The Planning Inspectorate

Appeal Decision

Inquiry held on 19, 20, 21 & 22 June 2018

Site visit made on 21 June 2018

by R J Jackson BA MPhil DMS MRTPI MCMI

an Inspector appointed by the Secretary of State

Decision date: 11 July 2018

Appeal Ref: APP/Q3305/W/17/3187245
Land at Bath Road, Beckington

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Redrow Homes Ltd against the decision of Mendip District Council.
- The application Ref 2017/0278/FUL, dated 31 January 2017, was refused by notice dated 21 April 2017.
- The development proposed is erection of 28 dwellings (19 market, 9 affordable), with public open space and other associated infrastructure.

Decision

1. The appeal is dismissed.

Procedural matters

2. On the application form the applicant was given as "Redrow Homes South West" but on the appeal form the appellant was given as "Redrow Homes Ltd". The right of appeal only lies with the applicant, but it was confirmed at the Inquiry that both were a single corporate identity, legally under the second name. I have therefore used that name in the heading.

3. At the appeal stage the appellant sought to amend the size of the site to remove two small areas of land to the north and south of the site which had been included in error when the application was submitted. Having been satisfied at the Inquiry that nobody would be prejudiced by the amendment I accepted those plans and they form the basis of my decision.

4. The Council refused the application for three reasons. Following additional information in the form of a Landscape and Visual Impact Assessment (the LVIA), the Council withdrew that part of the first reason for refusal relating to the effect on the character and appearance of the countryside. Additionally, following further information, it withdrew the second reason for refusal relating to foul drainage, although local residents continued to express their concern on this topic.

5. The appeal was accompanied by a Planning Obligation by way of Unilateral Undertaking under Section 106 of the Town and Country Planning Act 1990 (as amended) dated 21 June 2018. The Council indicated that this overcame the third reason for refusal, relating to affordable housing, infrastructure and

similar matters, but as the Obligation has a 'blue pencil' clause I will discuss this further.

6. At the opening of the Inquiry I set out what I then saw as the five main issues. In light of the evidence, I have amended them so that the effects on the character and appearance of the area and on heritage assets are considered together.

Main Issues

7. The main issues are:

- the relationship of the proposal to the development plan for the area;
- the effect on the settings of the Beckington Conservation Area and a number of listed buildings in Goose Street;
- whether the proposal makes appropriate provision for affordable housing, infrastructure and similar matters;
- whether there are any other material considerations which would indicate that the proposal should be determined otherwise than in accordance with the terms of the development plan.

Reasons

The appeal site and proposal

8. The appeal site has an area of approximately 1.27 ha. It is an area of undeveloped land, although it has been recently partially used as a construction compound associated with a recent residential development at Great Dunns Close. The site adjoins the existing built form of the village on its southern and southwestern boundaries and the Great Dunns Close development to the north and northwest. To the northeast, although separated by an agricultural field are some roadside and similar facilities associated with the A36, which at the time of the Inquiry were being partially redeveloped. To the east of the appeal site, separated by a hedgerow, is the garden of a dwelling in Goose Street.

9. The landform rises from the south to a ridge that runs across the appeal site and then slopes down to the north. Although there is an access to the south this is not currently used and is in third party ownership.

10. The Beckington Conservation Area (the BCA) lies immediately to the south of the appeal site. There are a number of Grade II listed buildings in the vicinity both fronting Goose Street and set behind the frontage development. There are also a number of more modern dwellings set behind Goose Street closer to the appeal site than this development along with a number of domestic outbuildings.

11. The proposal is for the erection of 28 dwellings. These would be accessed through Great Dunns Close and located at the northern end of the site. Approximately the southern third of the site would be laid out as public open space. The ground level of the northern two-thirds of the site would be raised so that it would be roughly flat, at approximately the level of the ridge running across the site, with a new steeper slope created at the northern end. The

development would be laid out on either side of an extension of Great Dunns Close through the site with some development in depth on the western side.

The relationship to the development plan

12. The development plan for the area includes the Mendip District Local Plan 2006-2029 Part 1: Strategy and Policies (the LPP1) which was adopted in December 2014, and the saved policies of the Mendip District Local Plan (2002) (the MDLP).

13. Core Policy (CP) 1 of the LPP1 sets out the spatial strategy for the District. This indicates that the majority of development will be directed towards the five principal settlements of Frome, Glastonbury, Shepton Mallet, Street and Wells. It continues that in the rural parts of the district new development that is tailored to meet local needs will be provided in *inter alia* Primary Villages, including Beckington, but in the open countryside development will be strictly controlled but may exceptionally be permitted in line with CP4.

14. The explanatory text for CP1 states that until reviewed in the Local Plan Part II: Site Allocations (the LPP2) the development limits set out in the MDLP for the various settlements will continue to apply. Following this the appeal site lies outside the development limits of Beckington and, for policy purposes, is in the open countryside. The development limit line being along the southern boundary of the appeal site along, in this vicinity, the same line as the northern boundary of the BCA.

15. CP2 of the LPP1 sets out the provision of a minimum number of dwellings in line with a table, which includes 1,780 homes in the rural areas. It allows for allocations of land for housing outside development limits "through the Site Allocations process" in line with the principle of proportionate growth guided by the explanatory text, informed views of the local community, and the contribution of development since 2006 towards identified requirements in each place, development with planning consent and capacity within the development limits. My understanding of the phrase "through the Site Allocations process" quoted above is to refer to the process leading to the adoption of the LPP2.

16. The explanatory text indicates that two broad principles should be applied in distributing new rural development. Firstly, that new development should be located in villages with certain key services, including the best available public transport services, and secondly, levels of new development in each place should be appropriate to that place's existing scale and have regard to environmental constraints. The explanatory text states that village housing requirements are based on a proportionate growth of 15% of the existing housing stock, based at 2006, across the Primary (and Secondary) Villages. Following this approach the explanatory text gives a village requirement for Beckington at 55 dwellings for the plan period (2006 – 2029).

17. In his report into the LPP1 the Examining Inspector recorded that the 15% figure was not based on any scientific basis and the Council had stressed that it should be considered flexibly. Thus if, for example, the Council stated the effective planning of a site would enable somewhat higher levels of development then this would not be resisted, or if a particular parish wanted more development this would not be opposed.

18. However, the strategy of proportionate development at the same level across the rural villages is the adopted development plan approach based on a considered planning judgement, and it is not for me in a Section 78 appeal to go behind that approach. It was not put to me, and in any case I do not consider this to be a case where the number of dwellings on an otherwise acceptable site should be at a higher level to result in effective planning of the site which would take the village beyond a 15% increase in housing numbers. Neither was I being told by the Parish Council that it wanted more development in the village. Therefore neither of the two exceptions is brought into play.

19. CP4 indicates that rural settlements and the wider rural area will be sustained in a number of ways. This includes planned provision for housing within the Primary Villages having regard to identified constraints and at a scale commensurate with the existing housing stock in line with CP1 and CP2. At this time there is no such planned provision within any adopted part of the development plan.

20. At 1 April 2017 56 dwellings had been completed in Beckington since 2006, and 52 either had planning permission or were under construction. Local residents referred to a further seven dwellings that had planning permission at Rudge, which is within the parish of Beckington, but CP1 refers to villages rather than parishes. I consider that the assessment should be considered on the basis of the 108 dwellings completed, being constructed and with planning permission as they are at the village of Beckington. Having said that 108 dwellings represents a 30.6% increase in housing at Beckington since 2006 and it was agreed that, if permitted, the appeal proposal would increase this to 38.5%.

21. Beckington has a good range of facilities for a village; hence its designation as a Primary Village. They are also as good and better than many other primary villages. But these facilities are not of the same order as the designated main towns. The location of the site is well related to the village with public transport available. However, under the plan-led system the approach is that there should be proportionate growth at the same level across all primary and secondary villages rather than concentrations at only a few.

22. The appellant referred to development at Baltonsborough, which has had or has committed greater growth both numerically and proportionately, where the Council had recently granted planning permission for further development. However, I do not have full details of the situation in that village and this can be of little weight when compared to the evidence provided as part of this appeal.

23. As the site is located outside the development limits of Beckington and in the open countryside the proposal is contrary to CP1, CP2 and CP4. It would also increase the exceedance of the 15% guideline figure in the LPP1. While it is clear that the housing number set out in LPP1 is a minimum, to increase the number further would lead to Beckington growing at a disproportionate rate out of step with the overall spatial distribution strategy of the development plan. LPP1 has been adopted relatively recently and the National Planning Policy Framework (the Framework) emphasizes in paragraph 17 that planning should be genuinely plan-led. In my view the conflict with the spatial strategy of the adopted plan, of itself, should be given significant weight. I will discuss whether the LPP1 remains up-to-date later in this decision.

24. There are also a number of other development plan policies which apply specifically to the other main issues identified above and I will consider them in the relevant sections of this decision.

Heritage assets

25. Development Policy (DP) 3 of the LPP1 deals with heritage conservation. This states that proposals will be supported which preserve, and where appropriate, enhance the significance and setting of the district's heritage assets. Where proposals affect a heritage asset any harm needs to be justified and demonstrate the overriding public benefits which would outweigh the damage to that asset or its setting. The greater the harm to the significance of the heritage asset the greater the justification and public benefit that will be required before the application could gain support. This policy closely follows paragraphs 131 to 135 of the Framework.

26. It was agreed by all parties at the Inquiry that the proposal would not have any direct effect on any heritage assets; any effects would be on the settings of those assets. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) requires special regard to be given to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses. There is no equivalent legislative provision as regards the settings of conservation areas. However, as set out in paragraph 132 of the Framework, great weight should be given to a heritage asset's conservation and its significance can be harmed or lost through development within a setting. This policy requirement applies to all heritage assets including conservation areas.

27. It was agreed that the settings of heritage assets that could be affected by the proposal are the BCA, and the following Grade II listed buildings on the north side of Goose Street: 29, 31 and 33 Goose Street (a single listing); Dayton House (No 35) Goose Street; 41 Goose Street[1]; Ceomar (47 and 49) Goose Street; and "Barn 30 metres west of rear of No 59 Goose Street". This last building has been converted into a dwelling[2]. It was agreed that there is a large overlap between the assessment of effects of the proposal on the settings of the BCA and the settings of the relevant listed buildings.

28. The application was accompanied by a Heritage Desk Based Assessment, which indicated that the proposal would result in less than substantial harm to the significance of the heritage assets identified above, a view with which the Council agreed. However, the heritage witness on behalf of the appellant was of the view that the layout of the proposal, and in particular the location and delivery of the public open space, was such that the settings would be preserved and, that being the case, there would be no harm to the settings of any of the heritage assets.

29. The Council published a Conservation Area Appraisal (the CAA) in 2010. In respect of the BCA's landscape setting, and thus part of its significance, the CAA notes "clean edges" in various locations. These include, for the purposes of this appeal, "behind Goose Street" which means to the north. The CAA notes that this undeveloped land is important in maintaining historic

[1] This used to be two dwellings, Nos 41 and 43, but have been combined. The listing description gives the address as No 43, but the owner uses No 41. I will use No 41 as this is the current postal address.
[2] At the postal address of 49A Goose Street, which I will use.

boundaries, preserving views into and out of the village and providing a setting for older buildings. The CAA also notes, in its "synthesis of appraisal", a particular coherence on Goose Street, and notes the significance of late medieval and 17th-century surviving houses, usually behind later façades, an extensive heritage of vernacular houses and cottages and a late-18th- to early 19th-century introduction of fashionable Classical houses.

30. The appellant took the view that the "clean edge" to the north of Goose Street no longer realistically existed. This was because, it was stated, the development to the southwest of the appeal site, the dwelling known as The Orchard, and, particularly, to the north at Great Dunns Close and at the services had compromised this land. The reference in the CAA to the land to the north of Goose Street can only realistically refer to the appeal site as the site of the Great Dunns Close development is separated from the BCA by development along Bath Road and the land used for residentially ancillary purposes to the east of the appeal site has significant vegetation and a different character.

31. Due to the landform the development at Great Dunns Close to the north is located beyond and over and down from the ridge and sufficiently separated so that it does not have a material effect on the setting of the BCA. This also applies to the effect of the roadside facilities. Consequently the site continues to demonstrate the qualities of the clean edge identified in the CAA. The development of The Orchard, a single dwelling, to the west and south of the appeal site, has had some effect on the clean edge, but this does not mean that the benefit of the appeal site as part of the clean edge has been lost.

32. The settings of the various listed buildings are similar to that of the BCA. In the main the significance of the listed buildings relates to their age and structure. In respect of Nos 29, 31 and 33, Dayton House, and Ceomar their settings to the north have already been significantly compromised by the small number of 20th-century properties behind the Goose Street frontage development.

33. The two properties set behind Goose Street, Nos 41 and 49A, have a greater visual link to the land to the north, that is the appeal site. In the case of No 41 there are no houses behind (although there is a domestic garage) and there is intervisibility between it and the appeal site. This is through two windows at first and second floor levels (the latter to an attic) over the outbuilding and boundary hedge. In the case of No 49A, there is also an historic functional link from the former agricultural use of the building and the agricultural use of the appeal site, whether or not they have ever been in the same ownership.

34. The southern edge of the proposed development would be located at the ridge which means that the height of the development on the area to the south would be emphasised. This would increase the prominence of the development and harmfully affect the settings and thus the significances of the BCA and the various listed buildings identified, particularly Nos 41 and 49A.

35. The proposed landscaping on planting (that is year zero) would reduce the effect of the proposed built development. However, it would not be sufficient to avoid any adverse effects. It would not completely avoid the effects of the proposed dwellings or the change in character from open land to a managed open space. As the landscaping would mature over time so it would mitigate the visual effects and completely so by year 15, but in the meantime there

would be harm. In any event, the harm to the historic link between No 49A and the appeal site could not be mitigated nor could the change in character of the use of the appeal site from an agricultural field to a managed public open space.

36. This is a different situation to *Palmer*[3] where the Court of Appeal accepted that mitigation could avoid harm. In that case the mitigation consisted of the retention of existing landscape features while, here, the mitigation needs to be undertaken.

37. The harms to the setting of the BCA and the listed buildings are all less than substantial to the significance of the heritage assets. This means compliance or otherwise with DP3 of the LPP1 will depend on this harm being weighed against the public benefits of the proposal (see paragraph 134 of the Framework and the national Planning Practice Guidance (the PPG[4]), although special attention and great weight should be given to preserving the settings of the listed buildings and conservation area. I will do this in the planning balance below.

Affordable housing, infrastructure and similar matters

38. DP11 of the LPP1 indicates that the Council will seek to negotiate a contribution towards meeting the district's affordable housing needs. This is set at 30% of the total number of homes to be provided with a higher proportion in Wells. The policy also states that in the rural area, which through CP1 includes the appeal site, the Council may negotiate or allocate sites with provision in excess of 30% where justified and financially viable.

39. The Planning Obligation makes provision for nine of the dwellings to be affordable housing which equates to 32%. The appellant indicated that this was simply down to rounding and given that DP11 in the LPP1 allows for a greater proportion than 30% in rural areas I will give this exceedance no additional beneficial weight. I am satisfied that this provision is necessary and meets the tests in the Community Infrastructure Levy Regulations 2010 (as amended) (the CIL Regulations), and complies with development plan policy and policies in the Framework.

40. However notwithstanding this, the appellant sought to argue that significant weight should be given to the provision of affordable housing within the scheme due to the poor record, as it saw it, of the delivery of that type of housing. I will come back to this below.

41. DP9 of the LPP1 seeks, where appropriate, that development proposals must demonstrate how they will improve or maximise the use of sustainable forms of transport, including the submission of Travel Plans. DP11 of the LPP1 requires that all new residential development will make a contribution towards the provision of new open space to meet the needs of the growing population. DP19 indicates that the Council will support the delivery of local infrastructure in line with new development and mitigate and compensate for the effects that new development may have. It is indicated that this will include the use of Planning Obligations.

[3] *Regina (Palmer) v Herefordshire Council* [2016] EWCA Civ 1061
[4] See Reference ID: 18a-020-20140306

42. The Planning Obligation makes provision for the on-site open space and its maintenance in perpetuity and the appointment of a Travel Plan Co-ordinator. I am satisfied that these matters are necessary and meet the tests in the CIL Regulations, the Framework and DP9, DP11 and DP19 of the LPP1 as set out above. Neither obligation would breach the totting-up provisions of Regulation 123 of the CIL Regulations.

43. The Planning Obligation also makes provision towards a contribution towards education facilities in the area. The Parish Council expressed concern about this noting that the Beckington Church of England First School is currently at capacity on a physically constrained site and that new occupiers of the Great Dunns Close development had had to be educated outside the village.

44. The Council explained that the First School is at capacity, but this is partly due to children living outside the catchment attending the school. It may be that in the future there would be less capacity for children from outside the catchment but I was advised that there was capacity in the wider area. In the meantime it is, of course, not acceptable or appropriate to require children to move schools once enrolled. This may mean that children from the proposed development may not be able to attend the First School, and Somerset County Council may be required to provide funding for school transport to an alternative school. Alternatively, there may be a way of increasing capacity at the school which would need to be funded.

45. The need for this funding would be created by the development. For the reasons given above I consider that such a contribution would be necessary to make the development acceptable in planning terms, it would be directly related to the development and fairly and reasonably related in scale and kind to the development and would comply with DP9, DP11 and DP19 of the LPP1 as set out above. I was advised that if used to enhance the First School there would be no breach of the totting-up provisions of Regulation 123 of the CIL Regulations.

Other considerations

Emerging plan

46. The Council is working towards the adoption of the LPP2 and hopes to submit this for examination in September 2018. At this stage, this plan is at a relatively early stage in the process towards adoption and consequently, in line with paragraph 216 of the Framework, should only be given limited weight. This is because there are unresolved objections, not least from the current appellant, which specifically relates to the appeal site. Any re-drawing of the development limits of Beckington needs to be considered in the context of this plan.

47. The Council has also indicated that, in due course, it will publish a 'Single Local Plan'. However, at present no such document exists to which any weight can be attached.

Does the 'tilted balance' apply?

48. Paragraph 14 of the Framework indicates that where the development plan is absent, silent or 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 of the

Framework taken as a whole, or specific policies of the Framework indicate development should be restricted. Footnote 9 then gives a list of examples of such specific policies, including those relating to designated heritage assets, where this restriction will apply.

49. In this case it cannot be said that the development plan is absent or silent; it exists and for the reasons I have explained the proposal is contrary to its terms.

50. Paragraph 47 of the Framework indicates that to boost significantly the supply of housing local authorities should identify and annually update a supply of specific deliverable sites sufficient to provide five years worth of housing against their housing requirements. Paragraph 49 of the Framework indicates that relevant policies for the supply of housing should not be considered up-to-date (the converse of out-of-date) if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.

51. The appellant sought to argue the LPP1 was out-of-date. The reasoning for this is that since the LPP1 was adopted in 2014 the Council, along with partner local authorities, published in October 2016 the *Mendip, Sedgemoor, South Somerset and Taunton Deane Strategic Housing Market Assessment* (the SHMA). Unlike the LPP1 which was found sound at providing for 420 dwellings per annum (dpa) this set out a range of objectively assessed housing need for the Mendip area of between 411 and 498 dpa for the period 2014 to 2039.

52. The PPG states[5] that housing requirement figures in up-to-date adopted Local Plans should be used as the starting point for calculating the 5 year supply. Considerable weight should be given to the housing requirement figures in adopted Local Plans, which have successfully passed through the examination process, unless significant new evidence comes to light.

53. In their Regulation 19 version of LPP2, published for pre-submission consultation in January and February 2018, the Council noted the existence of the SHMA and noted its findings "do not replace the adopted plan figure but are a significant consideration in assessing housing delivery through" LPP2. The LPP2 was then drawn up based on an annual requirement of 490 dpa. This is at the top end of the SHMA range as, according to the SHMA, this "best reflect[s] a reasonable view about the need for housing".

54. The appellant took the view if the Council considered that the SHMA was "a significant consideration" for LPP2 it must also represent "significant new evidence" for the purposes of the paragraph of the PPG cited above. This would have the effect, it was argued, of rendering the LPP1 out-of-date as its provisions, including development limits, would not have been based on this figure.

55. However, this pre-supposes that the LPP2 is to be considered to be sound. While the working assumption is that the Council will submit what is considers to be a sound plan, at this stage, the LPP2 has yet to be submitted. Part of the pre-submission consultation process is to allow for any modifications necessary to make it sound. In any event, as set out above, I have found that the LPP2 is of limited weight at present. It is certainly not for me to comment on whether the plan is sound; that being for the appointed Examining Inspector.

[5] Reference ID: 3-030-20140306

56. As set out above, the Framework makes clear that the planning system should be genuinely plan-led. There will always be new evidence emerging from various sources suggesting alterations to the particular approach in an adopted development plan. As the then Minister for Planning indicated in 2014[6] a SHMA is untested and does not of itself or in itself invalidate housing numbers in existing local plans. I note that this letter post-dates the publication of the paragraph of the PPG referred to above.

57. It seems to me that the adoption of a local plan should generally set some degree of certainty for, at least, the medium-term provided the local planning authority can demonstrate a five year supply of housing land. Equally, and conversely, the adoption of a local plan should not provide an excuse for not reviewing a plan when this is necessary. The legal requirement to review local development documents every five years seeks to avoid this.

58. The SHMA sets a range for the housing needs for the area, and the existing LPP1 falls within that range. The SHMA is untested, and while important cannot have the weight of an adopted plan and does not invalidate the LPP1. I therefore conclude that the SHMA does not represent significant new evidence within the terms of the PPG so as to render the LPP1 out-of-date.

59. It was agreed that the Council could demonstrate a five year supply of housing land whether based on the 420 dpa or 490 dpa.

60. The appellant made a number of criticisms as to the potential deliverability of a number of sites, but this criticism makes no material difference to whether the Council can demonstrate a five year supply of housing land. Equally, given I consider that the calculation should be based at 420 dpa this would not mean that the five year housing supply situation was marginal. I therefore conclude that the LPP1 is not out-of-date and the tilted balance set out in paragraph 14 of the Framework does not apply.

Future trends

61. The appellant also referred to what it described as the "direction of travel" of housing needs in the area. Part of this was the figure derived from the SHMA but also from the standard methodology which may accompany a revised Framework; the draft having been consulted upon earlier in 2018. However, the draft revised Framework does not yet represent policy and may change and I give this limited weight. In any event, the draft revised Framework included transition provisions which, if brought forward, would mean that the changes from the current situation in that new document would not affect the Council for some time in this respect.

Benefits

62. The appellant emphasised a number of benefits of the proposal. The provision of the market and affordable housing is both an economic and a social benefit. Economically, this would be from the continuing occupation of the dwellings, and I give this significant weight. The construction would, however, only be for a temporary period and I therefore give that benefit limited weight.

[6] Letter from Minister of State for Housing and Planning to Chief Executive, Planning Inspectorate, 19 December 2014

63. The proposal would produce various financial benefits or considerations, with the appellant particularly referencing the New Homes Bonus and Council Tax. The PPG states[7] whether or not a 'local finance consideration' is material to a particular decision will depend on whether it could help to make the development acceptable in planning terms. It continues that it would not be appropriate to make a decision based on the potential for the development to raise money for a local authority or other government body.

64. As there was no evidence in front of me to show the scheme would be made to be more acceptable by the New Homes Bonus I give this contribution only limited additional beneficial weight as it would be a general benefit rather than relating to the specific proposal. As regards Council Tax receipts that would be paid by the occupiers, it seems to me they would be a payment in lieu of services to be provided at that time to those occupiers. Therefore Council Tax payments are of neutral weight in the balance.

65. The appellant emphasised the social benefits of the affordable housing noting, in particular, that there was a shortfall in delivery and an increasing need in Mendip. The Council took the view that the affordable housing should only be given moderate weight as it was, on its view, contrary to the terms of the development plan and as it could demonstrate a five year supply of housing land. Given the pre-existing shortfall and needs in the area I consider that the provision of nine affordable houses would be beneficial and this should be given significant weight, albeit that this benefit should only apply to the affordable housing and not to the development as a whole.

66. From an environmental aspect the appellant emphasised, what it saw as, the lack of harm from the proposal. Currently the appeal site is surrounded on three and a half sides by land in residential use. It is thus well enclosed and there is only a single public vantage point through the entrance from the north from Great Dunns Close. The appeal site does not significantly contribute to the character and appearance of the wider area. As the LVIA concluded, and the Council did not aver, there would be no significant residual landscape or visual effects once the landscaping had come to maturity. I concur with this view. This means that there would be little effect on the wider area beyond the heritage harm I have identified. While the public open space is greater in physical area that the amount required to be policy compliant, this is predominantly a function of the need to minimise effects on heritage assets and consequently I find this neutral in the final balance. There would be a small, positive, effect from enhancements to the biodiversity of the area.

Other matters

67. Local residents expressed concerns about foul and surface water drainage. When the development that is Great Dunns Close was granted planning permission it was anticipated that the drainage would not connect to the main foul water system for Beckington but rather would go to the north on an alternative route to the sewage treatment works. However, when constructed it was connected to the main system.

68. Under the current appeal proposal the foul drainage system should be connected to the alternative route, and I am satisfied on the evidence that this

[7] Reference ID: 21b-011-20140612

would be appropriate and could be secured by a planning condition, including requiring the approval of the local planning authority.

69. Regarding surface water the site lies in Flood Zone 1 of the Environment Agency's map and therefore is at low risk of flooding. Local residents expressed concerns on two elements; that raising of the land could lead to a re-balancing of the water table exacerbating drainage issues in nearby gardens, and that the creation of the access would lead to the blocking of a watercourse also leading to an increased risk of flooding.

70. In respect of the former, the raising of the land would allow for the installation of a comprehensive surface water drainage system, including any necessary attenuation, to ensure that the discharges would not be above the greenfield run-off rate. This could include provision within the individual gardens of the proposed dwellings. Turning to the latter, it was explained that the existing drain at the north of the site needs to be re-profiled to ensure that it discharges water appropriately. This, together with the comprehensive surface water drainage system, would ensure that the surface water drainage would satisfactorily drain the land. I am satisfied that these matters could be dealt with by an appropriately worded planning condition.

71. Concerns were also expressed about the footpath on the public open space that would run to the gate on the southern edge of the appeal site. There are no public rights of way to the south of this point. I am satisfied that the evidence on the distance of the site from facilities was based on accessing the site to the north, and, had I been minded to allow the appeal, amendments to the layout of the public open space to remove that footpath could have been dealt with by condition.

Planning Balance

72. The proposal would be contrary to the overall strategy of the LPP1 and would have a harmful effect on designated heritage assets.

73. Set against this is the significant weight I have given to the benefits of the additional housing, both market and affordable, and the particular significant beneficial weight to the affordable housing. There are also the limited benefits of the New Homes Bonus and enhancements to biodiversity. These are public benefits for the purposes of DP3 of the LPP1. Giving great weight to the conservation of heritage assets and special attention to the setting of listed buildings this would balance the less than substantial harm to the significance of the designated heritage assets. There would thus be compliance with DP3 of the LPP1. I also take into account the lack of environmental harm beyond heritage harm.

74. However, I have found that the LPP1 is up-to-date and therefore should be given full weight. The determination of the appeal should follow the development plan unless other considerations indicate otherwise. As paragraph 12 of the Framework makes clear development that conflicts with an up-to-date local plan should be refused unless other considerations indicate otherwise.

75. Looked at as a whole, fully taking into account the benefits of the proposal, I conclude that other material considerations do not indicate that the

determination should be made otherwise than in accordance with the development plan. Consequently the appeal should be dismissed.

Conclusion

76. For the reasons given above, and taking into account all other matters raised, I conclude the appeal should be dismissed.

R J Jackson

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr Hashi Mohamed	of Counsel, instructed by Mr Daniel Foster, Mendip District Council
He called	
Ms Jayne Boldy BA(Hons) MSc ConsHistBuild	Historic Building Conservation Officer, Mendip District Council
Mr Andre Sestini BTP	Principal Planning Officer, Mendip District Council
Mr Daniel Foster BSc(Hons) MA MRTPI	Principal Planning Officer, Mendip District Council

FOR THE APPELLANT:

Mr Andrew Byass	of Counsel, instructed by Mr Andrew Cockett, Lichfields
He called	
Ms Heather Marshall BA(Hons) MSc MRTPI IHBC	Associate Director, Heritage, Lichfields
Mr David Parker BA(Hons) MSc DMS FCIH	Chairman, Pioneer Property Services Ltd
Mr Andrew Cockett BTP MRTPI PIEMA	Senior Director, Lichfields

INTERESTED PERSONS:

Ms Shannon Brooke	on behalf of Beckington Parish Council
Mr & Mrs Colin Oxlade	Local Residents, representing themselves and near neighbours
Mr Michael Taylor	Local Resident

INQUIRY DOCUMENTS

ID1	List of appearances on behalf of the Appellant
ID2	Opening on behalf of the Appellant
ID3	Court of Appeal decision in case of *Regina (Palmer) v Herefordshire Council* [2016] EWCA Civ 1061
ID4	Opening on behalf of the Council
ID5	Collection of emails and other documents relating to disputed sites
ID6	A3 version of Plan from Ms Boldy's Proof of Evidence showing appeal site and heritage assets in vicinity
ID7	Letter from Mr and Mrs Oxlade dated 9 June 2018 with accompanying documents
ID8	Extracts from Policies Map showing appeal site and vicinity
ID9	Homefinder Somerset: Common Lettings Policy
ID10	Note prepared by JNP Group on Flood Risk and Drainage
ID11	Suggested list of views for Site Visit
ID12	Completed Planning Obligation dated 21 June 2018
ID13	Closing on behalf of the Council
ID14	Closing on behalf of the Appellant
ID15	Speaking Note for Ms Brooke