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## Appeal Decision

Inquiry held on 17 – 20 January 2017

Site visits made on 16 and 20 January 2017

**by David M H Rose BA (Hons) MRTPI**

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

**Decision date: 10 April 2017**

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Appeal Ref: APP/D0121/W/16/3150985

Land north of Oldmixon Road, Weston-super-Mare, BS24 9XN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 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 SWSD, K Berkeley, S Gwynne-Jones and N Phippen against North Somerset Council.
  - The application, Reference 16/P/0150/O, is dated 16 December 2015.
  - The development is described as an outline application for proposed residential development of up to 150 dwellings, public open space, allotments, football pitches, changing facilities and ancillary works.<sup>1</sup>
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### Decision

1. The appeal is allowed and planning permission is granted for an outline application for proposed residential development of up to 150 dwellings, public open space, allotments, football pitches, changing facilities and ancillary works on land north of Oldmixon Road, Weston-super-Mare, BS24 9XN in accordance with the terms of the application, Reference 16/P/0150/O, dated 16 December 2015 subject to the conditions set out in the Schedule to this decision.

### Preliminary Matters

#### Putative reasons for refusal

2. The putative reasons for refusal are:-
  1. *The proposal is for residential development on land outside the settlement boundaries for Weston-super-Mare and Hutton as defined in policy H/7 of the North Somerset Replacement Local Plan and is contrary to policies CS28 and CS33 of the North Somerset Core Strategy as proposed to be modified and is therefore contrary to paragraph 14 of the NPPF.*
  2. *The development will harm the rural landscape character and quality of the area and will cause the sprawl of the urban area into open land that functions to separate Weston-super-Mare from Hutton and Weston Villages. This will detract from the rural setting of the Mendip Hills Area of Outstanding Natural Beauty, contrary to policies CS5, CS12, CS14, CS19 and CS33 of the North Somerset Core Strategy, policies DM10, DM11 and DM32 of the draft Sites and Policies Plan Part 1 Development Management Policies and the objectives of the NPPF paragraphs 64 and 66.*

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<sup>1</sup> The Planning Statement and the Design & Access Statement confirm that the proposal is an outline planning application with all matters reserved for later approval; and the sole means of access would be from Woodside Avenue

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3. *Unless a S106 agreement is completed delivering acceptable affordable housing and community facilities for the new residents of the development the proposals are contrary to policies CF/1 for the North Somerset Replacement Local Plan; policies CS9, CS10, CS16, CS20, CS25, CS26, CS27 and CS34 of the Core Strategy, policies DM70 and 71 of the draft DMP and the Council's adopted Development Contributions SPD.*
3. The report to the Planning and Regulatory Committee provided an assessment of highway considerations with the advice that Woodside Avenue complied with adopted highway standards; it was able to accommodate the proposed development; and the existing highway layout did not give rise to any substantive road safety concerns.

**The development plan**

4. The draft policies referred to in the putative reasons for refusal have been overtaken by the subsequent adoption of the Development Management Policies Sites and Policies Plan Part 1 (July 2016) and the North Somerset Core Strategy (January 2017). Policies in the Replacement Local Plan are no longer relevant. However, the settlement boundaries defined by Policy H/7 have been saved.
5. Core Strategy Policies CS14 and CS28 confirm that Weston-super-Mare will be the focus for new housing development, including the strategic allocation at Weston Villages (urban extension).
6. Policy CS28 also makes provision for new development proposals within or adjoining the settlement boundary subject to a number of defined criteria. Housing sites outside the settlement boundary, in excess of about 75 dwellings, must be brought forward as allocations through Local Plans or Neighbourhood Development Plans. Insofar as the policy has been applied to dated settlement boundaries, with a measure of pragmatic flexibility, it could, nonetheless, act as a constraint to future housing supply and should be given no more than moderate weight.
7. Although Policy CS33 indicates that development outside the areas and approaches set out in other specified policies will be strictly controlled, in order to protect the character of the rural area and prevent unsustainable development, the Council has confirmed that its cross-reference to Policy CS28 provides the more appropriate, dominant, consideration.
8. The character, distinctiveness, diversity and quality of North Somerset's landscape are to be protected through Policies CS5 and DM10. Particular safeguards for the Mendip Hills Area of Outstanding Natural Beauty are set out in DM11. These policies merit full weight.
9. Policy CS19 seeks to protect strategic gaps to help retain the separate identity, character and/or landscape setting of settlements. The precise boundaries will fall to be considered with other site allocations, including housing land. Moreover, as the policy has the potential to hinder the supply of housing, it merits limited weight.
10. Policies CS12 and DM32, relating to high quality design and place-making, have no direct applicability to an outline planning application with all matters reserved but would be relevant at reserved matters stage.

**The basis on which the appeal is to be decided**

11. The original application, described as up to 150 dwellings, was supported by a redline boundary drawing (13191/1000A) and an Illustrative Framework Plan (13191/3001E). The Council failed to determine the application within the relevant period and the appellant gave notice of appeal on 23 May 2016.
12. On 9 December 2016 the appellant advised the Planning Inspectorate of amendments to the proposal. Consultees, interested parties and local residents were notified on the same date with confirmation that a request would be made for the appeal to be considered as:- *'proposed residential development of up to 130 dwellings, public open space, allotments, football pitches, changing facilities and ancillary works'*.
13. The revised redline boundary drawing (13191/1000D) showed the deletion of a small area of third party land from the northern boundary of the site. The main changes to the revised Illustrative Framework Plan (13191/3001E)<sup>2</sup> excluded dwellings from the higher land within the eastern and south-eastern parts of the site; increased the number of dwellings in the western segment of the site; repositioned the sports pavilion/changing facilities and related car park; adjusted the location of attenuation ponds; omitted a community orchard; and, despite the description of development, did not show the allotments (albeit notes 12 and 17 refer to allotments).
14. I issued a detailed pre-Inquiry note, on 13 January 2017, setting out general points relating to the consideration, or otherwise, of revised schemes; the manner in which the parties had, or had not, addressed the amendments; and potential 'risks' of wasting Inquiry time, adjournment and costs.
15. On 16 January 2017 a Statement of Common Ground, between the Council and the appellant, confirmed that the Inquiry could progress on the basis of the original and amended plans falling to be considered. The matter now falls to be addressed in my decision.
16. The basic principles are that amended schemes should be submitted as a fresh application; where an appeal has been made the process should not be used to evolve a scheme; and where, exceptionally, amendments are proposed during the course of the appeal, the Wheatcroft judgement will be relevant.
17. The Wheatcroft case established that *'the main, but not the only, criterion on which ..... judgement should be exercised is whether the development is so changed that to grant it would be to deprive those who should have been consulted on the changed development of the opportunity of such consultation'*.
18. Looking first at the changes, the amendment to the northern boundary of the site omits a strip of land forming the bank/margins to the Cross Rhyne watercourse. That area was not proposed for development, or any form of mitigation, and its omission is minor and uncontroversial.
19. In terms of the changes to the illustrative layout, these appear to have been precipitated by a review of the proposals, principally in response to the Council's landscape-based objections with particular reference to development on the higher parts of the site. Although the Council maintained that the amendments amounted to substantial differences of substance, it acknowledged that the scheme might be amended lawfully,

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<sup>2</sup> Incorrectly referenced as version E already existed – subsequently updated without further change to issue F

consistent with Wheatcroft, if it could be shown that no prejudice would arise. That prejudice might occur if interested parties were not afforded the opportunity to comment on any of the material changes.

20. In this regard, prior to the making of the planning application, the appellant undertook an extensive consultation exercise with leaflets delivered to over 300 homes and a variety of other interests. This was followed by a consultation website. The criticism made is that the level of consultation on the amended illustrative scheme was more limited, in that it was less wide-ranging than the original. Nonetheless, it matched the exercise undertaken by the local planning authority in relation to the original application and the subsequent appeal and captured all parties who had written to the Council.
21. Moreover, 156 letters, setting out the changes and accompanied by the updated plans, were issued; those wishing to make any comments were invited to make them in writing to the Planning Inspectorate; and arrangements for the Public Inquiry were confirmed.
22. Whilst local residents have been critical that the time for making representations coincided with Christmas/New Year, a number of responses were made and some interested persons attended and spoke at the Inquiry. In addition, Hutton Parish Council submitted written representations following a public meeting held on 29 December 2016. The representations, generally and predominantly, reflected the points made in relation to the pre-application consultation and those submitted to the local planning authority during the course of the planning application.
23. Nonetheless, the authority remained concerned that one or more previously silent people might have wished to make representations either on the content of the scheme or on those elements omitted.
24. In my view, the appellant's re-consultation exercise was equitable, proportionate and robust and I have no basis to suppose that the community in general was either not properly informed or denied the opportunity of making representations. The responses, in common with the original representations, verified general opposition to the principle of the development rather than its illustrative details.
25. Moreover, as an outline application with all matters reserved, even if, for example, the position of new houses had changed relative to established neighbouring dwellings, that would not have been binding and the inter-relationship of buildings would have been a matter for consideration as part of the determination of any reserved matters application.
26. In addition, despite the differences between the revised Illustrative Framework Plan and all that preceded it, including the Design and Access Statement, none of the earlier material would have predetermined or constrained the subsequent detailed form of the development in that access, appearance, landscaping, layout and scale were reserved for later approval. Furthermore, as the proposal was not development requiring an Environmental Impact Assessment, none of the supporting material constituted clearly defined parameters which would have limited the scope of the reserved matters.
27. Overall, bearing in mind the status and form of the application, I see limited difference between the two Illustrative Framework Plans. The site area,

save for the small strip along the northern boundary as described above, remains the same; and so does the point of access. Although other elements undergo change, including the maximum number of dwellings, the proposal remains, in essence, as an outline application for residential development and related uses.

28. Whilst the specified number of dwellings might be regarded to be a critical component, it must be remembered that the grant of an outline planning permission for up to 150 dwellings would have been capable of admitting the submission of a reserved matters scheme for a smaller number of units. Overall, I do not regard the later Illustrative Framework Plan to be inconsistent with the development which formed the basis of the earlier application.
29. Moreover, given the nature of the consultation undertaken, I consider that no material prejudice would arise from considering the appeal on the basis of Illustrative Framework Plan revision F.
30. From the above, it follows that the revised Illustrative Framework Plan did not amount to a new and materially different proposal which should have been the subject of a fresh application. Moreover, whilst the appellant has sought to adjust the illustrative layout in the lead up to the Inquiry, and to rely on corresponding evidence, the amendments remain within the 'spirit' of the application when considered as a whole. Even if I had found this to represent an evolution of the scheme during the course of the appeal, it would have been insufficient to deny the consideration of the revised illustrative material in light of my conclusions on the nature of the consultation and the absence of material prejudice.
31. In reaching this conclusion I have had regard to the appeal decision at Waterlooville,<sup>3</sup> where the Inspector declined to consider an alternative scheme for 30 dwellings, as opposed to 40, with development taking place on a smaller part of the appeal site, despite the appellant having undertaken consultation. I do not know the exact circumstances of that case, but the original description of development was number specific and there is nothing to suggest that the proposal had been submitted in outline with all matters reserved. As such I do not regard it to be directly comparable to the circumstances and considerations of the case before me.
32. For the avoidance of doubt, I will have regard to the revised redline boundary drawing (13191/1000D) and the revised Illustrative Framework Plan (13191/3001F). There is no need to amend the description of the development as the words 'up to' merely set an upper limit. In addition, the matter of defining the permission, as necessary, either by an upper limit to the number of dwellings and/or by reference to the principles of the Revised Framework Plan, could be secured by conditions. This is a matter for consideration later in my decision.

**Agreement under section 106 of the Town and Country Planning Act 1990**

33. A completed legal agreement (S106) between the owners and promoter and the Council was submitted, by arrangement, after the close of the Inquiry to incorporate revisions discussed during the Inquiry.

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<sup>3</sup> APP/M1710/W/14/3000999

34. The agreement defines the 'Planning Application' as '*..... the construction of dwellings (the number of dwellings shall be as set out in the Appeal Inspector's Decision letter and shall either be (a) a maximum of one hundred and fifty (150) dwellings or (b) a maximum of one hundred and thirty (130) dwellings), public open space, allotments, football pitches, changing facilities and ancillary works*'.
35. The document contains obligations for the provision of on-site affordable housing at a ratio of 30% of which 82% would be social rented units with the balance comprising shared ownership units; the laying out, landscaping and future maintenance of open space within the development; and the provision of two grass playing pitches and changing facilities.
36. Financial contributions would be made towards built sport and leisure facilities; additional bus services; library books; a local employment initiative; off-site highway works; pedestrian and cycle connections; playing pitches (if the developer elects not to provide the on-site playing pitches and changing facilities); additional educational facilities; sustainable travel initiatives; and improved youth services resources to serve the needs arising from the development.

#### **Statement of Common Ground**

37. A Statement of Common Ground between the appellant and the Council, dated 16 January 2017, confirms that there are no objections to the proposal in relation to ecology; flood risk and drainage; arboriculture; agricultural land quality (Grade 3b); and heritage (subject to conditions).
38. Two recent appeal decisions in the district, at Sandford and Banwell<sup>4</sup> have determined that the local planning authority is unable to demonstrate a five-year supply of deliverable housing sites.
39. The extent of the shortfall is not agreed. The Council admits that it is unable to demonstrate more than a 4.2 year supply of land for housing as determined in the Banwell decision; that amounts to a very serious or significant shortfall which should be accorded substantial weight; the policies for the supply of housing are therefore deemed to be out-of-date; and the tilted balance of paragraph 14 of the Framework is engaged. The authority sees no purpose in investigating the extent of the shortfall any further. The appellant assesses supply as 2.3 years.

#### **Main Issues**

40. The main issues are:-
  - a) the effect of the proposal on the character and appearance of the area, having particular regard to the pattern of settlement, sense of place and the setting of the Mendip Hills Area of Outstanding Natural Beauty; and
  - b) the overall planning balance in light of relevant local and national policy considerations and whether any adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits of the proposal, having particular regard to the Council's housing land supply position and the provision of market and affordable housing which the scheme would deliver.

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<sup>4</sup> APP/D0121/W/15/3138816 – 13 October 2016 & APP/D0121/W/15/3139633 – 12 October 2016

## Reasons

### The first main issue

#### Landscape character

41. The appeal site is located in National Character Area (NCA): Somerset Levels and Moors with the Mendip Hills NCA on the rising land to the south of the site.
42. At a more local level, the North Somerset Landscape Character Assessment<sup>5</sup> places much of the proposed developable area of the site (southern and eastern fields) in the River Yeo Rolling Valley Farmland landscape character area (LCA). The northern and north-eastern fields fall within the Locking and Banwell Moors LCA, a Levels landscape, which extends to the edges of Weston-super-Mare. The central field adjoins the built-up area and is located within the saved settlement boundary of Weston-super-Mare. To the south of the site lies the higher wooded Mendip Ridge and Combes LCA.
43. The overall strategy for the immediate area of the appeal site includes conserving and strengthening the peaceful, rural, landscape character and its structure; and limiting the impacts of modern development. The priority for the Mendip Hills is to conserve the peaceful and secluded nature of the landscape and to minimise the impact of settlement edges; and, for the Moors landscape, the aim is to conserve the pastoral landscape, enhance areas in decline and to manage urban fringe development and activity to encourage a sensitive interface.
44. Translating the above broad guidelines into policy requirements, Core Strategy Policy CS5 indicates that *'the character, distinctiveness, diversity and quality of North Somerset's landscape and townscape will be protected and enhanced by the careful, sensitive management and design of development ..... [and] the Mendip Hills Area of Outstanding Natural Beauty (AONB) will be protected by ensuring that development proposals conserve and enhance its natural beauty and respect its character .....'*
45. Development Management Policy DM10 reinforces the need to protect landscape character; for development to be carefully integrated, respecting tranquillity and historic elements; and to conserve and enhance characteristic vegetation. It acknowledges that where some harm to landscape character is unavoidable, but development is otherwise deemed beneficial, positive mitigation measures should be secured. Policy DM11 relates to the conservation, protection and, where possible, enhancement of the AONB; and it requires consideration of views into and out of the designated area.
46. The appeal site reflects its defined typologies in many respects and development of the land would inevitably displace or erode a number of these characteristics. It is common ground that the appeal site is not a valued landscape but that is not to say that it lacks value.
47. It can be seen that the Levels landscape in the northern and north-eastern parts of the site is in good condition with a largely intact medieval field pattern demarcated by well-defined hedgerows, drains and rhynes.

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<sup>5</sup> Supplementary Planning Document Adopted December 2005

48. The rolling valley farmland, covering the eastern and southern fields, is laid to pasture and has strong hedgeline definition. Its rolling topography, with two rounded hillocks, is distinctive and serves to provide transition between the Levels and the steeply rising slopes of the AONB. The two hillocks are relatively rare elements within the LCA and may be considered to be particularly important examples.
49. There is also evidence of possible archaeological features within the site, including indications of ridge and furrow/earthworks which provides time-depth and historical association to the landscape.
50. Despite these attributes, the appeal site also comes under the influence of the urban edge of Weston-super-Mare. It is backed by large industrial buildings to the north (beyond the Cross Rhyne) with the Weston Villages urban extension to the north-east; the western boundary of the site, in part, is contiguous with more modern industrial/storage units (Lynx Crescent/Gazelle Road), some of which are well-screened; residential development, in estate form, borders the remainder of the western boundary (Woodside Avenue); and ribbon development, along Oldmixon Road, demarcates the southern edge of the land.
51. However, whilst the immediacy of the urban area provides strong definition to a significant part of the site, the land itself does not suffer from physical urban fringe incursion and it retains strong rural characteristics with a clear outward relationship and countryside aspect to the east. Nevertheless, it cannot be said to be a tranquil or scenic landscape given the hum of industrial activity, which affects part of the site, and the immediacy of the built-up area.
52. Looking at the landscape effects of the proposal, the flat, Levels, northern field would remain undeveloped; and, even with a new informal shared cycle/footpath link, it would retain its inherent characteristics.
53. Changing facilities, associated car parking and, potentially, allotments would alter the character of the north-eastern field. However, the LCA key characteristics confirm that *'..... the area is influenced however, by a connection with the urban fringe, particularly towards Weston-super-Mare .....*'. Overall, the degree of change would not be particularly marked.
54. The central field (within the saved settlement boundary and contained in part to the north by industrial/storage units, to the west by Lynx Crescent and to the south by the residential estate and a well-defined natural boundary to the east) is also generally flat. Development of its southern portion would have no marked impact on adjacent landscape character.
55. The remaining two fields sweep out into the countryside and their combined openness, strong landscape framework and respective distinguishing hillocks are key components of the landscape both within the site itself and as a foreground (when viewed from the north and north-west) to the more striking rising, tree-clad, topography of the Mendip Hills.
56. Residential development on these fields would undoubtedly erode the sense of openness and the inter-relationship with the wider countryside. There would be loss of pasture and internal hedgerow; merging of the field pattern; and an illustrative form of development, with swathes of curved structural landscaping, which pays scant heed to the linear configuration of the landscape.

57. Whilst the higher ground could be kept free from built development, its integral contribution to the landscape would be undermined by foreground dwellings creeping up the lower contours; and built form, domestication and partially encircling new planting would either hide or subdue the currently distinctive landform and its status within, and contribution to, the landscape.
58. All of the above effects would be specific to the site itself which is in turn, in part, influenced by its proximity to the urban edge. In terms of impacts on the Rolling Lowland Farmland LCA, the appeal site sits at its western extremity where rural qualities are less marked and where residential development would be less uncharacteristic and capable of being assimilated with the town.
59. Whilst the proposal would undoubtedly result in some site specific adverse effects, the components and characteristics of the wider LCA would not be weakened or prejudiced to a material degree if the proposal avoids the higher ground within the site. This would also ensure that there would be no marked effect on the LCA which contains the AONB.
60. A number of dismissed appeal decisions (mostly for comparatively smaller development) refer to the River Yeo Rolling Valley Farmland LCA with sites also lying below the Mendip Ridges and Combes LCA. The nearest, between 145 and 147 Oldmixon Road, involved a sensitive gap in a sporadic pattern of ribbon development, in a distinctly more rural setting, and the loss of visual linkage with the open rolling landscape to the south. Its context is clearly different to the proposal before me.
61. Sites at Knightcott Road, Banwell included:-
- a) the extension of ribbon development, which was deemed to be *'uncharacteristic of the more compact and defined settlement pattern of the village and to significantly detract from the current open character of the village's immediate surroundings'*;
  - b) a residential conversion and new dwelling where loss of openness was found to be critical;
  - c) 33 dwellings *'..... in the countryside, some 265 metres outside the nearest part of the settlement boundary to Banwell ..... the result would be a projection of an urban form of development into this area of countryside .....'*; and
  - d) up to 155 dwellings on a site which, amongst other factors, *'..... forms part of the open countryside ..... a public footpath crosses the site ..... this very alluring rural scene and close impression of this part of the AONB is of considerable quality ..... the proposed development would have a significant adverse effect upon the existing attractive rural scene .....'*.
62. Whilst the sites are located within the same LCA as the appeal proposal, and provide general context, the value of comparison, having considered the decisions in their entirety, is lost by the materially different characteristics of these sites.
63. A further decision at Congresbury, for up to 80 dwellings, related to a site which *'..... does not have any appreciable sense of being surrounded by development ..... it would not be a natural extension of the village ..... but the overspill of a substantial block of built development down from the ridgeline into the open countryside .....'*. Again, no realistic direct parallel can be drawn.

64. Overall, the proposal would result in the loss of a pastoral landscape; harm to its distinct landform; intrusion of new buildings and the extended, uncharacteristic, urban edge; and the demise of a landscape which provides transition between the Levels and the Mendips. The site's outward hedgerows would remain, but some within the area proposed for development would be removed leading to the loss of the earlier field pattern which would be further compromised by some of the new, illustrative, landscaping. However, such effects would be localised and moderated by proximity to the built-up area and the absence of material effects on the wider landscape and component LCAs.

**Landscape appearance – visual effects**

65. In assessing visual effects, the appellant took no account of the planned, future, strategic cycleway and footpath along the Cross Rhyne as the current, seemingly permissive, path does not have formal status. However, to my mind, that represents a significant failing in that the proposed route, to and from the Weston Villages, is likely to be well used and of recreational value; and users would be of high sensitivity.
66. Nonetheless, the future viewer would have the benefit of an open foreground (the northern field) with new development located at some distance beyond one or more hedgerows. Moreover, particularly when travelling westward, the context of the site would be the existing edge of Weston-super-Mare; and, in the opposite direction, new housing would have the clear demarcation afforded by both rising ground and the strong hedgerow along the eastern boundary of the site.
67. Looking further in the round, the visual effects from the generality of Lynx Crescent would be minor in that people 'at work' have lower sensitivity and the adjoining, foreground, field is within the settlement framework where, in principle, development might be admitted.
68. From the lower slopes of the Mendip Hills, public routes within the vicinity of the appeal site are limited; and, where they exist, views are often confined by topography and/or foreground hedgerows. However, gaps and glimpses reveal the upper parts of the appeal site albeit, with the foreground setting of buildings along Oldmixon Road and the backdrop of Weston-super-Mare.
69. Along Oldmixon Road, the nearer of the two hillocks appears recurrently as a backdrop in the narrow gaps between frontage dwellings with its lower slopes giving way to the town in the background. In both instances, avoiding development on the upper parts of the site, even if some new roof-tops were to be visible, would place buildings in an urban setting with a robust backdrop and with no material adverse visual effects.
70. Finally, giving consideration to views from Moor Lane, running northward from Hutton, the site is not particularly distinct in the landscape and the large sheds nearby impose themselves on an otherwise rural scene. Again, by avoiding the higher land within the site, the development would not be unduly apparent in the landscape and the perception of open land running up to the slopes of the AONB would remain intact.

**Pattern of settlement and sense of place**

71. Core Strategy Policy CS19 identifies several locations as appropriate for investigation for possible designation as strategic gaps including land between Weston-super-Mare and Hutton. The North Somerset Site Allocations Plan Consultation Draft sets out at Policy SA9: - *'Development within strategic gaps as shown on the Proposals Map will be permitted where: the open or undeveloped character of the gap would not be significantly adversely affected; the separate identity and character of settlements would not be harmed; and the landscape setting of the settlements would not be harmed .....'*
72. The earlier iteration of the strategic gap, March 2016, which excluded the appeal site and land immediately to the east, was redrawn in October 2016 to incorporate this land and, in turn, to eliminate the central field from the extant settlement boundary.
73. It is said that there is a clear perception of the gap from Moor Lane with some background buildings visible on the edge of Weston-super-Mare, most notably the industrial units beyond the site. Even if new houses on the lower parts of the appeal site were to appear in that view, the combination of distance, urban context and landscaping would ensure that the sense of the gap would not be materially diminished.
74. In terms of the perception of leaving the town in the direction of Hutton, the existing, closely spaced, ribbon of dwellings on the northern side of Oldmixon Road and Totterdown Business Park, to the east, contrast with the markedly more rural aspect along the opposite road frontage.
75. Although the more elevated parts of the appeal site appear repeatedly in some of the narrow gaps between dwellings, the nature of the built frontage, with a foreground footway, has the hallmarks of early-mid twentieth century ribbon development leading out of the settlement rather than lying outside its confines. In my opinion, the sense of leaving Weston-super-Mare is very much to the east of this transitional zone.
76. Looking next at views from the public footpath on the lower slopes of the AONB, the elevated parts of the site are visible within a more general built framework marked by frontage buildings and the clear outline of the town beyond.
77. Moving on to consider sense of place, in relation to views from the Cross Rhyne and Lynx Crescent, although new development would extend into the open countryside, it would not merge with any part of Hutton, either physically or perceptually, due to intervening open land, topography and vegetation. The impression gained from Moor Lane would similarly continue to be one of clear separation and separate identity.
78. In terms of landscape setting, the landscape of the appeal site is distinctive and it provides clear contrast to the built-up area of Weston-super-Mare. Development would mar that relationship. However, the appeal site does not contribute directly to the setting of Hutton but it does combine with land to the east, which is important to the landscape framework of that village, and that would remain unaffected.

79. I have also had regard to the distinct character of Hutton, its clear and strong edge and its countryside surroundings. The proposed development would not make Hutton's identity and standing any less evident.
80. Finally, the Council's assessment of the original strategic gap is critical of its narrowness in the vicinity of Totterdown Farm and the Grange and outlines the desirability of widening the gap to reduce the risk of coalescence. It is to be noted that the appeal site is well-removed from those pinch points.
81. Overall, having taken account of the future pattern of settlement arising from the development of the Weston Villages, I have reached the conclusion that the appeal proposal would not result in a material effect on the strategic gap and it would not erode the separate identities of Weston-super-Mare and Hutton.

#### **The Mendip Hills Area of Outstanding Natural Beauty - setting**

82. The Mendip Hills AONB Management Plan (2014-2019) identifies a series of factors changing and bringing pressure on the AONB landscape including development pressures which *'..... need to be managed within and near the AONB boundary to ensure that the essential character and its setting is conserved and enhanced'*. The site is identified as being within the *'immediate setting of the AONB'* and lying below an area of *'highly visible slopes'* signifying the importance of these slopes in local views.
83. However, the extent to which the appeal site is visible from public views within the AONB is limited and its overall context is heavily influenced by the foreground of buildings along Oldmixon Road and the backdrop of buildings within Weston-super-Mare. In my opinion, there would be no marked loss of setting.
84. Looking towards the AONB, from the north and north-west, the introduction of built development would remove an intermediate swathe of undeveloped land. However, the rising backdrop of the AONB would remain apparent beyond the proposed development. Although the proposal would lead to a minor loss of setting, in that some pastoral rolling land would disappear, the broad panorama from the future route along the Cross Rhyne and the context of predominantly open surroundings, slightly removed in an easterly direction, would remain.

#### **Character and appearance - summary**

85. In acknowledging that the appeal site is a distinctive constituent of the open countryside, it is apparent that the existing urban edge of Weston-super-Mare imparts a marked influence on its setting. New residential development would undoubtedly have an adverse effect on its component characteristics, but these effects would be localised with minimal impact on the wider landscape.
86. Visually, the proposed development would generally remain well-contained; whilst there would be some harm to the landscape setting of Weston-super-Mare, the separation and separate identities of the town and its neighbouring village would remain clearly perceptible; and there would be no marked impacts on the setting of the Mendip Hills AONB.

## **The second main issue**

### **Housing land supply**

87. The Council's position on housing land supply flows principally from the appeal decision at Banwell (up to 155 dwellings).<sup>6</sup> In short, this confirmed the qualified applicability of Core Strategy Policy CS13. The Inspector accepted the housing requirement, in the absence of any other figure; he found persistent under-delivery which triggered a 20% buffer; and he discounted some of the claimed supply. He concluded that the Council was only able to demonstrate about 4.2 years supply.
88. The local planning authority maintains that the above decision is up-to-date; of significant materiality to the matter at issue in this case; and that there is no need to revisit the assessment of supply given the authority's concession and the engagement of the tilted balance in paragraph 14 of the Framework. It is also to be noted that, in an appeal decision at Sandford,<sup>7</sup> the Inspector, having satisfied himself that the Council could not identify a five-year supply, did not seek to define the position any more precisely.
89. Whilst it would have been open for the parties to reach common ground and simple understanding of the absence of a five-year supply, the appellant chose to pursue its case on a supply of 2.3 years and a shortfall against adopted housing requirements of 4,964 dwellings, some 3,000 more than that acknowledged by the Council. Reliance on, and contrasting interpretation of, various legal authorities did not resolve the dispute as to whether further examination was necessary.
90. For my part, having been presented with the appellant's comprehensive evidence and, in the absence of serious contradiction on the matters of substance, I would regard the overall exercise to be broadly credible and indicative that the shortfall in the five-year supply of housing land may well be greater than the Council's concession.

### **Affordable housing**

91. Core Strategy Policy CS16 indicates that the target for the provision of affordable housing is at least 150 dwellings per annum (82% social rented housing and 18% intermediate housing). It identifies a benchmark provision of 30%. It is to be noted that although the overall housing requirement for the district, in Core Strategy Policy CS13, increased from 13,400 to 20,985 dwellings the affordable housing target remained static whereas consequential uplift would have swelled provision to around 315 affordable homes per annum. In terms of affordable housing delivery, the last five years has seen a total shortfall of 34 units against the policy target.
92. In turn, the Council's adopted Affordable Housing Supplementary Planning Document (2013) applies the target set by Policy CS16 and confirms the mix of tenures. The authority's Housing Strategy draws on the 2015 Strategic Housing Market Assessment which identified a need for an average of 240 new affordable homes per year (2016-2036); and the Sustainable Community Strategy (2008-2026) recognises that one of the main challenges is the '*growing number of people seeking social housing in the area*'. It is apparent that the need for more affordable housing in North Somerset has been, and continues to be, an issue of concern.

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<sup>6</sup> APP/D0121/W/15/3138816

<sup>7</sup> APP/D0121/W/15/3139633

93. The Wider Bristol Housing Market Area Strategic Housing Market Assessment (July 2015) identifies a current (untested) need (2016-2021) of 8,303 affordable homes (1,661 per annum); the assessed need over the plan period (2016-2036) is an average of 1,016 units per annum; and the need for the first five years would be 2,677 dwellings per annum (2,717 with a 1.5% vacancy rate). The calculated contribution for North Somerset is 232 dwellings per annum (backlog spread over 20 years). If accumulated needs were to be addressed within the first five years, the number would rise to 435 affordable dwellings per annum.
94. In terms of the Housing Register, at 1 April 2016, 3,608 households were listed as requiring affordable homes with 1,057 of those expressing an interest in Hutton. The district has a total of 8,395 affordable homes; 29 are in Hutton and 279 are in Oldmixon; vacancies in those areas amounted to 21 units on 1 April 2016.
95. The average waiting time for an affordable home in North Somerset is 735 days. The most severe needs experience an average delay of 602 days. In addition, the change in the number of households being accepted as homeless, and in priority need, in the three year period from 2013 increased in the district by 34% against a national trend of 10%; house prices in relation to income are higher than at any time in the past; and house prices in Weston-super-Mare have increased by around 32% over the past five years.
96. Overall, even with the delivery of affordable homes on four sites in North Somerset (27 homes in total) through the Affordable Homes Programme, the need in the district is glaring with a significant number of people having bleak housing prospects for the foreseeable future.
97. Although the Council sought to undermine the veracity of the affordable housing obligation, in the absence of a viability appraisal, nothing of any substance was placed before me. It is also telling that the appellant has not considered the 30% contribution to be unrealistic on the grounds of lack of viability.
98. It is worthy of note that the Council's Development Contributions Supplementary Planning Document (January 2016) merely reflects that if *'..... an applicant considers that the cost of their planning obligation renders their development unviable or undeliverable, they should raise this concern .....'*. There is nothing to suggest that the Council seeks a viability assessment as matter of course.

**Housing land supply – summary**

99. Whether or not one takes the deliverable supply of housing land to be no more than 4.2 years or no more than 2.3 years, the inevitable and common conclusion is that the shortfall is very serious, significant and is a matter of substantial weight. So too is the inability to address affordable housing needs.
100. Following the close of the Inquiry, the appellant drew attention to a decision at Watery Lane, Lichfield where the Secretary of State attached *'very substantial weight to the benefits of the provision of affordable and market housing'*.

101. The weight to such benefits is a matter of judgement and is fact specific. I am not bound to an identical finding. In particular, it is to be noted that the Lichfield project involved up to 750 dwellings and related development; and the factors in the overall balance were seemingly more complex than the case before me. Even noting that the affordable housing obligation was set at 25%, as opposed to 30% here, I remain content to afford substantial weight to the benefits arising from the market and affordable homes which the scheme would deliver.

**Other benefits**

102. In terms of the other benefits advanced by the appellant, the location of the site with good accessibility to services and facilities is a factor and expectation of sustainable development and is neutral in the planning balance. Employment during the construction of the development, and increased local spending, would provide limited economic benefits.

103. The laying out of public open space and playing pitches (if the appellant elects to make provision on site) is in part in the nature of mitigation; and provision, over and above the level required by policy, would, in light of my observations in paragraph 108 below, be an added social benefit to the community.

104. It would also appear that playing pitch provision, as indicated, would allow the relocation of a pitch from a site west of Winterstoke Road, which is identified in the publication draft Site Allocations Plan for mixed use development including some 70 dwellings and a further boost to housing supply. It is unclear whether or not the appeal proposal would provide the basis of the replacement pitch provision and, without any tangible link or guarantee, no weight applies.

**Planning obligation**

105. The Council has provided a comprehensive statement of justification, including a supplementary note in relation to playing pitch provision, related to development plan policies and the adopted Development Contributions Supplementary Planning Document. I am satisfied that the individual obligations comply with the relevant statutory and policy tests set out in the Community Infrastructure Regulations and the Framework, albeit two elements require further commentary.

106. Firstly, the appellant has committed to provide public open space in excess of the policy requirement which would arise from the necessity of avoiding development on land within flood zones 3; and retaining the higher parts of the site in open use to minimise adverse landscape and visual effects.

107. Secondly, the appellant would have the option of providing two playing pitches, and related facilities, within the site, against a calculated need of 0.3 pitches to serve the development, or making a proportionate financial contribution towards improving the resilience and capacity of existing pitches elsewhere.

108. Whilst the open space and on-site playing pitch provision would be in excess of that normally justified, I consider that these obligations would not be disproportionate in the particular circumstances of this case.

**Other matters raised by local residents**

109. One of the principal matters raised by local residents relates to access through Woodside Avenue which the Council has assessed to be acceptable. For my part, whilst roadside parking clearly occurs, most of the dwellings along the route have good off-street parking arrangements and there is no technical or design reason why the route should not be capable of accommodating additional traffic or why emergency services vehicles (specifically fire appliances) should experience particular difficulty, unless impeded by the careless parking of residents or their visitors.
110. The proposed development would inevitably result in a marked increase in vehicular movements along Woodside Avenue but this would not be incompatible with a residential street where most houses have reasonable separation from the road. Concern about increased dangers to children playing in the street is understandable but it is not a sound reason to lead to the refusal of planning permission especially when the proposed development would provide new opportunities in areas designated and designed for safe recreation. There is no reason to suppose that residents of the new development would be any more prone than existing occupants to drive with excessive speed; and it would remain a matter for the relevant authorities to investigate and review as necessary.
111. Vehicular parking within the proposed development, including the provision of sufficient parking for the recreation facilities, would be a matter for the Council to determine on the submission of reserved matters. Safeguards during construction works could be secured by means of a Construction Environmental Management Plan in relation to traffic movements, hours of operation and on-site parking.
112. In terms of potential effects on the living conditions of existing residents, the submission of reserved matters, which would be subject to consultation with the local community, would allow the local planning authority to consider the layout of the development and its relationship with existing homes to ensure that appropriate standards of privacy are achieved; and that the scheme follows good practice in creating a safe, secure and accessible layout having particular regard to the relationship with adjacent dwellings.
113. Wider traffic impacts are also noted with particular reference to local junctions, the increased traffic arising from the new Lidl store and the effects of seasonal holiday traffic. The highway authority has not identified any inhibiting capacity concerns and the planning obligation would secure funds towards the improvement of traffic flows at the Broadway/Winterstoke Road mini-roundabout junction.
114. The risk of flooding of existing properties, from surface water run-off, is also a repeated concern. However, surface water attenuation would be a matter for detailed design to ensure appropriate safeguards. The protection of wildlife interests could also be secured by good design and safeguarding conditions.
115. As to local health services, there is no evidence to support the generalised comments relating to lack of capacity; and the planning obligation would provide funds for the additional school places required to serve the needs of the development in accordance with the Council's adopted formula.

116. The reference to the lack of local employment opportunities is also addressed, to the satisfaction of the Council, by the planning obligation which would provide funds to support local employment provision initiatives through the authority's Business High Growth Support Project.
117. Although local residents have questioned the need for the sports pitches, the appellant has confirmed that discussions have taken place with clubs who have expressed an interest for additional facilities and accommodation on the appeal site.
118. I have also had regard to Hutton Parish Council's Vital Villages Survey/Parish Plan (2004) and the overwhelming views of the community in relation to the protection of the countryside; the lack of need for new housing; and traffic related issues. However, the local planning authority has accepted the necessity for additional housing in the district and the consequential release of some greenfield sites.

**The overall planning balance**

119. The starting point is that four of the five fields comprising the appeal site are located outside the existing settlement boundary. Although Core Strategy Policy CS28 acknowledges that new development beyond existing limits may be permitted, the indicative threshold of about 75 dwellings continues to act as a constraint to future housing supply.
120. Similarly, in relation to Policy CS19, as the precise extent of the strategic gap between Weston-super-Mare and Hutton remains to be confirmed as part of the Sites Allocation Plan examination, there is every indication, insofar as it washes over the entire appeal site, that it too has the potential to have a limiting effect on future housing supply.
121. It is agreed that the Council is unable to demonstrate a five-year supply of deliverable housing land and by virtue of paragraph 49 of the Framework, Policies CS28 and CS19 should not be considered up-to-date. Paragraph 14 of the Framework indicates that where relevant policies are out-of-date, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
122. The proposal would deliver social and economic benefits by addressing the current under-supply of both market and affordable housing; employment during construction; and increased spending in the local economy. Generous open space provision would result in social and environmental benefits.
123. There would be some environmental harm in landscape terms, with a localised, site specific, impact contrary to Core Strategy Policy CS5. There would also be a minor loss of open foreground to the AONB in views from the north. However, the character of the wider landscape would not be changed to a material degree; and the broad setting and special qualities of the AONB would be conserved consistent with Policy DM11. Policy DM10 rests on balancing landscape harm with the benefits of the development, taking account of positive mitigation measures. With a substantial need for housing and limited landscape harm, I find no overriding conflict with the policy.

124. In acknowledging that the environmental dimension of sustainable development would not be fully met, the loss of any greenfield land is likely to be at some environmental cost but, in this instance, it would be nothing more than localised. Overall, this does not weigh heavily against the proposal.
125. The lack of a five-year supply of housing land does not necessarily lead to the grant of planning permission and in this case the proposal would be in conflict with the development plan, notably Policies CS28, CS19 and CS5. However, CS28 and CS19 do not merit full weight and the degree of conflict with CS5 would be relatively minor. Moreover, additional housing at Weston-super-Mare would be consistent with the focus sought by Policies CS14 and CS28.
126. In the final balance, I consider that the adverse environmental impacts, including the minor impact on the foreground setting of the AONB, would not come close to the threshold of significantly and demonstrably outweighing the social and economic benefits of the scheme (even with the application of the Council's position on housing land supply) and the proposal can be considered to represent sustainable development. The factors outlined therefore provide the material considerations to grant planning permission other than in accordance with the development plan.
127. I shall therefore allow the appeal.

**Planning conditions**

128. As an outline application, conditions to secure the submission of reserved matters are necessary. **[Conditions 1 - 3]**
129. The appeal has been considered on the basis of the revised illustrative proposal for up to 130 dwellings and a condition to limit the maximum number of dwellings permitted is required. Although such a condition would reduce the number of dwellings originally sought, the nature of the application has not changed to a material degree and the definition of the permission would accord with the appellant's aspirations. Similarly, a limitation on dwellings not exceeding two-storeys in height would be consistent with the presentation and assessment of the proposal. **[Conditions 4 and 5]**
130. However, I shall not impose a condition tying the reserved matters submission to the Illustrative Framework Plan as I have been critical of some of its components.
131. Given the low-lying nature of parts of the site, details of the proposed drainage arrangements, implementation, maintenance and management are necessary to minimise flood risk and to allow for maintenance. I have reworded conditions 7 and 9 for improved clarity. **[Conditions 6, 7, 8, 9, 10 and 11]**
132. The proximity of industrial units justifies a condition requiring a noise impact assessment to ensure that new dwellings have an appropriate living environment and to protect the legitimate interests of established uses. **[Condition 12]**

133. The protection of trees and hedgerows to be retained and the implementation of an approved landscaping scheme are appropriate amenity requirements. **[Conditions 13, 14, 15]**
134. Parts of the site have potential below ground interest and a condition requiring a scheme of archaeological evaluation and related mitigation, as applicable, is necessary to ensure appropriate safeguarding or recording. I have re-worded the condition for improved clarity and control. **[Condition 16]**
135. Energy saving measures, reflecting adopted policy requirements, are legitimate considerations; and waste storage facilities are similarly justified. **[Conditions 17 and 18]**
136. In view of the flexibility afforded to the appellant in relation to playing pitches, it is important that clarification should be provided at an early stage in the interests of proper planning; and, if provision is to be made on site, for appropriate details to be submitted and implemented. **[Condition 19]**
137. Having regard to the scale of the proposed development, the relationship of the site with established dwellings, the access route through an existing housing development and the need for habitat protection and retention, the building operations should be controlled through a construction environmental management plan to provide appropriate safeguards. **[Condition 20]**
138. A scheme of lighting is also required to minimise light pollution and a landscape and ecology management plan is a further important prerequisite to ensure adequate protection for wildlife habitats. **[Conditions 21 and 22]**
139. The construction of access roads, including footways (where provision is proposed), drainage and parking would be essential elements of the proposed development. **[Conditions 23 and 24]**
140. I have made minor changes to some of the other conditions to improve meaning and precision.

### **Overall conclusion**

141. For the above reasons, and having considered all other matters raised, I conclude that the appeal should be allowed and planning permission granted subject to the schedule of planning conditions set out in the Annex to this decision.

*David MH Rose*

Inspector

## **Annex – Schedule of Planning Conditions (1 – 24)**

1. Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiry of three years from the date of this permission.
  2. The development hereby permitted shall be begun either before the expiry of five years from the date of this permission, or before the expiry of two years from the date of approval of the last of the reserved matters to approved, whichever is the later.
  3. Approval of the details of the layout, scale, appearance of the buildings, the means of access within the site and the landscaping of the site (hereinafter called 'the reserved matters') shall be obtained from the Local Planning Authority, in writing before any development is commenced.
  4. No more than 130 dwellings shall be built on the site pursuant to this planning permission.
  5. No dwelling hereby permitted shall exceed two storeys in height.
  6. The development hereby permitted shall not commence until details of the design, implementation, maintenance and management of the sustainable drainage scheme (SUDS), in accordance with the approved flood risk assessment dated December 2015, have been submitted to and approved in writing by the Local Planning Authority. The details shall include:-
    - a) the design storm return period and intensity, discharge rates and volumes (both pre and post development), temporary storage facilities, means of access to water bodies for maintenance (9 metres minimum), the methods employed to delay and control surface water discharged from the site, and the measures to be taken to prevent flooding and pollution of the receiving groundwater and/or surface waters;
    - b) any works required off-site to ensure adequate discharge of surface water without causing flooding or pollution (including the refurbishment of existing culverts and headwalls or removal of unused culverts where relevant);
    - c) flood water exceedance routes, both on and off site;
    - d) an operational management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by an appropriate public body or statutory undertaker, management company or maintenance by a Residents' Management Company and/or any other arrangements to secure the operation and maintenance to an approved standard and working condition throughout the lifetime of the development; and
    - e) a phasing scheme for implementation of the approved details and scheme.
- The approved details and scheme shall be fully implemented in accordance with the approved phasing scheme.
7. No development shall take place within 9 metres of the top of any bank of any watercourses within and forming the boundary of the site.

8. No culverting of watercourses within the site shall take place other than in accordance with any related approval pursuant to the submission of reserved matters.
9. All finished floor levels shall be a minimum of 600mm above existing ground levels for any development within tidal flood zone 3.
10. No residential development or surface water attenuation features shall be located within fluvial flood zone 3.
11. No development other than outdoor playing pitches and other recreational land uses shall be located in fluvial flood zone 3. Ground levels shall not be raised on any land within this zone.
12. Any applications for the approval of reserved matters shall include a noise impact assessment which investigates noise levels, and assesses any potential noise nuisance, from the adjacent industrial development. It shall include details of any necessary mitigation methods within the development site which shall be fully implemented prior to the occupation of any residential units identified as requiring such work.
13. No site clearance, preparatory work or development shall take place until a plan for the protection of the retained trees and hedges, and the site specific statements for working methods in relation to demolition, construction, landscaping, in accordance with Sections 5 to 8 of British Standard BS5837: 2012 - 'Trees in relation to design, demolition and construction - recommendations', has been approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
14. All works comprised in the approved details of landscaping shall be carried out during the months of October to March inclusive in accordance with a phasing scheme to be first submitted to and approved in writing by the Local Planning Authority.
15. Trees, hedges and plants in any development phase shown in the landscaping scheme to be retained or planted, which during the development works or during a period of ten years following implementation of the landscaping scheme in that development parcel, which are removed without prior written approval from the Local Planning Authority or which die, become seriously diseased or damaged, shall be replaced in the first available planting season with other such species and size as are to be agreed with the Local Planning Authority.
16. Prior to the submission of any application for the approval of reserved matters a scheme for Archaeological evaluation by trial excavation (including details of a competent person/organisation to undertake the work; the survey area; trial excavation locations and depths; analysis and reporting arrangements; and criteria and principles for mitigation) shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented and any identified mitigation required to preserve archaeology on site shall also be submitted to and approved in writing by the Local Planning Authority which shall, in turn, be implemented as approved. The applications for approval of reserved matters shall fully take into account the resultant findings and any necessary mitigation.

17. 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 reserved matters details that have been first submitted to and approved in writing by the Local Planning Authority. Thereafter, the approved technologies shall be permanently retained.
18. Provisions for the storage of refuse shall be constructed and made available for use, in accordance with details forming part of the application(s) for the approval of reserved matters, before the occupation of each dwelling that they serve and thereafter shall be made permanently available for use for the storage of refuse only.
19. Prior to or with the submission of any application for the approval of reserved matters, the developer shall advise the Local Planning Authority in writing whether:-
  - i) the playing pitches and changing rooms will be provided on site; or
  - ii) the playing pitches contribution will be paid (as defined in the agreement under section 106 of the Town and Country Planning Act 1990).

If the two pitches and changing rooms are to be provided on site, full details of all of the following shall be submitted as part of the first application for the approval of reserved matters:-

- a) the design, location and methods of construction of the two pitches and changing rooms;
- b) a phasing scheme for their complete delivery;
- c) a scheme for the public use of these facilities; and
- d) a 15 year (minimum) management and maintenance plan which identifies the responsible management party.

The development shall be carried out and managed in complete accordance with the approved details and thereafter retained as such.

21. No development shall commence until a Construction Environmental Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Plan shall include details of:-
  - a) the number and frequency of construction vehicle movements;
  - b) construction operation hours;
  - c) construction vehicle routes to and from the site with distance details;
  - d) construction delivery hours;
  - e) vehicle parking for contractors;
  - f) specific measures to be adopted to minimise and mitigate construction impacts on the environment (including effects of noise, dust, vibration, waste disposal, piling, ground works and rock removal, and infrastructure improvements if appropriate);
  - g) a detailed site traffic management plan to control traffic movements within the site during the construction phases;

- h) a detailed working method statement to avoid/minimise impacts on protected and notable species and important habitats; and
- i) a plan showing measures for habitat protection and retention.

The approved Plan shall be implemented and adhered to at all times, unless any amendments are first agreed in writing with the Local Planning Authority.

21. Details of the external lighting, including temporary/construction and permanent lighting, shall be provided with the first application for the approval of reserved matters:-
- a) details of the type and location of the proposed lighting;
  - b) existing lux levels affecting the site;
  - c) the predicted lux levels; and
  - d) lighting contour plans.

This scheme shall ensure that light levels do not exceed 0.5 lux along the eastern ecological corridor (including the 10m buffer area). All other areas of open space, planted areas and hedgerow shall not exceed 1 lux, unless required to facilitate road lighting requirements. Any external lighting of public areas shall be installed and operated in accordance with the approved details.

22. No residential units shall be occupied until a Landscape and Ecology Management Plan has been submitted and approved in writing by the Local Planning Authority. The Plan shall cover a ten year period and include measures for establishment, enhancement and management of habitats to benefit protected species within the site, including the 10m ecological corridor along the eastern boundary. It shall include proposals for monitoring the impacts of the development on protected species including the submission of post completion monitoring reports to the Local Planning Authority at two year and five year post-completion periods. The Plan shall be fully implemented as approved.
23. No development hereby permitted shall commence until details of estate roads and their junctions, footpaths, surface water drainage, street lighting and parking and turning areas have been submitted to and approved in writing by the Local Planning Authority. No dwellings shall be occupied until the estate roads and accesses have been constructed in accordance with the approved plans which shall be retained as such thereafter.
24. No dwelling/building shall be occupied until the parking and turning areas and the estate road carriageways and footways, to be constructed in association with that phase of the development, have been laid out and constructed in accordance with the approved details (except for the application of the final wearing course, over such lengths as are necessary to provide access from a adopted highway to that particular dwelling). Within three months of the occupation of the penultimate dwelling/building in each phase of development, the road works shall be completed in accordance with the agreed details.

## **APPEARANCES**

### **FOR THE LOCAL PLANNING AUTHORITY:**

Tim Leader (of Counsel)	Instructed by: Richard Kent on behalf of The Council's Solicitor
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#### **He called**

Kevin Carlton <sup>8</sup>	Section 106 Project Officer & Landscape Officer (Major Developments), North Somerset Council
Michael Muston BA (Hons), MPhil, MRTPI	Director of Muston Planning
Sally Evans <sup>9</sup>	Principal Planning Officer, North Somerset Council

### **FOR THE APPELLANT:**

Christopher Young (of Counsel)	Instructed by Matthew Kendrick Grassroots Planning Ltd
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#### **He called**

Jonathan Berry BA (Hons), DipLA, CMLI, AIEMA, M.Arbor.A	Founding Partner Tyler Grange LLP
James Stacey BA (Hons), DipTP, MRTPI	Director Tetlow King Planning Ltd
Neil Tiley AssocRTPI	Associate Director Pegasus Group
Matthew Kendrick BA (Hons), MSc, MRTPI	Founder Grassroots Planning Ltd

### **INTERESTED PERSONS:**

Steve Debruin	Vice-Chair Hutton Parish Council
Amy Harris	Local resident
Ann Walker	Local resident
Ian Hughes	Local resident
Pauline Shelley	Local resident
Yasmin McGlashan	Local resident
Sandra Wilkes	Local resident

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<sup>8</sup> Qualification abbreviations not stated – Mr Carlton holds a degree and diploma in landscape architecture

<sup>9</sup> Qualifications not stated – Ms Evans contributed to the discussion on the Section 106 Agreement

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## **INQUIRY DOCUMENTS**

### **LPA'S CORE DOCUMENTS**

LPACD1	North Somerset Core Strategy
LPACD2	Core Strategy Inspector's Report – Dated 11th March 2015
LPACD3	Development Management Policies – Sites and Policies Plan Part 1
LPACD4	North Somerset Landscape Character Assessment SPD (2005)
LPACD5	National Landscape Character Area 141 – Mendip Hills
LPACD6	National Landscape Character Area 142 – Somerset Levels and Moors
LPACD7	Mendip Hills AONB Management Plan 2014-2019 (November 2013)
LPACD8	Mendip Hills AONB Partnership Delivery Plan (Feb 2014)
LPACD9	Guidelines for Landscape and Visual Impact Assessment Edition 3 (Glvia3)
LPACD10	Review of Strategic Gaps in North Somerset, to accompany the Site Allocations Plan Publication Version (October 2016)
LPACD11	Archaeological Desk Based Assessment – Ab Heritage 10/7/2015
LPACD12	Geophysics Survey Report – Ab Heritage 9/7/2015
LPACD13	Landscape & Visual Impact Assessment – Bridges Design Associates 9/12/2015

### **APPELLANT'S CORE DOCUMENTS**

#### **Application Documentation and Reports**

APPCD1	Planning Application Forms and Certificates
APPCD2	Statement of Community Involvement prepared by Grass Roots Planning
APPCD3	Affordable Housing Statement prepared by Grass Roots Planning
APPCD4	Design and Access Statement prepared by PAD Design
APPCD5	Landscape and Visual Impact Assessment prepared by Bridges Design Associates
APPCD6	Transport Assessment prepared by WSP
APPCD7	Flood Risk Assessment and Drainage Strategy prepared by WSP
APPCD8	Arboricultural Survey prepared by Bosky Trees
APPCD9	Archaeological and Cultural Heritage Survey prepared by AB Heritage
APPCD10	Agricultural Land Classification prepared by Soil Environment Services Ltd
APPCD11	Ecological Surveys and Reports prepared by Grass Roots Ecology
APPCD11	Site Location Plan (Ref: 13191/1000A)
APPCD12	Illustrative Framework Plan (Ref: 13191/3001B) Post Appeal Changes and Additional Documentation
APPCD13	Re-consultation Letter - 9th December 2016 (appendix A of evidence of Mr Kendrick)
APPCD14	Redline Boundary Plan (Ref: 13191 1000D) (appendix A of evidence of Mr Kendrick)
APPCD15	Illustrative Master Plan (Ref: 13191 3001E) (appendix A of evidence of Mr Kendrick)
APPCD16	Noise Report Prepared by Ion Acoustics (appendix J of evidence of Mr Kendrick)
APPCD17	Draft SOCG dated 23rd May 2016

#### **Planning Policy Documentation**

APPCD18	North Somerset Core Strategy (April 2012)
APPCD19	Relevant Extracts of North Somerset Replacement Local Plan 2007
APPCD20	North Somerset Sites & Policies Plan Part 1: Development Management Policies July 2016
APPCD21	North Somerset Sites & Policies Plan Part 2: Site Allocations - Publication Draft Oct. 2016
APPCD22	North Somerset Landscape Character SPD (Extract at Appendix 4 of Mr Berry's Evidence)
APPCD23	Biodiversity and Trees (December 2005)
APPCD24	Employment-led Delivery at Weston-Super-Mare (November 2014)
APPCD25	Travel plans (November 2010)
APPCD26	Creating Sustainable Buildings and Places in North Somerset (March 2015)
APPCD27	Residential Design Guide (January 2013)
APPCD28	North Somerset Parking Standards (November 2013)
APPCD29	Remitted Policies Inspectors Report – 8th November 2016
APPCD30	North Somerset Council - Site Allocations Plan 2006-2026: Background Paper - Strategic Gaps (March 2016)
APPCD31	North Somerset Council - Site Allocations Plan 2006-2026: Background Paper - Strategic Gaps (October 2016) Housing Documentation
APPCD32	North Somerset Housing Strategy 2016-2021
APPCD33	Wider Bristol Strategic Housing Market Assessment (July 2015)

### **Relevant Appeal and Court Decisions**

APPCD34	Station Road, Bourton-on-the-Water Appeal Decision
APPCD35	Mead Park, Bickington, Barnstaple Appeal Decision
APPCD36	Bath Road, Leonard Stanley Appeal Decision
APPCD37	Bath Road, Leonard Stanley - Court Judgement
APPCD38	Tutshill, Chepstow - Court Judgement
APPCD39	Land South of Cirencester Road, Fairford Appeal Decision
APPCD40	Porthpean Road, St Austell Appeal Decision
APPCD41	Spencers Wood, Berkshire Appeal Decision

### **Other Documents**

APPCD42	Committee Report – 2nd February 2016
APPCD43	Minutes of 2nd February Committee
APPCD44	Council's Statement of Case
APPCD45	Guidelines for Landscape & Visual Impact Assessment (3rd Edition)

### **LIST OF INQUIRY DOCUMENTS**

ID1 -	Master Plan of Winterstoke Village
ID2 -	Blendworth House Appeal Decision
ID3 -	Opening of Mr Christopher Young
ID4 -	Opening of Mr Tim Leader
ID5 -	Eastleigh Judgement
ID6 -	Appeal Decision relating to Brinsea Road, Congresbury
ID7 -	Mr Berry Plan Showing Location of Appeal sites referred to by Mr Carlton
ID8 -	Streetview Photos – Knightcott Road, Banwell
ID9 -	Banwell Proof of Mr Kevin Carlton
ID10 -	Richborough Judgement
ID11 -	Burford Appeal Decision
ID12 -	Phides Judgement
ID13 -	Renew Land Judgement
ID14 -	Congresbury Location Plan
ID15 -	Report to 2nd February 2016 Committee
ID16 -	Update Report to 2nd February 2016 Committee
ID17 -	Extract of Weston Villages SPD
ID18 -	Email from Sally Evans Re. Football Pitch Requirement
ID19 -	Statement of Amy Harris
ID20 -	Statement of Common Ground signed 17th January 2017
ID21 -	Williams vs. Chiltern Summary
ID22 -	Williams vs. Chiltern Judgement
ID23 -	TW Logistics vs. Tendring Summary
ID24 -	TW Logistics vs. Tendring Judgement
ID25 -	Case Comment – University of Leicester
ID26 -	Jon Berry Emails
ID27 -	Email from Westend Football Club
ID28 -	Email from Hutton FC Football Club
ID29 -	Tetlow King Housing Delivery Graph
ID30 -	North Somerset Committee Report Relating to Affordable Housing - 17th November 2016
ID31 -	Scott Elm Drive Location Plan
ID32 -	East Staffordshire Judgement
ID33 -	Appeal Decision relating to Dancing Lane, Wincanton
ID34 -	Email from Sally Evans dated the 30th November 2016 – confirming additional consultees
ID35 -	Wheatcroft Judgement
ID36 -	Closing submissions LPA
ID37 -	Closing submissions – appellant
ID38 -	Agreed conditions
ID39 -	Oadby & Wigston BC v SSCLG
ID40 -	N Wiltshire DC v SSE
ID41 -	Edward Ware v BANES judgement
ID42 -	Edward Ware v BANES summary
ID43 -	Illustrative Framework Plan Rev F

**DOCUMENTS SUBMITTED AFTER THE CLOSE OF THE INQUIRY**

- ID44 - Additional playing pitch requirement supporting information – 24 January 2017
- ID45 - Section 106 Agreement (Revised Version) – covering letter dated 24 January 2017
- ID46 - Section 106 Agreement (Revised Version) and manuscript amended extract
- 1D47 - Section 106 Agreement (Revised Version) – covering letter dated 30 January 2017 and execution clauses (6 of 7 signatories)
- 1D48 - Section 106 Agreement (Revised Version) dated 1 February 2017 & covering letter (2/2/17)
- 1D49 - Summary of and note for Inspector on Section 106 agreement
- ID50 - Letter from Grassroots Planning (14 February 2017) enclosing appeal decision at Watery Lane, Lichfield and High Court Authority
- ID51 - Appeal decision and Inspector's report – Watery Lane, Lichfield – APP/K3415/A/14/2224354
- 1D52 - Cotswold District Council and SSCLG and others [2013] EWHC 3719 (Admin) - Judgement
- 1D53 - Cotswold District Council and SSCLG and others [2013] EWHC 3719 (Admin) – Summary