



Appeal Decision

Inquiry held on 14-17, 21-24 January 2025

Site visits made on 13 and 14 January 2025

by D M Young JP BSc (Hons) MA MRTPI MIHE

an Inspector appointed by the Secretary of State

Decision date: 25th February 2025

Appeal Ref: APP/E3335/W/24/3349986

Brookfield Nursery, Ruishton Lane, Ruishton, Somerset, TA3 5NR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Taylor Wimpey UK Ltd against the decision of Somerset Council.
 - The application Ref is 31/23/0007.
 - The development proposed is an outline application with all matters reserved, except access, for the demolition of structures and erection of up to 150 No. dwellings, creation of access off Ruishton Lane, formation of wetlands and SUDs drainage and associated open space and landscaping.
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This decision is issued in accordance with section 56 (2) of the Planning and Compulsory Purchase Act 2004 as amended and supersedes that issued on 31 January 2025.

Decision

1. The appeal is allowed and outline planning permission with all matters reserved except for access is granted for the erection of up to 150 dwellings, creation of access off Ruishton Lane, formation of wetlands and SUDs drainage and associated open space and landscaping at Brookfield Nursery, Ruishton Lane, Ruishton, Somerset, TA3 5NR in accordance with the terms of the application, Ref 31/23/0007, subject to the conditions in the attached schedule.

Preliminary Matters

2. The Inquiry sat for 8 days between 14 and 24 January. Save for the first day, the Inquiry was conducted virtually. I carried out an unaccompanied site visit on Monday 13 January and an accompanied site visit on 14 January.
3. The application is made in outline with only 'access' to be determined at this stage. I have dealt with the appeal on that basis.
4. A pre-Inquiry Case Management Conference was held on 14 October 2024 to discuss the arrangements for the Inquiry. A summary of the conference was subsequently sent to the main parties.
5. A Statement of Common Ground (SoCG) including an agreement on Transport Matters¹ was submitted prior to the Inquiry and I have had regard to this in reaching my decision.
6. A signed and dated Unilateral Undertaking (UU) under s106 of the Town and Country Planning Act was submitted after the close of the Inquiry. Amongst other

¹ CD8.4

things this contains provisions in respect of affordable housing, open space, off-site highway works and education contributions. A draft version of the document was discussed at the Inquiry. All the proposed contributions would need to be assessed against the statutory Community Infrastructure Levy (CIL) tests, a matter I return to later in my report.

7. The Council refused planning permission for the five reasons for refusal set out in the Decision Notice² dated 29 July 2024. As confirmed at paragraph 7.5.3 of the SoCG, reasons 2 and 5 were withdrawn by the Council before the start of the Inquiry.

Main Issues

8. The main issues are:
 - 1) The extent of the Council's housing land supply shortfall;
 - 2) The effect of the development on the character and appearance of the area'
 - 3) Whether the public benefits of the scheme would outweigh any harm to nearby heritage assets, and
 - 4) Whether the principle of housing on the appeal site would accord with the Development Plan.

Reasons

Housing land supply

9. Contrary to the requirements of paragraph 78 of the National Planning Policy Framework (the Framework), the parties agree that the Council cannot demonstrate a 5-year supply of deliverable housing land³. The difference between the parties on housing land supply is therefore how much of a shortfall there is. On the Council's evidence a supply of 4.11 years can be demonstrated and, on the Appellant's, 2.76 years.
10. As is evident from the planning balance below, the extent of the shortfall is not determinative. That is because on either the Council's or Appellant's case, the effect is the same in that the policies that are most important for determining the application are to be considered out-of-date for the purposes of Framework paragraph 11d). The only utility therefore in establishing the extent of the shortfall is to inform the amount of weight that should be attributed to the delivery of housing in the overall planning balance.
11. The Council's housing land supply position was recently considered in another appeal decision⁴ where the Inspector concluded the Council could demonstrate around 3.75 years. Having carefully considered evidence regarding deliverability, the Inspector deemed it necessary to remove a number of category B sites (totalling approximately 1,200 dwellings) from the Council's position where there was no clear evidence of delivery within five years.

² CD4.2

³ SoCG para 7.2.13

⁴ CD7.4 - Land at North End, Creech St Michael, Somerset. PINS Ref: APP/W3330/W/23/3329488

12. Opposing views on deliverability of eleven disputed sites⁵ are set out in respective proofs of evidence⁶ as well as a Table of Disputed Sites⁷ which was produced by the parties to aid the round table discussion.

Ford Farm

13. The position remains similar to that considered by the previous Inspector. While the Council anticipates the application will go before Planning Committee in April 2025, that timetable has already slipped significantly from the April 2024 date reported to the Creech St Michael Inquiry. I have considered the developers' email dated 5.12.24. However, there is nothing of any substance within it which would lead me to a different conclusion to the previous Inspector. I therefore remove 162 units from the Council's position.

Pyrland Farm

14. Matters in respect of Pyrland Farm (aka Lyngford Lane) appear to have progressed. The Council reports that the application is going to Planning Committee in February 2025 with a resolution to approve. According to the Council, the Nutrient Neutrality (NN) issues noted by the previous Inspector have been resolved. In light of these material developments, I am satisfied that there is clear evidence of delivery in the next five years.

Former Livestock Market

15. The previous Inspector removed 90 of the assumed 150 dwellings at the former Livestock Market in Taunton due to a lack of clear evidence that the outstanding hurdles could be overcome at that time. The Appellant highlighted that the outline permission has now lapsed, and new scheme proposals are anticipated from Homes England in late spring 2025. Given the lack of meaningful progress over the last 12 months I also consider it appropriate to remove 90 dwellings from this site.

Staplegrove West

16. The previous Inspector opined that the reported information in respect of Staplegrove West was a reasonable basis to assume delivery from 2025/26. Although the start date has been put back another 12 months, a s73 application has now been approved and there is evidence that the discharge of conditions is progressing well. Considering also the email from Bloor Homes dated 6.12.24, I consider there is clear evidence of delivery in the next five years.

Staplegrove East

17. The situation in respect of 267 dwellings at Staplegrove East remains altogether less certain given the age of the environmental material supporting the 2017 permission. According to the Appellant an updated Environmental Statement will be required to support a new outline application. Despite the developer's delivery timescale, there are simply too many moving parts at the time of writing. I do not therefore consider there is sufficient evidence of delivery in the next five years. I therefore consider it appropriate to deduct 267 dwellings from this site.

⁵ The Hartnell's Farm site was granted planning permission on the final day of the Inquiry (ID15), leaving ten disputed sites.

⁶ PoE Upton CD8.7 & Rhodes PoE 8.24

⁷ ID16

Comeytrowe Urban Extension

18. The Council and Appellant agreed that 207 units should be removed from the supply for Comeytrowe Urban Extension⁸, Taunton and I see no reason to take a contrary view. This reduction has already been accounted for in Ms Rhodes figure of 3,358 Dec 2024 and therefore a further reduction is unnecessary at this time.

Jurston Farm

19. The position at Jurston Farm is that 190 dwellings within phase three have been constructed without the discharge of pre-commencement conditions relating to NN. The Council failed to determine the related planning application, and a subsequent appeal was dismissed. That decision was challenged unsuccessfully in the High Court. An appeal to the Court of Appeal also went against the developer and a challenge to the supreme court is now pending. Given the decision of the Court of Appeal remains in force at the time of writing, I consider it appropriate to remove 190 units from this site.

Bagley Road

20. The Council's position includes 59 dwellings that are under construction on the main site as well as 40 dwellings arising from the care home element. Although planning permission has yet to be granted for the latter, the Council states there are no significant matters left to resolve, and approval is expected in February 2025. On that basis and given there is a willing developer I am satisfied there is clear evidence of delivery for 99 units at this site.

West Villas

21. There is still no planning permission for the 47 houses at land east of West Villas, Cotford St Luke despite the submission of an application in August 2022. The Creech St Michael Inspector accepted the Council's evidence of deliverability and noted firm evidence of intention from the developer. The Council advises that the NN and flooding issues have been resolved and that the application will likely be approved in March 2025. I therefore find clear evidence of delivery for 47 dwellings at this site.

North End

22. Finally, in the absence of a live Reserved Matters application for North End, Creech St Michael, I am not persuaded there is clear evidence of delivery for 100 dwellings in the next five years. That position will likely change when the application is submitted, but at the time of writing I consider it appropriate to remove 100 units from the Council's position.

Conclusions on Housing Land supply

23. I consider it appropriate to remove 162 units from Ford Farm, 90 units from the former Livestock Market, 267 units from Staplegrove East, 190 units at Jurston Farm and 100 units from North End. This equates to an overall reduction of 809 units from the deliverable supply identified in the Council's Proof of Evidence⁹ (PoE). I therefore conclude that the Council can demonstrate a supply of deliverable housing sites of around 3.1 years.

⁸ ID16 – The reduction from 558 dwellings to 341 is

⁹ 3,358 units

Character and appearance

24. The appeal site and its surroundings are described in section 2 of the SoCG. Put simply, the site is located to the west of the village of Ruishton, north-east of Junction 25 of the M5 Motorway and north of the A358 and Taunton Gateway. The part greenfield/part brownfield site is approximately 7.129ha in size and is bordered to the south by a residential property (which is excluded from the appeal site) and a Premier Inn and Miller & Carter restaurant, to the south-east by Ruishton Lane, to the north-east by the settlement of Ruishton and to the north-west by the Black Brook.
25. As I saw when I visited the area, those open parts of the site form part of the pleasant open rural setting to the west of Ruishton albeit substantially contained behind established hedgerows alongside Ruishton Lane. It is germane that the site contains a significant amount of built development. There are some longer distance views of the appeal site to the north, most notably from Public Footpath T32/4. From here the glasshouses and other built development on and adjoining the appeal site are clearly visible. It is common ground that the appeal site does not lie within any local or national landscape designations and is not 'valued' in the terms of Framework paragraph 180a). To use an oft-repeated description, the open parcels of land on the appeal site are ordinary attractive countryside.
26. The application was accompanied by a detailed Landscape and Visual Impact Appraisal¹⁰ (LVIA) which helped to inform the design approach and provides a detailed description of the existing baseline and assesses the likely landscape and visual effects of the development through a series of viewpoints. The LVIA concluded that the proposed development would have a limited and localised effect on views and landscape character. While I have had regard to the LVIA, my findings are ultimately informed by my observations on site visits undertaken before and during the Inquiry.
27. It was clear from the written and oral evidence of local residents that the appeal site is valued locally on account of the fact that it forms part of a larger tract of open land providing separation between Ruishton, the M6 motorway and Taunton Gateway to the west. The extent to which the proposed dwellings would be visible beyond the site would of course depend on details which have been reserved for future determination. Nonetheless, there can be no dispute that the scheme whatever its final form would impose a considerable extent of built development on the land in excess of current built footprints. This would have a significant visual effect within the site boundaries and erode the open setting to the west of Ruishton.
28. The erection of houses particularly on the parcel of land immediately west of Orchard Rise would diminish the amount of separation between the village and Taunton Gateway. Notwithstanding the most important open areas or gaps identified in the Ruishton and Thornfalcon Neighbourhood Plan (NP) would remain¹¹, a degree of coalescence would inevitably occur as the built edge of the Ruishton would merge with the Miller & Carter and Premier Inn. As a result, there would be some loss of character and loss of openness 'around' Ruishton in conflict with NP Policy C1.

¹⁰ CD1.32

¹¹ See page 24.

29. As with other development plan policies relied upon by the Council, I have some concerns with Policy C1 in terms of its consistency with the Framework. The policy was referred to by the Examiner as “a more general ‘anti-coalescence’ policy” and it is clear that its intention is to protect all areas of open land around and between the stated settlements. As the Appellant argued, that could easily be construed as a blanket protect for all open countryside across the parish. The protection of the countryside for its own sake nor anti-coalescence (outside of Green Belts) are not policies that are supported by the Framework. This tension between C1 and the Framework reduces the weight I attach to the policy.
30. The proposed structural landscaping would help to filter views of the development in the long term. While I have considered the Council’s criticisms of the Appellant’s visual impressions, I am satisfied they provide a reasonably accurate representation of what the site would look like after 15 years. While the houses would be apparent in glimpsed views through the vehicular and pedestrian accesses, I do not consider they would be prominent in ordinary views up and down Ruishton Lane. The landscaping would also soften those longer distance views from the north. There is no persuasive evidence before me to support the argument that the level of tree growth assumed by the Appellant is overly optimistic or that the hedge translocation would not be successful.
31. Much was made of the proposed density; however, I do not consider one would be able to get much of an appreciation of this from outside the site boundaries. In any event there are a wide range of densities in Ruishton, and I consider the proposed development would sit comfortably within those. There was a vague suggestion from the Council that the design of the proposed development would not be high quality. However, these are matters that would be determined through subsequent Reserved Matters applications. I can see no reason at this stage why the development would not be of a suitable design and note that the Appellant has agreed to work with the design review body when developing the detailed designs.
32. Given the proximity of extensive lighting around and within Taunton Gateway, along the M6 motorway and within Ruishton itself, I am not persuaded that the appeal site is located within an area that is sensitive to new lighting. The provision of footpaths and footways within the site and alongside Ruishton Lane would inevitably improve links between the village and those facilities at Taunton Gateway. Rather than a harm this would be a positive benefit of the scheme.
33. Overall, there would also be a loss of openness around Ruishton contrary to NP Policy C1. That harm would be exacerbated in this instance by the resulting physical coalescence between Ruishton and Taunton Gateway. However, a loss of openness around settlements would be the inevitable consequence of almost any new housing on greenfield sites. There can be no dispute that the Council is unable to meet its housing land supply obligations without greenfield sites such as this. Moreover, there would be a reduction in the level of harm in the medium/ long term as the structural landscaping matures, softening views of the development from main public vantages. Any suggestion the landscaping would have no effect on the level of visual and landscape harm is not to my mind credible. Based on the high level of level of visual containment I do not consider the development would lead to a significant loss of village identity.
34. Considering all of the above, I consider the level of landscape harm would be moderate rather than ‘unacceptable’. Accordingly, there would be no conflict with

Policy DM1(d) of the Taunton Deane Borough Council Adopted Core Strategy 2011 (the CS). Nonetheless the identified landscape harm and the conflict with Policy C1 are factors that weigh against the appeal scheme in the overall planning balance.

Heritage

35. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act, 1990 (as amended) states that in considering whether to grant planning permission for development which affects a listed building or its setting, the decision maker shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
36. The nearest heritage asset to the appeal site is Woodlands House aka Woodlands Castle (Grade II) which is located on the south side of Ruishton Lane. No development is proposed to the building itself, its immediate curtilage nor wider grounds. The area of disagreement between the parties relates solely to the impact of the appeal scheme on the setting of Woodlands House, that is the surroundings in which it is experienced with particular regard to the view from Public Footpath T32/4 approximately 0.5km to the north. The Appellant's own heritage assessment puts the harm at the lowest end of the 'less than substantial' scale, since the main contributors to the significance of Woodlands House would remain unchanged
37. As is explained in the Heritage Proofs of Evidence, Appellant's Built Heritage Statement¹² and listing description¹³ Woodlands House dates from the early 19th Century but was remodelled and enlarged in the mid-19th Century by the notable Taunton based architect Richard Carver. It is in the Gothic and Tudor Gothic style and an example of a Tudor style villa. From my observations there can be no dispute that the south and west facing facades are the principal elevations of the building and contain the majority of its historical and architectural significance. The relatively bland looking south elevation provides little support for the argument that there was an intended view or outlook in this direction.
38. Although not mentioned in the listing description, the extensive mature landscaped grounds surrounding Woodlands clearly form an important part of its setting. However, it must be acknowledged that the grounds and by extension the significance of Woodlands House have been severely degraded in recent decades through a litany of authorised and unauthorised works.
39. The most significant (and harmful) occurred in connection with a change of use application to a wedding venue in the early 2000s. As is illustrated on historical aerial photography, the original access from the A358 was blocked off and a new access formed from Ruishton Lane. The new access and driveway were accompanied by extensive areas of new hardstanding and car parking adjacent the stable block. Other development within the immediate curtilage of the house included the erection of a large white marquee over the walled garden. While I was told there are conditions requiring the removal of the marquee, the wedding use ceased a number of years ago and there appears to be no imminent prospect of it, the car parking or new access being removed.

¹² CD1.62

¹³ CD6.6

40. There are a wide range of other unauthorised structures on the land including a shipping container, two mobile homes and a plethora of agricultural structures and outdoor storage. While I accept these do not have planning permission, they have been in situ for a number of years and the Council appears reluctant to take enforcement action. It is also evident from aerial photographs that a section of the building's curtilage was removed at some stage to facilitate a new footway/cycleway along Ruishton Lane.
41. Based on the foregoing, there can be little doubt that Woodlands House and in particularly its landscaped setting has experienced significant change, mostly negative over the last three decades. The majority of the harmful works have taken place within the building's immediate setting and are highly visible from sensitive public vantages along Ruishton Lane.
42. While the wider landscape setting contributes to the understanding to the area's agricultural origins and its subsequent development, I consider the contribution to be extremely limited given the amount of development that has taken place over the last few decades including the development of the park and ride site and associated highway infrastructure to the south.
43. Against the above context, I find the Council's opposition to the appeal scheme on the basis of some marginal interference into a long-distance view from footpath T32/4 to be highly contentious. I walked the footpath as part of my unaccompanied site visit. Given I knew exactly where to look and the trees were not in foliage, it was possible to make out Woodlands House and the tops of the large cedar trees. However, the suggestion that the average user of the footpath would appreciate the high status of the building or its isolated landscape position from such a distance is unconvincing and significantly overplayed.
44. The proposed landscaping on the appeal site as well as the houses themselves would no doubt change the foreground and perhaps obscure views of the building's unremarkable northern elevation. However, it should be noted that the northern boundary of Woodlands has been landscaped in the past¹⁴ and could be again with the need for planning permission. It is also pertinent that the existing glasshouses and landscaping on the appeal site itself are already visible in views from the footpath. This is not therefore a location where one currently or historically has uninterrupted or pristine views of the house or its grounds. In truth neither the house nor its landscape setting are particularly visible.
45. Paragraph 215 of the Framework requires that a balancing exercise is undertaken to weigh the harm against the public benefits of the proposal. I undertake this balance in the context of the guidance in paragraph 212 of the Framework, which makes it clear that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Nonetheless, I am satisfied that the scale of the public benefits arising from the proposed development (set out in paragraphs 7.13.4 of Mr Coles' PoE) are sufficient to outweigh the identified harm to the assets. The proposal therefore passes the "paragraph 215" test.
46. The fourth bullet to Policy CP8 states that development outside settlement boundaries will only be permitted where they "*protect, conserve or enhance the interests of natural and historic assets*". Although the harm to the setting of

¹⁴ See 2006 aerial photograph, Plate 10 Kerr-Peterson PoE Appendix 4.

Woodlands House would be negligible and outweighed by public benefits, there would nonetheless be some residual conflict with Policy CP8. However, given that CP8 does not allow for the benefits of a scheme to be weighed against any harm, the policy is inconsistent with the Framework. The identified conflict with CP8 in relation to heritage assets therefore carries very limited weight in the planning balance.

Development plan compliance

47. The site is outside the settlement boundary for Ruishton and is therefore in the countryside for planning purposes. The Appellant accepts that there would be conflict with Policy SP1 and by extension CS Policy CP8 and Policy SB1 of the Taunton Deane Adopted Site Allocations and Development Management Plan. These seek to resist development outside settlement boundaries and to protect landscape and townscape character by maintaining green wedges and open breaks between settlements. As the appeal scheme would not fall within one of the categories of development supported in the countryside by CS Policy DM2, there would be conflict with this policy.
48. Policies SP1 and SB1 are inconsistent with the Framework, which does not impose a blanket restriction on development outside defined settlements. Instead, a balanced, cost/benefit approach is advocated where all material considerations have to be weighed in the balance. This balancing of harm against benefit is a defining characteristic of the Framework's overall approach embodied in the presumption in favour of sustainable development, something that is reflected in CS Policy SD1. It is also pertinent that even on the Council's evidence, the settlement boundaries in the CS have consistently failed to deliver enough housing. They are therefore out-of-date by virtue of paragraph 11 d) of the Framework.
49. Save for its location outside the settlement boundary, the Council accept the appeal site is otherwise in a good location. Given its proximity to the park & ride site as well as facilities on the eastern edge of Taunton, I see no reason to take a contrary view. There is no dispute that the proposed development complies with other aspects of Policy SP1 namely to make efficient use of land, prioritising the most accessible and sustainable locations and maximising opportunities to make best use of previously developed land where possible.
50. Overall, the proposed development would conflict with Policies SP1 (including CP4 and SP4 insofar as they are cross-referenced to Policy SP1), DM2 and SB1. In terms of the identified landscape harm the proposal would conflict with NP Policy C1. There would also be limited conflict with the fourth bullet of CP8 in relation to heritage harm.
51. For the reasons given, the aforementioned policies are manifestly out of date as a result of inconsistencies with the Framework. The identified conflicts therefore carry limited weight in the overall planning balance. Compliance with Policy SD1 is determinative and depends on the outcome on the planning balance carried out below. '

Other Matters

52. I heard concerns raised by local residents regarding flooding and highway issues. In relation to the former, the submitted Flood Risk Assessment and outline drainage strategy have been carefully considered by the Council's specialist consultees¹⁵. As explained in the Council's Committee Report¹⁶, the northern part of the site is at risk of flooding. No houses are proposed in this area. The remainder of the site is considered to be at a negligible risk of flooding from all sources. According to the Local Lead Flood Authority, the Appellant's surface water drainage strategy would provide a reduction in runoff from the site compared with current rates and would not increase flood risk elsewhere. While local residents may disagree with those findings, no alternative technical evidence is before me in this regard. I am therefore satisfied, subject to planning conditions, that the development would accord with paragraphs 170-182 of the Framework.
53. Appendix 1 to the SoCG, contains an agreement between the Appellant's transport consultants (SLR) and the Council in relation to highway matters. The Council's decision to withdraw its highway reasons for refusal was based to a large extent on the mitigation measures shown on Drawing 216296_PD03_revC. This shows a range of measures to the east and west of the site access including a formalised shared surface along Ruishton Lane between the emergence of the footway at the southeast corner of the site to the junction with Marks Close. While I acknowledge Ruishton Lane would remain substandard in several respects, that is an existing issue with no practical means of being addressed given private ownership boundaries. The proposed mitigation measures would deliver a small amount of betterment to existing users of Ruishton Lane.
54. Under Regulation 63 of the Conservation of Habitats and Species Regulations 2017 (as amended) as competent authority I am required to undertake an Appropriate Assessment of the development on the basis of its Likely Significant Effects on the Somerset Levels and Moors Special Protection Area, Somerset Levels and Moors Ramsar site and Hestercombe House Special Area of Conservation. Natural England nor the Council have objected to the information provided by the Appellant to support the Appropriate Assessment. Following consideration of the proposed avoidance and mitigation measures identified, I conclude that there would not be any adverse effect on the integrity of these European Sites, either for the proposed development alone, or in combination with other plans and projects.

Planning Obligations

55. The Framework sets out policy tests for planning obligations which must be 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. A CIL compliance statement has been submitted by the Council¹⁷. Additional information was also submitted by the Education Authority in relation to the education contributions which addressed concerns raised at the round-table discussion.

¹⁵ CD5.16, 5.19 & 5.29

¹⁶ CD4.1

¹⁷ ID10

56. The information before me sets out the detailed background and justification for each of the obligations which are not disputed by the Appellant. I am satisfied from the evidence before me that the obligations are necessary, directly related to the proposal and fair and reasonable in scale and kind to the appeal scheme. As a result, I have taken the obligations into account as part of my overall conclusion that the appeal should be allowed.

Conditions

57. The parties have suggested a number of planning conditions which I have considered against the advice in the Planning Practice Guidance (PPG). In some instances, I have amended the conditions in the interests of brevity, to avoid repetition or to ensure compliance with the PPG.
58. To provide certainty, I have imposed standard conditions for outline permissions covering time limits, the reserved matters and the approved plans [Conditions 1-4]. Conditions relating to the new access and pedestrian routes are necessary in the interests of highway/pedestrian safety [5,11]. A condition requiring liaison with the Design Review Panel is necessary to ensure the Reserved Matters applications are designed to a high standard [6]. A Construction Management Plan (CMP) is necessary to ensure all aspects of the construction adhere to best practice and do not adversely affect the amenity of local residents [7]. I have added an additional requirement to the CMP relating to the protection of trees and hedgerows.
59. A Biodiversity Enhancement and Landscape Management Plan is necessary to ensure the ecology benefits are secured in the long-term [8]. Drainage conditions are necessary to ensure satisfactory drainage and future maintenance of the site in the interests of flood prevention [9-10].
60. I am not persuaded it is necessary to impose a condition requiring details of cycle parking or the road layout as these are matters that would be captured by the Reserved Matters and can be resolved at that stage. I have omitted suggested conditions 13 and 15 accordingly. Finally, water consumption is a matter covered by the Buildings Regulations regime. A separate condition is thus unnecessary.
61. Conditions 7-9 are 'pre-commencement' form conditions and require certain actions before the commencement of development. In all cases the conditions were agreed between the main parties and address matters that are of an importance or effect that need to be resolved before construction begins.

Planning Balance

62. I am required to determine this proposal in accordance with the development plan, unless material considerations indicate otherwise, the starting point is therefore the development plan. There would also be conflict with Policies SP1, DM2 and SB1 insofar as the appeal site is outside the settlement boundary of Ruishton. There would be moderate landscape harm and conflict with NP Policy C1. There would also be some minor heritage harm and conflict with Policy CP8, notwithstanding that the development passes the Framework paragraph 215 test.
63. The most important development plan policies cited above are however deemed to be out-of-date and carry less than full weight. This is because; 1) the policies are inconsistent with the Framework and, 2) the Council cannot demonstrate a 5-year supply of deliverable housing sites. This engages the tilted balance set out in

paragraph 11 d) of the Framework and Policy SD1. The effect of this is that the planning balance shifts in favour of the grant of consent. Only if the Council can demonstrate harm which “*significantly and demonstrably*” outweighs the benefits of the development, “*having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination*”, should consent be refused.

64. Out-of-date settlement boundaries aside, the development would be consistent with the Council’s overall spatial strategy to focus development in the most accessible and sustainable locations. Other significant benefits include:

- Up to 112 market and 38 affordable homes in an area of pressing need which would contribute to the national policy imperative of significantly boosting the supply of housing.
- Construction and supply chain jobs (107 and 121 respectively), construction value (£28.6million), economic output (£24.9million) and direct/indirect Total Gross Value Added (£99.7million)¹⁸.
- Resident expenditure benefits (£825,000 first occupation expenditure), 26 supported jobs, total household expenditure that is new to the area (£2.8million).
- Local Authority revenue benefits in the form of council tax, new homes bonus payments and CIL receipts.
- Savings to a Council that has declared an economic emergency through a reduction on B&B expenditure for those in temporary accommodation.
- Public access to the appeal site including significant areas of public open space including a network of footpaths through woodland and along the Black Brook, an informal kick about space, wildflower meadow and oak parkland and a natural play space.
- On-site and off-site highway works which would improve pedestrian safety along Ruishton Lane.
- Biodiversity net-gain of 55% (Habitat Units) and 124% (Hedgerow Units)
- Achieving on site nutrient neutrality with surplus mitigation which would reduce reliance on existing available Phosphate credits in the commercial market that will as a result be available to support the delivery of new homes elsewhere.

65. Irrespective of the competing submissions on housing land supply, the largely undisputed social, economic and environmental benefits listed above are of such magnitude that they clearly outweigh the identified harms and associated policy conflicts. Accordingly, the appeal scheme complies with CS Policy SD1 and would be sustainable development.

¹⁸ See Economic Benefits Assessment CD2.8

Conclusion

66. For the reasons given above the appeal should be allowed.

D. M. Young

INSPECTOR

APPEARANCES

Somerset Council

Constanze Bell of Counsel, she called:

Ann Rhodes BA (Hons) PG Dip Arch Con
Kerry Kerr-Paterson BA (Hons)
Anne Priscott BA (Hons) CMLI
Paul Sherman BA MSc MRTPI

Somerset Council
Somerset Council
Anne Priscott Associates
Somerset Council

Appellant

Peter Goatley KC, he called:

Patrick Clark BA (Hons) MA Lsc.Arch. CMLI
Thomas Copp BA (Hons) MA
Jamie Roberts MPlan MRTPI
Robin Upton BA (Hons) MRTPI
Simon Coles BA (Hons) MRTPI

Stantec
TCMS Heritage
Tetlow King
Carney Sweeney
Carney Sweeney

Interested Parties

Cllr Mel Mullins

Chairman, Ruishton, Thornfalcon and
Henlade Parish Council

Cllr Sarah Wakefield

Somerset Council

Peter Claydon

Ruishton and Thornfalcon
Neighbourhood Plan Steering Group

Cllr Rob Hossell

Stoke St Mary Parish Council

INQUIRY DOCUMENTS

1. Appellant Opening Submissions and List of Appearances
2. LPA Opening Submissions and List of Appearances
3. Draft Conditions List as at 14.1.25
4. Site Visit Itinerary Map
5. Jim Claydon representations
6. Mel Mullins representations
7. Access Hedgerow Overlay Plans
8. Councillor Wakefield representations
9. Prime Meridian Woodlands Assessment
10. CIL Compliance Statement
11. 12th December 2024 Government Letter to Local Authorities
12. Jonathan Lloyd Transport Note 21st January 2025
13. Draft Agreed Conditions List 22nd January 2025
14. Draft Agreed Unilateral Undertaking
15. Hartnell's Farm Planning Permission
16. Disputed Large Site Table
17. LPA Closing Submission
18. Appellant Closing Submission

SCHEDULE OF CONDITIONS

- 1) No development shall commence until full details of the layout, scale, appearance, and landscaping (hereafter referred to as reserved matters) have been submitted to and approved in writing by the Local Planning Authority.
- 2) In the case of the reserved matters, the final application for approval shall be made not later than the expiration of three years beginning with the date of this permission.
- 3) Application for approval of all the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission and the development hereby permitted shall be begun either before the expiration of five years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved whichever is the later.
- 4) The reserved matter applications to be submitted, and the development hereby permitted shall be carried out, in general accordance with the following approved plans:
 - 0770-101 Location Plan
 - 0770-1006-1 Green and Blue Infrastructure Parameter Plan
 - 0770-1006-2 Connectivity
 - 0770-1006-3 Scale
 - 0770-1006-4 Density
- 5) Prior to the first occupation of any dwelling hereby approved, the principal site access to Ruishton Lane shall be completed in accordance with drawing 216296_PD01 Rev D unless an alternative program for the delivery and completion of the site access has first been agreed in writing with the Local Planning Authority. The visibility splays shall be kept free of any obstruction exceeding 0.6m in height and shall be retained as such thereafter.
- 6) Prior to the submission of each reserved matters application, the draft reserved matters submission shall be presented to a Design Review Panel. Each reserved matters submission shall include a Design Compliance Statement detailing how it has had regard to any Design Review Panel comments.
- 7) No development hereby permitted shall take place until a Construction Management Plan ('CMP') has been submitted to and approved in writing by the Local Planning Authority, which shall include details of the following:
 - a) Anticipated construction vehicular movements and types;
 - b) Construction operation hours;
 - c) Construction vehicular routes to and from the site;
 - d) Expected number of construction vehicles per day;
 - e) Car parking for contractors;
 - f) Specific measures to be taken to mitigate construction impacts in line with an environmental code of construction practice;
 - g) A scheme to encourage the use of public transport amongst contractors;

- h) Details of measures to avoid vehicles exiting the site emitting dust, mud, or other debris onto the highway including wheel washing facilities;
- i) Highway condition survey, and
- j) Details of measures to protect trees and hedgerows.

The approved CMP shall be adhered to throughout construction.

- 8) Prior to the commencement of development (or phase of development), a Biodiversity Enhancement and Landscape Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The Biodiversity Enhancement and Landscape Management Plan shall detail the areas of the site to be landscaped and details for their future management and maintenance, and measures to achieve biodiversity enhancements on the site. Once approved the development shall be undertaken only in accordance with the approved details.
- 9) Prior to the commencement of development, a Sustainable Drainage Scheme (SuDS), including a plan for its phased delivery, shall be submitted to, and approved in writing by, the Local Planning Authority. The scheme shall be in general accordance with the principles of the submitted Flood Risk Assessment and proposed outline drainage strategy. The SuDS shall include full details of the measures to prevent, control, and attenuate surface water runoff as well as details of the management and maintenance of the system in the long term. The scheme shall be implemented in accordance with the approved details.
- 10) Prior to occupation of any dwelling hereby approved details of the method of disposal of sewage and foul water on the site to serve the development shall be submitted to and approved in writing by the Local Planning Authority. The works shall thereafter be completed, retained and maintained in that form unless otherwise agreed in writing by the Local Planning Authority.
- 11) Prior to the occupation of any of the dwellings hereby approved pedestrian and cycle routes and connections shall be constructed and completed in accordance with a scheme which has first been submitted to and approved by the Local Planning Authority. The scheme to be submitted shall include construction specifications, widths, gradients and surfacing materials. The development shall be undertaken only in accordance with the approved details unless otherwise agreed in writing with the Local Planning Authority.