertaken only in accordance with the approved details.

Reason: To ensure that the siting and external appearance of any utility compounds and buildings is acceptable in relation to the character and visual amenity of the development and the wider area, and in the interests of protecting the amenity of occupiers of neighbouring dwellings and buildings; maintaining highway safety; protecting biodiversity; protecting green infrastructure resources; and having regard to Policies EQ2, EQ4, EQ5, TA5 and TA6 of the South Somerset Local Plan and relevant guidance within the NPPF.

**Informatives:**

01. Legal Agreement

This permission shall be read in conjunction with the legal agreement pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended) entered into between (1) Somerset Council; (2) xxxxx; and (3) xxxxxxxx and dated xxxxx 2024.

02. CIL

Please be advised that approval of this application by Somerset Council will attract a liability payment under the Community Infrastructure Levy. CIL is a mandatory financial charge on development, and you will be notified of the amount of CIL being charged on this development in a CIL Liability Notice.

You are required to complete and return Form 2 - Assumption of Liability as soon as possible and to avoid additional financial penalties it is important that you notify us of the date you plan to commence development before any work takes place. (Form 6 - Commencement)

Please Note: It is the responsibility of the applicant to ensure that they comply with the National CIL Regulations, including understanding how the CIL regulations apply to a specific development proposal and submitting all relevant information. Somerset Council can only make an assessment of CIL liability based on the information provided.

You are advised to visit our website for further details Somerset CIL (<https://www.somerset.gov.uk/planning-buildings-and-land/south-somerset-cil/>) or email [cil@somerset.gov.uk](mailto:cil@somerset.gov.uk)

### 03. Birds

The developer/applicant is reminded of the legal protection afforded to nesting birds under the Wildlife and Countryside Act 1981 (as amended). In the event that nesting birds are encountered during implementation of this permission it is recommended that works stop until the young have fledged or then advice is sought from a suitably qualified and experienced ecologist at the earliest possible opportunity.

In the event that vegetation removal will be taking place then further consultation must be sought prior to this.

### 04. Bats

The developers and their contractors are reminded of the legal protection afforded to bats and bat roosts under legislation including the Conservation of Habitats and Species Regulations 2017. In the event that bats are encountered during implementation of this permission it is recommended that works stop, and advice is sought from a suitably qualified, licensed and experienced ecologist at the earliest possible opportunity.

### 05. Land Drainage Act

Somerset Council is the Lead Local Flood Authority (LLFA) as defined by the Flood and Water Management Act 2010 and the Flood Risk Regulations 2009. Under section 23 of the Land Drainage Act there is a legal requirement to seek consent from the relevant authority before piping/culverting or obstructing a watercourse, whether permanent or temporary. This may also include repairs to certain existing structures and maintenance works. This requirement still applies even if planning permission has been granted.

For more information, please visit <https://www.somerset.gov.uk/waste-planning-and-land/apply-for-consent-to-work-on-an-ordinary-watercourse/>

06. Surface Water Drainage

In respect of conditions 09, 17 and 18, any surface water systems provided for the purposes of draining the site shall be constructed and maintained privately until such time as the drainage is adopted. At no point will the Highway Authority accept private infrastructure being connected into highway drainage systems. Consent from the riparian owner of any land drainage facilities affected, that are not within the developer's title, will be required for adoption.

07. Advance Payment Code

In respect of condition 15, if it is not possible to construct the estate road to a standard suitable for adoption, yet it is deemed the internal layout of the site results in the laying out of a private street, under Sections 219 to 225 of the Highway Act 1980, it will be subject to the Advance Payment Code (APC). To qualify for an exemption under the APC, the road should be built and maintained to a level that the Highway Authority considers will be of sufficient integrity to ensure that it does not deteriorate to such a condition as to warrant the use of the powers under the Private Streetworks Code. A suitable adoptable layout should be provided as part of the Reserved Matters application.

08. Allocation Certificate

The Local Planning Authority considers that condition 19 goes to the heart of the permission (by reason of being a HRA issue) and failure to discharge will result in unauthorised development at risk of enforcement and/or requiring the submission of a new application for the development.

09. Contamination

It should be noted that, with reference to the National Planning Policy Framework (December 2023) paragraph 190, where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.

10. Public Rights of Way

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.



The health and safety of the public using the PROW must be taken into consideration during works to carry out the proposed development. Somerset Council (SC) has maintenance responsibilities for the surface of a PROW, but only to a standard suitable for the public use. SC will not be responsible for putting right any damage occurring to the surface of a PROW resulting from vehicular use during or after works to carry out the proposal. It should be noted that it is an offence to drive a vehicle along a public footpath, public bridleway, or restricted byway unless the driver has lawful authority (private rights) to do so.

If it is considered that the development would result in any of the outcomes listed below, then authorisation for these works must be sought from Somerset Council Rights of Way Group:

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

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

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

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

<https://www.somerset.gov.uk/roads-and-transport/apply-for-the-temporary-closure-of-a-right-of-way/>

#### 11. Electronic Communications

The Building etc. (Amendment) (England) (No.2) Regulations 2022 (known as the "Amendment Regulations") and new requirements RA1 and RA2 to Part R in Schedule 1 to the Building Regulations has introduced new infrastructure and connectivity requirements upon developers to install the following for newly erected dwellings:

- The gigabit-ready physical infrastructure necessary for gigabit-capable connections (ducts, chambers etc. and network termination points at each dwelling) up to a network distribution point, or as close as is reasonably practicable where the developer does not have the right to access land up to the distribution point; and
- Subject to a £2,000 cost cap per dwelling, a functioning gigabit-capable connection (fibre optic cable or other technological means of facilitating

such a connection) or where a developer is unable to secure a gigabit-capable connection within the cost cap, the next fastest technology connection available, provided this can be done without that connection also exceeding the cost cap.

In the first instance this should be a superfast broadband connection and failing that a standard public electronic communications network connection. Where a next fastest technology connection (also referred to as a 'next best' technology connection) or no connection can be secured within the cost cap, a developer must still install gigabit-ready physical infrastructure.

---