

Application Number	2022/0614/OUT
Case Officer	Nikki White
Site	Land South Of Fossefield Road Fosse Way Stratton On The Fosse Shepton Mallet Somerset
Date Validated	31 March 2022
Applicant/	J Proyer
Organisation	Persimmon Homes (Wessex)
Application Type	Outline Application
Proposal	Application for outline planning permission for erection of up to 180 dwellings with all matters reserved except for access
Division	Mendip Hills Division
Parish	Kilmersdon Parish Council
Recommendation	Approval
Divisional Cllrs.	Cllr Edric Hobbs Cllr Tony Robbins

Scheme of Delegation:

In accordance with the scheme of delegation, this application must be determined by the Planning Committee. This is because the application relates to ‘major’ development; and the case officer recommendation is to approve and Kilmersdon Parish Council made objections. The divisional members did not submit comments.

Description of Site, Proposal and Constraints:

The application seeks outline planning permission for up to 180 new dwellings, and access off Fosseyway (A367). Details of appearance, landscaping, layout and scale are reserved for another application.

When the application was first submitted 190 dwellings were proposed. This has subsequently been reduced to 180 dwellings, with public and consultee reconsultation having been undertaken accordingly. Other amendments have been negotiated through the life of the application, which are outlined in the report below. The agent describes these amendments in para 3.9 of the updated Planning Statement thus:

- *‘Better integration of the southern spur into main development area by pulling back development further north into main part of site with the south eastern housing parcels now enclosing this open space area to provide natural surveillance and an attractive outlook.*

- *Enhancements to the accessibility of the southern spur green space, through the creation of a walkable route, in doing so, utilising this green space as an attractive and accessible amenity space for new residents.*
- *Introduction of small informal amenity areas, such as 'pocket parks' areas of fruit trees, benching etc.*
- *Strong landscape boundary at southern area of the spur and provision of an informal walking route within this area to create a more useable area of open space.*
- *A tightening of the urban grain with continuous frontages enclosing the central green space, with taller apartment blocks forming a 'gateway' into the site.*
- *Frontage parking broken up and large front gardens to allow space for the inclusion of soft landscaping and to reduce the dominance of parking on street scenes.*
- *Enhanced amenity for properties along the northern boundary of the site, with new hedgerow and maintenance corridor incorporated into the design scheme to ensure greater privacy between existing and new residents' back gardens.'*

Paragraph 3.6 of the submitted Planning Statement describes the development thus:

'3.6 Although in Outline, key features of the proposed development are summarised as follows:

- *Up to 180 new homes, including affordable housing at 30%.*
- *A mix of house types and sizes, including 2, 3 and 4 bedroom homes, typically of 2 to 2.5 storey, up to a maximum of 3 storeys.*
- *All electric (non-gas) development, including Air Source Heat Pumps, PV solar panels and EV Charging provision.*
- *Access from the A367 for vehicles, cyclists and pedestrians enclosed by gateway apartment blocks.*
- *Central 'Green Square' containing Children's play in the most accessible location at the heart of the scheme in space benefiting from passive surveillance.*
- *An arrangement of streets and spaces soundly based on the principles of townscape and legibility.*
- *Contrasting hard surfaces to denote green square as key space in the development.*
- *Sustainable drainage infrastructure serving to reduce flood risk and support biodiversity.*
- *Generous landscape buffers and enhancements providing an attractive setting for new development.*
- *Recreational footpaths exploring all of the site., including new areas of planting and pedestrian access to the southern spur which provides an large area containing areas of informal play/recreation, pedestrian walking loop and local orchards.*
- *Ecological enhancements and protection and overall net gain in biodiversity.*

- *Existing trees and hedgerows retained.*
- *Space to allow for tree/shrub planting for amenity, wildlife and drainage purposes.*
- *Tree-lined main streets expressing their importance in the street hierarchy.*
- *Dwellings orientated to allow for far-reaching views to the south and east.'*

The site is outside any settlement limits of the Mendip Local Plan area, and adjacent to the settlement of Midsomer Norton in Bath and North East Somerset (BANES) Council area.

The site is within flood zone 1.

The site is subject to the following constraints:

- Consultation zone band C of the Mells Valley Special Area of Conservation (SAC)
- Within the SSSI impact risk zone
- Coal development low risk area
- Listed feature on Fosseway – grade II – ‘Boundary marker on roadside NGR ST 66775276’ (list entry: 1058636)

Procedural Matters:

Mendip District Council has ceased to exist. Somerset County Council and four other district councils in Somerset (including Mendip Sedgemoor, Somerset West and Taunton Council and South Somerset) were replaced on 1st April 2023 by a new unitary council, known as ‘Somerset Council.’ In terms of the application site the Mendip District Local Plan (Parts I and II) still comprise the relevant development plan.

As this site is not allocated for development, and is outside the development limits, this application represents a departure from the development plan. In accordance with legislative requirements, it has been advertised as such.

The Council has met its obligations in relation to notification and publication of this planning application.

Allocation Status:

This site was previously allocated under policy MN3 of the Mendip District Council Local Plan Part II (LP2). Further to the successful legal challenge of LP2, the associated Order (December 2022) instructed that the allocated sites policies MN1, MN2, MN3, NSP1 and BK1, their supporting text and other related text, tables and diagrams should be remitted to the Council. The remitted parts of LP2 should be treated as not having been adopted as

part of the local development plan, and have no weight in the planning balance. The rest of LP2 is unaffected by this order, and remains part of the adopted plan.

Regulation 19 consultation is open on the 'Mendip Local Plan Part II (Sites and Policies) 2006 – 2029 Limited Update' and looks to reallocate the dwellings previously allocated under policies MN1, MN2, MN3, NSP1 and BK1. This document does not propose to include the former MN3 site.

As such, the previous allocation for this site (MN3) is no longer in place and the site is unallocated. The proposal is therefore considered as open countryside and a departure from the development plan, and assessed in the 'tilted balance' against paragraph 11d of the NPPF.

Although some neighbour comments have suggested approval of this application would be contrary to the judicial review order, the application can be determined as an unallocated site under the tilted balance.

Relevant History:

2016/0736/OTA - Outline planning for residential development [151 dwellings]. (All matters reserved) – finally disposed of but recommended for refusal for the following reasons:

1. The site lies in countryside outside the Adopted Local Plan's Settlement Limits for the parts of Midsomer Norton within Mendip District, where development is strictly controlled as a matter of principle in accordance with the plan-led system. Furthermore the proposed development, by reason of its size and extent, would have a significant, harmful impact on the countryside's intrinsic character here. The development would therefore be contrary to policies CP1, CP2 and DP4 of the Adopted Mendip District Local Plan 2006 - 2029 (adopted December 2014) and the advice in the National Planning Policy Framework.
2. In the absence of a suitable Transport Assessment, the submitted information is not sufficient to enable the Local Planning Authority to make a full assessment of the traffic impact of this proposal. It has not therefore been demonstrated that the impact of development can be accommodated sustainably and without harm to highway safety, contrary to policy DP9 of the Mendip District Local Plan 2006 - 2029 (adopted December 2014) and the advice in the National Planning Policy Framework.
3. In the absence of suitable planning obligations secured under Section 106 of the Town and Country Planning Act 1990 as amended, the proposal would not make adequate provision for public recreational open space, education, affordable

housing, or a Travel Plan necessary in accordance with policies DP9, DP11, DP16, DP19 of the Mendip District Local Plan 2006 - 2029 (adopted December 2014), and the advice in the National Planning Policy Framework.

2014/0093 – outline application for residential development [151 dwellings] (all matters reserved) refused at Planning Board 24.03.2015 for the following reasons:

1. The site lies in countryside outside the Adopted Local Plan's Settlement Limits for the parts of Midsomer Norton within Mendip District, where development is strictly controlled as a matter of principle in accordance with the plan-led system. Furthermore the proposed development, by reason of its size and extent, would have a significant, harmful impact on the countryside's intrinsic character here. The development would therefore be contrary to policies CP1, CP2 and DP4 of the Adopted Mendip District Local Plan 2006 - 2029 (adopted December 2014) and the advice in the National Planning Policy Framework.

2. In the absence of a suitable Transport Assessment, the submitted information is not sufficient to enable the Local Planning Authority to make a full assessment of the traffic impact of this proposal. It has not therefore been demonstrated that the impact of development can be accommodated sustainably and without harm to highway safety, contrary to policy DP9 of the Mendip District Local Plan 2006 - 2029 (adopted December 2014) and the advice in the National Planning Policy Framework.

3. In the absence of suitable planning obligations secured under Section 106 of the Town and Country Planning Act 1990 as amended, the proposal would not make adequate provision for public recreational open space, education, affordable housing, or a Travel Plan necessary in accordance with policies DP9, DP11, DP16, DP19 of the Mendip District Local Plan 2006 - 2029 (adopted December 2014), and the advice in the National Planning Policy Framework.

2013/2264 – outline application for residential development [151 dwellings] (all matters reserved) recommended for refusal by officers and refused at Planning Board 24.03.2015 for the following reasons:

1. The site lies in countryside outside the Adopted Local Plan's Settlement Limits for the parts of Midsomer Norton within Mendip District, where development is strictly controlled as a matter of principle in accordance with the plan-led system. Furthermore the proposed development, by reason of its size and extent, would have a significant, harmful impact on the countryside's intrinsic character here. The development would therefore be contrary to policies CP1, CP2 and DP4 of the

Adopted Mendip District Local Plan 2006 - 2029 (adopted December 2014) and the advice in the National Planning Policy Framework.

2. In the absence of suitable planning obligations secured under Section 106 of the Town and Country Planning Act 1990 as amended, the proposal would not make adequate provision for public recreational open space, or affordable housing necessary in accordance with policies DP11 and DP16 of the Mendip District Local Plan 2006 - 2029 (adopted December 2014), and the advice in the National Planning Policy Framework.

Summary of Comments:

Divisional Members: no comments received

Kilmersdon Parish Council: objection

- Insufficient consultation
- highway safety
- insufficient local infrastructure
- harm to environment and biodiversity
- insufficient local employment opportunities, likely resulting in out commuting

Westfield Parish Council (neighbouring parish council): objection

- Refer to Westfield Neighbourhood Plan
- Insufficient local facilities
- Insufficient local road network capacity

Highways: no objections subject to conditions and obligations (summary of final comments, including informal comments, following scheme amendments and additional information/clarifications)

- The access proposed is directly off the A367, within a 30mph speed limit area. There are 3 recorded Personal Injury Collisions (PICs) within the last 5-year period, all three of these were categorized as 'slight'. Given the details of the PICs they don't suggest that the highway is inherently dangerous.
- The Highway Authority previously made comment on the submitted Transport Assessment, the issues raised therein have been addressed with the submission of an amended report.
- Travel Plan is now acceptable in principle subject to minor required amendments.

- Amended RSA Stage 1 reflects the comments received from the internal audit undertaken by Somerset Council. The designer's response and amendments made to the scheme as a result are welcomed.
- Internal layout - As the internal layout is not being determined at this time no detailed comments are being provided on the submitted indicative layout. Any future application to determine the internal layout will need to be considered the Somerset Council Estate Roads Guidance document.
- Parking - The Highway Authority is content to accept Zone B parking levels in this instance due to the proximity of the site to the services provided within Midsomer Norton.
- Bicycle storage will need to meet Somerset standards.
- Electric vehicle charging will need to meet Somerset standards.

Active Travel England: standing advice applies

Sustainable Travel and Tourism Officer: no comments received.

Somerset Council Waste Services: (summary of all comments)

- Somerset Waste Partnership has concerns regarding the access for collection vehicles within the development. All access roads should be to an adoptable standard and turning space should be adequate for a 26t refuse vehicle. As there are a variety of road types it would be beneficial to confirm that all, including the 'mews' and 'private drives' will be to adoptable standard. A swept path analysis is required to confirm the intended vehicular access, areas for turning/reversing. Please note the maximum reversing distance is 12m.
- If the surfaces labelled 'private drive' will not be adopted then communal collection points will need to be agreed adjacent to the adopted highway for those properties accessed via those drives. Collection points must take into account the maximum distance requirement for storage locations - no further than 30m distance from the property. The distance between point of collection and closest access point for collection vehicle should be no more than 15m for boxes or 2-wheeled containers.
- Space at each property should also be provided to accommodate the containers for weekly collections of dry recyclables and food waste, fortnightly collections of garden waste and 3-weekly collections of refuse. Please see our developers guidance for details of the containers provided to individual properties and for more information regarding our collection requirements about Developers Guidance (somersetwaste.gov.uk).
- Apartment blocks will need to have adequate space for bins and recycling containers for each flat.

Lead Local Flood Authority: no objection (summary of final comments following the submission of additional information and various consultations)

- We are disappointed that the drainage strategy has not been amended as requested due to concerns over communal soakaways in private gardens. However, this is not an aspect that we would wish to maintain an objection on and should this come forward at the next stage we would expect a robust maintenance strategy expanding on that previously provided along with covenants in deeds regarding these features.
- We would like to make the applicant aware that The Building Regulations 2010 Drainage and Waste Disposal paragraph 3.25 sets out that infiltration devices should not be built within 5m of a building or road, and the current plans indicate infiltration features within 5m of buildings and roads.
- Thank you for providing updated calculations for 45% climate change for two of the basins, could we clarify whether further calculations for each basin and each size of soakaways, using the lowest infiltration rate from the closest test pit, or the lowest overall infiltration rate with a 45% climate change figure are to be provided?

Wessex Water: no objections (Sep 2023)

- There are no known Wessex Water Assets within the proposed site boundary.
- Foul drainage - Wessex Water will accommodate domestic type foul flows in the public foul sewer with connections made on a size for size basis. Developers fund the cost of connecting to the nearest 'size for size' sewer. Capacity is available to accommodate predicated foul flows from the development and a point of discharge has previously been agreed in principle, subject to formal application and approval, to MH ST66539002. This is reflected in the Drainage Strategy, drawing ref SK501, rev P5, dated 25 July 2023, submitted in support of the application. The point of connection to the public network is by application and agreement with Wessex Water.
- Surface water - Wessex Water has no objections to the use of soakaways to capture, store and discharge surface water runoff, as show on the Drainage Strategy, drawing ref SK501, rev P5, dated 25 July 2023. However, we note the LLFA concerns with regards to the extrapolated infiltration data used for the design of the soakaways and infiltration basins.
- The applicant should be aware that if, at reserved matters stage, the use of soakaways proves to be unviable and a connection to the public surface water sewer network is requested, capacity in the network is limited and as such we will need assess the impacts of any additional surface water flows. It is likely that off site reinforcement would be required to accommodate additional surface water flows from this site which may delay the approval of connections.

- Wessex Water will not accept any surface water runoff, land drainage or ground water into the public foul sewer network either directly or indirectly.

Environment Agency: no comments received.

Environmental Protection: no objection subject to conditions

- The proposal has potential to cause air quality impacts as a result of fugitive dust emissions during construction and road traffic exhaust emissions associated with vehicles travelling to and from the site during operation. As such an Air Quality Assessment, dated 8 February 2022 (Ref: 521r2) has been submitted that informs the use of good practice control measures would provide suitable mitigation for a development of this size, nature and reduce potential impacts to an acceptable level. Further that during the operational phase potential impacts may occur due to road traffic exhaust emissions associated with vehicles travelling to and from the site, however modelling results indicate exhaust emissions were not predicted to be significant.
- With regard to the impact of noise from the local road networks the ambient sound environment is confirmed to be dominated by road traffic noise travelling along the A367 to the west of the site and the B3139 to the south. Consequently, a Noise Impact Assessment, dated 18th February 2021 (Project No 21/450) has been submitted with recommended mitigation measures, where necessary, to comply with the requirements of the PPG: Noise, ProPG and BS8233:2014.

Contaminated Land: no objection

- The application included the following report: Land off Fosseyway, Midsomer Norton. Proposed Residential Development. Geo-Environmental & Geotechnical Assessment by Earth Science Partnership dated February 2022.
- Agree with the recommendations of the report.

Archaeology: no objection subject to condition

- The submitted Addendum to Historic Environment Desk-Based Assessment which includes the results of a geophysical survey concludes that there are potential prehistoric features on the site. These include a possible ring ditch (a ploughed out burial mound or circular hut) and associated ditches. The addendum assesses the significance of these features as of local significance.
- Based on the information supplied it is likely that the archaeology is of local significance and not of such value that it would preclude development. The desk-based assessment and addendum describe a phased process of further assessment

(evaluation) and subsequent mitigation which would involve trial trenching and excavation.

- Recommended conditions to ensure the archaeology on the site is fully recorded: Programme of Works in Accordance with a Written Scheme of Investigation (POW); Archaeology and ensuring completion of works.

Education: no objection subject to obligations (summary of final comments following scheme amendments)

- A proposal of 180 dwellings in this location will generate the following number of pupils for each education type in accordance with the updated pupil yields:
 - Early years - $180 \times 0.1 = 18$ pupils
 - Primary - $180 \times 0.32 = 57.6$ pupils
 - Secondary - $180 \times 0.14 = 25.2$ pupils
 - SEN - $180 \times 0.0046 = 0.828$ pupils
- Education contributions are only required for SEND in this area. However new pupil yield suggests that not as many pupils will be generated and in addition new evidence indicates that the cost to build SEND facilities is lower at £101,215.72 per pupil. Therefore $0.828 \times 101,215.72 = £83,806.62$.
- There is capacity in the local early years, primary and secondary schools, however we will require transport contributions to ensure the children from this development can reach their local secondary school.
- Latest annual cost per pupil for mainstream school transport is £1,437 (index linked).
- The total school transport costs are calculated as follows:
 - $£1,437 \times 25$ pupils = £35,925 per annum
 - $£35,925 \times 5$ years = £179,625.00 total
- For the purpose of the S106 as this is an outline application the contributions will be based on a per dwelling cost as follows;
 - $£83,806.62 / 180 = £465.59$ per dwelling for SEND
 - $£179,625.00 / 180 = £997.92$ per dwelling for transport
- If the number of homes increases or decreases through the submission of reserved matters the education contributions will adjust to the number of homes.
- To ensure that this proposal is acceptable in planning terms we expect these totals to be secured in a S106 to ensure that the infrastructure to support the homes can be in place for the pupils from this development.

NHS Somerset Integrated Care Board (ICB): no objection subject to obligations (Aug 2023, based on updated proposal of 180 dwellings)

- This development is in the catchment of:
 - a. Mendip Country Practice - Church Street, Coleford, Radstock

b. Oakhill Surgery - Shepton Road, Oakhill, Radstock
which has a total capacity for 9,120 patients.

- The current patient list size is 9,529 which is already over capacity by 409 patients (at 104% of capacity).
- Total contribution required £80,045

NHS Royal United Hospital Bath: no objection subject to obligations (Jan 2023, based on original proposal of 190 dwellings)

- £17.15 per dwelling contribution required

Ecology: no objection subject to conditions (summary following additional information and various rounds of consultation)

Bats

- Following bat surveys, at least nine species of bats were recorded including lesser horseshoe and greater horseshoe bats. Lesser horseshoe were found on 28 out of 48 recording nights, and greater horseshoe bats were recorded on four occasions. No features were noted on the site suitable for roosting bats. Boundary hedgerows (with the exception of the new access) would be retained and there will be an approximate 10 m buffer between the development along the southern and eastern boundary hedgerows and an approximate 5m along the western boundary. It is recommended that access is provided into the site away from the southern or eastern boundaries, as these being adjacent to open fields and other suitable hedgerows would otherwise impact the dark connective corridors which should be retained in their entirety and managed correctly.
- Following review of the ecological information submitted along with the Shadow Habitat Regulations Assessment (sHRA), SES has considered the content and measures designed to mitigate the impacts of the proposed development on Mells Valley SAC and agrees with the conclusion that any such impacts will be fully mitigated considering the measures proposed and that, as a result, the Council has ascertained beyond reasonable scientific doubt that the development will not adversely affect the integrity of the Mells Valley SAC site either alone or in combination with other plans or projects. The Council, as the competent authority, adopts the sHRA to fulfil its responsibilities under Regulation 63 the Conservation of Habitats and Species Regulations 2019 (EU Exit) (as amended). This endorsement is subject to Natural England concurring with the Councils' conclusions as well as the implementation of conditions/ s106 agreements, some of which will need to be provided at the reserved matters stage.

Dormice

- Insufficient dormice surveys, therefore a precautionary approach is required via condition.

Reptiles

- There is low suitability for reptiles noted within the grass margins including slow worm as the northern boundary borders residential gardens. A mitigation strategy is required to ensure reptiles are protected.

Badgers

- There is no evidence of badger activity on-site, however due to the high mobility of badgers, a pre-commencement condition to complete an update badger survey of the site should be placed upon any planning permission.

Birds

- There is suitability for breeding and wintering birds in particular ground nesting birds such as skylark and lapwing where the habitats would be lost if these species were noted present. A skylark was observed singing over the southern edge of the site which indicates possible breeding behaviour. Fieldfare and redwing have been noted on site which are Schedule 1 birds winter visitors. The site holds suitability for priority species lapwing and grey partridge. In addition, there are records of barn owl within the local area. In the absence of further survey effort, mitigation should be provided for ground nesting birds to mitigate for the loss of suitable arable habitat.

BNG

- The BNG metric should include for the tall herbs and ruderals habitats within the baseline which were noted during the Ecological Appraisal.

Conditions and Informatives

- Recommended conditions: provision of at least 1.53ha of bat mitigation habitat; Construction Environmental Management Plan (CEMP: Biodiversity); Landscape and Ecological Management Plan (LEMP); tree and hedgerow protections; bird nesting; lighting design for bats; reptiles and amphibians construction protection measures; hazel dormice construction protection measures; additional badger survey requirements; and ecological enhancements.
- Recommended informatives: legislation to protect badgers.

Natural England: no objection subject to mitigation (summary of final comments following the submission of additional information)

- The appropriate assessment concludes that it can be ascertained that the proposal will not result in adverse effects on the integrity of any of the sites in question.

Having considered the assessment, and the measures proposed to mitigate for all identified adverse effects that could potentially occur as a result of the proposal, Natural England advises that we concur with the assessment conclusions, providing that all mitigation measures are appropriately secured in any planning permission given.

Biodiversity and Landscape Officer:

- As outlined in the landscape assessment the development would be most visible from the areas and existing properties to the south and east of the proposed development as the land falls away in this direction. It is likely this development would be more obvious than the planned separate development to the north of this site as the aspect is flatter. If the development was to proceed, the planting of tall trees in strategic areas, and allowing the existing hedges and proposed new hedges and copses to become taller and wider will reduce the view of the development over time.
- The rural character of the area is hedge bound arable and pasture fields on the edge of the urban area. If this site is developed, the following will retain some of the character, provide some screening of the development and make provision for biodiversity of the site:
 - Increase the width and height of existing hedges
 - Manage the hedges for the benefit of wildlife.
 - Use new hedge and tree planting to connect the existing and new hedges and the new copses together. This should be within the site and to the wider countryside to allow species movement.
 - Use native hedge and tree species that reflect the existing natural species that occur in this area.
 - Source British native hedge and tree plants locally and from disease stock.
 - Existing trees that cannot be safely kept, retain at a safe height as standing trunks where possible.
 - Leave dead wood on site or create log piles near the hedges.
 - Retain ivy where safe to do so for bats, small mammals, birds and invertebrates.
 - Include species in the new copses that support dormice
 - Incorporation of groups of swift brick in the houses over 5 meters. Swifts are flying over the new estate to the north of this site.
 - Retain or reinstate in sunny area tall ruderal grass area for reptiles including slow worms
 - Installation of bat and bird boxes
 - Design the SuDs to also benefit of wildlife. If they can retain water during dry periods, they will be valuable for birds, mammals and invertebrates.

- Create a wildlife management plan for the ongoing biodiversity and landscape management of the areas around the houses mentioned above.

Hedges:

- The proposal intends to retain the existing hedges, except for the access point. This will help screen the development and it will also retain the habitat for the species that rely on it for food and shelter.
- Annual autumn/ winter hedge cutting removes the flower buds and therefore the fruit and nuts of the hedgerow, greatly reducing its value for wildlife.
- Allow the hedges to increase in width to least 4 meters to increase their usefulness for wildlife and screening impact on the landscape.
 - Cutting every 3 years to allow the hedge to flower and fruit and increase screening impact.
 - Cut the internal sides and top of the hedges on a 3 year rotation, ideally where only one third of the hedges are cut in any 12 month period to provide a varied hedge structure.
 - The roadside of the hedge may need to continue to be cut annually to prevent encroachment onto the road.

Hazel Dormice:

- The ecological and species appraisal mentions the existing habitat having the potential to support hazel dormice. The creation of new hedge and copse habitats should enhance this by planting the species that support it. Important species are hazel, native honeysuckle and hawthorn. The edge of the copse should be planted with hazel, hawthorn on the sunny edges and allow them to mature and fruit. The honeysuckle can climb through them. A few of the hazels should be coppice every year once they reach about 15 years of age. There is a copse to the southeast of the proposed site. Potentially, with discussion with that land owner an animal crossing bridge could be installed between the two copses to allow better connection of the site with the wider countryside.

Tree Officer: neutral

- The site itself consists of arable land with a strong tree / hedge linear feature alongside the A367 western boundary. Trees are believed to be within the adopted highway (outside of the applicant's control) although they encroach onto the proposal site and pose a constraint. Break in hedgerow on western boundary required for new access.
- Northern boundary adjoins residential properties, some of which have maturing trees close to the boundary with the site. Currently no significant constraints.
- The eastern boundary is mostly native hedgerow, some maturing trees, the hedge is quite sparse in places giving views eastwards towards the adjacent agricultural land and distant views of the landscape eastwards primarily.

- The proposal site narrows significantly towards the southern strip and slopes down towards a minor road, and an agricultural access adjacent to Whitfield Cottages.
- There are no public rights of way that serve the proposal site.
- The majority of trees that could affect / be affected by the indicative proposed layout have been accurately assessed / categorised using the retention values in BS5837:2012.
- Tree Constraints Plan identifies above and below constraints, and at this stage does not include a shade diagram, NB. this could be helpful as an aid in the design process of any proposed development going forward.
- Observation: one notable tree appears to have been mis-identified – T25. is an English Elm, rather than a Lime tree.
- The Tree Survey recognises the value of the significant trees and states that an Arboricultural Impact Assessment and Arboricultural Method Statement to comply with BS5837:2012 is likely to be required once a final design has been produced. This is agreed.
- There are no evergreen trees within the main context of the proposal site and therefore deciduous trees / hedges cannot be considered to be a complete screen / barrier to views into / out of the proposal site.
- The long-term retention and management of the trees / hedgerows / landscaped areas also needs to be considered and a mechanism to secure this identified – at reserved matters stage.
- A comprehensive Tree / Hedge / Landscape / Green Infrastructure / Biodiversity ‘Masterplan’ and management strategy should be provided to comply with national and local policy objectives (NPPF, MDC) and opportunities to provide a wooded area / orchard / tree lined streets (using a design led hierarchy approach) should be submitted for approval for any proposed development (reserved matters). The aspirations of the Forest of Avon Community Forest could provide guidance in the overall place-making design of the proposal site, even if this is not a legal constraint / requirement.

Housing Enabling: no objection subject to legal agreement

- 30% affordable housing is proposed, which would comply with requirements set out in DP11.
- The proposed housing mix has been discussed with housing enabling officers and support in principle has been offered for the mix which now comprises the following;
 - 18 x 1 and 2-bed apartments
 - 21 x 2-bed houses
 - 12 x 3-bed houses
 - 3 x 4-bed houses
 - 54 affordable homes in total

- At reserved matters stage, the layout and design of the affordable housing provision should be well integrated with the open market units. We would welcome early dialogue and discussion with regards to all of the above.

Crime Prevention Officer: no objection

- When considering the illustrative plan as included in the application, and when reading the Design and Access Statement, it is clear that initial decisions have been made to have properties arranged such that they are in essence backing onto each other. From a crime prevention point of view this can be seen as favourable as it reduces the ease of access to side and rear boundaries to properties. It is known that a large proportion of burglaries commence through access to these areas. However this design does highlight other potential issues that will need careful consideration.
- Firstly as the properties on the outer edges will therefore face outwards onto existing hedgerows, with little or no natural surveillance over their frontages or parking spaces, then it is key to take steps to address this. The areas should be illuminated appropriately (I recognise that a lighting plan will be created for the development). Increase any surveillance opportunities from inside the properties by ensuring that the position and number of windows in active rooms are maximised and provide good levels of coverage over these areas.
- Secondly that any gates to rear gardens are positioned as close to being in line with the building frontages as possible.
- I have also seen that on one side a limited amount of properties will have their rear boundaries abutting a maintenance corridor for the existing hedgerow. As mentioned the issues that easy access to rear boundaries create, access to this corridor should be restricted for maintenance reasons only.
- Landscaping and planting needs careful planning. There is balance between the aesthetic appearance, ecological benefits and providing good sight lines to maximise natural surveillance opportunities.
- The proposed pathway down through the dog leg section needs to be as straight as possible and any landscaping kept under a maintenance plan to maximise sight lines. It is recommended that the pathway is at least 3 metres wide to allow people to pass without infringing personal space.
- Welcome the opportunity to offer further advice and guidance if this matter is progressed and look forward to contact from the agent/applicant.

Planning Policy: no comments received.

Bath and North East Somerset Council (BANES): objection (summary following updated information, consultation and discussion)

- The construction of additional housing would worsen the imbalance between jobs and homes and would result in cumulative impacts on key infrastructure.
- Additional transport information is required.
- Should Somerset Council be minded to approval the application, B&NES would ask that the requested financial contributions are secured.
- Biodiversity: Opportunities should be taken to maintain and enhance biodiversity and BANES would be supportive of a proactive approach in this regard.
- All obligations sought from BANES meet the CIL tests.

Education:

- Subject to the children generated by the proposed development not negatively impacting on the ability of any local B&NES resident children to access early years provision and primary school places in the local area, we have no objection to the proposed development. The potential cumulative impact of multiple new housing developments will need to be considered and whilst developments when assessed individually may be deemed to have no negative impact, this may not be the case when multiple developments are being proposed.

Early years:

- The Midsomer Norton area currently has a sufficiency of Early Years childcare provision. It is currently anticipated that if children generated by this proposed development, resident in Somerset, were to seek to access provision within Midsomer Norton, there would be sufficient capacity available to accommodate them. Also, sufficient capacity to not negatively impact on the ability of B&NES children resident in Midsomer Norton to also access provision.

Primary:

- Each local authority is responsible for providing a school place for every child that lives within their boundary that requires a place. The primary age pupil generated by this proposed development would be the responsibility of Somerset Council to accommodate, not B&NES.
- However, due to the close proximity of the proposed development to schools located in B&NES, particularly when compared to most schools located in Somerset that are further away, it is quite possible that children generated by this proposed development may look to access a school place in B&NES in the Midsomer Norton/Westfield area, rather than in Somerset.
- If the primary age pupils calculated to be generated by this proposed development were to seek to access provision within the Midsomer Norton/Westfield area, there is currently projected to be sufficient capacity available to accommodate them. Also, sufficient capacity to not negatively impact on the ability of B&NES children resident in Midsomer Norton/Westfield to also access a primary school place here.

- The current situation of sufficient available capacity can change however, and available school capacity could partially reduce, fill completely or become over-subscribed in the future.
- It should be noted that should primary school places become over-subscribed, the primary mechanism used to give priority when allocating places would be the straight line distance from home to school. In this scenario, it could be that a child living in the proposed development in Somerset could qualify for a place in a primary school in B&NES ahead of a child living in Midsomer Norton/Westfield, regardless of their home Local Authority.
- In summary, the proposed development is not currently anticipated to have a negative impact on primary school provision available for B&NES resident children in the Midsomer Norton/ Westfield area.

Secondary and Sixth Form:

- This proposed development area falls within the catchment area of Writhlington School as the school has a part of its catchment area that extends beyond the Bath and North East Somerset boundary into Somerset. Also located in the Writhlington area is The Mendip Studio School.
- There is currently projected to be sufficient secondary school capacity available at Writhlington Secondary School and The Mendip Studio School to accommodate the 36.1 (7.22 per year group) secondary age pupils and the 7.6 (3.8 per year group) sixth form age pupils calculated to be generated by this proposed development.

Parks and Green Spaces Service:

- A S106 Greenspace contribution of £387,504 is required to meet the unmet requirement for recreational green space generated from an increased population due to this development. This will go towards the provision, improvement and maintenance of off site public green space within Midsomer Norton and Westfield.

Highways:

- The site would be access from the A367 Fosseway, which forms the boundary between Somerset and B&NES authorities. It is understood that Somerset Council maintains the A367 corridor between the site and the roundabout with Charlton Road to the north.
- Somerset Council has commissioned a comprehensive review of the Transport Assessment and the highway modelling, and it is not considered necessary to replicate this work.
- The proposed local pedestrian and cycle connection improvements appear to be limited to a new crossing on the A367 Fosseway within the vicinity of the site. The location of the crossing should be confirmed.

- It is assumed that the highway safety impacts of the development proposals will be comprehensively assessed by Somerset Council. This will need to ensure that all of the network users are provided with safe access to the proposed development site, with priority given to the most vulnerable road users.
- Previous contributions towards the Somer Valley Enterprise Zone cycleway are no longer sought as this has come through other funding streams.
- Active Travel England standing advice has not been adequately considered.
- Concern that A367 / Cobblers Way junction has not been included within the assessment scope, and this junction is known to experience some queuing at peak times. Given the existing traffic congestion that occurs, it is recommended that the impact of the development along the A367 corridor should be assessed as part of the submission.
- A Residential Travel Plan would be required and it is for Somerset Council to agree.
- A Construction Management Plan condition is required to manage local issues.

Relevant BANES policies:

The development plan for Bath and North East Somerset comprises:

- Bath & North East Somerset Core Strategy (July 2014)
- Bath & North East Somerset Placemaking Plan (July 2017)
- West of England Joint Waste Core Strategy (2011)
- Bath & North East Somerset saved Local Plan policies (2007) not replaced by the Core Strategy or the Placemaking Plan:
 - Policy GDS.1 Site allocations and development requirements (policy framework)
 - Policy GDS.1/K2: South West Keynsham (site)
 - Policy GDS.1/NR2: Radstock Railway Land (site)
 - Policy GDS.1/V3: Paulton Printing Factory (site)
 - Policy GDS.1/V8: Former Radford Retail System's Site, Chew Stoke (site)
- Neighbourhood Plans

RELEVANT CORE STRATEGY POLICIES

The following policies of the Core Strategy (2014) are relevant to the proposal:

- SD1: Presumption in favour of sustainable development
- DW1: District wide spatial strategy
- SV1: Somer Valley spatial strategy
- CP2: Sustainable construction
- CP3: Renewable energy
- CP5: Flood risk management
- CP6: Environmental quality
- CP7: Green Infrastructure
- CP10: Housing mix
- CP13: Infrastructure provision

RELEVANT PLACEMAKING PLAN POLICIES

The Placemaking Plan for Bath and North East Somerset was formally adopted by the Council on 13th July 2017. The following policies of the Placemaking Plan are relevant to the proposal:

- D1: General urban design principles
- D2: Local character and distinctiveness
- D3: Urban fabric
- D4: Streets and spaces
- D5: Building design
- D6: Amenity
- D8: Lighting
- D10: Public Realm
- NE1: Development and Green Infrastructure
- NE2: Conserving and enhancing the landscape and landscape character
- NE2A: Landscape setting of settlements
- NE3: Sites, species and habitats
- NE4: Ecosystem services
- NE5: Ecological networks
- NE6: Trees and woodland conservation
- H7: Housing accessibility
- ST1: Promoting sustainable travel
- ST7: Transport requirements for managing development
- SU1: Sustainable drainage
- SCR1: On-site renewable energy requirement
- SCR5: Water efficiency
- LCR3A: Primary school capacity
- LCR9: Increasing the provision of local food growing

The following Supplementary Planning Documents should be considered:

- B&NES Council Planning Obligations SPD

Local Representations:

Objections

32 neighbours have submitted objections, including some who have commented on this application on more than one occasion. The following issues have been raised:

- Unsustainable development – pressure on existing services and facilities; would create additional public spending requirements; brownfield sites must be considered first; lack of local jobs; would promote out-commuting; development of

this site was previously deemed unlawful; other developments in the area have been refused

- Character and appearance – rural encroachment; insufficient gaps between settlements; harm to character of Kilmersdon village and parish; cumulative impact of other residential development in the local area; this development is not needed in BANES; no justification to building homes here; inappropriate for Mendip homes to be built here – should be building on the edge of Mendip towns; council tax would be paid to Somerset but pressure on services in BANES
- Highways – safety; capacity; insufficient assessment of impacts; insufficient public transport; increased traffic would result in harms related to noise, pollution and carbon emissions; traffic calming measures needed locally
- Harm to neighbours’ mental health
- Loss of green fields
- Harm to ecology and biodiversity
- Drainage, flooding and foul capacity concerns
- Economy harms
- Harms outweigh benefits
- Pollution harms
- Loss of agricultural land
- Noise harm
- Harms to trees and hedgerows
- Harm to landscape
- Harm to neighbour amenity including overlooking
- Objections on previously refused applications should be considered

Neural

One neural comment has been received as summarised below:

- Generally support results of ecological surveys, which should be controlled by condition if permission is granted.

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

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

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

The Council's Development Plan comprises:

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

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

- CP1 - Mendip Spatial Strategy
- CP2 - Supporting the Provision of New Housing
- CP4 - Sustaining Rural Communities
- DP1 - Local Identity and Distinctiveness
- DP3 - Heritage Conservation
- DP4 - Mendip's Landscapes
- DP5 - Biodiversity and Ecological Networks
- DP6 - Bat Protection
- DP7 - Design and Amenity of New Development
- DP8 - Environmental Protection
- DP9 - Transport Impact of New Development
- DP10 - Parking Standards
- DP11 - Affordable Housing
- DP14 - Housing Mix and Type
- DP16 - Open Space and Green Infrastructure
- DP19 - Development Contributions
- DP23 - Managing Flood Risk

Other Possible Relevant Considerations (Without Limitation):

- National Planning Policy Framework (NPPF)
- National Planning Practice Guidance (NPPG)
- Relevant policies in BANES, as referred to in the BANES consultation response.
- Creating Places for People, Somerset Council (consultation draft, September 2023)
- Somerset County Council Highways Development Control Standing Advice (2017)
- The Countywide Parking Strategy (2013)
- Somerset County Council Highways Electric Vehicle Charging Strategy (EVCS) (2021)
- Somerset's Climate Emergency Strategy (2020)
- Somerset Technical Advice Notes 01/21 Visibility Requirements on the Local Highway Network (2021)
- Somerset Council Travel Planning Guidance (2011)

- Manual for Streets (2007)
- Supplementary Planning Document Design and Amenity of New Development; Guidance for interpretation of Local Plan Policy DP7 (2022)
- National Design Guide (2021)
- Technical housing standards – nationally described space standards (2015)
- Environment Agency Standing Advice
- Assessment of Special Landscape Features (2012)
- Mendip Landscape Character Assessment (2020)
- Fields in Trust - Guidance for Outdoor Sport and Play (2020)
- Somerset Habitat Evaluation Procedure Methodology (2016)
- Somerset Council's 'Biodiversity Net Gain Guidance Note' (February 2024).
- Somerset Council's 'Nutrient Neutrality in Somerset: Guidance for Applicants, Last Updated: May 2024'
- Standing Advice Note: Active Travel and Sustainable Development, Active Travel England (2024)
- Bat Surveys for Professional Ecologists: Good Practice Guidance, Bat Conservation Trust (2023)

Assessment of relevant issues:

Principle of Development:

Core Policy 1 (CP1) of the Mendip District Local Plan Part 1: Strategy and Policies 2006-2029 (LPP1) directs the majority of growth identified in Policy Core Policy 2 (CP2) of LP1 to the 5 principal settlements to enable the most sustainable pattern of growth.

The site abuts the boundary with Bath and North East Somerset Council and is therefore closely related with Midsomer Norton and Radstock. These towns are not however included in this list of the principal settlements as they fall outside the administrative area of Mendip/Somerset East. These towns do however offer a good range of services and facilities and are accessible from the application site by means other than the private car. Whilst the site is considered to be well located in terms of services and facilities, it is noted that BANES and other third parties have raised objections on the grounds of the impact upon the imbalance of jobs and employment in the area which runs contrary to BANES' spatial strategy. This must be considered as part of the overall assessment.

Although close to local settlements, the site is outside of any development boundary and therefore must be considered to be located in open countryside. Policy CP1 explains that development outside development limits is strictly controlled and only permitted in line with the provisions set out in policy CP4 to meet specifically identified local needs within those communities.

Policy CP4 seeks to sustain rural communities through: planned provision for housing within primary and secondary villages in line with Policy CP1 and 2; identifying and delivering opportunities for affordable housing in line with Policy DP11 and 12; making allowance for occupational dwellings in line with Policy DP13; supporting proposals for the development of the local economy as set out in Policy CP3 and supporting viable schemes which extend the range of community infrastructure. As such the proposal would not meet the provisions of the Policy CP4.

As borne out in Core Policy CP4, the spatial strategy of the Local Plan, amongst other things, seeks to strictly control residential development in the open countryside save for specific exceptions within which the development is not considered to fall.

Given the location of the site the proposal would therefore conflict with Policies CP1, CP2 and CP4 of LP1.

The Council is currently unable to demonstrate a five-year housing supply. The 'Somerset – East Area (former Mendip District) Statement on Five Year Housing Land Supply – November 2023' confirms the current five year housing land supply figure is 3.24 years.

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

- i) the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
- ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole.

The above is a significant material consideration that will be considered in the overall planning balance section at the end of this report.

Whilst developing on brownfield land is preferable, the greenfield nature of the site is not such to warrant refusal of the application.

Agricultural Land:

The development results in the loss of agricultural land. Whilst there is no local policy to retain agricultural land, the NPPF explains that decisions should recognise the wider

benefits from the best and most versatile agricultural land. The loss of the land is recognised but it should be noted that the land is Grade 3 which is not the best and most versatile land. This is not considered a reason to withhold planning permission.

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

Policy DP1 of the Local Plan states that development proposals should contribute positively to local identity and distinctiveness; and be formulated with an appreciation of the built and natural context of their locality. Policy DP7 states that proposals should be of a scale, mass, form, and layout appropriate to the local context. Policy DP4 recognises the quality of Mendip's landscapes and suggests that proposals should demonstrate that their siting and design are compatible with the pattern of natural and man-made features.

In addition to the NPPF, the National Design Guide was published in January 2021. The National Model Design Code was published in June 2021. Together they illustrate how well-designed places that are beautiful, healthy, greener, enduring and successful can be achieved in practice.

The site is adjacent to a suburban area on the edge of Midsomer Norton. Residential development is located to the north and west of the site and open countryside is to the east and south.

The proposed development includes an access off Fosseyway (A367). Following negotiations, off site highways works include a toucan crossing (traffic light crossing for pedestrians and cyclists) and a pedestrian/cyclist path to the north east of the site, to connect it to the local footpath network. The existing cycle path along Fosseyway (A367) is also proposed to be extended.

An indicative masterplan has been submitted. Although this does not form part of the application, this has been submitted by the applicant seeking to demonstrate the proposed quantum of development (180 dwellings and associated works) could be acceptably delivered on the site at reserved matters stage.

The proposal includes an equipped play area (LEAP) (which is shown in a central location on the indicative masterplan and parameter plan). Inclusion of this in the final detailed design can be controlled by legal agreement.

An area of public open space is shown in the south western part of the site, which the applicant refers to as the 'southern spur'. Planting and a circular footpath are proposed in this area. This is shown on both the indicative masterplan and the parameter plan, and this can be controlled via the legal agreement.

The amended indicative masterplan shows a pocket park to the north of this spur, and amended plans have been received showing dwellings could overlook this area to allow for natural surveillance. A further pocket park is shown on the indicative masterplan in the south east corner of the site. Although the location of these pocket parks within the development has not been fixed at this stage, the applicant has committed to their inclusion (which is proposed to be controlled via legal agreement). Further assessment of these pocket parks is outlined in the public open space section of this report below.

Landscaping is also proposed along the western and southern boundaries of the site, which would include a footpath network so would make a further contribution to the public open space provision.

The indicative masterplan shows perimeter blocks in loops or leading to turning areas. Dwellings would face the road with front landscaping. Rear gardens appear broadly sufficiently sized and located within suitable locations. Detailed dwelling designs have not been submitted, and would be subject to consideration as part of a subsequent reserved matters application.

The submitted parameters plan (which is included in the plans list so would form part of any permission) shows the location of the dwellings, access and public open space (including southern spur, boundary space and central area with LEAP).

The outline submission suggests that up to three storey heights would likely come forward, and the applicant has indicated that three storey buildings are likely to come forward near the access. The overall height proposed would broadly be in keeping with surrounding development, including existing housing and larger residential sites on the opposite side of Fossey which have recently been permitted (e.g. 2023/1858/REM for 280 dwellings). Details would be controlled via a reserved matters application.

Land should be used efficiently so that housing needs can be met while minimising the need for building on additional greenfield land. Mendip District Local Plan: Part 1 sets out broad guidelines for the net density of new housing development in paragraph 4.44 as follows:

- Sites within towns – 30-40 dwellings per hectare
- Site in rural areas – 25-30 dwellings per hectare

Higher densities will be considered in appropriate locations, where the local context allows and any impacts can be satisfactorily mitigated. The density proposed within the current application is on average 28 dwellings per hectare. This is considered acceptable in this edge of town location. There is sufficient green infrastructure including open space and an informal perimeter walk around the outer edges of the site.

The proposal has not been subject to a design review by the Quality Review Panel. It is suggested that a further reduction in the quantum of development proposed could result in greater opportunities for higher planning outcomes including better integration of the site into its rural context. However, when considered in the overall tilted planning balance (see below) the proposal is concluded to be acceptable in this regard.

Standard conditions are recommended with regard to materials and levels, to ensure the best possible planning outcomes.

It is therefore concluded at this outline stage that the proposal is acceptable and contributes and responds to the local context and maintains the character and appearance of the surrounding area. The proposal accords with Policies DP1 and DP7 of the adopted Local Plan Part 1 (2014) and Part 12 of the National Planning Policy Framework.

Landscape:

Policy DP4 recognises the quality of Somerset East/Mendip's landscapes and suggests that proposals should demonstrate that their siting and design are compatible with the pattern of natural and manmade features. The site is not highly visible in the local landscape and is not covered by any specific landscape designations.

The key matters to address are to ensure that the visual impacts are minimised, and any adverse effect is mitigated through an appropriate landscaping scheme. The submission demonstrates that the development would be able to be set back from the boundary trees and include landscape boundary buffers.

A Landscape Visual Impact Assessment (LVIA) has been prepared by WH Landscape. The Landscape and Biodiversity Officer has considered the application and not objected on landscape matters. Various mitigation planting suggestions have been put forward, which can be incorporated at reserved matters stage.

The proposals would have an urbanising effect as a result of the built form and the associated development. There would inevitably be a change in the character of the site and there would be some encroachment into the countryside, but this is not considered to be unduly harmful.

Whilst there would be landscape harm associated with developing a greenfield site, this needs to weigh in the overall planning balance, the local and wider landscape impacts are considered low and do not justify refusal.

Impact on Residential Amenity:

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

The application submission includes a Design and Access Statement, a Noise Impact Assessment and an Air Quality Assessment. The application has been reviewed by the Environmental Protection (EP) team, and no objections are offered subject to the inclusion of conditions.

In relation to noise, the road presents a noise constraint, which is summarised by the Environmental Protection team thus:

'The Noise Impact Assessment has identified that during the daytime (07:00 – 23:00) the majority of the site is at negligible or low noise risk, with some areas closer to the A367 road at Low/Medium risk. Only areas at less than 15 metres from the road are at Medium noise risk.

Similarly night-time noise (23:00-07:00) the majority of the site is at Low or Low/Medium risk. Areas of the site at less than 40 metres from the road are at Medium risk, with only areas closer than 20 metres to the A367 road at Medium/High noise risk.'

The EP team has confirmed agreement with the conclusions and proposed mitigation measures set out in the submitted Noise Impact Assessment. The reserved matters application will be required to demonstrate reasonable mitigation measures are in place to ensure an appropriate living environment for future occupants, including window designs and higher density fencing in some gardens closer to the road.

The EP team has also confirmed the submitted Air Quality Assessment is acceptable considering the proximity to the road.

Interrelationships between proposed dwellings cannot be assessed at this outline stage, but the submitted indicative masterplan demonstrates that an acceptable scheme can be delivered.

Sufficient distances from existing dwellings can be achieved at reserved matters detailed design stage which would not result in significant harm to neighbour amenity.

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

A degree of disruption is to be expected from any construction project. Although there would be some inconvenience, this is short term and case law has well established that this alone is not a reason to withhold planning permission.

The following comments on the conditions recommended by the EP are noted:

- A noise mitigation condition is recommended.
- In order to reduce impacts of during construction, including noise and dust, a construction management plan condition is recommended.
- The construction time condition is recommended to be incorporated in the construction management plan condition.
- The electric vehicle condition recommended by the EP is covered under the highways section, and the standard highways condition is recommended accordingly.
- The lighting condition as recommended by the EP team is covered under the ecology section, with associated condition wording.
- The proposal relates to residential development therefore the recommended condition restricting any amplified sound is not considered necessary.
- Retained conditions recommended by the EP have been reworded as necessary to ensure they meet the national tests for conditions.
- The EP has made various other notes for the applicant to consider during detailed design.

In conclusion on this matter, subject to the inclusion of recommended conditions controlling construction management and noise mitigation, it is concluded that the proposal would not cause significant harm to the amenities of any occupiers or adjacent occupiers through loss of light, overshadowing, overbearing impact, loss of privacy, noise, odour, traffic or other disturbance. The proposal accords with policy DP7 of the adopted Local Plan Part 1 (2014) and part 12 of the National Planning Policy Framework.

Ecology:

The site is located within band C of the Mells Valley SAC consultation zone and within the SSSI impact risk zone. The application includes 1.53ha of bat habitat.

Following the submission of additional information, including lighting information, and several rounds of consultation, the Somerset Ecologist has confirmed there are no objections to the proposal, subject to the inclusion of conditions. The conditions as recommended have been amended to meet the tests set out in the NPPF, and reduce the need to submit further details to the local planning authority (e.g. photographs to demonstrate compliance) where appropriate.

Due to the potential impact on the Mells Valley SAC, the applicant has also prepared a shadow Habitat Regulation Assessment (sHRA). This has been endorsed by the Somerset Ecologist and agreed by Natural England.

The following should be noted by way of ecology conditions:

- Provision of at least 1.53ha of bat mitigation habitat condition recommended as per Ecology comments. Minor wording edits added to require details to be submitted at reserved matters, with a further condition likely at reserved matters stage to control the timing of implementation.
- Construction Environmental Management Plan (CEMP: Biodiversity) recommended as per Ecology comments.
- Landscape and Ecological Management Plan (LEMP) recommended as per Ecology comments.
- Tree and hedgerow protections condition – This is required under the tree section of this report and a duplicate condition is not recommended.
- Bird nesting – This is controlled under separate legislation therefore an informative is recommended rather than a condition.
- Lighting design for bats – The sHRA refers to lux levels near the bat habitat area to be lower than 0.5 lux. The Somerset Ecologist has confirmed that updated guidance from the Bat Conservation Trust (Bat Surveys for Professional Ecologists: Good Practice Guidance) on horseshoe bats confirms that this should be 0.2 lux on the horizontal plane, and at or below 0.4 lux on the vertical plane. The recommended lighting condition therefore includes these lower lux levels accordingly.
- Reptiles and amphibians construction protection measures – a condition is recommended which would require compliance with the protection measures set out in section 4 (paragraphs 4.13-4.14) of the submitted ecological assessment.
- Hazel dormice construction protection measures – the applicant has concluded that dormice are not present on the site, and therefore the submitted ecological assessment does not include any recommendations in relation to hazel dormice. The Somerset Ecologist has concluded that insufficient survey work has been undertaken therefore a precautionary approach should be taken and a condition. The agent has submitted a statement setting out proposed precautionary construction measures. This does not fully cover the precautionary measures considered necessary by the Somerset Ecologist therefore a condition is recommended requiring the applicant to submit evidence of a Natural England licence to undertake the works, or a statement from a qualified ecologist demonstrating a licence is not required. Subject to the inclusion of this condition, hazel dormice are protected through the proposed development.

- Additional badger survey requirements – as no evidence of badgers was found on site a further condition requiring a further is not necessary, and an informative reminding the applicant of the legal protections afforded to badgers is sufficient.
- Ecological enhancements – a Biodiversity Enhancements and Management Plan (BEMP) condition is recommended which would require agreement of the details and delivery of the proposed ecological enhancements.

Biodiversity Net Gain:

Due to the date this application was submitted, the national requirement to demonstrate 10% biodiversity net gain (BNG) is not applicable to this proposal. There is a requirement to demonstrate some positive BNG, in line with the local plan and the NPPF. Nevertheless, the applicant has submitted a BNG metric and an ecological enhancement plan. Paragraph 3.38 of the Planning Statement confirms the applicant is committed to delivering a minimum of 10% net gain biodiversity net gain. This would be beyond policy requirements, which needs to be weighed in the overall (tilted) planning balance.

A condition is recommended which would see this BNG demonstrated at reserved matters stage.

Overall, it is concluded that the proposed development would not have an adverse impact on bats or other ecology. The proposal accords with policies DP5 and DP6 of the adopted Local Plan Part 1 (2014) and part 15 of the National Planning Policy Framework.

Trees and Landscaping:

The site is open arable land with trees and landscaping on the boundaries. There are no TPOs on the site, and the site is outside of any conservation areas – therefore there are no formal protections on any of the trees on the site.

A Tree Survey and Tree Constraints Plan has been prepared by WH Landscape to support the application. This identifies the trees and landscaping on the site, their root protection areas and proposed tree protection measures. Although the majority of the existing trees and hedgerows are to be retained, the proposed access would see some hedgerow removed, and no-dig construction methods incorporated on nearby retained trees. The Tree Officer has considered the application and the submitted Tree Survey and Tree Constraints Plan and not disagreed with its approach or conclusions.

Landscaping is a matter reserved for a later application. Comments from the Biodiversity and Landscape Officer, including suggested species and maintenance approaches can be incorporated at that detailed design stage. Due to the location of the site, generous

landscaping is anticipated, and the indicative masterplan demonstrates this can be achieved.

As such, the application is concluded to be acceptable subject to the inclusion of standard conditions as recommended including hard and soft landscaping, and tree protection measures.

Assessment of Highway Issues:

The application is submitted in outline with details of access to be considered at this stage. A new access is proposed off Fosseway.

Various highway works are proposed to support the development including:

- New toucan crossing on Fosseway (pedestrian and cyclist crossing connecting the site to the west, including Silver Street school).
- Extension of cycle route on Fosseway, with associated signage.
- Pedestrian/cycle path in the north western corner of the site (connecting to the local network).

These measures are recommended to be set out in the legal agreements (S106 and S278).

The Somerset Highway Authority (HA) commissioned WSP to undertake an independent review of the highway capacity modelling work undertaken by the applicant. This raised some queries regarding the methodology used to assess the junction at Charlton Road/ Charlton Lane/ Fosseway. Traffic impacts at the junction A367 / B3139 Wells Road / Fosseway Roundabout were concluded to be acceptable. The site access was concluded to have capacity, although minor discrepancies in the figures were noted.

An updated Transport Assessment has been prepared and the HA has assessed this in-house and confirmed it to be acceptable to demonstrate sufficient highway network capacity.

Highway comments from BANES are noted, including regarding assessment of a further junction to be undertaken. As the Somerset HA has confirmed the application is acceptable in this regard, this is concluded to be sufficient.

The site is on the edge of a main town, with access to key services and facilities. The application is considered to be broadly consistent with the standing advice of Active Travel England. It is noted that the scale of development proposed is below the 250 dwelling threshold to trigger Active Travel England comments. Although further information from the applicant in this regard would have been useful, considering the proposed routes

through the site, and upgrades proposed to connect pedestrians and cyclists to the local network, the proposal is concluded to be acceptable in this regard.

Internal roads, parking and electric vehicle charging would be covered at reserved matters stage, however the application has sufficiently demonstrated that the proposal would likely be able to address necessary standards. Conditions are recommended confirming the information required at reserved matters stage and beyond.

Obligations towards the Somer Valley Enterprise Zone cycleway previously sought by BANES are no longer needed, as alternative funding streams have been secured.

Any internal pathways through the site would be controlled at reserved matters stage. As per the indicative masterplan, a network of paths is expected to come forward, which would be subject to condition to confirm implementation.

Recommended conditions, as agreed with the HA, therefore include:

- Internal road layout agreement of details
- Bicycle storage
- Dwelling access implementation
- Parking and turning areas implementation
- Garages only to be used for domestic purposes
- Electric vehicle charging implementation

Recommended planning obligations include:

- Installation of access – as shown on 10871-SK-001C SITE ACCESS LAYOUT GENERAL ARRANGEMENT (received 15.12.2023)
- Installation of new toucan crossing and associated works – as shown on 10871-SK-001C SITE ACCESS LAYOUT GENERAL ARRANGEMENT (received 15.12.2023)
- Installation of new pedestrian/cycle access in north western corner of site – as shown on 10871-SK-003 PROPOSED PEDESTRIAN AND CYCLE ACCESS (received 13.06.24)
- Extension of cycle route – as shown on 10871-SK-003 PROPOSED PEDESTRIAN AND CYCLE ACCESS (received 13.06.24) and 10871-SK-001C SITE ACCESS LAYOUT GENERAL ARRANGEMENT (received 15.12.2023)

Subject to the inclusion of the conditions and obligations as recommended, this application is concluded to be acceptable in relation to its means of access in accordance with policy DP9 of the adopted Local Plan Part 1 (2014) and part 9 of the National Planning Policy Framework.

Waste:

Comments have been received from the Waste Services team in the council setting out detailed design standards to be addressed at reserved matters stage. Based on the information provided as part of the application, it is concluded that appropriate refuse collection arrangements could be delivered at detailed design stage, including building roads to adoptable standards; reasonable collection distances within private drives; allowing room for refuse vehicles to turn; and communal collection points as needed, including for any flats.

The application has also been considered by the highway authority in relation to waste matters. The proposal is concluded to be acceptable.

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

Housing Mix:

LP1 policy DP14: Housing Type requires a suitable mix of types and sizes of dwellings. As the application is submitted in outline, the housing mix has not been fixed at this stage. Based on the information submitted at this outline stage, it is concluded that a suitable housing mix could be delivered at reserved matters stage in compliance with policy DP14 of the LP1.

Affordable Housing:

Adopted LP1 policy DP11 sets out an expectation that 30 per cent of the dwellings should be affordable and provided on site. In this case the following affordable housing units are proposed:

- 18 x 1 and 2-bed apartments
- 21 x 2-bed houses
- 12 x 3-bed houses
- 3 x 4-bed houses
- 54 affordable homes in total

The Housing Enabling Team has confirmed that the proposal is acceptable and would comply with local and national policy requirements. This is recommended to be controlled via the S106 legal agreement.

Impact on the Setting of a Listed Building:

Grade II listed 'MILEPOST AT NGR ST 6545 4995 ON ROADSIDE' is a signpost on the eastern side of Fosseway (A367). There are no proposed changes to this protected feature. There are some other listed buildings, which are referred to in the submitted heritage statement, but these are not in close proximity to the site.

There are different categories of harm to heritage assets including:

- Substantial harm – such as significant alteration or demolition of the asset – where works should only be permitted in exceptional circumstances (see paras 205-207 of the NPPF). Substantial harm has not been identified as part of this application.
- Less than substantial harm – impacts to the significance of heritage assets should be considered on a scale (low, medium or high) – development should only be permitted where harms are outweighed by public benefits (see para 208 of the NPPF). Less than substantial harm has been identified in this case.
- No harm identified – public benefits do not need to be outweighed by public benefits.

As the listed signpost currently sits in a rural context, and the proposal would create residential development in its vicinity, the proposal is concluded to represent less than substantial harm at the very low end of the scale. This harm would be outweighed by the public benefit of delivering up to 180 new dwellings, and helping the tackle the housing shortfall.

There is a duty under Section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990, when considering development within the setting of a listed building, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Here it is considered that the proposals are consistent with the aims and requirements of the primary legislation and planning policy and guidance. The proposal accords with policy DP3 of the adopted Local Plan Part 1 (2014) and part 16 of the National Planning Policy Framework.

Archaeology:

The Somerset Archaeologist has reviewed the submitted Addendum to Historic Environment Desk-Based Assessment which includes the results of a geophysical survey and concludes that there are potential prehistoric features on the site - including a possible ring ditch (a ploughed out burial mound or circular hut) and associated ditches. The addendum assesses the significance of these features as of local significance.

The Somerset Archaeologist has concluded that it is likely that the archaeology is of local significance and not of such value that it would preclude development. The submitted assessment

describes a phased process of further assessment (evaluation) and subsequent mitigation which would involve trial trenching and excavation. This approach is concluded to be acceptable to the Somerset Archaeologist, subject to the inclusion of conditions which are recommended accordingly.

Subject to the inclusion of the conditions as recommended, the application is concluded to be acceptable in relation to impact on archaeology.

Land Drainage:

The application site is in flood zone 1, which is an area deemed by the Environment Agency as having a probability of flooding of greater than 1:1000 years and meaning it is acceptable for development in principle flood risk terms.

The submitted Design and Access Statement describes the overall drainage approach as follows:

‘5.4.1 Roof water runoff will be conveyed via a network of below ground drainage to rear garde crate soakaways to be infiltrated to ground. Runoff from private driveways will be collected through permeable paving and infiltrated to ground. Runoff from the development’s road network will be conveyed to four infiltration basins to discharge to ground.

5.4.2 Surface water runoff from the development could be collected by a combination of further SuDS systems in the form of rainwater butts, green roof’s, permeable paving systems and swales before being conveyed to the infiltration structures.’

As the application site is greater than 1ha, a Flood Risk Assessment (FRA) with drainage strategy accompanies the submission. Infiltration is proposed to manage surface water. Various sustainable urban drainage systems (SUDS) are proposed as set out in the FRA thus:

‘-Roof water runoff from dwellings would be captured by a combination of rainwater gutters and downpipes that would discharge via a below ground drainage network to rear garden or below soft landscaped areas to crate soakaways to be infiltrated to ground.

- Runoff from parking areas and driveways would be collected using permeable paving systems, which would control and treat surface water runoff from these areas at source. The permeable paving would allow surface water runoff to filter

through a porous surface into a filter zone of sub-base beneath the bedding layer where it could be allowed to infiltrate to ground.

- Where feasible runoff from the development's road network would be collected using swales and filter strips for controlling and treating surface water from roads at source and for providing an additional habitat for local plants and wildlife. Where swales could not be used, surface water runoff from roads would be collected using trapped road gullies.

- The source control systems from the road network would in turn discharge surface water to a new adopted surface water sewer network located in the developments road network.

- The surface water sewers would then discharge into four infiltration basins which would be offered to Wessex Water for adoption.

- All infiltration structures will be designed to infiltrate surface water flows for storm events up to and including 1:100 year events plus a 40% allowance for climate change.'

Following lengthy discussions with the agent on this, various additional information and clarification has been submitted to support this application. Four sets of comments have been received from the Lead Local Flood Authority (LLFA), and comments have also been received from Wessex Water. Although the Environment Agency has been consulted, no comments have been received.

Although the LLFA is not entirely satisfied with the details provided, this is not set out in an objection and it is concluded that a technical solution can be developed at detailed design stage. The LLFA has queried whether the development as shown on the indicative masterplan would be in compliance with building regulations. The applicant has confirmed that they believe building regulations can be achieved. In light of no objection from the LLFA, it is considered that planning permission cannot be withheld on this basis. In the event that building regulations could not be met then the design would have to be revised, and/or the quantum of development reduced.

Agreements with Wessex Water to connect to services are required, which sits outside the planning process. Wessex Water has commented on the application and not set out any objections in this regard.

The LLFA has referred to possible licencing requirements from the Environment Agency. This again sits outside the planning process. Comments from the Environment Agency have been requested but not received. It is the applicant's responsibility to ensure any licencing requirements are met.

As per standard practice, delivery of the SUDS measures is proposed to be controlled via legal agreement. A standard condition is also recommended requiring detailed drainage measures are agreed before development commences.

In conclusion on this matter, the proposed development would not have an adverse impact on flood risk or represent a danger to water quality. The proposal accords with policies DP8 and DP23 of the adopted Local Plan Part 1 (2014) and part 14 of the National Planning Policy Framework.

Public Open Space:

Policy DP16: Open Space and Green Infrastructure of LP1 and supporting text requires that proposals for new residential development make provision for different open space typologies. DP16 also requires development to make provision for formal public open space (POS) on the basis of the National Playing Field Association's (NPFA) long standing requirement for 2.4ha of new space per additional 1,000 people. Based on this standard and an average dwelling occupancy of 2.4 persons per dwelling, this equates to approximately 432 people living on site (2.4 persons x 180 dwellings) meaning that the required area of POS, based on the proposed population of the development, would be 1.04ha (2.4ha/1000 x 432). The Design and Access Statement (DAS) submitted with the application states that the site could achieve a total POS area of up to 1.86ha. Whilst the benefit of the on site POS is tempered by their scattered siting and, in parts, by their shape and location, this level of on site provision is considered sufficient to meet the Mendip/Somerset East policy requirement.

In order to secure the ongoing management of the on site public open space is proposed to be secured through the S106 legal agreement.

'Fields in Trust Guidance for Outdoor Sport and Play' states that developments between 10-200 dwellings require both a LAP (Local Area for Play) and a LEAP (Locally Equipped Area for Play) as well as a contribution towards a MUGA (Multi-Use Games Area). Whilst the application includes POS on site and a LEAP, it does not include a LAP or MUGA.

Following discussions with the agent, it has been confirmed that the legal agreement will include provision of at least two pocket parks. Each would be an area of at least 200m² and include fruit trees and seating. The location of each of these within the development as well their detailed design would be agreed at a later stage.

As the site is located on the boundary with BANES, future occupiers of the development are likely to use local green spaces within the BANES area. BANES Green Space Strategy 2015 has been considered by the BANES Parks and Recreation Team. Here it is confirmed

that a contribution of £387,504 is agreeable for enhancement and maintenance of greenspace in the local area – Midsomer Norton and Westfield.

Given where this application is site located, and where the impact will be felt, no further contributions are required for public open space above the on site provision and £387,504 to be secured to BANES by S106.

In conclusion on this matter, with on site provisions and off site contributions towards greenspace improvements spaces within BANES, the development is considered acceptable in relation to public open space and compliant with DP16.

Education:

The Somerset Education Officer has confirmed that the proposed development is anticipated to generate the following number of additional places:

- Early years: 18 pupils
- Primary: 57.6 pupils
- Secondary: 25.2 pupils
- SEN: 0.828 pupils

Although within the Somerset local authority area, it is likely that families would look to secure places within BANES, which are closer to home.

The Education Officer in BANES has confirmed there is likely to be capacity for all levels of education within BANES to accommodate the development. It is noted that capacity is difficult to predict, and there are various other development proposals in this area.

The applicant has agreed a contribution towards school bus services of £179,625, for any pupils attending schools in Somerset.

The Somerset Education Officer has confirmed that a contribution of £83,806.62 towards SEND education is triggered.

Subject to the inclusion of the obligations in the S106 agreement, the proposal is concluded to be acceptable in relation to education.

Healthcare:

Two NHS departments have commented on the application.

Firstly, NHS Somerset Integrated Care Board (ICB), who represent doctor's surgeries in Somerset, has confirmed that the proposal would generate the need for £80,045 in contributions towards future services. This is based on the updated scheme of 180 dwellings.

Secondly, NHS Royal United Hospital Bath, has stated that a contribution of £17.15 per dwelling is required to support hospital provision. These comments are based on the original scheme for 190 dwellings. Although reconsulted, no further comments have been received in relation to the revised scheme for 180 dwellings. Following recent case law, it is the council's position in this case that contributions towards hospital provision do not meet the CIL tests on planning obligations. As such, these obligations are not sought.

In conclusion on this matter, subject to the inclusion of obligations of £80,045 towards local doctor's surgery provision (which has been agreed with the applicant), the application is considered acceptable in relation to healthcare provision.

This proposal has been considered in relation to paragraphs 96 and 97 of the NPPF including promoting social interaction, safe and accessible places, community cohesion and healthy lifestyles to address local health and well-being needs, and is concluded to be acceptable in this regard.

Sustainability and Renewable Energy:

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

Para 6.34 of the submitted planning statement confirms the applicant is committed to the following measures:

- ***'Modern methods of construction*** - a key principle adopted in the delivery of sustainable housing on this site will be the use of a 'fabric first' approach. *Persimmon Homes' timber frame manufacturing facility, Space4, is one of the UK's leading producers of precision-engineered construction systems producing timber frames, highly insulated wall panels and roof cassettes which will be used to construct the new homes. This approach will ensure that thermal performance and*

sustainability are embedded within the fabric for the lifetime of the buildings, significantly reducing energy use and in turn energy bills.

- **Air Source Heat Pumps** - *Persimmon Homes is committing to construct this scheme as a 'non-gas' project (with no gas boilers) and so will be providing Air Source Heat Pumps for all new houses within this scheme. Adopting this more sustainable heating solution using renewable energy sources will reduce reliance on fossil fuels.*
- **Solar Power** - *Solar Photovoltaic (PV) panels will also be provided on all new homes within the scheme, contributing to the generation of renewable energy on-site and reducing reliance on traditional grid-supplied energy.*
- **Electric car charging** - *All new homes on the scheme will be supported with electric vehicle (EV) charging infrastructure, which will promote the widespread adoption of electric vehicles, facilitate convenient and accessible charging for residents, and contribute to the transition to a greener transport system.'*

Conditions are recommended to require details of renewable energy are agreed; require solar panels on the roof of each dwelling; and require an air source heat pump (with details on noise) in each dwelling.

Electric vehicle (EV) charging is recommended via condition. Although some provision is required under building regulations, the technical specification is set out in the Somerset EV Strategy, which goes beyond building regulations.

A further condition for water efficiency is proposed, to ensure that each dwelling is provided with rainwater harvesting measures such as water butts.

In conclusion on this matter, the proposal has been enhanced since the previous decision. Now, in addition to fabric first measures and solar panels, air source heat pumps are also proposed. This exceeds policy requirements as is considered acceptable.

Coal:

The site is within the defined Low Risk Area. An informative is recommended reminding the applicant of reporting protocols in the event unexpected coal mining features are encountered during construction. The proposal is concluded to be acceptable in this regard.

Contaminated Land:

The application has been supported by a report entitled 'Land off Fosseyway, Midsomer Norton. Proposed Residential Development. Geo-Environmental & Geotechnical Assessment' which was prepared by Earth Science Partnership dated February 2022. This

identifies risks associated with radon (full radon protections required), drainage (infiltration methodologies recommended) and limestone solutions (investigations required).

The Contaminated Land Officer has considered this report and agreed with the recommendations contained within it. Further discussions with the Contaminated Land Officer have confirmed that no conditions are necessary as the issues identified are sufficiently covered by building regulations (e.g. radon) or other parts of the assessment (e.g. drainage).

The application is concluded to be acceptable in this regard.

Environmental Impact Assessment:

This development falls within the scope of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (category 10b of Schedule 2) and exceeds the threshold criteria with regards to the area of the development and has therefore been screened. It was determined that the proposal will not result in significant environmental effects. As such an Environmental Impact Assessment was not required, although the environmental effects have been assessed and are set out in this report.

Equalities Act:

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

Planning Obligations:

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

Somerset Planning Obligations:

- Affordable housing (30%):
 - 18 x 1 and 2-bed apartments
 - 21 x 2-bed houses

- 12 x 3-bed houses
- 3 x 4-bed houses
- 54 affordable homes in total
- Highways works:
 - New access
 - New toucan crossing on Fosseyway
 - Extension of cycle route on Fosseyway, with associated signage
 - Pedestrian/cycle path in the north western corner of the site
- Travel plan
- School bus services - £179,625.
- SEND education - £83,806.62
- Management company including maintenance of communal areas
- Programme of implementation and compliance
- SUDS delivery and maintenance
- Contributions towards local healthcare services - £80,045
- Public open space:
 - Delivery and maintenance all public open space
 - At least 1.86ha of public open space in total
 - Public open space to include a LEAP
 - Public open space to include at least two pocket parks. Each pocket park would be an area of at least 200m² and include fruit trees and seating.

The following obligations have also been agreed to be provided in BANES:

BANES Planning Obligations:

- Off site public green space within Midsomer Norton and Westfield - £387,504

If the application is approved these matters can be secured via S106 legal agreement.

Given the LP1 policy requirements and infrastructure needs arising from the development all of the above obligations are necessary to make the development acceptable in planning terms; are directly related to the development; and fairly and reasonably related in scale and kind to the development. They would accord with Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended).

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

Cross Boundary Considerations:

An important consideration is the 'duty to co-operate'. Although relating primarily to local plan production, the NPPF advises that public bodies have a duty to co-operate on planning issues that cross administrative boundaries, particularly those which relate to the strategic priorities, including the homes and jobs needed in the area and provision of community facilities.

BANES' objection to the development has been considered. This focusses, amongst other things, on Midsomer Norton's job/homes imbalance. Officers have liaised with BANES Officers and the applicant to secure measures to improve the sustainability of the site. Given its location on the edge of Midsomer Norton, it is readily accepted that any pressures on infrastructure from the development will be more significant in Midsomer Norton and surrounding area within BANES than within Somerset. For this reason, the infrastructure impacts and contributions have been agreed jointly between BANES and Somerset.

Conclusion and Planning Balance:

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

It is accepted that the Council cannot demonstrate a 5 year land supply and the 'presumption in favour of sustainable development' as set out in paragraph 11(d) of the NPPF applies (the 'tilted balance'). This advises that permission should not be granted where any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the NPPF taken as a whole or where its specific policies indicate that development should be restricted.

The application proposals would deliver simultaneously, economic, social and environmental benefits. Whilst limited in time, the development would generate economic benefits through the construction period. Economic benefits would also be associated with the future spending of occupants of the development in local shops and services and council tax receipts.

The provision of up to 180 homes, including 54 affordable homes, is given significant weight in the planning balance, particularly in the context of the significant lack of 5 year

land supply in the district. Public open space (including play park and two pocket parks), carbon reduction measures (including solar panels and air source heat pumps) and ecological enhancements above Somerset Council's policy requirements are also provided.

The proposals have been developed to achieve a sustainable extension to Midsomer Norton. It is noted however that some harm will be caused to the imbalance of jobs and homes in the area, but this would in part be mitigated by the local infrastructure improvements. Whilst there would be a landscape impact, particularly before the mitigation is fully established, this harm is not significant given the surrounding built form in the context of the site. The development would result in the loss of agricultural land, but this is not the highest quality or most versatile land.

Overall, the adverse impacts identified are not considered to significantly and demonstrably outweigh the benefits. In accordance with para 11d of the NPPF, the application is therefore recommended for APPROVAL, subject to a number of conditions and planning obligations secured by legal agreement(s).

Recommendation

Approval

Conditions

1. Reserved Matters (Pre-Commencement)

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

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

2. Reserved Matters Time Limit (Compliance)

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

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

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

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

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

4. **Plans List (Compliance)**

The development shall be carried out in accordance with the following drawings/documents:

1001 - SITE LOCATION PLAN - 08.03.2022

10871-SK-001C - SITE ACCESS LAYOUT GENERAL ARRANGEMENT - 15.12.2023

10871-SK-003 - PROPOSED PEDESTRIAN AND CYCLE ACCESS - 13.06.24

3501A - DEVELOPMENT PARAMETERS - 20.02.2024

SK501 P5 - DRAINAGE STRATEGY - 26.07.2023

SK502 P2 - TYPICAL SECTIONS & INFILTRATION FEATURES - 26.07.2023

WILDLIFE PROTECTION PLAN - 26.07.2023

WHL-1358-07 C - LANDCAPE STRATEGY - 26.07.2023

3026-D-01 C and 3026-D-02 C - PROPOSED EXTERIOR LIGHTING AND ILLUMINACE LAYOUT - 20.02.2024

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

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

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

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

6. **Ground and Floor Levels (Reserved Matters)**

The reserved matters application shall include details of the existing and proposed ground and floor levels for approval in writing by the Local Planning Authority. The development shall thereafter be undertaken in accordance with the approved details.

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

7. Construction Management Plan (Pre-Commencement)

No development shall take place, including ground clearance and vegetation removal, until a Construction Management Plan has been submitted to and approved in writing by the local planning authority. The Construction Management Plan shall provide for:

- a) construction vehicular routes to and from site
 - b) expected number of construction vehicles per day
 - c) the parking of vehicles of site operatives and visitors including a plan showing the onsite parking arrangements
 - d) loading and unloading of plant and materials
 - e) storage of plant and materials used in constructing the development
 - f) wheel washing facilities
 - g) measures to control the emission of dust and dirt during construction
 - h) delivery and construction working hours
 - i) specific measures to be adopted to mitigate construction impacts in pursuance of the Environmental Code of Construction Practice
 - j) a scheme to encourage the use of public transport amongst contractors
 - k) on-site turning facility for delivery vehicles and egress onto highway only with guidance of a trained banksman
 - l) measures to avoid traffic congestion impacting upon the strategic road network.
- The development shall thereafter be constructed in accordance with the approved Construction Management Plan.

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

8. Noise Assessment and Mitigation Scheme (Reserved Matters)

The reserved matters application will include a Noise Assessment and Mitigation Scheme for the written approval by the local planning authority. The Noise Assessment and Mitigation Scheme shall detail the noise impacts and mitigation methods (including in outdoor amenity areas) and demonstrate acceptable noise levels will be achieved. No individual dwelling shall be occupied until its agreed noise mitigation is fully installed and operational. All noise mitigation measures shall be retained in perpetuity.

Reason: To protect the residential amenity of future occupiers in accordance with policies DP7 and DP8 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

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

The development hereby approved (including demolition, ground works, and vegetation clearance) shall be carried out in strict accordance with the recommendations set out in the section 4 of the approved 'Ecological Appraisal and Protected Species Survey of Land South-East of A367, Midsomer Norton' (reference P1148.001, received 09 Nov 2023). The Ecological Appraisal shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

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

10. **On Site Bat Habitat (Reserved Matters)**

The reserved matters application will demonstrate that a minimum habitat enhancement area of 1.53ha suitable for and accessible to greater horseshoe bats will be provided within the application site including:

- o The location of the bat mitigation
- o The layout of the bat mitigation
- o A detailed planting schedule for the habitat.

Reason: In the interests of the Favourable Conservation Status of populations of European and UK protected and priority species in accordance with policy DP5 of the Mendip Local Plan, and to provide net gain in accordance with the National Planning Policy Framework.

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

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

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of "biodiversity protection zones".
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements), including nesting birds (including ground nesting birds) habitat clearance measures, badgers buffer zones etc and pollution prevention controls.

- d) The location and timing of sensitive works to avoid harm to biodiversity features.
- e) The times during construction when specialist ecologists need to be present on site to oversee works.
- f) Responsible persons, lines of communication and written notifications of operations to the Local Planning Authority.
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- h) Use of protective fences, exclusion barriers and warning signs.
- i) Ongoing monitoring, including compliance checks by a competent person(s) during construction and immediately post-completion of construction works. A letter confirming these operations and any findings will be submitted to the Local Planning Authority by the ecologist responsible prior to works commencing on site. The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

Reason: 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 and in accordance with policy DP5 of the Mendip Local Plan.

12. **Landscape and Ecological Management Plan (LEMP) (Pre-Commencement)**

No development shall take place (including demolition, ground works, vegetation clearance) until a Landscape and Ecological Management Plan (LEMP) has been submitted to and approved in writing by the Local Planning Authority. The content of the LEMP shall include the following:

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

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

Reason: In the interests of the '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 and in accordance with policy DP5 of the Mendip Local Plan.

13. **Lighting Design for Bats (Reserved Matters)**

At the reserved matters stage, a lighting design for bats, following Guidance Note 08/23 - bats and artificial lighting at night (ILP and BCT 2023) shall be submitted to and approved in writing by the Local Planning Authority. The design shall show how and where external lighting will be installed (including through the provision of technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory. The design should accord with Step 4 and Step 5 of Guidance Note 08/23, including submission of contour plans illustrating Lux levels. Lux levels should be below 0.2 lux on the horizontal plane, and at or below 0.4 lux on the vertical plane on the identified key and supporting horseshoe bat features and habitats. Motion-sensors with a short-duration timer (up to 10 minutes) shall be incorporated where external lighting is required. All external lighting shall be installed and maintained in accordance with the specifications and locations set out in the approved Lighting Design for Bats. Under no circumstances should any other external lighting be installed without prior consent from the Local Planning Authority.

Reason: In the interests of the 'Favourable Conservation Status' of populations of European protected species and in accordance with policy DP5 of the Mendip Local Plan.

14. **Biodiversity Enhancements and Management Plan (BEMP) (Reserved Matters)**

The reserved matters application shall include a Biodiversity Enhancement and Management Plan (BEMP) to be approved in writing by the Local Planning Authority. The BEMP shall include the following which will also be identified on a plan to be submitted to and agreed by the Local Planning Authority:

- a) Accessible hedgehog holes, measuring 13cm x 13cm, in all new fencing.
- b) All new shrubs must be high nectar producing.
- c) All species used in the planting proposals shall be locally native species of local provenance, including planting of fruiting trees, field maple, ash, hornbeam, dogwood, spindle and beech.
- d) All hedgerows will be managed at a minimum height and width of two meters, with a minimum of six individual trees allowed to mature.
- e) One barn box to be erected on a suitable tree.
- f) A Beaumaris Woodstone maxi bat box or similar will be mounted under the apex of the west elevations of 10% of dwellings.

- g) Two Schwegler 1SP Sparrow terraces or similar at least one metre apart directly under the eaves and away from windows on the north elevations on 20% of dwellings.
 - h) Installation of eight Kent bat boxes, purchased or built, on to mature trees on site, facing south or west, at a height above 3m.
 - i) A minimum of four Vivara Pro Woodstone Nest Boxes (32mm hole version) or similar mounted between 1.5m and 3m high on the northerly facing aspect of trees.
 - j) A minimum of four Vivara Pro Barcelona Woodstone Bird Box (open front design) or similar mounted between 1.5m and 3m high on the northerly facing aspect of trees.
 - k) A minimum of two log piles for hibernating common reptiles/ amphibians to be created within the hedgerow boundaries.
 - l) A timescale for delivery of all the ecological enhancements.
- All biodiversity enhancements shall be installed in accordance with the agreed timescales and retained and maintained in perpetuity.

Reason: In accordance with Government policy for the enhancement of biodiversity within development as set out in the National Planning Policy Framework and Mendip Local Plan: DP5.

15. **Hazel Dormice (Pre-Commencement)**

No development shall commence, including ground clearance and vegetation removal, until the following has been submitted to and approved in writing by the Local Planning Authority:

- a) Conservation of Habitats and Species Regulations 2017 authorising the development to go ahead; or
- b) A statement in writing from the licensed ecologist to the effect that he/she does not consider that the specified development will require a licence.

Reason: In the interests of the strict protection of European protected species and in accordance with policies DP5 and DP6 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014). This is a pre-commencement condition to ensure that a licence is in place, if required, before development commences and because initial works to commence development have the potential to harm protected species and therefore these details need to be agreed before work commences.

16. **Biodiversity Net Gain (Reserved Matters)**

The reserved matters application shall include a Statement of Biodiversity Net Gain demonstrating that at least 10% biodiversity net gain will be achieved.

Reason: To provide biodiversity net gain in accordance with policy DP5 of the Mendip District Local Plan Part I: Strategy & Policies 2006-2029 (Adopted 2014) and Government policy for the enhancement of biodiversity within development as set out in the National Planning Policy Framework.

17. **Hard and Soft Landscaping (Reserved Matters)**

The reserved matters application shall include a hard and soft landscape scheme to be approved in writing by the Local Planning Authority. The scheme shall include the following details:

- (a) size, species and positions for new trees and plants,
- (b) details of boundary treatments, including any walls, bunds, and/or fences,
- (c) surfacing materials (including parking, turning, roadways, drives, patios and paths)
- (d) any retained planting
- (e) a detailed programme of implementation.

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

Reason: To ensure the provision of an appropriate landscape setting to the development in accordance with Development Policies 1, 3, 4 and 7 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

18. **Tree Protection Plan (Reserved Matters)**

The reserved matters application shall include an annotated tree protection plan following the recommendations contained within BS 5837:2012 identifying measures (fencing and/or ground protection measures) to protect the trees to be retained. The plan shall include proposed tree protection measures during site preparation (including clearance and level changes), during construction and landscaping operations. The plan shall include the design of fencing proposed and take into account the control of potentially harmful operations such as the position of service runs, storage, handling and mixing of materials on site, burning, and movement of people and machinery.

No development activity shall commence, including ground clearance and vegetation removal, until the protective measures as stated in the approved annotated tree protection plan are implemented. The approved tree protection measures shall be in place for the duration of the construction work.

Reason: To ensure that the trees are protected from potentially damaging activities in accordance with DP1 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

19. Internal Road Layout (Bespoke Trigger)

No development on the elements listed below shall commence until plans and sections, indicating as appropriate, the design, layout, levels, gradients, materials and method of construction have been submitted to the Local Planning Authority including:

- a) estate roads
- b) footways
- c) tactile paving
- d) cycleways
- e) sewers
- f) retaining walls
- g) service routes
- h) vehicle overhang margins
- i) visibility splays
- j) carriageway gradients
- k) drive gradients
- l) car, motorcycle and cycle parking
- m) hard and soft structural landscape areas
- n) pedestrian and cycle routes and associated vehicular accesses and crossings
- o) means of enclosure and boundary treatment
- p) street lighting and street furniture
- q) all new junctions
- r) proposed levels
- s) highway drainage
- t) swept path analysis for a vehicle of 10.4m (3-axle) length
- u) central pedestrian reserves, bollards and lighting
- v) service corridors

Once approved the construction of the development shall be carried out in accordance with the agreed details prior to first occupation of the development, or if agreed to be brought forward as a phased development, prior to first occupation of each relevant phase.

Reason: To ensure that suitable access, parking and turning areas are provided and thereafter retained in the interests of amenity and highway safety in accordance with policies DP9 and DP10 of the Mendip District Local Plan Part 1: Strategy & Policies 2006- 2029 (Adopted 2014). This is a condition precedent because any initial construction works could have a detrimental effect on highway safety and residential amenity.

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

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

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

21. **Dwelling Access, Parking and Turning (Pre Occupation)**

The proposed roads (including footways), parking 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 footway and carriageway to at least base course level between the dwelling and existing highway; a properly consolidated and surfaced turning area; and a properly consolidated and surfaced parking area.

Reason: To ensure that the development is served by an adequate means of access, parking and turning in accordance with policies DP9 and DP10 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

22. **Garages (Compliance)**

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order), the use of any garage as part of this development shall not be used other than for domestic storage and the parking of domestic vehicles; and not further ancillary residential accommodation, business use or any other purpose whatsoever.

Reason: To ensure adequate off-street parking provision is retained in accordance with policies DP9 and DP10 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

23. **Electric Vehicle Charging (Reserved Matters)**

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

Reason: To encourage use of electric vehicles and reduce carbon dioxide emissions in accordance with the Somerset County Council Electric Vehicle Charging Strategy (2020), Somerset's Climate Emergency Strategy, DP7 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (2014) and the Mendip District Council Supplementary Planning Document Design and Amenity of New Development: Guidance for interpretation of Local Plan Development Policy 7 (adopted March 2022).

24. **Access (Compliance)**

The vehicular access hereby approved shall not be brought into use until it has been constructed in accordance with drawing 10871-SK-001C SITE ACCESS LAYOUT GENERAL ARRANGEMENT (received 15.12.2023). Once constructed the access shall be maintained thereafter in that condition in perpetuity.

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

25. **Visibility Splay (Pre-Occupation Compliance)**

No occupation shall commence until the visibility splay shown on drawing 10871-SK-001C SITE ACCESS LAYOUT GENERAL ARRANGEMENT (received 15.12.2023) has been provided. There shall be no on-site obstruction exceeding 300mm above ground level within the visibility splay. The visibility splay shall be retained permanently thereafter.

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

26. **Storage of recycling and waste (Reserved Matters)**

The reserved matters application shall include details for the storage of recycling and waste. No individual dwelling shall thereafter be occupied until provision for its storage of recycling and waste containers has been made within the site in accordance with the approved details.

Reason: In the interests of residential amenity, highway safety and sustainable development in accordance policies DP7, DP8 and DP9 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014) and Chapter 15 of the NPPF.

27. **Programme of Works in Accordance with a Written Scheme of Investigation (POW) (Pre-Commencement)**

Before the commencement of the development hereby permitted the applicant, or their agents or successors in title, shall have secured the implementation of a programme of archaeological work in accordance with a Written Scheme of Investigation (WSI) which has been submitted and approved in writing by the Planning Authority. The WSI shall include details of the archaeological excavation, the recording of the heritage asset, the analysis of evidence recovered from the site and publication of the results. The development hereby permitted shall be carried out in accordance with the approved scheme.

Reason: The site is within an area of significant archaeological interest and the Council will wish to examine and record items of interest discovered in accordance with policy DP3 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014). This is a condition precedent because archaeological remains and features may be damaged by the initial development works.

28. **Archaeology and Ensuring Completion of Works (Pre-Occupation Compliance)**

No dwelling shall be occupied until the site archaeological investigation has been completed and post-excavation analysis has been initiated in accordance with Written Scheme of Investigation approved under the POW condition and the financial provision made for analysis, dissemination of results and archive deposition has been secured.

Reason: The site is within an area of significant archaeological interest and the Council will wish to examine and record items of interest discovered in accordance with policy DP3 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014). This is a condition precedent because archaeological remains and features may be damaged by the initial development works.

29. **Surface Water Drainage System (Pre-Commencement)**

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

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

prejudice the surface water drainage strategy.

30. **Renewable Energy Statement (Compliance)**

The reserved matters application shall include a Renewable Energy Statement in broad compliance with the recommendations set out in paragraph 6.34 of the 'Updated Planning Statement' prepared by Blue Fox Planning (received 26.07.2023) detailing all renewable energy measures.

Reason: To maximise opportunities for renewable energy generation on site in accordance with Development Policy 7 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

31. **Solar Panels (Pre-Occupation)**

Prior to first occupation of any individual dwelling, solar panels shall be installed on the respective dwelling in accordance with details that have been first submitted to and approved in writing by the Local Planning Authority.

Reason: To maximise opportunities for renewable energy generation on site in accordance with Development Policy 7 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

32. **Air Source Heat Pumps (Pre-Occupation)**

No individual dwelling shall be occupied until it is served by an operational air source heat pump in accordance with details which have been first agreed in writing by the Local Planning Authority. Details must include specifications, siting and noise emissions.

Reason: To reduce carbon dioxide emissions and in the interests of residential amenity in accordance with policy DP7 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (adopted 2014) and the Mendip District Council Supplementary Planning Document Design and Amenity of New Development: Guidance for interpretation of Local Plan Policy DP7 (adopted March 2022).

33. **Water Efficiency - Rainwater Harvesting (Pre-Occupation Compliance)**

No individual dwelling shall be occupied until it is served by rainwater harvesting including guttering and water butts. The development shall thereafter be maintained as such in perpetuity.

Reason: In the interests of water efficiency in accordance with policy DP7 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (adopted 2014)

Informatives

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

2. **Condition Categories**

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

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

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

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

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

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

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

Where approval of further information is required you will need to submit a conditions application and pay the relevant fee, which is 145GBP per request (or 43GBP where it relates to a householder application). The request must be made in writing or using the Standard Application form (available on the Planning Portal, see council's website). For clarification, the fee relates to each request for the discharge of condition/s and not to each condition itself. There is a no fee for the discharge of conditions on a Listed Building Consent, Conservation Area Consent or Advertisement Consent although if the request concerns condition/s relating to both a planning permission and Listed Building Consent then a fee will be required.

3. In order to discharge conditions relating to the approval of external walling and roofing materials, please ensure that materials are left on site for approval and NOT

brought to the Council Offices. When applying for the approval of materials, you must state precisely where on site any samples have been made available for viewing.

4. The responsibility for ensuring compliance with the terms of this approval rests with the person(s) responsible for carrying out the development. The Local Planning Authority uses various means to monitor implementation to ensure that the scheme is built or carried out in strict accordance with the terms of the permission. Failure to adhere to the approved details will render the development unauthorised and vulnerable to enforcement action.
5. This permission is accompanied by an agreement under Section 106 of the Town and Country Planning Act 1990.
6. Please note that your proposed work may also require Building Regulations approval, which is a separate consent process to the consideration of a planning application. The Council's Building Control team are available to provide Building Regulations advice from pre-application stage to completion of a development and can be contacted on 0300 303 7790. Further details can also be found on their website <https://buildingcontrol.somerset.gov.uk/>
7. Under Section 163 of the Highways Act 1980 it is illegal to discharge water onto the highway. You should, therefore, intercept such water and convey it to the sewer.
8. Development Low Risk Area - Standing Advice

The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848.

Further information is also available on the Coal Authority website at:
www.gov.uk/government/organisations/the-coal-authority

9. Before commencing any works to trees, please note that, under the provisions of the Wildlife & Countryside Act of 1981, between the 1st MARCH to 31st AUGUST, no works should be undertaken to trees which would result in disturbance or loss of habitat of nesting birds. Contravention of the Act is a criminal offence. It should also be noted that bats and their habitats are protected by law and if bats are found to be present in the trees works should immediately cease until specialist advice has been obtained from Natural England.

10. **Legal Protection Afforded to Badgers**

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

11. **Legal Protection Afforded to Dormice**

The developers are reminded of the legal protection afforded to dormice under the Wildlife and Countryside Act 1981 (as amended). In the unlikely event that dormice are encountered during implementation of this permission it is recommended that works stop immediately, and advice is sought from a suitably qualified and experienced ecologist at the earliest possible opportunity.

12. This decision has been informed by the Design and Access Statement and Indicative Masterplan submitted with the application.