

Application Details	
Application Reference Numbers:	2023/0864/FUL
Application Types:	Full application
Extension of Time:	
Description:	Erection of 74 dwellings, 1no.children with disabilities home, including means of access, drainage, landscaping and associated works.
Site Address:	Somerset
Parish:	Frome North Division
Conservation Area:	No
Somerset Levels and Moors RAMSAR Catchment area:	No
AONB:	No
Case Officer:	Nikki White
Agent:	D2 Planning Limited
Applicant:	LiveWest
Reason for reporting application to Members:	

Recommendation:

1. **That planning permission be granted subject to securing the recommended Section 106 Planning Obligations and the recommended planning conditions and informatives as set out in this report.**
2. **That officers be given delegated authority to progress the best mechanism to secure the S106 Planning Obligations in the event of a positive committee resolution.**

Scheme of Delegation:

3. In accordance with the scheme of delegation, this application is referred to the planning committee for a decision. This is because the application site is owned by Somerset Council. Further, it is a major application with comments received from Frome Town Council contrary to the recommendation to approve the application.

Executive Summary of Key Reasons for Recommendation:

4. This full application proposes the erection of 74 dwellings, a disabled children's home and associated development (including access, public open space, community orchard and publicly accessible footpaths and connections to the nearby public right of way network). The application site is an undeveloped site on the edge of Frome. The site is owned by Somerset Council.
5. Due to demonstrated viability constraints, 22% affordable housing is proposed, which is below the policy requirement of 30% set out in the adopted Mendip District Local Plan. The local plan allows for a reduction in affordable housing provision if viability constraints can be demonstrated. All other obligations triggered by this development have been agreed.

6. The site is identified within the Greenspace SPD as an Asset of Community Value. These are material planning considerations but they do not preclude development on the site in principle.
7. The delivery of the proposed housing would contribute significantly to the Council's 5 year housing land supply in the former Mendip District Council area. Where a Council cannot identify a 5 year land supply of housing land policies are considered out of date, paragraph 11dii of the National Planning Policy Framework 2024 (NPPF) requires that where the most important policies are out of date that planning permission should be granted:

“unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the framework when taken as a whole having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination”
8. Paragraph 39 of the NPPF requires local planning authorities to work in a positive, creative and proactive way. This is particularly important considering the Council's five year housing land supply position. As such, the local planning authority has spent a significant amount of time working with the applicant to achieve an acceptable, viable and deliverable scheme. This application is recommended for approval, subject to a suite of conditions, informatives and obligations.

Planning Obligations, Conditions and Informatives

9. A suite of conditions and informatives is recommended, which are each explained as necessary in the report below.
10. As further explained in the report below, the following planning obligations have been agreed, and are recommended to form part of a S106 legal agreement:
 - Affordable housing - 22%, 16 dwellings in total.
 - Public open space - £1364.20 x 74 dwellings = £100,950.80.
 - Education - £156,791.20.
 - Roundabouts – (£1648 + £1704) x 74 dwellings = £248,048.
 - Travel plan.
 - Surface improvements and links to the existing public right of way.
 - Delivery and ongoing maintenance of a community orchard, including two picnic benches.
 - Management company including maintenance of communal areas.
 - SUDS delivery and maintenance.
 - Confirmation that a covenant is attached to plots 71-74 restricting removal and controlling any works to trees labelled G42(C) and T43(B) in the Tree Protection Plan.
 - Provision for 1.02ha off site bat mitigation habitat, including details of delivery and management to be agreed with the local planning authority.

Description of Proposal, Background, Site and Constraints:

11. This full planning application relates to the following:
 - 74 new dwellings
 - A home for children with disabilities
 - A new access from Packsaddle Way

- A network of footpaths adjacent to planted public open space, which connect to the local public right of way network.
 - A community orchard with picnic tables.
12. The site is within flood zone 1, and subject to the following planning constraints:
- Outside but adjacent to the development limits of Frome.
 - Proximity to water treatment works with known history of fly nuisance complaints/issues.
 - Provisional Tree Preservation Order (TPO) within the site (which lapsed on 11.12.2024)
 - SSSI Impact Risk Zone.
 - Bats – proximity to Mells Valley Bats Special Area of Conservation (SAC) – band B.
 - Adjacent to Public Right of Way (northern and eastern boundaries).
 - Heritage - near but outside the conservation area, in proximity to some listed buildings.
 - Asset of Community Value.
 - Identified within the adopted Greenspace SPD (Adopted 6 February 2023).
13. Although the site has not been allocated for any development, it was owned by the former Somerset County Council and retained for a possible school development. The site is no longer proposed for a school, although the proposed children's home would be operated by the Council.

Environmental Impact Assessment:

14. Considering the thresholds set in section 10(b) Schedule 2, the site is less than 5 ha in size and fewer than 150 dwellings are proposed.
15. This development is not considered therefore to require an Environmental Assessment under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017.

Procedural Clarifications:

16. This application was scheduled to be considered by the Planning Committee on 05 November 2024. Following formal publication of the officer report and agenda, the application was withdrawn from that committee. This was to allow for further review of the required S106 obligations and the scheme viability. This review has now been completed, and the application can be taken forward for a decision.
17. On 12 November 2024, the agent submitted notice of their intention to submit an appeal for non-determination. Such notice is required prior to appeals for consideration via the public inquiry appeal process. At the time of writing, an appeal has not been received.
18. On 12 December 2024 an updated version of the National Planning Policy Framework (NPPF) was published. This updated national policy has been fully considered. The updated NPPF has changed the standard methodology for assessing a Council's housing requirement. This has increased the requirement across Somerset by 41% from 2669 homes per year to 3769 homes per year. As a result, Somerset can only demonstrate 3.55 years' housing supply. Within the former Mendip area, this would be 2.2 years housing supply. As result of the lack of 5 year housing land supply the tilted balance set out in paragraph 11 of the NPPF applies and there is a presumption in favour of approval unless significant and demonstrable harm can be demonstrated.

19. 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 01 April 2023 by a new unitary council, known as 'Somerset Council.' In terms of the application site the Mendip District Local Plan (Parts 1 and 2) still comprise the relevant development plan.
20. Publication of this application has taken place in line with the Council's adopted Statement of Community involvement and legal requirements, including advertisements in local press, site notices and letters to neighbours. The Council has met its obligations in relation to publication of the application.
21. The proposal has evolved following pre application discussions. Although updated plans have been received during the life of the planning application, they have not included any substantive changes to the proposal to warrant a re-consultation. Changes during the life of the application include the introduction of 2 picnic benches in the community orchard and alterations to the affordable housing provision following the viability review. Further technical information and clarification has also been received, to address matters raised by technical consultees. It is noted that a high number of public comments have been received, including a number of comments from the People for Packsaddle community group both within and after the close of the consultation. All comments have been considered in the assessment and recommendation of the application.
22. As this application represents a departure from the local plan, it has been advertised as such.
23. Some neighbours have stated there has been insufficient public engagement, including the lack of face to face pre application consultation between the applicant and the local community. The applicant has submitted a Statement of Community Involvement outlining how it has engaged with the local community. It is noted that although the local planning authority encourages community engagement by developers, this is not a statutory requirement. There is also no requirement for the applicant to undertake face to face consultation with neighbours prior to submitting planning applications. The application has been subject to consultation by the local planning authority, and statutory obligations have been met in this regard. A significant number of comments have been received from neighbours, indicating a high level of local engagement.
24. It is confirmed that a site visit has been undertaken and the site and proposal are fully understood. Furthermore, the application is considered clear and complete and sufficient information has been submitted in order for a determination to be made. The application is considered in good faith. Although some neighbour comments have questioned statements made by the applicant, there is no evidence to undermine the submission.
25. Complaints have been received on the basis that neighbour comments have not been responded to by the local planning authority. There is no legal requirement and it is not usual practice due to workload capacity to respond to individual neighbour comments. However, all comments relevant to planning matters have been considered as part of the assessment of this application.
26. Any suggestions from neighbours that the local planning authority or Education Officer have been biased in its assessment of this application (on a council owned site) are incorrect. The local planning authority has not requested education contributions be amended in favour of more affordable housing. The assessment of this application has been undertaken in good faith, with full compliance with the Royal Town Planning Institute's Code of Conduct. No planning weight is given based on the landowner as the Council, or the financial status of the Council.

27. Comments from objectors have stated that where a Council owned site is being considered, the local planning authority is 'under a particular duty to weigh the issues, engage with objections thoroughly, conscientiously and fairly (*Stirk v Bridgenorth District Council (1996) 73 P&CR 439 at p.444*) and to set out all relevant material in any report (*R v South Glamorgan County Council ex p. Harding (1998) COD*'. It is confirmed that the assessment of this application has been comprehensive and robust in line with legal and policy requirements. The assessment is summarised in this report.
28. Comments and complaints regarding the communication and actions of the estates team are not planning matters to be weighed in the planning balance.

Relevant Planning History on Application Site:

29. No relevant planning history in terms of past approvals/refusals on the application site itself.

Summary of Consultation Comments:

30. Divisional/Ward Member(s):

31. Cllr Adam Boyden: call to planning committee

- There is a lot of public interest and the site is owned by Somerset Council.

32. Frome Town Council: objection

- Insufficient affordable housing and no legal mechanism to secure affordable housing.
- Principle of development - outside settlement boundary which should be strictly controlled; identified harms outweigh benefits of additional housing therefore presumption in favour of sustainable development is removed.
- Unsatisfactory design - including awkward, car-centric layout, where homes have little relation to the street; unsuitable style, height, materials and street layout.
- Contrary to various policies.
- The proposed layout fails to retain enough of the existing green space, and fails to provide new, additional green space. Currently, the site is used as informal recreational space and has been awarded the status of Asset of Community Value. It is also a registered greenspace. This proposal would result in the unacceptable loss of open space in the area without a suitable alternative provided. Additionally, there is a shortage of this sort of space in College Ward (as shown in Mendip's 2012 Open Space Study [Table A on p.25]). This would trigger policy DP16 in LP1.
- Insufficient carbon reduction measures and disappointed gas boilers proposed.
- Amenity – harm by way of overlooking and overshadowing; due to proximity of Wessex Water facility there are concerns in relation to fly nuisance and odour.
- Independent assessments - would like to see both the Viability Assessment and the Biodiversity Net Gain Assessment independently assessed. FTC feel that these assessments have not been transparent and concerns have been raised by the community about the validity of the Biodiversity Net Gain assessment.

33. Planning Policy (summary of all comments)

34. Principle of development:

- As the Council cannot demonstrate a 5 year housing land supply, the proposal must be assessed against para 11d of the National Planning Policy Framework (NPPF).

- The NPPF highlights the value of local green spaces, including health and well-being benefits.
- Policy CP1 of the adopted Mendip District Local Plan (LP1) states that the emphasis for new sites should be within existing settlement limits, followed by sustainable locations on the edge of settlement limits.
- CP2 sets out the distribution of housing for the district over the plan period. It is understood that the number of completed and estimated dwellings over the plan period will exceed the number of new homes required in the town.
- CP1 and CP2 have reduced weight due to the housing land supply position. The site is adjacent to settlement limits.
- The Council did not choose to identify the site on the Policies Map at the time the local plan was prepared. It was aware of the site at the time, and it is referenced in para 5.9 as a potential site for a new primary school.

35. Open space:

- Policy DP2 protects Open Areas of Local Significance (OALS) as identified on the Policies Map from development. However, this site is not identified as an OALS.
- LP2 does not currently include any Local Green Spaces.
- Greenspace Supplementary Planning Document (2023):
 - The Greenspace SPD identifies 3 types of greenspace (Category 1, publicly accessible open spaces within the built environment; Category 2, recreational and sporting; and Category 3, green infrastructure).
 - An audit of greenspaces was published alongside the SPD. The audit maps and lists open spaces in the 3 categories.
 - The site is identified on the audit map in typology 3 and is noted on the schedule as “greenspace”.
 - The SPD notes that typology 3 spaces are either “Local Greenspaces - open and green spaces that contribute to green infrastructure” or “spaces with informal opportunities for countryside recreation around the settlement – accessible spaces for informal countryside/sport”.
 - The site was identified as a result of consultation on a draft SPD and audit. The Council’s response to comments suggesting inclusion of the site, which illustrates the value of the area, is as follows:

“This site was intended for use as a school but is currently open fields criss crossed by a number of rights of way. It enables informal recreation with many informal paths and access to the green areas. The site is not a formal, dedicated greenspace, such as a park or garden, green amenity area, formal recreational route, playing pitch, play ground or youth area. It is not therefore appropriate for inclusion in typology 1. However, it is valued greenspace contributing to Green Infrastructure and is accessible for informal countryside recreation, offering a level of use over and above that derived from the footpath network alone. It is well contained with dense development on 3 sides. It reads as part of the settlement, rather than open countryside. It should therefore be included in typology 3. The inclusion of the land in the Audit informs any assessment of policy DP1 in relation to the site. Policy DP1 identifies the importance of local greenspace to the character and distinctiveness of a locality and indicates that any adverse impacts on these spaces should be balanced against the wider benefits of any proposal. Any balancing exercise should take into account the potential to retain greenspace and to avoid, minimise and mitigate any adverse impacts. It should be noted that this area is not covered by Local Plan Policy DP2 (Open Areas of Local Significance) or DP16 (Open Space and Green Infrastructure), and these policy designations cannot be introduced in this document”

[Consultation Report, Greenspace SPD, ref GREEN/040/7055].

- The site is not designated as an Open Area of Local Significance (policy DP2), which identifies open areas that are protected for their contribution to distinctive local character.
- The site is not identified by policy DP16, which would mean that the space should remain available unless it can be demonstrated there is an excess of recreation space or the site is to be replaced elsewhere by a site of equal recreational value.
- Policy DP16 is clear in setting out that it applies to open space, and the text is clear that this will normally mean public space. The text gives examples of the types of use that might be considered open space; sports, pitches, play areas, parks and gardens, allotments, cemeteries, churchyards, footpaths, cycle paths, river corridors, verges and so on. Further, the Policies Map identifies sites to which the policy will specifically apply. It is a proper interpretation of the policy to note that the site is not identified.
- Policy DP16 refers to “open spaces” in bullet point 1, not public open spaces. This must be read alongside para 6.141, which gives clear guidance on the interpretation of the term “open space”.
- DP16 should be taken to apply to open spaces provided alongside new development. It is not suggesting DP16 will apply to any location.
- The site should be assessed against the principles set out in policy DP1, Local Identity and Distinctiveness. The characteristics of the site and its role as greenspace should be used to inform the balancing exercise set out in policy DP1. Consideration should also be given to the potential for mitigation of loss of open space and the preservation of green infrastructure within the development.
- Overall conclusion on status of greenspace SPD: The site should not be considered to be land identified by policy DP16 as unsuitable for development in principle. The site is not identified on the Policies Map. It is made up of open fields criss crossed by a number of informal paths. The site is not a formal, dedicated greenspace, such as a park or garden, green amenity area, formal recreational route, playing pitch, play ground or youth area. There is no right of public access, although public use has become commonplace over the years. The site is outside development limits and is similar to many fields on the edge of settlements where there are footpaths, which are popular with dog walkers and families.

36. Landscape:

- Policy DP4; Mendip’s Landscapes should be considered. The site is on the edge of the settlement in landscape character area B2,2, Whatcombe Valley and Cuckoo Lane. The study describes the area in which the site is located as follows;
“6.3.51 The area extends around the end of the Packsaddle ridge to overlook the area where the Frome joins the Mells River. While this is part of a wider section of valley, the intimate scale landscape of small fields continues around to Cuckoo Lane. The views across to the Orchardleigh ridge and glimpsed views of housing estates on the skyline continue. The landform and hedges prevent the whole area being seen as one area from most views”.
- The site is located outside development limits on the edge of the settlement in an elevated location. Any impact on the wider landscape should be assessed. Frome Town Design Statement makes further comment on the value of countryside views to the locality.

37. Other policies for consideration:

- The proposal should also be considered against the criteria set out in DP1, DP5 and DP6.

- Policy DP7; Design and Amenity of New development sets out the Council's expectations in relation to the design and amenity of proposals, and the incorporation of energy efficiency measures, sustainable construction, on-site renewable energy, water efficiency, waste and materials. Whilst it is disappointing that not all properties achieve the maximum reductions, the issue has been fully addressed in the Low Carbon Energy and Resource Efficiency Statement.
- Policy DP11; Affordable Housing requires proposals to make provision for 30% affordable housing. Where proposals cannot viably deliver this number, the Council will negotiate on matters of tenure, subsidy design and amount of provision.
- Frome Neighbourhood Plan includes policies to protect open spaces in Section 7. It also includes a map identifying public open spaces across the town. This site is not identified in the Neighbourhood Plan as a public open space.
- Frome Town Design Statement - In Section 4, Settlement Character, the Frome Town Design Statement includes a map of landscape, open spaces and public places (p44). This site is identified as countryside. At para 414 the Design Statement says that "one of the key defining features of Frome is that distant views of the surrounding countryside can be seen and glimpsed from many of the higher parts of the town." The Design Statement defines a number of character areas, including one adjoining the site at Packsaddle. The Statement notes "an area of predominantly mid to late twentieth century housing" with "a typical suburban character". It notes an "important network of green spaces running through the area that needs to be retained and fully used". The character area is immediately adjacent but does not include the site, which is outside development limits. It notes that views out into the open countryside need to be maintained (p157).

38. Asset of Community Value:

- Land of community value is defined in section 88 of the Localism Act 2011. A principal (i.e. not ancillary) current use of the land must further the social wellbeing or social interests of the local community, and it must be realistic to think that the same or another such use will continue.
- The ACV designation is not a planning designation. However, it does indicate that the land has social value to the local community and should be included in the planning balance as a material consideration.
- Whilst the ACV is a material consideration and indicates that the area has community value, it does not alter the proper interpretation of policy DP16.

39. Affordable Housing: no objection subject to conditions/obligations (summary of comments, including informal comments, following receipt of updated information)

- A policy compliant level of affordable housing in line with policy DP11 (30%) would provide 22 affordable homes. It has however, been necessary to take account of the viability appraisal submitted alongside the planning application. This is to support a case for a reduced level of affordable housing provision alongside other S106 contribution requirements to ensure viability of the scheme.

40. National Highways: no objection subject to advice

- National Highways strongly advises that Somerset Council secures reasonable and proportionate contributions towards necessary improvements at the A36 White Row and Beckington roundabouts from current applications in the Frome, Beckington and Rode area, in line with Policy DP27 of LP2.

41. Highway Authority: no objections subject to conditions and/or S106 obligations (summary of final comments following the submission of additional information)

- Traffic impact acceptable.
- Junction capacity acceptable.
- Parking provision acceptable.
- S106 obligations must include:
 - Travel plan
 - Site access junction works
 - Links to the PROW to the north of the site
- Recommended conditions: construction of footways and turning spaces; details of estate roads; cycle storage; access visibility splays; electric vehicle charging points; construction of parking spaces; no discharge of rainwater onto the highway; construction management plan.
- If it is not possible to construct the estate road to a standard suitable for adoption, yet it is deemed the internal layout of the site results in the laying out of a private street, under Sections 219 to 225 of the Highway Act 1980, it will be subject to the Advance Payment Code (APC).

42. Active Travel England: standing advice

43. Public Rights of Way (PROW): no objection subject to conditions/obligations

- There is a public right of way (PROW) that runs through the site (public footpath FR 20/2) and PROWs that abut/run adjacent to the site (public footpaths FR 20/1, FR 20/5, FR 20/6)
- Surface improvements and links to the path FR 20/2 to be secured through a s106 agreement and can be technically approved under a s38 adoption agreement. In the event that there is not a s38 agreement, then a separate s278 agreement will be required.
- If the dashed black lines are going to be public routes, they will need to be connected to adoptable standard footways and capable of being adopted.
- Any proposed works must not encroach onto the width of the PROW.
- Standard PROW informative required.

44. Contaminated Land: no comments

45. Environmental Protection: no objection subject to conditions/obligations (summary of final comments following submission of additional information)

46. Fly Nuisance – no objection

- Environmental Protection has reviewed the fly nuisance assessment and subsequent addendums as well as the email from D2 Planning Limited dated 11th July 2023. The withdrawal of the objection to the planning application by Wessex Water is also noted.
- The conclusion of the fly assessment that a public nuisance originating from chironomid or anisopodid midges at Packsaddle Way is considered to be negligible and highly unlikely. Having reviewed the assessment, agree with the conclusion of the report.

47. Air Quality – no objection subject to condition

- Following review of the submitted air quality assessment dated 1 March 2023, whilst the report indicates that the proposed development is unlikely to be impacted by or have an impact on air quality, there is a potential for dust to be produced during the construction phase. Therefore recommend construction environmental management plan condition.

48. Odour – no objection

49. Wessex Water: no objection (final comments following the submission of additional information)

50. Fly Nuisance – no objection
- Wessex Water has reviewed the Fly Nuisance Assessment and Addendum in support of planning application 2023/0864/FUL and note the contents of the email from D2 Planning Limited dated 11th July.
 - Subsequent to review we have agreed there is insufficient justification for Wessex Water to maintain an objection to the planning application based upon the likelihood of fly nuisance (emanating from Frome WRC) at this location. While there is a risk for nuisance at this location the risk is such that we are unlikely to be successful in upholding our objection through to appeal. We withdraw our objection.
51. Water – no objection
- On-site surface water measures noted, the LLFA's comments are also noted and supported. The applicant has discussed connection to the downstream public surface water network with Wessex Water at an attenuated rate of 10 l/s. We have provided initial options, all of which will also need to be agreed with third parties. If the application is approved we recommend a planning condition to agree a surface water strategy. There must be absolutely no surface water flows connected to the combined or foul sewers.
 - The applicant does not appear to have indicated a point of connection off site and to the existing public sewer. Subject to planning approval, application to Wessex Water and engineering agreement the applicant can connect to manhole ST77498001 at the entrance to the site, recorded details (to be confirmed by private survey) CL 90.030, IL 88.470.
52. Lead Local Flood Authority: no objection subject to conditions (summary of final comments following the submission of additional information)
- Although there are some outstanding queries, the application, including additional information and clarification, is acceptable for planning application stage.
 - Recommended conditions: agreement of detailed drainage proposals; agreement of drainage responsibility.
 - Recommended informative outlining details required at condition stage.
53. NHS Somerset Integrated Care Board:
- The GP surgeries within the catchment area that this application would affect currently have sufficient infrastructure capacity to absorb the population increase that this potential development would generate. This position could change in future.
54. Education: no objection subject to obligations (summary of final comments)
- Obligations trigger a total contribution of £156,791.20 for early years development.
55. Waste: neutral
- Whilst there is no objection to the development in principle, we would have concerns at the number of properties located on private drives, and/or not visible from the proposed public highway. Our standard policy is to service properties on the adopted highway, and therefore encourage developers to design layouts with direct access to adopted highway in mind.
 - Communal collection points for properties on private drives often result in containers being left there 24/7, as a consequence it attracts other waste to be left there, which then causes neighbourhood tension, particularly if the collection point is outside one particular property. We discourage this wherever possible and would request that the developer takes into account maximum transportation distances as per developer's guidance in the waste section of the Somerset Council website. People become more responsible for their waste

if it is stored and collected from their own property so a rethinking of the proposed layout would be welcome.

56. Tree Officer:

- The submitted Arboricultural Impact Assessment (Ref:1613B-AIA-MU) March 2023 gives a fair appraisal of the trees / hedgerows.
- There are a number of groups of trees and hedgelines shown for removal and a number of groups and individual trees identified as being constraints to the proposed layout due to shade and / or future growth. There are no high value (A category) trees shown for removal. There is one group of B category trees shown for removal (G41); there are a number of C category groups of trees shown for removal.
- Concerns that there are important trees and linear features (historic field patterns) that are under threat or would be diminished by pressures from development or from future use of the site, post any development.
- Would recommend that a provisional TPO is put on the Oak (T26) and also review the trees forming both of the linear features for TPO purposes. This would be a precautionary measure intended to protect the long-term amenity of the area.

57. Ecology: no objection subject to conditions/obligations (summary of final comments following additional information and discussion)

- Surveys have been undertaken including foraging and commuting bats, breeding birds, dormouse, and reptiles.
- Bat activity has been identified. Specific existing hedgerows are considered sensitive due to associated bat activity.
- Updated Landscape and Ecological Management Plan (LEMP) is acceptable.
- Public open space is likely to be used by wildlife. Would request any lighting in the public open space is controlled by sensors.
- The onsite biodiversity enhancements provisions will need to be made for foraging and commuting barn owls.
- HRA - The application site falls within Consultation Zone B for Mells Valley SAC which is designated for its horseshoe bat features. Satisfied with the sHRA and HEP calculations subject to Natural England's approval. The proposal would not have a negative impact on the Mells Valley SAC. Habitat enhancement area of 1.02 hectares (including accessible to greater horseshoe bats) on-site and in the agreed location off-site – this should be secured via S106 legal agreement.
- Recommended conditions: Landscape and Ecological Management Plan (LEMP) including on-site ecological enhancements; construction environmental management plan (CEMP: Biodiversity); protections for retained hedgerows through construction; lighting for bats; ecologist checks before tree felling; reptile mitigation strategy; an additional badger survey; dormice protections through construction
- Recommended informatives: legal protections for bats; legal protections for bats badgers.

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

- Concur with the conclusion of the HRA, provided all mitigation measures are adequately secured with any permission.
- In determining the application, the LPA should consider whether sufficient greenspace has been provided; in addition to assessment against policies in the development plan, the Natural England GI Standards could be used to aid this assessment.

59. Designing Out Crime, Avon and Somerset Constabulary: no objection subject to comments

- The crime and anti-social behaviour figures for this area are low.
- Fencing should avoid climbing opportunities.
- Gates recommended between plots 3 and 4.
- If not already proposed, shrubs/hedging should be shown on the side boundaries of plots 6 and 7.
- Gaps between properties should prevent easy access.
- Parking adjacent to open spaces should be demarked by low level fencing to avoid vehicles accessing the open space.
- Undercroft parking should be illuminated at night.
- Recommend that a management plan is put in place to ensure that at the front of properties no soft landscaping is above 1 metre and in general no tree foliage is below 2 metres. This is to maximise sight lines through the development.

60. Archaeology: no objections

- As far as we are aware there are limited or no archaeological implications to this proposal.

61. Anna Sabine MP

- Query amendments in education obligations.
- Explanation of ecological site clearance requested. Council failed to provide information on the motivations behind this by not responding to a Freedom of Information request which was referred to the ombudsman and is still not explained.
- Lack of meaningful engagement from the Council, including estates team and planning team – including a neighbour offer to purchase the site being declined; lack of consultation before the site sale agreement; Council opposition to the listing of the site as an Asset of Community Value; planning not responding to neighbour comments but working proactively with the applicant; and no response to an offer to buy the site.

62. Local Representations:

63. Approximately 265 objection comments have been received, including from some people who have commented on more than one occasion, as summarised below:

- Principle of development – outside settlement limits; rural encroachment/urban sprawl; the site should be considered as public open space and not agricultural land; there is not a housing need in Frome; disproportionate housing development coming forward in Frome, this should be focussed on other settlements in the district; 5 year housing land supply is largely due to nutrient issues and discussions are underway to resolve this, as well as other large development proposals coming forward; the application fails the ‘tilted balance’; proposal fails to meet the social, environmental and economic requirements set out in the NPPF; alternative sites should be considered instead, including brownfield sites; approval could set a harmful precedent; only development that would fulfil a community need would be acceptable
- Design - density too high and not reflective of the local area, some houses crammed together; insufficient green space; two storey houses inappropriate near area characterised by bungalows; development brief/masterplan should be prepared; inappropriate layout and materials proposed; design could result in dog fouling or fly tipping
- Loss of valued green space – Greenspace SPD prohibits development in principle; well used by the local community; loss of leisure space; reduction to the overall green space available to residents; harm to physical and mental health and wellbeing; harm to sense of community and social cohesion; Somerset Council should not have introduced grazing animals and put up signs asking people to keep to the permissive paths, and this limits

leisure uses of the wider site (with no public consultation); part 1 of policy DP16 is engaged and the application should be assessed on this basis.

- Asset of Community Value (ACV) – site should be protected from development in principle; this status is being undermined by the planning application; the value of the site should be reprovided elsewhere; great weight should be given to the ACV status.
- Harm to residential amenity – including fly nuisance, which impacts on health and well-being.
- Ecology - loss of biodiversity; site clearance has undermined biodiversity; biodiversity survey results flawed as timed to lower the biodiversity baseline; disagree with conclusions and methodology of survey work; time taken for planting/habitat to establish should be taken into account; new planting has lower/no ecological value than existing to be lost; ecological value of trees undervalued in tree info submitted; unclear why parts of the EclA are redacted; 10% BNG should be required.
- Services - strain on healthcare services; school capacity concerns; pressure on local amenities such as shops, parks, and recreational facilities, which are already limited in the area.
- Loss/harm to trees and hedgerows.
- Climate change - contradictory to efforts to combat climate change as it involves the loss of green space; insufficient carbon reduction measures.
- Flood risk – including off site implications.
- Traffic congestion and highway safety concerns; parking levels too high.
- Sewage capacity concerns.
- Cost of infrastructure upgrades - significant upgrades to local infrastructure, such as roads and sewage systems, may be required as a result of the development, which could be costly and potentially funded by local taxpayers.
- Power supply issues - the area experiences frequent power cuts, and the additional load from the new homes could worsen this problem.
- Harm to residential amenity
- Noise and air pollution - the construction and subsequent increase in traffic would lead to higher levels of noise and air pollution, negatively impacting residents' health and well-being.
- Affordable housing – insufficient affordable housing; the viability of the affordable housing provision is questioned; only an 100% affordable housing scheme would be acceptable in this site; no guarantee of any affordable housing delivery.
- Housing mix – proposed mix would not meet the local housing need in Frome; 3 and 4 bedroom market homes would be unaffordable.
- Economic – question benefits of employment generation through construction, no commitment to using local tradespeople; some benefits may be seen through local spending; economic benefits do not outweigh other harms.
- Conservation – heritage harm; ancient hedgerows and stone walls contribute to the cultural heritage of the area, which should be considered non-designated heritage assets.
- Consultation – insufficient engagement and consultation with the community; strong level of local opposition; some people consider their concerns are not being listened to or addressed; lack of transparency.
- Viability – disagree with methodology and conclusions of viability assessment and review; disagree developer should make a profit; lack of transparency; review is out of date.
- Contrary to various local and national policies.
- Education comments are unclear and contain inconsistencies.
- Incorrect and insufficient information submitted with the application.
- Disabled children's home - Will the disabled children's home be delivered? Are there staff to work there? Why was a similar facility nearby closed down by Somerset County Council on the basis that it wasn't needed?
- Inappropriate assessment of the application.

64. Non planning matters:

- Impact on property values
65. Full details of all consultation responses can be found on Somerset Council's website [Simple Search \(mendip.gov.uk\)](https://www.mendip.gov.uk)

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

66. 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:
67. The development plan for the former Mendip area of Somerset Council comprises:
- Mendip District Local Plan Part I: Strategy and Policies (2014) ('LP1')
 - Mendip District Local Plan Part II: Sites and Policies – Post JR Version (2021) ('LP2')
 - Somerset Waste Core Strategy (2013)
 - Somerset Mineral Plan (2015)
 - Frome Neighbourhood Plan (2016) ('FNP')
68. 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
 - CP6 - Frome Town Strategy
 - DP1 - Local Identity and Distinctiveness
 - DP2 - Open Areas of Local Significance
 - DP3 - Heritage Conservation
 - DP4 - Mendip's Landscapes
 - DP5 - Biodiversity and Ecological Networks
 - DP6 - Bat Protection
 - DP7 - Design and Amenity of New Development
 - DP8 - Environmental Protection
 - DP9 - Transport Impact of New Development
 - DP10 - Parking Standards
 - DP11 - Affordable Housing
 - DP14 - Housing Mix and Type
 - DP16 - Open Space and Green Infrastructure
 - DP19 - Development Contributions
 - DP23 - Managing Flood Risk
69. The following policies of the Local Plan Part II (post RJ Version) are relevant to the determination of this application:
- DP27 - Highway Infrastructure Measures for Frome, Beckington and Rode
70. The Mendip Local Plan Part II Limited Update was submitted to the Secretary of State for independent examination on 30 September 2024. This has identified additional housing and employment sites and included further detailed policies (for example, development management policies, community space designations) to complement the strategic policies

set out in the Local Plan Part I. It is anticipated the examination will take place in March 2025. As this update plan has not yet been examined it currently carries limited weight in the planning balance. The application site is not allocated as part of this limited update.

71. The following policies of the Frome Neighbourhood Plan (2016) are relevant to the determination of this application:

- H1: Building a Balanced Community
- H2: Building by Design
- D1: Design in Urban Landscapes
- Section 7.3: Public Open Space

72. **Other Possible Relevant Considerations (without limitation):**

- National Planning Policy Framework (NPPF, 2024)
- National Planning Practice Guidance (NPPG)
- Frome Conservation Area Character Appraisal and Management Proposals (2008)
- Frome Town Council Climate Emergency Guide (2021)
- Frome Town Design Statement SPD (2015)
- Mendip Greenspace SPD (2023)
- Supplementary Planning Document Design and Amenity of New Development; Guidance for interpretation of Local Plan Policy DP7 (2022)
- Policy DP24 Supplementary Planning Document - Self and Custom-build Single-plot exception sites in Mendip (2022)
- 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)
- Active Travel England Standing Advice Note: Active travel and sustainable development (2024)
- National Design Guide (2021)
- Technical housing standards – nationally described space standards (2015)
- Assessment of Special Landscape Features (2012)
- Mendip Landscape Character Assessment (2020)
- Fields in Trust - Guidance for Outdoor Sport and Play (2020)
- Somerset Council's 'Biodiversity Net Gain Guidance Note' (February 2024).
- Historic Environment Good Practice Advice in Planning Notes, Historic England (2015)
- Healthy Homes Toolkit
- Placemaking Principles, Somerset Council (October 2024)
- Introduction to the Green Infrastructure Framework - Principles and Standards for England, Natural England
- The Future Homes Standard 2019 Consultation on changes to Part L (conservation of fuel and power) and Part F (ventilation) of the Building Regulations for new dwellings, MHCLG

Assessment of Material Planning Considerations:

73. The main planning issues relevant in the assessment of this application are as follows:

- The principle of development
- Provision of greenspace
- Asset of Community Value
- Loss of agricultural land
- Site sustainability and service accessibility
- Landscape impacts
- Design
- Provision of specialist accommodation
- Public open space
- Trees, woodland and landscaping
- Ecology including lighting and biodiversity net gain
- Residential amenity
- Housing mix/affordable housing
- Access, active travel and highway impacts
- Waste
- Conservation, heritage assets and archaeology
- Drainage and flood risk
- Renewable energy
- Education
- Health and well being
- Development viability and planning obligations

Principle of Development:

74. 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 LPP1 to the 5 principal settlements to enable the most sustainable pattern of growth.
75. Paragraph 5.9 of LP1 confirms the application site was being retained by the education authority as it was thought a school development proposal may come forward. LP1 does not allocate the site for school development.
76. Although on the edge of the Frome development limit, the site is outside of any development boundary and therefore must be considered to be located in open countryside. 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 that help sustain rural communities. The proposed development is not considered to fall within any of these. Given the location of the site the proposal would therefore conflict with Policies CP1, CP2 and CP4 of LP1.
77. The Council is currently unable to demonstrate a five-year housing supply. The ‘Somerset – East Area (former Mendip District LPA) Statement on Five Year Housing Land Supply October 2024’ confirms the current five year housing land supply figure is 3.67 years. This figure is based on the now superseded version of the NPPF (December 2023). The updated version of the NPPF (December 2024) includes an amended method of calculating housing requirement. As a result overall Somerset Council can only demonstrate a 3.55 year supply and within the former Mendip area a 2.2 year supply.
78. The National Planning Policy Framework (NPPF) advises that, where the Council cannot demonstrate a five-year supply, the presumption in favour of sustainable development, as set out in paragraph 11(d) of the NPPF, applies. Paragraph 11(d) sets out that where there are no relevant development plan policies, or the policies which are the most important for determining the application are out-of-date, planning permission should be granted unless:

*'i) the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination'*

79. The above is a significant material consideration that will be considered in the overall planning balance section at the end of this report.
80. The government recently published an updated NPPF (12.12.24). This highlights the new government's commitment to maintaining the tilted balance approach, and increasing housing delivery obligations on local planning authorities. This confirms that the delivery of housing, particularly in areas where there is a supply shortfall, will continue to carry significant weight in the updated NPPF.
81. The local housing shortfall is significant, and there is also a significant need to deliver affordable housing. These benefits both carry significant weight in the planning balance.
82. The Frome Neighbourhood Plan (FNP), which was made in 2016, includes policy H1 which requires residential proposals to address housing and affordable housing need in line with the local plan. The proposal would deliver both market and affordable dwellings and contribute towards identified shortfalls across the former Mendip area.
83. Neighbour comments have suggested the site should be considered as a public open space rather than being within agricultural use. Comments have stated the application is misleading in its statements on the agricultural history of the site. Although the value of the site is noted in the adopted Greenspace SPD and the site is an Asset of Community Value, the lawful use of the site is agricultural. The status of the site as a public open space is further discussed in this report below.

Neighbour comments have also argued there is no housing need in Frome, and housing development should be focussed around other settlements. As the Somerset East (former Mendip) area overall cannot currently demonstrate a 5 year housing land supply, the application needs to be considered in the tilted balance against this overall housing need. Whilst local need is a valid consideration, the tilted balance is nevertheless engaged. Neighbour comments have also set out their views of the reasons behind the current 5 year housing land supply position, stating that issues such as progress on phosphates solutions and other large scale sites coming forward are likely to help address this shortfall. Whilst the Council is working to address the shortfall in various ways, the current supply figures mean that the tilted balance is engaged. The new housing methodology for calculating the housing requirement means a significant increase in the delivery of housing across Somerset.

Greenspace:

84. The Council's adopted Greenspace SPD (2023) includes this site. It is understood that the application site was not originally proposed for inclusion, but added as a result of consultation comments received.
85. The mapping and Frome audit which accompany the SPD label the application site in a number of different ways including 'FROM 3104', 'site 104' and 'Packsaddle Fields'.

86. The audit defines the site as being within the SPD's 'stage 3 typology' which is summarised as 'greenspace'. Although the accompanying audit refers to different types of greenspaces as 'stage typologies', the SPD itself refers to these as 'categories'. These classifications are concluded to be synonymous.

Table 1: Extract of SPD 'Table 1 Greenspace mapping classification/ typology'

Category – Green infrastructure		
3.1 Local Greenspaces	Open and Greenspaces which contribute to local green infrastructure	Can be public or private spaces
3.2 Spaces with opportunities for informal countryside recreation around the settlement	Accessible spaces for informal countryside / sport.	Uses additional to those provided by Rights of Way Recreational opportunity most people have to travel to.

87. The extract below sets out the planning policy team's summary of site assessment to inform this SPD:

'This site was intended for use as a school but is currently open fields criss crossed by a number of rights of way. It enables informal recreation with many informal paths and access to the green areas. The site is not a formal, dedicated greenspace, such as a park or garden, green amenity area, formal recreational route, playing pitch, play ground or youth area. It is not therefore appropriate for inclusion in typology 1. However, it is valued greenspace contributing to Green Infrastructure and is accessible for informal countryside recreation, offering a level of use over and above that derived from the footpath network alone. It is well contained with dense development on 3 sides. It reads as part of the settlement, rather than open countryside. It should therefore be included in typology 3. The inclusion of the land in the Audit informs any assessment of policy DP1 in relation to the site. Policy DP1 identifies the importance of local greenspace to the character and distinctiveness of a locality and indicates that any adverse impacts on these spaces should be balanced against the wider benefits of any proposal. Any balancing exercise should take into account the potential to retain greenspace and to avoid, minimise and mitigate any adverse impacts. It should be noted that this area is not covered by Local Plan Policy DP2 (Open Areas of Local Significance) or DP16 (Open Space and Green Infrastructure), and these policy designations cannot be introduced in this document'

88. Although this refers to 'a number of rights of way', it is noted that there are no formal rights of way within the site. Instead there are a number of informal paths through the site. The site is within private ownership and there is no public right of access onto or through the site. Although the existing paths through the site have local benefits, as they are informal their retention cannot be required in planning terms.
89. The SPD links specific sites set out in the Greenspace SPD to the following LP1 policies:
- DP2 (Open Areas of Local Significance)
 - SP16 (Open Space and Green Infrastructure)
 - DP1 (Local Identity and Distinctiveness)
90. As the site is not identified as an Open Areas of Local Significance, DP2 is clearly not applicable to this site. This has been confirmed by the planning policy team comments.

91. Comments from the planning policy team clearly confirm the site should be considered against DP1, and not DP16. They also confirm the site should be considered as category 3, green infrastructure, within the Greenspace SPD.
92. The Planning Policy comments, which included supplementarily clarified comments, make it clear that the site should not be considered as unsuitable for development in principle due to DP16 or the Greenspace SPD. These policies should inform the assessment of the planning application, but do not restrict development in principle.
93. DP16 and the Greenspace SPD refer to open space and green infrastructure provision associated with new development proposals. The wording of DP16 is set out in the box below.

DP16: Open Space and Green Infrastructure

1. Development resulting in the loss of existing open, sport or recreational space, including allotments will not be permitted unless:
 - a. It can be demonstrated that there is an excess of recreational or open space in the settlement and the proposed loss would not result in a current or likely shortfall during the plan period; or
 - b. Suitable alternative recreational or open space, which is adjudged to be of equal or greater benefit to the community as compared with the space which is to be lost, is provided in an accessible location. If acceptable, such alternative provision will be required to be made available prior to the commencement of development .
2. All new residential development will make a contribution towards the provision of new open space, including accessible natural greenspace, to meet the needs of the growing population.
3. Where appropriate, the required open space contribution will take the form of on-site provision. Such on-site provision will require appropriate long term management arrangements to be agreed between the Council and the developer. Where on-site provision is not appropriate, or deemed to be more suitably provided elsewhere, a financial contribution toward off-site provision or enhancements will be required. The level of contributions for off-site provision and management arrangements will be calculated in accordance with a guidance note which will be produced by the Council. Expenditure of financial contributions will be prioritised in line with Green Infrastructure Strategies for each ‘town’ and equivalent arrangements put in place by rural parish councils within Parish Plans or other formal mechanisms.

94. The rationale for the planning policy team comments excluding explicit connection to DP16 (when referring to the status of this site within the Greenspace SPD) is understood to relate to the restrictive criteria set out in part 1 of policy DP16 (which refers to development proposals which would result in the loss of existing open space, sport and recreation space). This is similar to the provisions set out in paragraph 104 of the NPPF:

‘104. Existing open space, sports and recreational buildings and land, including playing fields and formal play spaces, should not be built on unless:

- a) an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or*
- b) the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or*
- c) the development is for alternative sports and recreational provision, the benefits of which clearly outweigh the loss of the current or former use.’*

95. The term 'open space' is defined in the NPPF thus:

'Open space: All open space of public value, including not just land, but also areas of water (such as rivers, canals, lakes and reservoirs) which offer important opportunities for sport and recreation and can act as a visual amenity.'

96. In order to understand whether part 1 of DP16 is relevant to this application, it is necessary to consider whether the site is 'existing open, sport or recreational space' in line with this part of the policy.

97. DP16 is wide ranging policy which also includes various open space typologies. The SPD refers to formal playing pitches, outdoor play spaces and playgrounds; parks and gardens; amenity greenspace; natural and semi-natural spaces; and green infrastructure. The range of typologies covered by the policy is summarised in para 6.141 the supporting text to DP16 thus:

'6.141 The term 'open space' can incorporate many different types of areas, ranging from formal recreation spaces like sports pitches and play areas; civic spaces like parks and ornamental gardens; functional areas like allotments, cemeteries and churchyards; linear routes such as footpaths, cycle paths, and river corridors; as well as incidental spaces like railway embankments, verges and landscaped areas within developments. Open space is normally considered to be public space.'

98. DP16 supporting text also outlines the value of green infrastructure thus:

'6.142 In the past, spaces have been looked at on a more individual basis, being owned and managed for specific purposes. However, for a range of reasons this has resulted in some of our spaces, like school playing fields and incidental spaces being lost without appreciation for their wider benefits. These spaces can double as space for wildlife, natural drainage, noise amelioration (where trees are also present) as well as providing opportunities for parts of the education curriculum to be delivered outside of the classroom. In river corridors, informal recreation can be delivered whilst maintaining flood storage areas. Through appreciation and active management of our green infrastructure we can improve the use of what is available in our communities and ensure that new development makes well considered additions to our open space stock. Green infrastructure also encompasses the protection, enhancement and creation of priority UK BAP habitats such as ancient and native woodland'

99. Section 10 (extract below) of the Greenspace SPD also refers to green infrastructure, which has developed further since the adoption of LP1:

'10.1 Green Infrastructure (GI) is a network of multi-functional green and blue spaces and other natural features, urban and rural, which is capable of delivering a wide range of environmental, economic, health and wellbeing benefits for nature, climate, local and wider communities and prosperity. (National Planning Policy Framework, 2021)

10.2 GI generates multiple benefits for people and nature and creates greener, healthier places to live and supports a more productive economy. A GI network can include many natural features, including street trees, parks, private gardens, allotments, sustainable drainage systems, wildlife areas, woodlands, wetlands and natural flood zones. Linear GI includes roadside verges, rights of way, access routes and rivers.'

100. In relation to the principle of development on public open spaces, supporting text to DP16 states that playing fields and other public open spaces should be safeguarded from development, unless they can be demonstrated to be acceptable:

'6.148 The Council's default position is that playing fields and other public open spaces are safeguarded from development. However, opportunities and circumstances sometimes arise where development proposals do seek to make use of public open spaces and the wider community benefits may be worthwhile. In such circumstances, the Council will ensure that the overall estate of public open space is not diminished to a level where local standards are not met, or in a manner that means the accessibility of varied types of open space to the local community falls short of play strategy standards.'

101. The definition of 'open space' or 'public open space' as relevant to DP16 has been queried through the consultation process. Further comments from the planning policy team seek to clarify that the term 'open space' refer to spaces provided alongside development proposals. The term 'public open space' is considered to include *'open space; sports, pitches, play areas, parks and gardens, allotments, cemeteries, churchyards, footpaths, cycle paths, river corridors, verges and so on'*. The key difference appears to be public accessibility. In this case there is no public right to access the site. Comments from the planning policy team reiterate there is not a requirement to re-provide this space and the requirements of part 1 of DP16 do not apply to this application site.
102. The legal opinion submitted on behalf of neighbours also argues there is no requirement for the site to be publicly accessible for part 1 of DP16 to apply – which states leisure and recreational sites do not usually carry public entitlement to use. The legal opinion also refers to bare licences, where agreements (verbal or written) are in place for public use. Although owned by Somerset Council, it is understood that any community use of the site has never been agreed, in writing or verbally. Public access of the site is therefore concluded to be unauthorised and unlawful. As such, the site is not considered to be 'public' land.
103. Neighbour objections have argued the site should be considered an 'existing open, sport or recreational space' due to its current use by the community. The legal opinion submitted on behalf of some of the neighbours argues part 1 of DP16 is relevant in the assessment of this application. If this were to be accepted, part 1 of DP16 would require the following assessment:
- a) Quantify the weight of the existing site as an 'existing open, sport or recreational space'

There is no existing public right of access to the site. Existing access arrangements are technically unlawful. The value of the site as an 'existing open, sport or recreational space' is therefore concluded to be very low.
 - b) Establish if there is a local under provision

For the purposes of this exercise, a worst case is assumed in that there is an under provision of local facilities locally.
 - c) Confirm if the existing value is provided as part of the development proposals

The new public open space proposed on the site, together with the pathways connecting to the public right of way, which would be accessible to the public in perpetuity, would be an enhancement of the existing provision.

104. As such, the application would pass part 1 of DP16 if this were to be applied.
105. The legal opinion submitted on behalf of some neighbours states the reference to ‘existing’ space should be disregarded, as the supporting text also refers to *‘The open spaces of which the Council is aware are shown on the Policies Map. Development Policy 16 will also apply to new spaces that come forward’*. This is concluded to refer to spaces which become ‘open, sport or recreational space’ during the plan period. There is no known existing or historical agreement for access arrangements to the site. The site has been identified within the Greenspace SPD, but this excludes references to DP16 (i.e. ‘existing open, sport or recreational space’).
106. This section of this report considers the impacts of the Greenspace SPD and part 1 of DP16 in relation to the principle of development. A summary of the assessment against other relevant policies, including DP1 and the remaining parts of DP16 are set out further below in this report.
107. In conclusion on this matter, the site is not excluded from development in principle due to the Greenspace SPD’s inclusion of the site as ‘green infrastructure’. An assessment against part 1 of DP16 is not concluded to be necessary, as the site is not ‘existing open, sport or recreational space’ because there is no public right to access them. However, even if the application were to be assessed against part 1 of DP16, it would pass this policy test due to the lawful and publicly accessible open space proposed as part of the application proposal.

Asset of Community Value:

108. The ‘Community Right to Bid’ was introduced by the Localism Act and came into force on 20 September 2012. The Right to Bid gives voluntary and community groups, and town and parish councils the opportunity to nominate local land buildings to be included on a list of ‘Assets of Community Value’. This is designed to give communities more opportunities to take control of these assets. There is a requirement for land owners to notify an intention to sell the land, and a community interest group to be given an opportunity to bid to purchase the site.
109. An approved Asset of Community Value must meet the definition as set out in the legislation. This is clarified on the Somerset Council website thus:
- ‘Buildings or other land within Somerset where:*
- *its current use (or use in the ‘recent past,’ for example in the past 5 years) furthers the social wellbeing and interests of the local community and*
 - *the continued use (or in the next 5 years) furthers the social wellbeing and interests of the local community.*
- This could include a publicly owned building such as a community centre or library, or commercial premises such as a village shop or local pub. It could also be a piece of land which is used by the community.’*
110. On 31.01.2023, the application site was included on the Council’s Register of Assets of Community Value. The site has been identified as ACV12 ‘The Land at Packsaddle Fields’, which was registered by ‘People for Packsaddle’. The online register does not specify the conclusions related to this site. It was clearly concluded to meet the criteria for designation.
111. The applicant has included a legal opinion on this matter. The applicant confirms that it entered into an option agreement with the landowner (then known as Somerset County Council) on 28.07.2022. This predates the listing of the land as an Asset of Community Value (31.01.2023). Whilst the detailed option agreement documents have not been

received by the local planning authority, this information is taken in good faith. As such, it is agreed and concluded that there is no requirement for the site to be offered to People of Packsaddle or any others to make purchase bids.

112. It is therefore concluded that, whilst the designation of the site as an Asset of Community Value (ACV) is a material consideration and does have weight in the planning balance, the relevant requirements of the Localism Act do not apply to this site. This does not preclude development in principle.
113. The ACV status of the site further demonstrates the local community's commitment to the site remaining undeveloped and publicly accessible. This must be considered in the overall planning balance.

Agricultural Land:

114. Agricultural land is classified as follows:
- Grade 1 - excellent quality agricultural land with very minor or no limitations to agricultural use.
 - Grade 2 - very good quality agricultural land, with minor limitations which affect crop yield, cultivations or harvesting.
 - Grade 3 - moderate limitations which affect the choice of crops, timing and type of cultivation, harvesting or the level of yield. Subdivided into:
 - Subgrade 3a (good quality land); and
 - Subgrade 3b (moderate quality land).
 - Grade 4 - poor quality agricultural land with severe limitations which significantly restrict the range of crops and/or level of yields.
 - Grade 5 - very poor quality land, with severe limitations which restrict use to permanent pasture or rough grazing.
115. Paragraph 187 b) of the NPPF (2024) states that planning decisions should recognise the intrinsic character and beauty of the countryside, including the economic and other benefits of the best and most versatile agricultural land. Annex 2 of the NPPF definitions includes:
- “Best and most versatile agricultural land: Land in grades 1, 2 and 3a of the Agricultural Land Classification.”*
116. Natural England's 'Guide to assessing development proposals on agricultural land' (Feb 2021) confirms that classifications can be assessed as follows:
- “A combination of climate, topography and soil characteristics and their unique interaction determines the limitation and grade of the land. These affect the:*
- *range of crops that can be grown*
 - *yield of crop*
 - *consistency of yield*
 - *cost of producing the crop”*
117. This Natural England (NE) guide also includes an explanation of the classifications and examples of likely crops as in the extracts below:
- “4.4 Subgrade 3a – good quality agricultural land***
Land capable of consistently producing moderate to high yields of a narrow range of arable crops, especially cereals, or moderate yields of crops including:
- *cereals*

- grass
- oilseed rape
- potatoes
- sugar beet
- less demanding horticultural crops

4.5 Subgrade 3b – moderate quality agricultural land

Land capable of producing moderate yields of a narrow range of crops, principally:

- cereals and grass
- lower yields of a wider range of crops
- high yields of grass which can be grazed or harvested over most of the year”

118. The development would result in the loss of a greenfield site which has a lawful use for agriculture. It is understood the site has been used for animal grazing more recently, but it is unclear when any crops were last grown on this site.
119. The agent has confirmed he understands the previous agricultural uses of the site thus:
- ‘The site was grazed by cattle regularly up to about 2005. Since then, a mixture, but mainly horses.’*
120. Some neighbour comments have disputed the applicant’s summary of agricultural uses on the site, stating that the site has been used for community recreation. Nevertheless, consideration of the loss of agricultural land is necessary.
121. A land quality assessment has not been received, and is not required for planning application validation purposes.
122. High level Natural England mapping (Agricultural Land Classification Map South West Region (ALC006)) appears to identify the site as grade 3 – although the scale is high and this mapping is indicative. The agent has submitted an extract of lower scale Natural England mapping which shows the site as falling within class 4 (poor) and class 3 (good to moderate).
123. 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. Whilst loss of agricultural land is not considered a reason to withhold planning permission, it should be weighed in the planning balance.
124. It is also noted that if the site were to be used for agricultural purposes, which would retain the green open character, it would potentially offer lower accessibility levels for local people (as there is no right of access within the site) than the publicly accessible open space proposed as part of the development.

Site Sustainability and Service Accessibility:

125. The site is on the edge of Frome. The town centre is circa 1km to the south, which has various services and community facilities. Circa 0.5km to the west of the site is Frome Collage, Littleoaks pre-school, Frome Medical Practice (whose website indicates that new patients within the Frome area are being accepted), Frome Community Hospital, Frome Sports Centre and Merlin Theatre. Circa 1km to the south east the site is Selwood Academy middle school (ages 9-13). St Louis Catholic Primary School and Vallis First School are also both within walking distance from the site.

126. There are bus stops with connections to various routes from Bath Road (B3090) which is circa 400m to the west of the site.
127. Many neighbour comments have referred to insufficient capacity within local facilities. To some extent this is a national issue and relevant to many residential planning applications. Where possible within the planning framework, obligations have been agreed for services (see report below, including healthcare and education sections).

Viability and Affordable Housing Overview

128. When the application was first submitted, it was supported by a viability statement which stated no affordable housing would be viable. This was largely due to ground conditions resulting in increased construction costs. Following an independent and robust viability review by the District Valuer Service (DVS) and discussions with the applicant, it has been agreed that the site can deliver 22% affordable housing as well as all other obligations triggered by the development and remain viable. The financial viability review refers to a commitment to achieving the Future Homes Standard. This refers to carbon reduction measures that are committed to as part of the construction of 17 of the dwellings (further discussed in the report below).
129. The viability review work has been reviewed and updated over the lifetime of this application. Changes are summarised in the table below:

Table 2: Summary of Viability Review

Action	Date	Obligations Considered	DVS Viability Conclusions
Issue of DVS viability review report (1) – following review of application submission where the applicant stated the proposal could deliver no affordable housing	08.11.2023	<ul style="list-style-type: none"> • Education £882,441 	DVS concluded the scheme was unviable but 18% affordable housing could be delivered
Issue of updated DVS report table (2) – following discussions and the submission of additional information/clarification	30.04.2024	<ul style="list-style-type: none"> • Education £882,441 	DVS concluded the scheme was unviable but 15% affordable housing could be delivered. This was considered and subsequently agreed by the applicant.
Issue of updated DVS report (3) – following realisation that the previous reports (1 and 2) had not included obligations for off site public open space or roundabout improvements (as required by local policy DP27). Whilst there was some discussion on the priorities of obligations, it was concluded that there is no policy to allow flexibility on contributions for education, off	10.09.2024	<ul style="list-style-type: none"> • Education £882,441 (which should have been £691,146, which was the updated education figure as of 16.08.2023) • Off site public open space £100,951 • Off site roundabout improvements £248,048 	DVS concluded the scheme was unviable but 12% affordable housing could be delivered. This was agreed by the applicant.

site public open space or highways. There is policy confirming affordable housing can be amended if viability constraints are demonstrated (as in this case).			
Issue of final updated DVS report (4) – after requested updated education comments confirmed a reduction in obligations.		<ul style="list-style-type: none"> • Education £156,791.20 • Off site public open space £100,951 • Off site roundabout improvements £248,048 	DVS concluded the scheme was unviable but 22% affordable housing could be delivered. This was agreed by the applicant.

130. Regarding benchmark land value, the report by the DVS confirms thus:

‘The Benchmark Land Value tone for viability purposes adopted by applicants on similar green field sites in the South West region reflects the widely recognised significant required premium over a low base agricultural value in order to incentivise release of the land for development (provided that they have met full policy to avoid circularity). It is noted in this regard that in the light of planning guidance which stresses a minimum required sum to incentivise release for development, in respect of sites without significant abnormal development costs, such a premium is frequently based on a multiplier in the region of 10 over base agricultural land value.

Whilst there are appreciable abnormal site costs in this case which should be factored in to land owners price expectation, in the light of my experience in other cases in the region, and in the particular circumstances of this site, I nonetheless assess that this level of premium is reasonable, and I have therefore adopted a 10x multiplier of EUV in my assessment.’

131. The DVS submitted a letter on 12 December 2024 confirming the conclusions of the final review thus:

‘The latest viability review that DVS has carried out, reported to you on 13 September 2024, reflects the most up to date S106 financial contribution requirements and includes development costs that have been robustly verified by our in-house Quantity Surveying (QS) team.

The Benchmark Land Value (BLV) of £811,000 adopted has been arrived at after significant, research, analysis and reflection. DVS are of the view that this figure reasonably represents an amount that would incentivise a reasonable landowner to sell the site for redevelopment.

Following our latest review, DVS conclude that the above scheme assessed with regards to full planning policy requirement (comprising 30% affordable housing and S.106 contributions of £505,790) is not viable.

However, through the gradual reduction of policy contributions DVS conclude that a partially planning compliant scheme reflecting 22% Affordable housing (16 units), and S.106 financial contributions of £505,790 is considered to be viable, and should be deliverable on this site.’

132. The planning team at the Council has considered the conclusions of the viability review in detail and concluded that these are a robust and accurate assessment of the viability constraints. Further information on the viability assessment process is set out below.
133. The applicant has agreed to include 22% affordable housing into a legal agreement in the event that planning permission is granted. This includes 10 social rent units and 6 shared ownership units.
134. The applicant is a registered provider of affordable homes, and supporting documentation confirms the applicant's intention to deliver policy compliant 30% affordable housing, with 22% being formally confirmed within the legal agreement associated with this planning application and a further 8% coming from post permission funding from Homes England. This delivery mechanism is common for affordable housing providers and is known as 'additionality'.
135. It is further noted that as the applicant is an affordable housing registered provider, returns from the development are anticipated to be invested into further affordable housing delivery across the south west (as stated in the revised Affordable Housing Statement).
136. It is important to note that only the 22% affordable housing provision to be secured within a S106 legal agreement associated with this planning application can be weighed in the planning balance. Any further commitments by the applicant to use returns to invest in further affordable housing delivery in the region, or secure a further 8% affordable housing through Homes England funding carries no weight in the planning balance. Further assessments of the viability review and affordable housing proposals are set out below in this report.
137. The viability review also concluded that in addition to 22% on-site affordable housings (16 units), all other obligations triggered by this development are viable, including off site public open space, education and roundabout upgrades. These obligations are further discussed in the report below.
138. The DVS viability review has been revisited through the life of the application. The final assessment was received on 13.09.24, with further explanation of the conclusions on 12.12.24 (see above). This is sufficiently up to date to allow for the robust assessment of the application.
139. Neighbour comments have raised concerns about the cost of land for off-site ecological mitigation, suggesting that the viability assessment is flawed because this cost has not been considered. It is the applicant's responsibility to present a case demonstrating viability constraints. This omission does not invalidate the viability review; it merely excludes a factor that could have further supported the applicant's case. All obligations, as summarised in this report, have been formally agreed with the applicant.

Landscape and Views:

140. 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 covered by any specific landscape designations.
141. Section 7.3 of the Frome NP sets out key objectives including protecting natural landscapes and preventing development on public open space.

142. Section 4 of the Frome Town Design Statement SPD includes a map of landscape, open spaces and public places.

143. The application has been supported by a Landscape and Visual Impact Assessment (LVIA), prepared by Foxford Design Chartered Landscape Architects. In relation to landscape effects, conclusions include:

'Views of the site will be seen from a limited number of publically accessible locations from the surrounding countryside to the north and close views in the immediate housing area. View in from the road on Cuckoo Lane and Iron Mill Lane are restricted by hedgerows to short glimpses, the effect will be less when hedges are in leaf, the visual effect will be minimal.

Far views from the footpaths in the north below Orchardleigh Ridge will see the northern boundary of the site in the context of Frome and will be experienced in a wider panorama of the landscape. The visual effect is assessed as minor.

The impact of the development will mostly be experience in near views. Near views from footpaths in the north will see the northern boundary of the site against the skyline. The visual effect will be moderate. Mitigation planting will lessen the effect in time.

View of the site will be glimpse from between the existing residential dwellings on Packsaddle Way and Leys Lane. These views, are assessed as having minor level of importance. The greatest impact on close views will be felt at the entrance to the site assessed as moderate, and at Pedlars Grove play area assessed as moderate to minor.'

144. These conclusions, which are informed by a thorough assessment of the landscape context and impacts of proposals, are broadly agreed.

145. The proposals would have an urbanising effect as a result of the built form of the 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.

146. The key matters to address are to ensure that the visual impacts are minimised, and any adverse effect is mitigated though an appropriate landscaping scheme. The submission demonstrates that the development would be set back from the southern boundary to soften and green the site entrance. The development would create linear areas of trees/planting and public open space with connections to the public right of way running to the north of the site.

147. Whilst there would be some landscape harm associated with developing a greenfield site, this needs to weigh in the overall planning balance. It is concluded the local and wider landscape impacts do not give rise to significant harm to justify refusal.

Design:

148. Policy H2 of the FNP requires proposals to enhance local character and accord with the Frome Town Design Statement (2015). Policy D2 of the FNP requires development to take account of the Frome Town Design Statement and the Frome Conservation Area Character Appraisal and Management Proposals (2008). The Frome Town Design Statement SPD is a comprehensive design guide that includes a summary of the context of the town as well as design guidelines, such as appropriate scale and density, retention of green spaces, protection for trees, etc.

149. 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.
150. In addition to the NPPF, the National Design Guide was published in January 2021 and 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.
151. The Council's Placemaking Principles were adopted in October 2024 following public consultation and are a material planning consideration. These principles set the Council's vision to create attractive, high quality environments that are inclusive and accessible for all.
152. The principles guide the Council's approach to transport and development planning, aiming to enhance the quality of life for residents by promoting active travel, reducing carbon footprints, and fostering community pride. The 10 principles are:
- Reduce the need to travel via private car.
 - Facilitate modal shift through multi-modal travel measures.
 - Integrate car and bicycle parking in a way that prioritises pedestrians and public realm.
 - Create an attractive, high-quality environment, incorporating green infrastructure into streets and public spaces.
 - Improve road safety for all users through street design, appropriate to the context.
 - Facilitate car-free school transport
 - Enhance accessibility and attractiveness through materials, street furniture and fixtures.
 - Plan lighting, waste storage/collection and other service infrastructure at an early design stage.
 - Provide safe connectivity within rural communities.
 - Engage key stakeholders early
153. The site itself consists of green fields with trees and hedging. There are a series of informal paths running through the site, as well as formal public rights of way on the northern and eastern boundaries.
154. The northern boundary of the site marks the edge of the settlement, and the land here slopes down to the north towards the countryside with a coarse grain of agricultural uses, development and lanes.
155. Quiet, suburban development to the east, south and west of the site is fine grain, set out in a formal cul-de-sac layout. Residential development is predominately made up of single storey and two storey detached and semi-detached dwellings. Materials include buff brick and render and tiled roofs. Dwelling designs include gable fronted and gable sided dwellings, asymmetrical forms and some dormer windows.
156. The River Frome runs in a vertical direction to the west of the site, and a water treatment facility is circa 1km to the west.
157. Further south (circa 1km) is the town centre, with historic core and a wide variety of facilities. Further east (circa 0.5km), west of Bath Road, is a collection of community

buildings with some associated green spaces, including a sports centre, collage, pre-school, hospital and doctor's surgery.

158. The proposed development would consist of 74 new dwellings, comprising of detached, semi-detached and terraces dwellings set out in perimeter blocks. The site would be accessed from Packsaddle Way, set back by two pockets of planted SUDS areas either side of the main entrance. The access road would lead to a horseshoe shaped road, terminating in private roads to the north.
159. The proposed children's home would be to the south west of the site, with dedicated car parking area, amenity space and planting.
160. As well as the two pockets of planted open space adjacent to the site entrance, linear public open spaces are proposed adjacent to existing and retained trees, together with a network of paths. Additional planting is proposed along the northern, north-eastern and western boundaries, with other planting proposed throughout the site.
161. The application has been supported by a Design and Access Statement which confirms the overall design approach thus:

'The result has been an evolved development that has a traditional, gentle grain derived from its medieval field patten. This pattern establishes clusters of homes interspersed with pockets of landscape, each connected with pedestrian scaled spaces and car free corridors. These corridors link the new homes firmly within their setting and neighbourhood. New designs for new styles of "Village" home, which work with traditional forms and within a limited but tonally significant palette. All of the new homes are low energy and harness low environmental impact construction, with a view to having a nature positive impact, and working towards enhanced biodiversity for the area.'

162. The Design and Access Statement goes on to summarise the design proposals thus:

'The design for these new homes has been influenced by the sites setting on the edge of Frome, the desire to create an articulated roofscape and create varied streetscapes where the building dominate rather than parked vehicles.

The built form proposed is well articulated, with variations in the building line creating spaces to store parked vehicles, areas of undercroft to "subsume" parked vehicles and the of gable forms and mono-pitched roof forms to add visual interest and avoid suburban monotony.

The variations in roof form of the new buildings, the use of elements of contrasting dark colour combined with pockets of retained and new planting disrupts the apparent mass and building lines to create a softer feeling streetscape.

The variations in roof pitch and eaves height keep the buildings at a pedestrian scale, especially where they define the central green-way. The saw tooth arrangement of the rooflines further breaks up the visual massing of the development, allowing views through to the retained landscape across the site.

Buildings have been sited to provide active frontages to the public realm, and certain plots have first floor living accommodation to provide enhanced natural surveillance over key areas within the site.

All new homes are provided with secure cycle storage and these have been located in convenient but secure locations on each property.'

163. Proposed materials include the following, as summarised in the submitted Design and Access Statement:
- 'The proposed bricks are the Crest "Harewood Blend" or similar, with a light sand mortar and the Marshalls "Islington vintage" or similar, with a dark contrasting mortar. The roof tiles are either the Redland Mini-Stonewold Tile in smooth premier black, or the Sandtoft Calderdale Edge tile in light grey. The vertical boarding is the Cedral Click composite board with woodgrain in Black (C50). Window frames are in dark anthracite upvc with black rainwater goods, fascias and soffits. The materials are proposed be used throughout the site irrespective of the homes tenure or size.'*
164. Boundary treatments are summarised in the submitted Design and Access Statement thus:
- 'Boundaries are carefully defined using landscaping, existing retained hedgerows, new Devon banks, 1800mm high close boarded fences (1500mm high with trellis to provide overlooking of parking spaces), and 1800mm high walls. Front boundaries are a mixture of estate railings or hedges with timber knee rails. No fences are used on the primary interface with the public realm. The walls are made of matching brick with a simple brick capping detail.'*
165. 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
166. In line with the provisions set out in the NPPF and the local plan, higher densities will be considered in appropriate locations, where the local context allows, and any impacts can be satisfactorily mitigated. The density of the development would be higher than the existing large detached dwellings on the western boundary along Leys Lane and other nearby development on Packsaddle Way and the nearby surrounding area. The density proposed within the current application is on average 22 dwellings per hectare (excluding the children's home). This is considered acceptable in this edge of town location. There is sufficient green infrastructure including open space and a network of paths through the site.
167. The entrance of the site would be green, with public open space either side of the main entrance and a view through the public open space to the north. There are high levels of planting proposed throughout the development, as well as a landscape buffer on the northern boundary. These features would help to integrate this transitional site between the countryside edge and the suburban edge of Frome.
168. Varied house types add a level of interest and variety in the proposal, and successfully reflect and enhance the design characteristics of the local area, including a mix of roof forms (gable fronted and gable sided), and material palette.
169. As well as active frontages on key corner plots, many proposed dwellings would face the central area of public open space, which would allow for increased social interactions and natural surveillance.
170. Public comments have outlined concerns in relation to design, including building heights and density. Although there are some single storey dwellings south of the application site,

the local character is also made up of two storey dwellings, and the building heights proposed (largely 2 storey with some single storey, 1.5 storey and 2.5 storey) is considered acceptable in this context.

171. The existing site includes a network of informal paths through the site (which are essentially on private land with no public right to access). Although this would be alongside significant development, the proposed development would secure a network of publicly accessible paths through the site in perpetuity, adjacent to high levels of planting, connecting to the existing public footpath network.
172. Dwellings include bin and cycle storage facilities, as well as waste storage and collection areas and water butts for rainwater harvesting.
173. Following detailed discussions with the applicant as part of the pre application stage amendments to the design have evolved, which would maximise the planning outcomes. The applicant has been proactive in discussions to maximise design outcomes.
174. There are some outstanding issues associated with the proposed development including:
 - Small gardens on some of the plots, and some plots appearing tight (e.g. plots 33 and 34)
 - Pressure on trees (see tree section below)
 - Some larger areas of parking
175. These matters should be considered in the overall balance. Benefits and harms of the design have been identified. On balance, the design is considered acceptable within the tilted balance, and harms are not considered significant and demonstrable.
176. Permitted development rights should only be removed where it is clearly reasonable and necessary, in accordance with guidance contained within the NPPG, and then only when the rights to be removed are clearly defined. In this case, it is considered reasonable to remove permitted development rights for development in the roof, extensions and outbuildings for plots 1-13, 62-65 and 68-74. This is to control the impact on any neighbours in relation to design and amenity, as well as reduce pressure on trees/vegetation.
177. The Design and Access Statement (DAS) includes a Crime and Disorder Statement which outlines the design considerations. The Designing Out Crime Officer has made a number of comments on the detailed design in relation to reducing crime and fear of crime, with reference to Secured by Design guidance. Such matters need to be balanced against other factors such as character and appearance and ecology. Many of the recommendations have already been included in the design, such as public open spaces demarked by low level boundary treatments, maximising natural surveillance and minimising fence climbing opportunities. Considering the measures taken, as outlined in the submitted DAS, the application is concluded to be acceptable in this regard. A condition is recommended to agree lighting details, which will need to be balanced between crime prevention and ecology.
178. A materials condition is recommended to control the finish and ensure the development integrates to its setting. A further condition is recommended requiring boundary treatment details to be delivered in accordance with the submitted details.
179. Through the life of the application, a revised layout plan was submitted showing two picnic benches located in the community orchard, which would enhance opportunities for community connections. It is recommended these are secured via the S106.

180. As outlined above, assessment of the loss of the site as a green space is required against policy DP1 of LP1. Detailed discussions have been undertaken with the planning policy team, who has confirmed there is no in principle policy objection to the proposal, and that the application needs to be considered under the tilted balance. Many consultation comments have outlined the value the local community award this site. It clearly has value in relation to the setting of the town and locality, green and open space, amenity space for walking and other leisure activities and connections to the open countryside to the north. It is noted that there is no legal right to access the site. However, the site is not highly prominent in the local street scene from public views on Packsaddle Way and areas to the south, east and west. It is more prominent in views from the north, including the PROW. The site is abutted by suburban residential development on three sides. The topographical change beyond the northern boundary of the site distinguish the site from the open countryside to the north. The proposal includes high levels of planting, including retained trees and new planting. There are generous areas of open green space within the site which would help to integrate the site to the open countryside further north. A high quality network of paths within the site, linking to the adjacent PROW network would provide benefits to future occupants as well as nearby occupants who are currently using the site on an informal basis. Although the character of the site would be significantly altered by the development proposed, the site would retain green space and green infrastructure benefits, in line with the Greenspace SPD and DP1. It is concluded that the proposal meets the policy requirements set out in DP1 and the Greenspace SPD.
181. In conclusion on this matter, on balance the proposal by reason of its design, detailing, siting, scale, massing, layout and materials is acceptable and contributes and responds to the local context and maintains the character and appearance of the surrounding area. The proposal accords with policies H2 and D1 of the FNP, the Frome Town Design Statement, policies DP1 and DP7 of the adopted Local Plan Part 1 (2014), the placemaking principles set out in Creating Places for People and part 12 of the National Planning Policy Framework.

Disabled Children's Home:

182. LP1 policy DP14 covers specialist accommodation that meets an identified local need. This would usually be expected to be delivered in accordance with the spatial strategy. Where proposed outside development limits, proposals should be proportionate in scale to the locality.
183. The proposed development includes a disabled children's home on the western side of the site. This is a single storey detached building with separate parking and amenity area. Plans show three bedrooms for disabled children as well as 2 staff bedrooms. Other accommodation includes a living room, a kitchen/dining room, snug, office and laundry.
184. Following informal discussions with the estates team, it is understood that this building would be used for short term care of disabled children. Following discussions with officers in the children's department, the following is understood:
- Each child would likely stay 1 or 2 nights.
 - Although there is capacity for 3 children at any time, there may be fewer occupants depending on demand.
 - Staffing levels are understood to be 6 during the day and 3 during the night.
 - The number of visitors has not been quantified.

185. Paragraphs 7.10-7.15 of the submitted Planning Statement states there is a need for such a facility in this area. Neighbour comments have stated that this element of the proposed development should only be supported where a need has been substantiated. It is noted that the site is outside the development limits where development would not normally be encouraged. The application has been advertised as a departure from the local plan. Paragraph 101 of the NPPF states:
- 'To ensure faster delivery of other public service infrastructure such as health, blue light, library, adult education, university and criminal justice facilities, local planning authorities should also work proactively and positively with promoters, delivery partners and statutory bodies to plan for required facilities and resolve key planning issues before applications are submitted. Significant weight should be placed on the importance of new, expanded or upgraded public service infrastructure when considering proposals for development.'*
186. Although such development would ideally be located within the settlement limits, this is coming forward as part of a larger development proposal, with a developer in place to potentially build out the facility – making its chances of deliverability greater.
187. Notwithstanding the financial emergency that Somerset Council has declared, further discussions with officers in the estates team have confirmed that there is a budget in place to support this development. It is possible that funding could be used to facilitate other development, and there is no certainty that the development proposed here would be delivered.
188. The agent has confirmed the applicant has a contractual agreement with the estates team at Somerset Council. In the event that planning permission is granted, the estates team has 60 days to confirm if the disabled children's home is required. If confirmed to be required then the applicant is required to build the shell of this building, with the estates team being responsible for the fit out and operation.
189. A summary of the assessment of the impact of the development is set out throughout the relevant sections of this report. Overall, the proposal is considered acceptable, including in relation to design, amenity, drainage, highways, etc. Although visitor levels have not been detailed, the level of parking is concluded to be acceptable (see parking section within this report).
190. The applicant has stated there is a local need for the children's home proposed, which has been corroborated by informal comments from the estates team within the Council. Although outside, the proposal would be adjacent to the development limits of Frome, which is a principal settlement. With capacity to accommodate a maximum of three children at any time, this scale is concluded to be proportionate to the locality. As such, the policy tests set out in DP14 have been met.
191. The delivery of a disabled children's home has benefit in the planning balance, as this represents a positive asset for the local community. This benefit is reduced because the site is outside (albeit adjacent to) the development limits of Frome. There is no known policy requirement to demonstrate the need for this facility.
192. The applicant has not agreed to include delivery of this facility within the S106. As there is no planning mechanism to secure delivery of this element of this scheme, it carries very limited weight in the planning balance.

Public Open Space:

193. Parts 2 and 3 of 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.

194. Comments from Frome Town Council have referred to a shortfall in the local area, as set out in the Mendip District Council Open Space Study of 2012. Comments from Natural England have also identified a local shortfall in open space provision.
195. The agent has confirmed that on-site public open space (excluding drainage areas) totals 8,027m², which is 24% of the application site.
196. The public open space proposals include footpaths through the site and connecting the existing PROW network and a community orchard. Overall, the design and layout are considered to accord with relevant design policy. There are opportunities for community interactions and many overlooked areas of green infrastructure.
197. DP16 requires development to make provision for formal public open space (POS) on the basis of the National Playing Field Association's (NPFA) long standing standard of 2.4ha of new space per additional 1,000 people. Based on this standard and an average dwelling occupancy of 2.3 persons per dwelling, this equates to approximately 170 people living on-site (2.3 persons x 74 dwellings) meaning that the required area of POS, based on the proposed population of the development, is 0.4ha (2.3ha/1000 x 170). This calculation excludes the home for disabled children, which has a separate private amenity area. The area of public open space proposed is approximately 0.8ha, which is well in excess of this requirement (and could adequately address the on-site POS requirement associated with the proposed dwellings as well as the disabled children's home).
198. In the event that the disabled children's centre is not delivered, any alternative proposal would need to be considered on its merits.
199. It is recommended the S106 agreement includes delivery and ongoing maintenance of the on-site public open space. There is also a recommended condition requiring compliance with the agreed Landscape Ecological Management Plan (LEMP) (see ecology section below).
200. '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). The application does not include a LAP, LEAP or MUGA.
201. The Council's Greenspace SPD (adopted in 2023) confirms that; '*Where, exceptionally, it is not possible to provide formal or informal greenspace on site the contributions of £1364.20 per dwelling for off-site provision will be expected.*'
202. Given the context and constraints of the site and its location, it is concluded that off-site contributions would be appropriate as an exception. It is noted that the site is in close proximity to an existing playground. Accordingly, in this case, contributions towards enhancement of existing formal play equipment are considered more appropriate than provision of a further on-site play park.
203. Contributions towards off-site provision would be to the sum of £100,951 (74 x total off-site MDC POS contribution fee of £1,364.20 per dwelling). This has been factored into the viability assessment and agreed by the applicant.
204. In conclusion on this matter, the onsite POS proposed on the site together with offsite contributions are considered acceptable in relation to open space and compliance with

DP16 of LP1 and section 7.3 of the FNP.

Trees, Woodland and Landscaping:

205. There are a number of trees and hedgerows on the application site which make a positive contribution to the character and appearance of the local area. No ancient or veteran trees (as per the definition in the NPPF) have been identified on the site.
206. The application has been supported by an Arboricultural Impact Assessment (AIA) and Arboricultural Method Statement, both prepared by GE Consulting.
207. The Tree Officer has commented on the application. Although comments have not been confirmed as an objection, concerns have been raised. The Tree Officer has confirmed the submitted AIA gives a fair appraisal of the arboricultural issues associated with the proposed development. Particularly notable trees are T26 Oak (A) and T31 Ash (B) – which are both proposed to be retained.

Trees for Removal or Works

208. In terms of tree loss, no category A trees are proposed for removal. Table 3 of the AIA confirms a number of trees, all within category B and C, to be removed.

Table 3: Extract from Submitted AIA – Proposed Tree Removal

Table 3: Required Removal of Arboricultural Features

Arboricultural Feature	Species	Category	Quantity	Justification/Mitigation
G4	Hawthorn, Elder	C	Whole group	Low value trees. Additional trees to be planted across Site.
T5	Hawthorn	C	1	
T7	Staghorn Sumac	C	1	
G8	Elder	C	Whole group	
G12	Hawthorn	C	Whole group	
T13	Hawthorn	C	1	
T14	Plum	C	1	
G24	Hawthorn, Elm, Elder	C	1 Section	
G27	Elm	C	Whole group	
G35	Hawthorn, Elm, Elder	C	1 Section	
G41	Silver birch, Goat willow	B	Whole group	
G42	Hawthorn, Elder, Elm	C	1 Section	
G44	Sycamore, Elm	C	Whole group	

209. Works to other trees to facilitate the development is also set out in table 4 of the AIA:

Table 4: Extract from Submitted AIA – Proposed Tree Works

Table 4: Required Pruning of Arboricultural Features

Arboricultural Feature	Species	Works Required	Reason
T3	Ash	Reduce lateral growth by 1.5m	Allow construction and use of Plots 6 and 7.
G11	Hawthorn, Elder, Norway maple	Reduce lateral growth by 1m east	Allow construction and use of footpath.
G15	Hawthorn, Elder	Reduce lateral growth by 1m north	
H16		Reduce lateral growth by 1m west	
G24	Hawthorn, Elm, Elder	Reduce lateral growth by 2m west.	
G32	Hawthorn, Blackthorn, Sycamore	Reduce lateral growth by 2m south.	
G34	Hawthorn, Elm, Blackthorn	Reduce lateral growth by 1m south.	All construction and use of Plot 26.
G35	Hawthorn, Elm, Elder	Reduce lateral growth by 1m north.	Allow construction and use of footpath.
G38	Sycamore	Crownlift to 6m west.	Allow construction and use of Plot 34.
		Reduce lateral growth by 2m west.	

- 210. The Tree Officer has referred to green corridors, which would be altered through some tree removal. This would alter the site in relation to public amenity and historic field boundaries. However, high levels of replacement planting are proposed (see below on replacement planting).
- 211. Ecological impacts of this have been considered by the Ecologist, and a summary of the assessment of impacts is set out in the ecology section of this report.

Protections for Retained Trees

- 212. The AIA confirms that any proposed footpaths in the root protection areas (RPA's) of retained trees will be designed and constructed using 'no-dig' methods to safeguard that RPA – e.g. cellular confinement system, permeable materials.
- 213. The AMS sets out proposed protection measures for retained trees, including a Tree Protection Plan drawing and protective fencing specifications to safeguard the retained trees during construction.
- 214. The applicant has proposed a covenant on future occupants on the south western boundary of the site (plots 71-74) which would control works on G42(C) and T43(B). It is recommended this is included within the S106 legal agreement.
- 215. Although the Tree Officer has queried whether G41 is on the site, suitable tree protection measures are shown on the Tree Protection Plan.

Pressure on Retained Trees

- 216. In relation to shade and impacts on the proposed development, table 5 of the AIA sets out the shade impacts on some of the plots.

Table 5: Extract from Submitted AIA – Shade

Table 5. Shade Created by Retained Trees

Arboricultural Feature	Shading constraint	Mitigation/Justification
T3	Southern elevation of Plot 7 during early stages of the day.	Shade free for majority of the day.
G6	Up to 25% of rear gardens of Plots 7 and 8 during latter stages of the day.	75% shade free for entire day. Entirely shade free during early part of the day.
T9	Up to 10% of rear garden of Plot 13 during latter stages of the day.	90% shade free for entire day. Entirely shade free during early part of the day.
T26	Up to 50% of rear garden of Plot 60 during early stages of the day.	50% shade free for entire day. Entirely shade free during latter part of the day.
	South-eastern corner of Plot 60 during early stages of the day.	Shade free for majority of the day.
G42	Up to 15% of rear garden of Plots 74 during the stages of the day.	85% shade free for entire day.
T43	Up to 100% of rear garden of Plots 73 and 74 throughout the day.	Dappled shade cast by birch will not constrain usage.
	Southern elevation of Plot 73 during early latter of the day.	

217. Part 5.7 of the AIA considers tree nuisance issues thus:

‘The proposed footpaths will lie beneath or adjacent to retained trees and therefore, may require regular sweeping/clearing to ensure they remain free of leaf debris build-up during the autumn. Such tasks can be included within the site wide management plan and fall under the remit of the appointed management company.

The rear gardens of Plots 7 and 8, 13-19, and 26-34 will lie beneath or adjacent to retained trees and will therefore be subject to seasonal nuisance. Therefore, residences should be provided with green waste collection bins to provide a means of disposal for the leaf litter during the autumn.’

218. Part 5.8 of the AIA also considers potential pressure on trees as part of the development. The AIA recommends regular and professional pruning to reduce such pressure. T26, which was subject to provisional TPO protection (see below) is not included in the list of trees identified in the AIA as subject to such pressure. The AIA also recommends such plots are provided with garden bins for leaf drop in the autumn.

219. The Tree Officer has outlined concerns in relation to potential pressure on some of the retained trees, including plots 26-24 where tree canopies are shown within private gardens. This was also identified as part of the design assessment. Pressures could come from shade, leaf fall (including seeds) and fear of parts of the trees falling and damaging property or people.

220. Following discussion with the applicant team regarding concerns in relation to pressure on trees, the following response was received:

‘In relation to the comment on pressure on trees, the overarching design ethos for the site is to provide a strong natural infrastructure within the site communally managed. The site layout has been designed to provide a balance between private and public space, working to retain and enhance the existing natural habitats and green assets whilst providing a safe, secure and pleasant residential environment and making the best use of a sustainable site.

The canopy of the trees behind plot 26-32 are set back from the houses; the hedge and trees are outside of the gardens and will be managed by (Live West / the management

company); and most of these properties owned by Live West, so combined will provide control to any work being carried out to the trees.

To the rear of plots 63-67 the trees are new trees outside of the gardens. Those trees those nearest to the plots fence line are birch, a light canopy species, chosen to lessen any impact on the gardens whilst providing a longer-term canopy to filter screen the neighbouring property.

At Plot 71-74, the hedge will undergo initial management in order to retain the hedge within the rear gardens and restrictive covenants put in place to retain the feature for the future.'

221. As outlined above, some permitted development rights to some of the plots are proposed to be removed in order to reduce pressure on trees.
222. Overall, it is concluded that this issue has not been overcome, and the development would likely result in some pressure from future occupants. Whilst the trees considered under pressure are not formally protected, they offer a high value (both individually and cumulatively) to the character of the local area, which has been noted in the Greenspace SPD. This is a harm that needs to be weighed in the planning balance. Considering the generous levels of new planting proposed, the harms associated with this pressure are not concluded to be significant and demonstrable.

New Planting

223. A package of generous new planting is proposed including 175 new trees, which is concluded to mitigate for the harm associated with these lost trees. The resultant scheme would incorporate high levels of greening including at the site entrance, northern boundary with associated interface with the adjacent countryside, and network of green spaces within the development.

Provisional TPO

224. A provisional tree protection order (TPO) was placed on an English Oak (*Quercus robur*) within the site on 11 June 2024.
225. There was a six month time limit for the Council to either confirm, modify or not confirm the TPO, which is informed by consultation.
226. This is further clarified in the two extracts below from the national practice guidance: 'Tree Preservation Orders and trees in conservation areas':

'An Order comes into effect on the day the authority makes it. This provisional effect lasts for 6 months, unless the authority first either confirms the Order to provide long-term protection or decides not to confirm it.'

'Authorities can only confirm an Order within a 6 month period beginning with the date on which the Order was made. If this deadline is missed and an authority still considers protection necessary it will have to make a new Order.'

227. The national practice guidance also sets out the implications for planning applications, including:

'When granting planning permission authorities have a duty to ensure, whenever appropriate, that planning conditions are used to provide for tree preservation and planting. Orders should be made in respect of trees where it appears necessary in connection with the grant of permission.'

228. This provisional TPO expired on 11 December 2024. Although the provisional TPO was not confirmed by the Tree Officer, the Tree Officer has verbally stated that he is minded to reissue the provisional TPO with a view to confirming it.
229. Part 5.4 of the submitted AIA confirms there would be very minor works near this tree (known as T26 in the AIA and AMS):
- 'The proposed park bay for Plot 61 will encroach into the root protection areas of tree T26 by < 1 % of the trees total root protection area.'*
230. The AMS also sets out temporary ground protection measures in RPAs, including T26. The Tree Officer notes that effects of parking for nearby plot 61 would not be significant, and no objection has been submitted on this basis.
231. Following publication of the provisional TPO, the applicant confirmed the protected tree would be retained with suitable protections proposed as part of the development:
- 'Our arboriculture consultant has reviewed the TPO and can confirm that the Oak tree which is now protected will be retained within the development and will not be impacted. The tree is noted as T26 in the 'Arboricultural Impact Assessment' accompanying our application.*
- The 'Arboricultural Method Statement' (ref: Ref: 1613B-AMS-MU and attached for reference) gives relevant protection measures to prevent construction impacting T26, with the provision of tree protection fencing and temporary ground protection.'*
232. It is concluded that although the provisional TPO has expired, this is a high quality tree which is worthy of formal protection. Subject to the inclusion of standard conditions, this high quality tree would be protected through the development.
233. The Tree Officer comments refer to reviewing trees forming both of the linear features on the site for TPO purposes as a precautionary measure. Other than the TPO on T26, no other TPOs have been registered on the site.

Overall Conclusion on Trees

234. Although some of the trees on the site are proposed to be removed to facilitate the development, and some others are concluded to be subject to potential pressure from future occupants, the proposal is concluded to be acceptable within the tilted balance – considering the substantial new planting proposed, including 175 new trees.
235. In conclusion on this matter, the proposal accords with policies DP1 and DP4 of the adopted Local Plan Part 1 (2014) and part 15 of the National Planning Policy Framework, including para 136.

Impact on Ecology:

236. The application site is a greenfield site with trees and hedgerows. The site is within the SSSI Impact Risk Zone and in proximity to Mells Valley Bats Special Area of Conservation (SAC) – band B.
237. The application has been supported by a biodiversity checklist, an Ecological Impact Assessment (EIA), a Lighting Impact Assessment (LIA), Habitat Evaluation Process (HEP) calculations, a shadow Habitat Regulation Assessment (sHRA) and a Habitat Evaluation Process Mitigation Plan (showing the location of offsite bat habitat mitigation).

238. Following survey and assessment work, the EclA confirms the site includes habitat suitable for a range of protected and notable species, including breeding birds, reptiles, dormice and commuting/ foraging bats.
239. The EclA includes a number of recommendations, including construction protection measures. The EclA also confirms the following mitigation/enhancement measures are included in the proposal:
- *'Tree protection fencing will be installed prior to the commencement of construction to protect all retained hedgerows and trees.*
 - *Staged habitat removal will be conducted to encourage reptiles, hedgehog and amphibians to move off site prior to construction commencing.*
 - *No vegetation to be removed during the nesting bird season (March to August inclusive, unless checked prior to removal by a qualified ecologist)*
 - *Enhancement of retained native species hedgerows and planting of new native species rich hedgerow throughout the Site;*
 - *Landscaping to include wildlife-friendly and native tree planting within the Site;*
 - *Inclusion of species-rich grassland, a new orchard, and a variety of SUDS features within substantive area of POS;*
 - *Hedgerows and trees will be retained and protected with an appropriate buffer in design around root protection areas; in line with BS5837:2012;*
 - *Wildlife sensitive lighting scheme implemented in line with 'Bats and Artificial Lighting in the UK (ILP & BCT, 2018' to ensure minimal light spill onto the boundaries and maintain the sites attraction to foraging bats and other nocturnal species;*
 - *A Construction & Environmental Management Plan (CEMP) to be implemented in order to avoid and mitigate environmental impacts during construction; and*
 - *Bird and bat boxes will be installed on the new dwellings as well as on retained trees to increase roosting and nesting opportunities across the site. This includes provision of a barn owl box on a suitably mature retained tree in the north east corner of the Site;*
 - *Habitat piles will be created in areas of POS to increase invertebrate diversity and provide a resting/hibernation place for reptiles and amphibians.'*

Landscape and Ecology Management Plan (LEMP)

240. A Landscape and Ecology Management Plan (LEMP) has been prepared by the applicant, which is also confirmed to be acceptable. This sets out the mitigation strategy, including an ecological clerk of works, and precautionary construction methods. This sets out the on-site enhancement measures including:
- *'50 bird boxes on dwellings and 5 bird boxes on retained trees will be installed across the Site.*
 - *A barn owl box will be installed on a suitably mature retained tree in the north east corner of the Site.*
 - *24 bat boxes will be installed in suitable locations on the dwellings across the Site.*
 - *Hedgehog Passes to be created within each garden boundary fence to enable movement around the site post-development.*
 - *20 Bee bricks to be incorporated into the design of new buildings.*
 - *Three bee towers installed in suitable areas of retained and enhanced habitat.*
 - *Two reptile hibernacula/habitat piles to be created to provide suitable habitat for a range of species.*
 - *Dark corridor for nocturnal species created along the eastern boundary of the site linking to the central hedgerow, new orchard planting and northern hedgerow corridor.'*

241. In relation to hedgerow, c.310m is proposed to be removed, with replacement planting across the site resulting in a net gain of 20 linear meters. 175 new trees are proposed, including within the public open space and community orchard.
242. The LEMP includes a timetable for implementation and management specification for five years. It also includes a planting schedule and a precautionary approach to vegetation removal for reptiles. Following discussions with the applicant, and the submission of amended versions of the LEMP, the ecology team has confirmed it is acceptable.

Lighting

243. A lighting assessment has been undertaken by The Lighting Bee. This was updated through the life of the application, to address comments received by the ecology team and Natural England. A supporting note on lighting was also submitted in December 2023 to complement the updated lighting assessment. This sets out the lighting strategy for the site. Bat mitigation measures are summarised in the LEMP thus:

'Bat Mitigation Strategy

- *The northern and eastern boundaries were identified as occasionally used bat corridors for light sensitive bat species and will be kept dark for commuting and foraging bats as detailed in the Lighting Impact Assessment (The Lighting Bee 2023);*
- *Lighting within the POS will only be used where it is required and lighting intensity and column height will be the minimum necessary for purpose;*
- *Any lighting should be directed away from boundary features into the Site;*
- *Exterior light levels should be kept to a minimum using only the amount of light needed for safety and this should ideally be triggered lighting so that it is not on constantly;*
- *Lighting columns should be at a low height and the use of bollard lights should be considered;*
- *No light sources should be pointing upwards. The spread of light should be kept near to, or below the horizontal;*
- *Light-spill should be reduced so that light reaches only areas needing illumination;*
- *Shielding or cutting light can be achieved through the design of the luminaire or with accessories, such as hoods, cowls, louvers and shields to direct the light;*
- *Only narrow spectrum bulbs should be used to lower the range of species affected by lighting.'*

244. Detailed lighting controls have been developed for specified plots within the proposed development.
245. Overall, and following the submission of updated lighting information and consultation with the ecology team and Natural England, the impact of proposed lighting is concluded to be acceptable – subject to the inclusion of the lighting condition as recommended.

Biodiversity Net Gain

246. The national requirement to achieve at least 10% biodiversity net gain (BNG) came into effect after this application was submitted. Therefore, this is not required. Local and national policy therefore require no loss of biodiversity, and some benefit.
247. The submission confirms the following in this regard:

'Overall, the development will result in a net gain on biodiversity, provided the mitigation and enhancements are undertaken in accordance with this report. The Biodiversity Net Gain assessment using the Defra Metric 4.0 has confirmed that the development as

proposed at outline can result in a net gain for biodiversity both in terms of habitats (+4.69%) and hedgerows (+7.30%).'

248. Following detailed consideration by the ecology team, this has been accepted and agreed.
249. The submitted biodiversity net gain information has been considered by the Somerset ecology team and Natural England.

Habitats Regulations Assessment

250. The submission confirms that the proposal represents a loss of bat habitat quantified at 13.09 habitat units / 0.73 equivalent hectares as explained in the sHRA thus:

'The proposed development would result in direct loss of 2.93ha of improved grassland, 0.157ha of bramble scrub and 0.04ha of self-set scrub woodland. Whilst only discrete sections of hedgerow are to be lost (at existing field gates etc), it is considered possible that development proposals may deter bats from utilising internal hedgerows which bisect the Site in the absence of mitigation. The hedgerows around the Site periphery will remain structurally viable as a flyway and would continue to provide access to the newly created habitats throughout the proposed development. While GHB will cross gaps in flight lines of up to 12 to 15 meters even when there is a low level of street lighting (Billington, 2000), street lighting and other forms of artificial lighting could also effectively prevent access for bats to commute through the development site, either between roosts or to foraging ground elsewhere.'

251. The Somerset ecology team has agreed off site mitigation is suitable in this case, resulting in no adverse impact in relation to BNG. A parcel of land north of the site is proposed to be enhanced as summarised in the sHRA thus:

'... The proposals would seek to improve this grassland through supplementary planting and management to provide the shortfall in HEP score. Assuming that this grassland is enhanced to Semi-Improved Grassland, with some broadleaved individual field tree planting and managed as Non-Amenity Grassland (i.e. for biodiversity purposes) would provide 2.09 equivalent hectares. Overall this would result in a Gain/Deficit of +0.09.'

A Landscape and Ecological Management Plan (LEMP) has been produced (GE Consulting 2023) detailing the methods and strategies to manage the new grassland areas, new and retained hedgerows, SUDS features, orchard, mixed scrub and tree planting as described above, as well as providing details of the funding mechanisms and timescales for management. As required by the 'Guidance on Development', habitats will be managed for GHB and BNG in perpetuity.'

252. In relation to impact on the SAC, the sHRA concludes thus:

'Subject to the proposed development being undertaken in accordance with the mitigation detailed above, including the HEP calculation, BNG, the implementation of a sensitive lighting strategy and LEMP, these measures are considered sufficient to ensure that the construction and operation of the proposed development does not, either alone or in combination with other plans or projects, give rise to any adverse effects on the integrity of the Mells Valley SAC.'

253. In relation to the Habitats Regulations Assessment, the ecology team has confirmed that it agrees with the conclusion that any development impacts would 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 Valey SAC site either alone or in combination with other plans or projects. The Council, as the competent authority, has adopted the sHRA to fulfil its responsibilities under Regulation 63 the Conservation of Habitats and Species Regulations 2019 (EU Exit) (as amended). This has been reviewed and agreed by Natural England.

Conditions and Obligations

254. The technical documents submitted with the application have all been accepted by the Council's ecology team and, where relevant, Natural England. The sHRA includes various mitigation measures, and this document has been agreed subject to inclusion of this mitigation. The other technical documents include mitigation and recommendations which have also been the basis of agreement by the ecology team. It is therefore important all these mitigation measures and recommendations are secured as part of any planning permission.
255. The S106 legal agreement is recommended to include provision for the 1.02ha off site bat mitigation habitat (as shown on the Habitat Evaluation Process Plan, received 22.02.23), as this land is outside the red or blue lines of the application site. This is recommended to include details of delivery and management to be agreed with the local planning authority.
256. The ecologist has recommended the S106 legal agreement also include a requirement for a new Landscape and Ecological Management Plan (LEMP). Standard wording is suggested, which is usually used when an application does not include a LEMP within its submission. In this case, the submission includes a LEMP which has been subject to detailed review and consideration by the ecology team. As such, the requirement to submit another LEMP is not necessary. Instead a compliance condition is recommended, requiring the development to accord with the agreed mitigation measures and recommendations set out in the LEMP.
257. The ecologist has also recommended a condition requiring a construction environmental management plan (CEMP: Biodiversity) to be submitted and agreed prior to any construction taking place. This is recommended in the LEMP, which also sets out the matters to be incorporated. This is a standard condition for major development schemes, to ensure appropriate ecological measures are in place during construction, and is therefore recommended accordingly.
258. The condition recommended by the ecologist regarding protections for trees and hedgerows has been addressed via the trees section of this report, with associated recommended conditions, so duplication of these requirements is not necessary.
259. The ecology team has further recommended a lighting condition, requiring compliance with the approved lighting strategy. This is duly recommended, with minor wording edits for clarity and consistency with other permissions.
260. The ecologist has also recommended the following conditions:
 - A condition requiring identified trees for removal are checked by an ecologist for potential bat roosts prior to felling.
 - A condition controlling reptile protections during construction.
 - A condition to check for badgers prior to any construction.
 - A condition setting out precautionary measures to protect birds and hazel dormice as part of the construction phase, including vegetation removal.

261. It is noted that survey work did not identify the presence of badgers or dormice. These conditions have been recommended by the ecologist as a precautionary step, as the site includes suitable habitat for such species, which could occupy the site after the completion of the surveys. All of these precautionary matters are set out by the applicant in the EclA/LEMP, therefore a condition requiring compliance with the measures committed to in these documents is more appropriate than four additional standalone conditions. Measures set out in the EclA/LEMP also include protections for other species, including hedgehogs and amphibians.
262. The nesting bird condition recommended by the Ecologist is covered by other legislation, therefore an informative is included instead, reminding the developer of their statutory obligations in relation to nesting birds. Further informatives are recommended reminding the developer of the legal protections afforded to badgers and dormice.
263. Finally, the ecologist has recommended a condition specifying on-site biodiversity enhancements, including bird boxes, bat boxes, bee bricks and bee towers. On-site biodiversity enhancements have been set out in the LEMP, including specifications and installation arrangements. The LEMP has already been agreed by the ecology team. A condition specifying the details is therefore not reasonable and this can be covered by the condition requiring implementation and compliance with the EclA and LEMP.

Baseline Assessment and Survey Work

253. Some neighbours have referred to potential inaccuracies in the baseline position put forward, through works on-site that have undermined the habitat quality prior to assessment of the baseline position. The local neighbours have appointed an ecologist who has questioned the surveys effort and conclusions including on the basis that the site was degraded. Neighbours submitted photographs to the local planning authority/ecology team stating that habitat was being removed at the site. This was urgently referred to the planning enforcement team for investigation. The applicant (LiveWest) confirmed it had no involvement in this matter. Discussions with the estates team confirmed that works had commenced on the site to repair a water pipe and install a water trough for grazing animals, and this involved some modest removal of vegetation. The estates team confirmed that the removed vegetation was weed, and that this was checked for nesting birds before it was removed. Following enforcement investigations, including a site visit, the conclusion of the planning enforcement team was that the works technically required prior approval. As the lawful use of the site is agriculture and these works are associated with this use, as well as being minor, it was not considered expedient progress enforcement action. The estates team was informed of this outcome and strongly advised to formally agree any future works. The ecology team was aware of these investigations, discussions and conclusions.
254. The assertions that the site has been degraded to undermine the conclusions of the baseline ecological conclusions cannot be justified on the basis of these minor works and vegetation clearance. There is no conclusive evidence to justify the claims that the site was degraded to undermine the baseline conclusions.
255. The ecological reports to support this planning application have been prepared by GE Consulting, which is a specialist ecological consultancy. The technical documents submitted, including EclA, sHRA and LEMP all confirm they accord with the relevant code of professional conduct and British standard:

'The content of this report that has been provided by GE Consulting is true, and has been prepared and submitted in accordance with the Chartered Institute of Ecology and Environmental Management's Code of Professional Conduct. Its contents are compliant

with British Standard BS42020: 2013 Biodiversity Code of Practice for Planning and Development.'

256. The applicant has confirmed the technical ecological have been prepared by a professional ecologist in an appropriate way:

'...Our ecologist has undertaken surveys in the site over a considerable period of time, they are well experienced in preparing sHRAs and the report has been signed off by the Councils ecologist and Natural England...'

257. Although neighbours have disagreed with the survey methodology, and referred to comments from their own ecologist, the survey work has been accepted by the ecology team and Natural England.
258. The submission has been considered and accepted in good faith. It is concluded to be acceptable by both the ecology team and Natural England. The neighbours have put these objections to Natural England and no further comments (including objections) have been received.

Ecology Conclusion:

259. A number of measures have been recommended, including retaining and enhancing hedgerows. A series of recommendations are also set out in the EclA/LEMP regarding protection measures during construction and mitigation/enhancement measures e.g. reptiles and hedgehogs.
260. Subject to the inclusion of conditions and obligations as recommended, the proposed development will 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.

Impact on Residential Amenity:

261. Policy DP7 of the LP1 states that new development should protect the amenities of neighbouring occupiers and users 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.
262. 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.
263. Distances from houses are adequate to confirm there is no significant harm to neighbour amenity. Plans show distances generally at least 20m can be achieved from rear windows of existing properties.
264. Within the proposed development itself, due to the siting, design and overall layout it is considered that the inter relationship between future occupants and their residential amenity is acceptable. Plot distances and windows are adequately designed in this regard.
265. 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 established that this alone is not a reason to withhold planning permission.

266. Permitted development rights should only be removed where it is clearly reasonable and necessary, in accordance with guidance contained within the NPPG, and then only when the rights to be removed are clearly defined. As outlined above, permitted development rights are proposed to be removed on some of the plots nearer to existing residential properties, for design, amenity and tree protection purposes.

Fly Nuisance

267. The application site is within proximity to a Wessex Water treatment facility, which has a known history for fly nuisance/complaints.
268. The application has been supported by a Fly Nuisance Assessment. Following initial objections from Wessex Water and the environmental protection team, a Fly Nuisance Addendum report was submitted, seeking to address comments raised and to justify a low likelihood of fly nuisance on future occupants of the development. Further comments from Wessex Water have confirmed that this information is sufficient to allow Wessex Water to remove its objection. Whilst there is some risk of nuisance, the comments from Wessex Water are clear that this is not such to justify refusal of the planning application.
269. The environmental protection team has also withdrawn its initial objection following the submission of additional information. Officers have agreed with the conclusion of the report that *'a public nuisance originating from chironomid or anisopodid midges at Packsaddle Way is considered to be negligible and highly unlikely.'*
270. Following the additional information, and following confirmation from these key consultations that there are no objections to the proposal on this basis, the application is concluded to be acceptable in this regard.
271. Neighbour comments have outlined concerns fly nuisance could impact on future residents' health and wellbeing. As above, impacts are concluded to fall within an acceptable level. This can be weighed in the planning balance.

Air Quality

272. The application has been supported by an Air Quality Assessment, prepared by Michael Bull & Associates. This concludes that air quality would be acceptable, subject to mitigation measures, including during the construction phase. These measures can be adequately covered as part of a construction management plan condition, including dust controls. The environmental protection team has not objected to the application on this basis.

Odour

273. An Odour Appraisal has also been submitted with the application, also prepared by Michael Bull & Associates. Consideration is given to the proximity of the site to the Wessex Water treatment facility. The report concludes there have been no odour complaints associated with this facility in the last five years. The report concludes thus:

'Odour modelling has been carried out and demonstrated that the predicted odour levels on the closest part of the proposed development site were the odour thresholds of 3.0 and 1.5 ouE/m³ which are used to determine the suitability of land for residential use. This odour modelling used odour emission data agreed with Wessex Water and was consistent with the IAQM guidance on the assessment of odours for planning. Sensitivity testing was carried out using higher odour emission rates will still demonstrated that the odour levels would meet the two standards applied.'

Sniff testing was carried out by a suitably qualified member of staff with a known odour acuity within the acceptable range for Wessex Water. This was carried out on the proposed development site and no sewage related odours were detected.

It is therefore concluded that the odour levels on the proposed development site would be within the levels considered to be accepted for residential development.'

274. The environmental protection team has offered no objections to the proposal on the basis of odour, and Wessex Water has also not objected on this. No conditions are necessary in this regard, and the application is concluded to be acceptable in relation to odour.

Noise

275. The proposal is concluded to be acceptable in relation to noise impacts, including for existing neighbouring occupants and future occupants. Whilst construction is likely to result in some increased noise, this would be for a temporary period and any inconvenience to existing occupants would not justify refusal of the application.

Amenity Conclusion

276. The environmental protection team has recommended a condition for a Construction Environmental Management Plan. As this condition title is used for ecology conditions, the title has been amended to Construction Management Plan (CMP). Wording has been amended to ensure it meets the national conditions tests and is consistent with other planning decisions.
277. In conclusion on this matter, given the design, scale, massing and siting of the proposed development the proposal would not cause significant harm to the amenities of any occupiers or adjacent occupiers through loss of light, overshadowing, overbearing impact, loss of privacy, noise, odour, traffic or other disturbance. The proposal accords with policies DP7 and DP8 of the adopted Local Plan Part 1 (2014), the FNP and part 12 of the National Planning Policy Framework.

Housing Mix:

278. LP1 policy DP14: Housing Type requires a suitable mix of types and sizes of dwellings. FNP policy H1 requires a mix of tenures, types and sizes to help support the creation of mixed, balanced and inclusive communities.
279. The proposed mix of this overall development would be:
- 3 x 1 bedroom homes (4.1%)
 - 19 x 2 bedroom homes (26%)
 - 25 x 3 bedroom homes (34.2%)
 - 26 x 4 bedroom homes (35.6%)
280. Neighbouring comments have stressed the local need for other dwelling sizes, including 1 and 2 bedroom social rent dwellings.
281. The housing enabling team has not objected on the basis of the mix proposed, which is concluded to be sufficiently varied in line with policy DP14 of the LP1 and H1 of the FNP.

Affordable Housing:

282. LP1 policy DP11 sets out an expectation that 30% of dwellings should be affordable and provided on-site. In this case the proposal for 74 dwellings would require 22 to be affordable.
283. The Strategic Market Housing Assessment (2016) confirms there is a need for more affordable housing in the area.
284. Paras 6.109 - 6.112 of LP1 confirm that viability matters will be considered as necessary. Where viability matters are raised, applicants are expected to prepare and submit a financial appraisal *'to determine whether the development is viable within the normal cost and value parameters including any abnormal site conditions, the range of planning obligations and a reasonable rate of developer return'*. This confirms that once a financial appraisal has been submitted, the Council will engage an independent financial consultant, and the cost of this will be met by the developer.
285. The National Practice Guidance 'Viability and Plan Making' confirms plan making should assume a developer return of 15-20% GDV return:
- 'For the purpose of plan making an assumption of 15-20% of gross development value (GDV) may be considered a suitable return to developers in order to establish the viability of plan policies.'*
286. The application has been supported by a Financial Viability Assessment prepared by Avison Young. When the application was first submitted, the applicant stated that no affordable housing provision could be included in the S106 legal agreement – therefore no affordable housing provision would be included in the planning balance. Instead the applicant proposed to deliver this post planning, via funding from Homes England. Although the result would be the same, as this sits outside planning with no planning control mechanisms in place, it cannot weigh in the planning balance.
287. In line with policy, this Financial Viability Assessment has been subject to independent, specialist and detailed review by the District Valuer Service (DVS). Following detailed review work and discussion, the DVS has confirmed that it would be viable to include 22% affordable units as well as the other obligations triggered by this proposal. This has been agreed by the applicant, and an updated affordable housing statement and tenure plan have been received accordingly.
288. 22% equates to 16 dwellings, as set out below.
- Social rent:
- 3 x 1 bed social rent – plots 41, 42 and 43
 - 1 x 2 bed social rent – plot 29
 - 6 x 3 bed social rent – plots 1, 2, 3, 30, 39 and 40
 - 10 social rent units in total
- Shared ownership:
- 3 x 2 bed shared ownership – plots 32, 33 and 34
 - 2 x 3 bed shared ownership – plots 31 and 45
 - 2 x 4 bed shared ownership – plot 44
 - 6 shared ownership units in total
289. Although this is below the 30% set out in the local plan policy, there is scope within the policy to reduce the affordable housing provision if viability constraints can be demonstrated. Following an independent and in-depth review of viability, this has been

demonstrated. As confirmed by the comments from the housing enabling team, a reduced level of affordable housing provision alongside other S106 contribution requirements is acceptable to ensure viability and deliverability of the scheme.

290. It is noted that this is not split into 80% social rent and 20% shared ownership, as is usually agreed. Considering the constraints of the site, the ability within the policy to negotiate alternative tenures when viability constraints have been demonstrated and the benefits associated with shared ownership and social rent dwellings, this can be weighed in the overall planning balance.
291. The housing enabling team has also confirmed that First Homes are not expected to come forward as part of this proposal. This is a standard approach across the Council currently.
292. As outlined above, a further 8% affordable housing is proposed via Homes England funding. This sits outside the planning process and has no weight in the planning balance.
293. It is no longer best practice to 'pepper pot' affordable housing, but to 'cluster' it to allow for maintenance and management efficiencies. The layout of the proposed affordable housing is suitably clustered. The design and materials make it sufficiently indistinguishable from market dwellings. The housing enabling team has not raised concerns in this regard.
294. It is noted that Frome Town Council's objection refers to the below 30% affordable housing proposed, and the absence of a legal mechanism to secure them. This has been considered and addressed in this report. If the application is permitted, a S106 legal agreement would be put in place to secure the affordable housing provision.
295. It is concluded that the policy requirements for viability review have been met, as the applicant has covered the cost of an independent review. Although less than the 30% policy level is proposed, delivery of 22% affordable housing still carries significant weight in the planning balance. There is an under provision of affordable housing in the district, and this would contribute towards this need. The proposal therefore accords with the requirements of DP11 of the local plan, H1 of the FNP and the NPPF in relation to affordable housing provision.

Assessment of Highway Issues:

296. Policies DP9 and DP10 of LP1 set out a range of criteria including ensuring that new development provides safe access arrangements that avoid causing traffic or environmental issues on the transport network; demonstrate how sustainable modes of transport would be promoted; and provide appropriate parking levels.
297. The application has been supported by a Transport Assessment, Travel Plan; RSA Stage 1 assessment; a technical note responding to initial consultation comments from the highway authority (HA); a non-motorised user audit; a parking strategy plan; and various plans including refuse tracking plans and fire vehicle tracking plans.
298. The application has been considered by the HA, and updated information and clarification has been submitted and further considered by the HA.

Capacity and DP27 Contributions

299. Following consideration by officers, the proposal is concluded to be acceptable in relation to capacity within the highway network. Although the development would see an increase in vehicle movements, there is capacity within the local highway network and a refusal could not be justified in this regard.

300. Policy DP27 is clear that in order to safely accommodate development in Frome, Beckington and Rode to the end of the LP2 period, infrastructure improvements at the A36 Beckington and White Row roundabouts will need to be delivered. Policy DP27 states that where necessary, non-strategic road network schemes on the A362 corridor through Frome are also required to be provided during the plan period to support the delivery of the development strategy for the town.
301. The planning policy team has confirmed that large windfall sites as well as allocated sites are required to contribute given that they will also add to the cumulative impact.
302. The planning policy team has adopted a tariff approach. Tariffs of both £1,648 and £1,704 per dwelling are required for contributions towards the two roundabout upgrade works.
303. Although omitted from the DVS viability review initially, an updated assessment has been prepared that includes these obligations in full. Inclusion of this has been agreed with the applicant.
304. Comments from National Highways confirm it does not object to the application provided the contribution towards the A36 roundabout works are secured. Comments from National Highways include the following:
- 'We therefore request confirmation of the delivery programme for these necessary highway improvements from the Local Planning Authority to ensure they will be delivered in step with the development they required to support, and therefore ensure Local Plan growth will not result in an unacceptable impact on the safe operation of the strategic road network.'*
- 'Should it be demonstrated that the impact of development cannot be safely accommodated ahead of the delivery of the required highway improvements at A36 Beckington and White Row roundabout it will be necessary for National Highways to restrict such development by way of a Grampian planning condition.'*
305. There is no known timetable for completion of this work, which is associated with another planning application for Selwood Garden Village (2021/1675/EOUT).
306. Further communication with National Highways has confirmed that a Grampian condition (requiring completion of these off site highway works) is not required as part of this planning application. National Highways does not object to the proposal with obligations included.

Access

307. Following the submission of additional information and detailed consideration by the Highway Authority (HA), the revised plans are considered safe and suitable for the scale of development proposed in this location. The final plans show adequate access arrangements into and out of the development; and adequate manoeuvring within the development itself, including private drives and turning areas.

Parking

308. It is important to balance the need to encourage lower car use from a sustainability perspective, with realistic car ownership levels from a highway safety and amenity perspective. The Somerset Parking Standards set 'optimum' parking levels throughout Somerset. Due to its edge of settlement location, it is considered that zone B parking standards are applicable here. Whilst there is sometimes flexibility of these standards,

particularly if the site is accessible to a wide range of public services and viable public transport options, these standards are useful to assess the application. These are set as follows:

Table 6: Optimum Parking Standards in Zone B

Number of Bedrooms	Optimum Parking Standards
1	1.5
2	2
3	2.5
4	3

309. The table below shows the optimum parking standards set out in the Somerset standards, the spaces proposed and the differences. Some of the standards refer to 0.5 of a space, so an overall assessment and balanced consideration is required. The numbers proposed are broadly consistent with the parking standards, and no dwelling is more than 1 space over or under the optimum standards. Overall the optimum level of parking is 181.5 spaces and 180 are proposed. The HA has not objected to the proposal on this basis. Considering the context of the site and the detailed development proposed, the private parking levels proposed for dwellings is considered acceptable.

Table 7: Comparison Between Optimum Parking Standards and Spaces Proposed

Plot	Bedrooms	Policy Parking Requirement	Spaces Proposed	Difference
1	2	2	2	0
2	2	2	2	0
3	2	2	2	0
4	2	2	2	0
5	2	2	2	0
6	3	2.5	3	+0.5
7	4	3	3	0
8	4	3	3	0
9	3	2.5	3	+0.5
10	3	2.5	3	+0.5
11	3	2.5	3	+0.5
12	2	2	2	0
13	2	2	2	0
14	3	2.5	3	+0.5
15	4	3	3	0
16	2	2	3	+1
17	2	2	3	+1
18	4	3	2	-1
19	4	3	3	0
20	4	3	3	0
21	2	2	2	0
22	3	2.5	3	+0.5
23	2	2	2	0

24	2	2	2	0
25	2	2	2	0
26	3	2.5	3	+0.5
27	3	2.5	3	+0.5
28	3	2.5	3	+0.5
29	2	2	2	0
30	3	2.5	2	-0.5
31	2	2	2	0
32	2	2	2	0
33	2	2	2	0
34	2	2	2	0
35	4	3	3	0
36	3	2.5	3	+0.5
37	3	2.5	3	+0.5
38	2	2	2	0
39	2	2	2	0
40	2	2	2	0
41	1	1.5	1	-0.5
42	1	1.5	1	-0.5
43	1	1.5	1	-0.5
44	4	3	3	0
45	3	2.5	2	-0.5
46	2	2	2	0
47	2	2	2	0
48	4	3	3	0
49	4	3	2	-1
50	4	3	2	-1
51	4	3	2	-1
52	4	3	2	-1
53	4	3	2	-1
54	4	3	2	-1
55	3	2.5	3	+0.5
56	3	2.5	3	+0.5
57	4	3	3	0
58	4	3	3	0
59	4	3	2	-1
60	4	3	3	0
61	2	2	2	0
62	3	2.5	3	+0.5
63	4	3	3	0
64	4	3	2	-1
65	4	3	2	-1
66	4	3	3	0
67	2	2	3	+1
68	2	2	3	+1

69	2	2	3	+1
70	2	2	2	0
71	4	3	2	-1
72	4	3	3	0
73	4	3	3	0
74	4	3	3	0
TOTALS		181.5	180	-1.5

310. The Somerset Parking Standards also require 0.2 visitor spaces per dwelling. This equates to 15 spaces in this case. The final parking strategy plan shows 22 visitor spaces, which is well in excess of the standards. These spaces are suitably located throughout the development.
311. A total of 11 spaces are proposed for the disabled children's home. This includes one space designated for multi-purpose vehicles, four disable spaces and six further parking spaces. The Somerset standards set an optimum parking level of one space per 13 bedrooms for nursing homes, hostels, retirement homes and respite care homes, which is considered the most appropriate category for this part of the development. As such, the parking proposed is well over the parking standards. This is considered sufficient to allow for three children, staff and visitors. Again, the HA has not objected to the application on this basis.
312. It is therefore concluded that the quantum and layout of parking is acceptable in this case.

Internal Layout

313. Considering the site context and the scale of development, the overall site layout is acceptable.
314. The proposed estates road would be subject to a separate process for adoption by the Highway Authority. It is concluded that detailed design would likely result in successful adoption. If not, the internal estates road would be private, maintained by the developer and subject to the Advanced Payment Code, which would see relevant standards are met.
315. There have been no objections from statutory consultees on access by emergency services vehicles or gritters. The proposal is considered acceptable in this regard.

Travel Plan

316. A travel plan has been submitted with the application. Initial comments from the HA outlined the additional information required to make this acceptable. Updated comments from the HA have confirmed this can be incorporated in the legal agreement. As such, this matter is recommended to be covered in the S106 legal agreement, as is standard practice for development proposals of this size.

Highways Pollution

317. Although temporary construction vehicle movements and then ongoing vehicle movements would increase vehicle emissions, due to the scale and nature of development, this would not warrant refusal of the application.
318. As well as design consideration to reduce private car use and encourage other forms of transport, the Travel Plan includes the following measures:

- Travel information boards e.g. displaying bus timetables
- Travel information packs to each household upon occupation
- Briefing sales staff on Travel Plan measures
- Green travel vouchers to new occupants for five years
- Site wide social media page and newsletter to include *'results of surveys, upcoming sustainable travel events and travel related updates to sustainable travel infrastructure i.e revised bus timetables'*
- Promotion of car share opportunities between residents

Active Travel

319. As outlined above, the application is concluded to be acceptable in relation to active travel – including a travel plan and a network of paths which connect to the local network.
320. As part of the applicant's response to design comments, the following was stated:
- 'The site layout uses all available connections to the wider public movement network. It offers three new connections onto the northern PROW, cycle connections along the slow speed internal street network to connect to the wider street network and wider cycle routes, and a pedestrian car free central green route.*
- In terms of cycle connections, Packsaddle Way is a link route between settlements and signed cycle routes. This provides direct access to Leys Lane, which is part of a signed cycle route into the centre of Frome. This also links to a traffic free cycle path running along the River Frome into the town centre.*
- To the south-east of the site there is a signed cycle route which leads onto Leys Lane and Spring Road with the signed cycle route located approximately 200m from the site access where Packsaddle Way meets Grange Road. This route links with National Cycle Network (NCN) 'Route 24' along Welshmill Lane. Cycle route 24 routes through Frome Town Centre towards Bath and Gillingham.'*
321. The scale of development is below the threshold (150 dwellings/5ha site) to trigger bespoke comments from Active Travel England. Instead, Active Travel England has referred to its standing advice. Overall, the application is concluded to be acceptable in this regard.

Conditions

322. The HA has recommended conditions on construction of footways and turning spaces; details of estate roads; cycle storage; access visibility splays; electric vehicle charging points; construction of parking spaces; no discharge of rainwater onto the highway; construction management plan.
323. Minor wording edits are included in the conditions, to ensure they are relevant to the proposal, meet the conditions tests and are consistent with other decisions.
324. The recommended condition regarding the avoidance of surface water on the highway is not included as this is covered by other legislation therefore not necessary in planning terms.
325. A further condition is recommended requiring the implementation of the public footpaths – to ensure this benefit is controlled and delivered.
326. A number of informatives are recommended notifying the applicant of the following:

- Planning permission would require a legal agreement with the highway authority.
- Development on the highway requires a licence.
- It is illegal to discharge water onto the highway.
- Explanation of the Advance Payments Code for private roads.

Other Highways Matters

327. Neighbour comments have outlined concerns the development would result in the need for more investment in local infrastructure. Any contributions towards road upgrades need to meet national tests for planning conditions and/or planning obligations. All relevant matters have been addressed and controlled.

Highway Conclusion

328. In conclusion on this matter, the highway capacity, means of access and parking arrangements are considered to be acceptable and would maintain highway safety standards. The proposal therefore accords with the provisions of policies DP9 and DP10 of the adopted Local Plan Part 1 (2014) and part 9 of the National Planning Policy Framework.

Public Right of Way:

329. Although there are informal paths within the site, these have no planning status. Although the site is owned by the Council, it is not in public use. As such, it is considered within private ownership, with no public right of access currently.
330. There are public rights of way (PROW) on the boundaries of the site and in the immediate area. The proposals would not encroach on any existing PROW. A further network of paths is proposed within the development, which would link up to the existing PROW network. This is a benefit to weigh in the planning balance.
331. The PROW officer has considered the application and offered no objections. A standard informative is recommended, reminding the applicant of their obligations, including in relation to avoiding obstruction of any PROW and any works on a PROW. It is further recommended that the footpath connections to the existing PROW are included in the S106 legal agreement.
332. A condition is also recommended which would require delivery of the network of footpaths (as shown in the proposed site layout and landscape plan).
333. Following review of the LVIA, it is concluded that impacts on leisure routes and views are acceptable in this case.
334. It is therefore concluded that the proposal is acceptable in relation to PROW.

Waste:

335. The application has been supported by a refuse tracking plan, a bin storage plan and a plan showing waste collection points. All properties have adequate waste storage areas. Many properties can utilise kerbside collections, which is a preference for the waste collection teams. Others would need to rely on communal collection areas.

336. Neither the waste team or highway authority have outlined any objections to the vehicle tracking plans submitted to demonstrate safe and suitable access and turning for waste collection vehicles.
337. Comments from the waste team outlined concerns in relation to the number of communal collection areas and collections on private drives. The agent has responded to this as follows:
- ‘...all bin collection points (BCP) are adjacent to, or on the end of adopted highways. Although they are positioned on private roads, the BCP will be on land retained by the management company, so LiveWest will retain control. LiveWest try to keep the BCP’s away from single units to help reduce the possibility of conflict.’*
338. Convenient bin collections need to be balanced against other relevant planning factors, such as character and appearance. Although some residents would need to walk to a bin collection area, the associated distances and number of properties affected is considered reasonable. On the basis that the waste team has not objected to the application, and that acceptable waste collection arrangements are concluded to be possible, the proposal is concluded to be acceptable in this regard. A condition is recommended which would see the detailed waste collection areas agreed with the local planning authority prior to occupation, which would look to minimise impacts on design and appearance of the area, residential amenity, and operational requirements of the waste collection service.

Conservation:

339. The site itself does not contain any formal historic assets, including listed buildings or scheduled monuments, and it is not within a conservation area. The Frome Conservation Area is located to the west and east of the site, and there are some listed buildings near the site, most notably including Selwood Lodge (GII) circa 100m to the north west of the site.
340. 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 212-214 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 215 of the NPPF). Less than substantial harm has been identified in this case, which is concluded to be outweighed by public benefits (see below).
 - No harm identified – the proposal is concluded to be acceptable in this matter.
341. The application has been supported by a Historic Environment Assessment (HEA) prepared by AC Archaeology. In relation to impact on firstly Selwood Lodge and then other heritage assets, the HEA concludes thus:
- ‘It is considered that there could be a negligible effect on the setting of this asset but no effect on its significance. There could be no effect on the significance of any of the other designated heritage assets within the study area.’*
342. Selwood Lodge is accessed from Leys Lane, which is to the east of the application site. There would be some impact when arriving and leaving this asset, as well as its wider setting. As this setting is alongside other residential development, and there is limited

connection between the application site and Lodge Hill, this is concluded to be harm at the very low level of less than substantial.

343. Paragraph 215 of the NPPF requires these harms to be weighed against public benefits. In this case public benefits include providing housing, including 22% affordable dwellings, to support the identified local shortage, delivery of a network of publicly accessible paths connecting to the PROW network and biodiversity net gain. It is concluded that the public benefits would outweigh the harms in this case.
344. There is a duty placed on the Council under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the preservation or enhancement of the character of the surrounding conservation area. In this case it is considered that, by virtue of the distance, topography, design, scale, massing, position and external materials, and having regards to the Frome Conservation Area Character Appraisal and Management Proposals (2008), it is considered that no harm to the significance of the Frome conservation area heritage asset or its setting would occur and that the proposed development would at least preserve the character and appearance of the Conservation Area and its setting. The proposal accords with policy DP3 of the adopted Local Plan Part 1 (2014) and part 16 of the National Planning Policy Framework.
345. 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 proposals would preserve the setting of the listed building, thereby resulting in no harm to the significance of the any listed buildings - except a very low level of less than substantial harm to the significance of Selwood Lodge which is outweighed by public benefits. The proposal therefore accords with policy DP3 of the adopted Local Plan Part 1 (2014) and part 16 of the National Planning Policy Framework.

Non-Designated Heritage Assets

346. Neighbour comments have referred to ancient hedgerows and stone walls within the site as being non-designated heritage assets. The stone wall remnants are summarised in paragraph 7.2 of the submitted heritage statement thus:

'The application area lies outside the main settlement of Frome and mapping shows that it was in agricultural use during the later 18th century, and probably part of the open fields around the town in the Middle Ages. Field patterns to the north retain much of their pre-enclosure form with long curving boundaries reflecting the former strip fields still present. Within the application area, by 1799, this pattern had been largely rationalised into larger fields. However, part of the 1799 field pattern has been preserved within the application area and is marked by wide boundaries, some of which contain remnants of dry stone walls. It is considered that these boundaries have some historic interest. Part of the application area (and adjacent plots) is referred to in the tithe apportionment of 1840 as Wall Close suggesting that the walls may have been a notable feature, worthy of mention. The proximity of a park (also partly identifiable through field names in the apportionment) may be of note and the possibility of a connection between the walled fields and the former park to the east cannot be discounted.'

347. Paragraph 216 of the NPPF requires consideration of non-designated heritage assets thus:

'216. The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that

directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.'

348. This issue has been informally discussed with the Conservation Officer. It is concluded that the wall features are not of enough heritage significance to be considered non-designated heritage assets. They do represent some heritage interest therefore their loss should weigh in the planning balance.

Archaeology:

349. The site is not within an area of high archaeological potential, or other archaeological constraints. The county archaeologist has been consulted and offered no objections to the proposal. As such, the application is concluded to be acceptable in this regard, and no conditions are necessary.

Land Drainage:

350. 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 drainage terms.
351. As the application site is greater than 1ha, a Flood Risk Assessment (FRA) and FRA Addendum accompany the application to demonstrate that there will be no adverse effects from the proposal in relation to flood and drainage matters.
352. The submitted drainage information confirms that a surface to water sewer solution is proposed. Infiltration testing has demonstrated that the site is not suitable for infiltration to ground. Therefore, attenuation is proposed, including *'open attenuation basins with standing water areas, below ground crates for main site and highway adoptable crates for the site entrance.'*
353. The application has been assessed by the Lead Local Flood Authority (LLFA), who has confirmed the details submitted are acceptable for planning application stage.
354. Wessex Water also commented on the application, confirming it also has no objections. Wessex Water has confirmed the applicant has been in discussions regarding the agreements necessary to deliver the development, including connection to the local network.
355. Both the LLFA and Wessex Water have recommended a pre-commencement condition, requiring agreement of detailed drainage proposals are agreed with the local planning authority. A further informative is recommended by the LLFA, clarifying the information the applicant is required to agree the conditions. Minor wording edits are included in both the condition and the informative.
356. A further condition has been recommended by the LLFA requiring agreement of management arrangements is not necessary as this would be covered by the S106 legal agreement.
357. Foul drainage is controlled by building regulations and formal agreements with Wessex Water which sit outside the planning process. As such a foul drainage condition is not required.

358. Neighbours have disagreed with the conclusions and methodology of the application submission in relation to drainage matters. Following consultation with the LLFA, the application submission and assessment is concluded to be acceptable for planning (i.e. a technical drainage solution can be found) and details can be agreed via condition.
359. Neighbours have outlined concerns in relation to sewerage capacity and possible infrastructure upgrades, which could be required to be funded by tax payers. Confirmation of capacity is for the applicant to agree with Wessex Water. In the event that infrastructure improvements were required to facilitate the development then this would be for the applicant to deliver/agree with Wessex Water.
360. The proposal is not considered to increase risk of flooding to nearby properties.
361. 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.

Sustainability and Renewable Energy:

362. Paragraph 166 of the NPPF requires applications to comply with relevant development plan policies and to minimise energy consumption. 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. The Frome Neighbourhood Plan, Climate Emergency Planning Guide and the Frome Design Statement also seek to address this.
363. The application has been supported by a Low Carbon Energy and Resource Efficiency Statement. This states that the design and orientation of the dwellings have considered carbon reduction methods. It outlines a commitment to fabric first measures seeking to ensure they are energy efficient.
364. The proposal also commits to air source heat pumps and solar panels on 17 of the dwellings (all properties which were originally proposed for social rent, noting that control of some of these tenures falls outside the planning assessment). Paragraph 4.3. of the submitted energy statement confirms:
- 'The 17 properties constructed for affordable rent will be achieve an 85% reduction in CO2 emissions thereby exceeding the requirements set out within the Future Homes Standard.'*
365. The agent has confirmed this 85% commitment compares to the previous (2013) building regulations and not the current building regulations. There is no quantitative comparison given as to the difference between current building regulation requirements and the commitments set out in the submitted Energy Statement. As such, this commitment carries very little weight in the planning balance.
366. The commitment to include solar panels and air source heat pumps on 17 dwellings would be above policy and legislative requirements. As this can be controlled by conditions, this element of the proposals carries weight in the planning balance.

367. Following circulation of conditions, the applicant proposed to amend the specific plots proposed to incorporate the air source heat pumps and solar panels to plots 1-5, 23-25, 29-32 and 39-43. Although amended plots from those set out in the submitted energy statement, this still represents 17 dwellings. As such the recommended conditions for solar panels and air source heat pumps refer to delivery on plots 1-5, 23-25, 29-32 and 39-43.
368. The remaining 57 dwellings and the disabled children's home would include combi gas boilers, and would be built to current building regulations. As there is a legislative requirement for all the dwellings to meet current building regulations, this has no weight in the planning balance.
369. The report confirms energy efficient lighting will be installed, and where appliances are installed, these will also be energy and water efficient. The report also confirms that measures to reduce water consumption will be installed. Dwellings will be designed to consume 110 litres per day (a reduction from the 125 litres set out in building regulations). There is also a commitment to providing water butts in all gardens for rainwater recycling garden use. Water levels and water butts would all be above policy requirements and can be controlled by conditions so can be weighed in the planning balance.
370. The report also outlines broad aspirations to source materials which reduce the depletion of natural resources and water use in manufacturing. There are also aspirations to reuse materials, and avoid landfill where possible. There are no firm commitments of measurable outcomes set out within the submission so they also carry no weight in the planning balance.
371. Although the report commits to providing electric vehicle charging points in line with building regulations, the standards in Somerset are higher than building regulations, and a condition is recommended seeking these higher standards are met accordingly.
372. Conditions are recommended to require compliance with the submitted sustainability statement in relation to water efficiency; require solar panels and air source heat pumps on 17 of the dwellings; require electric vehicle charging is installed in line with the Somerset standards; and ensure water butts are installed in each dwelling.
373. Whilst it is disappointing that the applicant has not committed to greater carbon reduction measures, including solar panels and air source heat pumps for each dwelling which have formed part of other recent applications considered by the planning committee, there is no policy requirement for a higher level of commitment. Indeed, the proposal accords with policy requirements and failure to exceed this further is not considered significant and demonstrable harm.
374. In conclusion on this matter, the proposal is considered acceptable when considered against the NPPF and development plan policies.

Education:

375. National requirements set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended) require obligations to be:
- Necessary to make the development acceptable in planning terms;
 - Directly related to the development; and
 - Fairly and reasonably related in scale and kind to the development.

376. As such, if there is capacity within the existing education services, then no obligations can be sought. If there is no capacity then contributions can be sought towards the building of new or expanded facilities. Contributions cannot be sought for revenue funding (e.g. staffing) as this sits outside the scope of planning, and it is covered by taxation.
377. The obligations triggered by the development have changed over the life of the application as summarised in the table below (reiterated from above for ease of reference).

Table 2: Summary of Viability Review

Action	Date	Obligations Considered	DVS Viability Conclusions
Issue of DVS viability review report (1) – following review of application submission where the applicant stated the proposal could deliver no affordable housing	08.11.2023	<ul style="list-style-type: none"> • Education £882,441 	DVS concluded the scheme was unviable but 18% affordable housing could be delivered
Issue of updated DVS report table (2) – following discussions and the submission of additional information/clarification	30.04.2024	<ul style="list-style-type: none"> • Education £882,441 	DVS concluded the scheme was unviable but 15% affordable housing could be delivered. This was considered and subsequently agreed by the applicant.
Issue of updated DVS report (3) – following realisation that the previous reports (1 and 2) had not included obligations for off site public open space or roundabout improvements (as required by local policy DP27). Whilst there was some discussion on the priorities of obligations, it was concluded that there is no policy to allow flexibility on contributions for education, off site public open space or highways. There is policy confirming affordable housing can be amended if viability constraints are demonstrated (as in this case).	10.09.2024	<ul style="list-style-type: none"> • Education £882,441 (which should have been £691,146, which was the updated education figure as of 16.08.2023) • Off site public open space £100,951 • Off site roundabout improvements £248,048 	DVS concluded the scheme was unviable but 12% affordable housing could be delivered. This was agreed by the applicant.
Issue of final updated DVS report (4) – after requested updated education comments confirmed a reduction in obligations.		<ul style="list-style-type: none"> • Education £156,791.20 • Off site public open space £100,951 • Off site roundabout improvements £248,048 	DVS concluded the scheme was unviable but 22% affordable housing could be delivered. This was agreed by the applicant.

378. The final position, as confirmed by the education team, is that the development would generate a requirement for £156,791.20 for early years provision. Based on current data, there are no capacity shortfalls for other age groups therefore no justification for any other education obligations at this time.
379. This position has been queried through the public consultation process. A formal, detailed response from the Education Officer has been received and uploaded to the online file explaining the reasons for the drop in education contributions. The Education Officer has also set out a chronology which is summarised in the table below:

Table 8: Chronology of Education Comments

Date	Education Team's Obligations Conclusions	Comments
27.07.2023	<ul style="list-style-type: none"> • Early years - £161,427.00 - new build cost • First £415,098.00 – new build costs • Middle £305,916.00 – new build costs • Total £882,441.00 	This considered the cumulative impact of development coming forward locally.
16.08.2023	<ul style="list-style-type: none"> • Early years - £0 • First - £415,098.00 – new build costs • Middle - £276,048 • Total £691,146 	Early years removed as insufficient evidence at that time. Reduced middle school to expansion costs – as no plan to build a new middle school.
11.09.2024	<ul style="list-style-type: none"> • Early years - £156,791.20 	<p>This followed a request for checked/updated figures from the case officer to inform pending decision.</p> <p>Early years added back in, due to new government requirements brought in 2024 and 2025. Evidence confirmed to be in place to support this need.</p> <p>Following recent discussions on nearby Selwood Garden Village proposal, it is clear that there is capacity at first and middle schools therefore obligations for these schools would not be necessary to support the development.</p>

380. The Education Officer has further confirmed the following school capacity exists currently:
- Vallis First School - 91 places
 - Hayesdown First School - 31 places
 - Trinity C of E First School – 27 places
 - St Louis Catholic Primary School - 53 places
381. Figures have also been submitted showing capacity at middle and secondary schools in Frome.

382. As above, planning obligations can only be secured towards building works (new schools or extensions to existing schools), and it is not possible to secure planning obligations towards education facilities where there is known to be capacity to accommodate the pupils generated.
383. Following review of the information submitted by the Education Officer and detailed discussions with the Education Officer, it is concluded that obligations for early years education provision of £156,791.20 would accord with Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended) and these obligations are recommended accordingly.
384. These conclusions are consistent with recent obligation figures agreed at the proposed development at Selwood Garden Village, which would not trigger the construction of a new school until circa 500 dwellings had been constructed due to current capacity levels and development coming forward locally.
385. Education forecasting is complex and ever changing, with changing birth rates, population changes and development proposals (many of which are speculative and unplanned). The Education Officer has acted in good faith to put forward obligations which reflect the capacity levels and changing circumstances. The final figure of £156,791.20 is concluded to be robust and suitable for the determination of this application at this time – which is the mechanism in place for planning applications.
386. Although comments from the Education Officer refer to ‘compromise’ and ‘negotiation’, the final figures have been discussed and reviewed and are concluded to be correct and allow for a proper and robust assessment of the application.
387. With regards to the absence on contributions towards special educational needs (SEND) in the triggered obligations, which has been questioned by neighbours, the Education Officer has responded thus:
- ‘...with the current pupil yield $0.0092 \times 74 = 0.6808$ of a child is generated from 74 homes, which does not provide clear evidence that a whole child would be generated in this location, and it would seem unreasonable in this case to require further funding. We are in the process of developing an Education strategy to be published. This type of anomaly is hoped to be set out clearly in the strategy to ensure that we are able to have clear evidence for the need for SEND funding, and therefore be more successful in securing the totals required across Somerset, with a robust methodology to be clear where SEND is required and where it is not.’*
388. Neighbour comments have requested detailed explanations of the changes in education obligation figures, and comparisons with obligations secured at other sites. The assessment undertaken as part of this application is based on current and relevant factors. The final education figure being put forward to inform the decision of the planning committee is correct. The explanation put forward in this report is sufficient to allow members of the planning committee to make an informed decision.
389. This final figure has been factored into the final viability review, and it has been demonstrated that this obligation can be paid alongside 22% affordable housing and the other triggered obligations as set out in this report. This obligation has been agreed between the parties.
390. Subject to the inclusion of this agreed obligation, the application is concluded to be acceptable in relation to education.

Impacts on Health and Well-Being:

391. The NHS Somerset Integrated Care Board has not offered any objections to the proposal. At the time the comments were submitted it was concluded that no obligations would be triggered due to existing capacity within the local area. It is noted that the Frome Medical Practice website states that new patients residing within the catchment area (of which the application site is included) are being accepted.
392. The submitted DAS includes a Building for a Healthy Life statement. This is based on Homes England's Building for a Healthy Life toolkit, which includes an assessment of the health and well-being outcomes of development proposals. The submission includes a well rounded assessment of impacts of the development, which are concluded to accord with the aspirations of this document.
393. The proposal, including traffic associated with construction and occupation, is not considered harmful to the health of nearby occupants or future occupants to warrant refusal of the application.
394. It is clear the site is highly valued by the local community, including for leisure activities, exercise, social cohesion and mental health and wellbeing. Some neighbour comments have outlined concerns in relation to harm to the physical and mental health of local people as a result of the development. Although there would be some harms which need to be considered (including loss of green, open space), it should be remembered that there is no public right of entry to the site, and the development proposal would see high quality, publicly accessible open space delivered with significant green infrastructure value.
395. This proposal has been considered in relation to part 8 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.

Contaminated Land:

396. The site is not known to be subject to contamination, and is undeveloped.
397. The Contaminated Land Officer has reviewed the application and confirmed there are no comments. The application is considered acceptable in this regard.

Planning Obligations:

398. It is understood the ground conditions of the site would increase construction costs. As summarised above, the application was supported by a financial viability assessment which originally stated no affordable housing provision could be formally agreed as part of the planning application, but would come forward post planning via Homes England funding. In line with national and local policy, the financial review was subject to independent assessment. In this case, the assessment was undertaken by the District Valuer's Service (DVS), which is a specialist department within the civil service.
399. The National Practice Guidance (NPG) on Viability sets an overall guide as to likely acceptable developer returns:

'For the purpose of plan making an assumption of 15-20% of gross development value (GDV) may be considered a suitable return to developers in order to establish the viability of plan policies...'

400. Although this refers to plan making, it is considered generally applicable (noting various other considerations and flexibilities which may come forward) to the assessment of planning applications also. It is understood this level of return is set out in the NPG to encourage development to come forward - particularly residential development where the government has made it clear further such development is needed.
401. The NPG Viability sets out the details that should be included in a viability statement, and the assessment criteria for independent assessment which informs planning decisions. The rationale for this is summarised thus:
- 'In plan making and decision making viability helps to strike a balance between the aspirations of developers and landowners, in terms of returns against risk, and the aims of the planning system to secure maximum benefits in the public interest through the granting of planning permission.'*
402. In this case the viability review, which includes an in-house QS cost review, concluded that the site can be viable whilst also delivering 22% affordable housing and all triggered obligations.
403. Following review and consideration of these conclusions, the applicant has agreed these obligations. An amended affordable housing tenure plan and housing tenure statement have been submitted and published accordingly. In the circumstances the affordable housing provision has been agreed by officers as acceptable.
404. In accordance with LP1 Policy DP19, the proposed development therefore triggers obligations in the following regards:

- Affordable housing - 22%, 16 dwellings in total
 - Social rent:
 - 3 x 1 bed social rent – plots 41, 42 and 43
 - 1 x 2 bed social rent – plot 29
 - 6 x 3 bed social rent – plots 1, 2, 3, 30, 39 and 40
 - 10 social rent units in total
 - Shared ownership:
 - 3 x 2 bed shared ownership – plots 32, 33 and 34
 - 2 x 3 bed shared ownership – plots 31 and 45
 - 2 x 4 bed shared ownership – plot 44
 - 6 shared ownership units in total
- Travel plan
- Surface improvements and links to PROW FR 20/2 (as shown in proposed layout plan and landscape plan)
- Delivery and ongoing maintenance of a community orchard, including two picnic benches
- Management company including maintenance of communal areas
- SUDS delivery and maintenance
- Confirmation a covenant is attached plots 71-74 restricting removal and controlling any works to trees labelled G42(C) and T43(B) in the Tree Protection Plan.
- Provision for 1.02ha off site bat mitigation habitat (as shown on the Habitat Evaluation Process Plan, received 22.02.23), including details of delivery and management to be agreed with the local planning authority.
- Public open space - £1364.20 x 74 dwellings = £100,950.80
- Education - £156,791.20
- Roundabouts – (£1648 + £1704) x 74 dwellings = £248,048

- Affordable housing delivery confirmation and potential viability review at 50% and 90% occupation if the applicant is not able to confirm that 30% affordable homes will be delivered as anticipated. If a total of 30% cannot be demonstrated then a further viability review will be required, to be funded by the applicant. This further review will consider if the viability situation has changed and, if additional affordable housing provision is viable (up to 30%), then this must come forward either as on site provision or contributions towards other affordable housing in the area.

405. The applicant has confirmed these obligations are agreed. If the application is approved these matters can be secured via a legal agreement.
406. 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).
407. As the Council is the current owner of the site, and cannot be party to the S106 legal agreement as landowner and local planning authority, it is recommended that officers are given delegated authority to decide and progress the best route to secure the S106 obligations in the event of a positive Committee resolution.
408. Earlier versions of the planning obligations featured a clause to reassess the financial viability in future. While this had not been previously included in legal agreements within the Mendip/Somerset East area, it is recognized as a common practice in other areas of the Somerset local planning authority area. Despite the applicant's agreement to this clause, officers ultimately decided against its inclusion due to the lack of local or national policy mandates.
409. On balance, noting the below policy affordable housing provision but the confirmed viability constraints, the application is concluded to be acceptable in relation to agreed planning obligations.

Other Matters:

410. The following is offered in response to neighbour comments not covered elsewhere in this report:
- Confirmation of capacity to secure power to the dwellings sits outside the scope of planning.
 - Loss of private views and property values cannot be considered in the planning balance.
 - Each planning application is considered on its own merits. It is not considered approval of this proposal would set a precedent.
 - Although building new dwellings may be seen by some as undermining climate change commitments, the government has set out national planning policies around tackling the housing crisis, which should be delivered in the most sustainable location possible. In this case, immediately adjacent to a town is considered a sustainable location.
 - The local planning authority is required to determine the application as submitted on its merits. Although other development sites may come forward on other sites, including brownfield sites, there is no requirement for a sequential approach to site selection in this case and this is not a justification to refuse this application.
 - There is no requirement for the estates team as landowner to consult nearby occupants before using the site for agricultural purposes, which is its lawful use. Although animals

grazing the site may limit leisure uses off the informal paths, there is no public right of use of any of the site.

- Neighbour comments have stated that the application fails to meet the social, environmental and economic objectives set out in the NPPF, therefore the development represents unsustainable development. The Planning Statement submitted with the application seeks to demonstrate these objectives have been met. Following detailed assessment, as summarised in this report, it is concluded that the proposed development does meet these objectives so can be confirmed as sustainable development.
- Neighbour concerns relating to dog fouling and fly tipping would be police matters.

Equalities Act:

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

Conclusion and Planning Balance:

412. 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.

413. Although the site is referred to in LP1 as a potential school development site, the site is unallocated for development and adjacent to but outside the development limits of Frome.

414. It is accepted that the Council cannot demonstrate a 5 year land supply and the 'presumption in favour of sustainable development' as set out in paragraph 11(d) of the NPPF applies (the 'tilted balance'). This advises that permission should be approved, unless where:

- i) the NPPF policies that protect areas or assets of particular importance provides a strong reason for refusing the development; or
- ii) any adverse impacts of granting permission would *"significantly and demonstrably outweigh the benefits, when assessed against the policies in NPPF taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination"*.

415. Paragraph 11 of the NPPF requires identification of *the 'policies which are most important for determining the application'*. In this case these are concluded to be policies CP1, CP2 and CP4 of LP1 – the policies that set out the spatial strategy and the location of development in principle. The housing shortfall in the Somerset East area is significant, and it appears unlikely this will be remedied in the short term (particularly considering the increased obligations on the Council as set out in the updated version of the NPPF published on 12 December 2024). As these policies are consistent with the NPPF when taken as a whole, the conflict between with these policies is concluded to be significant.

416. The tilted balance is not disengaged by heritage harm to designated heritage assets. Although a low level of less than substantial heritage harm has been identified, this is considered to be outweighed by public benefits.
417. The proposals have been developed to achieve a sustainable extension to Frome. The application proposals would deliver simultaneously, economic, social and environmental benefits. It has been demonstrated that the site is sustainable in relation to access to services and facilities, including education and health services.
418. There is a need to deliver market housing in the area, as well as affordable housing. This is set out in the 'Somerset – East Area (former Mendip District LPA) Statement on Five Year Housing Land Supply October 2024' as well as the local plan evidence base.
419. The provision of 74 homes, including 16 affordable, is given significant weight in the planning balance, particularly in the context of the significant lack of 5 year land supply. Whilst First Homes are not included and affordable homes are not proposed at the 80/20 tenure split, the provision of 10 social rent homes and 6 shared ownership homes would make a meaningful contribution to the affordable housing need in the area, and contribute to the overall significant weight to be awarded to affordable housing in the planning balance.
420. The inclusion of a disabled children's home within the application proposal also carries weight in the overall planning balance. This facility would support the community. The agent has argued there is a local need for this facility. As there are no planning delivery mechanisms for this element of the proposal, it carries very limited weight in the planning balance.
421. Publicly accessible footpath connections through the site and to the PROW network, public open space and a community orchard are benefits to be weighed in favour of the development as a moderate benefit.
422. The national requirement to deliver at least 10 % biodiversity net gain came into effect after this application was submitted. Nevertheless, a gain of habitats (+4.69%) and hedgerows (+7.30%) has been proposed respectively. As such, ecological enhancement measures above policy requirements are also provided which will offer potential biodiversity enhancements. This is given moderate weight in the planning balance.
423. Whilst Frome Town Council as well as Somerset Council would strongly encourage greater commitment to carbon reduction measures than shown in the application, the proposal does comply with policy requirements. Carbon reduction measures above policy requirements can also be awarded very limited weight in the planning balance.
424. Whilst limited in time, the development would generate economic benefits through the construction period. It is noted that there is no commitment to employing local tradespeople. Economic benefits would also be associated with the future spending of occupants of the development in local shops and services. Given the scale of development, this is concluded to be a very limited benefit.
425. 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, as well as an open and green space which is noted in the Greenspace SPD and is clearly highly valued by the local community. Although there is no right of access to this land, it contributes towards the local character and the green infrastructure of the area. Overall, this is given moderate weight in the planning balance.

426. The application also represents some pressure on existing trees, but this harm would be tempered by the 175 new trees proposed to be planted. This is given limited weight in the planning balance.
427. There are some design issues identified which are given limited weight in the planning balance. Identified waste issues are similarly given low weight. Very low levels of less than substantial heritage harm (which can be outweighed by public benefits) should also weigh in the planning balance, which is given very limited weight. Loss of the existing wall features within the site has very limited weight in the planning balance.
428. Whilst it is a material planning consideration that the site is an Asset of Community Value, there are no planning reasons to refuse the application on this basis. As such, this is given very limited weight in the planning balance.
429. The application is considered acceptable in relation to all other technical matters including residential amenity, drainage, highways, etc. These matters are given neutral weight in the planning balance.
430. Overall, material planning considerations outweigh any conflict with the development plan. The adverse impacts identified are not considered to significantly and demonstrably outweigh the benefits. In accordance with para 11 d of the NPPF, the application is therefore recommended for APPROVAL, subject to securing the recommended Section 106 planning obligations and the recommended planning conditions and informatives as set out in the appendix to this report.

Conditions

1. Standard Time Limit (Compliance)

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

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

2. Plans List (Compliance)

This decision relates to the following:

- o BD2114:01 - LOCATION PLAN - 12.05.2023
- o 2114 03 REV C - PROPOSED SITE LAYOUT - 26.09.2024
- o 2114 06 A - PROPOSED EXT MATERIALS - 12.10.23
- o 2114 09 A - PROPOSED BOUNDARY TREATMENT PLAN - 12.10.23
- o 2114 129 B - PARKING STRATEGY PLAN - 12.10.23
- o 2114 130 A - BIN STORAGE PLAN - 12.10.23
- o P2114:115 - BOUNDARIES 1 - 12.05.2023
- o P2114:116 - BOUNDARIES 2 - 12.05.2023
- o P2114:117 - BOUNDARIES 3 - 12.05.2023
- o P2114:118 - BOUNDARIES 4 - 12.05.2023
- o P2114:119 - CYCLE STORES - 12.05.2023
- o 1211 PL03 - TRACKING PLAN - FIRE - 12.10.23
- o 2114 123 A - FIRE STRATEGY PLAN - 12.10.23
- o 1400 PL03 - LEVELS PLAN - 12.10.23
- o 1520 PL01 - EXCEEDANCE PLAN - 12.10.2023
- o 2216.01 P4 - LANDSCAPE PLAN - 12.10.23
- o 2216.51 P2 - SOFT LANDSCAPE SPEC - 12.10.23
- o 2216.43 P3 - PLANTING PLAN SOUTH EAST - 12.10.23
- o 2216-40 P2 - PLANTING PLAN - NORTH EAST - 12.10.23

- o 2216.40 P3 - PLANTING PLAN NORTH EAST - 12.10.23
- o 2216.42 P3 - PLANTING PLAN NORTH EAST SOUTH WEST - 12.10.23
- o 2216-41 P2 - PLANTING PLAN - NORTH WEST - 12.10.23
- o 2216.41 P3 - PLANTING PLAN NORTH WEST - 12.10.23
- o 2216.44 P3 - PLANTING PLAN SOUTH - 12.10.23
- o 2216.50 P3 - PLANTING SCHEDULE & PLANTING NOTES - 12.10.23
- o 2216.60 P2 - PLANTING DETAIL - 12.10.23
- o 1200 PL04 - HIGHWAY PLAN - 12.10.23
- o 1250 PL02 - HIGHWAY LONG SECTIONS
- o 2114 122 A - STOREY HEIGHT PLAN - 12.10.23
- o Habitat Evaluation Process Plan - 22.02.23
- o 1210 PL03 - TRACKING PLAN - REFUSE - 12.10.23
- o 1212 PL03 - TRACKING PLAN - REFUSE ENTRANCE - 12.10.23
- o 1500 PL04 - DRAINAGE STRATEGY PLAN - 12.10.23
- o 1505 PL03 - SUDS STRATEGY PLAN - 12.10.23
- o 1510 PL03 - IMPERMEABILITY PLAN - 08.12.23
- o BD2114:121 REV B - PROPOSED GROUND FLOOR ASPECT PLAN - 12.10.23
- o BD2114:08 REV A - PROPOSED LAYOUT - MANAGED AREAS PLAN - 12.10.23
- o P2114:110 - CHILDREN WITH DISABILITIES HOME PROPOSED ELEVATIONS - 12.05.23
- o P2114:111 - CHILDREN WITH DISABILITIES HOME PROPOSED FLOOR PLANS - 12.05.23
- o BD2114 House Types - Plot drawing pack REV B 26.09.24
- o 1613B-TPP-MU Tree Protection Plan received as part of ARBORICULTURAL METHOD STATEMENT - 12.05.2023

Reason: To define the terms and extent of the permission

3. Hard and Soft Landscaping (Compliance)

All hard and/or soft landscape works shall be carried out in accordance with the approved details. The said works shall be carried out prior to the occupation of any part of the development or in accordance with a timescale agreed in writing with the local planning authority. Any trees or plants indicated on the approved scheme which, within a period of five years from the date of the development being completed, die, are removed or become seriously damaged or diseased shall be replaced during the next planting season with other trees or plants of a species and size to be first approved in writing by the local planning authority. All hard landscape works shall be permanently retained in accordance with the approved details.

Reason: To ensure the provision of an appropriate landscape setting for the development and to protect the character and appearance of the area, and ensure the proposal does not impact on highway safety or flood risk in accordance with policies DP1, DP3, DP4, DP7, DP9, DP10, DP22 and DP23 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (adopted 2014) and parts 12 and 15 of the NPPF.

4. Tree Protection Plan - Implementation (Compliance)

No development activity shall not commence until the protective measures as stated in the approved annotated tree protection plan 1613B-TPP-MU Tree Protection Plan received as part of ARBORICULTURAL METHOD STATEMENT - 12.05.2023 are implemented.

Reason: To ensure that the trees are protected from potentially damaging activities in accordance with policies DP1 and DP4 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (adopted 2014) and part 15 of the NPPF.

5. EclA and LEMP (Bespoke Trigger)

The development hereby approved (including demolition, ground works, and vegetation clearance) shall be carried out in strict accordance with the mitigation measures and recommendations set out in the approved Ecological Impact Assessment (dated October 2023, ref 1613B-EclA-VB) and Landscape and Ecological Management Plan (ref 1613BLEMP-VB-REV3 received 05.12.2023).

All enhancements shall be installed, retained and maintained in perpetuity in full accordance with the approved Ecological Impact Assessment (dated October 2023, ref 1613B-EcIA-VB) and Landscape and Ecological Management Plan (ref 1613B-LEMPVB-REV3, received 05.12.2023) in accordance with a timetable agreed in writing by the local planning authority.

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) and part 15 of the NPPF.

6. External Lighting (Compliance)

All external lighting shall be installed strictly in accordance with the specifications and locations set out in the Lighting Impact Assessment (prepared by The Lighting Bee, dated November 2023) and shall be maintained thereafter in accordance with the approved design. No new external lighting, other than that shown on the approved plans, shall be installed within the boundary of the application site unless in accordance with details that shall have first been submitted to and approved in writing by the local planning authority.

Reason: In the interests of the Favourable Conservation Status of populations of European protected species and in accordance with DP5 and DP6 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (adopted 2014) and part 15 of the NPPF.

7. Construction Environmental Management Plan: Biodiversity (Pre-Commencement)

No development shall commence (including demolition, groundworks and vegetation clearance) until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the local planning or authority. The CEMP 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 practises) to avoid or reduce impacts during construction (may be provided as a set of method statements), including nesting birds habitat clearance measures, badger buffer zones, etc.
- d. The location and timing of sensitive works to avoid harm to biodiversity features
- e. The times during construction when specialist ecologists need to be present on site to oversee works
- f. Responsible persons, lines of communication and written notifications of operations to the local planning authority
- g. The role and responsibilities on site of an ecological clerk of works (EcOW) or similarly competent person
- h. Use of protective fences, exclusion barriers and warning signs
- i. Ongoing monitoring, including compliance checks by a competent person(s) during construction and immediately post completion of construction works.

The construction of the development shall thereafter be carried out strictly in accordance with the approved CEMP.

Reason: To prevent ecological harm and to provide biodiversity gain in accordance with DP5 and DP6 of the Mendip District Local Plan Part 1 and part 15 of the NPPF. This is a condition precedent because it is necessary to understand the scheme in detail prior to any initial construction works to safeguard protected species.

8. Construction Management Plan (Pre-Commencement)

No development shall commence, 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.

9. Footpaths (Pre-Occupation)

Public footpaths within the areas of open space shall be implemented and made available for public use as shown on drawing 2114 03 REV C - PROPOSED SITE LAYOUT (received 26.09.2024) prior to occupation of any part of the development or in accordance with a programme agreed in writing with the local planning authority.

Reason: To ensure that suitable access is provided in accordance with policy DP9 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014) and part 9 of the NPPF.

10. Estate Roads (Bespoke Trigger)

The proposed estate roads, footways, footpaths, verges, junctions, street lighting, sewers, drains, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, drive gradients, car, motorcycle and cycle parking, street furniture and tactile paving shall be constructed, laid out and maintained in accordance with details to be approved by the local planning authority in writing before the construction of any aspect of the new section of the highway begins. For this purpose, plans and sections, indicating as appropriate, the design, layout, levels, gradients, materials, method of construction and proposals for future maintenance shall be submitted to the local planning authority. No individual dwelling shall be occupied until it is served by all necessary features as agreed by this condition.

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) and part 9 of the NPPF.

11. Bicycle Storage (Pre-Occupation)

No occupation of the development shall commence until secure and accessible bicycle storage in accordance with the approved details has been provided. 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) and part 9 of the NPPF.

12. Visibility Splay (Pre-Occupation)

No occupation of the development shall commence until the visibility splay on the access onto Packsaddle Way as shown on drawing number 2114 03 REV C PROPOSED SITE LAYOUT (received 26.09.2024) has been provided. There shall be no on-site obstruction exceeding 600mm 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) and part 9 of the NPPF.

13. Electric Vehicle Charging (Pre-Occupation)

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

Reason: To encourage use of electric vehicles and reduce carbon dioxide emissions in accordance with the Somerset Council Electric Vehicle Charging Strategy (2020), DP7 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (2014), 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) and paragraph 117 of the NPPF.

14. Dwelling Access (Pre-Occupation)

No individual dwelling shall be occupied until it is served by a properly bound and compacted footpath, carriageway and turning space(s) where applicable to at least base course level between the dwelling and the existing adopted highway.

Reason: To ensure that the development is served by an adequate means of access in accordance with policy DP9 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (adopted 2014) and part 9 of the NPPF.

15. Provision and Storage of Recycling and Waste Containers (Pre-Occupation)

No individual dwelling shall be occupied until provision for the storage of recycling and waste containers for collection has been made within the application site in accordance with details that have first been submitted to and approved in writing by the local planning authority.

Reason: In the interests of the character and appearance of the area, residential amenity and highway safety having regards to policies DP3, DP7 and DP9 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (adopted 2014) and parts 9 and 12 of the NPPF.

16. Surface Water Drainage (Pre-Commencement)

No development shall be commenced, including ground clearance and vegetation removal, until details of the sustainable surface water drainage scheme for the site, have been submitted to and approved in writing by the local planning authority. The submitted scheme should aim to meet the four pillars of SuDS (water quantity, quality, biodiversity, and amenity) to meet wider sustainability aims as specified by The National Planning Policy Framework and the Flood and Water Management Act (2010). The development shall include measures to control and attenuate surface water and once approved the scheme shall be implemented in accordance with the approved details and maintained at all times thereafter.

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 and part 14 of the NPPF. 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.

17. Air Source Heat Pumps (Pre-Occupation)

No individual occupation of plots 1-5, 23-25, 29-32, 39-43 shall occur until the plot is served by an operational air source heat pump in accordance with details which have been first agreed 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 and DP8 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (adopted 2014), the Mendip District Council Supplementary Planning Document Design and Amenity of New Development: Guidance for interpretation of Local Plan Policy DP7 (adopted March 2022) and part 14 of the NPPF.

18. **Water Efficiency - Rainwater Harvesting (Pre-Occupation)**

No occupation of the approved dwellings shall commence until a scheme for rainwater harvesting or other methods of capturing rainwater for use by residents (e.g. water butts) has been submitted to and approved in writing by the local planning authority. The development shall thereafter be constructed in accordance with the approved details.

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) and part 14 of the NPPF.

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

No individual occupation of plots 1-5, 23-25, 29-32, 39-43 shall occur until solar panels have been installed on the plot 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) and part 14 of the NPPF.

20. **Compliance with Low Carbon Energy and Resource Efficiency Statement (Compliance)**

The development hereby approved shall be carried out in strict accordance with the recommendations set out paragraph 6.4 of the Low Carbon Energy and Resource Efficiency Statement in relation to water consumption.

Reason: 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) and part 14 of the NPPF.

Informatives

1. **Condition Categories**

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

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

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

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

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

Please note all conditions should be read fully as these headings are intended as a guide only. Failure to comply with these conditions may render the development unauthorised and liable to enforcement action.

Where approval of further information is required you will need to submit a conditions application and pay the relevant fee, which is 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.

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

3. Materials

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. Legal Protection Afforded to Nesting Birds

The developers are reminded of the legal protection afforded to nesting birds under the Wildlife and Countryside Act 1981 (as amended). In the unlikely event that nesting birds are encountered during implementation of this permission it is recommended that works stop immediately, and do not restart either until the young have fledged or advice is sought from a suitably qualified and experienced ecologist at the earliest possible opportunity.

5. 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.

6. 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.

7. Highways Advance Payments Code (APC)

The applicant should be aware that the internal layout of the site represents the laying out of an estate road / private street, and as such, under Sections 219 to 225 of the Highways Act 1980, will be subject to the Advance Payments Code (APC). A security, in the form of a cash deposit or bond, will be required for the value of the road works in order to ensure that funds are available to complete the new estate roads, should for any reason the developer cannot. This is a statutory duty placed on the council by the government.

All such roads, whether proposed as private or for adoption for maintenance at public expense, will need to be constructed to an acceptable standard as determined and approved by the Highway Authority.

Once the APC notice has been served (after Building Regulations approval), and activated by the laying of house foundations, Somerset Council needs to be satisfied that the estate road infrastructure has been designed, built and will be maintained to a suitable standard. Once satisfied in this regard Somerset Council can then 'exempt' the APC liability, release the security (bond/cash deposit) and remove the APC liability from local searches, for the house buyers/owners.

Non-refundable fees are payable to Somerset Council to cover the costs of undertaking this 'superintendence' of APC legislation.

8. Highways Legal Agreement and Licence

The proposals will involve works in the existing highway, and as such require a signed, bonded and sealed Section 278 or Section 38 agreement; and to gain a Section 171 Licence to work in or adjacent to the existing highway. Unless there is a pre-existing access to the site, no works should be carried out in the highway / highway verge (such as forming an access to the site) until a Section 171 license has been obtained.

9. Minor Works on the Highway

Under Section 171 of the Highways Act 198, a licence is required to undertake minor works on the highway, including works to trees on the highway.

10. Highway Drainage

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.

11. Public Right of Way

Development, insofar as it affects the rights of way should not be started, and the rights of way should be kept open for public use until the necessary Order (temporary closure/stopping up/diversion) or other authorisation has come into effect/ been granted. Failure to comply with this request may result in the developer being prosecuted if the path is built on or otherwise interfered with.

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

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

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

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

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

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

12. Surface Water Drainage Information

LLFA will expect to see the following in order to agree the surface water drainage condition:

- o Drawing / plans illustrating the proposed surface water drainage scheme including the sustainable methods employed to delay and control surface water discharged from the site, sewers and manholes, attenuation features, pumping stations (if required) and discharge locations. The current proposals may be treated as a minimum and further SuDS should be considered as part of a 'SuDS management train' approach to provide resilience within the design.
- o Detailed, network level calculations demonstrating the performance of the proposed system, and these should include:
 - o Details of design criteria and, where relevant, justification of the approach / events / durations used within the calculations.
 - o Where relevant, calculations should consider the use of surcharged outfall conditions.
 - o Performance of the network including water level, surcharged depth, flooded volume, pipe flow, flow/overflow capacity, status of network and outfall details / discharge rates.
 - o Results as a summary for each return period (as opposed to each individual storm event).
 - o Evidence may take the form of software simulation results and should be supported by a suitably labelled plan/schematic to allow cross checking between any calculations and the proposed network.
 - o Detailed drawings including cross sections of proposed features such as infiltration structures, attenuation features, pumping stations and outfall structures. These should be feature-specific.

o Details for provision of any temporary drainage during construction. This should include details to demonstrate that during the construction phase measures will be in place to prevent unrestricted discharge, and pollution to the receiving system. Suitable consideration should also be given to the surface water flood risk during construction such as not locating materials stores or other facilities within this flow route.

Further information regarding external levels and surface water exceedance routes and how these will be directed through the development without exposing properties to flood risk.