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CASE OFFICER REPORT

Case Officer	Anna Penn
Application Number	2021/2776/OTA
Site	Land West Of Fortescue Fields Fortescue Street Norton St Philip Frome Somerset
Date Validated	7 January 2022
Applicant/ Organisation	Mr J Croucher MTP MRTPI Lochailort Investments
Application Type	Outline - All Matters Reserved
Proposal	Outline application with all matters reserved for the erection of 20 dwellings with access, parking, open space and associated works.
Ward	Rode And Norton St Philip
Parish	Norton St Philip Parish Council

Description of Site, Proposal and Constraints:

The site comprises a field located to the south of Church Mead and to the west of the Fortescue Fields development. It lies outside the development limits of Norton St Philip in open countryside. The site adjoins the village Conservation Area and forms part of the setting of the Grade II* Church and the Grade I The George public house. The northern boundary abutting Church Mead is partly screened by existing trees and hedges. There is a thick belt of trees/hedge in the south west corner of the site and also along the steeply banked east boundary with Fortescue Street.

Outline permission is sought for up to 20 dwellings with only the means of access to be determined at this stage. The access will be gained from a spur off Fortescue Street in the north east corner of the site. The application is supported by an illustrative layout which indicates that the dwellings would be sited along the east and west boundaries, leaving an open swathe of land through the middle of the site.

Relevant History:

2013/2033 – Outline application for up to 49 dwelling with associated access, parking and landscaping, with a community building and community parking areas. Refused June 2014 and dismissed on appeal.

The application was refused for the following reasons:

1. The proposed development would change the character of the site and the form of the village, resulting in a loss of historic form and the ability to appreciate the evolution and development of the village. It would result in loss of views to and from the countryside and the transition from

village to countryside would be detrimentally altered. The proposal fails to take account of the role and character of the site in the context of the village.

The proposal would adversely affect the landscape and the character of the area, and would not relate satisfactorily to its surroundings in terms of the impact of the scheme on the landscape and the function of the open spaces around the development. As such it is contrary to Saved Policy Q1 of the Mendip District Local Plan and the core planning principles of the National Planning Policy Framework.

2. The proposed development of the application site would detrimentally alter the character of the village by enclosing the recreation ground, Church Mead, on all sides, going against the historic pattern of development and cutting off the links to the open countryside to the west, which reinforces its rural character. This would adversely affect the legibility of the village's historic settlement pattern and would result in significant harm to the important relationship between the two historic settlements that make up Norton St Philip by infilling between these two distinct character areas, eroding their legibility and thereby the historic significance of the conservation area.

The proposed development would adversely affect views to the west from numerous listed buildings on the southern side of the High Street, including the Grade I listed George Inn, by interrupting their visual link to the open countryside, resulting in increasing urbanisation of their setting.

Parts of the development would be visible from the Church of St Philip and St James, which would have a detrimental impact on the setting of the churchyard and the way in which it is experienced and enjoyed by users.

The cumulative visual impact of the development with the existing Fortescue Fields development would increase the prominence of the estate when seen in context with the village, particularly in long distance views from the south, to the detriment of the setting of the conservation area.

The adverse impacts identified would result in substantial harm to the significance of the conservation area and less than substantial harm to the setting, and thereby significance of the Church of St Philip and St James, the George Inn, and other listed buildings on the south side of the High Street.

The proposal fails to preserve or enhance the conservation area or to preserve the setting of listed buildings. The harm to the highest grade heritage assets has not been demonstrated to be wholly exceptional. The harm to heritage assets is not outweighed by the public benefits of the scheme in delivering housing, affordable housing and community benefits.

These impacts cannot be satisfactorily mitigated through the layout, appearance, and scale or landscaping of the development.

The proposal is considered to be contrary to Saved Policy EN26 of the Mendip District Local Plan and the provisions of Chapter 12 of the National Planning Policy Framework.

3. 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.

4. The applicant has failed to demonstrate that the proposal would not adversely affect protected species or meadow habitat of ecological importance, and that a development can be achieved that would not result in a net loss of biodiversity. No information has been submitted to enable

the Local Planning Authority to assess the impact of the proposal on ecology and biodiversity despite protected species known to be present adjacent to the site. The proposal is therefore contrary to Saved Policies EN3 and EN4 of the Mendip District Local Plan and policies set out in Chapter 11 of the National Planning Policy Framework.

5. 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.

6. The applicant has failed to provide any analysis of traffic numbers associated with the proposed development and the capacity of the junction of Fortescue Street and Townsend to accommodate this traffic, in addition to the existing approved development at Fortescue Fields. The proposed addition of a community hall and community parking to the dwellings proposed is likely to generate significant additional traffic. The addition of further traffic at a potentially substandard junction would result in highway safety concerns and the disruption of traffic on the road network which already suffers from some stress. The proposal would therefore be contrary to Saved Policy Q3 of the Mendip District Local Plan and the provision of the National Planning Policy Framework.

2019/2976/FUL – Erection of 38 dwellings, multi-use community building, new public open spaces, additional footpath links and landscape enhancements. Withdrawn June 2020.

2013/2447/FUL - Change of use of agricultural land to allotments with multi-use games area (as an amendment to permission 2012/1213). Approved June 2014.

2016/2141/CLE - Application for a lawful development certificate to confirm the implementation of planning permission 2013/2447/FUL for the change of use of agricultural land to allotments with multi-use games area. Approved October 2016.

Summary of Ward Councillor comments, Town/Parish Council comments, representations and consultee comments:

Ward Member:

Introduction

I would like to support many aspects of the submission from Norton St Philip Parish Council (the PC). See below.

The NPPF stresses the advantages of pre-application engagement with communities affected by development. The PC offered to convene a Public Meeting to allow the applicant to explain their proposal to village residents. This offer was refused by the applicant and there has been no meaningful engagement with either the PC or the community.

2. Planning History

The current proposal is the third application for the Fortescue West field. The first (2013/2033) was in outline for up to 49 dwellings. It was refused by Mendip District Council (MDC) and the second Appeal was dismissed. Details of the subsequent application are provided in the PC statement. This negates the applicant's assertion at para 2.11 of the Planning Statement that: *"There have been no previous planning decisions on this parcel, which comprises the proposed development site to the west of Fortescue Fields."*

3. “Outline” application

This application is in outline, with all matters reserved. This means that neither I, the PC nor the Local Planning Authority are provided with any idea of scale, appearance, layout and access other than the “indicative plan” submitted with the application.

Given the important and sensitive location of the proposed dwellings the detail provided is inadequate.

4. Principle of Development

4.1 LPP1 Spatial Strategy

MDC can no longer demonstrate a 5-year housing supply. However, although Mendip’s housing supply policy is out of date, other Policies in the Local Plan Part 1 (LPP1) continue to apply and can be afforded relevant weight. One of the most important policies is the spatial strategy, Core Policy 1 (CP1) which directs the majority of development to the 5 main towns in the District whilst tailoring development in the rural parts (including primary villages such as Norton St Philip) to meet local need.

This principle was supported at the recent dismissal of an appeal for planning permission for 95 dwellings in Chilcompton (APP/Q3305/W/21/3280802). Para 11 of the appeal decision stated: *“The basic principles of CP1, CP2 and CP4, that the majority of development should be in the five towns, that the primary villages are the most sustainable in the rural area and that their individual growth should be proportionate, do not conflict with the NPPF, remain valid and should be given significant weight.”*

A material consideration is that the application is not consistent with CP1.

4.2 Proportionate Development

The housing target for NSP in the adopted Local Plan Part1 (LPP1) was for a minimum of 45 new dwellings to be provided from 2006 up to 2029. Although this is a minimum to date NSP has seen 113 completions and commitments in the Plan period. This is over 250% of the minimum and an increase to date of over 35% in the housing stock of the village, well above the ‘proportionate’ 15% growth anticipated by LPP1. And we are only a little more than half way through the Local Plan period.

This was confirmed at the recent Appeal¹ for development on this site. The Inspector concluded that

“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” (para 31).

Notwithstanding that the total number of dwellings has reduced to 20 in the current application, the same principle applies – these additional dwellings would not constitute proportionate growth.

To note: Norton St Philip which has seen the greatest proportionate increase in its housing stock of *all* of the Mendip villages.

The principle of proportionality has been recently reinforced in the dismissal of the Chilcompton appeal cited above². The Inspector stated that:

“Ultimately, the more important issue is whether the proposal would be a disproportionate or inappropriate addition to Chilcompton. This cannot be determined mathematically but depends on an assessment of the scheme in relation to the village concerned.”

Had the Appeal been allowed, Chilcompton’s housing stock would have increased by 35%.

Should this application be allowed, NSP’s increase will be 43%. This is a material consideration.

4.3 Importance of the setting/Landscape Character

Please refer to the detail contained under this heading in the PC submission. I would simply like to reiterate that MDC’s LPP1 Policy DP4 protects Mendip’s landscapes. The application site plays an important role in the landscape character of Norton St Philip. Its development will cause substantial harm to the landscape character and appearance of the area.

4.4. Heritage

Having linked twin centres is a defining characteristic of Norton St Philip because the two hubs are separated by green space that thins the urban form. These ‘green corridors’ should continue to fulfil their visual importance as the green setting for the form and character of Norton St. Philip. They play an important role as positive contributors to the conservation area.

The proposed application would fundamentally affect these ‘Green Corridors’ and cause damage to the Historic Core of the village. As Historic England have stated, the village’s *“heritage significance lies in the legibility of its medieval form and development and the survival of two distinct character areas that stand out in a prominent position within the wider landscape”*. The proposed dwellings would also cause substantial harm to the setting of Church Mead and its adjacent historic buildings – the Grade 1 listed George Inn and the Grade 2* listed parish church of St Philip and St James.

I suggest that this application would cause harm to heritage assets, a material consideration.

4.4 Housing Need

The main “identified local need” in NSP is for affordable, entry level housing, as evidenced by the Housing Survey undertaken by the Neighbourhood Plan(NP) Steering Group in 2018. The houses proposed by this application would not provide meet this need.

5 Biodiversity

The application provides no detail to support the statement in the Planning Statement that, *“There would be an additional net biodiversity gain through the provision of targeted habitat enhancements”*.

In fact the Ecological Appraisal notes that

“..the site is considered to have the potential to support important species and species groups such as feeding and foraging bats, important species of nesting birds, reptiles, badgers and hedgehogs. Consequently, development of the site has the potential to negatively impact on these important and protected species and species groups”[6.1.1]

Twenty new dwellings will result in further light pollution. Scientific evidence suggests that artificial light at night has negative and deadly effects on many creatures including amphibians, birds, mammals, insects and plants.

There is a climate emergency – further loss of biodiversity through building twenty dwellings on this site would be in direct contradiction to Mendip's Ecological and Climate Emergency Plan which commits to increasing biodiversity and carbon sequestration.

6 Drainage/flood risk

Please note the concerns expressed within the PC submission.

7. Traffic

The planned development would bring an increase in commuter journeys as there are very few local employment opportunities. There is no Traffic plan submitted with the application and thus there is no detail of the critical issues of access, highway safety and parking. The proposed access to both the existing development (including the Co-Op) and application site is via a single narrow road. The entrance to Fortescue Fields is already congested, not just at peak times.

There is regularly parking on the pavement on outside the Co-op. Twenty more houses (each with 2 or 3 cars) will exacerbate an already existing problem. Parked traffic on the High Street reduces visibility for traffic leaving Fortescue Fields, particularly when unloading is taking place to the Co-Op.

LPP1 para. 6.65 states *“New development must aim to ensure that the environment is not exposed to pollution and that it does not impose burdens on natural systems or human health that would be detrimental to their wellbeing.”* The High Street is already congested without the addition of further traffic from the development and the narrow street and high walls retain air pollution. Additional traffic will increase the air pollution.

The entrance to the proposed west site off Fortescue St it is very narrow and set at an awkward angle. Traffic to the proposed dwellings would have to negotiate this difficult, narrow junction and the proposed roadway to the dwellings would be very steep.

One of the strategic objectives of LPP1 is to improve accessibility by means other than the private car, specifically to ensure that the majority of new developments, particularly major traffic generators, are located to be accessible by a range of transport modes. Due to reduction in passenger numbers as a result of the pandemic there is sometimes only one bus an hour from NSP to Bath/ Frome on weekdays (rather than the previous two), less at weekends. The nearest train station is Freshford – approximately 4 miles away. The majority of journeys taken by residents of the proposed new dwellings will be made by car.

To reiterate - there is a climate emergency.

8. Summary

Based on the information in front of me at this time I have found much that demonstrates how significantly the harm of this application outweighs any benefits. However, I have not got a closed mind and should this application come to the Council's Planning Board and should I need to be a substitute at that meeting I would consider any new information brought to my attention before making a final decision.

Norton St Philip Parish Council: An eleven page objection has been received and is summarised below:

- Development on this site would conflict with the district's settlement strategy as set out in Policies CP1, CP2 and CP4, as supported by the recent Chilcompton appeal decision.

- It would represent disproportionate growth within the village which has already seen the greatest proportionate increase in housing of all Mendip villages.
- The PC accept that the current application is different to that previously dismissed on Appeal. However, that Appeal was not dismissed because of the quantum of development proposed, but on the basis that development in this location was, in principle, unacceptable and considered environmentally and socially unsustainable.
- There are many significant material planning considerations which make this application unacceptable both in principle and also in matters of detail.
- Limited or no weight should be given to most of the 'benefits' proposed by the Applicant; they are not required by the community, are not directly related to the development (and therefore it would be unlawful to take them into account in the planning balance) or they are not considered benefits at all.
- The environmental harm arising is substantial and significant. This includes significant and permanent harm to landscape character and appearance and substantial harm to the setting and heritage significance of the Conservation Area and Grade I and Grade II listed buildings.
- The PC is committed to the protection of the historic character and appearance of the village for this and future generations. The harm which this proposal would cause to the village's heritage assets provides a clear reason for refusal.
- Furthermore there are adverse impacts which would significantly and demonstrably outweigh the benefits (drainage, highways, biodiversity). The PC submits that these factors heavily tip the planning balance into refusal of planning permission.

Local Residents: A petition of 54 signatories and 31 letters of objection have been received including one from the Fortescue Fields Management Company. In brief, the comments are summarised below:

- the village has exceeded its housing allocation;
- loss of views out of the village conservation area and impact on its setting;
- loss of an open area that contributes to the landscape setting of the village;
- surface water drainage has not been properly addressed;
- impact on wildlife;
- additional traffic on a narrow road.

Landscape Consultant: The Inspector's Decision Notice (dated 28th April 2015) sets out very clearly (paras 52-54 incl) that the application site is a very important part of the character and appearance of the Conservation Area and forms an important transition between the village and the adjacent open countryside.

Fig 4 'Illustrative masterplan' highlights the view from the upper area of Church Mead, but it is considered incorrect in para 6.3 that there would be '*no significant or demonstrable adverse impacts*'.

In Landscape and Visual Impact terms and focussing on the immediate surroundings to include the adjacent Conservation Area / Church Mead, the receptors (in both topics i.e visual and landscape character) are of very high sensitivity, the magnitude of change is major as it is a major alteration to the characteristics of the baseline and the result would be 'very substantial' adverse effect.

Whilst the cone of view as noted on Fig 4 would still be there, it would have houses where there currently are none, it would add lighting where there is none and would add moving traffic right across the middle of this important view, where there currently is none. There is also an

important internal hedge that will need to be removed to facilitate the scheme as shown on Fig 4.

Although this scheme has reduced in quantum of units and has evolved in layout since the appeal, but the main issue is the primary change from undeveloped field to a scheme of 20 houses.

These houses will still be noticeable in the view from Church Mead and, more importantly, from the more elevated points such as the garden of The George and the top of Bell Hill. These views are very important in respect of the character of the Conservation Area and the character of Norton St Philip as a whole.

Overall, it is considered that the scheme will result in an unacceptable degree of harm, and I would object in principle.

Land Drainage Engineer: Objects to the proposal due to lack of information, as summarised below:

Flood Risk

- The site is located within Flood Zone 1 on the Flood Map for Planning and the maps within the Mendip SFRA do not identify the site as being at risk of groundwater flooding. A high-risk surface water flow route runs from east to west along the of the northern boundary of the site.
- A current survey of the site and existing drainage system should be provided.

Discharge Route

- None of the infiltration testing results from the original site investigation (March 2008) were undertaken within the location of the Phase 1 infiltration basin. Assuming that no additional BRE Digest 365 test results are available the infiltration potential of the soils underlying the infiltration basin must be demonstrated through testing before any additional discharge can be made to the basin.
- A portion of the surface water from the site is to be directed to an existing soakaway, no detailed information is provided within the FRA and Drainage Strategy regarding this soakaway. The information required includes what was this soakaway designed to accommodate, how was it sized, what flows does it currently receive and what is its current performance?
- A groundwater monitoring programme should be undertaken over a minimum period of 12 months, a minimum of two readings per month should be undertaken. This monitoring should be conducted to provide adequate coverage of the site, with particular focus placed on the locations and depths of infiltration devices. Phase 1 Sustainable Drainage System
- Calculations should be provided that demonstrate the capacity of the existing Phase 1 drainage system as it has been constructed. It is essential that these consider all aspects of the local hydrology including land drainage features, field ditches, overland flow routes and potentially groundwater fluctuations which complicate the system and haven't currently been given suitable consideration.
- An overflow swale exists on the lower infiltration basin; however, this doesn't appear to have a formal outfall. Should this overflow be utilised there is the potential to exacerbate existing surface water flood risk on Church Street and Ringwell Lane. Phase 2b Sustainable Drainage System

- MicroDrainage results are provided within the submitted FRA and Drainage Strategy. It is not clear which parts of the existing and proposed drainage systems the calculations relate to, whether they include the additional inflows from field ditches and other sources.
- A clear interpretation and analysis of the modelling inputs and results should be contained within the FRA and Drainage Strategy, this should include peak levels and flows at key points in the system and be in a format accessible to a non-technical audience.
- We are not sufficiently assured that the current SuDS scheme for the existing Fortescue Street development (referred to as Phase 1), into which the proposed development wishes to connect, is operating effectively.
- We advise the LPA to hold off granting any permission until such time as an assessment of the operation and functionality of the existing SuDS system has been undertaken, or an alternative drainage arrangement proposed that demonstrates the development can be delivered without exacerbating flood risk.

Highways Development Officer: The average dwelling generates 6-8 vehicle movements per day which means the application should generate approximately 160 vehicle movements per day or 16 movements in the AM/PM peaks. There is already an element of vehicle movements that uses the junction of the B3110. It is not considered by the Highway Authority that this would represent a severe increase or place any junctions over capacity and as such there is no severe highway safety concerns that the Highway Authority could recommend refusal on.

The development is not linked directly to the public highway and as such would likely remain private. If it is not possible to construct the estate road to a standard suitable for adoption, yet it is deemed the internal layout of the site results in the laying out of a private street, under Sections 219 to 225 of the Highway Act 1980, it may be subject to the Advance Payment Code (APC). In order to qualify for an exemption under the APC, the road should be built and maintained to a level that the Highway Authority considers will be of sufficient integrity to ensure that it does not deteriorate to such a condition as to warrant the use of the powers under the Private Streetworks Code.

With current indicative layout the road is not to an adoptable standard.

The applicant must ensure that with any reserved matters application sufficient parking levels are provided within the development site. The Somerset Parking Strategy (SPS) sets out the required levels of parking needed for the development. The SPS also sets out the requirement of bicycle parking where one space should be provided per bedroom and the dimensions of garages where a single garage would be 3x6 metres and a double garage should be 6x6 metres. Electric Vehicle Charging must also be provided for every dwelling.

The applicant should ensure that appropriate drainage is in place and should not rely on or make the assumption that they can connect to any highway drainage infrastructure. This application would represent an increase of vehicle movements along Fortescue Street towards the B3110. This section of carriageway is currently under the control of the Highway Authority and with the increase of vehicle movements the applicant should look into a Traffic Regulation Order (TRO) to prevent parking along this section of carriageway to prevent any potential vehicular conflict.

Taking the above into account, the Highway Authority does not raise an objection to the planning application, however, it should be noted that the internal layout would likely remain private. This

being the case and if the case officer is minded to grant planning consent then I would recommend that the following conditions are attached to any decision notice:

1. Prior to commencement, plans showing the parking and turning areas catering for all vehicles reasonably associated with the site/development and electric vehicle charging shall be submitted to and agreed in writing by the Local Planning Authority. Such facilities shall be provided, marked out and consolidated prior to first occupation and maintained thereafter specifically for vehicles in connection with the development hereby permitted.

2. Provision shall be made within the site for the disposal of surface water so as to prevent its discharge onto the highway, details of which shall have been submitted to and approved in writing by the Local Planning Authority. Such provision shall be installed prior to development above damp-proof course level and thereafter maintained at all times.

NOTE: Any systems provided for the purposes of draining the site shall be constructed and maintained privately until such time as the drainage is adopted. At no point will this Authority accept private infrastructure being connected into highway drainage systems. Consent from the riparian owner of any land drainage facilities affected, that are not within the developer's title, will be required for adoption.

3. There shall be an area of hard standing at least 5.5 metres in length (as measured from the nearside edge of the highway to the face of the garage doors), where the doors are of a roller shutter/sliding/inward opening type.

4. There shall be an area of hard standing at least 6 metres in length (as measured from the nearside edge of the highway to the face of the garage doors), where the doors are of an up-and-over type.

5. Prior to the construction of any part of the development above damp-proof course level a scheme showing full details of the number and location of charging points for plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations within the development (along with a timetable for their provision), shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved details and timetable.

Note: You are advised that a Traffic Regulation Order (TRO) is required. You must submit a plan to a scale of 1:1000 of an indicative scheme for a TRO, along with timescales for commencement and completion of the development. Please be aware that the statutory TRO process is not straightforward, involving the public advertisement of the proposal(s) and the resolution of any objections.

N.B. The cost of implementing any lining, signing or resurfacing required by the TRO is separate to the TRO fees, which solely cover the administration required to prepare, consult, amend and seal the TRO.

Environmental Protection: No objection subject to conditions relating to EV charging points, an acoustic assessment, lighting strategy, CEMO and a sound insulation strategy.

Contaminated Land: Due to former uses of the site, it would be advised to keep a watching brief for potential hotspots of contamination and assess for visual/olfactory evidence of contamination during any ground works.

SCC Ecology: No comments received.

Housing Enabling: No comments received.

SCC Education: A proposal of 20 dwellings in this location will generate 2 pupils for the Early Years provider:

In accordance with the current build cost we would therefore require a total of £35,882.00 to ensure that we could pool this funding with other funding to enable sufficient places to be available at the Norton St Philip Pre-school.

For the purpose of the S106 as this is an outline application the contributions will be based on a per dwelling cost as follows:

$$£35,882.00/20= £1,794.10 \text{ per dwelling}$$

SCC Archaeology: The site is very close to the medieval town of Norton St Philip and near the potential Saxon settlement called "Nortune" which was probably a small agricultural settlement with its own mill, (mentioned in Domesday Survey of 1086). Therefore the proposal has the potential to impact on heritage assets relating to early occupation of this area. However, there is currently insufficient information contained within the application on the nature of any archaeological remains to properly assess their interest.

For this reason, I recommend that the applicant be asked to provide further information on any archaeological remains on the site prior to the determination of this application. This is likely to require a desk-based assessment, geophysical survey and a field evaluation as indicated in the National Planning Policy Framework (Paragraph 194).

Tree Officer: Object to the proposal on the grounds of insufficient information.

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, biodiversity and natural features associated with this site. The reasons for the objection are as follows:

Arboricultural information – The tree survey does not provide any management recommendations and no arboricultural impact assessment (AIA) has been provided which prevents the assessment of the impact of the proposal on this site on the trees and the full extent of tree and hedgerow loss. It is recommended that an AIA is provided and details of the tree loss also identified.

The Tree Constraints Plan (TCP) does not include a shade diagram which would demonstrate the potential shading of the proposed house. This detail should be provided to allow an assessment of future pressure to prune/remove retained trees.

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.

Tree Loss – drawing no. 190836 appears to show the loss of trees on this site but there is no detail provided to quantify the extent of that loss. This contrary to DP1, DP4 and DP5.

Hedgerow loss and fragmentation – drawing no. 190836 appears to show the loss, fragmentation and damage to the existing hedgerows on this site. The Preliminary Ecological Assessment (PEA) identifies the value of the hedgerows for the foraging and transit of 9 species of bat and other mammals, birds, reptiles and insects. A detailed hedgerow survey and

assessment should be provided to allow an accurate assessment of the impact of the development on the hedgerows as features and habitats in order to comply with policy DP5.

In 6.3 of the Planning Statement, it is stated that no 'significant' or demonstrable' adverse impacts have been identified and that 'there would be no harm to the landscape or ecological assets that cannot be mitigated. However, the PEA identifies that the development has the potential to negatively impact important and protected species and that a Mitigation Strategy and Impact Assessment will be undertaken to ensure compliance with both NPPF and local planning policy DP5. This strategy does not appear to have been provided and is therefore contrary to DP5 and NPPF Chapter 15.

Bats – the PEA identifies nine species of bat, including Annex II species, utilising the hedgerows on this site, however, a bat survey has not been provided. The application is therefore contrary to DP5, DP6, NPPF part 15, the Wildlife and Countryside Act 1981 and the Conservation of Habitats and Species Regulations 2017.

Badgers – the cover letter dated 6/1/22 states that the Badger Set Impact Assessment has been withdrawn from the application. The PEA identifies a breeding sett and annex sett in field 2b and states that the setts maybe of Parish/Neighbourhood Value to the local badger population. The proposed development appears to virtually enclose the badger sett between the new houses and the Fortescue Fields development, it is therefore necessary to be able to assess the impact of the proposal on this important ecological feature. The application is therefore contrary to DP5 and NPPF para 175.

Biodiversity Gain – the cover letter dated 6/1/22 states that the Biodiversity Gain Report has been withdrawn from the application. There is therefore no assessment of how biodiversity gain will be achieved for a scheme that appears to represent biodiversity loss. This is contrary to DP5, DP8 and NPPF Chapter 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, DP16 and NPPF Chapter 15.

Landscape Visual Impact Assessment – drawing no. 190836 appears to show the fragmentation of the north boundary hedge and the removal of the hedge no.21 specifically to provide a 'view through to countryside' from Church Mead which would change the character of the area and the transition from the village to the countryside. No suitable Landscape Visual Impact Assessment (LVIA) has been provided to assess this which is contrary to DP5, DP8, DP16 and NPPF Chapter 15.

The Planning Statement states that the application proposes; 1.1.5 Habitat mitigation and improvement measures, 1.1.6 New landscaping, including further tree and hedge planting, 1.1.7 Enhanced boundary treatment in selected locations. It further states that the environmental role is fulfilled by; 1.18.1 Enhancements to the public realm, including new public open spaces, tree and hedgerow planting and associated biodiversity enhancements, and 1.18.3 Wider landscape enhancements, including new native and hedgerow planting and new swales. However, there is no detail provided for any of the above other than the indicative plan on drawing no. 190836. The degradation of the site through tree and hedgerow loss, hedgerow fragmentation, loss of canopy cover and connectivity should be mitigated for through a robust landscape scheme. The landscape scheme should detail the mitigation planting and biodiversity enhancements including location species, size and number of trees and shrubs to be planted. It should also include

details of aftercare and how the scheme will be managed to ensure the successful establishment of the trees and shrubs.

Local Representations:

Summary of all planning policies and legislation relevant to the proposal:

Section 38(6) of the Planning and Compulsory Purchase Act 2004 places a duty on local planning authorities to determine proposals in accordance with the development plan unless material considerations indicate otherwise. The following development plan policies and material considerations are relevant to this application:

The Council's Development Plan comprises:

- Mendip District Local Plan Part I: Strategy and Policies (December 2014)
- Mendip District Local Plan Part II: Sites and Policies (December 2021)

The following policies of the Local Plan Part 1 are relevant to the determination of this application:

- CP1 – Mendip Spatial Strategy
- CP2 (Supporting the Provision of New Housing)
- CP4 (Sustaining Rural Communities)
- DP1 (Local Identity and Distinctiveness)
- DP4 (Mendip's Landscapes)
- DP5 (Biodiversity and Ecological Networks)
- DP6 (Bat Protection)
- DP7 (Design and Amenity of New Development)
- DP8 (Environmental Protection)
- DP9 (Transport Impact of New Development)
- DP10 (Parking Standards)
- DP11 (Affordable Housing)
- DP14 (Housing Mix and Type)
- DP16 (Open Space and Green Infrastructure)
- DP19 (Development Contributions)
- DP23 (Managing Flood Risk)

Other possible Relevant Considerations (without limitation):

- National Planning Policy Framework
- National Planning Practice Guidance
- Norton St Philip Conservation Area Appraisal

Assessment of relevant issues:

Principle of the Use:

Policy CP1(b) identifies Norton St Philip as a primary village where development in open countryside will be strictly controlled. The proposal conflicts with Policy CP1 (c) as it is on land outside the village development limit. Policy CP1 directs the majority of development to the 5

main towns in the District whilst tailoring development in the rural parts (including primary villages such as Norton St Philip) to meet local need.

This principle was supported at the recent dismissal of an appeal for planning permission for 95 dwellings in Chilcompton (APP/Q3305/W/21/3280802). Paragraph 11 of the appeal decision states:

“The basic principles of CP1, CP2 and CP4, that the majority of development should be in the five towns, that the primary villages are the most sustainable in the rural area and that their individual growth should be proportionate, do not conflict with the NPPF, remain valid and should be given significant weight.”

Furthermore, Policy CP1 envisages a minimum housing growth rate of 45 dwellings for the village. Within the recently adopted Local Plan Part 2, a site off Mackley Lane has been allocated for residential development for a minimum of 27 dwellings.

Clearly a development of a further 20 dwellings on an unallocated site would be contrary to the Council’s housing settlement strategy. It could not be described as being modest in scale or proportionate under the terms of Policy CP2. This point was supported by the Inspector in the Chilcompton appeal.

“Ultimately, the more important issue is whether the proposal would be a disproportionate or inappropriate addition to Chilcompton. This cannot be determined mathematically but depends on an assessment of the scheme in relation to the village concerned.”

The Council is unable to demonstrate a 5 year housing supply against the national Local Housing Need figure of 599 dwellings per annum. The supply at April 2021 is calculated at 4.1 years. The extent of the 5 year supply, the reasons for the shortfall and how it is being addressed can be material considerations.

The NPPF advises that, where the Council cannot demonstrate a 5 year supply, the presumption in favour of sustainable development, as set out in Paragraph 11 (d) applies. However, the proposed development will result in harm to designated heritage assets (Footnote 7) as described later in this report.

On this basis, the tilted balance under NPPF Paragraph 11 (d) is not engaged and the development is considered unsustainable and cannot be supported. The principle of residential development is therefore considered unacceptable.

Impact on Landscape Character and Heritage Assets:

The application site adjoins the village Conservation Area, whose boundary lies to the north and west of the site. Historically, the village of Norton St Philip has evolved around two nuclei, the area around the grade II* listed Church and the grade I listed George Inn to the east. The large area of open space at Church Mead immediately to the north of the site, faces onto open countryside, which includes the application site. Church Mead forms an important visual link between the centre of the village and the open countryside beyond.

Paragraph 199 sets out 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. It goes on to note in Paragraph 200 that significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting and notes that substantial harm to or loss of

designated heritage assets of the highest significance, including Grade I or II* listed buildings, should be wholly exceptional.

Paragraph 201 goes on to state that, where a proposed development would lead to substantial harm to or total loss of significance of a designated heritage asset, consent should be refused unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh the harm or loss.

Paragraph 202 says that where a proposed development will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that the LPA should 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. The application would fail to meet this duty and this should be given considerable weight when balancing the public benefits of the scheme against the harm identified.

Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that the LPA should pay special attention to the preservation or enhancement of the character of the surrounding conservation area. The application would fail to meet this duty and this should be given considerable weight when balancing the public benefits of the scheme against the harm identified.

In considering the previous appeal decision relating to this site, the Inspector acknowledged that it contributes to the setting of both the listed Church and The George Inn.

The application site lies within the setting of the village Conservation Area. This area is defined within the village Conservation Area Appraisal as having an essential landscape and amenity component to the Area. This point was recognised by the Inspector:

*“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.”*

In seeking to address these identified concerns, the current development proposes a reduction in number of dwellings from 49 to 20. In addition, the illustrative layout indicates that a central swathe of the site could remain undeveloped, in order to protect those views of the open countryside from within certain parts of the village. However, the Inspector's conclusions as highlighted in bold above, are unambiguous. **Any** development on this site would have a harmful effect on the setting of the Conservation Area. This is supported by the Council's landscape consultant who concludes that there would be an unacceptable degree of landscape harm arising from the current proposal.

There is no doubt that development of this site, even on a reduced scale as now proposed, would fundamentally alter the setting of the Conservation Area and the historic form of the village. It is acknowledged that the quantum of development has been scaled back from earlier proposals. However, it is an unallocated greenfield site that will be fundamentally altered and urbanised by the proposal.

There would be substantial harm to the setting of the Conservation Area and less than substantial harm to the listed buildings. The proposal is therefore contrary to Policies DP1, DP3 and DP7 of the Mendip District Local Plan Part 1 and the provisions of Chapter 16 of the NPPF (July 2021). The NPPF presumption in favour of sustainable development under Paragraph 11(d) does not apply where there is an impact on heritage assets (as defined under Footnote 7).

Impact on Trees and Ecology:

As described above, the site is bounded by a substantial belt of trees and overgrown hedgerows. In seeking to mitigate the visual impact of the proposal, the illustrative layout shows the proposed dwellings sited very close to the east and west boundaries. Whilst the applicant has submitted a tree survey, there has been no assessment of how the development will affect the trees and hedgerows on the site. It therefore has not been possible to assess the full extent of tree and hedgerow loss. In addition, no information has been provided in relation to any management recommendations.

The loss of trees and fragmentation of hedgerows on the site will potentially have a negative impact on important and protected species including foraging bats, birds, badgers, reptiles and insects. Although the applicant has submitted an updated Preliminary Ecological Appraisal, no bat survey or Badger Setts Impact Assessment has been submitted. It therefore has not been possible to fully assess the ecological impacts of the proposed development.

In the absence of such information, the proposal conflicts with Policies DP1, DP4, DP5, DP6, DP8 of the adopted Local Plan Part I (2014) and Part 15 of the NPPF.

Flood Risk/Drainage:

It is known that the existing flood attenuation scheme approved under the Fortescue Fields development is defective, resulting in the lower basin overflowing at times. The applicant states in their supporting statement that additional swales and an attenuation pond will be provided. However, no such information is provided in the Flood Risk Assessment and Drainage Strategy.

The Council's land drainage engineer has raised significant concerns about the paucity of information submitted in relation to site drainage. As insufficient drainage information has been submitted, the proposal is contrary to Policy DP8 of Local Plan Part 1 and Part 14 of the NPPF

Assessment of Highway Issues:

The application is in outline with only means of access to be determined. This proposes an access to the site from a spur off Fortescue Street. County Highways has raised no objection in principle to the proposal subject to standard conditions. In considering the appeal proposal for up to 49 dwellings, the Inspector concluded that that the impact of increased traffic within the village would not be significant enough for a refusal on highway grounds.

The transport impacts of the development are considered acceptable and the proposal complies with Policies DP9: Transport Impact of New Development of the Mendip District Local Plan Part I.

Public Open Space/Green Infrastructure:

Policy DP16 Open Space and Green Infrastructure of Local Plan Part 1 requires that proposals for new residential development make provision for public open space on the basis of the National Playing field Association's long-standing standard of 2.4ha of new space per additional 1,000 people.

Based on this standard and an average dwelling occupancy of 2.1 persons per dwelling, this equates to approximately 42 people living on site (2.1 persons x 20 units). This means that the required area of Public Open Space (POS) based on the proposed population is 0.12 ha.

It is not entirely clear what is proposed by way of additional recreational space or green infrastructure. The applicant states that the MUGA approved under 2016/2141/CLE will be completed. However, this already has the benefit of planning permission and a lawful start. This proposal offers no mechanism to secure the completion of the MUGA.

There has been no suitable assessment of the impact of the proposed development on the green infrastructure and recreation provision. This is contrary to policies DP5, DP8, DP16 and NPPF Chapter 15.

Environmental Impact Assessment

This development is not considered to require an Environmental Statement under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017.

Equalities Act

In arriving at this recommendation, due regard has been given to the provisions of the Equalities Act 2010, particularly the Public Sector Equality Duty and Section 149. The Equality Act 2010 requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities. Protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race/ethnicity, religion or belief (or lack of), sex and sexual orientation.

Conclusion and Planning Balance:

The applicant makes the following arguments in support of the proposed development with officer comments added in brackets:

- New public open spaces incorporating landscape enhancements (No information submitted)
- New footpaths across the site, linking existing and proposed facilities and improving links to the countryside (No information submitted)
- Much-needed new homes in a District that has struggled to deliver sufficient housing over the plan period to date (This is an outline application and no information has been submitted in relation to deliverability and likely timescales)
- Affordable housing to meet local needs (No information submitted)
- Habitat mitigation & improvement measures (No overall benefit as mitigation would not be required if the site was to remain undeveloped)
- New landscaping, including further tree and hedgerow planting (No information submitted)
- Enhanced boundary treatment in selected locations (No information submitted)

- Car and cycle parking, including electric vehicle charging facilities (This would be secured by condition if the principle of development was considered acceptable)
- Sustainability enhancements in the design of the new homes, which go beyond the requirements of the Building Regulations (No information submitted)
- A sustainable drainage solution for rainwater runoff, including new swales and an attenuation pond (No information submitted)
- Substantial Section 106 contributions (No information submitted)
- New jobs (Short term benefit during the construction process but of limited long-term benefit)
- Completion of the MUGA (No mechanism offered to secure this).

Overall, the potential benefits of the proposed development are over-stated and are not supported by any firm proposals. Therefore, limited weight can be given to these benefits in the overall planning balance.

It is recommended that planning permission is refused.

Recommendation

Refusal

1. The site is located in open countryside and is therefore contrary to the District's settlement strategy, as outlined in Policies CP1, CP2 and CP4 of the Mendip District Local Plan (Part I). It is acknowledged that the Council cannot currently demonstrate a 5-year housing land supply, therefore the presumption in favour of sustainable development applies as outlined in the National Planning Policy Framework. However given the committed growth already undertaken in in the plan period and the further planned growth for Norton St Phillip as proposed in the Mendip District Local Plan (Part II) the site is considered unsuitable for further housing growth within the village, and owing to a number of other factors as outlined in the other reasons for refusal. In summary the harm of the proposal would in this case, significantly and demonstrably outweigh the benefits. As such, the proposal is not considered to constitute sustainable development and is unacceptable in principle.
2. The development would fundamentally change the landscape character of the site and the form of the village. It would result in the loss of views to and from the countryside and from the Norton St Philip conservation area. It would result in substantial harm to the setting of the Norton St Philip conservation area and less than substantial harm to the setting of the listed village Church and The George Inn. The public benefits from the scheme would be limited to the provision of additional housing. This would not outweigh the harm to heritage assets, particularly having regard to the legal duty to preserve the setting of listed buildings and the setting of the Conservation Area as set out in section 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and this should be given considerable weight when balancing the public benefits of the scheme against the harm identified. As such the proposal is contrary to Policies DP1, DP3, DP4 of the Mendip District Local Plan Part 1 and Parts 15 and 16 of the NPPF July 2021.
3. Insufficient information has been provided to demonstrate that the proposal would not increase flood risk on the site or elsewhere. As such the proposal is contrary to Policy

DP8 of the Mendip District Local Plan Part 1 and Part 14 of the NPPF July 2021.

4. Insufficient information has been provided to demonstrate that the proposal would not result in the loss of trees and hedgerows without adequate mitigation measures. As such the proposal is contrary to Policy DP5 of the Mendip District Local Plan Part 1 and Part 15 of the NPPF July 2021.
5. Insufficient information has been provided to demonstrate that the proposal would not result in harm to protected species including bats and badgers. As such the proposal is contrary to Policies DP1, DP4, DP5, DP6 and DP8 of the Mendip District Local Plan Part 1 and Part 15 of the NPPF July 2021.
6. In the absence of a completed legal mechanism to secure a policy-compliant quantum of affordable housing, along with other planning obligations, including a financial contribution towards the provision of education services and the provision of public open space; the proposal is contrary to Policies DP11, DP16 and DP19 of the Mendip District Local Plan Part 1: Strategy and Policies 2006 - 2029 (adopted 15th December 2014).

Informatives

1. In determining this application the Local Planning Authority considers it has complied with the aims of paragraph 38 of the National Planning Policy Framework. The submitted application has been found to be unacceptable for the stated reasons and having regard to the need to avoid unnecessary delay the Local Planning Authority moved forward and issued its decision.
2. This decision relates to the following drawings all received on 07.01.2022:

Site location plans (scale 1:2500 and 1:500); Site Plan (7291_PL_100); Context Plan (190836) and Tree Constraints Plan (1371-KC-XX-YTREE-TCPO/REV0).

Case Officer: Anna Penn

Authorising Officer: Simon Trafford

Date Authorised: 08.04.2022