



Appeal Decision

Inquiry held on 7 March 2023

Site visit made on 8 March 2023

by Tom Bristow BA MSc MRTPI AssocRICS

an Inspector appointed by the Secretary of State

Decision date: 11th May 2023

Appeal Ref: APP/Q3305/W/22/3311900

Loweside Lane, Glastonbury BA6 9GY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended against a refusal to grant outline permission.
 - The appeal is made by Waddeton Park Ltd. against the decision of Mendip District Council.
 - The application ref. 2021/2466/OTS, dated 22 October 2021, was refused by notice dated 27 May 2022.
 - The development proposed is described on the application form as 'outline planning application for the erection of up to 90 dwellings along with associated open space and infrastructure (means of access to be determined only).'
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Decision

1. The appeal is allowed and planning permission is granted for the erection of up to 90 dwellings along with associated open space and infrastructure at Loweside Lane, Glastonbury BA6 9GY, subject to the conditions in the first schedule to this decision and the obligations contained within the unilateral undertaking ('UU') and the planning agreement ('S106'), both under section 106 of the Town and Country Planning Act 1990 as amended (the '1990 Act'), and both dated 21 March 2023.

Preliminary matters

2. Aside from in respect of access, the proposal is in outline. Appearance, landscaping, layout and scale are reserved for future consideration ('reserved matters'). I have treated any details of reserved matters as illustrative.

Policy context

3. Each proposal must be determined in accordance with the development plan unless material considerations indicate otherwise. The development plan here includes policies of the Mendip Local Plan Part 1 (adopted December 2014, the 'LP1') and of the Mendip Local Plan Part 2 (adopted December 2021, the 'LP2').
4. Amongst other material considerations I have had regard to the National Planning Policy Framework ('NPPF') and to the Planning Practice Guidance ('PPG'). In February 2018 preliminary consultation was undertaken on a neighbourhood plan for Glastonbury. No significant further process has, however, since been made. Any emerging approach cannot therefore be accorded significant weight. That is similarly the case of emerging Somerset-wide plan preparation in relation to the new unitary Somerset Council.

5. Potential changes to the planning system are set out by the Levelling-up and Regeneration Bill before Parliament, and in the NPPF prospectus of December 2022. They indicate a certain direction of travel which would not be unreasonable to take account of. Nevertheless any prospective changes are uncertain and therefore likewise cannot be accorded significant weight.

Housing supply

6. The Council's position is that they are presently unable to demonstrate a five year housing land supply of deliverable sites relative to needs ('5YHLS'). The statement of common ground between the main parties indicates a forward supply amounting to around 3.3 years' worth. A recent appeal decision at Frome discussed at the inquiry, however, sets out that housing land supply stands only 'in the range of 2.87 to 2.94 years...', relative to a local housing needs figure of 617 dwellings per annum.¹ The Inspector there aptly characterised that as 'a very significant shortfall'. That is also a fair characterisation of forward supply of around 3.3 years.
7. Certain representations suggest that forward housing supply may not be that grave, and also draw a distinction between housing provision at Glastonbury compared to the District as a whole. Fletcher Robinson, on behalf of CPRE Somerset, contended that LP2 residential allocations for Glastonbury may be deliverable within five years. Those allocations are GL1, GL1a, GL2, GL3 and GL4. They collectively represent around 167 dwellings (albeit that the anticipated number of homes from each, exempting GL1a, is a minimum).
8. However, as referenced in NPPF paragraphs 68 and 74, a 5YHLS relates to planning policies made by local planning authorities, not to individual settlements. Even if the allocations referenced above were all to come forward within five years, that would not significantly alter circumstances. NPPF paragraph 11. d) is therefore engaged; the most important policies for determining the application are deemed out-of-date by consequence.
9. The sole designation that applies directly to the site, in respect of biodiversity or landscape protection relevant to this decision, is that it is identified as a priority habitat under section 41 of the Natural Environment and Rural Communities Act 2006 as amended ('NERC'). I will return to that matter, to biodiversity and also implications in respect of phosphate deposition at the Somerset Levels and Moors Ramsar Site and Special Protection Area ('SPA').
10. However I note here that the NERC, the Conservation of Habitats and Species Regulations 2017 as amended ('Habitats Regulations'), and the Wildlife and Countryside Act 1981 as amended ('WCA') in respect of Sites of Special Scientific Interest ('SSSI'), place differing statutory duties upon me in respect of assessing effects on habitats and biodiversity.

The dispute

11. The Council's decision notice contained five reasons for refusal. None were maintained at the inquiry. Notwithstanding slight divergences of perspective between the Council and appellant on certain details, the main parties are now of the shared view that the appeal ought to be allowed. That common position

¹ Ref. APP/Q3305/W/22/3306827.

was arrived at over the course of the appeal incrementally. Importantly it is not one that is premised on any significant change to the scheme, as opposed to relating to refined evidence and to the provisions of the UU and S106.

12. Many nearby residents are not of the same view as the main parties. Robert Macbeth presented a petition of 121 signatories objecting to the scheme attesting to that point. Nevertheless the appeal process has enabled all interested parties to put forward their views and to comment on refined evidence. Importantly, I am not bound by the position of the main parties; section 79(1) of the 1990 Act reinforces that point.

Main issues

13. Against the context above, the main issues are (i) whether the appeal site is an appropriate location for the development proposed, with particular reference to accessibility, and (ii) the effect of the proposal on landscape character.

Reasons

Location

14. The appeal site amounts to about 6.87ha of low-lying pastoral land. There are two existing field accesses. One is off Lowerside Lane, close to allotments between the site and the Glastonbury Bypass (A39), and also to the entrances to the Tor Rugby Club and a Funeral Director's opposite.
15. Much of the site is surrounded by rhynes, drainage ditches, flanked by vegetation and trees to varying degrees. A rhyme forms the south-eastern boundary of the site by allotments and the recently-built 'Kingsfield' development next to them. That rhyme represents the westernmost extent of the Glastonbury 'development limit' or settlement boundary here.
16. Those allotments and the Kingsfield scheme extend between the site and the A39. The A39 curves around the consolidated built form of Glastonbury as it heads northwards. Those allotments are allocated for housing (LP2 allocation GL2 for a minimum of 50 dwellings). There is, however, some uncertainty as to the delivery of allocation GL2. I understand that no alternative allotment provision has been found, nor has the statutory process for their release been initiated.
17. Another existing field access is to the north-western boundary of the site off Common Moor Drove. Common Moor Drove is a narrow raised track or causeway set between rhynes, consistent with many in the surroundings to the Town. That access is next to a modest traditional dwelling, potentially historically connected with the appeal site.
18. Beyond the plot of that dwelling relative to the appeal site are further allotments. Beyond those allotments in turn fall Glastonbury Football Club and thereafter Godney Road. Further west of Godney Road is the Isle of Avalon Caravan Park. Sweet Acre Nursery is to the east of Godney Road, accessed via Common Moor Drove. On the opposite side of Common Moor Drove, roughly where a rhyme partially bisects the appeal site, is the Butler Carnival Park (a range of utilitarian prefabricated buildings set around an extensive area of hardstanding).

19. LP1 Core Policy 1 ('CP1') directs the majority of development towards the five 'principal' settlements within Mendip, of which Glastonbury is one. It further sets out how 'development in the open countryside will be strictly controlled'. The justification for that overarching approach is, in part, around ensuring that development is suitably accessible. NPPF paragraphs 104 and 105 similarly seek to ensure various transport objectives are factored into managing patterns of growth, including promoting walking, cycling and public transport.
20. Whilst development is to be focussed within development limits via policy CP1, there is nevertheless some flexibility. Policy CP1, criterion 3, sets out how development may also be acceptable 'at the most sustainable locations on the edge of the identified settlements'. In that context LP1 Core Policy 2 ('CP2') sets out how a minimum overall requirement of 9,635 additional dwellings will be distributed across the District over the plan period 2006-2029. Of those 1,000 are envisaged for Glastonbury. That is a lower figure than for other principal settlements, reflecting various constraints to delivery.
21. LP1 policy CP2 also explains how housing delivery will be prioritised within development limits, and otherwise provided via strategic sites, housing allocations, and site allocations (none of which apply to the appeal site). Policy CP2 therefore acts together with policy CP1. It envisages that development outside development limits will be plan-led.
22. LP1 Core Policy 7 ('CP7') applies specifically to Glastonbury. It sets out how most housing provision will be via committed sites or land within development limits. Policy CP7 again reflects the 'limited availability of unconstrained land' within and around Glastonbury. Insofar as relevant to this appeal and this main issue, CP7 effectively reiterates the approach in policies CP1 and CP2 in terms of guiding the distribution of development.
23. By virtue of falling outside of the development limit for Glastonbury and not being plan-led, the proposal would conflict with LP1 policies CP2 and CP7 (policy CP1 having greater flexibility, as set out above). The site is beyond the A39 which has historically acted as a westward line beyond which the consolidated built form of Glastonbury gives way to more sporadic uses.
24. It is a fair walk between the site and nearby services and facilities. The appellant's Transport Assessment ('TA') indicates a distance of approximately 450 metres to the nearest bus stops on Wells Road, and around 1.3k to St. John's Infant School at the fringes of the town centre. Walking or cycling from the appeal site to the town centre also requires crossing the A39, an arterial route, likely via the secluded underpass connecting Lowerside Lane to Lowerside Road. In that context I accept, as several nearby residents observe, that the site feels somewhat disconnected from the consolidated built form of Glastonbury (including given the topography which rises from the A39 towards the Cemetery and Windmill Hill beyond).
25. Depending on the start point of a route from the site, and the route taken to services and facilities, the distance travelled may be greater in practice than the figures in the TA cited above. I also acknowledge there is a threshold where the logic of enabling development adjacent to existing development falters on account of decreasing accessibility.

26. However there is now residential development to the west of the A39 next to the appeal site. There is allocation GL2. There are also various uses to the east, west and north of the site which all entail various comings and goings. During my site visit I saw several walkers and cyclists here. Whilst that is a snapshot in time, there is nothing to indicate that is atypical. Moreover it is a comparable, if not longer, walk to the town centre from dwellings within the development limit at its fringes elsewhere (for example around Sharpham Road towards the north-east and by Glastonbury Canal to the south-west).
27. The proposal includes open space and play provision. Various shops and services are also scattered around the Northload Bridge Roundabout, closer than the town centre. Those factors would moderate the extent to which future residents would need to travel significant distances for certain needs. Whilst the mode of transport taken is in part a personal choice, along with implementing the Travel Plan via the UU, future occupants of the development proposed would not be reliant on the use of private vehicles. The walking or cycling route between the appeal site and services and facilities would not be meaningfully different to that which exists elsewhere around Glastonbury.
28. In terms of accessibility, the site would therefore be acceptable. Allowing the appeal would not undermine the spatial objectives of LP1 policy CP1 in that regard, nor would it conflict with the approach in NPPF paragraphs 104 or 105. Nonetheless, by virtue of the site's location alone as reasoned above, the proposal would conflict with the provisions of LP1 policies CP2 and CP7.
29. Given the statutory basis for decision-taking and the emphasis in the NPPF on a genuinely plan-led system, that conflict entails harm in and of itself. Nonetheless given the location and implications of the scheme as set out above, I accord any harm in respect of this main issue only limited weight.

Landscape character

30. Consistent with its immediate surroundings, the site is broadly level. It banks up slightly to meet rhynes around it. To varying degrees rhynes are flanked by vegetation and trees, some of which are mature. Peat is visible in patches.
31. The site and its surroundings have an intricate geological and landscape history. The appellant's Historic Environment Report ('HER') indicates that marshland reclamation occurred in this broad location as early as the thirteenth century, albeit in earnest from the eighteenth. Field boundaries in this location show strong continuity with historic mapping. The site undulates to varying degrees, reflecting the imprint of land maintenance and use.
32. The site therefore has some affinity with the moors or levels surrounding Glastonbury. It fell within former landscape character area F2, 'Godney/ Meare Moors' in the Mendip Landscape Character Assessment 1997 ('CA1997'). It presently forms part of the backdrop to the Isle of Avalon, around which the built form of Glastonbury is set. As set out in the appellant's Landscape Architecture Proof ('LAP'), the Isle of Avalon, a geoarchaeology curiosity, rises abruptly from the moors. The townscape of, and landscape around, Glastonbury is rich in symbolic association with early Christianity and mythology.

33. Looking across the site from Common Moor Drove approaching Godney Road there are long distance views of the remains of grade I listed St Michael's Tower at the summit of Glastonbury Tor. There is also some intervisibility with elements of the Glastonbury Conservation Area ('GCA'). The GCA extends westwards from the town centre along Wearyall Hill, almost touching the A39 along Benedict Street.

Sensitivity

34. Robert Macbeth spoke passionately at the inquiry on the significance of the landscape here, and its representation in the media. Similarly Fletcher Robinson argued that the proposal would result in a 'high level' of landscape harm. Understandably many local residents also place importance on the site on account of its character, and more broadly in terms of wellbeing.
35. The proposal would inevitably adversely affect landscape character by virtue of introducing significant built development in what presently appears a natural and open site. Albeit in outline, the proposal would also impede visibility from certain perspectives of the surroundings in which St Michael's Tower, Glastonbury Tor, and the GCA are experienced. Reciprocally the proposal would result in the built form of Glastonbury extending into presently semi-rural surroundings.
36. The proposal would therefore conflict with criterion 3 of LP1 policy DP4 by virtue of being inconsistent with the existing pattern of natural and man-made features. Similarly the proposal cannot be said to be 'sympathetic' to landscape setting with reference to NPPF paragraph 130. c) considering that element of the NPPF alone. However, returning to my reasoning in paragraphs 6 to 8 of this decision, it is of central importance to gauge the weight to be attributed to any harm in order that a planning balance may be undertaken within the terms of NPPF paragraph 11. d).
37. The application was not supported by a landscape and visual impact assessment. Nevertheless there is sufficient evidence before me, from what I heard during the inquiry, and from what I saw to reach a judgement in that respect. I note that the appellant's LAP draws from the approach in Landscape Institute's Guidelines for Landscape and Visual Impact Assessment: Third edition (updated November 2021), and assesses the site and landscape at different scales. Nonetheless the value of a site, along with its susceptibility and sensitivity to change, are inherently matters of judgement.
38. Whilst a landscape does not need to be formally designated to be 'valued' within the terms of NPPF paragraph 174. a), unlike a substantial proportion of the land around Glastonbury, the site itself is subject to no protective landscape designations relevant to this appeal. As noted above, the approach to housing provision at Glastonbury in the LP1 is informed by the existence of various protective landscape designations elsewhere. The site is not within the 356ha of land comprising the Special Landscape Feature ('SLF') of Glastonbury Tor, to which LP1 policy DP4, criterion 2 applies. The site is not within the 33ha SLF of Wearyall Hill. It is also not within or abutting the GCA.

39. Moreover I saw that the site is not a particular rarity in terms of its size, nature or relationship to existing built development at Glastonbury. The site is one, or two, fields of many around the Isle of Avalon. Historically the moors around Glastonbury were referred to as the 'Sea of Glass', that name itself alluding to an extensive area. There is also a fair distance between the site and the nearest element of the GCA such that there is little meaningful interrelationship between the two. There is also a significant distance between the site and St Michael's Tower, such that the visual connection between the two is very slight. The site on the one hand, and the GCA and St Michael's Tower on the other are also physically separated by intervening features such as the A39, planting alongside it, the changing landform, and other built development.
40. There are various 'anomaly groups', traces of subsurface disturbance, identified within the appellant's Geophysical Survey. Those are indicatively attributed to changes in land apportionment over time (which would be consistent with the site's history). Were the scheme acceptable as a whole, recording of archaeological significance could be suitably and proportionately addressed via condition. Whilst there is evidently an intricate history to the site, there is no indication of a particular cultural, associative, or historic significance embodied by it.
41. The size of a site is not directly correlated with its landscape value. Nonetheless the proposal would affect only a small part of the landscape character of Glastonbury and of former character area F2. Moreover the site is relatively well contained by virtue of rhynes bounded by vegetation and trees. Albeit in outline, the majority of existing vegetation and hedgerows is proposed to be retained, with the indicative intention to increase hedgerows by around 304.85%. That approach could, along with the protection of the hedgerow to the south-west referenced as having some importance in the HER, again be secured via condition were the proposal acceptable overall.
42. Although the surrounding area is relatively well-used, the site is not publicly accessible. The nearest footpath, WS15/60, tracks between allotments to the west and the Football Ground beyond. Furthermore on account of the variety of surrounding uses, the site is already experienced as something of a transitional space between the A39, the Kingsfield development and the moors beyond. The site is surrounded, albeit loosely, by development in a manner that the landscape even a short distance northwards of Common Moor Drove is not (as described in paragraphs 14 to 18 of this decision).
43. In summary the sensitivity of the site to change may fairly be described as low to medium. Reinforcing my reasoning in that respect, the Landscape Character Assessment of 2020 ('LCA2020') includes the site instead in landscape character area E4, the 'Isle of Avalon'. The LCA2020 notes that 'some elements of infrastructure and a mix of development spans across the Bypass [A39] onto the moors landscape below the town'. That is, in my view, an apt description of the appeal site and its immediate surroundings.

Effects

44. I have set out above how the proposal would inevitably reduce the extent to which the site reinforces landscape character. However, assuming that 90 dwellings were delivered, that would represent a residential density just over

13 dwellings per hectare ('dph'). That is low by both relative and absolute standards, including compared against the Kingsfield scheme (and also successive tiers of development spanning out from the town centre such as around Lowerside Road and Underwood Road).

45. Whilst illustrative, the appellant's Design and Access Statement indicates how an arrangement could be arrived at drawing development away from the north-eastern extent of the site where there is the strongest visual connection to the moors. A sensitive approach to landscaping could further moderate effects. In this location landscaping and additional planning would not be discordant, given the relatively enclosed nature of the site described above. Subject to a sensitive approach to reserved matters, the proposal would in my view be capable of maintaining a comfortable transition to the more staunchly rural landscape beyond.
46. With reference to the sensitivity of the site identified above, the level of harm arising may therefore fairly be summarised as moderate initially, declining to limited as landscaping matures. That is also the weight I ascribe against the proposal in terms of landscape effects (notwithstanding that the most important policies must be deemed out-of-date, and the argumentation before me as to the effect thereof in terms of weight).
47. Drawing my reasoning together, the proposal would conflict with criterion 3 of LP1 policy DP4 and cannot rationally be described as being sympathetic to landscape setting with reference to NPPF paragraph 130. c) alone. However any implications in terms of the setting of SLFs, St Michael's Tower, and the GCA would be so slight as to be neutral (visually and also in terms of character or significance). I have set out about how landscape effects would be moderate initially, declining to limited as landscaping matures. Accordingly the proposal would not 'significantly degrade the quality of the local landscape', the terminology used in LP1 policy DP4.
48. LP1 policy DP1 explains that where a proposal would adversely affect, or result in the loss of features or scenes recognised as being distinctive, there will need to be a 'balancing up' of the 'significance of the feature or scene to the locality, the degree of impact the proposal would have upon it, and the wider benefits which would arise from the proposal if it were approved'. In a similar manner to applying the approach in NPPF paragraph 11. d), that can only be undertaken having considered all other relevant implications of the proposal, to which I now turn.

Other matters

49. In addition to comments regarding the issues above, I have taken careful account of all representations in respect of the proposal. Those representations include concerns over the potential implications of the scheme in respect of flooding and pollution, the suitability of the site for construction and for living conditions, the loss of agricultural land, traffic generation, placing additional demands on local infrastructure, and effects on ecology and biodiversity.

Flooding and pollution

50. There is naturally high groundwater level here, in part on account of the absorption of water via peat. Local residents have referred to instances of

flooding in the past. As shown in the appellant's Flood Risk Assessment ('FRA'), in parts the rhynes partially bisecting the site and beside Common Moor Drove fall within Environment Agency mapping flood zones 2 and 3 (at a medium and high probability of flooding respectively). At the time of my site visit parts of the site were waterlogged, broadly aligning with those locations shown on the surface water flooding map in the FRA.

51. The majority of the site is, however, within flood zone 1. That is defined as having a 'low probability' of flooding, i.e. a less than 0.1% annual probability of river or sea flooding. A substantial proportion of land around Glastonbury is more vulnerable. Whilst infiltration as a means of addressing surface water run-off would not be suitable given ground conditions, the FRA nonetheless sets out how attenuation ponds, basins, swales and routes could both address the effects of the proposal and 'offer betterment of existing runoff rates'.
52. That is a finding reinforced by groundwater monitoring set out in the appellant's 'Groundwater FRA Screening and Scoping' document and the FRA Addendum. The FRA Addendum includes details of an indicative drainage scheme (plans FRA3, FRA4, FRA5, FRA6, all revision A). The implementation of suitable measures to address groundwater and runoff, including construction levels and sustainable drainage systems, and to ensure peat is factored into construction, could be secured via appropriately-worded conditions.
53. Similarly appropriate protection to avoid adverse effects to watercourses during construction could be secured via condition. There are also separate provisions for addressing pollution amounting to a statutory nuisance (under the Environmental Protection Act 1990 as amended). The proposal is moreover in outline; landscaping and planting have additional potential to improve site hydrology.

Construction and living conditions

54. NPPF paragraph 174. e) sets out how new development should not be subject to unacceptable levels of land instability. The physical nature of the site will influence construction, noting that the traditional dwelling next to the site has been buttressed at some point (suggestive of structural difficulties there). However, as set out in the appellant's FRA and Ground Investigation Report ('GIR'), similar to the Kingsfield development, the site is characterised by loamy and clay soils, with also silt sand and gravel above Blue Lias and Mudstone.
55. There is no substantive evidence contrary to the findings in the GIR or to indicate those conditions are inherently unsuitable for modern construction (including, for example the use of pile and beam foundations). Development must, in any event, comply with the relevant provisions of the Building Regulations 2010 as amended. In respect of subsidence, Building Regulations require construction to be undertaken in such a way that the stability of any part of the building is not impaired.
56. Similarly Building Regulations govern reasonable precautions to avoid danger to health and safety caused by contaminants. Notwithstanding the presence of peat, aside from certain higher readings in respect of naturally occurring matter, the GIR sets out how 'no credible on-site or off-site potentially

significant contaminant sources that are likely to have impacted upon the site have been identified'. That is consistent with the agricultural history here. The site is not within an Air Quality Management Area, nor is there evidence indicating that air quality is presently approaching relevant air quality limits.

57. NPPF paragraphs 184 and 188 set out how 'responsibility for securing a safe development rests with the developer and/or landowner', and that planning decisions should assume that separate regimes addressing processes, emissions and pollution will operate effectively. Consequently there is nothing substantive to indicate that the scheme would be incapable of providing suitable living conditions. There is similarly no robust evidence indicating that the activities conducted at the Butler Carnival Park would result in undue noise or disturbance to future occupants. Likewise given the separation between dwellings and the Park that could be achieved in respect of layout, there is nothing substantive to indicate that the proposal would have undue adverse effects upon it (with regard to NPPF paragraph 187).

Loss of agricultural land

58. The proposal would take the site out of agricultural use, the NPPF prospectus referring to food security. However at 6.87ha the site is a modest amount of land. The Council clarified at the inquiry that the site falls within Agricultural Land Classification grade 4. It is therefore not best and most versatile agricultural land, unlike much land in Mendip, Somerset or nationally. The loss of agricultural land therefore carries only limited weight against the proposal.

Traffic

59. Notwithstanding my reasoning in paragraphs 26 to 28 of this decision, the proposal would inevitably result in additional vehicular movements. However the scheme would have a fractional effect on the functioning of the highways network here compared to existing usage (with reference to the data in section 7 of the appellant's TA). In and of itself the scheme would not result in severe cumulative impacts. As shown on plan 184325/G/05 Revision B, a visibility splay set 2.4m back from the carriageway along Loverside Lane extending 57m towards the A39 and 60m towards Common Moor Drove is proposed. That is achievable without crossing third party land, and would result in a good level of visibility on account of the straight orientation of Loverside Lane, its semi-rural character and its proximity to the junction with the A39 (all factors that will serve to limit vehicle speeds here). With reference to personal injury collision data reproduced in the TA, there is nothing to indicate that highway safety here is a matter of concern.

Infrastructure

60. I acknowledge that the proposal would put additional demand on local infrastructure, including medical facilities and schools. Whilst the funding of infrastructure is complex, as set out subsequently the S106 makes provision for a financial contribution towards healthcare provision. No request has been made for a contribution to education provision with reference to existing capacity. Furthermore, by virtue of the Water Industries Act 1991 as amended and the Electricity Act 1989 as amended, water and energy providers are obligated to facilitate connections.

Ecology and biodiversity

61. As described in the appellant's Ecological Impact Assessment of January 2021 ('EcIA'), as updated by a walkover survey of 4 February 2023, the ecological or biodiversity value of the site is reflected both within its flora and the fauna. The EcIA found the site or adjacent rhynes to be used by various species including water voles, bats, birds, reptiles, amphibians, invertebrates and molluscs. Other species may also make use of the site. Local residents have spotted kestrels, buzzards, herons, egrets and bats here. As noted above the site falls within a priority habitat under section 41 of the NERC, namely coastal and floodplain grazing marsh. The site is also within the 'impact risk zone' of Street Heath and Sharpham Moor SSSIs, and there are four non-statutory sites designated for nature conservation within a kilometre.
62. The proposal would inevitably change the nature of the site, entailing the loss of some habitat and altering the value of the site to some species. As illustrated on the EcIA habitat map, however, the ecological value of the site is principally in respect of its boundaries, as opposed to grazed or managed land. As noted in paragraph 41 above, and subject to appropriately worded conditions, those boundary features would remain. None of the named species in the qualifying features for which the SPA was designated appear to have been observed here (the SPA itself falling some 4.8km away). Nearby SSSIs are designated principally for the value and heritage of their flora, Street Heath representing a species rich bog and carr woodland, Sharpham Moor being an example of secondary or succession woodland.
63. That latter point is significant as the site may fairly be described as a poor example of priority habitat. The site is not periodically inundated as is typical of that habitat (with reference to the definition thereof in the UK Biodiversity Plan). The site represents improved grassland, in that it has been actively managed, maintained and grazed for a considerable length of time in contrast to the SSSIs referenced above. Improvement will have altered, and to some extent reduced, biodiversity over time. By contrast, based on Natural England's Biodiversity Metric 3.0, the appellant's evidence sets out that the scheme has the potential to deliver 28.8% overall biodiversity net gain ('BNG').
64. That figure includes sufficient flexibility for subsequent iterations of the biodiversity metric such that 20% BNG could legitimately be secured via condition. That would exceed 10% envisaged by yet-to-be commenced section 98 of the Environment Act 2021. In my view the BNG achievable here would more than address the loss of priority habitat, and should be accorded significant weight. That BNG would not otherwise result, for example if the site were kept in agricultural use. There is no robust justification for limiting BNG to 10% where a better environmental outcome has been advanced and is achievable. Biodiversity could otherwise be sensitively managed through adherence to conditions, and I note that there are provisions in other regimes safeguarding ecology (notably the WCA).

Phosphates

65. On 17 August 2020 Natural England wrote to Somerset authorities regarding high levels of phosphates present at the Somerset Levels and Moors Ramsar Site and SPA. Those designations, broadly coterminous, incorporate several SSSIs designated for their ecological richness. Phosphates are generated from

various sources including fertilisers and sewage, and have detrimentally altered ecology (an issue which persists). Whilst the appeal site is not hydrologically linked to the Ramsar site, sewage would be treated by the Glastonbury Water Recycling Centre ('WRC') which is.

66. The foregoing Natural England correspondence explained how additional nutrients arising from typical new developments were unlikely, along or in combination with others, to have a likely significant effect on the internationally important bird communities for which the SPA was designated. By virtue of NPPF paragraph 181. b), however, Ramsar sites are accorded the same protection as SPAs (including, by extension, via the provisions of Regulation 63 of the Habitats Regulations). Regulation 63 requires that, before deciding to give any permission or other authorisation for a project which is likely to have a significant effect on a European site, a competent authority must make an appropriate assessment of its implications. I have undertaken an appropriate assessment in a reasonable and proportionate manner relative to circumstances here.

Appropriate Assessment

67. As set out in the appellant's Nutrient Neutrality Assessment and Mitigation Strategy, the proposal would result in an additional 7.49kg of phosphates entering the catchment of the Ramsar Site annually. That calculation is premised on water usage being limited to 110 litres per person per day, and being processed by the WRC operating so as to achieve 0.8 milligrams per litre (mg/l) of phosphates in treated output.
68. The optional higher water efficiency standard is justified to minimise output by design (and to enable a consistent calculation of sewage to be treated via the WRC). Currently the WRC is, however, operating at a lower efficiency of phosphate processing; treated sewage entering watercourses containing around 2mg/l of phosphates. However the Ofwat Price Review 2019 for Wessex Water commits to the implementation of measures to improve efficiency to 0.8mg/l by 2025. Limiting water usage could both be secured via condition, and the S106 would prevent occupation before 2025.
69. However, even with improvements to sewage treatment, a level of additional phosphate loading would remain. That remainder is proposed to be addressed via the purchase of phosphate credits. There is evidence before me in respect of the Yew Tree farm scheme. That scheme, secured via a separate deed of 4 January 2023, commits to the cessation of pig breeding there. Yew Tree Farm is within the hydrological catchment of the Ramsar Site, and was a pig farm with a capacity for 1,752 animals (where around 96% of the manure generated on site was exported for use elsewhere). The cessation of pig breeding there would result in a reduction of 48.08kg of phosphates per year entering the ecosystem. Schedule 5 of the S106 prevents the development from commencing until the requisite phosphate offset credits have been secured.
70. Natural England, the appropriate nature conservation body under Habitats Regulation 63(3), are to be consulted as part of the allocation of phosphate credits to individual schemes. Via correspondence of 18 October 2022 Natural England endorsed the Yew Tree Farm proposal, agreeing also to the methodology for calculating phosphate loading in that respect. That

methodology is consistent with the phosphates calculations related to the development proposed, including a 20% precautionary buffer.

71. With reference to the appellant's 'Shadow' Habitats Regulations Assessment, Natural England commented via correspondence of 7 February 2023 that, subject to the foregoing measures being secured, they are 'satisfied that nutrient neutrality can be demonstrated.' Accordingly, subject to suitably worded conditions, to the provisions of the S106, and given the provisions of other regimes referenced above, the proposal would suitably safeguard ecology and biodiversity both directly and indirectly, and would not adversely affect the integrity of the Ramsar Site.

Obligations

72. NPPF paragraph 55 directs that consideration should be given as to whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations (in that order of preference). Planning obligations must only be sought where they meet the tests set out in NPPF paragraph 57, also contained in Regulation 122 of the Community Infrastructure Levy Regulations 2010 as amended (the 'CIL Regulations').
73. The UU commits all those with a legal interest in the land to producing a travel plan to be approved by the County Council; a planning condition requiring third party approval would be unacceptable. Similarly the S106 commits all those with a legal interest in the land to the fulfilment of certain obligations in the eventuality that the appeal were to be allowed, including a financial contribution towards healthcare provision.
74. The S106 also makes provision in respect of affordable housing, open space and play areas, landscaping and environmental management and ongoing site management details. Both the UU and the S106 set out various details and arrangements relating to the foregoing and their practical administration, including phasing and monitoring.
75. There is a CIL Regulation 122 compliance statement before me. There is now no dispute between the main parties over the justification for any elements of the S106. However over the course of the appeal the appellant disputed the £542 contribution per dwelling sought by the NHS Somerset Integrated Care Board ('ICB'). The appellant argued that it would fund healthcare provision that was also centrally funded, and, by extension, that the contribution sought was not fairly and reasonably related to the development proposed.
76. Local primary health care funding derives principally, in sequence, from the Department for Health, NHS England Improvement ('NHSI') and the relevant ICB, formerly Clinical Commissioning Group ('CCG'), for a given area. Healthcare funding is intricate, inevitably dealing with people who have differing needs.
77. In that context the appellant directed me to the methodology for ICB allocations from NHSI.² That is a longstanding methodology altered successively over time. That prompted me to bring the parties' attention to the

² CD16, entitled 'Technical Guide to Allocation Formulae and Pace of Change for 2019/20 to 2012/24, revenue allocations'.

judgement in *The University Hospitals of Leicester*.³ Paragraph 66 of that judgement states 'it would be wrong to infer that there is no connection between an ONS [Office for National Statistics] projection of population growth in an area, used in the funding of CCGs, and new development in an area to accommodate that growth. On the contrary, the two are related.'

78. I thank Malcolm Dicken and Leenamari Aantaa-Collier for attending the inquiry at my invitation. They clarified that the foregoing methodology relates solely to revenue funding, not capital. Crudely that is healthcare services not premises. I was told that there is no way in which funding derived from the foregoing methodology could be used to create more physical capacity at facilities.
79. Via correspondence of 2 March 2023 Malcolm Dicken also set out that had ONS projections been factored into capital expenditure, some £4,075,750 would have been allocated to the Somerset ICB for premises upgrades between 2020 and 2023. The actual level of funding provided was £883,000 over that period. It is logically challenging to reconcile that ICB funding acknowledges population growth in respect of revenue, but not in respect of capital. Nonetheless sufficient floorspace must be available to enable appointments for patients, thereby ensuring effectiveness of service delivery.
80. As at 22 November 2021 the two nearest primary care facilities to the appeal site were over capacity, having a capacity for 19,671 patients relative to a patient list of 19,929. At the inquiry I was told that the situation has since worsened, with capacity remaining the same but the patient list now standing at 20,252. The reasons for that change are intricate and relate in part to patient registrations, population growth and demographic change.
81. Nevertheless the foregoing demonstrates that the development proposed would be unacceptable without a proportionate contribution to healthcare premises in accordance with criterion 2 of LP1 policy DP19. Based on household size data from 2016 to reflect additional patients, applying a floorspace calculation methodology of 2018 used across the south west along with indexation since that date, the contribution sought amounts to £542 per dwelling (consistent with the S106). That represents an appropriate evidence base.
82. More broadly there is no countervailing evidence before me to the commonality between the main parties as to the appropriateness of the UU and S106. I note that provisions other than financial contributions are also necessary to achieve compliance with relevant development plan policies (including in respect of affordable housing in accordance with LP1 policy DP11 and open space in accordance with LP1 policy DP16 and the associated Supplementary Planning Document on Greenspace adopted on 6 February 2023). Accordingly the obligations contained with the UU and S106 are necessary to make the development proposed acceptable and in accordance with the provisions of NPPF paragraph 57 and CIL Regulation 122.

Housing provision

83. As set out above there is a very significant anticipated shortfall in housing delivery over the coming five years relative to needs. It is important to keep in

³ The University Hospitals of Leicester NHS Trust, R (On the Application Of) v Harborough District Council [2023] EWHC 263 (Admin) (13 February 2023).

mind that housing numbers relate to people. The lack of a sufficient forward pipeline of deliverable housing sites will mean that the housing needs of some people will not be met. The proposal would be significantly socially beneficial in that context. There would also be associated economic benefits in supporting employment during the construction and maintenance of dwellings, and future residents would bring trade to nearby services and facilities.

84. The proposal would also provide for 30% affordable housing, as defined by the NPPF. Housing affordability is a pressing issue nationally and in Mendip specifically. LP1 paragraph 2.27 explains with regard to development viability, that 'the District total of 743 new affordable homes [needed] per year is an unrealistic target...'. With that in mind LP1 policy CP2 makes provision for a minimum of 9,635 additional market and affordable dwellings between 2006 and 2029. That is some 419 dwellings as a simple average over the plan period. Therefore the overall housing delivery that the LP1 seeks to achieve is far lower than affordable housing needs alone. According to the appellant's figures, in respect of net affordable housing provision, since 2006/7 only around 17.4% of new dwellings have been delivered as affordable dwellings in Mendip, far short of the 30% sought via LP1 policy DP11.
85. Unsurprisingly affordable housing needs in Mendip are now acute. In 2021 the ratio of median house prices to median income in Mendip stood at 11.22. That significantly exceeded the comparable ratio nationally and in the south west (9.05 and 9.97 respectively). Moreover in October 2016 the number of households eligible for affordable housing on the Somerset Homefinder Register stood at 1,306. I am told that in January 2023 that figure had risen to 2,219. The benefits of the proposal directly, and by consequence of, housing delivery and affordable housing provision would therefore be significant.

Planning balance

86. NPPF paragraph 11. d) applies by virtue of the most important policies for determining the proposal being deemed out of date. I have set out above that NPPF policies which protect areas of assets of particular importance do not provide a clear reason for refusing the development proposed, with reference to NPPF paragraph 11. d) i. Consequently NPPF paragraph 11. d) ii. applies, i.e. permission should be granted unless 'any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole'.
87. Drawing together my reasoning above, on the one hand the proposal would result in limited harm by virtue of its location contrary to LP1 policies CP2 and CP7 in the context of a plan-led system. Similarly the proposal would conflict with criterion 3 of LP1 policy DP4 and NPPF paragraph 130. c) in respect of landscape effects. However the harm in that respect would be moderate initially, declining to limited as landscaping matures. There would also be limited harm resulting from the loss of agricultural land.
88. On the other hand I accord significant weight to the benefits of the scheme in terms of housing provision, affordable housing, and associated economic benefits. The proposal would also entail significant BNG. The adverse impacts of granting permission would therefore not significantly and demonstrably outweigh the benefits. They would fall well short of doing so. With reference to

the statutory basis for decision-taking, other material considerations therefore justify allowing the appeal.

Conclusion

89. I recognise that my decision will be disappointing to many local residents. Nevertheless for the reasons given above, having taken account of the development plan as a whole and all other relevant material considerations, I conclude that the appeal should be allowed subject to the conditions below and the obligations contained in the UU and S106.

Conditions

90. In addition to requiring reserved matters applications and commencement in accordance with statute via condition 1, for clarity, and so that the proposal is implemented as assessed above, I have imposed condition 2 requiring adherence to the relevant supporting plans. Condition 3 is necessary to put limits on the development within the terms of the application. Although the proposal is in outline, it also is necessary and reasonable to require that reserved matters applications are accompanied by details of topography and floor levels via condition 4 (given the particular nature of the site).
91. Whilst development must comply with the relevant provisions of Building Regulations in any event, it is nevertheless necessary to impose conditions 5 and 6. Condition 5 would ensure that during construction and use the development complies with the approach in LP1 policy DP7, the Council's 'Design and Amenity of New Development' Supplementary Planning Document (adopted March 2022, the 'Design SPD'), and NPPF paragraph 157 in respect of environmental performance. That condition should accompany, rather than form part of reserved matters applications, and should make reference to addressing peat given the environmental implications of its disturbance. However there justification neither within policy DP7 nor the Design SPD for the carbon reduction or renewable energy generation percentages advanced by the Council. Condition 6 related to water usage is necessary for the reasons given in paragraph 67 of this decision.
92. Conditions 7, 8 and 9 are necessary to minimise adverse effects resulting from construction, including in respect of noise and disturbance and to ecology (in accordance with LP1 policies DP5, DP6, DP7, DP8, DP9 and criteria e) and f) of NPPF paragraph 130). In a similar vein, conditions 9, 10, 11, 12, 13 and 14 are necessary with reference to the statutory duties upon me referred to in paragraph 10 of this decision, in summary to ensure habitats and biodiversity is appropriately conserved and enhanced as a result of the scheme (and also in respect of trees under section 197 of the 1990 Act).
93. With reference to paragraph 99 of Government Circular 06/05: Biodiversity and Geological Conservation, there is sufficient information to reach a judgement in respect of ecology and biodiversity. Nevertheless condition 10 should not be to the preclusion of additional studies related to the site as the scheme progresses, for example those necessary to ensure that the findings of existing studies remains valid (or establish any change). As a precautionary approach, given circumstances may change between now and implementation, condition 12 is nevertheless justified in respect of bats (notwithstanding separate protections for ecology in other regimes).

94. Condition 15 is necessary to ensure flooding, groundwater conditions and surface water run-off are appropriately taken into account in the scheme design in accordance with LP1 policies DP5 and DP8 and NPPF paragraph 167. Paragraph 1.1.25 of the S106 also requires adherence to a landscape and ecological management plan to which condition 10 relates. The provisions of conditions 10 and the S106 in this respect are compatible, with the latter including additional provision for management thereof in schedule 2. That is similarly the case of sustainable drainage systems, the subject of condition 15 and S106 paragraph 1.1.54.
95. Following on from my reasoning in paragraph 40 above, condition 16 is necessary to ensure archaeology is suitably investigated, addressed as encountered, and that the assessment of any archaeological interest is suitably recorded. Condition 17 is necessary to ensure that vehicular, pedestrian and cycle access is provided in accordance with agreed details before any dwelling is occupied and thereafter kept available as such (in accordance with LP1 policies DP9, DP10 and NPPF paragraph 110. b).
96. Conditions 1, 7, 9, 10, 11, 12, 14, 15 and 16 must necessarily apply before any development is commenced. Those conditions relate to implications of the development which, if not managed suitably from the outset, may result in adverse effects (or relate to matters integral to the design of the scheme).
97. Notwithstanding conditions imposed elsewhere at appeal,⁴ conditions put before me in respect of a schedule of materials, arrangements for the storage of recycling and waste, the arrangement of on-site roads, parking, vehicular and pedestrian movement routes, cycling provision, and hard and soft landscaping fall squarely to reserved matters. Given the flexibility in terms of the potential layout that may be arrived at here, there is nothing to indicate other than that an appropriate approach to all those aspects of the scheme could be secured through reserved matters applications.
98. In imposing conditions I have had regard to the NPPF, the PPG, and relevant statute. Albeit that some conditions have an implication for reserved matters, none are of such a degree of specificity or overlap that they would be inappropriate to impose. In that context I have amended the wording of certain conditions put to me, and amalgamated some also, to ensure that all are appropriate without altering their fundamental aims.

Tom Bristow
INSPECTOR

⁴ Ref. APP/Q3305/W/21/328643.

SCHEDULE 1, CONDITIONS

- 1) Details of layout, scale, appearance and landscaping (the 'reserved matters') shall be submitted to, and approved in writing by, the local planning authority before any development hereby permitted takes place, and the development shall be carried out as approved. Application for approval of the reserved matters shall be made to the local planning authority not later than the expiration of 3 years from the date of this permission. The development hereby permitted shall begin not later than the expiration of 2 years from the approval of the reserved matters (or, in the case of approval on different dates, 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 approved plans '210301 L 01 01' and '184325/G/05 Revision. B'.
- 3) The development hereby permitted shall comprise not more than 90 dwellings.
- 4) Details of the reserved matters submitted pursuant to condition 1 shall be accompanied by details of existing site levels, and finished floor levels above ordnance datum, in respect of the ground floors of the dwellings hereby permitted.
- 5) No dwelling hereby permitted shall be occupied until a Sustainable Construction Statement ('SCS') and Renewable Energy Compliance Statement ('RECS') have been submitted to, and approved in writing by, the local planning authority. The SCS and RECS shall:
 - i. align with reserved matters applications pursuant to condition 1,
 - ii. contain details of compliance with criteria d), e), f) and i) of policy DP7 of the Mendip Local Plan Part 1 (adopted December 2014) and associated guidance in the 'Design and Amenity of New Development' Supplementary Planning Document (adopted March 2022),
 - iii. address any implications of groundworks and peat disturbance, and
 - iv. include details in respect of timing of implementation.The development hereby permitted shall be undertaken in accordance with the approved SCS and RECS.
- 6) No dwelling hereby permitted shall be occupied until:
 - i. the optional requirement for potential consumption of wholesome water by persons occupying that dwelling of 110 litres per person per day, under part G of Schedule 1 and Regulation 36 of the Building Regulations 2010 as amended, has been complied with by design, and
 - ii. a notice specifying the calculated consumption of wholesome water per person per day relating to the dwelling as constructed has been submitted to the local planning authority.
- 7) No development hereby permitted shall take place until a Construction and Environmental Management Plan ('CEMP') has been submitted to, and approved in writing by, the local planning authority. The CEMP shall include details of:

- i. working methods to be employed on site during construction (and preparation associated with construction),
- ii. measures to be taken to minimise emissions of dust, fumes, odour, noise and vibration in accordance with a code of construction practice,
- iii. the safe disposal of waste materials,
- iv. anticipated construction vehicular movements and types,
- v. delivery and construction operation hours,
- vi. car parking for contractors and a scheme to encourage the use of public transport amongst contractors,
- vii. storage of plant and materials to be used in construction,
- viii. details of measures to avoid vehicles exiting the site emitting dust, mud, or other debris onto the highway including wheel washing facilities, and
- ix. measures to avoid traffic congestion impacting upon the Strategic Road Network.

The approved CEMP shall be adhered to throughout construction.

- 8) No works related to the development hereby permitted shall take place outside of the following hours: 08:00 to 18:00 Mondays to Fridays inclusive, 08:00 to 13:00 on Saturdays. No works related to the development hereby permitted shall take place at any time on Sundays or on Bank or Public Holidays. No burning of any materials on site during construction shall take place.
- 9) No development hereby permitted shall take place until a Biodiversity Construction and Environment Management Plan ('BCEMP') has been submitted to, and approved in writing by, the local planning authority. The BCEMP shall accord with the approach set out in the Ecological Impact Appraisal prepared by South West Ecology, dated January 2021, the subsequent walkover survey by South West Ecology of 4 February 2023, and any necessary subsequent studies of the site, and shall include:
 - i. a risk assessment of potentially damaging construction activities,
 - ii. the identification of 'biodiversity protection zones',
 - iii. an updated walkover survey for protected species, which should only be undertaken by suitably qualified ecologists
 - iv. practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction, which may be provided as a set of method statements, to biodiversity on site, including habitats (trees, hedgerows and watercourses, including pollution prevention measures) and protected species (followed by appropriate mitigation as required),
 - v. the location and timing of sensitive works to avoid harm to biodiversity features,
 - vi. the times during construction when specialist ecologists need to be present on site to oversee works,
 - vii. responsible persons, lines of communication and written notifications of operations to the local planning authority,
 - viii. the role and responsibilities of an ecological clerk of works or similar competent person,
 - ix. use of protective fences, exclusion barriers and warning signs,
 - x. a scheme to minimise the risk of offsite flooding and pollution, including in respect of groundwater,

- xi. ongoing monitoring, including of compliance by a suitably qualified person during construction and immediately post-construction.

The approved BCEMP shall be adhered to throughout construction.

10) No development hereby permitted shall take place until a Landscape and Ecological Management Plan ('LEMP') has been submitted to, and approved in writing by, the local planning authority. The LEMP shall accord with the Ecological Impact Appraisal prepared by South West Ecology, dated January 2021, the subsequent walkover survey by South West Ecology of 4 February 2023, and any necessary subsequent studies of the site. The LEMP shall include:

- i. a description and evaluation of features to be managed,
- ii. ecological trends and constraints that may influence management,
- iii. aims and objectives of management,
- iv. appropriate management options for achieving aims and objectives prescriptions for management actions,
- v. preparation of a work schedule (including an annual work plan capable of being rolled forward over a five year period),
- vi. details of the body or organisation(s) responsible for implementation of the LEMP, and
- vii. ongoing monitoring arrangements along with remedial and contingency measures in the eventuality that the aims and objectives of the LEMP are not met (to be effected in that eventuality to ensure that the development hereby permitted delivers the fully functioning biodiversity objectives of the approved LEMP).

The approved LEMP shall be implemented, adhered to, and maintained in accordance with the approved details.

11) No development hereby permitted shall be undertaken until a lighting strategy has been submitted to, and approved in writing by, the local planning authority. The lighting strategy shall include details of:

- i. areas or features on site that are particularly sensitive in respect of ecology and where illumination is likely to result in disturbance (including in respect of bats, otters and water voles),
- ii. lighting design in respect of areas or features identified pursuant to criterion (i) to achieve compliance with the Bat Conservation Trust's Guidance Note 08/18: 'Bats and artificial lighting in the UK' (or successor document) including in respect of shielding, baffling or other measures to manage illumination, and
- iii. a timetable for the implementation of all measures.

The development hereby permitted shall be undertaken, and maintained, in accordance with the approved lighting strategy. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (or any subsequent modification to that Order, or otherwise), no external lighting other than that approved via the lighting strategy shall be installed in relation to the development hereby permitted.

12) No development hereby permitted shall take place until:

- i. a licence has been issued by Natural England pursuant to Regulation 55 of The Conservation of Habitats and Species Regulations 2017 authorising the development to proceed, or
- ii. Natural England have confirmed that the works fall within the remit of a Bat Mitigation Class Licence (CL21) and that the site has been registered in accordance with the class licence, or
- iii. a statement in writing from an appropriate qualified ecologist has been submitted to the local planning authority to the effect that the specified development would not require a licence.

13) No development hereby permitted shall take place until a Biodiversity Enhancement Plan ('BEP') has been submitted to, and approved in writing by, the local planning authority. The BEP shall align with reserved matters applications pursuant to condition 1 and shall:

- i. include details of provision for a minimum 20% Biodiversity Net Gain ('BNG') with reference to the DEFRA biodiversity metric (version 3.1 or successor metric),
- ii. align with the recommendations in the Ecological Impact Appraisal prepared by South West Ecology, dated January 2021, and the subsequent walkover survey by South West Ecology of 4 February 2023, and
- iii. include a timetable for the implementation and maintenance.

The development hereby permitted shall be undertaken, and maintained, in accordance with the approved BEP.

14) No development hereby permitted shall take place until an arboricultural method statement ('AMS') in accordance with British Standard 5837:2012 'Trees in Relation to Design, Demolition and Construction' (or successor document) has been submitted to, and approved in writing by, the local planning authority addressing any trees on or off site that may be affected by undertaking the development. The AMS shall include details of:

- i. the timing and phasing of arboricultural works,
- ii. construction exclusion zones,
- iii. protective barrier fencing,
- iv. ground protection,
- v. details of any works within the root protection areas of trees to be retained and proposed arboricultural supervision,
- vi. service positions,
- vii. details of any special engineering requirements and sensitive construction measures, and
- viii. a tree protection plan.

The development hereby permitted shall be undertaken in accordance with the approved AMS.

15) No development hereby permitted shall take place until a sustainable surface water drainage scheme ('SSWDS') has been submitted to, and approved in writing by the local planning authority. The SSWDS shall be in general accordance with the Flood Risk Assessment prepared by Teignconsult of 25

August 2021, the Flood Risk Addendum prepared by Teignconsult of 22 April 2022, and shall be informed by any relevant subsequent surveys. The SSWDS shall be prepared with reference to the following documents: NPPF paragraph 169, CIRIA SuDS Manual C753 and Building Research Establishment Digest 365 (or successor documents). The SSWDS shall include details of:

- i. phasing,
- ii. maintenance,
- iii. temporary drainage and pollution interception measures,
- iv. the design storm period and intensity used in calculations, discharge rates and volumes,
- v. all measures to attenuate or address water run-off and including details of any infiltration measures and testing, measures relates to groundwater and testing, any pipework, swales, reed beds, ponds, filter trenches, attenuation tanks and detention basins,
- vi. flood water exceedance routes both on and off site, and how the SSWDS will ensure no part of the site will flood during any storm up to and including the 1 in 30 year event, flooding during storm events in excess of this including the 1 in 100 year (plus 40% allowance for climate change), and how such eventualities will be controlled via exceedance routes to prevent flooding or damage to properties,
- vii. details of how overland flows outside the site boundary have influenced scheme design,
- viii. a programme for implementation of all measures, and
- ix. details of ongoing maintenance and management.

No dwelling hereby permitted shall be occupied until the SSWDS has been implemented as approved in accordance with the programme for implementation. Once implemented the SSWDS shall thereafter be retained, maintained and managed as approved.

16) No development hereby permitted shall take place until a written scheme of archaeological investigation ('WSAI') has been submitted to, and approved in writing by, the local planning authority. The WSAI shall include:

- i. an assessment of significance and research questions,
- ii. the programme and methodology for site investigation and recording,
- iii. provision to be made for analysis of the site investigation and recording,
- iv. provision and measures for addressing any historic or archaeological features identified which are revealed when carrying out development,
- v. the provision to be made for publication and dissemination of any analysis and records of the site investigations, and
- vi. the provision to be made for archive deposition of the analysis and records of the site investigations.

The development hereby permitted shall be undertaken in accordance with the approved WSAI.

17) No dwelling hereby permitted shall be occupied until vehicular access consistent with approved plan '184325/G/05 Revision. B', and any pedestrian or cycle connectivity between the site and its surroundings including a footway along Lowerside Lane (in accordance with details previously submitted to, and approved in writing by the local planning authority), have been constructed as

approved and made available for use. There shall be no obstruction to visibility greater than 600mm above ground level within the area of the approved visibility splays shown on plan '184325/G/05 Revision. B'. Once constructed and made available for use, the approved vehicular, pedestrian and cycle accesses shall be retained as such only for their intended use, and visibility splays shall be maintained as implemented.

SCHEDULE 2, APPEARANCES

FOR THE APPELLANT:

Thea Osmund-Smith, Counsel	No5 Barristers' Chambers
Odette Chalaby, Assisting Counsel	No5 Barristers' Chambers
David Seaton BA(Hons) MRTPI	Managing Director, PCL Planning Limited
David Richardson	Partner, Head of Planning, Ashfords LLP
Gerry Keay	Director, Waddeton Park Ltd.

FOR THE LOCAL PLANNING AUTHORITY:

Nina Pindham, Counsel	No5 Barristers' Chambers
Rachel Tadman	Director, Tadman Planning Consultants Ltd.

THIRD/ INTERESTED PARTIES:

Fletcher Robinson MSc	Trustee and planner for CPRE Somerset
Robert Macbeth	Local resident (speaking on behalf of 121 signatories to a petition against the scheme)
Indra Donfrancesco	Councillor, Deputy Mayor, Glastonbury Town Council
Malcolm Dicken	Head of LPA Engagement, NHS Somerset Integrated Care Board
Leenamari Aantaa-Collier	Partner & Head of Planning, the Wilkes Partnership Solicitors
Lynn Harper	Local resident
Ramona Belcher	Local resident

SCHEDULE 3, INQUIRY DOCUMENTS

ID1	Appellant's opening statement
ID2	Council's opening statement
ID3	Petition of 121 signatories objecting to the scheme presented by Robert Macbeth
ID5	Council's closing statement
ID6	Appellant's closing statement

Richborough Estates