

## Planning Board

DATE: 26th August 2020

### NOTES:

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

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Agenda Item No.	DM01
Case Officer	Anna Clark
Site	Myrtle Farm Milton Lane Wookey Hole Wells BA5 1DG
Application Number	2020/0689/FUL
Date Received	31st March 2020
Applicant/ Organisation	Mr & Mrs Mark Lunnon
Application Type	Full Application
Proposal	Proposed demolition of existing barns and the construction of five permanent dwellings including new access and parking.
Ward	St Cuthbert Out North
Parish	St Cuthbert Out Parish Council
Recommendation	Approve
Ward Cllrs.	Cllr Mike Pullin

**What three words:** truckload.protects.reserves

**Reason for Referral to Planning Board:**

The application has been referred to Planning Board because the proposal represents a departure to the development plan as the proposed dwellings are outside the development limits defined in the Mendip District Local Plan Part I: Strategy and Policies (December 2014).

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

The application site is part of the farmyard at Myrtle Farm, Milton Lane, Wookey Hole. The farmyard is within the setting of the farmhouse to Myrtle Farm, which is a grade II listed building and to the north-east of the site. The site is outside, but adjacent to the development limits of Wookey Hole (to the south west) and within the Mendip Hills AONB. There is a Public Right of Way (the Mendip Way) along the south-western side of the site. The site is within the Mendip Bat Consultation Zone and a SSSI Impact Risk Zone.

There is farmland (including farm buildings) to the north and farmland to the west. Residential properties lie within the development limits to the south-west.

The proposal is for the demolition of the existing tractor store and 2 barns within the farmyard and the erection of five permanent dwellings including new access and parking.

The dwellings are arranged as a terrace of 4 cottages in a similar footprint to the exiting barn A and an L-shaped single storey dwelling towards the front (Milton Lane) side of the site with a courtyard between. In physical terms the proposal is identical to an extant, but unimplemented, planning permission (2018/0114/FUL) which was granted in July 2018 for holiday accommodation as opposed to residential.

Additional drainage information was received 25<sup>th</sup> June 2020.

## Relevant History:

2018/0114/FUL - Proposed demolition of existing barns and the construction of five holiday cottages including new access and parking – Approved with Conditions 04.07.2018 (not implemented).

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

Ward Member: No response

St Cuthbert Out Parish Council: Recommend Approval

Highways Development Officer: No objections, subject to conditions

- Width and visibility splays for proposed access onto Milton lane is acceptable.
- The new access will require a highways licence which should be obtained from the Area Highways office in Glastonbury before works on or adjacent to the highway commences.
- Suitability of including existing footpath WS10/4B in new access should be agreed with Public Rights of Way officer
- The level of parking is acceptable and in accordance with SCC parking strategy.
- There appears to be no cycle storage or waste storage areas on the submitted plan, it is recommended that such details are submitted.
- Seeks conditions to ensure the access is: constructed in accordance with proposed plan, the first 6m of the access is fully consolidated, it is not steeper than 1 in 10; the visibility splays are key unobstructed; and private surface water run-off is intercepted such that it does not go out onto the adopted highway. Also seeks conditions to ensure the car parking is provided and retained unobstructed and that bicycle and waste storage is provided.

MDC Conservation Team: No comments received

However, in relation to the previous application 2018/0114/FUL, they raised no objection, subject to conditions, as per the following summarised comments:

- *Following amendments, satisfied no harm would be caused by the proposal to the special architectural and historic interest of the listed building.*
- *Recommends conditions to include joinery, external attachments (including rooflights), sample panel and material samples.*

Mendip Hills AONB Officer: No comments received

However, in relation to the previous application 2018/0114/FUL they made the following summarised comments:

- *Materials and landscaping - need to be responsive to the context of the AONB and relevant legislation:*
  - *Materials should be chosen carefully to preserve the local character of buildings and to blend in with the surrounding landscape. Further detail on proposed materials, to include surfacing materials required.*
  - *Landscaping proposals should consider the topography of the site and the implications of run-off on to the right of way (Mendip Way).*
- *Concerns regarding the amount of parking spaces provided.*
- *Recommends Informative re: PROW*

MDC Environmental Protection: No objection

#### SCC PROW group: Comments

- Confirms there is a public right of way (PROW) recorded on the Definitive Map that will form part of the access to the site at the present time (public footpath WS 10/4B).
- Gives advice on separate authorisation required from SCC PROW and request informatives accordingly.

#### SCC Ecologist: No objection, subject to conditions

- The application site lies within Band B of the Bat Consultation Zone for the North Somerset and Mendip Bats SAC which is designated for its horseshoe bat features. However, the proposed development is unlikely to have an effect on horseshoe bats and therefore a Habitats Regulations Assessment is not required.
- The Ecological Appraisal of the application site, although dated found that the buildings have negligible suitability for bats and no evidence of bat activity at that time.
- The hedgerow and areas of scrub provide a nesting resource for common farmland bird species and the buildings provide exposed beams and nesting opportunities for swallows, which were observed on site during the survey
- Conditions are sought to control lighting, vegetation removal in the bird nesting season and to make provision for nesting swallows.

#### MDC Drainage Engineer: No objection, subject to conditions.

- The site is located in Flood Zone 1. The site is not shown to be at risk of surface water flooding on the current Environment Agency Long Term Flood Risk Maps.
- The proposals will increase the impermeable areas of the site and therefore the volume of surface water runoff. Soakaways are proposed to manage the surface water runoff from the site. These are shown on the proposed site plan 717 4/1/A. The use of soakaways is supported, and infiltration testing has shown these are a viable solution on this site.
- The remaining details of the drainage scheme for the site can be secured via condition.
- Foul drainage is to be connected to the mains sewer.

#### Local Representations:

No comments have been received as a result of public consultation.

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

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

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

The Council's Development Plan comprises:

- Mendip District Local Plan Part I: Strategy and Policies (December 2014)
- Somerset Waste Core Strategy (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 – Housing
  - CP3 - Business Development and Growth
  - CP4 - Sustaining Rural Communities
- 
- DP1 - Local Identity and Distinctiveness
  - DP3 - Heritage Conservation
  - DP4 - Mendip's Landscapes
  - DP5 - Biodiversity and Ecological Networks
  - DP6 – Bats Protection
  - DP7 - Design and Amenity
  - DP8 - Environmental Protection
  - DP9 - Transport Impact of New Development
  - DP10 - Parking Standards
  - DP14 – Housing Mix and Type
  - DP23 - Managing Flood Risk

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

- National Planning Policy Framework
- National Planning Practice Guidance
- The Countywide Parking Strategy (2013)
- Somerset County Council Highways Development Control Standing Advice (June 2017)

**Assessment of relevant issues:**

**Principle of the Use:**

The site is outside, but adjacent to the development limits of Wookey Hole (to the south west).

Under core Policy CP1 of the Local Plan, development is strictly controlled other than exceptional circumstances falling under Policy CP4. The previous permission (2018/0114/FUL) for an identical development, but for holiday accommodation (as restricted by condition), was approved because it was considered to accord with Policies CP3 and CP4 as a result of the benefits that were provided in terms of diversification of the farm and extending the attraction of the area to visitors.

Whilst the current proposal for permanent residential units would have been considered unacceptable at that time, at the present time the Local Planning Authority is unable to demonstrate a five year supply of housing land, meaning that Policies CP1 and CP2, which seek to direct new residential development towards the principal settlements and defined Development Limits, can only be given limited weight. Wookey Hole is identified in CP2 as a secondary village.

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

Similar to the Local Plan, the policies within the NPPF also seek to direct new residential development towards sustainable locations and similar to CP4 a number of exceptions are provided for within paragraph 79 where a dwelling in the countryside might be acceptable.

However paragraph 79 reads:

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

The key consideration here is therefore whether the 5no dwellings here would be isolated homes. Whilst they are in the countryside, it is acknowledged that they adjoin the development limits of a Wookey Hole, which was identified as being a secondary village in Policy CP2 due to it offering

some services and the best available public transport services, making it appropriate for development aimed at meeting more localised housing, among other matters. The development is not therefore considered to be isolated and hence complies with the paragraph 79 of the NPPF.

In light of the reduced weight afforded to Policies CP1 and CP2 as a result of the Council's current lack of a 5 year housing land supply, the compliance with paragraph 79 of the NPPF, and the, albeit limited, benefits of the proposed 5no. dwellings to the Council's housing supply, which are all material planning considerations weighing against the Local Plan development boundaries, the principle of development is considered acceptable.

Furthermore paragraph 11 of the NPPF outlines where the policies which are most important for determining an application (i.e. CP1 and CP2) are out of date (i.e. by virtue of the lack of a 5 year housing land supply) permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the NPPF as a whole.

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

The proposed development in its physical form is the same as the extant planning permission 2018/0114/FUL which was the same as the current proposal, other than the use of the dwellings was previously approved (and restricted by condition) for holiday accommodation. The design of the development and the impact on the street scene and surrounding area was accepted by that permission which represents a reasonable fall-back position.

The development would be set back from the road and would be in place of existing barns and as such the resultant level of development would not be much increased over the existing scenario, subject to conditions to prevent any further extensions or outbuildings. The structures being replaced are of no significance and the replacement with structures composed of more typically traditional materials would be a slight enhancement to visual character of the area.

The height of the buildings has been minimised and no overly domesticated features have been used. Accordingly the development is considered to be in keeping with the rural character of the area. The new access to the site would be fairly discreet due to the existing land levels involved.

In summary, the proposal by reason of its design, 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 Policy DP1 and DP7 of the adopted Local Plan Part 1 (2014) and Part 12 of the National Planning Policy Framework.

### **Impact on the Setting of a Listed Building**

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 impact on the setting of Myrtle Farm, a Listed Building, was thoroughly considered at the time of the previous permission 2018/0114/FUL, and it was concluded that no harm would be caused by the proposal to its special architectural and historic interest. The current proposal would have no further impact on the setting of the listed building than the approved scheme, which represents a reasonable fall-back position.

In summary, the proposals would preserve the setting of the listed building, thereby resulting in no harm to the significance of the designated heritage asset. The proposal accords with Policy DP3 of the adopted Local Plan Part 1 (2014) and part 16 of the National Planning Policy Framework.

## **Impact on the Area of Outstanding Natural Beauty**

The NPPF states that 'great weight' is to be given to conserving landscape and scenic beauty within AONBs. The impact on the Mendip Hills AONB was considered at the time of the previous permission 2018/0114/FUL and considered to be acceptable. The change from holiday lets to permanent residential does not alter the impact of the proposal on the AONB and so the extant permission represents a reasonable fall-back position.

The scale and massing of the development has been minimised with the proposed development primarily being within the footprint of the existing barns. Additionally, no overly domesticated features have been used.

Overall, it is considered that due to the design, scale, massing, position and use of external materials, the proposal would not adversely affect the natural beauty of the landscape of the designated AONB in accordance with Policy DP4 of the adopted Local Plan Part 1 (2014) and Part 11 of the National Planning Policy Framework.

## **Impact on Residential Amenity:**

The impact of the development on residential amenity for existing neighbours and future occupiers was considered at the time of the previous permission 2018/0114/FUL and considered to be acceptable.

The development would face towards itself and is well separated from any existing neighbours. Although unit 5 is close to the frontage of unit 1, this unit is single storey and so no undue overbearing is considered to occur. The proposed residential use would be no noisier than the existing agricultural use. No external lighting is currently proposed and any new lighting is to be controlled by conditions.

Whilst the change from holiday lets to permanent residential does mean the living environment for future occupiers is more important, it is considered that due to the layout and separation between units and the fenestrations proposed adequate residential amenity can be achieved for existing dwellings and future occupiers. Indeed the Environmental Protection team raise no objection and no representations have been made from any neighbours.

In summary, 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, smell, traffic or other disturbance. The proposal accords with Policy DP7 of the adopted Local Plan Part 1 (2014) and Part 12 of the National Planning Policy Framework.

## **Assessment of Highway Issues:**

The site lies along Milton Lane a unclassified road that is subject to a 30mph speed restriction. The Local highway Authority (LHA) advise that there have been no recorded Personal Injury Accidents for the last five years within 500m of the existing site access.

The access arrangement onto Milton Lane and the parking provision is as per the previously approved scheme, which again represents a reasonable fall-back position.

The access both in terms of width and the visibility splays of 2.4m x 43m in either direction is acceptable for the nature of the road, which limits vehicle speeds. The existing hedgerow to the right when exiting the site is already set back from the carriageway and the hedgerow to the left that is under the control of the applicant, would be set back to accommodate the necessary visibility splay. However conditions are required (as before) to restrict the gradient and surface of the access and a highway licence will need to be obtained from the Highways Authority before works on or adjacent to the highway commences.



The new access also includes provision for the existing footpath WS 10/4B, which is acceptable in planning terms, but will require separate agreement with Public Rights of Way Group at Somerset County Council with regard to duties outside the planning system. Informatives are recommended in this regard.

The submitted plan Proposed Site Plan Dwg No: 717 - 4 /1A. shows 7no unallocated parking spaces including 1no disabled parking space for the accessible unit . This level of parking is acceptable and in accordance with SCC parking strategy, as confirmed by the Highway Authority.

Although the Highway Authority seeks the approval of details of disposal of surface water so as to prevent its discharge onto the highway, site wide drainage is covered separately and the issue of drainage onto the highway is covered by separate highway legislation.

No cycle storage or waste storage areas are shown on the submitted plan, which given these are now to be permanent residential properties, would be more important and are required. However there is sufficient space for these and so are secured by condition.

In summary, the means of access and parking arrangements are acceptable and maintain highway safety standards. The proposal accords with Policy DP9 and DP10 of the adopted Local Plan Part 1 (2014) and part 9 of the National Planning Policy Framework.

## **Ecology**

The submitted ecology report, although dated, confirms bats are unlikely to be affected by the demolition of the buildings and proposed redevelopment, which is accepted by the County Ecologist, subject to a lighting condition.

The report also acknowledges that the hedgerow and areas of scrub provide a nesting resource for common farmland bird species and the buildings provide exposed beams and nesting opportunities for swallows, which were observed on site during the survey. The County Ecologist is satisfied that appropriate mitigation can be achieved through the suggested conditions.

Accordingly the proposal makes adequate provision for safeguarding biodiversity in accordance with Policy DP5 and DP6 of the adopted Local Plan Part 1 (2014) and Part 15 of the National Planning Policy Framework.

## **Flood Risk and Drainage**

The site lies within flood zone 1 and the site is not shown to be at risk of surface water flooding on the current Environment Agency Long Term Flood Risk Maps.

The proposals will increase the impermeable areas of the site and therefore the volume of surface water runoff. Soakaways are proposed to manage the surface water runoff from the site. These are shown on the proposed site plan 717 4/1/A. The use of soakaways is supported, and infiltration testing has shown these are a viable solution on this site. The remaining details of the drainage scheme for the site can be secured via condition, as agreed by the MDC Drainage engineer. Foul drainage is to be connected to the mains sewer.

The proposal is therefore considered acceptable, subject to conditions, in flood risk and drainage terms, in accordance with policies DP7, DP8 and DP23 of the adopted Local Plan Part 1 (2014).

## **Refuse Collection:**

Although no specific refuse storage location has been identified on the plan, there is sufficient space within the layout to provide refuse storage. 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, pregnancy and maternity, race/ethnicity, religion or belief (or lack of), sex and sexual orientation.

### **Conclusion:**

In light of the reduced weight afforded to policies CP1 and CP2 as a result of the Council's current lack of a 5 year housing land supply, the compliance with paragraph 79 of the NPPF, and the, albeit limited, benefits of the proposed 5 dwellings to the Council's housing supply are all material planning considerations weighing against the restriction of Local Plan development boundaries. Furthermore under Paragraph 11 of the NPPF, given the fall back position, the benefits of the proposal are considered to outweigh the very limited harms identified the principle of permanent residential development is therefore considered acceptable.

The proposed development in its physical form is the same as the extant planning permission 2018/0114/FUL, which represents a legitimate fall-back position. The use for permanent residential accommodation as opposed to for holiday accommodation would not result in any unacceptable harm to residential amenity and does not alter the consideration of the other technical matters which have been found to be acceptable.

### **Recommendation:**

APPROVE

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

1. In light of the reduced weight afforded to policies CP1 and CP2 as a result of the Council's current lack of a 5 year housing land supply, the compliance with paragraph 79 of the NPPF, and the benefits of the proposed 5 dwellings to the Council's housing supply, which are all material planning considerations weighing against the Local Plan development boundaries, the principle of permanent residential development is considered acceptable.

The proposal, by reason of its design, scale and layout would be in keeping with its surroundings.

The landscape and scenic beauty within the AONB would be conserved.

The proposal, by reason of its design, scale and layout, would safeguard the amenities of neighbouring residents and adjoining land users.

The means of access and parking arrangements meet the required safety standards and will ensure the free flow of traffic on the highway.

All practical measures for the conservation of energy have been included in the design, layout and siting of the proposal.

The proposal makes adequate arrangements for the protection of biodiversity, flood risk and drainage.

The proposal has been tested against the following Development Plan policies. In the opinion of the Local Planning Authority, and subject to the conditions below, the proposal is acceptable:-

CP1, CP2, CP3 and CP4 (principle of development), DP1 (local identity), DP3 (heritage), DP4 (landscape) DP5 (biodiversity), DP6 (bats), DP7 (design and amenity), DP8 (Environmental Protection), DP9 (transport), DP10 (parking), and DP23 (Flood risk and

drainage) of the Mendip District Local Plan 2006-2029 (Part 1 Strategies and Policies - adopted 15th December 2014)  
National Planning Policy Framework  
Planning Practice Guidance  
The Countywide Parking Strategy (2013)  
Somerset County Council Highways Development Control Standing Advice (June 2017)

## 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 permissions.
2. Plans List (Compliance)  
This decision relates to the following drawings:  
1 EXISTING SITE PLAN  
2 EXISTING BARN A PLAN & ELEVATIONS  
3 EXISTING BARN B PLAN & ELEVATIONS  
4/1/A PROPOSED SITE PLAN  
6/A PROPOSED FLOOR PLANS & ELEVATIONS UNITS 1-4  
7 PROPOSED FLOOR PLAN & ELEVATIONS UNIT 5  
8 LOCATION PLAN  
Reason: To define the terms and extent of the permission.
3. Removal of Permitted Development Rights - No extensions or alterations incl roof (Compliance)  
Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no extension, external alteration or enlargement (including additions or alterations to the roof/s) of the dwelling(s) or other buildings hereby approved shall be carried out unless a further planning permission has been granted by the Local Planning Authority.  
Reason: Any further extensions require detailed consideration by the Local Planning Authority in the interests of the character and appearance of the area, particularly the AONB, and the living conditions of neighbouring properties in accordance with Policies DP1, DP4, DP7 and DP8 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014)
4. Removal of Permitted Development Rights - No outbuildings (Compliance)  
Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no garages or other free standing buildings shall be erected within the curtilage of the dwelling(s) hereby approved, other than those granted by this permission, unless a further planning permission has been granted by the Local Planning Authority.  
Reason: The introduction of further curtilage buildings requires detailed consideration by the Local Planning Authority in the interests of the character and appearance of the area, particularly the AONB, and the living conditions of neighbouring properties in accordance with Policies DP1, DP4, DP7 and DP8 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).
5. Removal of Permitted Development Rights - Boundary treatment (Compliance)  
Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no boundary treatment to the dwellings hereby permitted shall be altered or installed within the curtilage of the dwelling(s) hereby approved, other than those granted by this permission, unless a further planning permission has been granted by the Local Planning Authority.

Reason: The introduction of further boundary treatment requires detailed consideration by the Local Planning Authority in the interests of the character and appearance of the area, particularly the AONB, and the living conditions of neighbouring properties in accordance with Policies DP1, DP4, DP7 and DP8 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

6. External Lighting (Bespoke Trigger)

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

Reason: In the interests of the visual character of the area and the safeguarding of dark skies, residential amenity and to avoid harm to bats and wildlife in accordance with DP1, DP4, DP5, DP6, DP7 and DP8 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

7. Access (Pre-occupation)

No occupation shall commence until the proposed access has been constructed in accordance with details shown on the submitted plan, Proposed Site Plan Dwg No: 717 - 4/1/A, but notwithstanding the details on that plan, the gradient of the proposed access shall not be steeper than 1 in 10 and it shall be properly consolidated and surfaced (not loose stone or gravel) for at least the first 6 metres of its length, as measured from the edge of the adjoining carriageway. The access shall be made available for use before occupation and maintained thereafter in that condition at all times.

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

8. Parking and Turning Areas (Pre-occupation)

No occupation shall commence until the parking and turning areas have been constructed in accordance with details shown on the approved plan, Proposed Site Plan Dwg No: 717 - 4/1A. The approved parking area shall be kept clear of obstruction at all times and shall not thereafter be used other than for the parking of vehicles in connection with the development hereby permitted.

Reason: To ensure that adequate and safe parking is provided in the interests of amenity and highway safety in accordance with Policies DP9 and DP10 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

9. Visibility Splay (Pre-occupation)

At the proposed access there shall be no obstruction to visibility greater than 900 millimetres above adjoining road level within the visibility splays shown on the submitted plan. Proposed Site Plan Dwg No: 717 - 4/1A Such visibility splays shall be constructed prior to the commencement of the development hereby permitted and shall thereafter 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).

10. Cycle Parking (Pre-occupation)

No occupation of the development shall commence until an area for the storage of bicycles shall be laid out, constructed and drained in accordance with a detailed scheme to be first submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that adequate and safe parking is provided in the interests of amenity and highway safety in accordance with Policies DP9 and DP10 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

11. **Provision and Storage of Recycling and Waste Containers (Pre-occupation)**  
No occupation shall commence until provision for the storage of recycling and waste containers has been made within the site in accordance with details that have first been submitted to and approved in writing by the Local Planning Authority.  
Reason: In the interests of the character and appearance of the area, residential amenity and highway safety having regards to Policies DP3, DP7 and DP9 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).
12. **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).
13. **Provision for Swallows (Bespoke Trigger)**  
Within 3 months of the commencement of development a scheme for provision for nesting swallows shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall provide full details of the provision, for example within a structure providing shelter, such as an open fronted log store or bespoke box attached to the wall, along with the erection of two artificial nest cups within. The approved scheme will be implemented in full within 3 months of the approval of details and retained thereafter.  
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) and in accordance with Government policy for the maintenance of biodiversity as set out in the National Planning Policy Framework (170d).
14. **Surface Water Drainage System (Pre-commencement)**  
No development shall commence until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include a programme of phasing, implementation and maintenance for the lifetime of the development and subsequently be implemented in accordance with these approved details.  
Reason: In the interests of providing a satisfactory level of surface water drainage, improving water quality and to prevent flooding in accordance with Policy DP23 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014). This is a condition precedent because it is necessary to understand the drainage scheme in detail prior to any initial construction works which may prejudice the surface water drainage strategy.
15. **Materials - Submission of Schedule and Samples (Bespoke Trigger)**  
No construction of the external walls of the development shall commence until a schedule of materials and finishes, and samples of the materials to be used in the construction of the external surfaces, including roofs, have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out only in accordance with the approved details.  
Reason: In the interests of the appearance of the development and the surrounding area in accordance with Policy DP3 and DP7 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).
16. **Sample Panel - Walling (Bespoke Trigger)**  
No construction of the external walls of the development shall commence until a sample panel of all external walling materials to be used has been erected on site, approved in writing by the Local Planning Authority, and kept on site for reference until the development is completed. The development shall be undertaken in accordance with the approved details.

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

17. Joinery Details - Submission of Details (Bespoke Trigger)

No piece of external joinery shall be installed or undertaken unless full details of that piece have been first submitted to and approved in writing by the Local Planning Authority. Such details shall be at full or half scale and shall include cross-sections, profiles, reveal, surrounds, materials, finish and colour. The works shall thereafter be carried out in accordance with the approved details.

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

18. Ducts, Pipes, Rainwater Goods - Submission of Details (Bespoke Trigger)

No ducts, pipes, rainwater goods, vents or other external attachments shall be fitted or installed unless in accordance with details that have been first submitted to and approved in writing by the Local Planning Authority. All such attachments shall thereafter be retained in that form.

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

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

although if the request concerns condition/s relating to both a planning permission and Listed Building Consent then a fee will be required.

3. Having regard to the powers of the Highway Authority under the Highways Act 1980 the applicant is advised that the creation of the new access will require a Highways Licence. This must be obtained from the Highway Service Manager for the Mendip Area at The Highways Depot, Glastonbury. Application for such a permit should be made at least four weeks before access works are intended to commence.
4. 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 applicant is also advised to review the consultation response from the Rights of Way Group.
5. 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.
6. Please note that your proposed work may also require Building Regulations approval, which is a separate consent process to the consideration of a planning application. The Council's Building Control team are available to provide Building Regulations advice from pre-application stage to completion of a development and can be contacted on 0300 303 7790. Further details can also be found on their website <http://www.sedgemoor.gov.uk/SomersetBCP/>
7. The Planning Authority is required to erect a Site Notice on or near the site to advertise development proposals which are submitted. Could you please ensure that any remaining Notice(s) in respect of this decision are immediately removed from the site and suitably disposed of. Your co operation in this matter is greatly appreciated.

Agenda Item No.	DM02
Case Officer	Mr James U'Dell
Site	Land Off Anchor Road Lipyate Cross To Luckington Cross Coleford Frome Somerset
Application Number	2019/2345/OTS
Date Received	25th September 2019
Applicant/ Organisation	Gladman
Application Type	Outline - Some Matters Reserved
Proposal	Application for Outline Planning Permission with some matters reserved for the erection of up to 63 dwellings
Ward	Coleford And Holcombe
Parish	Coleford Parish Council
Recommendation	Delegate to Approve
Ward Cllrs.	Cllr Alan Townsend Cllr Philip Ham

**What 3 Words:** dusted.repayment.walls

### **Reason for Referral to Planning Board**

This outline planning application is referred to the Planning Board as it is an application for development that would be a departure from the existing adopted Development Plan that is recommended for approval.

### **Site Description and Proposal**

This application relates to Land off Anchor Road, Coleford, Somerset.

The site is currently agricultural fields (3.35 ha hectares) located within the northern section/ boundary of the village of Coleford, running up to Lypeate and to the rear of properties located along Anchor Road and Rush Ash Lane.

The site lies adjacent to the development limit boundary of the village, which is identified as a Primary Village under Policy CP1 of the Mendip District Local Plan. The site is also located within a development high risk area for coal mining and lies within close proximity of a public right of way that runs through Rush Ash Lane. The site is not located within the green belt and is not part of any special landscape designation.

The application is for outline planning permission with some matters reserved (access considered, all other matters reserved) for the erection of up to 63 dwellings.

The proposal includes vehicular access onto/ from Anchor Road and pedestrian access points are located to the south of the site onto Rush Ash Lane and to the north-western part of the site onto Anchor Road.



New sections of public footpath are proposed that to provide a connection through to the village and an additional connection to an existing bus stop located in the north of the village. A new section of public footpath is also provided on the western side of Anchor Road, where an uncontrolled pedestrian crossing will be provided, as shown on drawing number 18323-102 Rev E (Titled: Site access junction design). An informal footpath is also shown that runs from Rush Ash Lane along the full length of the eastern boundary and then wraps around the north and western sections of the site.

Although only indicative at the present time, the current plan ref 6504/IDF/ASP4 REVISION F, proposes an attenuation drainage pond/ basin located in the northern section of the site and areas of public open space (total of 1.23ha in area, including 0.1ha 'Play' and 0.2ha 'Informal kickabout') are proposed to the north and south of the site. The applicant has confirmed that 30 per cent of the housing would be delivered as affordable housing.

Indicative layout details of the new development area have been provided in the design and access statement. However as the layout, scale appearance and landscaping of the development are reserved matters and are not under consideration at this time.

A period of public re-consultation ended on the 16<sup>th</sup> June 2020 and the comments received are summarised below.

### **Planning History**

None relevant.

### **Consultations and Representations**

Ward Members - Object on the following grounds (summarised):

- Coleford has exceeded its housing allocation and scheme will result in disproportionate rate of growth;
- Not sustainable development;
- Highway safety concerns;
- Harm to ecology;
- Harmful visual impact to character of area.

Coleford Parish Council - Object on the following grounds (summarised);

- Coleford has exceeded its housing requirements;
- Coleford is not a sustainable location for large scale development;
- Impact of increased traffic on very sub-standard highway network;
- Harmful to highway and pedestrian safety;
- Inadequate visibility splays;
- Loss of extensive area of hedgerow and rare Elm tree;
- Travel Plan inadequate and cycling in the area is not safe;
- Increase in use of private cars;
- Light pollution;
- Harmful visual impact;
- Excessive amount of 4 and 5 bed dwellings;
- No employment offered;
- No guarantee of delivery of houses within 5 years;
- Undermines the Local Plan process and greatly exceeds housing allocation;
- Coleford has limited facilities;
- Pressure on local sewerage system;
- Bishop Henderson School is oversubscribed;
- No information on the potential hazards due to old coal mine shafts and workings;

- Harm to wildlife/ ecology;
- Economic viability is questioned;
- Doctor's surgery will be oversubscribed;
- Lack of consultation with BaNES;
- Against MDC Corporate Plan.

Planning Policy (MDC) – Conclude that the proposal is not in accordance with the LPP1 spatial strategy and the distribution of growth in CP2. However, the lack of a five year supply is significant in reducing weight to be applied to Policy CP2 individually and in the overall balance. Additional harms of the proposal need to be taken into account. Benefits of the proposal will also need to be assessed in the balancing exercise, including:

- Addressing the shortfall in housing supply to meet the Local Housing Need requirement;
- Provision of affordable housing;
- Economic benefits of development and construction activity;
- Open space.

Highways (SCC) – No objections subject to the attachment of relevant conditions and securing travel plan measures etc. via the S106 agreement. Travel plan measures proposed are deemed acceptable.

Landscape Consultant - Raises no technical objections and suggests that issues raised can be addressed at the next stage (reserved matters).

Conservation Officer (MDC) - No objections - the outline proposal of a development of 63 dwellings on this site, subject to the green vegetation buffer being implemented, will have no substantive impact on the setting of Rush Ash Farmhouse, thereby causing no harm to the significance of this designated heritage asset.

Housing Enabling Officer (MDC) - No objections, subject to 30% affordable housing being secured by the S106 agreement. Finer details of tenure, mix and layout etc. to be considered under reserved matters application.

Wessex Water – No objections, the submitted foul drainage strategy is acceptable to Wessex Water and in line with discussions held.

The surface water methodology as well as any flood risk measures and catchment concerns will need approval from the LLFA as the statutory consultee.

Local Lead Flooding Authority (LLFA) - No objections, subject to condition.

Advise that as part of any surface water drainage scheme they would expect to see a variety of multifunction SuDS features used, following the SuDS Management train. This should use at least 2 levels of treatment prior to discharge into an attenuation basin to mitigate sedimentation.

Environment Agency - No objections.

Coal Authority – No objections, subject to conditions.

The Coal Authority concurs with the recommendations of the Phase 1 Geoenvironmental Assessment Desk Study (6264/R1, dated March 2018) based on the professional opinion of Lees Roxburgh Consulting Engineers, that in order to confirm the exact ground conditions / location of the mine entries present within this site, and to inform any remedial / mitigatory measures that may be required to ensure that the development is safe and stable, intrusive site investigations should be undertaken prior to development.

Avon and Somerset Police – Concerns are raised regarding the position of the play provision, as the current location is isolated and has little natural surveillance from nearby dwellings. Please refer to Secure by Design Homes 2019 para 9 for further guidance

SCC Education – Confirms there is no need for contributions towards the secondary school at present as there is capacity at Writhlington School, Radstock. The primary school in Coleford is currently full, and the additional classroom capacity referred to in the Infrastructure Growth Plan is forecast to be over capacity by 2023, and the school would need to expand to accommodate the children from this development. We therefore require education contributions for early years and primary as below;

Early Years = £102,444

Primary = £358,554

TOTAL = £460,998

NHS England - No objections received.

Tree Officer (MDC) - No objections, subject to the attachment of relevant conditions.

Rights of Way Officer (SCC) - Welcome the pedestrian link to footpath FR 4/11 and raise no objections.

Contaminated Land Officer (MDC) - The application site is in a Coal Mining Reporting Area and a Development High Risk Area, therefore a Coal Mining Risk Assessment prepared by a competent person is required.

County Archaeologist (SCC) - The submitted desk-based assessment concludes that the site potentially contains above-ground and below-ground remains associated with post-medieval to modern coal-mining activity. These are likely to be of local significance and so will require investigation and recording as required by the NPPF paragraph 199 which should be secured by condition.

For this reason it is recommended that the developer be required to archaeologically investigate the heritage asset and provide a report on any discoveries made as indicated in the National Planning Policy Framework (Paragraph 199) to be secured by condition.

County Ecologist (SCC) - No objections, subject to conditions.

Natural England – No objections subject to conditions.

Having reviewed the Habitats Regulations Assessment for the above application at Coleford, Natural England supports the conclusions and the need for the mitigation measures identified to be secured to protect the Mells Valley Bats Special Area of Conservation. The habitat retention/provision and restrictions on lighting are necessary to maintain the functionality of the site for greater horseshoe bats, particularly the north and west boundaries of the plot which the bats appear to be using as commuting routes.

Environmental Protection Officer (MDC) - No objection, subject to conditions.

Somerset Waste Partnership - No objections received.

Local Representations: 309 letters of objections have been received and an online petition includes 452 signatures against the development, raising the following issues (summarised):

- Coleford has exceeded its housing requirements – site is outside development limits;
- Overbearing to residential amenities; loss of privacy; loss of light;
- Poor village infrastructure;
- Impact to pedestrian and highway safety;

- Impact to flooding and sewerage;
- Visual impact;
- Limited economic benefits;
- Impact to ecology/ bio-diversity;
- Location for affordable homes unknown;
- More suitable site is available to the east of Highbury Playing Field (COLE024);
- New housing should be built on brownfield sites – impact to green belt;
- Noise and air pollution;
- No smaller units proposed for single or elderly persons;
- Empty houses and properties to rent are already available;
- Impact to trees and hedgerows;
- Land is unstable and contaminated due to use as historic mines;
- Density of development is too high.

Non-material planning issues raised:

- Impacts of the construction period/ process;
- Negative impact to value of neighbouring properties;
- Loss of countryside view;
- Existing houses in Coleford can't get mortgages due to being located above mine shafts;
- Impact of mud being brought onto the roads.

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

## **Planning Analysis**

### Policy Context

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

The Council's Development Plan comprises:

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

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

- CP1 (Spatial Strategy)
- CP2 (Housing)
- CP4 (Sustaining Rural Communities)
  
- DP1 (Local Identity and Distinctiveness)
- DP3 (Heritage Conservation)
- DP4 (Mendips Landscapes)
- DP5 (Ecological Networks)
- DP6 (Bat Protection)
- DP7 (Design and Amenity)
- DP8 (Environmental Protection)
- DP9 (Transport Impact of New Development)
- DP10 (Parking Standards)
- DP11 (Affordable Housing)
- DP14 (Housing Mix)
- DP16 (Open Space and Green Infrastructure)

- DP18 (Safeguarding Corridors for Sustainable Travel)
- DP19 (Development Contributions)
- DP23 (Managing Flood Risk)

*Other Material Considerations:*

- National Planning Policy Framework (NPPF), 2019
- Planning Practice Guidance (PPG), 2012
- Somerset County Council Parking Strategy, 2013
- Somerset County Council Standing Advice, 2015
- Fields in Trust - Guidance for Outdoor Sport and Play (2015)
- Coleford Parish Plan 2009-2019

*Consultation requirements for this application:*

Coleford Parish Council has questioned why there has been no consultation with BANES over the allocation of sites near the B&NES / MDC border, including the Gladman site in Coleford. Consultation on planning applications between Local Authorities usually takes place on applications directly adjacent to a boundary or which are strategic in nature – which this application is not. The balance of jobs and housing in B&NES has been raised as a matter in the examination of Local Plan Part 2, however this does not form part of Mendip’s adopted Local Plan Policy – which in conjunction with the National Planning Policy Framework (NPPF) will be the basis for deciding this planning application.

Officers are satisfied that all requirements in terms of notification of the planning application. Any future planning applications would be subject to statutory requirements in relation to neighbour notifications, publicity and consultation.

Key Issues

**Principle of development**

Coleford is identified as a primary village in the Local Plan Part 1, under Policy CP1 and CP2. The application site is located outside the development limits of the village, but lies directly adjacent to the development limit boundary, in the northern part of the village.

Core Policy 1 (CP1) of the Local Plan Part 1 defines Primary villages as *“villages that offer key community facilities (including the best available public transport services) and some employment opportunities making them best placed to accommodate most new rural development”*.

The Local Plan Part 1 proposes 70 dwellings as a reasoned scale of growth from 2006-2029 for Coleford. Between 2006 and 2019 64 dwellings were completed or granted consent and a further 20 are proposed to be allocated under Part 2 of the Local Plan, which is still under examination. The proposed 63 dwellings would exceed the projected housing numbers for Coleford. However the Local Planning Authority cannot currently demonstrate a five-year rolling supply of deliverable housing sites. The National Planning Policy Framework (NPPF) therefore 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) applies.

Paragraph 11(d) of the NPPF, sets out a decision-taking framework that states that where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

- *the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed, read together with its footnote 6; or*

- *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.*

The submission argues that para 11d (ii) renders the most important policies for determining the application automatically out of date and this means no assessment against local plan policies is required. A QC's opinion (undated) is provided with their letter. However, this interpretation of NPPF policy was rejected in a high court appeal (EWHC 518 Admin 2020) in early March 2020. The Judgement of Mr Justice Holgate states that "*LPAs and Planning Inspectors may continue to weigh development plan policies in the tilted balance in paragraph 11(d)(ii).*"

The judgement offers some clarifications on what an 'out-of-date' policy means and the sensitivities that are applied in undertaking a 'balancing exercise' in determining the application. However the individual and collective assessment of policies is still one which favours granting permission. Para 100 of the judgement states "*paragraph 11(d)(ii) involves the balancing of competing interests, but with a tilt towards granting permission. That exercise may or may not result in planning permission being granted*".

An assessment of the local plan policies which are most important to the determination of the application is still therefore required, but the tilted balance should be applied to their assessment.

The spatial strategy set out in Policy CP1 therefore remains part of the assessment required of the application and should be weighed in the tilted balance as set out in para 11d(ii). However, it should also be recognised that the site lies adjacent to a primary village and this is accepted within the Local Plan Part 1 (LPP1) strategy as a sustainable location in principle.

The provisions as set out at Paragraph 11(d) of the National Planning Policy Framework (NPPF) will be taken into account in completing the overall planning balance.

In terms of deliverability, the applicant has confirmed that they would accept a condition that reduces the time for submission of a reserved matters application in two years, rather than the standard three year time limit, in order to illustrate their firm intentions to deliver the housing in a timely manner. They also confirm that firm interests with house builder partners have been expressed in developing the site.

### **Sustainability and Local Services**

The application site is located adjacent to the development limits of Coleford, which despite local concerns raised about the infrequency of the local bus service and the lack and proximity of local facilities and services, is identified as a 'Primary Village' within the Local Plan Part 1, under Policy CP1. The Planning Policy Officer also considers that "*it should also be recognised that the site lies adjacent to a primary village and this is accepted within the Local Plan Part 1 (LPP1) strategy as a sustainable location in principle*".

Coleford offers a range of local facilities, including a local CO-OP store, pharmacy, pub and school within walking distance of the application site and a local bus service (number 184) runs through the village linking it to Frome and Midsomer Norton. The bus service does run infrequently however there are options that would allow residents to reach the employment centres of Frome and Midsomer Norton via public transport. It should also be recognised that not all jobs begin at 9am and end at 5pm, or have a fixed location (remote working), therefore it can be concluded that the site is reasonably connected for any future occupiers of the development that may need to travel other than just using private vehicles. In addition, the development can be designed to accommodate bicycle stores for each unit, which is to be secured by condition.

The development proposes new public footpath links to the village and a safer walking route to the bus stop in the north of the site, meaning that village facilities and services can be accessed safely on foot or by bicycle.

The applicant has confirmed aspirations for meeting the Code for Sustainable Homes and outlined a list of possible energy conservation measures that will be explored as part of the detailed design stage (reserved matters) within the design and access statement. These include:

- Homes adapted internally to suit user's needs;
- Low energy lighting
- Locally sourced and local building materials;
- Double and triple glazed windows and high level roof insulation;
- Suitable waste and recycling facilities;
- Enhancement of natural resources;
- Inclusion of urban greening elements and good landscaping;
- Public open spaces and bio-diversity gains/ enhancements;

Given the requirements of Policy DP7 of the Mendip District Local Plan and the Council's green pledge, a condition will be recommended which requires the developer to submit and agree a Sustainability Statement demonstrating how this issue would be addressed through the development. This information is more likely to come forward closer to the detailed design and reserved matters stage.

On the basis of the above assessment the application is considered to represent an opportunity to deliver sustainable development and detailed energy conservation/ saving measures and green alternatives for travel can be secured through condition and within the travel plan.

### **Education**

The Education Authority has confirmed that there is no need for contributions towards meeting the secondary school requirements arising from the development at present as there is capacity in Writhlington, Radstock. The primary school is currently full, and the additional classroom capacity referred to in their Infrastructure Growth Plan is forecast to be over capacity by 2023, therefore there would be a requirement to expand to the existing primary school facilities to accommodate the children from this development. The requirement is as follows £102,444 for early years and £358,554 for primary (total contribution of £460,998).

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

As such the proposed development is acceptable in terms of education contributions in accordance with Policy DP19 and the 3 tests set out in CIL regulation 123.

### **Healthcare**

It is accepted that the development will place additional pressure on healthcare facilities locally as a consequence of an increase in the population of the village, however we have not been made aware of any concerns in relation to capacity of the local Dr's surgery by the relevant consultee as a result of this development.

### **Provision of Affordable Housing**

The application proposes a major development as the erection of up to 63 units are proposed, therefore the development is expected to provide affordable housing. Policy DP11 of the adopted Mendip District Local Plan deals with affordable housing and requires the provision of 30 per cent affordable housing on site, which is the starting benchmark set by Policy DP11.. This would equate to a requirement of 20 dwellings at this site, which should be split as 80 per cent social rented and 20 per cent shared ownership. The units should also be positioned throughout the development and not all clustered together.

The application is for outline permission and does not propose details relating to layout. As such details of the location of the affordable homes is not provided but will be agreed at reserved matters stage

Having regard to sustainability and the benefits of the provision of a balanced affordable housing tenure, the following affordable housing percentages are suggested by the Housing Enabling Officer, for provision in any subsequent reserved matters application:

- 40% x 1 & 2 bed flats/ apartments
- 35% x 2 bed houses
- 25% x 3 bed houses

The applicant has accepted the need to provide 30% affordable housing and has agreed to enter into a legal agreement securing this provision. The finer details of the mix and location of the units would be considered under a reserved matters application.

On this basis the proposal accords with Local Plan Policy DP11 and is considered to be acceptable at the outline stage.

### **Provision of Open Space**

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

Based on this standard and an average dwelling occupancy of 2.1 persons per dwelling, this equates to approximately 132 people living on site (2.1 persons x 63 units). This means that the required area of Open Space based on the proposed population is 0.32ha (2.4ha /1000 x 132).

'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 indicates that an area of 1.23ha of public open space, including a 0.1ha play area and 0.2ha informal kickabout area.

The areas of public open space would exceed the requirements of the adopted Local Plan policies (DP16) and the provision of open space is therefore acceptable. The open space provision is to be secured as part of the S106 agreement.

Although the scope of the public open space area broadly equates to the required standards and includes sufficient space to accommodate a LAP and LEAP, there is no provision for a MUGA. The applicant will therefore either need to provide a MUGA as part of the proposal or agree to make a financial contribution to allow for off-site provision to the sum of £28,647.99 (charge of £454.73 per dwelling - fee based upon 1/3 of the overall total off-site POS contribution fee of £1,364.20). Details in this respect will be agreed as part of the Section 106 process in terms of the delivery and future management of the public open space facilities, including LAP, LEAP and MUGA.

The indicative layout proposes areas of open space in the northern and southern parts of the site, with the northern section being the larger of the two and providing the attenuation pond (SUDS) and play areas, which would be fully accessible, with footpaths running through them.

Is it noted that the application relates to 'up to 63 dwellings'. Although the applicant has demonstrated that open space could be provided on site as well as 63 houses, ecology space and drainage basin, if this could not be delivered in practice then the number of dwellings delivered on the site would be expected to be reduced.



The application has demonstrated that sufficient open space can be provided on the site to comply with policy.

Subject to securing the public open space (including LAP, LEAP and MUGA) and their future management, under a S106 legal agreement, the development would comply with the requirements of Policy DP16 and DP19 of the Mendip District Local Plan, in addition to the Fields in Trust Guidance for Outdoor Sport and Play.

### **Mix of dwellings**

The mix of the dwellings is not proposed/ set at the outline stage, however the housing mix will need to comply with the provisions of Policy DP14 and DP11 as part of the reserved matters application.

### **Impact on Heritage Assets**

The site shares its southern boundary with that of Rush Ash Farmhouse, a Grade II listed building.

There is a duty under Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 in considering whether to grant planning permission for development which affects a listed building or its setting 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.

It is one of the core principles of the NPPF that heritage assets should be conserved in a manner appropriate to their significance. Chapter 16 of the National Planning Policy Framework at paragraph 190 sets out that the local planning authority should identify and assess the particular significance of any heritage asset. They should take this assessment into account when considering the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal.

Paragraphs 192-197 sets out the framework for decision making in planning applications relating to heritage assets and this application takes account of the relevant considerations below.

Given that the application is in outline with matters of layout, scale, appearance and landscaping being reserved, a full assessment of the impact of the development on the setting of designated heritage assets cannot be made at this time. However the Conservation Officer has raised no objections in principle, suggesting that the outline proposal, subject to the green vegetation buffer being implemented, will have no substantive impact on the setting of Rush Ash Farmhouse, thereby causing no harm to the significance of this designated heritage asset.

Having regard to the above assessment, it is considered that the development can be carefully designed (under a reserved matters application) to ensure that the designated heritage assets are not materially harmed, having due regard to the requirements of Section 66(1) of the Planning (Listed Building and Conservation Area) Act 1990 and the provisions of Policy DP3 of the Mendip District Local Plan 2006-2029 (Part 1 Strategies and Policies - adopted 15th December 2014) and Chapter 16 of the NPPF.

### **Design, layout and Impact on Visual Character and Landscape**

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 their 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.

This application is submitted in outline therefore the detailed design has not been confirmed at this stage, and would come forward at reserved matters stage, as matters of scale, layout, appearance and landscaping are reserved matters. The applicant has provided an indicative layout plan,

included as part of the design and access statement, which illustrates how the development could come forward.

Clearly the development will have a visual impact on the landscape as the proposal involves a change from rural, open greenfield land to urban development, including the erection of up to 63 dwellings with associated hard and soft landscaping.

The site is not a designated/ protected landscape and is not classified as green belt, although it is accepted that the proposal would involve the development of a greenfield site, which is not the same as being green belt.

The applicant has submitted a Landscape and Visual Impact Assessment (LVIA) that considers the effect of the proposed development on the landscape and its surroundings. The LPA has also sought the professional advice of an independent landscape consultant.

The landscape consultant has raised a few concerns in regards to how the proposed layout of the site could be designed and laid out to mitigate the impact to the landscape, including how replacement planting would be best incorporated and how the position of existing overhead cables would be taken into account. Such details would not be addressed at this stage as matters of layout, scale, landscaping and appearance are reserved matters.

The consultant has concluded that the impact on landscape character will be adverse but will be restricted to a relatively small area of the site, but overall will not have a significant effect on the character of the wider landscape.

Visual impacts will be restricted to those living right beside the site, those passing the site on the short length of PROW passing the southern end of the site (Ref FR4/11) or those passing the road frontage / Anchor Road.

One of the main concerns raised by the landscape consultant is in regards to the visual impact to the road frontage by the removal of roadside hedgerow facing Anchor Road to facilitate the creation of the new vehicular access. Whilst it is accepted that parts of the hedgerow are proposed to be removed or moved back to facilitate the required visibility splays and the development will be seen against the Anchor Road street-scene, replacement/ relocated hedgerows and planting can be secured under a landscaping scheme (under reserved matters application) to mitigate for this visual impact. The dwellings fronting Anchor Road could also be appropriately set back within the site and designed to reflect their setting.

A large area of public open space is proposed in the northern section of the site, which will adjoin Anchor Road and act as a green buffer between the development and Lipyeate. This green buffer is considered to be necessary to allow for a visual separation between the main village and Lipyeate, but will also act to reduce the visual impact of the development to the Anchor Road street-scene.

An area of open space is also proposed in the southern end of the site, in front of Rush Ash Farmhouse, which, given the comments raised by the Conservation Officer having regard to Rush Ash Farmhouse's Grade II listed status, will also need to be incorporated into the detailed layout of the scheme, at reserved matters, to preserve the setting of this designated heritage asset. The Landscape Consultant has also concluded that they would not want to see the degree of separation reduced.

Issues raised by Avon Police in regards to natural surveillance and security would be addressed at the reserved matters stage, where the layout of the site will be considered.

Taking all of the above points together, it is considered that the proposal would have a moderate effect on the character and appearance of the landscape because of the change from rural, open greenfield land to urban development and it is considered that the issues raised by the landscape consultant can be addressed within a reserved matters application, when matters of layout, scale, appearance and landscaping can be fully considered.

The extent and impact to the landscape needs to be balanced in light of the findings of the landscape assessment, which must be taken into regard in the planning balance in assessing the application against the requirements of Paragraph 11(d) of the NPPF.

Overall it is considered that the proposal would cause limited harm to the landscape and is therefore in accordance with Policy DP4 and DP7 of the Local Plan.

### **Impact on Residential Amenity**

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

Whilst the application is in outline, with layout as reserved matters, based on the information provided it is acknowledged that the proposed development would have an impact on the current living environment of the residents of adjoining properties, particularly those properties along Anchor Road and Rush Ash Lane that back onto the application site.

It is further acknowledged that the residential development of the site would have some impact on the amenity of the occupiers of those properties closest to the application site in respect of changing their existing outlook and environment which they currently enjoy. It must however be stressed that the right to a private view is not a material planning consideration and cannot therefore be taken into account.

As the application is in outline, detailed layout has not been provided, however based on the information provided, and an assessment of the site, is considered that there is no reason to conclude that the development proposed could not be achieved without having a harmful impact on the residential amenity of neighbouring occupiers.

Concerns have been raised by local residents regarding harm to residential amenity during the construction phase of the development, however as construction is carried out over a relatively short period compared with the life of the development, this in itself is not a reason to refuse the application. However whilst the Environmental Protection Officer has reviewed the technical submission documents and has not objected to the proposed development as a whole, they have recommended a condition requiring the submission and agreement of a construction management plan which would control hours of operation, deliveries, etc.

Local residents would have the opportunity to comment on a detailed reserved matters application at the appropriate stage, in the event outline consent is granted.

The provision of the public open spaces will provide a good environment for future and existing residents/ members of the village and promote health and wellbeing through opportunities for play, recreation and sports.

Given the above assessment, it is considered that the principle of residential development on this site would not have a harmful impact on the residential amenity of neighbouring or future occupiers of the site. Furthermore it is considered that a satisfactory proposal could be designed, within a reserved matters application, to accord with the provisions of Policy DP7 and DP8 of the adopted Local Plan Part 1 (2014) and part 12 of the NPPF. In light of this it is considered that refusal on the basis of harm to residential amenity would not be justified.

### **Flooding and Drainage**

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

Given the nature of the development, it would result in hard surfaces and potential matters of surface water run-off. The application submission includes a Flood Risk Assessment and a Foul Drainage Analysis. Although the application is submitted in outline, the Local Lead Flood Authority (LLFA) raise no objections (see above) and are satisfied that a technical solution to drainage can be found and be integrated into a reserved matters application, at the appropriate stage. A relevant drainage condition is recommended by the LLFA, which would be carried forward. No objections have been received from the Environment Agency or Wessex Water.

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

In conclusion on this matter, the proposal has demonstrated that a technical solution can be secured to deal with matters of drainage to be secured by condition. As such the application is considered to accord with the requirements of Local Plan Policy DP23 and chapter 14 of the NPPF.

### **Impact on Highway Safety**

Policy DP9 and DP10 of the MDLP sets out a range of criteria to ensure that new development provides safe access arrangements that avoid causing traffic or environmental issues on the transport network; avoid direct access onto National Primary or County Routes; and, where appropriate, demonstrate how sustainable modes of transport would be promoted.

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

The site is located along Anchor Road, a classified un-numbered road, the proposed sites access currently lies just outside the 30mph speed restriction within the national speed limit (60mph).

The County Highways Authority confirm that on reviewing the recorded PIC's (Personal Injury Collisions) there appear to be none within the last five years within 500m of the proposed sites access. There are none recorded along Anchor Road or at the Anchor Road/ Charlton Road junction, however there is one recorded along Stockhill Court and one recorded along Church Street, which both appear to be due to driver error.

A single point of vehicular access is shown coming off Anchor Road and pedestrian/ public footpath links are shown, one providing pedestrian access to Rush Ash Lane in the south of the site and one providing pedestrian access in the north-west corner of the site, opposite to the bus stop on Anchor Road. New pedestrian footpaths are proposed along Rush Ash Lane and along the eastern and western sides of Anchor Road, as indicated on the proposed plans. An uncontrolled pedestrian crossing is included in the northern section of the site to provide a safer means of access to the bus stop for residents of the development and the wider village.

The internal layout of the site and the associated parking and access arrangements are not under consideration, however the indicative layout shows that sufficient turning and access space could be accommodated within the site to serve the development.

A full transport assessment (TA) and travel plan (TP) have been submitted to support the application, which have been revised to respond to previous comments and issues raised by the County Highways Officer and Travel Plan Officer.

In terms of traffic impact whilst the proposal is likely to result in an increase in vehicle movements, the trip patterns would be spread out and therefore, as a consequence, the Local Highway Authority

considers that although the proposal will increase vehicle movements on the local highway network, it is not significant enough to be considered to be severe under Section 9 of the National Planning Policy Framework (NPPF).

Whilst the visibility splays shown on the submitted plan are commensurate with the existing 85 percentile of vehicle speeds along Anchor Road, the scheme will include the extending of the 30mph speed limit to a point deemed appropriate by the Local Highway Authority. This will necessitate the modification of the existing TRO (Traffic Regulation Order), the costs of which will be borne by the applicant.

The Highway Authority has considered the objections and evidence raised/ provided by local residents and concluded that the revised transport assessment demonstrates that the existing highway network can accommodate the amount of traffic that would be generated by the proposed development and consider that the proposed access to the development is acceptable, subject to conditions.

The travel plan as submitted has been audited and found to be acceptable and the measures included within it, in addition to the relevant highway works proposed, will be secured under the s106 agreement.

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

The extension of the 30 mph speed limit at the north of Anchor Road/ Coleford will require a TRO (Traffic Regulation Order). In order for speed cushions etc to be considered a design would need to be submitted and approved by SCC officers. At this time as no design has been put forward there are certain design criteria required for implementing such control and therefore given that no scheme has yet to be audited this may or may not be achievable. There could be an obligation to provide such a scheme through the s106 but it must be remembered that any scheme will need to be fully audited and comply with Highway Authority design criteria.

A development of this size would be expected to include lighting, which would form part of a legal agreement for the internal estates roads to be adopted by the highway authority. However, there is scope to agree a sensitive lighting scheme which can meet highway requirements and also limit light pollution. This could consider existing and future occupants as well as bats.

On the basis of the Highway Authority's response and the detailed assessment set out above, it is considered that the application is acceptable in highway and pedestrian safety terms and would not have a harmful or unacceptable impact on highway safety. The proposal accords with Policy DP9 of the adopted Local Plan Part I (2014) and Part 9 of the National Planning Policy Framework.

### **Impact on Ecology**

An important consideration is the impact of the proposed development on protected species, and particularly bats.

An Ecological Appraisal has been submitted with the application which assesses various species and habitats and makes recommendations.

The SCC Ecologist has not objected to the scheme, subject to the inclusion of various conditions. A Habitat Regulation Assessment (HRA) has been submitted to Natural England which concludes the proposed development is acceptable, subject to the inclusion of conditions. Natural England has agreed with the conclusions of the HRA and not objected to the scheme, subject to conditions securing mitigation measures.

A habitat enhancement area has been requested by the County Ecologist, which will be secured by S106 legal agreement, which will include a 10m wide ecological corridor along the eastern boundary

of the site. Other ecological enhancement measures will also be secured by condition to include nests, bee bricks etc.

It is considered that a reserved matters application can be fully assessed to ensure that the development will have an acceptable ecological impact, in accordance with the provisions of Policy DP5 and DP6 of the Local Plan.

### **Impact on Tree and Hedgerows**

An Arboricultural Assessment has been submitted in support of the application which includes a tree survey of the site.

Local objections have been raised relating to the removal of an Elm tree and a large section of hedgerow along Anchor Road to accommodate the proposed visibility splays for the vehicular and pedestrian access points to the site.

The Elm tree is of moderate importance, and a relatively rare occurrence by being a healthy Elm tree showing no sign of “Dutch Elm Disease” at present – it is however in conflict with the streetlight and close to the carriageway (highway). The tree would be lost to achieve the required visibility splay to create the vehicular access and pedestrian visibility for the proposed informal crossing (i.e. to reach the bus stop). A request to assess this tree for its suitability for a Tree Preservation Order (TPO) resulted in the conclusion that, although a decent sized Elm tree and of moderate importance (B category) the tree is compromised by its proximity to the streetlight and adjacent highway, along with the un-known future vulnerability to disease making it an unsuitable candidate for a TPO.

The Tree Officer has assessed the impact of the development on trees and concluded that the Elm tree is not worthy of future protection under a tree preservation order (TPO) and raises no objections to the proposal, subject to the attachment of relevant conditions.

It is considered that the loss of hedgerow along Anchor Road is acceptable subject to the creation of replacement hedgerow and other replacement planting. The applicant would be required to demonstrate how existing trees and hedgerows would be protected as part of a reserved matters application when the detailed design has been set out.

The impact of the development to trees is considered to be acceptable with the imposition of relevant conditions. The proposal is therefore considered to comply with the provisions of Policy DP1 and DP4 of the adopted Local Plan Part I (2014).

### **Impact on Archaeology**

The Historic Environment Officer at Somerset County Council raises no objections in regard to the impact of the development to archaeology, subject to a condition.

### **Coal Mining, Ground Stability and Contaminated Land**

Parts of the site were historically used for coal mining and remains of the old mine workings are recorded in the southern and northern sections of the site. The applicant has submitted a Phase 1 Geoenvironmental Assessment Desk Study (6264/R1, dated March 2018) that accompanies the application.

The Coal Authority have been consulted and they consider that the finer details can be conditioned and be considered under a reserved matters application, as once the exact ground conditions / location and condition of the mine entries have been confirmed the findings of the ground investigations will inform any remedial / mitigatory measures that may be required. The applicant is aware that any on-site mine entries will likely require stabilisation works (stabilised / capped) and the layout of the development will need to be informed by these mining features (adequate separation between the mine entries and built development).

The parts of the site most at risk are in the northern and southern ends of the site, which are indicatively proposed as public open spaces, so it can be concluded that this issue can be satisfactorily addressed by condition and under the reserved matters application.

The Coal Authority raise no objections to the application, subject to the attachment of relevant conditions. The Contaminated Land Officer also recommends similar conditions.

With the attachment of relevant conditions the development will accord with the provisions of Policy DP8 of the Mendip District Local Plan having regard to the need to protect public health and safety.

### **Environmental Impact Assessment**

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

### **Equalities Act**

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

### **Conclusion and Planning Balance**

The overall thrust of Government Policy as set out in the updated NPPF is to encourage the delivery of sustainable development, and requires Local Authorities to boost significantly the supply of housing. The application reflects the emerging policy framework which covers the period 2006-2029. The application scheme offers a proposal which would provide up to 63 residential units, including the provision of affordable housing to respond to current policy requirements. In addition the proposed means of access to serve the development is considered to be acceptable. Public open spaces, a habitat enhancement area and a drainage attenuation pond will also be integrated into the development. Improved access to the bus stop in the north of the site will be secured through the provision of new public footpaths and a pedestrian crossing and an extension of the 30mph speed limit will also be secured under a TRO by the County Highways Authority.

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

As the adopted local plan is out of date and as the Local Planning Authority cannot demonstrate a five year supply of deliverable housing sites, the terms of Paragraph 11(d) of the Framework are engaged in completing the assessment, confirming that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. The following points present a summary assessment of how the application scheme meets the three objectives of sustainable development identified in the Framework

- The direct economic benefits of the proposal would be linked to employment opportunities during the construction phases and the indirect benefits are linked to the increase in population and the consequent use of local businesses and services in the locality;
- In the context of social benefits, the proposal would provide a substantial number of additional dwellings, including 30 per cent affordable housing, within the village and will contribute towards the current shortfall across the District. Other benefits are listed above and below under the recommendation section.

- With regards to environmental benefits, the scheme will safeguard areas to deliver ecological enhancements and open space across the development area. The proposal would be located close to the services and facilities contained within Coleford so that future occupants of the proposed dwellings would not necessarily be dependent upon private vehicles in order to access facilities that may be required on a day to day basis. Sustainable construction methods and technologies will be secured by condition and be included as part of reserved matters submission(s).

Given that no technical objections are raised and no significant harm has been identified in terms of delivering the quantum of development as proposed, either actual or in policy terms, taking into account the benefits as set out above, it is concluded that the benefits of the development substantially and demonstrably outweigh the very limited harms identified (paragraph 11d of the NPPF).

Therefore, it is recommended that outline planning permission should be granted, as a departure from the development plan, for the reasons set out above in this report, and subject to a S106 agreement to cover the following requirements:

- Travel Plan
- Provision of off-site highway works, including new street lighting and public footpaths along Anchor Road and Rush Ash Lane and the alterations to the bus stop infrastructure on Anchor Road, in accordance with Drawing No's:18323-102 Rev E and 18323-103 Rev A; Traffic Regulation Orders (where achievable), improvements to pedestrian crossing facilities at Anchor Road to link to bus stop on the west of Anchor Road;
- Affordable Housing at 30% (split 80% social rented and 20% shared ownership);
- Provision of public open space, including at least 0.32ha of public open space, including on site provision of a LAP, LEAP and MUGA, or an off-site contribution of £454.73 per dwelling for the provision of a MUGA; and the management and maintenance of these areas, including any SuDs facilities included within the open space.
- Education contributions of £102,444 for Early Years and £358,554 for Primary;
- Provision of an accessible habitat enhancement area for bats of at least 0.8ha, including a habitat corridor with a minimum width of 10 metres along the face of the eastern boundary's hedgerow;
- Monitoring of s106 fees.

## **Recommendation**

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

## **Reason/s for Recommendation**

1. The proposal accords with paragraph 11d of the National Planning Policy Framework as the benefits of the development significantly and demonstrably outweigh any harm identified. The location of the site is considered to be sustainable. It is considered that the appearance, landscaping, scale and layout of the development could be designed to respect the character and appearance of the area and wider landscape setting; preserve the setting and appearance of heritage assets; safeguard ecology, trees, drainage, energy conservation and safeguard the amenities of neighbouring residents and adjoining land users under a reserved matters application. The proposal has been tested against the following Development Plan policies and, on balance, subject to the conditions below, has been found to be acceptable:- DP1: Local Identity and Distinctiveness, DP3: Heritage Conservation, DP4 (Mendips 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, DP16: Open Space and Green Infrastructure, DP18: Safeguarding Corridors for Sustainable Travel, DP19: Development contributions and DP23: Managing Flood Risk of the Mendip District Local Plan 2006-2029, Part 1: Strategies and Policies, adopted 15th December 2014.

National Planning Policy Framework

Planning Practice Guidance

Somerset County Council Standing Advice, 2015.

Somerset County Council Parking Strategy, 2013.

Fields in Trust - Guidance for Outdoor Sport and Play (2015).

Coleford Parish Plan 2009-2019.

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

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

### 4. Plans List (Compliance)

This decision relates to the following approved drawings/ documents:

- 6504/ASP01

- 18323-102 Rev E

- 18323-103 Rev A

- FULL TRAVEL PLAN ON BEHALF OF GLADMAN DEVELOPMENTS LIMITED (dated December 2019)

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

### 5. Coal Mining Risk Assessment - Site Investigations (Reserved Matters)

The reserved matters application for layout shall include full details of a scheme of intrusive site investigations for the mine entries and shallow coal workings, and which shall have established the exact situation in respect of coal mining legacy features affecting this site and its findings. The intrusive site investigations shall be carried out in full accordance with authoritative UK guidance and demonstrate.

Where the findings of the further intrusive site investigations identify that the coal mining legacy on the site poses a risk to surface stability, full details of all measures to protect the development from the effects of such land instability shall also be provided and shall also include the following information as part of the reserved matters application:

- A layout plan which identifies the exact location of the mine entries found on-site (grid co-ordinates), including calculated zones of influence for the mine entries, and the definition of suitable 'no-build' zones;
- A scheme of treatment for the mine entries on site for approval;
- Confirmation that a detailed remediation scheme for the shallow coal working will be required prior to the commencement of development.

Reason: The site is within an area historically used for coal mining and it may include coal mining legacy features which may pose a threat to public health and safety, having regard to the provisions of Policy DP8 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014). The undertaking of intrusive site investigations, is considered to be necessary to ensure that adequate information pertaining to ground conditions and coal mining legacy is available to enable appropriate remedial and mitigatory measures to be identified and carried out before building works commence on site. This is in order to ensure the safety and stability of the development, in accordance with paragraphs 178 and 179 of the National Planning Policy Framework

6. Coal Mining Risk Assessment - Remediation (Pre-commencement)

Where the findings of the further intrusive site investigations (required by condition 5 above) identify that a detailed remediation scheme for the shallow coal workings will be required, no development shall commence until such detailed remediation scheme has been submitted and approved in writing by the Local Planning Authority. The remedial works shall thereafter be implemented in accordance with the approved details and prior to the occupation of any dwellings.

Reason: The site is within an area historically used for coal mining and it may include coal mining legacy features which may pose a threat to public health and safety, having regard to the provisions of Policy DP8 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014). The undertaking of intrusive site investigations, prior to the commencement of development, is considered to be necessary to ensure that adequate information pertaining to ground conditions and coal mining legacy is available to enable appropriate remedial and mitigatory measures to be identified and carried out before building works commence on site. This is in order to ensure the safety and stability of the development, in accordance with paragraphs 178 and 179 of the National Planning Policy Framework.

7. Replacement Ecological Habitat (Reserved Matters)

The Reserved Matters application for layout and landscaping shall include details of the layout and planting schedule for the habitat enhancement area for bats. The replacement habitat shall be of long sward meadow and scrub, which is accessible to horseshoe bats. The enhancement area will be planted at the earliest feasible date following permission or in accordance with a programme of implementation that shall have been submitted and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details and retained in perpetuity.

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

8. Construction Management Plan (Pre-commencement)

No development shall commence until a Construction and Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall or include the following:

- Details of the working methods to be employed on site during the demolition and construction (and preparation associated with construction) of the site.
- Measures (including screening) to be taken to minimise emissions of dust, fumes, odour, noise, vibration. Details for the safe disposal of waste materials shall also be included.

- The parking of vehicles of site operatives and visitors;
- Loading and unloading of plant and materials;
- Storage of plant and materials used in constructing the development;
- Wheel washing facilities;
- Measures to control the emission of dust and dirt during construction;
- Delivery and construction working hours.

And shall confirm:

That, until 01/04/2021 or any further date set by the Temporary Fast Track Deemed Consent Route Under Section 74B of the Town and Country Planning Act 1990, noise generating activities shall not occur outside of the following hours:

- Mon - Sat 08.00 - 21.00
- All other times, including Sundays, Bank and Public Holidays there shall be no such noise generating activities.

After that date the hours will revert to:

- Mon - Fri 08:00-18:00
- Sat 08:00-13:00
- All other times, including Sundays, Bank and Public Holidays there shall be no such noise generating activities.

The development shall thereafter be carried out in accordance with the approved details.

Reason: To ensure that safe operation of the highway and minimise the effect of noise, odour and dust from the construction phase of development on occupiers of nearby properties in the interests of residential amenity and sustainable development, in accordance with Policies DP7, DP8 and DP9 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014) and Chapter 15 of the NPPF. This is a pre-commencement condition because any initial construction or demolition works could have a detrimental impact upon highways safety and/or residential amenity.

9. Arboricultural Method Statement and Tree Protection Plan (Pre-commencement)  
No development shall commence until a Detailed Arboricultural Method Statement following the recommendations contained within BS5837:2012 and tree protection plan have been submitted to and approved in writing by the Local Planning Authority. The Detailed Arboricultural Method Statement shall contain full details of the following:

- (a) Timing and phasing of arboricultural works in relation to the approved development;
- (b) Construction exclusion zones;
- (c) Protective barrier fencing;
- (d) Ground protection;
- (e) Details of any works within the RPA (Root Protection Area) and the proposed arboricultural supervision;
- (f) Service positions; and,
- (g) details of any special engineering requirements, including 'no dig construction';

The development shall thereafter be carried out in strict accordance with the approved details.

Reason: To ensure that trees to be retained are not adversely affected by the development proposals in accordance with Policy DP1 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014). This is a pre-commencement condition because the works comprising the development have the potential to harm retained trees and therefore these details need to be agreed before work commences.

10. **Hard and Soft Landscaping (Compliance)**  
All hard and/or soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme (phasing) 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 to the development in accordance with Policy DP4 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).
11. **Materials - Submission of Schedule and Samples (Bespoke Trigger)**  
No construction of the external walls of the development shall commence until a schedule of materials and finishes, and samples of the materials to be used in the construction of the external surfaces, including roofs, have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out only in accordance with the approved details.  
Reason: In the interests of the appearance of the development and the surrounding area in accordance with Policy DP3 and DP7 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).
12. **Storage of Recycling and Waste (Pre-Occupation)**  
No individual dwelling within the development hereby approved shall be occupied until provision for the storage of recycling and waste containers has been made for that dwelling 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).
13. **Vehicular Access (Compliance)**  
The vehicular access hereby approved shall not be brought into use until it has been constructed in accordance with details shown on drawing number 18323-102 Rev E. The vehicular access 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).
14. **Construction of Roads, Footpaths and Turning Spaces (Compliance)**  
The proposed roads, including footpaths and turning spaces, shall be constructed in such a manner as to ensure that each dwelling before it is occupied shall be served by a properly consolidated and surfaced footpath and carriageway to at least base course level between the dwelling and existing highway.  
Reason: In the interests of highway and pedestrian safety in accordance with Policy DP9 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).
15. **Estate Roads (Bespoke Trigger)**  
The proposed estate roads, footways, footpaths, cycleways, bus stops/bus lay-bys, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, drive gradients, car, motorcycle and cycle parking, street furniture and tactile paving shall be constructed, laid out and maintained in accordance with details to be approved by the Local Planning Authority in writing before the construction of any aspect of the new section of the

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

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

16. Parking (Compliance)

The areas allocated for parking and turning on the approved plans shall be kept clear of obstruction and shall not be used other than for the parking of vehicles in connection with the development hereby permitted.

Reason: To ensure that sufficient parking is provided to serve the approved development in the interests of highway safety in accordance with Policies DP9 and DP10 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

17. Visibility Splay (Pre-occupation)

No occupation of the development shall commence until the visibility splays shown on drawing number 18323-102 Rev E have been provided. There shall be no obstruction to visibility greater than 600 millimetres above adjoining road level within the visibility splays. The visibility splays 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).

18. Cycle and Footpath Connections (Pre-occupation)

No occupation of the development shall commence until a network of cycleway and footpath connections has been constructed within the development site in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority as part of the reserved matters application(s). The development shall be carried out in accordance with the approved details thereafter.

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

19. Sustainability Measures (Pre-commencement)

No development shall take place until a low emissions/renewable energy strategy confirming mechanisms and provision that will reduce omission levels arising from the development during the construction process and when it is occupied have been submitted to and approved in writing by the Local Planning Authority as part of the reserved matters application(s). The development will thereafter be carried out and retained in strict accordance with the approved details.

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

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

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

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

h) On-going monitoring and remedial measures.

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

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

21. Surface Water Drainage System (Pre-commencement)

No development shall commence until details of the surface water drainage scheme, based on sustainable drainage principles, together with details of a programme of implementation and maintenance for the lifetime of the development, have been submitted to and approved in writing by the Local Planning Authority. This scheme should follow the SuDS Management Train and aim to enhance biodiversity, amenity value, water quality and provide flood risk benefit (i.e. four pillars of SuDS) to meet wider sustainability aims, as specified by The National Planning Policy Framework (July 2018) and the Flood and Water Management Act (2010). The drainage scheme shall ensure that surface water runoff post development is attenuated on site and discharged at a rate and volume no greater than greenfield runoff rates and volumes which naturally fall to the boundary ditch system as stated in JEL/LW/6264/3 "Response to LLFA Comments" dated 3/12/19. Such works shall be carried out in accordance with the approved details.

These details shall include: -

- 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;
- If, after further investigation there is found to be significant constraints which may affect the surface water drainage strategy and development, such as high groundwater level or waterlogged ground, a suitable Constraints Masterplan will be undertaken to demonstrate that these areas of constraint have been addressed within the design of the site;
- Information about the design storm period and intensity, discharge rates and volumes (both pre and post development), temporary storage facilities, means of access for maintenance (6 metres minimum), the sustainable methods employed to delay and control surface water discharged from the site, and the measures taken to prevent flooding and pollution of the receiving groundwater and/or surface waters. This should also include a 10% allowance for urban creep;
- Any works required both on and off site to ensure adequate discharge of surface water without causing flooding or pollution, and to demonstrate the receiving system has condition and capacity to accept a formal connection from the site, (this should include remediation and maintenance of any watercourses under riparian ownership, refurbishment of existing culverts and headwalls or removal of unused culverts where relevant);
- Flood water exceedance routes both on and off site, note, no part of the site must be allowed to flood during any storm up to and including the 1 in 30 event, flooding during storm events in excess of this including the 1 in 100yr (plus 40% allowance for climate change) must be controlled within the designed exceedance routes demonstrated to prevent flooding or damage to properties;
- A management and maintenance plan for the lifetime of the development which shall include the arrangements for any watercourse under riparian ownership of the site, adoption by an appropriate public body or statutory undertaker, management company or maintenance by a Residents' Management Company and / or any other arrangements to

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

Reason: To ensure that the development is served by a satisfactory, sustainable system of surface water drainage and that the approved system is retained, managed and maintained throughout the lifetime of the development, in accordance with National Planning Policy Framework (July 2018) and the Technical Guidance to the National Planning Policy Framework and Policy DP23 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014). This is a condition precedent because it is necessary to understand the drainage scheme in detail prior to any initial construction works which may prejudice the surface water drainage strategy.

22. 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. No netting of hedgerows will be permitted.

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).

23. Management Plan for Western Boundary Hedgerow (Pre-Commencement)

No development shall commence until a management plan for the western boundary hedgerow works have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in strict accordance with the approved details and be retained and maintained as such thereafter.

Reason: In the interests of UK protected and priority species and in accordance with Policy DP5 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

24. Ecological and Bio-Diversity Gains (Pre-occupation)

No occupation shall commence until a scheme of ecological and bio-diversity gains has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include:

- a) A Habitat 001 bat box or similar will be built into the structure at least four metres above ground level and away from windows of the west or south facing elevation of five dwellings;
- b) A cluster of five Schwegler 1a swift bricks or similar built into the wall at least 60cm apart, at least 5m above ground level on the north facing elevation of three dwellings;
- c) Two Schwegler 1SP Sparrow terraces or similar at least one metre apart directly under the eaves and away from windows on the north elevations of five dwellings;
- d) A bee brick built into the wall about 1 metre above ground level on the south or southeast elevation of twenty dwellings;
- e) Any new fencing must have accessible hedgehog holes, measuring 13cm x 13cm to allow the movement of hedgehogs into and out of the site.

The development shall be carried out in accordance with the approved details and permanently retained as such thereafter.

Reason: To prevent ecological harm and to provide biodiversity gain in accordance with Policy DP5 and DP6 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014) and paragraph 170(d) of the National Planning Policy Framework.

25. 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).

26. Archaeology - Watching Brief (Pre-commencement)

No development shall commence, except archaeological investigation work, until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved in writing by the Local Planning Authority. The programme of archaeological work should provide a controlled watching brief during ground works on the site, with provision for excavation of any significant deposits or features encountered, and shall be carried out by a competent person(s) and completed in accordance with the approved written scheme of investigation.

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

27. Provision of Cycle Parking (Pre-Occupation)

No individual dwelling shall be occupied until a cycle store for that individual unit(s) has been provided in accordance with details to first be submitted to and approved in writing by the Local Planning Authority. The works shall be permanently retained and maintained in accordance with the approved details thereafter.

Reason: In the interests of promoting sustainable travel alternatives having regards to Policies DP9 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

## Informatives

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

2. **Condition Categories**

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

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

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

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

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

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



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

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

3. 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.
4. The Planning Authority is required to erect a Site Notice on or near the site to advertise development proposals which are submitted. Could you please ensure that any remaining Notice(s) in respect of this decision are immediately removed from the site and suitably disposed of. Your co operation in this matter is greatly appreciated.
5. Please note that your proposed work may also require Building Regulations approval, which is a separate consent process to the consideration of a planning application. The Council's Building Control team are available to provide Building Regulations advice from pre-application stage to completion of a development and can be contacted on 0300 303 7790. Further details can also be found on their website <http://www.sedgemoor.gov.uk/SomersetBCP/>
6. Rights of Way Informative Note:  
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.
7. Informative Note from LLFA:  
Somerset County Council is the Lead Local Flood Authority (LLFA) as defined by the Flood and Water Management Act 2010 and the Flood Risk Regulations 2009. Under section 23 of the Land Drainage Act there is a legal requirement to seek consent from the relevant authority before piping/culverting or obstructing a watercourse, whether permanent or temporary. This may also include repairs to certain existing structures and maintenance works. This requirement still applies even if planning permission has been granted.  
For more information, please visit <https://www.somerset.gov.uk/waste-planning-and-land/apply-for-consent-to-work-on-an-ordinary-watercourse/>
8. 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.
9. This permission is accompanied by an agreement under Section 106 of the Town and Country Planning Act 1990.  
PLEASE NOTE: The applicant will also be required to enter into a suitable legal agreement with the Highway Authority to secure the construction of the highway works necessary as part of this development. Please contact the Highway Authority to progress this agreement well in advance of commencement of development.

Agenda Item No.	DM03
Case Officer	Mr Carlton Langford
Site	Land South East Of Vinney Lane Blatchbridge Frome BA11 5BN
Application Number	2018/1559/FUL
Date Received	20th June 2018
Applicant/ Organisation	Mr S Hughes
Application Type	Full Application
Proposal	Change of use of land to 1 No. Gypsy pitch and associated works including 1 No. mobile home, 1 No. touring caravan, 1 No. day room, septic tank, and hardstanding.
Ward	Beckington And Selwood
Parish	Selwood Parish Council
Recommendation	Approve
Ward Cllrs.	Cllr Shannon Brooke

**What 3 Words:** bluffs.repeating.boomers

**Reason for Referral to Planning Board:**

This application has been brought back before the Planning Board following its deferral at the Planning Board meeting of the 16<sup>th</sup> October 2019 where it was resolved by members to defer for up to 3 months to allow consultation with emergency services regarding their access to the site.

In response to the matter resolved by members, and as an update to the report below as presented to members at their meeting on the 16<sup>th</sup> October, the Council has received additional response from the Devon & Somerset Fire and Rescue Service, an independent risk assessment from Chief Fire Consultancy submitted by the applicant and a further response from Somerset County Council Highways.

The Devon & Somerset Fire and Rescue Services letter confirmed that under Section 13 of Building Regulations, the regulations state that typical Fire & Rescue Service vehicles access route specification should be a minimum width of road of 3.7m and a minimum width of gateway of 3.1m. The road width at Vinney Lane is 4.2m and the gate width is 3.5m and 4.5m.

As such, the above response from the Devon & Somerset Fire and Rescue Service concluded that there is sufficient road width along Vinney Lane and access width from Vinney Lane into the Site for their larger emergency vehicles.

They concluded that with their larger fire rescue vehicles being of similar size to other larger vehicles such as refuse/bin lorries, it must be conclude that Vinney Lane is suitable to support larger vehicles as was the query raised by the Planning Board on the 16<sup>th</sup> Oct 2019.

However, it was drawn to the attention of the Council's that the width of Vinney Lane varied and not therefore 4.2m wide along its entire approach to the site. Measurements were taken on site and they varied between 2.7m and 3.4m wide on the approach to the site.

The applicant was asked to provide additional information with regard to access by emergency vehicles as the road width would not comply with that which the Devon & Somerset Fire and Rescue Service consider appropriate.

The applicant returned with an independent risk assessment from Chief Fire Consultancy which concluded –

*As per our site visit to Vinney Lane on Friday 21st February 2020. I am writing to confirm that from an independent point of view that there would NOT be any issues with a fire engine accessing Vinney Lane in the event of a fire on the suggested site.*

*This is based on my 6 years of carrying out fire risk assessment across all industries. Accredited by the FPA.*

*Access can easily be made from the main entrance of Vinney Lane, but if the suggested site had a fire issue, then access would be made through the gates from the A361. Even at worst case the gates were locked the firefighters would cut the lock.*

Somerset County Council Highways Team were also asked to comment on the issue of emergency vehicle access to the site and they concluded in addition to already raising no objection to the use of the land for 1 number Gypsy/Traveller Pitch, “Vinney Lane has been for many years suitable to serve larger agricultural vehicles and therefore suitable in width for larger emergency vehicles”.

Based on the conclusions presented by the Highways Authority that there are no highway safety issues associated with the proposal subject to the provision of the necessary visibility splays at the access of the site onto Vinney Lane and provision of on-site parking and turning, as to be conditioned. Furthermore an independent assessment has been undertaken in terms of emergency vehicular access to the site again not raising any unsurmountable issue. Therefore the Local Planning Authority maintain that everyday access to and from the site is unlikely to raise highway safety concerns which are so severe as to warrant this application’s refusal. Should for any reason, emergency vehicles need to attend on site, the lane is, albeit not to the standard preferred by the Devon & Somerset Fire and Rescue Service, wide enough to accommodate emergency vehicles and furthermore access to the site could be possible from the main A361 which is immediately adjacent to the site along a small section of Vinney Lane which has an appropriate width.

**Update Conclusion:** The recommendation is for approval as per the original recommendation as set out in the report below.

### **Original report:**

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

The application relates to land south east of Vinney Lane on the outskirts of Frome within the Parish of Selwood. The site is within the open countryside and comprises part of a larger agricultural field. The site is bounded to the north by the busy A361, the west by Vinney Lane, agricultural fields to the south and the River Frome to the west. The land has an access off Vinney Lane and there are no planning constraints on the land with the site falling just outside the River Frome flood zone.

The application seeks planning permission for Change of use of land to 1 No. Gypsy pitch and associated works including 1 No. mobile home, 1 No. touring caravan, 1 No. day room, septic tank, and hardstanding.

#### **Summary of parish comments, any objections or conflict with the recommendation**

Ward Cllr: No formal comments received.

Parish Council – After lengthy discussion the Councillors did not make a recommendation other than to raise issues in respect of access to the site which is very poor down a very narrow lane which is unsuitable for a lot of traffic movement and very close to existing residential properties.

There can be no access from Vinney Lane onto the A361 as this is a very busy trunk road and the only access would be via Bulls Quarries Road.

Also, it was noted that sewage would be disposed of via a septic tank - councillors are of the opinion that if planning consent is granted, a treatment plant should be incorporated as opposed to a septic tank as the property is in very close proximity to a river - perhaps MDC Planning should refer this issue to their consultant engineer with expertise in such matters.

County Highway Authority: No objections subject to visibility splays at the entrance of 2.4m x 23m in both directions.

Land Drainage Engineer: No objections subject to the imposition of land drainage conditions.

Environmental Protection: No objections subject to the development being carried out employing the mitigation measures recommended in the recommendations Venta Acoustics report VA2587.190213.NIA.

Other Representations: 12 letters of representation received with one letter of support and 11 letters of objection raising the following concerns -

- Highway safety concerns having regard for the narrow width of Vinney lane and the access from Vinney Lane onto Bulls Quarry Road.
- Concerns that visitors to the site will park in the layby on the main road at the end of Vinney Lane.
- Increased traffic generation.
- Impact of the development on Footpath FR14/42 to the north and east of the site.
- Land and Foul Drainage concerns close to the River Frome.
- If approved should be restricted to one pitch and no business operated from the land.
- The site is at risk of flooding.
- Noise from the development.
- Traffic noise affecting the end users of the site from the busy A361.

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

### **Relevant planning history**

The application site includes land already benefiting from planning permission for 2 no. Gypsy/Traveller pitches under ref: 2011/1084.

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

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

The Council's Development Plan comprises:

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

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

- CP1 – Mendip Spatial Strategy
- DP1 – Local Identity and Distinctiveness
- DP4 - Mendip Landscapes
- DP7 – Design and Amenity of New Development
- DP8- Environmental Protection
- DP9- Transport Impact of New Development
- DP10 - Parking
- DP15- Travellers and Travelling Showpeople

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

- National Planning Policy Framework
- National Planning Practice Guidance
- The Countywide Parking Strategy (2013)
- Planning policy for travellers sites, Department of Communities and Local Government, August 2015 (PPTS)

**Assessment of relevant issues**

**Principle of the Proposal:**

The PPTS requires local planning authorities to identify and update annually a supply of specific deliverable sites sufficient to provide 5 years' worth of sites against locally set targets. Policy DP15 states that gypsy and traveller accommodation will be allocated in a Site Allocation Document, however, this is still at an early stage of development, with the last Gypsy and Traveller Accommodation Assessment undertaken in 2013, and as such, the Council does not have an up to date five year supply of deliverable sites, as required by Government policy in the PPTS.

Therefore and notwithstanding the status of Policy DP15 which includes the requirement to have regard to alternative, affordable, acceptable and suitable sites elsewhere to meet the needs of the applicant, the high level of need should be given significant weight in the decision making process as there no other affordable or acceptable sites available that are identified and could meet the need.

Policy C of the PPTS suggest when assessing suitable site in rural areas, the LPA should ensure that the scale of such sites do not dominate the nearest settled community. With the proposal being for one additional pitch, it is not considered that the impact of this single pitch will be of a scale which will dominate any nearby settlements.

The application confirms that the expected end user of the pitch are recognised Gypsy/Travellers as defined by Annex 1 of the PPTS and there is no evidence to dispute this. This aside, Policy H of the PPTS especially where it has been demonstrated that there is not an up to date five year supply of deliverable sites, the LPA should determine sites for any travellers and not just those with local connections. Should permission be allowed, the permission would be conditioned to allow any person who has Gypsy/Traveller status to occupy the pitch which will ensure the pitch continues to contribute towards the Council's obligation to provide such pitches in the future.

Given the above, it is considered that the principle of the use of the site for a single gypsy/traveller pitch is acceptable.

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

The application site has no special landscape designation. Whilst the proposed pitch will be sited within a relatively isolated location within the countryside, it will nevertheless be well screened from view by existing mature hedgerows, to include any views from the adjacent highways. However, the site will be visible from the nearby footpath running adjacent to the site to the east and north

but having regard for the limited scale of the development which will not dominate the nearest settled community, and that there is an overriding need for additional pitches in the district, the benefits of bring forward the development outweigh any harm on the surrounding rural landscape, which as stated above is considered to be a very low level of harm

Other than the existing hedgerows which will help screen the development and the erection of a small section of acoustic fencing within the site also largely screened from view. The proposed dayroom is of a standard design and size and again will not harm the rural character of the area.

It is therefore considered that subject to conditions to ensure implementation of appropriate landscaping and land and foul drainage and that the site is not used for commercial/business uses, the impact of the proposal on the rural character of the area will be limited with benefits which in this case outweigh any harm.

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

The application site has no immediate neighbours which would be adversely affected by the proposed use of the site for a Gypsy/Traveller Pitch. As already mentioned the scale of the development is such that it will not dominate the nearest settled community.

The application was accompanied by a noise impact assessment suggesting that the site would be affected by traffic noise associated with the A361. However, recommended noise mitigation measures within the report which include the erection of a short section of acoustic fencing, is considered sufficient to ensure the end users of the site a pleasant living environment and not have an unacceptable impact on the rural character of the area.

The site is also located south east of an existing poultry farm. However, the distance between the developments is sufficient not to raise odour concerns for the proposed users of the site which might prejudice the poultry business.

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

The proposal provides sufficient on-site parking for vehicles and caravans and suitable on-site tuning to allow vehicles to arrive and leave in forward gear.

Visibility at the access of 2.4m x 23m as suggested by the county highway surveyor can be achieved ensuring a safe means of access.

Access to the site is however via Vinney Lane a narrow, no through road, and does not lend itself to commercial traffic. It is therefore necessary to ensure that site is not used for any commercial or business uses.

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

### **Environmental Impact Assessment**

This development does not fall within the scope of the town and Country Planning (Environmental Impact Assessment) Regulations 2017 and so Environmental Impact Assessment is not required.

## **Other matters not already addressed:**

*Highway safety concerns having regard for the narrow width of Vinney lane and the access from Vinney Lane onto Bulls Quarry Road.*

These concerns are recognised, however Vinney Lane is a classified highway and the proposal has been assessed by the County Highway Surveyor and other than requesting that the applicant provide the necessary visibility splays at the access which can be achieved, both the lane and the access onto Bulls Quarry Road are adequate to serve the development.

It is however, considered that any increase in traffic movements along Vinney Lane over or above those being applied for (1 Gypsy Traveller Pitch) would raise highway safety concerns for uses of this lane. To this end, there will be a restriction placed on the use of the pitch for commercial and/or business uses.

*Concerns that visitors to the site will park in the layby on the main road at the end of Vinney Lane.*

Such parking would be outside the control of the applicant and there is no reason why this should happen especially on such a busy road. Alone this is not a reason to refuse the application especially as the applicant has demonstrated a safe means of access and sufficient on-site parking.

*Increased traffic generation.*

The level of additional traffic generated by the development will be minimal.

*Impact of the development on Footpath FR14/42 to the north and east of the site.*

This footpath is outside the development site and will not be affected by the siting of the development. There will be no need to either divert or obstruct the footpath.

*Land and Foul Drainage concerns close to the River Frome.*

Both surface water and foul drainage has been considered by the Council's Land Drainage Engineer and subject to the approval of details for sustainable schemes which improve and protect water quality, improve habitat and amenity, and ensure future maintenance of the drainage systems, there are no issues to consider.

*The site is at risk of flooding.*

The site is located just outside of the Frome Flood Zone where development is acceptable subject to the provision of sustainable drainage schemes as mentioned above.

*Noise from the development.*

*The use of the site for residential occupation is not considered to raise any adverse amenity concerns.*

## **Conclusion**

The proposal is considered to be acceptable in principle with the overall need for gypsy and traveller sites in the District providing support to approve the application notwithstanding the specific site search criteria identified Policy DP15. The scale of the proposal is such that it will have little impact on the character or amenity of the area and access to the site is acceptable in terms of highway safety. Subject to the imposition of the conditions below, this application is recommended for approval.

## Reason/s for Recommendation

1. The proposal is acceptable in principle with the overall need for gypsy and traveller sites in the District overriding the requirement to have regard to alternative, affordable, acceptable and suitable sites elsewhere to meet the needs of the applicant as set out at Policy DP15. The proposal, by reason of its design, scale and layout would be in keeping with its surroundings.  
The character and appearance of the landscape would be preserved.  
The proposal, by reason of its design, scale and layout, would safeguard the amenities of neighbouring residents and adjoining land users.  
The means of access and parking arrangements meet the required safety standards and will ensure the free flow of traffic on the highway.  
The proposal has been tested against the following Development Plan policies. In the opinion of the Local Planning Authority, and subject to the conditions below, the proposal is acceptable:- CP1 (Mendip Spatial Strategy), DP1 (Local Identity and Distinctiveness), DP4 (Mendip Landscapes), DP7 (Design and amenity), DP8 (Environmental Protection), DP9 (transport), DP10 (Parking Standards), DP15 (Gypsies, Travellers and Show People) of the Mendip District Local Plan 2006-2029 (Part 1 Strategies and Policies - adopted 15th December 2014)  
National Planning Policy Framework  
Planning Practice Guidance  
The Countywide Parking Strategy (2013)  
Planning Policy for Traveller Sites Department for Communities and Local Government (2015)

## 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 permissions.
2. Plans List (Compliance)  
This decision relates to the following drawings: SH18-SLP, 18069/01, 02B and 03. Mitigation Measures within the Noise Impact Assessment (Venta Acoustics 14 Feb 2019).  
Reason: To define the terms and extent of the permission.
3. Gypsy/Traveller Site - Restriction on Occupancy (Compliance)  
The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1: Glossary of Planning Policy for Traveller Sites (or its equivalent in replacement national policy).  
Reason: The site is located outside of development limits where development is strictly controlled and the location of the development is only acceptable based on meeting the needs of gypsy and travellers having regards to Policies CP1 and CP2 and DP15 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).
4. Gypsy/Traveller Site - Pitches, Number and Type of Caravans (Compliance)  
There shall be no more than one pitch on the site and no more than 2 caravans as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 (as amended), shall be stationed at any time, of which only 1 caravan shall be a static caravan.  
Reason: In the interests of the character and appearance of the area having regards to Policies DP1, DP4 and DP7 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).
5. Parking and Turning Areas (Pre-occupation)  
No occupation shall commence until the parking and turning areas have been constructed in accordance with details shown on the approved plans. The parking and turning shall



thereafter be kept clear of obstruction and shall not be used other than for the parking of vehicles in connection with the development hereby permitted.

Reason: To ensure that suitable access, parking and turning areas are provided and thereafter retained in the interests of amenity and highway safety in accordance with Policies DP9 and DP10 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

6. Visibility Splay (Pre-occupation)

There shall be no obstruction to visibility greater than 900 millimetres above adjoining road level in advance of lines drawn 2.4 metres back from the carriageway edge on the centre line of the access and extending to points on the nearside carriageway edge 23m either side of the access. Such visibility shall be fully provided before the development hereby permitted is first occupied and shall thereafter be maintained at all times.

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. Gypsy/Traveller Site - No Commercial Activity (Compliance)

No commercial activities or business use(s) shall take place on the land, including the storage of materials.

Reason: In the interests of the character and appearance of the area and highway safety having regards to Policies DP1, DP4, DP7 and DP9 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

8. Hard and Soft Landscaping (Compliance)

All hard and soft landscape works shall be carried out in accordance with the approved details including all noise mitigation measures within the Venta Acoustics report VA2587.190213.NIA. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme (phasing) 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 including the 2m high noise mitigation barrier, shall be permanently retained in accordance with the approved details.

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

9. Surface Water Drainage System (Pre-commencement)

No development shall commence until a surface water drainage scheme, based on sustainable drainage principles, are submitted to and approved in writing by the local planning authority. This shall include details of the maintenance and management for the scheme for the lifetime of the development. The scheme shall subsequently be implemented in accordance with the approved details.

Reason: To prevent any increased risk of flooding to the development, to improve and protect water quality, improve habitat and amenity, and ensure future maintenance of the surface water drainage system. Refer to Development Policies DP7, DP8 and DP23 of the Mendip District Council Local Plan (2006-2029). 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 drainage strategy.

10. Drainage - Foul (Pre-commencement)

Notwithstanding the details submitted, 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 pitch.

Reason: In order to ensure the provision of satisfactory drainage and avoid pollution of the environment having regard for Policies DP7 and DP23 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014). This is a condition precedent because it is necessary to understand the drainage scheme in detail prior to any initial construction works which may prejudice the foul drainage strategy.

11. Noise mitigation (Pre-occupation)

No occupation shall commence until the approved noise mitigation measures within the Venta Acoustics report VA2587.190213.NIA. have been implemented in full. The noise mitigation measures shall be permanently maintained thereafter.

Reason: To ensure the provision of an appropriate noise mitigation for the development in accordance with Policies DP7 and DP8 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

## Informatives

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

2. Condition Categories

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

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

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

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

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

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

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

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

3. 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.

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. No removal of buildings, structures, trees or shrubs shall take place between 1st March and 31st August unless an experienced ecologist has checked the Site for breeding/nesting birds. If there is evidence of breeding birds the work must be delayed until the chicks have fledged or suitable working distances observed so as not to disturb the birds.
6. The Planning Authority is required to erect a Site Notice on or near the site to advertise development proposals which are submitted. Could you please ensure that any remaining Notice(s) in respect of this decision are immediately removed from the site and suitably disposed of. Your co operation in this matter is greatly appreciated.

Agenda Item No.	DM04
Case Officer	Jenni Alvis
Site	Shamrock Stables Lynch Lane Westbury Sub Mendip Wells BA5 1HW
Application Number	2019/2336/FUL
Date Received	24th September 2019
Applicant/ Organisation	Miss Rosemary Peacock
Application Type	Full Application
Proposal	Installation of septic tank; retrospective permission for the erection of a reception and office building; erection of a facilities building; erection of 10no kennels; and use of fields for exercising dogs.
Ward	Rodney Stoke And Westbury
Parish	Westbury Sub Mendip Parish Council
Recommendation	Approve
Ward Cllrs.	Cllr Ros Wyke

**What3Words:** talkative.chipper.germinate

**Reasons for deferral:**

This application is being brought back before the Planning Board following its deferral at the meeting of the 22 January 2020 where it was resolved by Members to defer to allow the applicant an opportunity to address the following issues:

- Number of dogs to be housed on site
- Hours of exercise
- Fencing on the site.
- Waste management arrangements including the efficacy of the proposed septic tank

In response to the resolution, and as an update to the report below as presented to members at their meeting on the 20 January 2020, the Council has received additional information which is explained below:

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

- Number of Dogs housed on site

The applicant has agreed to a condition which limits the number of rescue dogs to be housed on site to 35 at any one time.

- Hours of Exercise

This was raised at the previous Planning Board in January and it was clarified at that time that it was be unenforceable to impose a restriction on the hours of exercise as this could be detrimental to the health and wellbeing of the animals.

- Fencing

The applicant has since installed additional fencing within the field to address concerns regarding the dogs getting close to users on the public footpath.

- Septic tank and foul waste management

A new scheme for the management of foul waste has been provided since the previous Planning Board meeting which have been approved by the land drainage engineer. A revised scheme for the collection of dog waste has also been implemented and no concerns have been raised by environmental protection regarding these new arrangements.

**Summary of consultation responses on the updated information presented, and further comments received:**

Some comments are summarised below for brevity.

Westbury Sub Mendip Parish Council: Objected and made the following comments.

- No mention of a change of use on the land for exercising dogs from agricultural
- The current fences along the footpaths in the fields are ineffective
- Hours of opening should be restricted
- Adequate levels of sound proofing should be provided
- Limitation on the number of dogs on site
- The revised foul waste management scheme is an improvement

Concerns raised that are not material planning considerations:

- The red line should remain the same as the certificate of lawful use application
- A change in the postcode so it differs from the other properties along that road

Land Drainage Engineer: No Objection

- The proposals for attenuation of surface water runoff are acceptable, and provide betterment over existing conditions.
- The septic tank and associated field drain appear to comply with the latest regulations, such that no concerns are raised with this development.

Environmental Protection: No Objection, the additional information is satisfactory.

Local Representations:

3 neighbour objections have been received, as summarised below:

- The description of the development does not accurately reflect the change of use
- The new buildings are too large to be considered ancillary to the rescue use.
- A limit on the number of dogs should be clearly stated
- All proposed foul waste and surface water management works should be conditioned to be complete prior to any other works.
- The access is via a single lane carriageway
- The noise impact from the site is unacceptable

Concerns raised that are not material planning considerations:

- The red line is larger on this application than the certificate of lawful use application
- Postcode is shared with 13 other properties and disturbance is caused by visitors going to the wrong address.
- Additional development is being constructed which is not a part of this application

## Officer assessment following revisions:

- Number of dogs on site

It is considered reasonable to impose a condition on the number of rescue dogs kept on site to be no more than 35 at any one time, in order to control the noise impact however it is not within the scope of the planning process to control the number of pet dogs kept at the associated residential property.

The proposed kennels are to be constructed in such a way as to reduce the noise impact of barking from the dogs over the current kennelling situation and is considered an improvement.

Environmental Protection were re-consulted on the scheme and have raised no objection.

On this basis it is therefore considered that the application therefore complies with DP1, DP7 and DP8 of the Local Plan part 1.

- Hours of exercise

The applicant has advised that the fields have been used to exercise dogs for the duration of the rescue centre being in operation at this site and the local planning authority has no reason to believe otherwise. Although not subject to the decision under LPA ref: 2018/0277/CLE given the passage of time that the identified field area has been used for dog exercise (for at least 10 years) it is not considered that the Local Planning Authority are able to impose any controls on the ongoing use of the field area for exercising dogs.

Furthermore to impose a restriction on the hours of exercise would be problematic from an enforcement point of view.

- Fencing

Concerns have been raised regarding the public footpath that runs through the exercise fields and the inadequate fencing between this footpath and the dog exercise area. The applicant has since installed new enhanced fencing further away from the footpath splitting the field into two sections. The section furthest from the footpath will be the main exercise area and the dogs will only be allowed into the other section when under close supervision.

The scope of fencing as erected is considered to be acceptable from a visual amenity and activity controlling point of view and is therefore considered in accordance with Local Plan Policy DP4.

- Septic Tank and Foul Waste Management

Since the application was last presented to Planning board, the applicant has provided further information in regards to the septic tank and foul waste management. This information consists of a revised scheme which now includes a new septic tank, compliant with current regulations, and details of the discharge onto a drainage field to the south of the site. The dog waste will be collected in a large cess pool which is to be emptied regularly by a registered waste management company.

No objections were received by the Land Drainage Engineer or Environmental Protection in regards to the revised scheme and as such the foul waste system is considered acceptable.

### Other Matters:

Other issues were raised regarding the postcode of the site and that visitors often end up at the wrong property. It was requested that the applicant apply for a change of postcode on the site in order to prevent this. This is not something that can be controlled through the planning process however the local resident's comments were passed onto the applicant.

It was highlighted that the red line around the site on the current application doesn't match that of the red line on the Certificate of Lawfulness application (2019/0452/CLE). Given that these are two separate planning applications there is no requirement for the red line to match.

### **Conclusion:**

The applicant has submitted a number of alterations to seek to address concerns raised by Members in January. These changes are concluded to safeguard the general amenities of the area through the improved foul waste management system and enhanced fencing on site.

As per the report presented to the Board in January 2020, the officer recommendation remains to approve the application subject to the recommended conditions and advices as set out below which have been updated to reflect the additional matters addressed in this updating report.

### **Original Report:**

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

The site lies off the southern side of Lynch Lane Westbury sub Mendip and is located in the countryside within the AONB and around 300m from the nearest residential dwelling to the east. The site includes a range of stables to the east and west, which are timber clad on the western side and block and render on the east. A group of dilapidated timber buildings lie to the east of the reception building adjacent to the road while a low partly open sided storage building, partly acting as kennels, lies to the south across the concrete yard.

The proposal is to retain the existing timber clad reception/office building and to provide a facilities building adjacent (9m x 4m approx) to house a disabled toilet, grooming/vet room and a kitchen/meeting room. In addition a kennels building (5m x 15.5m) is proposed to house 10 kennels to improve facilities on site, a septic tank is to be installed and use of adjacent fields as exercise area for the dogs is proposed.

#### **Relevant History:**

- 2019/0452/CLE – Application for a lawful development certificate for an existing use of land and buildings as an animal rescue and re-homing centre for dogs, horses and sheep – Lawful development 30/7/2019
- 2018/0277/CLE - Application for a lawful development certificate for an existing use of land as sui generis for an animal rescue centre – Development not Lawful – 24/1/2019
- 2017/2299/FUL – retention of building for use as reception and staff restroom ancillary to animal rescue centre – Withdrawn 28/11/2017
- 2012/2923 – Application for a lawful development certificate for an existing use of two buildings as independent dwellings – Lawful use 15/5/2014
- 067539/001 – Erection of Dwelling for use in association of running existing stables – Refused 24/9/93

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

Ward Member: Comments received following Ward Member referral:

- As seen by the letters of objection and history of noise complaints, this is a contentious application. 365 days of the year the dogs start barking at 5.30am and then they trigger other dogs. While I recognise the noise doesn't peak on the noise monitoring machines, it has a serious effect on local people's amenity. This is particularly important as it is not a few dogs but 52 named pets and up to 30 rescue dogs.

- By extending the exercise field it means even more land where local walkers, dogs, horses and cattle are very anxious to pass, in essence a no go zone. People choose to live in villages for the tranquillity and ability to walk into the AONB and the countryside and this unit is totally counter to this.
- Dogs running in the fields in packs, dogs escaping into fields with livestock, running loose on village roads, volunteers dog walkers with out of control 3/5 dogs is all part of situation. Several consultees mention conditions, yet the officers report gives no indication of what should be condition and the details. Given the history of this site and the lack of enforcement, including ending up with 2 independent dwellings, and the considerable concerns in the village I believe this should be taken to the planning board.
- Given the lack of faith that MDC is taking the situation seriously and the history of failure to enforce, it is important that concerns are aired and the details of conditioning if granted are clear, explicit, enforceable, and respond to local concerns.

Town/Parish Council: Object on the following grounds:

- Materials not noted for acoustic efficiency and soundproofing of kennels should be made a condition. The site is visible from the footpath and AONB guidance should be a condition.
- A pedestrian access was created and retrospective permission should be sought.
- On site parking arrangements should be sought.
- Water run-off should be addressed.
- An assessment of risk to bats should be a condition.
- A biodigester would be a more suitable alternative to a septic tank and drainage field. Drainage should be re-assessed as a condition.
- There should be storage and collection of recyclable waste.
- Hours of opening should be restricted by condition.
- The site is visible from the public footpath and landscape mitigation should be provided as a condition.
- Case for size of facilities building not made.
- The number of dogs should be conditioned as should lighting and position of kennels assessed.
- Change of use of fields not in keeping with the plan. Fencing should be provided and concern over sheep worrying and waste disposal should be conditioned.

Planning Policy: No comment

Highways Development Officer: No comment

SCC Ecologist:

- The application site lies within Band C of the Bat Consultation Zone for the North Somerset and Mendip Bats SAC which is designated for its horseshoe bat features. However, the proposed development is unlikely to have an effect on horseshoe bats and therefore I do not propose to carry out a Habitats Regulations Assessment for the application.
- I note that a building adjacent to Lynch Lane has been demolished to facilitate the erection of the office and facilities building. This building may have had potential to support roosting bats and if so the applicant may have committed an offence under the Conservation of Habitats and Species Regulations 2017 and the Wildlife and Countryside Act 1981 (as amended). It is not possible to see the building on Google street view and therefore can only judge from older aerial photographs and these provide no certainty. Given this I recommend that the following is conditioned bat box provision and lighting design for the site.



## Environmental Protection: No objection advice only

I have reviewed the history of this site and the concerns regarding noise and drainage. This application represents a marked improvement and the installation of adequate drainage is welcomed. There has been a number of complaints regarding noise emanating from this premises in recent years. Noise from the site has been extensively investigated previously and no Statutory Nuisance determined. It is accepted that the barking of dogs may have some impact on the local community and management measures to minimise any detriment to amenity should be encouraged.

If there is an opportunity to control the use by limiting the no. of dogs kept at any one time and restricting the exercising to a morning window period and one afternoon period each day (a condition stating times) within the red line area, then this will assist.

EP Team are not minded to object to this proposal, however the applicant should note my advisory notes (informatives) below. Consequently If the LPA are minded to approve the application The EP Team would strongly recommend that these advice notes are included in the permission.

## Contaminated Land: No objection advice only

Due to the uses of the site, the following watching brief is recommended:

It would be advisable to keep a watching brief for potential hotspots of contamination and assess for visual/olfactory evidence of contamination during any groundworks.

If any unforeseen contamination is found during excavations Environmental Health must be notified immediately. This may include obvious visual or olfactory residues, asbestos including asbestos containing materials such as roofing, buried drums, drains, interceptors, additional fuel storage tanks or any other unexpected hazards that may be discovered during site works.

NPPF s.179: Where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.

## Land Drainage: No Objection

The application is a retrospective application for the erection of kennels and facility buildings (reception) along with the installation of an associated septic tank and drainage field.

The site is located in flood zone 1 and is not shown to be at risk of surface water flooding.

The site is also not near mains drainage such that an off-grid system appears appropriate.

The new buildings are located on areas of hard standing such that they will not significantly affect the positively drained areas on site.

The drainage report includes infiltration tests proving that a drainage field limited to the top soil would facilitate the proposal (sub-soils being clays and generally impermeable). The septic tank and associated field drain appear to comply with the latest regulations, such that I do not raise any concerns with this development.

## AONB Partnership: No comments received.

CPRE: Voices strong concerns, considers that if this were an application for an entirely new facility then it would be considered inappropriate development in the AONB due to potential for noise and light pollution and harm to landscape character. However it is recognised that a certificate of lawful use has been granted and the owner wishes to improve the site by submitting the current application. Concern that there has been harm to the special quality of tranquillity to the AONB and human rights to surrounding residents in terms of right to quiet family life.

If minded to approve then there should be a maximum number of dogs kennelled on site and a time limit of 9-1700 for the use of exercise areas. Use of lighting could be contrary to policy DP8 and avoidance of impact on dark night skies qualities should mean imposing appropriate lighting conditions and no lighting of exercise areas.

Local Representations: 13 letters of objection raising the following issues:

- Noise and disturbance
- Location not suitable
- The site area extends beyond the area allowed under the certificate of lawfulness
- Concern over more dogs causing more noise, pollution and danger to sheep
- Buildings not in keeping with the AONB and is visible from the road and public footpath (Samaritan's Way)
- Inappropriate development in the AONB
- Will impact on views
- Not clear why facilities building needed and may result in more visitors, more traffic and more noise
- Would set precedent
- Will increase traffic on narrow lane and there is insufficient parking with inconvenience to lane users
- Concern over foul drainage run-off, an environmental hazard
- Smell and mess
- Dog exercise area will disturb walkers, cattle and sheep
- Use of dog exercise field will require movement of animals off site
- Loose dogs and ponies have caused problems
- Concern over safety of walkers
- If approved should be subject to conditions limiting number of animals, soundproofing and animal welfare
- Loss of quality of life and health and safety of neighbours
- Hedges provide a habitat corridor for Greater Horseshoe bat
- Provision for disposal of dog excrement
- Site should be run along RSPCA guidelines and licensed

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

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

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

The Council's Development Plan comprises:

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

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

- CP1 – Mendip Spatial Strategy
- CP3 – Supporting Business Development and Growth
- CP4 – Sustaining Rural Communities
- DP1 – Local Identity and Distinctiveness
- DP4 – Mendip's Landscapes
- DP5 – Biodiversity and Ecological Networks
- DP7 – Design and Amenity of New Development
- DP8 – Environmental Protection
- DP9 – Transport Impact of New Development
- DP10 – Parking Standards
- DP23 – Managing Flood Risk

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

- National Planning Policy Framework
- National Planning Practice Guidance
- The Countywide Parking Strategy (2013)

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

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

The site lies within a rural area outside of settlement limits where policy CP4 applies. This allows for the supporting of proposals which result in the benefits to the rural economy. In this case to enable the establishment, expansion and diversification of business in a manner and of a scale which is appropriate to the location and constraints upon it. The site already has an authorised use for an animal rescue and re-homing centre for dogs, horses and sheep. The use therefore cannot be prevented and the details applied for in this application have to be considered in this light.

The site is also within the Mendip Hills AONB where the primary purpose of the designation is to conserve and enhance natural beauty. One of the other main reasons for designation is tranquillity of the area. The NPPF requires that 'great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty which have the highest status of protection in relation to these issues' (Para 172). This does not mean that nothing can be granted and there are examples from elsewhere of businesses involving dog kennels being granted in such areas. However it is appropriate to seek to ensure appropriate controls over development to safeguard the character of the area. Consequently, subject to the control through other policies of the development plan, the principle of the use here has already been accepted and the detail of the separate elements need to be considered.

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

The proposed development is for five separate elements. Firstly the retention of the reception/office building adjacent to the road. This is timber clad and has a dark grey roof and the timber side of it is visible from the road. The visual impact from a distance is very limited given the roadside boundary hedge and the impact on the character of the AONB is not considered to be so detrimental as to warrant a refusal in landscape terms. The proposed new facilities building would replace a range of existing dilapidated timber structures and therefore it could be argued its provision will be a visual improvement over the existing. The building will be reasonably well screened from the lane and will not really be visible at a distance of over 150m from the footpath to the south through a thick boundary hedge. The impact on the landscape character of the AONB is therefore considered limited, would not impact on significant views and is not such that it would warrant a refusal on landscape grounds.

The third element of the development is the erection of a kennels building to improve facilities for existing dogs on the site. This building would be 5m x 15.5m and 2.5m high and would be located adjacent to the existing yard area. It would not be visible from the road and would not be visible against the backdrop of the existing buildings at a distance of over 100m from the footpath to the south given the boundary hedge. Consequently the landscape impact of this would not be detrimental to the character of the area and a condition is considered necessary in terms of controlling the colour finish of this building to ensure it blends most appropriately into the landscape.

The fourth element of the proposal is a septic tank provision to deal with the foul drainage of the site. This would be dug into the ground and would not have any adverse landscape impact. Similarly the use of adjacent fields for exercising dogs would not have any adverse landscape impact and would only be visible at the time it is being carried out. The condition of timing of any exercise periods is not considered to be a reasonable in this instance and would be difficult to enforce. In summary the impact on the character of the surrounding area as a result of the

development is considered an acceptable one and in compliance with policies DP1 and DP4 of the Local Plan.

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

The proposed development would not have a direct impact on amenity of residents in terms of privacy or loss of light given distances to nearby dwellings of over 300m. The main amenity issue here is one of noise, specifically from barking of dogs and this is reflected in most of the objections received. The AONB Management Plan seeks to maintain the tranquillity of the area. However the use already exists. It is acknowledged from previous cases that there is no specific guidance, standard or criteria available to assess noise impact from dog barking. The use of the site will not alter and the intended new kennel building would be used to better house existing dogs. A condition to limit the number of dogs kept on the site for animal rescue and re-homing purposes is considered necessary and would help ensure the dog numbers and thus potential noise impacts are limited. Details of potential sound proofing of the kennel is possible, although of limited benefit as the runs have to be open to the air. However any limited improvement to reduce noise of barking has to be of benefit to residents and address the aim of the AONB in trying to maintain the tranquillity of the area. It is therefore recommended that a condition be imposed in respect of providing details of soundproofing measures of the kennels.

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

The proposal is for works to tidy up and improve facilities on site and does not envisage any increase in numbers of animals or staff. The existing access will not be altered and there are parking spaces for 5 vehicles in the lane immediately outside of the site which is considered acceptable in terms of the use of the site.

### **Sustainability and Renewable Energy:**

The development would provide a new facilities building which would be a significant improvement from an energy viewpoint over the existing ramshackle structures on site. The site has an existing established use and the proposal would improve the current situation.

### **Refuse Collection:**

The access is on an existing collection route and it is understood the dog waste is already collected.

### **Environmental Impact Assessment**

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

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

### **Impact on Ecology**

The ecology of the site has been considered particularly in respect of protected species by the County Ecologist and a recommendation made in respect of biodiversity enhancement and control in respect of lighting. Consequently necessary conditions are recommended to address these matters.

## **Drainage and Flooding:**

The proposed drainage improvements with a septic tank installation is considered acceptable by the Drainage Officer and as this provision will improve the current situation this is considered acceptable. It is considered appropriate to ensure by condition that this is the first part of the works carried out in order to prevent pollution.

## **Other Matters:**

The fact that a development is in part retrospective is not a material consideration in determining the current planning application. Neither is it appropriate to condition matters that are covered by other legislation such as animal welfare.

## **Conclusion:**

In considering the proposals for this site it has to be borne in mind that the use is one that is authorised and therefore prevention of the use and associated noise issues from barking dogs is not possible. The submitted scheme will help tidy up the site, reduce potential pollution with the septic tank provision and help reduce noise with provision of properly designed kennels and a condition limiting numbers.

## **Recommendation:**

APPROVE

## **Reason/s for Recommendation**

1. The proposals relate to the physical infrastructure at an authorised animal kennelling site with the use subject to the decision LPA ref: 2019/0452/CLE. Overall the proposals by reason of the scale and layout of the new buildings across the application site would be in keeping with the local context. Furthermore the proposal, by reason of its design, scale and layout would assist the mitigation of the impacts of the approved uses in terms of the amenities of neighbouring residents and adjoining land users.  
The means of access and parking arrangements meet the required safety standards and will ensure the free flow of traffic on the highway.  
All practical measures for the conservation of energy and management of surface water and foul waste are now included as part of the application proposals. The proposal makes adequate arrangements for the protection of biodiversity.

The proposal has been tested against the following Development Plan policies. In the opinion of the Local Planning Authority, and subject to the conditions below, the proposal is acceptable:-

CP1 (Principle of Development), CP4 (Sustaining Rural Communities), DP1 (Local Identity), DP4 (Mendip Landscapes), DP5 (Biodiversity), DP6 (Bats), DP7 (Design and amenity), DP9 (transport), DP10 (parking) and DP23 (Managing Flood Risk) of the Mendip District Local Plan 2006-2029 (Part 1 Strategies and Policies - adopted 15th December 2014)

National Planning Policy Framework

Planning Practice Guidance

The Countywide Parking Strategy (2013)

## **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 permissions.

2. Plans List (Compliance)  
 This decision relates to the following drawings:  
 Site plan, Location plan, Office Building Elevations, Floor plan and Roof plan, Facilities Building Elevations, Floor plan and Roof plan and Kennels Elevations, Kennels Plan and Kennels Roof plan  
 Reason: To define the terms and extent of the permission.
  
3. Materials - Submission of Schedule and Samples (Bespoke Trigger)  
 No construction of the external walls of the kennels shall commence until a schedule of materials and colour finishes of the materials to be used in the construction of the kennel's surfaces, including roofs, have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out only in accordance with the approved details.  
 Reason: In the interests of the appearance of the development and the surrounding area in accordance with Policy DP3 and DP7 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).
  
4. Ecology - Nest boxes etc (Pre-occupation)  
 An improved cavity bat box shall be mounted at least 4 metres above ground level on a west facing aspect of a suitable tree and maintained thereafter. A photograph of the installed feature shall be submitted to the Local Planning Authority within one month of permission being granted.  
 Reason: In the interest of the maintenance of biodiversity in accordance with government policy as set out in paragraph 170 of the National Planning Policy Framework.
  
5. External Lighting (Bespoke Trigger)  
 Prior to any further work being carried out, a "lighting design for bats" shall be submitted to and approved in writing by the Local Planning Authority. The design shall show how and where external lighting is or 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 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. Under no circumstances should any other external lighting be installed without prior consent from the Local Planning Authority.  
 Reason: In the interests of the 'Favourable Conservation Status' of populations of European protected species and in accordance with policy DP5 of the Mendip Local Plan.
  
6. Noise (Compliance)  
 The kennel building hereby permitted shall not commence until details of soundproofing measures to reduce the audibility of barking within the structure have been submitted to and approved in writing by the Local Planning Authority. The scheme shall thereafter be implemented and maintained as part of the building.  
 Reason: To prevent noise from the premises adversely affecting the residential amenities of occupiers of nearby properties in accordance with Policy DP7 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).
  
7. Limit to use (Compliance)  
 The dogs to be kept on the site in relation to the animal rescue and re-homing business shall be limited to 35 in number at any time.  
 Reason: In the interests of the amenity of the surrounding area in accordance with Policy DP7 and DP8 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).
  
8. Drainage - Foul and surface water (Compliance)  
 The foul waste and surface water run-off management scheme identified within the submitted Foul Drainage System Report (rec'd 1st April 2020) shall be implemented in full prior to any other new build development on the site, and shall be maintained as such thereafter.

Reason: In order to ensure the provision of satisfactory drainage and avoid pollution of the environment in accordance with Policy DP7 and DP8 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

## Informatives

1. 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.

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

3. 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.

4. Compliance with the requirements of this consent, does not preclude the Council from taking action under legislation intended to protect quality of life including the Statutory Nuisance provisions of Part III of The Environmental Protection Act 1990 and the provisions of the Anti-social Behaviour, Crime and Policing Act 2014.

The applicant is advised to develop and maintain an effective noise management plan taking all reasonable steps to ensure that the impact of the premises on the neighbouring local community is minimised as far as is reasonable. All staff should be kept aware of the expectations and requirements of the noise management plan, to the extent that it may affect the duties that they undertake. Further advice regarding noise management plans can be obtained from the councils Environmental Protection Team.

Agenda Item No.	DM05
Case Officer	Mrs Kelly Pritchard
Site	Hippisley Farm East End Lane Chewton Mendip Wells BA3 4LX
Application Number	2019/2852/FUL
Date Received	27th November 2019
Applicant/ Organisation	Mr & Mrs Morley
Application Type	Full Application
Proposal	Demolition of redundant steel frame barn and conversion of redundant stone barns to 1 dwellinghouse
Ward	Chewton Mendip And Ston Easton
Parish	Chewton Mendip Parish Council
Recommendation	Refuse
Ward Cllrs.	Cllr Tom Killen

**What three words:** limiting.reclined.completed

**Referral to Planning Board:**

The application has been referred to the Planning Board at the request of the Ward Member and the Vice Chair of the Planning Board.

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

This application relates to Hippisley Farm located on the south side of East End Lane, Chewton Mendip. It consists of a farm house set back from the narrow lane (East End Lane) and there is an existing ancillary building gable end to the road between the farm house and the road. The site has two vehicular accesses, one of which lies to the west of the ancillary building and passes in front of it leading to the house and other farm buildings.

Further west of the vehicular access is a further access which enters a courtyard with a large open fronted agricultural building on the south side of the yard. On the eastern side of the yard are two joined natural stone barns with a clay pantile roof. To the west and in separate ownership is a small wooden stable like building.

The site is located outside the defined settlement limits of Mendip District Local Plan Part I: Strategy and Policies (December 2014). The site is within a source protection zone.

The application seeks full planning permission for the conversion of existing linked stone barns that sit to the east of the site into a three bed residential dwelling. The large steel framed agricultural barn to the south would be demolished and an extension to the stone barns is proposed running off the southern extent of the existing barns to the west.

The extension will provide a garage, utility, kitchen and dining room and measures approximately 15.77m x 6.16m, it also provides bedrooms and bathrooms in the roof.



The existing access into the yard to the west of the existing barns will be stopped up, with the creation of a new boundary wall. A new access will be created to the west of the existing access.

**Relevant History:**

No recent relevant planning history.

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

Ward Member: No comments received.

Chewton Mendip Parish Council: Approve, but observations were made as to the size of the dwelling.

Highways Development Officer: Standing Advice.

Land Drainage: No objection subject to a condition concerning infiltration testing and soakaway design to deal with surface water drainage.

- With regards to foul drainage, the applicant proposes to install a package treatment plant. The drainage field for the package treatment plant is to be sited on adjacent land under the control of the applicant outside the red line, this removes previous concerns about the space requirements on the site. Treated effluent will be pumped from the package treatment plant to this location. Infiltration tests have been carried out at the location of the drainage field. The treatment plant and drainage field have been sized in accordance with the appropriate guidance. When determining the final route for the pumped effluent 90-degree bends in the pipework should be avoided where possible. The proposals for foul drainage are acceptable.
- Treated sewage effluent discharges inside Source Protection Zone 1 will also require environmental permit from the Environment Agency, this is separate from the planning process.

Contaminated Land Officer: No objection subject to a watch brief.

Environmental Protection: No objections.

Environment Agency: No comments received.

County Ecologist: No objection subject to conditions including bio-diversity enhancement.

Local Representations: 1 objection has been received raising concerns about harm to ecology.

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

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

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

The Council's Development Plan comprises:

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

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

- CP1 – Mendip Spatial Strategy
- CP2 – Supporting the Provision of New Housing
- CP4 – Sustaining Rural Communities
- DP1 - Local Identity and Distinctiveness
- DP4 - Mendip's Landscapes
- DP5 - Biodiversity and Ecological Networks
- DP6 – Bat Protection
- DP7 - Design and Amenity
- DP8 - Environmental Protection
- DP9 - Transport Impact of New Development
- DP10 - Parking Standards
- DP20 – Re-use of Employment Sites
- DP22 – Re-use and Conversion of Rural Buildings
- DP23 – Managing Flood Risk

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

- National Planning Policy Framework
- National Planning Practice Guidance
- The Countywide Parking Strategy (2013)
- Somerset County Council Standing Advice (2017)

**Assessment of relevant issues:**

**Principle of the Use:**

The site is outside of the development limits as defined by the Local Plan Part 1. In relation to rural locations, the general thrust of Policy CP1 is that development will be strictly controlled and will only be allowed where it benefits economic activity or extends the range of facilities available to local communities.

The central objective of the NPPF is to promote sustainable development. This includes avoiding isolated homes in the countryside. However, Paragraph 79 has exceptions to this including giving support for the reuse of a redundant or disused building for residential purposes where this would lead to an enhancement of the immediate setting.

Policy DP22 of MDLP states that the reuse and conversion of a building in the countryside (outside of defined development limits) for residential use will be given favorable consideration where it would lead to an enhancement to the immediate setting, and:

- a) the proposed use would not prejudice the use of adjacent land and premises, particularly where such use entails agricultural or other land based operations
- b) the design of the building, and associated development required to facilitate its reuse, respects its surroundings and does not harm the wider landscape character of the area, or have an adverse impact on the transport network
- c) in the case of a traditional building, the proposal is sensitive to its fabric and character
- d) the building is of permanent and substantially sound construction and is proposed for re-use and adaption in a manner which would not require major or complete reconstruction
- e) any bat roost present is incorporated or replaced, and external vegetative structure supporting is maintained or replaced within the scheme.

Whilst the application seeks planning permission for the conversion of a building in the countryside (outside the settlement limits) for residential use, the scheme is not considered to comply with Policy DP22. The reason for this is discussed further below under the design of the development.

Furthermore as the proposal is considered tantamount to a new dwelling outside of the development limits it is also considered to be contrary to Policy CP1. At the present time the Local Planning Authority is unable to demonstrate a five year supply of housing land meaning that Policies CP1 and CP2 can only be given limited weight.

Nevertheless the location of the site, outside of the housing development limits, would not accord with the strategy for the delivery of new housing set out in the Mendip District Local Plan 2006-2029, Part 1: Strategy and Policies, December 2014. Core Policies CP1 and CP2 which seeks to direct new residential development towards the principal settlements and defined Development Limits. Together with Core Policy CP4 the Local Plan, amongst other things, seeks to strictly control residential development in the open countryside save for specific exceptions within which, again, the development is not considered to fall.

Furthermore, similar to the Local Plan, the policies within the NPPF also seek to direct new residential development towards sustainable locations although a number of exceptions are provided for within paragraph 79 where a dwelling in the countryside might be acceptable. However as the proposed dwelling is not for the use of a rural worker, would not benefit a heritage asset and nor is it outstanding or innovative the proposal is not considered to comply with Paragraph 79 of the NPPF and is also contrary to Policy CP1 and CP2 of the Local Plan.

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

The existing linked stone buildings are traditional in character, they appear structurally sound and in the conversion of them it is proposed to utilize existing openings where possible. However, the scheme proposes an extension larger than the footprint of the existing barns at right angles forming an 'L shape' and a double height extension with glazing at the junction where the new building meets the old to provide a staircase to rooms in the roof. The extension proposes a large dormer window and extensive glazing to the north elevation.

It is therefore considered that the new extension required to facilitate the new residential use would go beyond what is considered a conversion. As such the proposal does not comply with Policy DP22 of the Local Plan. Furthermore if approved the application would deliver a dwelling in the countryside in an unsustainable location.

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

It would appear that most of the buildings on the farm are either ancillary to the house or no longer required for agricultural purposes. The large open sided agricultural barn is proposed to be demolished to accommodate the new extension proposed.

There are existing openings in the east elevation which look over the drive to the farmhouse and do not look directly into the farmhouse, instead they face what appears to be an ancillary building opposite. Most of the windows in the eastern elevation are proposed to have obscured glass.

To the west of the courtyard and outside of the applicants control is a small wooden stable like building, its authorised use is unknown. Whilst this building raises some concern in terms of its use and potential impact on the future occupiers of the development, there is an element of buyer beware especially given its modest size and a suitable boundary treatment could reduce the impact should the application be approved.

It is therefore considered that there is no harm to amenity. The proposal accords with Policies DP7 and DP8 of the adopted Local Plan Part 1 (2014).

### **Ecology:**

The County Ecologist was consulted on the application and raised no objection. It is considered that suitable planning conditions would safeguard protected species or their habitat should approval be given for the development.

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

There is adequate parking within the site and given the existing uses on site it is considered that the proposal would not result in a significant increase in traffic movements that would prejudice highway safety. The existing access is to be blocked up and the new access is considered acceptable taking into account the existing road conditions.

The means of access and parking arrangements are acceptable and maintain highway safety standards. The proposal accords with Policy DP9 and DP10 of the adopted Local Plan Part 1 (2014) and Part 9 of the National Planning Policy Framework.

### **Drainage and Flood Risk:**

The site is located in flood zone 1 and is not shown to be at risk of surface water flooding. The development proposed will result in a slight decrease in surface water runoff from the site due to the demolition of the existing agricultural building. It is considered that there is every reasonable prospect that a suitable drainage solution for the site can be provided. As such surface water and drainage can be controlled via a suitable planning condition. The foul water arrangements are considered acceptable based on the comments of the drainage engineer.

### **Contamination:**

The site has most recently been in use for agriculture and has the proposal been acceptable would have been appropriate to add an informative note to advise the developer to keep a watching brief for contamination.

### **Refuse Collection:**

It is considered that there is adequate room within the site for the storage of bins which can be taken to the highway for 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, pregnancy and maternity, race/ethnicity, religion or belief (or lack of), sex and sexual orientation.

### **Conclusion:**

The proposal would result in an extension which is larger than the host building and would not be sensitive to its character. As such this amount of new building exceeds what could be considered a conversion resulting in what is tantamount to a new-build dwelling.

The Council cannot currently demonstrate a 5-year supply of deliverable housing sites so, in these circumstances, Paragraph 11 of the NPPF applies in that there is a presumption in favour of sustainable development and that therefore planning permission should be granted, unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.

In this case there would be some benefit from the proposals by adding a single dwelling house to the housing supply. There would also be some economic and social benefits arising from the construction of the dwelling as well as economic benefit derived from the future occupants for the

wider area as well as revenue for the Council. However these benefits are similar to those that would result from the implementation of the current approval to convert the agricultural building to a dwelling. As these benefits are very small they can only be given limited weight.

In light of this there are no special circumstances to justify what would amount to a new-build dwelling in the countryside in an area with limited services resulting in a dwelling in an unsustainable location. As such the proposal is considered unacceptable and contrary to Policies CP1, CP2 and DP22 of the Local Plan and policies within the NPPF and the application is recommended for refusal.

**Recommendation:**

REFUSE

**Reason/s for Recommendation**

1. In the opinion of the Local Planning Authority the application site is in a rural location outside of a defined settlement boundary where new development is strictly controlled in the interest of maintaining the rural character and appearance of the area and to ensure a sustainable pattern of development. The planning application seeks the conversion of two linked farm buildings to residential and the erection of a significant extension to facilitate the new residential use, tantamount to a new build. Furthermore no substantial case has been made for the provision of a new dwelling in an unsustainable rural location. On this basis it is considered that the proposal is therefore contrary to Policy CP1, CP2 and Policy DP22 of the Mendip District Local Plan 2006-2029 and the National Planning Policy Framework.

**Informatives**

1. In determining this application the Local Planning Authority considers it has complied with the aims of paragraph 38 of the National Planning Policy Framework by working in a positive, creative and pro-active way. Despite negotiation, the submitted application has been found to be unacceptable for the stated reasons. The applicant was advised of this, however despite this, the applicant chose not to withdraw the application and having regard to the need to avoid unnecessary delay the Local Planning Authority moved forward and issued its decision.
2. This decision relates to drawings S5998/001A and S5998/002 valid 27.11.19 and 3001 Rev B received 03.04.20 and S5998/100E, S5998/101D and S5998/102 received 15.04.20.

Agenda Item No.	DM06
Case Officer	Mr Carlton Langford
Site	Land At 361328 143053 Monmouth Road Shepton Mallet Somerset
Application Number	2020/0130/FUL
Date Received	22nd January 2020
Applicant/ Organisation	Mr Vougar Mamedou SEL Build Ltd
Application Type	Full Application
Proposal	Erection of 2no. 2 bed bungalows with 6no parking spaces, courtyard gardens, and cycle/ refuse/ recycling storage .
Ward	Shepton West
Parish	Shepton Mallet Town Council
Recommendation	Approve
Ward Cllrs.	Cllr Chris Inchley Cllr Edric Hobbs

**What3Words:** promises.encrypted.servers

**Reason for Referral to Planning Board:**

The application has been referred to the Planning Board by the Chair and Vice Chair of the Planning Board as requested by the Ward Members.

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

This application relates to a parcel of land (parking forecourt and garaging) at Monmouth Road within the development limits of Shepton Mallet. The land has no constraints and the parking and garaging use of the land is not tied to any lawful development and therefore cannot be afforded protection having regard for the loss of parking provision in the area.

There is a Public Right of Way which runs adjacent to the site but not obstructed by the proposal.

The original application was for the erection of 2no. 2 bed 2no storey dwellings.

However this has been amended and now comprises the erection of 2 x 2 bungalow style properties with 6no parking spaces, courtyard gardens, and cycle/ refuse/recycling storage.

**Relevant History:**

No relevant planning history other than a withdrawn application for the construction of a terrace of 3 houses.

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

Ward Member: No response received on the revised design for the bungalows.

The ward member response on the proposals as initially submitted for 2 x 2 storey dwellings is set out below:

- The general bulk, massing and scale of the scheme resulting in a cramped form of development incongruous with the surrounding estate.
- Incongruous design and appearance failing to preserve the character of the area.
- Overbearing impact on neighbours especially those to the north and west.
- Loss of amenity (overlooking) especially for those properties to the north.
- Loss of casual parking in the area, a general amenity loss rather than a highway safety one.
- The siting of the development will compromise the use of 3 number parking spaces, one off the rear of No5 Churchill Road (the 33 Queens Road) proposed parking would block this access and 2 others at the end of Monmouth Road where the proposed parking will block ease of access from these spaces.

Town Council: Members did not support this application due to loss of casual parking and the loss of legal right of access for residents which is not addressed by this application.

Highways Development Officer: Standing Advice.

County Archaeology: No archaeological implications.

County Rights of Way: No objections.

Local Representations: 13 letters of objection have been received raising the following summarised issues:

- Loss of parking
- Increased parking on the street following loss of parking area.
- Overlooking
- Overshadowing
- Overdevelopment.
- Obstruct access to parking at rear of neighbouring properties.
- Bungalow style properties would be uncharacteristic.
- Poor siting of refuse storage area.

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

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

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

The Council's Development Plan comprises:

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

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

- CP1 and CP2 – Mendip Spatial Strategy
- DP1 – Local Identity and distinctiveness
- DP7 – Design and Amenity of new development

- DP9 – Transport Impact of new development.
- DP10 – Parking Standards.

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

- National Planning Policy Framework
- National Planning Practice Guidance
- The Countywide Parking Strategy (2013)
- Somerset County Council Highways Development Control Standing Advice (June 2017)

**Assessment of relevant issues:**

**Principle of the Use:**

The application site is situated within the development limits of Shepton Mallet where there is a presumption in favour of development subject to the usual planning controls of design, amenity and highway safety. To this end, the proposal is acceptable in principle.

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

The application site currently comprises a parking forecourt with garaging all within the ownership of the applicant. The court is surrounded by 2 storey dwellings largely with small courtyard rear gardens backing onto the forecourt.

The proposal is to erect 2 no. 2 bedroom bungalow style properties with small courtyard gardens to the rear and off-street parking provision to the front. The proposal also includes an area for refuse bin storage. The properties will be constructed of brick under a tile roof.

Whilst the immediate setting has no similar bungalow style properties, it is not uncommon for estates to have a variety of house types and therefore the proposal is not unreasonable.

As described above, the site is not prominent within any street scene and its development with bungalow style properties will not have a harmful impact on the wider character of the area being largely screened by the 2 storey dwellings which enclose the site as is the current situation with the garaging on site. It will be recommended that the dwellings be constructed using a red brick of similar appearance to the adjacent terrace (numbers 31 to 37 Queens Road).

Whilst the proposed layout of the site brings the bungalows within close proximity to neighbouring properties, this distancing is not dissimilar to existing juxtaposition of properties in the area especially between back to back terracing of 2 storey housing along Queens Road (Numbers 39 to 45 to the North and 31 and 37 to the South). Therefore the scheme is no more intrusive within its setting than the existing layouts in the immediate area and with the proposal being of a single storey bungalow design less intrusive on existing neighbouring properties. To this end, it is considered that the development is of a scale, mass, form and layout appropriate to local context.

**Impact on Residential Amenity:**

The single storey nature of the revised design means that there will be no adverse amenity concerns for the occupiers of neighbouring properties in terms of overlooking, overshadowing and/or creation of an oppressive environment as a result of the proposed built form. Whilst the courtyard gardens proposed will be subject to a degree of overlooking from existing neighbouring properties, this will be no greater than that which currently exists between neighbouring properties on this estate especially between the back to back terracing as mentioned above.

It is considered that the design and layout of the bungalows on site will ensure existing amenity levels in the area are maintained and the end users of the proposed accommodation will be



afforded a level of amenity akin to the area. The proposal is therefore considered acceptable and in accordance with Policy DP7 of the Local Plan.

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

Access to the site will continue off Monmouth Road, as per the current arrangements. In terms of trip number the proposals, will result in an overall decrease of traffic movements along Monmouth Road.

Six parking spaces are to be provided allowing sufficient parking for the proposed dwellings and for visitor and existing turning within Monmouth Road will be retained.

Whilst the current ad hoc parking will be lost to residents in the area forcing cars to park on the highway, this parking forecourt does not relate to any specific planning permission and its loss cannot be protected and therefore any increase of on street parking in the area is not considered a justified reason to refuse planning permission.

Whilst concerns have been expressed from neighbours to the site that the arrangements to access their own properties will be compromised by the development, there is no formal record of any arrangements controlled through the planning process. Therefore any formal agreement for easement over the application site to gain vehicular access to these properties is considered a civil matter between land owners. The applicant has declared that they are the sole owner of the site. In summary without the necessary evidence to show established rights over the application site, the matter remains a civil one and should not be given any weight as it is not a material consideration in the assessment of the application.

These properties and others do however benefit from pedestrian access and the proposed development will not obstruct this access that runs along the rear of 1-5 Queens Road.

The proposed scheme therefore raises no adverse highway safety concerns over or above those which already exist and the parking proposed to serve the new development meets with the SCC Parking Strategy for new developments.

### **Sustainability and Renewable Energy:**

The proposal is for the redevelopment of an existing developed site which is a sustainable form of development and it will be expected that the dwellings will be built in accordance with Building Regulations incorporating renewable building standards.

### **Refuse Collection:**

An area adjacent to the existing footpath will be created for the storage of refuse and recycling bins for both properties and whilst objections have been raised to the siting of the area (to the rear of existing properties), both the size of the storage area along with its location are considered both accessible and acceptable.

### **Environmental Impact Assessment**

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

### **Equalities Act**

In arriving at this recommendation, due regard has been given to the provisions of the Equalities Act 2010, particularly the Public Sector Equality Duty and Section 149. The Equality Act 2010 requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities.

Protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race/ethnicity, religion or belief (or lack of), sex and sexual orientation.

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

Having regard for the above, the proposed development is acceptable in principle raising no adverse design, amenity of highway concerns and is recommended for approval.

### **Recommendation:**

APPROVE

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

1. The proposal accords with the Council's settlement strategy for the location of new development.  
The proposal, by reason of its design, scale and layout would be in keeping with its surroundings.  
The proposal, by reason of its design, scale and layout, would safeguard the amenities of neighbouring residents and adjoining land users.  
The means of access and parking arrangements meet the required safety standards and will ensure the free flow of traffic on the highway.  
All practical measures for the conservation of energy have been included in the design, layout and siting of the proposal.  
The proposal has been tested against the following Development Plan policies. In the opinion of the Local Planning Authority, and subject to the conditions below, the proposal is acceptable:-  
CP1 and CP2 (Principle of Development), DP1 (Local Identity), DP7 (Design and amenity), DP9 (transport), DP10 (parking) of the Mendip District Local Plan 2006-2029 (Part 1 Strategies and Policies - adopted 15th December 2014)  
National Planning Policy Framework  
Planning Practice Guidance  
The Countywide Parking Strategy (2013)

### **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 permissions.
2. Plans List (Compliance)  
This decision relates to the following drawings: 1905-B-P01C, P01-1C, P02C, P04C, P05C and P06C.  
Reason: To define the terms and extent of the permission.
3. Materials - Walls and Roofing (Compliance)  
The proposed external walling materials to be used (Brick) shall match those of the adjacent terrace 31 to 37 Queens Road in respect of type, size, colour, coursing, jointing, profile and texture.  
Reason: In the interests of the appearance of the development and the surrounding area in accordance with Policy DP1 and DP7 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).
4. Parking Area (Pre-occupation)  
The dwellings hereby approved shall not be occupied until the parking spaces shown on drawing number 1905-B-P01C have been laid out in accordance with the approved plans

and made available for the parking of vehicles. The parking spaces shall thereafter be retained for the parking of vehicles associated with the dwelling and for no other purpose. Reason: To ensure that sufficient parking is provided to serve the approved development in the interests of highway safety in accordance with Policies DP9 and DP10 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

5. Removal of Permitted Development Rights - No extensions or alterations (Compliance) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no extension, external alteration or enlargement of the dwellings or other buildings hereby approved shall be carried out unless a further planning permission has been granted by the Local Planning Authority.  
Reason: In the interests of the appearance of the development and neighbouring amenity in accordance with Policies DP1 and DP7 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

### **Informatives**

1. In determining this application the Local Planning Authority considers it has complied with the aims of paragraph 38 of the National Planning Framework by working in a positive, creative and pro-active way.
2. 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.
3. The Planning Authority is required to erect a Site Notice on or near the site to advertise development proposals which are submitted. Could you please ensure that any remaining Notice(s) in respect of this decision are immediately removed from the site and suitably disposed of. Your co operation in this matter is greatly appreciated.

Agenda Item No.	DM07
Case Officer	Mr Josh Cawsey
Site	Middle Farm House Peace Close Lane West Horrington Wells BA5 3ED
Application Number	2020/1286/HSE
Date Received	8th July 2020
Applicant/ Organisation	Mr and Mrs M Pullin
Application Type	Householder Application
Proposal	Erection of detached garage building with home office over
Ward	St Cuthbert Out North
Parish	St Cuthbert Out Parish Council
Recommendation	Approve
Ward Cllrs.	Cllr Mike Pullin

**What 3 Words:** mocking.surprised.soft

**Reason for Referral to Planning Board:**

The application has been referred to the Planning Board as the applicant is a Councillor.

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

The application site is Middle Farm House, Peace Close Lane, West Horrington, Wells. The application site is a detached dwellinghouse with an existing access and parking area.

The site is within an Area of Outstanding Natural Beauty, Bat Consultation Zone and a SSSI Impact Risk Zone.

The proposal seeks to erect a detached garage building with a home office above. The proposed use is ancillary to the host dwellinghouse, Middle Farm House. The proposed garage is proposed in an Oak frame, Clay pantiles and Oak boarding.

**Relevant History:**

103759/001 - Erection of two storey extension to south elevation (CAT A) – Approved with Conditions 08.06.2004

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

Ward Member: No response received.

St Cuthbert Out Parish Council: Approval.

SCC Ecologist: As no bat activity surveys have been undertaken presence of light averse species is presumed. A condition is required.

Local Representations: 1 no. letter of support have been received.

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

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

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

The Council's Development Plan comprises:

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

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

- DP1 – Local Identity
- DP4 – Mendip's Landscapes
- DP7 – Design and Amenity
- DP5 and DP6 – Bats and Biodiversity
- DP9 – Transport Impact of New Development
- DP10 - Parking

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

- National Planning Policy Framework
- National Planning Practice Guidance
- The Countywide Parking Strategy (2013)

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

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

The proposal seeks to create a two storey outbuilding with parking and a home office above. The proposed outbuilding is to be created using timber boarding and clay pantiles. The proposed building is of a scale and design that is appropriate to both the application site and surrounding area. Due to the topography of the site and the adjacent access road being at a lower level, the proposal will not be visible past the existing boundary wall and will therefore have no impact on the street scene or surrounding area.

The proposal by reason of its design, 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 Policy DP1 and DP7 of the adopted Local Plan Part 1 (2014) and Part 12 of the National Planning Policy Framework.

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

The proposed outbuilding is located to the East of the existing host dwellinghouse. The proposed outbuilding is not directly adjacent to any residential properties with an agricultural field to the East

and North, existing house to the West and road to the South. The proposal will therefore have no impact on the residential amenity of the occupiers of any neighbouring properties.

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, smell, traffic or other disturbance. The proposal accords with Policy DP7 of the adopted Local Plan Part 1 (2014) and Part 12 of the National Planning Policy Framework.

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

The proposal seeks to create a garage to the existing site with a home office above. The proposal would result in the creation of 2no. additional parking spaces. The available parking on site, both existing and proposed, is above the SCC Parking Standards level. For this reason, the level of parking and arrangement is deemed acceptable.

There are no changes proposed to the existing site access. The means of access and parking arrangements are therefore acceptable and maintain highway safety standards. The proposal accords with Policy DP9 and DP10 of the adopted Local Plan Part 1 (2014) and Part 9 of the National Planning Policy Framework.

### **Environmental Impact Assessment**

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

### **Equalities Act**

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

### **Recommendation:**

APPROVE

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

1. The proposal, by reason of its design, scale and layout would be in keeping with its surroundings.  
The proposal, by reason of its design, scale and layout, would safeguard the amenities of neighbouring residents and adjoining land users.  
The means of access and parking arrangements meet the required safety standards and will ensure the free flow of traffic on the highway.

The proposal has been tested against the following Development Plan policies. In the opinion of the Local Planning Authority, and subject to the conditions below, the proposal is acceptable:-

DP1 (Local Identity), DP7 (Design and Amenity) and DP10 (parking) of the Mendip District Local Plan 2006-2029 (Part 1 Strategies and Policies - adopted 15th December 2014)  
National Planning Policy Framework  
Planning Practice Guidance  
The Countywide Parking Strategy (2013)  
The Household Extension Design Guide

## 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 permissions.
2. Plans List (Compliance)  
This decision relates to the following drawings: PL4296/G1, PL4296/G2, PL4296/G3, PL4296/G4 and PL4296/G5 validated 08.07.2020.  
Reason: To define the terms and extent of the permission.
3. Ancillary Use - Residential (Compliance)  
The development hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as Middle Farm House, Peace Close Lane, West Horrington, BA5 3ED and shall not be occupied as an independent dwelling unit.  
Reason: The accommodation hereby approved is not capable of independent occupation without adverse impact on the amenities of existing or future residential occupiers contrary to Policy DP7 of the Mendip District Local Plan Part 1: Strategy & Policies 2006-2029 (Adopted 2014).

## Informatives

1. In determining this application the Local Planning Authority considers it has complied with the aims of paragraph 38 of the National Planning Framework by working in a positive, creative and pro-active way.
2. 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.
3. Please note that your proposed work may also require Building Regulations approval, which is a separate consent process to the consideration of a planning application. The Council's Building Control team are available to provide Building Regulations advice from pre-application stage to completion of a development and can be contacted on 0300 303 7790. Further details can also be found on their website <http://www.sedgemoor.gov.uk/SomersetBCP/>