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# Appeal Decision

Inquiry held on 15-18, 22-24 and 28 March 2022

Site visits made on 14 and 24 March 2022

**by AJ Mageean BA(Hons), BPI, PhD, MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 22 June 2022**

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## **Appeal Ref: APP/D0121/W/21/3285624**

### **Land at Farleigh Farm and 54 and 56 Farleigh Road, Backwell, BS48 3PD**

- 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 Persimmon Homes (Severn Valley) against the decision of North Somerset Council.
  - The application Ref 21/P/1766/OUT, dated 10 May 2021, was refused by notice dated 15 September 2021.
  - The development proposed is for demolition of 54 and 56 Farleigh Road; residential development of up to 125 dwellings (Class C3); strategic landscaping and earthworks, surface water drainage and all other ancillary infrastructure and enabling works with means of site access (excluding internal roads) from the new junction off Farleigh Road; all other matters (internal access, layout, appearance, scale and landscaping) reserved for subsequent approval.
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### **Decision**

1. The appeal is allowed and planning permission is granted for demolition of 54 and 56 Farleigh Road; residential development of up to 125 dwellings (Class C3); strategic landscaping and earthworks, surface water drainage and all other ancillary infrastructure and enabling works with means of site access (excluding internal roads) from the new junction off Farleigh Road; all other matters (internal access, layout, appearance, scale and landscaping) reserved for subsequent approval at Land at Farleigh Farm and 54 and 56 Farleigh Road, Backwell, BS48 3PD in accordance with the terms of the application, Ref 21/P/1766/OUT, dated 10 May 2021, and the plans submitted with it, subject to the conditions set out in the attached Schedule.

### **Preliminary Matters**

2. The application was submitted in outline with matters relating to layout, scale, appearance and landscaping reserved for subsequent approval. Access into the site was the only detailed matter to be determined. However, the submitted parameter plans relating to land use, density, height and scale and access and movement seek to 'fix' the broad elements of the scheme at this stage.
3. As part of the appeal documentation, the appellant also submitted a Design Commitment Statement (the DCS). This would be used as a basis for guiding design work at reserved matters (RM) stage, as such I have also considered this as illustrative. Additionally, during proceedings the appellant produced an amended Height and Scale Principles Plan (edp6976\_d007c) (ID12). This removes reference to a central swath of the developed area being allocated for development for up to 3 storeys and a maximum of 12m above ground level.

It is presented as an alternative option for managing the parameters of a RM application. My view is that, should the application be acceptable in all other regards, these amendments can be considered on the basis that they would reduce the scale of development proposed, and that no-one with an interest in this case would be prejudiced by the acceptance of this plan.

4. A signed and executed version of a Section 106 Agreement (the S106 agreement) and a Unilateral Undertaking (the UU) were received after the Inquiry in accordance with an agreed timetable.
5. The Council is currently in the process of preparing its Local Plan 2038, which will cover the period 2023 to 2038. It is agreed that very limited weight should be attached to the emerging plan (the eLP) at this stage.
6. The site is within a cluster of agricultural fields which have been the subject of a number of applications and appeals since 1984, each of which have been dismissed. This history, particularly the most recent Secretary of State decision made in 2018 (the 2018 decision), is material to the current appeal, and will be considered in my reasoning.

### **Main Issues**

7. The reasons for refusing the planning application included the effect of the proposed development on a protected Pine tree. Following the submission of an Arboricultural Method Statement on 18 January 2022, the Council agreed that, subject to agreed mitigations, this reason for refusal was no longer in contention. The reason for refusal relating to there being insufficient evidence on surface water discharge was the subject of further information submitted on 28 January 2022. As a result, the Council agreed that this matter had been adequately addressed. Should the proposals be acceptable in other regards, compliance with provisions relating to the protected tree and surface water discharge could be secured by condition.
8. The remaining issues before the Inquiry were:
  - The effect of the proposal on the spatial strategy for housing development in the settlement and District;
  - The form of development proposed and its effect on the character of the settlement and its landscape setting, and also on the setting, tranquillity and recreational value of the Farleigh Fields Local Green Space;
  - Whether the Council is able to demonstrate a five-year supply of housing land, and the contribution of the appeal scheme to supply matters; and,
  - The consistency or otherwise of the proposal with the development plan taken as a whole, and whether any conflict and harm arising would be outweighed by other material considerations.

### **Reasons**

#### ***Development Plan Context***

9. The development plan comprises: the North Somerset Core Strategy 2006-2026 (CS) which was adopted in full in January 2017; the Sites and Policies Plan Part 1: Development Management Policies Plan 2006-2026, adopted in

July 2016 (DMPP); the Sites and Policies Plan Part 2: Site Allocations Plan 2006-2026 adopted in April 2018 (SAP); and the Backwell Neighbourhood Plan adopted March 2015 (NP).

10. Whilst the CS was first adopted in 2012, a legal challenge to the basis of the scale of housing set out at Policy CS13 resulted in this Policy, and 8 others which could have had consequential changes if the housing number was increased, were remitted for re-examination. The examining Inspector concluded that the minimum housing requirement of 20,985 dwellings set out in Policy CS13 did not comply with national guidance, in that it was not based on a full objective assessment of housing need in the whole of the recognised HMA. The Inspector also noted evidence that the housing requirement figure was lower than it should be. However, the Inspector concluded that this difficulty could be overcome by embedding a commitment to an early review into the Plan. The Policy itself sets out that the appropriate level of new homes will be reviewed by 2018. On this basis Policy CS13 was adopted in September 2015. The review of the housing requirement figure has yet to happen.

### ***Spatial strategy***

11. The appeal site, and the cluster of agricultural fields in which it is located, are known locally as Farleigh Fields. They are an unusual feature in that whilst they are contained within the built form of Backwell village and the settlement boundary, the fields themselves are excluded from the settlement boundary.
12. Backwell is identified as a 'service village' within CS Policy CS14 which sets out a hierarchical approach to the distribution of new housing. Weston-super-Mare is at the top of the hierarchy as it is seen as having the potential to be the most sustainable location for employment-led residential development. Below this, most additional development is to take place at the towns of Clevedon, Nailsea and Portishead, with service villages such as Backwell providing opportunities for small scale development.
13. The service villages, allocated around 10% of the total housing requirement, are described as providing a service role function beyond their immediate locality, and acting as a hub, normally serving one to three parishes. Through balanced growth they are seen as being a focal point for local housing needs, providing jobs and meeting day to day needs in terms of services and community facilities, whilst protecting their individual character.
14. Specific provisions for development within or adjoining the settlement boundaries of service villages are set out in CS Policy CS32. Seven specific criteria relate primarily to design, infrastructure and sustainable travel matters, with an additional requirement that *sites outside the settlement boundaries in excess of about 25 dwellings must be brought forward through Local Plans or Neighbourhood Plans*. The appeal site was not allocated for development in either the SAP or the NP.
15. Policy CS32 provision for schemes of up to 25 dwellings is seen as providing additional flexibility to allow small scale development to come forward which will enhance the overall sustainability of the settlement. Similarly, Backwell NP Policy: Development 1 supports development at a level appropriate to the size and character of the settlement.

16. Looking more closely at Backwell's current role and functions, I was able to see that it has a reasonable range of shops, facilities and services and both primary school and secondary schools. It is also an accessible location, well served by public transport including by a main-line railway station with direct services to Bristol, Weston-super-Mare and beyond, as well as regular bus services. Whilst the fact that the spatial strategy of the eLP identifies Backwell as a location for growth is of very limited weight at this stage, Backwell has good credentials as a sustainable location for housing development.
17. Nonetheless, in terms of scale, as the appeal proposal up to 125 dwellings would significantly exceed the threshold for development set out in CS Policy CS32. In this sense there would be conflict with the spatial strategy set out in the CS, and the complementary provisions in NP Policy: Development 1.

### ***Character and appearance***

18. The points at issue in this regard relate to the effect of the scheme on the character of the settlement and on the area adjacent to the appeal site which has been designated as Local Green Space (LGS). I structure this section to consider the character of Backwell in terms of its built form, spatial and topographical character and the contribution of Farleigh Fields to this, before considering the effect of the scheme on the character of the village and the setting of the LGS. I then compare the current scheme with that considered as part of the 2018 decision before concluding overall.
19. Prior to the 20<sup>th</sup>C the dispersed development pattern in Backwell was clustered around the three hamlets of Churchtown, West Town and Farleigh. Churchtown was the oldest and focused on the Grade I listed St Andrew's Church (the Church). Between the 1930's and 1960's ribbon development along the connecting routes of Farleigh Road (the A370), Church Lane and Dark Lane joined the hamlets together. Infilling through estate development occurred during the mid-to-late 20<sup>th</sup>C, most notably to the west and southwest of Station Road and Dark Lane. Further smaller scale infilling has occurred in the late 20<sup>th</sup>/early 21<sup>st</sup>C's in the form of discrete edge of village additions.
20. The fact that development along the roads connecting the original nuclei has remained mostly linear has meant that it is still possible to identify these hamlets, in plan form at least. The distinct identity of Churchtown remains particularly apparent, with larger traditional properties characterised by stone and render clustered around the Church. More generally, the incremental nature of development, particularly over the last Century, has resulted in built form of widely varying character and scale.
21. Farleigh Fields remain as central undeveloped agricultural grazing land. As noted in the 2018 decision, Farleigh Fields are unusual in that whilst visibly contained and surrounded by built development, the fields themselves retain a distinctly rural, countryside character and appearance. A sense of rural tranquillity is assisted by the topography, which rises northwest to southeast, providing some degree of separation from the busy A370 to the north, and also allowing for views out to the wider countryside setting to the north of the settlement, and to the distinctive Church spire to the south.

22. Public rights of way (PROW) allow access to the area now designated as LGS.<sup>1</sup> Whilst muddy and uneven in parts, the various tracks visible suggest the whole area is reasonably well used, as reflected in the submissions by interested parties. I understand that the PROW form part of the popular *Backwell Round* walking route.
23. The previous Inspector characterised the site, and presumably Farleigh Fields as a whole, as *open, undeveloped countryside*. I agree that the fields do provide a sense of open countryside, and that the extent of this area is a surprising and unusual feature, given their central position amidst the built form that surround them. The debate about whether Farleigh Fields are 'developed' or 'undeveloped' countryside, or urban fringe does not assist. They are clearly a central part of the distinctive spatial form and character of the settlement.
24. The North Somerset Landscape Sensitivity Assessment 2018 identified Farleigh Fields as having *high sensitivity*, though did not consider the variation in character across this area. Whilst the whole of the Farleigh Fields area was promoted for designation as LGS by the local community, this was found to be excessive because LGS designations should not include extensive tracks of land. As a result, the designation was restricted to the two fields which were found to be of particular importance in providing a setting for the Church.
25. The LGS designation focuses on the area of greatest sensitivity, which to an extent can be distinguished from the lower lying and less accessible fields to the northeast and west. In particular, when entering the LGS from the A370, the rising topography to the south and south-east means that there is little awareness of the north-eastern field, the appeal site, until higher land is reached. There is greater awareness of the appeal site when entering from Linemere Close to the east, with this field supporting the sense of openness along the PROW. That said, the main focus is on the open views towards the Church afforded by the LGS. The high vantage point gained when entering the LGS from the Church provides the greatest sense of openness and of the patchwork of buildings and fields which form the wider village context. Only the higher levels of the appeal site are visible from this point.
26. As a starting point, locating significant residential development in an undeveloped field would inevitably result in harm to local character. In spatial terms the scheme would result in development at some depth within an area which has remained largely development free, save for the ribbon development surrounding it. In this sense the appeal scheme would represent an evolutionary departure for this part of Backwell.
27. The degree to which this development would erode the separation between the Fairfield and Churchtown nuclei would be moderated by the distinct topography of this area and the extent of the remaining LGS. As noted, the lower level of much of this field provides some degree of containment and visual separation from the LGS. The parameter plans and illustrative masterplan included in the DCS indicates that development could be configured to avoid the more sensitive higher levels of the appeal site. That said, development in this field would be very much apparent in views to the northwest from PROW LA2/4/20, for example the appellants viewpoint 5, to a lesser extent from higher levels of

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<sup>1</sup> The PROW cross northeast to southwest across the south-eastern field (LA2/4/20), and northwest to southeast from the A370 to the Church (LA2/6/10).

PROW LA2/6/10, for example the appellants viewpoint 2, and for the occupiers of the adjoining properties directly to the northwest.

28. Before considering visual impacts further, it is appropriate to address the concerns regarding information accompanying the proposals, specifically the degree to which the topographical challenges of developing a site of this nature have been considered by the appellant. Whilst topographical information is available, details of the extent to which changes to ground levels are proposed is sketchier, with the illustrative cross section<sup>2</sup> indicating that levels would generally follow the rising gradient, with terracing of gardens and limited cut and fill where necessary to create platforms. Overall, I agree that the level of information submitted along with the LVIA, the photomontages, and the illustrative cross sections are sufficient to judge the effects of the scheme in terms of its relationship with its surroundings at this outline stage.
29. Visual intrusion would be most apparent for the occupiers of 20-25 dwellings adjoining the appeal site to the northwest, with the open field being replaced by dwellings and associated infrastructure. It is inevitable that for these occupiers there would be a significantly adverse visual effect on the completion of the development, including from night-time illumination and light spill. The illustrative layouts suggest that dwellings could be orientated side-on to the shared boundary to reduce the extent of visible built form, though harm would remain at a major/moderate adverse level. This would be mitigated over time by boundary planting, though harm would remain moderately adverse. Occupiers of the Church Lane properties adjoining the LGS to the southeast would be much less significantly affected due to the absence of built form on the upper site levels.
30. The degree of visual intrusion for viewpoints south of the appeal site, including PROW, would be moderated by limiting the southern extent of development to the 46m contour. The illustrative masterplan also suggests that a swathe of managed green space would occupy the higher areas adjacent to the LGS. This could comprise areas of public open space, a community orchard, new tree and hedgerow planting, footpaths and a play area. The existing boundary hedgerows are an informal barrier with a mix of lower-level plants and taller hedgerows, with regular gaps reinforcing the sense of openness. The enhanced tree and hedgerow provision across the south-eastern boundary of the appeal site would alter this character by reducing openness but would also support the landscape guidelines for the wider area.
31. The appellant's visualisations indicate that the mitigation of visual impacts to viewpoints 2 and 5 would be apparent by year 15. In overall terms, I agree with the appellant's assessment that there would be moderately adverse visual effects for users of the PROW on completion, but that these would decline to minor adverse by year 15. That said, there would be a tension between providing green infrastructure to mitigate the appearance of built form, whilst at the same time enabling the scheme to integrate with its context and allowing for appropriate levels of intervisibility and natural surveillance across the area. This would need to be carefully managed.
32. Any effects on the LGS must be considered in terms of the characteristics underpinning its designation. The SAP refers to this as being the setting provided to the Church, with the LGS being high lying, prominent and visible

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<sup>2</sup> ID13 and ID33

from a significant distance to the south. The PROW crossing the fields, leading towards and providing views of the Church, are also noted. Whilst there could be some modest reduction in the degree of openness apparent in views to the Church, its prominence would be unaffected. It is inevitable that this significantly sized development would reduce the sense of tranquillity and openness across the LGS. However, overall, the development of the appeal site would not significantly impinge its distinctive qualities. Further, the addition of further routes across the southern part of the site would enhance footpath provision and improve the accessibility of the LGS.

33. The enclosed nature of Farleigh Fields with one main access point into the development would mean that the scheme would not be integrated fully with existing development. That said, the DCS supports closer consideration of how the development would be accommodated within the site, building on further analysis of the site context. It provides some assurance that in terms of the type and qualities of built form considered, the supporting movement patterns and green infrastructure, a scheme which has regard to the qualities of Backwell could be achieved. By building on the illustrative masterplan and setting out a suggested approach to the design requirements that could guide the principles underpinning the development of the site, the DCS has clear parallels to the provisions of a design code. This could also provide guidance for the detailed design of the proposed self-build units. The suggestion is that any future RM application would be 'broadly in accordance with' the DCS.
34. More specifically, the *Density Principles* parameter plan indicates that 'medium to higher' density development would be set within the lower-level north-western section of the site, with a 'lower to medium' density area further south, closer to the more sensitive boundary with the LGS. There is some uncertainty in relation to density, with the proposal described as being for up to 125 dwellings, whilst the DCS seeks to demonstrate how 115 dwellings could be configured. I agree that, if this scheme were to proceed to RM stage, there would be scope to manage the different options in terms of the mix of dwellings provided within the framework of built form suggested by the illustrative masterplan. Therefore, my view is that the parameter of allowing up to 125 dwellings would be reasonable, noting that NP Policy: Development 2 sets out the requirement for smaller dwellings in Backwell.
35. The *Height and Scale Principles* parameter plan indicates that built form across much of the area would be restricted to 2 storeys, with a central swathe of up to 3 storeys.<sup>3</sup> The use of taller built elements as wayfinding tools can be of value in place-making. However, in this case 3 storey buildings are not part of the prevailing character of the wider settlement. Further, the challenge of effectively assimilating built form of height into this area would also be exacerbated by the significant slope, noting also that future ground levels have not been established. My view is that, should this application proceed to RM stage, it should be on the basis of a maximum building height of 2 storeys.
36. The *Movement Principles* parameter plan indicates that the site access would lead to the main circulation loop, which would be orientated to follow the site main contours, with secondary shared surfaces connected to it. Whilst loop roads may not be an obvious part of the prevailing character of Backwell, there are numerous examples of cul-de-sacs. This pattern would mean that

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<sup>3</sup> The 2 storey dwellings would be up to 9m above future ground levels to ridgeline, and the 3 storey dwellings would be up to 12m from future ground level to ridgeline.

- dwelling could address the contours of the site in various ways, reflecting different approaches to development seen around the appeal site. For example, dwellings in Church Court are positioned at a variety of angles relative to the gradient, whilst those on Church Lane step up gradually along the contours.
37. This plan also suggests that a greater degree of integration with the wider area could be achieved through pedestrian access points to the LGS and PROW to the south. The orientation of the main site access, and the pedestrian route leading south from this point, suggest that views to the Church could be an external focal point.
38. The parameter plan relating to *Land Use Principles* establishes the extent of green infrastructure, ecological buffer zones and built form. It illustrates that the attenuation basin would be located in the north-western corner, away from the main sections of green infrastructure. However, as this is the lowest point on the site this is clearly the best position for this feature. Further, it would be connected to the 'ecology buffer' on the site's western boundary, and from here the wider LGS, thereby supporting wildlife and ecological provisions.
39. When compared with earlier proposals, the current scheme can be distinguished from the 1985 and 2000 proposals in that they did not relate to exactly the same application site, in whole or in part. However, there is a direct read-across to the 2018 decision, in that the development of the north-eastern field would relate to a similar area to that considered as 'Phase 1' of this previous proposal. It also appears that the appeal scheme would extend a little further south than the earlier proposal. That said, the most striking difference is in the extent of the impact of development across Farleigh Fields as a whole. The earlier scheme proposed up to 220 dwellings across both the north-eastern and western fields. The access from the A370 would have served the whole development, with the suggestion that a road would traverse the area now designated as LGS to connect the two phases.
40. The Inspector set out that development within the north-eastern area would be less prominent than that proposed for the west, mainly due to its relative size, though harm was noted in terms of development being brought significantly closer to users of the PROW. The proposals would have had major implications for the area now designated as LGS, with the link road, flood attenuation features and a play zone located within this area. These elements were considered to have markedly urbanising effects, harming the rural qualities of Farleigh Fields. Such features, and the resulting harm, would be absent from the current scheme.
41. Drawing my reasoning together, I have found that the form of development proposed would be a significant incursion into Farleigh Fields, an undeveloped area with rural qualities that provide a sense of separation between Backwell's original nuclei. There would be some erosion of this distinctive element of the character and setting of the settlement, with notable visual impacts for occupiers of adjoining properties. The development would also represent a departure from recent incremental growth patterns within Backwell.
42. Nonetheless, the degree of harm caused would be moderated by the relative containment of the site and the extent of the southern area of green infrastructure. As a result, any harm to the setting of the LGS would be limited to a modest reduction in the openness and tranquillity for PROW users. In these latter regards the scheme would result in a significantly lesser degree of

harm than found in relation to the 2018 decision. I have also found that the design details provided demonstrate that a scheme which has regard to the special qualities of Backwell could be achieved.

43. Overall, I conclude that there would be moderate conflict in relation to the provisions of CS Policy CS32 and DMPP Policy DM32, which require development to respect and enhance local character, and be readily assimilated into the village. For these reasons there would also be some moderate conflict with the provisions of the Framework paragraph 130 seeking to protect local character. Whilst reference is also made to CS Policy CS12 in the Council's decision notice, its provisions are not relevant to an outline application.
44. The provisions of CS Policy CS5 and DMPP Policy DM10 seek to protect and enhance landscape character, making particular reference to National Character areas. In this regard I find that any landscape harm would be significantly moderated by the containment of the site. As the scheme would largely protect the qualities that underpinned the designation of the LGS, I also find that there would be minor low-level conflict with the provisions of SAP Policy SA5 which seeks to protect these characteristics.

### ***Housing land supply***

45. CS Policy CS13 sets out the minimum housing requirement for North Somerset for the period 2006-2026 as 20,985. However, paragraph 74 and footnote 39 of the Framework make it clear that where strategic policies are more than 5 years old, LPAs should identify a 5 year housing land supply (5YHLS) against their local housing need (LHN) unless those strategic policies have been reviewed and found not to require updating. The Council does not rely on such a review in this case.
46. Footnote 39 sets out that when LHN is used as the basis for assessing whether a 5YHLS of specific deliverable sites exists, it should be calculated using the standard method (SM) as set out in national planning guidance. Using the SM calculation, the main parties initially agreed that at April 2021 the LHN for North Somerset was 1,389 dwellings per annum (dpa). Subsequent to this, the publication of the 2021 affordability ratios meant that the LHN figure for North Somerset increased to 1,462 dpa, with a housing requirement over the period 2021/22 to 2025/26 of 7,308 dwellings.<sup>4</sup>
47. The parties disagree on the level of deliverable supply over the 5 year period, that is between 1 April 2021 and 31 March 2026. Contested sites relate to the supply from one large site with detailed consent, 6 large sites with outline consent, 5 of the Weston Villages strategic sites, 12 site allocations, and the supply coming from both small sites with consent and the windfall allowance.
48. I start by clarifying the concept of 'deliverability'. The Framework Annex 2 sets out the main considerations in this regard. In particular, Category A sites which do not involve major development and have planning permission, and all those sites with detailed planning permission should be considered deliverable in principle, unless there is clear evidence that homes will not be delivered within five years. In contrast Category B sites, including those which have outline planning permission for major development or have been allocated in a development plan, should only be considered deliverable where there is clear

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<sup>4</sup> Updated figures agreed by the parties and included as Inquiry Document 35.

evidence that housing completions will begin on site within five years. The essential point for both categories is whether it is reasonable to assume that they will contribute to the five-year supply, though caselaw has determined that it is not necessary for there to be certainty of delivery as anticipated.

49. Some examples of the nature of 'clear evidence' are provided in the planning practice guidance (PPG).<sup>5</sup> These are necessarily generalised and refer to indicators such as 'progress towards approving reserved matters' and 'firm progress with site assessment work'. Nonetheless, the evidence provided must be tangible and directly relevant to achieving development on site, as opposed to speculation and assertion. In doing so such evidence should support the key test of whether there is a 'realistic prospect' of delivery within five years.

*Large site with detailed consent*

50. *Golden Acres Fruit Farm, Tickenham (4/781)* has been included in supply figures based on a resolution to grant consent for 18 dwellings in advance of the base date, with full planning permission being granted on 13 May 2021. This site did not qualify as a Category A site at the base date as the planning permission postdates the cut-off point for the relevant period of assessment. I have considered whether this site would qualify instead as a Category B site. On this point, whilst the definition of types of deliverable sites set out in the Framework is not set out as a closed list, the PPG does list those sites considered deliverable in principle, subject to further evidence. The resolution to grant consent is not included, presumably as this does not have the formal status of, for example, a permission in principle. It is therefore not reasonable to include this site in deliverable supply, and so 18 units should be deducted.

*Large sites with outline consent*

51. *Land north of Youngwood Lane, Nailsea (4/596)*. The deliverability of the Phase 1 RM approval for 168 dwellings is not disputed. Of the residual capacity of 282 dwellings covered by the outline consent, the Council's view is that 200 are deliverable, with specific reference to the correspondence from the developer indicating that they intend to submit their next RM application sometime in April, presumably referring to April 2022. On this basis the delivery of 100 units is anticipated in each of 2024/25 and 2025/26.
52. A planning condition relating to the alignment of a link road sets out that if this has not been confirmed by the LPA through the initial stages of a local plan, the area to be safeguarded for this is as set out on an earlier drawing. The provision for this route is set out in the 'Design Compliance Statement', with development parcels appearing to relate to this. I also understand that this alignment is set out in the eLP Policies Map. As provision is being made for the link road, it appears that the requirements of this condition are being met, albeit with uncertainty around its detailed design and delivery.
53. There is a reasonable degree of momentum behind progressing the remaining part of this site, such that it is likely that some units will come forward and be completed within the five-year period. The Phase 1 projection of 50dpa for 2022/23 and 2023/24, and 68dpa 2024/25 appears realistic. However, there is no evidence to support the suggestion that there could be a doubling up of delivery outlets in 2024/25. As such my view is that it is reasonable to

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<sup>5</sup> Para 007 Reference ID:68-007-20190722

anticipate the delivery of 100 units in 2025/26 only, and so 100 units should be removed from supply.

54. *Land to the west of M5 and east of Trenchard Road, Weston-super-Mare (4/702)*. Outline consent for 75 dwellings was granted in 2020, containing a series of significant pre-commencement conditions. I understand that the site is on the market, and that a pre-application submission in advance of RM has recently been submitted. Nonetheless, there is no clear evidence of a realistic assessment or resolution of factors concerning delivery, notably around noise attenuation given the sites location adjacent to the M5, along with challenging ground conditions, or any suggestion of delivery timescales. Therefore 75 units should be removed from supply.
55. *Oxford Plasma Technology, North End Road, Yatton (4/524)*. The outline planning permission for this allocated site granted in 2017 has lapsed. The delays to the plans for the existing site occupier to move have been resolved, with new premises to be completed this year. Be that as it may, there is nothing before me to indicate intentions regarding a new application, nor its delivery. Therefore 55 units should be removed from supply.
56. *Land south of Station Road (A370) adjoining Station Close, Congresbury (4/690)*. This site is allocated for residential development by the Congresbury NP and has outline consent for 13 dwellings. A RM application must be submitted by July 2022. A revised outline application was recently submitted for 25 dwellings, though this was deemed invalid due to several deficiencies, including the requirement for a bat survey which has a seasonal parameter.<sup>6</sup> Other aspects of the information requirements may be matters of updating and easily resolvable. Given the modest size of this site and the fact that the landowner is a housebuilding company, there is evidence of progress towards achieving development on site. It is therefore appropriate to include 13 dwellings in supply figures.
57. *Land west of Wolvershill Road and north of Wolvershill Park, Banwell (4/703)*. Outline permission was granted in May 2021 and a RM application submitted in June 2021 for 54 dwellings. However, notwithstanding the resolution to grant planning permission prior to April 2021, the date of the outline permission was within the base date for the 5 year period. Therefore, 54 units should be deducted from the overall supply figure.
58. *Bleadon Quarry, Bleadon (4/586)*. This allocated site was granted outline approval for up to 42 dwellings in March 2021, though 48 dwellings are indicated in the trajectory. I understand that the quarry occupiers have ceased operations, vacated the site, and are in the process of selling it. However, there is no clear evidence before me of progress towards the submission of a RM application, or any suggestion of delivery intent within 5 years. Therefore, 48 units should be removed from supply.

#### *Weston Village Strategic Sites*

59. A substantial amount of the 5YHLS is anticipated to come from the Weston Villages, which were first allocated for around 6,500 dwellings by the CS in 2012. By spring 2021 1,616 dwellings had been completed, with a further 677 under construction, along with significant infrastructure provision. The Council

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<sup>6</sup> Inquiry Document 3.

identifies 3,438 dwellings as part of the 5YHLS, which is noted as a similar quantum to that supported by previous appeal Inspectors. However, I am aware that the CS Inspector noted the challenges associated with the scale of the Weston Villages sites and the potential for slippage. The disconnect between ambition and delivery is reflected in the predictions versus completions data provided by the appellant, particularly for 2017/18 onwards. Four elements of the Weston Villages provision are disputed.

60. *Weston Villages - Locking Parklands (4/558a-c)*. This site is controlled by Homes England and St Modwen and has full permission for 250 units and outline permission for 1,200 units. Of those with outline approval 309 dwellings now have RM approval, with RM applications for 124 units submitted and pending consideration, though these are agreed as part of deliverable supply. At April 2021, 467 dwellings had been completed, with the trajectory assuming that the remaining 92 units with RM would be completed in 2021/22
61. It remains that 765 dwellings do not have full planning permission. The dispute relates to 422 of these units. The Council assumes these to be part of 5YHLS based on the significant infrastructure already in place. The suggested annual build rate of 150 dpa for years 2-5 also relies on there being an additional provider building out alongside St Modwen. However, whilst there is a degree of momentum behind developing out this site with significant groundworks in place, there is nothing before me to support the delivery levels anticipated by the Council. On the other hand, the appellants figures appear unduly pessimistic, given the groundworks in place. Provision is made only for those units which currently have full planning permission, and no completions are anticipated for 2025/26. As such a figure between the two projections appears reasonable, suggesting a deduction of 211 units from supply.
62. *Weston Villages Land south of Churchland Way (4/558d) and Parklands, Mead Fields (4/558g)*. The appellant considers these sites together as Taylor Wimpey has combine them for operational construction purposes. The sites have outline consent for a combined total of 1400 dwellings, with RM approval for 674 dwellings. Of these 91 were completed at April 2021, with 583 remaining with full permission. They are being delivered by Taylor Wimpey, Bellway and Mead Realisations.
63. Sites with full planning permission should be considered deliverable unless there is clear evidence that homes will not be delivered within five years. The appellant has provided evidence from the developer, dated January 2022, relating to anticipated delivery rates on these sites, this refers to commercial matters, technical challenges and delays associated with development, with future phases being currently on hold whilst consideration is given to addressing these matters. The anticipated yield reflects these difficulties: Taylor Wimpey forecasts delivering 65 units in 2021, then 80dpa for the next 3 years, and 74dpa 2025/26; Bellway anticipates delivering 68 units in 2021/22 and 59 units in 2022/23; Mead Realisations do not anticipate units being delivered in the 5 year period. This information provides a more realistic and therefore accurate picture of deliverability than the generalised approach to forecasting build rates adopted by the Council. On this basis, 512 dwellings should be deducted from supply.
64. *Weston Villages - Parklands, south of Locking Head Drove (4/558e)*. This site has outline permission for 700 units with the first RM application for 425 units

submitted in April 2021 and awaiting determination. Whilst I understand that surcharging groundworks have commenced on site, it appears that there are some outstanding issues to be addressed. The developer for Phase 1 will be contractually bound to deliver a minimum of 86dpa and to use modern methods of construction to accelerate delivery. Be that as it may, the Council's prediction of a delivery rate over the minimum is unrealistic. I prefer the appellants trajectory, though moderated to reflect the minimum delivery figure. This reduces supply by 127 units.<sup>7</sup>

65. *Weston Villages - Winterstoke, Haywood Village (4/568)*. This site has outline approval for 2,550 dwellings, with RM approvals gained for 1,627 dwellings. Of those with detailed consent, 631 had not been completed at April 2021. The Council anticipates the 147 units observed as being under construction at April 2021 being completed by March 2022, with the remaining 184 from that phase being completed by 2022/23. Thereafter, a rate of 250dpa is assumed, based on the completion of 242 dwellings in 2016/17, the popularity of the development and the significant infrastructure that has been delivered.
66. Dwellings with detailed permission should be considered deliverable. However, the recent evidence from the appellant indicates that past delivery rates at this site have been variable. More significantly, whilst there has been consistent steady demand for houses at this development, changing market conditions in Weston-Super-Mare mean that, along with factors such as shortages of labour and building materials, build rates at historically high levels are unsustainable. This evidence is compelling in that it appears to reflect the situation in the development industry more generally. Therefore, I prefer the appellant's figures, which are based on the developer's anticipated completions, and result in a reduction of 710 units from supply.

#### *Site allocations*

67. *Millcross site, Clevedon (4/605)*. The developers have secured Homes England funding to deliver 100% affordable homes. It appears that this will provide 60 homes rather than 67. In December 2021 the developer indicated that they were working through some technical viability issues, but that a design team would be appointed in Quarter 4 2021/22, with a planning application in Summer 2022, start on site in Spring 2023 and an 18 month build programme.
68. It is not clear what the technical viability issues relate to. Whilst it is possible that they will be addressed within the Homes England contract, as there is no clarity on this the implications for deliverability are uncertain. Nonetheless, grant funding is in place and even with a 12 month delay on timings this site could provide these dwellings within 5 years. Therefore, my view is that it is deliverable, albeit with a deduction of 7 units from the Councils trajectory.
69. *Land north of Churchill Avenue, Clevedon (4/637)*. This site is owned by the Council and allocated for 44 dwellings. It is one of several sites in the Council's short term development programme, endorsed by Executive Committee. In June 2021 a press article noted that early discussions had been held with affordable housing providers. Whilst consultation on proposals is expected in March/April 2022, there is no evidence before me of this happening, nor has a planning application been submitted. The SAP schedule indicates that technical work will be required, including a flood risk assessment and sequential and

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<sup>7</sup> That is 86 dpa in 2023/24, 2024/25 and 2025/26.

exception test analysis. As there is insufficient evidence of the deliverability of this site, 44 units should be removed from supply.

70. *Weston College site, Somerset Square, Nailsea (4/668)*. This site relates to a redundant town centre college building. An outline application for 28 units submitted in 2015 remains undetermined. Whilst ownership issues were holding up progress, a press article from January 2021 confirms that a developer was in early discussions with local interests about the site, possibly including the relocation of the library. The article suggested that building work could start in early 2022, though this timescale was clearly ambitious given the challenges of developing this town centre site. Whilst land assembly plans may have been discarded, there is no evidence before me of progress towards a planning application, therefore 28 units should be removed from supply.
71. *Land south of Downside, Portishead (4/644)*. This site is allocated for 23 dwellings and is also in the Council's short term development programme, with consultation on site proposals expected in March/April 2022. However, there is no evidence of developer involvement or of progress towards a planning application before me. Therefore 23 units should be removed from supply.
72. *Station Gateway, Weston-super-Mare (4/645)*. This relates to two town centre sites allocated for 300 dwellings, with 200 included in the Council's 5YHLS. The Council is in the process of acquiring these sites in order to accelerate delivery, expected to be completed by the end of March 2022. A Commissioning Plan for the procurement of a development partner was agreed by Full Council in February 2022. This included agreement of provisional milestones, leading to the award of a contract to a development partner in December 2022, planning and mobilisation during 2023/24 and a start on site by 31 March 2024.
73. The development of these town centre sites will be practically and financially challenging. Not only are there constraints, such as poor ground conditions and the need to address flood risks that will impact on deliverability, but market conditions will also impact on viability. The Report to Council recognises this and sets out the financial and practical measures to support the development of these flagship regeneration locations. This includes the suggested use of Modern Methods of Construction, which can reduce surcharging and piling requirements and also secure faster build rates. The fact that significant levels of subsidy will be required to support affordable housing is also addressed. If I were to accept that the provisional date for a start on site could be delayed by up to a year, my view is that it is reasonable to accept that dwellings are deliverable for the final year of the 5 year period. As a result, 100 units should be removed from supply.
74. *Mead Vale Shopping Centre, Nightingale Close, Weston-super-Mare (4/602)*. An outline application for 34 dwellings was submitted in October 2020, though I understand that this was reduced to 29 units. Reports produced both by the applicant and the Council identify viability issues associated with the high existing use value of the site, such that at best the proposed scheme is only marginally viable without an affordable housing contribution. At this time there is no evidence of further progress with the outline application and, given the market challenges identified, my view is that this scheme cannot be considered deliverable, and so 34 units should be removed from supply.
75. *Former Bournville School site, Selworthy Road, Weston-super-Mare (4/647)*. Email correspondence sets out that the developer anticipates a planning

application being submitted in Summer 2022 and development on site starting 9 months later. The Inquiry was informed that a pre-application submission was made in February 2022. I understand that this includes plans, an ecological appraisal, a bat survey report, a flood risk assessment and drainage strategy. Also, the intention is to use modular construction, meaning that the scheme could be delivered faster than traditional build methods. On the basis of this information, I am satisfied that firm progress with site assessment work and towards the submission of an application have been made. These units can therefore be considered as part of supply.

76. *Former Sweat FA site, Winterstoke Road, Weston-super-Mare (4/648)*. Marketing information dated September 2020 indicates that there has been positive feedback from pre-application discussions relating to this site. Whilst it is suggested that a planning application is expected imminently, there is no evidence to support this assumption. 37 units should be removed from supply.
77. *Walliscote Place (Police Station/Magistrates Court), Weston-super-Mare (4/611)*. This site is also included in the Commissioning Plan for the procurement of a development partner agreed by Full Council. Funding towards the specific challenges relating to the removal of an underground fuel tank and the need for enabling works is in place. This funding must be used to ensure the release of land for housing by 31st March 2024. I also understand that consultants are currently carrying out surveys and preparing a programme to enable these works to be completed by the end of this year. There is some uncertainty about whether the Magistrates Court, a listed building, will be included in the procurement process.
78. As with site 4/645, the Council anticipates that the site will be marketed and a development partner procured during 2022, a planning application submitted in 2023, with a start on site by 31 March 2024. Completions of all 70 apartments is forecasted for 2025/26, the final monitoring year. The challenges associated with sites 4/645 also apply to this site, though in this case the requirement to secure the release of land for housing by the end of March 2024 provides an additional pressure to deliver. My view is that it is reasonable to anticipate that these units will be delivered within two years of the start on site, and that 70 units should remain in supply.
79. *Dolphin Square, Weston-super-Mare (4/650)*. This site is also included in the Commissioning Plan for the procurement of a development partner agreed by Full Council. Phases 1-3 of the redevelopment of this area have been completed with a hotel, car park, cinema, restaurants and leisure uses in place. Phase 4 includes the residential allocation for 220 homes.
80. Planning permission for a temporary cycle hub on a small area of the site is in place until June 2025. The Officer Report relating to that application refers to the fact that the redevelopment of the whole site has been put on hold. However, I consider the more recent report to Full Council to be a more accurate indicator of the Council's intention to accelerate delivery on this site. The practical and financial challenges associated with the other two sites (4/645 and 4/611) apply, as do the measures to address them. Noting that the provisional timetable for procurement may be ambitious, and the uncertainty around the cycle hub area, my view is that the suggestion that 33 units could be delivered in 2023/24 is unrealistic. Nonetheless, the evidence of the commitment to progress development here is such that it is reasonable to

believe that 33 units will be delivered in the final year of the monitoring period, resulting in a deduction of 100 units from supply.

81. *Land to the east and west of Wemberham Lane, Yatton (4/342)*. A planning application was refused in 2004. Whilst the Council refers to a pre-application submission in 2021, there is no information about what this comprised. As there is no recent evidence of progress towards a planning application, 24 units should be removed from supply.
82. *Pudding Pie Lane West, Churchill (4/651)*. Outline permission was granted in 2018, requiring an RM application by January 2021. No such application was made, though I understand that a new scheme is currently the subject of pre-application discussions, and that it is anticipated that a full application will be submitted. However, this falls short of providing clear evidence of completions within 5 years, so 35 units should be removed from supply.

#### *Small sites with consent*

83. The Council's housing trajectory includes a stock of small sites which had planning permission at the base date. This contributes 541 units to supply. The appellant's review sets out that this includes 20 permissions that had lapsed by 1<sup>st</sup> April 2021, and a further site that was approved after 1<sup>st</sup> April 2021. This review considered whether any Covid-related extensions to permissions apply to the former group. Whilst it may be that in some cases there had been a technical start on site, this does not appear to be the case from the evidence before me. I therefore agree that these lapsed approvals should be removed from supply, as should the permission that was received beyond the base date. This results in the removal of 48 units from supply.

#### *Windfall allowance*

84. The Framework paragraph 71 permits the inclusion of windfall sites as part of anticipated supply where there is compelling evidence that they will provide a reliable source. The Council's evidence sets out that there has been reasonably consistent annual delivery from such sites. The parties agree on the general approach to deriving a windfall figure focusing on delivery from small sites only. No allowance is made for windfall delivery within the first 3 years of the period to avoid double counting with the allocation for small sites with consent.
85. However, the parties disagree on the appropriate timeframe for review. The Council looks at the past 15 years of the plan period, giving an average delivery of 176dpa. This includes the period prior to Framework guidance setting out the need to consider the case for policies to resist inappropriate development on residential gardens. The appellant prefers the 10-year trend which excludes some of the highest annual figures, achieved between 2006-9, and reflects the period since the introduction of the Framework. I agree that the 10 year average of 162 dpa provides a more representative and therefore robust basis for assessing an appropriate allowance.
86. The appellant also suggests that the Council should apply a lapse rate of 17%, suggesting that they have done so previously. However, I understand that this was made previously in accordance with the pre-2018 Framework specification that windfall allowances should not include development on residential gardens. Paragraph 71 no longer explicitly states that such development should be excluded from windfall calculations, rather it defers this matter to plan-making.

SAP Policy DM37 makes provision for such development. It is also suggested that a lower 9 or 10% lapse figure would reflect the rate associated with small sites with consent, a figure previously accepted by the Council.

87. The fact that the Council has sought to apply an allowance to the final two years of the assessment period only represents a reasonably cautious approach, noting that for the past 5 years windfall delivery has been above the 10 year average. Therefore, I do not consider it necessary to apply a lapse rate. As the allowance should be for 324 dwellings, 28 units should be removed from supply.

*Conclusion on housing land supply*

88. The Council has worked hard to address supply figures in recent years: there is evidence of slow but steady progress on challenging brownfield sites within the Weston Urban Area and the Weston Villages, and efforts have been made to increase supply figures by granting more permissions. The Council have also delivered improvements against the Housing Delivery Test (HDT), with 53% delivery against the requirement for 2010/11-2012/13, compared with 89% for 2018/19-2020/21. This indicates a positive direction of travel, with the provision of a 20% buffer no longer necessary.
89. However, the housing requirement reflects real and significant need. The emphasis in policy and guidance is on achieving results on the ground. Assessments of future supply must be rigorous and supported by clear evidence. My assessment of housing land supply for the period April 2021-March 2026 has been on this basis, informed by the tests identified earlier. I recognise that the Council has already made a number of concessions to supply on the basis of recent evidence. However, the lack of evidence of the deliverability of many sites has resulted in the need to make significant modifications to deliverable supply figures. My findings are summarised in the table below, indicating that the Council has a 3.5 year supply of housing land.

	Council	Appellant	Inspector
Five year requirement including 5% buffer	7308	7308	7308
Large sites with detailed planning permission	1817	1799	1799
Large sites with outline permission	561	116	229
Weston Villages	3386	1625	1826
Site Allocations	942	202	510
Small sites with consent	541	491	493
Windfall allowance	352	268	324
Total Supply	7599	4501	5181
Shortfall	291	-2807	-2127
<b>Years Supply</b>	<b>5.2</b>	<b>3.1</b>	<b>3.5</b>

90. I therefore conclude that there is a very significant shortfall in housing land supply the implications of which are considered further below.

## **Other material considerations**

### *Development plan policies*

91. The Framework paragraph 11d), and footnote 8, establish that in situations where the LPA cannot demonstrate a 5 year supply of deliverable housing sites, the policies which are most important for determining the application are out of date. This engages the so-called 'tilted balance' in decision-making.
92. Whilst the most important policies for determining the application must be considered out of date, the Framework paragraph 219 sets out that due weight can be given to such policies according to their degree of consistency with policies in the Framework. The Framework does not prescribe the weight to be given to conflict with development plan policies, which must be based on consideration of the purpose of the policy and the circumstances of the case.
93. I consider firstly the provisions of CS Policy CS32 relating to development in service villages, and NP Policy: Development 1 specifying the nature of development in Backwell. The context for these Policies is provided by CS Policy CS13, identifying the housing requirement figure, and CS Policy CS14, setting out the distribution hierarchy.
94. These policies are closely connected, with the distribution numbers in Policy CS14 being framed around the total requirement figure. The requirement figure is set as a minimum, allowing for a higher level of delivery. However, at the time of adoption the examining Inspector noted that this figure was not based on a full objective assessment of need, though reasoned that with a commitment to review by 2018 embedded into the Policy this could be overcome. At the time this review was envisaged as taking place as part of a wider housing market area assessment, from which the Council subsequently withdrew. To date this review has not happened.
95. I am aware that the CS13 housing figure requirement has been treated as a minimum, with the SAP identifying around an additional 800 dwellings, based broadly on the spatial hierarchy identified in the CS. Also, the SM is used to calculate local housing need where adopted policies are dated. Nonetheless, the requirement figure in CS13 is the building block on which the spatial strategy for delivering housing supply has been based, with clear implications for the level of growth envisaged.
96. As the housing requirement figure in Policy CS13 is out of date consideration must be given to whether the spatial strategy, and its supporting policies, including CS Policies CS14, CS31 and CS32, are soundly based. Policy CS14 does not impose a cap on the number of dwellings that can be provided at each level of the settlement hierarchy. Nonetheless the approach to development within the hierarchy has been to set scale thresholds to ensure that development is appropriate to the size and character of the settlement. In this regard Policies CS31 and CS32 provide an allowance for development outside the settlement boundaries of towns and villages. However, the fact that anything above 50 and 25 dwellings respectively must be brought forward through Local or Neighbourhood Plans has constrained the degree to which delivery can be brought forward outside the site allocations process. Therefore, whilst the provision of housing against need has improved, the fact remains that with these policies in place supply has remained well below need.

97. These provisions generally reflect the Framework approach to how sustainable growth it to be achieved by requiring that development be well located in relation to facilities and services. Nonetheless, the evidence before me raises considerable doubts as to whether this strategy can be relied on to support the Government's objective to significantly boost the supply of housing. Specifically, the strict application of Policies CS14 and CS32 is restricting development to the extent that the Council is unable to meet the requirement to provide a 5YHLS. Further, whilst of very limited weight as part of this decision, the fact that the eLP sets out a different spatial strategy, including the suggestion that Backwell could accommodate significant allocations, supports the view that the current strategy cannot accommodate the level of growth required. Therefore, the weight placed on conflict with CS Policy CS32 must be reduced.
98. The other policies relied on relate to the protection and enhancement of the landscape and of the character and appearance of settlements, and include CS Policy CS5, DMPP Policies DM10 and DM32, and SAP Policy SA5. These policies are fully consistent with the Framework and therefore there should be no reduction in the weight to be applied to the conflict with their provisions.

*Other appeal decisions*

99. I have already referred to the previous appeal decisions relating to Farleigh Fields and made distinctions in terms of the areas they relate to and the extent of their impacts. More broadly, whilst the policy regimes in place at the time of the earlier decisions differ from present, the context for the 2018 decision was substantially the same, including the application of the tilted balance. However, at the time the 2018 appeal was considered, the CS provisions had recently been adopted and the provisions of the NP carried full weight in accordance with the Written Ministerial Statement. Therefore, these material differences do not suggest that these decisions must be consistent.
100. More generally, the Council's suggests that where proposals are found to conflict with the settlement strategy in a sensitive countryside location, the tilted balance has rarely been sufficient to tip the balance in favour of development. However, of those referred to specifically by the Council, it appears that other issues were also in play, including harm to AONB,<sup>8</sup> significant intrusion into open countryside and negative impacts on views of the wider landscape,<sup>9</sup> and conflict with strategic gap policy.<sup>10</sup> Therefore, distinctions can be drawn between the current appeal and the main considerations before the Inspectors in these cases.
101. There are some notable differences between the specific circumstances of the Land at Moor Road, Yatton decision<sup>11</sup> and the present case, particularly as that case relates to an allocated site. There are greater similarities between the circumstances of the Rectory Farm, Yatton decision<sup>12</sup> and my own. These Inspectors also dealt with HLS evidence, and in overall terms reached similar conclusions to my own in relation to the lack of 5HYLS. There are some minor

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<sup>8</sup> CDJ15 Land at Bleadon Hill, Weston-Super-Mare (3142927), CDJ16 Land at Bleadon, North Somerset (3211789), CDJ18 Former Weston Trade Centre, Banwell (3206914).

<sup>9</sup> CDJ21 Lostwood, Bypass, Langford (3207635), CDJ23 Land east of Brinsea Road, Congresbury (3176151).

<sup>10</sup> CDJ22 Elm Grove Nursery, Locking (3229938), CDJ24 Weston Business Park, Laney's Drove decision (3184845).

<sup>11</sup> APP/D0121/W/21/3285343

<sup>12</sup> APP/D0121/W/21/3286677

differences in conclusions on specific sites, though this may be explained by differences in the specific evidence before those Inspectors.

*Affordable Housing*

102. The appeal proposals would provide 30% affordable housing, that is up to 38 dwellings, thereby complying with the requirement set out in CS Policy CS16.
103. The North Somerset Strategic Housing Market Assessment (SHMA) 2009 identified a significant shortfall of affordable housing in relation to needs, with the suggestion that 904 affordable dpa would be required between 2009 and 2021. Whilst this formed part of the evidence base for the target figure of at least 150 dpa set out in the CS, it is not clear how this figure was derived. The SHMA is now dated, though other evidence supports the view that current need is likely to be greater than 150dpa. For example, the West of England Local Housing Needs Assessment (LHNA) 2021 identifies a net need for 320 affordable dpa in North Somerset over the period 2023-38, though this has not yet been tested at examination.
104. Over the past 15 years the average delivery has been 128 affordable dpa. Whilst the Council's track record of delivery of affordable housing has been at a reasonably steady level, and has met around 85% of the target figure, it has nonetheless fallen significantly short of meeting affordable housing needs. Precise levels of affordable housing need in Backwell are not known. Of the 2,802 households on the North Somerset HomeChoice Register at February 2022, 941 expressed an interest in Backwell parish. Whilst only 14 households already living in the Parish sought accommodation, this does not factor in those not living in Backwell but having a local connection. As these figures for North Somerset and Backwell have increased by 22% and 26% respectively since March 2021, this is a worsening picture. The real-life implications of this situation for those in need is reflected in the fact that average waiting times for affordable housing in North Somerset range between 588-928 days. It is also relevant to note that the stock of affordable housing in Backwell is limited, noted in the NP as 94 plus 23 sheltered accommodation units, though 20 more affordable dwellings have recently been added.
105. An assessment of deliverable housing supply suggests that the Council could deliver around 171 dpa over the 5 years 2021-26. Whilst this would be an improvement, it would fall short of the need identified by the LHNA, a matter to be considered in due course as part of the eLP. In the meantime, trends in affordability indicators highlight the increasing problem for those in need, with market signals indicating worsening affordability trends, particularly in terms of house prices and rent levels. The social responsibility of providing for every household within this group is without doubt, recognising also that their interests often go under-represented at Inquiries such as this. Bearing in mind the importance that the Framework attaches to meeting the needs of groups with specific housing requirements, the provision of 30% affordable homes, is a benefit attracting significant weight in my decision.

*Self-build and custom-build housing (SBCB)*

106. With demand rising over the past decade, the Government has sought to boost the supply of SBCB housing. Local authorities now have a legal duty to establish and publicise a local register of custom-housebuilders who wish to acquire suitable land on which to build their own homes, and also to grant

suitable development permissions in respect of enough serviced plots of land to meet the demand for SBCB. In this regard DMPP Policy DM34 refers to the requirement to include a range of building types and tenures on strategic sites (100+ houses). Whilst it also refers to facilitating/supporting proposals which include small-scale local builders, individually designed homes and self-build and custom build schemes where there is evidence of demand, a target level of provision is not identified.

107. It is perhaps not surprising therefore that since the introduction of the Self-Build Register the Council has struggled to meet demand levels. Whilst 114 plots have been consented in the past 6 years, there is currently a cumulative shortfall of 147 consented plots which are necessary to meet the statutory duty. The Council will clearly fail to achieve this by a significant margin. The evidence before the Inquiry suggests that future supply is also very uncertain. Whilst the appeal proposal would make a modest contribution of 5% SBCB, that is up to 6 plots, this would assist with meeting unmet need, with the attendant social benefits. This would be a benefit of at least moderate weight.

#### *Agricultural Land*

110. The appeal site contains 90% Grade 3a 'good quality' agricultural land, regarded as Best and Most Versatile Agricultural Land (BMVL), with 10% Grade 3b 'moderate quality' agricultural land. The Framework requires recognition of the economic and other benefits of BMVL. Whilst not a reason for refusing the scheme, the permanent loss of this area must weigh modestly against the proposal.

#### *Gift of LGS*

108. The appellant has offered to transfer the freehold title of the LGS to Backwell Parish Council (BPC), secured via Unilateral Undertaking (UU), along with a sum of £30,000 to support the management and maintenance operations associated with this area. There is evidence that the existing tenant farmer wishes to continue to rent the land. Should BPC choose not to accept the transfer, then the owner is required to continue to maintain or procure the maintenance of the LGS.

109. As things stand the public do appear to use the land freely, though conditions underfoot in many areas are poor. The offer of freehold interest would give BPC greater control over the use and condition of this area, including making improvements to public access and the possibility of an extension to the churchyard. My view is that this would be a benefit weighing moderately in favour of the appeal proposals.

#### *Heritage Assets*

110. The appeal development would be within the wider setting of the Grade I Church and the Backwell Church Conservation Area. The significance of both designated heritage assets relates in part to the adjacent pastoral landscape. The lower level of much of the appeal site relative to the Church, along with the swath of open space proposed on the higher site levels, would mean that the open setting of the area relative to these assets would be largely maintained. Any limited views of the development from the Church tower would not cause harm to the significance of the Church's setting overall.

### *Appropriate Assessment*

111. The appeal site is located around 2.4km away from the North Somerset and Mendip Bats Special Area of Conservation (NSMB SAC). It is also within 10km of the Severn Estuary SAC, Special Protection Area (SPA) and Ramsar site, and the Avon Gorge Woodlands SAC. These European sites are afforded protection under the Conservation of Habitats and Species Regulations 2017 (the Habitat Regulations). The Habitat Regulations require that the competent authority may agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the European site. This requires consideration of whether the proposal would have an effect on the qualifying features of the site, either alone or in combination with other plans and projects. Where the potential for likely significant effects cannot be excluded, an appropriate assessment of whether the plan would affect the integrity of a European site must be undertaken.
112. The appellant's Shadow Habitat Regulations Assessment (HRA)<sup>13</sup> considers the potential for the proposed development to lead to significant effects (LSE) on the European sites mentioned above. It concludes that LSE can be excluded for the Severn Estuary SAC and SPA and the Avon Gorge Woodland SAC on the grounds of distance and the lack of an identified pathway that would lead to effects on these sites.
113. Natural England (NE)<sup>14</sup> agrees with the appellant's conclusions in relation to the Avon Gorge Woodland SAC and the Severn Estuary SPA and SAC. It pointed out that the appellant's HRA had failed to consider the effects on the Severn Estuary Ramsar which shares the boundaries of the SPA and could be affected through similar ecological pathways. However, NE concluded that the conclusion of no LSE also applied to the Ramsar site.
114. The appellant's HRA identifies the qualifying features of the NSMB as:
- semi-natural dry grassland and scrubland facies on calcareous substrates;
  - Tilio-Acerion forests of slopes, screes and ravines; and
  - nationally important populations of greater horseshoe bats (*Rhinolopus ferrumequinum*) and lesser horseshoe bats (*R. hipposideros*).
115. The proposal would not directly result in the loss of habitats within the designated sites. However, the HRA notes that component sites of the SAC are located within 5km of the appeal site. These sites are Brockley Hall Stables Site of Special Scientific Interest (SSSI) and King's Wood and Urchin Wood SSSI. Brockley Hall Stables is an important maternity site for greater horseshoe bats. King's Wood is an area of ancient woodland which supports populations of greater horseshoe bats at both hibernation and maternity sites. Other components of the SAC are located within 10km of the appeal site. The appeal site is therefore located within 'Band B' of the Greater Horseshoe Bat Consultation Zone for the SAC, as identified in the NSMB SAC Guidance on Development: Supplementary Planning Document (SPD) produced by the Council. This recognises of the potential value of the habitats in the area around the SAC component sites for Greater and Lesser Horseshoe Bats.

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<sup>13</sup> ID 41 & 45

<sup>14</sup> ID 44

116. The ecological survey information provided in the HRA indicates that the site is of significant value to foraging and commuting Greater Horseshoe Bats and Lesser Horseshoe Bats, particularly the hedgerow to the south of the appeal site. In the absence of mitigation, the development would reduce the availability of foraging and commuting habitat for a range of bat species including Greater and Lesser Horseshoe Bats. The proposals would also result in the removal of around 2.88ha of improved pasture grassland within the site, further reducing foraging habitat for Greater Horseshoe Bats. Further, most bat species are known to actively avoid areas of light spill from roads and housing with further impacts in terms of the connectivity across the site's hedgerows and to the wider area.
117. NE queried the adequacy of the appellant's bat surveys as they took place from May to October rather than from April to October as NE advise. However, it is clear from the ecological survey information that the appeal site is of significant importance to foraging and commuting bats. As the risk or possibility of significant effects in terms of bat foraging and commuting cannot be ruled out, I am therefore required to undertake an appropriate assessment.
118. The purpose of an appropriate assessment is to consider the implications for the conservation objectives of a European site and if adverse effects on the integrity of the European site would arise.
119. The measures proposed to reduce the effects of development on foraging and commuting bats include the retention and reinforcement of boundary hedges, particularly that to the south, and the use of 10m ecology buffers to retain connectivity. Specifically, around 1,470m of new native hedgerows/treelines are proposed across the boundary to enhance foraging and commuting opportunities. Replacement grassland habitat for foraging has been calculated using the guidance in the Council's SPD, indicating that 2.49ha of equivalent replacement habitat would be required to achieve no net loss of suitable Greater Horseshoe Bat habitat.
120. The appellant identifies that 2.70ha of replacement habitat would be provided within the ownership boundary, suggesting a slight net gain in Horseshoe habitat. 0.8ha of this provision would relate to an existing arable field, identified as a 'wildlife area' within the appellant's ecology strategy, with the suggestion that this could be planted with species rich meadow grassland. NE expressed concern that this would replace cattle grazed pasture, important foraging habitat for horseshoe bats. However, the S106 Agreement secures the future management of this area and requires the details for the 'Ecological Enhancement Works' across the Local Green Space and wildlife area to be submitted to the Council for approval. There is nothing to prevent the continued use of this area as pasture, and so NE has acknowledged that their concerns in this regard could be accommodated.
121. Should the appeal be successful, a detailed lighting strategy would be required by condition. This would assess the impact of increased artificial light upon bat populations and ensure that important foraging and commuting routes and mitigation habitats remain unlit. Whilst NE initially raised concerns about the fact that light level modelling has not been provided, my view is that the amount of information provided is appropriate for this outline stage, prior to a fixed detailed design being agreed. Further, the suggested lighting strategy condition could be strengthened with a requirement for confirmation of the

points at which light measurements would be taken. A further condition could be applied seeking to manage light spill from the new dwellings into sensitive areas. These measures would preclude harm relating to light spill.

122. In addition to these specific measures, if the application were to proceed then further mitigation would be secured by condition. Firstly, a Construction Environmental Management Plan (CEMP) would set out how the retained/newly created habitats and important features for bats would be protected during the construction phase. This would include details of when habitats and features would be created on site, with the early establishment of new habitats an important objective. A Landscape and Ecological Management Plan (LEMP) would also be prepared to specify how the newly created and retained habitats would be managed during the operational phase to ensure the long-term viability of identified commuting routes and foraging habitats.
123. I note the concerns expressed by NE about the assessment of in-combination effects on the SAC. In relation to provision of replacement foraging habitat, the appellant has followed the guidance in the SPD to calculate the appropriate quantity of replacement habitat. I am satisfied that this deals with any in-combination effects from loss of foraging habitat. The applicant has presented an assessment of effects in relation to in-combination effects on fragmentation. This demonstrates how the proposed mitigation would deal with any contribution from the proposed development to cumulative fragmentation effects.
124. Overall, having considered the suggested mitigation measures and the comments of NE, I am satisfied that these measures could be secured and that they would be effective in addressing the level of harm likely to be caused by the development. Further, this view is not altered by consideration of the cumulative/in-combination effects of the appeal scheme with other developments that have the potential to cause fragmentation effects. On this basis I conclude that the proposal would be unlikely to undermine the delivery of the conservation objectives for the SAC and so there would be no adverse effects on the integrity of a European site, either alone or in combination with other plans or projects.

### **Other Matters**

125. Prior to the Inquiry opening the Lead Local Flood Risk Authority (LLFA) indicated that sufficient evidence had been provided to demonstrate that surface water discharge could be managed without increased risk of surface water flooding or increased pollution, and with acceptable discharge to local receptors. In addition, the proposed surface water drainage basin would meet safety standards. Nonetheless, I acknowledge the continuing concerns of local people about the potential impact of the development on flooding and drainage, specifically that the development would exacerbate flooding issues locally, and concerns about the proximity of the attenuation basin to their properties and the robustness of mitigation measures.
126. Flooding events from extreme surface water flows has been recorded at properties to the south of the site and on the A370. The current proposals are based on an understanding of these issues. Specifically, the Flood Risk Assessment and Drainage Strategy addresses the collection and disposal of surface water due to rainfall runoff to avoid flooding on-site, and also so that there would be no increased risk of flooding from downstream discharges from

the site. It also addresses the need to control offsite excess surface water runoff or overflow discharges from drainage systems to ensure that existing flood escape routes are maintained or improved.

127. This Strategy, along with additional information supplied by the appellant, demonstrates that the development could be accommodated without increasing flood risk to surrounding properties. I appreciate that, given past issues, local people may have reservations about the effectiveness of such a Strategy, but that does not mean that a suitable scheme cannot be achieved. Indeed, appropriate drainage provision that controls surface water run-off more effectively could assist in improving the current situation. As the scheme is in outline much of the detail is yet to be designed, including the measures required to protect off-site trees close to boundaries. Overall, there is no reason for me to disagree with the conclusions of the LLFA that a suitable scheme could be achieved and secured via planning condition.
128. I have carefully considered the concerns raised about the effect of the development on local highways. This topic is addressed extensively in the Transport Assessment and Residential Travel Plan. Existing traffic flows on the A370 have been established using the survey point at Flax Bourton, with the assessment of likely growth based on historically higher traffic flows than present, and existing movement patterns in Backwell. Capacity analysis of the local area, including Backwell crossroads, indicates that, taking into account committed development, the appeal scheme could be accommodated with negligible further impact on the forecast assessment. Further, mitigation measures, including encouraging the use of locally available sustainable transport modes, would be incorporated into the development.
129. In terms of highway safety matters, the only reliable source of data is personal injury records. Records up to 31 December 2019 indicate a number of collisions along the stretch of the A370 adjacent to Farleigh Fields, though no more than would be expected given traffic volumes on this route. The proposed site access would include additional pedestrian crossing points and a readily identifiable right-turning lane into the site. It is also proposed to extend the 30mph speed limit along the A370 to the east of the site access. Overall, this evidence demonstrates that the proposal could be accommodated without causing unacceptable impacts on highway capacity or safety.
130. Concerns have also been raised about the effects of the development on wildlife. The Ecological Impact Assessment indicates that the effects of the development on existing habitats have been carefully considered. The suggested mitigation measures including the retention and enhancement of hedgerow, the proposed 'ecology buffer', the creation of a 'wildlife area' and the management of the southern grassland area. This would support an overall increase in biodiversity due to the higher quality of habitats provided.
131. Concerns that local facilities and services would be unable to accommodate future residents are noted. The development would be subject to Community Infrastructure Levy (CIL) contributions which would be spent largely on infrastructure to support development, which can include education and health services. Overall, there is no specific evidence before me of any services or facilities that would exceed their capacity as a result of this development.

## Planning Obligations

132. The S106 Agreement would provide obligations relating to the provision of: not less than 30% affordable housing and 5% SBCB plots; public open space, including 1.92ha open space land, 0.91ha ecological buffer and the provision of a local equipped area for play; ecological enhancements within the area designated as LGS and an adjacent wildlife area; financial contributions, including £100,000 towards bus stop improvements, a sustainable travel contribution of £120 per dwelling, a PROW improvement contribution of £5,700, a Traffic Regulation Order contribution of £3,100 and a contribution towards four fire hydrants; and, a car club scheme, including the provision of parking places, memberships and an electric vehicle.
133. These obligations accord with the development plan and would be required to mitigate the effects of the development. They would therefore be necessary to make the development acceptable in planning terms. I also agree that they would be directly related to the development, and fairly and reasonably related to it in scale and kind. Accordingly, they would meet the tests set out in paragraph 57 of the Framework and in Regulation 122 of the CIL Regulations.

## Conditions

134. The parties agreed a list of conditions considered necessary if planning permission is granted, albeit with some disagreement on the wording of 3 conditions, which is considered below. The other conditions are set out in the attached Schedule without significant alteration, excepting the amendment of Condition 12 relating to the lighting strategy, and the addition of Condition 27 seeking to manage light spill, both of which are referred to above. Other conditions are amended to improve their precision and otherwise to ensure compliance with the appropriate tests.
135. Condition 4 refers to the maximum number of dwellings which could be accommodated on the appeal site. Whilst the Council suggests that this be restricted to 115, as I have identified scope for dwellings of various sizes within the framework of built form suggested by the illustrative masterplan, I see no reason to restrict the permission in this way. For this reason, I prefer the appellant's wording of Condition 7 in relation to the requirement for the RM application to be broadly in accordance with the DCS. Condition 6 indicates the plans which would form the basis of the RM application, including the Height and Scale Principles plan. My earlier analysis of the proposal indicates that, due to site sensitivities, it would be appropriate to restrict the development to a maximum of two storeys. For this reason, I also consider it necessary to apply Condition 8. These conditions are required to provide certainty and in the interests of the character and appearance of the area.
136. Turning to the other conditions, it is necessary to specify the RM to be submitted for approval, the time limits for their submission and the subsequent implementation of the permission in accordance with the requirements of the Act (1,2,3). Conditions specifying approved plans, including the access and visibility arrangements, and the requirement for a phasing plan, are necessary in the interests of good planning and highway safety (5,6,9,10). Additional details relating to lighting, pedestrian crossing facilities and traffic calming measures are also required in the interests of highway safety (11), as is the provision of parking spaces prior to the occupation of dwellings (28).

137. A condition relating to a site wide lighting strategy is necessary to comply with the Habitat Regulations and to protect local wildlife (12). Similarly, as identified above, a CEMP and a LEMP are required to protect and retain wildlife and habitats, and to safeguard green infrastructure (14,15). Landscaping works should be carried out between March and October to encourage establishment (37). A bird nesting and bat roosting strategy, and details of the ecology buffer and other off-site enhancement works are necessary to enhance biodiversity (16,30). It is necessary to require that ecological and protected species survey work be updated after 3 years to ensure the effective management of habitats and species (17).
138. Conditions requiring the protection of trees and hedgerows, and the replacement of planted or retained trees and shrubs if they are removed or die within 10 years, are necessary in the interests of protecting local character and supporting biodiversity (20,29,38).
139. A condition requiring a Construction Management Plan is necessary in the interests of the living conditions of the occupiers of neighbouring properties and highways safety (13). A condition requiring a detailed topographical survey is necessary to manage the height of development, in the interests of the character and appearance of the area (18). Sample panels of external materials are also necessary in the interests of the character and appearance of the area (25). A condition requiring a programme of archaeological works is necessary to preserve any archaeological heritage (19).
140. Conditions relating to the implementation of surface water drainage measures and off-site drainage works are necessary to reduce the risk of flooding and to ensure that the maintenance of the sustainable drainage system is secured for the lifetime of the development (21,22,23). A scheme for the disposal of foul water is necessary to prevent pollution of the water environment (24).
141. Conditions requiring all dwellings to comply with, as a minimum, the equivalent of the requirements of Code Level 4 of the Code for Sustainable Homes, and to generate 15% of their on-going energy requirements, are necessary in the interests of good design, sustainable construction and to minimise carbon emissions (31,32). As a starting point all dwellings must be built in accordance with the Nationally Described Space Standards to provide an appropriate standard of accommodation (33). It is also necessary to require that a minimum of 17% of homes comply with Building Regulation requirements relating to accessible and adaptable dwellings to support the accommodation needs of different sections of the community (34).
142. Conditions relating to the implementation of the Residential Travel Plan and the appointment of a travel plan coordinator, and a requirement that passive provision allowing for electric vehicle charging be designed and incorporated into the scheme, are both required to support the use of sustainable travel options (26,35). Finally, a condition requiring that facilities for the storage and collection of waste be provided prior to the occupation of dwellings is necessary in the interests of sustainable waste management and to protect local amenity and the environment (36).

## **Planning Balance and Conclusions**

143. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that decisions be made in accordance with the development plan, unless material considerations indicate otherwise. As a starting point I have found that there would be conflict with policies relating to the settlement hierarchy in North Somerset. Additionally, there would be conflict with those policies seeking to protect and enhance local character and appearance.
144. I have also found that there is a substantial shortfall against the Council's requirement to provide a 5YHLS, an indicator that the future the needs of local people will not be met. The plan-led system is embedded in planning law, with the Framework placing great emphasis on the engagement of communities in shaping these development plans. This is intended to provide certainty. However, it also means that to meet community requirements for homes, jobs and other facilities, development plans must be up to date. In situations such as this, where future housing needs are not being met, the Framework sets out that development plan provisions must be balanced against wider social, economic and environmental objectives. Specifically, this means that the presumption in favour of sustainable development set out in the Framework paragraph 11d) is engaged.
145. I have found that the weight that can be given to conflict with CS Policy 32 and NP Policy: Development 1, and other provisions relating to the settlement hierarchy, is greatly reduced by the fact that the growth needs of North Somerset are not being met. As a result, I give limited weight to the harm arising from this conflict. I have found policies seeking to protect the local environment to be fully consistent with the Framework and that there should be no reduction in the weight to be applied to the conflict with their provisions. In this regard I found moderate conflict with Policies CS Policy CS5, DMPP Policies DM10 and DM32, and minor low-level conflict with SAP Policy SA5. In doing so I have recognised the sensitivity and value of Farleigh Fields to the local community, though found that the proposal relates to the least sensitive field and that the development itself would be reasonably well contained. I have also found that the loss of BMVL weight modestly against the proposal.
146. Balanced against this are the social, economic and environmental benefits of the proposal. In particular, it would contribute up to 125 new homes, including up to 38 affordable dwellings and up to 6 SBCB plots. This would be in an area where there is a substantial shortfall in housing land supply, and in a location with good access to transport and service options. As a greenfield site it is also likely that the site could be delivered within 5 years, thereby assisting with current housing land supply issues. I therefore give very significant weight to the provision of market and affordable housing, and at least moderate weight to SBCB provision.
147. The economic benefits of the proposal would include the creation of construction jobs and ongoing additional expenditure in the local economy. This attracts moderate beneficial weight. There would also be financial contributions towards off-site infrastructure, the provision of public open space and green infrastructure, improvement of PROW and ecological enhancements. These matters are primarily intended to address the impact of development and respond to the needs arising from it, nonetheless some modest weight can

be attached to the wider social and environmental benefits this would bring, particularly in terms of open space provision and biodiversity improvements. I have also attached moderate weight to the benefit of the transfer of the LGS to BPC, though have noted that BPC may choose not to accept this offer.

148. I have reached my conclusion taking all of the above into account, including the other matters raised. Notwithstanding the conflict with the development plan provisions relating to the settlement strategy and local character, the presumption in favour of sustainable development in paragraph 11d) of the Framework is a material consideration. Overall, I find that the adverse effects of granting planning permission would not significantly and demonstrably outweigh the benefits of the proposal, when assessed against the policies in the Framework taken as a whole. Therefore, material considerations support a decision other than in accordance with the development plan.

149. I conclude that the appeal should be allowed.

*AJ Mageean*

INSPECTOR

## APPEARANCES

### FOR THE APPELLANT:

Christopher Young QC, assisted by Leanne Buckley-Thompson, instructed by Tim Watton, Strategic Land and Planning Director at Persimmon Homes

They called:

Gary Holliday, BA(Hons), M Phil, FLI	Director, FPCR Environment and Design Ltd
Gareth Howell, BA (Hons), Dip Arch, RIBA, ARB	Director, EDP UK
James Stacey, (BA Hons), Dip TP, MRTPI	Senior Director at Tetlow King Planning
Andrew Moger, BA (Hons), MA, MRTPI,	Director, Tetlow King Planning
Nick Paterson-Neild, BA (Hons), MPhil, MRTPI	Partner, Barton Willmore now Stantec LLP
Kathryn Ventham, BSc (Hons), MSc, MRTPI	Partner at Barton Willmore now Stantec LLP
Sam Hurdwell BSc (Hons)., I Eng., MICE	Associate, Hamson Barron Smith
Graham Eves BSc CEng MICE MCIHT	Consultant, PFA Consulting Ltd
Christopher Charlton	Partner, Planning at Clarke Willmott
Caroline Featherston BSc (Hons), MSc, MRTPI	Senior Planner, Barton Willmore now Stantec LLP

### FOR THE LOCAL PLANNING AUTHORITY:

Timothy Leader of Counsel, instructed by Richard Kent, Head of Development Management at NSC.

He called:

Funda Kemal BSc(Hons), DipArch, PgCert, ARB, RIBA	Chartered freeland Architect
Mike Muston BA (Hons), MPhil, MRTPI	Director, Muston Planning
Natalie Richards NSC	Principal Planning Policy Technical Officer, NSC
Roger Willmot	NSC

### INTERESTED PARTIES:

Lorraine Richardson	Local Resident
Jane Kearny	Local Resident
Barbara Harland	Local Resident

Mike Mogford	Local Resident
Cllr Bridget Petty	Elected Member for Backwell, NSC
Chris Perry	Local Resident
Mike Rose	Local Resident
Martin Powell	Local Resident
Kathryn Crawford	Local Resident
Peter Hoare	Local Resident
Jayne Kirkbride	Local Resident
Karim Malik	Local Resident
Mark Mallet	Local Resident
Geoffrey Wells	Local Resident

## INQUIRY DOCUMENTS

1. Appellant openings statement.
2. NSC openings statement.
3. NSC correspondence relating to application 21/P/3507/OUT.
4. Suggested plans conditions.
5. Copies of plans for which approval is sought.
6. Plans relating to 2018 Appeal scheme.
7. Weston Villages site visit location plan.
8. NSC note on emerging Local Plan housing allocations.
9. NSC Strategic Gap policy map.
10. Backwell Neighbourhood Plan Examination Report.
11. Appeal decision APP/D0121/W/21/3279745.
12. Amended Height and Scale Principles Plan (edp6976\_d007c).
13. Illustrative cross-section with spot heights.
14. Plan relating to 2000 Appeal scheme.
15. Note of livestream and youtube views relating to the Inquiry.
16. Statement from Cllr B Petty.
17. Statement from Martin Powell.
18. Statement from Geoff Wells.
19. NSC response to edp6976 d0007c 'Height and Scale Principles' and edp6976 d027 Illustrative Cross Section.
20. Addition to Mrs Kirkbride Statement: Photographs of A370 on 13 March 2022.
21. Graham Eves, Appellant highways witness, Personal Statement.
22. Traffic flow data.
23. Updated list of planning conditions.
24. Draft Section 106 Agreement.
25. Draft Unilateral Undertaking.
26. Neighbourhood Planning Written Ministerial Statement, 12 December 2016.
27. Updated Most Important Policies table.
28. Letter from Persimmon to Backwell Parish Council regarding Farleigh Fields Local Green Space, 22.03.22.
29. Inspector site visit itinerary.
30. Emerging LP Policies extract map.
31. Summary note of Section 106 Agreement.
32. NSC 5YHLS Affordable Housing Analysis.
33. Updated illustrative cross section.
34. Updated Unilateral Undertaking.
35. Affordability Ratios and Updated HLS Position, 23.03.22
36. Note to Inspector regarding 2022 release of House price workplace-based earnings ratio, 23.03.22.
37. Statement from William Powell.
38. Updated Planning Obligations CIL compliance statement.
39. Note on disputed planning conditions.
40. Further Updated Most Important Policies table, 24.03.22.
41. Shadow Habitat Regulations Assessment
42. Tenant farmer letter
43. Further updated draft planning conditions, 29.03.22
44. Natural England comments on the Shadow Habitats Regulations Assessment.
45. Amended Shadow Habitats Regulations Assessment.
46. Natural England comments on Amended Shadow Habitats Regulations Assessment.

## **SCHEDULE OF CONDITIONS**

- 1) Before any work is commenced, details of the design and external appearance of the building(s), the landscaping of the site, the layout, and the scale (hereinafter called the reserved matters) shall be submitted to and approved in writing by the Local Planning Authority.
- 2) Application for approval of the reserved matters shall be made to the Local Planning Authority not later than two years from the date of this permission.
- 3) The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last reserved matters to be approved.
- 4) Notwithstanding the reference to 115 dwellings on Page 4 of the Design Commitment Statement, permission is granted for up to 125 dwellings.
- 5) The development hereby permitted shall be carried out in accordance with the following approved plans:
  - Site Location Plan (edp6976\_d005f)
  - Proposed Access Plan (P706/13 – rev G)
  - Tree Protection Plan (D35 22 P6 Rev A)
  - Drainage Layout Drawing 1 of 2 - NPS-ZZ-00-DR-C-060 Rev. P04
  - Drainage Layout Drawing 2 of 2 - NPS-ZZ-00-DR-C-061 Rev. P05
  - Flood Risk Assessment and Drainage Strategy (01-01-108372-FRA-Rev A – Revision B – April 2021)
  - Energy Strategy contained within the Energy Statement (Reference Number: 008054. Dated: April 2021. Issue: 3).
  - Residential Travel Plan (P706 Issue 3. Dated: 20 April 2021).
- 6) All applications for approval of reserved matters shall be broadly in accordance with the following plans:
  - Land Use Principles (edp6976\_d004b)
  - Density Principles (edp6976\_d006b)
  - Height and Scale Principles (edp6976\_d007c)
  - Movement and Principles (edp6976\_d008c).
- 7) All applications for approval of reserved matters shall be broadly in accordance with the Design Commitment Statement, (save for the reference to 115 dwellings) dated January 2022. (With reference to Design Commitment Statement submitted with evidence of Mr. Gareth Howell).
- 8) All applications for approval of reserved matters shall not include any dwelling in excess of two storeys in height.
- 9) No development shall commence until a Phasing Plan has been submitted to, and approved in writing by, the Local Planning Authority. The Phasing Plan shall draw a distinction between the part of the scheme that does not comprise self-build/custom build homes and the part of the scheme (including individual plots) that will accommodate the self-build/custom build homes. The development shall be carried out in accordance with the approved Phasing Plan.
- 10) The development hereby permitted shall not be commenced until the visibility splays shown on the approved plans at the junction of the proposed access with the A370 have been provided with no obstruction to visibility at or above

a height of 0.6m above the nearside carriageway level. The visibility splays shall thereafter be maintained free of obstruction at all times.

- 11) Prior to the commencement of any development hereby permitted, drawings showing:
- i. the conversion of streetlighting to all-night illumination generally between the proposed access and the Station Road/Dark Lane/A370 crossroads, central islands for pedestrians with centre poles and rebound bollards, the precise easterly extent to be agreed in writing with the Local Planning Authority,
  - ii. the siting and details of a proposed toucan crossing and conversion of existing traffic islands to pedestrian crossing points, and
  - iii. A traffic calming scheme on the A370 where approaching pedestrian islands).

shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include any new road markings and signage. All works shall be completed prior to the occupation of the first dwelling.

- 12) Prior to the commencement of development, a site wide lighting strategy in lux shall be submitted to the Local Planning Authority in writing. This must ensure that any and all measures necessary to meet the light spill thresholds shown in Figure 5 of the Shadow Habitats Regulations Assessment (Version 2.0, dated 23.05.22) are used in the final design. The site wide lighting strategy shall show the lighting levels in lux with details of:
- i. details of the type and location of the proposed lighting,
  - ii. existing and proposed lux levels affecting the site,
  - iii. lighting contour plans,
  - iv. the points at which light measurements will be taken,
  - v. monitoring of the lux levels post construction, and
  - vi. the hours of lighting operation.

shall be submitted to, and approved, in writing, by the Local Planning Authority.

These details shall include an assessment undertaken by a suitably qualified ecologist on the retained bat habitats and commuting routes on the site which shall be maintained at or below 0.5 lux within the defined bat corridor width at ground level and upwards to 2m. This lighting scheme shall be implemented and adhered to during the construction and operational phases.

- 13) No development shall take place until a Construction Management Plan to include:
- i. hours of work,
  - ii. noise assessment of plant, equipment and machinery,
  - iii. traffic routing,
  - iv. measures to avoid soil or other contamination to local roads,
  - v. location of any site compound, and
  - vi. details of any lighting to be used during the construction phase only.

has been submitted to, and approved in writing, by the Local Planning Authority.

The plan should also include details of how:

- i. site deliveries and storage of materials,

- ii. timings of deliveries, to avoid peak hours and start and end of school times,
- iii. management of any complaints arising from the works,
- iv. maintaining access to neighbouring properties,
- v. communication to neighbouring properties before works begin,
- vi. car parking for operatives/visitors to site, and
- vii. highway safety measures such as wheel washing facilities will be managed.

The construction phase of the development shall thereafter be undertaken in accordance with the approved details unless otherwise agreed, in writing, by the Local Planning Authority.

- 14) Prior to the commencement of development, a Construction Environmental Management Plan (CEMP) shall be submitted to, and approved in writing, by the Local Planning Authority. This shall include:
- i. mitigation measures required to protect legally protected species and their retained habitats from injury or damage and include information for construction workforce,
  - ii. timings of site clearance,
  - iii. details of appropriate fencing for buffer areas to protect retained on site habitats from encroachment by machinery, construction activity and unauthorized operatives,
  - iv. overnight ramps placed within open trenches and daily checks of excavations for trapped wildlife,
  - v. pre-commencement surveys for species that are dynamic in distribution (e.g. badger), and
  - vi. provision for ecological tool box instruction for operatives, a walk over check by ecologist immediately prior to vegetation and other site clearance activities.

The approved plan shall be implemented and adhered to during the vegetation clearance and construction phases.

- 15) Prior to the commencement of development, a Landscape Ecological Management Plan shall be submitted to, and approved in writing, by the Local Planning Authority. The plan shall include objectives and management prescriptions to:
- i. maintain retained habitats and newly planted areas to maximise their biodiversity value and achieve the objectives of the horseshoe bat mitigation habitat and other ecological mitigation and enhancement,
  - ii. to maintain and enhance wildflower meadow botanical diversity,
  - iii. to maximise foraging resources and provide favourable habitats for protected species identified as using the site,
  - iv. annual maintenance checks of wildlife features (e.g., bird and bat boxes and site interpretation), and
  - v. ensure sign off of mitigation measures on completion of construction and landscaping by an ecological consultant and submission to the Local Planning Authority in writing.

The approved plan shall be fully implemented and adhered to over the operational phase of the development.

- 16) No development shall commence until a bird nesting and bat roosting strategy has been submitted to and approved in writing by the Local Planning Authority. The submitted strategy shall include the specification and

locations of proposed bird nesting places and bat roosting places. The development shall thereafter be carried out in full accordance with the approved details.

- 17) Should no substantive development be commenced within three years of the date of this permission then prior to the commencement of development an updated ecological and protected species survey shall be submitted to, and approved in writing, by the Local Planning Authority. This shall include a full written schedule of how the updated survey work has informed the details to be subsequently approved under a reserved matters application.
- 18) No development shall commence on site until a topographical survey of the site and details of the existing ground levels and proposed road, path, finished floor, eaves and ridge height levels have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved levels details.
- 19) (A) No development including any demolition works shall take place until a programme of archaeological work including a Written Scheme of Investigation has been submitted to and approved by the Local Planning Authority in writing. The scheme shall include an assessment of significance and research questions, and;
- i. The programme and methodology of site investigation and recording
  - ii. The programme for post investigation assessment,
  - iii. Provision to be made for analysis of the site investigation and recording,
  - iv. Provision to be made for publication and dissemination of the analysis and records of the site investigation,
  - v. Provision to be made for archive deposition of the analysis and site investigation, and
  - vi. Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.

(B) No development including any demolition works shall take place other than in accordance with the Written Scheme of Investigation approved under condition (A).

(C) The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition (A) and the provision made for analysis, publication and dissemination of the results and archive deposition has been secured.

- 20) No development shall commence until a detailed Arboricultural Method Statement Report with Tree Survey and Tree and hedgerow Protection Plan for the main part of the site (not site access), following the recommendations contained within BS 5837:2012 has been submitted to and approved in writing by the Local Planning Authority. The arboricultural method statement report shall include the control of potentially harmful operations such as site preparation (including demolition, clearance and level changes); the storage, handling and mixing of materials on site, burning, location of site office, service run locations including soakaway locations and movement of people and machinery. The report shall incorporate a provisional programme of works; supervision and monitoring details by an Arboricultural Consultant and provision of site visit records and certificates of completion to the Local

Planning Authority. The Tree Protection Plan must be superimposed on a layout plan, based on a topographical survey, and exhibit root protection areas which reflect the most likely current root distribution, and reflect the guidance in the method statement report. No development or other operations shall thereafter take place except in complete accordance with the approved details.

- 21) No above-ground works shall take place until surface water drainage works have been implemented in accordance with details that have first been submitted to and approved in writing by the Local Planning Authority. Before these details are submitted, an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system in accordance with the principles set out in the National Planning Policy Framework, associated Planning Practice Guidance and the non-statutory technical standards for sustainable drainage systems, and the results of the assessment provided to the Local Planning Authority. Where a sustainable drainage scheme is to be provided, the system shall be designed such that there is no surcharging for a 1 in 30 year event and no internal property flooding for a 1 in 100 year event + 40% allowance for climate change. The submitted details shall:
- i. provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site to greenfield run off rates and volumes, taking into account long-term storage, and urban creep and the measures taken to prevent pollution of the receiving groundwater and/or surface waters, and
  - ii. include a timetable for its implementation.
- 22) The development hereby permitted shall not be occupied until details of the implementation, maintenance and management of the approved sustainable drainage scheme have been submitted to and approved, in writing, by the Local Planning Authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details.

The details to be submitted shall include:

- i. a timetable for its implementation and maintenance during construction and handover, and
  - ii. a management and maintenance plan for the lifetime of the development which shall include details of land ownership; maintenance responsibilities/arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable urban drainage scheme throughout its lifetime; together with a description of the system, the identification of individual assets, services and access requirements and details of routine and periodic maintenance activities.
- 23) No above-ground works for the development hereby permitted shall be commenced until the requisite off-site drainage works to ensure adequate discharge of surface water without causing flooding or water pollution have been constructed in accordance with the approved details.
- 24) No dwelling shall be occupied until a scheme for the disposal of foul water has been submitted to and approved by the Local Planning Authority. The approved details shall be completed for each dwelling before that dwelling is occupied.

- 25) No works on any individual dwelling, boundary or retaining wall, road, pavement or parking area shall commence until sample panels of the external materials to be used for such dwellings, walls, roads, pavement or parking areas and any other related infrastructure to be constructed either on or off site have been submitted to and approved in writing by the Local Planning Authority. These shall include, all brick, stone, colour of render, roofing materials to be used for the dwellings, surface materials to be used in the construction of the roads, pavements and parking areas, and brick, stone or other material to be used in boundary treatments. The development shall be carried out in the approved materials unless otherwise agreed in writing by the Local Planning Authority.
- 26) No dwellings shall be occupied until a Travel Plan coordinator has been appointed and the Residential Travel Plan including the Action Plan contained therein has been brought into use. The approved Travel Plan shall continue to be operated as approved unless amendments to the Travel Plan are first submitted to and approved by the Local Planning Authority.
- 27) No dwelling shall be occupied until a scheme for external lighting has been submitted to and approved in writing by the Local Planning Authority. The lighting scheme shall thereafter be implemented as approved and retained for the lifetime of the development. No other means of external lighting shall thereafter be installed within the site, including on any dwellinghouse, other than in accordance with the approved lighting scheme.
- 28) Before occupation, each dwelling shall be provided with a properly consolidated and surfaced parking in accordance with the North Somerset Council Parking SPD. The access and parking spaces shall be used for no other purpose.
- 29) The development of the site access from Farleigh Road hereby permitted shall not be carried out except in accordance with the approved Arboricultural Method Statement Report (Project Ref: D35 22 05, Issued 18 January 2022) and Tree Protection Plan (Plan Ref: D35 22 P6 Rev. A). No occupation of the approved development shall commence until a signed certificate of compliance by the appointed Arboriculturist has been submitted to and approved in writing by the Local Planning Authority.
- 30) The landscaping details referred to in condition 1 shall include details of the proposed 10.0m ecology buffer to be created through planting of new hedgerow, gapping up of existing hedgerows, off-site enhancement of the adjoining arable field identified for this purpose, the attenuation pond, seating, surfacing, play area and relocation of stone.
- 31) All residential units hereby approved shall be constructed to comply with, as a minimum, the equivalent of the requirements of Code Level 4 of the Code for Sustainable Homes. This equates to a 19% improvement on Part L of the Building Regulations. Unless otherwise first agreed in writing by the Local Planning Authority, and prior to the commencement of the development of any dwelling hereby approved, a copy of a Design Stage SAP Assessment for each dwelling, issued by a suitably qualified and accredited energy expert (SAP Assessor), shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, each dwelling shall be constructed in accordance with the approved Design Stage SAP Assessment unless a revised Assessment has first been submitted to and approved in writing by the Local Planning Authority.

- 32) The dwellings hereby approved shall not be occupied until measures to generate 15% of the on-going energy requirements of the use (unless a different standard is agreed) through micro renewable or low-carbon technologies have been installed and are fully operational in accordance with the approved details that have been first submitted to and approved in writing by the Local Planning Authority. Thereafter, the approved technologies shall be permanently retained unless otherwise first agreed in writing by the Local Planning Authority.
- 33) The dwellings hereby approved shall be built in accordance with the Nationally Described Space Standards (NDSS), unless shown not to be practicable and viable.
- 34) A minimum of 17% of the dwellings hereby approved shall be constructed to comply with the requirements of The Building Regulations 2010 Volume 1 M4(2) Category Two: Accessible and adaptable dwellings.
- 35) No dwelling shall be occupied until passive provision that allows for electric vehicle charging has been designed and incorporated into the approved development. Such provision shall establish all the associated ducting, chambers and junctions for the carrying of power cables which shall be of sufficient capacity to meet the minimum supply needs of an electrical vehicle charging point.
- 36) The dwellings hereby approved shall not be occupied until the space and facilities provided on site for the storage and collection of waste have been constructed and implemented in accordance with the approved plans. Thereafter the approved space and facilities for the storage and collection of waste shall be permanently retained unless otherwise agreed in writing with the Local Planning Authority.
- 37) All works comprised in the approved details of landscaping should be carried out during the months of October to March inclusive following occupation of the dwellings or completion of the development, whichever is the sooner.
- 38) Any trees, hedges and plants shown in the landscaping scheme to be retained or planted that are removed without prior written approval from the Local Planning Authority or which due, become seriously diseased or damaged, within ten years of the implementation of the landscaping scheme, shall be replaced in the first available planting season, as to be agreed with the Local Planning Authority.