



Appeal Decision

Virtual Hearing Held on 2 November 2021

Unaccompanied Site visits made on 31 October 2021 and 15 November 2021

by Mrs H Nicholls FdA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 December 2021

Appeal Ref: APP/V3310/W/20/3263033

Land off Oak Tree Way, Cannington, TR5 2RL

- 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 Gladman Developments Ltd against the decision of Sedgemoor District Council.
 - The application Ref 13/19/00043 29 August 2019, dated, was refused by notice dated 18 May 2020.
 - The development proposed is outline planning application for the demolition of Denman's Farmhouse and associated agricultural buildings and the erection of up to 165 dwellings, with public open space, structural planting and landscaping, surface water flood mitigation and attenuation, land for a community building and associated parking and vehicular access point from Oak Tree Way. All matters reserved except for means of vehicular access.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was made in outline form with all matters, save for access, reserved for future consideration. Consequently, all plans pertaining to the layout have been treated as indicative.
3. Since the appeal application was refused, the Government has published a revised National Planning Policy Framework (the Framework) (July 2021). The National Design Guide and National Model Design Code Guidance have also been published (January 2021 and July 2021 respectively). The parties were aware of the publication of these documents and their materiality to the appeal was discussed at the hearing. Therefore, no prejudice to either party has occurred.
4. Following the submission of the appeal and through discussions between the main parties, the description of the development and the extent of the site area were changed to exclude Denman's Farmhouse and the need for its demolition. The site area changes also related to the extent and location of the ecology mitigation land. As these changes were considered material, they were subject of further consultation with interested parties to avoid prejudice thereto. The appeal has been determined on the basis of the revised description and on the basis of the latest red line site location plan.
5. At the hearing, the appellant submitted a revision to the 'Potential Access Strategy' plan, Ref P19018-100C, which had not been consulted upon with the amended plans and description. It was agreed that the only change included

within this plan compared to the earlier version which had been included within the original submission documents was the small excerpt showing the site location plan and the related red line amendments. As the effect of the red line amendments had been subjected to the consultation, and, when considered in the context of the Wheatcroft¹ principles, I did not consider that the interests of any parties would be prejudiced by the amended plan being taken into account. I therefore determined the appeal on the basis of the 'Potential Access Strategy' plan, Ref P19018-100C.

6. A draft of the unilateral undertaking (UU), a planning obligation made as a deed under S106 of the Town and Country Planning Act 1990, was submitted immediately prior to the hearing which included provisions relating to: 30% affordable housing; a bus stop contribution; a separate car park; a contribution towards strategic highway improvements to Dunball Junction/J23 of the M5; ecological mitigation land; improvements to footpaths; landscape works; a Landscape and Ecological Management Plan; provision of a Local Area of Play and Local Equipped Area of Play; provision of Public Open Space; Sustainable Urban Drainage Systems and management provisions relating thereto; travel plan provisions; Traffic Regulation Order (TRO) contributions towards speed restrictions along Main Road and for parking restrictions along the access route. The content of the UU was still a matter of discussion between the parties and both were provided with an opportunity to comment following the hearing. The signed version of the UU was provided on the 11 November which matches the version discussed at the hearing and subsequent thereto.

Main Issue

7. Having regard to the submitted evidence and agreed statements of common ground, the main issue is whether the development would be provided with safe and convenient means of access for all road users.

Reasons

8. The site comprises a number of agricultural fields, bound to the south by the A39 and to the west by the Park and Ride associated with Hinkley Point C. Existing residential cul-de-sacs that take access from Main Road lie to the east of the site and a single farmhouse, Denman's Farm, and its outbuildings, lie to the north and are accessed via Denman's Lane. Cannington Brook also lies to the north.
9. There are a number of public rights of way (PROWs) running through the site, including one that extends from Denman's Lane which, to a specified point, is a maintained unclassified road. The current access to the appeal site is via an agricultural field gate in the south-eastern field adjoining the Oak Tree Way cul-de-sac containing Nos 1 – 21 (odds).
10. In broader terms, the site lies to the south-west of the existing village of Cannington, which in turn is approximately 6km from the closest main settlement of Bridgwater. Cannington has a range of facilities, including both primary and secondary schools, doctors, shops, and public houses. Bus services are also available to a range of outlying destinations.
11. Under the Sedgemoor Local Plan (adopted 2019) (Local Plan), Cannington is defined as a Tier 2 settlement, which means that during the plan period, it is

¹ Wheatcroft Ltd V SSE [1982]

intended to receive an amount of growth considered appropriate to its existing scale and range of available facilities. The Local Plan target is set at a minimum of 150 homes, of which two extant schemes have already taken up approximately 89 homes. The residual amount that yet remains to be approved under the Local Plan minimum target is therefore approximately 61 homes and this figure was not in dispute between the parties. The proposal seeks outline permission for up to 165 dwellings on an outline basis which would meet this minimum target and exceed it by around 100 additional dwellings.

12. In addition to the dwellings and estate roads, the submitted Framework Plan and Illustrative Masterplan detail areas of open space (which would also serve as means of biodiversity mitigation and net gain), planting, surface water infrastructure and a combined pedestrian/cycle route and emergency access point via Denman's Lane. The route of the PROWs running through the site would be unaffected by the proposal, although a range of upgrade works are proposed.

Current Layout/Use of the Access

13. The vehicle access to the site would be via Oak Tree Way, which has a junction with Brownings Road. Brownings Road accesses onto Main Road which forms part of Cannington's main through route and is currently limited to 30mph. Brownings Road and Oak Tree Way are restricted to 20mph. Brownings Road is approximately 5.5 metres wide and has footways on both sides. Traffic on Brownings Road currently has priority and the junction with Oak Tree Way, on an approximate 90 degree bend, is denoted by a raised table with granite setts.
14. On turning into Oak Tree Way, the road narrows to around 5 metres, and there is a length of approximately 50 metres before another 90 degree bend into the Oak Tree Way 'stub'. This 'stub' of the estate road continues for another length of approximately 45 metres before it reaches the site access gate and this section forms part of a shallow turning head. The width of the 'stub' road is between 5 and 5.1 metres, with separate footways on both sides and some tactile paving areas denoting crossing points on some corners.
15. The combined estate roads, as currently laid out, have served the Brownings Road and Oak Tree Way culs-de-sac, comprising a total of 98 dwellings, since their construction more than 20 years ago. Residents are used to the general layout and where 'giving way' is currently necessary, albeit not 'lined' but rather indicated by the granite setts. The agricultural access gate to the appeal site has been used intermittently over the same period, with anecdotal evidence to suggest that cars have occasionally needed to be moved from the Oak Tree Way 'stub' to facilitate movements of large agricultural vehicles.
16. Exact parking ratios of the existing dwellings were not provided to me, but it is clear that the houses along the relevant stretch of Brownings Road are largely detached with more generous off road parking areas to serve around 2 cars per dwelling. The houses on the relevant stretch of Oak Tree Way (Nos 1 - 21) are all either semi-detached or terraced, and taken together, have a more limited parking ratio per dwelling. Nos 1, 3, 5 and 7 have 1 space each with single garages too small to accommodate vehicle parking. The remainder appear to have two spaces. Whilst the adequacy and use of off-street parking is not an exact science, it is clear that on-street parking regularly occurs within the 95 metre stretch of Oak Tree Way, into the 'stub', which is more width

constrained. Cars often park along Brownings Way as well, but it is wider, longer, and more gently curving, which offers sufficient forward visibility. The on-street parking, despite that many instances appear to conflict with the Highway Code, i.e. within ten metres of a junction, has not caused any recorded accidents to date. From the absence of accident data, it can be deduced that the highway has operated satisfactorily relative to the type and level of traffic that has used it.

17. I heard at the hearing, and saw photographs in the evidence, to indicate that large refuse collection vehicles often mounted the pavement when attempting to navigate the bend into the Oak Tree Way 'stub'. It was speculated that this occurrence was as a result of cars parked along the north-south section of 'Oak Tree Way' and on the corner into the 'stub'. Despite the alleged regularity of this occurrence, it has not, to date, resulted in any recorded accidents.

Proposed Access

18. To provide a continuation of the Oak Tree Way 'stub', and prioritise the route to the appeal site which would receive the highest volume of traffic associated with up to 165 dwellings, the appellant is seeking to reprioritise three junctions, involving new simple priority junctions with 'give way' markings on Hawkers Close/Brownings Way, Brownings Way/Oak Tree Way, and also on the Oak Tree Way north-south and 'stub' corner. As there would be a single vehicular access for all proposed dwellings, added to those that exist along the route, the effect would be to create an enlarged cul-de-sac.
19. It was conceded at the hearing that the suggested conditions (Nos 2 and 25, or an amalgamation of the two) and submitted detailed access plan, 'Potential Access Strategy' (Ref P19018-100C) would require the provision of the 'access' (beyond the red line area) to include these junction reprioritisations along the existing highway prior to construction works commencing. Whilst other options such as a raised table into the 'stub' and a 'do nothing' scenario were suggested in more recent evidence as possible alternatives, they have not been consulted upon with either the Highways Authority or other interested parties. Thus, my consideration centres on the suitability of the access with junction reprioritisations as specifically detailed in the plan.

Policies and Guidance

20. In terms of the suitability of the proposed access route in the context of relevant policy and guidance documents, the Council's refusal refers to Local Plan Policies D13 and D14. Amongst other things, the former requires that proposals should be "*compatible with the existing transport infrastructure*". The latter requires that proposals that would have a significant transport impact should "*provide safe access to roads of adequate standard within the route hierarchy*" and "*ensure that the expected nature and volume of traffic and parked vehicles generated by the development would not compromise the safety and/or function of the local or strategic road network...*". Policy T2a is also cited, and it was clarified that this relates to the exceedance of the Local Plan minimum housing target by around 100 dwellings in light of the alleged anticipated significant adverse highway impacts.
21. In terms of the design of the road in relation to standards, the Council referred to the 'Estate Roads in Somerset' guidance produced by Somerset County Council (1991). Under the guidance, the Oak Tree Way section of road would

be categorised as a 'Type 4i Access Road', designed to serve up to 100 dwellings with a minimum width of 5 metres and for speeds of 20mph or less. The appellant alleges that this guidance is of a vintage that makes it unsuitable for present day use, not least because some of its content is allegedly based on Design Bulletin 32 which is specifically outmoded by paragraph 110, footnote 46 of the current Framework. The appellant suggests that an assessment of the proposal against the Manual for Streets (MfS) guidance documents (both MfS1 (2007) and MfS2 (2010)) should be preferred.

22. The extract of MfS1 on which the appellant heavily relies is section 7.1 in relation to street geometry, which says that the minimum width to enable a car and HGV to pass one another is 4.8 metres. Attention is also drawn to the absence in MfS of maximum thresholds for the number of dwellings that can be served by a single vehicular access. The figure is followed by a caveat that "*...they are not necessarily recommendations*". The accompanying text also says that the widths should be appropriate for the particular context and uses of the street, taking account of factors such as: the volume of vehicular traffic and pedestrian activity; whether parking is to take place in the carriageway and, if so, its distribution, arrangement, frequency of occupation and the level of parking enforcement; the design speed; the curvature of the street, and; any intention to include one-way streets or short stretches of single lane working in two-way streets.
23. The appellant highlights that refusal reasons should be precise and that the Council cannot seek to disregard the specifically named guidance in favour of more recent nationally adopted guidance that may better suit its case, such as the documents raised at the hearing: the National Design Guide (NDG) and National Model Design Code (NMDC).
24. However, the current Framework sets out (in paragraph 110) that: "*...it should be ensured that... the design of streets, parking areas, other transport elements and the content of associated standards reflects national guidance, including the National Design Guide and the National Model Design Code*". The Council's refusal was issued prior to the publication of the revised Framework, the NDG and NMDC, and thus, could not have anticipated the direction to refer specifically to national standards therewithin, or to be reflective thereof.
25. As a consideration of such materiality to the case, I do not intend to ignore the clear guidance in the Framework and have therefore turned to and considered the more recent national guidance documents.
26. The NDG favours a move away from restricted streets where it is stated that: "*Narrower streets are more suitable where there is limited vehicle movement and speeds are low. Mews, courtyards and culs-de-sac will generally only be appropriate at the most local level where there is little vehicular movement.*" The NMDC also indicates that "*Culs-de-sac are acceptable only as tertiary streets*". The accompanying guidance to the NMDC (Part 2) elaborates further by defining a tertiary street as those "*used for servicing or for access to small groups or clusters of homes. They can be lanes, mews courts, alleyways or culs-de-sac*".
27. In terms of whether the proposal would generate 'little' vehicular movement, I turn to trip generation estimates below, though, at up to 165 dwellings, what is proposed would in my view clearly not fall into the category of a 'small group or cluster of homes' envisaged by the NMDC.

Operation of the reprioritised junctions

28. The submitted Potential Access Strategy plan shows three reprioritised junctions. I have considered the plan in the context of the submitted evidence, including the Stage 1 FRSA², Technical Note 02³ and Rebuttal Statement.
29. The provision of 'give way' markings at the end of Hawkers Close where it meets Brownings Road would be on a section of Brownings Road around 5.5 metres wide which is relatively straight for a sufficient distance in both directions to provide satisfactory visibility splays. As the amount of traffic entering and leaving Hawkers Close would remain unchanged by the proposal and Brownings Road already has priority, this particular junction arrangement could be suitable were the junction visibility splays free of obstructions.
30. In my opinion, the provision of 'give way' markings on Brownings Road between Nos 17 and 18, which has a straight alignment, would be more problematic. Drivers travelling north-east bound towards Main Road would have to stop and look before signalling 'right' in order to proceed straight ahead. Given the driver position at this junction, oncoming traffic from the Main Road direction would be likely to be readily visible. However, any cars parked on the relevant north-south section of Oak Tree Way would affect the extent of visibility to the left.
31. I consider that the provision of 'give way' markings on Oak Tree Way outside of Nos 4 and 23 to give priority to the 'stub' would result in awkward manoeuvres and irregular road placement of vehicles turning 'right' to proceed north into Oak Tree Way. Drivers heading north would have to partly round the left bend, in order to be positioned to turn right when in fact they would be proceeding straight ahead. Given the width of the road and tight radius of the bend, there would be limited space for cars to wait for oncoming traffic to pass in order to make this manoeuvre without becoming an obstruction, and this would be exacerbated if the vehicle were a HGV. Any obstructions, such as parked cars, close to the bend and the new 'give way' markings, would result in hazardous conditions where drivers would need to manoeuvre into the opposite carriageway, potentially without adequate warning of oncoming vehicles, and on encountering such, needing to reverse back to the corner or junction.
32. It is clear to me that the road layout works well presently as it was designed to operate as such and that, to an extent, on-street parking already regularly compromises safety and convenience. Owing to the alignment and width of the road, tight geometry of the bends and their proximity to one another, the reprioritisations at Brownings Road/Oak Tree Way/Oak Tree Way 'stub', would, in my view, create a suboptimal highway layout that would fail to create safe conditions for motorists and pedestrians. My views appear to be corroborated by comments in the Stage 1 FRSA which suggests, *inter alia*, that negotiating parked vehicles, which effectively reduce the road to a single carriageway, will require vehicles to negotiate bends on the wrong sides of the road. The increase in traffic was anticipated by the assessors to give rise to regular reversing manoeuvres in conflict with other road users, with consequent driver frustration and potential safety hazards. However, these aspects need to be considered in the context of trip generation and potential mitigation measures, as below.

² Stage 1 Feasibility Road Safety Audit (Somerset County Council, March 2021)

³ Technical Note 02: Response to SCC Design Review (Prime Transport Planning, April 2021)

Trip Generation

33. The appellant's Transport Assessment sets out that the predicted number of trips arising from the development would be 755 total trips per day (12 hours, 0700 - 1900), with 83 of those in the morning peak hour and 85 in the afternoon peak hour. The Highways Authority worked on a broad-brush but 'worst-case' estimate of each dwelling creating 6 – 8 vehicle movements per day, albeit that other than the Census data, no specific source for these multipliers was provided. These estimates resulted in a range of between approximately 990 and 1,320 total movements per day. An alternative figure using a trip factor of 5.76 trips per dwelling was also provided in the appellant's TN01⁴, which gives some credence to the Council's lower range estimate of 6 trips per dwelling.
34. Highways England, in its capacity as authority responsible for the strategic road network, commented on the proposal in relation to its potential effects on the Dunball Junction/J23 of the M5. Based on a methodology recently applied to other schemes in the area, Highways England anticipated the trip rates of the proposal to be 93 trips in the AM peak hour and 90 trips in the PM peak hour.
35. There is clearly a difference between the trip generation figures presented by the two main parties. However, the Highways England response suggesting that there would be 93 AM peak trips and 90 PM peak trips lends more credibility to the appellant's AM and PM peak trip predictions and associated overall figure of 755 movements. As such, these figures are taken as a mildly conservative, but not unrepresentative picture of predicted trip numbers.
36. Clearly, as the sole means of vehicular access for 165 dwellings (for other than emergency vehicles), and with a range of between 83 - 93 AM peak AM trips and 85 - 90 PM peak hour trips, it is obvious that the number of vehicle movements would be significant, and not at the limited level suited to a cul-de-sac form of access as per the NDG or NMDC guidance.

Swept Path Analysis / HGVs

37. The appellant's evidence suggests that beyond the construction phase, around 4 HGV or large 'white van' type movements would be likely to be generated per day for 223 dwellings (165 proposed plus existing, over a 12 hour period).
38. Tracking diagram P19018-102 shows a 4-axle large refuse vehicle making inward and outward journeys along the Brownings Road/Oak Tree Way access route. It is clear that such vehicles will require the vast majority of road space to manoeuvre around the corner into Oak Tree Way and into the 'stub'.
39. The submitted TN02⁵ indicates that swept path analysis is well known to present worst case scenarios. In terms of the swept path analysis showing the route in and out of the Oak Tree Way 'stub', it is accepted that movements for the large 4-axle refuse vehicle would be 'difficult' if a car were parked on the inside of the bend.
40. It could also be assumed that a different arrangement of parked cars could prevent passage of a refuse vehicle entirely, let alone allow vehicles coming in the opposite direction. For instance, the same diagram appears to show that

⁴ Technical Note 01: Response to SCC Consultation (Prime Transport Consultants, January 2020)

⁵ Technical Note 02: Response to Somerset County Council Design Review, April 2021

there would only be sufficient width for cars to wait at the actual point of access to the site if a refuse vehicle were navigating the corner around parked cars into the Oak Tree Way 'stub', i.e. around 45 metres back, and vice versa. However, due to the alignment of the road, it may not be clear to an approaching driver that they would need to wait so far back, resulting in the likelihood of reversing manoeuvres being necessary.

41. As such, whilst the MfS may advise not to design residential streets around occasional movements of larger vehicles, to my mind, the road width and geometry are not conducive to movements of HGVs with the anticipated increased volume of cars, particularly where parked cars could be involved, without detrimental effects to highway safety.

Parking Matters

42. In terms of how many cars are regularly parked on the access route, a range of different evidence was presented. The appellant submitted a Parking Beat Survey within the Transport Assessment (TA) (undertaken using the Lambeth methodology on the 19.06.19), photographs of a section of Oak Tree Way within TN02 (dated 22.01.20, 1500 hours), Real Time Traffic Simulation exercises (RTTS) (recorded using drone footage) and Highways Supporting Statement. The wealth of evidence provided by the appellant indicates that a range of 1 – 7 vehicles are regularly parked along the whole access route (up to the end of Brownings Road/Main Road junction).
43. The Design Review⁶ (undertaken on behalf of the Highway Authority) appeared to indicate approximately 6 cars parked on the Oak Tree Way section of the access route. The Highways Authority submitted dashcam footage which identified a higher number of vehicles parked on-street along the same route (13), of which 8 were in the Oak Tree Way sections. The appellant alleges that this footage is unreflective of the typical situation owing to the timing of its capture, just after the first national lockdown.
44. My own site visits conducted a number of weeks apart, on different days of the week and at very different times, despite being a snapshot, resulted in me noting a total of four to six vehicles parked on the Oak Tree Way section of the access road, some of which were close to junctions, and gave the overall impression of the Oak Tree Way 'stub' feeling particularly cluttered by vehicles.
45. The appellant's RTTS footage showed rather favourable conditions in terms of on-street parking, i.e. only 3 - 4 cars parked on the Oak Tree Way sections of the route, though a number of these appear too close to existing junctions to be compliant with the Highway Code, and some more peripheral parked cars even appear to be on the approximate positions of the proposed 'give way' markings.
46. The drivers conducting part of the RTTS exercises also appeared to drive more courteously towards one another than could be consistently expected of typical road users. The drivers behave, in many instances, in a way that suggests they are aware of each other's route and intentions, i.e. pulling in or 'weaving' between parked cars to await the approaching car, though it is still behind the bend and not yet actually visible to the driver. As such, whilst the exercises serve some purpose, they are not accurately reflective of the normal situation

⁶ Highway Safety and Infrastructure Design Review (dated 2 March 2021)

where drivers are unable to assume the intent of other road users, or predict their advancing position from behind a bend. It is also relevant that the RTTS exercises are based on the current junction arrangements with a demonstration of the road's potential absorption of the anticipated increased traffic flows. They do not model any potential interactions based on the proposed, more complicated, junction arrangements.

47. The appellant summarises their position on the matter by indicating that there are *"very low levels of on street parking"* or *"small numbers of cars parked on street which effectively reduce road widths to one-way, over very short sections and they are generally no greater than a single car length"*. A number of other points on this topic were also advanced, including that there are no fixed parking spaces and that vehicles are clearly movable, often helping to reduce traffic speeds. It was also suggested that the existing on-street parking patterns often conflict with the Highway Code and whilst not unusual, could be readily prevented. It was also suggested that existing dwellings have sufficient spaces, including within garages, that could be more regularly used to prevent the need for on-street parking and that the intensified use of the roads leading to the appeal site would result in people choosing to park elsewhere. Lastly, the point was also made that with the effects of the Pandemic, there is a prospect of households needing to travel less and own fewer vehicles as a consequence.
48. Whilst there is more merit in some of the above suggestions than in others, I cannot be satisfied that they would result in a tangible reduction in the need for local residents to park on-street, or that the presence of parked cars, however moveable they may be, would have a positive rather than negative effect on highway safety with the proposed access arrangements in place and significantly increased volume of traffic.
49. In relation to the control of or discouragement of on-street parking along the access, the appellant's view is that there are 'beneficial', rather than 'essential' measures that can be offered, including the provision of a car park and implementation of Traffic Regulations Orders (TROs).

Car Park

50. A car park is detailed as an obligation that would fall to be delivered by the developer within the UU. It is envisaged as being as conveniently close to Oak Tree way as possible. Lay-by car parks are shown in the indicative Development Framework Plan and Illustrative Masterplan to this effect. However, a 'car park' is not a feature included within the description of development and as such, the UU contains triggers for the submission of a separate planning application to enable the provision of such.
51. Firstly, there could be no absolute certainty that planning permission would be forthcoming for any car park applied for. Additionally, there would also be the matter as to how any future car park could realistically and effectively be managed to ensure it were used by Oak Tree Way residents or visitors that currently park on the street and avoid its misuse by others.
52. Given the uncertainties in relation to the securing and management of a car park, it is not a measure that would be necessary, or directly related or appropriate in scale and kind to the development proposed. Nor could I attribute material weight to it as a benefit of any kind.

Traffic Regulation Orders

53. The UU provides for a TRO Contribution (No 2) which is defined as a sum of £5,000 towards making and "*if appropriate*" confirming a TRO for parking restrictions in the form of double or single yellow lines and associated signage at the Oak Tree Way junctions with Brownings Road and the Oak Tree Way stub. The associated TRO Works Contribution provides for £20,000 towards the cost of works to implement the TRO. Both contributions would be paid prior to commencement of the development, but effectively require the Highway Authority to instigate and see the TRO process through to conclusion, including consultation with potentially affected residents. The TRO contributions do not appear to relate to any works at the Brownings Road/Hawkers Close junction for reasons not explained.
54. Whilst the appellant suggested that objections from interested parties following the TRO consultation process could be overridden to confirm such in the interests of highway safety, the Highways Authority claimed that this is by no means a common practice. The outcome of the process/es would be a decision as to whether or not a TRO would be implemented. Side points raised in relation to this method of securing the TROs included concerns from the Highway Authority that the junction arrangement details are lacking, offering limited certainty of the degree of works that should, or could be implemented under a TRO and the related costs.
55. A contingent offer made by the appellant is for the securing of TROs through condition if I consider such necessary to make the development acceptable in planning terms and should the use of the UU obligations not be deemed acceptable. The condition currently offered, redrafted following discussion at the hearing, prevents commencement of the development until the developer has applied for a TRO to, at least, provide for parking restrictions in the form of double or single yellow lines and associated signage at the Oak Tree Way junctions with Brownings Road and the Oak Tree Way stub. The second part of the condition then requires advertisement of the TROs and, "*if successful*" for them to be implemented at the developer's expense prior to first occupation of any dwelling.
56. It was put to me at the hearing by the Highways Authority that the TRO process is a 'best endeavours' approach, although my colleague used the term 'aspirational' in the Somercotes appeal decision⁷ which the appellant drew to my attention. The use of the language, '*if appropriate*' in the UU and '*if successful*' in the drafted conditions, offer little certainty in this regard.
57. In terms of the suggested condition, the second part relating to the TRO implementation, is contingent on an outcome over which the developer would have no control, effectively meaning that there is no guarantee of 'success' of the outcome of consultation. Consequently, the condition is unenforceable and does not meet the tests for planning conditions set out in the Framework (paragraph 56), or advice in the Planning Practice Guidance.
58. Similarly, I cannot be certain that the TRO Works Contribution No 2 is sufficient in scale and kind relative to the development proposed. Whilst the amount of £20,000 was indicated as being a sufficient amount based on experiences of the appellant's highway specialists, I have limited evidence before me to

⁷ Appeal Ref: APP/M1005/W/20/3251787

confirm that this would be so. Similarly, I am concerned that the Highways Authority would be obliged to use the funds as directed without at least in-principle acceptance that the works would be achievable.

59. Both the UU and suggested conditions provide alternatives to the junction reprioritisations in the form of providing a raised table at the Brownings Road/Oak Tree Way/'stub' junctions which is asserted does not require the provision of a TRO/s. As already indicated, this is not what is detailed in the plans and nor has such an option been consulted upon. I do not have sufficient evidence before me that such an alternative would be workable and nor do I intend to prejudice any future decision maker in relation to such.

Conclusion

60. Drawing together all the above factors, the access to the proposal would not provide safe or convenient access for all road users, in conflict with, in particular, Policies D13 and D14 of the Local Plan. The potential for the prejudice to highway safety to be mitigated through the use of planning conditions and/or planning obligation have been considered but would not adequately ensure public safety. For the same reasons, the proposal would also conflict with the Framework and guidance within MfS, the NDG and NMDC.

Emergency Access

61. The description of development and submitted plans clearly indicate that the means of vehicular access would be via Oak Tree Way. It was put to me that detailed consideration is only sought for that access as part of the outline proposal. The appellant suggests that whilst a separate access for emergency vehicles would not be strictly necessary, given the *"limited probability of such events occurring"*, i.e. such as where emergency vehicles need to attend the site and the Oak Tree Way access were blocked, that one could be provided via Denman's Lane. The same route is also promoted as the means by which the development would be made permeable with pedestrian and cycle movements into Cannington village.
62. The lane is approximately 145 metres long between Main Road and the site boundary with a variable width and it is generally unlit. Following the alterations to the red line site boundary, the curtilage to Denman's Farm and the house itself were removed. This results in the need for continued use of this lane by occupiers of Denman's House.
63. The appellant's Highways Supporting Statement indicates (para 3.1.4) that a *"one-way vehicular access arrangement was considered via Denman's Lane but it was viewed to be unnecessary and detrimental to its attractiveness as a safe and convenient pedestrian and cycle access"*. Despite the cessation of the use of the lane by farm vehicles, the continued use of Denman's Lane by vehicles associated with Denman's Farm, the other two dwellings at the eastern end and emergency vehicles would therefore still reduce its attractiveness as a pedestrian and cycle link, even though only low volumes of traffic would be expected.
64. In terms of whether an emergency vehicle access would be necessary, correspondence submitted prior to the hearing between the appellant and the local Fire Service's Safety Officer highlights that a secondary emergency access point is encouraged for any development, particularly where there is on-street

- parking on the main access. The same point is reiterated in the NMDC (para 55), particularly in relation to “*sites with limited vehicle access points*”.
65. The aforementioned correspondence details that Denman’s Lane should be adopted as a secondary emergency access route with a width of 3.7 metres. Within the same correspondence, the Safety Officer concedes that a width of 3.1 metres would be acceptable specifically at ‘Section D’ of Denman’s Lane, (with reference to plan Ref P19018-103-X) which is shown as a 3 metre width with 0.5 m and 0.8 metre verges on either side.
66. However, cross section point ‘E’ on the same plan shows a lane width of 2.6 metres at a point alongside the curtilage of Denman’s Farmhouse. The plan erroneously shows the red line extending to include the curtilage at this point on the northern side of the lane. The southern side of the lane also backs onto residential gardens outside of the site (Nos 9 and 10 Teals Acre), enclosed by a high retaining block wall. Clearly, at this particular pinch point, the only available space is that within the adopted highway extent.
67. Whilst the photograph of the lane at cross section ‘E’ appears to suggest some highway verge either side, amounting to 0.6m and 0.9 metres either side, the photograph is not particularly clear and falls far short of proving that the topographical level differences and other constraining features could be altered to accommodate the minimum width of 3.1 metres accepted by the Safety Officer at point ‘D’. My site visit findings did not allay my concerns in this regard. Furthermore, the correspondence with the Safety Officer also talks about a singular narrowing, rather than multiple, which raises further concern about the likely suitability of its intended use.
68. In my view, relative to the scale and singular vehicle access point otherwise proposed, a suitable emergency access point would be required to make the development acceptable in planning terms. The emergency access is not detailed at this outline stage but appears to be being treated as such. Despite the suggested use of a condition to secure ‘upgrade works’ to the adopted extent of Denman’s Lane, I do not consider that sufficient information is available to be certain that such works could achieve the necessary standard of emergency access, whilst also creating an attractive pedestrian and cycle link.
69. In the absence of sufficient evidence in this regard, I consider that the proposal would also fail to provide a necessary emergency vehicle access, in conflict with, in particular, Policy D14 of the Local Plan.

Construction Traffic

70. I highlighted at the hearing that the suggested condition relating to a construction environment management plan (CEMP) did not extensively detail provisions in relation to construction traffic, vehicle numbers and routing etc. This omission was concerning given the laboured points about the need for such to be appropriately managed to avoid detriment to highway safety and conflicts given the insufficient road width to accommodate two-way HGV movements.
71. A construction traffic management plan (CTMP) condition was subsequently agreed which provides scope to ensure approval of measures that could limit the impacts on the free flow of traffic and disruption to local residents.

72. Whilst I acknowledge that any construction phase would be temporary, and to an extent, managed by way of the proposed CTMP, the nature of the likely intended access route to the site would give rise to a degree of harm relative to the large scale of development with the greatest effects from HGV use concentrated on Oak Tree Way residents.

Comparisons

73. The appellant has drawn my attention to four particular schemes which are considered relevant in terms of comparable limited access routes.
74. From the information available to me, it would appear that the Somercotes appeal included a narrow stretch of straight road between two terraces which, whilst constrained, already served a wider residential area.
75. From the evidence and the detail put to me at the hearing, whilst the proposed number of houses are similar in this instance as compared to the Swanland case⁸, it appears that the short stretch of Sykes Close served larger houses with a higher parking ratio per executive-style dwelling than is in the case in Oak Tree Way and Oak Tree Way 'stub'. Similarly, the width constraints with Sykes Close were not highlighted as being as problematic, nor junction radii so tight. For the reasons above, even without speculating that the absence of five year housing land supplies played a factor in those schemes being found acceptable, I do not consider that they are sufficiently comparable so as to suggest that the appeal proposal should be considered acceptable.
76. I visited the two Bridgwater sites brought to my attention by the appellant. In terms of Stockmoor village, whilst I noted the two tight corners on the access road and inconsistent use of double yellow lines to prevent parking, I also noted that the route was accessed from both ends, rather than being a large cul-de-sac.
77. The Haygrove Road development did appear to be a cul-de-sac of some scale, and was accessed via an existing section of road which accommodated on-street parking. However, that section of Haygrove Road is wider than 5 metres and has a largely straight alignment, save for where the development links with it. Whilst the bend of the road into the new development may be around 5 metres wide as suggested, it is a new development with a road layout deliberately designed as such, with a simple bend in the road that is not combined with a priority junction.
78. Whilst the highlighted cases, all considered prior to the publication of the NDMC and NDG, are useful in identifying that different approaches can work in different contexts, I am satisfied that there are material differences between them and this particular case that does not lead to me reaching an alternative conclusion.

Other Highway Works

79. The UU also covers a 'Bus Stop Contribution' and contributions towards a TRO and associated TRO works to implement a speed reduction through Main Road to include gateway features and associated road demarcations and surfacing. It is proposed that the former would be payable prior to 25% occupation and the latter prior to commencement of the development.

⁸ Appeal Ref: APP/E2001/W/20/3250240

80. Whilst potentially beneficial to existing and future residents, in terms of promoting increased bus patronage and the safety of users of the bus network and Main Road through Cannington, I accede that there are limited details to be certain that these schemes are workable or will cost no more than the amount offered for them. A suggested condition alternatively offers the TRO and associated works for the speed reduction on Main Road as a developer-initiated process with associated funded package of works.
81. However, given the uncertainty in relation to their feasibility as highway improvement schemes and the, 'if successful', caveat to implementation of any TRO, I cannot attribute material weight to these offered benefits.

Other Matters

82. The appeal site is within the zone of influence of the Exmoor and Quantock Oaks Special Area of Conservation (SAC), which is designated under the Habitats Regs for its Oak and Alder woodlands, Barbastelle and Bechstein's bat populations and otters. Potential effects on the other nearest protected sites, the Severn Estuary Special Protection Area, SAC and Ramsar sites, were screened out under the Stage 1 Appropriate Assessment.
83. I have had regard to the submitted detailed evidence in relation to the site's use by bats and the measures by which the proposal could enable continued use without harm or disturbance from aspects such as lighting or developing too close to hedgerows. The protections are numerous, covering provision of at least 3.48 hectares of ecological mitigation land, detailed landscaping and lighting measures, and would require implementation at various stages to ensure their effectiveness.
84. Whilst my role as competent authority requires me to ascertain the likelihood of significant effects on the SAC, in addition to the need for, and suitability of mitigation measures, as the circumstances that could have led to the granting of planning permission are not present, I have not taken this matter further.
85. I am cognisant that a smaller number of interested parties wrote in support of the scheme, indicating that there is a need for more housing in Cannington to meet the Local Plan target. These views have been taken into account in reaching my decision.
86. I also note the acceptability of the proposal and its policy compliance in a number of respects as detailed in the SoCG, including heritage, landscape and flood risk, subject to appropriate conditions or obligations in the UU as necessary. These matters attract neutral weight in the overall balance.

Planning Balance and Overall Conclusion

87. Drawing together all of the above points, I find that safe and convenient means of access for all road users would not be provided for the development, contrary to Policies D13 and D14 of the Local Plan. Consequently, the adverse impacts and scale of the scheme which would considerably exceed the Local Plan minimum housing target also brings the scheme into conflict with Policy T2a. These clear conflicts result in the proposal being contrary to the development plan, when taken as a whole.
88. I have considered the development plan policies in the context of paragraph 111 of the Framework which states that development should only be prevented

or refused on highways grounds “*if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe*”. Whilst the high threshold of ‘severe’ cumulative impacts is not applicable in this instance, there would be an unacceptable impact on highway safety. Thus, the Framework does not lead me to a different conclusion.

89. Whilst the existence of a five year housing land supply was agreed between the parties, the provision of housing would still be a clear and notable benefit of the scheme. Approximately 61 of the 165 dwellings are needed to at least meet the Council’s minimum requirement for the village of Cannington, and thus, these are specifically required to secure the Council’s Local Plan objectives. Of the total number of dwellings, 30% would also be affordable housing and would include a mix of sizes and tenures to best suit the identified local need. The overall benefits of the increase in size of the housing stock of both market and affordable dwellings attracts at least moderate weight.
90. The associated economic benefits from the construction phase, albeit temporary, and longer-term economic input from the future occupiers reliance on local shops and services, also attract weight in support of the scheme.
91. The provision of public open space and ecological mitigation land over and above the minimum required to mitigate the effects of the development are considered benefits of the scheme that attract a minor degree of weight. The enhancement of the PROWs through the site would also be beneficial.
92. The proportionate contribution towards the M5 Dunball junction alterations as a means to facilitate planned growth within the area attracts only limited weight insofar as it would provide a sizeable contribution at a relatively early stage in the plan period that may help facilitate the delivery of such works.
93. Whilst there would also be a minor degree of enhancement from the removal of the dilapidated farm buildings, this would be offset by the visual change from a green and agricultural landscape to a large-scale housing development.
94. Though the benefits are numerous and together form a consideration of materiality to my decision, they do not collectively outweigh the identified harm or indicate that a decision should be taken other than in accordance with the development plan.
95. For the reasons outlined above, the appeal is dismissed.

Hollie Nicholls

INSPECTOR

FOR THE APPELLANT:

Mr Philip Robson QC	Kings Chambers
Ms Helen Ball	Gladman Developments
Mr Dave Stoddart	Prime Transport Planning
Ms Rachel Goddard	Gladman Developments

FOR THE LOCAL PLANNING AUTHORITY:

Ms Dawn de Vries	Sedgemoor District Council
Ms Leila Nicholson	Sedgemoor District Council
Mr Andrew Reading	Sedgemoor District Council
Ms Dawn Leamon	Sedgemoor District Council

FOR THE LOCAL HIGHWAY AUTHORITY:

Mr Carl Brinkman	Somerset County Council
Mr Ben Sunderland	Somerset County Council

INTERESTED PARTIES:

Mr Philip Daniels	Resident of Oak Tree Way
Ms Rachel Braund	Resident of Oak Tree Way
Ms Amie Hall	Resident of Oak Tree Way
Mr Chris Putt	Resident of Oak Tree Way

DOCUMENTS SUBMITTED AT THE HEARING:

Document 1:	Potential Access Strategy Plan, Ref P19018-100C
Document 2:	Email from Sedgemoor District Council with Environment Agency agreement to amended draft conditions
Document 2:	Draft unilateral undertaking
Document 3:	Community Infrastructure Levy (CIL) Compliance Statement produced by Gladman Developments Limited
Document 4:	CIL Compliance Statement produced by Sedgemoor District Council