



South Somerset District Council
LOCAL PLANNING AUTHORITY
STATEMENT OF CASE

TOWN AND COUNTRY PLANNING ACT1990
SECTION 78 APPEALS

SOUTH SOMERSET DISTRICT COUNCIL REF: 19/01840/OUT
PLANNING INSPECTORATE REF: APP/R3325/W/20/3259668

JULY 2021

STATEMENT ON BEHALF OF THE LOCAL PLANNING AUTHORITY

Appeal by Wyke Farm Ltd And Andrew Hopkins Concrete Ltd against the decision of the South Somerset District Council to refuse Outline Planning Permission for the Erection of 200 dwellings (70 affordable and 130 open market) with associated highways, drainage, landscaping and public open space on Land North of Ansford Hill, Ansford, Castle Cary, Somerset, BA7 7PD

Contents

Executive Summary

1.0 Introduction

2.0 Site Description

3.0 Proposed Development

4.0 Planning History

5.0 Planning Policies and Guidance

6.0 The Council's Case

7.0 Comments on Appellants Case

8.0 Conclusions

9.0 Planning Conditions

10.0 Appendices

Summary

The appeal proposal consists of a development of 200 dwellings on Land North of Ansford Hill, Ansford, Castle Cary, Somerset, BA7 7PD which fails to meet a number of important development plan policies and allowing this development would result in possible harm to important features that define the character of this part of the Ansford and Castle Cary.

At the time of the application, the Council had no proven 5-year housing land supply and, in accordance with paragraph 11 of the National Planning Policy Framework 2019, where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, development proposals should be approved without delay unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole. The LPA did not contest the development on the basis of housing policies of the Somerset Local Plan which were acknowledged as being out of date. However, consistent with provisions of the Framework, the proposed development was assessed against other policies within the Development Plan and it became evident that allowing the proposed development would result in significant adverse impact on the landscape contrary to Policies SD1, SS1, SS5, EQ2, EQ3, LMT1 of the South Somerset Local Plan (2006-2028), Policy DP1 of the Castle Cary and Ansford Neighbourhood Plan (2019), and paragraph 170 of the National Planning Policy Framework.

In the intervening period, the LPA has been able to prove more than 5 years housing land supply as part of the Local Plan review evidence and even though this has not been through the formal examination, this position was accepted by the Appeal Inspector in relation to a refused development for 9 dwellings (APP/R3325/W/20/3257766) on Land at Pound Road, Broadway, Ilminster. This, has further strengthened the position of the Council that there is enough land in appropriate areas of the district to deliver the housing projected for this plan period. Therefore, the anticipated benefits of the 200 houses is unlikely to outweigh the identified harm to the character and appearance of the site and this part of the district. Clearly the

appellants, in the statement of common ground, on one hand acknowledge that the Council has the requisite housing land supply, then seek to undermine it in order to fall back National Planning Framework and its tilted balance as well as increase the weight attached to development in an inappropriate location.

In reaching its decision, the Council has acknowledged public benefits arising from the appeal proposal primarily the social and economic ones. However, the alleged benefits such as affordable housing would pale in significance when viewed in the context of the proposed development's various failures to meet the development plan policies i.e. harm to the local landscape and departure from the Local Plan housing allocations. Taken together, these objections result in overall development plan conflict which cannot be outweighed by the scheme's benefits.

1.0 Introduction

- 1.1 South Somerset District Council on 03.07.2019 in its role as the Local Planning Authority (LPA) received an application for planning permission for the following proposal:

“Erection of 200 dwellings (70 affordable and 130 open market) with associated highways, drainage, landscaping and public open space”

- 1.2 In accordance with the delegated procedure, the application was referred to the Area East Committee meeting which, on 13.05.20 recommended to refuse the application and the decision was endorsed by the Council’s Chief Executive Officer.

- 1.3. The application was refused on the following grounds:

The development, by reason of its scale and location, represents a visually obtrusive encroachment beyond the town's obvious physical and topographically informed limits and into the open countryside, to the detriment of local and landscape character. This harm would significantly and demonstrably outweigh the benefits of the proposal and would be contrary to policies SD1, SS1, SS5, EQ2, EQ3, LMT1 of the South Somerset Local Plan (2006-2028), policy DP1 and the aims and objectives of the Castle Cary and Ansford Neighbourhood Plan (2019), and the provisions of the NPPF.

- 1.4 The applicant and the Planning Authority, in a statement of common ground (SoCG), have set out the matters on which there is no dispute. In the same vein, the issues of divergence or uncommon ground have been highlighted as the degree to which the appeal proposal complies with specific policies within the South Somerset Development Plan. In addition, and this is in light of the Pound Road Appeal case which accepted the housing land supply position of the Council, the appellants question the Council’s five year housing land supply. The Council’s position in this respect is explained at Section 7 below.

2.0 Site Description

2.1 The site lies to the north of Ansford and Castle Cary and is adjacent to the A371, known as Station Road and leading to Ansford Hill to the site's southern boundary. To the immediate north and the lowest part of the site is the railway line and Castle Cary railway station with its historic but unlisted building. The land is currently farmland and mainly sown for winter wheat. Topographically, the site slopes down towards the north and northwest. Much of the extent and character of the site was set out in the outline report and will not be considered in detail here.

3.0 Proposed Development:

The appeal proposal is outline for 200 dwellings and owing to the scale of the development i.e. number of dwellings and area of land affected, the proposal was screened under the EIA Regulations and the LPA concluding that one was not required. Various documents were submitted in support of the appeal proposal even though the proposal is in outline with only the access to be considered at this stage including an indicative layout, landscaping, and a landscape and visual Impact assessment

4.0 Planning History

There is no relevant planning history on this site to report.

5.0 Planning Policy and Guidance

5.1 Section 38(6) of the Planning and Compulsory Purchase Act (2004), and Paragraphs 2 and 47 of the NPPF state that applications are to be determined in accordance with the development plan unless material considerations indicate otherwise.

5.2 For the purposes of determining current applications the local planning authority considers that the adopted development plan comprises the policies of the South Somerset Local Plan 2006-2028 (adopted March 2015) and the Castle Cary and Ansford Neighbourhood Plan adopted January 2018. The appeal

proposal was considered against the following policies and guidance to which Officers will refer:

Policies of the adopted South Somerset Local Plan (2006-2028)

- Policy SD1 - Sustainable Development
- Policy SS1 - Settlement Strategy
- Policy SS4 - District Wide Housing Provision
- Policy SS5 - Delivering New Housing Growth
- Policy SS6 - Infrastructure Delivery
- Policy LMT1 - Ansford/Castle Cary Direction of Growth
- Policy HG3 - Provision of Affordable Housing
- Policy EQ1 - Addressing Climate Change in South Somerset
- Policy EQ2 - General Development
- Policy EQ3 - Historic Environment
- Policy EQ4 - Biodiversity
- Policy EQ5 - Green Infrastructure
- Policy TA1 - Low Carbon Travel
- Policy TA4 - Travel Plans
- Policy TA5 - Transport Impact of New Development
- Policy TA6 - Parking Standards
- Policy HW1 - Provision of Open Space, Outdoor Playing Space, Sports, Cultural and Community Facilities in New Development

Castle Cary and Ansford Neighbourhood Plan (adopted 14th November 2019)

- Policy DP1 - Development Standards and Design Principles
- Policy HOU2 - Housing Development in the Direction of Growth
- Policy TRA1 - Opportunities to development the Transport Network
- Policy TRA2 - HGV Traffic at Local Hotspots
- Policy ENV1 - Protection of Green Corridors and Natural Environment

National Planning Policy Framework (as revised)

- Chapter 4 - Decision making
- Chapter 5 - Delivering a Wide Choice of High Quality Homes
- Chapter 12 - Achieving well-designed places
- Chapter 15 - Conserving and Enhancing the Natural Environment
- Chapter 15 - Conserving and Enhancing the Historic Environment

National Design Guide (NDG)

The Design Guide sets out how well designed places can be achieved and forms part of the Government's collection of planning practice guidance and should be read alongside the separate planning practice guidance on design process and tools. The NDG sets out the ten characteristics of well-designed places.

South Somerset Historic Environment Strategy

The HES is designed to set out a 'positive strategy' to support and supplement the broad policies contained in the South Somerset Local Plan (2006 - 2028) and the NPPF. The HES is to be read alongside the policies in the Local Plan and the guidance in the NPPF and will be a material consideration in decision-taking on planning applications.

5.3 In dispute is whether the appeal proposal would comply with the following Policies of the adopted South Somerset Local Plan (2006-2028)}

- Policy SD1 - Sustainable Development
- Policy SS1 - Settlement Strategy
- Policy SS5 - Delivering New Housing Growth
- Policy LMT1 - Ansford/Castle Cary Direction of Growth
- Policy EQ2 - General Development
- Policy EQ3 - Historic Environment

Castle Cary and Ansford Neighbourhood Plan (adopted 14th November 2019)}

- Policy DP1 - Development Standards and Design Principles

National Planning Policy Framework (as revised)

- Chapter 15 - Conserving and Enhancing the Natural Environment
- Chapter 15 - Conserving and Enhancing the Historic Environment

5.4 This would form the basis of the council' case.

6.0 The Council's Case

6.1 The Local Planning Authority has advanced one reason for refusal of the application which is set out above in Section 1.3. The Committee report represents the Council's statement of case whilst the following sections draw the attention to the relevant sections of that report and planning policies in commenting on the appellant's statement of case and provide any further assessment. Subsequent to the Council's decision to refuse the application however the Council has confirmed that it does have a 5 + year supply of housing. As such the basis upon which it determined the application does not now represent the full extent of the Council's case.

6.2 Principle of Development

6.2.1 The proposal site is located outside of the defined settlement area of Ansford and Castle Cary and is not allocated for any development. The applicant proposes to build 200 houses on this site when doing so would be a departure from the prevailing local plan and allowing the development would be tantamount to creating 200 dwellings within the countryside unrelated to agriculture, forestry or any other rural enterprises. This would also fall foul of the National Planning Policy Framework which promotes residential restraint in the countryside to protect it for its intrinsic value. At the time of the application, the Council was unable to demonstrate a five-year housing land supply but since November 2020, the Council announced that it has a six-year housing land supply and thus there is no shortfall in land for housing land. Therefore the tilted balance on which the application's appraisal and determination was originally based, no longer applies. The appellants have accepted as a fact that against the provisions of the most up to date definition of housing need that the Council does have a supply in excess of 5 years but appears to dispute the actual level. The appellant further seeks to re-visit the same actual recent supply and forward looking housing supply trajectory against the earlier housing supply figures within the Adopted Local Plan to contrast the current methodology against the previous approach to the calculation of housing supply.

- 6.2.2 Whilst the housing arguments are noted, it is unlikely that permission for the development would be granted simply because the development meets the required numbers because it has to be consistent with other policies within the Development Plan especially those that seek to limit the distribution and quantum of housing growth in the area.
- 6.2.3 The Officer report to the Planning Committee concludes that the proposed 200 houses would far exceed the local need for housing but would assist the Council in meeting its total district-wide housing target for the Plan period as set out by policy SS4. In addition, the committee report accepts that the figures as set out in policy SS5 are minimum thresholds and exceeding them should not be viewed as being contrary to the provisions of the policy unless doing so would translate into very tangible planning harm.
- 6.2.4 Clearly the view of the Council is that even though the housing numbers would exceed what is projected for the area, the location of such housing on a field outside of the development boundary would result in tangible harm to the landscape and other features that define the character of this part of Ansford Hill.
- 6.2.5 To summarise, the Committee report confirms that the Council has a six year housing land supply and the appellants accept this position as set out in the statement of common ground. Even though this is a minimum requirement, it implies that the appellants also accept that Housing Policies for the restricting the number and location of housing within the Local Plan, are still valid and the tilted balance does not apply. Whether or not this minimum provision is adequate, being the appellant's contention, does not change the fact that the housing policies restricting location would still be valid and applicable.

7.0 Comments on the Appellants Statement:

7.1 Settlement Hierarchy and Self Containment

- 7.2 Another development was allowed on appeal at Wayside Farm on Station Road and even though the Appeal Inspector was categorical that the settlement would be unlikely to maintain its self-containment as a result, the appellants in

the current case suggest that the opposite will be the case with the additional 200 Houses in the area. The appellants make reference to the employment capacity (both existing and within the pipeline) as being able to sustain a greater expansion in population and housing numbers beyond that which is projected. The appellants go on to suggest that any residual demand for employment could be fulfilled through in-out commuting aided by the ease of travel facilitated by trains at the adjacent Castle Cary Station. The converse is also true in that there is no guarantee that those who will occupy the dwellings would work within the area, an outcome that we would seek to achieve. There is no indication that the ownership or occupation of the proposed development would be restricted to those working in the area. Therefore, like the Inspector in the Wayside Appeal alluded to, it is also possible that the development would be a mere dormitory, especially facilitated by the ease of travel. This would also have a bearing on the position of the town within the settlement hierarchy as conceived within the Local Plan strategy.

7.3 Direction of Growth

7.4 The appellants, in trying to prove compliance with Local Plan Policy LMT1, have interpreted the five lines on the Local Plan inset map as denoting the direction of growth. However, this would be so if arrows were used which would show the direction of expansion or sprawl. Policy LMT1 states:

- “The direction of strategic growth (for housing, employment & education) will be north of Torbay Road and East and West of Station Road”.

7.5 The use of the phrase ‘will be’ has a static connotation and thus, contrary to the appellants view, does not denote direction of expansion, organic or unbridled growth. If that were the case, the use of the word “towards” would describe the direction of growth. Specific landmarks are identified within the policy which define the extent of such development as Torbay Road to the south and on both sides of Station Road. There is no reference to Ansford Hill which acts as a natural boundary to the north or any other limit such as the railway line. Anything further than the Ansford Hill would be outside of the settlement and into the open countryside and thus there is no reason to assume that the

direction of growth would include development in the open countryside especially for sites which are unallocated. The appellants argue similar approaches have been employed elsewhere in dealing with other development such as the application at Somerton (19/00721/R3C) for a school by South Somerset County Council and thus should be applied here. Clearly the circumstances of the mentioned application are not the same as the appeal site and suffice to say here that advocating such an approach would by implication suggest that the appeal site, like the Somerton site, is outside of the direction of Growth. This would contradict the appellant's own position.

7.6 The Local Planning Authority contends that the appeal site is not within the Direction of Growth of Ansford and Castle Cary and thus any development on the proposal site would be contrary to the Local Plan Policy LPT1.

7.7 Local Plan Review

7.8 The applicants acknowledge that the appeal site is not allocated for development, located outside of the settlement limits and was ruled out of the Preferred Options but still maintain that the appeal site is suitable, available and achievable. This view clearly ignores the identified constraints such as the relative remoteness of the site from services as well as the amount of development already permitted or committed in the area. The statement that the amount of development is no reason not to develop the appeal site may be, at best, unconsidered.

7.9 Housing Need and Supply

7.10 The NPPF (para 73) requires LPAs to identify and update annually a supply of specific deliverable sites sufficient to provide five years' worth of housing against their housing requirements.

7.11 The supply of specific deliverable sites should include a buffer (moved forward from later in the plan period). The buffer can range between 5-20%.

7.12 The South Somerset District Council Local Plan was adopted in March 2015. Its strategic policies on housing requirement have not been reviewed since. As

the policies are more than five years old, the requirement for the Council is set out in the 'local housing need'.

7.13 The housing requirement for the South Somerset area is set out within the Council's Housing Land Supply calculation as at 1 April 2020 (published July 2019) (Appendix 1) as amended by an addendum in January 2021 (Appendix 2) to reflect the new Standard Methodology for calculating the local housing need for local authorities within revised Planning Practice Guidance on Housing and Economic Needs Assessment. Applying this new methodology to South Somerset, its annual Basic Housing Requirement is now 677 dwellings. A 5% buffer is added in response to the NPPF para 73 (a). The justification for the 5% buffer is explained below.

7.14 This gives a supply of 6.15 years. For ease of reference, table 1 below, shows the current 5 year housing land supply position.

Components of the Five-year Housing Requirement	Method	Total
Basic Housing Requirement (annualised)		677
Basic Housing Requirement over a five-year period	(677×5)	3385
Basic Requirement with 5% Buffer Added	(3385×1.05)	3554
Five-year annual completion rate (+ 5% buffer)	$(3554 / 5)$	711 (Rounded)
Five-year supply of dwellings		4,373
No. of years supply in South Somerset	$(4,373/711)$	6.15 years

7.15 **Policy Justification for using Standard Method**

7.16 The National Planning Policy Framework (2019) confirms in paragraph 60 that the standard method set out in national planning guidance is to be used as the basis for calculating the housing requirement unless "exceptional circumstances justify an alternative approach which also reflects current and future demographic trends and market signals".

7.17 Further detailed information about the calculation is then set out within the Planning Practice Guidance. Paragraph: 003 Reference ID: 2a-003-20190220 reiterates this, including the wording "There is an expectation that the standard

method will be used and that any other method will be used only in exceptional circumstances”.

7.18 The PPG (Paragraph:005 Reference ID: 2a-005-20190220) clarifies that the 2014-based household projections are used within the standard method to provide “stability for planning authorities and communities, ensure that historic under-delivery and declining affordability are reflected, and to be consistent with the Government’s objective of significantly boosting the supply of homes”.

7.19 South Somerset District Council uses the standard method in accordance with national guidance.

7.20 The Basic Housing Annual Requirement

7.21 The Planning Practice Guidance also explains the calculation of the local housing need figure.

7.23 *Step 1 - Setting the baseline - Set the baseline using national household growth projections (2014 based household projections in England, table 406 unitary authorities and districts in England) for the area of the local authority. Using these projections, calculate the projected average annual household growth over a 10 year period (this should be 10 consecutive years, with the current year being used as the starting point from which to calculate growth over that period). Note that the figures displayed are rounded and individual cells need to be viewed in order to see the full number.*

7.24 *Step 2 - An adjustment to take account of affordability - Then adjust the average annual projected household growth figure (as calculated in step 1) based on the affordability of the area. The most recent median workplace-based affordability ratios published by the Office for National Statistics at a local authority level, should be used.*

7.25 In summary, the 2014 Sub National Household Projections are used to provide the baseline figure over the 10 year period from 2021-2031. An affordability adjustment is then applied as household growth on its own is insufficient as an indicator of future housing need. The PPG (Paragraph: 006

Reference ID: 2a-006-20190220) confirms that “the affordability adjustment is applied in order to ensure that the standard method for assessing local housing need responds to price signals and is consistent with the policy objective of significantly boosting the supply of homes”. The PPG goes on to confirm (Paragraph: 011 Reference ID: 2a-011-20190220) that “**The affordability adjustment is applied to take account of past under-delivery**. The standard method identifies the minimum uplift that will be required and therefore **it is not a requirement to specifically address under delivery separately**” (emphasis added).

7.26 The Local Plan sets out a housing requirement of 15,950 dwellings to be delivered over the 22 year period. This equates to an annualised average of 725 dwellings per annum. However, applying the national standard formula for the District, the basic Need Housing figure per annum is **677**, or 13,540 over a Plan period of 20 years.

7.27 The correct calculation is clearly set out in Government guidance as we have demonstrated above. Any adjustments to this figure are made through the planned system. The Council is progressing a Local Plan Review and has a published timetable for the work.

7.28 Housing Delivery Test

7.29 The Government introduced the Housing Delivery Test (HDT) in 2018, with the first results of the HDT published by the Secretary of State in November 2018 and two subsequent results published, the most recent of which was January 2021. The HDT measures the net additional dwellings provided in a local authority area against the homes required, using national statistics and local authority data.

7.30 The HDT provides a measure based on the preceding 3 financial years. Therefore, the HDT results that were published in November 2018 used data from 2015-16, 2016-17 and 2017-18. The results that were published in January 2021 used data from 2017-18, 2018-19 and 2019-20.

7.31 For the 2020 measurement, there is a nation-wide reduction in the period for measuring total homes required – usually this would be measured over a three-

year period but an 11-month period has been used for the 2019/20 monitoring year. This is to account for disruption to housing delivery and monitoring caused by restrictions announced on 23 March 2020, in response to the COVID-19 pandemic.

7.32 The most recent data for South Somerset shows that between 2017 and 2020, the Council delivered a total of 1,872 homes, which was 95% of the total number of homes required. This means, that in accordance with para 73 (a) of the NPPF, a 5% buffer needs to be added to the five year supply to ensure ‘choice and competition in the market for land’.

7.33 The Council has therefore added a 5% buffer to its land supply position in accordance with Government guidance.

7.34 Five Year Housing Land Supply Position.

7.35 The NPPF at Paragraph 73 states that LPAs should: *“identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years’ worth of housing...”*

7.36 Appendices 1 and 2 demonstrate that the Council can now demonstrate a 6.15 year housing land supply position over the period from 2020-2025, based on the revised standard method with the addition of a 5% buffer.

7.37 The housing land supply calculation is made up of different components of deliverable supply, which taken together give a figure for the projected completions for the five-year period from 1st April 2020 to 31st March 2025 of 4,373 dwellings.

7.38 The detail of the Council’s commitments is set out within Appendix 3 (SSDC’s Five Year Housing Land Supply Paper from November 2020) and is based on the position at 31 March 2020. The information on extant planning applications and pending applications is accurate up to 31st May 2020

7.39 The detailed schedules confirm the up to date status on the various sites, setting out the planning position, what has been completed over the past year and what is currently under construction.

7.40 The Council is proactive in maintaining an up to date position on housing delivery in the District and is fully observant of the definition of deliverability which is set out in the glossary of the NPPF. As well as carrying out site visits in order to confirm the current position on development sites, the Council also liaises directly with the developers and agents of the larger sites in order to discuss the future delivery of the sites. This information is reflected in the tables set out in the appendices to Appendix 3, although the Council does not just relay on the information provided by the development industry, but instead undertakes a careful and cautious analysis and has discounted some sites from the 5 year supply or altered the delivery trajectory due to, for example, the phosphates issue together with the need to demonstrate nutrient neutrality, and discussions with development management officers at the Council.

7.41 The delivery of housing is a priority for the District Council and measures are being taken to accelerate housing growth, including working with the development industry to unlock sites. The Council now employs an Accelerated Housing Delivery Programme Manager. His role is to work in partnership across the Council, development industry and other housing providers to unlock sites and to increase the supply of homes across the District.

7.42 Windfall Allowance

7.45 The Council includes a small windfall allowance as a component of supply. A very conservative approach has been taken to the calculation of the allowance.

7.46 Non-Implementation Allowance

7.47 A non-implementation 5% discount has been applied to the overall housing supply to take account of non-implementation.

7.48 Approach to Care Homes

7.49 Additionally, a discount is applied to care home consents in accordance with the methodology published in the Housing Delivery Test Measurement Rule Book. This is based on applying the ratio of 1.8 to the number of rooms provided.

7.50 Landscape and Visual Impact

7.51 A Landscape and visual Impact Assessment (LVIA) was submitted with the application and additional commentary has been provided by the applicants for the purposes of this appeal. A review of the appellants' LVIA was undertaken and a number of issues were highlighted which are considered here.

7.52 Whilst the assessment is detailed, it was found wanting owing to a lack of clarity in some parts making it unclear how the applicant arrived at possible impacts. The methodology used in defining landscape and visual receptors and how this was employed in trying to characterise the impacts is not something the council accepts. An example is the lack of clear justification for assessment of the settlement of Castle Cary and Ansford as moderate adverse.

7.53 In their analysis, the appellants accept that the development would result in irrevocable and permanent impacts which could be mitigated by landscaping over time. The nature of the site and its prominent position implies that it would be difficult to mitigate against such significant change. This is similarly the conclusion in relation to the impacts surrounding landscape and the effects on the settlement. It is concluded that the impacts of the development on this sparsely settled landscape would materially alter the character of the site and the public's perception of the settlement in relation to the countryside. The Council's view and position is contained within Appendices 4 and 5 and this can be elaborated further during the hearing.

7.56 Phosphates.

7.57 The appeal site is within the catchment for the Somerset Levels and Moors SAC and Ramsar catchment designated under the Habitat Regulations 2017 and under the Ramsar Convention respectively. The appellants submitted that they are aware of the ongoing phosphates issue related to the mentioned site but no appropriate mitigation was included with the submission. However, it is agreed

that the appeal site falls within the Somerset Levels and Moors Ramsar site as illustrated by the catchment plan (Appendix 7) and furthermore that current condition of the Somerset Levels and Moors Ramsar site is unfavourable and the Somerset Local Planning Authorities have been advised by Natural England by letter of 17th August 2020 (Appendix 6) that in light of the implications of the “Dutch N” (Joined Cases C-293/17 and C-294/17 Coöperatie Mobilisation for the Environment UA and Others v College van gedeputeerde staten van Limburg and Others) the possibility of authorising activities which may subsequently compromise the ability to restore the site to favourable condition and achieve the conservation objectives is “necessarily limited”.

7.58 The draft Statement of Common Ground contains a comprehensive commentary upon the approach to dealing with development requiring appropriate assessment as well as the suitability of reliance upon private treatment works and the likely solutions to mitigation.

7.59 The position is set out in the Statement of Common Ground is, in part based an anticipation that mitigation solutions would become available over the duration of the appeal. As the Statemenet of Common Ground is not currently completely agreed text is repeated below to provide the context for any appropriate assessment.

7.60 It is agreed that in relation to the status of Ramsar sites the National Planning Policy Framework (The Framework) at paragraph 176 states:

The following should be given the same protection as habitats sites: a) potential Special Protection Areas and possible Special Areas of Conservation; b) listed or proposed Ramsar sites⁵⁹; and c) sites identified, or required, as compensatory measures for adverse effects on habitats sites, potential Special Protection Areas, possible Special Areas of Conservation, and listed or proposed Ramsar site.

7.61 The Framework continues at paragraph 177 to confirm that:

The presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects), unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site.

- 7.62 It is agreed that the Somerset Local Authorities are working together with Natural England to understand the levels and impacts of phosphates arising from new residential development in order to minimise delays in their ability to favourably determine proposals for sustainable development and have published a Phosphate Calculator which is available on the Council website.
- 7.63 It is agreed that the Phosphate Calculator currently affords the Castle Cary Sewerage Treatment Works (STW) a value of 5 in terms of phosphate removal where 5 represents the least efficient STW in terms of phosphate removal within the Wessex Water stock of STW's. It is also agreed that Wessex Water intends to upgrade the STW after 2025 to an efficiency rating of 0.5.
- 7.64 It is agreed that the publication of the Phosphate Calculator allows for some applications to calculate a land budget for phosphate mitigation based upon the existing land uses, efficiency of the relevant STW and proposed mitigation land use.
- 7.65 In relation to the approach to be adopted to the provision of wastewater treatment proposals the National Planning Practice Guidance (PPG) advises that:

When drawing up wastewater treatment proposals for any development, the first presumption is to provide a system of foul drainage discharging into a public sewer to be treated at a public sewage treatment works (those provided and operated by the water and sewerage companies). This will need to be done in consultation with the sewerage company of the area.

7.66 The Guidance goes on to state that, where a connection to a public sewage treatment plant is not feasible (in terms of cost and/or practicality) a package sewage treatment plant can be considered. This could either be adopted in due course by the sewerage company or owned and operated by a sewerage undertaker appointed under a new appointment or variation. The package sewage treatment plant must comply with the general binding rules, or a permit will be required. A package sewage treatment plant must be used if the treated effluent is being discharged to surface water. Paragraph: 020 Reference ID: 34-020-20140306

7.67 It is further agreed that the “General Binding Rules” confirm the following:

If any part of the building your treatment system serves is within 30 metres of a public sewer, the Environment Agency will not allow you to start a new discharge from a septic tank or small sewage treatment plant under the general binding rules.

7.68 If you are building a development of more than one property, this distance must be multiplied by the number of properties - for example, if there are 3 properties then the distance will be 3 x 30 metres = 90 metres.

7.69 It is agreed that at this point in time neither party has presented evidence that they have explored the feasibility of connecting into the Wessex Water public (in terms of cost and/or practicality) and / or that the Environment Agency would permit a new discharge.

7.70 “Where the applicant does not control additional land within the red line planning application boundary to provide a self-contained phosphate mitigation solution it is agreed that the necessary mitigation will require an off-site solution, secured by way of a Section 106 Agreement. The Somerset Authorities are currently working to define a range of suitable mitigation projects and costs to development of securing these. It is agreed that currently there is no agreed figure for such off-site mitigation that could be transposed into a Section 106 Agreement Undertaking as a cost per dwelling to deliver an agreed mitigation

solution. If a sum is defined prior to the date of the hearing it is agreed that further information will be provided to the appellant and Inspector.

- 7.71 There are other potential ways in which an off-site mitigation solution could be achieved, including direct changes in land management by the appellant on other land in the appellant's control, which is located within the relevant catchment, or the purchase by appellants of "credits" for third parties to make changes to management of their land, subject to these credits relating to a scheme approved by the planning authorities in agreement with Natural England.
- 7.72 The appellant will seek to secure through the Section 106 Agreement a Nutrient Neutrality Strategy specifying the off-site mitigation measure(s).
- 7.73 It is furthermore agreed that in the absence of a defined off site solution the development is likely to result in a significant effect upon the European Site and should be the subject of a Habitats Regulations Assessment to assess the likely significant effects. The consequence of not defining suitable mitigation is that the development is likely to be contrary to the provisions of Policy EQ 4 and to the provisions of the Habitats Regulations 2017.
- 7.74 Other Matters:
- 7.75 Development Finance: The Council has not raised any contention in relation to housing need and supply including the issue of Affordable Housing and if the Inspector is minded to grant permission, Other than CIL, affordable housing and other financial contributions could be secured by way of a Section 106 agreement.
- 7.76 In addition, no objections were raised in relation to Ecology, Highways and access, Noise, Air Quality and Ground Contamination

8.0 Conclusions:

8.1 Based on the Committee report and the comments within this statement, officers would recommend that the appeal is dismissed for the same reason as stated in the committee report i.e.:

“The development, by reason of its scale and location, represents a visually obtrusive encroachment beyond the town's obvious physical and topographically informed limits and into the open countryside, to the detriment of local and landscape character. This harm would significantly and demonstrably outweigh the benefits of the proposal and would be contrary to policies SD1, SS1, SS5, EQ2, EQ3, LMT1 of the South Somerset Local Plan (2006-2028), policy DP1 and the aims and objectives of the Castle Cary and Ansford Neighbourhood Plan (2019), and the provisions of the NPPF”

9.0 Conditions

If the Inspector is minded to grant permission, Officers would recommend that in addition to appropriate financial contributions and obligations, the development be subject to the conditions set out with the Statement of Common Ground as follows:

1. Submission of reserved matters (layout, scale and appearance);
2. Submission of reserved matters within 3 years;
3. Development to commence within 2 years of final approval of the reserved matters;
4. Development to accord with approved plan GMA-0121-02 Existing Site Location Plan ;
5. Development to not exceed 200 dwellings;
6. Programme of archaeological work;
7. Landscape and Ecological Management Plan (LEMP) to be approved prior to commencement;
8. Construction Environmental Management Plan (CEMP) to be approved prior to commencement;
9. Construction Management Plan (CMP) to be approved prior to commencement;

10. Resurfacing of footpath along eastern boundary of site, from the railway station gate at the northern end of the footpath to the junction with Ansford Hill at the southern end;
11. Provision of estate roads and footways within the site, including a footway link from the residential development to the footpath along the eastern boundary of the site, with details to be approved prior to commencement of each phase;
12. Provision of new site access road with right turn lane, generally in accordance with submitted Drawing 1278_0720_P2_Site Access Layout with the footways to be no less than 2m in width, subject to Section 278 Agreement;
13. Provision of improvements to the existing footway along Ansford Hill on the southern edge of the site such that the footway is no less than 2m in width subject to Section 278 Agreement;
14. Temporary surface water drainage management system for the construction phase to be approved prior to commencement;
15. Permanent surface water drainage management system to be approved prior to commencement;
16. Adoption and maintenance details for permanent surface water drainage management system to be approved prior to commencement;
17. External materials details;
18. Detailed hard and soft landscaping plans including boundary treatments, planting plan and implementation and management;
19. Levels plans including all proposed earthworks;
20. Noise assessment and any mitigation measures required.

10. APPENDICES: