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## Appeal Decision

Site visit made on 27 July 2021

**by L Page BSc (Hons) MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 09/12/2021**

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**Appeal Ref: APP/V3310/W/20/3264473**

**Land North of Old Bristol Road, East Brent, Highbridge, Somerset**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by East Brent LVA LLP against the decision of Sedgemoor District Council.
  - The application Ref 24/19/00015 STP, dated 5 April 2019, was refused by notice dated 27 August 2020.
  - The development proposed is the construction of up to 40 dwellings, with all matters reserved for future determination, with the exception of access.
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### Decision

1. The appeal is allowed, and planning permission is granted for the construction of up to 40 dwellings, with all matters reserved for future determination, with the exception of access, at land north of Old Bristol Road, East Brent in accordance with the terms of the application, Ref 24/19/00015 STP, dated 5 April 2019, and the plans submitted with it, subject to the conditions set out in the attached schedule.

### Procedural Matters

2. The proposal, which has been submitted in outline, is for the construction of up to 40 dwellings. All matters are reserved apart from access. The appellant has submitted an illustrative masterplan, which I have taken into account as being indicative, except insofar as it relates to access.
3. A Screening Direction issued under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (the EIA Regulations) established that the site is in proximity to a number of designated sites. However, while there would be temporary effects during construction, no significant environmental impacts were identified in terms of noise, waste, contamination, flooding, or traffic. Therefore, it was concluded that the proposal does not comprise EIA development. The appeal has been dealt with accordingly.
4. Similar to the above, the site's proximity to a number of designated sites necessitates that the proposal is also considered in the context of the Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations). As this matter is now at appeal, I am the competent authority for the purposes of the Habitats Regulations.

5. The revised National Planning Policy Framework (the Framework) was published 20 July 2021 and introduced a number of revisions that may be pertinent to the proposal. Consequently, the Council and the appellant were given an opportunity to comment on the revised Framework and any subsequent implications that may have emerged.
6. Late representations from Somerset Ecology Services were submitted by the Council in relation to ecology. These questioned whether the evidence submitted by the appellant was up to date. The appellant duly submitted further evidence in response and the Council and Somerset Ecology Services were given an opportunity to provide further comments.
7. New evidence was also submitted by the appellant in response to comments made by East Brent Parish Council set out in the committee report in respect of construction noise and vibration. This new evidence was submitted at the start of the appeal and other parties will have had an opportunity to make representations accordingly. It has been accepted on this basis.
8. The appellant submitted a unilateral undertaking. Subsequently, a planning agreement was submitted. For reasons discussed below, I have not attached weight to the unilateral undertaking. However, I have taken the planning agreement into account. It is discussed further under the 5<sup>th</sup> main issue.
9. A policy reference under reason for refusal number three has been confirmed as incorrect within the statement of common ground. The correct reference should be Policy D1 instead of Policy D2 of the Sedgemoor Local Plan 2019 (LP), and I have assessed the proposal on this basis.
10. In response to concerns raised by interested parties, the appellant submitted further information about the feasibility of providing a footway along Old Bristol Road, taking account of land ownerships.

### **Application for Costs**

11. An application for costs was made by East Brent LVA LLP against Sedgemoor District Council. This application is the subject of a separate decision.

### **Main Issues**

12. The main issues are:
  - (a) the effect of the proposal's construction on the living conditions of neighbouring occupiers and highway safety;
  - (b) the effect of the proposal's operation on highway safety;
  - (c) whether the proposal is acceptable in relation to flood risk;
  - (d) the effect of the proposal on European sites; and
  - (e) whether the proposal makes satisfactory provision for the infrastructure needed to support the development.

## Reasons

### *Construction Effects on Living Conditions and Highway Safety*

13. The site is located adjacent to the settlement boundary of East Brent. It is positioned directly to the north and east of existing residential development situated along Old Bristol Road, where there are around a dozen or so dwellings in close proximity to the site. The majority of other residential development is located towards the centre of East Brent, further to the west along Brent Road.
14. To the north and east of the site is open pasture land, the A38 Bristol Road and the M5 Motorway. These busy highways serve an important regional and national transport function and carry significant volumes of traffic. Whilst visiting the site, the background noise emanating from these highways was readily apparent.
15. The proposal would comprise the development of up to 40 dwellings on a site around 2.8 hectares in area. In order to mitigate flood risk, the land would be raised through the importation of additional material by heavy goods vehicle (HGV), which would be compacted to form an appropriate finished floor level of 5.93m above ordnance datum.
16. Given the nature of an outline proposal the exact quantum or layout of development is not fixed. Therefore, the exact amount of additional material and number of HGV trips required cannot be determined. However, the appellant has provided an assessment of the likely worst case scenario.
17. In this context, around 20,000m<sup>3</sup> of additional material would be required to raise the land, with each HGV having a load capacity of around 10m<sup>3</sup>. This would equate to between 24 and 48 HGV trips Monday to Friday and between 0 and 16 HGV trips on Saturday. Consequently, the additional material would take between 3.6 and 11.5 months to move onto the site.
18. The noise assessment dated June 2020 was based on a finished floor level of 6.45m above ordnance datum. This was derived from now superseded representations submitted by the Environment Agency. Consequently, it deals with a scenario based on 30,000m<sup>3</sup> of additional material, rather than the 20,000m<sup>3</sup> of additional material that would be required if a finished floor level of 5.93m is used.
19. In this context, the noise assessment dated June 2020 uses the British Standard 5228 methodology and the sound profile of an articulated dump truck against baseline conditions that are heavily influenced by adjacent highways. The assessment uses noise thresholds and demonstrates that unmitigated noise levels of approximately 68 to 70 dB are predicted at the nearest dwellings.
20. Although these noise levels are unmitigated, they would not exceed thresholds where sound insulation or temporary rehousing would be necessary. They would exceed the 65 dB threshold where potentially significant adverse effects could occur. Accordingly, the assessment recommends mitigation in the form of perimeter security hoarding on the southern and western boundaries of the site. This would comprise solid fencing with a minimum surface mass of 10 kg/m<sup>2</sup> and at a minimum height of 2.4m.

21. Using this mitigation, the assessment concludes that noise levels would be reduced to approximately between 63 and 66 dB at the nearest dwellings. Consequently, the majority of dwellings would be below the threshold for the onset of significant adverse effects with some potential for residual significant adverse effects at a limited number of dwellings where the 65 dB threshold would still be exceeded.
22. The vibration assessment concluded that vibration from HGV's during construction would likely amount to 0.8mm/s at 3m on a poor road surface. This is below the threshold that might give rise to a complaint. Consequently, the assessment finds that vibration effects during construction would not be significant or unacceptable.
23. The noise assessment dated October 2020 suggests that various construction techniques could be used. For example, rotary bored piling would have noise and vibration characteristics that would differ from those of hammer driven piling. I am satisfied that the noise assessment findings confirm that appropriate construction methods can be applied to both piling and compaction so as to meet an acceptable level of noise and disturbance.
24. There are some limited instances of potential residual significant adverse effects for noise at a small number of dwellings. However, it is important to consider that the exceedance of the 65 dB threshold is marginal. Furthermore, the threshold of 65 dB appears to be derived in part from large infrastructure projects where the construction period would be significant.
25. These marginal exceedances, and how the threshold itself was derived, need to be considered in the context of the scale of the construction activities in this particular case. The proposal is modest in scale, and the construction period would be similarly modest compared to large infrastructure projects on which the 65 dB threshold was partly derived.
26. Accordingly, the effects would be experienced over a much reduced construction period, and this would help mitigate my concerns about the marginal exceedances in a threshold that appears better suited to controlling noise impacts associated with larger infrastructure projects.
27. For example, a large infrastructure project may take several years to construct, and the effects of 65 dB over such an extended period of time may be significant. In comparison, the proposal in this case may take several months to construct and the effects of 65 dB over a relatively shorter period of time are unlikely to be significant.
28. Drawing all this together, the appellant has submitted technical assessments for noise and vibration. Although concerns have been raised by the Council and others, no contrary technical evidence has been submitted. I conclude that noise and vibration impact during construction could be satisfactorily mitigated by appropriate techniques secured by condition and I deal with these later in my decision.
29. Turning to highway matters, access would be from Old Bristol Road. It is a lightly trafficked country lane, with sufficient width to allow passing vehicles. There is also a substantial turning area at the end of the highway, which is a no through road. The number of HGV trips required to import additional material for land raising is predicted to be between 4000 and 6000 in total.

30. The width of the highway is sufficient to allow a car to pass a large vehicle. I note that the highway authority has not objected to the use of Old Bristol Road as a construction access on highway safety grounds and, from what I saw on site, I see no reason to take a different view.
31. While I note the Council's concerns that Old Bristol Road does not have footways, the anticipated volume of traffic, which can be controlled by conditions, would not result in an unacceptable impact on highway safety.
32. Altogether, the proposal's construction would not have a harmful effect on the living conditions of neighbouring occupiers or highway safety. It would therefore comply with Policies D14 and D25 of the LP, which among other things seek to manage the transport impacts of development.

#### *Operational Effects on Highway Safety*

33. Old Bristol Road is located along the southern boundary of the site. It connects with the A370, which is located a short distance to the west. This in turn connects with Junction 22 of the M5 Motorway a short distance to the south. Consequently, there is good access between Old Bristol Road and the wider strategic highway network.
34. Old Bristol Road is subject to a 30mph speed limit and at least 5m in width; Manual for Streets establishes that vehicles can pass safely in this width. Consequently, even with parked vehicles on one side of the highway other vehicles are able to pass safely. Its eastern extent comprises a no through road and turning area enabling vehicles to turn safely. Consequently, in its current configuration, it is capable of safely accommodating two way residential traffic.
35. This observation is reinforced by accident survey data relating to personal injury over a three year period between 2015 and 2017 where there were no incidents along Old Bristol Road, and only a limited number of slight incidents on the A370. Consequently, there are no significant safety concerns with the operation of the existing highway network.
36. There is a lack of pedestrian footway provision along Old Bristol Road. However, for all intents and purposes the section of highway in closest proximity to the site can be treated as a shared surface. This is feasible because of the slow speed and lightly trafficked nature of the highway. Based on aforementioned accident survey data findings, this does not appear to be a significant safety concern.
37. Traffic surveys were undertaken at junctions between Old Bristol Road and the A370, and between the A370 and B3140. These were during the morning peak on 31 January 2019 between 8am and 9am. The total morning peak at the relevant junctions was recorded as being between 1383 and 1451 vehicle trips respectively.
38. In essence, the data demonstrates that the highway network is capable of accommodating the existing morning peak traffic flows without any significant delays or congestion. Consequently, there is no evidence that the local highway network is at or approaching capacity.

39. Given the nature of an outline proposal, it is not possible to be definitive as to the exact quantum of development. However, the proposal would deliver up to 40 dwellings at the site, which represents the worst case scenario in terms of future occupier generated traffic. An analysis of the TRICS database has demonstrated that the morning and afternoon peak generated by the proposal would be 23 total vehicle trips.
40. This would appear to be a very limited increase over the traffic surveys undertaken on 31 January 2019, and there is no evidence to suggest such an increase would cause capacity issues along the local highway network. Moreover, taken in the context of annual average daily traffic figures for the local highway network, compiled by the Department for Transport, the increase would register at less than 1%.
41. The proposal would be accessed from Old Bristol Road using a priority junction along the southern boundary of the site. The junction would be compliant with required visibility splays for a 30mph highway within Manual for Streets and would measure 43m in each direction from a distance of 2.4m back from the give way line.
42. The access road would be 5.0m wide and the internal layout would comply with the Somerset Design Guidance for Type 4(i) Access Roads. This requires access roads to be a cul-de-sac layout, providing direct vehicular access to dwellings or to lower category roads, serving up to 100 dwellings and generally limited to 100m in length.
43. The proposal would include a footway along Old Bristol Road, improving the pedestrian provision within the vicinity of the site. For the most part, the highway width would be maintained to at least 5m in line with the aforementioned guidance.
44. The Proposed Footway Plan and Sections (ref: 4343-500) and dated 26 February 2020, is the most up to date plan showing the footway arrangement along Old Bristol Road. It is clear from this plan that the highway would narrow to around 4m for a short section south of the dwellings at Eastfield and The Grange.
45. I consider that this could be adequately mitigated with traffic calming measures. This mitigation, together with the modest level of generated traffic and the good capacity and safety of the existing highway network, leads me to the conclusion that these proposals are acceptable.
46. Representations made by interested parties contend that the land required for the footway is in private ownership and it is therefore not deliverable. As noted above, the appellant provided further information in response to these concerns. The highway authority is satisfied that the footway could be provided within land within its control, and I agree.
47. The Proposed Footway Plan and Sections (ref: 4343-500) demonstrates that driveway access to existing properties would be maintained through the use of dropped kerbs. Furthermore, it is clear that the majority of the highway outside of the area utilised for traffic calming measures would still provide sufficient width to facilitate on street parking.

48. Notwithstanding the acceptability of the proposal in terms of traffic generation, there are further opportunities to reduce the reliance on the private vehicle by securing a travel plan through a planning obligation in the Agreement. This could potentially reduce vehicle trips and enable more sustainable travel options to access local services.
49. Overall, I conclude that the operational phase of the proposal would not be harmful to highway safety. It would comply with Policies D13 and D14 of the LP, which among other things require proposals to be compatible with existing transport infrastructure and enhance the facilities for pedestrians.

### *Flood Risk*

50. The site is located in Flood Zone 3a, which is a flood zone with a high probability of flooding<sup>1</sup>. The proposal is for residential development, which is classed as being more vulnerable to the effects of flooding<sup>2</sup>. The sequential test submitted with the appeal demonstrates that there are no other reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding and this is in accordance with Paragraph 162 of the Framework.
51. Paragraph 163 of the Framework sets out that if it is not possible for development to be located in areas with a lower risk of flooding, the exception test may have to be applied. The flood risk vulnerability classification dictates that the test is required in this case.
52. In relation to wider sustainable development objectives, it is clear that the proposal would deliver a substantial quantum of affordable housing comprising 40% and an appreciable component of the wider market housing being delivered at the site.
53. This is in accordance with Policy T3a of the LP which sets out that residential development outside but well related to settlement boundaries will be released for a mix of affordable and market housing pursuant to local housing needs. Consequently, it can be concluded that the proposal would contribute to wider sustainable development objectives.
54. In relation to the safety of its users, the proposal would be subject to land raising in order to bring the finished floor levels to a point where occupiers would be safe from the effects of flooding. However, this must not increase the risk of flooding elsewhere.
55. The surface water management plan submitted with the proposal demonstrates that surface water would be directed to Brocks Pill Rhyne. This appears to represent the most sustainable form of drainage available at the site, where it was determined through ground investigation that infiltration would not be a viable method of surface water disposal.
56. Surface water would be controlled through on site attenuation to ensure a discharge rate in accordance with accepted standards. This would result in 74% betterment over existing greenfield discharge rates. It would be designed to accommodate up to a 1 in 100 or greater annual probability flood event including 40% allowance for climate change.

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<sup>1</sup> Planning Practice Guidance, Paragraph: 065 Reference ID: 7-065-20140306

<sup>2</sup> Planning Practice Guidance, Paragraph: 066 Reference ID: 7-066-20140306

57. There is sufficient evidence in front of me to determine that flows from exceedance events would be directed to onsite storage points to be defined under reserved matters and secured by planning condition. This would ensure that residual risks are adequately controlled.
58. Altogether, controlling the 1 in 100 or greater annual probability flood event including 40% allowance for climate change, and mitigating the residual risk from exceedance events, ensures that the proposal would prevent hydraulic overloading of the Brocks Pill Rhyne and safeguard the surrounding highway network and neighbouring residential development from an increase in the risk of flooding.
59. In relation to surface water flood risk associated with the new footway, the standard footway crossfall design would facilitate adequate runoff into the highway drainage system. There is no evidence to suggest that the surface area of the new footways would lead to excessive surface water runoff or that the existing highway drainage system would not cope with the additional volumes.
60. I conclude that the land raising would mitigate flood risk at the site, and surface water could be controlled to mitigate the risk of flooding elsewhere. Consequently, any residual flood risk would be limited, and in turn this would be outweighed by the contribution that the proposal would make to wider sustainable development objectives.
61. The exception test is therefore passed and overall, the proposal would be acceptable in relation to flood risk and accords with Policy D1 of the LP, which among other things requires development to be safe and ensure flood risk is not increased elsewhere.

#### *European Sites*

62. North Somerset & Mendip Bats Special Area of Conservation (SAC) is located around 8.6km to the north east of the site and its qualifying features include lesser and greater horseshoe bats. The proposal would not be within its zone of influence and therefore would not be likely to have a significant effect on the European site.
63. Mendip Woodlands SAC is located 8.9km to the north east of the site. Its qualifying features include extensive Tilio-Acerion forest on limestone. The proposal would not be within its zone of influence and therefore would not be likely to have a significant effect on the European site.
64. Mendip Limestone Grasslands SAC is around 4.5km to the north east of the site and its qualifying features include grasslands, heathlands and greater horseshoe bats. The proposal would be within its zone of influence so there is potential for likely significant effects. However, the site is within the outer most region of the zone of influence.
65. The Assessment of Ecological Effects did not identify any impact pathways by which the proposal could have a significant effect. Furthermore, there is insignificant activity of qualifying features at the site. Altogether, I conclude that the proposal would not be likely to have a significant effect on the European site.

66. Severn Estuary Special Protection Area (SPA) and SAC, and Somerset Levels and Moors SPA are located 5.5km to the west and 6.8km to the south east respectively. Their qualifying features include wintering waders and waterfowl. The proposal sits within the context of significant disturbance from adjacent activity due to a number of busy highways and existing residential development. Furthermore, there is no evidence of qualifying features within the site or the wider study area. I conclude that the proposal would not be likely to have a significant effect on these European sites.
67. I have had regard to the Assessment of Ecological Effects submitted with the appeal. I note that Natural England were consulted as part of the original planning application and did not identify any likely significant effects on European sites in their capacity as the statutory nature conservation body. Nor did the County Ecologist identify any potential impacts on these sites.
68. Overall, I conclude that the proposal would not be likely to have a significant effect on the relevant European sites, either alone or in combination with other plans and projects. An appropriate assessment is not therefore required in this case. Consequently, the proposal would also comply with Policies D20, D21 and D23 of the LP, which among other things seek to protect ecological networks.

#### *Infrastructure Provision*

69. The appellant submitted a unilateral undertaking (UU) dated 29 March 2021. Subsequently, there was a planning agreement between the appellant, the Council and the County Council dated 4 May 2021. The two documents cover essentially the same matters. However, the UU purports to place obligations on other parties, which is not something that a UU can do. I consider that the UU is flawed, and I have not attached any weight to it. I have, however, taken account of the planning obligations set out in the planning agreement which are discussed below.
70. In accordance with Paragraph 57 of the Framework and pursuant to the Community Infrastructure Levy Regulations 2010, planning obligations must only be sought where they are necessary to make the development acceptable in planning terms, among other things. Paragraph 34 of the Framework requires development plans to set out the contributions expected from development, and this should include the levels and types of affordable housing provision required. In this context, the planning obligations contained within the planning agreement are considered in turn below.
71. Public open space and local area/equipped area of play planning obligations are necessary pursuant to Policy D34 of the LP to ensure that the proposal provides suitable levels of recreational opportunities for future occupiers. The policy provides space metrics with which the planning obligations accord. Consequently, it can be concluded that they are also directly, fairly, and reasonably related in scale and kind to the development.
72. Affordable housing planning obligations are necessary pursuant to Policy T3a of the LP to ensure that the proposal responds to local housing needs, which requires 40% of market housing to be provided as affordable housing. Consequently, it is also clear that the affordable housing planning obligations provided are also directly, fairly, and reasonably related in scale and kind to the development.

73. Travel plan planning obligations are necessary pursuant to Policy D14 of the LP in order to ensure that the transport impacts of the proposal are adequately controlled, and that future occupiers are encouraged to travel in a sustainable manner without overreliance on private vehicles. Residential developments of this scale can give rise to appreciable levels of private vehicle use. Consequently, the planning obligations are also directly, fairly, and reasonably related in scale and kind to the development.
74. Highway works planning obligations are necessary pursuant to Policy D14 of the LP in order to ensure that the transport impacts of the proposal are adequately controlled, and that the highway network is suitably improved to manage vehicular traffic entering and exiting the site, and pedestrian connectivity within the locality.

### **Other Matters**

75. A significant number of interested parties, including the resident's association, made representations in response to the original application and to this appeal. Generally speaking, many of the matters raised relate to the main issues involving highway safety and flood risk and have been dealt with earlier in the decision. I comment below on other matters raised.
76. There is no evidence that the principle of development is unacceptable, including in relation to the strategic housing land availability assessment position, the protection of green belt land or otherwise. As noted above, the proposal would accord with Policy T3a of the LP.
77. The nature of an outline proposal, with all matters reserved except for access, means that there is flexibility in terms of the quantum, scale, and layout of the final development. Consequently, given that the principle of development is acceptable, there is sufficient control at reserved matters to manage the expansion of the village in terms of safeguarding the character and appearance of the area.
78. The war memorial at the junction of Old Bristol Road and Bridgwater Road is a Grade II listed building<sup>3</sup>. It is some distance away from the site, with significant intervening development. Consequently, the proposal would not impact on its setting. However, there were local concerns about the effects of vibration on its physical fabric.
79. As noted above, vibration effects would be below the threshold that might give rise to a complaint, and well below the threshold that might give rise to physical damage. Consequently, I am satisfied that the construction of the proposal would not harm the physical integrity of the war memorial or its heritage significance.
80. The most recent ecology evidence submitted by the appellant has been reviewed by the Somerset Ecology Services, who are now satisfied that it is up to date. There is no other technical evidence that would lead me to a different conclusion.
81. Consequently, I am satisfied that I can rely on the evidence presented, which demonstrates that impacts on biodiversity, including protected species such as bats, would be acceptable subject to a range of planning conditions.

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<sup>3</sup> Historic England List Entry Number: 1251647

82. Matters of archaeological importance are noted, but there is no evidence from statutory consultees that the site is of such importance that would render the proposal unacceptable.

### **Conditions**

83. The Council recommended 34 conditions, and these were all assessed in the context of the Framework and Planning Practice Guidance. Some conditions have been removed in the interests of avoiding duplication. Some conditions have been subject to minor amendments in the interests of clarity and good practice. All conditions attached are deemed necessary to make the development acceptable.
84. The standard conditions setting out time limits, reserved matters and securing compliance with the approved plans, are necessary to provide certainty. I have amended the implementation timescales to reflect standard wording as there appears no justification for why implementing a shorter 18 month submission window for the reserved matters application(s) is necessary.
85. Details of a landscape planting scheme, including its implementation and maintenance are necessary to inform the preparation of relevant reserved matters and to ensure that the landscaping scheme endures and remains effective for an appropriate period of time.
86. Tree protection measures are necessary to ensure that the health and stability of the retained trees and hedgerows is maintained. Limits on vegetation removal and survey requirements are necessary in the interests of protecting nesting birds that may inhabit the site.
87. Measures to control construction are necessary to protect the living conditions of neighbouring occupiers and the wider environment from harmful effects during construction. Details pursuant to a landscape and ecological management plan, the control of lighting and biodiversity enhancement measures are necessary in the interests protecting wildlife, and biodiversity generally.
88. Details relating to estate roads and footways, highway gradients, visibility splays and surface water control, among other things, are necessary to ensure that the proposal integrates with the existing highway network whilst preserving highway safety. Requirements for a traffic regulation order are not necessary given that such provisions already exist within the planning agreement.
89. Paragraph 54 of the Framework is clear that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so.
90. It is necessary to preserve the use of garages for parking in this case, to ensure that undue levels of indiscriminate parking do not prejudice the calming measures put in place along Old Bristol Road, and in order for highway safety to be maintained.
91. Details relating to surface water drainage implementation and maintenance are necessary to ensure that flood risk is effectively controlled in a sustainable manner in perpetuity. Furthermore, compliance with foul drainage details is necessary in the interests of protecting the water quality.

92. Compliance with finished floor levels is necessary to ensure flood risk of future occupiers is mitigated. The finished floor levels cited in the condition have been amended to reflect the updated consultation response from the Environment Agency. Details pursuant to flood resilience measures are necessary to ensure that any limited residual effects of flooding are adequately dealt with.
93. Requirements relating to contamination monitoring are necessary to ensure that any unidentified contamination is dealt with and that human health and the wider environment is protected. However, only one set of requirements are necessary, and any duplicate requirements have been removed.
94. A local labour market commitment is necessary to ensure that the socio-economic benefits of the proposal are realised locally. Details pursuant to sustainable construction measures, including low carbon energy, are necessary to ensure sustainable development.
95. Construction management requirements are generally secured across several conditions. Each condition appears to serve slightly different purposes within the wider construction management regime, and all are necessary in this context. Whilst it would be possible to combine under one planning condition, the separate conditions as currently drafted would still pass the relevant tests.

### **Conclusion**

96. For the reasons given the appeal is allowed and planning permission is granted.

*Liam Page*

INSPECTOR

## Schedule of Conditions

1. Approval of the details of the appearance, landscaping, layout and scale (hereinafter called "the reserved matters") shall be obtained from the local planning authority in writing before any development is commenced and the development shall be carried out as approved.

Application(s) for approval of the reserved matters shall be made to the local planning authority no later than three years from the date of this permission. The development hereby permitted shall take place not later than two years from the date of approval of the last of the reserved matters to be approved.

2. The development hereby permitted shall be carried out in accordance with the approved plans below:
  - a. Location Plan Drg No. 180403L0101C received 9th October 2019
  - b. Topographical Survey Drg No. Z18226\_SX
  - c. Illustrative Masterplan (insofar as it relates to access) Drg No. 180403L0201H received 3 March 2020
  - d. Proposed Site Access Layout Options Drg No. 4297/005A received 9th October 2019
  - e. Proposed access and off site footway 4297/012A received 3 March 2020
  - f. Preliminary Drainage Layout Drg No. PDL-101E received 3 March 2020
  - g. Tree Constraints Plan (Sheet 1 of 2) Drg No. 05327A received 9th October 2019
  - h. Tree Constraints Plan (Sheet 2 of 2) Drg No. 05327A received 9th October 2019
  - i. Proposed footpath plan and sections Drg No. 4343-500 received 3 March 2020
3. Prior to the commencement of development, a landscape planting scheme shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented in the first planting season following the completion of the development. Notwithstanding the submitted details and for the avoidance of doubt the landscape scheme shall comprise a landscape masterplan which identifies the trees to be retained, removed and proposed. The detailed planting scheme shall include a scaled drawing which identifies the proposed green infrastructure and includes a plant schedule and planting specification. The planting schedule shall detail the proposed species, quantities, stock sizes, planting densities and spacings.
4. All landscape areas shall be protected and maintained, and any trees or plants which, within a period of five years from the completion of the planting, die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of a similar size and species.

5. In accordance with BS 5837:2012 (Trees in relation design, demolition & Construction - Recommendations), temporary protective fencing shall be erected in line with defined root protection areas (RPA). No fires shall be lit, liquids tipped, rubbish dumped, or materials and plant stored within defined RPA. No underground services shall be located within any RPA. The temporary protective fencing shall be retained for the duration of the works and shall not be altered or realigned.
6. Tree surgery and vegetation removal shall not be carried out during the bird nesting season, which is approximately between March & September (inclusive). If this is not possible, a survey for nesting birds shall be carried out immediately prior to commencement of the works by a suitably qualified ecologist. Any nesting birds discovered will be buffered by an exclusion zone determined by the ecologist which will remain in force until any chicks have fledged.
7. No development shall take place (including demolition, ground works, vegetation clearance) until a Construction Environmental Management Plan for Biodiversity (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority. The CEMP: Biodiversity shall include the following:
  - a. Risk assessment of potentially damaging construction activities.
  - b. Identification of "biodiversity protection zones".
  - c. Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
  - d. The location and timing of sensitive works to avoid harm to biodiversity features.
  - e. The times during construction when specialist ecologists need to be present on site to oversee works.
  - f. Responsible persons, lines of communication and written notifications of operations to the local planning authority
  - g. The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person
  - h. Use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

8. A Landscape and Ecological Management Plan (LEMP) shall be submitted to, and be approved in writing by, the local planning authority prior to the commencement of the occupation of the first dwelling. 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.

9. Prior to the commencement of construction above ground level, a "lighting design for bats shall be submitted to and approved in writing by the local planning authority. The strategy shall:
- a. identify those areas/features on site that are particularly sensitive for bats and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory, for example, for foraging; and
  - b. show how and where external lighting will be installed (through the provision of lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species 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 as approved. Under no circumstances should any other external lighting be installed if it has not been so approved.

10. The following will be integrated into or mounted upon buildings:
- a. A Habitat 001 bat boxes or similar will be built into the structure at least four metres above ground level and away from windows of the west facing elevations of four plots
  - 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 two plots
  - c. Four Vivra Pro Woodstone House Martin nests or similar will be mounted directly under the eaves of the north elevation on the north facing elevation of two plots
  - d. Two Schwegler 1SP Sparrow terraces or similar at least one metre apart directly under the eaves and away from windows on the north elevations on the north facing elevation of four plots
  - e. A bee brick built into the wall about 1 metre above ground level on the east or southeast elevation of six dwellings

Plans showing the installed features will be submitted to and agreed in writing by the Local planning authority prior to the commencement of construction works above ground level.

11. The proposed estate roads, footways, footpaths, tactile paving, 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, and street furniture shall be constructed and laid out in accordance with details to be approved by the local planning authority in writing before their construction begins. For this purpose, plans and sections, indicating as appropriate, the design, layout, levels, gradients, materials and method of construction shall be submitted to the local planning authority.

The proposed roads, including footpaths and turning spaces where applicable, shall be constructed in such a manner as to ensure that each dwelling before it is occupied shall be served by a properly consolidated and surfaced footpath and carriageway to at least base course level between the dwelling and existing highway.

12. The gradients of the proposed drives to the dwellings hereby permitted shall not be steeper than 1 in 10 and shall be permanently retained at that gradient thereafter at all times.
13. Plans showing vehicle parking in accordance with the Somerset Parking Strategy shall be submitted to and approved in writing by the local planning authority before the development is commenced. This area shall be properly consolidated before the buildings are occupied and shall not be used other than for the parking of vehicles in connection with the development hereby permitted.
14. The development hereby permitted shall not commence until a Construction Traffic Management Plan has been submitted to and approved in writing by the local planning authority (in consultation with Somerset County Council). The plan shall include construction vehicle movements, construction operation hours, construction vehicular routes to and from site, construction delivery hours, expected number of construction vehicles per day, car parking for contractors, specific measures to be adopted to mitigate construction impacts in pursuance of the Environmental Code of Construction Practice and a scheme to encourage the use of public transport amongst contractors. The development shall be carried out strictly in accordance with the approved Construction Traffic Management Plan.
15. The proposed access shall be constructed generally in accordance with details shown on the submitted plan, drawing number 4297/012 Revision A, and shall be available for use prior to commencement. Once constructed the access shall be maintained thereafter in that condition at all times.
16. At the proposed access there shall be no obstruction to visibility greater than 600 millimetres above adjoining road level within the visibility splays shown on the submitted plan Drawing Number 4297/012 Revision A. Such visibility splays shall be constructed prior to the commencement of the development hereby permitted and shall thereafter be permanently maintained.

17. Prior to the construction of the dwellings reaching damp proof level, details of the footway to be provided along Old Bristol Road shall be submitted to and approved in writing by the local planning authority. No part of the development hereby permitted shall be occupied until the approved footway has been constructed.
18. No work shall commence on the development site until the developer has submitted and had approved by the local planning authority details of the box culvert to be provided at the site access. No part of the development hereby permitted shall be occupied until the approved box culvert has been constructed.
19. Provision shall be made within the site for the disposal of surface water to prevent its discharge onto the highway, details of which shall have been submitted to and approved in writing by the local planning authority. Such provision shall be installed before first occupation and thereafter maintained at all times.
20. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order), any existing garage, or garage hereby permitted, as part of this development shall not be used other than for the parking of domestic vehicles. Garages shall not be used for ancillary residential accommodation, business use or any other purpose whatsoever.
21. No development hereby permitted shall be commenced until a surface water drainage scheme for the site, based on sustainable drainage principles and in accordance with local plan policies, has been submitted to, and approved in writing by, the local planning authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is occupied. The scheme shall also include:
  - a. Details of the existing surface water drainage arrangements including runoff rates for the QBAR, 3.3% Annual Exceedance Probability (AEP) (1 in 30) and 1% AEP (1 in 100) storm events.
  - b. Full results of the proposed drainage system modelling in the above referenced storm events (as well as 1% AEP plus climate change), inclusive of all collection, conveyance, storage, flow control and disposal elements and including an allowance for urban creep, together with a schematic of how the system has been represented within the hydraulic model.
  - c. Detailed drawings of the entire proposed surface water drainage system, including levels, gradients, dimensions and pipe reference numbers and all SuDS features.
  - d. A plan of the drained site area and which part of the proposed drainage system these will drain to.
  - e. Full details of the proposed attenuation and flow control measures.
  - f. Site Investigation and test results to confirm infiltration rates.
  - g. Temporary storage facilities if the development is to be phased.
  - h. A timetable for implementation if the development is to be phased.
  - i. Details of overland flood flow routes in the event of system exceedance, with demonstration that such flows can be appropriately managed on site without increasing flood risk to occupants.

- j. Full details of the arrangements for maintenance/adoption of the surface water drainage system.
- k. Measures taken to prevent pollution of the receiving groundwater and/or surface water
- l. Formal agreement from a third party if discharging into their system is proposed, including confirmation (and evidence where appropriate) that sufficient capacity is available.

The drainage scheme must adhere to the hierarchy of drainage options as outlined in the Framework and Planning Practice Guidance.

- 22. Details for the long-term maintenance arrangements for the surface water drainage system (including all SuDS features) shall be submitted to, and approved in writing by, the local planning authority prior to the first occupation of any of the buildings hereby permitted. The submitted details should identify runoff sub-catchments, SuDS components, control structures, flow routes and outfalls. In addition, the plan must clarify the access that is required to each surface water management component for maintenance purposes. The maintenance plan shall be implemented as approved.
- 23. No building hereby permitted shall be occupied until foul water drainage works have been implemented in accordance with details that to have been submitted to and approved in writing by the local planning authority.
- 24. Sedgemoor District Council (SDC) do not adopt any new SuDS system, above or below ground, or any SuDS feature that is part of any Public Open Space (attached to or surrounded by a public open space). All SuDS features will require a 6m maintenance strip around them with a clearly defined access track to, which is also not adopted. This site shows 'open spaces' abutting / surrounding SuDS features. All new SuDS & drainage features would need to be excluded from any SDC adoption of public open space, should they be offered. A plan, clearly showing the boundary of the open space and SuDS feature, including maintenance strip and access track, should be provided, with marked areas, on who is the responsibility body/company maintaining/owning the area. Details shall be submitted to and approved by the local planning authority before development is commenced.
- 25. A plan is to be submitted, which details who the 'planned' riparian owners of water assets (non- Water Authority adopted) are to be. This is for the areas of land that abuts the ditches/watercourses/culverted watercourses, abutting and within the site boundary. Details are to be submitted and approved by the local planning authority before any part of the building is first sold/occupied, together with confirmation that details of riparian responsibility to be included in the title deeds of the land sold / transferred.
- 26. The development hereby permitted shall be constructed with Finished Floor Levels set at a minimum of 5.93m AOD.
- 27. No approval of reserved matters shall take place until such time as a scheme detailing flood resilience measures to be incorporated in the construction of the proposed development has been submitted to and approved in writing by the local planning authority, and in consultation with the Environment Agency. The scheme shall be fully implemented as approved prior to occupation and subsequently maintained for the lifetime of the development.

28. Prior to the commencement of development, a written commitment to the sourcing of local labour shall be submitted to and approved in writing by the local planning authority. The written commitment, as a minimum, shall set out the following matters:
- a. The proportion of construction workers to be sourced from the local labour pool.
  - b. Work experience/ apprenticeship opportunities.
  - c. The proportion of local procurement and sourcing.
  - d. On-going skills development and training opportunities.
  - e. The steps that will be taken to ensure that the above is implemented.
  - f. The operator shall maintain a record of a - e above and shall make that information available to the local planning authority at all reasonable times upon request.
29. No construction work (other than internal fitting out) or deliveries to and from the site shall take place outside the hours of 07:00 to 18:00 Mondays to Fridays, 08:00 to 13:00 on Saturdays, specific exemptions shall be submitted to and approved in writing by the local planning authority and shall include details of the task, the date and duration of works. No works shall take place on Sundays or Bank Holidays.
30. Prior to the commencement of development, including any site clearance, groundworks or construction within each sub-phase, a Construction Environmental Management Plan (CEMP) to manage the impacts of construction during the life of the works, shall be submitted to and approved in writing by the local planning authority. The CEMP shall, amongst other things, include:
- a. Measures to regulate the routing of construction traffic.
  - b. The importation of spoil and soil on site.
  - c. The removal /disposal of materials from site, including soil and vegetation.
  - d. The location and covering of stockpiles.
  - e. Details of measures to prevent mud from vehicles leaving the site and must include wheel-washing facilities.
  - f. Control of fugitive dust from earthworks and construction activities; dust suppression measures.
  - g. Noise and Vibration control plan (which includes control methods) to include mitigation measures as defined in BS 5528: Parts 1 and 2: 2009 'Code of practice for noise and vibration control on construction and open sites' shall be used to minimise noise or vibration disturbance from construction works.
  - h. A waste disposal policy (to include no burning on site).
  - i. Measures for controlling the use of site lighting whether required for safe working or for security purposes.
  - j. Details of any site construction office, compound and ancillary facility buildings.
  - k. Specified on-site parking for vehicles associated with the construction works and the provision made for access thereto.

- I. A point of contact (such as a Construction Liaison Officer/site manager) and details of how complaints will be addressed, including an appropriate phone number.

The details so approved shall be complied with in full and monitored by the applicants to ensure continuing compliance during the construction of the development.

31. Following the Phase 1 and 2 site survey, further investigation is required as detailed in the report:
  - a. Further sampling and analysis for PAHs and risk assessment required following elevated levels detected in the soil samples collected.
  - b. Following exceedances of Methane gas during ground gas monitoring, further gas monitoring will be required. Also, further assessment to determine the level of ground gas protection required for the proposed development.

Assessments pursuant to a. and b. shall be submitted to and approved in writing by the local planning authority. Any necessary action identified through these assessments shall be implemented as approved. If during the works contamination is encountered which has not previously been identified, then the additional contamination shall be fully assessed in an appropriate remediation scheme submitted to and approved in writing by the local planning authority. Any remediation scheme shall be implemented as approved.

32. Prior to the commencement of each phase of development a Sustainability Statement (for each phase) shall be submitted to and approved in writing by the local planning authority. This statement shall set out the various sustainable actions/ technologies (including renewable or low carbon energy, water and energy conservation, waste minimisation and recycling) that are to be adopted in the development of this phase. Development shall be carried out in accordance with the approved details and permanently retained as such thereafter.

## **End of Schedule**