

Taylor Wimpey

Land off Stowey Road Yatton

Planning Application Ref. 15/P/1918/O

Appeal Statement of Case

February 2017

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1. Introduction

1.1 This Statement of Case has been prepared by Turley on behalf of Taylor Wimpey, herein referred to as 'the Appellant'.

1.2 It relates to an appeal against the refusal of North Somerset Council of planning application reference 15/P/1918/O, which proposes the following development:

Outline planning application for the erection of up to 60 dwellings with access for approval. Layout, scale, appearance and landscaping reserved for subsequent approval.

1.3 The appeal site is located at Land off Stowey Road, Yatton and the extent of the site is shown on the site location plan (**Core Document 1.1**).

1.4 The Council's reasons for refusal, as set out in its decision notice dated 23 August 2016 (**Core Document 3.1**) are as follows;

1. *The site, with the exception of a small area of land at the site access onto Stowey Road, lies within a rural area outside the settlement boundary for the Service Village of Yatton and within an area where new residential housing development is not allowed, other than for replacement dwellings, residential subdivision, residential conversion or dwellings for essential rural workers. The proposal is therefore contrary to policies CS32 and CS33 of the North Somerset Core Strategy. Furthermore the proposal is contrary to policy H/7 of the North Somerset Replacement Local Plan in that the site is not within the settlement boundary for the Service Village of Yatton where, subject to satisfying other policy criteria, new residential housing would be considered acceptable.*
2. *The proposed erection of up to 60 dwellings on land, which is located outside the established settlement boundary for the Service village of Yatton, represents a form of development that, with its 'finger-like' projection into the surrounding countryside, will be out of keeping with the rural landscape character and quality of the area and will result in harm to the rural setting and edge of village. The proposal is therefore contrary to policies CS5 and CS12 of the North Somerset Core Strategy, policy DM32 of the North Somerset Sites and Policies Plan Part 1 and contrary to the objectives of paragraphs 17, 56, 64, 75, 109 and 125 of the National Planning Policy Framework and the North Somerset Landscape Character Assessment SPD.*

3. *Without Section 106 agreement to the requirements for on-site affordable housing provision, together with financial contribution provision towards education, library, informal open space, built sport and leisure facilities and playing pitches within Yatton, the proposal is contrary to policies CS16 and CS34 of the North Somerset Core Strategy and policy DM71 of the North Somerset Sites and Policies Plan, Part 1.*
4. *The proposal fails to satisfy the Sequential Test as referred to in the National Planning Policy Framework in that sequentially, and for the purpose of the Test, there exists existing sites within Yatton and elsewhere within North Somerset that are more suitable for residential development and which do not fall within Zone 2 and zone 3. The proposal is therefore contrary to the requirements of the National Planning Policy Framework and policy CS3 of the North Somerset Core Strategy and policy DM1 of the North Somerset Sites and Policies Part 1.*

- 1.5 The above reasons for refusal were not numbered in the decision notice, however for ease of reference numbers 1-4 have been added in the order that the reasons appear in the notice.
- 1.6 The third reason for refusal given by the Council is expected to be resolved through the agreement of suitable planning obligations and conditions with a Section 106 legal agreement expected to be agreed ahead of the Inquiry.
- 1.7 As such, it is expected that the appeal process will focus on the remaining three reasons for refusal (1, 2 and 4), which the Appellant considers are not justified. In addition, the Appellant will also demonstrate that third parties have not raised any further reasons as to why planning permission should be refused. As such, planning permission for the proposed development should be granted.
- 1.8 The decision of North Somerset Council has now been appealed with a request that the appeal be heard by way of a Public Inquiry. This Statement of Case forms part of the appeal submission and sets out the case that will be presented at the Inquiry on the Appellant's behalf.
- 1.9 The appeal site adjoins the settlement boundary of Yatton, which is a Service Village within North Somerset and a sustainable location for residential development. The settlement offers a range of facilities and services including a primary school, GP Practice, banks, a supermarket and readily available public transport links by bus and rail, including links to both the town of Weston-super-Mare and to the city of Bristol.
- 1.10 The planning application which is the subject of this appeal proposed to deliver up to 60 new homes in a District where, following recent appeal decisions, it has been concluded

that the Council is unable to demonstrate a 5 year supply of housing. It is the Appellant's case that North Somerset continues to be unable to demonstrate a five year housing land supply which, in accordance with paragraph 49 of the NPPF, means that policies for the supply of housing cannot be considered up to date. This appeal is therefore a case where, in the Appellant's view, the delivery of housing from the appeal site (both market and affordable housing) is a benefit that should be afforded significant weight.

- 1.11 In this Statement of Case the Appellant will assess whether the Appeal Proposal accords with relevant policies in the Development Plan, including those policies specifically referred to by the Council in the reasons for refusal.
- 1.12 Other material considerations will also be considered, including the Appeal Scheme's accordance with the National Planning Policy Framework (NPPF) and Planning Practice Guidance (PPG). It is the Appellant's view that, given policies relevant to the supply of housing are out of date, other material considerations, including the need to significantly boost the supply of housing, far outweigh any conflict with (not up to date) development plan policies.
- 1.13 The Appellant's have drafted a Statement of Common Ground and submitted it with this appeal. The Appellant's will discuss this draft with North Somerset and seek to finalise it for submission in good time ahead of the Inquiry. The Appellant will refer to any agreed Statement of Common Ground in future proofs of evidence.
- 1.14 The Appellant reserves the right to add to the matters contained in this Statement and to the list of documents set out.
- 1.15 This Statement of Case is produced on the assumption that the Council, in formulating its reasons for refusal, have complied with the requirements of Article 35 (1) (b) of the Town and Country Planning (Development Management Procedure) (England) Order 2015, and that policies referred to in the reasons for refusal constitute all policies and proposals in the development plan relevant to the decision.

2. The Appeal Site and Surroundings

- 2.1 The Appeal Site extends to approximately 3.95 hectares and adjoins the north eastern edge of the settlement boundary of Yatton along its southern boundary, as identified by the site location plan (**Core Document 1.1**). It is immediately north of Stowey Road and comprises agricultural land which is in the form of three fields defined by hedgerows which are interspersed with trees.
- 2.2 The site is at the eastern end of the village and adjoins existing residential development along its southern boundary (Stowey Park) and Yatton Recreation Ground along its western boundary. The Recreation Ground comprises a number of pitches, equipped areas and a sports centre.
- 2.3 Open countryside lies at the northern and eastern boundaries and vehicular access into the site is achieved via Stowey Road in the south western corner of the site.
- 2.4 A Public Right of Way traverses the southern part of the site east to west. Surrounding development together with the mature boundary vegetation means the site is well concealed from distant views.
- 2.5 The majority of the southern part of the site is within Flood Zone 1, although the northern area of the site is partly in Flood Zone 2 and Flood Zone 3. These flood risk areas benefit from flood defences present along the coastline which provide sufficient protection to the site up to a 1 in 200 year tidal flooding event.
- 2.6 The site is circa 0.5km from the village centre as defined on the Council's Policies Map (extract at **Core Document 4.2**). The site is not allocated for any specific use in local planning policy, however, the site is considered to be in a sustainable location with good access to the range of local services and facilities within the village.

3. Planning History

- 3.1 There are records of two previous applications on the site. Application ref. 00/P/0723/F for '*Change of use form agricultural land to sports ground and construction of club house/ changing rooms. Floodlighting to pitches 1 and 2*' which was refused in January 2001. Five reasons for refusal were given which included an objection to the height, scale, mass and appearance of the proposed building, unacceptable light glare from the proposed flood lighting, disturbance from late night vehicle movements, lack of mitigation measures to divert the public right of way and that the planting proposed was out of keeping with the existing native planting.
- 3.2 Application ref. 07/P/2120/F for '*Change of use from agriculture to leisure/recreational use*' was granted in November 2007 but never implemented and the site remained in use for agricultural purposes.
- 3.3 The North Somerset HELAA (2014) (extract at **Core Document 4.3**) considered the site under ref. HE14186 and concluded that the site should be considered as having 'Identified Potential' for residential development of up to 90 units rather than falling within the alternative 'Site Discounted' category.

4. Appeal Background

- 4.1 The proposed development comprises an Outline Planning Application (with layout, scale, appearance and landscaping reserved for subsequent approval) for the construction of up to 60 dwellings and associated parking, infrastructure, open space and landscaping on Land off Stowey Road, Yatton in North Somerset.
- 4.2 A description of the site and its surroundings is contained in Section 2 of this Statement and further details are provided in the Planning Statement (**Core Document 1.5**) and Design and Access Statement (**Core Document 1.6**) accompanying the appeal application. The draft Statement of Common Ground with North Somerset also covers details of the proposal and the relevant general planning policy context and this will be finalised following discussion with the Council ahead of the Inquiry.
- 4.3 The planning application was supported by a range of technical assessments and reports (detailed in the attached Core Documents List) which confirmed that there are no significant constraints to development.

5. Planning Policy Context

- 5.1 As regard is to be had to the development plan, Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that determination of the application for planning permission must be made in accordance with the Development Plan unless material considerations indicate otherwise.

The Development Plan

- 5.2 The Development Plan for North Somerset comprises the adopted Core Strategy 2006-2026, the Development Management policies of the Sites and Policies Plan Part 1, adopted July 2016, and the few remaining saved policies of the North Somerset Replacement Local Plan which covered the period to 2011.
- 5.3 Although the Core Strategy was adopted in April 2012, a high court challenge was brought against the plan and nine policies were remitted for re-examination. Following this, Policy CS13 was re-adopted in September 2015 and the remaining remitted policies were also subsequently re-examined and were re-adopted in January 2017. The outline planning application was determined in August 2016 when several policies remained remitted.
- 5.4 The following Core Strategy Policies are considered to be of relevance to the Appeal Proposal, these include those referenced in the Officers Report (**Core Document 3.2**) and those relevant to the proposal that have been re-adopted since the determination of the application;
- CS1 Addressing climate change and carbon reduction;
 - CS2 Delivering sustainable design and construction;
 - CS3 Environmental impacts and flood risk management;
 - CS4 Nature Conservation;
 - CS5 Landscape and the historic environment;
 - CS7 Planning for waste;
 - CS9 Green infrastructure;
 - CS10 Transport and movement;

- CS11 Parking;
- CS12 Achieving high quality design and place making;
- CS13 Scale of new housing;
- CS14 Distribution of new housing;
- CS15 Mixed and balanced communities;
- CS16 Affordable housing;
- CS17 Rural exceptions scheme;
- CS25 Children, young people and higher education;
- CS26 Supporting healthy living and the provision of health care facilities;
- CS27 Sport, recreation and community facilities;
- CS32 Service Villages; and
- CS34 Infrastructure delivery and Development Contributions.

5.5 The following North Somerset Replacement Local Plan policy is relevant to this proposal;

- H/7 Residential development within settlement boundaries.*

**the element of this policy that defines settlement boundaries is saved until superseded by Policy SA1 in the emerging Site Allocations Plan, the criteria element of Policy H/7 has already been superseded by adopted Development Management Policy DM32.*

5.6 The following Development Management Policies from the Sites and Policies Plan Part 1 are relevant to this proposal;

- DM1 Flooding and drainage;
- DM2 Renewable and low carbon energy;
- DM6 Archaeology;
- DM8 Nature Conservation;
- DM9 Trees;

- DM10 Landscape;
- DM19 Green infrastructure;
- DM24 Safety, traffic and provision of infrastructure etc. associated with;
- DM25 Public rights of way, pedestrian and cycle access;
- DM26 Travel plans;
- DM27 Bus accessibility criteria;
- DM28 Parking standards;
- DM32 High quality design and place making;
- DM34 Housing type and mix;
- DM36 Residential densities;
- DM44 Replacement dwellings in the countryside;
- DM70 Development infrastructure; and
- DM71 Development contributions, Community Infrastructure Levy and viability.

5.7 The Appellant will consider whether the proposed development accords with the above policies in the evidence submitted ahead of the inquiry.

Other Material Considerations

The National Planning Policy Framework

5.8 Reference will be made to the National Planning Policy Framework (NPPF) and the Planning Practice Guidance (PPG) which sets out national planning policy and guidance in England. Both the NPPF and PPG are important material considerations in this case.

5.9 Specific regard will be given to the three dimensions of sustainable development: economic, social and environmental (paragraph 7 of the NPPF), which paragraph 8 of the NPPF indicates ought to be sought simultaneously through the planning system.

5.10 Reference will be made to the 'presumption in favour of sustainable development' which is the golden thread that runs through plan making and decision taking as set out in paragraph 14 of the NPPF. For decision-taking, this means, where the development plan is *'absent, silent or relevant policies are out-of-date, granting permission unless any*

adverse impacts of doing so would significantly and demonstrably outweigh the benefits' when assessed against the policies of the NPPF as a whole, or where policies within the NPPF indicate that development should be restricted.

- 5.11 Paragraph 47 advises that “to boost significantly the supply of housing” local planning authorities should plan for meeting the full and objectively assessed needs for market and affordable housing in its housing market area, including identifying key sites which are critical to the delivery of the housing strategy over the plan period.
- 5.12 Local Authorities should identify and update annually a supply of specific deliverable sites sufficient to provide five years’ worth of housing against their housing requirements with an additional buffer of 5% (moved forward from later in the plan period) or 20% where there has been a record of persistent under delivery of housing. This is required to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land.
- 5.13 There are a number of other paragraphs in the NPPF which are relevant to the Appeal Site, these include but are not limited to Paragraphs 17, 47, 49, 56, 64, 57, 75, 100-103, 109 and 125. The Appellant will refer to these in their evidence.

Planning Practice Guidance

- 5.14 The PPG was published in March 2014 and is a material consideration to this appeal which will be referred to where relevant.
- 5.15 Significantly, the PPG reinforces the importance of the NPPF as representing the most up-to-date Government planning policy, which must be taken into account where it is relevant to a planning decision (Reference ID: 21b-006-20140306). Importantly, the PPG states that if decision takers choose not to follow the NPPF, clear and convincing reasons for doing so are needed (Reference ID: 21b-010-20140306).
- 5.16 The Appellant considers that, whilst the design is only at an outline stage, the masterplan, landscaping and open space plans and the supporting design and access statement demonstrate that the proposed development will meet the requirements of the PPG in relation to design (Reference ID: 26-001-20140306).
- 5.17 The PPG also sets out further guidance in relation to housing land availability assessments and the impact of these on five year housing land supply matters and sets out that a Council should use their SHLAA “*to establish realistic assumptions about the availability, suitability and the likely economic viability of land to meet the identified need for housing over the Plan period*” (Reference ID: 3-045-20141006). In terms of deliverability the PPG draws attention to footnote 11 and 12 of the NPPF, which define

'deliverability' and 'developability' in relation to housing supply (Reference ID: 3-029-20140306).

- 5.18 The PPG requires Councils to provide five years' worth of housing against their housing requirements at all points during the Plan period and that housing requirement figures in up-to-date adopted Local Plans should be used as a starting point for calculating five year supply (Reference ID: 3-030- 20140306).
- 5.19 In relation to assessing the deliverability of the site and in addition to footnote 11 of the NPPF, the PPG states that local planning authorities will need to provide robust, up to date evidence to support the deliverability of sites, ensuring that their judgements on deliverability are clearly and transparently set out. It accepts that deliverable sites could include those that are allocated for housing in the development plan and sites with planning permission unless there is clear evidence that schemes will not be implemented within five years. It goes on to add that the size of sites will also be an important factor in identifying whether a housing site is deliverable within the first five years, including the consideration of the time it will take to commence development on site and build out rates to ensure a robust five year housing supply (Reference ID: 3-031-20140306).
- 5.20 The PPG also sets out guidance in relation to flood risk and landscape impact that will be referenced as part of the evidence submitted on behalf of the Appellant.

Emerging Neighbourhood Plan

- 5.21 The Appeal site falls within the designated Yatton Neighbourhood Development Plan Boundary. The plan is at a very early stage of production with only an initial consultation draft having been produced.
- 5.22 The emerging Neighbourhood Plan will be referred to by the Appellant where relevant which, at this stage, should be afforded very limited, if any, weight.

Joint Core Strategy

- 5.23 The four West of England Local Authorities are preparing a Joint Spatial Plan (JSP) and Joint Transport Strategy. An issues and options consultation took place in 2015 followed by consultation on the 'Towards an Emerging Spatial Strategy' document in December 2016. The submission of this document is not anticipated until 2018, and, this plan is not therefore considered of particular relevance to this appeal, particularly given the latest iteration of the plan does not yet contain any draft policies. Nevertheless, the Appellant will refer to the emerging Spatial Plan where relevant to the Appeal Proposals in its evidence.

6. The Appellant's Case

Reasons for Refusal

- 6.1 The Appellant will address the Council's specific reasons for refusal as follows (as stated at section 1 of this report numbers have been added to the Council's reasons for refusal for ease of reference);

Reason for Refusal 1

- 6.2 The Council's first reason for refusal states;

1. *"The site, with the exception of a small area of land at the site access onto Stowey Road, lies within a rural area outside the settlement boundary for the Service Village of Yatton and within an area where new residential housing development is not allowed, other than for replacement dwellings, residential subdivision, residential conversion or dwellings for essential rural workers. The proposal is therefore contrary to policies CS32 and CS33 of the North Somerset Core Strategy. Furthermore the proposal is contrary to policy H/7 of the North Somerset Replacement Local Plan in that the site is not within the settlement boundary for the Service Village of Yatton where, subject to satisfying other policy criteria, new residential housing would be considered acceptable".*

- 6.3 The Appellant is of the view that this reason for refusal is not justified and that planning permission should be granted. The Appellant's case in respect of this reason for refusal is set out below.

- 6.4 Yatton is identified as a Service Village within the adopted Core Strategy, it is therefore a suitable location to accommodate housing growth. Adopted Policy CS14 states that, at Service Villages, there will be opportunities for small-scale development of an appropriate scale either within or abutting settlement boundaries or through site allocations.

- 6.5 However, Policy CS32 sets a limit to the size of sites that will be acceptable outside of the settlement boundaries of service villages at 'about 25 units' unless they are brought forward as allocations through Local Plans or Neighbourhood Plans. The above reason for refusal states the appeal proposal is contrary to this policy given that it is for more than 25 units and is not allocated for residential development - the Appellant acknowledges that to be the case.

- 6.6 Policy CS33 concerns development in rural areas, and given the site is outside of the settlement boundary of Yatton, the Council has identified this policy as relevant to this proposed development. The policy sets out the criteria to which development in rural areas must adhere to in order to be compliant with the Development Plan. These exceptions include residential development within the settlement boundaries of infill villages that meets the stated size criteria, replacement dwellings, rural exception sites for affordable housing and conversion of buildings where alternative economic use is inappropriate. It is acknowledged that the appeal proposals do not meet the criteria listed under this policy and that the scheme is not therefore benefit from being in accordance with Policy CS33.
- 6.7 Policy H/7 is 'saved' from the Replacement Local Plan and only the element of this policy that defines settlement boundaries has been retained (until superseded by Policy SA1 in the emerging Site Allocations Plan). Given that the appeal site is outside of the defined settlement boundary for Yatton, the Appellant does not dispute that the proposals are in conflict with this policy.
- 6.8 However, all of the above policies identified in the first reason for refusal are policies that are relevant to the supply of housing. Paragraph 49 states that where a local planning authority cannot demonstrate a five year housing supply of deliverable housing sites, relevant policies of the supply of housing should not be considered up-to-date. In such circumstances, paragraph 14 (the presumption in favour of sustainable development) of the NPPF is engaged.
- 6.9 Two recent appeal decisions in North Somerset ref. 3139633 Land North of the A368, Sandford (**Core Document 5.1**) and ref. 313881 Land South of Knightcott Road, Banwell (**Core Document 5.2**) are of relevance to this appeal as both have recently concluded that North Somerset cannot currently demonstrate a five year housing land supply.
- 6.10 The decision for the Sandford Appeal was issued on 12 October 2016, and at paragraph 35 the Inspector states that;
- "...I conclude that on the evidence presented to the Inquiry the Council is not currently able to demonstrate a robust, deliverable five-year supply of housing land in accordance with the advice in NPPF and particularly paragraph 47 and Footnote 11. Paragraph 49 of the NPPF is engaged accordingly and the application should be considered in the context of the presumption in favour of sustainable development. This also has consequences for the weight to be attached to policies relevant to the supply of housing".*

- 6.11 Paragraph 3 of this decision sets out that had the appeal against non-determination not been submitted then the Council would have included Policy CS32, CS33 and H/7 in its reasons for refusal of this scheme, i.e. the same policies cited in the reasons for refusal for this appeal. At paragraph 103 the Inspector explicitly states that given the Council cannot demonstrate a five year supply, Policy CS33 is out of date.
- 6.12 The decision for the Banwell Appeal was issued 13 October 2016 and also concludes that the Council cannot demonstrate a five year supply. At paragraph 44 the Inspector quantifies the deficit as follows;
- “Having regard to my findings above and based on the evidence put to the Inquiry, the LPA is only able to demonstrate about 4.2 years supply. This shortfall carries considerable weight”.*
- 6.13 The Inspector sets out at paragraph 30 that the Local Authority has a record of persistent under delivery over the last 10 years and that a buffer of 20% should therefore be applied. No calculations are set out in the appeal decision, however based on the methodology at paragraph 31 (namely the agreed annual requirement of 1,049 dwellings and the accumulated shortfall to date of 2,497 units that should be made up within the next five years) and applying the 20% buffer this would indicate the Council have a shortfall in supply of at least 1,487 units, which is more than a full year’s worth of the housing requirement.
- 6.14 It was common ground between the parties for this appeal that the following policies are relevant to the supply of housing; CS5, CS32, DM10 and DM11, and the Inspector concluded that these policies are out of date where there is a lack of housing land supply and that this diminished the weight to be given to them (paragraph 103 of the decision).
- 6.15 It is the Appellant’s case that limited weight should therefore be attached to Policies CS32, CS33 and H/7 given that they are policies for the supply of housing and that they are therefore out of date.
- 6.16 In the context of Paragraph 47 and 49 of the NPPF, the Appellant will present evidence examining the District’s housing land supply with reference to the existing annual monitoring data and any future monitoring evidence that is subsequently published. The evidence will analyse the extent of the housing land supply in North Somerset and consider the weight to be attached to such deficiencies in the determination of this appeal. The weight to be applied will be supported by reference to other Appeal and secretary of state decisions.

- 6.17 Given the lack of housing land supply, housing applications should be considered in the context of the presumption in favour of sustainable development (Paragraph 49 NPPF), and, in line with paragraph 14 of the NPPF, proposals should be granted planning permission unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits or specific policies in the Framework indicate development should be restricted.
- 6.18 Footnote 9 to paragraph 14 sets out the policies within the framework which indicate development should be restricted, these policies include those relating to 'locations at risk of flooding'. Given that part of the site is within area identified as at risk of flooding, and that the fourth reason for refusal states that the site fails to pass the Sequential Test, evidence will be presented (as detailed under Reason for Refusal 4 below) demonstrating that development on the site is acceptable in flood risk terms.
- 6.19 The caveat to paragraph 14 (i.e. footnote 9) requires the Appellant to demonstrate that specific policies in the NPPF, such as those relating to flooding do not indicate that development on the site should be restricted. This 'test' needs to be passed ahead of applying the weighted balance in the above point at paragraph 14. Evidence will therefore be presented to show that the site is acceptable in flood risk terms and that therefore the first bullet point to the second limb of paragraph 14, which states that adverse impacts of the proposals must be shown to significantly and demonstrably outweigh the benefits (the weighted balance), is applicable in this case.
- 6.20 The Appellant will address the Council's perceived harm (namely conflict with the development plan, landscape impact and flooding) and it will be demonstrated that there are no other adverse effects of the proposed development that indicate that the appeal application should be dismissed.
- 6.21 The Appellant will also show that, even where a development does not explicitly accord with all of the Development Plan and where a Council is able to demonstrate a five year supply of housing land, this should not prevent sustainable development from being permitted. It is the Appellant's case that the benefits of the development outweigh any perceived harm and that such benefits are important material considerations for this appeal.
- 6.22 Evidence will be presented to this inquiry setting out the Appellant's position on what weight should be attributed to the delivery of market and affordable housing.
- 6.23 In relation to this, a decision issued 13 February 2017 by the Secretary of State (in relation to appeal ref. 2224354 for the construction of up to 750 dwellings, a primary school, care village, retail development and associated infrastructure in Lichfield) (**Core Document 5.3**) is relevant in that it sets out the importance that the Secretary of State

attaches to housing delivery. At paragraph 44 it is found that there is a surplus of 307 units equating to 5.11 years' worth of housing and notwithstanding this at paragraph 55 he states that;

"...the social and economic benefits of providing affordable and market housing are of such importance that they outweigh the environmental harm, and that the proposal would thus represent sustainable development. Overall, therefore, he concludes that the material considerations indicate that the appeal should be allowed." (emphasis added).

6.24 The Appeal Site is an appropriate and highly sustainable location in which to make an important contribution to fulfilling housing need. The site is located within a very short walking distance of the village centre (and its shops, services and facilities including the railway station) and so the site offers a highly sustainable location for future residents of the development.

6.25 The Appellants' evidence will demonstrate that the appeal proposal is a sustainable development and will result in considerable benefits, particularly in respect of helping to address a shortfall in the delivery of housing and delivering affordable housing. In addition, the development will deliver substantial additional economic, social and environmental benefits.

6.26 The proposed development will also result in the following additional positive effects;

- The creation of direct and indirect jobs associated with the construction of the proposed development;
- Potential for the proposed development to support and create new jobs in the wider economy during the life of the development;
- The provision of new public open space; and
- Net additional local retail expenditure from new residents.

Reason for Refusal 2

6.27 The Council's second reason for refusal states;

2. *The proposed erection of up to 60 dwellings on land, which is located outside the established settlement boundary for the Service village of Yatton, represents a form of development that, with its 'finger-like' projection into the surrounding countryside, will be out of keeping with the rural landscape character and quality of the area and will result in harm to the rural setting and edge of village. The*

proposal is therefore contrary to policies CS5 and CS12 of the North Somerset Core Strategy, policy DM32 of the North Somerset Sites and Policies Plan Part 1 and contrary to the objectives of paragraphs 17, 56, 64, 75, 109 and 125 of the National Planning Policy Framework and the North Somerset Landscape Character Assessment SPD.

- 6.28 The application was accompanied by a Landscape and Visual Appraisal Report (**Core Document 1.8**) which was prepared in accordance with the published guidance.
- 6.29 In November 2015 Tyler Grange provided a response to the Council's Landscape Officer's comments, on the application and the LVA (**Core Document 2.9**). A meeting was held between the applicant and the Council in December 2015 and the agreed actions were set out in an email dated 8th December 2015 (**Core Document 2.10**). These agreed actions have all been completed, with the exception of reducing the housing in the northern portion of the site.
- 6.30 Notwithstanding the amendments to the layout, and provision of photomontages, the application was refused and the second reason for refusal indicates the Council's apparent concerns relating to;
- **Proposition 1:** The form of the development being a 'finger-like' projection is out of character with the rural landscape;
 - **Proposition 2:** The form of development affecting the quality of the area resulting in harm;
 - **Proposition 3:** Paragraph 109 of the NPPF being relevant, the site is a 'valued' landscape; and
 - **Proposition 4:** Paragraph 125 of the NPPF being relevant, the scheme will impact on 'dark landscapes'.
- 6.31 The appellant will provide evidence to address and refute these propositions and set out how specific issues of the design can be the subject of suitably worded conditions.
- 6.32 Evidence will demonstrate that this outline application will have localised effects only and the impacts will be limited in extent and degree. The development will not have a harmful impact on the condition, character and features of the surrounding landscape.
- 6.33 It will be shown that the site is not devoid of settlement influences and features. The site represents an appropriate location for development at a landscape scale. Housing as proposed is not an uncharacteristic or incongruent feature, particularly in association with a settled landscape.

- 6.34 It is the Appellant's case that there should be an acknowledgement that change to a landscape or views does not necessarily equate to 'harm'. This will be illustrated by reference to other appeal and secretary of state decisions.
- 6.35 Evidence will demonstrate that the site is not covered by a national, regional or local policy which indicates the landscape is valued for its quality or character.
- 6.36 The evidence will also set out the positive landscape measures delivered by the proposals in respect of the multi-functional Green Infrastructure.

Reason for Refusal 3

- 6.37 The Council's third reason for refusal states;

3. Without Section 106 agreement to the requirements for on-site affordable housing provision, together with financial contribution provision towards education, library, informal open space, built sport and leisure facilities and playing pitches within Yatton, the proposal is contrary to policies CS16 and CS34 of the North Somerset Core Strategy and policy DM71 of the North Somerset Sites and Policies Plan, Part 1.

- 6.38 As stated at Section 1 of this report, it is expected that this reason for refusal will be resolved by the agreement of suitable planning obligation and conditions in advance of the Inquiry. Such obligations are expected to cover the broad Section 106 terms set out in the officers report, namely:

- Up to 30% affordable housing provision subject to viability;
- A contribution towards library provision;
- A contribution towards Built Sport and Leisure Facilities;
- A contribution towards Playing Pitches;
- A contribution towards a Children's Play Area;
- Provision of Informal Open Space;
- Highway Works; and
- A contribution towards education.

- 6.39 The Appellant will work with North Somerset Council to agree planning obligations in advance of the Inquiry.

Reason for Refusal 4

6.40 The Council's fourth reason for refusal states;

4. The proposal fails to satisfy the Sequential Test as referred to in the National Planning Policy Framework in that sequentially, and for the purpose of the Test, there exists existing sites within Yatton and elsewhere within North Somerset that are more suitable for residential development and which do not fall within Zone 2 and zone 3. The proposal is therefore contrary to the requirements of the National Planning Policy Framework and policy CS3 of the North Somerset Core Strategy and policy DM1 of the North Somerset Sites and Policies Part 1.

6.41 The Appellant will present evidence to refute this reason for refusal including the Council's assertion that the proposal fails to satisfy the Sequential Test, as referred to in the National Planning Policy Framework (NPPF).

6.42 The appellant accepts that the aim of the Sequential Test is to steer new development to Flood Zone 1 (areas with a low probability of fluvial or tidal flooding). Where there are no reasonably available sites in Flood Zone 1, Local Planning Authorities should take into account the flood risk vulnerability of land uses and consider reasonably available sites in Flood Zone 2 (areas with a medium probability of fluvial or tidal flooding), applying the Exception Test if required.

6.43 Only where there are no reasonably available sites in Flood Zones 1 or 2 should the suitability of sites in Flood Zone 3 (areas with a high probability of fluvial or tidal flooding) be considered, taking into account the flood risk vulnerability of land uses and applying the Exception Test if required.

6.44 As set out in Section 2 of this statement, the site is located in Flood Zone 1 (most of the southern area) and also with parts in Flood Zone 2 and 3 (most of the northern area). Most (but not all) of the area proposed for housing is located within Flood Zone 1. The Environment Agency advise that the flood source in this area is tidal only (as opposed to a fluvial or tidal and fluvial flood source) and that the parts of the site located in Flood Zone 3 are shown to benefit from existing tidal flood defences.

6.45 Tidal flood defences and other defacto flood defences (e.g. M5 embankment) may offer benefit to the part of the site located in Flood Zone 2, however, the 1 in 1000-year tidal flood event with these defences in place has not been modelled by the EA. As such, the benefit of these defences to the site is unknown. Given that the site is on the periphery of Flood Zone 2, it is reasonable to argue that the extent and/or depth of tidal flooding would be reduced and potentially removed if the modelling was completed with these flood defences in place.

- 6.46 The argument the appellant will present relates firstly to whether the other reasonably available sites are all sequentially preferably to the appeal site based on the risk of flooding, and secondly, whether there is sufficient housing from these sites to address the five-year housing land supply in this area. The compelling case is that, given the lack of five-year housing land supply, our site would meet with the requirements of the Sequential Test. Evidence will be submitted to support this position.
- 6.47 In terms of the Sequential Test, the site is more favourable to reasonably available alternative sites with a fluvial flood risk (instead of or as well as a tidal flood risk). There is no fluvial flood risk on our site. It is also more favourable to other sites with a greater level of tidal flood risk (i.e. those that have a greater proportion located in Flood Zone 2 and 3 or that do not benefit from flood defences). Our site benefits from existing tidal flood defences.
- 6.48 The Exception Test (set out at paragraph 102 of the NPPF) is a method to demonstrate and help ensure that flood risk to people and property will be managed satisfactorily, while allowing necessary development to go ahead in situations where suitable sites at lower risk of flooding are not available.
- 6.49 The Flood Risk Assessment (FRA) (**Core Document 1.7**) for the proposed development of the site was produced in consultation with the Environment Agency (EA), North Somerset Council as the Lead Local Flood Authority (LLFA), the North Somerset Levels Internal Drainage Board (NSL IDB) and Wessex Water (WW) as the local sewerage provider.
- 6.50 The EA provided a response dated 15th September 2015 (**Core Document 3.5**) and an amended response dated 20th November 2015 (**Core Document 3.15**). The EA have no objection to the proposed development subject to a condition and informative being included in any planning permission granted.
- 6.51 The LLFA provided a response dated 9th September 2015 (**Core Document 3.3**). The LLFA have no objection to the proposed development. They indicate that additional details of the sustainable drainage system and site conditions are needed for consideration but that the requirement for this information can be addressed as part of the conditions.
- 6.52 The NSL IDB provided a response dated 11th September 2015 (**Core Document 3.7**). The NSL IDB does not object to the proposed development, and request a number of conditions and informatives be included should the application be approved.
- 6.53 WW provided a response letter dated 26th August 2015 (**Core Document 3.4**). WW confirm that there must be no surface water connections to the foul sewer network. WW

acknowledge that the applicant has proposed surface water discharge to the local rhyme system as opposed to a surface or foul water sewer. As with the other consultees detailed above, WW also had no objection in principle to the appeal proposals.

- 6.54 As there was no objection received to the proposed development from the EA, the LLFA, the NSL IDB or from WW, it is reasonable to conclude that the Exception Test has been or could be passed by the proposed development.
- 6.55 In addition, the surface water drainage strategy incorporates features that add ecological, biodiversity, landscape, recreational, amenity and water quality benefits. It is the Appellant's case that there would also be other benefits to the wider community from this scheme, such as the provision of housing, as is set out in our case to address reason for refusal 1 above.

Other Issues Raised by Third Parties

- 6.56 Whilst there are no other matters that have been included as reasons for refusal, evidence will be provided by the Appellant to show that no other issues have been raised by third parties which indicate that planning permission should be refused.

Overall Planning Balance

- 6.57 Overall, the Appellant's case, which will be expanded through further evidence to be presented at the Inquiry will demonstrate that there are limited adverse effects in this case, and these would not outweigh the significant benefits of the development proposals.
- 6.58 The Appellant's Evidence will demonstrate that the proposed development would constitute sustainable development and would have considerable benefits in helping to address a shortfall in the delivery of housing, including affordable housing for which there is an identified need. In addition development will deliver additional economic and social benefits.
- 6.59 In circumstances where a LPA is unable to demonstrate a five year housing land supply, paragraph 49 of the NPPF confirms that policies relevant to the supply of housing must be considered as not up to date and the presumption in favour of sustainable development as set out at paragraph 14 of the NPPF would apply. Paragraph 14 shifts the balance in favour of granting planning permission unless adverse impacts of the development significantly and demonstrably outweigh the benefits.
- 6.60 It is the Appellant's case that development will not give rise to any negative impacts that would significantly outweigh the benefits of the development. On the contrary, the benefits in this case significantly outweigh the limited adverse effects.

6.61 In the light of the above, the Appellant will, therefore, respectfully invite the Inspector to allow the appeal and grant planning permission.

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