The Council has also been alerted to a recent Inspectorate decision in Somerset (attached), which also considered that the imposition of a nutrient neutrality condition was acceptable and passed the various tests, as below. See in particular paragraph 29 of the attached decision, which refers directly to a S106 being secured by condition, and confirms that nutrient neutrality is an “exceptional circumstance”.

approved details throughout the construction period of the development.

6) No development shall commence until a Nutrient Neutrality Scheme has been submitted and approved in writing by the local planning authority. The Nutrient Neutrality Scheme shall contain measures to achieve the following in accordance with the submitted Shadow Habitats Regulation Assessment dated 1 August 2023 (SHRA):

a) that no dwelling hereby permitted shall be occupied unless and until a minimum of 5.5 hectares of land has been planted as woodland in accordance with section 4.3.1 ‘Avoidance and Mitigation Measures” of the SHRA; and

b) that the development will achieve a water consumption rate of no more than 110 litres per person per day; and

c) that the 5.5 hectares of woodland shall be managed for a period of no less than 80 years in accordance with the submitted Woodland Management Plan dated August 2023 (or such amended woodland management plan as may be approved by the Council).

The development shall thereafter be implemented in accordance with the approved Nutrient Neutrality Scheme.

Planning Inspectorate

Appeal Decision

Site visit made on 11 July 2025

by Lewis Condé BSc, MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21st October 2025

Appeal Ref: APP/E3335/W/24/3357931
Land OS 8325 Off Queen Street, Keinton Mandeville, Somerset, TA11 6FF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
- The appeal is made by Galion Homes Ltd against the decision of Somerset Council.
- The application Ref is 20/03613/FUL.
- The development proposed is the erection of 30 No. dwellings (Use Class C3) with associated access, parking and landscaping.

Decision

1. The appeal is allowed and planning permission is granted for the erection of 30 No. dwellings (Use Class C3) with associated access, parking and landscaping at Land OS 8325 Off Queen Street, Somerset, TA11 6FF in accordance with the terms of the application, Ref 20/03613/FUL, subject to the conditions in the attached schedule.

Preliminary Matters

2. The description of development in the banner heading above has been taken from the Council's decision notice, as opposed to the original application form, as this provides a more accurate reflection of the proposal.

3. During the appeal process a Section 106 legal agreement (the 'S106') was agreed and executed between the main parties. This would secure various relevant infrastructure associated with the proposed development. The S106 largely overcomes the Council's second reason for refusal.

4. However, the completed S106, does not include an obligation to mitigate the effects of phosphates generated by the proposed development on the Somerset Moors and Levels Ramsar site. Instead, the appellant had sought to address this through a separate Section 106 legal agreement (the phosphates S106). At the time of writing a signed version of the phosphates S106 agreement has not been provided.

Main Issues

5. In light of the above, the main issues are the effect of the proposal on:

    - the character and appearance of the area;
    - the setting of the Grade II listed building known as 'The Homestead'; and
    - the integrity of the Somerset Levels and Moors Special Protection Area (SPA) and Ramsar Site.

Reasons

Character and Appearance

6. The appeal site comprises two adjoining field parcels that are largely enclosed by housing. The surrounding area is characterised predominantly by residential dwellings that are located near the edge of the village, with open countryside beyond. Keinton Mandeville's built form is laid out in a broadly linear arrangement, particularly along Queen Street which neighbours the site. However, the linear layout of development does deviate at several locations within the village.

7. The proposal would result in the loss of agricultural land, that despite its previous use for industrial quarrying, has an open and rural character. Although within private ownership, the site's current condition also adds to the verdant rural character of the village and from the representations received is clearly valued by locals. The proposed introduction of dwellings, roads and associated domestic paraphernalia would lead to an inevitable change to the character and appearance of the site through the loss of the green and open area, causing harm through erosion of its rural character.

8. A public right of way runs nearby to the appeal site, whereby the loss of the open land would be highly appreciable. The fundamental change to the character of the site would also be appreciable from neighbouring dwellings.

9. The harm though would be significantly tempered by the scheme being viewed against a backdrop of existing built form within the village. Indeed, as the site is already highly enclosed by development the proposal would effectively amount to infill development within the village and would not appear as an encroachment into the wider countryside.

10. Moreover, in the wider context, the appeal site is not highly prominent due to a combination of the surrounding topography, mature vegetation, and existing dwellings that largely enclose the appeal site. As such, public views of the proposal would mainly be partial in nature and again seen in combination with existing built form.

11. Given the prevalence of modern housing in the vicinity of the site, including the recent neighbouring development constructed by the appellant, the layout and appearance of the proposed dwellings would not appear uncharacteristic in this location. Notably, the external finishes of the proposed dwellings include lias stone as well as other materials commonly found in the village, including on the adjacent site. Additionally, the scale and density of the proposed dwellings would respond well to the surrounding built form.

12. The proposed development would also incorporate a significant extent of soft landscaping, further details and maintenance of which could be secured via planning conditions. In time, such landscaping would be capable of further helping the development to assimilate and become a well-integrated part of the village fabric, such that the harm to the character and appearance of the area in the long term is likely to be limited.

13. Bringing the above together, I find the proposal would cause harm to the character and appearance of the area, due to the site's context and the design of the proposal, the level of harm would though be limited. Nonetheless, it remains that

the appeal scheme would not comply with Policies EQ2 and EQ5 of the South Somerset Local Plan 2006 – 2028 (the Local Plan). Together, amongst other matters, these policies seek to promote high-quality design that preserves or enhances an area's character and appearance, including through protection of the landscape and green infrastructure.

Setting of Listed Building

14. The Homestead (Grade II listed) is a late 18th Century farmhouse, constructed of local lias stone under a Welsh slate roof. The Homestead backs onto the appeal site, largely being separated by a historic stone boundary wall. The significance of the asset mainly lies in its status as a relatively well-preserved example of a vernacular building of its period, but also its historic connection to the area. The building is no longer used in association with agriculture.

15. Historic mapping does not definitively demonstrate that the whole of the appeal site formed part of the landholding associated with the Homestead. Still, from the evidence before me the fields that adjoin the farmhouse are likely to have historical links to the property, despite their subsequent use for quarrying and/or as an orchard. The setting of the farmhouse has also evolved overtime, with the surrounding area including a range of dwellings from various periods, including modern housing. The fields of the appeal site, however, remain open and rural in appearance. Indeed, whilst not highly apparent, I find the fields represent a remaining link with the original function of the building. In this regard, I find the open and rural appearance of the appeal site contributes in part to the significance of the heritage asset, albeit rather modestly.

    As the open, rural character of the site would be lost the proposed development would cause harm to the significance of The Homestead. Accordingly, the proposal would conflict with Local Plan Policies EQ2 and EQ3, which together seek to respect local context and avoid harm to the significance of heritage assets.

    Heritage Balance

16. In the context of the Framework the harm that would arise to the designated heritage asset would be less than substantial and at the lower end of this threshold. Nonetheless, in accordance with the Framework, any harm to a designated heritage asset carries great weight.

17. The proposal would provide 30 dwellings, of which 11 would be affordable units, in an area with an identified deficit of housing supply and significant need for affordable homes. The public benefits arising from the delivery of these homes, alone, would be sufficient to outweigh the harm identified to the heritage asset and therefore provides clear and convincing justification for the proposed development. I return to this matter as part of my overall planning balance exercise.

Nutrient Neutrality (and Appropriate Assessment)

18. The appeal site lies within the fluvial catchment of the River Cary, which is a key tributary to the River Parrett, that in turn is within the operational catchment of the Somerset Levels and Moors Special Protection Area (SPA) and Ramsar Site.

19. As the competent authority, I must have regard to the Conservation of Habitats and Species Regulations 2017 (as amended) (the Habitat Regulations). This requires that, where a project is likely to have a significant effect on a European site (either

alone or in combination with other plans or projects), the competent authority must make an appropriate assessment of the project's implications in view of the relevant site's conservation objectives.

20. The SPA is designated for its international waterbird communities. Meanwhile, the Ramsar site is designated for its internationally important wetland features including the floristic and invertebrate diversity and species of its ditches.

21. The conservation objectives for the Somerset Levels and Moors SPA and Ramsar sites are to ensure the integrity of the sites are maintained or restored as appropriate. This includes through maintaining or restoring the extent, distribution, structure and function of the habitats and qualifying features, as well as supporting processes on which the habitats or qualifying features rely on.

22. Recreational disturbance and air quality impacts are unlikely to arise due to the distance of the appeal site from the SPA and Ramsar sites. In relation to the SPA, Natural England has also confirmed it is satisfied that nutrients arising from the proposed development is unlikely, either alone or in combination with other projects, to have a likely significant effect on the internationally important overwintering bird species for which the site is designated.

23. The interest features of the Ramsar, however, are considered as being in an unfavourable condition because of excess phosphates in the water ecosystem affecting water quality and likely leading to eutrophication. Excessive phosphates are largely derived from the discharge from wastewater treatment works (WWTW).

24. The proposed development would generate nutrient enriched surface water run-off and wastewater effluent that would be discharged, via the Somerton WWTW, into the River Cary. In turn this would result in increased phosphate loading within the hydrologic catchment of the Ramsar site, leading to a likely significant effect upon the wetland features of the Ramsar site either on its own or in combination with other similar developments, without avoidance measures.

25. Consideration may be given to any conditions or other restrictions which could secure mitigation and so provide certainty that the proposal would not adversely affect the integrity of the site.

26. Calculations provided by the appellant indicate that the proposed development will increase phosphate loading in the area by 18.199kg of phosphates per year (kgP/yr) under current permitted discharge levels including a 20% budget. This would reduce to 3.07kgP/yr once the asset management program of works (AMP7) improvements to the Somerton WWTW take effect.

27. As the proposed development would not be occupied until the AMP7 upgrade works to the WWTW have taken effect the appellant has prepared a mitigation strategy based on the need to mitigate the reduced 3.07kgP/yr phosphate load. The mitigation strategy would involve changing the use of 5.5ha of productive agricultural land to permanent woodland at Manor Farm, West Lyford (the mitigation land). The mitigation land is within the same river catchment area as the appeal site. As part of the mitigation a woodland management plan for the on-going management of the mitigation land would also be secured.

28. The mitigation strategy has been endorsed by Natural England and was also found to be suitable by the Council provided it could be secured. Subject to the mitigation

strategy being implemented there would be no significant impact on the conservation objectives of the Somerset Levels and Moors Ramsar site, when assessed individually or collectively with other sites.

29. The phosphates S106, to secure the relevant mitigation, has yet to be executed. This is due to a financial institution that is party to the agreement having yet to complete its due diligence process. Nevertheless, I am satisfied in this instance that the phosphate mitigation measures could be appropriately secured via the use of a negatively worded condition requiring the provision of a planning obligation. Without such a condition, the proposed development, and the benefits it would bring to an area with significant shortfall in housing supply, would be at serious risk. Furthermore, it is clear from the advanced preparation of the phosphates S106 that main parties have gone beyond heads of terms in preparing the relevant planning obligation. Consequently, I consider there are exceptional circumstances, to allow for the use of such a condition in line with the advice of the Planning Practice Guidance[1].

30. The fact that the mitigation land is not within the red line boundary for the appeal scheme does not deter me from finding that the use of a Grampian condition in this instance would be appropriate. I am content from the evidence before me that the appellant has a suitable interest in the off-site mitigation land, such that there is no robust reason for me to consider that the proposed mitigation strategy could not be secured or delivered. Additionally, the Council would maintain control over discharging the relevant condition, including whether it would be necessary for any phosphate related S106 agreement to include clauses for the payment of the Council's monitoring fees.

31. I have sought the advice of Natural England in relation to the proposed mitigation measures, and it is also the view of that body that this could be suitably secured via condition. As a result, there is no reason to withhold planning permission in relation to nutrient neutrality subject to the imposition of an appropriate condition.

32. Bringing the above together, I find that the appeal scheme would not harm the integrity of the Somerset Levels and Moors Special Protection Area (SPA) and Ramsar Sites. Accordingly, the proposal complies with the expectations of the Habitat Regulations and Local Plan Policy EQ4 that seeks to prevent adverse impacts on the integrity of internationally protected sites.

Other Matters

33. From my observations, there are a range of facilities and services within a reasonable walking or cycling distance from the site. This includes a primary school, village hall, convenience store, public house and bus stops. Appropriate pedestrian connections would also be provided linking the appeal site with existing public rights of way or footways, affording potential future residents safe routes to walk to a range of these facilities.

34. Despite concerns being raised regarding the frequency of bus services within the village, I find the appeal site's location to offer realistic opportunities for residents to access a range of facilities and services by sustainable means of travel. The appellant has also committed to the use of a residential travel plan to seek to encourage the use of sustainable modes of travel from the proposed site.

[1] Planning Practice Guidance - Paragraph: 010 Reference ID: 21a-010-20190723

35. I have not been presented with any policy requirements that the appellant must demonstrate a need for the appeal proposal. Nonetheless, it is apparent that the Council has a significant housing land supply shortage, including affordable housing. Having regard to the availability of facilities and services and the Council's settlement strategy outlined under Local Plan Policies SS1 and SS2, I consider that the appeal site is a suitable location for the proposed residential development. The fact that a significant number of dwellings may have been delivered in the village within recent years does not lead me to an alternative view on this matter.

36. The appeal scheme was accompanied by an ecological report that provided details on matters such as designated sites, habitats, as well as protected, priority and notable species. The report, which was based on both desktop and a walkover field survey, found that there are no overriding ecological constraints that would prevent the proposed redevelopment of the appeal site. This view has been shared by both the local planning authority and the county ecologist. I have no robust reasons to refute the findings of the ecological report. Subject to the imposition of suitably worded conditions to secure compliance with the recommendations of the ecological report, I am therefore satisfied that the proposed development would not result in harm to ecology/biodiversity.

37. Indeed, whilst the proposal is not statutorily required to deliver bio-diversity net gain, it has been demonstrated through the appellant's evidence that the appeal scheme would be capable of delivering notable enhancements to biodiversity. Such benefits could be secured via a combination of conditions and the S106.

38. Concerns raised by interested parties in relation to the availability and capacity of existing local services and infrastructure to accommodate the proposal (along with other nearby emerging developments) have not been supported by detailed evidence. The proposed development though would be subject to Section 106 contributions towards the delivery of associated, relevant infrastructure. It would also attract Community Infrastructure Levy (CIL) payments, which the Council has confirmed would go towards improving infrastructure projects to support increased development.

39. It is not the role of the appeal scheme to address existing perceived inadequacies in the surrounding area, for example, in relation to drainage/sewerage or the highway network. Still, in respect of foul sewerage Wessex Water has confirmed that the predicted foul flow from the proposed development would be minimal compared to existing sewer flows and that it has sufficient capacity to accommodate the proposed development.

40. The appeal site is located within Flood Zone 1 (low risk of flooding). Extensive drainage information has been provided including details of drainage surveys, drainage calculations, a drainage layout plan and engineering details. The proposed drainage strategy has been found acceptable to the Lead Local Flood Authority, while I have no strong evidence to find otherwise. Consequently, subject to a pre-commencement condition requiring approval of the precise surface water drainage scheme, I am satisfied that the proposal would be provided with suitable drainage and would not adversely affect flood risk in the area.

41. In terms of highway safety, a range of technical highways evidence has been provided including vehicle tracking information, a review of personal injury and accident collision records near the site, consideration of likely vehicular trip

generation and analysis of existing highway capacity. Additionally, the proposal was subject to an Independent Road Safety Audit (IRSA) that took account of various factors including the highways evidence commissioned by the Parish Council. The IRSA found that subject to appropriate planning conditions, the appeal scheme would not prejudice highway safety. Although interested parties may disagree with the findings, there are no robust reasons why I should reach an alternative finding to the IRSA. Accordingly, subject to the imposition of relevant planning conditions I am satisfied that the development would not cause harm to highway safety.

42. All proposed dwellings have been sufficiently distanced and suitably orientated from neighbouring properties to avoid unacceptable impacts on the living conditions of neighbouring occupiers, for example in respect of privacy, loss of light or outlook. Notably, where back-to-back relationships are proposed with neighbouring residential properties, suitable intervening garden space and boundary treatments are to be provided.

43. The proposed vehicular access to the site would pass between two existing residential properties. The extent of space between the properties, together with the introduction of landscaping and acoustic fencing (to be secured via conditions), would though ensure that the proposed vehicular access route would not materially harm the living conditions of the occupiers of the neighbouring properties.

44. Development/construction activity will inevitably cause some degree of disturbance to neighbouring residents, as is true for almost all forms of new development. However, subject to conditions, including compliance with demolition and construction method statements, as well as the use of acoustic fencing, such disturbance should be capable of being suitably managed and minimised. Compliance with such conditions, should also not lead to any adverse effects in respect of noise or air pollution.

45. A phase 2a preliminary ground investigation of the site has been undertaken. Despite the appeal site being used in connection with quarrying in the past, the ground investigation evidence does not indicate that this should prohibit residential development of the site. No valid reasons why I should refute the findings of the ground investigations study have been presented to me. Additionally, the use of a pre-commencement condition in relation to undertaking an assessment of contamination (with appropriate mechanisms in place should contamination at the site be found), would suitably ensure that there is no significant risk to public health.

46. In determining this appeal, I have had due regard to the Public Sector Equality Duty in Section 149 of the Equality Act 2010. This requires me to consider the need to eliminate unlawful discrimination, to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. Protected characteristics include a person's age or disability. The site is not currently accessible to members of the public and provided the above referred to conditions in relation to management of demolition/construction processes are complied with, I am satisfied that the development would not disproportionately affect persons with protected characteristics.

47. There is no substantive evidence before me that the proposal would exacerbate the climate crisis. Nor are there any robust reasons to warrant retention of the existing

bungalow proposed to be demolished. In respect of emissions from the proposed dwellings, the properties will each be required to comply with building regulations.

48. The provision of suitable access for maintenance of neighbouring boundaries/properties are separate legal matters between the relevant landowners. Meanwhile, concerns in relation to the appellant's compliance with planning regulations and a S106 legal agreement on another development site are not suitable reasons to withhold planning permission for the current proposal, which has been considered on its own planning merits.

Planning Balance

49. The proposal would make a valuable contribution towards housing supply, and affordable housing provision, in an area where there is a notable shortfall. These benefits attract substantial weight due to the scale of delivery and the level of shortfall in the authority area. Additionally, the proposal would provide socio-economic benefits associated with the construction and subsequent occupation of the proposed development, including the potential for future residents to support local facilities and services. These benefits attract moderate weight. The appeal scheme would also provide benefits in the form of bio-diversity net gain, to which I attach modest weight.

50. The appeal scheme would result in harm to the character and appearance of the area and thus conflict with Local Plan Policies EQ2 and EQ5. The level of harm would though be limited in nature. As previously detailed, the proposal would also cause harm to the setting and significance of The Homestead and therefore also conflicts with Local Plan Policy EQ3. The policies that the scheme conflict with are broadly consistent with the Framework.

51. The proposal would therefore be contrary to the development plan as a whole.

52. The Council is unable to demonstrate a five-year housing land supply, with the housing supply position in South Somerset said to be in the region of 2.11 years. Accordingly, Paragraph 11d) of the Framework is engaged. As previously indicated, the public benefits of the proposal outweigh the less than substantial harm to the designated heritage asset. Compliance with the phosphates mitigation strategy should also ensure there is no harm to the integrity of protected habitat sites. The application of policies in the Framework that protect assets of particular importance therefore do not provide a clear reason for refusing planning permission in this case. The presumption in favour of sustainable development is therefore not disengaged.

53. The proposal would align with the Framework in terms of its aim to significantly boost the supply of housing. Due to the scale and nature of the proposal and the authority's housing shortfall, the benefits to housing supply attract considerable weight. As indicated, the site is also in a largely sustainable location whereby there are realistic opportunities for future residents to access a range of facilities and services by sustainable means of travel, again aligning with the Frameworks aims. Socio-economic benefits associated with the appeal scheme also accord with relevant elements of the Framework, to which I give moderate weight. Meanwhile, through providing bio-diversity net gains, the proposal accords with the Framework's objectives of protecting and enhancing biodiversity.

54. Through causing harm to the character and appearance of the area the proposal conflicts with the Framework, where it seeks to ensure developments are sympathetic to local character. I afford this conflict limited weight for reasons highlighted above. As noted, the less than substantial harm to the designated heritage asset is also justified in the context of paragraph 215 of the Framework.

55. In light of the above, I find that the adverse impacts of the proposal would not significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. The presumption in favour of sustainable development therefore applies and the Framework indicates that this is a case where the development should be permitted.

Conditions and Section 106 Agreement

56. Main parties have provided a list of agreed conditions in the event of the appeal being allowed and planning permission being granted. Apart from the standard conditions setting out the timescale for commencement of development and details of approved drawings, the following conditions are also reasonable and necessary:

Pre-commencement Conditions:

- Identification and remediation of any on site contamination (in order to eliminate the possibility of harmful ground conditions and in the interests of human health)
- A demolition management plan (to ensure adequate control over demolition processes)
- A construction method statement (to ensure adequate control over construction activities)
- A construction and environmental management plan (to avoid unacceptable harm to the environment during construction)
- A scheme to demonstrate that the development would achieve nutrient neutrality (to avoid harm to the Somerset Levels and Moors Ramsar Site)
- A landscape and ecological management plan (to ensure landscape and ecological matters are not subject to unacceptable harm during construction);
- Details of acoustic fence design (in the interest of the living conditions of neighbouring residents)
- Details of surface water drainage scheme (to avoid on site or downstream flood risk)

Pre-Occupation Conditions:

- Provision of cycle and footway connections (to ensure an appropriate form of development and promote sustainable travel)
- Further details of proposed works, in particular highways works (to ensure an appropriate form of construction and in the interests of highway safety)

- Delivery of means of vehicular access (to ensure an appropriate form of development is delivered)
- Provision of parking and turning areas (in the interests of highway safety)
- Approval of Biodiversity Enhancement Plan (in the interests of biodiversity)
- Provision of electric vehicle charging points (to promote low carbon travel)
- Evidence that AMP7 Upgrades works to Somerton WWTW have been completed/are effective (to avoid harm to protected sites)
- Details of Water consumption (to avoid harm to protected species)

Other Conditions:

- Maintenance of visibility splays (in the interest of highway safety)
- Approval of external lighting strategy (to avoid harm to bats and in the interest of the character and appearance of the area)
- Provision and maintenance of soft landscaping works (in the interest of the character and appearance of the development)
- Use of Public Right of Way (in the interest of the public and rights of access)

57. Where appropriate I have amended the precise wording of conditions to align with the tests outlined at Paragraph 55 of the Framework and to improve precision.

58. Notably, for the pre-commencement condition to secure nutrient neutrality, I have amended the appellant's suggested wording to remove a clause that would allow an alternative phosphates mitigation strategy from being pursued than that advanced under the appellant's Shadow Habitat Regulations Assessment. As the competent authority in this case, I must be able to rule out beyond all reasonable scientific doubt that the proposal would have an adverse effect on the integrity of the SPA/Ramsar site at the time of my decision. Based on the evidence before me, I cannot be sure that this could be achieved through an alternative mitigation scheme. This would thus create an unacceptable degree of uncertainty in how the potential adverse effect on the integrity of the Ramsar site would be addressed.

59. I have therefore amended the suggested condition to omit the provision for an alternative mitigation scheme to be agreed after the decision. I am aware that such a clause was included in a condition on another appeal in the authority area[2]. However, I do not have the full background details of that scheme, including discussions that took place at the Inquiry as to why the condition was appropriate. Still, there appears to be differences in context between that scheme and the one before me. Notably, that scheme involved both temporary and long-term phosphate mitigation measures to be secured.

60. Main parties have identified that the AMP7 upgrade works to Somerton WWTW should now have been complete. Nevertheless, it remains necessary for a condition requiring formal confirmation that the works were successfully completed and that the permit limits for phosphorous discharge have been updated

[2] Appeal Reference: APP/E3335/W/24/3354865

accordingly. This is to provide certainty that the intended phosphate loading from the appeal development will be within acceptable limits. Without such a condition, there is a risk of non-compliance with the HRA and harm to the protected site.

61. It is necessary to attach a pre-commencement condition in respect of providing an assessment of contamination risk (and methods for dealing with any identified contamination) on public health grounds. This is despite the findings of the appellant's phase 2a Preliminary Ground Investigation report, as it has not been suitably demonstrated that the appellant's report was undertaken in accordance with best practice (British Standard BS 10175 or equivalent British Standard and Model Procedures if replaced).

62. I have not found it necessary to attach conditions in relation to the local planning authority being provided with copies of badger, bat, or great crested newt licences required to undertake relevant works. As these matters are suitably controlled through other legislative processes.

Section 106 Agreement

63. The submitted S106 is dated and signed by all those with an interest in the land. It also binds successors in title. The S106 covers several matters, setting out obligations which address the following:

- Schedule 1 – the provision of affordable housing of not less than 11 (eleven) units;
- Schedule 2 – the provision of sport, play and strategic facility contributions;
- Schedule 3 – the provision of education contributions towards enhancement of early years and primary level education facilities within the catchment area of the development;
- Schedule 4 – provision of open space situated within the site and its long-term management; and
- Schedule 5 – a travel plan to assist in encouraging residents to utilise sustainable modes of transport.

64. The agreement also includes a requirement to provide a monitoring fee to be paid to the Council in connection with oversight of the above matters.

65. I have had regard to relevant development plan policies, notably Local Plan Policies HG3 (affordable housing), HG1 (open space, outdoor playing space sports, cultural and community facilities), SS6 (infrastructure delivery); TA1 (low carbon travel) and TA5 (reducing transport impact of new development). Based on the evidence before me, I am satisfied that each of these matters meet the tests set out in Regulation 122(2) of the Community Infrastructure Levy Regulations 2010, as amended, in that they are: necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the proposed development.

Conclusion

66. For the reasons given above, the appeal conflicts with the development plan as a whole, however, material considerations, specifically those relating to the appeal site's situation and the approach of the Framework, indicate a decision should be taken other than in accordance with it. The appeal is therefore allowed.

Lewis Condé

INSPECTOR

Schedule of Conditions

1) The development hereby permitted shall begin not later than three years from the date of this decision.

2) The development hereby permitted shall be carried out in accordance with the following drawings:

1401_A01_001A_Location Plan

1401_A01_002_Existing Topo Plan

1401_A01_101_Oriana Existing Plan

1401_A01_102_Oriana Existing Elevations

1401_A01_300_Proposed Plan – House Type C

1401_A01_301A_Proposed Plan – House Type E1

1401_A01_302A_Proposed Plan – House Type E2

1401_A01_303_Proposed Plan – House Type D

1401_A01_304B_Proposed Garages

1401_A01_305B_ Proposed Plan – 2 Bed Affordable

1401_A01_306B_ Proposed Plan – 3 Bed Affordable

1401_A01_308_ Proposed Plan – Mid Crescent

1401_A01_309_ Proposed Plan – End Crescent

1401_A01_310A_ Proposed Plan – Barn 3a

1401_A01_311A_ Proposed Plan – Barn 3b (d)

1401_A01_312B_ Proposed Roof Plan – Barn 3b (d)

1401_A01_313A_ Proposed Plan – 1 Bed Affordable

1401_A01_320E_Landscape Plan

1401_A01_321D_Site Plan

1401_A01_323A_Proposed Plan – Barn 3b

1401_A01_400A_Proposed Elevations – House Type C

1401_A01_401B_Proposed Elevations – House Type E1

1401_A01_402B_Proposed Elevations – House Type E2

1401_A01_403A_Proposed Elevations – House Type D

1401_A01_404C_Proposed Elevations – 2 Bed Affordable

1401_A01_405C_Proposed Elevations – 3 Bed Affordable

1401_A01_407A_Proposed Elevations – Mid Crescent

1401_A01_408A_Proposed Elevations – End Crescent

1401_A01_409B_Proposed Elevations – Barn 3a

1401_A01_410B_Proposed Elevations – Barn 3b

1401_A01_413A_Proposed Elevations – 1 Bed Affordable

1401_A01_414_Proposed Elevations – Barn 3b (d)

1401_A01_501A_Proposed Site Sections

14772-HYD-XX-XX-DR-TP-201 Rev P02 – Proposed Site Access

3) No development shall commence, including any site clearance or demolition, until an assessment of the risks posed by any contamination, carried out 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), has been submitted to and approved in writing by the local planning authority. If any contamination is found, no development shall take place until:

i) a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the development hereby permitted has been submitted to and approved in writing by the local planning authority;

ii) the site has been remediated in accordance with the approved measures and timescale; and

iii) a verification report has been submitted to and approved in writing by the local planning authority.

If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended until:

i) additional measures for the remediation of the site have been carried out in accordance with details that shall first have been submitted to and approved in writing by the local planning authority; and

ii) a verification report for all the remediation works has been submitted to and approved in writing by the local planning authority.

4) No development shall commence, including any site clearance or demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:

a) An emergency contact number of the developer and point of contact for compliance;
b) Hours of operation;
c) The parking of vehicles of site operatives and visitors (including measures taken to ensure satisfactory access);
d) Routes for construction traffic including use of local road network, and full details of a temporary construction access points and/or haul roads;
e) Loading and unloading of plant and materials;
f) Storage of plant, materials and waste;
g) Method of preventing mud being carried onto the highway;
h) Methods to protect vulnerable road users (pedestrians and cyclists);
i) Any necessary temporary traffic management measures;
j) Arrangements for turning of vehicles;
k) Arrangements to receive any abnormal loads or unusually large vehicles; and
l) Methods of communicating the Construction Method Statement to staff, visitors and the local community.

The approved Construction Method Statement shall be adhered to throughout the construction period of the development.

5) No development shall commence, including any site clearance or demolition, until a Construction Environmental Management Plan (CEMP: biodiversity) has been submitted to and approved in writing by the local planning authority. The CEMP shall include details of the following:

a) Risk assessment of potentially damaging construction activities;

b) Identification of 'biodiversity protection zones';

c) Measure to avoid or reduce impacts during construction, including in respect of nesting birds habitat clearance, badger buffer zones, tree and hedgerow protection;

d) The location and timing of sensitive works;

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 notification 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 the extent of site meetings with Council officers;

h) Use of protective fences, exclusion barriers and warning signs; and

i) Verification of completed works and the process for any necessary remedial works to be undertaken.

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

6) No development shall commence until a Nutrient Neutrality Scheme has been submitted and approved in writing by the local planning authority. The Nutrient Neutrality Scheme shall contain measures to achieve the following in accordance with the submitted Shadow Habitats Regulation Assessment dated 1 August 2023 (SHRA):

a) that no dwelling hereby permitted shall be occupied unless and until a minimum of 5.5 hectares of land has been planted as woodland in accordance with section 4.3.1 'Avoidance and Mitigation Measures" of the SHRA; and

b) that the development will achieve a water consumption rate of no more than 110 litres per person per day; and

c) that the 5.5 hectares of woodland shall be managed for a period of no less than 80 years in accordance with the submitted Woodland Management Plan dated August 2023 (or such amended woodland management plan as may be approved by the Council).

The development shall thereafter be implemented in accordance with the approved Nutrient Neutrality Scheme.

7) No development shall commence, including any site clearance or demolition, 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 details of the following:

a) Description and evaluation of features to be managed, including all habitat features to be lost and their proposed replacement arrangements;

b) Ecological trends and constraints on site that might influence management;

c) Aims and objectives of management;

d) Appropriate management options to achieve 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; and

h) On-going monitoring and remedial measures.

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

8) No development shall commence, including any site clearance or demolition, until details of the design for the acoustic fence as indicated on plan reference 1401_A01_320E_Landscape Plan have been submitted to and approved in writing by the local planning authority. The approved acoustic fence shall be installed prior to the commencement of development/demolition and shall thereafter be maintain in accordance with the approved details.

9) No development shall commence, including any site clearance or demolition, until a detailed Demolition Management Plan in relation to the demolition of the bungalow known as 'Oriana' has been submitted to and approved in writing by the local planning authority. The Demolition Management Plan shall include measures to control noise, dust and air pollution, as well as details of working hours, site access, and waste disposal methods. Demolition works shall be carried out in accordance with the approved details.

10) No development shall commence, including any site clearance or demolition, until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the local planning authority.

The submitted details shall:

a) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;

b) include a timetable for its implementation; and,

c) provide, a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

The development shall be carried out in accordance with the approved details. The sustainable drainage system shall be managed and maintained thereafter in accordance with the approved management and maintenance plan.

11) The development hereby permitted shall not be occupied until a network of cycleway and footway connections within the site has been constructed in accordance with a scheme that has first been submitted to and approved in writing by the local planning authority.

12) Further details of the following elements, including plans, sections, schedules of materials and/or method of construction, as appropriate, shall be submitted to and approved in writing by the local planning authority:

a) Estate Roads;
b) Footways;
c) Tactile paving;
d) Cycleways;
e) Sewers
f) Retaining Walls
g) Service Routes
h) Vehicle overhang margins
i) Embankments
j) Visibility splays
k) Carriageway Gradients
l) Drive Gradients
m) Car, motorcycle and vehicle parking;
n) Hard and soft structural landscape areas
o) Pedestrian and cycle routes and associated accesses and crossings;
p) Means of enclosures and boundary treatment
q) Street lighting and street furniture
r) All new junctions
s) Proposed levels
t) Highway drainage
u) Swept path analysis for a vehicle of 10.4m (3-axle) length
v) Central pedestrian reserves and bollards
w) Service corridors

The development shall be carried out in accordance with the approved details prior to the first occupation of the development.

13) The development hereby permitted shall not be occupied until the means of access for vehicles/pedestrians/cyclists has been constructed in accordance with approved drawing 14772-HYD-XX-XX-DR-TP-201 Rev P02. The access shall be retained thereafter.

14) The development hereby permitted shall not be occupied until parking spaces for the dwellings and surfaced turning space for vehicles have been provided and constructed within the site. These works shall be complete in accordance with details that have been submitted to and approved in writing by the local planning authority. Thereafter, the completed spaces shall be kept clear of obstructions and maintained for the purposes of parking and turning of vehicles in connection with the development hereby permitted.

15) The development hereby permitted shall not be occupied until electric vehicle charging points for each dwelling have been provided adjacent to their

designated parking spaces shown on the approved plans. The electric vehicle charging points are to be provided to working order and thereafter must be maintained, kept free from obstructions and available for the purposes specified.

16) The development hereby permitted shall not be occupied until evidence that the Asset Management Plan 7 (AMP7) planned upgrades to Somerton Waste Water Treatment Works have occurred, and that a new permit limit showing no more than 0.5mg/l concerning the concentration of phosphorous per litre of effluent discharged, has been submitted to and approved in writing by the local planning authority.

17) The development hereby approved shall not be occupied until a Biodiversity Enhancement Plan (BEP) has been submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the approved BEP and evidence that relevant features have been installed at the site shall be submitted to the local planning authority prior to occupation of the development.

18) The development hereby approved shall not be occupied until:

a) the optional requirement for potential consumption of wholesome water by persons occupying that dwelling in Part G of Schedule 1 and Regulation 36 of the Building Regulations 2010 of 110 litres per person per day has been complied with; and

b) a notice specifying the calculated consumption of wholesome water per person per day relating to the dwelling as constructed has been given to the appropriate Building Control Body and a copy of the said notice provided to the local planning authority.

19) There shall be no obstruction to visibility greater than 600 millimetres above adjoining road level in advance of lines drawn 2.4 metres back from the carriageway edge on the centre line of the access and extending to points 40 meters on the nearside carriageway edge to the west and 32.8 m to the east. Such visibility shall be fully provided before the development hereby permitted is occupied and shall thereafter be maintained in perpetuity.

20) Prior to the installation of any external lighting within the development, a lighting strategy shall be submitted to and approved in writing by the local planning authority. External lighting within the development shall only be installed, and operated, in accordance with the approved lighting strategy.

21) No development shall commence (except for site clearance and preparation works) until a detailed phasing plan for the implementation of all the hard and soft landscaping works as shown in the approved 'Softworks Plan' (Drawing No: LS-012-300 Rev A, dated 14/7/22) has been submitted to and approved in writing by the Local Planning Authority. The phasing plan shall include full details of the proposed timing and sequence of landscaping works in relation to the construction and occupation of each phase of the development.

The landscaping works shall be carried out in full accordance with the approved phasing plan and the relevant details for each phase, and shall be completed:

- For soft landscaping, in the first available planting season (November to February) following commencement of the relevant phase or prior to the first occupation of that phase, whichever is sooner;
- For hard landscaping, prior to the first occupation of the relevant phase.

If any trees or shrubs within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased, they must be replaced by the landowner in the next planting season with trees/shrubs of the same approved specification, in the same location; unless the Local Planning Authority gives written consent to any variation.

22) No development or construction activity shall interfere with or compromise the use of footpath L 16/3 unless an appropriate licence has been issued.