



Appeal Decision

Hearing held on 24 October 2024

Site visit made on 25 October 2024

by J Parsons MSc BSc(Hons) DipTP Cert(Urb) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 November 2024

Appeal Ref: APP/F0114/W/24/3342994

Land comprising 26 and 28 Orchard Vale and land at Underhill Lane, Midsomer Norton BA3 2RA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Curo Enterprise Ltd, Thomas Rory St John Meadows and Richard John Cussell against the decision of Bath and North East Somerset Council.
 - The application Ref is 22/02932/FUL.
 - The development proposed is the demolition of Nos. 26 and 28 Orchard Vale and development of 54 new homes with open space, landscaping and all associated infrastructure.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of Nos. 26 and 28 Orchard Vale and development of 54 new homes with open space, landscaping and all associated infrastructure at land comprising 26 and 28 Orchard Vale and land at Underhill Lane, Midsomer Norton BA3 2RA in accordance with the terms of the application, Ref 22/02932/FUL, subject to the conditions set out in the attached schedule A.

Preliminary Matters

2. The housing scheme, described above, straddles Somerset Council (SC) and Bath and North East Somerset (BaNES) Council areas. Within SC area, 52 dwellings would be built. Within the BaNES area, 2 dwellings (involving the demolition of a frontage dwelling) and a vehicular access, would be built. Before the hearing, the appellant withdrew their appeal against a refusal of planning permission for the larger part of the scheme within SC. SC had granted planning permission for this part of the scheme under a duplicate application.
3. Planning Practice Guidance (PPG)¹ requires the submission of identical applications for a scheme straddling Council areas but the PPG does not provide assistance in determining such applications. A BaNES reason for refusal relates to the impact of the scheme, as a whole, on the balance of employment and housing within the Somer Valley area. The proposed access would facilitate vehicular access for the 52 dwellings within the SC area.

¹ Making an application; Paragraph 11 Reference ID: 14-11-20140306.

4. In the Malvern Hills and Wyre Forest District Council appeal decisions², the Inspector considered the totality of the scheme in assessing the main issues for each appeal, then proceeded to carry out individual planning balances³ and briefly concluded on an overall planning balance for the scheme as a whole. However, there is only one appeal before me for the smaller part of the scheme whilst the larger part of the scheme within SC, has planning permission following the carrying out of a planning balance.
5. In the 'Bridge to Nowhere'⁴ judgement, a permitted bridge enabled further development of a garden town. A successful challenge related to an incomplete harm/benefit balance but this case did not relate to a cross boundary scheme where one part has been permitted and another part not permitted, as is the situation here.
6. The Markfield Easting appeal decision⁵ is similar to the appeal before me because there was a committee resolution to permit the larger part of the scheme, after a planning balance was carried out. In this decision, the Inspector stated⁶, in dealing with the smaller part of the scheme, that assessing the impact of the scheme, as a whole, was not a sound approach in determining the appeal. It was not in the Inspector's powers to decide whether or not development on the larger part of the scheme was acceptable. It was in the neighbouring Council area and not before the Inspector.
7. In the appeal before me, SC has permitted the larger part of the scheme, after carrying out a planning balance which considered the wider impacts for the scheme as a whole. To consider again the merits of the scheme as a whole would amount to a reassessment of the SC planning permission. Therefore, consideration of this appeal should relate to the smaller part of the scheme within the application red-edge, principally the 2 dwellings and access. In accordance with the Markfield Easting Inspector's conclusions on disregarding the larger part of the scheme (within the neighbour Council area), the SC planning permission should be treated as a material consideration.
8. BaNES also refused planning permission for the scheme because of a net loss of a dwelling (within their area) and the lack of a checklist on sustainable construction to address climate change. Such matters have now been resolved and the Council has withdrawn its reasons for refusal on these matters. In the absence of any evidence to the contrary, the objections have been overcome, subject to conditions/obligation.
9. A final reason for refusal related to unacceptable infrastructure provision. A s106 agreement dated 21 October 2024 relates to affordable housing, Traffic Regulation Order (TRO), bus stop improvements, cycle infrastructure associated with Somer Valley Enterprise Zone, footway, cycleway and junction improvements associated with Route W05 Somer Valley 1 scheme, recreational

² Appeal A Ref: APP/J1860/W/22/3309338 & APP/R1845/W/22/3309343 Land off Areley Common, Astley Cross, Stourport on Severn DY13 0JW, Appeal allowed May 2023.

³ Section 38(6) of the Planning and Compulsory Purchase Act 2004.

⁴ R. (Ashchurch Rural Parish Council) v Tewkesbury Borough Council [2023] EWCA 101.

⁵ Appeal Ref: APP/K2420/W/22/3300552 Land North East Of Ashby Road, Markfield Easting: 448791, Northing: 310724, Appeal allowed February 2023.

⁶ Paragraphs 15 and 16.

space, targeting recruitment and training, highway works, travel plan and Biodiversity Net Gain (BNG). These obligations will be assessed later in the decision.

Main Issue

10. The main issue is whether the proposal would result in worsening imbalance between housing and employment in the Somer Valley, having regard to commuting, congestion, pressure on public transport and the road network.

Reasons

Housing and employment imbalance

11. Policy DW1 of the BaNES Core Strategy Placemaking Plan Local Plan Partial Update (LPPU) 2023 is a spatial strategy promoting sustainable development. It focuses new housing, jobs and community facilities in Bath, Keynsham, and the Somer Valley. Within the Somer Valley, this will be achieved by ensuring deliverable space to enable job growth in the towns and principal villages to create a thriving and vibrant area which is more self-reliant socially and economically.
12. This policy's explanatory text details a strategy that involves a spatial distribution of development to deliver the plan's vision and strategic objectives. In the Somer Valley, significant net out-commuting is identified due to the small size of the local employment base but there are also significant residential commitments on both greenfield and brownfield sites. It further identifies poor transport links and scope for substantial infrastructure improvements. Its strategy seeks to facilitate economic-led regeneration enabling job growth, focussing change in the town centres, vacant land and under-used sites within settlement boundaries within Somer Valley.
13. Policy SV1 of the BaNES Placemaking Plan (PP), 2017, details a Somer Valley Spatial Strategy covering economic development and housing, along with other matters, including transport and infrastructure. The strategy prioritises previously developed land in Midsommer Norton and Radstock Centres, seeks to increase additional job numbers and commercial floorspace areas, and provide housing in settlements, such as Midsommer Norton, within their development boundaries.
14. The policy's explanatory text similarly identifies an imbalance between housing and employment, with limited capacity to generate new jobs. New housing in the Somer Valley will be restrained in the interest of sustainability. The Council's latest housing and employment figures indicate new housing will exceed the requirement for the plan period but that employment and overall floorspace has declined. Floorspace has not come forward as expected leading to an imbalance between employment and housing.
15. Other harms from this imbalance have been identified, namely congestion, pressure on public transport and the road network. However, the proposal for a net increase of one dwelling would have little effect on the imbalance. The wording of both LPPU Policy DW1 and PP Policy SV1 are aspirational in stating the requirements of the plan and importantly, they do not refer to preventing residential development. They detail what the development plan will seek to achieve in terms of a housing and employment balance to address the problems of the imbalance. Whilst the explanatory texts of PP Policy SV1

discourages residential development in case of imbalance, this wording does not form part of either policy. Additionally, there are no highway objections to the proposal from the Council as a highway authority.

16. In the event of planning permission being granted for the appeal proposal, the access would facilitate development for the 52 dwellings within SC but as previously stated, consideration of these dwellings and their effects lie outside of my powers to consider given the SC planning permission. Even if such considerations were re-considered here, the wording of these policies does not prevent further residential development. These policies place no housing cap on overall unit numbers for the Somer Valley. For all these reasons, the proposal would not conflict with Policy DW1 of the LPPU and Policy SV1 of the PP.

Other matters

17. There have been significant public objections relating to the scheme. However, the part of the scheme before me is small-scale in nature. The 2 dwellings would be provided with on-site parking in accordance with policy standards and the Council, as the highway authority, has raised no objection to the proposal. No consultee responses have been received in relation to infrastructure and services, such as local health care, dentist and schools, to support untenable deficiencies. Therefore, these infrastructure objections would not be a reason to dismiss the appeal. Given the small-scale of this part of the scheme, there would be no adverse effects on residents from pollution from vehicles.
18. Appellant's reports⁷, based on detailed survey, show no significant loss of trees and vegetation, with significant public amenity value, within the BaNES appeal site and the Council's Arborist and Ecologist raise no objection. Council Officers, based on local lead flood authority response on the SC application, has raised no flooding objections and there is no evidence to suggest planning conditions could not secure acceptable drainage. Notwithstanding the above comments, SC in dealing with the scheme as a whole, has considered all these considerations and granted planning permission for the larger part of the scheme.
19. This part of the scheme would only result in a net increase in one dwelling and BaNES has a positive 5 year housing land supply (5YHLS). However, the Government's objective is to significantly boost the supply of homes under the National Planning Policy Framework (the Framework). Permission of the part of the scheme within BaNES would also allow 52 dwellings under the SC planning permission to come forward for development and this would represent a material consideration of moderate weight in favour of the appeal proposal.

S106 agreement

20. An obligation secures an affordable house within BaNES, the appeal site, and another unit within the SC scheme area. These are in place of the two affordable housing dwellings to be demolished on the BaNES appeal site. LPPU Policy H5 indicates development resulting in a net loss of existing dwellings will not be permitted unless there are benefits that outweigh any harm. Although one dwelling would be outside of the BaNES development plan area (LPPU and PP), such an arrangement would result in a benefit according with the policy

⁷ Arboricultural Constraints Report, JP Associates, August 2021, Arboricultural Method Statement, JP Associates, October 2023 and Ecological Impact Assessment, Clarkson and Woods, June 2022.

overcoming the dwelling loss and outweighing the harm. The SC affordable dwelling would be secured with appropriate allocation rights for BaNES residents.

21. Highway obligations would secure contributions for a TRO, bus stop enhancements, cycle infrastructure associated with the Somer Valley Enterprise Zone and footway, cycleway and junction improvements associated with route W05 Somer Valley 1 scheme. PP Policies ST1 and ST7 promote sustainable travel and healthy streets and have regard to transport requirements for managing development and requires new residents to have genuine choice of sustainable transport modes. Following the hearing, the Council produced empirical evidence of the costings for the contributions and the projects involved. Third parties have questioned the location and priority of local highway works but they relate to the scheme and promote sustainable transportation in the vicinity.
22. For recreational space, there is insufficient capacity to accommodate the demands of additional residents from the scheme as a whole. An obligation would secure an open and greenspace contribution towards greenspace enhancement projects in the local area in accordance with the requirements of the Council's Green Space Strategy and formulae of the BaNES Obligations Supplementary Planning Document (SPD).
23. An obligation would secure targeted recruitment and training opportunities in the form of work placements, apprenticeship starts and for new jobs through the Department of Welfare and Pensions. There would be a requirement to provide a method statement in line with BaNES guidance and a contribution to help deliver these outcomes, such as pre-employment training, recruitment and monitoring costs, in accordance with BaNES Planning Obligations SPD. Obligations would also require off-site highway works to facilitate the scheme, sustainable transportation measures, such as house information packs, to encourage non-private car modes of transport and the implementation of a travel plan in accordance with the PP transport policies. An obligation would also secure BNG in accordance with LPPU Policy NE3A.
24. Given the above, I am satisfied that all the above obligations are necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind to the development. They would accord with Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended) and Framework paragraph 57. Therefore, I can take all the obligations in the S106 agreement into account as part of my decision.

Planning Balance

25. For all these reasons, the scheme would comply with the development plan when its policies are taken as a whole. There are no material considerations of sufficient weight or importance that determine that the decision should be taken otherwise in accordance with the development plan and therefore, planning permission should be granted.

Conditions

26. Suggested conditions have been considered in light of the tests of paragraph 56 of the Framework and the advice in PPG. Some have been amended,

shortened and amalgamated in the interests of clarity and precision taking into account the tests and guidance. There are pre-commencement condition requirements for the approval of details where they are a pre-requisite to enable the development to be constructed. The appellant has raised no objection to these. In some instances, references to compliance with technical guidance and procedures has been omitted in the interests of precision and the superseding of such documentation over time. Some conditions are excessively long and prescriptive in dictating the required details and through approving or otherwise of these details, the Council has control over what may be necessary.

27. A condition requiring that the development to be carried out in accordance with the details on the plans is necessary in the interests of proper planning and for the avoidance of doubt. In the interests of a living conditions of residents and highway safety, a condition for a Construction Method Statement for development works and activities is necessary.
28. For biodiversity and Protected Species, conditions are required to secure a Construction Environment Management Plan (CEMP) to safeguard wildlife during development, BNG, bat and bird boxes, lighting design and compliance with associated approved details. In accordance with LPPU Policy NE3A, a BNG condition is required to enable control over submitted details by BaNES. Badger and Otter survey/mitigation during construction are matters that can be detailed in the CEMP.
29. To prevent flooding, conditions are required to ensure the acceptable implementation and maintenance of a sustainable surface water drainage. In the interests of encouraging sustainable transportation and highway safety, conditions are necessary to ensure bicycle provision and highway works. To address climate change and sensible use of natural resources, conditions are required to ensure sustainable construction, rainwater harvesting and water efficiency in accordance with local plan policy.
30. In the interests of character and appearance, conditions are necessary to require the implementation of approved external materials, landscaping and tree protection. Under tree protection, the condition requires compliance with an approved arboricultural plan and therefore, additional associated requirements for a site meeting and signed compliance statement by the appellant's arboriculturist are not necessary. Finally, compliance with an ecological impact report is not necessary because it would duplicate requirements of the CEMP condition.

Conclusion

31. For the reasons given above and having regard to all other matters raised, the appeal should be allowed.

Jonathon Parsons

INSPECTOR

Schedule A

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 0768-C-P-0300 D; 0768-C-P-0301 D; 768-C-P-0302 D; 0768-C-P-0305 D; 0768-C-P-0330 E; 0768-C-P-0331; 0768-C-P-0332 E; 0768-C-P-0340 D; 0768-C-P-0350 D; 0768-C-P-0381 B; 0768-C-P-0382 A; 0768-C-P-0390 B; 0768-C-P-0391 B; 0768-P-D-0360 B; 0768-P-D-0361 B; 1652-001 K; 3063-5-2 DR-5000 S4-P6; 3063-5-2 DR-5100 S4-P6; 3063-5-2 DR-5101 S4-P6; 3063-5-2 DR-5102 S4-P6; 3063-5-2 DR-5103 S4-P6 (SHEETS 1-4); 3063-5-2 DR-5104 S4-P6; PL-03 REV N; PL-04.REV C; PL-04.1 REV B; 35197 PL-05 REV C; PL-06 C; PL-07C; 35197 SE-01A; 35197 SS-01A; A125/12033/1A REV C; A125/12033/1B REV C; HT-APT-01A; HT-APT-02A; HT-APT-03A; HT-APT-04A; HT-ASHS-01; HT-AVE-01; HT-AVE-02; HT-AVE-CT01; HT-AVE-CT02; HT-AVE-CT03; HT-BECK-01A; HT-BECK-02; HT-BIN&CYC-01; HT-CLIF-01; HT-COT-01A; HT-GAR-01; HT-KEN-01; HT-KEN-02; HT-PEN-01; HT-PUL-01; HT-THO-01; HT-WTBG-01; HT-WTBG-02; OVCURO001; OVCURO002; OVCURO003; PL-01; PL-01.2; PL-01.1; HT-ASHF-01 and DR-5104-P6 (in so far as they relate to red-edged application site).
- 3) No development shall take place, including demolition and any ground works, until a Construction Method Statement has been submitted to and approved in writing by the local planning authority. The statement shall include details of:
 - a) Deliveries (including storage arrangements and timings);
 - b) Contractor parking;
 - c) Traffic management;
 - d) Working hours;
 - e) Site opening times;
 - f) Wheel wash facilities;
 - g) Site compound arrangements;
 - h) Measures for the control of dust;and
 - i) Temporary arrangements for householder refuse and recycling collection during construction.

The construction of the development shall thereafter be undertaken in accordance with the approved details.

- 4) No development shall take place, including demolition and ground work, until a construction environmental management plan (CEMP:Biodiversity) has been submitted to and approved in writing by the local planning authority. The CEMP shall provide details of how adjacent designated sites (including any hydrologically connected sites) as well as retained and enhanced habitats and protected species will be protected from the development during construction.

The CEMP will include the following details:

- a) Risk assessment of potentially damaging construction activities;
- b) Identification of "biodiversity protection zones", including badger and otter sensitive areas;
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction, including demolition, groundwork and vegetation clearance, for nesting birds habitat, badgers and otters, reptiles/amphibians, hedgehogs, dormice and bats;
- d) Location and timing of sensitive works to avoid harm to biodiversity features;
- e) Construction times when specialist ecologists need to be present on site to oversee works;
- f) Responsible persons, lines of communication and written notifications of operations to the local planning authority;
- g) Role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person;
- h) Use of protective fences, exclusion barriers and warning signs; and
- i) Ongoing monitoring, including compliance checks by a competent person(s) during construction and immediately post-completion of construction works.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

- 5) No development shall commence until a Biodiversity Net Gain Plan, achieving a minimum of 10% measurable biodiversity net gain, and a Habitat Management Plan for any on-site habitats and biodiversity measures, have been submitted to and approved in writing by the local planning authority. The Plans shall include the following:
- a) Pre and post development biodiversity values including a completed metric calculation tool using the DEFRA Biodiversity Metric or any successor, and accompanying evidence for baseline condition assessments;
 - b) A BNG habitat map for on-site proposed habitats;
 - c) The steps to minimise the adverse effect of the development on the biodiversity of the onsite habitat and any other habitat and, in the case of any irreplaceable habitat, arrangements for compensation for any impact of the development has on the biodiversity of the irreplaceable habitat (which does not include the use of biodiversity credits): and
 - d) Details and evidence of any registered off-site biodiversity gain units allocated to the development and any biodiversity credits purchased for the development.

Where on-site habitat is proposed/retained:

- e) Long term aims and objectives and targets for habitats; proposed management prescriptions and operations; timing, frequency, durations and methods of operations; specialist expertise, specialist tools/machinery or equipment and personnel where required to meet the stated aims and objectives;
- f) Annual work schedule for at least a 30 year period;
- g) A list of activities and operations that shall not take place and shall not be permitted within the Habitat Management Plan (HMP) area;

- h) Detailed monitoring strategy for habitats and species, and methods of measuring progress towards and achievement of stated objectives.
- i) Details of proposed reporting to the local planning authority, and proposed review and remediation mechanism; and
- j) Proposed costs and resourcing, and legal responsibilities.

The Plans shall be implemented in accordance with the agreed details and timetable, and all habitats and measures shall be retained and maintained thereafter in accordance with the approved details.

- 6) No development shall be commenced until details of the sustainable surface water drainage scheme for the site, along with an assessment of the hydrological and hydrogeological context of the development has been submitted to and approved in writing by the local planning authority. The development shall include measures to control and attenuate surface water. The details and assessment shall specify:
- a) Drawings showing the surface water drainage scheme, including sustainable methods employed to delay and control surface water discharged from the site, sewers and manholes, attenuation features, pumping stations (if required) and discharge locations. These current proposals should be treated as a minimum and further SuDS should be considered as part of a 'SuDS management train' approach to provide resilience within the design which should include source control and conveyance;
 - b) Network level calculations demonstrating the performance of the system during storm events and return periods, having regard to water level, surcharged depth, flooded volume, pipe flow, flow/overflow capacity, status of network and outfall details/discharge rates;
 - c) Drawings, including cross sections, of proposed features, such as infiltration structures, attenuation features, pumping stations and outfall structures. These should be feature-specific and include cross sections, design information, structural information and details on the risk of failure including location of exceedance and sensitive receptors;
 - d) Groundwater monitoring in the location of attenuation structures, to include floatation if necessary;
 - e) Consideration of the spring, including further groundwater monitoring, routing of groundwater through the site and further raising finished floor levels, if required;
 - f) Temporary drainage during construction;
 - g) External levels and surface water exceedance routes and how these will be directed through the development without exposing properties to flood risk. Exceedance should be strategically managed through out the site with the use of source control and conveyance features; and
 - h) Details of the receiving system to ensure that this has the capacity and conditions to take flows, along with measures to manage erosion to the receiving system and ensure that there will be no overtopping of the adjacent bank.

The scheme shall be implemented in accordance with the approved details and maintained at all times thereafter.

- 7) No occupation of the dwellings on plots 1 and 2 shall commence until bicycle storage for at least three bicycles per dwelling has been provided in accordance with details which have been submitted to and approved in writing by the local planning authority. The bicycle storage shall be retained permanently thereafter.
- 8) No occupation of the development shall commence until the highway works shown on drawing number 1652-001 Rev K has been provided. There shall be no on-site obstruction exceeding 600mm above ground level within the visibility splay. The visibility splay shall be retained permanently thereafter.
- 9) No occupation of the dwellings on plots 1 and 2 shall commence until they are served by a bound and compacted footway and carriageway to at least base course level between the dwellings and the existing adopted highway, unless otherwise agreed in writing beforehand by the local planning authority.
- 10) No development approved by this permission shall be occupied or brought into use until a plan for the future responsibility and maintenance of the surface water drainage system has been submitted to and approved in writing by the local planning authority. This shall include full details on the management and maintenance and replacement of all features. The approved drainage works shall be completed and maintained in accordance with the details agreed.
- 11) No occupation of the development shall commence until a report, produced by a professionally accredited ecologist, based on a post-construction site visit and inspection, and confirming and demonstrating, using photographs, completion and implementation of ecological measures, as detailed in the approved ecology report and Biodiversity Net Gain Plan, has been submitted to and approved in writing by the local planning authority. These details shall include:
 - a) Findings of any necessary pre-commencement or update survey for protected species and mitigation measures implemented;
 - b) Confirmation of compliance with method statements referenced above, including dates and evidence of any measures to protect site biodiversity; and
 - c) Confirmation that the proposed measures to enhance the value of the site for target species and habitats have been implemented.

All measures within the scheme shall be retained, adhered to, monitored, and maintained thereafter in accordance with the approved details.

- 12) No occupation of the dwellings on plots 1 and 2 shall commence, until details of bat and bird nest boxes, along with hedgehog connectivity measures, have been submitted to and approved in writing by the local planning authority. Approved details shall be implemented prior to the occupation of the dwellings.

- 13) Prior to occupation of the dwellings on plots 1 and 2, the following tables (as set out in the Council's Sustainable Construction Checklist Supplementary Planning Document) 2023 shall be completed in respect of the completed development and submitted to and approved in writing by the local planning authority together with the further documentation listed below. PHPP/SAP calculations are to be updated with as-built performance values. The following are to be completed using the updated as-built values for energy performance:
- a) Energy Summary Tool 1 or 2;
 - b) Tables 1.1 or 1.2 (if proposal has more than one dwelling type);
 - c) Table 5 (updated);
 - d) Building Regulations Part L post-completion documents for renewables;
 - e) Building Regulations Part L post-completion documents for energy efficiency;
 - f) Final as-built full data report from Passive House Planning Package or SAP; and
 - g) Microgeneration Certification Scheme (MCS) Certificate/s.

The development must be built to comply with these requirements unless otherwise agreed beforehand in writing by the local planning authority.

- 14) No occupation of the dwellings on plots 1 and 2 shall commence until a scheme for rainwater harvesting or other methods of capturing rainwater for use by residents has been submitted to and approved in writing by the local planning authority. The development shall thereafter be constructed in accordance with the approved details.
- 15) No construction of the external walls of the development shall commence until a schedule of materials and finishes to be used in the construction of the external surfaces, including roofs, have been submitted to and approved in writing by the local planning authority. The developments shall thereafter be carried out in accordance with the approved details.
- 16) All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme of implementation agreed in writing with the local planning authority.

Any trees or plants indicated on the approved scheme which, within a period of 30 years from the date of the development being completed, die, are removed, or become seriously damaged or diseased shall be replaced during the current or first available planting season with other trees or plants of species, size and number as originally approved unless the local planning authority gives its written consent to any variation. All hard and soft landscape works shall be retained in accordance with the approved details for the lifetime of the development.

- 17) No new external lighting shall be installed until full details of the proposed lighting design have been submitted to and approved in writing by the local planning authority. These details shall include:

- a) Lamp models and manufacturer's specifications, positions, numbers, and heights;
- b) Predicted lux levels and light spill on both the horizontal and vertical planes;
- c) Measures to limit use of lights when not required, to prevent upward light spill and to prevent light spill onto nearby vegetation and adjacent land.

The lighting shall be installed and operated thereafter in accordance with the approved details.

- 18) No development or other operations shall take place except in complete accordance with the approved Arboricultural Method Statement and Tree Protection Plan (JP Associates October 2023 and Tree Protection Plan D14 437 02 P4 Rev D).
- 19) The dwellings on plots 1 and 2 shall be constructed to meet the national optional Building Regulations requirements for water efficiency of 110 litres per person per day.
- 20) The dwelling on plot 1 shall meet the optional standards 4(2) in the Building Regulations Approved Document M.

APPEARANCES

FOR THE APPELLANT:

J C Burcher	No5 Chambers
A Williams	Grassroots Planning
P Roberts	Curo Group

FOR THE LOCAL PLANNING AUTHORITY:

C Griggs-Travarthen	Bath and North East Somerset Council
S Mason	Bath and North East Somerset Council

INTERESTED PARTIES:

Cllr S Hughes	District Councillor
Dr E Jackson	District Councillor

Documents

1. Statement of Common Ground dated 14 October 2024
2. BaNES explanatory policy text to the two conflicted policies, PP Policies SV1 and LPPU Policy DW1 received 14 October 2024.
3. BaNES list and location of CSPP and LPPU Policies with respective plans received 14 October 2024.
4. Core Documents List dated 14 October 2024.
5. SC planning permission, with approved plans, for larger part of scheme, dated 18 October 2024.
6. Section 106 agreement dated 21 October 2024.
7. Extract of s38 of the Planning and Compulsory Purchase Act 2004, including sub-section (3)(b), submitted 23 October 2024.
8. Cherkeley Campaign v Mole Valley DC [2014] EWCA Civ 567, submitted 23 October 2024.
9. Third party statement read out at hearing.
10. Bus timetable, route 2V, the 'Big Lemon' timetable submitted at hearing.
11. Site specific recruitment and training in construction justification submitted 24 October 2024.
12. Explanation of differing plans between SC and BaNES scheme dated 29 October 2024.
13. Justification for s106 highway contributions dated 30 October 2024.
14. Evidence of title submitted 19 November 2024.