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## Appeal Decision

Inquiry Held on 23-25 July 2019 and 15-18 October 2019

Site visit made on 18 October 2019

**by Mike Robins MSc BSc(Hons) MRTPI**

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

**Decision date: 5 February 2020**

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**Appeal Ref: APP/D0121/W/18/3211789**

**Land at Bleadon, North Somerset BS24 0PS**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Mr C Sanders against the decision of North Somerset Council.
- The application Ref 17/P/5545/OUT, dated 15 December 2017, was refused by notice dated 17 September 2018.
- The development proposed is up to 200 houses alongside a Health Centre, Doctor's Surgery, retail outlets and office/ employment space.

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*This decision is issued in accordance with Section 56(2)(b) of the Planning and Compulsory Purchase Act 2004 as amended and supersedes that issued on 23 December 2019*

### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The proposal was submitted in outline with all matters reserved for later consideration. Nonetheless, it was submitted with some illustrative material to address potential access points and layout. The initial versions of these indicated three blocks of development separated by enlarged rhyne/surface water storage features, aligned with the existing rhyne/hedgerows within the site. A subsequent version was supplied to the Inquiry in response to concerns regarding ecology and set out an open area of land to the north of the site with two large pond features with refuge islands and buffer zones to the surrounding hedgerows.
3. The Inquiry sat initially for three days but had to be adjourned. It was resumed at a later date for four days. While I carried out an accompanied site visit after closure of the Inquiry, I had carried out unaccompanied visits to the vicinity of the site and the surrounding area, including observing the traffic conditions at the existing road junctions, entering the open access land of Purn Hill and Hellenge Hill and traversing a part of the West Mendip Way and the footpath along the River Axe, as well as a separate visit to the area in darkness.
4. A Legal Undertaking, submitted under s106 of the Town and Country Planning Act, and dated 17 October 2019, was submitted by the appellant. This addressed affordable housing, at 30% of the housing proposed, and included the provision of open space and contributions relating to public transport,

including sustainable transport measures, bus stops, footpaths and primary and secondary school transport.

5. I have taken note of the statement of compliance with the Community Infrastructure Levy Regulations 2010, as amended (CIL Regulations), which was submitted at the Inquiry<sup>1</sup>. On the basis of the contents of the undertaking and the compliance statement, I am content that all matters conform to the CIL Regulations and that the obligations can be taken into account in my determination of the appeal.
6. I received signed statements of common ground (SoCGs) relating to planning matters and highways between the appellant and the Council dated 17 July 2019 and 19 July 2019 respectively. As a result of the late submission of ecological surveys and the Council's subsequent supplementary statement, time was given at the Inquiry for the completion of an Ecology SoCG.
7. Two planning appeals were supplied for consideration after the end of the Inquiry. As these were published after closure, I accepted them, and to ensure a fair process, main parties were given full opportunity to comment on these decisions.

### **Main Issues**

8. I consider that the main issues in this case are:
  - The effect of the proposal on the character and appearance of the area, the setting of the village and the Mendip Hills Area of Outstanding Natural Beauty (AONB);
  - Whether the proposal would comply with planning policy which seeks to steer new development away from areas at the highest risk of flooding;
  - The effect of the proposal on the natural environment of the appeal site and surrounding areas, including the presence of protected species; and
  - Whether the appeal site represents an appropriate location for housing having regard to national and local policies.

### **Reasons**

#### *Background and Policy Context*

9. The appeal site comprises three large fields located to the south of the village of Bleadon. Currently in agricultural use, the fields are relatively flat with perimeter and dividing hedgerows and rhynes and are bounded to the south by the A370. The site lies outside but adjacent to the settlement boundary of Bleadon and a short distance to the south of the AONB.
10. The development plan includes the North Somerset Council Core Strategy 2017 (the CS), the North Somerset Sites and Policies Plan Part 1: Development Management Policies 2016 (the DMP) and the North Somerset Sites and Policies Plan Part 2: Site Allocations Plan 2018 (the SAP). In addition, the Council have been party to development of the emerging West of England Joint Spatial Plan Publication Document 2017 (the eJSP). During the Inquiry

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<sup>1</sup> Document 25

adjournment, the Inspectors examining the eJSP published a letter, dated 11 September 2019, raising significant concerns over the progress of this plan.

11. A Neighbourhood Plan is under development but at a relatively early stage with a community survey carried out in January 2019, followed by production of key issues and survey results presented to the community in June 2019.
12. The National Planning Policy Framework (the Framework) seeks to boost the supply of housing, but it does so in the context of the need for sustainable development that meets the highest standards of design, the protection of habitats and biodiversity and the need to avoid flood risk, while recognising the intrinsic character and beauty of the countryside and giving great weight to conserving and enhancing the landscape and scenic beauty of our AONBs. I address the Framework as a material consideration and the application of its presumption in favour of sustainable development in the planning balance below. I turn then to the main issues in this case.

### *Character and Appearance*

13. The appeal site lies at the transition between two highly characteristic areas of the local landscape, the moors and the raised ridge of the Mendip Hills. The transition is distinctive and relatively abrupt, albeit the appeal site lies in something of a 'bowl' formed by Purn Hill, Bleadon Hill and South Hill to the west, north and east respectively.
14. These distinctive character areas are identified in the North Somerset Landscape Character Assessment, a Supplementary Planning Document, which was updated in 2018, as Landscape Character Area (LCA) A5: Bleadon Moor and E1: Mendip Ridges and Combes. The AONB lies within LCA E1 and extends to within approximately 230 metres of the appeal site.
15. The appellant submitted a Landscape and Visual Impact Assessment, dated December 2017, which identified the local character areas, the extents of which were updated in evidence to the Inquiry, and set out a range of viewpoints, which were similar to those relied on by the Council in their submissions. It concluded that the proposed development had been designed to minimise the influence on landscape character, particularly on the nearby AONB as well as views from surrounding visual amenity receptors.
16. In essence, the appellant considers that, although accepting built form would directly replace open fields, the site is well-contained by mature boundary features, development to two sides and the A370. These, it was argued would provide a physical and visual separation from the moorland such that with suitable landscape treatment and retention of existing features it would 'fit' into the landscape. Further, that the flat landform limits its visibility so that with suitable planting to break up the built form, it would only be selectively perceived from the AONB but would not affect its key characteristics.
17. To assess the strength of these arguments it is necessary to consider the nature of the two distinctive character areas, the status and influence of the village on these and the visual impacts of the scheme on the immediate and wider area, including the setting of the AONB.
18. Bleadon is a village that has clearly grown organically from its historic core around the Church of St Peter and St Paul. It has developed along the lower slopes of the ridge, with some development extending southwards on the lower

- slopes of South Hill and around the old quarry. The Bleadon Road, which currently defines the settlement boundary edge, and the associated rhyme on the appeal site, represent a distinct edge to the moorland landscape.
19. Despite its proximity to Weston-super-Mare, Bleadon is clearly a rural village. This is reinforced by the open views up towards the ridge from many parts of the village and views over the appeal site to the moors, as well as the limited streetlighting and separation from the main road. It has easy access to the footpath network that connects to the AONB and nature reserves, including the West Mendip Way, a well-used and identified long-distance footpath.
  20. While the village is not included in the character areas, the historic core and associated development is clearly associated with LCA E1, tucked into the slope and valley between South Hill and Hellenge Hill. Indeed, the key characteristics of this area include '*villages centred on historic stone churches on the lower slopes following the lines of roads*'. The appeal site is much more clearly associated with LCA A5 and the flat, open moorland.
  21. LCA A5 has identified key characteristics, the majority of which are exhibited by the appeal site, including flat pastoral land in a regular field pattern with views to the skyline of the Mendip Hills, intermittent hedgerows and a network of drainage channels. While there is a greater urban influence from the neighbouring village than found across much of the area, it is nonetheless clearly part of the Bleadon Moor landscape. That is despite the fact that the A370 crosses it, as it does the moorland to the south and east, where the character area extends into the Levels and Moors of the Sedgemoor Landscape Character Area. For those using the road, their experience, despite parts of the hedgerow being relatively intact, is definitely one of crossing moorland with views to the rising land beyond. The fact that the Bleadon Road further encloses the site is not something that is necessarily perceived, and the visual impacts of the A370 itself are, in my view, relatively local, and its effect limited, in terms of the character.
  22. The LVIA is reported to have influenced the initial indicative layout of the site, but even with this, the significantly enlarged rhynes and strong rectilinear pattern would not respond to either the moorland or the village character. The later plan, promoted to address other constraints with the site, and suggesting open land to the north and the use of pond features, steps even further from the characteristics of the existing site and its associated LCA. The site would be fundamentally changed and the boundary of the LCA A5 stepped back to the A370. This would extend the area of transition to a large urban block sitting in front of the foothills of the LCA E1 ridge.
  23. In terms of the village, this would represent what is reported to be a 40% increase in the housing, and in my view would have a significantly urbanising effect, especially with the proposed additional commercial and retail elements. This would fundamentally alter its setting, its relationship with the rural landscape and its character.
  24. A review carried out by an independent consultancy<sup>2</sup> assessed the landscape sensitivity of areas associated with settlements within the North Somerset area to inform site selection for future growth (the LSS). This showed the appeal site as being in a high landscape sensitivity area, a position that appeared to

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<sup>2</sup> CD1.18 Wardell Armstrong Landscape Sensitivity Study (LSS) 2018

be accepted by the appellant in the SoCG<sup>3</sup>. However, this was challenged in the Inquiry with the suggestion from the appellant being that the sensitivity of the site was overstated.

25. The appeal site was specifically addressed in the LSS, with the report stating:

*Although these fields are enclosed by development on three sides, adjacent housing is generally single storey and the settlement edge is partially vegetated. In addition, this land is open and visually prominent, including from viewpoints within the AONB. This land also contributes to the settlement form and the transition to Bleadon Moor. Owing to the above, this land is of high sensitivity.*

26. I accept that the housing is not solely single-storey along Bleadon Road, but predominantly they are bungalows or chalet-style and of relatively low profile, and while the flat topography does limit views from the south, it is the views from higher ground that are important, in my view, to this assessment. The site itself comprises fields which, while a component part and characteristic of the local landscape, are not particularly special in themselves. While I accept their visual value to the local community, the Council have accepted, and so do I, that they should not be considered a valued landscape, in the terms set out in the Framework. However, I do not consider this finding incompatible with their sensitivity or overall general contribution to the landscape here. As a result, I consider that the site is of high landscape sensitivity.
27. Turning to visual effects, it is accepted that any housing development of a greenfield site results in an immediate visual change, similarly change will be experienced by those on adjacent roads and from immediately adjacent properties, and I was able to view the relationship with the properties on Bleadon Road directly. The planning system does not exist to protect private interests, such as views, and I accept that with the setting back of any housing and associated landscaping, it is entirely possible to address this relationship. However, the system must consider public interests and to this extent the impacts of the site on views from the roads, public footpaths and open access land is important.
28. The A370 runs alongside the site, for much of it in a slightly elevated position. While there was discussion at the Inquiry in relation to the visual permeability of the hedge and views through it, associated with some of the proposed layout elements, the reality is that it is a relatively mature, but mainly deciduous feature comprising hedgerow and some trees. There are currently glimpsed views over the site and with the installation of the required access, there will be, despite proposed landscaping, at least one point where open views over the development with the AONB hills behind will be available, albeit this is likely to be a transient view for most drivers. What is clear is that the current experience is one of passing through an open moorland landscape, but with development there would be glimpses of housing and a substantial junction with signage and lighting filling a large part of the current open gap between the Bridge Road petrol station and associated houses and the car sales and holiday park, beyond which the road becomes visually more enclosed with an increasing urban character.

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<sup>3</sup> SoCG para 5.4

29. The appellant accepts that the proposed development lies within the setting of, and has the potential to be perceived from, the AONB, but will be, it was argued, confined within the existing strong field pattern. While the latter point may now be less relevant in light of the alternate illustrative layout responding to ecology concerns, I consider that this also simply underplays the presence that the development would have in views from across much of the open access land at Hellenge Hill, on approach to and leaving the AONB via the West Mendip Way footpath and from other views along Roman Road and Celtic Way.
30. I accept it would be part of an expansive view encompassing a wide vista of the Somerset levels and moors out to the Severn Estuary. However, for views from the footpath, roads and Hellenge Hill it would occupy an important foreground element of this view. With much of the village tucked into the hillside and, from many views, only the church having any sort of prominence, the extension of such a large scale of development on open and flat land would have a very significant effect on these views from within the AONB. I note the appellant's findings that the magnitude of impact will be low, and the level of effect will be minor adverse, but consider that this underplays the importance of the site in these views.
31. The AONB Statement of Significance highlights the special qualities that together create its sense of place. These include the views in towards the Mendip Hills and distinctive tree line, the views out, and panoramas, including across the Severn Estuary to Wales, the Somerset Levels and Moors and the Somerset Coast. It is these specific views that are obtained from the open access land and gaps in the roadside and footpath routes. The introduction of such a scale of development in the foreground of these views would, in my judgement, be harmful to the setting of the AONB, and to its identified special qualities.
32. Furthermore, the well-used area of open access land on Purn Hill, and the approach to it from Southridge Heights, provides similar expansive views over the site, both to the moors, where its close association with the moorland character is perceived, and with its relationship to the sloping edge of the AONB. Here clear views are also obtained of the Riverside Holiday Village and Cherry Tree Holiday Lodge Park. To my mind, this only emphasises what a detractor such elements can be in elevated views over a flat landscape. The proposed development would be larger and would encroach even further, creating a perception of development surrounding the Hill.
33. While the views from Purn Hill do provide some context of the element of containment of the village, notably the housing on Bleadon Road and the Quarry and housing on Bridge Road, the A370 is not a particularly dominant feature and the continuation of one of the hedgerows through to the River Axe emphasises the contiguity of the landscape here. Despite these containing elements, this would be a substantial and unwelcome addition to these views.
34. To conclude on character and appearance, this is a rural village, mostly set back and away from the primary road network and associated with the slopes of the AONB. The proposal would result in the erosion of the transitional landscape and direct loss of the moorland landscape. It would introduce an urban character resulting from its scale and ancillary commercial and retail elements, that would be out of character with the village and the AONB fringe; it would harm the setting of the village and the AONB. It would introduce a

dominant and imposing addition within the key views from public land that would harm the special qualities of the AONB.

35. DMP Policy DM11 deals specifically with the AONB and states that development which will have an impact on the setting of the AONB, including views into and out, will not be permitted unless in exceptional circumstances and where it can be demonstrated that it is in the public interest. The appellant argued that this extends beyond the guidance set out in the Framework and is therefore not consistent with it. While the appellant accepts the Framework gives great weight to the protection of the AONB, it seeks that major development within (*my emphasis*) the AONB requires exceptional circumstances and be in the public interest. There is some difference in the approach between the Framework and the policy. However, the policy was examined and adopted after the publication of the Framework's approach to AONBs. There is a special relationship here between the moorland and the high ground of the AONB that is one of the defining features of its significance and it is not unreasonable that this is reflected in the development plan approach.
36. The proposal would therefore conflict with CS Policy CS5 and DMP Policy DM10. These policies seek to protect and enhance the quality of the landscape with special regard being placed on the LCA. It would further conflict with Policy DM11.

#### *Flood Risk*

37. The majority of the site is accepted by the main parties to currently be located in Flood Zone 2 (FZ2), an area which the Framework and accompanying Planning Practice Guidance (PPG) defines as being at medium risk of flooding. It is also accepted that when the recognised additional affects of climate change are applied, in accordance with that guidance, the site would lie within FZ3, defined as at high-risk of flooding.
38. There have been a number of flood risk assessments (FRA) and updates provided, which have included updated sequential tests. The appellant's proof on this matter referred to agreement with the findings of the July 2018 update, which identified the 0.5% tidal flood level as 6.3 mAOD<sup>4</sup> which, with climate change factors applied would be 7.365 mAOD. This needs to be set in the context of site levels reported to be between 6.4 and 6.6 mAOD.
39. The revised Framework addresses flood risk and sets out the planning aim to steer development away from areas at highest risk of flooding, whether existing or future risk. Development should not be permitted if there are reasonable available sites appropriate for the proposed development in areas at a lower risk of flooding. Thus, a sequential approach is promoted for areas known to be at risk now or in the future.
40. The appellant argues that the Environment Agency (EA) and Internal Drainage Board (IDB) both had no objections to the proposal, and that the sequential test showed there are no other reasonably available sites for this development across North Somerset. I accept that the IDB had no objection to the scheme but had sought further details regarding the surface water drainage and effect on the rhyme network, which is their focus. I note also the EA position was contingent on the results of the sequential test. It is important to note that a

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<sup>4</sup> mAOD – metres Above Ordnance Datum

lack of objection from the EA is not a defining matter; it is not their role to consider the extent to which the sequential test is satisfied in relation to locating housing in a flood risk area. Consequently, it is necessary to consider the sequential test, which was initially found to be effectively absent by the Council at the time of their decision. I agree that the original FRA was lacking in many areas and the sequential test, focussed mainly on the Council's acceptance that they could not demonstrate a 5-year Housing Land Supply (HLS), was not robust.

41. Later iterations of the sequential test were submitted post decision and produced in May 2019, with a further update in July 2019<sup>5</sup> and finally a note to the Inquiry<sup>6</sup> following the Council's comments set out in their appendices to their planning proof of evidence. While the Council had accepted the principle of the search area and the 5-hectare size, it had identified allocations and emerging sites that were missing from the assessment and questioned the approach taken to the non-housing element of the proposal.
42. Turning to housing, CS Policy CS3 sets out some criteria for the approach needed for a sequential test, including consideration of whether an alternative site can be 'reasonably available'. More recent guidance and advice would suggest such alternative sites should be drawn from known allocations and from documents informing Local Plan development, for example the Strategic Housing Land Availability Assessment (SHLAA). In my view, it is entirely reasonable that allocated sites, sites that have gained planning permission or sites that are being considered as future allocations for housing should be robustly assessed as alternatives for a proposal in a flood risk area, particularly one of the scale of the scheme before me.
43. The appellant suggests that they did not carry out a full review of allocations as '*these sites are required to meet the 5-year HLS*'. The 5-year HLS is not a substitute for a robust sequential test. While the appellant also suggests that such references were to point out the 'systematic failure' of the Council to bring forward sites that they have allocated and that it shows that the Council are not delivering enough houses, these matters are relevant to the weight that should be given to the proposal in a planning balance and in consideration of the Framework's presumption, not to define acceptability of introducing housing that, irrespective of proposed mitigation, will be potentially subject to flooding.
44. The Appellant's Inquiry note assumes that as allocations have not come forward then it must be questionable that the appellant could do so. This is, in my view, considerably short of the robust evidence needed to justify the circumstances required for developing in a flood risk area and a full appraisal of allocations should have been carried out.
45. I accept that the extent of FZ2 and FZ3 are constraints across large parts of the district, and that much of the land currently in FZ2 will become FZ3 under accepted climate change impacts. I also accept that all sites currently in FZ3 should be excluded as less preferable in any sequential test. However, while a sequential test should use the broad definition of flood zones as a starting point, the need for a robust assessment for a scheme of this scale would

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<sup>5</sup> CD 3.1

<sup>6</sup> ID6

<sup>7</sup> ID6

- necessitate a further review of potential alternative sites within FZ2, for example considering where actual risks are lower, the effect of climate change less significant or areas where the management of long-term residual risk and flood defence standards are assured.
46. This site is at risk when the embanked defences along the River Axe are overtopped, although I have had limited information on the standard of these defences and any future commitment to maintenance of those standards. The site is currently only just above the level defining FZ2 from FZ3 and only a relatively small change in the anticipated climate change impacts would result in the proposal lying within the area at high-risk of flooding.
  47. Within this context, the appellant provided their Inquiry note which further sought to address the sites the Council identified and those of similar flood risk.
  48. The two sites the Council identified as missing, HE18174 and HE18200, would appear to have been initially discounted because they had 'limited planning merits' and were not, in the view of the appellant, reasonably available. The Claverham site is excluded as it is not identified in the recently adopted neighbourhood plan. However, HE18174, despite the suggestion in the SHLAA that it was within FZ2, was reviewed by the Council as having no flood zone constraints in their evidence to this appeal; this was not challenged by the appellant. I consider that it should be fully assessed, although the appellant suggests that it is 'landlocked' with two adjoining allocations now progressing. While the appellant further indicates that a developer will build out these permissions, it is not clear to me why the site, identified as being adjacent to the settlement boundary of Congresbury, a service village and preferable in terms of the settlement hierarchy, is consequently not available, subject to resolving access.
  49. The Council further raised the site at Park Farm, Congresbury, HE18307, and clarified that it was mostly outside of FZ2, despite the reference in the SHLAA; again, this was not challenged by the appellant. It was discounted because of key constraints, although similar arguments could equally be applied to the appeal site. The appellant further suggests that a phone call to the landowner indicated no interest in selling. I accept that this may well indicate the site is not reasonably available, but a robust assessment should have detailed this and provided full evidence.
  50. The remaining sites identified in the sequential test as being in FZ2, including HE183 and HE18125 are now suggested by the appellant to lie within FZ3, although again full evidence is not provided to confirm this position. HE18295 is then discounted because of its current business use. I accept that this, at present, is not reasonably available.
  51. This is a significant scale of development in this district, approaching or exceeding many of the allocations recently assessed and confirmed through the SAP process. To propose such development in a flood risk area, especially one where climate change impacts will be significant, required a robust and comprehensive assessment of alternatives. Furthermore, in a district where developments of this scale are limited, I also consider that full recognition of the opportunities presented in meeting the quantum of development on more than one large site should also have been considered in further detail. Without such, there is a risk that large sites will preferentially be directed towards

higher risk of flooding, simply because opportunities for such scale of development are limited, meaning alternatives are limited.

52. The appellant promoted a plan of unconstrained areas within 5 kms of the railway station to suggest that such land is limited. The Council provided a map of unconstrained land across the district and indicated that a large number of potential housing allocations will be considered as part of the eJSP process. In all cases these are far too broad-brush to give them material weight. However, on the assessment of the evidence before me, I find that the sequential test has not been carried out in a robust way but has been reactive and limited in its explanation and detail such that I do not consider it sufficient to confirm that the sequential test is passed for a development of this scale and level of risk.
53. In such circumstances it is not necessary for me to consider the exception test, albeit I note that the appellant argued one was not required in strict accordance with national guidance, but mitigation proposals and sustainability benefits were put forward.
54. In relation to this main issue, I concur with the Council's findings that insufficient evidence has been submitted, despite the extent of the revisions made, to support that there are no alternatives at a lower risk of flooding now or in the future. The proposal conflicts with Policy CS3 and guidance in the Framework in this regard.

#### *Protected Species*

55. From my assessment of the evidence submitted with the original planning application it was not supported by sufficient ecological surveys. This was accepted by the appellant in their statement of case. The surveys were subsequently provided as part of the development of proofs for the appeal and were mostly dated to June 2019.
56. These were reviewed by both the Council and an ecologist supporting Bleadon Acting Together (BAT), a co-ordinating group of local residents. There are three principle species of concern, although I accept that local residents' concerns extend to other species that potentially use the site. My focus for this appeal is on breeding birds, water voles and bats.
57. The breeding birds survey was reported to have been undertaken in April and May 2019. Although the outcomes are recorded in the appellant's proof, no detail of this survey was provided to the Council or the Inquiry. Finding the presence of four 'red-list' species, two confirmed to be breeding on the site, and seven 'amber-list' species of which three were considered to be breeding on the site, strongly suggested that such information should have been made available.
58. When questioned on this matter, the appellant's witness, who was not the author of the proof or the survey, accepted he too had not seen the survey. While I note that the Council accepted in evidence that mitigation may be possible, this is a material oversight, and, in absence of the data, it is my view that the simplistic assessment of mitigation through managing remaining grasslands is insufficient to confirm whether harm would arise. This is clearly in conflict with the principles set out in Circular 06/2005<sup>8</sup> and with CS Policy

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<sup>8</sup> Biodiversity and Geological Conservation – Statutory Obligations and Their Impact Within the Planning System

CS4 and DMP Policy DM8. These policies seek to conserve the local natural environment and set out that any development that may impact on protected or notable species or habitats would need to be accompanied by up to date ecological survey assessments.

59. Turning to water voles, survey data was provided from July 2017 and May 2019, while suggesting the presence of water voles was limited, the appellant's second survey showed clear signs of water vole activity. The Water Vole Mitigation Handbook<sup>9</sup> (WVMH) referred to by both parties, recommends two surveys be carried out within two months at either end of the breeding season, furthermore, I can find little within the survey to confirm the circumstances and conditions on the days of the surveys or the experience of the surveyor. In such circumstances, I have given greater weight to the evidence of the ecologist supporting BAT, whose survey was included within the Council's appendices, and the Council's ecologist, who clearly set out concerns regarding the timing, extent and methodology of the appellant's survey.
60. I conclude that water voles are a species likely to be present in an important population at the site, predominantly associated with the rhyme network, but likely to utilise grassland areas associated with it. The appellant accepted the likelihood of water voles being present and the need for a licence from Natural England (NE). Their approach to mitigation has been set out in an evolving series of illustrative ecological or landscape masterplans, as referred to in my Procedural Matters above.
61. The initial proposal included two substantially widened central rhyme features running north-south and a buffer to the norther rhyme. The later iteration included a wider buffer to the north with a pair of ponds with islands. The thinking behind these approaches and their response to provide mitigation for both water voles and bats are understood, but this is nonetheless indicative of matters that should have been informed by robust surveys and assessment and addressed prior to the appeal.
62. While I noted the significant concerns raised by the prospect of land raising leading to compaction and direct impact on burrows, it would appear that landscaping activities would only be to provide for drainage from the edges of the site and there would be no necessity to raise land adjacent to the rhynes. With careful control of construction methodology, I consider that this could be accommodated without direct physical impacts. Nonetheless, a full appraisal of this matter would require a robust survey and full mitigation to be confirmed as deliverable for this site.
63. In these terms, the appellant's witness suggested that the proposed refuge islands, presumably in either illustrative scheme, would provide for suitable habitat and represented an appropriate response, in accordance with the WVMH. However, that document would appear to also require a full appraisal of potential predation, both by mink and by feral or domestic cats, an issue which the witness appeared to discount. While I do not consider that the survey data provided was sufficiently robust to properly inform appropriate mitigation, this is an outline application and proposals to provide suitable habitat, mitigation and adequate protection from predation were developed through the Inquiry. Any work would have to be subject to licensing by NE and

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<sup>9</sup> Dean et al 2016

I must therefore consider, without prejudice, whether there is a realistic prospect of a licence being granted.

64. This involves a consideration of the relevant tests. Assuming permission has been granted, the key element is confirmation that the actions taken would not be detrimental to maintain the population of the species concerned at a favourable conservation status in a natural range.
65. It strikes me that the site is of sufficient scale, and the quantum of development is not fixed, such that, with proper and full assessment based on the acknowledged presence of this highly important species, sufficient mitigation in terms of buffer zones, pond refuges and strict controls on construction could result in a licence being granted. This though, may have significant implications for the scale and nature of the development, one of which, the revised layout and introduction of large ponds features, I have already addressed under my first main issue. Nonetheless, my concerns regarding the quality and competence of the initial surveys remain. This is an important population of a nationally endangered species, and a comprehensive evidence base is required to properly plan for development of this scale in such close association. On this matter, therefore, I also find conflict with the Circular guidance and Policies CS4 and DM8.
66. Turning to bats; following submission of survey data, it was clear that not only was the site used by a range of more common bat species, but also greater and lesser horseshoe bats. These are directly associated with the nearby North Somerset and Mendips Special Area of Conservation (SAC), the site lying within its identified consultation zone, as well as the Mendip Grassland SAC. In addition, potential recreation pressures on the Mendip Grassland SAC and the Severn Estuary SAC<sup>10</sup> were identified by the Council and accepted by the appellant in terms of the necessary screening requirements for likely significant effects.
67. As a consequence, the Council identified the need for a formal Habitat Regulations Assessment (HRA), which I supported, evidence for which was not provided by the appellant either at application stage or prior to the Inquiry. During the adjournment of the Inquiry the appellant provided such evidence by way of an Ecology Position Note<sup>11</sup>.
68. Such an assessment under the Habitats Regulations<sup>12</sup> involves screening for likely significant effects, either alone or in combination with other plans or projects, and where these cannot be excluded, an appropriate assessment to determine whether adverse effects on the integrity of the European Site would arise, taking into account proposed mitigation. If adverse effects cannot be ruled out, alternative approaches or consideration of overriding public interest must be addressed. A requirement of this process is the referral to the Statutory Nature Conservation Body, in this case NE, as part of the appropriate assessment. However, appropriate assessment by the Competent Authority, and consequently consultation with NE, are only required where circumstances that could lead to planning permission being granted are present. In light of my overall findings on this case, consultation was not required, albeit I do note

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<sup>10</sup> Which is also a Special Protection Area (SPA) and Ramsar site

<sup>11</sup> ID27.

<sup>12</sup> Article 6 of the EC Directive 92/43/EEC, transposed by the Conservation of Habitats and Species 2017

NEs earlier response<sup>13</sup>, which questioned the initial masterplan approach to greater and lesser horseshoe bat mitigation. Nonetheless, it remains necessary to review the evidence to consider implications for the overall planning balance.

69. The Ecology Position Note confirms that there is potential for likely significant effects on the three SAC/SPAs, albeit it purports to show that when considered with mitigation, adverse effects on the European Sites can be avoided. It accepts that the proposal would result in the loss of approximately 7.42 Hectares of predominantly the interiors of the arable fields, and also the loss of about 1.3% of the site's hedgerows, and it promotes a number of mitigation approaches.
70. The assessments within it are based on the original illustrative masterplan layout and the mitigation includes the retention and strengthening of existing hedgerows and associated trees and ditches, the retention of the rhynes to the northern and eastern boundaries and the widening of the central wet ditch and rhyne with the provision of varying width buffer strips to these features. Critically, it also proposed a lighting strategy to ensure retention of dark corridors associated with these features, limiting any light spill to 0.5 lux or less. Further mitigation measures are suggested to be secured through Landscape and Ecological Management Plans.
71. The provision of replacement habitat suitable for the greater and lesser horseshoe bats was assessed by reference to the Habitat Evaluation Procedure (HEP) set out in a Council Supplementary Planning Document<sup>14</sup> (SPD). This concluded that the equivalent hectares of replacement and mitigation post development habitat would exceed the requirements of the SPD. The potential effect on bat commuting across the site was addressed through the review of lighting and maintenance of dark corridors. At the Inquiry, the appellant's witness accepted that greater and lesser horseshoe bats were very light sensitive. The note confirmed that there would be an additional access along the southern boundary and pedestrian accesses along the northern boundary, along with internal roads and houses, which would all contribute to the introduction of artificial lighting. However, the note and accompanying Lighting Impacts Review, which reviewed the later illustrative scheme, concluded that light levels could be managed across the site so that commuting routes would not be disrupted.
72. There were a number of concerns raised in relation to these matters, principally that lighting would compromise areas of habitat included in the proposed mitigation and overall lighting associated with roads, houses and commercial operations would act as a barrier to the north south commuting of the horseshoe species. This included the southern boundary where a large road junction would, by necessity be required were the scheme to go ahead. Some divergent positions were presented to the Inquiry on this junction. That from the Highway Authority suggested extensive lighting requirements along the visibility splays and bell mouth, while that from the appellant suggested that such lighting requirements were excessive. Nonetheless, the highways witness for the appellant accepted that street lighting would be required at the junction and to the proposed pedestrian crossings to facilitate access to the bus stop.

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<sup>13</sup> ID3

<sup>14</sup> North Somerset and Mendip Bats Special Area of Conservation (SAC) Guidance on Development: Supplementary Planning Document – adopted 2018,

Lighting is also suggested by the Council to be required for vehicular and pedestrian routes across the northern boundary.

73. The main roosting areas for these bat species are to the north of the appeal site, it is likely that important foraging areas are found across the moorland and levels to the south and the area south of Bleadon may also be part of migration routes. The existing circumstances are that there is some street lighting in the estate roads away from the Bleadon Road itself and no substantive lighting along the site frontage to the A370. Consequently, the Bleadon Road is a dark area, particularly along the northern rhyne, while the substantial hedgerow along the southern boundary is affected only by car headlights. The bat surveys, which were generally accepted to have been carried out to a good standard, suggest that the use of the site by greater and lesser horseshoe bats is for commuting. I can therefore understand the considerable concerns of the Council and local residents.
74. However, the HEP calculations indicate a reasonable margin beyond the SPD requirements, so that even were some of the habitat to be effected by additional lighting elements, this should not, on the evidence before me, lead to overall unacceptable habitat loss, while the lighting schemes that could be employed here could, following detailed appraisal and potential compromises on the scheme, its road layout and its housing delivery, address the maintenance of dark corridors. Commuting is unlikely to utilise the central field areas and with dark corridors maintained to the north-south routes and minimised on the northern and southern boundaries, coupled with the retention of the large field between the appeal site and the car salesroom, the conclusion that commuting routes would not be adversely affected would appear achievable. I make these conclusions, noting still that a full assessment should be clearer on in-combination effects and should fully address the practical maintenance and management of the grassland areas, taking account of the additional management associated with the drainage requirements of the rhynes, to ensure that these would, in reality, be appropriate habitat for protected species.
75. To conclude on the effect on the natural environment and protected species, it is clear there were poor initial ecological appraisals of the site, and the submission of surveys as part of the Inquiry process has shown that it is a highly sensitive site for biodiversity, with a range of protected species utilising in particular, the site margins; its rhynes, wet ditches and hedgerows. While I have found that with considerable further assessment and investment in advanced layout and lighting design, all of which may have implications for the scheme as a whole, the effect of the proposal on the SAC bats may potentially be addressed, the failure to submit surveys for breeding birds and particularly the significant questions over the water vole evidence, lead me to conclude that, on the evidence before me, the scheme would not comply with CS Policy CS4 and DMP Policy DM8.

*Whether the appeal site represents an appropriate location for housing having regard to national and local policies*

76. In considering whether the site is appropriately located, in addition to the matters of landscape, flooding and biodiversity I have dealt with above, the Council argued that the scheme fails to accord with the strategic hierarchy for the delivery of housing and is in an unsustainable location, providing an

unacceptable level of housing for the scale and location of the village it would adjoin and an unwanted and unneeded provision of non-housing uses.

77. Notwithstanding my acceptance that the emerging policy situation is somewhat fluid following the recent comments by Inspectors in relation to the eJSP, the district planning policies are relatively recent and establish a clear hierarchy to housing delivery, the quantum of which was set out in Policy CS13 at 20,985 to 2026, albeit that policy addressed the need for the level of new homes to be reviewed in 2018. The need for this review was directly associated with very clear statements in the Examining Inspector's Report<sup>15</sup> and reflected also in the Inspector's Report on the SAP<sup>16</sup>, that a developing shortfall in delivery during the Plan period needed to be remedied, with the expectation that the eJSP would be the vehicle for that review; as set out above, this is now potentially delayed.
78. Nonetheless, the development plan's hierarchical approach was found sound, and is a logical approach to delivery of housing to be closely associated with employment, retail, services and facilities while having the best opportunities for access utilising sustainable travel. Set out in Policy CS14, Weston-super-Mare is identified as the principal town and focus for development, with the three towns of Clevedon, Nailsea and Portishead taking the majority of the additional required housing. A smaller scale of growth is identified for nine Service Villages, while the Infill Villages, of which Bleadon is one, are identified for strict control of development in order to protect the character of the rural area and prevent unsustainable development; less than 1,000 dwellings are identified for these Infill Villages and countryside areas, identified in the Plan as the other settlements. The settlement boundaries were established in the previous Replacement Local Plan and were intended for review as part of any future local plan or Neighbourhood Development Plan.
79. The SAP, taking account of completions and the need to identify further sites, set a housing requirement of 1,438 for these other settlements. Other policies are specific in addressing development within or adjacent (*my emphasis*) to the settlement boundaries of the larger settlements, responding to concerns over the restrictive approach to development specifically within the settlement boundaries<sup>17</sup>. However, Policy CS33 deals specifically with development within the settlement boundary of the Infill Villages, unless for exception sites for affordable housing, and imposing even stricter controls on residential development elsewhere. The policy further states that new small-scale employment development will only be permitted within settlement boundaries provided it is appropriate in scale and character.
80. It must follow that the proposal, being located outside of the settlement boundary conflicts directly with Policy CS33 and is of such a scale as to clearly conflict with the hierarchy established in Policy CS14. However, it is evident that there has been accumulating pressure on delivery of housing in the district and the finding of soundness of the CS and the SAP was within an understanding of the need for review, with the Plans viewed as being for the short-term. Furthermore, the Council accepted at the Inquiry that, on the basis of their latest position statement, from April 2018, and on findings of previous appeal decisions, they had a 4.4-year HLS. The appellant contends

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<sup>15</sup> CD 1.4

<sup>16</sup> CD 1.7

<sup>17</sup> CD 1.4 p35

that the shortfall is considerably greater. Nonetheless, the acknowledged need for an early review of the housing requirements and the acceptance that currently the Council cannot demonstrate a 5-year HLS, all lead to the conclusion that full weight cannot be given to the policies when considering the need for housing in the district.

81. It is in this context that the appellant argues that these policies are contributing to the significant shortfalls experienced against housing targets over the previous 10 years<sup>18</sup>, and the Council's accepted failure to demonstrate a 5-year HLS. This, it is argued, renders these policies of limited weight and engages the 'tilted balance', set out in Paragraph 11 of the Framework.
82. To address this matter, I will deal with the nature and accessibility of the village first and then, in light of my overall findings on the case, address a pragmatic assessment of the nature of the shortfall to determine the appropriate weight to give to the strategic policies and to the benefits arising from housing in this scheme when considered in my planning balance below.
83. Infill Villages are identified because of their scale, the lack of services they currently provide and their more remote locations. While Bleadon has a limited range of services, there are acknowledged to be well-used community facilities, a small shop and Post Office and three public houses, albeit two are close to the A370 and the holiday parks rather than the central core of the village. It could be argued that the inclusion of a health centre/doctor's surgery, retail outlets and office/ employment space, as proposed within this scheme, would raise the level of services and represent a positive addition to the area. However, I have very limited justification for the provision of these elements, indeed the response of the Council, the Parish Council and many local residents was that they are either not needed, or not supported by relevant services such that their delivery could be in doubt. These non-housing uses are not well explained and the position that they are included in response to local comments, insufficiently substantiated by evidence to the appeal. In fact, I have particular concerns regarding the delivery of the health centre and doctor's surgery with limited evidence provided indicating support from the health service for such a facility in this location. Consequently, I do not consider that this element of the scheme lifts the village into being a higher order settlement.
84. The site is located sufficiently far from the principle services and facilities associated with Weston-super-Mare that they should not be considered accessible on foot. Bus services are commented on by the Council and local residents as being limited, but the appellant has provided a review that accepts that while the start and finish times are not conducive currently to commuting, they have agreed a funding process to secure earlier start and finish times. This, coupled with improvements that could be provided through the scheme to improve pedestrian crossing of the A370 would, the appellant argues make the scheme more accessible, which I accept.
85. However, in terms of accessibility, the Framework supports that significant development, of which this is one, should be focussed on locations which are or can be made sustainable, including avoiding the adverse effects and environmental impacts of traffic and transport infrastructure. An Infill Village does not provide the necessary level of services or facilities to provide for a

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<sup>18</sup> CD4.3 - North Somerset Residential Land Survey April 2018 Headline Findings

fully sustainable location. While the proposed improvements to the bus service would represent a better opportunity for current and future residents to utilise public transport, the development would still place a larger reliance on the use of the private car than introducing such a scale of development within a higher order settlement. So overall, the proposal could introduce some positive benefits in terms of accessibility, but cannot be considered fully sustainable in transport terms; these matters need be taken into account in the planning balance.

86. Turning to the housing shortfall, which the appellant promotes as meaning the policies are out of date and the settlement hierarchy should be set aside, the Council acknowledge that they cannot currently demonstrate a 5-year HLS. Shortfalls in previous years and the assessment of performance against the Housing Delivery Test, as set out in the transitional arrangements in the Framework, mean that the Council need to demonstrate sufficient land to meet their 5-year requirement plus a 20% buffer and produce an Action Plan<sup>19</sup>.
87. The appellant considers that the Council are overstating the delivery from sites and that changes in the revised Framework, particularly to the definition of deliverable, had also fundamentally changed the assessment the Council should now make. Put simply, the Council suggest 4.4-years, the appellant promotes a figure of 2.4-years<sup>20</sup>.
88. The Council argued that despite the revision, the up to date PPG<sup>21</sup> requires that authorities demonstrate a 5-year HLS either through the latest evidence, such as a SHLAA, or through a recently adopted plan or annual position statement. Thus, the Council rely on their 2018 Annual Monitoring Report (AMR), noting that the appellant's approach of an ad-hoc assessment of deleting sites from the supply without full assessment, absent the full involvement of landowners and developers and without addressing any additions such as sites where delivery may have increased, as being non-compliant with this approach. The Council referred to a number of planning appeals where their position of a 4.4-year supply has been accepted, including that at Sandford<sup>22</sup>, which they note was considered after the change introduced in the Framework.
89. The change to the Framework is important. It now requires the Council to provide clear evidence that sites with outline permission, permission in principle, allocations in the development plan and sites on the brownfield register will provide completions within the 5 years. However, I accept that this cannot be considered an exact science and the Council are mostly reliant on the actions of others to actually deliver the housing. Consequently, it is important that the first part of the definition has not changed, and I consider that the clear evidence required goes towards showing that there is a reasonable prospect of delivery.
90. I do have some sympathy for the Council's wish to rely on their 2018 AMR, but reliance on other appeals where the HLS position was not challenged is less tenable. Nonetheless, this does require, even if only for this transitional period, further assessment of the sites taking account of this change. In this context, the appellant challenged some 36 sites initially, conceding on 3

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<sup>19</sup> ID28

<sup>20</sup> ID16

<sup>21</sup> ID 68-004-20190722

<sup>22</sup> APP/D0121/W/18/3206217

following the submission of further Council evidence. These included sites that the appellant considered would be delayed and others where they questioned delivery. The positions were summarised in ID15 and ID17.

91. In light of my overall conclusion, I have sought to understand the broad magnitude of this shortfall and have considered the comments made by parties in full, finding that in a number of cases the concerns raised by the appellant were legitimate, while in others may only result in a delay to schemes programmed to deliver earlier in the trajectory. In other cases, I found the Council's more up to date evidence on landowner/developer engagement or progress on planning permissions was sufficient. A very significant component of the HLS relates to the Weston Villages and significant concerns were raised by the appellant in relation to these and their expected delivery of some 875 dwellings per annum (dpa) in the final part of the trajectory.
92. There is no question that this is a very ambitious target, but it is clear that these developments are spread across two large and relatively dispersed sites. Furthermore, it is apparent that they are being progressed by a range of developers offering a range of products. The Council have confirmed delivery rates from a single developer in excess of 200 dpa and the very need for housing on which the appellant is relying in this case is an indication of very significant demand in this market.
93. The Council has provided evidence of the planning permissions in place and proposals for how further permissions will come on-line to support this trajectory, along with developer support for delivery. Therefore, on the evidence before me, I am satisfied that this at present, demonstrates a reasonable prospect of delivery, albeit such a substantial commitment to these strategic sites will require careful monitoring going forward.
94. My assessment is based solely on the evidence presented to me at the time of this Inquiry and taking into account my considerations of the Framework change I have set out above. In this context, I have found that the Council were unable to demonstrate a realistic prospect of delivery from the identified sites in contention of between 600 and 800 units. Applied to the supply calculations presented to me, this would bring the broad magnitude of supply to around 4 years.
95. I therefore conclude that the appeal site does not represent an appropriate location for the scale of development proposed. While I have accepted that some improvements can be made to the public transport offer of the village, the proposal would still conflict with the requirements of CS Policies CS14 and CS33, which seek to direct residential development to higher order settlements. This hierarchy has been considered relatively recently and found sound, however, I have identified that there is significant pressure on housing delivery in the area and therefore the weight that can be given to these policies must be considered in the planning balance.

#### *Other Matters*

96. While there was a wide range of concern raised by local residents and interested parties in relation to this proposal, many of these matters have been addressed in my main issues and the focus for other matters is, in my view, on that of highway impacts and dark skies.

97. The introduction of up to 200 houses would increase the number of cars on the local road network. Many residents pointed out the risk at existing accesses to Bridge Road and Bleadon Road used by the village residents to and from the A370, as well as the poor accident record, including a fatality. However, the proposal would require a new access to the A370 that would be designed to modern highway safety standards. While the scheme is only in outline at present, further vehicular and pedestrian accesses are proposed onto Bleadon Road, but I do not consider that a significant amount of the traffic associated with the scheme would use this route to access the A370. As a result, there should be no substantive increase in highway safety risk to the existing accesses, although the suggestion that benefits would arise for existing drivers who may choose to use the new access cannot be substantiated in light of the outline nature of the scheme.
98. I note the concern that occasionally drivers may use Bridge Road and Celtic Way or Shiplate Road as an alternative route to and from the A370, but my own journeys in the area did not support that such a route would be preferable other than in exceptional conditions of severe delays on the A370. Overall, I consider that the traffic assessment and the proposed delivery of a new access onto the A370 demonstrate that the proposal would not result in a material impact on highways safety and the overall residual impacts on the road network would not be severe.
99. Turning to dark skies, I have noted the importance of the dark outlook over these fields for many residents. I have addressed the effect of this scale of development on the character and appearance of the village generally but note that these concerns extend to lighting resulting in effects on the wider area in terms of dark skies. I can understand this concern, as development historically, particularly street lighting and security lighting has led to considerable levels of uplighting, light glow and reflection having a detrimental impact on dark skies.
100. However, as the Inquiry progressed, more evidence was introduced on the necessity for a highly sensitive lighting regime to be incorporated. The full extent of the lighting approaches and resulting light spill could not be set out because the scheme is in outline, but nonetheless, I am satisfied that if the scheme were to go ahead, conditions could impose very strict controls and require the application of a lighting strategy such that effects beyond the site and its immediate surroundings would be limited. This does not suggest that the site would retain the level of darkness it currently has; the number of houses and the requirements of road network would result in significant alteration. This would include making the site more obvious when viewed from higher ground, and this has contributed to my concerns about its visibility from the AONB for example.

#### *Other appeal decisions*

101. A large number of appeal decisions were submitted, principally by the Council setting out their assessment of how previous Inspectors had viewed the settlement hierarchy and other matters. I would reiterate the position set out the Sandford appeal, that such decisions, while potentially material considerations, cannot generally carry significant weight and must be considered on the particular circumstances prevalent at the time and at the specific location of that development.

102. Nonetheless, both the appellant and the Council submitted very recent decisions after the closure of the Inquiry. The first, in Kewstoke<sup>23</sup>, was forwarded by the Council who suggested that this represented a smaller scheme being found to be in conflict with Policy CS33, similarly located outside of an Infill Village. While there are clearly some similarities, the appellant points out that they are not in the same location and would have different levels of accessibility. Furthermore, they argue that the appeal, a Hearing, would not appear to have considered the matter of housing deficit and the requirements of the flood risk sequential test were materially different. The schemes are of very dissimilar scales, nonetheless, in contrast to the appeal before me, no harm was found to the character and appearance of the area and yet significant weight was given to the conflict with the settlement hierarchy.
103. The second concerned a large development at Nailsea<sup>24</sup>, which the appellant suggested considered the lack of HLS, the status of the emerging plans and found a scheme of this scale acceptable in a consultation area for the SAC. However, I note that this scheme comprised in part an allocation adjacent to a town, identified in the settlement hierarchy as being suitable for development outside of settlement boundaries and with a very high level of accessibility. I also note that the Council in that case did not pursue any objection on character and appearance, and indeed this was supported by the Inspector. This represents very different circumstances to the case before me.

### **Planning Balance and Conclusions**

104. The statutory duty placed on a decision maker is to determine a proposal in accordance with the development plan unless material considerations indicate otherwise. I have identified conflict with a wide range of policies in the development plan, including the settlement hierarchy, CS14 and CS33, harm to the character and appearance of the area and the AONB, CS5, DM10 and DM11, failure to properly address the sequential test, CS3 and insufficient assessment of the highly sensitive ecology of the site to address potential harm, CS4 and DM8.
105. However, I have also noted that there is a significant pressure on the need for new housing and affordable housing in the area. This is not a case where a detailed analysis of the 5-year HLS is necessary to establish whether one is demonstrated or not, the Council accept that they can demonstrate at best a 4.4-year HLS. Consequently, the presumption in favour of sustainable development is engaged. For decision taking this means that even where policies are out of date as a consequence of the lack of a 5-year HLS, specific application of policies within the Framework must be considered in accordance with footnote 6 to Paragraph 11, including habitats sites and areas at risk of flooding.
106. I have found significant deficiencies in relation to the provision of ecological surveys. However, in relation to European Sites, on the evidence before me and notwithstanding the implications it may have for the development of the site, I have found that the provision of alternative habitats and a suitable lighting strategy could be addressed, and this would not be a reason for refusal on its own. Nonetheless, the footnote also refers to policies pertaining to areas

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<sup>23</sup> ID36 APP/D0121/W/18/3215597

<sup>24</sup> ID37 APP/D0121/W/18/3212682

at risk of flooding, with regard to which I have found the sequential approach has not been satisfied in this case, and this provides a clear reason for refusal of the scheme.

107. My findings on flood risk must be tempered by an acknowledgement that there is a severe pressure on the delivery of housing in North Somerset, and I have noted that the Council, on the evidence before me, has overstated its 5-year HLS. This pressure is likely to result in the need to assess sites that may be subject to some risk, and the inclusion of sites within FZ2 and even FZ3 in the SHLAA confirms this. The appellant repeatedly stated that the Council's strategic approach had failed to deliver the level of housing needed and implied that it will continue to do so unless decisions are taken on developments outside of that strict approach. I have some sympathy for this, as there can be no doubt that the Council has continually undershot its targets for a number of years. Nonetheless, the strategic approach is now delivering housing on sites such as the Weston Villages and at and around the larger order settlements.
108. This may represent a significant uplift in delivery going forward but it is clearly not enough, as the findings of the Inspectors in the recent CS and SAP examinations highlighted. I have therefore carried out the assessment to address the broad magnitude of any shortfall in delivery, and whether, as argued by the appellant, the acceptability of this site is contingent on the weight that can be given to the strategic and housing policies and the benefits of the housing delivery.
109. To assess that, it is necessary to consider the extent of the shortfall and whether this scheme would assist in addressing that shortfall. On questioning, the appellant could not identify a developer or housebuilder, referring only to there having been contact, but still considered that the scheme would deliver 35-50 houses per year. However, it is at outline stage and even were it to be approved, there would be a considerable period necessary to resolve the issues I have identified, which include, but are not limited to, those in relation to layout, quantum, road provision, ecological habitat creation and maintenance, lighting and flood risk. Subsequently development would then have to start, and completions achieved to influence the 5-year HLS. I have significant doubts on the evidence put to me that this would be of any significant quantum and the consequential benefits are somewhat tempered by this.
110. However, up to 200 houses would represent a significant benefit and the appellant has confirmed that no less than 30% would be affordable. I give significant weight to the open market housing. I also give significant weight to the affordable housing. Although the Council suggest that their completions against targets are high on affordable housing, it cannot be denied that there is significant demand for such housing across the district.
111. In terms of other benefits, I accept that there would be some economic benefits, short term in the case of construction, but longer term in the case of investment in local services and facilities; I give this moderate weight. The appellant suggests that there would be benefit to the wider community from the proposed public transport provision, which I have accepted and give some weight to, other contributions or improvements set out in the s106 address impacts of the scheme and are neutral in this balance.
112. I give full weight to the development plan policies on flood risk, ecology and the character and appearance of the area and the AONB. While the Council's

significant shortfall in the provision of housing land reduces the weight that can be given to Policy CS14 and CS33. When applying the Framework's presumption in favour of sustainable development, the flood risk matters are decisive, yet even were I to accept the appellant's argument that the housing need in North Somerset is so severe that the tilted balance should be applied, the harms I have identified to this highly sensitive site in terms of both the character and the appearance of the moorland landscape, the village and the AONB, coupled with the unresolved issue of harm to the high value ecology of the site, would significantly and demonstrably outweigh the benefits that I have identified.

113. There are therefore no material considerations that would lead me to a decision other than in accordance with the development plan. For the reasons given above, and having regard to all other matters raised, I dismiss the appeal.

*Mike Robins*

INSPECTOR

## APPEARANCES

### FOR THE APPELLANT:

Peter Goatley of Counsel	Instructed by Sutherland Property and Legal Services Ltd
He called	
Carl Tonks BSc MSc FCILT MCIHT FIHE	Highways – Carl Tonks Consulting
Dean Frosoni BSc CEng MICE MCIWEM	Flood Risk – Cole Easdon Consultants Ltd
Angela Watts CMLI	Landscape - Amalgam Landscape
Christopher Burton MPlan MRTPI	Planning – Sutherland Property and Legal Services
Tom Wigglesworth	Ecology – EDP
Bonnie Brooks MSc CEng MCIBSE MSL MILP	Lighting Consultant – Illume design Ltd

### FOR THE LOCAL PLANNING AUTHORITY:

Peter Wadsley of Counsel	Instructed by North Somerset District Council Solicitor
He called	
Kevin Carlton BA DipLA Glos.	Landscape – s106 Project Officer North Somerset District Council
Susan Stangroom BSc	Principal Ecologist - North Somerset District Council
Mr Muston BA(Hons) MPhil MRTPI	Planning Consultant - Muston Planning

## INTERESTED PERSONS:

Mr House	Local resident
Mr Boyce	Local resident
Mr Quinn	Ecological Consultant - BAT
Mrs Richardson	Local resident
Cllr Williams	Bleadon Parish Council
Mr Baines	Local resident
Mrs Jones	Local resident
Mr Masters	Local resident
Mrs Benjamin	Local resident
Mr Sharman	Local resident
Mr Blezard	Local resident
Mrs Hemmingway	Local resident

## DOCUMENTS

- 1 Mendip Hills AONB Management Plan
- 2 Email – AONB Landscape Planning Officer -19 July 2019
- 3 Email – Natural England – 22 July 2019
- 4 North Somerset Supplementary Proof – Ecology
- 5 Ecological Constraints Plan
- 6 Appellant's Note – Sequential test
- 7 Opening Statement – Appellant
- 8 Opening Statement – Council
- 9 Bleadon Parish Council Statement and survey results
- 10 Bleadon Acting Together Statement
- 11 North Somerset Supplementary statement – ecology
- 12 Ecology Statement of Common Ground
- 13 Officer report – Yatton 16/P/0888/F
- 14 Hallam Land Management Ltd v SoS for Communities and Local Government and Eastleigh Borough Council [2018] EWCA Civ 1808
- 15 Appellant's Land Supply Table
- 16 Appellant's 5-year HLS trajectory
- 17 Council's Weston Villages Delivery
- 18 Housing Land Supply Position Statement
- 19 Statement – Mr Bains – Social Cohesion
- 20 Statement – Mrs J Jones
- 21 Statement – Mrs R Benjamin
- 22 Statement – Mr D Sharman
- 23 Statement – Mr R Blezard
- 24 Proposed conditions
- 25 CIL Compliance Statement
- 26 Weston Villages masterplan
- 27 Ecology Position Statement
- 28 Housing delivery Test Action Plan
- 29 Revised layout drainage scheme
- 30 S106 Agreement
- 31 Council response to Position Statement
- 32 eJSP Inspectors' letter dated 11 September 2019
- 33 BAT response to Position Statement – Ecology
- 34 BAT response to Position Statement – Lighting

35 Council Closing Statement

Submitted after the close of the Inquiry:

36 Appeal Decision APP/D0121/W/18/3215597

37 Appeal Decision APP/D0121/W/18/3212682