



Appeal Decision

Hearing Held on 17 July 2024

Site visit made on 17 July 2024

by C Rafferty LLB (Hons), Solicitor

an Inspector appointed by the Secretary of State

Decision date: 02 October 2024

Appeal Ref: APP/E3335/W/24/3341085

Land at 362977 147235, Chapelfield, Oakhill, Shepton Mallet BA3 5BU

- 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 Johnstone Land Company (Bristol) Limited R Keen, T Keen, J Keen against the decision of Somerset Council.
The application is Ref 2023/2245/OUT.
 - The development proposed is outline application for up to 23 no. two storey houses (including 30% affordable housing) with associated parking, hard/soft landscaping and open space, drainage, and infrastructure. Appearance and landscaping reserved matters with access, layout and scale to be determined at outline stage
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Decision

1. The appeal is allowed and outline planning permission is granted for up to 23 no. two storey houses (including 30% affordable housing) with associated parking, hard/soft landscaping and open space, drainage, and infrastructure. Appearance and landscaping reserved matters with access, layout and scale to be determined at outline stage at land at 362977 147235, Chapelfield, Oakhill, Shepton Mallet BA3 5BU in accordance with the terms of the application Ref 2023/2245/OUT subject to the conditions in the attached schedule.

Preliminary Matters

2. On 30 July 2024 the Government published a consultation on proposed reforms to the National Policy Framework (the Framework) and other changes to the planning system and the Secretary of State made a written ministerial statement entitled "Building the homes we need". The main parties were invited to provide comments in relation to the above which have been taken into account in my determination of this appeal.
3. The application was made in outline with appearance and landscaping reserved for future consideration. I have dealt with the appeal on that basis, treating any details of reserved matters shown on the plans as being indicative.
4. The appeal site is approximately 2.4km from the Mells Valley Special Area of Conservation (the SAC), falling within Band C of the Consultation Zone for the SAC. I am the competent authority for the purposes of this appeal and the Habitats Regulations 2017 (as amended) (the Regulations) requires the decision maker to consider whether the proposal could adversely affect the integrity of the SAC. I have therefore assessed this as a main issue in this appeal.

5. The Council's reasons for refusal referred to a lack of planning obligation in respect of certain contributions. An executed section 106 agreement was provided after the Hearing. I have dealt with this later in my decision.

Main Issues

6. The main issues are:

- whether the proposed development would be in a suitable location, having regard to development plan policies;
- the effect of the proposed development on the character and appearance of the area; and
- the effect of the development on the integrity of the SAC.

Reasons

Suitable location

7. The appeal site comprises a grassed area to the south of High Street, located outside of, but adjacent to, the southern development limit of Oakhill. The proposal seeks outline planning permission for the erection of up to 23 dwellings at the site.
8. Core Policy 1 of the Mendip Local Plan Part 1: Strategy and Policies 2006-2029, adopted December 2014 (the Local Plan) sets out the spatial strategy to direct development to locations where there is greatest accessibility to services and facilities. In doing so, it establishes a hierarchy of principal settlements, followed by primary villages, secondary villages, and other villages and hamlets. Oakhill is defined as a secondary village, making it appropriate for development aimed at meeting more localised housing, business, and service needs.
9. With regard to housing, Core Policy 2 sets out how provision for a minimum of 9,635 additional dwellings will be made relative to the spatial strategy, apportioning 20% of the overall minimum requirement to primary and secondary villages. Table 9 of the supporting text to Core Policy 2 allocates a housing requirement of 40 homes between 2006-2029 in Oakhill. Evidence submitted at the Hearing suggests that 48 dwellings have been completed or granted consent in Oakhill between 2006 and 2012, such that its localised housing requirement has already been met.
10. In any event, it was agreed at the Hearing that the appeal site, falling outside of the development limits of Oakhill, is within the countryside. Core Policy 1 states that development is strictly controlled in the open countryside but may be exceptionally permitted in circumstances outlined in Core Policy 4. It is agreed between the main parties that the proposal would not meet any of the circumstances outlined in Core Policy 4.
11. Nevertheless, the proposal would be located adjacent to the settlement boundary of Oakhill. Ashwick Parish Council's submissions outline that Oakhill has limited services, alleging that it would be unable to serve this proposed increased level of housing in this location. This was further discussed at the Hearing, with interested parties highlighting the limited public transport services and healthcare and education facilities, creating an overall likely reliance on private car by potential future occupiers of the proposal.

12. However, as a secondary village, Oakhill is deemed to have a level of facilities appropriate to enable some housing development. While its localised housing requirement may have already been met, the growth in housing stock at Oakhill due to the proposal, including the resulting percentage of homes relative to the local requirement in Table 9 of Core Policy 2, would be comparable to other secondary villages in the area. In addition, as the proposal would be located adjacent to established residential development, there would be little difference experienced by potential future occupiers in terms of accessing the services and facilities of Oakhill when compared with residents within the settlement boundaries of the village.
13. Consequently, while the proposal would fail to comply with Core Policies 1, 2, and 4 of the Local Plan due to its location, for the reasons outlined I attach limited weight to the harm arising due to this conflict.

Character and appearance

14. The appeal site is in a primarily residential area, with a range of dwelling styles and forms. In particular, it is surrounded on three sides by housing along Chapelfield, Sunnymead, and the southern side of High Street. Here dwellings generally sit in a tight-knit fashion, set back from the street by modest front gardens within plots of different shapes and sizes, providing an overall varied density of development.
15. Within this context the density of the proposal would not appear out of place. Dwellings would be sited close to the access road behind modest front gardens, with side parking providing visual relief among the built form so that the scheme would not appear unduly cramped, particularly given the varied surrounding pattern and placement of development. While interested parties raised at the Hearing that the perception of density is greater at the appeal site, it remains that at a density of 27.7 dwellings per hectare, the proposal would comply with the supporting text to Core Policy 2, which suggests a density of 25-30 dwellings per hectare in rural areas.
16. Concerns have been raised that the proposed hardstanding at Plots 14-17 would be a prominent feature of the scheme. However, this would be split into two sections, visually separated by the corner dwellings and front gardens at Plots 15-16 so as not to read as a singular overwhelming and unbroken feature, either from the dwellings themselves or when travelling through the site. It would be no more prominent than the corner garaging and parking area of the adjacent Sunnymead development which, although not a defining feature of the area, would provide some context for this adjacent proposed scheme. As such, in both the immediate and wider setting, the hardstanding of the proposal would not appear unduly dominant or out of place.
17. Similarly, the Council noted that spaces between Plots 5-7, 8-9, and 10-11 would be entirely hardstanding with no room for landscaping, and that trees adjacent to the highway may not be deliverable or would result in a road that would not be capable of adoption. However, while a landscaping strategy has been submitted as part of this application, landscaping is a reserved matter. Based on the evidence before me, the discussions at the Hearing, and my observations on site, there is nothing substantive to suggest that a suitable landscaping scheme could not come forward at reserved matters stage.

18. Landscaping along the southern boundary was also discussed at the Hearing, with the submitted plans showing a 1.5m high rubble stone wall with cock & hen coping in this location separating the proposal from the open field beyond and replacing the tree line currently present. The Council stated that this would provide a hard edge to the site, with no opportunity for communal landscaping, or certainty of retention of landscaping features in adjoining rear gardens to integrate this wall into the landscape.
19. However, while indicative, plans show that the wall would be constructed from materials to match others in the vicinity, and I observed a similar wall on the northern boundary. As such, it would retain a rural appearance that would not appear incongruous in the context of the site or the open fields beyond. The lack of a landscape buffer would not result in the proposed wall appearing abrupt and unsympathetic. Rather, the wall would integrate in the countryside setting to the south and mark the transition to the built development of the proposal to the north. I observed longer range views of the site during my visit, including from the nearby public right of way and equestrian yard. Even when experienced from these locations, the proposed boundary wall would not appear visually jarring within the immediate surrounds.
20. It is noted that the dwellings at Plots 5-11 would be affordable housing, and it was discussed at the Hearing that these may be distinguishable from other dwellings in the development, being grouped together with notably smaller front gardens and no garages. However, the Council has overall found the siting and layout of the affordable housing to be acceptable. Based on my observations, I have no reason to disagree. Furthermore, given the mixed form of housing in the immediate area, and the opportunity for a coherent design approach for the scheme to come forward at reserved matters stage, I am satisfied that the layout and siting of the affordable housing would not result in harm to the character and appearance of the area.
21. Reference has been made to a previous appeal relating to a residential scheme at the site. While the Council considers that the proposal would not adequately address previous concerns about character and appearance, I have limited information on that scheme before me and, for the reasons outlined above, I find that the proposal would not result in harm from a design perspective.
22. For the reasons given, the proposed development would not be harmful to the character and appearance of the area. As such, it would comply with Development Policies 4 and 7 of the Local Plan, insofar as these policies seek to ensure that development is of a scale, mass, form and layout that is appropriate to the local context and that the siting and design of development is compatible with its surroundings.

Mells Valley SAC

23. The appeal site falls within Band C of the Consultation Zone for the SAC. It is approximately 2.4km from the SAC, which is designated due to the presence of a large breeding population of Greater Horseshoe Bats, and it is accepted that the landscapes around the SAC are important in providing foraging habitat to maintain the favourable conservation status of these bats. The Mendip District Council Mells Valley SAC Guidance on Development was provided at the Hearing and sets out specifications for bat surveys within the SAC Consultation Zones. For Band C, guidance is clear that developers should take advice from consultant ecologists.

24. Natural England have been consulted on the proposal. It has outlined that due to the surrounding residential development the appeal site is unlikely to be a foraging route for Greater Horseshoe Bats, and that it does not provide any suitable roosting structures. In addition, the main parties agree that the proposal would not result in likely significant effects in this regard, and the Inspector deciding a previous appeal at the site concurred with this.
25. Nevertheless, I am the competent authority for the purposes of the proposal before me. The appellant's submitted Ecological Report acknowledges that the hedgerows and line of trees at the site offer potential opportunities for foraging bats, and outlines that automated static bat surveys undertaken registered Greater Horseshoe Bats, suggesting that they do pass over the site. Anecdotal evidence of Greater Horseshoe Bats being present at the site was also provided at the Hearing by interested parties.
26. While landscaping is a reserved matter, submitted evidence suggests that 10 trees would be removed from the site, in addition to a hedge on the southern boundary. Together with the introduction of additional residential development in the locality, and its associated activity and external lighting, there is therefore potential for the proposal, both on its own and in combination with other projects, to have a likely significant effect on the qualifying features of the SAC through the disturbance of habitat. This would compromise the conservation objectives of the SAC such that an adverse effect on its integrity cannot be ruled out.
27. However, mitigation has been suggested. This includes the installation of bat boxes, a sensitive lighting scheme, the submission of a Construction Environmental Management Plan and Landscape and Ecological Management Plan, and adherence to the Baseline Ecological Report, all of which could be secured by way of condition. Natural England has confirmed that these conditions would be sufficient to avoid an adverse impact on the integrity of the European site and its relevant features. I am content that such conditions can be imposed and would meet the conditions tests set out in the Framework. This has enabled me to complete my appropriate assessment and to conclude that the proposal would not adversely affect the integrity of the SAC. The scheme would comply with the Regulations.
28. In this regard, the proposal would comply with the Framework, which seeks to ensure that development protects and enhances biodiversity.

Planning Obligation

29. An executed section 106 agreement was provided after the Hearing. This provides a mechanism to secure the provision of education contributions, affordable housing, and public open space, including its management and maintenance. Although the agreement has been signed by the relevant parties, it is necessary that I consider this obligation against the tests in the Community Infrastructure Levy Regulations 2010 and the Framework.
30. Development Policy 11 of the Local Plan states that proposals will make provision for 30% of the total number of new homes to be provided in affordable tenure. This aligns with the aims of the Framework to ensure affordable housing delivery. The section 106 agreement provides for this level of onsite affordable housing to be provided as part of the proposal.

31. Development Policy 16 of the Local Plan states that all new residential development will make a contribution towards the provision of new open space, including management arrangements. This aligns with the aims of the Framework to ensure provision of open space. A total of 0.29ha of open space would be provided on site, which the main parties agree would be sufficient. However, as no LAP, LEAP, or MUGA is to be provided in line with Fields in Trust Guidance for Outdoor Sport and Play, an offsite contribution has been agreed in this respect. The section 106 agreement outlines the on-site public open space, the calculation of the off-site contribution and when this is to be paid, and management and maintenance arrangements.
32. Development Policy 19 of the Local Plan states the effects of new development will be mitigated or compensated by use of legal agreement where the development will result in specific impacts on the area or local infrastructure. This aligns with the Framework, which seeks for plans to set out the contributions expected from development. In this respect it is agreed between the main parties that the proposal would generate additional pupils for surrounding schools. The section 106 agreement outlines the calculation of the education contribution and when this is to be paid.
33. Overall, I am satisfied that the contributions would be necessary to make the development acceptable in planning terms and would be directly related, and fairly and reasonably related in scale and kind, to the development proposed. The agreement, therefore, meets the relevant tests and I have attached weight to its provisions in reaching my decision.

Other Matters

34. The main parties agree that the Council cannot demonstrate a five year housing land supply, with the most up to date figure provided being a 3.24 year supply cited in November 2023. The proposal would provide up to 23 dwellings, including 30% affordable housing, immediately adjacent to an established residential area. While the Council may have previously delivered adequate levels of housing and interested parties cite a lack of need or demand for housing in the locality, it remains that on the evidence there is a significant housing supply shortfall that must be addressed. Although a nutrient neutrality scheme has the potential to unlock residential development, there is nothing substantive before me to provide certainty that this would address the current housing shortfall. As such, I attach significant weight to the additional housing and affordable housing of the proposal.
35. The development would have some socio-economic benefits due to construction investment and contribution to the local economy and local services by future occupiers. However, these would be modest in scale. There is no certainty local contractors would be used, and interested parties highlight that the local services that could benefit are limited. As such, this benefit attracts limited weight. The proposal would provide a footpath link to the adjacent Sunnymead development. While concerns have been raised that this would front onto a car parking area, it remains that it would serve to increase the connectivity of the immediate area, albeit to a modest degree. As such, I attach limited weight to this benefit.
36. The proposal would create onsite public open space and make a contribution to the improvement of offsite open space. While this is necessary to make the development acceptable in planning terms, it also provides a limited benefit to existing village residents. The proposal would also provide a biodiversity net gain of

36.37% in habitat units and 20.91% in hedgerow units. This too counts in favour of the proposal.

37. I note concerns raised by interested parties, both in writing and during the Hearing, particularly with regard to the potential for the proposal to impact on highway safety. Parties have cited existing issues with parking pressure and congestion in Oakhill, in addition to concerns regarding a potential increased collision risk at junctions entering and exiting the village. The proposal would provide adequate parking at the site, such that it would be unlikely to increase parking pressure in the village. While it would increase traffic movements along High Street and at busy junctions, I observed there to be adequate visibility and light traffic during my rush hour site visit. In addition, no concerns in these regards have been raised by the Highways Authority. While queries were raised regarding the ability of private cars and refuse vehicles to access certain parts of the site, this has been addressed by a condition requiring a swept path analysis. As such, I do not find that the proposal would result in adverse effects on transport, parking, or highway safety.
38. Concerns have also been raised by interested parties regarding the potential for the proposal to increase flood risk, with evidence suggesting that High Street can be impacted during heavy rain. The Lead Local Flood Authority considered the previous development at the site to be acceptable, and the Council found no adverse impacts of this nature with regard to the current scheme. In addition, a condition has been attached requiring the submission of a surface water drainage scheme. As such, I am satisfied the proposal would not result in adverse impacts regarding flooding.
39. There is nothing substantive, either submitted in writing, discussed at the Hearing, or observed on my visit, to suggest that the proposal would result in adverse impacts on the living conditions of occupiers of surrounding dwellings, air quality, noise, or land stability. Interested parties have also referred to other decisions on applications and appeals relating to the delivery of housing outside of settlement boundaries, in situations where a five year housing land supply could not be evidenced. However, each application is decided on its own site-specific merits, and reference to development elsewhere carries little weight.

Planning Balance

40. The proposal, due to its location in the open countryside, would fail to comply with Core Policies 1, 2, and 4 of the Local Plan. I have attached limited weight to the harm arising in this regard, even so, the proposal would conflict with the development plan as a whole and because of the housing land supply position, paragraph 11(d) of the Framework is relevant.
41. I have also found that there is potential for the proposal to have a likely significant effect on the qualifying features of the SAC, but as it has been shown that such effects can be mitigated, the effects on the SAC do not provide a clear reason for refusal and paragraph 11(d)(ii) is engaged.
42. The government's objective through the Framework is to significantly boost the supply of homes, and it attaches importance to a sufficient amount of land coming forward where it is needed for this purpose. The proposal would provide up to 23 additional homes in an area which has a housing shortfall and would include affordable housing. As such, I attach significant weight to the additional housing and affordable housing of the proposal. I have also identified limited benefits with regard to socio-economic impact, connectivity,

and provision of public open space, in addition to an evidenced biodiversity net gain, which also count in favour of the scheme.

43. Therefore, taking account of all matters outlined, I find that the adverse impacts of the proposal would be significantly and demonstrably outweighed by the benefits when assessed against the policies in the Framework taken as a whole, such that the presumption in favour of sustainable development would apply.

Conditions

44. Conditions were agreed between the main parties, and discussed at the Hearing. I have amended the wording of certain conditions to ensure that they are appropriate, without altering their underlying aims.
45. In addition to requiring a reserved matters application and the standard timeframe for commencement, I have imposed a condition to require adherence with the approved plans in the interests of certainty and proper planning.
46. The approval of a Construction Management Plan prior to the commencement of construction is necessary in the interests of residential amenity and highway safety, while the approval of a Construction Environmental Management Plan (CEMP) and Landscape and Ecological Management Plan is required to safeguard ecology and biodiversity. I have taken the recommendations of Natural England on board regarding the content of the CEMP. The parties had the opportunity to comment on Natural England's consultation response. A condition relating to obtaining a licence with regard to Great Crested Newts is also necessary in the interests of ecology, particularly with regard to a protected species.
47. I have attached a suite of conditions relating to the assessment of contaminated land risks prior to commencement of development, and appropriate follow up action, to ensure no risk to human health or other receptors. A further pre-commencement condition requiring the approval of external materials is also necessary to safeguard the character and appearance of the area.
48. I have imposed a range of conditions to be discharged prior to the occupation of any dwelling approved. These include a condition requiring the approval of details relating to estates road, footways, and access, among other things, in the interests of highway safety. I have removed the suggested reference to parking and turning areas and to boundary treatments in this condition, given that these details are shown on the approved plans and form part of separate pre-occupation conditions necessary in the interests of: access and highway safety; and living conditions, respectively. Also necessary in the interests of certainty and to ensure adequate access is a condition that each dwelling shall be served by a pathway from the highway to the dwelling.
49. Conditions requiring the approval and implementation of a Travel Plan and bicycle storage are necessary to promote sustainable transport methods, while a condition relating to the implementation of the refuse strategy is required in the interests of amenity and character and appearance. I have also imposed a pre-occupation condition relating to the approval and implementation of a rainwater harvesting scheme in the interests of water efficiency.

50. Conditions are also necessary to require certain details to come forward as part of the reserved matters application. This includes conditions relating to an arboricultural method statement; and a surface water drainage strategy, in the interests of safeguarding trees; and avoiding flood risks, respectively. Such conditions requiring adherence to the Ecological Report and the Biodiversity Net Gain calculation are also necessary in the interests of ecology and biodiversity. This includes the recommendation of the Ecological Report for bat boxes to be installed at the site. While such a condition was also suggested regarding electric vehicle charging points, this is now required by Building Regulations, such that a condition in this regard is unnecessary.
51. A condition relating to an external lighting strategy is necessary in the interests of ecology, particularly regarding bats. I have taken the recommendations of Natural England on board with regard to the specifications required as part of the lighting strategy. I have removed the tailpiece clause that would have permitted other external lighting on site with the written approval of the local planning authority, as any changes to the external lighting should follow the proper planning process.
52. I have also attached a condition to always keep garages for the purposes of parking and storage, in the interests of ensuring appropriate off-street parking provision. I have further attached a condition restricting permitted development rights for the installation of windows on the side elevations of certain properties in the interests of residential amenity. On the information before me, I find this to be justified and proportionate in this instance.

Conclusion

53. The proposal would not accord with the development plan but material considerations, especially the presumption in the Framework, outweigh this conflict. Therefore, for the reasons given, the appeal is allowed.

C Rafferty

INSPECTOR

SCHEDULE 1 – CONDITIONS

1. The development hereby permitted shall take place not later than two years from the date of approval of the last reserved matters to be approved.
2. Details of the appearance and landscaping ("the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
3. Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
4. The development hereby permitted shall be carried out in accordance with the following plans: Location Plan dated 20 November 2023; Proposed Site Plan Drawing No. 2100 Revision 03 dated 10 August 2023; Proposed Site Plan – Parking Strategy Drawing No. 2101 Revision 02 dated 10 August 2023; Proposed Site Plan – Refuse Strategy Drawing No. 2102 Revision 02 dated 10 August 2023; Proposed Site Plan – Affordable Houses Drawing No. 2103 Revision 02 dated 10 August 2023; Tree Constraints Plan Drawing No. 11900TCP01 (Overview) dated October 2023; Tree Protection Plan Drawing No. 11900TPP01 dated October 2023; and Landscape Strategy Drawing No. 1531-CAM-XX-XX-DR-L-0001 Revision P03 dated September 2023.
5. No development including ground works, vegetation clearance or demolition shall commence until a Construction Management Plan has been submitted to and approved in writing by the local planning authority. The Statement shall provide for:
 - a) construction vehicular routes to and from site
 - b) expected number of construction vehicles per day
 - c) the parking of vehicles of site operatives and visitors including a plan showing the onsite parking arrangements
 - d) loading and unloading of plant and materials
 - e) storage of plant and materials used in constructing the development
 - f) wheel washing facilities
 - g) measures to control the emission of dust and dirt during construction
 - h) delivery and construction working hours
 - i) specific measures to be adopted to mitigate construction impacts in pursuance of the Environmental Code of Construction Practice
 - j) a scheme to encourage the use of public transport amongst contractors
 - k) on-site turning facility for delivery vehicles and egress onto highway only with guidance of a trained banksman
 - l) measures to avoid traffic congestion impacting upon the strategic road network.

The development shall thereafter be carried out in accordance with the approved Construction Management Plan.

6. No development including demolition, ground works, vegetation clearance shall commence until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP 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, including nesting birds habitat clearance measures, badgers buffer zones, reptile/amphibian sensitive habitat clearance, and safeguarding measures for bats. This shall include measures to control lighting during construction, details on how hedgerows and trees will be protected, and how dust will be controlled during construction.
 - 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 including regular compliance site meetings with the Council.
 - h) Use of protective fences, exclusion barriers and warning signs.
 - i) Ongoing monitoring, including compliance checks by a competent person(s) during construction and immediately post-completion of construction works.
- The construction of the development shall thereafter be carried out strictly in accordance with the approved CEMP (biodiversity).
7. No development shall commence until a Landscape and Ecological Management Plan (LEMP) has been submitted to and approved in writing by the local planning authority. 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 organisation 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 LEMP 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 LEMP shall thereafter be implemented in accordance with the approved details.

8. No development shall commence until the following has been submitted to and approved in writing by the Local Planning:
 - a) a copy of the licence issued by Natural England pursuant to Regulation 55 of The Conservation of Habitats and Species Regulations 2017 authorising the development to go ahead; or
 - b) a statement in writing from the licensed ecologist to the effect that he/she does not consider that the specified development will require a licence.
9. No development shall commence until an assessment of the risks posed by any contamination (including gases and water quality) has been submitted to and approved in writing by the local planning authority. This assessment must be undertaken by a suitably qualified contaminated land practitioner, in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency - Land Contamination Risk Management (LCRM) (or equivalent British Standard and Model Procedures if replaced), and shall assess any contamination on the site, whether or not it originates on the site.

The assessment shall include: a survey of the extent, scale and nature of contamination; the potential risks to: human health; property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes; adjoining land; ground waters and surface waters; ecological systems; and archaeological sites and ancient monuments.
10. No development shall take place where (following the risk assessment) land affected by contamination is found which poses risks identified as unacceptable in the risk assessment, until a detailed remediation scheme has been submitted to and approved in writing by the local planning authority. The scheme shall include an appraisal of remediation options, identification of the preferred option(s), the proposed remediation objectives and remediation criteria, and a description and programme of the works to be undertaken including the verification plan. The remediation scheme shall be sufficiently detailed and thorough to ensure that upon completion the site will not qualify as contaminated land under Part IIA of the Environmental Protection Act 1990 in relation to its intended use. The approved remediation scheme shall be carried out and upon completion a verification report by a suitably qualified contaminated land practitioner shall be submitted to and approved in writing by the local planning authority before the development or relevant phase of development is occupied.
11. Any contamination that is found during the course of construction of the development hereby permitted that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended until a risk assessment has been carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found, the development or relevant phase of development shall not resume or continue until remediation and verification schemes have been

carried out in accordance with details that shall first have been submitted to and approved in writing by the local planning authority.

12. No development above ground level shall take place until a schedule of materials and finishes, and samples of all external facing materials, including roofs, have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved sample panels.
13. The development hereby permitted shall not be occupied until the means of access, parking, and turning areas have been constructed in accordance with the approved plans. The vehicular access, parking and turning areas shall be retained in perpetuity thereafter.
14. No dwelling hereby permitted shall be occupied until it is served by a properly bound and compacted footpath and carriageway to at least base course level between the dwelling and the existing adopted highway.
15. No dwelling hereby permitted shall be occupied until its associated screen walls/fences or other means of enclosure have been erected in accordance with the approved plans. The screen walls/fence or other means of enclosure shall thereafter retained.
16. No dwelling hereby permitted shall be occupied until the proposed estates road; footways; sewers; retaining walls; service route; vehicle overhang margins; embankments; visibility splays; carriageway gradients; drive gradients; verges; street lighting; street furniture; pedestrian and cycle routes and associated vehicular accesses and crossings; tactile paving; proposed levels; swept path analysis for a vehicle of 10.4m length; and service corridors have been constructed, laid out and maintained in accordance with details that shall have first been submitted to and approved in writing by the local planning authority prior to the construction of any aspect of the new section of the highway.
17. No dwelling hereby permitted shall be occupied until bicycle storage in accordance with the Somerset County Council standards has been provided in accordance with details which shall have first been submitted to and approved in writing by the local planning authority. The approved bicycle storage shall be retained permanently thereafter.
18. No dwelling hereby permitted shall be occupied until a Measures-Only Travel Plan in line with the Somerset Council Travel Plan Guidance (2011) is implemented in accordance with details which shall have first been submitted to and approved in writing by the local planning authority.
19. No dwelling hereby permitted shall be occupied until its respective provision for the storage of recycling and waste containers has been made in accordance with the approved Refuse Strategy reference RS.01 Rev I received 15 Feb 2022.
20. No dwelling hereby permitted shall be occupied until a scheme for rainwater harvesting or other methods of capturing rainwater for use by residents (e.g. water butts) has been submitted to and approved in writing by the local planning authority. The development shall thereafter be constructed in accordance with the approved details and thereafter retained.

21. The reserved matters application shall include a Detailed Arboricultural Method Statement following the recommendations contained within BS5837:2012. The Detailed Arboricultural Method Statement shall contain full details of the following:
- a) Timing and phasing of arboricultural works in relation to the approved development;
 - b) Construction exclusion zones;
 - c) Protective barrier fencing;
 - d) Ground protection;
 - e) Details of any works within the RPA (Root Protection Area) and the proposed arboricultural supervision;
 - f) Service positions; and,
 - g) details of any special engineering requirements, including 'no dig construction.
22. The reserved matters application shall demonstrate that the development shall be carried out in strict accordance with the recommendations set out in the Updated Baseline Ecological Report (Addendum). The Updated Baseline Ecological Report (Addendum) shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.
23. The reserved matters application shall demonstrate that the proposal will comply with the recommendations set out in the Biodiversity Net Gain Assessment (dated October 2023), and achieve at least 36.37% biodiversity net gain in habitat units and 20.91% in hedgerow units.
24. The reserved matters application shall include a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, for the approval of the Local Planning Authority. The surface water drainage scheme shall include:
- a) a programme of phasing, implementation and maintenance for the lifetime of the development;
 - b) details of any private drainage management arrangements and riparian ownership; and
 - c) any management arrangements for features which are not adopted under S104 of The Water Industry Act (1991).
25. No external lighting shall be erected or provided on the site until a "lighting design for bats" has been submitted to and approved in writing by the local planning authority. The design shall show how and where external lighting will be installed (including through the provision of technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory or having access to their resting places. The design shall include modelling of light spill to ensure it is limited to 0.5 lux on any adjacent habitat, and all external lighting should have an Upwards Light Ratio of 0%, a colour temperature of 2700 Kelvin or lower, and a peak wavelength higher than 550nm. All external lighting shall thereafter be installed in

accordance with the approved details and shall thereafter be retained and maintained in accordance with the approved details. No new external lighting other than that approved shall be installed within the boundary of the application site.

26. The garages hereby permitted shall be kept available at all times for the parking of motor vehicles by the occupants of the dwelling and their visitors and for ancillary domestic storage and for no other purpose.
27. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no windows, roof lights, or openings other than those expressly authorised by this permission shall be constructed on the side elevation or roofslope of dwellings at Plot Nos. 1, 11 and 23.

END OF SCHEDULE

Richborough

APPEARANCES

FOR THE APPELLANT

K Stokes	Stokes Morgan Planning Ltd
A Madden	Legal Representative

FOR THE LOCAL PLANNING AUTHORITY

J Milling	Somerset Council
A Clarke	Somerset Council
N White	Somerset Council

INTERESTED PARTIES

R Slater	Local Resident
D Barlow	Local Resident
D Marshall	Local Resident
D Thorley	Local Resident, Ashwick Parish Council

DOCUMENTS AND PLANS SUBMITTED AT THE HEARING

- Appeal Decision APP/E3335/W/23/3324852;
- The Mendip District Council Mells Valley SAC Guidance on Development;
- Somerset Council Ecology comments on application 2020/2603/FUL;
- Photograph of the northern boundary of the appeal site;
- Executed copy of the Statement of Common Ground;
- Mendip Local Plan Part II: Sites and Policies (December 2021);
- Mendip District Net Additional Dwellings completed 2006-2024;
- Mendip District Settlements Growth to Housing Stock and Local Plan Minimum Requirements.