

Five Year Housing Land Supply

Scott Schedule - Land north of Ansford Hill, Castle Cary, Appeal ref. 3259668

Date: 22 March 2022

Key
South Somerset Council
Turley

Site Name	Reference	Council's Position						Appellant Position						Council Commentary	Appellant Position				
		2021/ 22	2022/ 23	2023 / 24	2024 / 25	2025 / 26	Total	2021 / 22	2022/ 23	2023/ 24	2024 / 25	2025 / 26	Total						
Crewkerne Key Site 1 between A30 and A356	05/00661/OUT 13/02201/REM (W/CREW/0026)													<p><b>September 2021 Supply Paper, JW Evidence and March 2022 Position</b></p> <p><b>Original South Somerset District Council Five-Year Housing Land Supply Paper September 2021</b></p> <p>05/00661/OUT extant planning permission, approved 04/02/13 (525 dwellings). 10 year permission.13/02201/REM extant planning permission, approved 20/09/13 (203 dwellings). Not started. Site visits 2021 - anticipate that this will be superseded by a new application for the remaining 525 homes on the CLR site. Developer confirmed through communication on the 2021 Large Site Survey that they will be submitting a full planning application on Phase 2, 525 units, by the end of 2021 with a view to deliver 50 dwellings per year for the next 10 years (starting in 2022). Confirmed that they are currently working on securing a phosphate solution. (Within catchment area for phosphates – held-up solution awaited)</p> <p><b>JW Addendum Evidence February 2022</b></p> <p>Given the unanticipated delay in the submission of the reserved matters for Phase 2, it is acknowledged this will have an impact on the projected housing delivery for this element. 50 units have therefore been removed from the 5-Year Housing Land Supply calculation to allow for this, equating to the completion of 100 units within the 5-year period.</p> <p><b>March 2022 Position</b></p> <p>The overall allocation and application sites are within the Phosphate Catchment Area. The Taylor Wimpey ownership plan extends beyond the allocation.</p> <p>In relation to their phase 1 (Application reference 20/00149/REM) Taylor Wimpey's approved solution is to fallow land within their wider land holding of which the allocation (and applications form a part). This resulted in the fallowing of 18.9 Ha of land outside the allocation.</p> <p>Reserved Matters approval 20/00149/REM has been implemented. Currently Taylor Wimpey are undertaking site levelling works. The S.106 as varied by Deed of Variation dated 02/09/2020 between Taylor Wimpey &amp; Somerset County Council requires the developer to undertake the following highway works:</p> <table border="1"> <tr> <td>Prior to first occupation:</td> <td>Signalised junction at spine road connection to A.356</td> </tr> <tr> <td>Prior to occupation of 109 dwellings:</td> <td>The length of the spine road to the northern extent of the approved development 20/00149/REM</td> </tr> </table>	Prior to first occupation:	Signalised junction at spine road connection to A.356	Prior to occupation of 109 dwellings:	The length of the spine road to the northern extent of the approved development 20/00149/REM	<p><b>JR Proof of Evidence and March 2022 Position</b></p> <p><b>JR Evidence October 2021</b></p> <p>This site has an outline permission for 525 dwellings (reference 05/00661/OUT), that was approved in February 2013 and which allowed reserved matters to be submitted within a 10 year period. A reserved matters application (reference 13/02201/REM) for 203 dwellings was approved in September 2013 but this has not progressed. Condition 14 of the 2005 outline permission requires drainage details to be submitted and approved prior to commencement. This has not been discharged. The Council's Position Statement confirms that this site is within the phosphates catchment area where a held up solution is awaited. As such, this solution needs to be agreed before any development on this part of the Crewkerne Key Site 1 can proceed.</p> <p>The Council has suggested that TW control land on which a phosphate solution can come forward, however, a solution still needs to be finalised and plans for that solution, and for the resultant proposal, still need to be submitted and approved. Based on this, this is a site that does not have full permission in place for the homes that will be built. As such, this site is only capable of being considered a deliverable site under limb b) of the definition of deliverable site, but only if there is clear evidence that first housing completions will commence on site in the 5 year period. There appears to be no evidence that first completions will commence in the five year period. There is no actual planning application submitted or confirmation as to what the phosphates solution might be. It will take time for that application to progress and there can be no certainty on the outcome, when that might be, or what conditions might be attached to an approval.</p> <p><b>March 2022 Position</b></p> <p>The most recent evidence that the Council is relying on confirms that a variation to the original outline has been submitted and now has a resolution to grant planning permission – this variation allows for a haul road between this site and another Taylor Wimpey site subject to separate planning permission to allow for earth works movements between the two. The decision for that application is pending and, once granted, the Council suggest that a reserved matters for all 525 homes will come forward.</p> <p>This does not provide the clear evidence required by the NPPF or PPG. This remains a site with outline permission only. A reserved matters application for 525 homes is clearly substantial and, in my experience, is likely to take a considerable period of time to determine. Until such time as a reserved matters application is submitted and progressed to a point where there is clear evidence that first homes will commence in the five year period, including agreement on an acceptable phosphates solution, then</p>
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Land at Stalbridge Road, Henstridge	17/03029/OUT (E/HENS/0006)	0	0	45	45	40	130	0	0	0	0	0	0	<p><b>Original South Somerset District Council Five-Year Housing Land Supply Paper September 2021</b></p> <p>Extant planning permission. Approved 20/11/18. Expires 20/11/21. (130)Outside of Phosphates catchment area. Pre-app in on Reserved Matters 20/00639/PREAPP. Final submission expected in October 2021 (supported by email from agent) and Development Management case officer advises decision in January 2022. Commencing in year beginning January 2023 and developing 45 units per year. (Outside of catchment area for Phosphates)</p> <p><b>JW Addendum Evidence February 2022</b></p> <p>Appended to my rebuttal proof of evidence was email correspondence from the agent acting on behalf of the developer, Barratt Homes, confirming the anticipated submission of the reserved matters application to the outline consent (17/03029/OUT) for the site.</p> <p>The reserved matters application was validated on 15th November (21/03369/REM) and seeks the approval of all the remaining reserved matters, namely landscape, layout, scale and appearance. The consultation period for the application has since been completed with the planning application pending determination including its presentation at Planning Committee.</p> <p>Given the progress of the reserved matters application, by the end developer, the site is considered to represent a deliverable site in accordance with the definition of the National Planning Policy Framework 2021 (NPPF). The inclusion of the site within the 5- Year Housing Land Supply calculation is therefore wholly justified.</p> <p><b>March 2022 Position</b></p> <p>Officers are currently aiming for the RMA application to be heard at the Area East Planning Committee on 13th April. An extension of time has been agreed with the applicant until the following week to allow for the decision to be issued post committee. The applicant submitted a package of amendments at the end of February to address some technical issues (drainage and highways) and the latest re-consultation deadline for comments ends on 23rd March.</p> <p>Should the Lead Local Flood Authority or Highway Authority raise any outstanding issues then it is anticipated the applicant would submit further amendments in time for the subsequent committee, which would be in June. Whilst there is significant local objection to the proposal, most of this relates to the number of houses and highway works already agreed as part of the outline application and outside of the scope of this reserved matters application. For this reason committee overturn is considered unlikely.</p>	<p><b>JR Evidence October 2021</b></p> <p>Outline planning permission on this site was granted, following a s78 appeal, for 130 dwellings under ref 17/03029/OUT and appeal ref. APP/R3325/W/18/3197690 by Gladman Developments (who are a land promoter not a house builder). The site is capable of being considered a deliverable site under limb b) of the definition of deliverable site, but only if there is clear evidence that first housing completions will commence on site in the 5 year period.</p> <p>No reserved matters applications have been submitted and it does not appear that any discharge of condition applications have been progressed. Despite the Council actually pushing delivery back by 2 years (so it will now deliver across 3 instead of 4 years in the five year period), it is now suggesting that it will actually deliver more homes in the five year period that was previously assessed. There is absolutely no evidence, let alone clear evidence, to determine or support these assumptions. The evidence that the Council is relying on does not come close to constituting the clear evidence required by the NPPF or PPG.</p> <p>In the absence of detailed consent, or any clear evidence that first housing completions will begin on site in the 5 year period, this site is not considered to meet the definition of a deliverable site. At this stage, it does not meet the Government's expectations for clear evidence to be demonstrated and should be removed from the Council's current supply.</p> <p><b>March 2022 Position</b></p> <p>Whilst a reserved matters application (ref. 21/03369/REM) has now been submitted by Barratt David Wilson in November 2021, it is still pending determination and, in my experience, reserved matters applications of this scale can take a considerable time to determine. Various amended plans have been submitted and there are currently a number of objections/requests for further information from:</p> <ul style="list-style-type: none"> <li>• LLFA – Further information is required regarding; drainage during construction, details of drainage phasing, Ordinary Watercourse Consent for the proposed culverting, detail re how the site will drain when the water level in the rivers are above the invert levels of the proposed pond, more info on capacity of proposed culverts, confirmation that suitable provision has been made for maintenance access, more details needed re Flood water exceedance routes, and results of infiltration testing are requested.</li> <li>• Highways – currently there is a shortfall of parking, EV charging points are required, vis splays are required, junctions need to be checked, there are a number of issues noted above that need to be addressed prior to the Highway Authority being able to recommend approval of the application or make recommendations for appropriate conditions</li> <li>• Parish Council – objection with comments on CEMP, POS, Affordable Housing, Highways and Parking, and Sustainability.</li> </ul> <p>Clearly there needs to be further work and amendments progressed before the above issues can be addressed on the application and before a decision can be issued. It remains the case that there is no detailed consent for the proposed development, and, therefore, my previous conclusions still stand that there is insufficient evidence that housing completions will begin in five year period, and no delivery should be relied upon from this source.</p>
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Windfall Allowance		0	0	100	100	100	300	0	0	0	0	0	0	<p><b>Original South Somerset District Council Five-Year Housing Land Supply Paper September 2021</b></p> <p>The Council has consistently advocated that a proportion of its housing delivery occurs through windfall sites. The geographical extent and rural nature of the District, along with the range of settlement types and size, lends itself to small-scale sites coming forward with no prior warning. This is particularly true in the smallest settlements in the District where minor infill plots and single home applications are commonplace. Similarly, Government’s relaxation of permitted development rights and change of use has resulted in additional windfalls.</p> <p>In the past the Council has adopted an extremely conservative approach to avoid over-reliance on windfalls contributing to supply given the approach taken for housing development coming forward in Policy SS2 Rural Settlements. However, having recently carried out detailed analysis, a windfall allowance of 100 dwellings per annum for years three to five has been included in the overall supply no allowance has been applied for years one and two in order to avoid any double counting. Consequently, 300 dwellings have been added to the supply; this represents 8.8% of the Council’s overall five-year supply of 3,391 dwellings.</p> <p><b>JW Evidence October 2021</b></p> <p>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.</p> <table border="1" data-bbox="1276 940 1944 1522"> <thead> <tr> <th>Year</th> <th>Windfall Sum</th> </tr> </thead> <tbody> <tr><td>2011/2012</td><td>61</td></tr> <tr><td>2012/2013</td><td>87</td></tr> <tr><td>2013/2014</td><td>65</td></tr> <tr><td>2014/2015</td><td>92</td></tr> <tr><td>2015/2016</td><td>178</td></tr> <tr><td>2016/2017</td><td>82</td></tr> <tr><td>2017/2018</td><td>124</td></tr> <tr><td>2018/2019</td><td>117</td></tr> <tr><td>2019/2020</td><td>98</td></tr> <tr><td>2020/2021</td><td>136</td></tr> </tbody> </table> <p>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.</p> <p>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.</p> <p><b>March 2022 Position</b></p>	Year	Windfall Sum	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	<p><b>JR Evidence October 2021</b></p> <p>The NPPF is clear that “Where an allowance is to be made for windfall sites as part of anticipated supply, there should be <b>compelling evidence</b> that they will provide a <b>reliable source of supply</b>. Any allowance should be <b>realistic</b> having regard to the strategic housing land availability assessment, historic windfall delivery rates and <b>expected future trends</b>. Plans should consider the case for setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area.” (my emphasis)</p> <p>I have considered the Council’s current level of windfall allowance, compared to previous years. Table JRT7 of my evidence looks at the windfall allowance across the five year period in Position Statements from 2015. This shows that the Council, between its 2015 and 2017 Position Statements (inclusive) applied a windfall allowance of <b>190 homes</b> in the five year period. From 2018 to 2020 (inclusive) the Council then applied a reduced windfall allowance of <b>100 homes</b></p> <p>The Council has, in its 2021 Position Statement, increased this to 300 homes, a trebling of its windfall allowance from the previous 3 years. The Council seek to explain this (paragraph 4.14 of the September 5YS statement) with reference to previous ‘extremely conservative’ assumptions and updated analysis. However, looking at past delivery rates is only one component that the NPPF requires.</p> <p>As part of the <u>compelling evidence</u> required to justify a windfall allowance, there needs to be a consideration as to future trends and whether this will continue to provide a reliable source of supply.</p> <p>An important consideration in South Somerset is of course the phosphates issue. There will have been windfall sites that have come forward in the past that now fall within the phosphates catchment area and which will require a phosphates solution. That will undoubtedly, in my view, affect the number of windfalls that will come forward compared to past trends. The Council has taken absolutely no account of that in its windfall assessment. Indeed, rather than a reduction in its windfall allowance to take account of this issue, it has instead significantly increased its windfall allowance compared to previous years.</p> <p>I do accept that there will be windfall sites that will come forward, however, the NPPF requires:</p> <p>“...<b>compelling evidence</b> that they will provide a <b>reliable source of supply</b>”; and</p> <p>“...should be <b>realistic</b> having regard to...<b>expected future trends</b>.” (my emphasis)</p> <p>That analysis, which considers the potential impact on windfall permissions as a result of the phosphates issue has not been undertaken. It may not, as the Council<sup>1</sup> suggests, stop windfall applications from coming forward (although there is no analysis of where these ongoing windfall applications are being submitted). There may also be some solutions that could be used (credit sales and small site package treatment plans are mentioned by the Council) but these will add cost, or require space, and so <u>there is no actual empirical evidence to be able to quantify the overall effect on windfall application and permissions as a result of this issue</u>. The Inspector (and the Council) is not able to give any credible weight to any figure at this time as to what a realistic windfall rate could be in the District.</p> <p>Until such time as the Council can provide compelling evidence to show, in a context of the phosphates issue in the District, what future windfall supply can be relied on as a</p>
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														<p>The detail previously presented for windfall permissions between August 2020 to Sept 2021, discounted a number of plots due to Regulation 77 notes attributed to the decision notices. In light of the latest guidance from Natural England, there is now no requirement to assess the Likely Significant Effects of development approved under the GPDO upon the Somerset Levels and Moors Ramsar site. This means that 61 windfalls can be delivered rather than the 42 originally stated.</p> <p>A review of windfall permissions for the period 1 Oct 2021 to 28 Feb 2022 has now been undertaken which demonstrates the continual granting of windfall permissions.</p>	<p>component of its supply, then it should not, in accordance with the NPPF, include any windfall allowance.</p>

<sup>1</sup> In an email from Mr Hammond, via an email from Mr Roach on 5 October 2021, and summarised in my evidence at para 7.15