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# Appeal Decision

Hearing held on 14 March 2013

Site visit made on the same day

**by Mrs A L Fairclough MA BSc(Hons) LLB(Hons) PGDipLP (Bar)IHBC  
MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 18 July 2013**

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**Appeal Ref: APP/Q3305/A/12/2186794**

**Shepton Grange, Cannards Grave Road, Shepton Mallet, Somerset BA4 4FE**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Bloor Homes against the decision of Mendip District Council.
  - The application Ref: 2012/0842 dated 29 March 2012, was refused by notice dated 30 October 2012.
  - The development proposed is described as 'a mixed development of 97 high quality residential units with associated access, parking and public open space'.
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## Procedural Matters

1. At the Hearing Bloor Homes stated that they and B & J Thorner Ltd are together owners absolute of the appeal site and a revised section 65 Certificate B was submitted as a consequence.

## Decision

2. The appeal is allowed and planning permission is granted for a mixed development of 97 high quality residential units with associated access, parking and public open space at Shepton Grange, Cannards Grave Road, Shepton Mallet, Somerset BA4 4FE in accordance with the terms of the application, Ref: 2012/0842 dated 29 March 2012, subject to the conditions listed in the attached annexe.

## Application for costs

3. At the Hearing an application for costs was made by Bloor Homes against Mendip District Council. This application will be the subject of a separate Decision.

## Planning Policy

4. The development plan includes the Mendip District Local Plan (LP) dated 2002. The LP includes saved policies. The most relevant saved policies of the Local Plan are Q1, SN6, SN7 and SN24.
5. Paragraph 215 of the National Planning Policy Framework (the Framework) explains that weight should be given to relevant policies in existing plans according to their degree of consistency with the Framework. In respect of LP Policies Q1, SN6, SN7 and SN24, I find no conflict with the Framework. I will therefore give these policies full weight in so far as they are relevant to the appeal.

6. One of the core planning principles of the Framework is to proactively drive and support sustainable economic development so as to deliver, amongst other things, the homes that the country needs. It seeks to boost significantly the supply of housing. Paragraph 49 of the Framework specifies that housing applications should be considered in the context of sustainable development. Relevant policies for the supply of housing should not be considered up to date if a five-year supply of housing cannot be demonstrated.
7. At the Hearing the Council confirmed that it had not identified a five year supply of housing land supply. Given the advice at paragraph 49 of the Framework, this undersupply of housing land is of substantial significance in the consideration of this appeal.
8. Paragraph 216 of the Framework identifies the weight to be attached to emerging development plans. This is based on the stage of preparation, whether there are significant unresolved objections, and the consistency with the Framework. There is an emerging plan, the Mendip District Local Plan 2016 - 2028. However, this plan has yet to be examined or found to be sound. Therefore, in accordance with paragraph 216, I attribute the relevant policies Core Policy 9 (Shepton Mallet Town Strategy) and Development Policies 9 (Transport Impact), 10 (Parking Standards), 11 (Affordable Housing), 16 (Open Space and Green Infrastructure) and 19 (Development Contributions) limited weight.

### **Main Issues**

9. The Council gave two reasons for refusal. The first reason for refusal states that the additional traffic using the existing roads would create noise and disturbance to the existing residents and inadequate parking spaces have been provided within the appeal site. The second reason states that provision has not been made for open space, education, affordable housing or a travel plan in respect of the proposed development.
10. At the Hearing both parties confirmed that an agreement had been reached in relation to the provision of open space, a management scheme, affordable housing, a travel plan plus an education contribution. To this end a S106 agreement has been submitted. The S106 agreement accords with LP Policies SN6, SN7 and SN24 and emerging Policies DP11, DP16 and DP19. Mendip District Council and Somerset County Council are satisfied that these elements of the scheme are acceptable. I consider that the legal agreement would be necessary to meet the demands arising from the development and, as such would meet the tests in Regulation 122 of the Community Infrastructure Regulations. Reason for refusal No 2 is, therefore, overcome.
11. The site lies outside the settlement limits and within open countryside. On that basis permission would not normally be granted for new residential dwellings without exceptional justification. However, the Council in this instance considered that the undersupply of dwellings in the District and the proposed provision of affordable housing amounted to exceptional justification. From all that I have heard and read, there is no evidence that the scheme would not be viable or deliverable. Thus I consider that there is no reason to disagree with the Council's approach in this regard.
12. On this basis the main issues in this case are:

- (a) the effect of the proposed development on the living conditions of existing residents having particular regard to noise and disturbance from passing traffic; and,
- (b) the effect of the proposed level of parking provision on highway safety and the free flow of traffic in the area.

## **Reasons**

13. The appeal site consists of some 2.57ha of generally flat, Grade 3b agricultural land and is located adjacent to the existing Field Farm development. The site is enclosed and there are trees and hedgerows along part of its periphery. It is bounded to the west by Cannards Grave Road and to the east by Whitstone Road.

14. The Appellant seeks full planning permission for 97 residential units with associated access, parking and public open space. The dwellings would be a variety of different sizes, types and tenures, including affordable housing, and they would range from 1 bedroom flats to 4 bedroom houses.

### *Noise and Disturbance*

15. The Council and local residents have raised concerns regarding the increased traffic flows through their estate to reach the appeal site. LP Policy Q1 states, amongst other things, that development will be permitted where its design relates satisfactorily to its surroundings in terms of the amenity of neighbouring buildings and land uses.
16. A core principle of the Framework is that planning should seek a good standard of amenity for all existing and future occupants of land and buildings<sup>1</sup>. Paragraph 32 of the Framework indicates that development should only be prevented or refused on transport grounds where the residual cumulative impacts of the development are severe.
17. There is no direct access to the appeal site from Cannards Grave Road (the A371) or Whitstone Road (the A37), save an emergency access. There are 2 points of access into the appeal site at Mistletoe Lane and Clarks Meadow. From these Whitstone Road is accessed via Hobbs Road and Cannards Grave Road is accessed via Little Brooks Lane.
18. The submitted transport assessment indicates that the proposed development would only contribute in a minor way to traffic flows on the local highway network, and this may be true of the A37 and A371. However, there would be a noticeable increase in traffic movement within the existing development especially Mistletoe Lane and Clarks Meadow. Currently these roads are cul-de-sac serving several dwellings and the Transport Assessment submitted by the Appellant estimates that the total number of trips generated by 97 dwellings would be some 785 per day including both inward and outward movements. (This figure was discussed and agreed at the hearing).
19. The Council indicates that the residents most affected would be those on Mistletoe Lane who only experience the traffic associated with the cul-de-sac location i.e. 6 dwellings. The increase in activity would be from around 48 trips per day at present to some 637 per day. (This figure was discussed and agreed at the hearing). That is calculated on the basis of an average of 8 trips per day

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<sup>1</sup> Paragraph 17 of the Framework

per property and the likelihood that drivers would use Mistletoe Lane as a convenient access and egress point to and from the appeal site as it has the fewest number of junctions to navigate to get to and from the main roads. I note also that the residents of Mistletoe Lane are located on a comparatively quiet part of the estate away from the main roads and adjacent to an open field.

20. Currently the residents of Clarks Meadow are likely to generate around 136 trips per day. The estimated traffic flow would be around 332 per day. (This figure was discussed and agreed at the hearing).
21. Thus the increase in traffic activity along Mistletoe Lane and Clarks Meadow and nearby roads would generate an increase in noise. However, given the layout of the roads, which seek to reduce traffic speeds to around 20mph, I consider that at most times of the day the traffic movement would be smooth and free-flowing. Moreover, there is no substantiated evidence before me to show that the additional noise experienced by nearby residents would be at an unacceptable level.
22. The change in traffic levels would cause an alteration to the noise and general environment of nearby residents. However, I consider the passing movement of this level (possibly around 1 vehicle per minute at peak times) would not create a severely adverse impact in terms of noise and disturbance, particularly given low traffic speeds where there is unlikely to be significant engine acceleration noise. I accept that there is a possibility that there would be higher levels of noise at peak times where there would be additional vehicles, slowing down to deal with junction manoeuvres and pass cars parked on the street. However, I am unconvinced that these would seriously harm the living conditions of residents in terms of noise and disturbance.
23. Overall, given the careful design of the existing housing and road layouts, with active frontages, including many with living accommodation fronting the road, plus narrow roads with on-street parking to create traffic calming, I do not consider that the additional vehicles entering/exiting the appeal site would create a severely adverse impact in terms of noise and disturbance such that planning permission should be refused. Thus the scheme would not conflict with the objectives of LP Policy Q1 or paragraph 32 of the Framework.

#### *Parking Provision*

24. In terms of parking standards, the District Council refers to emerging Policy DP10 and the *Somerset County Council Transport Policies: Parking Strategy* (SCPS) (March 2012). Policy DP10 states that new development will be supported where vehicle parking is proposed, which is appropriate to the operational needs of the development, taking into consideration the objectives of reducing growth in the use of private vehicle and the need for on-site provision to prevent problems of highway safety, congestion or visual intrusion.
25. However, although I have attributed limited weight to the emerging policies which may yet be subject to change, Policy DP10 is broadly consistent with the Framework. The SCPS sets out optimum parking standards for different types of development in the County of Somerset. This document was produced by the County Council to support the development of Somerset Future Transport Plan for the period 2011-2026. The objective of this document appears to be to provide sufficient parking and allow people to make the trips they need

without cluttering up the development and making it hard to get around. Although based on previous superseded planning policy it also took into account the then emerging Framework. That said it does not appear to be a formally adopted SPD but as a recent policy document taking into account the advice in the Framework, I consider it is a material consideration.

26. Paragraph 39 of the Framework states, amongst other things, that in setting local parking standards for residential development, local planning authorities should take into account the accessibility of the development, the type and mix of housing, the availability of and opportunities for public transport, local car ownership levels and an overall need to reduce the use of high emission vehicles.
27. The SCPS provides a zoning of areas in an attempt to ensure that the diversity of the settlement type is recognised. These zones are based on the population of the Output Area Wards as defined in the National Census. Thus the County has been divided into smaller, more manageable area units. The appeal site is classed as Zone B<sup>2</sup> for optimum parking standards and this is based on the figures for the two Output Area Wards, which together comprise Shepton Mallet. Settlements classified as Zone A are significantly larger in terms of population and Zone C settlements are significantly smaller than the town of Shepton Mallet (which has an overall population of 8,981<sup>3</sup> - a figure specified by the Council).
28. The appeal scheme would provide 97 dwellings (some 7 x 1 bed units, 41 x 2 bed units, 31 x 3 bed units and 18 x 4 bed units. (These figures were confirmed by the main parties). Thus based on the Zone B location, the Council requires 225 parking spaces are required to accord with the SCPS. However, the appeal scheme would provide only 196 spaces, including garages, driveways and unallocated street/parking court spaces. (This total figure was also agreed by the main parties at the Hearing). Thus there would be a shortfall of some 29 spaces (12.9%).
29. The SCPS states that optimum standards would be required unless local circumstances can justify deviating from them. Such circumstances include development that is located in a more sustainable location that is well served by local transport or those that have good walking or cycling links. In addition, a reduction in parking standards must be supported by evidence in a travel plan. I will deal with each in turn.
30. The appeal site is not isolated within the open countryside, but would form a continuation of the established residential development known as Field Farm/Tadley Acres/Dukes Rise and it would support the established services in nearby Shepton Mallet. Shepton Mallet is a small market town. It is some 7 miles from Wells and 12 miles from Frome. Bristol and Yeovil are about 26 miles north and 21 miles south of the town respectively. With regard to day to day facilities there are several leisure and education facilities within walking distance by road, cycle path or footpath (between 1-1.54km). However, the town centre, medical facilities (GP Surgery) and supermarket/other retailers are marginally outside the IHT<sup>4</sup> guidance distances. Access to buses is between 0.33- 2km depending on the desired destination. Nonetheless I

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<sup>2</sup> I note the discrepancy on the zoning map in that the key is wrongly shaded,

<sup>3</sup> Both Output Ward Areas combined as at census of 2001.

<sup>4</sup> Institution of Highways and Transportation Guidelines for Traffic Impact Assessment

consider that these are all within acceptable distances also. Additionally there are some 7 proposed footpaths (including 3m wide shared cycle ways/footways) into the appeal site from the adjacent development, the land to the south and also from the adjacent main roads. These would provide safe access for pedestrians and cyclists.

31. Thus there are good transport options other than the car which would serve future occupiers of the proposals and I consider that the appeal site is well served given the size and location of Shepton Mallet. Additionally, the Site Sustainability Evaluation Document concludes that the design and layout accords with the Council's sustainability agenda. It would also accord with guidance in the Framework (paragraph 55). I, therefore, consider that the appeal site is in a relatively sustainable location and the locality is reasonably well served by local transport and pedestrian and cycle routes.
32. I note that there is a basic level of public transport during peak times of travel. However, the Travel Plan encourages a reduction in the use of private vehicles and promotes alternative means of travel including car sharing. This would be overseen initially by a Travel Plan Co-ordinator who would promote, implement and monitor the travel plan. The Travel Plan would also include a marketing plan and a residents welcome pack to be distributed to all new house owners who occupy properties within the appeal site in a five year period plus public transport information, vouchers for travel, a travel notice board, the distribution of umbrellas, the distribution of reflective clothing, personal alarms, pedometers and cycle parking facilities. These incentives would assist in the Government aims to encourage sustainable transport and reduce vehicle emissions.
33. In terms of car ownership levels, a criterion of paragraph 30 of the Framework, the Council indicates that there is a ratio of approximately 1.95 cars per household in the settlement of Shepton Mallet, whereas the appellant calculates approximately 1.24. Thus the parking space requirement based on the Council's suggested actual car ownership rates for 97 dwellings would be around 190 car parking spaces plus visitor parking whereas the Appellant's would be some 121 plus visitor parking. This would be lower than the optimum standard. However, the Council base their calculations on the statistics of the two Output Area Wards which comprise the whole of Shepton Mallet, whereas the Appellant bases the result on the Output Area Ward within which the appeal site is situated. I have not been provided up to date census data<sup>5</sup> nor have I been provided with information regarding the proximity of the dwellings within the other Output Area Ward in relation to essential facilities. Even so, I find the information regarding the Appellant's evidence persuasive based on my conclusion that the appeal site is sustainable. Additionally I note the Appellant's contention that the SCPS zoning, which forms the basis of the optimum parking standards is not site specific or settlement specific but generic and, as such, the allocation of Zone B to Shepton Mallet should not be the same as some of the smaller settlements in Somerset on the basis each settlement is different and people in some villages may be more car dependant for services and facilities.
34. Moreover, I acknowledge that if the car ownership statistics per dwelling are calculated on other data such as the general Mendip area, then the car ownership levels and thus required car parking standards would be lower than

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<sup>5</sup> 2011

that required by the Council. Furthermore, the Appellant argues that the required parking standard would also be lower if the site was analysed on the car ownership data suggested in a Government document entitled 'Residential Car Parking Research' dated 2007 produced by the Department of Communities and Local Government (DCLG), which provides information on several factors which influence car ownership.

35. The interested parties/residents raised significant concerns regarding the shortfall of proposed parking spaces, which they argue would be similar to that experienced on their estate-known as Phases III and IV developments. They also contend that the existing residents would potentially park on the streets of the new development. The Appellant indicates that the parking standard requirement at the time of the permission for Phases III and IV would have been lower, being based on LP Policy SN25 and *Planning Policy Guidance Note 13: Transport*, both of which are out of date or are superseded. The Appellants also stated that if those standards were applied to the appeal scheme the number of parking spaces would be significantly less than would be provided (approximately 146 spaces - a figure suggested by the Appellants). On the basis that proportionately some 34% more spaces would be provided on the appeal scheme when compared with the adjacent estate, I consider that it cannot be assumed that the problems experienced there would recur in the proposed development. I have, therefore, given this argument little weight.
36. Also the residents of the adjacent estate indicate that rear parking areas on their estate are not generally utilised as residents prefer to park outside their dwellings on-street. They emphasise that this would be the case on the appeal development. However, whilst residents may prefer to park on-street close to their properties, if parking pressure was high then they would need to park in the parking courts. Additionally as a proportion of car parking spaces in the development would be unallocated. This would give future occupiers more flexibility for parking and ensure a more efficient utilisation of the spaces.
37. The residents/interested parties raise concerns regarding junction capacity, including congestion and queuing on the roads within the existing development and that the appeal scheme would exacerbate this. However, as aforementioned, the Highway Authority has raised no objections subject to conditions. Additionally the submitted Transport Assessment indicates that the proposed development would only contribute in a minor way to traffic flows on the local highway network. From the evidence provided and from observations of current traffic levels on site at peak times, I have no reason to disagree with this conclusion.
38. Residents have also raised concerns regarding traffic speeds plus safe access to the estates by emergency vehicles and other large vehicles. However, with regard to traffic speeds these concerns relate to the existing estate not the appeal scheme. Furthermore, no accident statistics on the existing estate have been drawn to my attention. I appreciate the local concern for safety of children playing on the estate. However, on the basis that the Highway Authority has raised no objection plus the tortuous layout including bends, cobbled 'speed bumps' and on-street parking, which in itself creates natural traffic calming, I find no compelling evidence that highway safety would be compromised.
39. Taking all the above into account, I consider that the Travel Plan, the car ownership evidence and the overall sustainable location with managed

alternative travel options would amount to a justification for parking provision slightly below the optimum levels normally required by the SCPS. In coming to this conclusion I have acknowledged the fact that the Highway Authority raised no objections to the appeal scheme. Consequently to my mind the proposed development would not create problems relating to highway safety or the free flow of traffic on nearby roads. Thus it would not conflict with the objectives of emerging Policy DP10, the SCPS or the Framework.

### **Other Matters**

40. I note the dissatisfaction of existing residents regarding the use of a private shared access as a short cut to exit/enter the existing development by other residents whilst waiting to turn out of Hobbs Road at peak times. I note that the occupiers of No 38 Hobbs Road state that it causes noise and vibrations to the occupiers immediately adjacent to the shared access. However this is a private law matter and is something on which I am unable to adjudicate, in the context of an appeal relating to a development on a nearby site.
41. I note the concerns regarding access to the appeal site for emergency vehicles on the basis it was difficult on one occasion for an emergency vehicle to pass the roads which, on that occasion, had parking on both sides of the road. However, I am satisfied that a specific emergency access would be provided from Cannards Grave Road.
42. I note the Council's statement that the existing developments, immediately adjacent to the appeal site (Phases III and IV,) were anticipated to be the last phases of the Field Farm/Tadley Acres residential development. Moreover, I note that the dwellings were constructed without an enhanced level of noise insulation. I also understand the concerns of the local residents that live on the estate that the dwellings were bought on the basis that there would be no further vehicular traffic passing their homes than that generated by the existing houses. However, planning and development necessitate change and, whilst residents may have perceived that there would be no further development, this does not provide any sound reason to withhold planning permission. The roads are public highways and it is evident to me that the road layout and juxtaposition and orientation of the existing dwellings on Clarks Meadow and Mistletoe Lane appear to have been designed to allow for continuation. In my view this is indicative of further phased development with potential accesses from these estate roads. Whilst it may not have been the intentions of the owners at the time Phases III and IV were completed, Government policy encourages new housing where local authorities cannot demonstrate a deliverable supply of housing for the next 5 years. Furthermore, at the hearing it was stated that the existing road layout was always designed with the potential for a further phase-the appeal scheme.
43. Residents have raised concerns regarding flooding risk. The SOCG indicates that the appeal site is within Flood Zone 1, outside the 1 in 1000 year fluvial flood plain with a probability of flooding of less than 0.1%. However, I have been made aware of surface water flooding to the north at the lowest point of Cannards Grave Road. I note that neither the Environment Agency nor Wessex Water raised objections in relation to flood risk or drainage provided that a surface water drainage system is put in place. I am satisfied that measures can be made to include a sustainable drainage system and to attenuate and manage surface water and that these issues can be controlled by condition.



## Conditions

44. I have considered the conditions agreed by the parties in the Statement of Common Ground having regard to the advice in *Circular 11/95: The Use of Conditions in Planning Permissions*. In the interests of proper planning and for the avoidance of doubt it is necessary to impose a condition to require the development to be carried out in accordance with the approved plans.
45. In the interests of character and appearance of the area, I agree that the materials and details of hard and soft landscaping, including protection of existing trees, hedges and plants to be retained, means of enclosure and the detailed design and finishes of all access routes, should be submitted for approval.
46. The condition relating to the types of vehicle which use the construction/emergency access off Cannards Grave Road is reasonable and necessary to ensure the access is restricted to emergency vehicles and site traffic for the construction phase.
47. In the interests of highway safety I consider that conditions relating to the detail of the proposed highway infrastructure, including footpaths, cycle ways and parking facilities, including parking allocation, are reasonable and necessary.
48. In the interests of ensuring that the protected species are protected, a condition relating to a survey report and correspondence in a dated email from the Planning Department is reasonable and necessary.
49. To ensure that surface water drainage is dealt with appropriately a condition is required to ensure that a scheme is submitted and implemented prior to the occupation of the dwellings. Also a requirement for the raising of floor levels from ground level is necessary.
50. The Circular advises that conditions restricting permitted development rights should only be imposed exceptionally. Given the careful design of the scheme, I consider that a condition restricting extensions (including roof additions and alterations) is both reasonable and necessary to ensure that the overall visual homogeneity is retained. In addition I accept that it is reasonable and necessary, in the interests of safeguarding the living conditions of neighbours in terms of overlooking/privacy, that specified plots and elevations shall have non-opening obscure glazed windows and/or no additional windows, rooflights or openings (other than already exhibited on the plans).
51. A condition relating to archaeological investigation is reasonable and necessary to ensure that the archaeological importance of the site is properly assessed and documented.
52. I shall also impose a condition detailing how contamination should be dealt with if found on the appeal site.
53. In the interests of safeguarding the amenities of new residents from the nearby A roads, a scheme for noise insulation relating to the proposed development is also reasonable.

## Conclusions

54. Therefore, I conclude that given that the relevant LP policies relating to the supply of housing land are out of date, and the importance given to the provision of housing in the Framework when combined with the sustainable location, that I have found the appeal proposal would not create a severe impact in terms of noise or disturbance to existing residents and that parking provision would not have an adverse affect on highway safety or the free flow of traffic on the existing roads and such would be acceptable. Thus the appeal scheme would not conflict with the abovementioned relevant LP Policies, the relevant emerging Policies and the Framework. As such the appeal should succeed.

*Mrs A Fairclough*

Inspector

Richborough Estates

## ANNEXE

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawing numbers SL20D, RH20B, BML20 Rev B, DML20 Rev B, AHL20 Rev B, OS20 Rev B (all dated 17 September 2012); HT2250-20pe, 2251-21pe, 2255-20pe, P4-13(20)e, P4-13(20)p1, P4-13(20)p2, GAR20-1pe, GAR20-2pe, GAR20-3pe, HTFOG-20pe, GAR21-1pe, GAR21-2pe, GAR21-3pe, GAR21-3pe, GAR21-4pe, GAR21-5 (all dated 14 August 2012); HT2253-Ape Rev A (dated 17 September 2012), HT3255-Ape Rev B (dated 3 September 2012), HT4255-Cpe Rev C, HT4260-Cpe Rev D, P14-15pe Rev A, P39pe Rev A, (all dated 17 September 2012), P79-80pe, 88-92e Rev B, 88-92 Rev A (all dated 3 September 2012), P93-97e Rev C, P93-97p Rev B (dated 17 September 2012), BS-20pe (dated 3 September 2012).
- 3) No development shall take place within the appeal site until a programme of archaeological work has been implemented in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority.
- 4) No development shall take place on site (other than archaeological works, excavation, demolition or site clearance, service diversions, site or soil investigations and remediation, ground modelling and noise attenuation works) until sample panels of the materials to be used in the construction of the external surfaces of the building hereby permitted have been erected on site and approved in writing by the local planning authority. The sample panels shall be kept on site for reference until the development is completed. Development shall be carried out in accordance with the approved details.
- 5) The development hereby approved shall not commence until a scheme to limit the type of vehicles using the emergency/construction access off Canards Grave Road, has been submitted and approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with the details thereby approved and the scheme shall have been completed prior to the occupation of the first dwelling.
- 6) No development shall take place on site (other than archaeological works, excavation, demolition or site clearance, service diversions, site or soil investigations and remediation, ground modelling and noise attenuation works) until there has been submitted to and approved in writing by the local planning authority a scheme of landscaping, which shall include indications of all walls, fences, existing trees and hedgerows on the land, details of any to be retained, together with measures for their protection in the course of development and details of all new walls; fences and other boundary treatment and finished ground levels; a planting specification to include positions, species and size of all new trees and the location of the grassed areas and areas for shrub planting; details of the hard surface treatment of the open parts of the site; and a programme of implementation and subsequent maintenance.
- 7) All hard and soft landscaping 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 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 planting, die, are removed or become seriously damaged or diseased shall be replaced during the next planting season with other trees or plants of the 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.

- 8) The proposed estate roads, footways, footpaths, tactile paving, cycle ways, bus stops/bus lay-bys, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhand margins, embankments, visibility splays, accesses, carriageway gradients, drive gradients, car/motorcycle and cycle parking, and street furniture shall be laid out in accordance with details to be submitted and approved by the Local Planning Authority in writing before their construction begins. Development shall be carried out in accordance with the approved details. The details shall include plans and sections, indicating as appropriate, the design, layout, levels and gradients, materials, method of construction.
- 9) The proposed roads, including footpaths and turning spaces, where applicable, shall be constructed in such a manner to ensure that each dwelling before it is occupied shall be served by a properly consolidated and surfaced footpath and carriageway to at least the base course level between the dwelling and the existing public highway.
- 10) No development shall be undertaken on site (other than archaeological works, excavation, demolition or site clearance, service diversions, site or soil investigations and remediation, ground modelling and noise attenuation works) until a car parking scheme for the site has been submitted to and approved in writing by the local planning authority. The scheme shall be fully implemented in accordance with the approved details.
- 11) The development hereby approved shall be carried out in accordance with the recommendations of the protected species survey dated May 2011 and the email from Laura Cox dated 14 September 2012.
- 12) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification) no extension or enlargement (including additions or alterations to the roofs) of the dwellings hereby approved shall be carried out without the granting of express planning permission from the local planning authority.
- 13) The windows listed below shall be glazed with obscure glass. The windows shall also be non opening, unless the parts of the window which can be opened are more than 1.7m above the floor level of the room in which the window/s is/are installed. The windows shall be permanently retained in accordance with the requirements of the condition.

This condition relates to the following windows:

Plots 60, 62 and 78 – first floor north elevation:

Plot 65, first floor west elevation; and

Plot 56, first floor east elevation.

- 14) Notwithstanding the provisions of the Town and Country Planning (General permitted Development) Order 1995 (or any order revoking and re-enacting that order with or without modification), no windows, rooflights or openings, other than those shown on the plans hereby approved, shall be formed in the following elevations without prior written approval from the local planning authority.

This condition relates to the following plots/elevations

Plot 56 first floor north east elevation;

Plots 18, 60, 62, 78, 81 first floor north elevation;

Plot 65, first floor south west elevation; and

Plots 93 to 976, first and second floors north west elevation.

- 15) No development shall be undertaken on site (other than archaeological works, excavation, demolition or site clearance, service diversions, site or soil investigations and remediation, ground modelling and noise attenuation works) until details of a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro-geological context of the development, have been submitted to and approved, in writing, by the local planning authority. The scheme shall ensure that surface water flows from the development do not exceed the existing run-off rates and shall include details of a maintenance regime for all surface water infrastructure. The scheme shall subsequently be implemented in accordance with the approved details.
- 16) No development shall be undertaken on site (other than archaeological works, excavation, demolition or site clearance, service diversions, site or soil investigations and remediation, ground modelling and noise attenuation works) until details of finished floor levels have been submitted to and approved, in writing, by the local planning authority. Development shall be implemented in accordance with the approved floor levels.
- 17) In the event that contamination is found at any time when carrying out the approved development it must be reported in writing immediately to the local planning authority. An investigation and risk assessment must be undertaken and submitted to the local planning authority for its written approval. Where remediation is necessary a remediation scheme must be prepared to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and any other property and the natural and historic environment, and submitted to the local planning authority for its written approval. The scheme must include all the works undertaken, proposed remediation objectives and remediation criteria, a timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Act 1990 in relation to the intended use after remediation. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which shall be the subject to the approval in writing by the local planning authority.

- 18) No development shall be undertaken on site (other than archaeological works, excavation, demolition or site clearance, service diversions, site or soil investigations and remediation, ground modelling and noise attenuation works) until a Noise Scheme for protecting the proposed dwellings from road traffic noise has been submitted to and approved in writing by the local planning authority; all works which form part of the noise scheme, unless related to an individual property, shall be implemented in accordance with the approved scheme and completed before any of the dwellings identified as being affected by noise are occupied and any individual dwellings shall be completed before the dwelling to which it relates is occupied.
- 19) No site works, demolition or clearance shall be undertaken on site until a scheme has been submitted, and approved in writing by the local planning authority detailing protective measures, methods of working and a specification in relation to existing trees/planting on the site. Such protected areas shall be kept clear of any building, plant, vehicles, material debris and trenching and there shall be no entry to those areas except for approved arboricultural or landscape works. . The scheme shall subsequently be implemented in accordance with the approved details,

Richborough Estates

## APPEARANCES

### FOR THE APPELLANT:

Mr Steve Smallman	Pro Vision agent for Appellants
Ms Laura Cox	Pro Vision agent for Appellants
Mr Richard White	FMW Consultancy
Mr Mike Kerton	Bloor Homes Appellant

### FOR THE LOCAL PLANNING AUTHORITY:

Mrs Laura McKay	Mendip District Council
Mr John Gallimore	Somerset County Council

### INTERESTED PERSONS:

Mr and Mrs G Woolman	Residents
Mr and Mrs B O'Connor	Residents
Dr and Mrs Stock	Residents
Ms Christine Harvey-Brown	Resident
Mr and Mrs Thomson	Residents
Mr R Hinton	Resident
Mrs Mary Davis	Resident
Mr Tony Parsons	Resident
Mr P Dike	Resident
Mr Lloyd Clark	Resident
Ms Jeanette Mars	Resident
Mr and Mrs M Weekes	Residents
Mr Martin Appleton	Resident
Cllr D Maruin	Ward Councillor
Ms Fran Weelen	Shepton Mallet Journal

### DOCUMENTS SUBMITTED AT THE HEARING

- 1 Mendip Housing Land Supply Update submitted by the Council
- 2 Letter from Mr and Mrs O'Connor
- 3 Letter from Mr Hinton
- 4 Core Policy 9 submitted by the Council
- 5 Certificate B submitted by the Appellants
- 6 Emerging Plan proposals map submitted by the Council
- 7 OS Sheet of the appeal site at a scale of 1: 1250 submitted by the Council
- 8 Transport Assessment copy submitted by Appellants
- 9 Parking data submitted by the Appellants
- 10 Extract from Parking Strategy for Somerset County Council submitted by the Appellants
- 11 Letter notifying interested parties of the date, time and venue for the Informal Hearing dated 6 March 2013 from Mendip DC submitted by Appellants
- 12 Suggested Parking Condition submitted by the Council