The Planning Inspectorate

Appeal Decision

Site visit made on 18 July 2023

by Martin Allen BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 February 2024

Appeal Ref: APP/Q3305/W/22/3312171
Church Farm, Frome Road, Rode, BA11 6PW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Autograph Homes against the decision of Mendip District Council.
- The application Ref 2022/0932/VRC, dated 4 May 2022, was refused by notice dated 12 October 2022.
- The application sought planning permission for the Demolition of existing buildings at Church Farm, Rode (except buildings in the conservation area), and redevelopment of the site for 44 dwellings and associated public open space and improved access. Development of land off Parkgate Lane for a replacement farmyard incorporating 8700m2 of new and replacement employment floor space for the use of agriculture, haulage, building supplies, agricultural storage, food production and ancillary uses together with widening of Parkgate Lane and provision of a new access; and change of use of part of an agricultural field to form an extension to the existing playing field. Provision of two new footpath/cycleways from Church Farm to Church Lane and playing field extension to Church Lane (Access only to be considered, all other matters reserved for subsequent consideration) (amended plans received 05/12/12) without complying with conditions attached to planning permission Ref 2011/3124, dated 10 February 2014.
- The conditions to which variations are sought are Nos 9, 13, 15, 17, 20, 24, 25, 29, 34, 35, 38 and 40, which are set out at the end of this decision in the attached Appendix.

Decision

1. The appeal is allowed and planning permission is granted for Demolition of existing buildings at Church Farm, Rode (except buildings in the conservation area), and redevelopment of the site for 44 dwellings and associated public open space and improved access. Development of land off Parkgate Lane for a replacement farmyard incorporating 8700m2 of new and replacement employment floor space for the use of agriculture, haulage, building supplies, agricultural storage, food production and ancillary uses together with widening of Parkgate Lane and provision of a new access; and change of use of part of an agricultural field to form an extension to the existing playing field. Provision of two new footpath/cycleways from Church Farm to Church Lane and playing field extension to Church Lane (Access only to be considered, all other matters reserved for subsequent consideration) at Church Farm, Frome Road, Rode, BA11 6PW in accordance with the terms of the application, Ref 2022/0932/VRC, dated 4 May 2022, subject to the conditions as set out in the attached Schedule.

Applications for costs

2. Applications for costs were made by Mendip District Council against Autograph Homes, as well as by Autograph Homes against Mendip District Council. These applications are the subject of separate decisions.

Background and Main Issue

3. The application sought to amend several conditions attached to a previous planning permission, in the interest of clarity. The Council raise no issue with this and accept the proposed amendments. However, in addition to amending the wording of these conditions, the appellant also sought to revisit the requirements of a previously completed S106 planning obligation, principally in respect of the affordable housing provision within the development. It is with this element of the proposal against which the Council raise objections.

4. The completed planning obligation secured a 30% provision of affordable units. The appellant now seeks to reduce this provision to 25%. On this basis, the main issue for me to consider is whether the scheme would make appropriate provision for affordable housing, having regard to development viability.

Reasons

Policy

5. The Council's approach to seeking affordable housing provision within new development is set out in Policy DP11 of the Mendip District Local Plan, Part 1: Strategy and Policies (adopted December 2014). This sets out that on-site provision will be sought on residential developments of seven or more dwellings, or sites larger than 0.25 hectares, and that proposals are required to make provision for 30% of the total number of new homes to be provided in affordable tenures. The policy also states that where proposals cannot viably deliver the required provision, that there will be negotiation on the matters of tenure, subsidy design and the amount of provision.

6. The reasoned justification to this policy further provides, in terms of development viability, that:

   "The Council is mindful that in setting a district-wide target, the characteristics of individual sites and local market conditions can impact on site viability. Where specific viability issues are identified, and evidenced by an applicant in relation to individual development proposals, this will be taken into account when considering that proposal. Where the applicant cannot fulfil the policy requirements set out in this policy (in respect of on-site provision or contributions), the applicant would need to demonstrate that viability is a consideration through the preparation and submission of a financial appraisal."

   as well as,

   "The Council is mindful that the housing market is subject to rises and falls in profitability and that this can impinge upon the delivery of housing by house builders or result in under delivery of affordable homes where market conditions have improved since the planning obligation was agreed."

   and,

"The Council's primary aim is to increase the level of affordable housing available to meet the needs of the local resident population."

Assessment

7. At the time of the original planning application, a S106 planning obligation was signed and completed that secured the provision of 30% affordable housing within the development, this equated to the delivery of thirteen units within the appeal site. Based on the original financial viability assessment, this would enable the developer to realise a 18.73% profit on the gross development value (GDV), well within the range of 15-20%[1] which the Planning Practice Guidance (PPG) advises may be considered a suitable return for developers (for the purpose of plan making). It is also worth noting that the PPG additionally states, "A lower figure may be more appropriate in consideration of delivery of affordable housing in circumstances where this guarantees an end sale at a known value and reduces risk."

8. The development has now been built out, with all open market dwellings having been disposed of, as well as all but two of the affordable housing units also being disposed of. Thus, there remain only two dwellings that the developer retains, two bungalows that are also (under the requirements of the existing obligation) required to be affordable housing units. It is the fate of these two units with which this appeal is concerned.

9. The appellant asserts that during the development there have been a number of factors that have influenced the financial viability of the development, principally contended to be the impacts of the Covid-19 pandemic and Brexit.

10. Development commenced in January 2019, when the appellant highlights that market conditions were normal, and it was expected that the intended return of circa 18% was achievable. Work on site then ceased in March 2020, due to the national lockdown, with work then re-starting and personnel being brought back onto site in the summer and autumn of 2020. From this time on, the appellant contends that full production rates were not achieved, due to the loss of trades and construction requirements having to respond to bank funding cashflow requirements. This reduction in construction rate consequently resulted in a reduced sales rate of the dwellings.

11. Moreover, the appellant states that following the end of the UK's transition period following leaving the European Union, there was consequential disruption to the import, availability, and pricing of materials, further impacting financial viability.

12. In support of the above, the appellant has submitted additional financial viability information to demonstrate that the profit on GDV has reduced significantly as the development has progressed, and now sits at 3.6%. In order to re-coup some of the previously expected profits, the appellant seeks to reduce the affordable housing provision from 30% to 25%, omitting the two remaining dwellings from the on-site provision and then selling them on the open market. This would thereby enable the developer to increase their return on the development.

[1] Paragraph: 018 Reference ID: 10-018-20190509

13. The principal consideration in these terms is whether the development is viable with the 30% affordable housing provision or whether this should be reduced to 25%.

14. When considering this, I am mindful of the guidance of the PPG, which states that: *"As the potential risk to developers is already accounted for in the assumptions for developer return in viability assessment, realisation of risk does not in itself necessitate further viability assessment or trigger a review mechanism. Review mechanisms are not a tool to protect a return to the developer,"* [2]

15. I accept that since the grant of the planning permission and the agreement to the requirements of the planning obligation, that there have been economic changes which have affected the financial return that the developer will realise from the development. However, there is always a level of risk associated with undertaking development of this scale and type. This is inherently considered in viability assessments and accounted for in the expected developers return. While in this case, the difference between expected and actual return is not insignificant, to my mind, this is not an unusual risk and is part of the risk-versus-reward arrangement of undertaking such schemes. There will be occasions where profitability will reduce during the course of the development, such as in this case, but conversely there may well also be occasions where profitability will increase.

16. I am also particularly mindful in this case, that the vast majority of the development has already been delivered and sold, with only two dwellings yet to be disposed of. Much of the rationale for the level of profit that is initially expected is to ensure that there is sufficient incentive for schemes to be delivered. This has already taken place in this case and consequently, there is no risk that the scheme will not come forward. This also applies to the remaining two units that are yet to be occupied, about which there is no indication that they will not be completed and delivered.

17. Bearing in mind therefore that the Council's priority is to increase the provision of affordable housing to meet the needs of the local population, together with the advice of the PPG that the purpose of reviewing viability is not to protect the profits of a developer, I find that to reduce the affordable housing provision at this late stage would not be acceptable. To do so would conflict with Policy DP11 of the Mendip District Local Plan, Part 1: Strategy and Policies, as well as the advice of the PPG.

Other Matters

18. I am aware that there has been a previous application to modify the planning obligation. This however was a separate matter from that which is before me as part of this appeal.

19. There is also the contention that some obligations have not been met by the developer in regard to the existing planning obligation. This is not a matter however that influences my decision, as the enforcement of any existing agreement is a matter for the Council.

20. My attention has been drawn to several previous appeal decisions, most notably one where an Inspector considered that the mere fact that work

[2] Paragraph: 009 Reference ID: 10-009-20190509

continued on-site was not a reason to ignore viability evidence. However, that decision makes clear that work was still ongoing on site, albeit that it is not said how far the development had advanced. A further case where work had commenced is also cited. In this case, all structures are built, and it is just the handover of the units that remains. As such, I do not find the situation in this appeal to be sufficiently comparable to those set out in the previous decisions to which I have been referred. Thus, none of the decisions change my findings above.

21. The appellant has drawn my attention to a letter from the Secretary of State in which it is stated that "*councils should be open and pragmatic in agreeing changes to developments where conditions mean that the original plan may no longer be viable, rather than losing the development wholesale or seeing development mothballed*." While this is noted, in this case, there is no prospect of the development not being delivered or being mothballed, as it has already been built out. As such, this matter has little bearing on my decision.

The Legal Agreement

22. The original planning permission was subject to an agreement made under S106 of the Act. This secured the provision of the affordable housing, as well as matters in respect of public open space, playing fields, public access, employment land, phasing, surface water drainage, education, travel plans, and highways improvements. This original agreement has also been subsequently amended through deeds of variation.

23. The appeal is accompanied by a further Supplemental Agreement made under Section 106, which comes into effect upon the grant of any permission pursuant to this appeal. It also secures that the original deed (i.e., the original legal agreement) will apply to any permission that is granted subject to this appeal. As such, there is a safeguard in place to ensure that any permission I may grant is effectively tied to the existing agreement.

24. There has been reference to flexibility in respect of the education contribution that is secured by the planning obligation. This matter is not part of the reason for refusal of the application. The Supplemental Planning Agreement provides that should the appeal be allowed, that the obligations requiring the last 50% of the education contribution to be paid shall no longer be of any effect. However, there is little evidence before me to convince me that the education contribution should not be delivered as set out in the original planning agreement. As such, I find no reason to agree to this amendment of the obligation.

25. The Supplemental Agreement includes a "blue pencil clause" which states that should I find that any modification in the agreement should not be permitted, the planning obligation as set out in the original agreement shall continue to have effect. Considering my findings above, I find that the modification in respect of the provision of affordable housing, as set out in the Schedule of the Supplemental Agreement should not be permitted. Similarly, the modification in respect of education contributions also should not be permitted. Therefore, pursuant to paragraph 6.2 of the Supplemental Agreement, the modifications in respect of these matters shall have no effect.

Conditions

26. The application made under Section 73 was in respect of a previously granted outline planning permission. In considering this appeal, I have the option to grant either a new outline planning permission, or a new full planning permission. However, in this case, the description of development as set out in the original planning permission specifically refers to access only being for consideration, with all other matters reserved for subsequent consideration. If I were to grant a new full planning permission, referring to all detailed matters, this would conflict with the operative part of the permission, i.e., the description of development. As such, I am only able to grant a new outline permission. I shall therefore only amend the specific conditions referred to in the application.

27. I note that within the Council's Case Officer Report, there is reference to other conditions that contain triggers that have passed. However, no details have been given in respect of these. The guidance in the Planning Practice Guidance makes clear that decision notices for the grant of planning permission under section 73 should also restate the conditions imposed on earlier permissions that continue to have effect. As I have no information before me about the status of the other conditions imposed on the original planning permission, I shall impose all those that I consider remain relevant. In the event that some have in fact been discharged, that is a matter which can be addressed by the parties.

Conclusion

28. The part of the proposal to reduce the provision of affordable housing would conflict with the development plan as a whole, and there are no material considerations sufficient to indicate that a decision on this matter should be taken other than in accordance with it. However, for the reasons set out above, I am able to grant a new planning permission, varying the conditions as sought by the application but without agreeing to the proposed amendments to the legal agreement.

29. Therefore, for these reasons, and having regard to all matters raised, I conclude that the appeal should be allowed, and that planning permission should be granted, without the requested amendments to the planning obligations.

Martin Allen

INSPECTOR

Schedule of Conditions

1. The dwellings hereby approved shall be constructed only on the Housing Land, that being the area shaded orange on Plan 5 appended to this decision and hereinafter referred to as the Housing Land.

2. The agricultural and employment floorspace hereby approved shall be constructed only on the Employment Land, that being the area shaded brown on Plan 2 appended to this decision and hereinafter referred to as the Employment Land.

3. The development on the Employment Land hereby approved shall be begun either before the expiration of five years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved relating to the Employment Land, whichever is the latest.

4. The development on the Housing Land hereby approved shall be begun either before the expiration of five years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved relating to the Housing Land, whichever is the latest.

5. Approval of the details of the (a) layout (b) scale (c) appearance and (d) landscaping of the Employment Land (hereinafter called the Employment Land reserved matters') shall be obtained from the Local Planning Authority in writing before the Employment Land is commenced.

   Approval of the details of the (a) layout (b) scale (c) appearance and (d) landscaping of the Housing Land (hereinafter called the Housing Land reserved matters') shall be obtained in writing from the Local Planning Authority before the Housing Land is commenced.

6. Plans and particulars of the Employment Land reserved matters and the Housing Land reserved matters referred to in condition 05 above shall include when relevant details of:
   a. the provision to be made for the garaging and parking of vehicles within the site;
   b. the space to be provided for the loading, unloading and turning of vehicles within the site including LGVs;
   c. the surface treatment of the footways and cycle paths;
   d. all external materials to be used;
   e. existing and proposed ground and floor levels;
   f. details of all walls, fences, trees, hedgerows and other planting which are to be retained;
   g. details of all new walls, fences and other boundary treatments;
   h. a planting specification to include numbers, positions, species and size of all new trees and the location of grassed areas and areas for shrub planting;
   i. details of the hard surface treatment of the open parts of the site;
   j. a programme of implementation of landscaping works for each part of the sites.

7. The development hereby permitted shall be carried out in accordance with drawing numbers Unnumbered Site Boundary drawing, 102-PL-Fig 07, 102-PL-Fig 11, 102a-PL-Fig 07A, 102a-PL-Fig 07C, 102a-PL-Fig 11A, 102a-PL-Fig 078, 102a-PL-Fig 118.

8. a..The total gross floorspace of all buildings constructed on the Employment Land shall not exceed 8,700 square metres, of which no more than 893 square metres shall be used for purposes falling within Use Class B8 of the Use Classes Order 1987 (as amended)

   b..Of the remainder no more than 1500 square metres shall be used for the purposes of storage of agricultural products and such area shall not be used for any other purpose falling within Class B8 of the Use Classes Order other than such agricultural storage.

   c..All floorspace not used for uses within Class B8 under paragraphs or a. or b of this condition shall be used only for the purposes of agriculture and for no other use.

   d. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification) the Employment Land shall be used only as set out in paragraphs a. , b. and c. of this condition shall not be used for any purpose other than those specified in the said paragraphs

   e. All non agricultural uses on the Employment Land shall be integral to the agricultural use of the Employment Land.

9. Estate roads relating to the Housing Land shall be completed in accordance with details as approved under application 2018/2218/APP on 18.07.2019.

10. The proposed roads, footpaths and turning spaces relating to the Housing Land shall be completed such that each dwelling before it is occupied is served by a properly consolidated and surfaced footpath and carriageway.

11. No works shall commence on the Employment Land (other than archaeological investigation) until all works to provide access from the site to the A361 Frome Road, including any road widening, have first been completed in accordance with a design and specification that has first been submitted to and approved by the Local Planning Authority.

12. The Employment Land shall not be first occupied/brought into use until the access from the site onto the public highway has been completed in the approved location in accordance with a detailed design and specification that has first been submitted to and approved by the Local Planning Authority.

13. The works to the access from the Housing Land onto the A361 shall be maintained in accordance with the details approved under application 2018/2218/APP on 18.07.2019.

14. No vehicular accesses to serve either the Housing Land or the Employment Land shall be formed other than those shown on the approved plans Fig 07 and Fig 11.

15. The development shall be retained and maintained in accordance with the details of pedestrian access, approved under application 2018/2218/APP on 18.07.2019, received 07.09.2018.

16. No works shall commence on the Employment Land (other than archaeological investigation, site clearance or remediation) until a surface water drainage scheme for that land has first been submitted to and approved by the LPA. The scheme shall include details of gullies, connections, soakaways and means of attenuation on site. The scheme shall be based on sustainable drainage principles and an assessment of the hydrological and hydro-geological context of the development and shall include details of any phasing of the surface water drainage infrastructure and how the scheme shall be maintained and managed after completion. No part of the Employment Land shall be first occupied or brought into use until the surface water drainage scheme for the Employment Land has been fully implemented in accordance with the approved details and is operational.

17. The surface water drainage scheme for the Housing Land shall fully accord with details approved under application 2018/2218/APP on 18.07.2019.

18. All hard and soft landscape works relating to the Housing Land shall be carried out in accordance with the approved details. The works approved for the Housing Land shall be carried out prior to the occupation of any dwelling or in accordance with an alternative programme of implementation that has first been agreed in writing with the Local Planning Authority. Any trees or plants indicated on the approved scheme which, within a period of five years from the date of planting, die, are removed or become seriously damaged or diseased shall be replaced during the next planting season with other trees or plants of a species and size to be first approved in writing by the Local Planning Authority.

19. All hard and soft landscape works relating to the Employment Land shall be carried out in accordance with the approved details. The works approved for the Employment Land shall be carried out prior to the occupation of any part of the Employment Land or in accordance with an alternative programme of implementation that has first been agreed in writing with the Local Planning Authority. Any trees or plants indicated on the approved scheme which, within a period of five years from the date of planting, die, are removed or become seriously damaged or diseased shall be replaced during the next planting season with other trees or plants of a species and size to be first approved in writing by the Local Planning Authority.

20. The development shall be maintained in full accordance with the tree protection details, approved under application 2015/1776/APP on 23.11.2015.

21. No site works or clearance shall be undertaken on the Employment Land until protective fences which conform with British Standard 5837:2012 have been erected around any existing trees and other existing or proposed

landscape areas in positions to be indicated on plans to be first submitted to and approved in writing by the Local Planning Authority. Until the development has been completed these fences shall not be removed and the protected areas are to be kept clear of any building, plant, material, debris and trenching, with the existing ground levels maintained, and there shall be no entry to those areas except for approved arboricultural or landscape works.

22. Unless otherwise agreed by the Local Planning Authority, development other than that required to be carried out as part of an approved scheme of remediation must not commence on the Housing Land until parts A to D of this condition have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until part D of this condition has been complied with in relation to that contamination.

A. Site characterisation
An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme shall be submitted to and approved in writing by the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:
(i) a survey of the extent, scale and nature of contamination;
(ii) an assessment of the potential risks to:
(iii) Human health,
(iv) Property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes, adjoining land, groundwater's and surface waters, ecological systems, archaeological sites and ancient monuments;
(v) an appraisal of remedial options, and proposal of the preferred option(s).
This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

B. Submission of remediation scheme
A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, submitted to and approved in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

C. Implementation of approved remediation scheme
The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

D. Reporting of unexpected contamination
In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 1, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 2, which is subject to the approval in writing of the Local Planning Authority.

23. If at any time during the development unexpected contamination is found on the Employment Land then no further development shall be carried out until the developer has submitted to, and had written approval from the Local Planning Authority for, a remediation strategy detailing how this will be dealt with. The remediation works shall thereafter be fully implemented in accordance with an agreed timetable.

24. The development shall be maintained in full accordance with the details for noise mitigation measures approved under application 2020/2476/APP on 07.01.2021.

25. The development shall be maintained in full accordance with the details for clearance, remediation and construction approved under application 2018/2218/APP on 18.07.2019.

26. The Employment Land hereby approved shall not be first occupied or brought into use until details of the location, type and maximum height of materials and equipment to be stored externally within the Employment Land has first been submitted to and approved by the LPA. All external storage shall thereafter be in accordance with the approved details. For the avoidance of doubt, this requirement does not apply to external storage of materials in use for construction of the development hereby approved on the Employment Land.

27. No works (other than that required by this condition) shall be undertaken on the Employment Land unless a programme of archaeological work, including excavations, has been implemented in accordance with a written scheme of investigation which has been first submitted to and approved in writing by the Local Planning Authority.

28. No part of the Employment Land shall be occupied nor the use commenced until provision has been made within the Employment Land for the parking, turning, loading and unloading of vehicles and the parking of cycles and motorcycles to serve the Employment Land, in accordance with details that have first been submitted to and approved by the Local Planning Authority as part of the reserved matters submission for the Employment Land. Such areas shall not thereafter be used for any purpose other than the parking, turning, loading and unloading of vehicles associated with the Employment Land.

29. The development shall be maintained in full accordance with the details for the parking and turning of cars, cycles and motorcycles to serve the Housing Land approved under application 2019/2560/APP on 18.07.2019.

30. The Employment Land hereby approved shall not be occupied or brought into use unless details of the maximum number of large goods vehicles (LGV's) proposed to be parked on the site have first been submitted to and approved by the Local Planning Authority, which may be as part of a reserved matters approval for the layout of the Employment Land. Thereafter there shall not at any time be more than the approved maximum number of large good vehicles parked on the site. Such vehicles shall only be parked within the part of the site designated for such purposes in accordance with the approved layout.

31. No external storage shall take place on the Employment Land other than in areas that have first been submitted to and approved by the Local Planning Authority as part of a reserved matters approval for the layout of the Employment Land. For the avoidance of doubt "external storage" shall not include storage of materials during construction of the buildings hereby approved on the Employment Land.

32. No external lighting shall be erected, placed or operated on any part of the application site unless in accordance with details that shall have first been submitted to and approved in writing by the Local Planning Authority. Under no circumstances shall external illumination be operated on the site other than in accordance with the approved scheme.

33. No part of the Employment Land hereby approved shall be occupied unless refuse and recycling storage provision for the Employment Land has first been provided and made available for use in accordance with details that have first been submitted to and approved by the Local Planning Authority. The refuse storage provision shall be permanently retained thereafter in accordance with the approved details.

34. The development shall be maintained in full accordance with the details for the refuse and recycling storage provision for the Housing Land approved under application 2018/2218/APP on 18.07.2019.

35. The development shall be maintained in full accordance with the details of ecological mitigation measures for the Housing Land including an implementation programme approved under application 2015/1776/APP on 23.11.2015.

36. No works (including demolition) shall commence on the Employment Land until details of ecological mitigation measures for the Employment Land, including an implementation programme, have been submitted to, and approved in writing by, the LPA. The development shall be carried out in accordance with the approved details.

37. No works shall be undertaken on the Employment Land unless samples of the materials to be used in the construction of the external surfaces, including roofs of all buildings and structures within the Employment Land, have been submitted to and approved in writing by the Local Planning Authority. The works for the Employment Land shall thereafter be carried out only in accordance with the details so approved.

38. The external facing materials shall be maintained in full accordance with the Materials Schedule approved under application 2019/1572/APP on 30.10.2019.

39. No works shall be undertaken on the Employment Land (other than for site clearance, archaeological investigation, remediation of contamination and/or construction of accesses) unless a sample panel of any stonework and/or render to be used on the external surface of any building or structure in the Employment Land has first been within the Employment Land and approved in writing by the Local Planning Authority. The sample panel shall be kept on site for reference until the Employment Land is completed. The works shall thereafter be carried out only in accordance with the details so approved.

40. The external walling materials shall be maintained in full accordance with the Materials Schedule approved under application 2019/1572/APP on 30.10.2019.

End of Schedule

Appendix - Conditions to which variations are sought

9. Any approved estate roads relating to the Housing Land shall be completed in accordance with details and a programme of works that have been first submitted to and approved by the Local Planning Authority
Reason: To ensure adequate access is provided to the dwellings hereby approved having regard to Saved Policy Q3 of the Mendip District Local Plan 2002

13. No dwelling hereby approved shall be occupied until the works to the access from the Housing Land onto the A361 have first been completed in the approved location in accordance with a detailed design and specification that has first been submitted to and approved by the Local Planning Authority. The design and specification shall include all associated works to the A361.
Reason: In the interests of highway safety having regard to Saved Policy Q3 of the Mendip District Local Plan 2002

15. No pedestrian accesses shall be formed to serve either the Housing Land or the Employment Land unless in accordance with details that have first been submitted to and approved in writing by the Local Planning Authority (which may be as part of the reserved matters submission(s) for layout of the Housing Land and Employment Land).
Reason: In the interests of highway safety having regard to Saved Policy Q3 of the Mendip District Local Plan 2002

17. No works shall commence on the Housing Land (other than demolition, site clearance or remediation) until a surface water drainage scheme for that land has first been submitted to and approved by the LPA. The scheme shall include details of gullies, connections, soakaways and means of attenuation on site. The scheme shall be based on sustainable drainage principles and an assessment of the hydrological and hydro-geological context of the development and shall include details of any phasing of the surface water drainage infrastructure and how the scheme shall be maintained and managed after completion. No dwelling shall be occupied until the surface water drainage scheme for the Housing Land has been fully implemented in accordance with the approved details and is operational.
Reason: To prevent flooding having regard to Saved Policy EN17 of the Mendip District Local Plan 2002 and the National Planning Policy Framework

20. No site works or clearance shall be undertaken on the Housing Land until protective fences which conform with British Standard 5837:2012 have been erected around any existing trees and other existing or proposed landscape areas in positions to be indicated on plans to be first submitted to and approved in writing by the Local Planning Authority. Until the development has been completed these fences shall not be removed and the protected areas are to be kept clear of any building, plant, material, debris and trenching, with the existing ground levels maintained, and there shall be no entry to those areas except for approved arboricultural or landscape works.
Rea*son: To safeguard the areas to be landscaped and the existing trees and planting to be retained within the site having regard to the provisions of Saved Policies Q1, Q4 and EN5 of the Mendip District Local Plan 2002.*

24. No dwelling shall be occupied unless all noise mitigation measures have first been installed/implemented for that dwelling in accordance with details that have first been submitted to and approved by the LPA. Such measures shall be designed to mitigate the effects of noise from the A361 and shall include glazing specification, additional acoustic ventilation details, acoustic barriers, roof insulation. The mitigation measures shall be designed to ensure that habitable rooms which front the A361 meet the "good" standard defined in BS8233 Sound insulation and noise reduction for buildings - Code of practice.
Reason: To safeguard the amenities of the occupiers of those dwellings from road noise having regard to Saved Policies Q1 and Q12 of the Mendip District Local Plan 2002.

25. No works shall commence on the Housing Land until a Construction Environmental Management Plan (CEMP) has first been submitted to and approved by the Local Planning Authority. The CEMP shall include measures to mitigate impacts on neighbouring residential properties during clearance of the site and construction of new development, including hours of working, noise and vehicle management measures, and measures to control dust, odour or other pollution. All works for clearance, remediation and construction on that part of the site shall thereafter be carried out in accordance with the CEMP.
Reason: To safeguard the amenities of the occupiers of neighbouring properties from road noise having regard to Saved Policies Q1 and Q12 of the Mendip District Local Plan 2002.

29. The dwellings hereby approved shall not be occupied until space has been laid out within the Housing Land for the parking and turning of cars, cycles and motorcycles to serve the Housing Land in accordance with details that have first been submitted to and approved by the Local Planning Authority as part of the reserved matters submission for the Housing Land. Such areas shall not thereafter be used for any purpose other than the parking and turning of cars, cycles and motorcycles associated with the Housing Land.
Reason: To make provision for parking and turning having regard to Saved Policy Q3 of the Mendip District Local Plan 2002 and the Somerset Countywide Parking Strategy

34. No part of the Housing Land hereby approved shall be occupied unless refuse and recycling storage provision for the Housing Land has first been provided and made available for use in accordance with details that have first been submitted to and approved by the Local Planning Authority. The refuse storage provision shall be permanently retained thereafter in accordance with the approved details.
Reason: To ensure that adequate refuse and recycling storage provision is provided in the interests of visual amenity having regard to Saved Policy Q1 of the Mendip District Local Plan 2002.

35. No works (including demolition) shall commence on the Housing Land until details of ecological mitigation measures for the Housing Land, including an implementation programme, have been submitted to, and approved in writing by, the LPA. The development shall be carried out in accordance with the approved details.
Reason: To safeguard protected species and other wildlife and to prevent a net loss of biodiversity on and around the site having regard to Saved Policies EN3

and EN4 of the Mendip District Local Plan and the provisions of the National Planning Policy Framework

38. No works shall be undertaken on the Housing Land unless samples of the materials to be used in the construction of the external surfaces, including roof, of all buildings and structures within the Housing Land, have been submitted to and approved in writing by the Local Planning Authority. The works relating to the Housing Land shall thereafter be carried out only in accordance with the details so approved.
Reason: In the interests of visual amenity having regard to Saved Policy Q1 of the Mendip District Local Plan 2002.

40. No works shall be undertaken on the Housing Land (other than for site clearance, archaeological investigation, remediation of contamination and/or construction of accesses) unless a sample panel of any stonework and/or render to be used on the external surface of any building in the Housing Land has first been erected on that part of the site and approved in writing by the Local Planning Authority. The sample panel shall be kept on site for reference until the Housing Land is completed. The works shall thereafter be carried out only in accordance with the details so approved.
Reason: In the interests of visual amenity having regard to Saved Policy Q1 of the Mendip District Local Plan 2002.