

Case Officer	Carlton Langford
Site	Corner Cottage Quarry Lane Leigh On Mendip Shepton Mallet Somerset
Application Number	2022/0053/OTS
Date Validated	18 January 2022
Applicant/ Organisation	R J Cole
Application Type	Outline - Some Matters Reserved
Proposal	Application for Outline Planning Permission with some matters reserved for the erection of 3 no. dwellings with details of access.
Division	Mendip Central And East Division
Parish	Leigh On Mendip Parish Council
Recommendation	Approval
Divisional Cllrs.	Cllr Barry Clarke Cllr Philip Ham

What3words: **smoking.unions.typified**

### **Planning Board Referral:**

This application has been referred back to the Planning Board following its deferral at the meeting on the 29<sup>th</sup> March.

The Planning Board deferred the application requiring the following additional information:

1. Highway safety issues. Concern about the speed limit on the section of highway adjacent, notwithstanding Emma's comments at the meeting confirming the speed limit of 30mph as stated in the report pack and as shown on the Highway Authorities Road plan. The presence of a 60 mph sign that shows on google confused members. In addition, one member raised concerns if the 43.0 M visibility splays could be achieved.
2. Impact of the development on the significance of the setting of the Village Church – Grade 1 Listed. On this point, and notwithstanding the conclusions that were reported Members have requested that we report the views of the Conservation Officer who did not offer any comment on your application or on 2020/0721/OTS (the earlier submission).

### **Access:**

In response to Member concerns, the applicant has amended the visibility splays at the proposed access point recognising that the access enters the highway at the point only just within the 30mph speed limit and that the splays to the north are within the national speed limit requiring further visibility. Amended Plans Received.

The revised plans maintain a visibility splay to the south within the 30mph limit of 2.4m x 43m and the north visibility has been increased to 2.4m x 59m which is considered sufficient given the nature of the road and that traffic within the north splay will be slowing on approaching the 30mph speed limit.

The Highway Officer, maintains, as previously, that the proposal is acceptable in terms of highway safety, providing a safe means of access and egress with adequate off-street parking provision. In accordance with Policies DP9 and DP10 of the Local Plan and having regards for paragraph 111 within Chapter 9 (Promoting sustainable transport) of the National Planning Policy Framework (NPPF), the proposal is acceptable in terms of highway safety with no residual cumulative impacts on road safety which might be considered severe.

### **Setting of Heritage Asset:**

In respect of the setting of the Grade I Listed Church site to the west of the application site the case officer concluded that there are existing developments between the application site and these assets and it is not considered that their setting will be adversely harmed by the proposal.

To expand on this conclusion and having regard for the Good Practice Advice provided by Historic England (2017), setting is the surroundings in which an asset is experienced and may therefore be more extensive than its curtilage.

In assessing the wider setting surrounding the Grade I Listed Church and other nearby listed buildings, it was concluded that over centuries the village has expanded in a linear fashion with single plot depths following Leigh Street. The development as proposed merely extends this linear pattern of development providing further single plots depths along the street. Therefore, the surroundings in which the asset is experienced changes little and the setting is largely preserved.

The Council's Conservation Officer has since reviewed the proposal and agrees with the case officer's assessment and concludes:

"I have no objection to the principle of the erection of 3no. dwellings on the application site and, as an outline application, the development will not result in any harm to the significance of the Grade I listed Church of St Giles. The usual considerations over design, scale and materials etc. will, of course, be key in determining the reserved matters and should likely reflect the traditional, rural village location in order to maintain this position. A standard set of 'house types' of 'anywhere architecture' would be inappropriate and should be avoided. Appropriate landscaping and boundary treatments will also be key in softening the development. I recommend that the gap between the houses be aligned with the spire of the church in order that some visibility of this is maintained in the immediate street scene."

Notwithstanding the matters which can be resolved through any subsequent application for reserved matters which will include, appearance, layout, scale and landscaping for the development, it is concluded that having regard to the above, no material harm to the setting of the designated heritage asset(s) has been identified and therefore, having due regard to Section 66(1) of the Planning (Listed Building and Conservation Area) Act 1990 and DP3 of the Mendip District Local Plan 2006-2029 (Part 1 Strategies and Policies - adopted 15th December 2014) consent should be approved.

Cllrs will appreciate that whilst a recent extensive scheme for housing extending over 2.5ha to the north of the asset was recently refused planning permission having regard for its harmful suburbanised character having an adverse impact on the setting of the asset. However, the nature of the scheme, to include its excessive scale and estate layout was different in all aspects to the proposal currently before you and completely eroded the surroundings is which the asset is experienced.

The rest of this report replicates the original officer report and recommendation that was presented to the Mendip Planning Board on the 29<sup>th</sup> March. The recommendation remains for approval.

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

The application relates to land north of Corner Cottage, Leigh on Mendip, Radstock, BA3 5QG. The application site is accessed from a northbound unclassified road with a 30mph speed limit. Currently the site is vacant.

The application site falls outside of designated development limits as defined by Mendip District Local Plan Part I: Strategy and Policies (December 2014) (MDLP). The application site also falls within Band C of the Mells Valley Special Area of Conservation (SAC), a Bat Consultation Zone, a SSSI Impact Risk Zone and a Coal Development Low Risk Area. Additionally, the site is close to Halecombe Quarry and Barn Close Quarry and hence is within the mineral safeguarding area in the Somerset Minerals Plan (2015).

The application seeks outline planning consent with all matters reserved save for access which is being considered. The plot is 0.16ha and the proposed indicative layout would see a detached dwelling and a pair of semi-detached houses.

As access is the only matter being considered at this stage, the application is being determined only on the basis of the access shown on the Site Layout Plan. The proposed internal site layout and the building outline shown on plan are therefore for illustrative purposes only.

This application is a repeat application to that refused by the Council in 2021 (See Below). The application, therefore, seeks to address the previous reasons for refusal which related to -

- The sterilisation of the nearby mineral extraction.
- Impact on ecology, no surveys carried out and no protection, mitigation or enhancement proposed.
- No surface water drainage scheme submitted needed to satisfy the Local Planning Authority that an acceptable surface water drainage solution can be achieved to prevent flood risk and
- ensure adequate pollution control of watercourses on the site.

### **Relevant History:**

2020/0721/OTS - Application for Outline Planning Permission with some matters reserved for the erection of 3 no. dwellings with details of access. Refused Jan 2021 for the following reasons: -

1. The proposed residential development falls within a Mineral Safeguarding Area and the application fails to demonstrate that the proposed housing development would not sterilise future mineral extraction at the nearby Halecombe Quarry and Barns Close Quarry. The proposal is therefore contrary to policy SMP9 of the Somerset Minerals Plan (2015); the

NPPF, particularly section 17; and the Mineral Products Association/Planning Officer Society (POS) practice guidance for mineral safeguarding.

2. The site is greenfield and within Band C of the Mells Valley Special Area of Conservation (SAC) a Bat Consultation Zone which is designated for its horseshoe bat features. The application has failed to adequately demonstrate the presence or otherwise of protected species (bats and reptiles) on the site and how they or their habitat will be protected or enhanced. The proposal also has not demonstrated any proposals for appropriate mitigation and biodiversity gain. Accordingly, there is a significant risk that the development would have a harmful impact on protected species and would result in the net loss of biodiversity. The development therefore conflicts with Policies DP5 and DP8 of the adopted Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014) and the National Planning Policy Framework, particularly section 15.

3. The proposal would result in a large increase in impermeable surface areas and the proposed soakaways have not been adequately demonstrated to be a suitable solution for the disposal of surface water. Furthermore, no alternative receptor has been identified. Accordingly, inadequate information has been submitted to satisfy Local Planning Authority that an acceptable surface water drainage solution can be achieved to prevent flood risk and ensure adequate pollution control of watercourses. The development is therefore contrary to policy DP8 and DP23 of the Mendip District Local Plan Part I: Strategy and Policies (December 2014) and the National Planning Policy Framework, particularly section 14.

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

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

Ward Member: No Response

Parish Council: Recommend refusal.

- Principle – Isolated and remote from the limited services in the village
- Minerals safeguarding
- Concern with Access, Highways Safety and Traffic Generation given proximity to school

Local Highway Authority (SCC Highways): No Objection Subject to Condition

Land Drainage Engineer: No objections - Revised infiltration testing results and soakaway design in accordance with BRE Digest 365 have been submitted, these address the concerns regarding infiltration on the site raised in our previous comments.

SCC Ecologist: No objections subject to imposition of standard conditions.

## Mineral Planning Authority: No objections -

- In respect of criteria B of Policy SMP9, this refers to cases where the mineral resource, operations or facilities will not be detrimentally affected, and the development proposal would not suffer unacceptable adverse impacts as a result of the mineral operations. In this case, it is accepted that the existing mineral working and the currently permitted resource being extracted at Halecombe Quarry would not be physically impacted by this proposal.
- However, concern is raised that the introduction of additional dwellings in close proximity, (albeit not closer than the nearest existing dwelling), to a major working quarry may give rise to future complaints by future residents and a possible need to change working operations at the quarry. It is accepted that noise assessments were undertaken in regard to an application to deepen Halecombe Quarry and this found that the impact on existing residential amenity would be acceptable subject to a number of planning conditions. However, from a policy perspective, it is not considered reasonable to rely solely on an assessment made in connection with the deepening of Halecombe Quarry to justify that current working at Halecombe wouldn't be negatively impacted by the development or that future residents would not be adversely impacted. It is recommended that the case officer seek the advice of the acoustics/environmental health officer in respect of whether future residents of the proposed development may suffer unacceptable adverse impacts due to current mineral operations. If it is considered that there would be no unacceptable adverse harm, no mineral safeguarding objection is raised.

## Environmental Protection:

- No objections subject to the imposition of a construction hours condition.
- With respect to potential noise disturbance from nearby mineral extraction on end users, I have reviewed all of the information and discussed this with Richard Allard. Given, that other properties are equidistant and already have safeguards as in Condition 14 of the quarry permission (along with several other conditions), and that only one complaint in the last 15 years about general noise from the quarry has been received, we feel it would be unreasonable to refuse this on noise grounds.

## Local Representations: 2 letters of objection have been received raising the following summarised issues:

- Highway safety - the access will be dangerous, the 30 limit is not observed on that stretch of road and there are blind bends in both directions, regardless of the visibility considerations in the application. Cars are parked all along that stretch at school drop off and pick up times, which is unlikely to change even if the school get the car park they are hoping for.
- There is no "orchard" to speak of. There is a risk that with this not included as land for the detached house but being retained by the applicant with a plan to build a further three houses on in the future. There should be a covenant in place to avoid this in either case.

- In winter we can and will be able to see straight through the hedge to the gardens of the two semis, and they will be able to see directly into their neighbours garden for years until the proposed new native trees and hedges are fully grown.
- The houses will feel the quarry blasts and have very little protection from the sound of them too.
- Loss of hedgrows will result in the loss of wildlife.

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

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

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

### **The Council's Development Plan comprises:**

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

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

- CP1 - Mendip Spatial Strategy
- CP2 - Supporting the Provision of New Housing
- CP4 - Sustaining Rural Communities
- DP1 - Local Identity and Distinctiveness
- DP3 - Heritage Conservation
- DP4 - Mendip's Landscapes
- DP5 - Biodiversity and Ecological Networks
- DP7 - Design and Amenity
- DP8 - Environmental Protection
- DP9 - Transport Impact of New Development
- DP10 - Parking Standards
- DP23 - Managing Flood Risk

### **The following policies of the Somerset Minerals Plan are relevant to the determination of this application:**

- Policy SMP9: Minerals safeguarding

### **Other possible Relevant Considerations (without limitation):**

- National Planning Policy Framework

- National Planning Practice Guidance
- Design and Amenity of New Development, Policy DP7 SPD (March 2022)
- Historic Environment Good Practice Advice in Planning Notes issued by Historic England
- Somerset County Council Highways Development Control Standing Advice (June 2017)
- Mineral Products Association/Planning Officer Society (POS) practice guidance for mineral safeguarding

### **Assessment of relevant issues:**

#### **Principle of the Use:**

The application site is situated within the open countryside where under core policies CP1 and CP2 of the Local Plan, development is strictly controlled but may exceptionally be permitted in line with the provisions of Core Policy CP4.

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

However, Mendip District Council is currently unable to demonstrate a five-year housing supply. Therefore, the policies within the local plan which seek to direct new residential development towards the principal settlements and defined Development Limits (CP1, CP2 and CP4), in so far as they relate to housing development, can only be given limited weight and are considered out of date.

The proposal is therefore assessed under paragraph 11d of the NPPF which states that where there are no relevant development plan policies or the policies of importance for determination are out of date that permission may be granted under certain circumstances; 11(d)(ii) states that permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the NPPF as a whole.

Similarly, to the Local Plan, the policies within the NPPF seek to direct new residential development towards sustainable locations and similar to CP4 a number of exceptions are provided for within paragraph 80 where a dwelling in the countryside might be acceptable.

However, paragraph 80 reads:

"Planning policies and decision should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply..."

Whilst falling outside of designated development limits, the proposal falls on the edge of the built village of Leigh-on-Mendip.

Whilst there is a lack of regular running public transport services within the village, Leigh-On-Mendip is privy to services such as a school, free house and café. The village itself which falls 5 miles equidistance from both Frome and Shepton Mallet as the closest principle settlements and approximately 1 mile from

Coleford and 2 miles from Stoke St Michael, which are both Primary Villages as designated by the Local Plan.

It is therefore considered that residential development here would not be isolated, when judged against the NPPF.

On the previous application for the same development under ref: 2020/0721/OTS, the principle of developing the site was thwarted due to the lack of evidence that the proposal would not impact on existing mineral activity in the area.

As with the previous scheme the proposed residential development has the potential to impact mineral extraction at Halecombe Quarry and Barn Close Quarry. Paragraph 206 of the NPPF notes that development should not be permitted if there is potential to constrain mineral working.

The application now includes a mineral safeguarding assessment, and the County Minerals Officer has concluded that based on the information received, it is accepted that the existing mineral working and the currently permitted resource being extracted at Halecombe Quarry would not be physically impacted by this proposal. The proposal therefore clearly addressed the Council's previous reason for refusal (1) and accordingly, the proposal accords to policies relating to mineral safeguarding within the NPPF paragraphs 206 and 182; and the Mineral Products Association/Planning Officer Society (POS) practice guidance for mineral safeguarding.

The usual planning controls of design, amenity, highway safety and in this case specifically, the scheme now addressing previous reasons for refusal relating to ecology and drainage with the planning balance to follow.

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

The application is in outline with all matters reserved except for access, therefore the specific details of appearance, layout, scale and landscaping will be considered at the reserved matters stage.

Whilst the proposed dwellings would be set to the north by 25m of the host house at Corner Cottage there is a relative separation between this location and the common linear extension of residential dwellings along Leigh Street.

The indicative layout provided demonstrates the application site could easily accommodate the proposed three dwellings without detriment impact to character of the area, and 3 dwellings could be provided here with an acceptable height, scale and massing in relation to the wider context and neighbouring development.

To the south and west of the site are 2 heritage assets. The Grade I Listed St Gile's Church over a 100m to the west and the Grade II Listed Old Vicarage some 75m to the south. There are existing developments between the application site and these assets and it is not considered that their setting will be adversely harmed by the proposal.

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



The illustrative drawing indicates that sufficient distance could be achieved between the existing dwellings to the south and the proposed dwellings within the application site, thus ensuring a satisfactory living environment for all.

There is a former farm shop, which is now under residential use, located to the west of the application site though the distance between is acceptable and would not impact amenity of potential residents. There is also a first school to the west, which has the potential to result in noise and traffic generation which may result in disturbance to future occupiers. However, this would be limited to the daytime and is a typical relationship for a school and housing and it is therefore considered an acceptable relationship could be achieved at the reserved matters stage.

The Council Environmental Protection Officer has raised no objections to the proposed residential use of the site save for suggesting the imposition of a restricted construction hours condition. They have also assessed the likely impact of quarry noise on the end users suggesting that it would be unreasonable to raise a noise objection given, that other properties are equidistant and already have safeguards as in Condition 14 of the quarry permission (along with several other conditions), and that only one complaint in the last 15 years about general noise from the quarry has been received.

The proposal, at the outline stage is considered acceptable in regard to policies DP7 and DP8 of the MDLP.

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

The access road to the site is unclassified with a 30mph speed limit, the road is narrow and there is a narrow public footpath on one side only. Given this the proposed access would not be considered acceptable for pedestrian use and impact highways safety adversely, though given highways comments this could be overcome through condition and at the reserved matters stage.

The submitted plan DSGN0248\_OP\_P01\_REVC shows that the new access would be 5m in width and would have visibility splays of 2.4m x 43m in either direction. This would be acceptable given the speed restriction along the site's frontage and could be secured by condition.

The proposed car parking provision with two spaces and a garage for each proposed dwelling is acceptable and in accordance with SCC parking strategy; there is ample space within the proposed hardstanding for turning.

Whilst the parish council raise concerns about the access, highways safety and traffic generation given the proximity to school, the LHA is satisfied conditions could adequately deal with satisfied that the enhancements to the access and footway to ensure highway safety for road users and pedestrians and that the trip generation associated with the development would be minimal and hence would not have a severe impact on the local highway network or cause highway safety concerns.

Accordingly, against the test of the NPPF (para 109) and Policy DP9 and DP10 of the adopted Local Plan Part 1 (2014) Part 9 the proposal is considered acceptable in highway terms at this outline stage.

## **Ecology**

The site is greenfield and lies with Band C of the Bat Consultation Zone for the Mells Valley SAC and therefore the proposal has the potential to impact ecological networks. A preliminary ecological appraisal was carried out which determined that further surveys were required.

These surveys were not undertaken on the previous submission and the application was rightfully refused on ecology grounds (See Reason for refusal 2).

This current application includes the necessary bat and reptile surveys, and the County Ecologist has concluded that despite the site being within Band C of the Bat Consultation Zone for the Mells Valley SAC which is designated for its greater horseshoe bat feature, the proposed development is highly unlikely to have an effect on greater horseshoe bats and therefore does not propose to carry out a Habitats Regulations Assessment for the application.

However, standard conditions as suggested would need to be imposed to ensure the protection of wildlife and wildlife habitats. Accordingly, the proposal safeguards ecology in accordance with policies DP5 and DP6 of the Local Plan Part 1 (2014) and Part 12 of the National Planning Policy Framework.

## **Drainage:**

Given the proposed increase in impermeable surface area in association with the proposal and that no drainage information was submitted on the previous application, the Council refused the application (Reason 3) on drainage grounds as it was not clear whether a soakaway would be a suitable solution for the disposal of surface water.

This current application is now supported with clear infiltration testing results and soakaway design in accordance with BRE Digest 365, these address the concerns regarding infiltration on the site and successfully address the previous reason for refusal on drainage grounds.

Whilst no information has been provided regarding foul drainage from the site, a public foul sewer is located in Leigh Street and therefore in accordance with Environmental Agency Legislation, the properties will be connected to this mains sewer. Although, it would be prudent to impose a condition to ensure an appropriate foul system for the development is provided.

The development therefore accords with Policy DP8 and DP23 of MDLP and Part 14 of the National Planning Policy Framework.

## **Refuse Collection:**

Although no specific storage location has been identified, there is sufficient space within the layout to provide refuse storage and the internal road layout would allow for refuse vehicles. It is therefore considered a condition could adequately ensure sufficient provision for refuse storage and collection.

## **Environmental Impact Assessment:**

This development is not considered to require an Environmental Statement under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017.

### **Equalities Act**

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

### **Other matters:**

With regard for the potential future development of the 'orchard', any proposal would be subject to formal planning permission where the merits of the development would be taken into consideration. The Council has no legal powers to impose covenants on land.

### **Conclusion and Planning Balance:**

This current application has successfully addressed the 3 previous reasons for refusal for the development of the site.

Whilst it is acknowledged that the development will be beyond the edge of the village and therefore would represent a departure from local plan policies regarding its spatial strategy for new residential development, CP1 and CP2, it cannot be described as being in isolated open countryside. The Council does not have a five year housing land supply therefore the tilted balance of Paragraph 11 (d) of the NPPF applies. The additional 3 dwellings will make a modest contribution to housing in the district, which is of some weight. There will also be limited economic benefits through the construction period, and new occupants of the village result may use local services and facilities contributing to their long term viability. This again has limited economic and social benefits

The assessment of the application has not identified any harm in terms of landscape and visual impact, impact on heritage assets and/or highway safety concerns. Whilst the new dwellings will be visible, they will be seen against the backdrop of the village behind. Furthermore it has been demonstrated that the application site is accessible to some local services and facilities, and the future occupants are not wholly reliant on the private car.

Overall any harm arising from the application scheme are not considered to be significant and would not demonstrably outweigh the benefits delivered. On balance, it is recommended that planning permission be granted.

### **Recommendation**

Approval

## Conditions

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

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

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

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

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

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

### 3. **Reserved Matters (Pre-commencement)**

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

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

### 4. **Reserved Matters Detailed Requirements (Compliance)**

Plans and particulars of the reserved matters referred to in condition (03) above shall include details of:

- (a) provisions for the parking of vehicles and bicycles within the site in accordance with the Somerset County Council Countywide Parking Strategy (2013).
- (b) the space to be provided for the loading, unloading and turning of vehicles within the site.
- (c) provision for a Electric Vehicle Charging Strategy (EVCS)
- (d) details for the storage of waste and recycling bins for each dwelling on site

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

### 5. **Vehicular Access (Compliance)**

The vehicular accesses hereby approved shall not be brought into use until they have been

constructed in accordance with details shown on Drawing DSGN0248\_OP\_P01\_REVD. The vehicular accesses shall thereafter be permanently retained in accordance with the approved plans.

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

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

No occupation of the development shall commence until the visibility splay shown on Drawing DSGN0248\_OP\_P01\_REVD have 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).

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

No development shall take place until an annotated tree and hedgerow protection plan following the recommendations contained within BS 5837:2012 identifying measures (fencing and/or ground protection measures) to protect the trees and hedgerows to be retained and provide a 10m buffer between the Orchard and the application site, has been submitted to and approved in writing by the Local Planning Authority. The plan shall include proposed tree protection measures during site preparation (including clearance and level changes), during construction and landscaping operations. The plan should include the design of fencing proposed and take into account the control of potentially harmful operations such as the position of service runs, storage, handling and mixing of materials on site, burning, and movement of people and machinery.

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

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

No external lighting shall be erected or provided on the site until a "lighting design for bats" has been submitted to and approved in writing by the Local Planning Authority. The design shall show how and where external lighting will be installed (including through the provision of technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory or having access to their resting places. All external lighting shall thereafter be installed in accordance with the specifications and locations set out in the design, and these shall be maintained thereafter in accordance with the design.

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).

9. **Nesting Bird Protection (Bespoke Trigger)**

No removal of trees hedges or shrubs shall take place between 1st March and 31st August unless a Survey to assess the nesting bird activity on the site during this period and a Scheme to protect the nesting birds has been submitted to and approved in writing by the Local Planning Authority. No tree hedge or shrub shall be removed between 1st March and 31st August other than in accordance with the approved bird nesting protection scheme.

Reason: To protect nesting birds and prevent ecological harm in accordance with DP5 and DP6 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

10. **Drainage - Foul (Pre-commencement)**

No development shall commence until a detailed scheme for the disposal of foul drainage from the development has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details and completed prior to the occupation of the dwellings.

Reason: In order to ensure the provision of satisfactory drainage and avoid pollution of the environment. This is a condition precedent because it is necessary to understand the drainage scheme in detail prior to any initial construction works which may prejudice the foul drainage strategy.

11. **Plans List (Compliance)**

This decision relates to the following drawings:

DSGN0248\_OP\_LB01\_REVA

DSGN0248\_P\_ES01

DSGN0248\_OP\_P01\_REVD

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

## **Informatives**

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

2. **Condition Categories**

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

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

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

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

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

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

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

Where approval of further information is required you will need to submit a conditions application and pay the relevant fee, which is 116GBP per request (or 34GBP where it relates to a householder application). The request must be made in writing or using the Standard Application form (available on the council's website). For clarification, the fee relates to each request for the discharge of condition/s and not to each condition itself. There is a no fee for the discharge of conditions on a Listed Building Consent, Conservation Area Consent or Advertisement Consent although if the request concerns condition/s relating to both a planning permission and Listed Building Consent then a fee will be required.

3. The applicant is advised of the need to consult the Highways Department, Somerset Council (Tel:- 01458 837100) prior to commencing works adjacent to the public highway.
4. Under Section 163 of the Highways Act 1980 it is illegal to discharge water onto the highway. You should, therefore, intercept such water and convey it to the sewer.
5. The responsibility for ensuring compliance with the terms of this approval rests with the person(s) responsible for carrying out the development. The Local Planning Authority uses various means to monitor implementation to ensure that the scheme is built or carried out in strict accordance with the terms of the permission. Failure to adhere to the approved details will render the development unauthorised and vulnerable to enforcement action.
6. 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 implementation of this permission it is recommended that works stop until advice is sought from a suitably qualified and experienced ecologist at the earliest possible opportunity.

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