



Appeal Decision

Inquiry Held on 23-25 January 2024

Site visit made on 25 January 2024

by Stephen Wilkinson BA BPI DIP LA MBA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 18/03/2024

Appeal Ref: APP/E3335/W/23/3328322

Land north of Mudford Road, Yeovil, Somerset

Grid Ref: 356250, 118369

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Yeovil LVA LLP (Land Value Alliance) against Somerset Council.
 - The application Ref: 22/00695/OUT, is dated 15 March 2022.
 - The development proposed is erection of up to 252 dwellings, public open space (including community orchard and village green), woodland planting, ecological buffers, sustainable drainage systems, a biodiverse wetland habitat and other ancillary works. All matters reserved except for access.
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Decision

1. The appeal is allowed and outline planning permission is granted for the erection of up to 252 dwellings, public open space (including community orchard and village green), woodland planting, ecological buffers, sustainable drainage systems, a biodiverse wetland habitat and other ancillary works. All matters reserved except for access subject to the conditions included in the schedule to this decision.

Procedural Matters

2. Since the application was submitted South Somerset Council was merged with three surrounding districts to form Somerset Council, a Unitary Authority which commenced operation on 1st April 2023. This decision is based on the policies of the South Somerset Local Plan 2006-28 adopted 2015.
3. The scheme is submitted in outline with all matters reserved apart from access. A parameter plan (190812 L 02Rev B) was submitted with the appeal. I have treated this as illustrative only.
4. Given the size of the proposed development the appeal was accompanied by an Environmental Statement as required by Regulation 5(1) of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017.
5. Between the time that the Council resolved to oppose the scheme and the start of the appeal process a revised access strategy (23037/PHL/01 Rev E) was agreed between the parties. The changes between the previous strategy considered by the Council and that before me were presented at the Inquiry. Given the small-scale nature of the suggested changes, I am satisfied that no

parties have been prejudiced by this late revision and accordingly my decision is made on this.

6. Following publication of the revised National Planning Policy Framework (the Framework) on 20 December 2023 I wrote to the main parties for comment. Comments received have been incorporated into this decision.
7. The appeal was accompanied by a draft S106 Agreement. A completed Agreement dated 15 February was received following the closure of the Inquiry; this is referred to later.
8. Finally, there are a number of designated heritage assets surrounding the boundaries of the appeal site. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a statutory duty on decision makers, to have special regard to the desirability of preserving listed buildings or their setting. Accordingly, I have assessed the impact of the appeal scheme on these buildings and structures later in this decision.

Main Issue

9. The Council originally suggested three putative reasons for refusal of the application which included insufficient information on archaeology of the site, insufficient detail in respect of the infrastructure required to support the application and the effects of the scheme on the landscape character and appearance of the area.
10. The Council agreed, in advance of the Inquiry that archaeology could be addressed by suggested conditions and that infrastructure by a completed S106 Agreement.
11. Accordingly, the outstanding main issue is:
 - The effect of the proposed scheme on the landscape character and appearance of the area.

Reasons

Landscape character and appearance

Landscape effects

12. The appeal site lies on the northern edge of Yeovil and extends north of Mudford Road towards Sock Lane. Ribbon development on both sides of Mudford Road mark the top of an escarpment above the site. The site comprises three fields of around 25ha surrounded by farmland. Yeovil 'Without' sewerage treatment works lies by the northwestern corner of the site.
13. The appeal site does not lie in a valued landscape as defined by Paragraph 180a) of the Framework. The Council recognise that it has value related to its undulating and undeveloped nature which allows views north from Mudford Road. In contrast the appellant, through the application of adopted guidance¹ identify that the site has a medium value.
14. The value of the site is derived from its openness with its natural heritage derived from the location of the 'goyle' (a local term for a steep sided wooded valley) along part of its western edge and a small group of protected trees

¹ Landscape Technical Note 02/21

towards the southern edge of the site. The absence of footpaths through the site result in a low recreational value and it is not covered by any nature conservation objectives nor does it have any cultural associations. Whilst the site's northern edge is relatively tranquil traffic noise and the presence of dwellings along Mudford Road and Stone Lane are experienced across the southern and central parts of the site. For these reasons, I find that the site has a medium value.

15. The site lies in NCA140², Yeovil Scarplands, characterised as a predominantly rural area which comprises ridges and steep scarps separating clay vales. These features are identified in the LCA2³ Northern Escarpment Foothills included in the Yeovil Peripheral Landscape Study⁴ (YPLS).
16. Whilst the YPLS does not strictly follow the GLVIA3⁵ guidance it is an important material consideration given its assessment of landscape capacity to sustain development. This identifies the site as lying within LCA2a, an area of high sensitivity to change due to its rural character. However, the study recognises that within LCA2a, in areas where field boundaries and hedgerow trees have been removed as in the appeal site, there is a medium sensitivity to change. This was agreed by the Council despite their written evidence to the contrary⁶.
17. The escarpment which in part follows the edge of Mudford Road is not consistent in form with varying levels of steepness and orientation. The site includes a moderate slope from around 82metres AoD by Mudford Road to 45metres AoD at its northern edge; a distance of around 830metres. This contrasts with the steepness of the slope on the site lying immediately to the west. The appeal site faces outwards towards the open rural character of the Yeo Valley.
18. The parameter plan submitted with the appeal identifies 252 dwellings located across the site, with a village green on its southern edge by Mudford Road with its northern part used for recreation including for a LEAP⁷, MUGA⁸ and orchard with a cascading water feature which would act as a SUDS⁹. The appeal scheme would involve the removal of around 180metres of hedgerow from across the site.
19. The appeal scheme would require the creation of development platforms requiring areas of cut and fill. Whilst around 40% of the appeal site would be occupied by built development the scheme's Green Infrastructure would include the MUGA, LEAP and SUDS. These features would, however, be clearly manmade structures resulting in landscape changes which would be permanent and irreversible.
20. Despite the scale of change resulting from the appeal scheme, the proposed areas of housing would be located away from the steepest slopes lying on the western side of the site where the land falls away to the 'goyle'. Existing woodland would be extended along the western edge and the proposed areas

² National Character Area

³ Local Character Area

⁴ CD3.4a 2008

⁵ Guidelines for Landscape and Visual Impact Assessment, Landscape Institute and Institute for OF Environmental Management and Assessment

⁶ Mr Potterton XX

⁷ Local Equipped Area of Play

⁸ Multi Use Games Area

⁹ Sustainable Drainage System

of housing would be partially contained by existing hedgerows, a majority which would be retained and which would be enhanced as part of the mitigation strategy. The nett effect of these changes is that despite its scale the scheme would result in only moderate adverse impacts on the site.

21. Furthermore, given the comparative size of the appeal site with the NCA in which it lies, there would be negligible impacts on it and only limited adverse impacts on the Yeo Valley to the north. There would, however, be moderate adverse impacts on the land to its east and west given the high landscape sensitivity of these two areas. This could partially be addressed through the proposed mitigation.

Visual effects

22. The main parties agreed a set of viewpoints and visual receptors from around the site which were shared on the site visit. The Zone of Theoretical visibility (ZTV) extends to a maximum distance of around 4km to the north of the site but in other directions is drawn tightly. This reflects the natural changes in topography across the area which are important in exposing the receptor to a range of different views of the site.
23. The proposed development as suggested by the parameter plan would include 252 dwellings located across the site as either houses or apartment buildings of between 2-2.5 storey height (8.5-10metres ridge height). The appellant's assessment of the visual impacts of the scheme was anticipated at a period of fifteen years after completion of the scheme when the proposed landscape mitigation would have started to have greater effect.
24. The parties differ on the significance of effects for the occupiers of those residential properties on Mudford Road which directly face the site. The Council identify major adverse effects whereas the appellant consider these would be moderate adverse. Given the fall in levels within the site away from Mudford Road and the suggested mitigation included in the parameter plan in the form of the 'village green' and additional planting the visual effects would be moderate to major adverse.
25. The existing hedge along the edge of the footway on Mudford Road varies in height. The appeal scheme would result in minor adverse effects for pedestrians along that part of the footway close to the junction with Lyde Road.
26. From the residential properties along Mudford Road, the appeal scheme would still allow an appreciation of the wider landscape across the Yeo Valley. This contrasts with the visual impact of frontage development of seven dwellings at Combe Street Lane, Yeovil¹⁰ which was dismissed on appeal because it would have prevented an appreciation of the openness of the countryside beyond. In contrast, despite the marked difference in size between that scheme, the appeal scheme would not prevent appreciation of the landscape to the north from the Mudford Road properties.
27. The site was not viewed from the rear of the residential properties along Stone Lane. The occupiers of these properties, as sensitive receptors, would experience moderate adverse effects arising from the scheme's development. The effects of the scheme are moderated by the intervening fields and the

¹⁰ APP/R3325/W/20/3256703

- proposed mitigation involving an extension of existing woodland on the east side of the 'goyle'.
28. Given that both Stone Lane and Sock Lane form part of the Monarch's Way, a designated footpath from Worcester via Bristol and Yeovil to Shoreham, I accord walkers a high level of sensitivity. However, in many instances along both these lanes, views of the site are limited due to either local topography or the height of hedgerows which lie along the route. The selected viewpoints over gates and openings represent an exception to the prevailing kinetic experience of the footpath user.
 29. For example, VPt5 is a gap in the line of houses at the southern part of Stone Lane. Whilst the southern part of the site can be viewed this would be only a fleeting view for a walker on Monarch's Way. Significantly the housing on Mudford Road would in part frame the views of the site at this point and reduce the impact of the appeal scheme.
 30. This is a similar relationship to that of the proposed housing scheme at Tintinhull¹¹ where the existing housing along Thorne Lane on the scarp edge was identified as being dominant. Similarly, the existing properties on Mudford Road would have the same physical relationship to the housing proposed for the appeal site. Accordingly, the effects would be low adverse.
 31. In contrast to VPt5, views from VPt6 located at the end of housing on Stone Lane allow clear views over the central part of the site. Despite the extent of views from this VPT the effects would be moderate adverse for walkers given the distance from the lane to the site.
 32. VPt7 by the access to Stone Farm allows views of the site. However, these are more limited than at VPt6 given that the group of properties surrounding Stone Farm partially block views. For this reason, there would be low adverse effects.
 33. VPt8 lies around 150 metres further north with views directly towards the site. However due to the distance involved, the effects for walkers would be minor adverse. In contrast VPt9 is located beyond the northern edge of the site on Sock Lane by the entrance to the sewerage treatment works, but due to the local topography, the site would not be readily visible resulting in low adverse to negligible effects.
 34. VPt10 located towards the northern end of the ZTV affords a broader view to the site's southern edge. However, the bulk of the appeal scheme would be hidden by the folds in the topography resulting in low adverse-negligible effects. VPt11 located on Ashington Lane would allow views north towards the appeal site which would appear as part of a distant panorama from where there would be broken views of the proposed housing. The effects would be low adverse.
 35. VPt12 by Sock Cottages looks directly south towards the site enabling views of a large part of the appeal scheme. Its orientation limits the impacts of existing development along Mudford Road on the appeal scheme. This results in moderate adverse effects for the walker.
 36. VPt13 lies on Sock Hill. From this point parts of the site can be seen but framed by the existing properties along Mudford Road which due to their height

¹¹ CD6.6

- would still be the dominant element in the landscape at this point. This contrasts with the Frome appeal decision where there was no existing 'skyline' development. The significance of effects from this point would be low adverse.
37. VPt14 lies at the southern end of Sock Lane from where parts of the scheme would be visible. However due to the intervening distance the effects would be low adverse. VPt15 located to the east of the ZTV on Drovers Way which also forms part of the Monarch's Way, allows clear views of the northern and central sections of the proposed scheme. Despite the intervening distance between this viewpoint and the site, the appeal scheme would be clearly visible on the approach to Yeovil resulting in moderate adverse effects.
38. From VPts 16 and 17 located on the southern edge of Mudford Lane there would be clear views of the northern section of the appeal scheme for drivers and their passengers travelling westwards. The effects from here would be low adverse given their kinetic experience, the intervening distance and existing trees.
39. The site at Marston Lane, Frome¹² can be distinguished from the scheme before me as that site included a more intimate field pattern. There would have been a significant loss of hedgerows and the proposed housing would have compromised the ridgeline conflicting with specific policies aimed to prevent skyline development. The appeal scheme before me is significantly different with a different policy context informed to some extent by the outline scheme included in the allocated site at YV2¹³ to the east of the site. Although located in a different Landscape Character Area it presents a new context for consideration of development on the appeal site and undermines the Council's assertion that the appeal scheme would represent an isolated finger of development extending down the escarpment.
40. In summary, I find that the greatest impacts would be experienced by occupiers of those residential properties directly facing the site with lesser effects being experienced by footway users on Mudford Road. The effects would be limited for walkers along Monarch's Way due to the undulating topography and tall hedgerows which restrict views. In several instances the existing properties along Mudford Road and Stone Lane provide a 'built context' which further reduces the impacts of the appeal scheme.

Conclusions on Landscape Character and Appearance

41. The Council in its putative reason for refusal identifies a specific conflict with Policies SD1 and EQ2.
42. Whilst Policy SD1 re-iterates the statutory basis of planning decisions and the Framework's presumption in favour of sustainable development Policy EQ2 requires that local distinctiveness is to be respected with regard to local context and that landscape character should be preserved and enhanced.
43. The form of development suggested by the parameter plans would adversely impact on the undeveloped character of the site. These matters could not be fully mitigated. There would be adverse visual effects for the occupiers of residential properties directly overlooking the site but only limited adverse visual impacts for walkers along Monarch Way.

¹² APP/Q3305/W/22/3306827

¹³ ID 3

44. For these reasons, I conclude that overall, the appeal scheme would have moderate adverse landscape effects with limited visual effects but would conflict with Policy EQ2.

Other Matters

Somerset Moor and Levels Special Protection Area (SPA) and Ramsar

45. 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 Moors and Ramsar/SPA.
46. The Ramsar/SPA is suffering from excess concentrations of phosphates leading to eutrophication which in turn suppresses the ability of invertebrates and plant life to grow. Natural England require that development within the catchment of the Ramsar/SPA which will be served by a wastewater system must demonstrate nutrient neutrality in line with its published guidance¹⁴. In response to these concerns the appeal scheme includes a treatment wetland designed as six basins acting as cascading wetlands referred to above which would be located at the northwest edge of the site.
47. This is designed to take the flow from a small tributary of Oakley Brook which runs along the northwestern edge of the site which would be treated by the scheme's SUDS through natural processes including sedimentation and absorption from aquatic plants and then returned to the watercourse. In turn this would flow into the Ramsar/SPA as a nutrient free water. Even with the application of a 'confidence percentage' of eighty percent, the scheme would produce sufficient mitigation of 24.04kg/pa to offset the 16.69kg/pa of phosphates per annum anticipated as likely to be generated by the scheme. There would be an excess of what is required as mitigation of 7.35kg/pa produced by the proposed SUDS scheme.
48. The proposed measures would mitigate the appeal scheme, either alone or in combination with other plans and projects, so that there would be no adverse effect upon the integrity of the Ramsar/SPA. The scheme was developed in collaboration with Natural England who have confirmed that they are satisfied with the proposed form of mitigation.
49. The mitigation would be secured and managed by covenants included in the S106 Agreement. These are consistent with Policy EQ4.
50. I am satisfied that each of these covenants fall within the provisions of Regulation 122(2) of the CIL Regulations and Paragraph 57 of the Framework.

Listed buildings and structures

51. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a statutory duty on decision makers, to have special regard to the desirability of preserving listed buildings or their setting. The Framework defines 'setting' as the surroundings in which a heritage asset is experienced.
52. Historic England's guidance (The Setting of Heritage Assets, Planning Note 3) advises that the setting itself is not a heritage asset. Its importance lies in

¹⁴ CD8.1 Nutrient Neutrality Advice 16 March 2022

- what it contributes to the significance of the heritage asset or the ability to appreciate that significance.
53. There are several listed buildings and a stretch of highway identified by the Turnpike Trusts and a listed milestone located beyond the boundaries of the appeal site.
 54. Stone Farm dates from the nineteenth century and is part of a group of historic farm buildings located around 250metres to the west of the appeal site. It has a predominantly rural setting derived from the fields which extend from the farmhouse to the western side of the 'goyle' and the appeal site which lies beyond the 'goyle'. This rural setting is limited in extent by the neighbouring housing on Mudford Road and Stone Lane.
 55. The appeal scheme would result in the loss of part of the building's historic rural setting although harm to its setting would be in part mitigated by the existing tree belt which forms the southern part of the 'goyle' and which it is proposed would be enhanced. In terms of the Framework the harm arising would be at the lower end of less than substantial.
 56. Sock Hill Cottages, located on Sock Lane are Grade II listed and date from the mid nineteenth century. They lie in a relatively isolated location around 150metres from the appeal site. The intervening topography means that intervisibility between the appeal site and the cottages is limited. Accordingly, the appeal scheme would not undermine the significance of these cottages.
 57. Several Grade II listed cottages lie to the north of the appeal site. Given a combination of distance, orientation and the lack of functional connection to the appeal site there would be no harm to their settings arising from the appeal scheme.
 58. There is a section of Mudford Road/Mudford Lane extending to the east which was 'turnpiked' under the Yeovil Trust in 1753. The appeal scheme would partially develop its rural setting. However, the effect of these changes would be limited in scale and the degree of harm would be at the lower end of less than substantial.
 59. A listed milestone lying due east of the appeal site, dates from the time parts of Mudford Road and Mudford Lane were a designated Turnpike. This comprises a 'ham' stone pillar with shaped iron plaque with a height of around 0.75 metres. Its significance is its vernacular form and historic siting in providing a way-marking function. Given that the route it relates to would be unaltered, and that the proposed development would not obstruct the functional use of the milestone or alter its rural setting the scheme would not be harmful to this designated heritage asset.
 60. The site lies around 20km from Glastonbury Tor which is just discernible from within the site on a clear day. Given the distance involved and the size of the appeal site the appeal scheme would not impact on the setting of this historic structure.
 61. I am satisfied that these buildings and structures do not have any direct historical relationship with the appeal site but that harm would arise to the setting of Stone Farm and the section of Mudford Lane which had been turnpiked but this would be at the lower end of the scale. The extent of harm requires further consideration against the public benefits arising from appeal

scheme as part of the heritage balance required by Paragraph 208 of the Framework. This is considered later in this decision.

Infrastructure

62. Interested parties expressed concern over the impact of the proposed scheme on social infrastructure including schools and health facilities. The Community Infrastructure Levy (CIL) Regulations 2010 and paragraph 57 of the Framework set a number of tests for planning obligations: they must be necessary to make the development acceptable in planning terms, be directly related to the development, and be fairly and reasonably related in scale and kind to the development.
63. The completed S106 requires that 35% of the dwellings proposed are secured as affordable housing units with an appropriate mix in line with the Council's local housing needs; this includes provision for First Homes. This provision complies with Policy H3.
64. Other covenants in favour of the Council include the designation of public open space included in the LEAP and MUGA with trigger points for their implementation relating to the occupation of housing within the scheme. These provisions comply with Policy HW1.
65. The proposed highways works included in the Access Strategy (23037/PHL/01 Rev E) include the provision of controlled and uncontrolled crossing points on Mudford Road and Lyde Road with extensions of the footways. These provisions broadly adhere to Policies TA3, TA4 and TA5 which require new development to enable sustainable travel options.
66. The S106 Agreement includes covenants in favour of the Heath Authority of £428 per dwelling required to increase the capacity of local surgeries. The figures used by the Health Authority are included in formula and I am satisfied provide a rationale for the suggested funding package included in the S106 Agreement. This accords with Policy SS6.
67. Other covenants in favour of the Council include financial contributions of £721.18 per dwelling towards an off site changing room and £394.52 per dwelling towards off site playing pitches. Covenants require commuted sums towards maintenance costs of changing rooms (£239.47 and £58.02 per dwelling towards playing pitches and changing rooms respectively). A further £61.62 is to be allocated towards youth facilities. These requirements reflect the anticipated number of children likely to be future residents of the appeal scheme and are supported by Policy HW1.
68. Educational covenants in favour of the Council include a contribution to support the likely single child with special education needs of £101, 216. This would accord with Policy SS6 of the Local Plan. Other covenants in favour of the Council relate to a series of obligations designed to support sustainable travel options. These include a payment of £3,000 for a travel plan fee for monitoring purposes and £63,000 for safeguarding measures in line with its SPG¹⁵. These measures are consistent with Policy TA5.

¹⁵ Supplementary Planning Guidance

69. Other non-financial measures include the implementation of a SUDS in accordance with an agreed specification and maintenance scheme. This would be in line with a Policy EQ1.
70. The S106 Agreement includes a series of obligation regarding measures to mitigate for the harmful effects of phosphates generated by residential development on the Somerset Moors and Levels Ramsar and SPA arising from the appeal scheme. I address this matter in detail in the following section and I am satisfied that these measures are supported by EQ4 of the Local Plan.
71. The S106 includes the provision of infrastructure, which is necessary, directly required and fairly and reasonably related in scale to this development. I am satisfied that each of these covenants fall within the provisions of Regulation 122(2) of the CIL Regulations and Paragraph 57 of the Framework.

Planning balance

The Development Plan

72. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning decisions are made in accordance with the development plan unless material considerations indicate otherwise.
73. Both main parties acknowledge that there is an undersupply of housing land. In these circumstances there is a presumption in favour of sustainable development as defined by the Framework. The test included in Paragraph 11d)ii. of the Framework applies to this case and requires that any adverse impacts of the appeal scheme would have to significantly and demonstrably outweigh the benefits.
74. The fact that policies are deemed as out of date does not mean that they carry no weight. To carry weight policies must be consistent with the Framework, as explained in Paragraph 225, which amongst other things, states that the closer that local policies are to those in the Framework, the greater weight that may be given to them. As such it is perfectly possible for policies which are deemed out of date by reason of an inadequate land supply to still carry significant weight.
75. The single putative reason for refusal that remains between the parties identifies conflict with Policies SS1, SS5, SD1, YV1, YV2 and EQ2. I regard these as the most important policies for the determination of this appeal.
76. These policies are inter-related, with Policy SD1 broadly neutral in scope as it reiterates S38 (6) of the Planning and Compensation Act 2004 in how planning decisions should be taken. Policy SS1 directs housing development towards Yeovil as the main settlement. Policy SS5 amplifies Policy SS1 by directing housing to within the urban framework of the town and towards two Sustainable Urban Extensions (SUEs). Policy YV1 amplifies these policies directing 5,876 dwellings to within Yeovil's urban framework and 1,565 dwellings towards the SUEs.
77. In directing development to Yeovil or its planned extensions these policies are consistent with the policies of the Framework which support sustainable development.

78. Policy EQ2 sets out a range of criteria against which development proposals will be considered which is consistent with Paragraph 180b) of the Framework which recognises the intrinsic value of the countryside. Policy YV2 sets out requirements for each of the SUEs but given the site's location outside the SUE is not relevant to the issues raised by this appeal.
79. The appeal scheme conflicts Policies SS1, SS5, YV1 and EQ2 being located outside Yeovil's urban framework and not located within a SUE. The scheme results in adverse landscape and visual effects.
80. Accordingly, given the degree of consistency which I find between these policies and the Framework I accord considerable weight to the conflict between the appeal scheme and the policies of the development plan when considered overall.

Material Considerations

81. Set against this conflict are a range of important material considerations including the policies of the Framework which weigh in favour of the appeal scheme.

Housing

82. Of considerable importance is the Council's persistent failure over the last eight years¹⁶ to maintain a 5 year housing land supply which according to the Council is currently at around three years¹⁷ although the appellant identify that it is actually just below this figure at 2.9 years. This is a significant and chronic shortfall, even acknowledged as such by the Council¹⁸.
83. The appellant¹⁹ supplied evidence, uncontested by the Council, that housing supply has undermined the delivery of affordable housing. Since 2006 this has averaged at around 167 affordable dwelling per annum (ADPA) well short of the anticipated target of 227 ADPA. The appellant cites this shortfall as leading to a serious homelessness problem in Yeovil²⁰. This was not contested by the Council.
84. The inclusion within the appeal scheme of 164 market and 88 affordable homes would partially address these matters in line with the policies of the Framework and are therefore accorded significant weight.

Local Economy

85. The appeal scheme would have particular economic benefits derived from construction estimated at between 605-781 jobs.²¹ This figure was not contested by the Council.
86. Other economic benefits could be derived from the spending power of the new residents living in the appeal scheme. These would be significant because despite its location beyond the urban framework of Yeovil, the site lies within

¹⁶ SoCG Housing Land Supply

¹⁷ Ms Tadman presented oral evidence to the Inquiry that following publication of the Framework in December 2023, the removal of the 'buffer' reduced supply to between 2.98-3.1 compared to 3.29 years supply

¹⁸ Ms Tadman in Chief

¹⁹ Mr Kendrick PoE

²⁰ Mr Kendrick PoE

²¹ Mr Kendrick PoE

walking distance of local shops and bus services affording access to the centre²².

87. For these reasons I accept that the appeal scheme would benefit the local economy in line with Paragraph 85 of the Framework which I accord significant weight.

Location

88. Despite the site's location outside a SUE and Yeovil's framework the Transport Assessment²³ identifies that it is sufficiently close to existing shops and other services allowing for the implementation of a travel plan included in the S106 Agreement. This could support access to shops and services by a range of modal choice. This would limit the generation of private transport consistent with Paragraph 109 of the Framework.

89. I accord this matter moderate weight.

Phosphate Mitigation

90. The proposed phosphate mitigation included would generate around 7.35kg surplus to that required for the appeal scheme. This 'credit' could support the development of additional housing which in turn could further address the Authority's chronic housing undersupply.
91. However, whilst there would be some value to the credit in how it may be used to partially overcome a local constraint on housing supply the critical matter is how the phosphate mitigation meets the tests included in Paragraph 57 of the Framework for this scheme. The fact that this exceeds what is necessary for the appeal scheme has value but not the degree to which the appellant accords it.

92. For this reason, I accord only moderate weight to this matter.

Biodiversity Net Gain (BNG)

93. The appeal site would through the suggested mitigation result in a BNG of around 24%. However, there is no requirement for this scheme to deliver a Biodiversity Net Gain of just 10% given the date of submission of the original application for planning permission. The fact that there would be an anticipated BNG as suggested by Paragraph 186d) of the Framework is noted as a benefit of the scheme to which I accord moderate weight.

Heritage Balance

94. The heritage assets include the listed buildings and structures around the appeal site that need consideration in the Heritage Balance.
95. I find that the appeal scheme would lead to less than substantial harm to the setting of Stone Farm and length of the 'Turnpike' as designated heritage assets. The harm would be less than substantial and lies within the low range of that scale of harm and accordingly, I find that the extent of harm would be overcome by the social, economic and environmental public benefits included in the appeal scheme. These include the provision of market and affordable

²² CD 4.3e

²³ CD4.3e

housing, job creation and increased spending power and improvements in biodiversity. in a location which could enable access to shops and services by a choice of transport modes.

Conditions

96. I have considered the suggested conditions in light of the related discussion at the Inquiry and the advice in both the Framework and the Government's Planning Practice Guidance. The conditions and wording set out in the schedule below reflect that discussion, although I have amended a number to make them more concise, precise and enforceable.
97. In addition to the standard conditions relating to outline schemes, it is necessary, in order to provide certainty, to identify the plans to which the decision relates, but only insofar as they relate to the matter of access (Conditions 1-4).
98. The parameter plan of the proposed scheme informed the evidence to the Inquiry. In order to ensure that the development would not give rise to environmental or other impacts any greater than those already assessed within the Environmental Statement and other evidence, a condition is necessary to secure compliance with those parameters (Condition 5).
99. Other conditions are imposed to ensure Highway Safety (6 and 7) in line with Policy TA5. I have deleted Condition 6, as originally drafted, as this is covered in Condition 7 as the installation of cycle parking can be addressed through the submission of details for each phase of development. I have imposed Condition 8 in respect of construction management activities to protect highway safety.
100. Given the environmental importance of Phosphate Mitigate (Condition 9), I have imposed a planning condition to ensure the delivery of the scheme of mitigation required to address the phosphates likely to arise from this scheme.
101. In order to protect the living conditions of surrounding properties I have imposed Condition 10 in respect of the requirements for a construction management plan to minimise the impact of construction activities.
102. In accordance with Paragraph 167 of the Framework, details of a sustainable surface water drainage scheme are required (Condition 11), together with details for its management. This is essential to ensure that the scheme continues to perform as intended, in order to avoid pollution and to prevent increased risk of flooding.
103. Given the potential archaeological interest of the site, further on-site evaluation is required, pursuant to Paragraph 200 of the Framework (Conditions 12 and 13). I have also imposed a Condition 14 in respect of the location of dwellings in relation to the cascading water features (REF: 190812 SK 007) given the potential for fly infestation derived from the location of the sewerage treatment works on the north western edge of the appeal site.
104. I have not imposed the suggested condition requiring the submission of a landscaping scheme, since landscaping is one of the reserved matters and any scheme would, by virtue of one of the other conditions, need to comply with a strategic landscape plan to be submitted.

Conclusions

105. Whilst I accord significant weight to the conflict between the most important policies and the appeal scheme the actual harms arising are limited in scale and extent. Furthermore, the scheme includes a range of benefits which outweigh the harms arising.
106. The Council's settlement strategy acknowledges the central importance of Yeovil. However, the landscape surrounding Yeovil includes a significant array of constraints²⁴ which include historic parks and gardens, flood risk areas and local wildlife sites which limit the potential for its growth as required by policy. The appeal scheme would allow development on land which has a moderate sensitivity to change and whilst its development would result in some adverse impacts these would be limited in extent.
107. There has been a chronic shortfall in housing land in recent years and the appeal scheme would increase the supply of both market and affordable housing.
108. Furthermore, despite the location of the site outside the urban framework of Yeovil it lies sufficiently close to shops and services to allow access by a range of transport modes. This moderates the degree of conflict which I find between the appeal scheme and the settlement policies.
109. The appeal scheme would lead to economic benefits through employment opportunities and increased spending power in shops and services. Other benefits include the increase in BNG and improvements to woodland.
110. In respect of the appeal scheme's transport impacts, a matter consistently raised by interested parties, I find that the Access Strategy would serve to mitigate concerns over existing highway safety issues through controlled and uncontrolled crossing points and additional footways. The Highway Authority had no objection to the scheme.
111. Whilst the site's development would result in the loss of BMV agricultural land the surrounding area includes large tracts of Grade 1 and 2 land. The economic arguments in favour of the site's retention are outweighed by the benefits arising from its development.
112. Paragraph 11d)ii of the Framework requires that where the most important policies are out of date that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the Framework when taken as a whole.
113. I conclude that the benefits of the appeal scheme would significantly and demonstrably outweigh the harm identified when assessed against the policies of the Development Plan, when taken as a whole. As such the proposed development benefits from the Framework's presumption in favour of sustainable development.
114. The appeal is allowed and planning permission is granted.

Stephen Wilkinson, INSPECTOR

²⁴ CD6.4 Slides for officer presentation on YV2

Schedule of Conditions

1. The development to which this permission relates must be begun not later than the expiration of two years from the date of approval of the last of the reserved matters to be approved.
2. Application(s) for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.
3. Approval of the details of the (a) layout (b) scale (c) appearance and (d) landscaping of the site (hereinafter called the reserved matters) shall be obtained from the Local Planning Authority before any development is commenced and the development shall be carried out as approved.
4. The development hereby permitted shall be carried out in accordance with the following approved plans:
Site Location Plan (Ref: 190812 L 01 02 A)
Access Plan (Ref: Ref: 23037/PHL/01 Rev E)
5. The reserved matters applications shall be in accordance with the approved parameter plan (ref: 190812 SK007 C) in respect of land use and building heights.
6. The proposed roads, including footways and turning spaces where applicable, shall be constructed in such a manner as to ensure that each dwelling, before it is occupied, shall be served by a properly consolidated and surfaced footway and carriageway to at least base course level between the dwelling and existing highway.
7. No development on the elements listed below shall commence until the following information has been submitted to and approved in writing by the Local Planning Authority. For this purpose, plans and sections, indicating as appropriate, the design, layout, levels, gradients, materials and method of construction shall be submitted to the Local Planning Authority:
 - a) estate roads
 - b) footways
 - c) tactile paving
 - d) cycleways
 - e) retaining walls
 - f) vehicle overhang margins
 - g) visibility splays
 - h) carriageway gradients
 - i) drive gradients
 - j) car, motorcycle and cycle parking
 - k) hard and soft structural landscape areas,
 - l) pedestrian and cycle routes and associated vehicular accesses and crossings,
 - m) all new junctions,
 - n) proposed levels
 - o) bus stops and lay-bys or alternative facilities,
 - p) highway drainage

- q) swept path analysis for a vehicle of 11.4m length
- r) central pedestrian reserves, bollards and lighting, and
- s) an estate street phasing and completion plan setting out the development phases and completion sequence by which the estate streets serving each phase of the development will be completed.

The development shall then be carried out in accordance with the approved details and the approved estate street phasing and completion plan.

8. No development shall commence, including any demolition works, until a construction management plan or construction method statement has been submitted to and approved in writing by the Local Planning Authority. The approved plan/statement shall be adhered to throughout the demolition/construction period. The plan/statement shall provide for:
- a) A construction programme including phasing of works;
 - b) 24 hour emergency contact number;
 - c) Hours of operation;
 - d) Expected number and type of vehicles accessing the site:
 - Deliveries, waste, cranes, equipment, plant, works, visitors;
 - Size of construction vehicles;
 - The use of a consolidation operation or scheme for the delivery of materials and goods;
 - Phasing of works;
 - e) Means by which a reduction in the number of movements and parking on nearby streets can be achieved (including measures taken to ensure satisfactory access and movement for existing occupiers of neighbouring properties during construction):
 - Programming;
 - Waste management;
 - Construction methodology;
 - Shared deliveries;
 - Car sharing;
 - Travel planning;
 - Local workforce;
 - Parking facilities for staff and visitors;
 - On-site facilities;
 - A scheme to encourage the use of public transport and cycling;
 - f) Routes for construction traffic, avoiding weight and size restrictions to reduce unsuitable traffic on residential roads;
 - g) Locations for loading/unloading, waiting/holding areas and means of communication for delivery vehicles if space is unavailable within or near the site;
 - h) Locations for storage of plant/waste/construction materials;
 - i) Arrangements for the turning of vehicles, to be within the site unless completely unavoidable;
 - j) Arrangements to receive abnormal loads or unusually large vehicles;
 - k) Swept paths showing access for the largest vehicles regularly accessing the site and measures to ensure adequate space is available;
 - l) Any necessary temporary traffic management measures;
 - m) Measures to protect vulnerable road users (cyclists and pedestrians);
 - n) Arrangements for temporary facilities for any bus stops or routes;
 - o) Method of preventing mud being carried onto the highway;

p) Methods of communicating the Construction Management Plan to staff, visitors and neighbouring residents and businesses.

9. Details of the proposed Constructed Treatment Wetland, as referenced in 'Technical Note 3 Rv3: Wetland Feasibility Assessment', 'Technical Note 4 Rv3: Wetland Framework Assessment' and 'Technical Note 1 Rv4: Nutrient Assessment' (Brookbanks, April 27th 2023) shall be provided with the first Reserved Matters Application, demonstrating the design effectiveness of the wetland in removing the required phosphorus budget to ensure the development achieves nutrient neutrality. The details submitted shall also include a programme of implementation. No development shall commence until these details have been approved in writing by the Local Planning Authority and implementation shall be in accordance with the details approved.

10. To prevent pollution during construction, no development shall commence until a scheme for the prevention of pollution has been submitted to and approved in writing by the Local Planning Authority. The scheme should include details of the following:

- a) Site security.
- b) Fuel oil storage, bunding, delivery and use.
- c) Method statement identifying how both minor and major spillage will be dealt with.
- d) Containment of silt/soil contaminated run-off.
- e) Disposal of contaminated drainage, including water pumped from excavations.
- f) Site induction for workforce highlighting pollution prevention and awareness.
- g) Measures should be taken to prevent the runoff of any contaminated drainage during the construction phase.

This needs an implementation clause

11. No development shall commence until a detailed surface water drainage scheme, based on sustainable drainage principles has been submitted to and approved in writing by the Local Planning Authority. The drainage strategy shall ensure that surface water run-off post development is attenuated on site and discharged at a rate and volume no greater than greenfield run-off rates and volumes. Such works shall be carried out in accordance with the approved details.

These details shall include: -

- a) Details of phasing (where appropriate).
- b) Information about the design storm period and intensity, discharge rates and volumes (both pre and post development), temporary storage facilities, means of access for maintenance (6 metres minimum), the methods employed to delay and control surface water discharged from the site, and the measures taken to prevent flooding and pollution of the receiving groundwater and/or surface waters.
- c) Any works required off site to ensure adequate discharge of surface water without causing flooding or pollution (which should include refurbishment of existing culverts and headwalls or removal of unused culverts where relevant).
- d) Flood water exceedance routes both on and off site, to require that no part of the site will flood during any storm up to and including the 1 in

30 event and that flooding during storm events in excess of this including the 1 in 100yr (plus 40% allowance for climate change) must be controlled within the designed exceedance routes demonstrated to prevent flooding or damage to properties.

12. Before the commencement of the development hereby permitted the applicant, or their agents or successors in title, shall have secured the implementation of a programme of archaeological work in accordance with a Written Scheme of Investigation (WSI) which has been submitted and approved in writing by the Local Planning Authority. The WSI shall include details of the archaeological excavation, the recording of heritage assets identified, the analysis of evidence recovered from the site and publication of the results. The development hereby permitted shall be carried out in accordance with the approved WSI.
13. No building works shall commence until the site archaeological investigation has been completed and post-excavation analysis has been initiated in accordance with the Written Scheme of Investigation approved under Condition 12 and financial provision made for analysis, dissemination of results and archive deposition has been secured.
14. No dwellings shall be located within 150m of any permanently wet pond feature located within the 'Wetland/ phosphate mitigation' area that is defined on the parameter plan (ref: 190812 SK 007).

END OF SCHEDULE

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr P Robson of Counsel

He called

Mr C Potterton CMLI

Ms R Tadman MRTPI

Director Potterton Associates Ltd

Director of Tadman Planning Consultants Ltd

FOR THE APPELLANT:

Mr S Choongh of Counsel

He called

Mr J Berry CMLI, AIEMA,

M.Arbor.A

Mr M Kendrick MRTPI

Director, Tyler Grange Group Ltd

Director, Grassroots Planning

INTERESTED PERSONS:

Ms D Newman

Local Resident

Inquiry Documents

ID1	Appellant's openings
ID2	Council's openings
ID3	Plan of allocations and permitted sites
ID4	Draft S106 Agreement
ID5	NCA Yeovil escarpment
ID6	Draft conditions
ID7	Note on phosphates with Appendix received 25 January 2024
ID8	Council closings
ID9	Appellant closings

Documents submitted after the Inquiry closed

Completed S106 Agreement