

Norton St Philip Parish Council

Submission to Somerset Council (the Council) in respect of proposals in planning applications 2023/0643 and 2023/0644 for the Tree Belt on the ‘Triangle’ site off Mackley Lane, Norton St Philip.

Section	Content	Page
1	Introduction	2
2	Timeline/history of Tree Belt	3
3	Summary	8
4-appendix 1	Site Plan for 2010/0493	9
5-Appendix 2	-Decision Notice 2010/0493	10
6-appendix 3	Council’s Landscape Report 2010/0493	31
7-appendix 4	Applicant’s Landscape Report 2010/0493	54
8-appendix 5	Officer’s Report 2013/2052	74
9-Appendix 6	LPA’s Appeal Hearing Statement(2013/2052)	101
10-Appendix 7	Appeal decision (2013/2052)	133
11-Appendix 8	Hard and soft landscape plans (2013/2052)	152
12-Appendix 9	Tree Officer Report 2020/2053	154
13-Appendix 10	PC Comment 2021/2791	161
14-Appendix 11	Correspondence DCllr Lund & MDC	163
15-Appendix 12	Correspondence PC/Planning Officer	168
16-Appendix 13	Further correspondence PC/Planning Officer	171
17-Appendix 14	File note of meeting PC/Planning Officer	175

Introduction-Tree Belt on Laverton Triangle, Mackley Lane, Norton St Philip

The Parish Council (PC) has serious concerns about the current threat to the Tree Belt adjacent to the Fortescue Fields development in Norton St Philip. There are currently two Planning Applications for the site¹, both of which propose the removal of the 15m conditioned Tree Belt. Application 2023/0643 proposes removal of the Tree Belt with sections to be planted with “whips and feathers” to a depth of up to 10m, although the Planning Statement states at para 5.68 *“In terms of the tree belt, it is proposed to retain (where possible) and re-plant a new tree belt along this boundary with a minimum width of 6m”*.

Application 2023/0644 proposes removal of the Tree Belt with sections to be planted with “whips and feathers” to a depth of 6m. A footpath is proposed to run through a section of this planting.

The PC also wishes to take this opportunity to draw the Council’s attention to an existing “gap” in the planting of the Tree Belt. This is directly in line with a gated access from Fortescue Street. This access is not shown on the drawings for the permitted development; in fact a garage is shown on the layout plan². This “gap” has never been planted in accordance with the planning conditions³. This was raised by The Council’s Tree Officer in his comments on the two identical, now withdrawn Planning Applications on the site⁴.

As the previous Council (MDC) was aware, the PC’s position has long been that the only adequate protection for this important landscape feature is a TPO for the entire Tree Belt. The PC considers there is a compelling case for a TPO and enforcement of the Planning Conditions and associated Section 106 to ensure the Tree belt is planted as agreed. These concerns have been raised with MDC on several occasions in the past.

This submission looks at the history of the Tree Belt and provides evidence in support of the retention of the existing trees and the need for the original Planning Conditions to be enforced. The PC submits that this evidence is a standalone reason for refusal of these applications.

¹ 2023/0643FUL and 2023/0644FUL

² Site Plan for scheme approved under application 2010/0493 - see Appendix 1 on page 9

³ 2010/0493 Planning Condition nos 26&27 .See Appendix 2 page 17

⁴ 2020/2053 and 2022/1522

Timeline/history of the Laverton Triangle Tree Belt.

2001

Proposed development of the Laverton Triangle was dismissed at Appeal⁵. The Inspector, whilst accepting that a suitable landscape scheme could mitigate for the loss of the existing TPOd Tree Belts as proposed, concluded that the proposal would “*seriously harm the setting, character and appearance of this part of the village*”[§48].

2009

Following the withdrawal of the original application for redevelopment of the factory site adjacent to the Triangle, the Council considered proposals for a larger development which would necessitate the removal of the TPOd Tree Belts around the site.

In the Council’s consideration of the proposals, it concluded (in accordance with the Conservation Area Appraisal 2007) that these trees formed part of the character of the area and provided an important asset at entry points to the village, as well as having significant amenity value. Their significance was proven by the TPO order.

The Council instructed Alex Novell FLI to review the revised proposals for the factory site and comment on the likely impact on the local landscape, the visual amenity of the village and the character and appearance of the village conservation area. The subsequent report⁶ concluded that the tree belts themselves were a significant landscape feature and performed an important function in enclosing the [old chicken factory] site, providing screening and a green edge to the village/countryside boundary. In his concluding comments, Alex Novell stated (para. 10.5):

“Taking the major issue first, it would be objectionable to sweep away and build over important tree belts subject to a Tree Preservation Order merely because many of the trees within them are moribund or otherwise unsuitable for retention. Despite the removal of raison d’etre for the planting of these trees – screening of the old chicken factory, - the tree belts remain of importance to the character, appearance and green infrastructure of the village. Either the eastern tree belt should be replanted in situ in which case a scheme of c.35 houses would be appropriate, or if a scheme of c.50 houses has planning merit, it should be replanted to the east, in which case an equally prominent and extensive belt to that lost should be established”.

⁵ APP/Q3305/A/01/1060390

⁶ MDC’s 2009 Landscape Report – see Appendix 3. In particular paras 5.11-5.22(p41)7.6(p) 10.5(p50)10.8(p52)

2010

Planning application 2010/0493 approved.

To make this larger scheme for c.50 houses acceptable the owner proposed a 15m wide tree belt on the Laverton Triangle. The Fortescue Fields Landscape Report⁷ submitted with the application referred at paras. 9.7 and 9.8 to the planting of native/indigenous trees and shrub species to

“...assist with the integration of the development into the immediate and wider landscape and to complement and enhance views to and within the village in the longer term”.

The Council’s Committee Report concluded

“with regards to TPO’s if they are to be removed they should be replaced with new trees that will retain the function and amenity of the existing. It is acknowledged that the screening function is no longer there; however the tree belts themselves are now an important landscape feature and provide a green backdrop to the proposed development. Many trees are proposed to be removed from the site mainly along the north and eastern boundaries of the site. The loss of these trees, especially alongside the eastern boundary is regrettable and therefore is intended to be replaced with a 15 metre tree belt between the development itself and the Laverton Triangle. This tree belt will suitably replace the loss of trees on the site and the potential wildlife they hold”.

To ensure the provision of the tree belt, conditions were imposed⁸ and a clause was added to the S106 agreement; this legal agreement required that the tree belt be implemented and maintained in accordance with the Management Scheme by the Management Company.

2013

Planning application 2013/2052 submitted in outline for up to 20 dwellings on the Triangle. The indicative plans submitted with the application did not include provision for the Tree Belt. At that time it had not been planted as the Triangle was being used as a builders compound during construction of the Fortescue Fields development.

The Officer’s Report, recommending refusal, considered the value and importance in great detail ⁹. At para 66 the Report notes that *“The failure to provide the tree belt in the approved location would result in less than substantial harm to this part of the Conservation Area by failing to reinstate a feature that was clearly valued and contributed positively to the character of the Conservation Area and the amenity of this part of the village.”*

The application was refused in June 2014 for reasons including *“The adverse impacts would significantly and demonstrably outweigh the overall benefits of the scheme”.*

⁷ Lochailort Investments Ltd 2009 Nicholas Pearson Assocs Landscape Report -see Appendix 4. In particular paras 6.4)p62)8.1(p64)9.7&9.8 (p66)10.3(p69)

⁸ 2010/0493 Decision Notice – Conditions 26&27 refer. See Appendix 2 page 17

⁹ See Officer’s Report esp §51-70. Appendix 5 page 87

2015 Appeal

The applicant appealed against the refusal of 2013/2052 and a public hearing was held in March 2015. The LPA submitted a written statement¹⁰. Paras 7.30 to 7.51 consider the potential impact of development on the character of the area, and in particular attaches great importance to the Tree Belt. Although the Appeal was for a larger scheme (18 dwellings), the statement addresses the need for the Tree Belt *in principle*, noting that the condition attached to the 2010 decision requiring the 15m Tree Belt

“would not have been imposed unless its requirements were necessary to make the [original] development acceptable in planning terms....the imposition of the condition means that the LPA considered that the replacement tree belt was necessary for the development on the Fortescue Fields site to integrate satisfactorily into its surroundings....the tree belt as approved is necessary to screen the Fortescue Fields development”

The Appeal Decision¹¹ was published in April 2015. In dismissing the Appeal, the Inspector concluded:

“I am in no doubt that the replacement tree belt remains necessary in the anticipated location in connection with Fortescue Fields development.”

2015/2016

The 15m Tree Belt was planted along the eastern edge of the Fortescue development as planned with the exception of an area left unplanted in order to access the Triangle from Fortescue Street. This access was not shown on the approved drawings¹². These drawings show the stub road terminating at a garage and the Tree Belt extending along the entire eastern edge of the boundary of the permitted development.

December 2019

A full planning application¹³ submitted which proposed 11 dwellings on the Triangle. The submitted plans were for total removal of the Tree Belt. There were a great many objections including from the Council’s Landscape Architect who noted that:

“A significant area of existing planting will also be removed. This was planted as part of the discharge of condition process for the original scheme, thereby further reinforcing the premise that this area was never intended for development. The proposed scheme is harmfulIt will also preclude the proper implementation of those landscape proposals”.

The application was withdrawn in June 2020.

¹⁰ See Appendix 6 - LPA’s Appeal Hearing statement page 121

¹¹ APP/Q3305/A/14/2221776. See Appendix 7 paras 35-37 (page 140) paras 42-45 (page 141) para 65 (page 146)

¹² Site Plan 5261/04L, Hard landscape 10277_001_Rev_B & soft landscape 10277_002_Rev_C. See Appendix 8 (page 152/153)

¹³ 2019/2976/FUL

November 2020

A full planning application¹⁴ submitted which proposed 7 dwellings on the Triangle. The Tree Officer comment¹⁵ on the application is particularly relevant. It concisely and accurately sets out some of the history of the Tree Belt and concludes:

*“ the installation of the access road will result in the loss of existing trees and cause the fragmentation of the tree belt, thereby reducing the expected mitigation and future amenity value which also would screen Fortescue Fields and provide buffering at the entrance to the village and Conservation Area. Both impacts are significant, contrary to the conditions for approval of 2010/0493 and should be considered as a reason for refusal.....The design does not allow enough space for the trees to mature into, and the likely pressure for their removal is contrary to the reasons for the Tree Belt, condition 27 of 2010/0493 and the Section 106 agreement and should be considered as a reason for refusal.
In addition to this, the design also indicates the installation of a formal footpath between the new access road and the proposed development in the field to the south of Fortescue Fields. This drawing can only be taken as indicative, because the location of the trees are not plotted on the plan. There is no detail on how the footpath will be constructed, and it is likely that it will require the removal of further trees. This should be considered as a reason for refusal”*

The application was withdrawn in April 2023.

September 2021

The LPP2 Inspector's Report published. This allocated the Triangle for 7 dwellings¹⁶. In referencing the 2015 Appeal decision, the report notes that

*“The principal ground for concluding less than substantial harm was impact on the open countryside, with the number of dwellings too great to enable the planting of a 15m wide tree belt to strengthen the verdant edge of both the existing and proposed built development.
The reduction to seven dwellings on the northern triangle would enable the planting of the above-mentioned tree belt.”*

The criteria set in LPP2 for development of the site is quite clear:

“In particular the belt of trees on the site should be retained”

December 2021

Planning application¹⁷ submitted to modify the S106 associated with the Fortescue Fields development, by removing the obligation for Fortescue Fields Management Company

¹⁴ 2020/2053/FUL

¹⁵ 2020/2053 - Tree Officer Report. See Appendix 9 p154

¹⁶ Following a legal challenge by the PC, this allocation has been deleted from LPP2.

¹⁷ 2021/2791/S106

Ltd to maintain the Tree Belt. The applicant states that *“The Tree Belt no longer serves any useful planning purpose”*.

The PC submits an objection¹⁸. Application withdrawn March 2022.

January 2022

Correspondence between District Councillor Barbi Lund and MDC¹⁹ re landowner’s intention to erect a fence along Tree Belt. Cllr Lund considers that this would be in breach of the conditions attached to the permission for 2010/0493.

March 2022

The landowner erects a 1.8m close boarded fence along the boundary between the Fortescue development and the Tree Belt.

April 2022

Correspondence between Ian Hasell (PC Chair) and Simon Trafford²⁰. Further correspondence between Cllr Lund and Simon Trafford²¹ Subsequent site meeting²².

July 2022

A further full Planning Application for the site submitted²³. This proposed 10 dwellings on the Triangle. The submitted documents state that there will be landscape enhancements *“including the retention of the Fortescue Fields Phase I tree belt”*. It is clear from the proposals that the Tree Belt will be very substantially reduced from 15m to 6m and completely removed in parts; in others a footpath would run through it.

The Tree Officer’s report is clear:

“It is recommended that the current application is refused because it requires the removal and loss of the Tree Belt conditioned in the planning permission for 2010/0493/FUL which also prevents the mitigation for the loss of trees protected by TPO M124”

The application was withdrawn in April 2023.

¹⁸ 2021/2791 PC Comment-see Appendix 10 page 161

¹⁹ Email to Tessa Hampden & response 07/01/22-see Appendix 11 page 163

²⁰ Email thread April 2022-see Appendix 12 page 168

²¹ Email thread April 2022-see Appendix 13 page 171

²² File note of meeting-see Appendix 14 page 176

²³ 2022/1522/FUL

January 2023

Following judgement in the Judicial Review into the Council's adoption of LPP2 the allocation of the site is remitted back to the Council. The Order states that the site shall be *"treated as not having been adopted as part of the local development plan"*.

Summary

The 15m Tree Belt carries great local significance. It replaced substantial TPOd Tree Belts which screened the former factory site. The permitted development was only made possible by the agreement to replace those tree belts with a well laid out and maintained Tree Belt along the *entire* eastern perimeter. The necessity for the Tree Belt has been emphasised by both the 2015 Appeal and LPP2 Inspectors.

The Tree Belt has been planted and is largely fulfilling its purpose. A significant and unpermitted gap remains however where access from Fortescue Street has been left unplanted.

Where planted, the Tree Belt is now providing a soft edge to the permitted development, largely fulfilling its intended screening function. It is also part of an important 'green corridor' as recognised by its designation as a 'Greenspace' in MDC's SPD adopted in February 2023 (ref NORT 3014).

The PC has opposed the landowner's many attempts to both remove and reduce the Tree Belt. These efforts are described above and demonstrate the level of threat that this important asset has been under for the last 10 years.

The PC considers that it would be in the best interests of the village and its appearance and ecology for the Tree Belt to be allowed to further grow into a mature and attractive screen, allowing *"the presence of the Laverton Triangle site help the countryside to flow into this part of the village"*²⁴.

In order to provide for this, and prevent yet more attempts to remove the Tree Belt, the PC considers that a TPO for the entire Tree Belt is appropriate; furthermore the PC requests that the Council take the necessary action to ensure the planting of the entire Tree Belt as conditioned.

The PC suggests that the applicants proposals in relation to the Tree Belt are unacceptable and are in themselves grounds for refusal of this application.

Norton St Philip Parish Council
May 2023

²⁴ 2015 Appeal para 41 (Appendix 7 p141)

PLANNING REF NO: 2010/0493
DATE OF APPLICATION: 10/03/2010
APPLICATION TYPE: Full Planning Permission - 13 weeks

TOWN AND COUNTRY PLANNING ACT, 1990 AS AMENDED BY THE PLANNING
AND COMPULSORY PURCHASE ACT 2004
TOWN AND COUNTRY PLANNING (DEVELOPMENT MANGEMENT
PROCEDURE) (ENGLAND) ORDER 2010

THE MENDIP DISTRICT COUNCIL, being the LOCAL PLANNING AUTHORITY for the said District, hereby **GRANT PLANNING PERMISSION** to carry out the development described in the application validated on 10/03/2010 subject to conditions hereunder stated.

AGENT/APPLICANT
The JTS Partnership
First Floor
31 St Margaret's Street
Canterbury
Kent
CT1 2TG

APPLICANT
Lochailort Investments Ltd
c/o Agent

Proposal: Erection of 51 dwellings (including affordable and sheltered), shop, 3 commercial units and associated access, parking and landscaping.
Location: Former chicken processing factory, Norton St Philip, ,
Parish: Norton St Philip

DECISION: Approve With Conditions

REASON FOR APPROVAL

Whilst the proposal is for a significant number of new dwellings in a village with limited facilities, the scheme incorporates a number of planning benefits which off set the concerns about transport sustainability. The design, scale and layout of the development is of a very high standard, would be in keeping with its surroundings, and would enhance the character and appearance of the Conservation Area. The proposal, by reason of its design, scale and layout, would safeguard the amenities of neighbouring residents and adjoining land users and the means of access and parking arrangements meet the required safety standards and will ensure the free flow of traffic on the highway. All practical measures for the conservation of energy have been included in the design, layout and siting of the proposal and makes appropriate arrangements for the protection of biodiversity.

The proposal has been tested against the following Development Plan policies. In the opinion of the Local Planning Authority, and subject to the conditions below, the proposal is acceptable:-

Saved Policies S1, Q1, Q3, Q4, Q10, Q12, Q13, Q14, E4, E6, EN3, EN5, EN9, EN17, EN19, EN20, EN22, ER1, ER6, SN1, SN2, SN6, SN7, SN8, SN16 and SN25 of the Mendip District Local Plan (adopted December 2002) and the Councils interim policy

The proposal has also been tested against the following national policy: PPS1, 3, 4, 5, 7, 9, 22, 25 and PPG13 and 24

CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
Reason: As required by Section 51 of the Planning and Compulsory Purchase Act 2004 and to avoid the accumulation of unimplemented planning permissions.
2. No works shall be undertaken in respect of a particular building (whether residential units, commercial units, shop or ancillary curtilage buildings) unless a schedule of materials and finishes, samples of the materials including the render colour to be used in the construction of the external surfaces, details of roofs, and a sample panel of external walling of that building have been first submitted to and approved in writing by the Local Planning Authority. The sample panel shall be erected on site prior to the commencement of these works and shall be kept on site for reference until the development is completed. The works shall thereafter be carried out only in accordance with the details so approved.
Reason: In the interests of the visual appearance of the development and its impact on the character and appearance of the area, having regard to the provisions of Saved Policies Q1 and EN19 of the Mendip District Local Plan 2002.
3. No works shall be undertaken on site unless a schedule of materials and finishes, and samples of the materials to be used in the construction of the roads, footways and parking areas have been submitted to and approved in writing by the Local Planning Authority. The works shall thereafter be carried out only in accordance with the details so approved.
Reason: In the interests of the visual appearance of the development and its impact on the character and appearance of the area, having regard to the provisions of Saved Policy Q1, Q3 and EN19 of the Mendip District Local Plan 2002.

- 4 No works shall be undertaken in respect of a particular building (whether residential units, commercial units, shop or ancillary curtilage buildings) unless full details of all new joinery for that building have been first submitted to and approved in writing by the Local Planning Authority. Such details shall be at full or half scale and shall include cross-sections, profiles, reveal, surrounds, materials, finish and colour in respect of new windows, doors and other glazed or timber panels. The works shall thereafter be carried out in accordance with the approved details and shall thereafter be permanently retained in that form unless otherwise agreed in writing with the Local Planning Authority.

Reason: To safeguard the character and appearance of the building having regard to the provisions of Saved Policies Q1 and EN19 of the Mendip District Local Plan 2002.

- 5 No works shall be undertaken in respect of a particular building (whether residential units, commercial units, shop or ancillary curtilage buildings) unless details of the ducts, pipes, rainwater goods, vents and other external attachments for that building have been first submitted to and approved in writing by the Local Planning Authority. The work shall not be carried out unless in accordance with the approved details and shall thereafter be retained in that form unless otherwise first agreed in writing by the Local Planning Authority.

Reason: In the interests of the appearance of the development and the surrounding area having regard to the provisions of Saved Policies Q1 and EN9 of the Mendip District Local Plan 2002.

- 6 Notwithstanding the submitted information, no works shall be undertaken in respect of the building out of residential units 33 or 34 unless details of the type, style and materials of the railings in front of those dwellings (as annotated on Drawing Number 5261/04L) have been first submitted to and approved in writing by the Local Planning Authority. The railings shall not be implemented unless in accordance with the approved details.

Reason: In the interest of the overall design and highway safety having regard to Saved Policy Q1 and Q3 of the Mendip District Local Plan (Adopted 2002).

- 7 Units S1 to S10, as shown on Drawing Number 5261/04L received on 16 March 2010, shall not be occupied other than by persons aged 55 or older save that such restriction shall not apply to the continued occupation of any of the apartments by a surviving spouse, partner or member of the household under the qualifying age after the death of the member of the household who was of the qualifying age.

Reason: The Local Planning Authority wishes to control the occupation of the development, having regard to the provisions of Policies SN2, SN6 and SN7 of the Mendip District Local Plan 2002.

- 8 Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (or any order revoking and re-enacting that Order with or without modification) the commercial units shown as C1 and C2 on Drawing Number 5261/04L received on 16th March 2010 shall not be used other than for uses falling within Class B1 of the schedule to that Order, without the prior written approval of the Local Planning Authority.
Reason: To ensure a mixed use development and to safeguard residential amenity, having regard to Saved Policies Q12, E4 and E6 of the Mendip District Local Plan (Adopted 2002) and council's employment land protection policy.
- 9 Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (or any order revoking and re-enacting that Order with or without modification) the ground floor of the Market Building (shop) as shown on Drawing Number 5261/04L received on 16th March 2010 shall not be used other than for purposes falling either within Class A1, A2 or B1 of the schedule to that Order, without the prior written approval of the Local Planning Authority.
Reason: To ensure a mixed use development and to safeguard residential amenity, having regard to Saved Policies Q12, E4, E6 and SN8 of the Mendip District Local Plan (Adopted 2002) and council's employment land protection policy.
- 10 Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (or any order revoking and re-enacting that Order with or without modification) the village shop, as identified on Drawing Number 5261/04L received on 16th March 2010, shall not be used other than for purposes falling in Class A1 of the schedule to that Order, without the prior written approval of the Local Planning Authority.
Reason: To ensure a mixed use development and provide on site community facilities, having regard to Saved Policies SN8, E4 and E6 of the Mendip District Local Plan (Adopted 2002) and council's employment land protection policy.
- 11 Notwithstanding the submitted information, no works shall commence on site until an updated ecological survey of the site has been first carried out and submitted to and approved in writing by the Local Planning Authority. The survey shall include appropriate mitigation measures as required. The development shall not be carried out unless in full accordance with the approved survey and recommendations, unless the Local Planning Authority grants its prior written approval to any variation.
Reason: To ensure that protected animals or species on the site are not harmed having regard to Saved Policy EN3 of the Mendip District Local Plan (Adopted 2002)
- 12 The proposed internal road shall be constructed in accordance with the

approved plans, unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interest of highway safety and the appearance of the development having regard to Saved Policies Q1 and Q3 of the Mendip District Local Plan (adopted 2002)

- 13 The roads, footpaths and turning spaces hereby permitted shall be provided to ensure that each dwelling, before it is occupied, shall be served by a footpath and carriageway to at least base course level between the dwelling and the adjacent road.

Reason: To ensure that vehicular and pedestrian access is provided to the dwellings, having regard to Saved Policy Q3 of the Mendip District Local Plan (adopted 2002).

- 14 The development hereby approved shall not be occupied until space has been laid out within the site in accordance with the approved plans for the parking and turning of vehicles, and such areas shall not thereafter be used for any purpose other than the parking and turning of vehicles associated with the development.

Reason: To ensure that sufficient provision is made for off-street parking and turning of vehicles in the interests of highway safety having regard to the provisions of Policies Q3 and SN25 of the Mendip District Local Plan 2002.

- 15 No building shall be occupied unless its respective solar thermal panel/s have been provided in accordance with the approved plans and shall thereafter be maintained at all times.

Reason: To promote energy conservation, having regard to Saved Policy ER1 of the Mendip District Local Plan (Adopted 2002).

- 16 No building shall be occupied unless its respective refuse store/s have been provided in accordance with the approved plans and shall thereafter be maintained at all times.

Reason: In the interests of the appearance of the development and the amenities of the area, having regard to Saved Policy Q1 of the Mendip District Local Plan (Adopted 2002).

- 17 Prior to first occupation of the development hereby approved, the proposed access will have been constructed and made available for use in accordance with the approved drawing. The approved access arrangements shall thereafter be permanently retained in accordance with the approved drawing.

Reason: in the interests of highway safety having regard to the provisions of Saved Policy Q3 of the Mendip District Local Plan (adopted 2002).

- 18 Notwithstanding the submitted information, no works shall commence on site until details of the proposed estate roads, footways, footpaths, tactile paving, verges, junctions, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, drive gradients, car parking and street furniture have been submitted to and approved in writing by the Local Planning Authority. The works shall thereafter be carried out in accordance with the approved details.

Reason: In the interest of highway safety having regard to Saved Policy Q3 of the Mendip District Local Plan.

- 19 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 are subject to the approval in writing of the Local Planning Authority and shall be submitted to the Local Planning Authority prior to the commencement of any works. 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, ground waters and surface waters, ecological systems, archaeological sites and ancient monuments;

(v) An appraisal of remedial options, and proposal of the preferred option(s).

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological system, and to ensure that the neighbours and other off-site receptors, having regard to Saved Policy Q10 accordance with policy of the Mendip District Local Plan (2002) and advise set out in Planning Policy Statement 23: Planning and Pollution Control.

- 20 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 submitted to the Local Planning Authority prior to the commencement of any works. 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.

Reason: To ensure that risks from land contamination to the future users of the land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, having regard to Saved Policy Q10 in accordance with policy of the Mendip District Local Plan (2002) and advice set out in Planning Policy Statement 23: Planning and Pollution Control.

- 21 The remediation scheme approved under condition 20 above 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 Planning Policy Statement 23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and be submitted to the Local Planning Authority for approval prior to the commencement of any further works. No such further works shall be undertaken until the Local Planning Authority has granted such approval in writing.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, having regard to Saved Policy Q10 in accordance with policy of the Mendip District Local Plan (2002) and advice set out in Planning Policy Statement 23: Planning and Pollution Control.

- 22 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 19 above, and where remediation is necessary a remediation scheme must be prepared and implemented in accordance with the requirements of conditions 20 and 21 above, which are subject to the approval in writing of the

Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological system, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other off-site receptors, having regard to Saved Policy Q10 accordance with policy of the Mendip District Local Plan (2002) and advice set out in Planning Policy Statement 23: Planning and Pollution Control.

- 23 No demolition or construction works shall take place on the site outside the hours of 08:00 to 18:00 Monday to Fridays inclusive and 08:00 to 13:00 on Saturdays with no such works on Sundays or Bank Holidays.

Reason: To protect the amenity of nearby residential occupiers having regard to Saved Policy Q1 of the Mendip District Local Plan (Adopted 2002).

- 24 No works shall be undertaken unless a detailed method statement for demolition and clearance of the site has been first submitted to and approved in writing by the Local Planning Authority. The method statement shall detail the working methods to be employed on site during the demolition to minimise emissions of dust, light, noise and vibration. The method statement shall include hours of working, details for the safe disposal of waste material, likely levels of noise and vibration and details of any equipment (e.g. pumps, generators and mobile crushers) which are to be employed on the site. The works shall not be undertaken unless in strict accordance with the details so approved.

Reason: In the interest Public Amenity having regard to Saved Policy Q12 of the Mendip District Local Plan (adopted 2002) and advice contained in PPG24.

- 25 The building annotated as S/G 27 on Drawing Number 5261/04L shall be constructed in accordance with the structural engineers report received by the Local Planning Authority on 16th March 2010, unless otherwise agreed in writing by the Local Planning Authority

Reason: In the interests of the amenity of the neighbouring dwelling known as Monmouth Lodge and the character and appearance of the conservation area having regard to Saved Policy Q1, EN19, EN20 and EN22 of the Mendip District Local Plan (Adopted 2002) and guidance found in PPS5.

- 26 Notwithstanding the submitted information, no works shall be undertaken on site until a hard and soft landscape scheme has been first submitted to and approved in writing by the Local Planning Authority. Such a scheme shall include details of all walls, fences, trees, hedgerows and other planting which are to be retained; details of all new walls, fences and other boundary treatment and finished ground levels; a planting specification to include numbers, density,

size, species and positions of all new trees and shrubs. positions, species and size of all new trees and the location of grassed areas and areas for shrub planting]; details of the hard surface treatment of the open parts of the site; and a programme of implementation, a method statement to protect all existing and new planting and a management plan for the long term protection.

Reason: To ensure the provision of an appropriate landscape setting to the development having regard to the provisions of Saved Policies Q1 and Q4 of the Mendip District Local Plan 2002.

- 27 All hard and soft landscape works shall be carried out in accordance with the approved details. The tree belt works shall be completed prior to first occupation of any part of the development or within 12 months of the commencement of development, whichever is the sooner. The remainder of the landscaping works shall be carried out prior to the occupation of any part of the development or in accordance with the programme 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. All hard landscape works shall be permanently retained in accordance with the approved details.

Reason: To ensure that the landscape scheme is implemented and maintained having regard to the provisions of Saved Policies Q1 and Q4 of the Mendip District Local Plan 2002.

- 28 Notwithstanding the submitted information, no site works or clearance shall be undertaken until protective fences which conform with British Standard 5837:2005 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.

Reason: 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.

- 29 No site works or clearance shall be undertaken on site until a period of not less than two weeks notice has been given to the Local Planning Authority in writing of these works to ensure that appropriate measures of landscape protection required under condition 28 above have been implemented in accordance with the approved plans or conditions.

Reason: To ensure that adequate protection is given to 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.

- 30 The development shall be carried out in strict accordance with the arboricultural method statement received by the Local Planning Authority on 29th April 2010 and tree survey schedule received on 16th March 2010 unless otherwise agreed in writing.

Reason: To protect existing trees having regard to Saved Policy EN5 of the Mendip District Local Plan (Adopted 2002)

- 31 The development shall be carried out in strict accordance with the submitted Flood Risk Assessment received on 16th March 2010, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the proposal is not at risk of flooding or increase the risk of flooding elsewhere, having regard to guidance found in PPS25.

- 32 Residential plots 1, 2, 3, 4, 5, and 6 (as annotated on Drawing Number 5261/04L) shall not be implemented unless in accordance with the Noise Assessment received on 16th March 2010, unless otherwise agreed in writing by the Local Planning Authority. The Noise Assessment Measures shall be carried out prior to occupation of each of the dwellings and shall be permanently retained as such thereafter.

Reason: To protect the future occupants from unacceptable noise levels having regard to Saved Policy Q13 of the Mendip District Local Plan (Adopted 2002) and advice contained in PPG24

- 33 The development hereby approved shall be carried out in accordance with the site level drawing numbers 5261/08A, 5261/20B and 5261/19C received on 16th March 2010 unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure the development is carried out in accordance with the plans and without affecting the amenity of neighbouring dwellings having regard to Saved Policy Q1 of the Mendip District Local Plan (Adopted 2002)

- 34 Notwithstanding the provisions of the Town and Country Planning General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order) the use of the garages, outbuildings, workshop and studios connected with residential properties shall be limited to the domestic and private needs of the occupier and shall not be used for any business or other purpose whatsoever.

Reason: In the interest of neighbouring amenity and highway safety having regard to Saved Policy Q1 and Q3 of the Mendip District Local Plan (Adopted 2002)

- 35 No part of the development hereby approved shall be occupied until such time as the surface water/sustainable urban drainage system has been implemented and completed in strict accordance with planning permission 2010/0494 validated on 16 March 2010. The surface water/sustainable urban drainage system shall thereafter be maintained in accordance with the approved details.
Reason: To ensure appropriate drainage of the site, having regard to the provisions of Saved Policy EN17 of the Mendip District Local Plan (adopted 2002).
- 36 Each dwelling shall achieve as a minimum Level 3 of the Code for Sustainable Homes. No particular dwelling shall be occupied until such time as an Interim Certificate that the dwelling will meet Level 3 of the Code has been issued. Within 3 months following first occupation of the dwelling, a final Code Certificate shall have been issued for it certifying that Code Level 3 has been achieved.
Reason: In the interests of energy conservation, having regard to Saved Policy ER1 of the Mendip District Local Plan (2002).
- 37 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) no windows, roof lights or openings, other than those shown on the drawing number 5261/U27/2 Rev A, shall be formed in the north or west elevation of the studio/workshop/garage building without the granting of express planning permission from the Local Planning Authority.
Reason: To safeguard the amenities of adjoining occupiers from overlooking and loss of privacy having regard to the Provisions of Saved Policy Q1 of the Mendip District Local Plan 2002.
- 38 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) there shall be no enlargement or external alteration to any buildings hereby approved without the granting of express planning permission from the Local Planning Authority].
Reason: In the interests of the appearance of the development and of the amenity and character of the area having regard to the provisions of Saved Policy Q1 of the Mendip District Local Plan 2002.
- 39 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) no windows, roof lights or openings, other than those shown on the plans hereby approved, shall be formed above ground floor level in any of the dwelling houses without the prior written permission of the Local Planning Authority. Reason: To safeguard the amenities of adjoining

occupiers from overlooking and loss of privacy having regard to the Provisions of Saved Policy Q1 of the Mendip District Local Plan 2002.

- 40 The proposed first and second floor windows in the east elevation of Plot 12; first floor windows (serving bedroom 4 and bathroom window) in the north elevation of Plot 26; and first and second floor windows in the east elevation of Plot 37 shall be glazed with obscure glass. The aforementioned window/s shall also be non opening unless the parts of the window/s which can be opened are more than 1.7 metres above the floor of the room in which the window/s is installed. The window/s shall be permanently retained in accordance with the requirements of this condition.

Reason: To safeguard the amenities of adjoining occupiers from overlooking and loss of privacy having regard to the provisions of Saved Policy Q1 of the Mendip District Local Plan 2002.

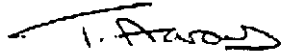
NOTES

1. THIS APPROVAL IS SUBJECT TO A SECTION 106 LEGAL AGREEMENT TO SECURE THE FOLLOWING OBLIGATIONS: Affordable housing, education contributions, community facility contributions, off-site play space, footpaths, tree belt, management company and marketing of commercial units.
2. This decision relates to Drawing Numbers JTS/6518/01B, 5261: 01F, 04L, 05F, 06F, 07B, 08B, 09C, 10A, 11A, 12A, 14B, 15B, 16 Rev B, 17D, 18 Rev A, 19C, 20B, 21a, 22, C1-2/Rev A, MB/31/Rev C, OSP A, S1-4/Rev B, S5-6/Rev A, S7-9/E1, S7-9/P1/Rev B, S10/Rev A, U27/2 Rev A, U4-6 PI, U4-6 EI, U1-3 Rev C, SH/Rev A, U7-8, U9 RevB, U10/EI/RevB, U10/PI/RevA, U11 Rev A, U12EI revB, U12PI RevB, U13/EI RevA, U13/PI Rev A, U14/EI Rev B, U14/PI Rev B, U15 Rev A, U16/Rev A, U17/EI Rev A, U17/PI Rev A, U18/Rev B, U19/Rev A, U20 & 21 sheet 1 of 2 Rev A, U20 & U21 sheet 2 of 2 Rev A, U22 RevB, U23 rev A, U24/Rev C, U25/EI/Rev B, U25/PI/Rev B, U26 Rev A, U27/1/Rev A, U28-41EI/1 Rev D, U28-41EI/2 Rev C, U28-41EI/3, U28-41PI/1 Rev C, U28-41PI/2 Rev CU33 EI, U33 PI, U34 EI/Rev C, U34 PI/Rev B, U35/Rev B, U36/Rev B, U37/Rev B, U38/EI/Rev B, U38/PI/Rev C, TMC-07050-S, NPA/10277/001B, 002C, 003A, 006, 007 and 008B, Tree Survey Schedule, Transport Assessment, Boundary Wall Survey, Noise Assessment, Energy and Sustainability Assessment, Historic Development and Character Analysis, Ecology and Protected Species Survey, Site Investigation Report, Flood Risk Assessment and Drainage Statement, Phase 1 Desk Study and Phase 2 Site Investigation Report received on 16th March 2010. This decision also relates to Tree Survey Schedule and Drawing Number 10277-003A received on 29th April 2010, Drawing Numbers 2737/036, 2737-404 and 2737-403A received on 4th May 2010 and Drawing Numbers NPA 10277/002/1D and 10277/001/1C received on 7th May 2010.

3. In order to discharge Conditions above please ensure that materials are left on site for approval and NOT brought to the Council Offices. Full details and specification of the proposed materials should be submitted to us in writing using the enclosed pro-forma and you should advise us when and where the samples are available to view. Once materials are acceptable a formal letter of confirmation will be sent to you. Please note that this process may take up to eight weeks. If the Local Planning Authority fails to give a decision within this time or should it refuse approval of the submitted details then the applicant is entitled to lodge an appeal to the Planning Inspectorate, Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN, tel. 0117 372 6372, www.planning-inspectorate.gov.uk
4. The responsibility for ensuring compliance with the terms of this approval rests with the person(s) responsible for carrying out the development. The Local Planning Authority uses various means to monitor implementation to ensure that the scheme is built or carried out in strict accordance with the terms of the permission. Failure to adhere to the approved details will render the development unauthorised and vulnerable to enforcement action.
5. Your attention is drawn to a number of conditions in the above permission, which require the submission and approval of certain information PRIOR to the commencement of certain activities (e.g. development, use or occupation). Failure to comply with these conditions may render the development unauthorised and liable to enforcement action. Please note that there is a fee for the council's consideration of details submitted pursuant to a condition on a planning permission. The fee is £85 per request (or £25 where it relates to a householder application) and made payable to Mendip District Council. The request must be made in writing or using the Standard Application form (available on the council's website www.mendip.gov.uk). For clarification, the fee relates to each request for the discharge of condition/s and not to each condition itself. There is a no fee for the discharge of conditions on a Listed Building Consent, Conservation Area Consent or Advertisement Consent although if the request concerns condition/s relating to both a planning permission and Listed Building Consent then a fee will be required. You should allow up to eight weeks for these condition/s to be discharged, following the submission of details to the Local Planning Authority. If the Local Planning Authority fails to give a decision within this time or should it refuse approval of the submitted details then the applicant is entitled to lodge an appeal to the Planning Inspectorate, Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN, tel. 0117 372 6372, www.planning-inspectorate.gov.uk
6. The Planning Authority is required to erect a Site Notice on or near the site to advertise development proposals which are submitted. Could you please ensure that any remaining Notice(s) in respect of this decision are immediately removed from the site and suitably disposed of. Your co operation in this matter is greatly

appreciated.

7. The applicant is advised that it is an offence to disturb bats or nesting birds. Therefore, close inspection of the tree should be undertaken prior to the commencement of works to determine if any bats or birds reside in the tree. If any birds are found then no works should occur while they are nesting, which may be at any time between the months of March to September inclusive; if bats are present works should cease until the applicant has obtained further advice from Natural England
8. There is anecdotal evidence of protected species/habitats on site. It is illegal to intentionally or recklessly kill, injure or otherwise disturb a protected species or damage or destroy their habitat under the Wildlife and Countryside Act. The clearing of the site and the demolition of the building may require a license from the Department for Environment, Food and Rural Affairs (DEFRA) who can be contacted at Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6EB or telephone 0117 372 8291. For advice on establishing whether protected species are present on site you are advised to contact Natural England. You are reminded that proceeding with the demolition without a DEFRA license could mean that you have committed an illegal act against a European Protected Species.
9. Under Section 163 of the Highways Act 1980 it is illegal to discharge water onto the highway. You should, therefore, intercept such water and convey it to the sewer.
10. With regard to the removal of any tree/shrub/hedgerow, to comply with the law your attention is drawn to the provisions of the Wildlife and Countryside Act 1981, for protecting wild birds, their young, nests and eggs. In particular, you are reminded that it is an offence under the Act to take, damage or destroy the nest of any wild bird while the nest is in use, or being built, or to take or destroy an egg of any wild bird even where it is done pursuant to lawful authority or requirement, if any of the activities could reasonably have been avoided in carrying out the prescribed or authorised work on the tree/shrub/hedgerow.
11. The applicant/developer is advised that in the interests of highway safety and local amenities, construction traffic should be routed via the B3110.



Tracy Aarons
Group Manager – Built Environment

If you have any queries regarding this notice please contact our Customer Services Team on 01749 648999

Dated 28 February 2011

**THIS IMPORTANT INFORMATION NEEDS TO BE READ BY THE
APPLICANTS/AGENTS WITH THE DECISION NOTICE THAT HAS BEEN
PRODUCED**

NOTES IN RESPECT OF PLANNING APPLICATIONS

- 1) If the applicant is aggrieved by the decision of the Local Planning Authority to refuse permission or to grant permission or approval subject to conditions, he may appeal to the Secretary of State for the Department of Communities and Local Government in accordance with Section 76 of The Town and Country Planning Act 1990 within six months of the date of this notice. (Appeals must be made on a form which is obtainable from The Planning Inspectorate, Customer Support Unit, Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN Tel 0117 372 6372). The Secretary of State has power to allow a longer period for the giving of a notice of appeal, but he will not normally be prepared to exercise this power unless there are special circumstances which excuse the delay in giving notice of appeal. The Secretary of State is not required to entertain an appeal if it appears to him that permission for the proposed development could not be granted by the Local Planning Authority, or could not have been so granted otherwise than subject to the conditions imposed by them, having regard to the statutory requirements, to the provisions of the development orders, and to any directions given under the orders.
- 2) If permission to develop land is refused or granted subject to conditions, whether by the Local Planning Authority or by the Secretary of State for the Department of Communities and Local Government and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonable beneficial use by the carrying out of any development which has been or would be permitted, he may serve on Mendip District Council a purchase notice requiring the council to purchase his interest in the land in accordance with the provisions of Part VI of The Town and Country Act 1990.

**APPLICATIONS FOR LISTED BUILDING CONSENT, CONSERVATION AREA CONSENT
OR TO CARRY OUT WORKS TO TREES COVERED BY TREE PRESERVATION ORDERS**

- 1) If the applicant is aggrieved by the decision of the Local Planning Authority TO REFUSE Listed Building Consent, Conservation Area Consent or consent to carry out work to trees covered by a Tree Preservation Order, or to grant consent subject to conditions, he may appeal to the Secretary of State for the Department of Communities and Local Government in accordance with Section 20 of The Planning (Listed Building and Conservation Area) Act 1990 within six months of the date of his notice. IN THE CASE OF TREE PRESERVATION ORDERS THIS PERIOD IS 28 DAYS. (Appeals must be made on a form which is obtained from the Planning Inspectorate, Customer Support Unit, Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN Tel 0117 372 8192). The Secretary of State has power to allow a longer period for the giving of a notice of appeal but he will not normally be prepared to exercise this power unless there are special circumstances which excuse the delay in giving notice of appeal.
- 2) If Listed Building Consent or Conservation Area Consent is refused, or granted subject to conditions, whether by the Local Planning Authority or the Secretary of State for the Department of Communities and Local Government, and the owner of the land claims that the land has become incapable of reasonable beneficial use in its existing state and cannot be rendered capable of reasonable beneficial use by the carrying out of any works which has been or would be permitted, he may serve on Mendip District Council a Listed Building Purchase Notice requiring the council to purchase his interest in the land in accordance with the provisions of Section 32 of The Planning (Listed Building and Conservation Area) Act 1990.

- 3) In certain circumstances, a claim may be made against the Local Planning Authority for compensation where permission is refused or granted subject to conditions by the Secretary of State on appeal or on a reference of the application to him. The circumstances in which such compensation is payable in respect of Tree Preservation Orders are set out in Section 203 of The Town and Country Planning Act 1990.
- 4) Where consent is given to demolish a Listed Building the applicant is advised that 'Attention is drawn to Section 8 of the Planning (Listed Building and Conservation Area) Act 1990', the effect of which is that demolition may not be undertaken (despite the terms of the consent granted by the Local Planning Authority) until notice of the proposal has been given to the English Heritage, 29 Queens Square, Bristol, BS1 4ND and they subsequently have been given reasonable access to the building for at least one month following the grant of consent, or have stated that they have completed their record of the building or that they do not wish to record it.

NOTES IN RESPECT OF ALL PLANNING APPLICATIONS

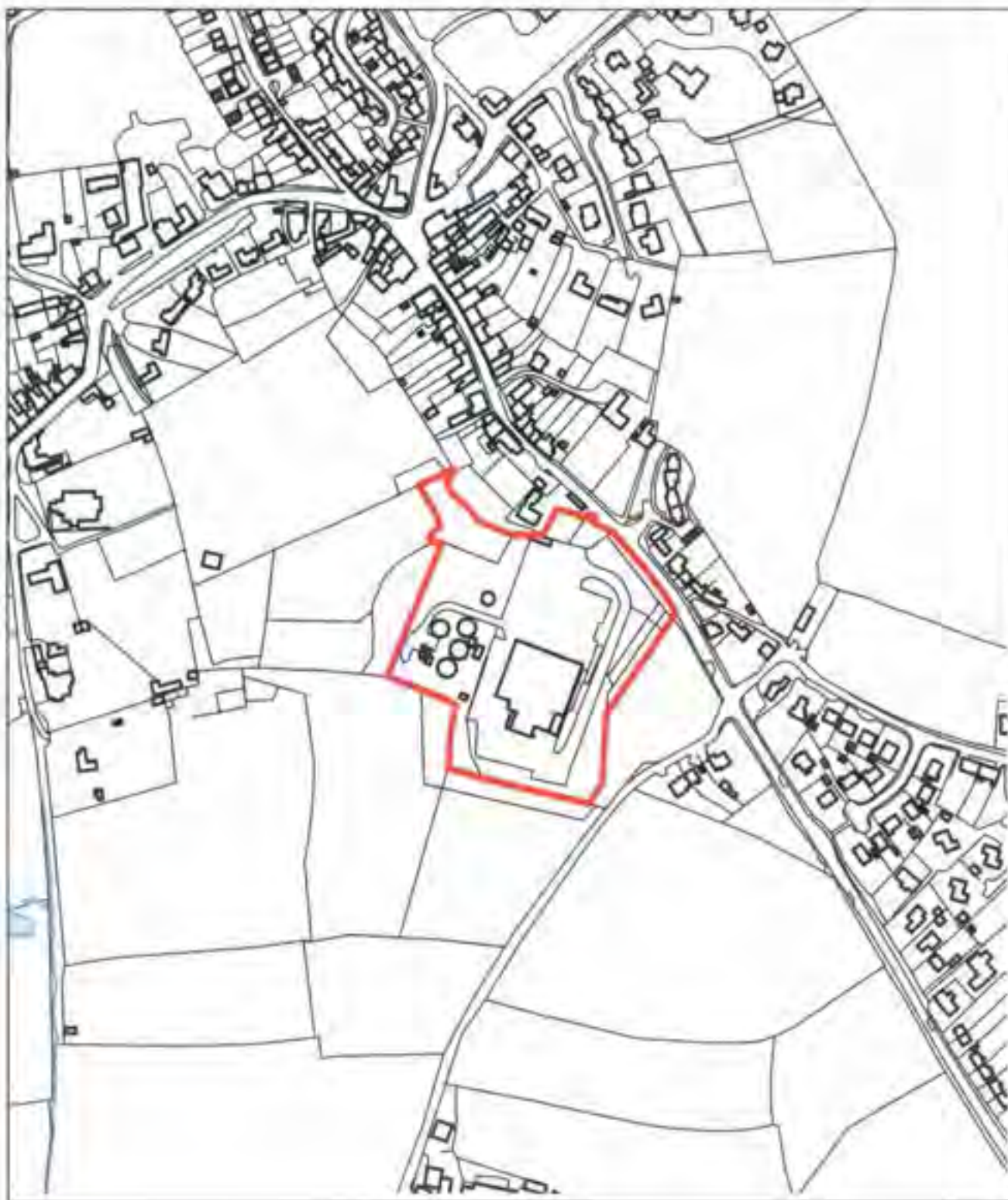
- 1) Although Planning Permission may have been granted, should the proposed work involve the demolition, alteration or extension of a Listed Building, Listed Building Consent may also be required before work commences.
- 2) If Planning Permission has been granted for the development, please note that should this involve any work within the highway such as the construction of a vehicular access, the consent of the County Council, as Highway Authority should also be obtained. Please Contact The Highways Control Centre, Somerset County Council, County Hall, Taunton, Somerset, TA1 4DY Tel 0845 345 9155
- 3) Where Planning Permission or Listed Building Consent has been granted, approval maybe required under the Building Regulations before any work is commenced.
- 4) The relevant provisions of The Chronically Sick and Disabled Persons Act 1970 must be complied with.
- 5) The Code of Practice for Access for the Disabled to Buildings, if this permission will result in the provision of a building or premises as defined in Section 76 of the Town and Country Planning Act 1990, as amended, must be complied with.
- 6) Any approved development shall be carried out strictly in accordance with the detailed drawings and specification approved by the Local Planning Authority and any conditions upon which such approval is granted shall be strictly observed.
- 7) This permission does not authorise you to stop up or divert a public right of way to enable the development permitted to be carried out. Separate legal steps are necessary for this and, if required, further information in connection there with can be obtained for the Public Rights of Way Team, Somerset County Council, County Hall, Taunton, TA1 4DY Tel 0845 345 9155.

NOTES IN RESPECT OF APPLICATIONS FOR CONSENT TO DISPLAY ADVERTISEMENTS

- 1) If the applicant is aggrieved by the decision of the Local Planning Authority to refuse consent for the display of the advertisements or grant consent subject to conditions, he may, by notice served within two months of the date of this notice or such longer period as the Secretary of State may allow, appeal to the Secretary of State for the Department of Communities and Local Government in accordance with Regulation 15 of The Town and Country Planning (Control of Advertisements) Regulations 1992. (Appeals must be made of a form which is obtainable from The Planning Inspectorate, Customer Support Unit, Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN Tel 0117 372 6372). The Secretary of State is not, however, required to entertain an appeal if it appears to him that consent to the proposed display of advertisements could have not been granted by the Local Planning Authority, otherwise than subject to the conditions imposed by them.

APPLICATION NUMBER: 2010/0493

SITE :Former Chicken Processing Factory Site, Town End, Norton St. Phillip



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Customer Services
Cannards Grave Road, Shepton Mallet, Somerset BA4 5BT
Telephone: 01749 648999 Fax: 01749 344050
Email: customerservices@mendip.gov.uk
www.mendip.gov.uk

Your Ref
My Ref 2010/0493
Please Reply to: Mr. Edward Baker
e-mail: edward.baker@mendip.gov.uk

DX: 43001 Shepton Mallet
Direct Line: 01749 341524
Ext:
Fax: 01749 344050

11 March 2011

Dear Nick,

Re: 2010/0493 Former chicken factory, Norton St. Philip

I refer to note12 on the above planning permission, which reads:

The applicant/developer is advised that in the interests of highway safety and local amenities, construction traffic should be routed via the B3110.

The parish council has asked me to clarify that construction traffic should avoid being routed via the main village and construction traffic should approach the site on the B3110 from the Woolverton direction.

I ask that you pass this letter onto the applicant and to the subsequent developer (if they differ) and make sure that they follow the above advice.

I have placed a copy of this letter on the application file and on our decision register for future reference.

Yours sincerely,



Edward Baker
Development Control Team Manager Area West

Nick Pryor
The JTS Partnership
First Floor
31 St Margaret's Street
Canterbury
Kent
CT1 2TG



Customer Services
Cannards Grave Road, Shepton Mallet, Somerset BA4 5BT
Telephone: 01749 648999 Fax: 01749 344050
Email: customerservices@mendip.gov.uk
www.mendip.gov.uk



PLANNING REF NO: 2011/2000
DATE APPLICATION RECEIVED: 01 August 2011
APPLICATION TYPE: Application For Approval Of Details Reserved By Condition

TOWN AND COUNTRY PLANNING ACT, 1990 AS AMENDED BY THE PLANNING AND
COMPULSORY PURCHASE ACT 2004
TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE)
(ENGLAND) ORDER 2010

THE MENDIP DISTRICT COUNCIL, being the LOCAL PLANNING AUTHORITY, hereby formally confirms the acceptability of the details submitted pursuant to the condition/s specified below. This document should be kept alongside your original permission. Please refer to any relevant notes given at the bottom of this decision.

AGENT/APPLICANT
Bloor Homes South West
3 Stanton Court
South Marston Park
Swindon
Wiltshire
SN3 4YH

APPLICANT
Lochailort Investments Ltd
c/o Agent

Proposal: Approval of details reserved by conditions 11 (ecology), 19 (contaminated land risk assessment), 20 (remediation scheme), 24 (demolition method statement), and 28 and 29 (tree protection measures/notice) on planning permission 2010/0493.

Location: Former chicken processing factory (Facenda), Norton St Philip, ,
Parish: Norton St Philip

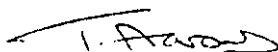
DECISION: APPROVE

SUMMARY OF APPROVAL:

The details submitted pursuant to condition numbers 11 (ecology), 19 (land contamination), 20 (Remediation Scheme), 21 (Demolition), 28 & 29 (Tree Works) are acceptable and are sufficient to satisfy the pre-commencement component of this condition.

Notes

1. This decision relates to drawing numbers NPA/10277/003, Ecology Report validated on 1st August 2011, email dated 9th February 2012 relating to Demolition, Updated Method Statement and Crushing Licence received on 16th December 2011, Gas Monitoring Results received on 8th December 2011 only.



Tracy Aarons
Corporate Manager, Built Environment Group

If you have any queries regarding this notice please contact our Customer Services Team on 01749 648999

Dated: 24 April 2012

**REPORT TO MENDIP DISTRICT COUNCIL ON PROPOSED
RESIDENTIAL DEVELOPMENT AT THE FORMER CHICKEN FACTORY,
NORTON ST. PHILIP**

19 NOVEMBER 2009

Alex Novell FLI

Mill House

Ubley

Bristol BS40 6PT

**REPORT TO MENDIP DISTRICT COUNCIL ON PROPOSED
RESIDENTIAL DEVELOPMENT AT THE FORMER CHICKEN FACTORY,
NORTON ST PHILIP**

CONTENTS

- 1. INTRODUCTION**
- 2. VILLAGE CONTEXT**
- 3. SUITABILITY OF THE SITE**
- 4. QUANTUM OF HOUSING PROPOSED**
- 5. LAYOUT**
- 6. SCALE**
- 7. LANDSCAPE DESIGN**
- 8. APPEARANCE**
- 9. MAINTENANCE**
- 10. CONCLUSIONS**

1. INTRODUCTION

- 1.1 Mendip District Council has instructed me to review the proposals for c. 50 houses on the former chicken factory site at Norton St. Philip. Although the planning application has been withdrawn, and is to be amended following consultation, I have been asked to comment on the scheme as it stands.
- 1.2 In reviewing the scheme, I have been asked to comment in particular on the likely impact of the scheme on the local landscape, on the visual amenity of the village, and on the character and appearance of the village conservation area. I am to review the urban design, and the open space and landscape proposals in this context.
- 1.3 I have visited the site with the Planning Officer and Tree Officer, and have looked with them at the village context, and at other recent schemes at Shepton Mallett, Farrington Gurney and Midsomer Norton which demonstrate some aspects of good design.
- 1.4 My report strives to be as objective as possible, in accordance with guidelines published by the Commission for Architecture and the Built Environment (CABE) for reviewing Design and Access Statements. It may not necessarily agree with the views of Mendip District Council's Officers hitherto expressed.

2. VILLAGE CONTEXT

- 2.1 Norton St. Philip is a small, well preserved village, much of it within an attractive historic Conservation Area.
- 2.2 It is of a linear, cruciform character, having developed along medieval trading routes.
- 2.3 Its geographical centre is the medieval market site where these roads cross, although its cultural centre is now located more to the west around the church, hall, village school and recreation ground.
- 2.4 Norton St. Philip, like most historic villages, has suffered modern development which we would now recognise as being inappropriate in scale, layout and design. This must at least indicate caution when considering further development as large as 50 dwellings in this size and form of village.
- 2.5 The applicant has commissioned a Historic Development and Character Analysis. This is a sound piece of work and will not only inform the housing layout and design, but provides a useful guide in reviewing the proposals.

3. SUITABILITY OF THE SITE

- 3.1 The old chicken factory is derelict and disused, and, as such, provides an area which should be regarded as a priority for new development in preference to a green field site, providing that such development is appropriate and suitable in scale and design.
- 3.2 It lies within the village development limits, and, although at first sight rather peripheral to the urban form, it does have an important frontage on to Town End within the Conservation Area and potential green links with the recreation ground, church, hall and school.
- 3.3 The site is well screened by hedgerows and tree belts at the moment, which would help to integrate new housing of some scale relative to the village form. However, parts of the tree belts are in very poor condition, and would need replanting to maintain this screen in the longer term. This would be important in reducing visual impact both on village open space and on the wider countryside.
- 3.4 The site itself is much disturbed by terracing, and the derelict buildings, although not widely visible in the landscape, constitute an eyesore.
- 3.5 The site is suitable for housing development. Its discreet nature provides the opportunity for a relatively self-contained development, but the road frontage

and visual relationship with the village recreation ground and wider countryside are important considerations.

4. QUANTUM OF HOUSING PROPOSED

- 4.1 Housing policy for the village calls for small groups of houses to provide for the needs of the village. In addition, one must assume that affordable housing needs may be met outside this policy (and potentially outside the development limits of the village).
- 4.2 On the other hand, a larger development, if it could be achieved with aplomb, would satisfy all of these needs well into the future, and avoid possible disappointment with piecemeal applications.
- 4.3 I believe a larger scheme could be acceptable from an environmental point of view, providing the design standards were high enough to regard the finished result as an asset to the character and appearance of the village, bearing in mind the relationship of the site to the Conservation Area. In other words design standards and appearance are more important considerations than scale per se.
- 4.4 Having said that, the site clearly has a limit on capacity, and that limit would normally be defined by the existing green infrastructure, and in particular the tree belts subject to Tree Preservation Order.
- 4.5 In judging the capacity of the site, allowance should be made for small areas of incidental open space within the development as places to meet, and where

incidental trees would continue the village character of rooftops seen in the context of foliage.

- 4.6 The current proposals do not respect the limits imposed by the existing TPO trees, and do not allow sufficient space for the individual trees shown within the development. This suggests that c. 50 dwellings may be too many for this site – perhaps c. 35 would be more in keeping with the constraints of the site.
- 4.7 However, the quality of design and the character and appearance of the scheme should be the main considerations, and I have reviewed these aspects of the c.50 house scheme before me to see if a case can be made on environmental grounds for such a large development in the village.

5. LAYOUT

- 5.1 The proposed layout is, in my view, very much on the right lines.
- 5.2 Continuous frontages, discreet parking courts, continuity of garden walls and fences, and corner-turning buildings all help to define 'the street' and allow tantalising glimpses into semi- private off-street space.
- 5.3 Private and public space is well defined, with good overlooking of public and semi-private spaces to deter crime and anti-social behaviour.
- 5.4 There is a good approach to sense of place, with distinctive buildings at the entrance to the site and to punctuate vistas.
- 5. The location of the village shop seems to me to be unfortunate. It interrupts a key opportunity to continue the character of Front Street within the conservation area with house frontages up to the back of pavement. The idea that retail uses need to be right on the road for visibility to passing trade strikes me as rather an outdated and unnecessary prescription for the siting of a village shop.
- 5.6 The doctor's surgery is a fine distinctive building; if this is not required, perhaps the village shop could go here and take advantage of this design.

- 5.7 The commercial units might also have been unfortunate, given the relative importance of the road frontage. However, I applaud the notion of making these seem residential in scale and design – much more in keeping with village character, surely, than overtly commercial buildings. If there is no market for this use they could revert, subject to planning consent, to residential buildings (flexibility being an important consideration in sustainable building design).
- 5.8 The important thing, I believe, is to ensure that buildings fronting Front Street have a residential character and scale, and an appearance in keeping with the historic buildings along the street within the conservation area. This means, in particular, that they should not have front gardens.
- 5.9 The proposal for large-growing trees sited within the development would replace some of the better trees to be removed in order to grade the site, and are to be welcomed in giving scale, context and focus to the urban spaces and facades. However, these trees need space for their roots to develop unimpeded and without danger to structures or services, if they are to survive. More consideration should be given to small, incidental corners of open space outside private curtilages where these trees can be sited, and where a seat or two could be introduced as a meeting place.
- 5.10 Connectivity has been considered, with footpath links to the recreation ground and to local public footpaths.

- 5.11 The main problem with the layout as it stands is the effect on important existing TPO'd tree belts.
- 5.12 At the north east corner of the development, the road and parking is not, I understand, now to proceed. There appears to be quite a lot of tree clearance here, with the formation of an area of open space of indeterminate use. Now that only a footpath link is to be provided, this area should be looked at again to retain good tree cover on this corner.
- 5.13 The TPO'd tree belts along Town End in the north east of the site, and along the whole of the eastern boundary would be removed by the scheme.
- 5.14 A Tree Preservation Order is intended to protect not only existing trees, but tree cover on the land in question in perpetuity. Where trees subject to TPO have to be removed for reasons of morbidity or public safety, they should be replaced with new trees that will retain the function and amenity of the existing.
- 5.15 It is argued that the rationale for these tree belts – the need to screen the chicken factory - is no longer there. However, the tree belts themselves are now an important landscape feature, and they perform an important function in enclosing the site, in forming a green backdrop and in providing screening on the village/countryside boundary.

- 5.16 It is accepted that many (but not all) of the existing trees within these belts are either of limited life expectancy, or are overgrown *C. leylandii* screens which are inappropriate in the British countryside and are suppressing other more suitable species.
- 5.17 Normally, rather than simply removing the tree belts, the expectation would be that unsuitable trees would be removed, and the belts replanted in situ to maintain tree cover. In this case, however, few existing trees in these belts would be suitable for retention.
- 5.18 There is merit, in my view, in allowing the demise of the north eastern tree belt in return for an excellent built street frontage in keeping with existing historic development on Town End. As I have said, I don't believe that a village shop and car park contributes much to this goal.
- 5.19 There would be merit in moving the eastern tree belt out onto vacant meadowland within the applicants' control only if the quantum of development to be allowed necessitated this. From an urban design point of view this may be a moot point. The scheme could work equally well in my view by maintaining the green wooded edge (suitably replanted) where it is, in place of the existing houses along the eastern edge of the scheme.
- 5.20 This brings us back to questions of quantum of housing, costs of developing this site and requirement/offer of affordable homes.

- 5.21 If, after taking these matters into consideration, c. 50 houses are to be allowed on merit, the eastern tree belt should be re-created much more convincingly outside the development boundary. The existing single row of trees and native hedge material, approximately 5m wide, is wholly inadequate – even to accommodate the canopies of the single line of trees shown. These will eventually interfere with buildings and gardens.
- 5.22 A tree belt of similar proportions to that lost should be the minimum requirement if the c.50 house scheme is to be permitted.

6. SCALE

- 6.1 The scale of the dwellings, and their inter-relationships in the street scheme have been well considered.
- 6.2 Generally in keeping with the scale of historic village houses, the graduated scale of terraced, link-detached (or virtually) and larger individual detached houses works very well.
- 6.3 Similarly heights of dwellings are well related to their scale and form, the occasional larger three-storey house acting as a focus aiding orientation and sense of place.
- 6.4 Plot sizes are also well handled, with small plots for small houses, and larger plots with a rural edge for larger dwellings, recreating successfully a similar urban grain to that of parts of the conservation area.
- 6.5 This careful handling of scale reinforces the consideration given to the layout, resulting in a scheme which is exemplary in these regards.

7.0 LANDSCAPE DESIGN

- 7.1 Some aspects of the landscape design work well – the inclusion of individual trees within the scheme, for example, and the excellent use of small front gardens to larger on-street dwellings giving scope for a classical ‘green plinth’ and climbing plants.
- 7.2 The planting palette is generally pleasing and appropriate.
- 7.3 Some aspects, I believe, need more careful consideration. I have already mentioned the need to give large-growing trees root space (physically by creating sufficient green space within the layout, or if in car parks, in ‘tree soil’). There is scope for a few more large individual trees around the shop/surgery area, and perhaps in the gardens of 26 – 33, the car park behind plot 36, and in the garden of plot 10, further to articulate the scheme.
- 7.4 There is very little incidental open space – small corners with a seat or piece of toddler’s play equipment where people might meet, as recommended by CABE – near the village shop / doctor’s surgery, for example. This could be allied in the layout to the need to give incidental trees more space (see 7.3 above)..
- 7.5 The relationship of garden walls to existing tree roots may need more careful consideration (see in particular the north west corner). Root Protection Zones

for all trees to be retained should be shown with the existing levels on the hard landscape drawing.

7.6 I have already mentioned the need for a genuine replacements to TPO'd tree belts if they are to be removed.

7.7 In my view the paving design is too complex, with too many materials employed in relatively small areas. It could easily be simplified, resulting in a more cohesive and elegant street in keeping with the simple elegance of the building designs. I would welcome more discussion over a plan.

7.8 The site falls some 23m. – a significant change in level. Existing (round the margins) and proposed levels should be shown on the hard landscape drawing to show how the level changes are accommodated and how they relate to existing tree RPZs.

7.9 I would welcome an opportunity for more discussion on the design of the flood mitigation scheme / nature conservation area. The elements are all there, but they seem rather scattered across the site. Could the copse / understorey / meadow / delaying meadow ./ marsh and ponds be drawn together to form a more integrated mosaic of habitats in the lower part of the site?

7.10 There is no Landscape and Visual Impact Assessment. This is an essential study to support such a relatively large development within and adjacent to the conservation area.

8. APPEARANCE

- 8.1 The Historic Development and Character Analysis of the village forms an excellent guide to the appropriate elevational treatment, roofscape, materials and detailed use of materials in order to foster a sense of place in the proposed development which would be quintessentially Norton St. Philip.
- 8.2 With some exceptions, this guidance is carefully followed in the design of the housing, and the results are generally most pleasing and will compliment the excellent layout.
- 8.3 The following comments are made to draw attention to aspects which, I believe, tend to detract from what is otherwise an excellent scheme.
- 8.4 It really follows on from my comment on paving design, and the tendency sometimes to introduce variety for variety's sake.
- 8.5 The Historic Development and Character Analysis maintains that the predominant window treatment in the village is a simple stone surround – this should therefore be the **predominant** window treatment in the scheme.
- 8.6 Arched windows are not characteristic of Norton St. Philip. The use of this detail in the scheme tends to detract from the more authentic use of plain stone surrounds.

- 8.7 The mixture of stone and render in the front facades does not work as well as either stone, or render, (except of course where stone quoins are used in rendered elevations, which works very well indeed). The Historic Development and Character Analysis says that most of the village houses have stone facades – should this not also be the case in the new designs, at least on the front facades?
- 8.8 The roofscape sometimes suffers from every dwelling in relatively small section of street having a different roof covering from its neighbour. Whilst a variety of stone tiles, plain clay tiles and pan or double Roman tiles is to be found in the village, quite often pairs of houses or a row of houses have the same treatment, giving a more cohesive visual appearance. This is well illustrated in the photographs of existing village houses within the conservation area.
- 8.9 The houses are generally of such strong individual character in terms of scale, height, fenestration and door details that too much variety of materials and roof materials can easily ‘over-egg the pudding’. It should be remembered that the scheme should aim to achieve a Norton St.Philip character and not necessarily repeat design solutions appropriate to other locations.

9.0 MAINTENANCE

- 9.1 The landscape maintenance objectives are set out in 10.5 of the Landscape Report. These are a useful set of objectives.
- 9.2 All woodland, hedge and shrub/ground cover areas should be adequately mulched – this requirement should be set out and details shown of mulched areas.
- 9.3 ‘To achieve a weed-free soft landscape scheme’ – this is a worthy objective, and, one assumes, it means that there will be regular maintenance (weeding and mulching) until shrubs and groundcover are sufficiently mature to suppress weed growth. This should be shown in the Landscape Management Plan (see below).
- 9.4 The maintenance requirements, operations and specifications for Years 1 – 5, and separately for the period of ‘long term maintenance’ beyond Year 5, should be set out in a Landscape Management Plan covering each category of soft landscape (woodland / shrub and groundcover / perennial planting / specimen trees / amenity grass / meadow / flood mitigation and wildlife areas).

10. CONCLUSIONS

- 10.1 The old chicken factory site at Norton St Philip presents a rare and excellent opportunity for a very good housing scheme on previously developed, disused and derelict land within the development limits of an attractive and well preserved historic village.
- 10.2 Its location on the edge the village, and in particular its relationship with the village conservation area, requires nothing less than a scheme which, in terms of scale, layout, use of materials, landscape design, and overall appearance would not only compliment the historic core of the village, but add positively to the character and appearance of the conservation area.
- 10.3 For the most part, the scheme reviewed scores highly against these criteria. It cannot be faulted for analysis, and the attention to detail in seeking a development of appropriate scale, layout and design is noteworthy.
- 10.4 There remains one major issue – that of the extent and quantum of housing relative to the size of the village and natural constraints of the site – and, in addition, a number of more specific design issues.
- 10.5 Taking the major issue first, it would be objectionable to sweep away and build over important tree belts subject to Tree Preservation Order merely because many of the trees within them are moribund or otherwise unsuitable for retention. Despite the removal of the *raison d'être* for the planting of these

trees – screening of the old chicken factory, - the tree belts remain of importance to the character, appearance and green infrastructure of the village. This is acknowledged by the applicant. Either the eastern tree belt should be replanted in situ in which case a scheme of c.35 houses would be appropriate, or if a scheme of c. 50 houses has planning merit, it should be replanted to the east, in which case an equally prominent and extensive belt to that lost should be established. The current proposal for a 5m strip of tree and hedge planting is wholly inadequate.

10.6 Even a scheme of c.35 houses would be well in excess of what the Local Plan envisages, although there are a number of reasons why this could be supported:-

- i) it would avoid piecemeal development with no guarantee of achieving the quality of housing offered on the chicken factory site;
- ii) it would provide more certainty on the location and quality of affordable housing, which otherwise might be permitted outside the current development limits of the village.
- iii) it would make best use of a priority site for redevelopment, with good connectivity to local amenities.
- iv) it would provide the best opportunity for appropriate development within the conservation area, along the Town End frontage.

10.7 Whether this may be allowed to expand to a c.50 house scheme would depend mainly on other than design issues – for example, the social and economic effects on the village; sustainability considerations re: commuting traffic; the

commercial efficiency of developing a brown field site where the use of expensive natural materials and individual house design is desirable within and adjacent to the conservation area; and the optimum social benefit to be achieved in terms of affordable housing.

10.8 Certainly if a c. 50 house scheme were to be permitted, the highest standard of design should be sought. I do not believe that the extra 15 or so houses would have a negative effect on the character and appearance of the area, providing the reestablishment of the existing scale of treebelt and the design is to the highest standard. I recommend:-

- i) less variation and more cohesion in paving materials; the architecture is essentially classical in inspiration with a simple elegance which deserves the same approach to roads, footpaths and courts;
- ii) greater adherence to the guidance offered by the Historic Development and Character Analysis with particular reference to the predominance of plain stone window surrounds in the village, general absence of stone arches to windows, and predominance of stone as a building material, particularly in front facades;
- iii) less variation and more cohesion in roof coverings which would again be more in keeping with what is found in the village Conservation Area;
- iv) consideration as to whether the street frontage within the conservation area could not be more sensitively laid out, with continuous houses along the back of pavement, better to compliment the existing Front

Street frontage within the conservation area. This would involve reciting the village shop to replace the excellent landmark doctor's surgery building (in a similar style?), which I understand may not be required.

- v) opportunities for small incidental corners where people could meet and sit. A few more specimen trees within the development and more attention to ensuring that specimen trees have sufficient root zone and space for a large canopy to develop;
- vi) more attention to potential conflict between existing tree Root Protection Zones and garden walling. Existing tree RPZ's should be clearly shown, along with existing and proposed levels, on the hard landscape drawing;
- vii) redesign of the landscape envelope in the north west corner of the development, now that an access road is not required, to retain or plant more trees;
- viii) the potential for a more cohesive scheme for flood mitigation/nature conservation, drawing together copse/understorey/storage meadow/pond and marshland into a more cohesive mosaic of habitats.

10.9 A Landscape and Visual Impact Assessment should accompany any planning application for this site.

Alex Novell FLI

02 November 2009

Landscape Report submitted
with application.

f Appendix 4

NICHOLAS PEARSON ASSOCIATES

ENVIRONMENTAL PLANNERS
LANDSCAPE ARCHITECTS
ECOLOGISTS

Lochailort Investments Ltd

**Former Chicken Processing Factory, Norton St. Philip,
Somerset**

Proposed Residential Development

Landscape Report

March 2009

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CONTENTS

- 1.0 Introduction**
- 2.0 Method of Approach**
- 3.0 Study Area Description**
- 4.0 Study Area Context**
- 5.0 Landscape Character Assessment**
- 6.0 Trees and Hedgerows**
- 7.0 Visual Appraisal**
- 8.0 Landscape Design Objectives**
- 9.0 Landscape Design Proposals**
- 10.0 Landscape Management and Maintenance Proposals**

1.0 INTRODUCTION

- 1.1 Nicholas Pearson Associates was commissioned by Lochaihort Investments Ltd to prepare a Landscape Report as part of an application for the redevelopment of the former chicken processing factory at Norton St. Philip, Somerset.
- 1.2 This report describes the site to be redeveloped and the adjoining fields, identifies a number of landscape character areas and provides a visual analysis of the site and its setting. This information and the conclusions drawn then assisted in the evolution of landscape design proposals for the proposed development.

2.0 METHOD OF APPROACH

- 2.1 The landscape character assessment draws upon established landscape assessment methodology and identifies specific landscape character areas within the site and in the immediate surrounding area.
- 2.2 The broader landscape character of Norton St. Philip and its environs is described in "Countryside Character, Volume 8: South West" (the then Countryside Agency 1999, now Natural England), provides a broad landscape character description for the area. Norton St. Philip lies within Character Area 107, Cotswolds. A more detailed analysis is found in the "Landscape Assessment of Mendip District" (Chris Blandford Associates, May 1997).

3.0 STUDY AREA DESCRIPTION

- 3.1 The study area, which totals approximately 8 ha (32.4 acres) is located to the south of Norton St. Philip village centre and comprises the area of the former chicken processing factory, and agricultural fields to the south and west and north west of the factory. Access to the study area is from three places: the main access is to the factory site itself off High Street/Town End. There is a field access point off Mackley Lane, and pedestrian footpath access from the lane running south from the church.
- 3.2 The topography of the site area broadly relates to the ridgeline running to the south and east of Norton St. Philip with a high point of approximately 119 m AOD on the western boundary sloping down to a low point of 96 m AOD on the northern boundary. The

original levels across the area were, at the time of the development of the factory, substantially altered to create two extensive flat plateaus for the factory buildings, with associated retaining walls, steps and ramped roads. In addition, large, very steeply sloping artificial landforms were formed to assist with screening to the northwest and along High Street (B3110), and to allow for the creation of the plateaus for the former factory.

3.3 Vegetation cover across the study area is varied and comprises hedgerows to original field boundaries with a number of individual hedgerow trees; belts of coniferous and deciduous tree species to the edges of the factory area; a woodland copse on the mound north west of the factory area; and a number of individual trees of varying condition within the factory area and a remnant field boundary hedgerow. The majority of the tree planting is related to the functional screening of the previous development.

3.4 The fields are currently managed as pasture for grazing.

3.5 Built form is confined to the former factory area and comprises the remnants of the large main processing building (partly demolished), and a number of outbuildings, sheds, and associated pipework. The majority of the surface surrounding these structures is, variously, concrete and tarmacadam hardstanding. The factory area is fenced by 2 m high chainlink fence at the site entrance, and a 3 – 4 m high lapped timber acoustic barrier along the south eastern edge of the former factory.

3.6 An overhead electricity cable serving the factory crosses the paddock lying south eastwards.

4.0 STUDY AREA CONTEXT

4.1 The study area context is defined by the urban form of Norton St. Philip village, generally lying to the north and east of the site, and agricultural land to the south and west and, beyond Norton St. Philip, to the north and east.

4.2 Although the village has developed around two main focal points, St Philip and St James's Church and the George Inn respectively - both with adjacent clusters of buildings - the general village development is of a linear form along Bath Road to the north, Farleigh Road to the east and Town End/Frome Road to the south east. More recent residential development has occurred on the western and southern village edges. The village is

characterised by enclosed meandering streetscapes with glimpsed views out to the surrounding countryside.

- 4.3 The main village open space, Church Mead to the immediate north of the site, functions as a recreation ground, and provides a valuable landscape setting for the village, and the church in particular.

5.0 LANDSCAPE CHARACTER ASSESSMENT

- 5.1 The 'Landscape Assessment of Mendip District' defines a landscape character (Orchardleigh/Buckland/Norton St. Philip Ridges) within which the study area is located, as comprising:

- Broad rounded ridges
- Large fields
- Low hedges
- Intermittent hedgerow trees
- Occasional drystone walls
- Wide views
- Predominance of arable
- Parklands and villages
- Oolite buildings

- 5.2 Field survey confirms this as an accurate broad characterisation of the area. The study area itself however displays a number of distinct characteristics, which locally refine this general description. Four character areas within the study area have been defined:

5.2a Zone A: *Industrial*

This character zone of the former factory area is well defined physically and visually by the enclosing screening belts of coniferous and deciduous trees, hedgerows and the man made landform bunding. The previous activities give a strong industrial character with the large scale built forms and open areas of hardstanding. The area is now derelict. The zone itself is divided into two areas by a change in level of some 3 – 4 m and a remnant field gappy and leggy boundary hedgerow. Much of the vegetation is in a poor condition.

The vehicular access off High Street/Town End is heavily engineered to accommodate the turning movements of heavy good vehicles which formerly required access to and egress

from the factory. Its form and scale, together with the adjacent steep embankment, is a major detractor in this part of Norton St. Philip.

5.2b *Zone B: Enclosed Elevated Pasture*

This character zone comprises the small paddock to the east of the factory area, at the high point of the site on top of the local ridge. It is physically and visually well enclosed by the high timber acoustic barrier and varied condition screen planting adjacent to the factory, and unmanaged hedgerows to the study area boundary.

The existing hedgerow and residential properties on Mackley Lane and Town End provide an immediate reference to the character of the village, the hedgerow itself providing a feature in the study area.

The field is divided by an agricultural post and wire fence, and the grass/pasture is dominated in parts by perennial weeds.

The zone has an unkempt and unmanaged quality and the timber acoustic barrier is a visual detractor to the area and the surrounding context.

5.2c *Zone C: Open Pasture*

This character zone comprises the fields south and west of the factory area. The fields slope down to the west off the rounded ridge, with wide views across the local valley. The field boundary hedgerows are generally managed to 2 - 3 m height in part, or have grown to 5 – 7 m high in places, especially adjacent to the factory area, providing an element of visual screening and local enclosure. The fields are managed pasture and relate strongly to the wider landscape character.

The factory area and associated buildings/built form are not generally intrusive although the 3 – 4 m high timber acoustic barrier is a detractor to the eastern most part of this area, with some local intervisibility.

5.2d Zone D: *Enclosed Lower Pasture*

This zone comprises the field north west of the factory area. The field slopes down gently to the west from the base of the steep bund, and is managed as pasture, and then as paddock closer to the Old Vicarage. The fields are well enclosed by unmanaged dense hedgerows and the planted bund adjacent to the factory. The area provides an undeveloped rural setting for the village, and has a particular relationship with the village edge and the church and churchyard in particular. The planting on the bund provides a backdrop in certain views from the edge of the village.

6.0 TREES AND HEDGEROWS

- 6.1 The general extent of existing trees and hedgerows on site are shown on Drawing NPA/10277/004, and specific detail is shown on Drawing NPA/10277/003. The great majority of this site vegetation is located on its boundaries. Vegetation cover on the mound which defines the northwest site boundary comprises mixed deciduous and coniferous trees, originally planted to screen the factory from view. This tree cover is dense and of mixed form, un-thinned and containing prominent exotic conifers. The tree cover here provides badger habitat and also contribute to the ground stability of the setts in the bund. South westwards along this same bund, the tree cover is featured by coniferous trees (*Leylandii*), and these are locally prominent features which are out of character with their surroundings. The southern boundary of the development site is variously defined by scrub and poor quality hedgerow, and then by a line of mature and over mature Poplar and Willow. Thereafter, the eastern boundary of the former factory site is featured predominantly by mature and over-mature poplar.
- 6.2 A comprehensive tree survey of all trees on site was carried out in September 2007 and trees were classified in accordance with BS5837:2005. This survey identifies the condition of the trees and incorporates a constraints table to show the root protection areas (RPA) for the A, B and C category trees.
- 6.3 The Tree Preservation Order (TPO) relating to the site (Norton St. Philip No 3 - Land at Hinton Poultry Ltd, Town End) was confirmed in May 1988. This TPO identifies a number of trees individually, together with trees referenced by area.

6.4 The proposed development site was visited by Mendip District Council's Tree Officer in July 2008 to carry out a preliminary assessment of the trees within and on the boundaries of the site, with due consideration of the village setting. It was considered that:

- 1 The general quality of the trees within the proposed development site is poor.
- 2 The original purpose of the boundary planting, and the reason for this TPO, was to help screen the factory and its activities from external view. Since 1988 and over the subsequent 20 year period, a number of the individual and area TPO trees have died, others have been severely damaged by storms, all have remained unmanaged for many years much to their detriment, some of the trees are now very weak, and the whole is becoming derelict. The chicken processing factory itself was severely damaged by fire in 1999, and the site has remained unused since then. It was considered that the original purpose of the TPO protected planting had become redundant. There is now an opportunity to remove the existing trees and to introduce new planting with long term management, to better contributes to the amenity of the site, as part of its future use, and to the village.
- 3 The south boundary hedge, (TPO area A2) albeit unmanaged, has potential for improvement given proper management and supplementary planting.
- 4 The TPO trees which form the east boundary (TPO area A1) comprise predominantly mature/over mature Leylandii conifers, together with some mature very large poplars and some willow, and the occasional other hardwood specie. Good woodland management practice would encourage the clearance of the exotic conifer Leylandii, which are predominant in the A1 area, and which dominate the boundaries. The quality of the trees is poor, and the poplars have little value. Whilst the trees, together, contribute as a feature in the wider landscape, these, with the 3m high timber fence edging them, are no longer fulfilling the original amenity or screening purpose. It is also likely that the area's bio-diversity value is low, given the density of the Leylandii in particular. The east boundary of the site requires a better quality of planting for the site to contribute positively to future generations. There is a considerable opportunity to improve bio-diversity by removing the non natives and exotic Leylandii conifers, together with the poplars and willows, and introducing appropriate native tree planting for posterity.

-
- 6.5 In summary, The TPO, now over 20 years old, does not accurately represent the condition or value of what now remains. The great majority of the TPO trees are in fact of poor quality, and over mature. Some 30% of the trees within the former factory area are dead, dying or diseased. Furthermore the coniferous trees are not indigenous or native nor a valued characteristic feature of the local landscape.

7.0 VISUAL APPRAISAL

- 7.1 The location of the study area on a ridge, adjacent to a busy road, and on the edge of the village would imply some visual sensitivity and potential prominence. However, the construction of the large landform bunds and the maturing belts of trees, as well as the existing hedgerows which visually screen the factory area from surrounding views, are such that the existing development is quite discreet and does not have a significant visual impact.
- 7.2 The site is defined in the local and wider landscape by its surrounding trees and by the remnant former processing buildings, but the internal extent of the site itself is to a very great extent hidden from external view. From Church Mead and properties lying to the north west and north in the locales of St Philip and St James's church and the George Inn respectively, it is the mature conifers on the bunds which are prominent, and which with the deciduous planting act as an immediate backdrop to the recreation area, and to paddocks and agricultural land in the foreground of such views. Longer distance views of the site locality are gained from the west and northwest across the local valley including from the Wells Road (A366). From the local countryside southwest and southwards the internal extent of the site is somewhat more visible, but views from this direction are limited. From the south east, the existing high boundary fence and associated trees conceal the site, as does the bund and trees along northeast Town End boundary. Only at the immediate entrance to the site does the scale and extent of the factory area become more apparent.
- 7.3 The site itself, as distinct from some of its framing vegetation, currently contributes very little of value in landscape and visual terms to the character of the village. Clearly, some of the trees provide important visual references in the village but their effect is due to cumulative impact rather than the quality or significance of individual specimens.

8.0 LANDSCAPE DESIGN OBJECTIVES

- 8.1 The overall landscape design objective is to provide a high quality landscape setting for the proposed residential development, ensure its visual integration into its village setting, and minimise any visual impacts or change on the surrounding area.

This will be achieved by:

- The retention and management of existing vegetation wherever possible, practicable and desirable.
- The planting of new trees/vegetation, where possible, to replace those currently diseased/dying or that are to be removed as part of the development.
- The planting of new trees/vegetation to provide an attractive landscape setting for the residential development.
- The planting of new trees/vegetation to provide additional visual integration for the residential development.

9.0 LANDSCAPE DESIGN PROPOSALS

- 9.1 The site, in its present derelict state, is a significant physical and visual detractor in the village. Its framing vegetation, whilst clearly apparent 'en masse' in so many local views, in reality comprises many over mature and damaged or dying trees, an overt number of inappropriate species (particularly the exotic coniferous plantings), and all in unmanaged condition.
- 9.2 The landscape design principles for the development in the former factory site seek to ensure that the valued characteristics of Norton St. Philip, its attractive form and visual appearance, are retained and enhanced. The opportunity exists therefore, through design, to introduce built development and associated landscape that together will enhance the character of the village. To achieve such a positive contribution will necessitate change to the form of the site, and to its existing planting framework and structure. A key landscape design objective is to achieve visual integration. It is not intended to hide development from

every viewpoint; rather the intention is to integrate it into its setting in appropriate scale and proportion so that buildings, when visible, will be set in scale and proportion within a framework of structural planting as a foreground, and with a backdrop of trees, accented by specimen tree planting within the development itself. The design proposals to achieve this are as follows.

The Northwest Bund

- 9.3 The planting on this former screen bund comprises dense, unmanaged mixed deciduous and coniferous trees, nearly all of similar age. The exotic conifers are particularly prominent in winter, those to the south west end of the bund being visible as an obtrusive formal, regimented line in the view. It is proposed to selectively and very lightly thin the planting at the northeast end of the bund, consistent with preserving the foraging and habitat cover that the trees provide for the badgers, and to 'top' the conifers so as to reduce their height. At the other end of the bund, the conifers will be removed and a view 'window' opened to and from the site at this point. Overall, this bund of woodland will be managed so as to maintain the retained tree cover, but with reduced density of planting to encourage more rounded individual growth. This will, in external views, retain to a very great extent its existing appearance as a landscape feature, but with deciduous rather than coniferous planting being the substantive tree cover.

Monmouth Lodge Environs

- 9.4 The site shares a boundary with Monmouth Lodge, north of the existing entrance at Townend. It is proposed to retain the boundary wall between the two, and to plant a substantial belt of shrubs with trees on this boundary so as to provide further privacy for Monmouth Lodge and to restrict views to development on the site. The route of the track to the additional grass surfaced community parking area by the recreation ground has been aligned away from the Monmouth Lodge garden, and to avoid key trees in the site.

Access Track

- 9.5 This track will run north-westwards into the adjoining field, to a small communal parking area. Surfacing will be bound, permeable, rolled stone, suitable for all weather use. The

informal car park area, (providing very necessary parking for residents of High Street, and access for the village) will be a very discrete, low key element in the local landscape.

Southern and Southeast Boundary

- 9.6 This boundary generally comprises an existing gappy hedgerow with some poor form hedgerow trees, and thicket and hedgerow. The hedgerow and thicket will be cleaned up and implanted with native species, and including use of some hedgerow trees, to improve its structure and form. The thicket area fronting part of this hedgerow will be retained as it is as habitat cover.

Eastern Boundary

- 9.7 The line of poplars and willows on the east boundary will be removed. These trees were originally planted to screen the factory and activities on it, but this tree belt, much of which is mature or over-mature, comprises species of a short lived nature, is exhibiting extensive signs of die back and disease, and is not in keeping with the surrounding landscape. These species also have aggressive root systems which will be inappropriate on a residential development site. It is proposed to replace this boundary planting with significant areas of native/indigenous tree and shrub species to assist with the integration of the development into the immediate and wider landscape and to complement and enhance views to the village in the longer term.

Laverton Triangle

- 9.8 This area of paddock, which is part of the site landholding, will be maintained as part of an ongoing agricultural tenancy. Its hedgerow boundaries with the village along High Street and Mackey Lane will be managed as appropriate to maintain and enhance their structure, habitat value and appearance.

High Street/Town End

- 9.9 The steep artificial screen bank and the trees on it will be removed. These trees collectively exhibit the same regimented and functional characteristics as those on the south eastern boundary, and their removal will allow the creation of an attractive street frontage for the

development and an enhancement of the village when approaching along the B3110. This frontage will complement and extend that adjacent to it further north along High Street. The High Street frontage will incorporate a slightly elevated pavement above the road, another attractive characteristic of the design proposals.

Internal Landscape Proposals

- 9.10 The design intention is to use trees within the development for accent and focus and to punctuate the tight architectural form which copies the characteristics of the village core itself, and so a limited number of what are called 'statement' trees will be located at strategic points along the streets. Consideration will be given to their effect (as they mature) in external views to the development. Shrub planting will be used to complement this definition of place, and will be introduced at points along the street to enhance its appearance. The central space within the development will be featured by three trees. The statement trees will be planted as extra heavy standard specimens to provide immediate effect.

Surrounding Fields

- 9.11 The former factory development site is part of Lochailort Investment's wider land ownership, and so it is possible to define future land management intentions for the agricultural land extending west and south from the site itself. To the west is a field, partly used as paddock, which separates the site from a number of dwellings along Vicarage Lane. This agricultural land use will continue. Views to the site from the Churchyard and from these properties will be unaffected, other than that the appearance of the site boundary vegetation will be improved by the removal of the Leylandii conifers, and some of the proposed development will, intentionally, be visible. The architectural form and style of the latter will be such that they will complement and enhance the wider village view. The management intentions for the agricultural land southwards are, similarly, one of 'minimal intervention'. A new detention pond will be introduced as part of the surface water management system for the development, and this will allow improvements to be made to existing land drainage, to the benefit of those dwellings along Vicarage Lane which currently suffer localised flooding at certain times. The existing field pond and its habitat will be enhanced for nature conservation benefits. The existing hedgerows will be enhanced through new planting.

Footpaths

- 9.12 The development design incorporates a number of new footpath links which will improve the footpath network in and around the village, and provide new connections to those that exist. These new paths will include a link from the south west corner of the site to the existing footpath that connects to Vicarage Lane; and a new bridle path link eastwards from Vicarage Lane to Mackley Lane. Together with the proposed access track northwards from the site to the new community car parking and a link from here to the footpaths of the recreation ground, these links provide a major enhancement of and improved public accessibility to this part of the village, allied to considerable 'permeability' of the development itself.

Allotments

- 9.13 An area of allotments is proposed within the overall site in the fields to the south of the residential development. Access to these are from Mackley Lane to a small informal parking area for 4 – 5 cars. The allotments are linked to the proposed public footpath system through the larger site.

10.0 LANDSCAPE MANAGEMENT AND MAINTENANCE PROPOSALS

- 10.1 The overall aim of the management and maintenance proposals for the soft landscape is to ensure that the functional and aesthetic objectives of the high quality planting scheme are maintained.

To achieve this, the proposals set out:

- The functional and aesthetic objectives of the planting.
- The maintenance objectives.
- Maintenance regimes for each type of planting.

Management Infrastructure

10.2 It is envisaged that the implementation and performance of these management proposals will be overseen by the appointed contractor during the construction works and thereafter the maintenance of all areas (outside private residential ownership) for 2 years following practical completion. A Management Company will be established to maintain all areas thereafter following the completion of the main contract and defects period and issue of the final certificate.

10.3 The overall objectives of the soft landscape are to:

- Assist with the visual and physical integration of the site into its setting.
- Provide a high quality landscape for a 'flagship' residential development in the context of the Conservation Area and village of Norton St. Philip.
- Meet the planning requirements of the local planning authority, Mendip District Council; i.e. to successfully establish a soft landscape scheme in accordance with the approved planting design.
- Establish a low maintenance landscape scheme which requires a minimal input once established.

10.4 The form and type of landscape scheme and the functions it has to perform, has been influenced by a number of factors. These are as follows:

- (i) The site location on a former chicken processing factory site which has established vegetation which contributes to varying degrees to the local landscape character. As such, some of this planting is to be retained for visual integration of the proposed development.
- (ii) The adjacent residential properties required a suitable level of visual concealment and landscape buffer to the site.

- (iii) The function of the site as a residential development, and the external realm amenity required from planting.
- (iv) Public accessibility within the broader site, and the need for an appropriate level of visual amenity.

The landscape scheme itself, consists of specimen tree planting, retention and enhancement of varied areas of trees and hedgerows, new tree and shrub, open planting fields and grassland.

Maintenance Objectives

10.5 The maintenance objectives are as follows:

- To achieve a weed free soft landscape scheme.
- All plants to become established at an early stage and continue to show healthy growth appropriate to species through to Year 5.
- Trees to have balanced crowns and overall growth of between 3 – 5 m height by Year 5, requiring little or no regular maintenance thereafter.
- Woodland copse areas typically to have:
 - dense vegetation;
 - closed canopy with 100% ground cover of shrubs by Year 5;
 - overall growth of between 3 – 5 m height by Year 5.
 - occasional maintenance only beyond Year 5.
- Grass areas to have total cover, with no bare patches within Year 1 requiring a minimum level of mowing/maintenance thereafter.
- All areas to be kept neat and tidy with all arisings generated removed during maintenance visits. Arisings shall include grass cuttings, weeds, dead material, litter and other materials generated during the course of regular maintenance works.

- Any tree, shrub, herbaceous plant or grass areas which are dead, dying are considered to be obviously unhealthy during the 5 year maintenance period will be replaced to the original specification.



- Study area boundary
- Ridgeline
- High point
- Low point
- Main access
- Field access
- Existing trees within study area
- Existing hedgerows within study area
- Existing public footpaths



NICHOLAS PEARSON ASSOCIATES	
Environmental Planners - Landscape Architects - Ecologists	
Client	Lockhart Investments Ltd
Project	Former Chicken Processing Factory, Norton
Landscape Report	
Figure 1	
Study area location	
Date	04.03.09
Drawn	Planning
Checked	
Approved	
Drawn by	NIN/1027000
Checked by	
Approved by	
Scale	1:10,000
North Arrow	
Map	
Sheet	
Page	



- Study area boundary
- Existing trees within study area
- Existing hedgerows within study area
- Zone A - Industrial
- Zone B - Enclosed elevated pasture
- Zone C - Open pasture
- Zone D - Enclosed lower pasture
- Existing public footpaths
- Local views
- Distant views
- Existing open space
- Existing village area



NICHOLAS PEARSON ASSOCIATES	
ENVIRONMENTAL PLANNERS LANDSCAPE ARCHITECTS - ECOSYSTEMS	
Client	Lochalort Investments Ltd
Project	Former Chicken Processing Factory, Norton
Landscape Report	
Drawing	Figure 2
Landscape character and visual analysis	
Date	Planning
Drawn	04/03/19
Checked	04/03/19
Drawn By	NPA (02/77002)
Checked By	
Scale	1:1000
Sheet	1 of 1

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East Site

Description of Site, Proposal and Constraints

1. The application site is a roughly triangular field between Town End, Mackley (or Machley) Lane and the new Fortescue Fields development. It is known locally as "Laverton Triangle" and for ease of reference this is the name that will be used in this report, although the applicant also refers to it as the "East site".
2. Outline planning permission is sought for the development of the site for up to 20 dwellings with associated access, parking and landscaping. All matters are reserved for future consideration so the LPA is only considering the principle of development of the site in this application. The applicant has provided a supporting Design and Access statement and indicative plans and axonometric drawings. Three likely points of access are highlighted, two from the Fortescue Fields development and one from Mackley Lane. These are not fixed or sought for approval but are an indication of where access might be able to be achieved.
3. The applicant has provided additional information during the life of the application on highway and transport considerations, drainage, heritage, waste water and proposed public and community benefits. The applicant has also provided a list of Heads of Terms for planning obligations being offered:
 - Highway and traffic calming measures
 - 30% of dwellings to be affordable housing, comprising 6 units; 80% rented, 20% shared ownership
 - Gift of MUGA/Allotment land to Parish Council
 - Financial contribution towards the MUGA
 - Provision of community parking to serve the High Street, additional area of parking for school and users of Church Mead
 - Detailed landscaping scheme and ongoing management
 - at least 50% of dwellings to be 2 or 3 bedrooms
 - Financial contribution towards new village community building and commitment to build where full funding is achieved through the development of both the East and West sites
 - Provision of 20m landscape/biodiversity buffer to the south of the application site
 - Additional parking areas to be gifted to the Parish Council

Summary of parish comments, any objections or conflict with the recommendation

Norton St Philip Parish Council

Comments on scheme with additional information

4. Parish Council recommendation to proposal with amended information: leave to the planning officer

Observations

1. The parish has met its housing quota in the Mendip Local Plan now under examination
2. The site is outside the development limit
3. The footprint of the Conservation Area should be left undisturbed
4. Additional vehicle movement would add pressure on pinch points identified in the Parish Council's Transport Assessment. The Parish Council wishes to pursue the offer of traffic mitigation measures in Norton St Philip proposed by the applicant.
5. Changes to screening are insufficient to mitigate the impact of the proposed development
6. If development is permitted, 30% should be affordable housing, prioritised for local people
7. If development is permitted, roof heights must be significantly lower than those of existing houses on Fortescue Fields to avoid domination of the skyline and to protect the view coming into the village from the South. The ground height of the site is 1.5 metres higher than Fortescue Fields.
8. If development is permitted outside the conservation area, housing should not move any closer to Mackley Lane than shown in the indicative layout plan supplied.

[Officer note: The Parish Council has also provided information on planning obligations that they would wish the LPA to seek if permission were granted, and a Transport Assessment looking at the transport implications of this development plus 7 others]

MDC Heritage and Conservation

Comments on original submission

5. It is hard to comment on the suitability of the proposed development without having further information on the proposal; however, I do have a number of concerns with the application.
6. The loss of the tree belt on the western boundary of the site is very worrying as this was considered necessary by the landscape architect for the Faccenda development to successfully integrate that development into the surrounding area. The loss of this belt would significantly compromise the acceptability of the Faccenda development with regards to its impact on the setting of the conservation area and so should be avoided.
7. Although the strong definition between the urban core of the village and the surrounding open countryside has been somewhat softened by previous development to the north of the High Street, the area to the south is largely undeveloped and therefore reinforces the rural setting of the village.
8. The land on the proposed site lies above adjacent roads; therefore, any proposed development would be clearly seen above the hedges, which would not provide adequate screening. This would result in the built boundary of the village moving markedly westwards, thus weakening its rural setting.

9. This being the case, I strongly doubt whether the development of this land could be achieved without having causing 'less than substantial' harm to the setting of the conservation area.

Comments on additional information

10. I appreciate the effort put into the production of the revised information, but I am still of the opinion that the proposals would neither preserve nor enhance the character or appearance of the conservation area, and nor would they have a positive impact on the setting of nearby listed buildings.
11. Therefore, the development would cause 'less than substantial harm' to these designated heritage assets for the reasons previously given in my initial comments on the scheme. Of particular concern is the loss of the tree belt and its replacement with an inadequate 2 metre high hedge and further housing, and the impact that the proposed housing would have on the character of Town End and the setting of listed buildings along the street. I don't believe that these concerns could be adequately addressed within a full application, so I would advise that the application be refused unless associated public benefits clearly outweigh the harm caused.

English Heritage

Comments on original submission

12. This development could potentially have an impact upon a number of designated heritage assets and their setting including the conservation area and the Church of St Philip and St James. At present the information provided with the application is insufficient to enable us to determine whether the proposed location will impact on the conservation area and closely located heritage assets and should not be determined until a thorough assessment has been undertaken.

We are aware that the adjacent site has been given permission for a considerably sized residential development; however feel that this development, which will see further extension of the residential area directly adjacent to the conservation area, still requires independent and appropriate consideration.

[Officer note: no further comments have been received following submission of a heritage statement by the applicant]

MDC Drainage Engineer

Comments on original submission

13. The drainage of this site is of concern. The ground in Norton St Phillips is varied and any development must ensure that the surface water discharge is no more than the existing run off from this area. Care will have to be taken not to increase the flow in springs on the lower slopes. It is not considered that any connection could be made into the adjoining development unless a restricted outfall to a water course is provided.

Comments following submission of additional drainage information

14. I am not sure that the current surface water system is working adequately. I would like to see the consultants details of the storage capacity in the bottom pond required after 24 hours without rain. My suspicion is that this is not being achieved and therefore we do not have the required protection from intense rainfall. Until this is proven there can be no additional connection to this system which is the proposed drainage for this application

MDC Housing Development Officer

15. I have no objection to the above application and am happy with the broad principles that support 30% affordable housing.

The data (below) shows a fairly close requirement between the 1, 2 & 3 bed units. Therefore, the 30% provision (roughly 6 units) I suggest the following percentages (round up). This should in theory take account of demand, but also provide an appropriate approach in respect of the 80:20 split of rent/shared ownership units.

MDC Planning Policy

16. While Norton St Philip has been re-defined as a primary village in terms of services, no specific assessment has been undertaken of the capacity of the village to accommodate further growth. In terms of a broad spatial strategy, it is not suited to what appears to be the excessive scale of housing proposals coming forward given existing completions and consents. Its position on the edge of the Bath Green Belt makes it an attractive target for speculative proposals and the limited employment opportunities locally mean it is likely to generate more outward commuting. The village is not the most sustainable location to meet district-wide housing need. The overall character of the village, amenity of residents and preservation of the conservation area is already compromised by parking and through traffic and a major development in the village has still to be built and occupied.

In principle, development of this site would appear to offer a logical extension of Fortescue Fields. While it was previously open space, built development could be integrated with the existing development and the overall impact on the conservation area and setting of the village would be moderate. Positive weight has to be attached to addressing the shortfall in 5 year supply and affordable housing provision.

17. In principle, there are no objections to this development subject to affordable housing, highways infrastructure being satisfactory. However, this has to be tempered across the cumulative impact of the development on the village and the extent to which a limited district-wide 5 year shortfall could be met in more sustainable locations already agree in principle.

Highway Authority

18. The site lies outside the defined Development Boundary Limits as defined in the Mendip District Local Plan (adopted Dec 02). However, the newly built village shop in the adjacent development and the all weather pedestrian and cycle links created by the developer of the site next door mean that the site has walking and cycling links with the village shop, school and church making it reasonably well placed. It is for the Local Planning Authority to decide if this is a suitable location for this development.

All matters are reserved and only the principle of development is for determination at this stage. In order for the Highway Authority to be confident that this development is feasible, it is always helpful to know if access can be achieved. There appear to be opportunities for access from the former chicken factory site and these would almost certainly be acceptable subject to agreeing the detailed design. There is also an indication that access could be sought from Mackley Lane which is single width and has banks and hedges fronting the highway on both sides. This road would not be sufficient to gain access to a development of this size.

One way to overcome this problem would be to widen Mackley Lane by giving up a strip of land along the edge of the site at least as far as the site entrance. By increasing the width to 5.5 metres, most vehicles would be able to pass and the traffic would be able to get in and out of the development easily. This also applies to refuse and emergency vehicles.

SCC Education

No comments

Wessex Water

[Officer note: Wessex Water has provided a single response for multiple applications in Norton St Philip. The summary below takes the relevant parts for this application]

General comments

19. In the absence of any site allocations documents in rural areas it is challenging to plan where capacity investment will be required in these situations. In particular the cumulative aspect of catchment development where multiple applications of a speculative nature need to be determined in association with sustainable planning decisions.

Pursuing sustainable development in these circumstances will require additional investment to prevent service levels deteriorating below regulatory standards. Smaller rural settlements are generally served by local independent catchments with limited capacity. We will normally seek to provide sufficient guidance upon all sites, however the scope and extent of remote downstream improvements becomes more difficult to predict given the uncertainty of speculative submissions.

Surface water disposal for all sites will need to be resolved with suitable outfalls to land drainage systems in the absence of any public surface water systems. Where infiltration drainage is proposed the planning authority should be satisfied that ground conditions will permit satisfactory disposal.

We believe that the planning authority should be mindful of the need to consult statutory undertakers and allow appropriate time to plan and implement any necessary downstream capacity improvements commensurate with relative levels of growth when granting permissions.

Norton St Philip is served by a network of public foul sewers which have limited spare capacity to accommodate additional foul flows. There are no separate public surface water sewers serving Norton St Philip; surface water will be disposed of via SuDs arrangements and direct to watercourse. Surface water connections will not be permitted to the public foul sewage system. Further engineering appraisal will be

required to assess the impact upon the sewerage system of each site, whether individually or cumulatively. Sewerage network capacity improvements are likely to be required to accommodate the remaining sites the extent of which will be determined by the overall number of dwellings approved within the Norton St Philip sewerage catchment.

Site specific comments

There is limited available capacity within the downstream sewer network to accommodate predicted foul flows from 20 dwellings. Network appraisal will be required to determine the nature and cost of capacity improvements to reduce the risk of downstream flooding and pollution. The applicant has not discussed a foul drainage strategy with Wessex Water and we request a pre-commencement planning condition should the application be approved, to ensure that a foul drainage strategy is agreed.

Surface water according to the planning application will be disposed of via SuDs arrangements; there must be no surface water connections to the public foul sewer system. The planning authority will need to be satisfied that ground conditions are acceptable for soakaway/infiltration to be effective.

NHS England

[Officer note: Comments were made jointly for 4 applications in the village]

20. The residents of the proposed 4 applications totalling 150 or 360 residents are likely to register with the Beckington Family Practice and will expect to attend the main surgery site at Beckington rather than the branch sites at Freshford (open half days only and limited parking/access) or Fromefield (12 mile round trip rather than 6).

The local GP surgery is at capacity but consultation with them has ascertained that additional service capacity for a housing development of this size could be developed. The proposed development will add to the number of journeys to the surgery and add to the already congested roads due to limited parking available. This will be on top of the proposed new housing in Beckington potentially creating further congestion.

The Surgery is in a position to increase their service provision over time as the funding follows the patient but support will be needed to address the physical constraints which will affect access within the village to manage the proposed increases in Norton St Philip and also in Beckington: the necessity for a bigger car park; space and permission to expand; improved road access.

Representations

21. 74 letters of objection received, and one making no comment raising the following issues (summarised):
- Impact on character of the village
 - Increased traffic
 - Sense of community/social structure will change with more houses and if more people commute out for work
 - Parking issues
 - Congestion

- Encroachment into the countryside
- Loss of amenity for the village
- Surface water drainage – existing SUDs system is not coping
- Impact on village infrastructure
- Impact on historic character of village
- Views of the village ruined by existing new development and would be worsened by this proposal
- Greenfield site
- Should retain site as green space and make available for public access
- All trees removed that were subject of a Tree Preservation Order
- Loss of agricultural land – was in use prior to use of site as construction compound
- Suggested design not in keeping with the village
- No demonstrable need for additional housing in the village, draft housing targets already exceeded
- High density of housing
- Neighbouring development only has shop as offices have been permitted to change to homes, contributing to the village requirement
[Officer note: the application to change the offices to dwellings has not yet been decided]
- Not a primary village
- Affordable housing not as affordable as they make out
- High quality materials not in evidence in the existing development
- Residential amenity
- Pollution from more vehicles
- Roads unable to cope with traffic
- Other applications for more housing under consideration
- Important open space/buffer between developments
- Supposed to have been returned to greenfield site after neighbouring development
- Developers trying to make it brownfield site to facilitate planning consent
- Impact on wildlife
- Outside the development limits of the village
- Impact on the conservation area
- Too much in-filling happening
- Developer has misled local residents
- Not sustainable development
- Parish Council Housing Needs Survey is relevant
- Village struggling to cope with existing development without any more
- Will set a precedent for further unfetter development
- Application and appeal refused for development of this site in 2001 – nothing has changed since
- Not enough services and facilities in the village to support more development
- Should defer decisions for 3 years until existing development completed and its impacts known
- Will foster growth in the need to travel
- Green spaces as important in developments as buildings are
- Green lung
- No detail of the proposal
- Not efficient use of land

- Contrary to Local Plan policies
- Large amount of properties on the market, many remaining unsold for years, so no need for more
- High house prices will only attract commuters
- Don't believe that these will be small houses as suggested by the developer
- No safe access to village facilities
- Concerns about construction traffic, noise, pollution
- Church and graveyard being affected by rising water table
- Not sure if sewage system can cope
- Villagers reliant on cars due to limited public transport availability
- Limited access and security issues to car parks and village hall proposed by developer
- Unsafe to let children walk around the village due to traffic
- "Community benefits" suggested by developer are not what village wants
- Impact on quality of life
- Machley Lane is narrow and will need to be widened to achieve access
- Loss of ancient hedgerows
- Alter quiet location
- Impact of construction traffic on historic buildings
- School projects that existing developments will fill its capacity
- Substandard build quality on existing development
- Does not respond to local needs
- Will change entrance into the village
- Errors in the submission
- Existing properties not shown on plans so contextual reference not accurate
- Elevated site
- Inappropriate size and scale of development
- Cumulative impacts on village with other developments currently proposed
- Village is becoming overdeveloped
- Development creep
- Questionable if site can accommodate 20 dwellings
- School is a First school, not a Primary school so not a justification for expansion of the village
- Geology of site presents serious difficulties for development
- No employment prospects being delivered along with housing
- Awards for other development are irrelevant
- Need better highway management details
- Material weight of emerging Local Plan
- Inaccurate information provided by applicant
- Close to having demonstrable 5 year supply of housing land
- No need for new community hall

Relevant planning history

Two applications for outline planning permission for the former Facenda factory and this site were dismissed in 2001 (application references 043594/028 and /029)

Assessment of relevant issues

Planning policy context

23. Section 70(2) of the Town and Country Planning Act 1990 states that, “The local authority shall have regard to the development plan so far as material to the application and other material considerations”.
24. Section 38(6) of the Planning and Compensation Act 2004 states that, “if regard is to be had to the development plan for any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.
25. Planning law therefore clearly gives primacy to the development plan (the Local Plan in this case) however the LPA can also have regard to other material considerations in decision making. It is up to the decision maker to determine how much weight to give to each matter when deciding the application however the reasons for the decision need to be clear and rational.

The NPPF sets out the Government’s planning policies for England and how they are expected to be applied. It is a material consideration in planning decision and is likely to be the most significant material consideration where the development plan is silent, out of date or absent on a particular issue.

26. Paragraph 215 of the NPPF also sets out that due weight should be given to relevant policies in existing plans according to their degree of consistency with the NPPF (the closer the policies in the plan to the policies in the NPPF, the greater the weight that may be given.
27. Other material considerations to be taken into account are the draft Local Plan, the National Planning Policy Framework (NPPF), National Planning Practice Guidance (NPPG), and legislation, including the Planning (Listed Buildings and Conservation Areas) Act 1990 (the LPA Act).

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that the LPA pay special regard to the desirability of preserving listed structures or their settings or any features of special architectural or historic interest which they may possess.

Local Plan

28. Paragraph 14 of the National Planning Policy Framework (NPPF) states that, “At the heart of the NPPF is a presumption in favour of sustainable development... for decision-taking this means approving development proposals that accord with the development plan without delay; and where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or specific policies in this Framework indicate development should be restricted” (paragraph 14). Footnote 9 to this paragraph clarifies that such “specific policies” include those relating to designated heritage assets.

It also gives great weight to the conservation of designated heritage assets. It states at paragraph 132 that, "When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be."

Paragraph 49 of the NPPF states that, "Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites".

29. Although significant progress has been made towards it, the Council cannot currently demonstrate that it has a 5 year supply of housing land. Therefore having regard to paragraph 49 of the NPPF, all policies in the Local Plan relating to housing supply must therefore be considered out-of-date, and the presumption in favour of sustainable development applies. Therefore policy S1 of the Local Plan, which relates to strategic development locations and development limits, must be considered out of date.

All other policies in the Local Plan can be given due weight according to their degree of consistency with the NPPF, having regard to paragraph 215 of the NPPF.

The following policies are relevant to this application and are considered to have a high degree of consistency with the NPPF, so should carry significant weight:

Q1 (Design, protection of amenity)

Q3 (Access)

Q4 (Landscape design)

EN4 (Nature conservation outside designated sites)

EN5 (Protection of trees, hedgerows and woodlands)

EN17 (Surface water runoff)

30. Policy EN26 (Development affecting the setting of a listed building) is partially consistent with the NPPF in that it seeks to protect the setting of listed buildings. It does not however contain the balancing exercise set out in paragraphs 132 – 135 of the NPPF which requires that any harm to heritage assets be weighed against any public benefits of a scheme. It can only be given partial weight therefore.

Draft Local Plan

31. The Pre-Submission Draft Local Plan is relatively well advanced and can be given weight having regard to its degree of consistency with the NPPF and the extent to which there are unresolved objections to relevant policies, according to paragraph 216 of the NPPF.
32. The housing supply policies in the Draft Local Plan have been challenged and are currently subject to review. This includes the overall housing numbers to be planned for in the District for the Plan period (2006 – 2028) and also the distribution of those housing numbers to the towns and villages in the District. The Plan has been through Examination in Public but further consultation is needed on changes identified through that process. Because this process has not been completed it can

only be given modest weight at this time. Therefore references in the Draft Local Plan to the number of dwellings that should be provided in Norton St Philip in the Plan period cannot carry significant weight at this time.

It is necessary however to consider whether the proposal is sustainable in the context of the village and of relevant national and local planning policies.

NPPF

The NPPF is a significant material consideration in this application.

NPPG

The recently issued national practice guidance provides more information than the NPPG on a wide range of planning issues and is a material consideration. It is however guidance rather than policy and should be weighted accordingly.

Principle

33. The application is made in outline with all matters reserved so the detail of the scheme is not for consideration at this time. The matters to consider are the principle of development of the site for residential and community use, for up to 20 dwellings. Two indicative access points have been shown however this is not sought for approval at this time. It must therefore be considered whether any suitable access point(s) are available to serve the development proposed.

Loss of agricultural land

The applicant describes the application site as enclosed private open space laid to grass, serving no agricultural purpose. They consider that the only feature of importance within the site and falling in the Conservation Area is a stone wall and rising hedgerow above.

34. This description has been strongly challenged by local residents who refer to regular grazing use before the purchase of the land, and it is apparent that it was used for agricultural purposes until relatively recently. The landscape report submitted with the Fortescue Fields application also refers to Laverton Triangle as follows, "*This area of paddock, which is part of the site landholding, will be maintained as part of an ongoing agricultural tenancy*". This clearly indicates that at that time (March 2009) the site was in agricultural use and was intended to remain so after the development. The applicant's claims in the current application that it is redundant and serves no agricultural purpose can therefore be given very little weight as it was the same applicant's stated intention to keep it in agricultural use only a few years earlier.
35. The proposal would result in the loss of agricultural land. The Council's records indicate that the land is Grade 3 agricultural land – there are no detailed records to separate Grade 3a from Grade 3b but it is not believed to be Best and most versatile agricultural land.

There is no information to suggest that it could not continue in agricultural use as it appears to remain suitable, subject to appropriate access being available.

The loss of agricultural land is a negative aspect of the scheme that should be weighed with the other adverse and positive elements.

Strategic housing policy

36. The site is outside the development limits of Norton St Philip where Policy S1 of the Local Plan precludes development unless it provides economic benefits, maintains or enhances the environment, and does not foster growth in the need to travel. This policy is part of the Development Plan, and can therefore only be set aside by other material considerations where they are deemed to carry greater weight. In this case because of the Council's 5 year land supply situation this policy should not be considered up to date, having regard to the NPPF. It is relevant to consider whether the policy is complied with, and if not, whether other material considerations, including the NPPF, would outweigh this and would warrant granting permission.
37. Policy CP1 seeks to enable the most sustainable pattern of growth and requires that development in rural parts of the district is tailored to meet local needs and directed to primary and secondary villages. This can only carry modest weight at this time due to the stage that the draft Plan has reached, however it is relevant to this proposal.
38. This proposal would result in some economic benefits through the construction of the development and the spending power of additional households in the village and wider District. The Council would also accrue New Homes Bonus which would provide further economic benefits.

The environmental impacts of the scheme are discussed in further detail below.

39. The development would generate increased traffic and the location of Norton St Philip is such that residents are likely to be highly reliant on the car. There are few employment opportunities in the village therefore residents are likely to commute to Bath, Frome or other settlements for work. It is however recognised that the village has some local services and facilities, and a regular bus service, and therefore residents would have some other transport options. Overall, it is considered that the proposal would foster growth in the need to travel but it is one of the more sustainable villages in the District due to its facilities, and this growth would not be significant.
40. The proposal would not therefore comply with Policy S1 as it would foster growth in the need to travel. The economic and environmental impacts must be weighed up against this and in relation to all other relevant policies and material considerations.

Supply of housing

41. The NPPF is clear that LPA's must significantly boost the supply of housing. Development which would deliver housing would have a positive impact on the economy and socially, by meeting unmet need for housing, and this should be given significant weight.

The draft Local Plan sets out target housing numbers for each village in the District however these cannot be given significant weight as they are subject to review through the Examination in Public process. Changes to the draft Local Plan which need further consultation also include the reclassification of Norton St Philip from a secondary to a primary village, which might affect the housing target figures.

42. Those figures were however calculated using an evidence base and reasoned process, and do have some relevance. The target housing numbers for the village have been significantly exceeded through the approval of the existing Fortescue Fields development (over 50 dwellings) and recent appeal decisions at land south of Longmead Close (8 dwellings) and Foma (3 dwellings). There is therefore already a substantial contribution of housing that will contribute to housing demand in the village.
43. It is recognised that there is still an unmet housing need in the District as a whole and that this proposal would contribute towards this. In this case however, there is no identified need for more housing in Norton St Philip itself, and this is reinforced by the significant number of unsold properties in the village, including at Fortescue Fields. This brings into question the degree of benefit that would arise from delivering an additional (up to) 20 dwellings in this village, and the sustainability of the scheme overall. Having regard to draft Local Plan policy CP1, there is no evidence that the proposal is tailored to meet local needs in terms of its numbers. It is recognised that the applicant is proposing a significant proportion of smaller properties within the development however it is not clear whether this is based on up to date housing needs information either.
44. The latest housing needs information comes from the Parish Council's Village Plan data in 2005, which identified needs for elderly persons and sheltered accommodation, care home, 6 low cost 1 bedroom starter homes, 4 low cost family homes and 2 to 3 family affordable homes. A village survey carried out in 2011 identified needs for affordable housing. The development now proposed does not appear to seek to meet these identified needs, some of which are in any case somewhat out of date.
45. It is considered that, having regard to the market conditions and the significant existing and forthcoming supply of housing in Norton St Philip, the benefits of providing this much additional housing in this particular village are not substantial, as there is no evidence that the proposal is tailored to meet local needs for housing. This is considered to reduce the weight that can be given to the benefits of providing additional housing.

Community hall

46. The application was amended to insert a proposal for a contribution towards a new community hall part way through consideration. The hall site is proposed on another application site (application 2013/2033) and would not be delivered on this site. It is noted that the hall would actually only be delivered if both sites were approved having regard to the applicant's Heads of Terms. This reduces the weight that can be given to this proposed obligation.
47. There are already community facilities elsewhere in the village which appear to be relatively well used, although limited in size. The Parish Council has identified a "wish list" of community benefits that they would like to deliver, which includes a larger, more appropriate village hall with parking that is not in immediate proximity to residential property. There is no indication that there is a clear need for this community facility based on the Parish Council's information or that this development would increase the local population to the point where existing facilities are not sufficient. This lack of clear evidence reduces the weight that can be given to the benefits of the offer of partial funding a community hall.

48. It must be recognised however that an actual hall is not being proposed under this application, rather that permission is sought for one and that the land would be made available (gifted to the Parish Council) but that no financing or delivery arrangements would be in place. Funding for the hall is only offered if the application at the West site (2013/2033) is also approved. This fundamentally reduces the weight that can be given to the potential benefits of providing this facility as it is not actually to be provided if permission were to be granted for this scheme. Furthermore, no ongoing maintenance arrangements or funding has been offered by the applicant and this would therefore fall to the Parish Council.

Residents and community parking

49. This was also inserted into the Heads of Terms submitted late on in the application but is confusing as this does not form part of the application for planning permission. It is believed that this refers to a proposal on another site (2013/2033) which includes the parking provision. It is not clear therefore what this proposal would deliver – no permission is sought for parking on the application site but the applicant does not suggest that a financial contribution to providing parking elsewhere is being offered. Given the lack of clarity it is considered that this can be given no weight in this application.

Affordable housing

50. The applicant has submitted Heads of Terms for a planning obligation to provide 30% of the dwellings as affordable housing. This proportion would be in accordance with the draft Local Plan policy on affordable housing.

The proposal would provide 60% 1 bed, 20% 2 bed and 20% 3 bed units, with 80% to be social rented and 20% shared ownership. The mix of size and tenure proposed would meet currently identified local needs and existing and draft Local Plan policies and is acceptable.

No S106 agreement has been submitted with the application to secure this obligation therefore if permission were refused on other grounds a reason relating to the failure to secure affordable housing would be required.

Visual impact

51. The approach to the village from the south consists of fields with occasional dwellings on the western side of the road, and on the eastern side is low density residential development, generally bungalows. There is strong hedge cover either side. Passing the junction of Tellisford Lane/Mackley Lane the village becomes starts to become more densely developed heading towards the centre. The application site is in an area of transition between the new Fortescue Fields development (on the site of the former Faccenda factory) and the more rural, open area to the south and west.
52. The trees around the former factory site were noted in the Norton St. Philip Conservation Area Appraisal (CAA) 2007 as forming part of the character of this area, and trees in general are noted as being an important asset at entry points to the village. The CAA is an adopted document and a material planning consideration.

53. The trees around the former factory site are protected by a group Tree Preservation Order (TPO) which is a clear indication of their amenity value and contribution to the character of the area. The contribution of this group of trees to the character of the area is/was in their group value rather than individual quality, a contribution emphasised by the relative rarity of trees in this village as noted in the CAA.
54. When the factory site was in place the application site and its boundary with the factory contained a belt of trees, originally planted for screening. All of these are covered by the group TPO. The trees were assessed as part of the application for development of the factory site under application 2010/0493. The documentation submitted with that application remains relevant to this application to some degree, particularly in terms of the landscape and visual assessments.
55. The landscape report submitted with the application contains a visual appraisal which states that:

“The location of the study area on a ridge, adjacent to a busy road, and on the edge of the village would imply some visual sensitivity and potential prominence. However, the construction of the large landform bunds and the maturing belts of trees, as well as the existing hedgerows which visually screen the factory platform areas from surrounding views, are such that the existing platforms are quite discreet and do not generally have a significant visual impact other than from the existing site entrance.”

The application site now under consideration is immediately adjacent to the previous study area and is also on the ridge adjacent to the main road. The site is raised above the road level by over a metre.

The previous landscape report states that,

“There is now an opportunity to remove the existing trees and to introduce new planting with long term management, to better contribute to the amenity of the site, as part of its future use, and to the village”.

56. The landscape report continues, setting out the landscape design objective of the Fortescue Fields scheme, which is:

“To provide a high quality landscape setting for the proposed residential development, ensure its visual integration into its village setting, and minimise any visual impacts or change on the surrounding area”.

The planting of new trees/vegetation is listed as one of the ways that this will be achieved. It states that:

“The landscape design principles for the development...seek to ensure that the valued characteristics of Norton St. Philip, its attractive form and visual appearance, are retained and enhanced...the intention is to integrate [the development] into its setting in appropriate scale and proportion so that buildings, when visible, will be perceived in scale and proportion within a framework of structural planting as a foreground, and with a backdrop of trees”.

57. As part of the permission for the development of the former factory site, most of the trees were retained with only those of poor quality or condition removed along boundaries. All of those along the boundary with the application site were removed

because they were mostly poor or declining quality trees with a relatively short lifespan ahead of them.

58. The landscape report set out the proposed landscaping along the eastern boundary of the Fortescue Fields development as follows:

“The line of poplars and willows on the east boundary will be removed. These trees were originally planted to screen the factory and activities on it, but this tree belt, much of which is mature or over-mature, comprises species of a short lived nature, is exhibiting extensive signs of die back and disease, and is not in keeping with the surrounding landscape...It is proposed to replace this boundary planting with a significant 15 metre wide belt of native/indigenous tree and shrub species to assist with the integration of the development into the immediate and wider landscape and to complement and enhance views to and within the village in the longer term.

59. This landscape approach was supported by the LPA and condition 27 of the planning permission for the Fortescue Fields development requires the landscaping plan to be implemented. Specifically included in that condition is reference to the planting of the tree belt, with a requirement for it to be planted within 12 months of commencement of the development. The layout of the adjacent development does not allow for the planting of a tree belt within the Fortescue Fields site, so the approved landscaping plan shows the 15m wide belt of tree planting to be provided within the current application site, Laverton Triangle.
60. The condition would not have been imposed unless its requirements were necessary to make the development acceptable in planning terms. The trees were a key feature of the former factory site and its surroundings and their removal was clearly intended to be temporary, to facilitate their replacement with more effective landscaping that would enhance the village and landscape for a much longer period. The imposition of the condition means that the LPA considered that the replacement tree belt was necessary for the development on the Fortescue Fields site to integrate satisfactorily into its surroundings as required by Saved Policy Q4 of the Local Plan. It was recognised at the time of granting permission that it would take several years for the development to be built and the short time period specified for the planting to take place is indicative of the need for the planting to have as much time as possible to mature while the site was being developed, to be effective as soon as possible.
61. The application site has been used as a temporary construction compound for the Fortescue Fields development and because of the constant traffic between the site and the development land, the tree belt has not been planted in accordance with the permission. An application to vary the condition has been submitted, seeking a longer compliance period to allow for completion of the development, as it is not possible to plant it while the application site is in use as the construction compound. That proposal is currently under consideration and will be decided following determination of this application, having regard to the decision made on this proposal.

The applicants, by applying to vary this condition to give more time for compliance, are effectively acknowledging that they consider the condition to be necessary and reasonable, as otherwise they would have applied to remove the condition and made a case for this.

62. The current application is for outline permission with all matters reserved. No layout or landscaping stands to be considered therefore, however the applicant has now confirmed that it is not proposed to provide the tree belt within the site and offers instead a 20m wide tree belt on land in the applicant's ownership to the south-west, south of the Fortescue Fields site on the edge of this site.
63. An indicative layout of 18 houses has been submitted showing housing around the edges of the site with an area of open space and a tree in the middle. This is only an indication of a possible layout however the intentions of the applicants are clearly set out in their Design and Access Statement (DAS). This states (incorrectly) that a 30m wide tree belt was proposed on the Fortescue Fields site, within that site's boundary. The approved landscaping plan for that application clearly shows a 15m wide tree belt within the Laverton Triangle area.

The DAS goes on to state that:

"The intention of this tree belt was to screen the new development from the approaches to the village. However at the time there was a diverse opinion of views for the necessity of such a belt. Any screening [is] effectively achieved by the existing stone wall and hedging at Town End and Mackley Lane as well as a drop in levels".

The submission is incorrect in its description of the size and location of the tree belt and its purpose, which is actually stated in the landscape report as being to help the Fortescue Fields development integrate into the landscape and complement views.

64. It is clear from the DAS and indicative information provided that there is no intention of providing the tree belt within the application site under this proposal. The applicant suggests that a suitable landscape scheme can be developed to enable the proposals to satisfactorily integrate into the surrounding landscape and village, but it is difficult to see how this can be achieved without incorporating the tree belt within the application site on the north/western boundary. The application site and the Fortescue Fields site are higher than the road and on an elevated ridge which is clearly visible from the west in particular. It is a prominent part of the village where landscaping is necessary to help it to integrate. The existing hedge around the application site is mature and attractive, standing some 2.5 – 3m high. This hides the fact that the site is over a metre higher than the road, so from inside the site the hedge is around 1.5m high. This means that any development, even if single storey, would be clearly visible on the approach to the village. The Fortescue Fields development is of substantial scale and is widely visible. The hedge around this application site and the differing levels do very little to screen it, and it is considered that the previously approved landscaping scheme remains a necessary element of the development.
65. The tree belt as approved is necessary to screen the Fortescue Fields development. Development of the application site would screen parts of the development but would add to the urbanising impact on the local area with no real opportunity to soften or screen this. The addition of a tree belt on the southern boundary of the Fortescue Fields site would help to screen both the existing and proposed development from the south-west, which is beneficial, but would have no impact on views from the south-east, the main approach to the village.

66. It is considered that the proposed development of the Laverton Triangle site for up to 20 dwellings would not allow for the landscaping necessary to make the adjoining development acceptable. Although the application is in outline form with all matters reserved, the intentions of the applicant are clear that the tree belt forms no part of their likely landscaping proposal. The failure to provide the tree belt in the approved location would result in less than substantial harm to this part of the Conservation Area by failing to reinstate a feature that was clearly valued and contributed positively to the character of the Conservation Area and the amenity of this part of the village. The provision of a tree belt to the south would not contribute to the conservation area because of the distance between them.

67. Development of the application site itself would fundamentally alter the character of the site, which as an undeveloped field forms a key part of the transition from countryside to village from a southerly direction and is a welcome break from the residential development around it. Development with housing, even if single storey, would alter the views into and of this part of the Conservation Area and would urbanise this part of the village, removing its last linkage through to the countryside to the west. This would be to the detriment of its character and appearance.

Landscaping within the site could potentially mitigate some of this impact however the amount needed would reduce the number of dwellings that could be accommodated substantially. It is recognised that the proposal is for “up to 20 dwellings” rather than a fixed number, but it is unlikely that the site could accommodate anything near this scale without significant harmful visual impacts.

68. The tree belt planting now proposed to the south-west of the site would not ameliorate this harm because it would not affect the key views into the village from the south-east.

69. The limited scale of development that might be achievable with substantial landscaping would be far below what has been applied for, and although the application defines an upper limit only, it is clearly the intention to accommodate development at the upper end of this figure. A proposal for a small number of dwellings would be a fundamentally different development to that which has been applied for.

The applicant has failed to demonstrate that a scheme can be achieved that could accommodate sufficient landscaping to satisfactorily integrate the development and that of Fortescue Fields into its surroundings. As such the proposal is contrary to Saved Policies Q1 and Q4 of the Local Plan.

70. It is recognised that the development would provide up to 20 additional dwellings which is a benefit of the scheme as it would contribute to an identified housing need in the District. There is no identified housing need in this village however as even as a Primary Village in the draft Local Plan it already has permissions for dwellings greater than the numbers envisaged for this village, and over the 15% limit set out in the draft Plan as sustainable. Although the draft Local Plan carries only modest weight at its current stage of progress, the evidence base behind it in terms of housing projections and strategic direction is considered robust. This proposal goes well beyond what is considered appropriate having regard to the evidence base and this reduces the level of benefit that can be considered to accrue, and the weight that can be given to this.

The provision of affordable housing would also be a benefit of the scheme that must be given weight in the decision.

Heritage assets

71. The proposal would impact on only part of the Conservation Area, but an important part as the southern approach into the village. The fact that the Conservation Area extends to include part of this site demonstrates that it contributes to the character and appearance of the area.

The applicant suggests that the reason for the inclusion of part of the site into the conservation area turns solely on the value of the stone wall on the boundary of the site. While this may be the case in terms of historic features, the main part of the site is clearly within the setting of the conservation area.

72. The proposal would result in harm to the Conservation Area due to the change in character of the site and the loss of the tree belt that was an important feature of this part of the Conservation Area. This would not be offset by the alternative tree belt now proposed. This would result in a loss of significance as the entrance to the village and one of the few amenity features of the village would be detrimentally altered.
73. It is recognised that the Fortescue Fields development has changed the character of the Conservation Area to the north but this was a very different situation to this application site - it removed a site that significantly detracted from the area and therefore led to an overall enhancement. The current application site does not detract from the Conservation Area in its undeveloped form, and its development, without adequate landscaping and on raised ground, would adversely affect the appearance of the area and thereby harm the character and appearance of the Conservation Area. The experience of the village driving in from the south would be detrimentally changed and this approach to the historic core would be adversely affected.
74. There are two listed buildings on the northern side of the main road. Their setting would be affected by the development because it would be visible in views to these dwellings from public vantage points. There is also an unlisted positive building noted in the CAA on this side of the road which could be considered an undesignated heritage asset. The proposal is not considered to result in any substantial harm to the significance of these heritage assets however it would result in some harm to their setting, and thereby significance.
75. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that the LPA pay special regard to the desirability of preserving listed structures or their settings or any features of special architectural or historic interest which they may possess. This legal duty should be given considerable weight.
76. The level change on the site and the limited screening impact of the existing hedge mean that dwellings of any scale would have an impact on the character of Town End and the setting of listed buildings close to the site. The applicant indicates 2 storey properties are proposed and has now provided an indicative section drawing. While this is indicative only it is abundantly clear from this that dwellings on this site would potentially tower above the road and properties opposite, and that the existing hedge would have little or no impact on this.

77. With the new tree belt now proposed, it is unlikely that the proposal would affect the setting or significance of the Church to the south-west, given the separation distance and lack of direct or significant views between the two sites.
78. It is considered that the development of the site would result in harm to the significance of the conservation area and nearby listed buildings, but that this would be less than substantial harm, as the majority of the Conservation Area would not be significantly affected.

Having regard to paragraphs 132 – 134 of the NPPF the harm must be weighed against the public benefits of the proposal. There would be public benefits from the provision of additional housing but as stated above this would serve a wider community need and not address any locally identified issue. The provision of affordable housing would also be a public benefit. These benefits are limited however and it is considered that these would not outweigh the harm to the Conservation Area and listed buildings identified, particularly having regard to S66(1) as set out above.

Ecology

79. The original Fortescue Fields landscaping scheme would have resulted in biodiversity enhancements that will not be realised if the tree belt is not provided. This proposal now includes a provision for a larger tree belt and therefore would be likely to result in no net loss of biodiversity compared to the approved planning situation.

There are unlikely to be any significant ecological assets on the application site itself, particularly as it has been used for some time as a building compound, however the hedge is likely to have an ecological value. The applicant proposes to retain the hedge. Any ecological impacts as a result of construction of any development could be mitigated by condition.

Overall it is considered that with the tree belt now proposed the impacts on ecology can be mitigated and that there is unlikely to be a net loss of biodiversity. As such the requirements of Policies EN4 of the Local Plan and Chapter 11 of the NPPF are likely to be met.

Amenity

80. As layout, scale and appearance are reserved matters it is not possible to consider the impact of the proposal on the amenities of future occupiers or existing neighbouring residents at this stage. This would be dealt with at reserved matters stage if permission were to be granted.

Drainage

81. The area is known to have surface water drainage issues and the adjacent Fortescue Fields development is served by surface water attenuation ponds. The applicant suggests that these have capacity to accommodate additional run-off from this development however this is questioned by local residents. At this outline stage the LPA must be satisfied that a technical solution exists that will provide appropriate surface water attenuation to prevent an increase in flood risk, having regard to Policy EN17 of the Local Plan and provisions in Chapter 11 of the NPPF.

The applicant has provided drainage information and calculations regarding the amount of run-off that is likely to result from the development of this site.

The Council's Drainage engineer has considered this information but remains concerned that the current surface water system is not working adequately and that there is not sufficient capacity to accommodate this development.

It has not been demonstrated therefore that the existing surface water attenuation ponds can accommodate run-off from this development, or that the run-off can be satisfactorily attenuated within the site. As any other solution would be likely to require planning permission, e.g. for additional or extended ponds outside the site, and no such permission has been sought, at this stage the LPA does not have sufficient information to demonstrate that the proposal would not increase flood risk. As such the proposal is contrary to Policy EN17 of the Local Plan and provisions in Chapter 11 of the NPPF.

Sewage capacity

Wessex Water has identified that there is limited capacity for additional foul sewage from this development and that improvements would be needed. Such improvements would be negotiated between the developer and Wessex Water and subject to a formal agreement between those parties. The LPA must consider whether there is a technical solution available to provide the additional capacity and the information from Wessex Water does not suggest that there is no solution available. As such this could be dealt with by a condition if permission were to be granted.

Education

82. The Education Authority indicates that there is capacity within the existing school for the additional pupils likely to result from this development and that therefore no education contribution is necessary. Cumulatively with other development a contribution might be necessary but as no other significant developments have been approved at this time this cannot be considered.

If, before this application is determined, another significant housing scheme is approved in Norton St Philip, this would need to be revisited.

Recreation space and community facilities

83. Policy SN7 of the Local Plan requires that all new residential development that generates a need for additional recreation facilities will be required to make appropriate provision or public recreational space and facilities.

Provision of additional recreation and community facilities through a planning permission, either by condition or as a planning obligation through a S106 agreement, can only be achieved if the facilities are necessary as a result of the impacts of the development. S106 obligations and conditions cannot be used to rectify existing problems or to meet "wish lists" for Parish Councils. It must therefore be considered whether this development would generate a need for additional recreation space or community facilities, and whether there is a planning policy basis to require the developer to mitigate the effects of their development in this regard.

84. This scheme would increase the population of Norton St Philip and would therefore generate additional demand for recreational facilities, but it must be considered whether additional facilities would therefore be needed, or whether existing provision is sufficient.

The Mendip Play Strategy 2007-2017 (which only covers play facilities, not other forms of public recreation space) shows the provision in Norton St Philip as being neutral in terms of the quantity, quality and accessibility of play facilities. This has improved somewhat in recent years however since the original audit was undertaken. An updated report in 2013 does not identify Norton St Philip as an area of concern in terms of play facilities.

85. It is considered that Norton St Philip is relatively well served by public recreation facilities. When permission was granted for the Fortescue Fields development, S106 obligations were included to secure a contribution to upgrade play facilities in the village. It appears that it was also intended to secure a piece of land to be donated to the youth club however the final S106 does not include such an obligation, although it includes a plan showing the land.
86. There appears to be some confusion between what is actually being offered by the applicant as part of this application in terms of recreation space and community facilities, what is being offered only if both of the applicant's proposals are approved, what was secured through the S106 agreement for the Fortescue Fields development and what was previously offered to the Parish Council by the applicant.

To be clear, the applicant is offering under this application:

- Multi-use games area (MUGA)/allotment land [on separate site] to be gifted to the Parish Council, along with a financial contribution
- Provision of community parking, with the parking areas to be gifted to the Parish Council
- Financial contribution towards new village community building and commitment to build where full funding is achieved through the development of both this and the Laverton Triangle site

The applicant is not offering to deliver the MUGA or allotments, or the community hall under this application. It is also noted that the MUGA is also being offered as recreation provision for the West site (2013/2033).

Recreation

87. There is a separate application under consideration by the LPA for a multi-use games area (MUGA) to the south of the application site alongside an allotment site previously approved (application reference 2013/2447). The applicant suggests that they will gift the MUGA/allotment land to the Parish Council and provide a financial contribution (unspecified) towards it if permission for this development is granted.
88. The MUGA is not on the land shown in the Fortescue Fields S106 as being for a youth play facility, but it is understood that this location was changed due to concerns from neighbouring residents. It appears therefore that the MUGA now proposed as recreation provision for this development is the youth play facility previously offered as part of the Fortescue Fields development. That provision was not however secured through the S106 or conditions for that permission however.

89. It is understood that the MUGA was previously offered to the Parish Council by the applicant as a standalone facility to meet a need identified by the Parish Council and accepted verbally, although there appears to be no legal document securing this. It appears that this same development is now being offered linked to this application and the implication is that it would not be provided if permission were refused. While there would be some benefit from the provision of the MUGA, it appears that this is just a proposal to provide something previously promised to the Parish Council, not to make additional recreation provision. This somewhat reduces the weight that can be given to the benefits. Furthermore, the land would be gifted to the Parish Council but there is no indication that the MUGA would actually be laid out by the applicant, which again reduces the benefit.

The applicant has offered a financial contribution towards the MUGA but the amount and purpose of this contribution is unspecified. It is not therefore clear whether the contribution would enable the Parish Council to provide the facilities, with no ongoing finances. This uncertainty is unfortunate and reinforces the lack of detail in the application.

90. The proposal does not include the provision of any public recreation space which would be required to mitigate the impacts of the additional population resulting from this proposal.

Although the applicant has offered to provide land for a MUGA, it would not actually be delivered and is in any case linked to another development which does not have permission, therefore limited weight can be given to this. In any case, the applicant has not provided a S106 agreement to secure this obligation and as such there is no provision for additional recreation facilities within the scheme. The proposal is therefore contrary to Policy SN7 and is unacceptable.

Community hall

91. The community hall is not being offered under this application with the applicant only offering to provide a financial contribution towards provision on another site, which does not have planning permission. The applicant suggests that the community hall would only be delivered if both this application and the other application on the West site were also approved. There is no offer of any contribution towards the ongoing maintenance of the hall. This can therefore be given very little weight as a public recreation facility as it would not actually be delivered if permission for this scheme were granted.

Health services

92. The village does not currently have a doctor's surgery, but a regular clinic is provided by the Beckington Family Practice in the village hall (1 hour per week). The increased population resulting from this development would increase the demand for this service and because of its limitations, would also increase demand for services at the main Beckington surgery (being the closest to Norton St Philip).

NHS England has identified that this surgery is at capacity but that organisational changes can be made to accommodate additional visits resulting from various applications in Beckington, Rode and Norton St Philip. It identifies that various mitigation is needed at the surgery to cope with the increased demand from all of these developments – permission and space to expand, additional parking and

highway improvements, and implies that developers should contribute to providing this mitigation.

Additional car parking is to be provided by the David Wilson Homes development at land north of Warminster Road, Beckington (2013/1119) and this is close to being approved. The additional parking would be secured through the S106 agreement and the developer has indicated that they intend to develop the site as soon as possible, which is a strong indication that this parking will be provided.

The provision of additional car parking will potentially enable the surgery to expand onto the existing car park as lost spaces would be offset by the new provision. The surgery will need to be responsible for securing the necessary planning permission and it is not reasonable to suggest that a developer should be responsible.

The Highway Authority has not indicated that any highway improvements are needed to the roads around the Beckington surgery and without any evidence of substantial increases in traffic using these roads it is not reasonable or necessary to seek improvements to them. Without details of the extent and type of improvements needed (which NHS England has not quantified and which are not supported by the Highway Authority) it is not possible to seek developer contributions towards these.

NHS England has not provided any detailed figures or broken down the impacts of each individual application, which is unfortunate as it makes it difficult to assess the likely impacts of this proposal on the surgery. Using figures provided for applications in Beckington it is likely that visitor numbers as a result of this development would be in the region of 0.7 additional visits per day to the surgery. This low level of additional demand is unlikely to generate any need for mitigation.

In cumulation with the approved schemes in Beckington and Rode the additional visitor numbers are likely to be in the region of 6 per working day which would be likely to increase need for parking but is unlikely to have any significant traffic impacts. As additional parking is being secured through another development there would be no requirement for this scheme to deliver any further mitigation.

The applicant suggests that the new community hall proposed could provide improved facilities for the clinic run by the Beckington Family Practice. The Practice has indicated that it would appreciate improved facilities however NHS England note that this would be a replacement facility rather than providing a significant additional resource. It is also noted that the scheme does not actually propose to deliver the community hall and therefore any suggestion that this proposal would improve health provision in the village can be given little weight.

Highway safety, traffic and parking

Access

93. Indicative accesses from Mackley Lane and through the Fortescue Fields development are suggested by the applicant, although access is not sought for consideration in detail. The Highway Authority advises that access from Mackley Lane is unlikely to be suitable for any significant development without widening the lane, which is not proposed. Access through the existing development could be achieved and the junction with the High Street could accommodate the additional traffic.

If the West site were to be approved, this would see an additional 69 dwellings using this access and the cumulative impact would need to be considered. At this stage this cannot be considered however as that scheme has not yet been determined.

The proposal would be likely to add to traffic through the village, which has raised concerns from local residents and the Parish Council. The Highway Authority has seen the Transport Assessment provided by the Parish Council and concluded that the information does not change their comments.

The Parish Council's Transport Assessment assesses the impacts of four proposed developments in Norton St Philip and adds a further four schemes approved in Beckington and Rode. Each scheme can only be considered on its own merits, having regard to cumulative impacts with other approved schemes (or those with a resolution to approve). It cannot be considered alongside other proposals which have not yet been determined. The report highlights various "pinch points" in the village which cause existing problems for traffic which it identifies would worsen with additional volumes. It does not identify problems with volumes of traffic per se but with the road layout of the village.

The report indicates that if all 8 schemes were to be approved this would result in 5 or 6% increase in traffic along the High Street and varying increases in movements on other key junctions around the village. The report unfortunately does not break down the conclusions into the impacts of the individual schemes which somewhat limits its usefulness given that cumulative impacts with developments not yet approved cannot reasonably be considered at this stage.

There are recognised traffic problems in the village however this development alone would not generate significant increases in traffic on the High Street. Significant, in this context, would be 5% increase or more (using accepted industry standards). The Parish Council's report suggests that this would only occur if all 8 developments (4 in Norton St Philip, 4 in Beckington and 1 in Rode) were built out. While it is recognised that those in Beckington and Rode have been approved or have a resolution to approve, and therefore must be considered in terms of cumulative impacts, the figures given suggest that those plus this scheme would not result in over 5% increase in traffic through Norton St Philip on the High Street.

The NPPF refers at paragraph 32 to developments that generate significant amounts of movement being accompanied by a Transport Statement or Transport Assessment. Other Government guidance sets out thresholds for which these documents are required. A Transport Assessment is only required for developments of 50 or more. While this application has clearly been contrived to avoid that threshold (it was originally submitted for up to 50 dwellings but reduced when a Transport Assessment was requested by the LPA), this is a clear indication that developments of less than 50 dwellings are not usually considered to be significant movement generators. This is supported by the Parish Council's assessment.

94. The NPPF says in relation to developments that generate significant amounts of movement that decisions should take into account whether improvements can be undertaken within the transport network that limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe. While this scheme is not considered to be a significant movement generator, it should be noted that a high level of harm is required for even larger developments to be

unacceptable in planning terms having regard to national policy. Bearing this in mind, it would be difficult to substantiate a reason for refusal due purely to the traffic generation and consequent highway impacts of this development, even in cumulation with other approved schemes.

95. The applicant has proposed various traffic calming measures throughout the village as part of this application. No Highway Authority comments on these have been received and it is not clear whether these are necessary for the development to be acceptable in Highways terms. Given that there was no objection raised to the development before these highway works were added to the application, it is difficult to conclude that they are necessary. They are on the “wish list” of the Parish Council and are volunteered by the applicant, but do not appear to have technical approval from the County Council at this time. It is therefore considered that little weight can be given to these proposals because there is no clear evidence that they would be acceptable to the County Council, or beneficial to highway safety. If they are not necessary for the development to be acceptable in planning terms then they cannot be required as a planning obligation.

Parking

96. The community/resident parking mentioned in the Heads of Terms cannot be accommodated on this site and in any case permission is not sought for this. Therefore it is not considered further.

The parking for any proposed dwellings would be considered at reserved matters stage if permission were to be granted.

Environmental Impact Assessment

This development does not fall within the scope of the Town & Country Planning (Environmental Impact Assessment) Regulations 2011 and so Environmental Impact Assessment is not required.

Conclusion

97. The proposal would have an adverse visual impact due to the scale of development proposed (in terms of the number of dwellings) on an elevated site. The applicant has failed to demonstrate that this development and the neighbouring Fortescue Fields development can be satisfactorily integrated into the landscape and its surroundings. The adverse visual impact would result in less than substantial harm to the Norton St Philip Conservation Area and nearby listed buildings that is not outweighed by the public benefits of the scheme. The proposal would also result in a loss of biodiversity. The adverse impacts would significantly and demonstrably outweigh the overall benefits of the scheme in terms of provision of additional housing in a location where there is no identifiable need, and the provision of affordable housing. The proposal would be contrary to Saved Policies Q1, Q4 and EN26 of the Mendip District Local Plan 2002 and to the provisions of Chapter 12 of the NPPF.

98. The applicant has failed to demonstrate that the proposal would not increase flood risk on the site or elsewhere, as they have failed to provide sufficient up to date information, taking into account existing developments, to demonstrate that a technical solution is available to provide adequate surface water attenuation on the site or within existing facilities. As such the proposal is contrary to Saved Policy SN17 of the Local Plan.
99. The application does not include any mechanism to secure the provision of affordable housing, recreation space or management and maintenance of any surface water drainage facilities. As such the proposal is contrary to Saved Policies SN2, SN7 and EN17 of the Local Plan.
100. The adverse impacts of the development identified above are not outweighed by the economic or social benefits of the scheme that would derive from providing additional housing, including affordable housing. The presumption in favour of sustainable development set out in paragraph 14 of the NPPF does not apply because of the impact of the development on heritage assets, having regard to footnote 9 of that paragraph.

As such the proposal is recommended for refusal.

LOCAL PLANNING AUTHORITY STATEMENT



Appeal Reference: APP/Q3305/A/14/2221776

Site at East Site, Laverton Triangle, Norton St Philip

- The appeal is made under Section 78 of the Town & Country Planning Act 1990 (as amended) against the decision made by Mendip District Council, being the Local Planning Authority ("LPA") to refuse planning permission.
- The appeal is made by Lochailort Investments Ltd.
- The application, reference 2013/2052, is dated 25th September 2013 and was refused by notice issued on 9th June 2014.
- The development proposed is outline permission for residential development up to 20 dwellings with associated access, parking and landscaping (all matters reserved).

1.0 INTRODUCTION

1.1 This statement is set out as follows:

- The Appeal Site (pg 2)
- The Appeal Proposal (pg 2)
- The LPA Decision (pg 2)
- Planning Policy Context and Other Material Considerations (pg 4)
- Planning History (pg 13)
- The Case for the LPA - Main Issues (pg 14)
- Conclusions (pg 32)

2.0 THE APPEAL SITE

- 2.1 The appeal site ("the site") relates to a roughly triangular-shaped area of greenfield land measuring approximately 0.45 hectares. The site is bounded by public highways to the north-east (Town End) and south-east (Mackley Lane) with residential properties on the opposite side, a relatively new residential development (Fortescue Fields) to the north-west and agricultural land to the south-west. The site is bounded by established hedgerow adjacent to Mackley Lane and a stone wall with trees, hedgerow and vegetation behind/above adjacent to Town End. The site is generally flat, situated at a higher level to the adjoining Town End and views into the site from these highways are limited. The site is prominently located when approaching and leaving Norton St Philip, being immediately adjacent to Town End and at the Town End/Mackley Lane junction.

3.0 THE APPEAL PROPOSAL

- 3.1 The appeal proposal seeks outline planning permission for the development of the site for up to 20 dwellings with associated access, parking and landscaping. All (access, layout, appearance scale and landscaping) have been reserved for subsequent approval. Various plans and statements were provided which indicate the possible layout, scale and appearance of the development and how it would be accessed and landscaped although these were for illustrative purposes only.

4.0 THE LPA DECISION

- 4.1 Outline planning permission was refused for the appeal proposal by notice dated 9th June 2014. The reasons are as follows:
- 4.1.1 *The proposal would have an adverse visual impact due to the scale of development proposed (in terms of the number of dwellings) on an elevated site. The applicant has failed to demonstrate that this development and the neighbouring Fortescue Fields development can be satisfactorily integrated into the landscape and its surroundings. The adverse visual impact would not preserve or enhance the Conservation Area or*

the setting of nearby listed buildings. The proposal would result in less than substantial harm to the significance of the Norton St Philip Conservation Area and nearby listed buildings that is not outweighed by the public benefits of the scheme. The adverse impacts would significantly and demonstrably outweigh the overall benefits of the scheme in terms of provision of additional housing in a location where there is no identifiable need, and the provision of affordable housing. The proposal would be contrary to Saved Policies Q1, Q4 and EN26 of the Mendip District Local Plan 2002 and to the provisions of Chapter 12 of the National Planning Policy Framework.

- 4.1.2 *The applicant has failed to demonstrate that the proposal would not increase flood risk on the site or elsewhere, as they have failed to provide sufficient up to date information, taking into account existing developments, to demonstrate that a technical solution is available to provide adequate surface water attenuation on the site or within existing facilities. As such the proposal is contrary to Saved Policy SN17 of the Mendip District Local Plan.*

(Note: There is a typographical error in this second reason on the decision notice as it should refer to Policy EN17 (Surface Water Runoff) and not Policy SN17 (Retention of Village Shops, Neighbourhood Shops and Community Facilities). It is, however, clear from the reason that it relates to surface water runoff and the third reason below correctly refers to Policy EN17.

- 4.1.3 *The application does not include any mechanism to secure the provision of affordable housing, recreation space or management and maintenance of any surface water drainage facilities. As such the proposal is contrary to Saved Policies SN2, SN7 and EN17 of the Mendip District Local Plan.*

5.0 PLANNING POLICY CONTEXT

Development Plan

- 5.1 Section 38(6) of the Planning & Compulsory Purchase Act 2004 requires that all development proposals are determined in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for Mendip consists of the Mendip District Local Plan (adopted December 2002). Policies in this Plan were 'saved' by a Direction from the Secretary of State in October 2007. In accordance with paragraph 2015 of the National Planning Policy Framework (NPPF), 'due weight' can be given to development plan policies based on their degree of consistency with the NPPF.
- 5.2 Policy S1 states that outside the settlement limits identified on the Proposals Map, development will be strictly controlled and will only be permitted where it benefits economic activity, maintains or enhances the environment and does not foster growth in the need to travel. The appeal site is adjacent to, but outside, the development limits for Norton St Philip. The aims of this policy is consistent with the NPPF, particularly its requirement in paragraph 55 that isolated new homes in the countryside should be avoided unless there are special circumstances (none of which apply here), as well as the NPPF's desire in paragraph 17 to protect the countryside's intrinsic character and conserve the natural landscape.
- 5.3 With an NPPF-compliant housing land supply (set out further in this Statement), the LPA contend that development plan Policy S1 is not out-of-date and the requirement set out in paragraph 14 of the NPPF for "*.....granting planning permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole;*" does therefore not apply.
- 5.4 Even if policies were treated as being out-of-date, the LPA contends that planning permission should still not be granted planning permission because when the decision was taken to refuse planning permission, relevant policies for the supply of housing were out-of-date given the land supply position at that time. Nevertheless,

the adverse impacts of the appeal proposals were judged to significantly and demonstrably outweigh the benefits of the proposal.

- 5.5 Policy S1 does support the granting of planning permission for development outside settlement limits where it benefits economic activity, maintains (or enhances) the environment and does not foster growth in the need to travel.
- 5.6 In relation to economic activity, the construction phase of the development would provide job opportunities and, following occupation of the development, the Council would receive income through the New Homes Bonus and there would be limited increase spending within the local economy. Housing development is, however, specifically excluded from the definition of economic development in Annex 2 of the NPPF.
- 5.7 In relation to travel, there is a recognition that certain local services and facilities are available within reasonable walking and cycling distance, and that sustainable travel options are available to access local services and facilities beyond. For these reasons, Norton St Philip was identified as a Primary Village and a focus for limited growth in the emerging Local Plan. However, it is a matter of fact that occupants of the proposed development would be dependent on private travel to access services and facilities to meet their daily and weekly needs and the proposals would therefore foster growth in the need travel and represent an unsustainable form of development.
- 5.8 On the LPA's main issues, as set out in the first reason for refusing planning permission, centres on the impact of the appeal proposals on the local environment and this is set out further in this Statement. A summary of the further relevant development plan policies referred to in the refusal reasons is set out below.
- 5.9 Policy Q1 requires states that development will be permitted where its design relates satisfactorily to its surroundings in terms of, inter alia, its impact on urban design and the landscape. This policy is consistent with the NPPF as Chapter 7 sets out the requirement for good design.

- 5.10 Policy Q4 refers to landscape design and states that development will only be permitted where a landscaping scheme is provided which satisfactorily integrates the proposal with its surroundings, both visually and functionally. This policy is consistent with the NPPF as Chapter 7 identifies the need for appropriate landscaping to secure good design.
- 5.11 Policy EN17 relates to surface water run-off and states that development will not be permitted which would increase the risk of flooding or pollution of watercourses through its impact on surface water runoff unless effective safeguards are provided to prevent this occurring. This policy is consistent with the NPPF as Chapter 10 which requires effective management of flood risk from all sources (which includes surface water runoff from new development).
- 5.12 Policy EN26 states that development will not be permitted if it would harm the setting of a Listed Building. This policy is partly consistent with the NPPF (Chapter 12), in so far it requires an assessment of any harm caused to Listed Buildings (heritage asset). However, the NPPF has introduced the need to balance any harm caused by a development (which has been identified as less than substantial) against the public benefits of a proposal, rather than simply refuse permission as set out in Policy EN26 if harm is caused. Despite reference to Policy EN26, the balanced judgement required by paragraph 133 in the NPPF has been performed and is set out further in this Statement.
- 5.13 Policy SN2 requires the provision of affordable housing in villages on sites of 0.5ha or more, where (amongst other things) there is an identified need for affordable housing. A planning obligation must be entered into to ensure that all initial and subsequent occupiers benefit from the affordable status of the dwellings. This policy has, however, been effectively superseded by the weight that is now being given to the emerging Local Plan, in particular a reduced on-site provision threshold to greater than 0.25ha rather than 0.5ha. This means that development of this site would need to make provision for on-site affordable housing. To-date, there is no Section 106 Agreement to secure this obligation.

- 5.14 Policy SN7 relates to recreational open space and requires that proposals for new residential development make provision for public open space on the basis of the National Playing Field Association's (NPFA) long-standing standard of 2.4ha of new space per additional 1,000 people.

Other Material Considerations

- 5.15 Since the decision to refuse planning permission was issued, the LPA has altered PINS to a material change in circumstance in respect of planning policy and land supply, and this is provided in Enclosure 1.

Draft Local Plan

- 5.16 The Council's Draft Local Plan has been subject to examination and the Inspector has confirmed in a letter dated 18th June 2014 (Enclosure 2) that the Plan can be made sound with a number of modifications that were identified by the Council before and during the examination, and by the Inspector in this letter. The Council has subsequently published the modifications for a six-week consultation period and the deadline for representations lapsed on 4th August. These representations will be referred to the Inspector and his final report will then be awaited. However, the LPA contends that the Draft Local Plan has reached an advanced stage of preparation and significant weight can therefore be attributed to significant weight.

Housing Supply

- 5.17 Using the objectively assessed housing requirements set out in the Draft Local Plan (as proposed for modification), the Council has been able to identify a supply of specific deliverable sites sufficient to provide five years worth of housing with an additional 5% to ensure choice and competition in the market for land (given past record of delivery). As such, development plan policies for the supply of housing (Policy S1 in particular) are considered up-to-date. The Housing Supply Update and Housing Trajectory June 2014 are provided in Enclosures 3 and 4 respectively.

Emerging Mendip District Local Plan 2006 to 2029

- 5.18 In respect of the weight given to the emerging Local Plan and its policies, paragraph 216 makes clear that decision makers can give weight to emerging plans according to their stage of preparation, the degree of unresolved objections and the consistency of the emerging plan with the NPPF.
- 5.19 The emerging Plan sets out the Council's position with regard to the provision of new housing within the District. It is at post-examination stage, with the Inspector's preliminary recommendations received. The emerging Plan is therefore at an advanced stage of preparation and is, in the LPA's view, sound. It is therefore considered that, as a material consideration, considerable weight can be attached to the emerging Local Plan's policies.
- 5.20 To support this position, reference is made to the case of *R (on the application of IM Properties) v Lichfield District Council* [2014] EWHC 2136 (Admin). The substance of this case is not relevant to the appeal proposal but Mrs Justice Patterson's considerations in reaching her judgement are because reference has been made to the advanced stage reached by Lichfield Council in preparing their Local Plan which is at the same stage as Mendip District Council's (modifications published for consultation following examination). In section 70 of her judgement, Patterson J remarked that *"Here, the decision relates to main modifications which have been endorsed by the defendant within a local plan process approaching its end"* (author's emphasis). In Section 72, Patterson J stated that *"It is quite clear, in my judgment and not inconsistent with the Manydown judgment, that once a document has been submitted for examination it is a Development Plan document. The main modifications which have been proposed and which will be the subject of examination are potentially part of that relevant document. To permit any other interpretation would be to give a licence to satellite litigation at an advanced stage of the Development Plan process."*
- 5.21 Core Policies 1 and 2 set out the strategy for development within Mendip. Through the emerging Local Plan, the Authority has demonstrated housing land supply, including

for the next five years. Core Policy CP2 sets out that provision will be made for 9,635 homes in Mendip to 2029 (from 2006), and that delivery will be secured from sites within Development Limits (those in the Adopted Local Plan until these are revised through Part 2) or from other allocations outside Limits through the Site Allocations process. Of these 1,780 would be from the Primary and Secondary Villages in rural areas which includes Norton St Philip.

- 5.22 CP1 says that to enable the most sustainable pattern of development of growth for Mendip District, the majority of development should be directed to the five principal settlements (which does not include Norton St Philip). It goes on to say that development in the open countryside (such as these sites) will be strictly controlled, and that only where CP4 is met will development be exceptionally permitted.
- 5.23 Part 1(b) of CP1 says that in rural districts new development should be tailored to meet local needs within primary and secondary villages. Policy CP2 sets out the number of dwellings needed for the period until 2028 in rural areas. Norton St Philip is a primary village and it gives a 2006 requirement of 45 dwellings.
- 5.24 Policy CP2 goes on to say that other allocations of land for housing outside of Development Limits will be secured through the Site Allocations process in line with the requirements set out in its supporting text, the informed views of the local community, the contribution of development since 2006 and capacity within existing limits.
- 5.25 CP2 states that since 2006, 73 dwellings have been completed/consented in Norton St Philip as at 31st March 2013 so the 45-dwelling requirement has already been significantly exceeded. It is recognised that housing requirements must be expressed as a minima but an increase of 28 dwellings, or 62% above that required means that the Council will not have to identify further land for housing beyond the development limits of Norton St Philip at Part II (Site Allocations) stage.
- 5.26 Policy DP1 relates to local distinctiveness and says that, amongst other things, proposals would be formulated with an appreciation of the built and natural context,

including recognising distinctive trees and rights of way that collectively generate a distinct sense of place.

5.27 Policy DP4 relates to Landscape. It says that proposals for development that would, individually or cumulatively, significantly degrade the quality of the local landscape will not be supported. Outside of designated landscape areas, it says that proposals should demonstrate their compatibility with the pattern of natural and man-made features of the Landscape Character Areas, as detailed in the Landscape Assessment of Mendip District.

5.28 Policy DP9 relates to Transport. It says that development proposals must demonstrate how they will improve or maximise the use of sustainable forms of transport (particularly by means other than the private car), and shall include, where relevant, the submission of Travel Plans and Transport Assessments.

5.29 Policy DP11 relates to Affordable Housing. It requires that affordable housing is provided at 30% and that tenure split should be 80% social rented and 20% intermediate housing. The applicants accept that the scale of development is such that some of the development would need to be affordable.

5.30 Policy DP16 relates to Recreational Open Space. It requires that proposed for new residential development make provision for public open space on the basis of the National Playing Field Association's (NPFA) long standing standard of 2.4ha of new space per additional 1,000 people. In this particular case, a financial contribution as opposed to on-site provision is considered appropriate.

5.31 Policy DP19 relates to Development Contributions. The policy says that the Council will support the delivery of local infrastructure in line with new development and will mitigate or compensate for the effects that new development may have. It will do this by use of legal agreements where the implementation of a development would result in specific or direct impacts on a site, its surrounding area or local infrastructure including amenities and facilities, or a need to compensate for loss or damage caused

by a development. Contributions will be directly, fairly and reasonably related in scale and kind to the proposed development.

National Planning Policy Framework

- 5.32 Paragraph 14 says that, unless material considerations indicate otherwise, there is a presumption in favour of sustainable development. For decision-taking, this means approving development proposals that accord with the development plan without delay.
- 5.33 Where the development plan is absent, silent or relevant policies are out-of-date, it says that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits (when assessed against the policies in the Framework taken as a whole); or where specific policies in the Framework indicate development should be restricted.
- 5.34 The LPA's view is that, in light of the Local Plan Inspector's preliminary comments, it can give significant weight to its emerging Local Plan, a critical material consideration. This also means that it can reasonably demonstrate five years' of deliverable housing land. On this basis the adopted development plan's Settlement Limits are up-to-date and can be carried forward until revised through Part II of the emerging Local Plan. This in turn means that there is no presumption in favour of development.
- 5.35 Paragraph 17 sets out twelve Core Planning Principles that the NPPF requires should underpin both plan-making and decision-taking.
- 5.36 The first principle says that planning should be genuinely plan-led, empowering local people to shape their surroundings based on up-to-date plans based on joint working and co-operation. In this case, however, allowing development of this site would not be consistent with this principle or the implementation of the Site Allocations Development Plan Document set out in the emerging Local Plan policy

CP2 which specifically seeks to allow local people a say in determining where development is located.

- 5.37 With regard to the third point, the Authority through its emerging Local Plan has actively and objectively identified its housing and other needs, taking account of opportunities for growth and market signals. It has set a clear strategy for allocating sufficient land including through Part 2 of the emerging plan and the Site Allocations DPD.
- 5.38 The fifth point says that plan-making and planning decisions should recognise the intrinsic character and beauty of the countryside and the need to support thriving rural communities within in. To this end, the countryside should be developed only where the benefits outweigh the harm. The development of the countryside would be harmful in these cases and the benefits do not outweigh this loss.
- 5.39 The eleventh point says that decisions should actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and that significant development should be focused on locations which are or can be made sustainable.
- 5.40 Paragraph 47 states that to significantly boost the supply of housing, local planning authorities should ensure that their Local Plan meets the full, objectively assessed needs for market and affordable housing in the housing market area, as far as is consistent with the policies set out in this Framework, including identifying key sites which are critical to the delivery of the housing strategy over the plan period.
- 5.41 It goes on to require LPAs to identify and update annually a supply of specific deliverable sites sufficient to provide five years' worth of housing against their housing requirements with an additional buffer of 5% (moved forward from later in the plan period) to ensure choice and competition in the market for land. The Authority has done this as set out in the enclosed trajectory.

- 5.42 Paragraph 48 allows LPAs to make allowance for windfall sites in the five year supply if they have compelling and realistic evidence that such sites have consistently become available.
- 5.43 Paragraph 49 requires that housing applications should be considered in the context of the presumption in favour of sustainable development. In particular, it says that relevant policies for the supply of housing should not be considered 'up to date' if the local planning authority cannot demonstrate a five year supply of deliverable housing sites.
- 5.44 Paragraph 50 requires a wide choice of high quality homes and provision of affordable housing where it is needed (as set out in development plan and emerging policy).
- 5.45 Paragraph 52 says that the supply of new homes can sometimes be best achieved through larger-scale development, including extensions to existing villages, but it also says that local planning authorities should work with communities, to consider whether such opportunities provide the best way of achieving sustainable development. It is through Part 2 of the emerging Local Plan where specific non-strategic allocations of land around the towns and villages will be considered.

6.0 PLANNING HISTORY

- 6.1 There is no planning history on the site which affects the appeal proposals. There is extensive history on the adjacent site (north-west) which has led to its redevelopment for housing (Fortescue Fields development).

7.0 THE CASE FOR THE LPA

7.1 The main issues in this appeal, as identified in the reasons for refusing planning permission and the material change in planning policy and housing supply, are as follows:

- The principle of residential development outside settlement limits;
- The impact of the appeal proposals upon the character of the area;
- The impact of the appeal proposals on heritage assets;
- The impact of surface water runoff;
- The need for planning obligations to make the development acceptable;

ISSUE 1 – THE PRINCIPLE OF RESIDENTIAL DEVELOPMENT OUTSIDE THE SETTLEMENT LIMITS

7.2 The starting point for the consideration of planning applications is the development plan, in this case the Mendip District Local Plan (adopted December 2002). The site is located in open countryside, outside the settlement limits identified in the Proposals Maps, and therefore development plan policy S1 would normally mean that residential development would be resisted unless special circumstances could be demonstrated. Policy S1 makes clear that development will be strictly controlled and will only be permitted where it benefits economic activity, maintains or enhances the environment and does not foster growth in the need to travel.

Policy S1 – Economic Activity

7.2 The first aspect to which development plan policy S1 refers is the need for development outside settlement limits to benefit economic activity. As set out earlier, it is recognised that the appeal proposal would benefit economic activity in the form of job opportunities during the construction phase of the development, additional income to the Council through the New Homes Bonus regime and increased spending within the local economy by new occupants. Financial benefits to the Appellant are not, by definition, public benefits. These economic benefits weigh in favour of the appeal proposals although it must be recognised that housing

development is specifically excluded from the definition of economic development in Annex 2 of the NPPF.

Policy S1 - The Environment

- 7.3 The second aspect to which policy S1 refers is the need for development outside settlement limits to maintain or enhance the environment. The environment, for the purposes of this appeal, focuses on the character of the area. The LPA contend that the appeal proposals would fail to maintain or enhance the environment for the reasons set out in detail under issue 2 (paras. 7.30 – 7.51).

Policy S1 - Travel

- 7.4 The third and final aspect to which development plan policy S1 refers is that development outside the settlement limits must not foster growth in the need to travel. This particular strand of policy S1 is consistent with a core planning principle of the NPPF where there is a need to actively manage patterns of growth to make the fullest use of public transport, walking and cycling, and to support the transition to a low carbon future in a changing climate.
- 7.5 Norton St Philip contains a range of local services and facilities which would be within reasonable walking or cycling distance of the appeal site and a bus service operating through the village provides access to significantly more services and facilities in Frome and Bath. As such, the LPA recognises that the appeal site is in a location where opportunities for sustainable travel exist. Indeed, that is why Norton St Philip was identified in the emerging Local Plan as a location which could accommodate a certain level of housing development.
- 7.6 Despite the opportunities for sustainable travel, the Transport Assessment accompanying the application confirms that commuting by bus is extremely low given the timing of the return journeys and the hourly frequency, and confirms that a significant number of residents of Norton St Philip are highly dependent on the car for commuting and, with the only bus service running hourly, car dependency is likely to extend to other day-to-day journey purposes.

- 7.7 There was an inherent recognition by the Council that the housing requirements for Norton St Philip identified in the emerging Local Plan requirements would increase car travel. However, the amount of further development proposed on the appeal site above that expected in Policy CP2, and already significantly exceeded, would generate an unacceptable increase in car travel contrary to the Government's objective of moving towards a low-carbon future and promoting sustainable modes of transport. A Travel Plan could provide incentives to reduce car dependency but it is inevitable that a significant number of trips would still be made by car. In any case, the Appellant has not offered a Travel Plan.

Policy S1 – Conclusion

- 7.8 The appeal proposal would benefit economic activity but would fail to maintain or enhance the environment and would foster growth in the need to travel. As such, the appeal proposal fails to comply with development plan policy S1 in respect of the principle of development.

Emerging Local Plan

- 7.9 Core Policy 1 in the emerging Local Plan is similar to development plan policy S1 in respect of development outside of Settlement Limits. Core Policies 1 and 2 set out the strategy for development within Mendip. Through the emerging Local Plan, the Authority has demonstrated housing land supply, including for the next five years. Core Policy CP2 sets out that provision will be made for 9,635 homes in Mendip to 2029 (from 2006), and that delivery will be secured from sites within Development Limits (those in the Adopted Local Plan until these are revised through Part II) or from other allocations outside Limits through the Site Allocations process.
- 7.10 The stance of the emerging and adopted Local Plans is entirely consistent with the NPPF's approach that planning decisions should recognise the intrinsic character and beauty of the countryside.

Weight to be given to Emerging Local Plan

- 7.11 The Appellant contends that policies in the development plan for the supply of housing are out-of-date and that the emerging Local Plan should not be given

significant weight. Their argument continues by saying that a five year land supply of deliverable housing cannot be calculated without a clear indication of the level of housing need within the District. They also say that the way the land supply has been calculated is incorrect.

- 7.12 On this basis they believe that the NPPF's presumption in favour applies and that planning permission should be granted unless the adverse impacts are shown to significantly and demonstrably outweigh the benefits. They, of course, argue that there are no adverse impacts. The LPA rejects these arguments.
- 7.13 In respect of the weight to be given to the emerging Local Plan, this Plan is clearly at an advanced, and determinative, stage and reference has made to a recent court case which supports the LPA's conclusion that the Plan has reached an advanced stage of preparation. It has already gone through numerous rounds of consultation, and completion of the examination hearing sessions held in Shepton Mallet between 31 March and 14 April 2014.
- 7.14 In reaching his preliminary conclusions and making initial recommendations, the Local Plan Inspector made clear that he was content for the main modifications to be published for final consultation. The Inspector specifically commented on housing numbers by saying that the figures referred to in Policy CP1 and elsewhere are to be treated as minima. It is clear that, subject to this modification (which has been accepted and made), he was satisfied with their reliability.
- 7.15 While the Inspector said that his comments were without prejudice to his final report, it is clear that if the Inspector had fundamental concerns about the soundness of the emerging Plan, or that the housing requirements contained therein had not been objectively assessed, he would not have encouraged further consultation on the modifications to the emerging Plan and would have instead required further assessment by the Council. Indeed, if the Inspector had concerns he would have known through his preliminary comments, by effectively requiring the Authority to significantly re-consider its approach, as has occurred with other

Councils', notably neighbours Bath & North East's and South Somerset's emerging Local Plan examinations.

Calculation of 5-year land supply

- 7.16 Detailed evidence on housing supply was considered at the Mendip Local Plan Part I hearings in April 2014 and, as set out above, the Inspector's initial recommendations effectively endorse earlier proposed modifications to the Plan including the Council's assessment of housing requirements to 2029, the annual development rate used to set five year supply and the District requirement of 9,635 dwellings (although these have been subject to a further six week formal consultation period).
- 7.17 The current level of approved proposals and commitments (as at June 2014) equates to more than five years supply, including an allowance for uncertainties in delivery. Whilst the Inspector recommended housing figures should be expressed as 'minima', the modifications make it clear that provision above the 9,635 dwelling requirement will occur through the site allocations process rather than on an application-by-application basis.
- 7.18 As identified in the Five Year Supply Update June 2004 (Enclosure 3), the Authority considers that the supply of 2,541 dwellings exceeds the calculated five year requirement by 382 dwellings, and equates to a supply of around 6 years.

5% versus 20% buffer

- 7.19 The Authority has afforded a 5% buffer and set out in the Land Supply Update (Enclosure 3) why it does not have a record of persistent under-delivery. This was a matter (issue 6) considered during the course of the Examination. The five year supply statement demonstrates that the overall housing delivery since 2006 has been ahead of target requirements to date.
- 7.20 Specifically, between 2006 and 31st March 2013, a total of 3,201 dwellings have been completed (an average of 457 dwellings per year). Based on the development rate of 415 per annum this equates to a slight level of over-provision of around 9% in the first 7 years of the plan period, and housing completions have exceeded the old

Regional Spatial Strategy rates. The table also demonstrates that there is no 'backlog' of housing supply which would need to be factored into the five year supply requirement.

7.21 On this basis, there is no evidence to indicate there has been persistent under-delivery and a 5% buffer figure is justified. Indeed, of the participant's statements of those represented at the Examination, none chose to argue that the Council had a record of under-delivery and they therefore agreed with the Council that the 20% buffer was not a necessary addition.

7.22 Had the Local Plan Inspector considered that there was a history of persistent under-delivery, he would not have agreed to consultation on the modifications but instead raised it as a fundamental 'soundness' issue at this stage.

5% non-implementation despite brownfield

7.23 The calculation includes only a 5% discount for non-implementation of sites despite many of these being brownfield sites and having complex delivery/viability issues. The Council accepts that not all planning permissions will deliver housing in five years and some may not start at all (non-implementation) and that it is therefore reasonable to make an allowance for this uncertainty. This has become established practice in the calculation of five year supply, even if not strictly specified as a requirement in planning guidance.

7.24 As far as possible, the Council have contacted applicants, developers or agents with outstanding planning consents. Where there is evidence that a planning permission will not come forward or a practical barrier to delivery in five years, these permissions have been discounted from the trajectory and do not appear in the deliverable dwellings figure.

7.25 On the basis of this survey work, the Council considers it is justified in applying the lower rate (5%) to the remaining un-started commitments in the trajectory. This also applies to s106 sites, and therefore gives some flexibility in the assumptions of delivery from this source of supply

- 7.26 The published updated housing trajectory (Enclosure 4) reflects completions to 31st March 2014 and the extensive review of outstanding planning permissions. The trajectory identifies those sites where housing delivery can be justified as coming forward in the five years from 1st April 2014 (deliverable sites) and 'developable' sites with potential for delivery in years 6-10 and 11-15. The Authority is therefore satisfied that the 5% non-implementation allowance is justified.

Over-reliance on past windfall rates

- 7.27 The Five Year Supply Update makes clear that this does not include any estimate for future 'Windfall' sites, which are typically small sites which provide a regular contribution to annual supply of housing in the district eg rural dwellings, conversions of office/shop space etc. Indeed, during the course of the Examination this was described by participants as a 'cautious approach'.

Timescale of s106 sites

- 7.28 There has been criticism about the timetable of delivery of some of the sites which have permission or are subject to unsigned s106 agreements, yet are included within the trajectory and the five year supply calculations. The Council has sought to contact agents or developers to establish the likely timescales of delivery of the relevant sites and it is therefore confident that those estimates are accurate and realistic.

Conclusion on the principle of residential development

- 7.29 The emerging and development plan policies can be considered up-to-date for the purposes of considering proposals for housing development. The Emerging Local Plan (Core Policy 2) sets out the Council's most recent thinking with regard to development management. It clearly sets out that Norton St Philip has significantly exceeded the expected level of growth and the Local Plan Inspector's reference to the requirement being treated as 'minima' has been comprehensively satisfied in this village. Therefore, although the site is immediately adjacent to the village and its settlement limits, there is no housing land shortfall justification to be set against the effects of the proposal. As such, there is an in-principle objection to

development of this site in open countryside outside of the settlement limits, and that unnecessary necessary unjustified encroachment of development in the open countryside.

ISSUE 2 – IMPACT ON THE CHARACTER OF THE AREA

- 7.30 The site clearly forms part of the open countryside that wraps around the village and the boundary hedges contributes to the distinctive rural character. The approach to the village from the south consists of fields with occasional dwellings on the western side of the road, and on the eastern side is low density residential development, generally bungalows. There is strong hedge cover either side. Passing the junction of Tellisford Lane/Mackley Lane the village becomes starts to become more densely developed heading towards the centre. The appeal site is in an area of transition between the new Fortescue Fields development and the more rural, open area to the south and west.
- 7.31 The trees around the former factory site were noted in the Norton St. Philip Conservation Area Appraisal (CAA) 2007 as forming part of the character of this area, and trees in general are noted as being an important asset at entry points to the village. The CAA is an adopted document and a material planning consideration, and is provided as Enclosure 4. The trees around the former factory site are protected by a group Tree Preservation Order (TPO) which is a clear indication of their amenity value and contribution to the character of the area. The contribution of this group of trees to the character of the area is/was in their group value rather than individual quality, a contribution emphasised by the relative rarity of trees in this village as noted in the CAA.
- 7.32 When the factory site was in place the application site and its boundary with the factory contained a belt of trees, originally planted for screening. All of these are covered by the group TPO. The trees were assessed as part of the application for development of the factory site under application 2010/0493. The documentation submitted with that application remains relevant to the appeal to some degree, particularly in terms of the landscape and visual assessments.

- 7.33 The landscape report submitted with the application contains a visual appraisal which states that, *"The location of the study area on a ridge, adjacent to a busy road, and on the edge of the village would imply some visual sensitivity and potential prominence. However, the construction of the large landform bunds and the maturing belts of trees, as well as the existing hedgerows which visually screen the factory platform areas from surrounding views, are such that the existing platforms are quite discreet and do not generally have a significant visual impact other than from the existing site entrance."* The appeal site now under consideration is immediately adjacent to the previous study area and is also on the ridge adjacent to the main road. The site is raised above the road level by over a metre.
- 7.34 The previous landscape report states that, *"There is now an opportunity to remove the existing trees and to introduce new planting with long term management, to better contribute to the amenity of the site, as part of its future use, and to the village"*. The landscape report continues, setting out the landscape design objective of the Fortescue Fields scheme, which is, *"To provide a high quality landscape setting for the proposed residential development, ensure its visual integration into its village setting, and minimise any visual impacts or change on the surrounding area"*. The planting of new trees/vegetation is listed as one of the ways that this will be achieved. It states that, *"The landscape design principles for the development...seek to ensure that the valued characteristics of Norton St. Philip, its attractive form and visual appearance, are retained and enhanced...the intention is to integrate [the development] into its setting in appropriate scale and proportion so that buildings, when visible, will be perceived in scale and proportion within a framework of structural planting as a foreground, and with a backdrop of trees"*.
- 7.35 As part of the permission for the development of the former factory site, most of the trees were retained with only those of poor quality or condition removed along boundaries. All of those along the boundary with the application site were removed because they were mostly poor or declining quality trees with a relatively short lifespan ahead of them.

- 7.36 The landscape report set out the proposed landscaping along the eastern boundary of the Fortescue Fields development (the western boundary of the appeal site) as follows: *"The line of poplars and willows on the east boundary will be removed. These trees were originally planted to screen the factory and activities on it, but this tree belt, much of which is mature or over-mature, comprises species of a short lived nature, is exhibiting extensive signs of die back and disease, and is not in keeping with the surrounding landscape...It is proposed to replace this boundary planting with a significant 15 metre wide belt of native/indigenous tree and shrub species to assist with the integration of the development into the immediate and wider landscape and to complement and enhance views to and within the village in the longer term.*
- 7.37 This landscape approach was supported by the LPA and condition 27 of the planning permission for the Fortescue Fields development requires the landscaping plan to be implemented. Specifically included in that condition is reference to the planting of the tree belt, with a requirement for it to be planted within 12 months of commencement of the development. The layout of the adjacent development does not allow for the planting of a tree belt within the Fortescue Fields site, so the approved landscaping plan shows the 15m wide belt of tree planting to be provided within the appeal site, Laverton Triangle.
- 7.38 The condition would not have been imposed unless its requirements were necessary to make the development acceptable in planning terms. The trees were a key feature of the former factory site and its surroundings and their removal was clearly intended to be temporary, to facilitate their replacement with more effective landscaping that would enhance the village and landscape for a much longer period. The imposition of the condition means that the LPA considered that the replacement tree belt was necessary for the development on the Fortescue Fields site to integrate satisfactorily into its surroundings as required by development plan policy Q4. It was recognised at the time of granting permission that it would take several years for the development to be built and the short time period specified for the planting to take place is indicative of the need for the planting to have as much time as possible to mature while the site was being developed, to be effective as soon as possible.

- 7.39 The appeal site is being used as a temporary construction compound for the Fortescue Fields development and because of the constant traffic between the appeal site and the development land, the tree belt has not been planted in accordance with the permission. An application to vary the condition has been submitted, seeking a longer compliance period to allow for completion of the development, as it is not possible to plant it while the application site is in use as the construction compound. That proposal is currently pending consideration.
- 7.40 The Appellant, by applying to vary this condition to give more time for compliance, are effectively acknowledging that they consider the condition to be necessary and reasonable, as otherwise they would have applied to remove the condition and made a case for this.
- 7.41 The appeal proposal is for outline permission with all matters reserved. No layout or landscaping is for consideration at this stage although the Appellant has confirmed that it is not proposed to provide the tree belt within the site and offers instead a 20 metre wide tree belt on land in their control to the south-west and on the edge of the appeal site.
- 7.42 An indicative layout of 18 houses has been submitted showing housing around the edges of the site with an area of open space and a tree in the middle. This is only an indication of a possible layout although the Appellant's intentions are clearly set out in their Design and Access Statement (DAS). This states (incorrectly) that a 30m wide tree belt was proposed on the Fortescue Fields site, within that site's boundary. The approved landscaping plan for that application clearly shows a 15m wide tree belt within the Laverton Triangle area.
- 7.43 The DAS goes on to state that, *"The intention of this tree belt was to screen the new development from the approaches to the village. However at the time there was a diverse opinion of views for the necessity of such a belt. Any screening [is] effectively achieved by the existing stone wall and hedging at Town End and Mackley Lane as well as a drop in levels"*.

- 7.44 The submission is incorrect in its description of the size and location of the tree belt and its purpose, which is actually stated in the landscape report as being to help the Fortescue Fields development integrate into the landscape and complement views.
- 7.45 It is clear from the DAS and indicative information provided that there is no intention of providing the tree belt within the appeal site for this proposal. The Appellant suggests that a suitable landscape scheme can be developed to enable the proposals to satisfactorily integrate into the surrounding landscape and village, but it is difficult to see how this can be achieved without incorporating the tree belt within the application site on the north/western boundary. The appeal site and the Fortescue Fields site are higher than the adjoining road level and on an elevated ridge which is clearly visible from the west in particular. It is a prominent part of the village where landscaping is necessary to help it to integrate. The existing hedge around the appeal site is mature and attractive, standing some 2.5 – 3m high. This hides the fact that the site is over a metre higher than the road, so from inside the site the hedge is around 1.5m high. This means that any development, even if single storey, would be clearly visible on the approach to the village. The Fortescue Fields development is of substantial scale and is widely visible. The hedge around this application site and the differing levels do very little to screen it, and it is contended that the previously approved landscaping scheme remains a necessary element of the development.
- 7.46 The tree belt as approved is necessary to screen the Fortescue Fields development. Development of the appeal site would screen parts of the development but would add to the urbanising impact on the local area with no real opportunity to soften or screen this. The addition of a tree belt to the south-west of the appeal site and the Fortescue Fields site would help to screen both the existing and proposed development from the south-west, which is beneficial, but would have no impact on views from the south-east, the main approach to the village.
- 7.47 The LPA therefore contends that the development of the appeal site for up to 20 dwellings would not allow for the landscaping necessary to make the adjoining development acceptable. Although the appeal is in outline form with all matters

reserved, the Appellant's intentions are clear that the tree belt forms no part of their likely landscaping proposal. The failure to provide the tree belt in the approved location would result in less than substantial harm to this part of the Conservation Area by failing to reinstate a feature that was clearly valued and contributed positively to the character of the Conservation Area and the amenity of this part of the village. The provision of a tree belt to the south-west would not contribute to the Conservation Area because of the distance between them.

- 7.48 Development of the appeal site itself would fundamentally alter the character of the site, which as an undeveloped field that forms a key part of the transition from countryside to village from a southerly direction and is a welcome break from the residential development around it. Any residential development on the appeal site would significantly alter the views into and of this part of the Conservation Area and would urbanise this part of the village, removing its last linkage through to the countryside to the west. This would be to the detriment of its character and appearance.
- 7.49 Landscaping within the site could potentially mitigate some of this impact however the amount needed would reduce the number of dwellings that could be accommodated substantially. It is recognised that the proposal is for "up to 20 dwellings" rather than a fixed number, but it is unlikely that the site could accommodate anything near this scale without significant harmful visual impacts. The tree belt planting now proposed to the south-west of the site would not ameliorate this harm because it would not affect the key views into the village from the south-east.
- 7.50 The limited scale of development that might be achievable with substantial landscaping would be far below what has been applied for, and although the appeal defines an upper limit only, it is clearly the intention to accommodate development at the upper end of this figure. A proposal, or condition, for a significantly reduced number of dwellings would be a fundamentally different development to that which has been applied for.

- 7.51 The Appellant has therefore failed to demonstrate that a scheme can be achieved that could accommodate sufficient landscaping to satisfactorily integrate the development and that of Fortescue Fields into its surroundings. As such, the appeal proposal is contrary to development plan policies S1, Q1 and Q4.

ISSUE 3 - IMPACT OF THE APPEAL PROPOSAL ON HERITAGE ASSETS

- 7.52 Chapter 12 of the NPPF recognises the importance of conserving and enhancing the historic environment which enshrines the legislative duty on local planning authorities to do so. The Appellant provided a Heritage Assessment with the application and this correctly identifies the relevant heritage assets affected by the proposal, namely the village Conservation Area and Listed buildings.
- 7.53 The LPA accept that the appeal proposals would only impact on a small part of the Conservation Area although this is a very important part at the southern approach into the village. The fact that the Conservation Area extends to include part of the appeal site demonstrates that it contributes to the character and appearance of the area.
- 7.54 The Appellant opines that part of the site was only included in the Conservation Area given the value of the stone wall on the boundary of the site. While this may be the case in terms of historic features, the main part of the site is clearly within the setting of the conservation area.
- 7.55 The proposal would result in harm to the Conservation Area due to the change in character of the site and the loss of the tree belt that was an important feature of this part of the Conservation Area. This would not be offset by the alternative tree belt now proposed, and would result in the loss of significance as the entrance to the village and one of the few amenity features of the village would be detrimentally altered.
- 7.56 It is recognised that the Fortescue Fields development has changed the character of the Conservation Area to the north. However, this was a very different situation to the appeal site as the Fortescue Fields development involved the redevelopment of a

former chicken factory which had been redundant for some time and its deterioration significantly detracted from the area. As such, this adjacent development led to an overall enhancement. The appeal site does not detract from the Conservation Area in its undeveloped form, and its development, without adequate landscaping and on raised ground, would adversely affect the appearance of the area and thereby harm the character and appearance of the Conservation Area. The experience of the village driving in from the south would be detrimentally changed and this approach to the historic core would be adversely affected.

- 7.57 There are two listed buildings on the northern side of the main road. Their setting would be affected by the development because it would be visible in views to these dwellings from public vantage points. There is also an unlisted positive building noted in the CAA on this side of the road which could be considered an undesignated heritage asset. The proposal is not considered to result in any substantial harm to the significance of these heritage assets however it would result in some harm to their setting, and thereby significance.
- 7.58 Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that the LPA pay special regard to the desirability of preserving listed structures or their settings or any features of special architectural or historic interest which they may possess. This legal duty should be given considerable weight.
- 7.59 The level change on the site and the limited screening impact of the existing hedge mean that dwellings of any scale would have an impact on the character of Town End and the setting of listed buildings close to the site. The Appellant indicates two storey properties are proposed and provided an indicative section drawing. While this is indicative only it is abundantly clear from this that dwellings on this site would potentially tower above the road and properties opposite, and that the existing hedge would have little or no impact on this.
- 7.60 With the new tree belt now proposed, it is unlikely that the proposal would affect the setting or significance of the Church to the south-west, given the separation distance and lack of direct or significant views between the two sites.

- 7.61 The LPA contend that the appeal proposal would result in harm to the significance of the conservation area and nearby listed buildings, but that this would be less than substantial harm, as the majority of the Conservation Area would not be significantly affected. Having regard to paragraphs 132 – 134 of the NPPF, the harm must be weighed against the public benefits of the proposal which are set out and balanced further below.

ISSUE 3 - SURFACE WATER RUNOFF

- 7.62 The area is known to have surface water drainage issues and the adjacent Fortescue Fields development is served by surface water attenuation ponds. The Appellant had suggested that these have capacity to accommodate additional run-off from the appeal proposal although it had not been demonstrated through technical evidence.
- 7.63 In response, the Appellant has provided an updated Drainage Statement in Appendix U of their submission and this demonstrates that a technical solution exists that will provide appropriate surface water attenuation to prevent an increase in flood risk, having regard to Policy EN17 of the Local Plan and provisions in Chapter 11 of the NPPF. This would need to be secured by condition if permission were granted (dealt with under separate cover).

ISSUE 4 - PLANNING OBLIGATIONS

- 7.64 The LPA has identified certain planning obligations that would be required to make the development acceptable and these are set out and discussed below. The Appellant has submitted a draft Section 106 Agreement to secure the required obligations (and others) and this is being progressed between the Appellant's Solicitor and the Council's Legal Services.

Affordable housing provision

- 7.65 The Appellant has agreed to provide 30% of the dwellings as affordable housing, as required by Development Policy 11 in the emerging plan (the development plan policy is considered to be out-of-date). The appeal proposal would provide 60% 1-bed, 20% 2-bed and 20% 3-bed units, with 80% to be social rented and 20% shared

ownership. The mix of size and tenure proposed would meet currently identified local needs and existing and draft Local Plan policies and is acceptable subject to a Section 106 Agreement being completed to the LPA's satisfaction.

Recreation provision

- 7.67 Development plan policy SN7 and Development Policy 16 of the emerging Local Plan require all new residential development that generates a need for additional recreation facilities will be required to make appropriate provision or public recreational space and facilities. These policies are consistent with Chapter 8 (para. 73) of the NPPF.
- 7.68 Provision of additional recreation facilities through a planning permission, either by condition or as a planning obligation through a S106 agreement, can only be achieved if the facilities are necessary as a result of the impacts of the development. S106 obligations and conditions cannot be used to rectify existing problems or to meet "wish lists". It must therefore be considered whether this development would generate a need for additional recreation space or community facilities, and whether there is a planning policy basis to require the developer to mitigate the effects of their development in this regard.
- 7.69 This scheme would increase the population of Norton St Philip and would therefore generate additional demand for recreational facilities, but it must be considered whether additional facilities would therefore be needed, or whether existing provision is sufficient. The Mendip Play Strategy 2007-2017 (which only covers play facilities, not other forms of public recreation space) shows the provision in Norton St Philip as being neutral in terms of the quantity, quality and accessibility of play facilities. This has improved somewhat in recent years however since the original audit was undertaken. An updated report in 2013 does not identify Norton St Philip as an area of concern in terms of play facilities.
- 7.70 It is considered that Norton St Philip is relatively well served by public recreation facilities. When permission was granted for the Fortescue Fields development, S106

obligations were included to secure a contribution to upgrade play facilities in the village.

7.71 The need for a multi-use games area (MUGA) in Norton St Philip has been identified following consultation with the Parish Council and planning permission has been granted for a MUGA to the south of the appeal site, alongside an allotment site previously approved (application reference 2013/2447). In the Appellant's Draft Section 106 Agreement, their offer is to transfer this land to Norton St Philip Parish Council which they can then use for recreational purposes. A financial contribution was also being offered through the application although this has not been included within the Draft Agreement.

7.72 The LPA contend that the dedication of land in-itself would not make adequate provision for recreation facilities that would be generated by the appeal proposals and it is therefore unacceptable. The Appellant's contention that the appeal proposals would deliver recreation space as a benefit to the community is therefore very misleading. As such, the appeal proposal is contrary to development plan policy SN7 and DP16 in the emerging Local Plan, and is unacceptable.

Landscape management

7.73 The Appellant has offered an obligation to implement a landscaping scheme (to be agreed) and procure a management company to maintain the scheme in the same manner as the adjacent Fortescue Fields development. This is accepted.

Other planning obligations

7.74 The Draft Section 106 Agreement contains an undertaking by the Appellant to pay a sum of £7,500 for each market dwelling which can be used towards a village hall, if constructed, or otherwise paid to the Parish Council for the provision of community facilities. There is, however, no planning policy basis to require or justify this contribution and the obligation on offer is therefore not CIL compliant and should not be secured through a Section 106 Agreement. If it is something that the Parish Council would like and the Appellant is willing to give it to them, the two parties should enter into a separate agreement.

8.0 CONCLUSION

- 8.1 This Statement has identified and recognised a number of benefits to the appeal proposal which are material considerations, namely benefits to economic activity through construction job opportunities, increased spending within the local economy and further income for the Council. The appeal proposals would also provide affordable units to meet identified local need. Whilst not a benefit, the Appellant has now demonstrated that an acceptable technical solution exists to manage surface water runoff and the LPA's second reason for refusal is no longer being contested.
- 8.2 This Statement has, however, also identified that the appeal proposals would result in the unnecessary and unjustified encroachment of residential development into the open countryside, beyond the settlement limits, and this would have an adverse impact upon the character and appearance of the area and heritage assets. Furthermore, the appeal proposals would promote unsustainable travel patterns and recreation facilities would not be secured.
- 8.3 On balance, the LPA contends that the material considerations in favour of the appeal proposals do not warrant a departure from the development plan, namely policies S1, Q1, Q4, EN26 and SN7, and the Inspector is respectfully requested to dismiss this appeal. If the Inspector is minded to grant planning permission, the LPA would request the imposition of conditions provided under separate cover on a without prejudice basis.

Appeal Decisions

Hearing held on 3 and 4 March 2015

Site visit carried out on the afternoon of 3 March 2015

by Mrs J A Vyse DipTP DipPBM MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 28 April 2015

Appeal A: APP/Q3305/A/14/2221776

East site, Laverton Triangle, Norton St Philip BA2 7PE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Lochailort Investments Limited against the decision of Mendip District Council.
- The application No 2013/2052, dated 25 September 2013, was refused by a notice dated 9 June 2014.
- The proposal, as described on the application form, comprises residential development of up to 20 dwellings with associated access, parking and landscaping.

Appeal B: APP/Q3305/A/14/2224073

West land adjacent to Fortescue Street, Norton St Philip BA2 7PE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Lochailort Investments Limited against the decision of Mendip District Council.
- The application No 2013/2033, dated 25 September 2013, was refused by a notice dated 11 June 2014.
- The development proposed, as described on the application form, comprises residential development of up to 49 dwellings with associated access, parking and landscaping.

Decisions

1. For the reasons that follow, **Appeal A** is dismissed.
2. For the reasons that follow, **Appeal B** is dismissed.

Application for Costs

3. At the Hearing an application for costs was made by the Council against Lochailort Investments Limited. That application is the subject of a separate Decision.

Preliminary Matters

4. Both appeals relate to outline applications with all matters reserved for future consideration. Notwithstanding the descriptions of development as set out above, which are taken from the application forms, the proposal the subject of Appeal B was amended prior to the application being determined by the Council, to include a community hall and associated parking, and an area of parking for existing village residents.
5. At the start of the Hearing, it was also requested that the scheme the subject of Appeal A should be considered as being for up to 18 dwellings, with the

Appeal B scheme being for up to 39 dwellings (reflecting the space required to accommodate the site of the proposed community hall and parking). The quantum and nature of the respective developments were clearly shown on the indicative layout plans submitted to the Council for its consideration and the Council confirmed that it had dealt with the applications on the basis of those plans, including consultation. There was no suggestion at the Hearing that I should proceed other than on the basis of those plans, and I have no reason to believe that those with an interest in the outcome of this appeal would be unduly prejudiced were I to determine the proposals on the same basis. That is what I shall do.

6. In December 2014, **subsequent to the Council's determination of the** applications and the lodging of the appeals, the Mendip District Local Plan 2006-2029 Part 1: Strategies and Policies was adopted. Although the Plan is currently the subject of a legal challenge (insofar as it relates to the amount of new housing required) it provides, for the time being, the starting point for planning decisions.
7. The reasons for refusal in relation to both applications include reference to the absence of a mechanism to secure the provision of affordable housing, recreation space, and the management and maintenance of surface water drainage facilities. However, Unilateral Undertakings were submitted with the appeals.¹ In response to queries of mine, revised Undertakings were submitted during the Inquiry and the related discussion was based on those amended documents.² I return later to the obligations secured.

Planning History/Background

8. In February 2011, planning permission was granted, subject to a Section 106 Agreement, for the erection of 51 dwellings, a shop and three commercial units on a former chicken processing factory within the village (the Faccenda site).³ That development, now known as Fortescue Fields, was nearing completion at the time of the Hearing. Prior to that approval, two applications for development of the site had previously been refused and were subsequently dismissed at appeal.⁴ The larger of the two schemes included what was described in the linked appeal decisions as a small triangular shaped field to the south-east of the industrial Faccenda site. It is that land, known locally as the Laverton Triangle, which is the subject of Appeal A. Neither of the previous appeals included the land the subject of Appeal B, which lies immediately to the west/south-west of the Fortescue Fields development.

Main Issues

9. The development limits for the village of Norton St Philip are defined by the Mendip District Local Plan 2002. It was confirmed at the Hearing that those limits remain extant unless and until they are revised by the eventual Part 2 Plan. Since both appeal schemes lie outside the development boundary, the proposals would conflict with policies CP1 and CP2 of the Part 1 Plan, which

¹ Docs 7 and 8

² Docs 23 and 24

³ Doc 5 (Application No 2010/0493)

⁴ Doc 6 (APP/Q3305/A/01/1060390 comprising 48 residential units, 600 square metres of employment units and a village hall, and 1060970 comprising 42 residential units and 250 square metres of employment units. Both were dismissed on 21 August 2001)

seek to restrict development at Primary Villages, including Norton St Philip,⁵ to allocated sites or sites within the development limits.

10. The National Planning Policy Framework (the Framework) makes it clear that, in circumstances where Councils are unable to demonstrate a five year supply of deliverable housing sites, relevant development policies for the supply of housing should be considered as out of date.⁶ Against that background, I consider that the main issues common to both appeals relate to:

- the current housing land supply position in the District;
- and the effect of the development on the character and appearance of the area, including the Norton St Philip Conservation Area and its setting, and the setting of nearby listed buildings.

Reasons for the Decisions

Housing Land Supply

11. In order to determine whether policies relevant to the supply of housing in the recently adopted Part 1 Plan are to be considered as out of date, it is necessary to establish whether the Council is able to demonstrate a five year supply of deliverable housing sites.
12. The Examination into the Part 1 Plan looked, among other things, at detailed evidence relating to housing need for the District. In accordance with the recommendations of the Inspector, the adopted version of the Plan refers to the housing figures therein as minima, with any provision above the identified requirement to be provided through the subsequent site allocations process and the Part 2 Plan (currently in preparation).
13. In support of its position that it has more than a five year supply (including a 5% buffer and an allowance for uncertainties in delivery) the Council drew attention to its five year supply statement and accompanying housing trajectory, the latest versions of which are dated 1 October 2014, as corrected on 22 December 2014.⁷ Attention was also drawn to two recent Appeal Decisions relating to residential development elsewhere in the District, issued in January and February 2015.⁸
14. Whilst the Statement of Common Ground confirmed agreement that the Council could demonstrate a five year supply, the appellant reserved its position pending any updated information in the event that ongoing monitoring of the Council's **deliverable sites established an altered position**. Shortly before the Hearing, the appellant questioned not only the supply of deliverable sites, but also other **aspects of the Council's housing** requirement, in particular, the Objectively Assessed Needs and the appropriate requirement against which the five year supply should be tested.

⁵ I understand that it is the presence of a local shop within the Fortescue Fields development that led to the uplifted designation of Norton St Philip as a Primary village. However, as readily acknowledged by the appellant, the goods offered are not very comprehensive or competitive and, at the present time, the shop does not meet the everyday needs of local residents.

⁶ By reference to paragraph 49 of the National Planning Policy Framework

⁷ Docs 12A, 12B and 12C

⁸ Doc 14A (APP/Q3305/A/14/2222455 Parsonage Lane, Chilcompton) and Doc 14B (APP/Q3305/A/14/224843 Green Pits Lane, Nunney)

Objectively Assessed Needs (OAN)

15. The Part 1 Plan makes provision for at least 9,635 dwellings over the whole Plan period (2006-2029) and a development rate of at 420 dwellings per annum from 2011-2029. The appellant argued that, when judged against the historic minimum requirement to 2011, **the historic 'over-supply' should not** be used to discount future dwelling provision, on the basis that it would cut across expression of the housing requirements as minima. In promoting that approach, my attention was drawn to the judgement of the High Court in *Zurich Assurance v Winchester City Council*.⁹ In essence, the **Zurich** judgement found that historic shortfalls would have been included in the evidence base for the model and thus did not require to be added again. The appellant maintained that the same considerations should be applied to an historic over-supply.
16. As accepted by the court of appeal in the case of *Hunston Properties Ltd*,¹⁰ it is not for me to carry out some sort of Local Plan process to arrive at an alternative housing requirement figure as part of determining an appeal. It is my understanding that the evidence presented to this Hearing in relation to the calculation of the OAN is derived, in part, from the cases being put to the judge dealing with the current challenge to the Part 1 Plan. It would be imprudent therefore, for me to come to a view on this in advance of that judgement. In the meantime, I see no good reason to depart from the view of the Local Plan Inspector as to the basis for the calculation of the OAN for the District.
17. **The appellant's supplementary evidence** also suggested that the then imminent 2012 based Sub-National Household Projections might support a more optimistic view of household formation and would indicate a higher figure for the District. Those figures were subsequently published on 27 February 2015. **The appellant's Client Brief on those figures**¹¹ acknowledges that in fact the figure for Mendip is lower, although I recognise that the figures do not, among other things, address the issue of affordability, or the requirements of the local economy in terms of integrating economic and housing strategies. That said, there is nothing there, in its generality, to undermine the OAN set out in the Plan.
18. The appellant points out that the Part 1 Plan identifies a pressing need for affordable housing in the District. However, the Planning Practice Guidance (planning guidance) indicates that the total affordable housing need should be considered in the context of its likely delivery as a proportion of mixed market and affordable housing developments (given the probable percentage of affordable housing to be delivered by market housing led developments). Accordingly, even if affordable housing provision in the District is unlikely to meet the assessed need I am not persuaded that it would, necessarily, be appropriate to increase the OAN figure in this regard, since that could have other consequences.

Appropriate Buffer

19. Paragraph 47 of the Framework indicates that local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide five years worth of housing against their housing requirements, with an

⁹ *Zurich Assurance v Winchester City Council and South Downs National Park* [2014] EWHC 758 (Admin)

¹⁰ *St Albans City and District v Secretary Of State For Communities and Local Government* [2013] EWCA Civ 1610

¹¹ Doc 13

additional buffer of 5% moved forward from later in the plan period. This buffer should be increased to 20% where there has been a record of persistent under delivery of housing.

20. In Mendip, the Council has adopted a 5% buffer, based on the findings of the Local Plan Inspector. In essence, it appears that he assessed performance in relation to the period 2006-2011,¹² a time when there was a modest over-supply. In suggesting that there should be a 20% buffer, the appellant drew attention to two court judgements,¹³ arguing that they indicate that the most appropriate time period is the immediately preceding five years.
21. In fact the court cases referred to make it clear that the precise period of time against which to assess whether there has been persistent under-delivery of housing is a matter of judgement for the decision maker, the evidence suggesting that there is flexibility to consider a range of timescales.
22. The more recent planning guidance advises that the assessment of a local delivery record is likely to be more robust if a longer term view is taken, such an approach being likely to take account of the peaks and troughs of the housing market cycle.¹⁴ Given the economic difficulties of the last few years, I am not persuaded that looking just at the last five years is a sufficient period of time over which to judge **the Council's record on housing** delivery.
23. The appellant advises that, as noted by the Local Plan Inspector, there had been a shortfall of 89 houses over the 1991-2011 Structure Plan period. However, allowing for fluctuations, I am not persuaded that, of itself, that necessarily equates to a record of persistent under-delivery when considered in the context of a 20 year period, sufficient to warrant a 20% buffer.
24. The **table of figures provided in the appellant's supplementary evidence**, covers the period 1996/7 to 2013/14. It indicates that, when measured against the Structure Plan, there was an undersupply in just two out of the six years 1996/7 – 2001/2. When measured against the Structure Plan, the Local Plan 2002-2016 and the Part 1 Plan, there was an undersupply in just two of the next 6 years (2002/3- 2007/8). I recognise, however, that between 2008/9 – 2013/14, when measured against all the above plus the 2008 and 2011 household projections, there appears to have been an undersupply in four out of the last six years, and in four out of the last five years.
25. On the evidence of the appellant therefore, there has been an undersupply in eight out of the last eighteen years against the various measures of need identified or, alternatively, in five out of the last ten years. On balance, therefore, **I am not persuaded that there is a 'record of persistent under delivery of housing' here and see no reason to believe, on the basis of the evidence before me, that the application of a 5% buffer is anything other than appropriate at the present time.** I note that the Inspector came to the same conclusion in the decision referred to earlier.

Site Delivery

26. The appellant suggested that the Council had been somewhat over-optimistic in

¹² For the reasons set out at paragraph 120 of Doc 22

¹³ Cotswold DC v SSCLG & Fay and Son Ltd(1) and Cotswold DC v SSCLG & Hannick Homes and Development Ltd (2 & 3) [2013] EWHC 3719 (Admin);

¹⁴ ID 3-035-20140306

terms of the delivery of some sites in its housing land supply. However, of the sites referred to, the Council confirmed that the site at TH White Limited, Vallis Road, Frome, referred to was not included in its five year supply figures and that the Mendip Lodge Hotel site in Bath was not relied on, the first six houses already having been built.

27. In December 2014, outline planning permission was granted for up to 450 dwellings on land to the east of Southfield Farm, Frome. **The Council's** latest trajectory shows the site as providing the first 40 completions in 2016/17. The appellant indicated that further applications are still required to deal with the reserved matters, all of which were reserved and, once approved, certain infrastructure is required to be provided prior to completion of the first dwellings. As a consequence, it was maintained that completions are unlikely until 2017/18. However, that view and is not supported or backed up by any communication with Hallam Land Management who secured the permission. At the Hearing, the Council confirmed that a forward funding loan had been secured, to assist with bringing the development forward as soon as possible. In the absence of any firm information to support the appellant's position, I see no reason to discount the anticipated completions from the supply at the present time.
28. Outline permission was granted for residential development at Thales, Wookey Hole Road, Wells in April 2013. The indicative layout shows 188 dwelling units. The reserved matters application submitted in August 2014 was still pending consideration at the time of the Hearing. I was also advised that whilst demolition had commenced, work was not as advanced as had been anticipated. On that basis, the appellant argued that the contribution of the site should be reduced by 35 units for 2015/16. I note, however, that the **Council's** latest trajectory indicates a total of 30 dwellings on this site for that year. Even so, it does seem unlikely that all 30 would be completed by March 2016, given the work that remains to be done. However, even if I were to discount the entire anticipated completions on this site for 2015/16, I am not persuaded that it would undermine the trajectory to such a degree that the Council would not be able to demonstrate the required supply of housing land.

Conclusion on Housing Land Supply

29. It might be that, in due course, the OAN figure is found to be greater than that set out in the recently adopted Part 1 Plan and thus, that there is a shortfall in supply of housing land. However, on the basis of the information that is before me on these matters, I am satisfied that it is appropriate, for the purposes of this appeal, to use the OAN referred to in the Plan which, for the time being, is the starting point in decisions such as this. I am also satisfied that, for the reasons given, a 5% buffer is appropriate here and that, in all likelihood, the supply identified in the **Council's** trajectory provides as realistic an assessment as is possible in relation to matters such as this, demonstrating that the supply is sufficient to meet the identified requirement without the need for additional housing in the countryside beyond that already committed. In coming to that view, I am mindful that the **Council's housing figures make no allowance for** windfall sites and that they adopt a cautious approach to development on brownfield land. **Indeed, the Government's very recent** 2012-based Sub-National Household Projections, issued just before the Hearing opened, seem to suggest that the figures used appear to be of the right order.

30. Whilst I recognise that the figures in the Part 1 Plan are expressed as minima, given the housing land supply situation that I have identified, it is still appropriate to accord due weight to policies CP1 and CP2 of the Part 1 Plan, which do not support general housing development in the countryside, where the appeal sites are located.
31. I am also mindful that, in relation to housing provision in Norton St Philip, Table 8 in the Part 1 Plan shows that housing completions and existing commitments in the village had, by March 2013, already exceeded the planned target (some 73 completions or permissions against the 45 dwelling requirement for the entire Plan period). Since those figures were compiled, further dwellings have been allowed at appeal with the consequence that a total of 107 dwellings have now been approved/built in the village since 2006. In effect, the village has accommodated more than 200% of the identified allocation in the first 8-9 years of the Plan period, amounting to an increase of **some 35% in the housing stock of the village, well above the 'proportionate'** 15% growth anticipated by the Part 1 Plan for villages such as this. Whilst I recognise that the figures in the Plan are expressed as minima, the need to plan for proportionate levels of growth remains an essential consideration in accordance with the spatial strategy set out in Core Policy 1. The addition of up to a further 57 dwellings would undermine that strategy.

Character and Appearance/ Heritage Assets

32. The village of Norton St Philip has medieval origins deriving from its relationship with the foundation of the nearby Carthusian Priory at Hinton. It has a dispersed plan form with two nuclei, the area in the west developing around the grade II* listed church (which dates from the C14 with later additions) and later school, whilst development in the east is centred around the market place and the substantial grade I listed George Inn (C14-C15) a large hostelry owned by the Priory, located at the complex junction of two routes – the High street/North Street route (on the line of the old Bath to Salisbury road) which extended out to a crossing of the River Frome, and an east/west route.
33. The elevated position of the settlement, on a pronounced west facing ridge and down its west facing slopes overlooking the valley of Norton Brook, means that it dominates the surrounding farmland and is visible from lower ground to the west and south-west. I saw that the older buildings of High Street and The Plain, including the George Inn, form a strong skyline in longer range views and when viewed from Church Mead, a large rectangular area of open space within the village. That space faces open countryside to the south and is described in the Conservation Area Appraisal as being an essential landscape and amenity component of the Area.
34. The character and appearance of the Conservation Area is defined by the interplay between medieval, vernacular Cotswold type and classical architecture, mixed in with some positive Victorian contributions, and its coherent, tightly-knit character, particularly when experienced from the main through routes. The Appraisal notes that one of the **Area's** great assets is the **visual and psychological contrast between 'urban' and rural elements**. As a consequence, the significance of the Conservation Area derives not only from its historic settlement pattern and its many listed and historic buildings, but also from the abundance of green space both within it (which, as noted by the

appellant,¹⁵ ranges from small residential gardens, to the church/churchyard and Church Mead) and its rural landscape setting. That setting allows for an understanding and appreciation of its significance, providing an historical context for this ridge-top village, marking it as a rural settlement.

Appeal A

35. This triangular site, which lies between the Fortescue Fields development to the west (from which access to all but one of the dwellings indicated would be taken) and Mackley Lane to the east (which would provide access to the other indicative dwelling) fronts on to Town End, the main approach to the village from the south east.
36. At present, the land is used as **a contractors' compound in relation to the** adjacent development. It contains plant, machinery and building materials and, at the time of the site visit, the top soil had been scraped off and was banked up against the site boundaries. However, that is a temporary arrangement. On completion of the Fortescue Fields development the land would (pending any planning permission for its development) be returned to its previous grassed and undeveloped state. I am mindful, in this regard, that the Fortescue Fields scheme necessitated the felling of a row of protected trees along the boundary with the appeal site. As secured by the accompanying Planning Agreement, replacement planting is to be carried out in a 15 metre wide band along that shared boundary but *wholly within* the Triangle site. Due to the current use of the land as a compound, that planting has not, as yet been carried out.
37. Whatever the purpose of the original trees as planted, or the purpose of the replacement tree belt to the south of the Fortescue Fields development as currently proposed, there was no disagreement that there is currently a requirement for that planting to be carried out. I have assessed the appeal scheme therefore, on the basis of the contribution of the site to the character and appearance of the area as an open field in its fully restored state, as anticipated by the Fortescue Fields permission.
38. Immediately opposite to the appeal site on the eastern side of Town End, lying within the Conservation Area, are a small grade II listed cottage (Townsend) and a new, larger detached dwelling in traditional style (adjacent to the junction of Tellisford Lane with Town End). The appeal site is considerably higher than the land opposite, its frontage defined by a rubble retaining wall to the bank along Town End that runs along the back of the carriageway here, topped by a hedge. Whilst the frontage wall and hedging, together with a strip of land behind lies within the Conservation Area, the remainder of the site lies adjacent to, but outwith it, forming part of its rural setting. Given that the significance of the Conservation Area derives in part from its rural landscape setting and the historic approaches through that setting, I am in no doubt that, in its anticipated restored state, the Triangle site would continue to play a role in allowing for an appreciation of the significance of the Conservation Area, contributing to its significance.
39. The listed two storey Townsend (also known as Papillon) which dates from the C17, is of rendered rubble stone with a steeply pitched clay tile gabled roof and coursed rubble stone end chimney stacks. Windows to the front and right hand

¹⁵ Built Heritage Statement

return elevations are set in step chamfered stone mullion frames. The entrance lies within a lean to addition at the northern end of the building. Another grade II listed cottage, Townend, lies further away to the north. The special interest of Townsend derives not only from its age and history, but also its form and appearance. The elements of setting that contribute to its significance include its relationship with the street, and its immediate plot. In that context, I consider that the appeal site contributes little, if anything, to the significance of the listed building or its setting. The same applies to the setting of Townend.

40. There is modern development on the eastern side of the approach to the village from the south. However, land to the west comprises open fields. Whilst there is a very small cluster of older properties at the junction of Mackley Lane with Town End, they are incidental to the very rural aspect of this side of the road. Indeed, the previous Inspector noted that ***the 'hedges, glimpses of the field through the field gate and the impression of openness beyond all assist in giving the traveller along [Mackley] lane the perception of being in the countryside. The houses on the southern side of the lane near to the junction are well screened by banks, hedges, shrubs and trees and so do not obviously intrude..... In short, the land [the Triangle site]....appears to be part of the countryside and not the village.'***
41. That observation was made notwithstanding the industrial buildings and structures on the Faccenda site. That industrial development has since been replaced with the Fortescue Fields development. Nonetheless, the impression of countryside when approaching the site from the south, and along Mackley Lane, is maintained right up to the junction with Town End, the presence of the Laverton Triangle site helping the countryside to flow into this part of the village. The previous Inspector concluded that ***'The loss of the Laverton Triangle to built development would mean that the built boundary of the village would move markedly westwards, out into the open countryside. Houses on the field would be seen above the hedges, as the land lies above the adjacent roads. The built impact of the proposal would be seen as an incursion into the open countryside.'*** Whilst the appeal scheme would not extend any further west than the Fortescue Fields development, the other observations hold true today.
42. The indicative layout does not include space for the replacement tree planting belt required in connection with the Fortescue Fields scheme, either along the shared boundary or elsewhere within the appeal site. There was much discussion in this regard, as to the purpose of the required planting. It seems to me however, that not only would it eventually screen the approved housing development from the adjacent countryside, but it would also provide a soft edge between the development and the adjacent countryside. When the Fortescue Fields scheme was being considered by the Council, the officer noted ***that whilst 'the screening function was no longer there,' the tree belts themselves had become an important landscape feature, providing a green backdrop to the development proposed. Absent the development currently proposed, I am in no doubt that the replacement tree belt remains necessary in the anticipated location in connection with Fortescue Fields development.***
43. The indicative layout before me does suggest areas of what are referred to as ***'significant planting of semi-mature trees'*** at the northern and southern ends of the frontage to Town End. However, even acknowledging that the plan is

indicative, it appears to amount to not much more than two or three trees in each location, at the back of parking areas, together with retention of the existing boundary hedgerow. To my mind, that is no substitute for the conditioned 15 metre wide planting belt that should be here, which would provide a much softer verdant edge to the extent of built development, screening the new housing.

44. As the land lies above the level of the adjacent roads, particularly Town End, I consider that houses on the appeal site would be seen above the hedges, the indicative sections through the appeal site submitted with the appeal doing nothing to allay my concerns in this regard, especially the relationship of dwellings with Town End. Whilst there would be no harm to the significance of the nearby listed cottages, and whether or not there is a need for the tree belt in relation to the Fortescue Fields development, I am in no doubt that the built impact of up to 18 dwellings on this site would be seen as an incursion into the open countryside that would cause substantial harm to the character and appearance of the area. There would be conflict therefore, with policies DP1, DP4 and DP7 of the Part 1 Plan, which together seek to ensure that new development is appropriate to its local context and that it contributes positively to the maintenance and enhancement of local identity and distinctiveness in a manner that is compatible with the pattern of natural and man-made features.
45. There would also be harm to the setting of the Conservation Area, an integral part of its significance on this approach. Whilst, in the parlance of the Framework, that harm would be less than substantial, there would still be real and serious harm. There would also be conflict therefore, with policy DP3 of the Part 1 Plan, which is only supportive of schemes that would preserve, and **where appropriate enhance the significance and setting of the District's** heritage assets.

Appeal B

46. This site comprises an area of agricultural land directly to the south of Church Mead and is adjoined to the east by the Fortescue Fields development from which access would be taken.
47. There are numerous listed buildings in the locality. However, the grade I listed George Inn and the grade II* listed parish church are the most significant of those that have intervisibility with the appeal site. The George has a C14 core with subsequent alterations and additions over the centuries and is a striking building located at the highest point of the village, close to the market place. The ground floor is of coursed rubble Douling stone, whilst the C16 upper floors are jettied out with an exposed timber frame. The street elevation contains central porch with a moulded four-centred archway which gives access to the Inn and a central courtyard.
48. The significance of a heritage asset derives not only from its physical presence, but also from its setting, the setting comprising all of the surroundings in which it is experienced, or that can be experienced from or with that asset.¹⁶ Due to its historic importance and its location, the George has a complex setting. Its primary aspect is to the north-east and The Plain, where it is seen as a key part of the group of historic buildings here including the listed Fleur de Lys, rendering legible the historic development of this part of the village. Whilst

¹⁶ English Heritage *The Setting of Heritage Assets*

each of those buildings has individual significance, their significance is enhanced by being part of that group.

49. Later alterations have also provided the George with a range of views from the rear, to the south and south-west, which are afforded by its elevated position in relation to the surrounding countryside. From the beer garden, there are broad views across the falling land to the south-west. Those views encompass Church Mead and the countryside beyond, including the appeal site. I am in no doubt therefore that appeal site lies within the setting of the George. However, the views from the George over the appeal site seem to me to be more **'opportunistic' than designed and I am not persuaded** that, of itself, the contribution of the appeal site to the *significance* of the George Inn is anything more than neutral.
50. The church of St Philip and St James also dates from the C14 with later adaptations. As noted in the list description, its architectural style is unorthodox and somewhat eccentric, though generally perpendicular. It is of coursed rubble Douling stone, with a stone slate roof and includes a three stage tower. Like the George, because of its historic importance to the village, and its height, it has a complex setting. In addition to the churchyard, which contains ten listed tombstones, its main aspect is to the east, uphill across Church Mead towards the George. There are also views of the church from various vantage points, demonstrating its links with the surrounding village. Clearly, the appeal site lies within the setting of the church. Again, however, I am not persuaded that, in the absence of any functional link, the appeal site makes anything more than a neutral contribution to the *significance* of the church.
51. So, whilst the development proposed would result in change to the setting of the George Inn and the church, together with other listed buildings in the locality, that is not the same, necessarily, as causing harm. Whilst it would be seen, I am satisfied that the scheme proposed would not affect the ability to understand or appreciate the *significance* of the listed buildings.
52. Moving on then to the Conservation Area. The appeal site lies immediately adjacent to but outwith the Conservation Area boundary here and thus lies within its setting. Church Mead is an integral part of the character and appearance of the Conservation Area, forming a transition between the village and the adjacent open countryside. It is adjoined by built development to the north/northeast (centred on the George Inn) and to the west (around the church). Whilst the Conservation Area is generally inward looking, its significance also derives from outward views afforded by its elevated position in the landscape. That is amply demonstrated in the sudden, quintessentially English view out from the George car park and the summit of Bell Hill over the lower slopes, including Church Mead which forms an important visual link between the centre of the village and the countryside beyond. I am in no doubt that the open undeveloped nature of the appeal site has a positive role in the significance of the Conservation Area, allowing for an appreciation and understanding of the historic evolution of Norton St Philip.
53. Even with reinforcement of the hedge/tree line along the northern boundary of the appeal site, the development proposed would create a much stronger urban presence than is currently the case in those views and would intrude into the experience of the Conservation Area. On completion, the development would

also link the Fortescue Fields site with other parts of the village, including recently approved residential development on land to the west. As a consequence, Church Mead would be enclosed on all sides by built form and the crucial link through to the open countryside beyond would be obliterated.

54. The planning guidance confirms that substantial harm may arise from works to an historic asset or from development within its setting. I recognise that substantial harm is a high test and may not arise in many cases. In this case however, I consider that the development proposed would have a considerable adverse impact on the setting and significance of the Conservation Area, completely altering its historic development pattern and plan form, with significant consequences for one of the most important and clearly cherished views into and out of the Area. To my mind, the scale of that harm verges on substantial. There would be corresponding harm to the established character and appearance of the area more generally. There would be conflict therefore with policies DP1, DP3, DP4 and DP7 of the Part 1 Plan DP3 of the Part 1 Plan.

Other Matters

55. In relation to Appeal B, the reasons for refusal included impact on ecology and biodiversity, and traffic movements. In relation to biodiversity, the appellant submitted a preliminary ecological appraisal dated August 2014,¹⁷ which confirms that any impact on protected species and breeding birds etc would, at worst, be negligible and could be managed through careful timing of operations and through the use of planning conditions were the appeal to succeed. Conditions could also secure enhancements in this regard. No evidence was produced by the Council or others to refute the findings and conclusion of that evidence and I have no reason to take a different view.
56. I was also advised that the Highway Authority had withdrawn its objection following the submission of further information by the appellant relating to traffic movements associated with the proposed community hall and the performance of the Fortescue Fields junction with High Street.¹⁸ Again, in the absence of any substantiated evidence to the contrary, I have no reason to take a different view. That said, the developments would clearly increase traffic through the village. That has caused significant local concern, given existing problems. However, the increase, even when considered cumulatively with other committed/ permitted development, would be in the order of 5-6% which, with regard to industry standards, is not significant. The Highway Authority raises no concerns in this regard and has made no request for any measures in relation to the flow of traffic through the village.
57. Local residents spoke eloquently about flooding problems experienced not only in the past, but also since the introduction of the substantial surface water attenuation and drainage scheme provided in relation to the Fortescue Fields development. The Council confirmed that, historically, the former factory on the Fortescue Fields site extracted water from boreholes, which appears to have lowered the local water table, with local residents suggesting that, since those operations ceased, the water table has risen. There was concern that the additional development proposed would exacerbate existing problems. Although the initial concerns of the Environment Agency were addressed

¹⁷ Appendix S of the appellant's statement

¹⁸ Appendix R to the appellant's statement

through the submission of further information, the Council and local residents still have significant concerns.

58. At the Hearing, the appellant advised that both the appeal schemes had been designed with on-site attenuation measures sufficient to ensure that run-off from the sites would be no greater than greenfield run-off rates, confirming that the swales and basins were of sufficient capacity to adequate those additional flows. However, whilst the rainfall in the area during the winter of December 2013/January 2014 may well have been exceptionally heavy, the existing system, which should have been designed to accommodate extreme events including climate change, does not appear to have coped well. Any additional loading on that system is, therefore, a concern. However, I am not persuaded that the appeals should fail on this basis, since I have no reason to suppose that a properly engineered solution could not be achieved. Were the appeals to succeed, this is a matter that could be dealt with by condition.

Unilateral Undertakings

59. Each of the appeals was accompanied by a Unilateral Undertaking. Consideration of the obligations thus secured must be undertaken in the light of the policy set out at paragraph 204 of the National Planning Policy Framework and the statutory requirements of Regulation 122(2) of the Community Infrastructure Levy Regulations. These require that planning obligations should only be accepted where they are necessary to make the development acceptable in planning terms; are directly related to the development; and are fairly and reasonably related in scale and kind to it. For the appellant, it was argued that, as well as mitigating the impact of the development proposed, some of the arrangements secured should be considered as benefits to be weighed in the planning balance. I have therefore examined each of the provisions secured.

Appeal A

60. Affordable Housing: Policy DP11 of the Part 1 Plan requires 30% provision of affordable housing on development sites, with an 80/20% split between social rented housing and intermediate (shared ownership) housing. Whilst the arrangement secures 30% provision, the split is 70% for affordable housing for sale or rent and 30% shared ownership. The arrangement proposed does not reflect the **conclusions of the Council's Housing Needs Assessment** and also allows for discretion as to how the 70% would be provided in terms of tenure. That said, affordable housing is an important element of the overall provision of housing. The quantum of affordable housing proposed accords with the relevant policy and I am satisfied that it meets the tests.
61. The Parish Council was keen to ensure that any affordable housing was occupied by local people in need, rather than meeting need from across the District and raised concern at the absence of any local connection criteria in the Undertaking. However, paragraph 137 of the **Inspector's Report on the Part 1 Plan confirms that it is the Council's duty to provide for people in the greatest need of housing regardless of where they come from**. He goes on to say that a local occupancy condition could not, therefore, be legitimately applied as normal policy across the rural area as a whole. As a consequence, no such policy was included in the adopted version of the Plan. The absence of such a clause in the obligation does not tell against the proposal.

62. Games Area: The Undertaking secures the design and construction of a multi-use games area (MUGA) on Mackley Lane, away from the appeal site, and an arrangement to transfer that to the Parish Council is included. Although there was concern that the arrangement did not include the provision of allotments referred to by the appellant as part of the package being offered, it was agreed that, if they were found to be necessary, a Grampian type condition might be appropriate in this regard.
63. Policy DP16 of the Part 1 Plan requires new development to make a contribution towards the provision of new open space, where necessary. The provision of a MUGA has been a longstanding requirement of the Parish Council, with the land already benefitting from planning permission for both a MUGA and allotments.¹⁹ I was advised that whilst a youth play facility was included in the planning obligation related to the Fortescue Fields development, the original location for that was changed due to concerns from local residents. The MUGA comprises the relocated youth play facility. I understand however, that the previous obligation only secured the land for the facility, the provision of the facility itself was not secured. The arrangement before me addresses that.
64. Based on the limited evidence available, I am satisfied that there is an existing demand for such a facility, which demand would be increased by the development proposed. I am not persuaded however, that the demand from the appeal site would, by itself, justify the MUGA but it is clear that the arrangement cannot be provided in part – it is all or nothing. On balance, therefore, it seems likely that the MUGA, which would be provided entirely at **the appellant's expense could**, in all likelihood, be considered as meeting the tests.
65. Planting belt to the south of Fortescue Fields: This is offered in lieu of the 15 metre planting belt secured by the Planning Agreement in relation to the Fortescue Fields scheme, which was to have been provided on the Triangle site. It would be managed thereafter by the Fortescue Fields Management Company. It was suggested that it would help improve biodiversity and would help the transition of the existing development into the wider countryside. That may be so. However, in addressing the south side of the existing development, it does not make the development proposed acceptable and would not meet the tests.
66. Landscaping Scheme: The arrangement secures the submission of a landscaping scheme and its implementation and ongoing maintenance. It also provides for the management, maintenance and any necessary reinforcement of the hedgerow along the highway boundaries, which hedgerow would be excluded from the curtilage of any of the dwellings proposed. It is in lieu of a condition and is intended to mitigate the impact of the development proposed. As such, it would meet the relevant tests.
67. Community Facilities: The arrangement secures the use of a sum of money related to the number of the open market units (the Specified Sum) to be put towards the construction of a village/community hall on the west site, if such was being constructed on a specified date. Otherwise, the Specified Sum would be paid to the Parish Council to be applied in the provision of unspecified community facilities for the benefit of residents of the village.

¹⁹ Application No 2013/2447

68. **Before the Hearing, I raised concerns that the arrangement did not 'bite' until** occupation of the last market dwelling on the site, noting that, in theory, there could be a situation where that trigger was never reached. That concern was not addressed in the revised version submitted part way through the Hearing. In any event, I recognise that whilst the provision of a new village/community hall might be welcomed by some, others at the Hearing questioned the need. The arrangement was not sought by the Council and is not intended to remedy, **either in whole or in part, some external 'cost' that would be consequential** upon the development the subject of this appeal, and is thus not *necessary* to make the development acceptable. For the same reason, it is not directly related to the proposal. There is no substantiated evidence either as to the basis for the actual amount secured, other than an indication at the Hearing of a rough costing for the facility divided by the maximum number of houses proposed. In the alternative of a village/community hall being provided, the arrangement for the money to be spent as the Parish Council might see fit does not mitigate a direct impact of the development proposed and is not justified. The arrangement clearly does not meet the tests.

Appeal B

69. Affordable Housing: The arrangement secures 40% affordable housing provision, 80% of which would be social rented and 20% shared ownership. There would be no conflict in this regard with the policy requirement. The Obligation also includes local connection criteria for occupancy of 50% of the units. Whilst I recognise that this would in part address the concerns of the Parish Council, such an arrangement is not supported by the Part 1 Plan. That said, it includes **a cascade mechanism whereby the occupancy 'net' could be** cast wider if necessary to fill the units.
70. MUGA: Addressed above.
71. Management of on-site surface water drainage systems: The arrangement secured is in lieu of a condition requiring the submission of a management scheme and is necessary in order to avoid pollution and to prevent increased risk from flooding. As such, it would meet the relevant tests.
72. Parking Spaces: The arrangement secures the provision of ten parking spaces within the site to be made available in perpetuity for use by existing residents of High Street. The provision is intended to help address some of the problems caused by parking on High Street. Whilst the facility might be welcomed it is not addressed at mitigating an adverse impact arising from the development proposed and does not meet the tests.
73. School: A payment to Norton St Philip First School is secured, related to the provision of open market housing, to be applied by the school at its discretion. That payment is not justified by the development proposed, there being sufficient space at the School to accommodate potential pupils from the scheme, and has not been sought by the Council. There is no indication either as to how the amounts provided for have been calculated. Again the arrangement does not meet the tests.
74. Landscaping: The arrangement secures the management, maintenance and, where necessary, reinforcement of the hedge between the appeal site and Church Mead and the existing copse adjoining the curtilage of the Old Vicarage.

It would be in lieu of a condition intended to mitigate the direct impact of the development proposed and would meet the relevant tests.

75. Open Space: A payment to the Parish Council is secured, related to the provision of open market units, for the provision and maintenance of open space and recreational facilities in the village. At the Hearing, I was advised that the contributions equated to the cost of providing a Local Equipped Area of Play. However, there is no demonstrated need for such as a consequence of the development proposed, nor is there any indication as to where such a space might be provided. I am mindful in this regard that the contribution is not sought by the Council and that, in any event, the Undertaking also secures the provision of the MUGA. Accordingly, this part of the obligation does not meet the tests.
76. Highways: A payment towards a scheme of traffic calming measures in the village is secured. Whilst many of the measures proposed are welcomed by the local community, they have not been requested by the highway authority to address any adverse impact directly arising from the development proposed. There is no detailed evidence as to how the contribution has been calculated or which of the various measures shown it is intended to implement. The contribution does not, therefore, meet the tests.
77. Community Facilities: A sum of money related to the number of the open market units (the Specified Sum) together with monies payable towards community purposes from the Triangle site (were that application to succeed) would be used for the construction of a village/community hall on the appeal site. Once completed, the facility would be transferred to the Parish Council. If there was no contribution from the Triangle site, then the land for the village/community hall would be transferred to the Parish Council together with the Specified Sum. This arrangement does not meet the tests for the reasons set out above.

Conclusion on the Undertakings

78. Certain of the arrangements and contributions secured by the Undertakings are aimed at addressing the direct impacts of the development proposed. However, they also secure further contributions and arrangements which amount to benefits. It is well established that the presence of what might be considered as extraneous inducements should not influence planning decisions. As those elements do not meet the relevant tests, it would be unlawful, having regard to current legislation and guidance, to take those particular obligations into account. Accordingly, they cannot carry any positive weight in favour of the development proposed.

Overall Planning Balance and Conclusions

79. The Framework establishes that sustainable development should be seen as the golden thread running through decision-taking. It identifies three dimensions to sustainable development - economic, social and environmental.
80. The appeal schemes would be deliverable and would increase the supply and choice of housing provision of new homes, including affordable housing, adjacent to a Primary village. As such, there would be some resonance with the social and economic dimensions of sustainable development. That said, the weight to be afforded to that consideration is reduced because of the existence

of a five year supply of housing currently, which means there would conflict with policies CP1 and CP2 of the Part 1 Plan which continue to merit weight. Moreover, additional housing provision has already been made locally in Norton St Philip that significantly exceeds the requirements anticipated as being met here by the Part 1 Plan, even recognising that the requirements are expressed as minima. That development represents a 35% increase in housing stock over and above the position in 2006 (the start of the Plan period) well above the **'proportionate' 15% growth anticipated by the Part 1 Plan for villages such as this.** Additional dwellings of the order proposed would therefore undermine the **Council's Spatial Strategy.**

81. The provision of the MUGA would be a social benefit of the developments proposed in that it would also be accessible to existing residents. In addition, the schemes would create direct and indirect jobs and would increase local spend amounting to an economic benefit. In particular, future occupiers would increase the number of potential customers for the village shop, which would help in terms of its prospects for the future and its contribution to the general sustainability of the village.
82. The strengthening and maintenance of hedgerows along the boundaries of both sites, as secured by the Unilateral Undertakings, which hedges would be retained outside of private gardens and would be maintained by the existing Management Company, has the potential to increase biodiversity which would accord with the environmental dimension to sustainable development. Without the development schemes, there is no obligation on the appellant to carry out such works and would be a benefit of the developments proposed.
83. However, to be weighed against those benefits is the identified environmental harm, which includes significant harm to the landscape character and appearance of the area, and the harm to the setting and heritage significance of the Conservation Area. In the case of Appeal A, the harm would be less than substantial, which harm is to be weighed against the public benefits of the proposal. In relation to Appeal B, the harm would be substantial. In such cases, the Framework advises that permission should be refused unless it can be demonstrated that the harm is necessary to achieve substantial public benefits that outweigh that harm. The benefits outlined above are not, in either case, sufficient to outweigh the harm that I have identified. Even had I found, in relation to Appeal B, that the harm was less than substantial, the outcome in terms of the eventual decision would have been the same. That harm significantly limits the sustainability credentials of the developments proposed.
84. I have taken all other matters raised into account but, in this case, the harm I have identified significantly and demonstrably outweighs any benefits that can be weighed in the planning balance and the schemes proposed cannot be considered as sustainable development. I therefore conclude, for the reasons set out above, that neither of the appeals should succeed.

Jennifer A Vyse

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr N Pryor	
Mr H Haig	Appellant
Mr R Boulton	
Mr S Kale	
Mr J Clemons	
Mr R Hewitt	

FOR THE LOCAL PLANNING AUTHORITY:

Mr M Williams	Planning Team Manager with the Council
Mr R Palmer	Conservation Officer with the Council
Mr A Sestini	Planning Policy Officer with the Council

INTERESTED PERSONS:

Councillor Mrs L Oliver	Chair of Norton St Philip Parish Council
Councillor D Smallcombe	Vice Chair Norton St Philip Parish Council and Chair of the Traffic Action Group
Mrs A Tollworthy	Local resident
Miss S Hitchins	On behalf of her parents who are local residents
Mr I Hasell	Local resident
Mr A Linegar	Local resident

DOCUMENTS SUBMITTED DURING THE HEARING

- Doc 1A Notification letters in relation to Appeal A
- Doc 1B Notification letters in relation to Appeal B
- Doc 2 Mendip District Local Plan 2006-2029 Part 1: Strategy and Policies
- Doc 3 Statutory list descriptions of nearby listed buildings
- Doc 4 Faccenda TPO
- Doc 5 **Officer's report, plan and decision notice** - Faccenda site (Application No 2010/0493)
- Doc 6 Appeal Decision High Street/Town End, Norton St Philip (APP/Q3305/A/01/1060390 and 1060970)
- Doc 7 Unilateral Undertaking relating to the east site (superseded by Doc 23)
- Doc 8 Unilateral Undertaking relating to the west site (superseded by Doc 24)
- Doc 9 Written submissions of the Parish Council
- Doc 10 Written submissions of Miss Hitchins
- Doc 11A Written submissions of Mrs Tollworthy (including village survey and results)
- Doc 11B Parish Plan for Norton St Philip (February 2005)
- Doc 12A Mendip District: Statement on five year housing land supply Summary as at 1 October 2014
- Doc 12B Mendip District: Five year housing land supply Deliverability Evidence October 2014
- Doc 12C Mendip housing trajectory and five year supply – website version (1 October 2014) (corrected 22 December 2014)
- Doc 13 Briefing Note (Mr Bolton) on the recently published 2012-based sub-national household projections
- Doc 14A Appeal Decision Parsonage Lane, Chilcompton (APP/Q3305/A/14/2222455)
- Doc 14B Appeal Decision Green Pits Lane, Nunney (APP/Q3305/A/14/2224843)
- Doc 15 Letter from Curo (Housing Association) dated 27 February 2015
- Doc 16 List of full citations referenced by Mr Bolton for the appellant
- Doc 17 Satnam Millenium Limited v Warrington Borough Council [2015] EWHC 370 (Admin)
- Doc 18 Photographs submitted by Mr Hasell in relation to ground levels on the east site
- Doc 19 **Appellant's Statement of Community Involvement** (west site)
- Doc 20 Local bus timetables
- Doc 21 Ordnance Survey Extract of Norton St Philip
- Doc 22 Extracts **from the Local Plan Inspector's Report**
- Doc 23 Unilateral Undertaking relating to the east site (supersedes Doc 7)
- Doc 24 Unilateral Undertaking relating to the west site (supersedes Doc 8)
- Doc 25 **Written copy of Council's application for costs**

Case Officer Report - 2020/2053/FUL – Erection of 27No. dwellings including affordable housing. Formation of new vehicular and new footpath links. Hard and soft landscaping including retention of tree belt, additional tree belt, and provision of 0.24ha of bat replacement habitat. Car and cycle parking and associated works. Fortescue Fields Phase II, Norton St Philip, Frome, Somerset.

Summary:

Consultation recommendation: Object

The application has failed to provide the level of information and detail required to make an accurate assessment of its impact on the trees, hedgerows and natural features associated with this site. The reasons for the objection are as follows:

Site information – The superseded site plan drawing 190836-100 does not accurately represent the location of the trees on site. This prevents an accurate assessment of the impact of the proposed development on the trees. The drawing also appears to increase the extent of the gardens along the southern boundary of Fortescue Fields inaccurately, which also prevents an accurate assessment of the proposals.

Arboricultural information - The application does not provide a suitable Tree Constraints Plan (TCP), an Arboricultural Impact Assessment (AIA) or Tree Protection Plan (TPP) which prevents the assessment of the impact of the proposal on the trees on this site. The proposal is therefore contrary to DP1 of the Mendip District Local Plan Part 1: Strategy and Policies (December 2014), NPPF part 15 and does not provide the required information to the industry standard BS5837:2012 Trees in relation to design, demolition and construction – Recommendations.

An Arboricultural Method Statement (AMS) should also be provided to demonstrate how the construction phase of the development will be implemented without damaging the retained trees and hedgerows.

There is also no assessment or survey provided of the hedges which are a key feature of the proposed development site.

Tree Loss - The loss of trees and the fragmentation of the Tree Belt incurred by the construction of the access road to the Laverton Triangle is contrary to Condition 27 and the Section 106 Agreement for 2010/0493, the Planning Inspectors conclusion in Appeal A: App/Q3305/A/14/2221776. It also reduces the required mitigation for the loss of trees from Fortescue Fields Phase I. The design also does not allow sufficient recognition of the space required for the trees in the Tree Belt to mature into, this is likely to lead to future pressure for further tree removal. Additional tree loss is anticipated due to the installation of the proposed footpath through the Tree Belt. This contrary to DP1, DP4 and DP5.

Hedgerow Loss - The design requires the loss, fragmentation and damage to existing hedgerows on the east boundary of the site. It is also likely to lead to pressure to reduce the height of the hedges on the south and west boundaries.

Author: Stephen Clark MICFor, MArborA
Date: May 2021

MDC Application 2020/2053/FUL
Fortescue Fields Phase II
Norton St Philip

Ecological Assessment - No suitable ecological survey has been provided. The Council has a legal duty to consider the conservation of biodiversity and the application should include a suitable ecological assessment including a Phase 1 Habitat Survey and any subsequent protected species surveys. The application is therefore contrary to DP5 and DP6 of the Mendip District Local Plan Part 1: Strategy and Policies (December 2014), NPPF part 15, NPPF Para 177, the Wildlife and Countryside Act 1981 and the Conservation of Habitats and Species Regulations 2017.

Bats – No suitable bat survey has been provided. The application is therefore contrary to DP5 and DP6, NPPF part 15, the Wildlife and Countryside Act 1981 and the Conservation of Habitats and Species Regulations 2017.

The proposed Bat Replacement Habitat planting is also not detailed and is located immediately adjacent to the proposed development, which will introduce light pollution and potential interference from human and pet activity.

Biodiversity Gain – No suitable assessment of the site's biodiversity has been provided, or an assessment of how biodiversity gain will be achieved. The scheme appears to represent the considerable biodiversity loss and the potential for future pressure on existing green infrastructure. This is contrary to DP5 and DP8 of the Mendip District Local Plan Part 1: Strategy and Policies (December 2014), and NPPF part 15.

Green Infrastructure – No suitable assessment of the impact of the proposed development on the green infrastructure in the locality has been provided. This is contrary to policies DP5, DP8 and DP16 and NPPF part 15.

Landscape Visual Impact Assessment – No suitable Landscape Visual Impact Assessment (LVIA) has been provided. This is contrary to policies DP5, DP8, DP16 and NPPF part 15.

Landscape Scheme - No suitable landscape scheme has been provided and there is no proposal as to how any new planting will be managed.

Consultation Response

Assessment of Arboricultural Information

The application does not include a Tree Survey, a Tree Constraints Plan, an Arboricultural Impact Assessment, a Tree Protection Plan or an Arboricultural Method Statement to demonstrate how the trees will be impacted by the proposed development.

The revised site plan 190836-03 (Nov 2020) and the superseded site plan 190836-100 (Nov 2020) also do not appear to show the accurate location of the trees on site. They also appear to give an inaccurate representation of the garden of the southernmost houses built in Phase I. The lack of accuracy in the drawings further reduces the ability to assess the impact of the proposed development on the trees on site.

The absence of arboricultural information and the inaccurate drawings are considered to be a reason for refusal. It is therefore recommended that prior to approval an Arboricultural Impact Assessment and Tree Constraints Plan to comply with BS5837:2012 Trees in relation to design, demolition and construction – Recommendations shall be submitted and approved in writing by the Local Planning Authority (LPA), detailing the extent of direct and indirect impacts of the development proposals on

Author: Stephen Clark MICFor, MArborA
Date: May 2021

MDC Application 2020/2053/FUL
Fortescue Fields Phase II
Norton St Philip

existing trees and hedgerows on and adjoin the site to be approved by the LPA. This will include details of Root Protection Areas (RPA's), Construction Exclusion Zones (CEZ's) and a Tree Protection Plan (TPP).

In addition to this an Arboricultural Method Statement shall be submitted to and approved in writing by the LPA prior to the commencement of any phase of the development. This will specify the methodology for the implementation of any aspect of the development that has the potential to result in the loss of or damage to any retained tree or hedge on or adjacent to that phase of the site. All works shall be carried out as approved to the satisfaction of the LPA and in accordance with the requirements of BS5837:2012 Trees in relation to design, demolition and construction – Recommendations.

Due to the lack of accurate arboricultural information, the following assessment is based on the indicative superseded site plan 190836-100, the Design and Access Statement (D&A Statement) and the documentation provided for 2010/0493m

Assessment of Proposal for 7 Dwellings on Laverton Triangle (2a)

The Design and Access Statement states that it was *'understood within the original design of the Fortescue Fields site that development might occur on the East Site, and to this end two access roads currently terminate at the west boundary of this site'*, and accordingly the application shows the access road for the proposed Laverton Triangle development traversing the existing Tree Belt, which was planted in line with condition 27 of 2010/0493. However, this assumption is not supported by the Site Plan 5261/04L, Plan 2 used in the Section 106 agreement or the landscape drawing NPA/10277/002 for 2010/0493 which show the road terminating at a structure G11 which is located where the current access gate is situated. There do not appear to be any documents or drawings available that show a revision to the layout of the site or this plot.

In addition to this, the plans indicate a 15m wide 'planted zone' that runs for the full length of the southern boundary until it tapers out adjacent to plot 15. The 'planting zone' became the 'Tree Belt' which comprised of a mixture of specimen trees and shrubs that were planted to mitigate for the loss of trees, protected by Tree Preservation Order (TPO) M214, that resulted from that development, and were also required to maintain the buffer and transition into the Conservation Area.

The management of the Tree Belt is governed by the S106 agreement for the Fortescue Fields development, which states that "Tree Belt" *'means the area shown edged in blue on Plan 2 which is subject to a landscaping scheme to be submitted to the Council and implemented in accordance with condition 27 of the Planning Permission and which shall be maintained in accordance with the Management Scheme by the Management Company'*.

The Management Company was incorporated as Fortescue Management Company Limited and was *"established in accordance with and to fulfil the functions described in the Fifth Schedule"*. The Fifth Schedule states in para 2 that *"The principal objects of the Management Company shall include the provision of maintenance in perpetuity of the landscaping of the Tree Belt the Footpaths the Pumping Station and the Drainage Basin and any carriageways and footways or non-adopted open space and any non-adopted common infrastructure situated on the Property in accordance with the Common Areas Management Plan"*.

Author: Stephen Clark MICFor, MArborA
Date: May 2021

MDC Application 2020/2053/FUL
Fortescue Fields Phase II
Norton St Philip

The Common Areas Management Plan is defined as ‘a fully detailed management plan in perpetuity of all carriageways footways landscaping non-adopted open space and any non-adopted common infrastructure situated on the Property and the Tree Belt the footpaths and the Drainage Basin to the satisfaction of the Council which plan shall include full details of the maintenance programme the constitution of the Management Company and the form of transfer imposing Rentcharge on the Units which Plan may be varied from time to time with the prior consent in writing of the Council (such consent not to be unreasonably withheld or delayed).’

It would therefore appear reasonable to suggest the planning permission for 2010/0493, the required condition of approval (condition 27) and the wording of the Section 106 agreement expected that the Tree Belt would be retained and managed ‘in perpetuity’. This position is supported by the Planning Inspector, when considering Appeal A: App/Q3305/A/14/2221776 concluded that “I am in no doubt that the replacement tree belt remains necessary in the anticipated location in connection with the Fortescue Fields development”(para 42). And in para 43, when considering the planting of specimen trees at the northern and southern ends of the frontage to Town End, “that is no substitute for the conditioned 15 metre wide planting belt that should be here, which would provide a much softer verdant edge to the extent of built development, screening the new housing.”

In light of the above, it can be concluded that the installation of the access road will result in the loss of existing trees and cause the fragmentation of the tree belt, thereby reducing the expected mitigation and future amenity value which also would screen Fortescue Fields and provide buffering at the entrance to the village and Conservation Area. Both impacts are significant, contrary to the conditions for approval of 2010/0493 and should be considered as a reason for refusal.

In addition to this, during a site visit on 19/05/21, it was found that many of the specimen trees in the Tree Belt have been topped and stripped of their branches leaving the stems as poles of approx. 2.5m. Furthermore, many of the remaining specimen trees throughout the Tree Belt have been topped or reduced, presumably to maintain them at a reduced scale. In addition to this, some/many of the shrubs that are planted along the boundary have been reduced to the height of the fence line and are maintained at that height.

The works to at least two of the trees to the north of the entrance gate may be in contravention of the Town and Country Planning Act, as they are within the Norton St Philip Conservation Area and appear to have stem diameters of above 75mm at 1.5m above ground level.

The works to the remaining trees do not appear to be in the spirit of Condition 27 of the original approval (2010/0493) which requires the Tree Belt to be planted to mitigate for and replace the trees protected by the TPO M214. The ‘pollarding’ and crown reduction works that have taken place significantly impact the young trees and will not allow them to reach maturity or provide the amenity value for which they are intended.

The Common Areas Management Plan does not appear to be readily available and it is not possible to locate any written variations that may have been lodged with the council. It is therefore recommended that the management plan and any other relevant documentation retrieved from MDC’s archives in order to assess the current management practices and inform future conditions for the management of trees on this site.

The proposal shows the installation of 7 plots and associated parking in the Laverton Triangle, with plots 3 – 7 having their rear garden boundaries running along the edge of the Tree Belt. While it is considered that the drawing is indicative, it does show the fence line as immediately adjacent to existing trees. These trees are currently semi-mature Horse Chestnut and Copper Beech which, along with the other trees in the Tree Belt were specified to provide tree replacement and amenity value for this part of the village. It can be concluded from the location of the houses and their boundaries, along with the current treatment of the trees adjacent to Fortescue Fields that these trees will be under immediate pressure for removal or pruning. It is unlikely that the trees will be able to mature and replace the trees that they are planted there to do. The design does not allow enough space for the trees to mature into, and the likely pressure for their removal is contrary to the reasons for the Tree Belt, condition 27 of 2010/0493 and the Section 106 agreement and should be considered as a reason for refusal.

In addition to this, the design also indicates the installation of a formal footpath between the new access road and the proposed development in the field to the south of Fortescue Fields. This drawing can only be taken as indicative, because the location of the trees are not plotted on the plan. There is no detail on how the footpath will be constructed, and it is likely that it will require the removal of further trees. This should be considered as a reason for refusal and the provision of accurate plans and arboricultural information should be requested for any future application to be accurately assessed.

Furthermore, expansion of Mackley Lane, the proposed plots 1, 2 & 3 and the parking spaces 16 – 21 all appear to impact or require the loss of what is currently a significant mature hedge. There has been no assessment of the hedge, details of how the development will impact it, or how it will be protected provided with the application. There are also no drawings to show where service runs will be and whether this will impact the trees and hedge on this site.

There are new trees indicated on drawing 190836-03, but not on 190836-100. However, there is no detailed landscape scheme provided with this application. There is no discussion about the mitigation of hedgerow loss in this part of the development.

Assessment for Proposal for 20 Dwellings on Land to the South (2c)

The field to the south of Fortescue Fields is identified as 2c in the D&A statement and is proposed for development with 20 units. The land extends south along a ridge with Mackley Lane running along the east boundary. The elevated position of the field and the design of proposed development suggests that this proposal will have a significant impact on the landscape both locally and from distance. The D&A statement suggests that a Landscape Visual Impact Assessment has been submitted, however it does not appear to be available in the public documents.

The east boundary of the field is comprised of a mature, possibly historic, hedge that is on a bank, approx. 3m in width and managed by flail at approx. 1.5m. The hedgerow has approx. 7No. woody species in it, with numerous herbaceous species also visible at the time of the site visit (19/05/21). The south and the west boundaries are also mature hedgerows with the south boundary also having 7No. species present, and the west boundary comprising mostly of Hawthorn and some Blackthorn. There are no survey details provided for these hedges, or consideration of their importance in the landscape or contribution to the local green infrastructure.

Author: Stephen Clark MICFor, MArborA
Date: May 2021

MDC Application 2020/2053/FUL
Fortescue Fields Phase II
Norton St Philip

Access to the proposed development and the expansion of Mackley Lane, to accommodate it, require the loss of a significant part of the east boundary hedge, with the remaining hedge being further impacted by plots 8 – 12. Despite the D&A statement suggesting that an *“LVIA has influenced the landscape mitigation and enhancement strategy required to accommodate the development into its visual setting and address Policy DP4”*, there is no evidence that the landscape or hedgerow has been assessed, or that any biodiversity net gain metric has been applied to address the loss of this hedge and other biodiversity on this site. There is also no ecological assessment of the site, even though it is a requirement of the Wildlife and Countryside Act, and note 7 of 2010/0439 advises that there is anecdotal evidence of protected species on this site. It is therefore recommended that a Phase 1 Ecological Survey and a Phase 2 Ecological Impact Assessment are required prior to determination of this or future applications. A suitable landscape scheme is also required to assess planting details and there are also no adequate details of the landscape mitigation proposals provided. Without these documents and drawings it is not possible to adequately assess the impact of the development and this should be considered as a reason for refusal.

The footpath shown on drawing 190836-03 has been removed in drawing 190836-100, and has been replaced by the boundaries of units 12 – 15, which are shown as immediately adjacent to the existing hedgerow. There are no details of a survey of this hedge, or the ditch that runs beneath it, and it can be considered that placing the boundaries of the gardens adjacent to, or as part of the hedge could potentially lead to pressure to reduce the height of the hedge, or its removal. This same assumption can be applied to the west hedge in relation to units 15 – 21.

The north boundary is formed of the rear garden fences of the houses within Fortescue Fields. The D&A statement identifies this boundary as the location of a new native tree belt that will buffer the new development from the existing homes. There is no landscaping scheme to provide details of the new tree belt, and it should be noted that all trees and shrubs that were planted as part of Phase I have either failed or been topped to fence height.

The new tree belt shown on drawing 190836-03 and described in the D&A statement as softening the development’s appearance, and/or as a Bat Replacement Habitat is not shown on drawing 190836-100.

The scheme also represents a significant potential for biodiversity loss on this site, through the loss of trees and hedgerows, and also the fragmentation of the Tree Belt and existing hedgerows. The D&A states that *‘the development will mitigate the impacts and provide net gain for biodiversity through the implementation of ecological enhancements, as detailed in the accompanying ecological assessment and LVIA’*. Unfortunately, no ecological assessment or LVIA have been provided, and there are no details of what ecological enhancements will be provided. In section 10 of the D&A Statement, there are suggested features, planting and additions to the scheme that appear to be considered as key aspects of landscape mitigation, however the details are not provided, not possible or in the case of the Tree Belt reduced, degraded and fragmented, and therefore not applicable. In addition to this, there has been no assessment or information provided with regard to the impact on the green infrastructure on the site and in the locality.

The proposed development of this field is also directly above the balancing pond area and is likely to impact the amount of run-off that the ponds must accommodate.

Conclusion

The application does not provide accurate or relevant information required through statute, national planning policy, local planning policy or industry standards for the following aspects of the development:

- An accurate site plan.
- Arboricultural impact, tree loss and tree protection during construction to ensure the successful retention of retained trees and hedges.
- Hedgerows.
- Ecology and protected species, including bats.
- Biodiversity Gain.
- A Landscape Visual Impact assessment.
- Green infrastructure and ecological networks.
- A Landscape scheme.

The application is therefore contrary to the Wildlife and Countryside Act 1981 and the Conservation of Habitats and Species Regulations 2017. NPPF part 15, policies DP1, DP5, DP5 & DP6. It also does not provide the required information to the industry standard BS5837:2012 Trees in relation to design, demolition and construction – Recommendations, and should therefore be refused.

From: [Nicola Duke](#)
To: [Consultations](#)
Subject: 2021/2791/S106 - Land at Townend Norton St Philip Bath Somerset
Date: 13 January 2022 10:21:43

****EXTERNAL****

Dear Sirs

Please note the below listed planning application comment:

2021/2791/S106 - Land at Townend Norton St Philip Bath Somerset - Lochailort Investments has applied to Mendip District Council to modify the planning obligation (omit the definition "Tree Belt" from the definitions on page 4 and omit the words "Tree Belt" at paragraphs (2) and (8) of the Fifth Schedule) relating to Land at Townend, Norton St Phillip (known as Fortescue Fields Phase I) and entered into on 24.02.2011. Members resolved to object to the application, with the following representation:

The PC is aware of its comment made in 2010 in which it suggested that a 5m tree belt on the eastern edge of the Fortescue Fields (FF) development would be appropriate. This was before the Tree Belt was approved and planted and is not a position the PC now supports; it recognises the importance of the planted Tree Belt in providing a soft edge to the eastern boundary of the FF development.

The PC fully supports the recommendations made in Alex Novell's landscape report, commissioned by MDC in 2009. This report concluded that in order to make a larger scheme for 50 houses acceptable, the TPO Tree Belts could only be removed subject to the planting of a new and substantial Tree Belt on the eastern boundary; furthermore, it quite clearly states that a 5m belt would be "*wholly inadequate*".

The applicant has previously submitted two planning applications for development of the site (2013/2052 and 2019/2976). Both of these applications proposed the complete removal of the Tree Belt and both received strong objection from MDC, amongst many others. The applicant now states that "*The Tree Belt no longer serves any useful planning purpose*".

The PC has received an email from the Chair of FF ManCo Ltd in which he states that both members and directors of the ManCo recognise the importance of a "*vibrant*" Tree Belt which "*enhances and improves the setting of the development and allows it to blend into its rural setting*". He appreciates that the pruning works resulted in some of the trees initially appearing "*excessively*" pruned. He assures the PC that these works were carried out in accordance with the Management Plan for the development by a fully qualified Tree Surgeon on his recommendation for their health. He states that this is now apparent, with "*subsequent regrowth in the last year producing vigorous regeneration of all the treated trees*"

It is absolutely critical that the management of the Tree Belt in perpetuity continues to form part of the S106 Agreement, including Plan 2; nothing has changed in planning terms that would make this requirement obsolete. Indeed, the PC considers its protection has become even more fundamental.

The PC has long recognised the critical role the Tree Belt plays in integrating the Fortescue Fields development into its wider setting. For this reason, it resolved in March 2017 to apply to the LPA

for a Tree Protection Order for the Tree Belt (Agenda item 7822). The PC wishes to restate its wish to see the Tree Belt protected by a TPO and considers that a TPO is now essential in order to give sufficient certainty and protection for the future. This would provide the level of protection provided by the previous tree belts around the Faccenda factory, which were removed in order to provide a larger housing development. The enlarged scheme which necessitated the removal of these TPO protected Tree Belts was only permitted subject to the planting of the 15m Tree Belt which is the subject of this application.

MDC's advisor in 2009 stated that the applicant must either retain and enhance the previous TPO Tree Belt and provide c.35 homes, or this could be removed and 50 homes provided but only on the strict basis that a new replacement Tree Belt was planted on the eastern boundary. This was clearly considered fundamental to the whole Fortescue Fields scheme being considered acceptable, such that it was necessary for it to form part of the S106 legal agreement.

The PC further considers that, in the absence of a TPO, management of the Tree Belt should continue as detailed in the S106; in other words for Fortescue Fields Management Company, as the enduring body, continuing to be responsible for maintenance of the Tree Belt in accordance with the Management Plan.

The PC therefore **opposes** this application.

Kind regards,

Nicola Duke
Parish Clerk
For and on behalf of
Norton St Philip Parish Council

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From: Hampden, Tessa <Tessa.Hampden@mendip.gov.uk>
Sent: 07 January 2022 17:01
To: Lund, Barbara <cllr.Lund@mendip.gov.uk>; Walsh, Bo <Bo.Walsh@mendip.gov.uk>; Taylor, Carol <Carol.Taylor@mendip.gov.uk>; steve@jack-pine.co.uk <steve@jack-pine.co.uk>
Cc: keithhodge@hotmail.com <keithhodge@hotmail.com>; Penn, Anna <Anna.Penn@mendip.gov.uk>
Subject: RE: Laverton Triangle Tree Belt

Dear Barbi

Thank you for your email. I have copied Anna Penn into this email as she is dealing with the deed of variation application.

Bo, Anna and I will discuss this, and come back to you as soon as we can.

Kind regards

Tessa

Tessa Hampden

Team Leader – Development Management

Mendip District Council
 Council Offices, Cannards Grave Road,
 Shepton Mallet, Somerset, BA4 5BT

Website: www.mendip.gov.uk
Email: tessa.hampden@mendip.gov.uk
Telephone: 01749 341676
Mobile: 07917213933
Customer Services: 0300 303 8588



Mendip District Council has reset its priorities to support the health emergency, fight COVID and save lives. As a result, a number of our workforce are assisting with the community effort. This may result in longer response times. We appreciate your patience and understanding during these unprecedented times. Please note that all essential statutory services are being delivered as normal.

For up to date **information** on our current way of working, including information on Planning Board, please visit our website: <https://www.mendip.gov.uk/planningandbuilding>

To **view** planning applications on our website please go to:
<http://publicaccess.mendip.gov.uk/online-applications/>

From: Lund, Barbara <cllr.Lund@mendip.gov.uk>
Sent: 07 January 2022 15:50
To: Hampden, Tessa <Tessa.Hampden@mendip.gov.uk>; Walsh, Bo <Bo.Walsh@mendip.gov.uk>; Taylor, Carol <Carol.Taylor@mendip.gov.uk>; steve@jack-pine.co.uk
 <keithhodge@hotmail.com>

Cc: keithhodge@hotmail.com

Subject: Re: Laverton Triangle Tree Belt

Dear Bo and all

Further to my email below I am writing with some sense of urgency. Fortescue Fields Management Company has received a letter from Sarah Ballantyne-Way Planning Director, Lochailort Investments informing them that Lochailort intend to erect a 1.8/ 2 metre high close-boarded fence along the boundary of the site at Mackley Lane and Fortescue Fields. This will entail some removal of shrubs. Lochailort have also submitted an application to remove the tree belt (reference: 2021/2791/S106). The letter is attached (220107).

I suggest that the current application to remove the Tree Belt maintenance from the ManCo in which Lochailort state that the Tree Belt "no longer serves any useful planning purpose" demonstrates that it is under threat. These were the circumstances under which you Bo said that it would be possible to arrange an emergency TPO.

I also attach FYI:

1. Landscape report commissioned by MDC in 2009 which demonstrates the fundamental requirement for the Tree Belt in order to expand the Faccenda site outside of its constrained brownfield area.
2. 2013/2052 Officers report which confirms the importance of the Tree Belt; this was recognised by the:
3. 2015 Appeal Decision
4. Plan showing original, (removed) Tree Belts

I do understand how busy you are but I would very much appreciate a response which reassures me that a TPO will be put in place. I look forward to hearing from you.

Best wishes
Barbi Lund

MDC Councillor for the ward of Rode and Norton St Philip
Vice-Chair Scrutiny Board
Contact Number: 07846 335636

From: Lund, Barbara <cllr.Lund@mendip.gov.uk>

Sent: 30 November 2021 14:15

To: Hampden, Tessa <Tessa.Hampden@mendip.gov.uk>; Walsh, Bo <Bo.Walsh@mendip.gov.uk>; Taylor, Carol <Carol.Taylor@mendip.gov.uk>

Cc: keithhodge@hotmail.com <keithhodge@hotmail.com>

Subject: Fw: Laverton Triangle Tree Belt

Dear Bo, Carol and Tessa

Tessa, we haven't "met" in this virtual world and I have only had email correspondence with Bo. I am the MDC member for Rode and Norton St Philip (NSP). I am including you in this email, Tessa, because I believe you are the new s106 officer. Apologies to Carol if this is not the case. It can be difficult to keep up with staffing changes in these rather fluid times.

I am writing about an issue in NSP that has been rumbling on for some time - Bo will be aware of it. It is to do with a tree belt on a piece of land called Laverton Triangle or Mackley Triangle just outside the NSP development limit. It is associated with a development called Fortescue Fields, original planning application 2010/0492 for 51 dwellings.

A tree belt was cut down in order to build the Fortescue Fields development and a condition for granting the permission was the tree belt on Laverton Triangle. Condition 27 of the decision notice refers to the tree belt as does Schedule 5, para 2 of the s106 agreement.

As you can see from the correspondence below between Keith Hodge, Chair of the Fortescue Fields Management Company (who I have copied in to this email) and James Croucher, Planning Director for the developer, Lochailort, the latter are planning to apply "for the Section 106 to be varied and the requirement for the tree belt removed."

There has been previous communication with regard to this issue between the NSP PC Parish Clerk and Bo Walsh - see the 2 attachments. The one dated 13 March 2017 contains considerably more detail of the history of the tree belt and the one dated 3 January 2020 refers to a site meeting between the then Chair of the PC, Clive Abbott and Bo Walsh where Bo stated that if the tree belt were under threat MDC would be able to apply an emergency TPO.

From time-to-time Lochailort make this or a similar threat because the NSP Parish Council is not in favour of them now developing the Laverton Triangle site - see application 2020/2053/FUL. This new threat is an example of the bullying behaviour that Lochailort has demonstrated in the past. I would like to be assured that MDC will continue to support Condition 27 and the S106 agreement and that, if necessary, an emergency TPO would be applied.

I look forward to hearing from you.

Best wishes
Barbi Lund

MDC Councillor for the ward of Rode and Norton St Philip
Vice-Chair Scrutiny Board
Contact Number: 07846 335636

From: Keith Hodge
Sent: 30 November 2021 11:56
To: James Croucher <james.croucher@lochailort-investments.com>
Cc: Hugo Haig <hugo@lochailort-investments.com>
Subject: RE: Laverton Triangle Tree Belt

Thank you James, I acknowledge your comments. This is a very disappointing development, as I and ManCo have been entirely willing to collaborative and co-operate with you in maintaining a vibrant tree belt on the Laverton triangle. I would once again strongly dispute your assertion that 'the tree belt has been mismanaged and denigrated on purpose' which is entirely false. I will discuss further with my colleagues and neighbours before responding further.

Kind regards
Keith Hodge
on behalf of FF ManCo

From: James Croucher <james.croucher@lochailort-investments.com>
Sent: 30 November 2021 11:38
To: keithhodge@hotmail.com
Cc: Hugo Haig <hugo@lochailort-investments.com>
Subject: RE: Laverton Triangle Tree Belt

Good afternoon Keith

Hugo has passed me your email and asked me to respond.

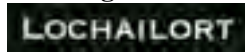
Things have moved on and we agree, an endless exchange of emails is tiring for everyone.

We are advised that it is too late in the 2021 planting season now, and more appropriate to look at the first quarter of 2022 before the bird nesting season starts in March. The Management Company should not instruct any works on our land until after the New Year, subject to prior approval of a corrected plan.

Meanwhile, the use of the bund can be mitigated by the erection of fencing, which we have still reserved our position on. Indeed, the original tree belt was planted in order to screen the former factory, which of course has been long removed. Given that the tree belt has been mismanaged and denigrated on purpose, we shall be applying for the Section 106 to be varied and the requirement for the tree belt removed.

Kind regards

James Croucher MTP MRTPI
Planning Director



Lochailort Investments Ltd, Eagle House, 108–110 Jermyn Street, London SW1Y 6EE
Tel: 020 3468 4933 | Mob: 07590 397181

Email: james.croucher@lochailort-investments.com | www.lochailort-investments.com

Confidentiality All emails sent from Lochailort are subject to our confidentiality policy which is available on request.

From: Keith Hodge <keithhodge@hotmail.com>

Sent: 25 November 2021 12:17

To: Hugo Haig <hugo@lochailort-investments.com>

Subject: Laverton Triangle Tree Belt

Dear Hugo,

After receiving your reply on Monday, I was able to discuss the Laverton Triangle Tree belt with fellow Directors and neighbours.

Firstly we would like to strongly assert that ManCo has no intentions or desires of any type to extend the tree belt into Lochailort land. We can see no gain or advantage in doing so, now or in the future. There is no mendacity and our intentions are honourable and straightforward; we wish to maintain the tree belt in line with our rights, responsibilities and obligations.

To recap, ManCo's plan has two component parts. Initially two days to clear the under storey, light columns and and over grown areas around the specimen trees. Then, and only when that work is completed, new trees to replace those that have been lost would be planted at a following date. The locations proposed on the schematic, not to scale outline plan were for guidance purposes only, to illustrate the likely potential positions of the new saplings. All planting would be within the tree belt and would be in line with Condition 27 of the original permission (2010/0493).

We had hoped that part of our ongoing dialogue with you would have been that the final placing of those new trees would have been mutually agreed before the second planting out phase commenced. We still hope that can be done.

The tree belt has not been accessed without your permission; Monday's proposed visit with a second Contractor was cancelled after our request was refused. However it remains important that maintenance work takes place as expeditiously as possible, given the overgrowth that has developed during lock down restrictions and in recent months. Completing this work is in line with the CAMP for the development and a

ManCo responsibility.

The Laverton Triangle Tree belt is an important issue for both parties, that can only be managed by active collaboration. Rather than exchanging emails or letters, could we propose a face to face meeting, either on site or via Zoom, to map out a common approach?

Kind regards
Keith Hodge
On behalf of FF ManCo

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From: Ian Hasell ianhasell@john-lewis.com
Subject: Re: [OFFICIAL] 2010/0493 Fortescue Fields Norton St. Philip
Date: 26 April 2022 at 09:33
To: Simon.Trafford@mendip.gov.uk, Thomas, Andrew Andrew.Thomas1@mendip.gov.uk
Cc: Lakin, Barbra Barbra.Lakin@mendip.gov.uk, Hampden, Tessa Tessa.Hampden@mendip.gov.uk, Hall, Martine Martine.Hall@mendip.gov.uk, Barbi Lund barbilund@live.co.uk

Dear Simon and Andrew,

Thank you for visiting Norton St. Philip last Friday and listening to the concerns expressed by Barbi and myself concerning possible breaches of planning conditions. I am attaching my file note of our discussions and would be grateful if you might confirm that it reflects our discussion or if not any proposed amendments from yourselves.

I have a follow up query concerning the discussion about a TPO on the tree belt and that a breach of planning condition carries the same or similar weight as a TPO. I have been led to believe that if Lochailort felled trees within the conditioned tree belt this would be a breach of condition but that if a TPO was in place then this would carry additional weight because this would be a criminal offence. Could you please confirm if this is indeed the case?

With many thanks

Ian Hasell
Chairman, Norton St. Philip Parish Council



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On 19 Apr 2022, at 15:44, Trafford, Simon <Simon.Trafford@mendip.gov.uk> wrote:

Dear Mr Hasell,

Apologies for the delay in contacting you about this matter following receipt of your email earlier this month.

Myself and Mr Thomas (Enforcement officer) will be attending the site on Friday morning to complete an inspection of the current situation of the Laverton Triangle. Following this we will then be able to advise the scope of any further action that is necessary with regards to the matters that you have raised..

Therefore I would be more than happy to meet you on site at 11.15 on Friday if you think it would be beneficial.

Simon Trafford

Team Leader Development Management & Enforcement (Planning)
 Mendip District Council
 Council Offices
 Cannards Grave Road
 Shepton Mallet
 Somerset
 BA4 5BT

Email: simon.trafford@mendip.gov.uk
Telephone: 07980 666137
Customer Services: 0300 303 8588

Customer Services: 0800 000 0000

Website: www.mendip.gov.uk

<image001.png>

<image002.png>

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<https://www.mendip.gov.uk/planningandbuilding>

To view planning applications on our website please go to:

<http://publicaccess.mendip.gov.uk/online-applications/>

From: Ian Hasell <ianhasell@john-lewis.com>

Sent: 05 April 2022 06:37

To: Trafford, Simon <Simon.Trafford@mendip.gov.uk>; Hampden, Tessa <Tessa.Hampden@mendip.gov.uk>

Cc: Walsh, Bo <Bo.Walsh@mendip.gov.uk>

Subject: 2010/0493 Fortescue Fields Norton St. Philip

****EXTERNAL****

Dear Simon and Tessa,

It has come to the attention of the Parish Council that there may be breaches of Planning Conditions regarding the above application - conditions 26 and 27 seem the most relevant. The breaches concern two specific instances.

1) Only partial planting of the conditioned tree belt with a wide gap left where an entrance into the 'Laverton Triangle' (as it is known locally) from Fortescue Street has been made. No entrance is shown on the soft and hard landscaping parts of the original application. This was brought to the attention of Bo Walsh who commented on this when on a recent visit to the village. He suggested that we should bring this to your attention as this may require enforcement action. The gap is one of several metres and this obviously makes the conditioned tree belt incomplete.

2) The recent erection of a 2 metre high fence along the entire boundary of the Laverton Triangle where it abuts the Fortescue Fields development. The erection of this boundary fence was only able to be done by cutting down some of the trees in the conditioned tree belt. It also has a seriously damaging effect on the amenity of those residents whose properties share a boundary with the Laverton Triangle. This is because the land on the Laverton triangle is already several metres higher than the land of the residents whose properties abut the Triangle.

I am enclosing for information the decision notice on 2010/0493, the hard and soft landscaping plans from the application, together with recent photographs taken of the fencing and the incomplete tree belt where the entrance into the Laverton Triangle has been constructed from Fortescue Street.

I would be grateful if you could please investigate all of the above and advise me of what action, if any, you propose on these matters.

Sincerely

Ian Hasell

Chairman, Norton St. Philip Parish Council

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From: Trafford, Simon <Simon.Trafford@mendip.gov.uk>
Sent: 19 April 2022 15:50
To: Lund, Barbara <cllr.Lund@mendip.gov.uk>
Cc: Reader-Sullivan, Julie <julie.reader-sullivan@mendip.gov.uk>; Hampden, Tessa <Tessa.Hampden@mendip.gov.uk>; Thomas, Andrew <Andrew.Thomas1@mendip.gov.uk>
Subject: RE: 2010/0493 Fortescue Fields Norton St. Philip

Dear Councillor Lund,

Thank you for your email. I will contact you again early next week following a site inspection to be undertaken this Friday.

I have contacted Mr Hasell separately to advise him accordingly.

Kind regards

Simon Trafford

Team Leader Development Management & Enforcement (Planning)
Mendip District Council
Council Offices
Cannards Grave Road
Shepton Mallet
Somerset
BA4 5BT

Email: simon.trafford@mendip.gov.uk

Telephone: 07980 666137

Customer Services: 0300 303 8588

Website: www.mendip.gov.uk



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<https://www.mendip.gov.uk/planningandbuilding>

To view planning applications on our website please go to:
<http://publicaccess.mendip.gov.uk/online-applications/>

From: Lund, Barbara <cllr.Lund@mendip.gov.uk>
Sent: 19 April 2022 12:47
To: Trafford, Simon <Simon.Trafford@mendip.gov.uk>; Hampden, Tessa <Tessa.Hampden@mendip.gov.uk>; Walsh, Bo <Bo.Walsh@mendip.gov.uk>
Cc: Reader-Sullivan, Julie <julie.reader-sullivan@mendip.gov.uk>; Ian Hasell <ianhasell@john-lewis.com>
Subject: Fw: 2010/0493 Fortescue Fields Norton St. Philip

Dear Simon and Tessa

I am following up on the email sent to you by Ian Hasell on 5th April. The 2 issues he raises are separate but related:

- the gap in the tree belt meaning that the condition has not been fulfilled in its entirety;
- the erection of the boundary fence which entailed cutting down some of the trees in the conditioned tree belt.
-

I have brought the developer's threat to erect the fence to the attention of the enforcement team on more than one occasion in the past. In August 2021 I was informed that nothing could be done until the fence was erected - well, now it has been!

As yet Mr Hasell hasn't received a reply, despite 2 weeks since his email. Please can you let me know as a matter of urgency:

- whether you agree that enforcement action is necessary;
- if so when this will be actioned;
- if not, why not.

I look forward to hearing from you.

Best wishes
Barbi Lund

MDC Councillor for the ward of Rode and Norton St Philip
Vice-Chair Scrutiny Board
Contact Number: 07846 335636

From: [Ian Hasell](#)
Sent: 05 April 2022 06:38

To: Simon.Trafford@mendip.gov.uk; [Jessa Hampden](#)
Cc: [Bo Walsh](#)
Subject: 2010/0493 Fortescue Fields Norton St. Philip

Dear Simon and Tessa,

It has come to the attention of the Parish Council that there may be breaches of Planning Conditions regarding the above application - conditions 26 and 27 seem the most relevant. The breaches concern two specific instances.

1) Only partial planting of the conditioned tree belt with a wide gap left where an entrance into the 'Laverton Triangle' (as it is known locally) from Fortescue Street has been made. No entrance is shown on the soft and hard landscaping parts of the original application. This was brought to the attention of Bo Walsh who commented on this when on a recent visit to the village. He suggested that we should bring this to your attention as this may require enforcement action. The gap is one of several metres and this obviously makes the conditioned tree belt incomplete.

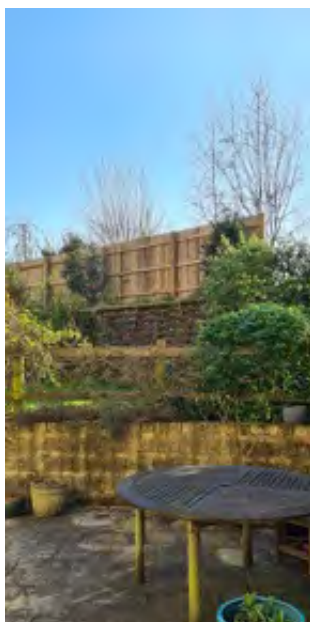
2) The recent erection of a 2 metre high fence along the entire boundary of the Laverton Triangle where it abuts the Fortescue Fields development. The erection of this boundary fence was only able to be done by cutting down some of the trees in the conditioned tree belt. It also has a seriously damaging effect on the amenity of those residents whose properties share a boundary with the Laverton Triangle. This is because the land on the Laverton triangle is already several metres higher than the land of the residents whose properties abut the Triangle.

I am enclosing for information the decision notice on 2010/0493, the hard and soft landscaping plans from the application, together with recent photographs taken of the fencing and the incomplete tree belt where the entrance into the Laverton Triangle has been constructed from Fortescue Street.

I would be grateful if you could please investigate all of the above and advise me of what action, if any, you propose on these matters.

Sincerely

Ian Hasell
Chairman, Norton St. Philip Parish Council





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File Note of a meeting held on site at Fortescue Fields, Norton St. Philip on Friday 22nd April to discuss potential breaches of planning conditions relating to 2010/0493.

In attendance: -

Simon Trafford (ST) - Team leader, Development Management & Enforcement
Andrew Thomas (AT), Enforcement Officer
Barbi Lund (BL), District Councillor
Ian Hasell (IH), Chairman, Norton St. Philip PC

- 1) The site visit was as a result of an email sent from IH to ST relating to possible breaches of planning conditions concerning the Laverton Triangle.
- 2) The site was observed from 3 locations - from the field entrance to the Laverton Triangle on Mackley Lane, from the entrance to the Laverton triangle from Fortescue Street where a field entrance had been constructed which does not appear to be shown on the original documentation, and also from the right-hand side of 29 Fortescue St where the road finishes at the Laverton Triangle boundary.
- 3) It was noted that barbed wire had been strung across the top of the gates. ST stated that he would write to the landowner about this as he considered it to be dangerous.
- 4) IH referred to the significant gap in the planting of the tree belt where the gated entrance from Fortescue Street had been constructed. In addition, IH stated that some felling had taken place in the tree belt to enable access to where the fence had been constructed.
- 5) BL referred to the loss of amenity caused by the newly constructed fence to the residents of Fortescue Street whose properties had the Laverton Triangle as a boundary. This was significant because the soft landscaping of the tree belt had been lost to these residents because of the fence. MDC stated they would check the conditions regarding this aspect.
- 6) Regarding the construction of the fence ST stated that its height seemed to compare with what is allowable under permitted development but he would check with the conditions.
- 7) IH asked whether it might be advisable to put a TPO on the whole of the tree belt to protect it. ST stated that this would not result in any greater degree of protection than that already given by having the tree belt included as a condition under the original permission.
- 8) The MDC representatives stated that they would take pictures relating to all the relevant issues raised, consider the matter further, and then respond to the Parish Council.

IH

22nd April 2022