



North Somerset Council

Statement of Case

Town and Country Planning Act 1990 Section 78

Appeal against the refusal of planning permission of outline planning application for up to 200 dwellings, a Health Centre, a Doctors Surgery, retail outlets and office/employment space.

Land off Bleadon Road,

Bleadon,

North Somerset, BS24 0PZ

Planning Inspectorate reference:

APP/D0121/W/18/3211789

North Somerset Council reference:

17/P/5545/OUT

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1. Introduction

1.1 The appeal proposal must be determined in accordance with the Development Plan unless material considerations indicate otherwise. The Local Planning Authority (LPA) will prepare evidence to show that the proposal is clearly contrary to the adopted Development Plan. It will show that it conflicts with national policy on flood risk and that even if this were not the case its adverse impacts would nevertheless demonstrably and significantly outweigh the benefits. The adverse impacts include those on landscape character, highway safety and biodiversity. The NPPF provides grounds for refusing permission in relation to all these impacts.

1.2 The LPA will refer to a lack of evidence from the appellant to confirm that impacts on flood risk, highway safety and biodiversity are acceptable. Where issues are resolved ahead of the Inquiry, these will be referred to in the Statement of Common Ground.

2. Appeal Proposal

2.1 The application is made in Outline form with an illustrative masterplan for 200 houses alongside a Health Centre/Doctor's Surgery (300m²), retail outlets (300m²) and office/employment space (300m²). It is also proposed to provide on-site public open space (NEAP).

The application documents include:

- Design and Access Statement
- Flood Risk Assessment
- Drainage Assessment
- Highways Assessment
- LVIA
- Ecology Survey
- Energy Statement
- SCI
- Affordable Housing Statement

2.2 The application was refused for 5 reasons, set out below in full for ease of reference.

1. This unallocated rural site is in an unsustainable location outside the settlement boundaries of Bleadon and fails to have regard to the requirement that residential development needs, at least, to be within the boundary of the village. The development would therefore generate demand for local services and employment opportunities on a scale that cannot be met without prejudice to other policies in the Development Plan, and these services and facilities are not regarded as readily accessible from the site by means other than the private car.

The development is therefore contrary to and Core Strategy Policy CS33, the Site Allocations Plan and sustainable objectives in the NPPF.

2. The development by reason of its scale and character would fail to make a positive visual contribution to the quality of the local environment. In relation to this it is considered that the proposal would not respect or enhance the established character and appearance of this part of the village. The proposal is therefore not in accordance with Policies CS5 of the Core Strategy and DM10 and DM11 of the Sites and Policies Plan.

3. The applicant has failed to provide sufficient or adequate information in the Transport Assessment to inform this major application, and as a result fails to comply with the key objectives of sustainability development outlined within NPPF, and that it will not result in a detrimental effect on highways safety contrary to Policy DM24 of the Sites and Policies Plan Part 1.

4. The applicant has failed to provide sufficient information in terms of flood risk and has not satisfied the requirements of the Sequential and Exceptions Tests under the National Planning Policy Framework (NPPF) and therefore fails to satisfy the requirements of Policy CS3 of the Core Strategy and Policy DM1 of the Sites and Policies Plan.

5. The applicant has failed to provide adequate ecological survey information to demonstrate compliance with the Wildlife and Countryside Act 1981 (as amended) and the Conservation of Habitats and Species Regulations 2017. Under these circumstances this large-scale development fails to have regard to and is contrary to Policy CS4 of the Core Strategy and DM8 of the Sites and Policies Plan.

3. Policy Context

3.1 The LPA's evidence will set out which development plan policies are relevant to this appeal. This will include reference to policies from the North Somerset Core Strategy (adopted January 2017), the Sites and Policies Plan Part 1: Development Management Policies (adopted July 2016) and the Sites and Policies Plan Part 2: Site Allocations Plan (adopted April 2018). The following policies are of particular relevance in this case, but other policies may also be referred to:

Core Strategy

- CS1 Addressing climate change and carbon reduction
- CS2 Delivering sustainable design and construction
- CS3 Environmental impacts and flood risk management
- CS4 Nature conservation
- CS5 Landscape and the historic environment
- CS10 Transport and movement
- CS12 Achieving high quality design and place making

- CS13 Scale of new housing
- CS14 Distribution of new housing
- CS15 Mixed and balanced communities
- CS16 Affordable housing
- CS33 Smaller settlements and countryside
- CS34 Infrastructure delivery and development contributions

Sites and Policies Plan Part 1: Development Management Policies

- DM1 Flooding and drainage
- DM6 Archaeology
- DM8 Nature conservation
- DM9 Trees
- DM10 Landscape
- DM11 Mendip Hills Area of Outstanding Natural Beauty
- DM19 Green Infrastructure
- DM24 Safety, traffic & provision of infrastructure associated with development
- DM25 Public rights of way, pedestrian and cycle access
- DM32 High quality design and place making
- DM70 Development infrastructure

Sites and Policies Plan Part 2: Site Allocations Plan

- SA2 Settlement boundaries

3.2 The LPA will also refer to Supplementary Planning Documents as required. This will include, but is not necessarily limited to, the following:

- Landscape Character Assessment SPD (adopted 2018)
- Creating Sustainable Buildings and Places SPD (adopted 2015)
- Biodiversity and Trees SPD (adopted 2005)
- Travel Plans SPD (adopted 2010)
- Affordable Housing SPD (adopted 2013)
- Development Contributions SPD (adopted 2016)

3.3 The National Planning Policy Framework (July 2018) (NPPF) is material guidance. The following sections are particularly relevant to this proposal:

- 2 Achieving sustainable development
- 3 Plan-making
- 4 Decision-making
- 5 Delivering a sufficient supply of homes
- 8 Promoting healthy and safe communities
- 9 Promoting sustainable transport
- 11 Making effective use of land
- 12 Achieving well-designed places
- 14 Meeting the challenge of climate change, flooding and coastal change
- 15 Conserving and enhancing the natural environment
- 16 Conserving and enhancing the historic environment

The LPA will also refer to relevant sections of the National Planning Practice Guidance where necessary.

Emerging Policy

3.4 The Joint Spatial Plan (JSP) is a strategic plan being prepared by the four West of England authorities for the plan period 2016-2036. This plan will identify the overall housing requirement for the sub region and district apportionments, strategic development locations and key infrastructure requirements. It will set the context for a new North Somerset Local Plan 2018-2036 which will review and roll-forward existing development plans. The JSP Publication Version was subject to consultation in 2017 and was submitted for examination in April 2018. Examination hearings are expected in 2019. As the JSP will not make specific site allocations nor affect the settlement hierarchy within North Somerset it is considered of little relevance in this case.

4. Principle of Development

4.1 The LPA's evidence will set out how the scheme conflicts with the recently adopted development plan's settlement hierarchy and spatial strategy for the district. Policy CS33 of the Core Strategy seeks to control new development outside of the main towns and service villages in order to protect the character of the area and prevent unsustainable development. The appeal scheme is in clear conflict with Policies CS14 and CS33.

Five-year Supply

4.2 The LPA acknowledge that paragraph 73 of the NPPF requires local planning authorities to identify and update annually a supply of specific deliverable sites sufficient to provide five years' worth of housing against their housing requirements plus an additional buffer to ensure choice and competition in the market for land.

4.3 The LPA's five year land supply position has been recently tested at appeal. Following a public inquiry in respect of a proposed housing development at Laney's Drove, Locking, the Inspector concluded in June 2018 that on the basis of the evidence presented a supply of 4.4 years could be demonstrated.

4.4 Accordingly, the LPA accepts that as this is an application for housing in an area where there is not a five year supply, footnote 7 of the NPPF deems that it falls to be assessed in relation to paragraph 11(d).

4.5 The LPA will say that the recently proven and endorsed position of 4.4 years supply is accepted for the purposes of this appeal and will seek agreement on this matter through the Statement of Common Ground. Should the appellant decline to do so the LPA reserves the right to submit further evidence on the land supply position in support of its case.

4.6 The LPA will say that despite the short term land supply shortfall, Policy CS33 is recently adopted and consistent with national policy and can still be afforded very significant weight in the planning balance. Recent appeal decisions demonstrate that the adopted development plan's settlement strategy carries weight notwithstanding that the plan policies expressing it could be considered out-of-date in footnote 7 terms. The LPA will refer to these decisions.

4.7 The LPA's evidence will explore the impact of a residential development of this excessive and inappropriate scale at this rural location, both individually and cumulatively when considered alongside other development in the vicinity. The LPA will explain how and why this is considered contrary to the provisions of Core Strategy Policies CS14 and CS33.

4.8 The proposal is for a quantum, scale and form of development which is contrary to the Development Plan but is being promoted as a speculative proposal to address a shortfall in housing supply which has arisen as a result of the re-examination of the Core Strategy housing requirement. The Core Strategy housing requirement has now been re-established and adopted and the LPA has made significant progress in addressing the identified shortfall and endeavouring to provide five-year supply. This does not require speculative sites beyond the boundaries of infill villages such as at Bleadon.

4.9 Although it is accepted that the LPA cannot demonstrate a five-year supply of deliverable housing sites and so footnote 7 of the NPPF could be engaged, it is the council's position the tilted balance does not apply in this case because the fourth reason for refusal refers to a national protective policy, namely that relating to areas at risk of flooding. It is considered that the information submitted does not demonstrate that the proposal passes the sequential and exception tests.

5. Sustainability

5.1 The adopted development plan defines and interprets what sustainable development means for North Somerset. The LPA's case is that 200 dwellings in this countryside location outside an infill village is not sustainable.

5.2 Core Strategy Policy CS14 sets out the settlement strategy and Policy CS33 defines Bleadon as an infill village. The LPA will demonstrate that the appeal proposal of 200 dwellings is neither infill development nor 'small scale' in character. It is located outside the defined Bleadon settlement boundary. Development of this scale at infill villages is entirely inappropriate in the context of an overall approach to delivering sustainable development through a plan-led system.

5.3 The connectivity and accessibility of the site will be explored in evidence, with references to transport facilities including public transport and safe pedestrian and cycle routes, taking account of the quality and nature of the route.

6. Landscape

6.1 The appeal site is situated within the coastal zone between the Mendip Hills and the Bristol Channel. It carries no national or statutory designations and is Grade 3 agricultural land.

6.2 Policy CS5 of the Core Strategy and Policy DM10 of the Sites and Policies Plan Part 1: Development Management Policies seek to protect the character, distinctiveness and quality of the landscape, and proposals are expected to demonstrate sensitivity to the existing local character. The LPA's evidence will set out how the impact of the proposed scheme in conjunction with other development on the rural character of the village is considered adverse and therefore contrary to the development plan.

6.3 Reference will be made to the North Somerset Landscape Character Assessment SPD (2018). The area around the appeal site is known as the Bleadon Moor landscape character area. The site lies adjacent to the Mendip Ridge landscape character area. Bleadon Moor landscape is characterised by its flat low lying rural nature, with relatively large-scale fields predominantly bounded by hedgerows. It has a network of lanes, dykes and ditches, and some minor intrusion from long established commercial enterprises. The rising land of the Mendips is a notable feature to the north and east. The character of the site as an integral part of Bleadon Moor is apparent from two particular vantage points. These are Purn Hill immediately to the north-west and Uphill, to the north.

6.4 The LPA will demonstrate that the development of the site for 200 houses on 12 hectares of open land with a network of roads and parking would have a significant visual impact on the area referred to above and would be a residential development that would be perceived as man-made and alien to the existing characteristics that define Bleadon Moor.

6.5 The LPA's evidence will show how the character of the area would be harmed and it will be demonstrated that part of the landscape objection is the impact on the AONB including key views from the AONB when viewed in a wider landscape. It will be demonstrated that this would be contrary to Policy DM11.

6.6 The LPA will present evidence from the recently undertaken Landscape Sensitivity Assessment (2018). This document identifies this as an area of high sensitivity.

7. Highways and transport

7.1 Despite the highway information submitted during the process of the application, insufficient details have been provided to address the points previously raised. In this regard, at the time of writing, the Transport Assessment failed to demonstrate achievable visibility splays from the proposed new site access and it was noted that no speed survey data had been provided. As the A370 Bridgwater Road is derestricted within the vicinity

of the proposed primary site access, a 60mph speed limit applies and a minimum visibility splay of 215 metres would be required. These technical details may be resolved before the Inquiry through the Statement of Common Ground, however the LPA reserve the right to produce evidence on the matter should this be necessary.

7.2 The NPPF is clear that when assessing development proposals the LPA should ensure that appropriate opportunities to promote sustainable transport modes can be maximised and that safe and suitable access can be achieved for all users. The proposed large scale residential development of a greenfield site outside the settlement boundary of a small village is contrary to this advice. The LPA will show that walking and cycling routes to a wider range of services are substantially beyond those recommended in Manual for Streets and are of poor quality for regular year-round use. There is a lack of any realistic alternative to travel by car.

8. Flood Risk

8.1 The NPPF in paragraphs 155 to 160 states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future) and that a sequential approach should be used in areas known to be at risk now or in the future.

8.2 Policies CS3 of the Core Strategy and DM1 of the Sites and Policies DPD seek to ensure that new development does not create problems in terms of flood risk. The LPA will demonstrate that inappropriate development in areas at risk of flooding such as the appeal site should be avoided by directing development away from areas at highest risk.

8.3 The application site is located within Flood Zone 2, and as such, is subject to the Sequential Test. A Sequential Test is required to demonstrate that the development cannot be accommodated appropriately on land at a lower risk of flooding. With climate change, the site becomes Flood Zone 3. An Exception Test is therefore also required.

8.4 The appellant has failed to provide satisfactory information to demonstrate that there are no reasonably available alternative sites in areas of lower flood risk. In formally applying the Sequential Test, the LPA will demonstrate that there are reasonably available alternative sites that are of lower flood risk than the application site.

8.5 In relation to the Exception Test, the appellant's updated Flood Risk Assessment (FRA) fails to provide sufficient evidence to show that the development provides wider sustainability benefits to the area that outweigh flood risk and will be safe for its lifetime without increasing flood risk elsewhere.

8.6 The LPA will show that the wider benefits presented by the appellant will not be achieved by this development, certainly not wider benefits that will

outweigh the flood risk. The benefits offered other than housing are largely speculative or inappropriate, and therefore carry little weight, whereas the living conditions proposed would expose residents to an unacceptable risk of harm.

8.7 The FRA fails to take account of reported flooding incidents along Bleadon Road which, given the site location could be either exacerbated or improved upon by the scheme.

8.8 The appellant has suggested that during a tidal climate change event, the existing flood defences on the River Axe could be overtopped or breached and the site could potentially flood to depths of 765 – 965mm. As a result, the appellant has proposed the following mitigation measures in the updated FRA:

- No ground floor sleeping accommodation.
- Ground floors to be floodable.
- Flood resilient construction measures to be incorporated into dwellings.
- Inclusion of a flood warning and evacuation plan.

8.9 The inclusion of these significant mitigation measures is evidence that this is not a suitable location for housing and that such development should be directed away from areas at high risk.

8.10 The LPA will argue that the information submitted does not allow the sequential and exception tests to be applied. If these tests are not passed, the proposal is contrary to national and local policy and, in the absence of other overriding material considerations, permission must be refused.

8.11 The LPA will show that the information submitted is insufficient to enable the sequential test to be passed. It will refer to the 2018 Strategic Housing Land Availability Assessment as a source of reasonably available alternative sites for residential development. The sequential test is applicable to all elements of the proposal. The appellant has provided no evidence on the non-housing built uses.

8.12 The LPA will describe existing and future flood risk in the locality, including existing defences. It will consider the adequacy of proposed mitigation measures and their likely effect on the character of the development.

8.13 It is the LPA's case that the proposal fails to assist in directing development away from areas at highest risk (whether existing or future). It is not necessary for this development to be located in such an area. The contribution to housing supply is equally an addition to the number of properties at long-term risk of flooding.

9. Ecology

9.1 The appellant has accepted that not all ecological surveys were completed before the application was submitted or before the application was decided. There remains, under these circumstances, insufficient information to inform the ecological assessment of impacts, and to inform the avoidance and mitigation measures; or to inform potential protected species licensing requirements. Reports indicate potential for bats, including horseshoe bats, dormice, water vole, and reptiles; as well as a range of notable species, including farmland birds. There is a known lesser horseshoe bats roost in close proximity (360m), and records for both species of horseshoe bats in the local area. Accordingly, the assessment should have included surveys to adequately inform the assessment of impact and mitigation requirements.

9.2 Reports also indicates potential for great crested newt European Protected Species Licensing, but no surveys undertaken to confirm any licencing requirement. Therefore, it is not clear if the three derogation tests need to be applied to the determination. Also, it is not clear regarding the potential of the building on site to support roosting bats, as not confirmed as having negligible potential to support bats.

9.3 The LPA will demonstrate, having regard to local and national policy, that without this information, it is impossible to accurately assess the impact of the development on existing wildlife/protected species and whether it is acceptable, in this regard, to accommodate the scale of development proposed. Without a full understanding of on-site wildlife activity and the provision for mitigation of the scheme's effects on statutorily protected species, the benefits of new homes are outweighed by this potential environmental harm.

10. Affordable Housing

10.1 Core Strategy Policy CS16 is the extant policy relating to affordable housing. Within North Somerset on-site affordable housing provision will be sought to meet local needs on all residential developments of 10 dwellings or more (or on sites of 0.3 hectare or above). The Affordable Housing SPD (November 2013) provides detailed guidance on delivery.

10.2 Policy CS16 sets a target for the provision of affordable housing of at least 150 dwellings per annum. Between 2006/07 and 2017/18 the Council helped to deliver 138 affordable homes per annum. The most recent three years show an upward trend and annual delivery is now above the target figure.

10.3 The provision of affordable housing is a generic benefit, which would be sought wherever the development was located. All things being equal, it would be better in relation to both meeting housing needs and better for future residents that the affordable housing was located in much more sustainable locations than Bleadon.

11. Conclusion

11.1 The proposal is contrary to the Development Plan. It lies in the countryside outside the existing settlement boundary of the village of Bleadon and is in clear conflict with Core Strategy Policy CS33.

11.2 The LPA's case will show that Bleadon is not a sustainable location for growth of the scale envisaged, even in the context of a 5-year supply shortfall. New residents would be reliant on the car for access to retailing, employment and other services and facilities. There are a significant number of more sustainable settlements and locations where new market and affordable housing should be directed through the plan-making process. The appeal site is not considered to be a location that would enhance or maintain the vitality of the village.

11.3 In terms of flood risk, the LPA's primary position is that this provides a testable reason for refusal on national policy grounds, as detailed in refusal reason 4. However, even if the sequential and exception tests were passed, and the tilted balance were therefore engaged, the adverse impacts of the proposal would demonstrably and significantly outweigh the benefits. The adverse impacts include the conflict with the Development Plan identified in reason 1 (primarily Policy CS33), and on landscape character, highway safety and biodiversity grounds identified in refusal reasons 2, 3 and 5.

11.4 In conclusion, the planning balance, if engaged at all, is clear. On the positive side the appeal proposal would provide additional housing, including affordable housing. It would provide a number of generic, transient benefits (such as construction jobs and future resident expenditure) but these would be associated with all new residential development wherever it is located.

11.5 On the negative side, Bleadon is not a sustainable location. It is an infill village where the scale and form of development proposed is contrary to the adopted spatial strategy. This scale of development would have a harmful impact on the landscape character of the area. There is a large range and choice of more sustainable sites in Weston-super-Mare, the towns and service villages. It will be shown that Bleadon is a village with a very basic range of services and facilities, and high reliance on the car, and the additional housing will exacerbate this.

11.6 The planning balance is clearly against this speculative proposal.

12 Appendices

12.1 The following documents will be referred to at the Inquiry and the LPA reserves the right to refer to additional documents attached to final proofs of evidence.

1. Decision notice (application 17/P/5545/OUT)

2. Delegated report
3. North Somerset Core Strategy
4. Sites and Policies Plan Part 1: Development Management Policies
5. Sites and Policies Plan Part 2: Site Allocations Plan