



Appeal Decision

Inquiry held on 13-14 March 2025

Site visits made on 12 and 14 March 2025

by Benjamin Webb BA(Hons) MA MA MSc PGDip(UD) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 8th April 2025

Appeal Ref: APP/D0121/W/24/3354477

23 Dark Lane and land adjoining, Backwell, Somerset BS48 3NT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Charles Church (Severn Valley) against North Somerset Council.
 - The application reference is 24/P/1185/OUT.
 - The development proposed is up to 125 dwellings (Class C3) with access off Dark Lane.
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Decision

1. The appeal is allowed and outline planning permission is granted for up to 125 dwellings (Class C3) with access off Dark Lane, at 23 Dark Lane and land adjoining, Backwell, Somerset BS48 3NT, in accordance with the terms of the application, Ref 24/P/1185/OUT, dated 10 June 2024, subject to the conditions set out in the schedule at the end of this decision.

Preliminary Matters

2. The application was made in outline with all matters except access reserved for future consideration. That said, a number of parameters plans have been provided, and the submitted Section 106 Agreement (S106) secures parts of the site for use in relation to ecological mitigation. The required landscaping of these spaces is already largely specified. The appellant has also indicated a wish to be bound by the details and principles set out within the submitted Design and Access Statement to provide certainty in relation to design quality. The above together act to constrain the potential layout, landscaping, appearance and scale of the development, and I have taken this into account accordingly.
3. The Council failed to determine the application within the timeframe required. Had it determined the application, the Council subsequently resolved that it would have granted planning permission. The appeal is therefore uncontested by the Council. The appellant nonetheless opted to present formal evidence at the Inquiry in view of strong local opposition to the scheme. The latter has been led by Backwell Parish Council, albeit not a Rule 6 party. For avoidance of doubt, all further references to 'the Council' below are to North Somerset Council.

Main Issues

4. The main issues are:

- whether the site is a suitable location for development of the scale proposed having regard to the function and role of the settlement, and the likely effect of the development on the character and appearance of the area, including designated heritage assets;
- the effect of the development on highway safety; and
- the effect of the development on ecology, including its effect on the integrity of the North Somerset and Mendip Bats Special Area of Conservation (the SAC).

Reasons

(a) Background

1. Policy CS13 of the North Somerset Council Core Strategy 2017 (the Core Strategy) sets out the Council's housing figures, and Policy CS14 its spatial strategy. Policy CS14 directs development to settlements based on their position within a hierarchy, and to locations within defined settlement boundaries. Within this context Backwell is defined as a service village. Insofar as Policy CS32 relates to service villages, both it and Policy CS14 provide scope for development abutting/adjoining settlement boundaries. But whilst Policy CS14 indicates that such development should be 'small scale', Policy CS32 sets a limit of 'about 25' for sites which are non-allocated. Policy Development 1 of the Blackwell Neighbourhood Plan 2014-2026 (the NP), which supports housing development at a level appropriate to the size of the settlement, can be similarly interpreted.
2. The site abuts the settlement boundary but is not allocated. The development would otherwise exceed the limit set out in Policy CS32. As such the scale and location of the development would conflict with Policies CS14 and CS32 of the CS and Policy Development 1 of the NP.
3. Policies CS13, CS14, CS32 and Development 1 cannot however be considered up to date. Whilst the Core Strategy itself expires in 2026, Policy CS13 was only ever intended to set out an interim position. No review has ever been completed, partly given failures to progress with replacement plans. The Council's housing land supply position itself currently falls between 2.33-3.07 years, further highlighting local challenges in the provision of new housing. These considerations limit the weight that can be attached to conflicts with Policies CS14, CS32 and Development 1 given the role they play in spatially constraining housing development.
4. The underlying objective of achieving a sustainable distribution of development is nonetheless one which remains generally consistent with national policy as set out in the National Planning Policy Framework (the Framework). This is broadly reflected in the 7 criteria set out within Policy CS32 which address functional and environmental concerns which I shall consider through my assessment below.

(b) Function and role

5. Backwell hosts a range of services and facilities. Some of these are walkable from the site, and pedestrian routes would be improved. Future occupants of the development would also have good access to public transport. In neither regard would they be car dependent. Increased use of infrastructure, including

the road network, would be addressed through contributions secured within the S106, in line with the approach taken in relation to other recently consented schemes within the area. The composition of the development itself would beneficially address the established need for affordable, market and custom/self-build housing. Backwell thus appears functionally capable of absorbing the type and scale of development proposed, and I have been provided with no reason to believe that this would upset its position or role within the broader hierarchy.

(c) *Character and appearance*

6. The site is a large low-lying field of generally rectilinear shape which is bounded, or partly bounded by development on 3 sides. In broad landscape terms it is well contained, lacking in prominence, and is in itself largely unremarkable. It otherwise adjoins a strip of open pasture, now designated as a public open space, through which runs a public footpath. This gradually climbs from the A370 up to the historic core of the settlement towards the southeast. The latter is marked by the landmark presence of St Andrew's Church, a Grade I listed building.
7. Insofar as it is relevant to this appeal the special interest and significance of the church resides in its historic ecclesiastical function, substantial medieval fabric, and its visually striking and architecturally impressive tower. The tower has a landmark quality which fixes the location of the church within the landscape. Its functional relationship to a place of worship is readily perceived, as is its architectural quality. Appreciation of neither requires a visit to the church itself. Whilst the ability to view the tower from afar is an inevitable consequence of its height and siting on high ground, this, and the above attributes were all clear intentions of its design. Long views towards the tower are thus an important means by which its significance is broadly appreciated, and in turn they make an important contribution to the significance of the church as a whole.
8. I have been provided with no evidence of a direct historic link between the site and the church. However, as the site never appears to have been developed, both it and adjoining open land may together provide some sense of the historically open rural setting of the church. This has evidently been diminished by development in all directions, including around the church itself. Unobstructed views towards the church from within the surrounding landscape setting now principally exist from the public footpath, and from within the corridor of open space through which it runs. For this reason and given the role of the footpath as a historic link, these views hold a high level of significance. Though some other reasonably clear long views also exist from within the northwestern part of the site, these lack the same level of importance given the lack of public access and the lack of direct physical linkage with the church.
9. The development would further diminish the open setting of the church. This would be perceptible from the lower section of the public footpath upon the approach to the church. Though existing development along Dark Lane is already clearly apparent, the appeal scheme would bring built form closer. Whilst the development could therefore give rise to a minor source of visual distraction, this would be no more than peripheral in nature given the forward focus of the view. Buffering and enhanced landscaping along the site boundary would additionally help to ameliorate the effect, taking into account the

proposed limitation of dwellings to 2-storeys in height. The development would not otherwise obstruct the view from the footpath, nor reduce the dimensions of the open space through which it runs. It would also not visually encroach upon the more immediate open setting of the church as experienced further along the footpath.

10. Though the extent of the long view from within the site itself would be reduced, an opportunity would exist to harness the tower as a focal point within the layout of the development. New links to the footpath would also be created. Each would help to provide a sense of connection between the development and the historic core of the settlement and could help facilitate appreciation of the significance of the church itself.
11. I am mindful of the fact that Historic England take the view that the development would cause less than substantial harm at the 'lower end of the broad spectrum'. However, for the above reasons I am satisfied that with sensitive design the site could be developed without having any adverse effect on the ability to understand either the historic position of the church within the landscape, or the ability to appreciate the significance of the building itself. The setting of the church would therefore be preserved.
12. The site additionally lies within the broad physical setting of Church Town Conservation Area (the Conservation Area), albeit at no point do they adjoin, and there is limited intervisibility between. To the extent that it is relevant, the significance of the Conservation Area resides in the layout of the historic core of the village, and the collection and interrelationship of historic buildings and spaces that it contains. Insofar as the church is a key feature of the Conservation Area, and the only part of it clearly appreciable from within the site, my assessment above is sufficient to establish the role that the site plays within its setting. The significance of the Conservation Area, and the ability to appreciate its significance would not otherwise be affected by the development.
13. In more general terms the low-lying nature of the site and the extent to which it is bounded by development, provides scope to achieve a good level of integration/assimilation with the existing settlement. This would have no more than a limited and localised effect on the broader landscape as already considered above.
14. I therefore find that scope exists through clearance of the reserved matters to secure a development that would positively respond to the character and appearance of the area, including the setting of designated heritage assets. As such no conflict with Policy CS5 of the Core Strategy which seeks to conserve the historic environment and the character and distinctiveness of the landscape; Policy DM10 of the DMP which likewise seeks to secure development that is well integrated, including in relation to the historic environment and landscape; and Policy CS12 of the Core Strategy which seeks to secure high quality buildings and places sensitive to the existing local character.

(d) *Conclusion*

15. For the reasons outlined above I conclude that the site is an appropriate location for the proposed development having regard to both its scale and its likely effect on the character and appearance of the area, including designated heritage assets. In reaching this view I attach greater weight to the scheme's compliance with Policies CS5, CS12, DM10, and its positive performance

against the 7 functional and environmental criteria set out within Policy CS32, than I do with its conflict with Policy CS14, Development 1 and the 25-dwelling limit separately set out within Policy CS32.

Highway safety

16. The site would be accessed from a T-junction formed with Dark Lane. This runs reasonably straight to either side of the access. It is served by a pavement of varying width on the same side of the road in which the access would be formed. This sees use by both primary and secondary school children, together with other pedestrians. The pavement is narrowed in places by encroaching vegetation, whilst unrestricted on-street parking alongside the pavement narrows the width of the road itself. Dark Lane has an existing 20mph speed limit, albeit monitoring shows that average speeds are closer to 30mph. This was also apparent during my visits. Various driveways and access open directly onto Dark Lane, few of which appear to have unobstructed visibility splays. There are however no records of accidents.
17. It would not be possible to provide an access with visibility splays compliant with the monitored speed of Dark Lane without widening the pavement, and thus narrowing the road. The appellant has therefore proposed splays in accordance with the speed limit with an accompanying scheme of traffic calming. The need for calming is otherwise generally established by the Council's 20mph Action Plan. Even so, no measures are planned within Dark Lane, and I have no reason to believe that they would be carried out in the absence of the proposed development.
18. The appellant's proposed scheme is more elaborate than that advanced at application stage and has been subject of an additional round of public consultation. Though the appellant expressed confidence in the original scheme, it was also accepted that the proposed scheme provided the optimum solution. This has been welcomed by the Council subject to detailed design, monitoring and potential refinement. Though the comprehensive nature of the proposed scheme provides a high probability of its success, monitoring and scope for refinement would provide additional certainty.
19. Notwithstanding the established need for calming in Dark Lane, and the broader benefits this would bring, the site access itself would introduce a new road for pedestrian users of Dark Lane to cross. Whilst the concerns of interested parties focused on school children, it has also been asserted that this would impede use of Dark Lane by persons with disabilities, including wheelchair users and those with limited mobility. With reference to the Public Sector Equality Duty contained in the Equality Act 2010 (EA 2010), I have therefore had due regard under Section 149 of the EA 2010 of the requirement to take steps to meet the needs of persons who share a protected characteristic.
20. At the site access itself a raised table crossing has been indicatively proposed. The level surface would avoid any obstacle for the movement of pedestrians, wheelchair users and those with limited mobility. The same would be true for parents with buggies and very young children. Both during construction of the access and prior to construction of the crossing there would be a short period during which navigating the access could be more challenging. The effect would however be temporary, and this, together with other construction phase impacts, could be subject of appropriate management.

21. Persons with limited mobility might encounter difficulties in turning to look for traffic when crossing the access. However, this is an inevitable requirement of any pedestrian crossing located at a T-junction and would not be unique within the local context. In this case the crossing would form a component of the broader traffic calming scheme, meaning that vehicles using the access would travel at a low speed. Whilst this would provide some additional time to look for traffic, taken in combination with restriction of on-street parking adjacent to the access, a good level of intervisibility would exist between drivers and pedestrians waiting at and using the crossing. These attributes would generally reduce risk for anyone seeking to cross the access.
22. Though interested parties claim that parked vehicles beneficially screen pedestrians from passing traffic, levels of on-street parking fluctuate during the day. So too therefore does the existing extent of exposure of pedestrians to passing vehicles. As noted above, these commonly exceed the speed limit. Parked vehicles themselves manoeuvre close to the pavement, giving rise to other risks for pedestrians. Again therefore, with calming in place and improved visibility, risk should be generally reduced.
23. Closer supervision of children walking to school along Dark Lane might be required given the introduction of a new road to cross. However, the need to supervise children, including when learning to cross roads, cannot be considered unreasonable. More so when taking into account the presence of other, much busier roads within the immediate vicinity, and the existing need to cross Dark Lane itself in order to access the primary school.
24. Maintenance of the splays either side of the access would require that vegetation from adjacent gardens did not encroach over the pavement. This is not an unusual situation, and it is the responsibility of individual landowners to properly maintain boundary vegetation. Action can be taken where vegetation causes an obstruction, as is currently the case adjacent to the site. Adjacent landowners have suggested that they will not cooperate, and the Highways Authority has indicated that it does not wish to take on the 'liability'. However, this does not alter the ordinary roles and responsibilities of the parties in question. As maintaining the pavement free from obstruction would result in the splays themselves being maintained, I see no reason why the appellant should either be expected or need to assume the responsibility. I have not in any case been provided with any clear explanation of how this could be properly secured.
25. Broader objections to the traffic calming scheme itself include matters such as noise and exhaust emissions from vehicles manoeuvring over humps, unsecured objects being thrown from lorries, the suggestion that the scheme would not be effective in slowing large vehicles, and the possibility of conflict with driveways. Most of these matters can however be addressed within the context of detailed design.
26. I am therefore satisfied that the access could operate safely, and that it would not prejudice the needs of those with disabilities including wheelchair users and those with limited mobility. Ensuring a low-speed environment within Dark Lane would otherwise broadly enhance pedestrian safety, as would the provision and/or upgrading of 2 existing crossing points as part of the scheme. These are benefits to which I attach great weight.

27. For the reasons outlined above, exercising due regard under section 149 of the EA 2010, I conclude that the development would be acceptable in relation to highway safety. It would not therefore conflict with Policy DM24 of the DMP which restricts development that would prejudice highway safety.

Ecology

28. The site lies around 1.5 miles from the nearest component of the SAC. This is partly designated for the range of hibernation sites of lesser and greater horseshoe bats that it contains, together with maternity sites of the latter. Monitoring has shown that both species of bat use the site for foraging and commuting. As the appeal scheme would see the site developed, potentially significant effects on the integrity of the SAC cannot be excluded. In accordance with the Conservation of Habitats and Species Regulations 2017 (as amended) an Appropriate Assessment (AA) is therefore required.
29. The conservation objectives of the SAC seek to maintain or restore integrity, and to sustain the favourable conservation status of its qualifying features including qualifying species. Loss of foraging and commuting habitat would be at odds with these objectives.
30. The appellant produced a Shadow Habitats Regulations Assessment (sHRA) at appeal which was shared with Natural England (NE). NE has expressed its satisfaction with the sHRA subject to minor modification of the proposed conditions. I am therefore content to base my AA on the sHRA.
31. The value of the site for foraging is limited given its use for arable as opposed to pasture. Bat activity was chiefly identified along the site boundaries. Foraging habitat would nonetheless be lost, there would be some fragmentation of commuting routes. This, together with domestic use of the site, including the introduction of artificial light, could have an adverse effect. The appellant has calculated the required mitigation using a methodology drawn from the North Somerset and Mendip Bats SAC Guidance on Development: Supplementary Planning Document 2018 (the SPD). This would include a 10-metre buffer with double hedgerow around the site that would be managed to provide foraging habitat, the provision of which is secured within the S106. NE have additionally emphasised the potential value of that part of the site to be used for drainage attenuation, public access to which could be restricted. A sensitive lighting strategy could also be secured. Though there would be a short delay in implementing the required works, any effects would be temporary.
32. The site also contains an area of land separately secured as compensation for loss of foraging habitat over pasture at a site to the northeast (Farleigh Fields A). The S106 submitted in relation to the current appeal scheme appropriately identifies and differentiates the status of this land from the rest of the site. Works secured in relation to Farleigh Fields A would not be prevented were the appeal to be allowed. This would include the planting of a hedgerow along the boundary between it and the rest of the site, despite this not being shown on the indicative plans.
33. Within the context of Farleigh Fields A, NE indicated that best endeavours should be made for this compensatory habitat to be grazed. Whilst this does not appear to have been secured, the land could presumably be used in this way once the required enhancement works are implemented.

34. Interested parties have additionally drawn attention to the recent cessation of grazing on the pasture adjacent to the site. This was despite a commitment for continuity, again made in relation to Farleigh Fields A. The adjacent land has some relevance to the appeal site in terms of its role in providing connecting habitat, and the sHRA notes the commitment within its section on in-combination effects. However, it remains the case that the commitment to graze relates to the assessed effects of Farleigh Fields A rather than those of the appeal scheme. Indeed, insofar as the effects of the appeal scheme can be fully mitigated, this is not subject to continued grazing either of adjacent land or land within the site.
35. My findings above allow me to conclude that the appeal scheme would not adversely affect the integrity of the SAC.
36. The presence of at least 8 other species of bat have been recorded foraging and commuting across the site, and badgers, slow worms and grass snake are also present. All could be adversely affected by the development of the site. Mitigation is accordingly set out within the submitted Ecological Impact Assessment and can be secured by condition. Within this context many of the measures required in relation to horseshoe bats would also be broadly applicable and/or beneficial to other species.
37. For the reasons outlined above I conclude that the development would have an acceptable effect in relation to ecology, including by not adversely affecting the integrity of the SAC. It would therefore comply with Policy DM8 of the DMP which requires identification of appropriate mitigation measures to safeguard or enhance attributes of ecological importance, including the SAC.

Other Matters/Considerations

38. The site consists of Grade 3a agricultural land which is classified as Best and Most Versatile. Insofar as Policy Development 4 of the NP requires that 'necessary' development prioritises the use of poorer quality agricultural land, this would not be possible within the site itself given the consistent quality of land across it. Whilst there is no reason to believe that use of the site for food production could not continue in the absence of development, the parcel is relatively small and separated from the main holding. Any limited harm caused by its loss would otherwise be outweighed by the broader benefits of the development as considered above.
39. A range of planning obligations are secured by the S106. Aside from measures related to mitigating effects on bats outlined above, these obligations include the provision of affordable housing and custom/self-build plots; contributions towards highways and footpath improvements, including a Traffic Regulation Order; contributions towards provision of school transport, public transport infrastructure improvements and implementation of the scheme Travel Plan; fire hydrants; and play area and open space provision, together with maintenance. Whilst the S106 also secures the provision of on-site conservation areas and woodland, collectively termed a 'conservation site', or a contribution in lieu, the Council was unable to explain or justify these requirements at the Inquiry. Though requested within consultee comments linked back to the Development Contributions Supplementary Planning Document 2016, their specific relevance to the scheme remains unclear. This is particularly insofar as the S106 otherwise secures the 10-metre buffer noted above, and given that considerable ecological enhancement of the site would

be delivered. Having regard to the justification set out within the Council's CIL Compliance Statement, and my findings above, I am satisfied that with the exception of provisions relating to conservation areas/woodland and the conservation site, the obligations contained within the S106 meet the tests set out in Regulation 122 of the CIL Regulations 2010 (as amended), and paragraph 57 of the Framework.

Conditions

40. A number of conditions were the subject of discussion at the Inquiry. I have imposed conditions based on the content and outcome of that discussion, with further refinement as necessary, and as set out below.
41. Conditions (1) - (5) identify the reserved matters, the time periods for their clearance, and for commencement of development, and identify the approved access plan for sake of certainty. Two different time periods are given to accommodate both the appellant's aspiration to deliver the development quickly, and because clearance of reserved matters relating to individual custom/self-build plots would need to be undertaken separately, and within a different timeframe to that of the rest of the development. Given the detailed provisions within the submitted S106 relating to custom/self-build plots, there is no need for an additional condition covering phasing.
42. Condition (6) requires the reserved matters to be guided by the submitted parameters plans and the Design and Access Statement, as outlined above.
43. Conditions (7) and (8) secure the provision of a Construction Environmental Management Plan and Landscape Ecological Management Plan respectively. These are required in the interests of safeguarding both on-site and off-site ecology, in compliance with the sHRA, and the requirements of NE
44. Condition (9) secures provision of a bat and bird nesting/roosting strategy in line with the submitted Ecological Impact Assessment.
45. Condition (10) secures details of measures to provide 15% of the predicted future energy use from renewable sources in accordance with Policy CS2 of the Core Strategy, and in the interests of sustainability.
46. Condition (11) requires details of parking space within the site for displaced vehicles to be provided within the context of the reserved matter of layout. This is as set out within the appellant's highways submissions, and in the interests of maintaining parking capacity.
47. Condition (12) requires the provision of dimensions, and limits building heights to 2-storeys within the context of the reserved matter of scale. This will enable more accurate assessment and ensure a satisfactory relationship with the surrounding setting.
48. Condition (13) secures details of existing and proposed ground levels within the context of the reserved matters of layout and landscaping, in order to help ensure satisfactory relationship with surrounding setting.
49. Condition (14) relates to the reserved matter of appearance, securing a lighting strategy in compliance with the sHRA. The measures secured will provide dual benefits to ecology and to neighbouring residents, given the limitation of

- light spell. Lighting during the construction phase is covered with the CEMP secured in relation to Condition (7).
50. Condition (15) activates the optional Building Regulations standard M4(2): Category 2 – Accessible and adaptable dwellings, in line with the requirements of Policy DM42 of the DMP and supporting evidence in the Accessible Housing Needs Assessment Supplementary Planning Document.
 51. Condition (16) requires compliance with the Nationally Described Space Standard in line with the requirements of Policy DM42 of the DMP.
 52. Condition (17) secures the provision of a Tree Protection Plan and Arboricultural Method Statement in the interests of safeguarding on-site and off-site trees. The condition necessarily applies pre-commencement given that protective measures will be required from the outset.
 53. Condition (18) secures provision of a Construction/Demolition/Traffic Management Plan in the interests of neighbour amenity and highway safety, with content partly drawn from the recommendations of consultees. The condition necessarily applies pre-commencement given that management measures will be required from the outset.
 54. Condition (19) secures provision of a Written Scheme of Archaeological Investigation given the identified interest of the site.
 55. Condition (20) secures a surface water drainage scheme in the interest of ensuring that the site properly drains. The condition is necessarily required prior to construction of the access given that scheme will include the access.
 56. Condition (21) secures the re-siting of a telegraph pole from within the required visibility splay. I have adjusted the trigger so that condition restricts use of the access rather than its construction, as it is in relation to use of the access that the splays are required.
 57. Conditions (22) and (23) secure off-site highway works relating to provision of the traffic calming scheme along Dark Lane, as discussed above. I have split the proposed condition into 2 parts and modified the wording in the interests of precision and clarity. Somewhat atypically, the draft condition identified no defined point at which implementation of the required measures should take place. Implementation of the traffic calming scheme is however logically required prior to first occupation of the development and the commencement of ordinary use of the access. This is otherwise implied by the Council's suggestion of monitoring no later than 3 months after this point. The condition thus restricts first occupation until the scheme has been implemented. Vehicle movements during the construction phase would be separately governed by the Construction/Demolition/Traffic Management Plan secured by Condition (18).
 58. Insofar as Condition (23) secures monitoring required to test the effectiveness of the calming scheme, and to establish whether any additional measures are required in the interests of safety, I have set the monitoring point at no later than 80% of first occupancy. Whilst equivalent to the 100-dwelling point favoured by the appellant, use of a percentage reflects the fact that the final number of dwellings has yet to be fixed. Some flexibility would exist, meaning that monitoring could in practice take place at an earlier stage, as favoured by the Council. This would also provide time for the implementation of any additional measures should they be required. Such measures could not be

sensibly deferred to a later stage if they were shown to be necessary to enable the access to operate safely.

59. There is no need to impose a condition relating to materials as this is covered within the reserved matter of appearance and partly addressed by Condition (6). As I have no reason to believe that connection to the sewer network would be problematic, a condition requiring details of such a connection is also unnecessary. Insofar as conditions relating to air quality and contamination have been proposed by consultees, I have again been provided with insufficient evidence of need. Lastly, I have not imposed conditions requiring the appellant to remove obstructions from or to maintain the visibility splay. This is because these requirements could not be properly enforced, and other mechanisms exist that would secure the same outcome, as discussed above.

Conclusion

60. For the reasons set out above, and exercising due regard under section 149 of the EA 2010, I conclude that the appeal scheme would comply with the development plan taken as a whole, and that the appeal should therefore be allowed.

Benjamin Webb

INSPECTOR

Schedule of Conditions

- 1) Details of appearance, landscaping, layout, and scale (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the Local Planning Authority before any development other than demolition takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters in relation to all parts of the development other than custom/self-build housing shall be made to the Local Planning Authority not later than 2 years from the date of this permission.
- 3) Application for approval of the reserved matters relating to the custom/self-build housing shall be made to the Local Planning Authority not later than 3 years from the date of this permission.
- 4) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 5) Insofar as it shows the radius of the bell mouth and visibility splays of the site access, the development hereby permitted shall be carried out in accordance with the following approved plan: C23087-ATP-DR-TP-008 Rev. PO2.
- 6) Applications for clearance of the reserved matters shall be broadly in accordance with the details set out upon and within the following plans and documents: edp8264_d106a; edp8264_d017a; edp8264_d018e; edp8264_d019d; Design and Access Statement Ref. edp8264_r002c.
- 7) Prior to the first reserved matters application, a Construction Environmental Management Plan (CEMP) shall be submitted to, and approved in writing, by the Local Planning Authority. This shall be consistent with the Shadow

Habitats Regulations Assessment dated February 2025, and the Ecological Impact Assessment dated March 2024, and shall include:

- a) mitigation measures required to protect legally protected species and their retained habitats from injury or damage, including in relation to lighting;
- b) information for the construction workforce;
- c) timings of site clearance;
- d) details of appropriate fencing for buffer areas to protect retained on site habitats from encroachment by machinery, construction activity and unauthorized operatives;
- e) overnight ramps placed within open trenches and daily checks of excavations for trapped wildlife;
- f) pre-commencement surveys for species that are dynamic in distribution, and where updates are otherwise required; and
- g) provision for ecological tool box instruction for operatives, a walk over check by an ecologist immediately prior to vegetation and other site clearance activities.

The approved CEMP shall be implemented during the vegetation clearance and construction phases of the development hereby permitted.

- 8) Concurrent with the first reserved matters application, a Landscape Ecological Management Plan (LEMP) shall be submitted to, and approved in writing, by the Local Planning Authority. The LEMP shall be consistent with the Shadow Habitats Regulations Assessment dated February 2025, and shall include objectives and management prescriptions to:

- a) 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. This shall include measures to prevent public access to the SUDs area;
- b) maintain and enhance wildflower meadow botanical diversity;
- c) maximise foraging resources and provide favourable habitats for protected species using the site;
- d) schedule annual maintenance checks of wildlife features, and make provision for remedial action as necessary; and
- e) ensure endorsement of mitigation measures by an ecological consultant upon completion of construction and landscaping, with confirmation of this to be provided to the Local Planning Authority.

The approved LEMP shall be implemented over the operational phase of the development.

- 9) Concurrent with the first reserved matters application, a bat and bird nesting/roosting strategy shall be submitted to and approved in writing by the Local Planning Authority. This shall be consistent with the Ecological Impact Assessment dated March 2024, and shall detail the number, type and location of features supportive of bat and bird nesting/roosting to be provided on site. The approved features shall be installed prior to the first occupation of any part of the development to which they relate.
- 10) Concurrent with the first reserved matters application, details of measures to provide 15% of the predicted future energy use of the development from on-site renewable sources shall be submitted to and approved in writing by the Local Planning Authority. The approved measures shall be implemented before any part of the development to which they relate is first occupied, and shall thereafter be retained.

- 11) Details submitted in relation to the reserved matter of layout shall include the identification of space to be provided within the site to accommodate on-street parking displaced from Dark Lane by construction of the site access and related introduction of parking restrictions.
- 12) Details submitted in relation to the reserved matter of scale shall include the finished floor, eaves and ridge levels of all buildings, which shall not otherwise exceed 2-storeys in height.
- 13) Details submitted in relation to the reserved matters of layout and landscaping shall be accompanied by details of existing and proposed ground levels, including that of all roads, pavements and parking areas.
- 14) Details submitted in relation to the reserved matter of appearance shall include a site-wide lighting strategy. The strategy shall be consistent with the lighting parameters described in the Shadow Habitats Regulations Assessment dated February 2025, and shall include details of:
 - a) the type and location of the proposed lighting;
 - b) existing and proposed lux levels;
 - c) lighting contour plans;
 - d) the points at which light measurements will be taken;
 - e) monitoring of the lux levels post construction; and
 - f) the hours of lighting operation.

The strategy shall also include an assessment 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.

- 15) A minimum of 17% of the dwellings hereby permitted shall be designed to comply with optional requirement M4(2): Category 2 – Accessible and adaptable dwellings, of the Building Regulations.
- 16) The dwellings hereby permitted shall be designed to comply with the Nationally Described Space Standard, unless this is shown to be neither practicable nor viable.
- 17) The development hereby permitted shall not commence until a Tree Protection Plan (TPP) and accompanying Arboricultural Method Statement (AMS) has been submitted to and approved in writing by the Local Planning Authority. The TPP and AMS shall be consistent with the Phase 2 Arboricultural Constraints Report, and Backwell Phase 2: AIA Plan January 2025 Ref. D35 41 P3.3.
- 18) The development hereby permitted shall not commence until a Construction/Demolition/Traffic Management Plan (CDTMP) has been submitted to and approved in writing by the Local Planning Authority. The CDTMP shall be fully consistent with the CEMP approved in relation to Condition (7), and TPP approved in relation to Condition (17) and shall include:
 - a) hours of work;
 - b) timetabling of vehicle movements onto and off of site, which shall avoid peak hours, and an appropriate window of time at either end of each school day coinciding with movement of children along Dark Lane (both primary and secondary);
 - c) details of measures to be taken to ensure safe manoeuvring of vehicles onto and off of the site;

- d) details of measures to facilitate safe movement across the site access by pedestrians, including wheelchair users and those with limited mobility;
- e) identification of locations within the site for loading/unloading, the storage of waste, plant and materials, the site office, welfare facilities and any hoardings;
- f) measures to control the spread of debris onto the highway, and to remedy the spread of such debris should it occur;
- g) measures to control noise, vibration and the production of airborne dust/pollutants; and
- h) identification of a point of contact/community liaison, including a 24-hour emergency telephone number.

The approved CDTMP shall be adhered to throughout the construction phase.

- 19) With the exception of demolition, the development hereby permitted shall not commence until a Written Scheme of Investigation (WSI) detailing a programme of archaeological work has been submitted to and approved in writing by the Local Planning Authority. The WSI shall include an assessment of significance and research questions, and shall detail:
- a) the programme and methodology of site investigation, recording and post investigation assessment;
 - b) provision to be made for analysis of the site investigation and recording;
 - c) provision to be made for publication and dissemination of the analysis and records of the site investigation;
 - d) provision to be made for archive deposition of the analysis and site investigation;
 - e) nomination of a competent person or persons/organisation to undertake the works set out within the WSI; and
 - f) a timetable for implementation of the WSI.

The WSI shall then be implemented as approved.

- 20) With the exception of demolition, the development hereby permitted shall not commence until a surface water drainage scheme has 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:
- a) 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;
 - b) include a timetable for implementation; and
 - c) 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; a description

of the system, the identification of individual assets, services and access requirements; and details of routine and periodic maintenance activities.

The surface water drainage scheme shall be implemented and thereafter managed and maintained as approved.

- 21) The site access shall not be brought into use until the adjacent telegraph pole has been removed and re-sited to a position outside the required visibility splay.
- 22) The development hereby permitted shall not be occupied until a traffic calming scheme designed to bring the 85th percentile traffic speed on Dark Lane down to 20mph, and generally consistent with that shown on plan Ref. C23087-ATP-DR-TP-014 Rev. PO2, has been implemented in accordance with details first submitted to and approved in writing by the Local Planning Authority.
- 23) No more than 80% of the dwellings hereby permitted shall be first occupied until a monitoring review of the effectiveness of the traffic calming scheme implemented in accordance with Condition (22) has been undertaken; it has been established through this monitoring whether any additional calming measures are required to bring the 85th percentile traffic speed on Dark Lane down to 20mph; and those measures have been implemented in accordance with details first submitted to and approved in writing by the Local Planning Authority.

APPEARANCES

For the Appellant

Christopher Young KC

Counsel for the Appellant, No5 Chambers

He called:

Tom Clarkson	(Ecology) Clarkson and Woods Ltd
Gary Holliday	(Landscape) FPCR
Gareth Howell	(Design) EDP
Rory McHugh	(Highways) Apex Transport Planning Ltd
Robert Skinner	(Heritage) EDP
Kathryn Ventham	(Planning) Stantec

Additional contributions from:

Christopher Charlton	(Legal) Clarke Willmott
Dominic MacDougall	(Appellant) Persimmon Homes

For the Local Planning Authority

Peter Wadsley

Counsel for the LPA, St John's Chambers

Additional contributions from:

Andrea English	(Highways) North Somerset Council
Natalie Richards	(Planning) North Somerset Council

Interested Parties

Rachel Beckingsale	Local resident
Rachel Bettison	Local resident
Neil Brain	Local resident
Neil Brant	NBC, obo Backwell PC
Mr Grahame Dixie	Local resident
Sarah Godwin	Local resident
Barbara Harland	Backwell PC
Mrs Lorraine Hopkinson	Local resident
Anna Littlewood	Local resident

Katie Markkanen	Local resident
Angela Ribbon-Miles	Local resident
Rob Miles	Local resident
Bridget Petty	District Councillor
Ceridwen Roberts	Local resident
Lucy White	Lucy White Planning, obo Backwell PC

INQUIRY DOCUMENTS

- ID1. Appellant list of appearances.
- ID2. Appellant opening.
- ID3. Council opening.
- ID4. Statement by Barbara Harland.
- ID5. Statement by Neil Brant.
- ID6. Statement by Rachel Bettison.
- ID7. Statement by Rachel Beckingsale.
- ID8: Statement by Katie Markkanen.
- ID9: Statement by Sarah Goodwin.
- ID10. Statement by Anna Littlewood.
- ID11. Statement by Grahame Dixie.
- ID12: Statement by Angela Ribbon-Miles.
- ID13. Transcript of statement by Ceridwen Roberts.
- ID14: Statement by Neil Brain.
- ID15: Statement by Lorraine Hopkinson.
- ID16: Statement by Rob Miles.
- ID17: Statement by Bridget Petty.
- ID18: Extract from Manual for Streets.
- ID19: Signed, undated S106 Agreement.
- ID20. Stage 1 Road Safety Audit dated February 2025.
- ID21. Email from Natural England.
- ID22. Appellant updated list of appearances.
- ID23. Appellant closing.
- ID24. S106 – Farleigh Fields A.

ID25: Shadow HRA – Farleigh Fields A.

ID26: UU – Farleigh Fields A.

ID27: Email from Natural England – Farleigh Fields A.