



**Proof of Evidence of Jamie  
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MRTPI**

**Land North of Ansford Hill,  
Ansford, Castle Cary, Somerset,  
BA7 7PD**

*Prepared For*  
**South Somerset District  
Council**

*APP/R3325/W/20/3259668*  
**October 2021**



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## **1 THE AUTHOR – QUALIFICATIONS AND EXPERIENCE**

- 1.1 My name is Jamie Selkirk Wallace, Senior Associate at Bell Cornwell LLP, a Planning Consultancy. I hold a Bachelor of Arts Degree in Town Planning and a post Graduate Diploma in Town Planning, both from the University of Newcastle Upon Tyne.
- 1.2 I am a chartered town planner and was elected to Membership of the Royal Town Planning Institute in 2013. I have practiced planning since July 2007 and for the last 18 months for Bell Cornwell LLP in my capacity as Senior Associate.
- 1.3 Throughout my career I have advised a wide private client base in relation to strategic planning and planning policy, acting on their behalf on a range of planning applications and appeals. I also represent clients at local plan examination.
- 1.4 The evidence which I have prepared and provide for in this appeal is true and has been prepared and is given in accordance with the guidance of my professional institution, the Royal Town Planning Institute. I confirm that the opinions expressed are my true and professional opinions, irrespective of by whom I am instructed.
- 1.5 In January 2021, Bell Cornwell was appointed to provide consultancy services and act as a specialist housing land supply witness for future appeals on behalf of South Somerset District Council.
- 1.6 Since becoming involved in this appeal, I have provided advice and met with officers within the Council regarding the preparation of supporting evidence relating to housing issues. I have visited the appeal site and reviewed the findings of the South Somerset District Council Five-Year Housing Land Supply Paper (September 2021) post publication. My own assessment of this details and associated evidence, has informed the findings presented within my Proof of Evidence with regard to housing delivery and its consideration as part of the planning balance.



## 2 SUMMARY OF PROOF

- 2.1 The appeal proposal consists of a development 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. The appeal scheme is contrary to a number of development plan policies and allowing this development would result in significant harm to valued landscape features that define this part of Ansford/Castle Cary.
- 2.2 As was the case at the time of the application, the Council is unable to demonstrate a 5-year housing land supply and, in accordance with Paragraph 11 of the National Planning Policy Framework 2021, 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.
- 2.3 In addition to being contrary to the housing policies of the Local Plan, the proposed development has been found to result in adverse impacts to the local landscape character and the setting of non-designated heritage assets. These adverse impacts relating to landscape and non-designated heritage assets, informed the reason for refusal as detailed on the decision notice issued 15<sup>th</sup> June 2020.
- 2.4 The Council published its latest 5-Year Housing Land Supply Paper in September 2021 concluding that the Council could demonstrate 4.7 years of housing land supply. This figure was reduced to 4.6 years following further review during the course of the appeal.
- 2.5 The Council has made significant headway in progressing interim measures for phosphates solutions to allow for development sites to be delivered. This detail is provided in Section 7 of my Proof of Evidence and is a material consideration of significant weight in the determination of this appeal.
- 2.6 The Council does not dispute it is unable to demonstrate a delivery five-year supply of housing in the District. It is acknowledged that the 'tilted balance' as set out in adopted



Local Plan Policy SD1 and Paragraph 11d) of the National Planning Policy Framework is engaged as part of the determination of this appeal. An assessment of the weight to be applied to those Local Plan policies of most relevance in the determination of the application is provided within Section 8 of my Proof of Evidence.

- 2.7 As part of my assessment of the appeal scheme, the public benefits attributed to the appeal proposals, primarily social and economic ones have been acknowledged. However the weight given to the benefits, such as housing delivery, are reduced given the extent of the shortfall in housing land supply, which is to be short-lived. These benefits do not outweigh the adverse impacts upon the valued landscape as a result of the scheme proposals.
- 2.8 This Proof of Evidence sets out planning policy matters and assesses the balance of public benefits versus harm. An assessment of the Councils 5-Year Housing Land Supply is also provided. This Proof should be read in conjunction with the other Proof of Evidence prepared by Charles Crawford acting on behalf of the Council on technical landscape matters.



### 3 INTRODUCTION

3.1 The appeal proposal consists of a development 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, BA7 7PD. The planning application (Application Reference: 19/01840/OUT) was submitted in outline form with all matters reserved other than means of access.

3.2 The outline planning application, which was presented to Members of the Area East Committee on the 13<sup>th</sup> May 2020, was found to fail, in the Council's opinion, to adhere to the policies of the development plan and would result in harm to the valued landscape features that define the character of this part of Ansford/Castle Cary. The planning application was subsequently refused on the 15<sup>th</sup> of June 2020 for the following reason:

1. *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*

3.3 As set out within the officer's report (CD: A-09) at the time of the application the Council had no proven 5-year housing land supply (HLS). In accordance with Section 38(6) of the Planning and Compulsory Purchase Act (2004) and Paragraphs 2 and 47 of the National Planning Policy Framework 2021 (NPPF), which is a material consideration in planning decisions, planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise.



- 3.4 As is required in accordance with paragraph 11d) of the NPPF, 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, known as the ‘tilted balance’.
- 3.5 Footnote 8 of the NPPF identifies that development plan policies should be considered out of date for applications involving the provision of housing, where the local planning authority cannot demonstrate a 5-year HLS.
- 3.6 However, whilst policies relevant to the supply of housing are deemed “out-of-date” by reference to the NPPF, it does not mean they do not still carry weight. As confirmed by several judgments in the High Court and at the Court of Appeal, the weight to be applied to such policies is up to the decision maker as a matter of planning judgement<sup>1</sup>.
- 3.7 The weight to be applied to “out of date” policies is one of a ‘balancing’ exercise which will *“vary according to the circumstances, including, for example, the extent to which the policies actually fall short of providing for the required five-year supply, and the prospect of development soon coming forward to make up the shortfall<sup>2</sup>.”*
- 3.8 Such an approach has been affirmed by the Court of Appeal<sup>3</sup>.
- 3.9 As set out within the officers report , those policies most important in the determination of the application were those in the Local Plan (CD: A-01) and Neighbourhood Plan (CD: A-04) seeking to limit the distribution and quantum of housing growth, notably Local Plan policies SD1, SS1, SS5, LMT1.
- 3.10 The housing policies of the South Somerset Local plan which were acknowledged as being out of date were not those solely used in contesting the development. In accordance with the provisions of the NPPF, the proposed development was assessed

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<sup>1</sup> Woodcock Holdings v SOSCLG [2015] EWHC 1173 (Admin) at para 87

<sup>2</sup> Lindblom J in Crane v SOSCLG [2015] EWHC 425 (Admin) at para 71

<sup>3</sup> SOSCLG v Hopkins Homes [2016] EWCA Civ 168 and IHallam Land Management v SOSCLG at para 29



and found to result in significant adverse impacts on the landscape and non-designated heritage assets, contrary to the relevant other policies of the Development Plan including Policies EQ2 and EQ3 of the South Somerset Local Plan (2006-2028), Policy DP1 of the Castle Cary and Ansford Neighbourhood Plan (2018) and paragraph 170 of the National Planning Policy Framework 2019 (now paragraph 174 of the NPPF 2021).

### **PROCEDURAL MATTERS**

- 3.11 It was originally anticipated that the appeal process would be progressed via the use of a hearing. On the 8th of June 2021 the Planning Inspectorate confirmed that the procedure for determining the appeal would be changed to an inquiry.
- 3.12 Within the Council's Statement of Case (CD: CD-G-05), dated July 2021, the Council presented that it could demonstrate a 5-year HLS, with a supply of 6.15 years. The Council's ability to demonstrate a 5-year HLS was acknowledged within the Appellants Statement of Case (CD: G-02), although the exact extent was disputed.
- 3.13 On the 6<sup>th</sup> of July 2021 it was concluded by the Planning Inspectorate, within a dismissed appeal (Appeal Ref: 3265558) at Manor Farm, Templecombe (CD: B-15), that the Council could only evidence a 5-year HLS of between 3.97 and 3.66 years. Subsequent to this decision the Council has concluded its programmed annual review of the 5-year HLS position, as such the 5-year HLS position has been further clarified.
- 3.14 On the 23<sup>rd</sup> of September 2021 the Council published its Five-Year Housing Land Supply Paper (CD: C-06). The paper concluded that the Council is unable to demonstrate a 5-year HLS, with an HLS equivalent to 4.7 years (rounded), representing a shortfall of 232 dwellings for the period 1st April 2021 to 31st March 2026.
- 3.15 On the 4<sup>th</sup> of October 2021, the Appellant provided email correspondence to the Council outlining their intention to dispute the findings of the Five-Year Housing Land Supply Paper. The Appellant has since identified a number of 'contested' sites considered to be undeliverable, due to the lack of a 'Phosphate solution', and that the Council should not rely on the delivery of any windfall sites in this context. This would result in an HLS equivalent to 4.05 years, representing a shortfall of 691 homes.





- 3.16 It has since been agreed that a series of ‘contested’ sites should be withdrawn from the HLS as well as the erroneous double counting of a site (Upton Lane Seavington St Mary). The recalculated figure as now presented by the Council equates to 4.6 years (rounded), representing a shortfall of 267 dwellings for the period of 1<sup>st</sup> April 2021 to 31<sup>st</sup> March 2026.
- 3.17 As set out within the Statement of Common Ground the parties agree that the Council is unable to demonstrate a 5-year HLS, however the level of shortfall remains disputed. At the time of drafting my Proof of Evidence, this contention is understood to relate to the delivery of a single site (Crewkerne Key Site 1 between A30 and A356) and the inclusion of windfall sites within the HLS figure. Further evidence in relation to the disputed shortfall is set out within Section 7 of my Proof of Evidence.
- 3.18 The Council therefore acknowledges it cannot demonstrate a 5-year HLS and that the ‘tilted balance’ and presumption in favour of sustainable development, as per adopted Local Plan Policy SD1 and in paragraph 11d) of the NPPF, is engaged. The original planning policy context from the original decision is again applicable in the determination of this appeal.
- 3.19 It remains the Council’s case that whilst there will be public benefits arising from the appeal, notably additional housing supply, substantial harm is generated by the proposals. The resulting harm of the scheme significantly and demonstrably outweighs the benefits.
- 3.20 The Council now further contends that the shortfall in HLS will be short-lived, as housing sites in more suitable locations are able to be delivered due to significant headway being made in resolving the position in relation to the conditions of the Somerset Levels and Moor Ramsar Site. This position is further clarified within Section 7 of my Proof of Evidence and as set out within the Advice Note prepared by Wessex Water EnTrade (EnTrade) (CD: D-04), a material consideration in the determination of this appeal.
- 3.21 My Proof of Evidence provides for an assessment of the Councils 5-year HLS position, planning policy matters and assesses the balance of public benefit against the harm. My



Proof of Evidence should be read alongside the other proofs prepared by specialists advising the Council in relation to other technical matters including:

- Charles Crawford BA DipLA CMLI, Chartered Landscape Architect of LDA Design who will address the impact upon the local and landscape character.

3.22 The expert witness in relation to matters of landscape impact has produced a separate Proof of Evidence, upon which I rely.

3.23 My initial involvement as expert witness, related solely to 5-year HLS matters, including the composition of the shortfall, which followed the submission of the Councils Statement of Case, prepared by an officer of the Council. I was subsequently asked to also act as expert witness in relation to planning policy matters, and the consideration of material considerations as relevant to the assessment of the planning balance.

3.24 My Proof of Evidence should therefore be read in conjunction with the submitted Statement of Case, insofar as it provides a description of the appeal proposals, relevant planning history and as a rebuttal to the Appellants Statement of Case. Although much of the policy assessment within the Statement of Case prepared by the Council remains applicable, my Proof of Evidence will provide clarification and a standalone assessment in relation to:

- The schemes compliance with Local and National planning policies.
- The Council's latest 5-year HLS position.
- The contested composition of the shortfall between the parties.
- The current position in relation to Phosphate mitigation within South Somerset District and the implication on determining planning applications.
- The likely time period in which the shortfall in the 5-year HLS will be addressed.
- The 'weighting' to be applied to relevant planning policies as part of the planning balance.



## **4 DESCRIPTION OF APPEAL SITE AND SURROUNDINGS**

- 4.1 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.
- 4.2 The extent and character of the site is further detailed within the officers report (page 1) and the Statement of Common Ground (page 3-4) and is not further described here. A detailed assessment of the sites topographical context is provided with the Proof of Evidence prepared by Charles Crawford (Section 5).



## 5 THE PROPOSALS

- 5.1 The appeal proposals seek outline planning permission, with all matters reserved other than means of access, for the erection of 200 dwellings (70 affordable and 130 open market) with associated highways, drainage, landscaping and public open space.
- 5.2 A new highways access off Ansford Hill is proposed on the southern site boundary. A new right-turn lane with traffic islands would be created, enabling separation of traffic turning right into the site from traffic continuing westwards along Ansford Hill.
- 5.3 The Indicative Site Layout Plan illustrates how the site is likely to be developed and informs the landscape and visual impact assessments. The proposals provide for an area of open space along the eastern boundary, with the remaining area given over to built form.
- 5.4 The appeal proposals are further details within Section 4 of the Statement of Common Ground.



## **6 RELEVANT PLANNING HISTORY**

- 6.1 There is no site-specific planning history (in terms of applications) which is relevant to the consideration of this appeal.



## 7 PLANNING POLICY AND GUIDANCE

### PLANNING POLICY

- 7.1 Section 38(6) of the Planning and Compulsory Purchase Act (2004) and paragraphs 2 and 47 of the National Planning Policy Framework indicate it is a matter of law that applications are determined in accordance with the development plan unless material considerations indicate otherwise.
- 7.2 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).
- 7.3 The appeal proposal was considered against various policies and guidance referred to in the case officer report and as set out in the Statement of Case. 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
- 7.4 Castle Cary and Ansford Neighbourhood Plan (adopted January 2018)
- Policy DP1 – Development Standards and Design Principles
- 7.5 National Planning Policy Framework (2021)



- Chapter 15 – Conserving and Enhancing the Natural Environment
- Chapter 16 – Conserving and Enhancing the Historic Environment

7.6 The exact wording of the relevant Development Plan policies referred to above is set out below. An initial assessment of the appeal schemes compliance with the Development Plan is provided within the Statement of Case. I however provide my own assessment so as to inform my findings in relation to the ‘planning balance’.

#### Policy SS1 – Wording

7.7 *Yeovil is a Strategically Significant Town and the prime focus for development in South Somerset.*

*The following are Market Towns where provision will be made for housing, employment, shopping and other services that increase their self-containment and enhance their roles as service centres:*

- *Primary Market Towns: Chard, Crewkerne, Ilminster and Wincanton*
- *Local Market Towns: Ansford/Castle Cary, Langport/Huish Episcopi and Somerton.*

*The following are Rural Centres which are those market towns with a local service role where provision for development will be made that meets local housing need, extends local services and supports economic activity appropriate to the scale of the settlement:*

- *Rural Centres: Bruton, Ilchester, Martock/Bower Hinton, Milborne Port, South Petherton, and Stoke sub Hamdon.*

*Rural Settlements will be considered as part of the countryside to which national countryside protection policies apply (subject to the exceptions identified in Policy SS2).*

#### Policy SS1 – Application



- 7.8 Policy SS1 of the Local Plan established the settlement hierarchy for the District, identifying the *'broad strategic locations for new development reflecting sustainable development principles<sup>4</sup>*. The settlement strategy as set out within Policy SS1, is informed by the South Somerset Role and Function Study (CD: A-16), which provides the evidence base behind the identification of the role of settlements and recommendations for their classification within the hierarchy.
- 7.9 Ansford/Castle Cary is identified as a Local Market Town within Policy SS1, commensurate with its range of jobs, services and sustainable transport potential as set out within the South Somerset Role and Function Study. Yeovil, identified as a Strategically Significant Town, is the prime focus for development in South Somerset. Ansford/Castle Cary, a Local Market Town and the lower of the two tiers of market town is identified for limited growth.
- 7.10 The application site is located outside of the development area of Ansford and Castle Cary, as defined on the Local Plan Inset Map 1 (CD: A-02). It is therefore categorised as being located within the 'open countryside', where development is restricted in principle, and not within a settlement identified for development within the Local Plan.
- 7.11 As such the proposal is contrary to Policy SS1 of the Local Plan.

Policy SS5 - Wording

- 7.12 *Housing requirement will make provision for at least 15,950 dwellings in the plan period 2006 – 2028. At least 7,441 dwellings will be located within the Urban Framework of Yeovil and via two Sustainable Urban Extensions.*

*This provision will include development and redevelopment within development areas, greenfield development identified within this Plan or to come forward through conversions of existing buildings, residential mobile homes and buildings elsewhere in accordance with the policy on development in rural settlements.*

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<sup>4</sup> South Somerset Local Plan (2006 -2028) at para 5.2





Prior to the adoption of the Site Allocations Development Plan Document, a permissive approach will be taken when considering housing proposals in Yeovil (via the SUEs), and 'directions of growth' at the Market Towns. The overall scale of growth (set out below) and the wider policy framework will be key considerations in taking this approach, with the emphasis upon maintaining the established settlement hierarchy and ensuring sustainable levels of growth for all settlements. The same key considerations should also apply when considering housing proposals adjacent to the development area at Crewkerne, Wincanton and the Rural Centres.

The distribution of development across the settlement hierarchy will be in line with the numbers below:

Settlement	Local Plan 2006-2028 Total Housing Requirement	Existing Housing Commitments 2006-2012 (at April 2012)	Additional Housing Provision required (Total Housing Less Existing Commitments) (at April 2012)
Yeovil	7,441	3,951	3,490
Chard	1,852	1,750*	102
Crewkerne	961	916	45
Ilminster	496	181	315
Wincanton**	703	698	5
Castle Cary / Ansford	374	156	218
Langport / Huish Episcopi	374	289	85
Somerton	374	286	88
Bruton	203	103	100
Ilchester	141	1	140
Martock	230	106	124
Milborne Port	279	202	77
South Petherton	229	151	78
Stoke Sub Hamdon	51	7	44
Rural Settlements	2,242	1,331	911
<b>Total</b>	<b>15,950</b>	<b>10,128</b>	<b>5,822</b>

\* 1,750 commitments at Chard reflects built and committed sites and that part of the strategic allocation proposed for Chard that is expected to be built out in the plan period. This latter is shown as committed as it is currently part of the saved proposal from South Somerset Local Plan 1991 – 2011. The additional provision is windfall development prior to April 2017 not currently consented (April 2012). The strategic allocation provides for 2,716 dwellings of which 1,220 are anticipated in the Plan period with the rest, 1,496 expected post-2028.

\*\* The Council will undertake an early review of local plan policy relating to housing and employment provision in Wincanton. This will be in accordance with statutory requirements and completed within three years of the date of adoption of the local plan.

### Policy SS5 – Application

7.13 The district-wide housing requirement is for at least 15,950 dwellings over the plan period (Policy SS5), distributed according to the settlement strategy in Policy SS1. Policy SS5 identifies a housing requirement of 374 within Ansford/Castle Cary across the plan period.



7.14 It is acknowledged that the district-wide housing requirement is expressed as an “at least” figure, and that a permissive approach applies to housing proposals in the ‘directions of growth’ at the Market Towns (in advance of the Site Allocations Development Plan Document).

7.15 The site is not identified within the Local Plan for development and is located outside of a ‘rural settlement’, a ‘built up area’ and a ‘direction for growth’. Policy SS5 does not seek a contribution to the housing requirement from sites within the ‘open countryside’. As such the proposed scheme is contrary to Policy SS5.

Policy LMT1 - Wording

7.16 *The direction of strategic growth (for housing, employment & education) will be north of Torbay Road and East and West of Station Road. As part of any expansion within the direction for growth, a road will be expected to be provided between Station Road & Torbay Road prior to completion of the expansion.*

Policy LMT1 – Application

7.17 Inset Map 1 defines the extent of the Direction of Growth, located at Ansford/Castle Cary, with a series of brown lines within a specific area to the south of the A371 Ansford Hill.

7.18 As part of the evidence base for the Development Plan, the Sustainability Appraisal (June 2012) provides an assessment of three potential locations for a Direction of Growth in Ansford/Castle Cary. Appendix 6B of the Sustainability Appraisal includes a map (CD: A-18) identifying these potential locations, described as Option 1 – North West, Option 2 – North, Option 3 – North East. Within the Inspectors Report on the Examination into the South Somerset Local Plan 2006-2028 (CD: A-19), it is stated that Option 1 ‘*would not have a significantly adverse impact on the landscape setting of the town*’. Option 1 reflects the now adopted Direction of Growth.

7.19 It is clear that none of the three options included the site, which was never considered to be included within a Direction of Growth. Appendix 2 of the Local Plan Review



Preferred Options Consultation provides a map of Ansford & Castle Cary (CD: A-08). As shown on the map, the pattern of approved applications outside of the 'built up area' are concentrated to the south of the A371 within the Direction of Growth as defined by the brown lines of the Inset Map.

- 7.20 Approved planning applications include the 'Lovels Farm' residential development, which was allowed on appeal (Appeal Ref: 3035753) and located east of Station Road. In addition to the residential development on land at Wayside Farm which was also allowed on appeal (Appeal Ref: 3121541). Within both decisions the Inspector states that the sites are within the direction of growth as is 'identified on the proposals map'.
- 7.21 It is clear that the site is not located within the Direction of Growth of Ansford/Castle Cary and thus any development on the proposal site would be contrary to the Local Plan Policy LMT1.

Policy EQ2 – Wording

- 7.22 *Development will be designed to achieve a high quality, which promotes South Somerset's local distinctiveness and preserves or enhances the character and appearance of the district.*

*Development proposals, extensions and alterations to existing buildings, structures and places will be considered against:*

- *Sustainable construction principles;*
- *Creation of quality places;*
- *Conserving and enhancing the landscape character of the area;*
- *Reinforcing local distinctiveness and respect local context;*
- *Creating safe environments addressing crime prevention and community safety;*
- *Having regard to South Somerset District Council's published Development Management advice and guidance; and*



- *Making efficient use of land whilst having regard to:*
- *Housing demand and need;*
- *Infrastructure and service availability;*
- *Accessibility;*
- *Local area character;*
- *Site specific considerations*

*Innovative designs delivering low energy usage and/or wastage will be encouraged. Development must not risk the integrity of internationally, nationally or locally designated wildlife and landscape sites. Development proposals should protect the residential amenity of neighbouring properties and new dwellings should provide acceptable residential amenity space in accordance with Policy HW1.*

*Para 174 National Planning Policy Framework - Wording*

7.23 *Planning policies and decisions should contribute to and enhance the natural and local environment by:*

- a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);*
- b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;*

*Policy EQ2 and Para 174 - Application*

7.24 Policy EQ2 seeks to deliver high quality designed development which, amongst other criteria, reinforces local distinctiveness and conserves and enhances the local landscape



character. This is also reflected within criteria a) and b) of para 174 of the NPPF.

I find these elements to be the most relevant policy criteria against which I have assessed the appeal proposals.

7.25 As advised by the NPPF, a hierarchy should be distinguished (in terms of for example landscape value, biodiversity or geographical value and soils), having regard to international, national and locally designated sites.

7.26 Within my assessment of the appeal proposals, I have reviewed the Landscape Visual Impact Assessment (LVIA) submitted by the appellant as part of the planning application documents. I also note the findings of the review of the LVIA as undertaken by LDA Design on behalf of the Council.

7.27 A detailed review of these documents, as well as the Landscape and Visual Hearing Statement submitted by the Appellant, is provided within the Proof of Evidence as prepared by Charles Crawford. I do not wish to repeat the assessment as completed with Mr Crawford's Proof of Evidence, so I provide a summary of the salient points as relevant to my consideration of the schemes compliance with policy EQ2. This includes:

- *“It is now established in case law that the project must be defined in sufficient detail, even in an outline planning application, to allow for its effects on the environment to be identified and assessed”.*
- The section of the ridgeline that forms the A371 Ansford Hill along the southern boundary of the site defines the northern extents of Castle Cary/Ansford.
- It forms a strong edge to the settlement, with a substantial, well-treed hedgerow along the south side of the road and only glimpsed views from the north of a small number of houses along the ridgeline. The road defines a profound change in topography and character, with land to its south being well related visually and topographically to the settlement, whilst land to the north relates entirely to the Brue Valley, with extensive rural views across the vale. The road and the ridgeline therefore form a clear and well defined natural boundary to the town.



- Despite the existing development and infrastructure, some of which is visually intrusive (such as the car dealership) the landscape has an attractively rural character, which is derived principally from its topography and vegetation pattern including strong hedgerows, well-treed watercourses, hedgerow trees, woodlands and numerous field trees. The perception is of a rural landscape accommodating scattered development rather than a landscape subject to urbanising influences. There is no sense of proximity to an urban area.
- In assigning the landscape a 'local' value, the LVIA values the landscape more highly than the two categories at the bottom of the hierarchy, 'community' value and 'limited' value. This judgement, with which I agree, indicates that the value of the Brue Valley landscape, including its north facing scarp on which the appeal site lies, is above 'everyday' or 'ordinary' countryside.
- There will be a permanent major adverse effect on the landscape of the site itself.
- The fundamental change in the character of the site from rural to urban cannot be mitigated, even if some existing features are retained and supplemented by new planting and public open space.
- At paras 6.14 – 6.17 of the LDA Review, we identify a permanent, moderate-major adverse residual effect on the landscape of the Brue within roughly a 2 km radius north of the site
- Neither the current NPPF, nor earlier versions (2012, 2018 and 2019) or supporting Planning Practice Guidance, provide a definition of what constitutes a 'valued landscape'.
- We have undertaken additional assessment work to investigate the potential for the local landscape to qualify for 'valued landscape' status.



- Overall, I conclude that the landscape of the Brue Valley clearly has a value above the everyday, community level and therefore qualifies for ‘valued landscape’ status.
- I conclude, therefore, that the appeal site forms an integral component of the ‘valued landscape’ of the Brue Valley.
- The proposals will result in the following effects:
  - major adverse effect on the landscape of the site itself.
  - major adverse visual effect for pedestrians using the A371 adjacent to the site.
  - major adverse visual effect for rail passengers using the station and pedestrians crossing the footbridge.
  - major adverse visual effect for users of Monarch’s Way adjacent to the site.
  - moderate-major adverse residual effect on the landscape of the Brue Valley within roughly a 2 kilometre radius north of the site.
  - major-moderate adverse visual effect for motorists on the main road network.
  - major-moderate adverse visual effect for pedestrians, cyclists and horse riders on the local road network, including Easthill Lane, West Lane, Bolter’s Lane and other minor road with views of the appeal site.
  - major-moderate adverse visual effect for rail passengers passing through or stopping at the station.
  - major-moderate adverse visual effect on the setting of Castle Cary (including Ansford).
- In my opinion, these effects should be accorded substantial weight.



7.28 I am in agreement with the findings set out within Mr Crawford's Proof of Evidence and it is clear to me that the development would result in an unacceptable level of harm to a valued landscape. I therefore find that the proposals conflict with Policy EQ2 and para 174 of the NPPF as it fails to conserve and enhance the landscape character of the area.

Policy EQ3 - Wording

7.29 *Heritage assets will be conserved and where appropriate enhanced for their historic significance and important contribution to local distinctiveness, character and sense of place. Their potential to contribute towards the economy, tourism, education and local identity will be exploited. All new development proposals relating to the historic environment will be expected to:*

- *Safeguard or where appropriate enhance the significance, character, setting and local distinctiveness of heritage assets;*
- *Make a positive contribution to its character through high standards of design which reflect and complement it and through the use of appropriate materials and techniques;*
- *Ensure alterations, including those for energy efficiency and renewable energy, are balanced alongside the need to retain the integrity of the historic environment and to respect the character and performance of buildings, adopting principles of minimum intervention and reversibility.*

Policy EQ3 - Application

7.30 During the course of the determination of the planning application, the Council instructed Headland Archaeology to prepare a Heritage Assessment (CD: L-03) to assess the potential effects of the proposed development on the historic environment.

7.31 The assessment identified that the heritage assets most affected were the non-designated heritage assets of the railway station, and the remains of the former turnpike road, which stand as an earthwork within the site.





7.32 As set out within National Planning Policy Guidance, *‘in some cases, local planning authorities may also identify non-designated heritage assets as part of the decision-making process on planning applications, for example, following archaeological investigations<sup>5</sup>’*.

7.33 The Headland Archaeology Assessment concluded that as a result of the development it would detrimentally impact on the setting of the non-designated asset. Noting that:

*This visual change within the setting of the station is considered to result in a reduction in the heritage significance of the station building which derives primarily from its architectural and historic interest as a rural Victorian station but is enhanced by its rural isolation. This loss of significance is considered to equate to less than substantial harm to the significance of this non-designated heritage asset.*

7.34 In relation to the turnpike road, it is established that the proposed development would result in the total loss of the non-designated asset. It is acknowledged within the assessment that:

*This will result in the total loss of this section of historic routeway, a non-designated heritage asset of low importance. An alternative layout could preserve this feature of the historic landscape.*

7.35 A programme of archaeological work is then recommended, to be secured by an appropriately wording planning condition.

7.36 The Headland Archaeology Assessment identify both the railway station and turnpike road as non-designated heritage assets. The rural setting of the railway is clearly integral to its significance as a non-designated heritage asset. The proposals will erode this setting through the introduction of built form, to the detriment of the railway station. This ‘change’ is acknowledged within the Appellants Hearing Statement which states:

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<sup>5</sup>National Planning Policy Guidance Paragraph: 040 Reference ID: 18a-040-20190723



*I accept a small degree of change will occur to the railway station's isolated setting as a result of the appeal proposals.*

7.37 I therefore conclude that overall, the proposal is contrary to policy EQ3.

*Policy DP1 - Wording*

7.38 *The NP councils will expect all new development to be designed to the highest standards and to respect the unique character of Castle Cary and Ansford. The design principles set out below identify the criteria which will be used to assess all types of new development.*

*Policy DP1 - Application*

7.39 The supporting text to Policy DP1 of the Castle Cary & Ansford Neighbourhood Plan, identifies a series of criteria against which the design principles for new development will be assessed. These are broken down under 5 subject headings, including 'Character and Setting', 'Security and Safety', 'Access and Movement', 'Environmental Footprint' and 'Recreation and Wellbeing'.

7.40 For the purposes of my assessment of the appeal proposals I consider that the 'Character and Setting' section of the supporting text is of most relevance. The purpose of this section is to ensure that development proposals respond to the physical aspects of the site and relate well to the existing landscape.

7.41 An assessment of the topography of the site and its physical attributes are summarised within My Crawford's Proof of Evidence. I have previously concluded, within my assessment of policy EQ2, that the development would result in an unacceptable level of harm to the landscape character of the area. The development proposals are therefore also contrary to policy DP1 as a result of this impact.

*Policy SD1 - Wording*

7.42 *When considering development proposals the Council will take a proactive approach to reflect the presumption in favour of sustainable development contained in the National*



*Planning Policy Framework and seek to secure development that improves the economic, social and environmental conditions within the District.*

*Planning applications that accord with the policies in this local plan (and, where relevant, with policies in neighbourhood plans) will be approved without delay, unless material considerations indicate otherwise.*

*Where there are no policies relevant to the application or relevant policies are out of date at the time of making the decision then the Council will grant permission unless material considerations indicate otherwise – taking into account whether:-*

- Any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework taken as a whole; or*
- Specific policies in that Framework indicate that development should be restricted or refused.*

*Where necessary the Council will work with applicants to improve proposals so that they are capable of being approved.*

#### *Policy SD1 - Application*

7.43 Policy SD1: 'Sustainable Development' reflects the presumption in favour of sustainable development contained in the NPPF. This policy seeks to secure development that improves the economic, social and environmental conditions within the district.

7.44 I have found that the appeal proposals are contrary to a number of policies in the local plan and the planning application was correctly refused. The presumption in favour of development does not therefore apply and the proposals are contrary to Policy SD1.

7.45 The policy also encompasses the wording of Paragraph 11d) of the NPPF, in reflecting the application of the 'tilted balance' where relevant policies in the determination of planning applications are 'out of date'. This requires an assessment of whether the



impacts of the proposals would significantly and demonstrably outweigh the benefits. I specifically address this element of the policy within Section 9 of my Proof of Evidence.

### **THE HOUSING REQUIREMENT**

- 7.46 The housing requirement for the South Somerset area is set out within the Council's 5-Year HLS paper, published on 23rd September 2021. The 5-year HLS paper provides a detailed and up-to-date analysis of the housing land supply position for the five-year period from 1st April 2021 to 31 March 2026.
- 7.47 The paper outlines the Councils use of the Governments standard methodology for calculating the local housing need for local authorities as set out within Planning Practice Guidance on Housing and Economic Needs.
- 7.48 The calculation uses the 2014-based household projections for the period 2021 to 2031 and the 2020 affordability ratio (published March 2021) to derive a local housing need figure of 690 dwellings per annum. A 5% buffer is added in response to NPPF para 74 (a).
- 7.49 The policy justification for using the standard method is clearly set out within the Councils latest 5-year HLS paper (September 2021). I do not consider it necessary to repeat this justification here but confirm South Somerset District Council uses the standard method in accordance with national guidance.

#### *The Basic Annual Housing Requirement*

- 7.50 As per paragraph 3.3 of the 5-year HLS paper, 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 690, or 13,800 over a Plan period of 20 years.
- 7.51 The correct approach to the calculation above is clearly set out in Government guidance and has been followed by the Council. Any adjustments to this figure are made through



the plan-led system. The Council is in the process of progressing a Local Plan Review. The Local Plan Review Preferred Options document was consulted on during summer 2019. A public consultation on the Publication version of the Local Plan Review is scheduled for mid-2022.

#### Housing Delivery Test

- 7.52 The most recent data for South Somerset, published in January 2021, 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 74 (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’.
- 7.53 The Council has therefore added a 5% buffer to its land supply position in accordance with Government guidance.
- 7.54 The Council is currently unable to demonstrate a 5-year HLS with a figure of 4.7 years relating to the period 1<sup>st</sup> April 2021 to 31<sup>st</sup> March 2026, as published within the latest 5-year HLS paper (September 2021).
- 7.55 Subsequent to the publication of the 5-year HLS paper (September 2021) a series of sites were challenged by the Appellant as being undeliverable, due to the lack of an agreed solution relating to phosphates. The Council has agreed to remove a number of the contested sites from its 5-year HLS calculation. Those sites removed and the number of units deducted are set out below:

Site	Reason for Removal	Reduction
Gunville Farm Bungalow, Harvest Lane, Charlton Horethorne	Phosphate solution awaited.	2



Land adj. The Orchard, Cherry Pie Lane, Sparkford (adjoining site)	Phosphate solution awaited.	2
Builders yard and Store, School Lane, Lopen	Phosphate solution awaited.	2
Land OS 9687 Martock Road, Long Sutton	Phosphate solution awaited.	1
Land OS 4500, Catscrow Hill, Pitney	Phosphate solution awaited.	1
Tales Farm, Durnfield, Tintinhull	Phosphate solution awaited.	1
Land At Upton Lane Seavington St Mary	Phosphate solution awaited.	8 (x2)
1 Milford Road, Yeovil	Phosphate solution awaited	1
16A Wyndham Street, Yeovil		1
1, Great Western Terrace, Yeovil		1
Parkway Farm, West Street, South Petherton		4
Land Rear Of Drovers Rise, South Petherton		1



Land OS 9121 At Butts DroveGosling Street, Barton St David - 19/01795/FUL, 20/01329/FUL		1
Land OS 9121 At Butts DroveGosling Street, Barton St David - 18/02554/PAMB		1
Goosemead Cottage, Westport		1
Land Opposite Number 30, Orchardleigh, East Chinnock		1

7.56 On review of the 5-year HLS position it was noticed that Land at Upton Lane Seavington St Mary had been double counted. This therefore resulted in a total agreed reduction of 37 units from the published position. The recalculated figure as now presented by the Council equates to 4.6 years (rounded).

7.57 The published housing supply information was based on the position at 22<sup>nd</sup> September 2021, with the information on extant planning applications and pending applications as accurate up to 30<sup>th</sup> June 2021.

7.58 I have reviewed the position to see if I agree with the published outcomes and the subsequent revision to the HLS position.

#### *Housing Requirement*



7.59 Given the housing requirement, as set out in the Strategic policies (the Council's Local Plan), is over 5 years old I agree the Council is using the standard method as the basis of calculating the housing requirement for the 5 year HLS. I have also established that the Local Housing Need (LHN) for the South Somerset authority area is 690 dwellings per annum. As per the outcomes of the HDT a 5% buffer is correctly being applied to the 5-year HLS requirement.

7.60 I set out in the table below the housing land requirement over the next 5 years for the period from 1 April 2021 to 31 March 2026.

<b>Components of the housing requirement</b>	<b>Calculation</b>	<b>Result</b>
Housing requirement over the next 5 years	690 x 5	3,450
5% buffer requirement	3,450 + 5%	3,623 (rounded)
Annual requirement over next 5 years (2020-2025)	3,623/5	725 (rounded)

7.61 This gives an annual requirement of 725 dwellings between 2021 and 2026, calculated in accordance with Government guidance.

### **HOUSING SUPPLY**

7.62 The housing land supply calculation is made up of different components of deliverable supply, which taken together give a figure for the projected completions over the next 5 years (2021/22 to 2025/26).

7.63 The detail of the Council's commitments is set out within the 5-year HLS Paper (September 2021).





- 7.64 This sets out that the total net completions in South Somerset District during the monitoring year from 1<sup>st</sup> April 2020 to 31<sup>st</sup> March 2021 was 1093 dwellings. The detailed schedules attached to the 5-year HLS paper set out the up-to-date status on the various sites (as of 23 September 2021), setting out the planning position, what is currently under construction and what the forecast delivery is for the next 5 years. The position for the next two five-year period (2026-2031 and 2031-2036) is also included.
- 7.65 The Council has taken a robust approach to assessing the deliverability of sites. Sites are not included where there are pending applications within the supply unless there are clear reasons and expectations that the site will be approved and come forward and be delivered within that timeframe. The Council is proactive in maintaining an up-to-date position on housing delivery in the District. Site visits are carried out annually to assess progress.
- 7.66 Site delivery evidence base tables (CD: C-07), have been prepared by the Council which provide further detail as to why the sites are considered deliverable. Details include the position in relation to phosphates, condition discharge and any other factors which may impact delivery.
- 7.67 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 of the larger sites in order to discuss the future delivery of the sites. The responses received as part of the Large Sites Survey 2021 are included as CD: C-10.
- 7.68 I consider that this is a robust and detailed assessment. The outcomes of the monitoring process are set out in the Council's housing trajectory which informs the preparation of the five-year HLS. This shows a healthy position with high completion rates forecast for this year (2021/22) at 846 units and next year (2022/23) at 805 units.

#### *Windfall Sites*

- 7.69 The Council has adopted a cautious approach to the allowance of windfall sites. As set out within the 5-year HLS paper (September 2021) a total of 300 dwellings, equating to 100 per annum for years three to five, has been included.



7.70 Including a windfall allowance in South Somerset is supported by the evidence on this source of supply. This includes the following table, which shows windfall completions over a ten-year period.

<b>Year</b>	<b>Windfall Sum</b>
2011/2012	61
2012/2013	87
2013/2014	65
2014/2015	92
2015/2016	178
2016/2017	82
2017/2018	124
2018/2019	117
2019/2020	98
2020/2021	136

7.71 A breakdown of completions by site for the past 6 years is included at CD: C-11.

7.72 In addition to the consistent completion rate of windfall sites in previous years, the Council has collated details relating to windfall permissions from August 2020 to June 2021 and July 2021 to September 2021 (CD: C-08). Between August 2020 – June 2021 this resulted in planning permission for a total of 34 units and 8 units between July 2021 and September 2021. This includes discounting those with phosphates related conditions.



- 7.73 This demonstrates that windfall applications could be justified to be included within the first two years of the 5-year HLS. However, the Council has taken a cautious approach in only including such sites within years 3-5.
- 7.74 The Appellant suggests that no allowance should be made for windfall sites within the 5-year HLS due to the impact of phosphates. However, there are parts of the district that lie outside the phosphate catchment and therefore windfall development is not impacted. In addition, the Somerset Authorities have published details of small site solutions (CD: D-06) where package treatment plants will have insignificant levels of phosphorus discharge to ground, releasing windfall schemes.
- 7.75 Having examined the previous delivery rates on windfall sites in the District, I consider that the Council's approach to windfalls is extremely cautious and that the windfall allowance is likely to be exceeded over the 5-year period. This is in the context of having scoped out prior approval applications at the advice of Natural England on Regulation 77 and the need for an HRA.

#### *Non-Implementation Rate*

- 7.76 The Council has applied a 5% discount to the overall housing supply, to take account of non-implementation and to ensure that the housing land supply calculation is robust.

#### *Care Home Delivery*

- 7.77 The expected delivery of care homes is included in the calculation of new housing delivery and future housing supply. The Housing Delivery Test (HDT) Rule Book (July 2018) and subsequent 2018 Measurement Technical Note (February 2019) make it clear that an adjustment should be applied to communal bedspaces to calculate the number of net dwellings that would be freed up from net additional communal accommodation built by applying a national ratio of 1.8.
- 7.78 The Council applies this national ratio of 1.8 to the number of rooms provided, which follows the methodology published in the Housing Delivery Test Measurement Rule Book.



### *Conclusion*

7.79 On review of the Council's 5-year HLS paper (September 2021) and subsequent amendments, I am satisfied that the Council is using the correct and up to date definitions of windfall sites and deliverable sites, as set out in the NPPF (2021). The Council has undertaken a significant amount of work in providing robust data to inform the findings of the paper, including Evidence Base Templates and Large Site Surveys.

7.80 On this basis I agree with the Council's assessment of the 5-year HLS position as set out in the table below. I have included a column to allow for the post publication amendments.

		Post publication adjustment
Total annual requirement including 5% buffer	3,623	No change
Deliverable supply (based on projected completions from 2021/22 to 2025/26)	3,391	3,356
5-year Housing Land Supply	4.7	4.6
Shortfall	232	267

7.81 The Council therefore does not contest that it cannot demonstrate a 5-year supply of housing sites with an HLS equivalent to **4.6** years (rounded) or 267 dwellings.

### *Crewkerne Key Site 1 between A30 and A356*

7.82 At the time of preparing this proof, I understand that the Appellant, in addition to the inclusion of any windfall site allowance, only intends to challenge the delivery of a single site, known as the Crewkerne Key Site 1 between A30 and A356.



- 7.83 The reasoning for this challenge is understood to relate to a phosphate solution being awaited rather than the application for the larger part of the site being an outline approval. This is as a referred to within the assessment section of the spreadsheet appended to the 5-year HLS paper (September 2021).
- 7.84 The developer controls land upon which a solution can come forward. They own the land immediately downstream from the relevant sewerage treatment works which is the most favoured location for wetland mitigation. As such they are in control of the delivery of further mitigation. The developer has previously unlocked reserved matters consents in South Somerset and Somerset West through fallow land management strategies.
- 7.85 The developer confirmed in their site survey returns that they anticipate the overall solution to the remaining land to be a blend of on and off-site solutions. Given this and their agreement to progress the reserved matter application by way of a Planning Performance Agreement (CD: C-09) we have confidence in this sites capacity to deliver above the 110 units already approved and provided with phosphate mitigation.
- 7.86 Furthermore, the developer has instructed Copperfield to provide a note (CD: C-09) detailing the options they control that will enable them to reach an agreement with Natural England on a Phosphates solution. This note also confirms that the developer does not foresee other barriers to the delivery of the development and has a clear intent to deliver at least 260 dwellings to be completed within the next 5 years.
- 7.87 The Council is therefore fully justified in their inclusion of the site within the 5-year HLS calculation.
- 7.88 Should any further sites or delivery assumptions be challenged by the appellant following the exchange of Proofs of Evidence, I will seek to reach as much agreement as possible with the appellant before the inquiry. However, it may be necessary to prepare a rebuttal proof in order to save inquiry time.

## **PHOSPHATES**

### *Current Position*



- 7.89 On 17 August 2020, all the planning authorities in Somerset received an advice note from Natural England (NE) concerning the unacceptable levels of phosphates in the Somerset Levels and Moors Ramsar site. The Somerset Levels and Moors Catchment Area is shown on CD: D-02.
- 7.90 On the 5<sup>th</sup> of October 2021, a proposed programme of interim measures was presented to Somerset West and Taunton Full Council for approval. Paragraph 4.1 and 4.2 of the prepared for the Council meeting (CD: D10) provides a summary of the background details relating to the issue of phosphates as faced by the Somerset authorities. This includes a requirement of the competent authorities to undertake a Habitats Regulation Assessment, in consultation with Natural England (NE) before determining planning applications that may result in additional phosphates within the catchment area, proceeding to an appropriate assessment on individual projects.
- 7.91 The work undertaken by Somerset West and Taunton has been jointly resourced with South Somerset Council with fortnightly meetings between officers on the strategic solutions and work being undertaken by Royal Haskoning. The latest Phosphates Management Strategy Position Statement (October 2021) for South Somerset, including associated timeframes, is provided at CD: D-11.
- 7.92 Since receiving the advice note from NE, South Somerset District Council has dedicated significant resources to resolving the phosphates issues, including work on progressing interim measures to 'unlock' the delivery of development sites.
- 7.93 This work has included the preparation of a phosphate calculator which was updated in March 2021. The calculator allows applicants to quantify the likely phosphate load associated with their scheme and the extent of mitigation required. Such mitigation can include on site solutions, improvement to wetland systems or the following of additional land holdings.
- 7.94 In the absence of suitable phosphates solutions, the determination of applicable planning applications, located within the catchment area, have been stalled.



7.95 The Somerset Councils have appointed Royal Haskoning DHV to prepare a strategic solution culminating in the production of a Nutrient Neutrality Supplementary Planning Document (SPD). The latest timetable for consultation on the first draft of the SPD is by the end of November 2021. In the meantime, the Somerset Councils have been progressing interim solutions so sites can come forward in the more immediate term.

7.96 One such solution is the Somerset Catchment Market Nutrient Credit Scheme (scheme) which has been developed by Wessex Water Entrade (EnTrade). EnTrade have prepared an advice note (CD: D-04) to provide South Somerset District Council with details of the scheme. These details include:

- The Somerset Catchment Market has been developed by Wessex Water Entrade as part of its response to the country's green economic recovery from the Covid-19 pandemic. Working with Natural England and the Environment Agency, Wessex Water has committed to establishing catchment markets in three of its catchments including the Tone and Parrett in Somerset.
- The Catchment Market will operate under a set of Catchment Market Rules endorsed by Natural England and the Environment Agency, which regulate how nature based projects will be accredited for their environmental services.
- The Somerset Catchment Market will operate as a nutrient credit scheme for phosphorus mitigation for the Somerset Moors and Levels SPA and Ramsar site. P-Credits will be redeemed by developers to meet conditions of LPA planning approval.

7.97 The advice note provides details relating to the timing in which the P-credits will be released to the market. This release will come forward in two rounds, with the first market round being completed before the end of 2021. The second market round will be completed by the end of April 2022. EnTrade is also anticipating running two market rounds per year thereafter.

7.98 EnTrade have prepared a further note, titled Impact of Phosphorus Credits (p) from Catchment Market in South Somerset (CD: D-05), which provides a breakdown of the



forecasted credit availability for each round across the South Somerset sub catchment areas. This equates to a total of 96.5 kg of p in round 1, 165.8 kg of p in round 2.

7.99 South Somerset District Council have provided EnTrade with a list of planning applications currently awaiting Phosphorus mitigation solutions by postcode. Against each of the applications EnTrade have calculated the number of housing equivalents, identified the Wessex Water Recycling Centre (WRC) which would receive drainage from the new development, the long term kg of Phosphorus mitigation required per dwelling for that WRC using the Council's Phosphate Calculator and established the relevant sub-catchment area for each WRC.

7.100 The results of this calculation establish a total housing equivalent of 5011 units, requiring 586.1 kg of p. Based upon the forecasted credit availability and the average required kg of p per house in each sub catchment, EnTrade have calculated that there is capacity for 878 houses to be unlocked in round 1 and 1491 in round 2 totalling 2369 between November 2021 to April 2022. A further 2604 are forecasted to be unlocked from 2022/23 onwards.

7.101 The 878 houses, forecasted to be released following the first round of phosphate credits in November 2021, is more than 3 times the current shortfall of 256 units. It is acknowledged some of the available credits may be taken up by sites in neighbouring local authorities which share the same catchment area.

7.102 The Council currently has a backlog of full, outline, reserved matters and discharge of condition planning applications in the system which are held up awaiting a Phosphate solution. This equates the equivalent of 1,685 units and 65 bed care home with outline resolution to approve at committee, 200 units with outline approvals awaiting reserved matters and 374 units and 24 bed care home requiring reserved matters where the principle of development is established. Even when adopting a cautious approach, if in November 2021 credits equivalent to 356 units are taken up this would address the current shortfall in HLS.





7.103 The latest position in relation to interim phosphate solutions established within the advice notes from EnTrade, provide certainty to the Council that the current shortfall in housing land supply will be short-lived and can be addressed before the end of 2022.

7.104 There is a sufficient number of planning applications in the system, which would allow for the delivery of sites to make up the shortfall following the first round of credit release. Many of these sites are at a more advanced stage than the appeal site, having been through the reserved matters stage, which would make a more immediate contribution to the HLS. This is therefore a material consideration of very significant weight in the determination of the appeal.



## **8 REASON FOR REFUSAL – SETTLEMENT LIMITS AND DETRIMENT OF LANDSCAPE CHARACTER AND IMPACT ON NON-DESIGNATED HERITAGE ASSETS**

- 8.1 As was the case at the time of the determination of the planning application the Council is unable to demonstrate a 5-year HLS.
- 8.2 As is required in accordance with paragraph 11d) of the NPPF, 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, known as the ‘tilted balance’.
- 8.3 It is therefore again acknowledged that the housing policies of the South Somerset Local plan are out of date, specifically Local Plan policies SS1, SS5 and LMT1. However, weight can still be afforded to these.
- 8.4 As I have set out previously, the weight to be applied to “out of date” policies is one of a ‘balancing’ exercise which will *“vary according to the circumstances, including, for example, the extent to which the policies actually fall short of providing for the required five-year supply, and the prospect of development soon coming forward to make up the shortfall .”*
- 8.5 In addition to the housing policies of the Local Plan, I have assessed the appeal scheme and found that it would result in significant adverse impacts on the landscape and harm to the setting of non-designated heritage assets, contrary to the relevant other policies of the Development Plan including Policies EQ2 and EQ3 of the South Somerset Local Plan (2006-2028), Policy DP1 of the Castle Cary and Ansford Neighbourhood Plan (2018) and paragraph 174 of the National Planning Policy Framework.
- 8.6 I now consider the weight which should be applied to each of the policies in conflict given the lack of a 5-year HLS. The reason for refusal can be divided into two distinct



constituent parts relating to the principle of development and the resulting impact of the proposals upon landscape character.

### **SCALE AND LOCATION**

- 8.7 Given the lack of a 5-year HLS in the District Policy SS5 which identifies a housing requirement for 15,950 homes in the plan period 2006-2028, is found to be out of date. As such, the proposed exceedance of this housing figure through the proposed development is not considered harmful. I therefore conclude policy SS5 should be given reduced weight.
- 8.8 The appeal site is located in the open countryside beyond the defined built area of Ansford/Castle Cary. Policy SS1 provides for the settlement strategy across South Somerset, focusing development firstly in Yeovil, which is a Strategically Significant Town, followed by Primary Market Towns, Local Market Towns and Rural Centres.
- 8.9 Policy LMT1 of the Local Plan identifies the direction of growth as part on an expansion to Ansford/Castle Cary. The appeal site is not located within this area. The location of the appeal site outside the 'built up area' and direction of growth and is clearly contrary to policies SS1 and LMT1.
- 8.10 Within a recent appeal decision for 80 dwellings at Templecombe in July 2021 (CD: B-15), the Inspector addressed the weight which should be applied to policy SS1 in the context of a lack of 5-year HLS. The Inspector stated that:

*"It has been put to me that Policies SS1 and SS2 are not consistent with the Framework paragraph 77. Both are broadly supportive of development in rural areas which is responsive to local circumstances, and of housing developments that reflect local needs. Policy SS2 is, perhaps, more detailed as to what might constitute local circumstances and requires additional considerations such as scale and character and increasing sustainability generally. However, consideration of built environment and local character are addressed elsewhere in the Framework, as is sustainability. I therefore afford this policy full weight in the determination of this appeal".*



8.11 Overall, it seems to me that when further considered in context of the minor shortfall in the 5-year HLS and that this is forecasted to be short-lived, Policy SS1 and LMT1 should continue to carry full weight.

#### **IMPACT ON LANDSCAPE CHARACTER AND NON-DESIGNATED HERITAGE ASSETS**

8.12 Local Plan policy EQ2 and Neighbourhood Plan policy DP1 are not general restraint policies, rather seeking to protect specific areas for their local landscape value. As such, they are consistent with the aims of NPPF paragraph 174, to contribute to and enhance the natural and local environment.

8.13 Paragraph 174 a) of the NPPF requires protection to be commensurate with the area's identified status and quality. The supporting Proof of Evidence prepared by Charles Crawford clearly identifies that the site forms part of a valued landscape.

8.14 In restricting development in some areas, Local Plan policy EQ2 and Neighbourhood Plan policy DP1 are likely to have some effect on housing delivery. This is however an unavoidable result of protecting valued landscapes. I do not find anything with relation to this aspect of the policy that is inconsistent with the NPPF's approach, in seeking to balance the need for housing with the interests of the environment.

8.15 I see no reason why the development proposals conflict with paragraph 174 of the NPPF, Local Plan policy EQ2 and Neighbourhood Plan policy DP1 should be given anything less than full weight.

8.16 Local Plan policy EQ3 seeks to protect heritage assets and their contribution to local distinctiveness. I find no reason why the development proposals conflict with Local Plan Policy EQ3 should be given anything less than full weight. I provide an assessment of the harm weighed against the public benefits below.



## 9 THE PLANNING BALANCE

### *Benefits of the development*

- 9.1 The provision of 200 dwellings as proposed would be a clear benefit in contributing to the District's current and future unmet housing needs, as demonstrated by the lack of a 5-year HLS. The 35% that would be affordable would be an additional specific benefit, in meeting the identified special needs of that sector.
- 9.2 These benefits do however need to be balanced against the level of shortfall and the position with regards to Phosphates allowing for improved delivery. In conclusion, I consider that the appeal scheme's potential benefits to the local housing stock should carry medium-significant weight.
- 9.3 I also acknowledge that the scheme would bring economic and social benefits, in the form of both direct and indirect employment, and through increased local expenditure and support for local businesses and services, including public transport. These beneficial economic and social impacts, in my opinion carry moderate weight.

### *Planning Balance*

- 9.4 The proposed development would be contrary to Local Plan Policies SS1, LMT1, EQ2, EQ3 and Neighbourhood Plan Policy DP1, due to its location in the countryside, and the harm that it would cause to character of the local area and landscape and the non-designated heritage assets. The scheme therefore conflicts with the development plan and permission may only be granted if this conflict is outweighed by other material considerations.
- 9.5 It is accepted as common ground with the Appellant that the site does not lie within, or near to, any of the following statutory designations of specific relevance to landscape:
- National Park
  - Area of Outstanding Beauty



- Heritage Coast
- Registered Historic Parks and Gardens

9.6 Within Mr Crawford's Proof of Evidence, it has been found that the site comprises an integral component of the Brue Valley. On further assessment of the character of the Brue Valley he concludes that *'the landscape of the Brue Valley clearly has a value above the everyday, community level and therefore qualifies for 'valued landscape' status'*.

9.7 The development proposed would result in a wholesale change in the site's character. Although some areas of green space are proposed, most notably along the eastern boundary, these would amount to only a small proportion of the site, and would be seen within the context of a wholly urban development. The site's existing openness, its landscape structure, rural character and context within the wider landscape will be lost.

9.8 Consequently, I am of the view that the proposed development would cause substantial harm to the character, amenity and function of the countryside landscape, contrary to the aims of Paragraph 174 (a) of the National Planning Policy Framework, Local Plan Policy EQ2 and Policy DP1 of the Castle Cary and Ansford Neighbourhood Plan (2018).

9.9 Paragraph 203 of the NPPF states that, *the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.*

9.10 Although the appeal proposals have been found to be contrary to policy EQ3 of the South Somerset Local Plan (2006-2028) and Chapter 16 of the NPPF, due to the schemes impact upon undesignated heritage assets, this harm has been found to be 'less than substantial'. As such I conclude the public benefits of the appeal scheme would outweigh this harm.

9.11 Weighing in favour of the appeal are the benefits of providing market and affordable housing and the benefits to the local economy. The weight that I consider should be



attached to these is set out above. It is also a material consideration that in light of a lack of a 5-year HLS, Policy SS5 should be given reduced weight.

9.12 However, in my opinion, even when these considerations are taken together, they do not outweigh the identified harm to the local landscape character, especially when considering that the shortfall in the HLS is to be addressed within the immediate term.



## 10 CONCLUSION

- 10.1 In view of the lack of a 5-year HLS, and the fact that I have found Local Plan Policies SS1, SS5, LMT1 to be out of date, NPPF paragraph 11(d) is also material. In such cases, that paragraph advocates that permission be granted unless one or other of the two sub-paragraphs that follow applies.
- 10.2 In relation to sub-paragraph (i) although the site is not a statutory area or asset of protection, it still forms part of a valued landscape, it seems to me that in this case NPPF paragraph 174 provides a clear reason to refuse the development.
- 10.3 Even if this is not the case, Paragraph 11 of the NPPF states that plans and decisions should apply a presumption in favour of sustainable development and grant permission when decision taking where the policies which are most important for determining the application are out-of-date (this includes circumstances where there is no 5-year supply of deliverable housing sites with the appropriate buffer), and therefore less weight can be afforded to policies that affect the supply of housing.
- 10.4 As set out above, it is considered that full weight should be afforded to the key policies to which the appeal proposals are contrary, other than Policy SS5.
- 10.5 Due regard has been given to the balance of perceived benefits of the proposals against the perceived adverse impact. Significant weight has been given to the contribution the appeal scheme would make to the housing stock. However, this weight is reduced given that the shortfall in the 5-year HLS will be short lived, in light of the EnTrade Credit Scheme.
- 10.6 Balanced against the acknowledged benefits are the adverse impacts of the proposed development in the open countryside upon the 'valued' landscape setting. As existed at the time of the application's determination and referred to in the reason for refusal, the perceived adverse impacts were considered to outweigh the acknowledged benefits of the proposal towards meeting the Local Planning Authority's housing supply (including affordable housing provision), and other social and economic benefits.





- 10.7 Having regard to sub-paragraph (ii), and all the matters set out above, I consider that the development's adverse impact on the area's character and appearance would significantly and demonstrably outweigh the benefits identified. I therefore conclude, the presumption in favour of sustainable development does not justify granting permission.
- 10.8 As such the proposals are contrary to the presumption in favour of sustainable development as identified within the NPPF and Local Plan policy SD1 and the appeal should be dismissed.