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# Appeal Decision

Inquiry held on 6 – 9 October and 23 October 2015

Site visits made on 5, 9 and 22 October 2015

**by Richard Schofield BA(Hons) MA MRTPI**

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

**Decision date: 30 November 2015**

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**Appeal Ref: APP/D0121/W/15/3004788**

**Land off Brinsea Road, Congresbury, North Somerset BS49 5EX**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by BDW Trading Ltd against the decision of North Somerset Council.
  - The application Ref 14/P/1901/O, dated 22 August 2014, was refused by notice dated 13 February 2015.
  - The development proposed is demolition of a farm building and development of up to 80 residential dwellings, informal recreational open space and children's play space, landscaping, sustainable urban drainage, vehicular access, pedestrian and cycle accesses and related infrastructure and engineering works.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. The application was made in outline only, with all matters reserved other than access. Even so, a number of parameter plans concerning density, dwelling heights (in relation to storey numbers), access and movement, and green infrastructure were submitted as a formal part of the application. I have determined the appeal on this basis.
3. Although it has undergone Examination and been adopted, a number of policies within the North Somerset Core Strategy (the Core Strategy) have been remitted, following legal judgment that policy CS13<sup>1</sup> was unlawful, and will be subject to further Examination. Of relevance to this appeal are remitted policies CS14 and CS32, which relate, respectively, to the overall residential development strategy for the district and to Service Villages, of which Congresbury is one. The judge, when considering these policies, was clear that they *'can still be afforded appropriate weight in any decision making'*.<sup>2</sup> It is not for me to determine whether these policies are 'sound' in the context of their role within the Core Strategy. It is, however, for the decision maker to attribute weight to them in the context of this appeal.
4. I acknowledge the Council's argument that both policies have, in theory, sufficient flexibility that they would not need to be altered in order to accommodate the increased Core Strategy housing requirement now agreed by the Council. I also acknowledge that neither policy has been found to be unlawful nor are they in obvious conflict with the aims of the National Planning

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<sup>1</sup> Setting out the scale of housing proposed for the District

<sup>2</sup> University of Bristol v North Somerset Council [2013] EWHC 231 (Admin) Approved Addendum Judgment

Policy Framework (the Framework). I am, nonetheless, mindful that they have not been through Examination in the context of the increased housing requirement and there may well be objections to them that have yet to be considered and which may result in changes to them. Consequently, bearing in mind the advice of paragraph 216 of the Framework, I afford them little weight at this time and have determined the appeal against adopted development plan policy and national policy and legislation.

5. In advance of the Inquiry, the Council confirmed that it would no longer be seeking to defend its third reason for refusal, relating to highway capacity and safety. Nonetheless, the Parish Council and local residents continued to express concerns in these regards in both written representations and at the Inquiry.

### **Main Issues**

6. The main issues are:

- the effect of the proposed development on the character and appearance of the area;
- whether, considering the requirements of local and national planning policy, the appeal site is an appropriate location for the development proposed, with regard to its accessibility to local services and facilities by means other than the private car;
- the effect of the proposed development on the living conditions of the occupiers of neighbouring dwellings, with regard to light, outlook and privacy;
- the effect of the proposed junction works associated with the appeal scheme on highway safety and efficiency; and
- the effect of the proposed highway works associated with the appeal scheme on various heritage assets, including the Congresbury Conservation Area and the grade II\* listed Congresbury Cross, which is also a scheduled ancient monument.

### **Housing Land Supply**

7. It is common ground between the main parties that the Council is unable to demonstrate a five-year supply of deliverable housing sites. On the basis of the evidence presented to me, for the purposes of this Inquiry I have no reason to disagree with this assessment of the district's housing land supply situation at this time.
8. The Council's decision notice references policy H/8 of the North Somerset Replacement Local Plan (the Local Plan), which seeks to constrain residential development outside the existing village boundaries as shown on the Local Plan Proposals Map. It is common ground between the main parties that the appeal site is beyond the existing confines of Congresbury and, thus, in the open countryside. Consequently, the appeal scheme would, on its face, conflict with the requirements of the adopted development plan in this regard.
9. However, where, as here, a local planning authority is unable to demonstrate a five-year supply of deliverable housing land, paragraph 49 of the Framework,

which is a significant material consideration, indicates that relevant policies for the supply of housing should not be considered up-to-date. Neither party disputed that policy H/8, in seeking to confine residential development within existing settlement envelopes, is relevant to the supply of housing. This being so I consider that it is out-of-date by reference to paragraph 49 of the Framework. This necessarily reduces the weight to be attributed to it and to its offence at the principle of residential development beyond the settlement confines of Congresbury.

10. This does not, however, lead to an automatic assumption that permission should be granted. Rather, paragraph 49 aims to ensure that in situations where the existing Local Plan policies have failed to secure a sufficient supply of deliverable housing sites, the 'presumption in favour of sustainable development' is duly applied. The mechanism for applying that presumption is set out in paragraph 14 of the Framework. This explains that where relevant policies are out-of-date then (unless material considerations indicate otherwise) permission should be granted, unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole, or specific policies in the Framework indicate development should be restricted. This, clearly, does not equate to a blanket approval for residential development in locations that would otherwise have conflicted with Local Plan policies. If the adverse impacts of the proposal (such as harm to the intrinsic character and beauty of the countryside) significantly and demonstrably outweigh the benefits, then planning permission should still be refused. This is the decision making process that I have followed below.

## **Reasons**

### *Character and Appearance*

11. Congresbury is large village that has grown from its historic core at the crossing of the River Yeo, along the route of the B3133 and, to a lesser extent, along the A370 as passes the village to the north. It has expanded both to the east and west of the B3133, and as far south along it as the east/west axis of Silver Street and Venus Street. There has never been any substantial development south beyond this axis, which, in effect, forms the natural boundary to the elevated village before the land falls away to the lower lying expanse of the North Somerset Levels (the Levels). Different phases of development are apparent, with a significant 'burst' of such between 1960 and 1975. Since this time, however, Congresbury has grown very slowly through a number of small residential developments.
12. The appeal site is a grazed pasture, containing a small stone barn, located to the south of Congresbury and immediately beyond its settlement boundary. It slopes down from north to south, with the lowest point in the southwest corner. A public right of way (PROW) runs through it from north to southwest. The rear gardens of dwellings on Silver Street and Silver Mead back onto the site to the north and are readily apparent when looking back towards the village from the PROW. There is also some limited awareness of passing traffic on the B3133, which runs past the site's eastern boundary.
13. There was some limited debate at the Inquiry as to precisely which landscape character areas, locally and nationally, the appeal site fell within. In practice it

- is not necessary to focus on the specific character types as the character of the site and its surroundings is clear from the site inspection.
14. To the south and west of the site is the open countryside of the Levels. This is characterised by, often irregularly shaped, low lying pastures defined by ditches, hedges and mature trees. There are some thin woodland belts and occasional farm buildings, the latter generally located on areas of higher ground. In terms of built development, a small enclave of dwellings and a farm are situated to the immediate southeast of the site, with the garden and side elevation of a converted historic barn extending a short way along its western boundary. There is a golf course some distance from the appeal site to the south, but this has little impact upon it.
  15. Some denser domestic planting aside, the site is bounded by low hedges on its eastern and southern flanks. Most of the western boundary is a gappy hedge with a few trees, while that to the north is largely open fencing to the rear gardens of extant dwellings. This situation means that from the site, notably when descending from its northern edge, one is afforded expansive views from the PROW across the Levels to the Mendip Hills on the horizon beyond. A similar outlook is afforded from the rear of dwellings on Silver Street and Silver Mead and, albeit in passing, from the B3133. Based on my own observations, and all that I have read and heard, it is apparent that this outlook and sense of perspective is uncommon from the village.
  16. The appellant has classified the site, for purposes of landscape character analysis, as lying within a 'Settled Rolling Valley Farmland' sub-type area, and attributes considerable weight to the alleged influence upon it of surrounding development. Indeed, this and the significance of adverse visual effects within and close to the site are the key points of difference between the main parties.
  17. In my judgment, although the site lies on the edge of the village, with dwellings along its northern boundary, it does not have any appreciable sense of being surrounded by development. Rather, it retains a pastoral character and appearance. It performs an important function as an area of, and allows for a tangible sense of, transition between the higher, rolling landscape on which Congresbury sits and the lower lying, increasingly flat, Levels. It forms an integral part of the sloping 'green apron', which is a distinctive feature of the village's southern setting, providing a strong settlement edge along the ridgeline, defined by the historic routes of Silver Street and Venus Street, and emphasising Congresbury's elevated position in the wider landscape.
  18. The village sign is positioned some distance to the south of the site, on the B3133, but this does not, in my view, have any bearing on the physical form of the settlement. The approach to the village from the sign is characterised by a loose knit ribbon of development between it and the main built form of the settlement. Indeed, given the elevated landform, the bulk of the village remains hidden from view on the approach and there is no real sense of 'arrival' in it until one has passed the appeal site and the Silver Street/Venus Street axis.
  19. The appeal site is not protected by any formal landscape or other designations. Even so, in my judgment, the proposed development would have a significant adverse effect upon it. It would not be a natural extension of the village into a site surrounded by development, but the overspill of a substantial block of built development down from the ridgeline into the open countryside. This would

fundamentally undermine the gradual transition from an area of low lying open land to one of an elevated settlement.

20. It was agreed<sup>3</sup> that the effect on landscape character in its widest context would be of minor significance. Significant adverse impacts in terms of the visibility of development, which are acknowledged by the appellant, would be limited to the site itself and to the immediate area. This would not, in my judgment, lessen their importance and, given the gently rolling topography of the immediate area, the most significant views of the site are from close quarters. In addition, users of the PROW would find the expansive outlook over the Levels, on moving through the site from the north, significantly restricted and, on approaching it from the southwest, would lose any sense of height gain and the effect of the, long maintained, east/west ridgeline.
21. Given the maximum dwelling heights and densities proposed, which contrast very significantly with those of the predominant form of development in the immediate vicinity, those longer distance views of the site that are available from the B3133, Brinsea Batch and the east/west bridleway to the south of the site would be of continuous roofscapes. It was acknowledged<sup>4</sup> that this would remain the case even with additional tree planting along the western and southern boundaries (which would, in any case, take a substantial amount of time to mature). Nor was it disputed that the density proposed would afford limited opportunity for landscaping between houses to break up the mass of development. This situation would negate any understanding of the changes in landform in this area, even if the ridges of the roofs of the Silver Mead houses were just visible above the new dwellings, and the sense of a defined ridgeline boundary to the village.
22. The development would also join the main body of the village to the outlying dwellings on the B3133, creating a continuous ribbon of development along this route. This would further adversely affect what is currently a gradual transition from a more dispersed rural settlement pattern to the denser grain of development within Congresbury itself. The loss of a substantial section of hedgerow to facilitate the access and the proposed footway would further exacerbate this impact.
23. It was suggested that the appeal scheme would improve what is currently an 'unresolved edge' to the village. However, there is not in my judgement anything inherently wrong with the extant edge such that its 'resolution' is required. Nor am I persuaded that an opportunity to create a 'resolved edge' to this part of Congresbury is a sufficiently robust justification for a development of 80 dwellings in such a sensitive location, especially where that 'resolved edge' is in any case necessary to screen the development proposed.
24. Even so, I agree that the current, largely exposed, rear elevations of the dwellings along Silver Street and Silver Mead do not provide a 'soft' edge. Nonetheless, their impact is limited as they are predominantly single storey, well-spaced and sit tight to the ridge line, which itself provides a firm settlement boundary. The houses on Silver Mead are more prominent, due to their height and colour, but they are clearly incongruous in the wider context of the immediate area rather than a benchmark for future development. It is also notable that they are on the site of former farm buildings, which themselves

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<sup>3</sup> Mr Carlton cross-examination

<sup>4</sup> Mr Smith's reply to the Inspector's questions

- appear to have been higher than a single storey dwelling<sup>5</sup>, rather than open pasture.
25. It was further suggested that the proposed density of development and height of dwellings was appropriate when considered in relation to that of the character and appearance of the rest of the village, with my attention being drawn to a development in progress on Mill Street.
26. While there are pockets of development that are of comparable density to that proposed, the dominant pattern is one of low density development to a maximum height of two storeys. In addition, the character of the immediate area around the site is of very low density development with a predominance of single storey dwellings. The parameters of the appeal scheme draw little, if any, reference from these characteristics. The appellant sought to argue that a lower density scheme on the site would result in poorer site design and layout. No evidence was presented to substantiate this assertion, however, and I do not consider that there is any reason why this should be the case.
27. Reference was made by the appellant to Planning Policy Guidance note 3, which set density targets of 30 to 50 dwellings per hectare. However, this note was superseded some years ago. Core Strategy policy CS14 sets a net density target of 40 dwellings per hectare. Notwithstanding the little weight that I afford this policy, this is just a target. The policy is also clear that lower densities may be appropriate in sensitive locations.
28. The Mill Street development is of a higher density, but the site is brownfield and considerably closer to the centre of the village where higher densities are typically located. As such, I do not consider it to be comparable to the appeal site.
29. Two other sites being promoted for residential development on the edge of the village were brought to my attention. It was asserted that development on them would have at least equal impact, in landscape terms, to the appeal scheme. This may be so, but it is not for me to come to a view on a 'beauty parade' of sites. It is, rather, to reach a decision on the individual merits of the scheme before me.
30. Development of greenfield sites on the edge of settlements will always result in change and such change will not always equate to harm. I do not, however, consider this to be the case here. Given the appeal site's role and function, as considered above, I conclude that the proposed development would have an adverse impact upon the character and appearance of the area. It would conflict, therefore, with Core Strategy policies CS5 and CS12, and Local Plan policy GDP/3, which seek, among other things, to ensure that new development protects and enhances the character and distinctiveness of the area, considers the existing context of the site and its surroundings and demonstrates sensitivity to the existing local character, enhancing the sense of place and local identity.

#### *Whether an Appropriate Location*

31. Congresbury is defined as a Service Village in remitted policy CS32 of the emerging Core Strategy. The supporting text to this policy defines Service Villages as having at least a village shop, post office, primary school, GP

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<sup>5</sup> Docs 41 and 46

- surgery, community hall and pub. They are regarded as providing a service role function beyond their immediate locality and normally serve the population of one to three parishes. The Council agreed<sup>6</sup> that the settlement was broadly sustainable with a good range of everyday facilities.
32. I have given little weight to policy CS32 and it is a matter for the further Core Strategy hearings to determine the degree to which Congresbury is sustainable as a location for future growth. However, based on all that I have seen, read and heard I consider that it does have a good range of everyday services and facilities. The issue in dispute is the degree to which these services and facilities may be regarded as readily accessible from the appeal site by means other than the private car.
33. At present, the appeal site is connected to the rest of the village solely by a footpath running between 25 and 27 Silver Street. This footpath is very narrow, contained by tall close boarded fencing for much of its length, unlit, muddy and obstructed by protruding concrete fence posts.
34. The appellant<sup>7</sup> characterised this footpath as one of the main connections and an asset to the site. However, although it may be a serviceable route for walkers seeking to access the wider public right of way network, I do not consider it to be an attractive or high quality connection to the village. Although a harder wearing surface could be put down, it is far from clear how the other, very significant, shortcomings could be remedied. No firm proposals or solutions were advanced at the Inquiry. Thus, the path would be unusable to those encumbered with bags, pushing buggies or using walkers or mobility scooters. Its lack of lighting and overlooking would make it highly unappealing at night.
35. The appellant is proposing to provide a footway connection from the site access on the B3133 as far as Silver Street, where one could join the established footway along the B3133 or those through the residential streets. The B3133 through Congresbury is a relatively busy road. On my site visits, during which I walked along the B3133 through the village a number of times, in both wet and dry conditions, I observed constant traffic on each occasion, with HGVs, tipper trucks, coaches and tractors with large trailers passing regularly. The flashing 30mph warning sign just to the south of Silver Street was set off by several vehicles and it was not disputed that vehicles regularly and frequently travel along this stretch at above its legal speed limit.
36. The footways along this road are narrow in many places with, often large, vehicles passing in very close proximity. A telegraph pole obstructs the western footway part way along its length, preventing its use by those with buggies or using mobility scooters. I also noted other obstructions in the form of refuse bins and parked vehicles. I do not consider that it would be an appealing or reasonable expectation for users to have to step into the road and go around such obstructions, or to cross the road altogether to avoid them and then cross back again so as to be on the correct side of the road for the local services.
37. In short, it is not an attractive walking route and would be even less so in inclement weather when spray from passing vehicles, even if slowed by the

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<sup>6</sup> Mr Reep in cross examination.

<sup>7</sup> Mr Parker in cross examination.

extension of the 30mph speed limit, would be an added disincentive to its use. Cycling is a potential option on this route but, in my judgment, the numbers taking up this option, particularly in relation to school access, are likely to be limited given the nature of the vehicles moving along the route. Indeed, although I do not regard it as definitive evidence, I did not see any cyclists on this road during my visits to the village.

38. The alternative would be to exit the site from the main access, which would add time to any journey for residents at the western side of the site, take the new footway to Silver Street and then work one's way through the existing residential streets to the local shopping centre and/or onwards to the school, pharmacy, library and doctors. Aside from the initial stretch to Silver Street, this is a quieter route than that along the B3133. It is, however, a remarkably convoluted and indirect route, with Stonewall Lane (by which the nearest shops would be accessed) being narrow and lacking pavements.
39. To reach the facilities at the northern end of the village would require crossing the recreation ground and, to reach the school, the church yard. The recreation ground is unlit, with access from it to Paul's Causeway, which lacks pavements for much of its length, via a metal 'kissing' gate (the main gate being padlocked). It would, therefore, be inaccessible by those on bikes or mobility scooters and with buggies and be unappealing at night. Although the churchyard has some intermittent lighting, again I am not persuaded that it would be a route that would inspire confidence in users at night. Thus, overall, although this route may be used for walking by some residents, in qualitative terms I do not consider it to be especially appealing or universally acceptable.
40. Given that these streets are quieter than the B3133, cycling is likely to prove a more attractive option, although the same caveats apply as to walking. In addition, cyclists would still need to interrupt their journey by dismounting when using the PROW and travelling through the churchyard.
41. The appellant proposes to provide, as part of the highways works around the site access, two new bus stops on the B3133 a short distance from the site. However, the service that would use them has ceased to operate and there is no evidence before me that it is to be reinstated. Thus, I can give this proposal very little weight.
42. With the exception of the Brinsea Road shops and nearest bus stop, walking routes from the appeal site to local services and facilities are around the preferred maximum tolerances<sup>8</sup>, rather than the desirable or acceptable distances, set out in the Chartered Institute of Highways and Transport publication *Providing for Journeys on Foot*. With the above exceptions, all are beyond *Manual for Streets'* recommended 800m (although it is explicit that this is not an upper limit). However, any consideration of the 'ready accessibility' of services and facilities must also include the quality of the routes to them. Indeed, the same guidance is clear that the acceptability of walking distances will vary between individuals and circumstances.
43. In my judgment, for the reasons given above, I do not consider that the potential options would be particularly appealing or attractive. Given the site's peripheral location, this is a significant shortcoming and I share the views of the Council and local residents that private car journeys are likely to be the

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<sup>8</sup> Mr White Proof



predominant means of accessing local services and facilities. I conclude, therefore, that local services and facilities are not readily accessible from the site by means other than the private car. The Council's decision notice cites a number of policies. However, these appear to relate, chiefly, to the strategic location of development rather than its proximity to services and facilities *per se*. Nonetheless, the scheme would still conflict with aspects of the Framework, which I address below.

44. The appellant alleges that the proposal would accord with bullet one of paragraph 32 of the Framework. This advises that plans and decisions should take account of whether the opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure. This may be so, but paragraph 32 also advises that such decisions should take account of whether safe and suitable access to the site can be achieved for all people and paragraph 34 advises that plans and decisions should ensure that developments that generate significant movement are located where the need to travel will be minimised and the use of sustainable transport modes can be maximised. The appeal scheme would conflict with these requirements.
45. The Framework also notes in this respect that account needs to be taken of policies elsewhere within it, particularly in rural areas. In this regard, the Framework is clear that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities<sup>9</sup>. I address this with regard to Social Benefits below.
46. The Framework goes on to state<sup>10</sup> that developments should be located and designed where practical to give priority to pedestrian and cycle movements and have access to high quality public transport facilities. The development proposed by the appeal scheme would also conflict with the Framework in this regard.

### *Living Conditions*

47. With some notable exceptions, the majority of the dwellings on Silver Street and those on the western end of Silver Mead, have an expansive outlook from their rear elevations and gardens over the site, the countryside beyond and on to the Mendip hills in the distance.
48. The proposal is in outline with matters other than access reserved for later determination. Nonetheless, the parameter plans provided give a strong indication of how the site would be laid out. In addition, the illustrative drawings have changed little from the initial consultation phases and were referred to by both parties when discussing the site. Development on the appeal site would also be constrained by the need to keep buildings away from the high flood risk area in the southwestern corner of the site and by the location of the public open space, play area and attenuation pond.
49. Given the proposed density and these constraints, which limit the ways in which 80 dwellings could be laid out, it is difficult to see how the proposed development could be planned so as not to result in a significant adverse change in outlook from the neighbouring dwellings, from an open field and trees to a dense residential estate. Impacts upon numbers 23 and 25 Silver

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<sup>9</sup> Paragraph 55

<sup>10</sup> Paragraph 35

Street, and 2 Silver Mead would be particularly severe, given the currently wide open outlook through the post and rail or wire fences on their boundaries and their extremely close proximity to the appeal site. New development would appear overbearing and oppressive upon their outlook.

50. The same is true in relation to privacy. A number of properties have planting of varying degrees of density to their boundaries with the appeal site, and would be largely unaffected with regard to overlooking. It is difficult to see, however, how the privacy of the properties mentioned above, as well as that of The Barn, which sits very tight to the site's western boundary, could be secured in such a way as to not, in turn, further compound the adverse impact upon outlook and result in adverse impacts in relation to light.
51. With regard to light, due to the orientation of the site, with the sun moving around it to the south and lighting the rear of existing development on Silver Street during much of the day, loss of sunlight and/or daylight to those properties closest to the boundary is, in my judgment, highly likely. Indeed, I note that both 23 and 25 have rear conservatories, which would suffer given the likely height and proximity of new development.
52. I conclude, therefore, that the appeal proposal would have an adverse impact upon the living conditions of the occupiers of neighbouring dwellings with regard to light, outlook and privacy. It would conflict with paragraph 17 of the Framework, which seeks, among other things, to ensure that planning always seeks to secure a good standard of amenity for all existing and future occupants of land and buildings.

#### *Highway Safety and Efficiency*

53. It is common ground between the main parties that in order to mitigate the impact of additional traffic from the proposed development, works are required to the A370/B3133 junction at the north of the village. It is not disputed that this junction suffers from congestion issues at certain times of the day and that traffic queues may ebb and flow, with knock on effects upon the B3133/A370 'Smallway' junction further north.
54. It is also common ground between the main parties that the works as agreed between them would be safe for pedestrians and vehicles and would successfully mitigate any adverse effects of increased traffic that would be generated by the proposed development. This is not agreed by local residents and Congresbury Parish Council.
55. The proposed works would, in short, entail the widening of the B3133 and the western arm of the A370 to facilitate an independently operating left turn lane, and the advancing of the stop lines on the A370 arms. This work, in turn, requires the installation of new pedestrian crossing arrangements, distinguished by the insertion of two islands at the mouth of the B3133.
56. I heard cogent argument from Dr Robin Jeacocke<sup>11</sup> about the shortcomings of the LinSig software (notably with regards to its ability to model MOVA<sup>12</sup> controlled junctions), which has been used by the appellant to model the operation of the junction, with and without the proposed changes. I am not

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<sup>11</sup> Local resident

<sup>12</sup> Microprocessor Optimised Vehicle Actuation

- unreceptive to this argument, which was based upon a thoughtful and well-considered assessment of the data available.
57. However, LinSig is, whatever its accepted shortcomings, an acknowledged 'industry standard' tool that is widely used. While Dr Jeacocke's expertise with data analysis is not disputed, he is not a highways engineer and readily acknowledged his lack of familiarity with the software used by such professionals. I have no reason to doubt the evidence of Mr White<sup>13</sup> that LinSig provides a very good approximation of reality and that he has never found its modelled outputs to be significantly deficient in reality. I am also mindful that no alternative modelling solution, beyond the creation of bespoke assessment tools for every new highway proposal, was put to me. While it may be that, as Dr Jeacocke asserts, Transport for London is in a position to do just this, it is not the case here.
58. I was also presented with traffic count data, which differed from that collected by the appellant. This included data from an Automatic Traffic Counter, installed on High Street/Brinsea Road by the Council. However, variations in data are to be expected and results will be dependent upon a range of factors. It is also reasonable to consider that the Council was aware of its own data when assessing the application and saw no conflict with it.
59. It would, clearly, be beneficial if more empirical data were collected that could be fed into the modelling process. However, this cannot be an open ended process and a professional judgment must be made about when sufficient data has been secured. On the basis of the evidence that I have read and heard, I am not persuaded that there is any fundamental deficiency in terms of the accuracy of that which has been collected, even though it is only representative of a single day.
60. This being so, based upon the modelling undertaken and the agreement of three experienced and suitably qualified highway engineers<sup>14</sup> that the LinSig outputs are satisfactory, I consider, on balance, that the evidence supports the judgment that the proposed works would mitigate the impacts of any additional traffic.
61. This is not to say that the junction will not continue to suffer from the effects of traffic congestion. Indeed, it was suggested that more fundamental improvements are needed to resolve these matters. It is not, however, for the appeal scheme alone to deliver a wholesale improvement to the A370 and its junctions, but for the appellant to satisfy the highway authority that the proposed works would ensure that the increased traffic arising from the appeal proposal could be accommodated on the network.
62. Turning to the issue of highway safety, local residents expressed very real concerns about the proposed crossing arrangements. These focussed on their potential complexity, on the capacity of the pedestrian islands and on the potential proximity of passing vehicles, notably HGVs, to the islands.
63. It was clear from photographic evidence provided and from my own observations that the existing crossing facilities are used by not insignificant groups of pedestrians, notably in the morning and early afternoon at school

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<sup>13</sup> Mr White evidence in chief

<sup>14</sup> Mr White for the appellant and Ms Sandy and Mr Davis for the Council.

- drop off and pick up times. Such groups may include children on bikes or scooters, pedestrians with dogs and parents pushing prams.
64. The proposed islands would introduce an additional step into the crossing process and there would be different traffic light phasing at different times of the day. However, the crossing would still operate on the same principle as the existing one (i.e. wait to cross until the 'green man' is lit) and I am not persuaded that it would be so unusual or unfamiliar that it would lead to confusion and, thus, untimely crossings.
65. The appellant accepted that there could be times, if large numbers of people were trying to cross, when the islands could be full of waiting pedestrians. This is, clearly, not an ideal situation and it is not unreasonable to consider that some people may find it intimidating having to wait on an island while large vehicles are passing. It was also suggested that lane widths between islands would be inappropriately narrow, failing to conform to current standards.
66. However, although the proposal may not be ideal, insofar as perceptions of safety could be concerned by those on the islands, this is not the same thing as the crossing actually being unsafe. No technical evidence was presented to demonstrate that the islands would be unable to accommodate the likely pedestrian flows. In addition, the lane width standards cited by the Parish Council<sup>15</sup> have been superseded by more recent requirements<sup>16</sup>, with which the works would conform. The swept path analyses undertaken by the appellant clearly demonstrate that there is sufficient space for large vehicles to negotiate the revised junction without interfering with the islands or footways. No alternative technical modelling was presented to demonstrate otherwise.
67. In addition to the considerations above, the proposed works have been subject to two independent Stage 1 Road Safety Audits, the recommendations of which have been addressed. It may be that minor modifications would be required to the proposed works at detailed design stage. However, on the basis of the evidence before me I have no reason to consider that such modifications could not be accommodated within the parameters established by the initial designs.
68. I conclude, therefore, that the proposed junction works associated with the appeal scheme would not have an adverse effect on highway safety and efficiency. They would not conflict with Local Plan policy T/10, which seeks, among other things, to ensure that new development does not prejudice highway safety or lead to an unacceptable degree of traffic congestion.

### *Heritage Assets*

69. The works to the A370/B3133 junction at the north of the village, considered above, would take place within, and on the edge of, the Congresbury Conservation Area (the Conservation Area). They would also be within the setting of the Grade II listed Ship & Castle Inn (the Inn) and the Congresbury Cross (the Cross), a Grade II\* listed structure and a Scheduled Monument. No other heritage assets that could be regarded as being harmed by the proposed highway works were brought to my attention.
70. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 is clear that in considering whether to grant planning permission for

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<sup>15</sup> Local Transport Note 2/95

<sup>16</sup> Design Manual for Roads and Bridges 2004

development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State 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. It goes on to note at section 72(1) that with respect to any buildings or other land in a conservation area special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

71. It is evident from what I heard, saw and have read that the special interest of the Cross derives in part from its setting. It would have been an historic focal point for market and fair activity in the wider space around it, and the list description states that it *'forms an important visual element at the head of Broad Street opposite the Ship and Castle Inn'*. Although the special interest of the latter derives mainly from its historic form and materials, its list description notes that it forms a group with the village cross.
72. The two listed assets were not constructed at the same time, but it is reasonable to consider that it is more than coincidental that an inn became situated opposite an historic village cross on the edge of what would have been a market place. As such, a degree of the Inn's significance can also be considered to derive from its immediate setting. The setting of both assets, insofar as it is relevant to the appeal proposal, is largely the junction of High Street, Broad Street and the A370.
73. The Conservation Area covers much of the northern part of the village, which is its historic core. It is characterised by the grouping of key historic village buildings, such as the church, the Cross and pubs (including the Inn). Although Broad Street and Paul's Causeway are relatively quiet, densely developed streets, larger dwellings on more spacious plots are found along the busier High Street. There are some modern interventions, but buildings are typically historic, two-storey houses set close to the road. The junction of High Street with the A370 dominates the immediate setting of, and entrance to, the Conservation Area at this point, but otherwise the area is low key in appearance insofar as general public realm 'clutter' is concerned.
74. Thus, the A370/Broad Street/High Street junction is common to the significance, character and appearance of all three relevant heritage assets. This junction is busy, with a considerable amount of traffic passing through it especially at peak times. It features prominent and extensive carriageway markings, a number of traffic lights and their control box, street lighting, pedestrian crossing poles, sizeable directional signage and a sweep of chevron signs around the Memorial Garden.
75. Although the junction may not be completely 'urban' in appearance, the presence of these features removes any sense of complete rurality at this point. Their impact upon the Conservation Area and the setting of the listed buildings is far from benign, having introduced highways paraphernalia into an otherwise largely 'clutter' free area. This has inevitably detracted from the character and appearance of the Conservation Area and, in my judgment, impacted adversely upon the setting of the listed buildings.
76. The proposed works would introduce two pedestrian islands across the mouth of High Street and result in the loss of part of the Memorial Garden. This would widen the junction, with the loss of some green space, and introduce structures more suited to a completely urban setting (albeit that materials could be

chosen to be as sympathetic as possible). However, the proposals would also result in the repositioning of some directional signage and the loss of the intrusive chevron signs. The space around the Cross would not be reduced and it would still function as a focal point. Indeed, the widening of the junction would, arguably, increase the Cross's prominence in views from the A370 when heading north.

77. Concerns were also raised about the increased risk of damage by vehicles to the Cross as a result of the proposed works. I am mindful of representation from Historic England, which does not otherwise object to the proposed works, in this regard. However, the proposed works would not alter the width of the carriageway in the immediate vicinity of the Cross. Nor was any technical evidence presented to demonstrate that vehicles would have any greater difficulty passing the Cross than at present.
78. An increase in the number of vehicles passing the Cross, as a result of the appeal scheme, may give rise to an increased risk of damage to it. I was not, however, presented with any substantive evidence to suggest that Historic England's request for bollards to be positioned at the corner of the Cross's steps, to protect it, could not be accommodated. Indeed, given the angle of the Cross's steps and the juxtaposition of the Cross with the roadway, I see no reason why this could not be achieved.
79. Thus, given the existing condition of the Conservation Area at this point and its impact upon the setting of the listed buildings, I do not consider that, on balance, the proposed highways works could be said to have any greater adverse effects. I conclude, therefore, that the proposed highway works associated with the appeal scheme would preserve the character and appearance of the Congresbury Conservation Area and preserve the setting and special historic interest of the Congresbury Cross and the Ship & Castle Inn.

### **Other Matters**

80. It was common ground that, due to the increase in the overall housing target for the District, the Service Villages would be required to take an increased amount of housing. The appellant was of the view that it was inevitable, due to Green Belt and Area of Outstanding Natural Beauty constraints around three of the other Service Villages, that Congresbury would have to take a sizeable number of housing allocations. It was further suggested that substantial residential developments in Congresbury, of the scale proposed, would be appropriate in relation to past trends in the village, demographic projections and its relative position in the Service Village and wider settlement hierarchy.
81. There was not, however, any compelling evidence before me to suggest that the appeal site will be required to deliver the overall housing requirement over the plan period. Nor is it for me to reach a view on how future housing should be distributed or appropriate village specific figures arrived at. Such matters are for the Local Plan examination.
82. A considerable number of other appeal decisions were provided by the appellant. Of these, however, few were brought specifically to my attention and those that were related to matters of housing land supply, settlement boundaries and the weight to be given to the draft Sites and Allocations DPD (SADPD) and emerging Neighbourhood Plans. Given that it became common

ground that the Council could not demonstrate a five-year supply of deliverable housing sites, and it was common ground that the SADPD and emerging Congresbury Neighbourhood Plan carried little weight, these decisions do not weigh in favour of the appeal scheme.

83. Mr Derek Wraight and Mrs Elizabeth Greaves made representations to the effect that their rights under Article 8 and Article 1 of the First Protocol of the European Convention on Human Rights would be violated if the appeal were allowed. As I am dismissing the appeal, however, there is no need for me to address the question of whether the proposal would result in a violation.

## **Conclusion**

84. I have found that the proposal would cause harm to the character and appearance of the area; would have an adverse impact upon the living conditions of neighbouring residents; and, considering the requirements of local and national planning policy, that the appeal site is not an appropriate location for the development proposed, with regard to its accessibility to local services and facilities from the site by means other than the private car. I give significant weight to these harms. Although I have found that the associated junction works would be acceptable with regard to highway safety and efficiency and effect upon heritage assets, I do not consider that these factors of themselves outweigh the harms that I have found.
85. Nonetheless, the appellant has stated that the appeal scheme would provide a number of benefits and I weigh these in the planning balance, taking account of the three strands of sustainable development as set out in the Framework.
86. In terms of social benefits, the scheme would deliver additional housing, both market and affordable (secured by planning obligation), in line with the Framework's<sup>17</sup> aim, and Government policy, of significantly boosting the supply of such. Having regard to the undisputed shortfall in housing supply and the need for affordable housing in the District, as well as the likelihood of the scheme being built out quickly, I give this benefit substantial weight.
87. As noted above, paragraph 55 of the Framework promotes sustainable development in rural areas by seeking to locate housing where it will enhance or maintain the vitality of rural communities. The appellant suggested that Congresbury's demographic was of an aging population and that the appeal scheme would help sustain local services and facilities, notably the village school, thus ensuring Congresbury's vitality. However, there was no substantive evidence before me to indicate that Congresbury was anything other than a thriving community or that the school was in imminent danger of closing without the appeal scheme. Consequently, I give this factor little weight.
88. The main parties agree that the proposed junction works would mean that the junction would operate more efficiently over a longer period than would be the case without them, which would benefit existing local residents. This, however, is incidental to the primary purpose of the scheme, which is required to mitigate the effects of the appeal proposal on the highway network. As such, the scheme is a necessity rather than a benefit and I give this little weight.

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<sup>17</sup> Paragraph 47

89. Turning to the economic dimension of sustainability, the Government has made clear its view that house building plays an important role in promoting economic growth. In economic terms, the appeal scheme would provide construction jobs and some local investment during its build out. Albeit that these jobs and investment would be transitory, this a matter to which I afford moderate weight.
90. The development would also generate New Homes Bonus (NHB) and Council Tax receipts for the Council. However, as the NHB is an incentive for local planning authorities to provide housing on suitable sites, and no direct beneficial link between the spend of the NHB or Council Tax and Congresbury has been established, I do not consider that this factor attracts weight as a benefit in the planning balance.
91. The appellant also asserted that the appeal scheme would result in increased spend in the local economy by new residents. This may be so, but this was not quantified for Congresbury. There was no evidence that such spend would have a significant benefit for the village itself or, indeed, that it was required in order to sustain the shops and services that currently exist there. Thus, I give this matter little weight.
92. It was also asserted that the scheme would provide sizeable S106 contributions. However, these would be necessary to address mitigation requirements and, as such, cannot be considered to be benefits.
93. In environmental terms, it was suggested that the appeal scheme would be built using the latest technology and build techniques. However, there was no suggestion that this went above and beyond what is required or expected of any modern residential development and attracts little weight.
94. It is further suggested that the appeal proposal presents the potential to enhance the natural environment by creating new habitats and improving biodiversity. Albeit that no specific proposals are before me, this is of moderate weight.
95. The site's lack of formal landscape designation, and the extent of such elsewhere in the district, was cited as a benefit and I have addressed this in my considerations above.
96. It was suggested that the site would mitigate flood risk. This, however, is an expectation of any new residential development, rather than a benefit.
97. Placing these factors and all of the relevant material considerations in the balance, I find that the adverse impacts of the proposed development would significantly and demonstrably outweigh the benefits. In the circumstances I conclude that the proposal would not represent a sustainable form of development. Thus, for the reasons given above, and taking all other matters into consideration, I conclude that the appeal should be dismissed.

*Richard Schofield*

INSPECTOR



## **APPEARANCES**

### FOR THE LOCAL PLANNING AUTHORITY:

Mr Timothy Leader of Counsel

Instructed by North Somerset Council

He called:

Mr David Tate  
Mr Kevin Carlton  
Mr Michael Reep

North Somerset Council  
North Somerset Council  
North Somerset Council

### FOR THE APPELLANT:

Mr Sasha White of Queen's Counsel

Instructed by Nathaniel Lichfield & Partners

He called:

Mr Kevin Parker  
Mr Jeremy Smith  
Mr Richard White  
Mr Gareth Williams

Barton Willmore  
SLR Consulting  
White Young Green  
Nathaniel Lichfield & Partners

### FOR CONGRESBURY PARISH COUNCIL:

Mr David Fletcher of Counsel

Instructed by Congresbury Parish Council

He called:

Mr Vince Russett  
Mrs Mary Short

Local resident and archaeologist  
Chair, Congresbury Residents Action Group

Mr Nicholas Green  
Mrs Diana Hassan

Congresbury Residents Action Group  
Chair, Congresbury Parish Council

### INTERESTED PARTIES:

Cllr Tom Leimdorfer  
Mr Robin Lea  
Mrs Catherine Kemplay  
Mrs Anita Tonks  
Mr Peter Wright  
Mr Geoff Pearson  
Mr Derek Ivory  
Mrs Judy Ashley  
Mr Del Wraight  
Mr Michael Greaves  
Mr Robert Gough  
Dr Moya Wilson

Mrs Vivienne Tomkinson  
Mr Terry Holden  
Mrs Alex Ballard  
Mrs Susan Hibberd  
Mrs Louise Reynolds  
Mrs Rachel Burford  
Mrs Michelle Walker  
Mrs Marlene Green  
Captain Robert Bigwood  
Mrs Elizabeth English  
Mr Steve Eastment  
Mrs Gail Lee  
Mr Peter Tonks  
Mrs Ruth Gilbertson  
Mr Clive Peacock  
Mr Peter Hughes  
Mr Peter Tonks  
Dr Robin Jeacocke  
Mrs Carol Wraight  
Mr Kenneth Richardson  
Mr David Anderson  
Mr Keith James

## **DOCUMENTS SUBMITTED DURING THE INQUIRY**

1. Revised Condition 4 submitted by the appellant
2. Statement bundle from Parish Council
3. Bundle from LPA containing:
  - Historical Map of Congresbury 1931
  - Location plan of new character areas
  - Location plan of David Tate photographs
  - Congresbury inset map
  - Village Cross List entry summary
  - Mill Lane sales details
  - S106 justification
  - Location plan of Kevin Carlton photographs
  - Population and settlement categories note
  - Self-containment note
  - Congresbury housing needs analysis (October 2015)
4. Appellant's Opening Submissions
5. LPA's Opening Submissions
6. Mr Robin Lea Statement
7. Mrs Catherine Kemplay Statement
8. Mrs Anita Tonks Statement
9. Mr Peter Wright Statement
10. Mr Geoff Pearson Statement
11. Mr Derek Ivory Statement
12. Mrs Judy Ashley Statement
13. Draft S106 Agreement and Summary
14. Dr Robin Jeacocke Statement
15. Extracts from North Somerset Council Housing and Economic Land Availability Assessment
16. North Somerset Council Internal Memo from Highways to Planning (27 January 2015)
17. Mr Del Wraight Statement
18. Mr Michael Greaves Statement
19. Mr Robert Gough Statement
20. Dr Moya Wilson Statement
21. Mrs Vivienne Tomkinson Statement
22. Mr Terry Holden Statement
23. Mrs Alex Ballard Statement
24. Mrs Susan Hibberd Statement
25. Mr Jon Powell Statement
26. NLP Briefing Note and email from Natural England regarding bats (both dated 7 October 2015)
27. Planning Committee Report for site on Mill Lane, Congresbury 12/P/0368/F
28. Mrs Louise Reynolds Statement
29. Mrs Rachel Burford Statement
30. Mrs Michelle Walker Statement
31. Mrs Marlene Green Statement
32. Captain Robert Bigwood Statement
33. Mrs Elizabeth English Statement
34. Mr Steve Eastment Statement
35. Mrs Gail Lee Statement

36. Mr Peter Tonks Statement
37. Mrs Ruth Gilberson Statement
38. Ship & Castle Inn List entry Description
39. S106 Additional Information (7 October 2015)
40. Mr Clive Peacock Statement
41. Photographs of the former barns now the site of Silver Mead
42. Mr Peter Hughes Statement
43. 2011 Census Profile for Congresbury
44. East Northants DC v SoSCLG [2014] EWCA Civ 137
45. S106 Additional Information on Costings (9 October 2015)
46. Historic aerial photographs of the site that is now Silver Mead
47. Email communications between Mr Howard Davies (2, 5, 6 February 2015 and 22 May 2015), highways consultant for the Council, Council officers and the appellant
48. Council policy position on Housing Standards, including the Code for Sustainable Homes
49. Revised list of agreed conditions
50. Council report to its Executive (20 October 2015) regarding the Core Strategy and housing shortfall
51. Mr Richard White's response to Dr Jeacocke's submissions (20 October 2015)
52. Briefing Note from the appellant with regard to the Council's report to its Executive (see 50)
53. Census data mapping, submitted by the appellant
54. Mr Peter Tonks Statement (23 October 2015)
55. Dr Robin Jeacocke's response to Mr Richard White's response (see 51)
56. Congresbury Conservation Area Group Statement
57. Mrs Carol Wraight Statement
58. Mr Kenneth Richardson Statement
59. Mr David Anderson Statement
60. Mr Keith James Statement
61. Bus Timetables for Congresbury
62. Council observations on appellant's Briefing Note regarding the Council's report to its Executive (see 52)
63. Executed S106
64. Nomis 2011 Ward Labour Market profile for Congresbury
65. Mr Richard White's response to the Statement of Mr Peter Tonks (see 54) and further comments of Dr Robin Jeacocke (see 55)
66. Closing Submissions for the Council
67. Closing Submission for the Parish Council
68. Closing Submissions for the Appellant