



Appeal Decision

Inquiry held on 29 & 30 November and 1, 13, 14 & 15 December 2016

Site visit made on 30 November 2016

by Sarah Housden BA (Hons) BPI MRTPI

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

Decision date: 02 March 2017

Appeal Ref: APP/D0121/W/16/3142927

Land at Bleadon Hill, Weston Super Mare, BS24 9JN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against the failure of North Somerset Council to issue a decision within the prescribed timescale.
 - The appeal is made by Molwin Estates Ltd.
 - The application Ref 15/P/0167/O was dated 23 December 2014.
 - The development proposed is 'outline application for up to 79 open market and affordable dwellings, public open space and associated infrastructure. All matters reserved except for means of access'.
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Decision

1. The appeal is dismissed and outline planning permission is refused.

Procedural Matters

2. This is an appeal against the non-determination of the planning application within the prescribed timescales. However, at its meeting on 9 March 2016, the Council's Planning and Regulatory Committee decided that had it determined the application, it would have been refused for the following reasons:
 1. *The proposed development, by reason of its scale and location, will appear as a long extension of the built-up area in to the countryside. This will cause unacceptable harm to the character and appearance of the landscape, including views to and from the Mendip Hills Area of Outstanding Natural Beauty. The proposed development is therefore contrary to Policies CS5 and CS12 of the Core Strategy, Policy GDP/3 of the North Somerset Replacement Local Plan, Policy E1 (Mendip Ridges and Coombs) of the North Somerset Landscape Character Assessment, Policy DM10 of the Sites and Policies Plan Part 1 – Development Management Policies (Publication Version) and Paragraphs 58, 64, 75 and 109 of the National Planning Policy Framework.*
 2. *The location of the site, by reason of its distance to the nearest services and facilities and the nature (gradient and intermittent footpaths) of the routes leading to it will not encourage walking or cycling. Instead residents of the development will be over-reliant on vehicle use, even when undertaking local journeys. This is not conducive to sustainable development and the proposal is contrary to Policies CS1 & CS10 of the North Somerset Core Strategy, Policy T/10 of the North Somerset Replacement Local Plan, Policy DM24 of*
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the Sites and Policies Plan Part 1 – Development Management Policies (Publication Version) and Paragraph 35 of the NPPF.

3. In July 2016, the Council adopted the Sites and Policies Plan Part 1: Development Management Policies Development Plan Document (DMP). Accordingly, this now forms part of the development plan and can be afforded due weight in this decision. Policies GDP/3 and T/10 of the North Somerset Replacement Local Plan (2007) (LP) referred to in the putative reasons for refusal have been superseded by DMP Policies DM24 and DM32 respectively. It is a matter of common ground between the Council and the appellant that none of the remaining saved LP policies are relevant to this appeal.
4. Following a legal challenge, Policy CS13 of the North Somerset Core Strategy (2012) (CS) which dealt with the scale of housing in the District was found to be unlawful. In remitting the policy back to the Planning Inspectorate for re-examination, the Judge concluded that there were eight other policies which should be remitted for examination on the grounds that there could be a need for consequential amendments to them. The Inspector's Report on the examination into the soundness of the consequential changes to remitted CS Policies CS6, CS14, CS19, CS28, CS30, CS31, CS32 and CS33 was published on 8 November 2016 and I return to this matter below.
5. A Site Allocations Plan is being prepared which will help to deliver the housing requirement set out in the CS. This has yet to be submitted to the Secretary of State for an examination and having regard to paragraph 216 of the Framework, it has limited weight in the determination of this appeal.
6. The appeal seeks outline permission with all matters reserved for later approval apart from the means of access. An illustrative masterplan¹ accompanied the application together with three parameter plans². These show the location of the main access road, the general layout of new housing, open space and landscape corridors and how different building heights and densities would be distributed across the site. Whilst not formally part of the scheme, I have treated these plans as a guide to how the site might be developed, were the appeal to succeed.
7. A completed planning obligation by Deed of Agreement pursuant to section 106 of the Town and Country Planning Act 1990 dated 9 December 2016 (the s106 agreement) (ID23) was submitted at the Inquiry. In the event that planning permission is granted and implemented it would secure the provision of affordable housing, financial contributions towards a bus service, early years and primary education, employment development, libraries, playing pitches, maintenance of a Public Right of Way (PROW) and community facilities. These have been secured in accordance with the Council's Development Contributions Supplementary Planning Document (January 2016).
8. A planning obligation by Deed of Unilateral Undertaking (UU) (ID24) relating to an area of land to the south of the appeal site was also submitted at the Inquiry. I return to the s106 agreement and UU later in my decision.

¹ Drawing No 140502 R05 Revision C)

² Drawing Nos 140502 L0203 Rev A (Landscape), 140502 L0202 (Building Heights), 140502 L0202 (Density)

9. Before the end of the Inquiry, the appellant requested an opportunity to submit a supplemental Deed of Variation in order to respond to a query raised by the Council about the definition of 'bus service' contained within the s106 agreement. I agreed to the request. The supplemental Deed of Variation (DoV) (ID29) was submitted before the Inquiry was formally closed in writing on 10 January 2017 and I have considered its provisions alongside the s106 agreement.
10. During the Inquiry an outline proposal for up to 50 dwellings at land off Wentwood Drive was allowed on appeal³ (ID15) (the Wentwood Drive decision). That site is approximately 400 metres to the north of the appeal site. During the course of the Inquiry the main parties had an opportunity to indicate the implications of that decision for the scheme before me. I have taken those into account in coming to my decision.
11. The Wentwood Drive and Bleadon Hill Action Group was granted 'Rule 6' status at the Inquiry (the Rule 6 party).

Matters arising after the Inquiry

12. The remitted CS policies referred to above were adopted by the Council on 10 January 2017 and now form part of the adopted development plan. Accordingly, they can be afforded due weight in this decision. The three main parties were given an opportunity to comment on the implications of this for the appeal and I have taken their comments into account in coming to my decision.
13. The Rule 6 party indicated in its response that the Council can now demonstrate a five-year supply of sites for housing. There is no further evidence before me to substantiate that position and the Council has not indicated as such in its response. I have determined the appeal based on the housing land supply position as outlined below.

Background and Main Issues

14. At the start of the Inquiry, it was common ground between the appellant and the Council that a five-year supply of deliverable housing land as required by paragraph 47 of the National Planning Policy Framework (the Framework) could not be demonstrated. Based on a recent appeal decision at Banwell⁴, (the Banwell decision), the Statement of Common Ground (SOCG) states that no more than a 4.2 year supply of housing land exists and that the extent of the shortfall is significant.
15. The written evidence on housing land supply remained before the Inquiry but no further evidence was presented. Whilst not disputing the shortfall in housing land supply, the Council considers that the site would be in an unsustainable location and that the development would be harmful to landscape character.

³ Ref APP/D0121/W/16/3151660 ID 15

⁴ Ref APP/D0121/W/15/3138816

16. Accordingly, the main issues in this case are:

- The effect of the development on the character and appearance of the area having particular regard to the effect on landscape character; and
- Whether or not the site would be a suitable location for the proposed development having particular regard to the accessibility of local services and facilities and the highway conditions for all road users.

Reasons

Background and Policy Context

17. In the absence of a five-year supply of sites for housing, paragraph 49 of the Framework indicates that relevant policies for the supply of housing should not be considered up-to-date. That is a material consideration in the determination of this appeal. The Hopkins Judgement⁵ held that relevant policies affecting the supply of housing were those that create and constrain housing land supply and that whether such policies fall within the ambit of paragraph 49 is a matter for the decision maker.
18. CS Policy CS12 which has been referred to in the putative reasons for refusal deals with matters of design. Whilst evidence on design matters has been presented by the appellant, it deals with the broad principles of the proposal and given that the scheme is in outline, I consider that Policy CS12 is not directly relevant.
19. CS Policy CS5 seeks to ensure that the character, distinctiveness, diversity and quality of the District's landscape is protected and enhanced by the careful, sensitive management and design of development, having close regard to the National Character Areas and North Somerset Landscape Character Assessment (NSLCA). It also seeks to ensure that the natural beauty of the Mendip Hills Area of Outstanding Natural Beauty (AONB) is conserved and enhanced.
20. DMP Policy DM10 referred to in the putative reasons for refusal is a 'broad brush' policy to ensure that proposals have regard to the landscape character of the District and therefore constrains the location of new housing development. It does not seek to protect specific landscape features and in this regard does not accord with paragraph 113 of the Framework which says that 'local planning authorities should set criteria based policies against which proposals for any development on or affecting...landscape areas will be judged'. As such, it should be regarded as being out of date.
21. DMP Policy DM11 seeks to ensure that new development conserves, and where possible, enhances the landscape and scenic beauty of the Mendip Hills AONB. Whilst it was not referred to in the putative reasons for refusal, at the Inquiry both parties accepted that Policy DM11 is a relevant policy in this case.

⁵ Suffolk Coastal v Hopkins Homes Ltd [2015] EWHC 410 (Admin)

22. CS Policies CS13 and CS14 set out the spatial distribution of housing in the District and the total number of dwellings to be provided up to 2026. Weston-super-Mare is identified in Policy CS14 as the focus for new residential development in North Somerset. As the principal town in the District with a good range of services and facilities it has the potential to be a sustainable location for new development.
23. CS Policy CS28 seeks to deliver 12,800 new dwellings at Weston-super-Mare and allows for developments of up to 75 dwellings adjoining the settlement boundary provided that a number of objectives are taken into account. These include improving accessibility within the town by walking, cycling and public transport, particularly where they enhance connectivity with, for example, local facilities, service centres, the town centre and sea front and do not lead to significant adverse impacts on the transport network. The enhancement of green infrastructure and biodiversity including the ridges and hinterland to the north and south of the town is also sought under CS Policy CS28.
24. At the Inquiry, the Council conceded that CS Policies CS5, CS14, CS28 and DMP Policies DM10 and DM11 are relevant policies for the supply of housing and having regard to the evidence before me, I see no reason to disagree.
25. The previous planning history for residential development on part of the eastern field includes two refusals of planning permission and a scheme for three semi-buried houses dismissed on appeal⁶. However, as all of these pre-date the Framework and the current development plan they have very limited weight in the determination of this appeal.

Character and appearance and effect on landscape character

26. The appeal site adjoins the built-up area of Weston-super-Mare and comprises two grazing fields covering approximately 3.96 hectares. Ground levels rise gradually from the southern site boundary towards Bleadon Hill which runs parallel with the limestone ridge to the west of the Mendip Hills. The site boundaries comprise mature hedges interspersed with a few trees. The main built-up area of Bleadon village has developed on a west-east axis approximately 0.8 km to the south of the site. Celtic Way which joins Bleadon Hill rises steeply up the valley side to the north of the village with isolated pockets of development located around road junctions, interspersed with open countryside.
27. To the south of Bleadon Hill, Southridge Heights and Leighton Crescent and the telephone exchange on the common boundary with the appeal site form a clear boundary to the edge of the built-up area. The telephone exchange has a somewhat utilitarian appearance but by reason of its low height and position set back from the road it is not a prominent feature in the wider area. The Hillcote development opposite the appeal site was originally built in the 1920s but subsequent alterations, extensions and rendered finishes give the dwellings a more modern appearance. Although prominent from some viewpoints to the south, the physical separation of Hillcote from Weston-super-Mare has been maintained by the intervening open fields.

⁶ Refs 3047/86, 2207/88 Appeal Ref APP/D1021/A/97/289630/P4

28. The site is outside the AONB but within the Mendip Hills National Character Area (NCA) No 141. Statement of Environmental Opportunity 1⁷ indicates that one of the objectives for NCA 141 is to 'conserve the distinctive combination of historic field boundaries, field and settlement patterns..... and safeguard inward and outward views of and to the distinctive hill line and conserve and enhance the special qualities, tranquillity and sense of remoteness and naturalness of the area'. The Planning Practice Guidance indicates that the duty to have regard to the purpose of conserving and enhancing the natural beauty of AONBs⁸ extends to the consideration of setting where development is proposed outside of but close to an AONB.
29. The NSLCA Supplementary Planning Document (2005) (NSLCA SPD) indicates that the site is on the western edge of the E1 'Mendip Ridges and Combes' Landscape Character Area (LCA). Its distinctive characteristics include dramatic topography of steep slopes and combes based on underlying limestone geology, wide and varying views from the ridges, sometimes glimpsed through woods, over valleys moors and sea. The NSLCA SPD describes the overall character of LCA E1 as strong and the condition of the landscape as generally good. Forces for change that could have an adverse effect on the character of the LCA include encroachment of development rising up the open slopes where it is highly visible from adjacent lowland areas together with the visual impact of unsympathetic urban edges within the immediately adjacent landscapes.
30. The distinctive limestone ridge at Bleadon Hill is identified as one of the AONB's special qualities in the Management Plan 2014 – 2019 (MP). It indicates that development pressures need to be managed within and near to the AONB boundary to ensure that its essential character and setting is conserved and enhanced. The Planning Practice Guidance indicates that where they raise relevant issues, AONB MPs may be material considerations in making decisions on planning applications. The effect of the development on the limestone ridge and the setting of the AONB are relevant matters in this case and I therefore attach significant weight to the AONB MP in coming to my decision.
31. The appellant has produced a Landscape and Visual Appraisal (LVA) prepared in accordance with the Guidelines for Landscape and Visual Impact Assessment 3rd Edition (GLVIA). It concludes that the contribution of the site to landscape quality is no more than ordinary due to the degree of enclosure afforded by the boundary hedgerows and adjacent housing, combined with landform and limited public access which limit opportunities to appreciate the site as part of the wider landscape and minimise its wider scenic value. It is considered that the appeal site and its surroundings do not exhibit any of the key characteristics of the wider LCA and that its positive features are of no more than local value. Based on an assessment against the factors listed in the GLVIA that can help in identifying a valued landscape, the appellant considers that it cannot be regarded as such under the terms of paragraph 109 of the Framework.
32. Whilst it has a limited number of individual landscape features, the site is a component of the wider Mendip Ridges and Combes LCA and forms part of the

⁷ National Character Area Profile 141 Mendip Hills, Natural England

⁸ Section 85(1) of the Countryside and Rights of Way Act 2000.

scarp slope below the limestone ridge, albeit gradients fall gently across the site. Its strong field structure bounded by hedgerows reflects one of the key characteristics of NCA 141. From closer distances to the south, (LVA viewpoints 1, 2, 3, 4 5 and 10) whilst the houses in the south-east corner of Southridge Heights are visible, the site extends to the east as an undeveloped ridge which is seen against the skyline and forms a distinctive backdrop to the village of Bleadon.

33. When viewed from PROW AX31/8/20 which runs along the western boundary of the AONB (LVA viewpoints 15 and 16), the appeal site forms an undeveloped gap which affords panoramic and dramatic views of Brean Down to the west and over the Bleadon Levels towards Brent Knoll and the Severn Estuary beyond. From this elevated position, the contrast between the summits of Brean Down and Brent Knoll and the levels can be appreciated and understood, contributing to a sense of place and making a visual connection between the AONB and the wider landscape. From this vantage point, the site makes a positive contribution to scenic quality and to views out of the AONB, one of its special qualities.
34. Whilst there is no public access over the site itself, views over it to the wider landscape from PROW AX31/8/20 are experienced as part of a recreational activity which is also identified as a relevant factor in the GLVIA.
35. Hillcote and the built-up edge of Weston-super-Mare are developed features in the surrounding area. However, by reason of its detached location set back from the road Hillcote does not adversely affect the visual qualities of the appeal site as an undeveloped gap which separates the built-up area from the outlying cluster of development at Fern Court and around the junction of Roman Road, Celtic Way and Hillside. The dispersed settlement pattern in the vicinity of the appeal site comprising isolated groups of houses interspersed with open countryside forms a transition between the urban area of Weston-super-Mare and the more remote rural surroundings of the Mendip Hills AONB to the east.
36. The site is a component of the landscape and also affords opportunities for appreciation of the wider landscape beyond the immediate surroundings. In that context, it makes an important contribution to scenic quality and to my mind is an integral component of a valued landscape which paragraph 109 of the Framework indicates should be protected and enhanced.
37. The appellant submits that the proposals outlined in the parameter plans⁹ including the retention and reinforcement of the southern boundary hedge, additional hedge and tree planting and the translocation and management of the road frontage hedge would help to assimilate the development into the landscape. Dwellings would be positioned to create buffers to the northern and southern boundaries and dwelling heights would be distributed to minimise visibility from viewpoints to the south. Conditions could be imposed to ensure that the details of the reserved matters reflect the design and layout principles of the illustrative masterplan and parameter plans.

⁹ Drawing No 140502 L0203 Revision A

38. From the more distant viewpoints set out in the LVA¹⁰, the intervening topography, built form and vegetation limit direct views of the site. When viewed from the more distant viewpoints to the south, rooftops would be visible above the southern boundary hedge but given the distances involved they would not be easily distinguished. I agree with the LVA findings that with mitigation planting, there would be no significant adverse impact on landscape character or the setting of the AONB from these longer distances.
39. However, at closer distances changes to the character and appearance of the site would result from the presence of dwellings, the new access road which would open up views into the site and changes to vegetation and landform. Notwithstanding the mitigation proposed in the illustrative masterplan and parameter plans, dwellings of up to 8.5 metres would protrude above the boundary hedges when viewed from Bleadon Hill and the closer viewpoints to the south, particularly during the first ten years of growth. Due to the rising slope, rooftops would be visible from the closer viewpoints to the south-west including the West Mendip Way and permissive footpath at Purn Hill, notwithstanding the copse planting proposed in the southern field.
40. Some changes to the countryside on the edge of Weston-super-Mare will be an inevitable consequence where development is permitted adjacent to the settlement boundary in accordance with CS Policy CS28. However, the configuration and position of such sites in relation to the urban area will vary, enabling some to be more successfully integrated with the existing urban fabric than others.
41. The linear form of the appeal site would result in the proposed development protruding from rather than rounding off the built-up area. The development would have a significant urbanising effect along Bleadon Hill and the consolidation of development along Bleadon Hill would be harmful to the dispersed settlement pattern which forms a transition to the more rural surroundings of the AONB and contributes to its setting. The separation between Weston-super-Mare and the outlying cluster of development around Fern Court, Roman Road, Celtic Way and Hillside would also be lost, diminishing the distinction between the urban area and more sporadic development towards the AONB. I conclude that this would not accord with the landscape strategy and guidelines for LCA E1 and would cause material harm to the setting of the AONB.
42. Whilst the extent to which the view out of the AONB from PROW AX31/8/20 would be lost is disputed by the main parties, the presence of buildings in the foreground of the views towards the wider landscape would have a significant adverse effect on landscape and scenic quality. The Management Plan secured through the UU would provide for public access to the field to the south of the site from which views of the landscape to the south could be enjoyed but in my view the access through built development would diminish the value of that experience.
43. I have had regard to the appellant's assessment that the location of the site within an urban fringe 'transition zone' between the built-up edge of the town and the AONB would avoid any adverse impacts on the more rural parts of AONB further to the east. The LVA identifies a 'buffer' zone within the AONB itself which contains areas of development and it is argued that this provides

¹⁰ Figure 21 Annex A LVA

the necessary separation between the site and the more remote rural parts of the AONB that do exhibit the special qualities further to the east. The difficulty with this argument is that by implication, the setting of the AONB lies within the designated area itself which does not accord with the approach set out in the Practice Guidance.

44. Having regard to the Wentwood Drive decision, I note that the Inspector concluded that the development would extend the built form only slightly and that the sporadic development on the peripheries of the town towards the AONB would remain apparent. That is in marked contrast to the appeal scheme which would extend the built-up area in a linear form and connect it with the outlying development at Fern Court and Roman Road, Celtic Way and Hillside. As such, I consider that the effect of the Wentwood Drive development on landscape character is not comparable with the scheme before me.
45. I have been referred to the Banwell decision and another appeal at Sandford¹¹ in support of the appellant's position on landscape matters. However, as these sites lie within a different LCA, the context for assessing the effect on landscape character is materially different and the circumstances of those cases are not directly comparable with the scheme before me.
46. In relation to the first main issue in this case I conclude that the appeal proposal would cause material harm to the character and appearance of the area, and to the characteristics of NCA 41 and LCA E1. The adverse effect on outward views would be harmful to one of the AONB's special qualities. The proposal would fail to conserve and enhance the setting and thereby the natural beauty of the AONB and in this regard would conflict with CS Policy CS5 and DMP Policies DM10 and DM11. These policies also seek to ensure that development does not have an unacceptable adverse impact on landscape character as defined in the NSLCA SPD. The proposal would conflict with CS Policy CS28 in so far as it would fail to enhance the ridges and hinterland to the south of Weston-super-Mare.
47. There would be further conflict with the AONB MP and with the Framework's requirement to protect and enhance valued landscapes. My conclusions on this issue attract substantial weight against the appeal proposal.

Location

48. CS Policy CS1 indicates that developments of ten or more dwellings should maximise the use of sustainable transport solutions, particularly at Weston-super-Mare and Policy CS10 supports development proposals which allow for a wide choice of modes of transport. This is reflected in CS Policy CS28 as outlined above. DMP Policy DM24 states that development giving rise to a significant number of travel movements will be refused if it is not accessible by non-car modes or cannot be readily integrated with public transport.
49. The appeal site lies approximately 4 km to the south-east of the town centre. The services and facilities at Old Mixon approximately 1.2 km to the north of the site include a convenience store and post office, primary school and children's play area. Bleadon village has a public house, shop and other

¹¹ Ref APP/D0121/W/15/3139633

- community facilities but having regard to the nature of Celtic Way which has some steep gradients and long sections with no footways, it is reasonable to assess the accessibility of the site having regard to the facilities at Old Mixon.
50. The appellant indicates that the location of the site compares favourably with the 1.2km preferred maximum acceptable walking distance to amenities for pedestrians without mobility impairment set out in the Chartered Institution of Highways and Transportation's 2000 publication *Providing for Journeys on Foot* (IHT Guidance). However, the IHT guidance indicates that the decision to walk depends on the attractiveness and practicality of the route.
 51. A new section of footway would be constructed along the site frontage behind the existing hedge which is to be 'translocated' away from the road to accommodate the required visibility splays. However, the non-motorised user (NMU) route to local services and facilities includes sections with no footway where pedestrians would walk alongside vehicles. These would be between the pedestrian entrance in the north-west corner of the site and No. 54 Bleadon Hill where the existing footway commences, a gap of 167 metres. Along this stretch, carriageway widths vary between 4.2 and 5.7 metres.
 52. Access along Totterdown Lane would include a section of 103 metres with a pedestrian footway demarcated on the carriageway and to the north of the junction with Highfield Road, a 42 metre section with no pedestrian demarcated area. To the north of Channel Heights the NMU route would have some steep gradients, albeit with a footway and street lighting.
 53. The gradients together with the lack of footways and proximity of passing traffic along some sections of the route would make walking to and from the facilities in Old Mixon challenging, particularly for those with mobility difficulties, carrying shopping or accompanied by small children. Cycling back from Old Mixon to the site via Totterdown Lane and Channel Heights would also be challenging for all but the most committed cyclist.
 54. The mitigation proposed by the appellant to improve pedestrian infrastructure, increase driver awareness of pedestrians in the carriageway and formalise the existing informal 'give way' arrangements along the narrow section of Bleadon Hill is acceptable to the Highway Authority (HA). Whilst I concur that there would be improvements to driver and pedestrian safety arising from the proposed mitigation, residents would be likely to make use of the private car to meet daily needs.
 55. I have had regard to the Inspector's conclusion in the Wentwood Drive decision that there would be reasonable opportunities for walking and cycling from that site to the facilities at Old Mixon as an alternative to use of the private car. Whilst gradients on the appeal scheme NMU route would be comparable with those for the Wentwood Drive site, the appeal site would be 0.4km further away from local services and facilities and would include sections without continuous footways. As such, the circumstances of the appeal site are not comparable with the Wentwood Drive site. I conclude that walking to local services and facilities would be less attractive to residents at the appeal site given its location further away from local facilities and the lack of a continuous footway.

56. Turning to public transport, the existing 4/4A service stops outside the site opposite Hillcote and provides an hourly service during the day, running between Hutton village and the town centre via Old Mixon. The s106 agreement would make financial contributions towards an additional service (No 108) for a period of three years. The hours of operation would be extended to cover morning and evening peak hour commuter trips and the route would be extended into the commercial areas off Winterstoke Road to the north-east of the town centre. Combined with the existing 4/4A service, there would be a half hourly service from the site and the existing stop outside the site would be upgraded to provide a bus lay-by.
57. Whilst local residents indicate that the existing 4/4A service is not well used, the proposed 108 service would be an improvement in terms of the start and finish times, regularity of service and geographical coverage. This would be likely to improve patronage by existing residents and new residents at the appeal site would be more likely to use the service for travel to work and to access local services and facilities.
58. Representors have expressed concern about the long term prospects for the continued public subsidy and operation of the 4/4A service given the general pressures on public funding. However, this is common to many bus services that receive an element of public subsidy. The appellant has been proactive in its engagement with the bus operator (Crosville) and the Council's Public Transport Manager. There is nothing in the evidence which would lead me to disagree with the operator's view that the 108 service has a realistic prospect of becoming commercially viable following the three year period of financial contributions provided for by the s106 agreement, subject to appropriate marketing and management.
59. Furthermore, financial contributions towards the 108 service would also be secured through the s106 planning obligation for the Wentwood Drive development. The DoV would ensure that any surplus contributions would be spent on a service between Bleadon and the town centre with a stop outside the site. The suggested planning conditions include the submission of a Travel Plan which would assist in reducing car travel, increasing the use of public transport and promoting walking and cycling.
60. The Framework indicates that development generating significant movement should be located where the need to travel will be minimised and the use of sustainable travel modes can be maximised. The proposed development would not be in the optimum location to maximise the use of walking or cycling to meet daily needs. However, the Framework also indicates that different policies and measures will be required in different communities. The s106 Agreement and DoV would secure improvements to the frequency and convenience of local bus services for new and existing residents to access local services, employment and transport connections to larger centres. There would be some improvements to pedestrian infrastructure. Whilst some journeys would inevitably be undertaken by private car, there would be opportunities to meet daily needs by sustainable means of transport.
61. In relation to the second main issue in this case, access to local facilities by walking and cycling would not fully comply with the requirements of CS Policies CS1, CS10 and CS28 and DMP DM24. However, having regard to the

availability of public transport to reach local services and facilities, I conclude that the site would be a suitable location for the proposed development.

S106 Agreement and UU

62. The s106 agreement would secure obligations towards the provision of on-site affordable housing and financial contributions towards a bus service, early years and primary education, employment development in the town, library book stock, built sports and leisure facilities and playing pitches, maintenance of PROW AX31/8/20 and community facilities. The highway and pedestrian infrastructure improvements discussed above would be secured together with on-site open space and play facilities, arrangements for SuDs and the landscape buffers.
63. The s106 agreement would offset the impact of the development on services and infrastructure in the area. Sufficient evidence was provided to justify these payments including the requirements of CS Policies CS16 (affordable housing), CS25 (education) and CS27 (on and off-site open space) and the North Somerset Development Contributions SPD.
64. The Council provided a CIL Compliance statement for the obligations sought confirming that they were compliant with the CIL Regulations 2010. Having regard to the further clarification provided by the Council (ID28), none of the financial contributions that would be secured would result in the pooling of more than five obligations for that project or type of infrastructure project. The requirements of Regulation 122 of the Community Infrastructure Levy and paragraph 204 of the Framework are satisfied and had the appeal been allowed the provisions of the s106 agreement would have been necessary in order to allow the development to proceed.
65. The UU provides for the gifting of the field to the south of the site which contains an area of calcareous grassland to Avon Wildlife Trust (AWT) who would manage it to maximise its biodiversity value. The UU would secure the installation of fencing and other features to enable the site to be grazed together with a Management Plan. Whilst not referred to in the UU, AWT has indicated its willingness (ID20) to provide public access to the area outside the main area of botanical interest. I have been referred by the appellant to the *Derwent Holdings*¹² case in which the Court of Appeal held that if a proposed development is acceptable in planning terms the securing of additional benefits by means of a planning obligation is not unlawful.
66. The provisions of the s106 agreement and the planning conditions would secure the necessary mitigation to avoid harm to biodiversity on the site itself. Whilst I recognise the aspiration of the AWT to connect areas of habitat to the Purn Hill SSSI, there is nothing in the evidence which indicates that the biodiversity value of the southern field is under threat, such that its gifting to the AWT would represent a benefit. However, public access to the site would be of some benefit to existing and new residents. In these circumstances, I attach some limited weight to the provisions of the UU.

¹² R (Derwent Holdings Ltd) v Trafford BC [2011] EWCA Civ 832

Other matters

67. The Rule 6 Party, Weston-super-Mare Town Council, Bleadon Parish Council and local residents have expressed numerous concerns about the effect of the proposal on the safety of highway users including drivers, pedestrians, cyclists and horse riders.
68. The development would be served by a new access road the specification of which would meet the requirements of the HA and would allow safe access to and from the site. The appellant's Transport Assessment (TA) estimates that the proposal would generate 43 two way vehicle movements in the AM peak hour and 45 in the PM peak hour. This compares with existing AM and PM flows on Bleadon Hill of 102 and 114 vehicles respectively. The HA is satisfied that this level of increase in vehicle movements will not cause a significant impact on the highway in proximity to the site access or on the local road network. In the absence of any further technical evidence to refute the findings on traffic generation in the TA or the conclusions of the HA, I have no reason to depart from the HA's conclusions on this matter.
69. A Stage 1 Road Safety Audit of existing highway conditions and NMU Audit of the route to local services and facilities were undertaken. The proposed works to improve pedestrian infrastructure, driver awareness of pedestrians in the road and formalise the existing informal give way priority arrangement to the west of the site are all acceptable to the HA. Whilst numerous instances of vehicles being unable to safely pass alongside larger vehicles such as HGVs, buses and caravans on Bleadon Hill have been referred to me, this is an existing situation and there is nothing in the evidence to indicate that the appeal proposal would increase the frequency of such incidents.
70. Whilst I have concluded above that some highway conditions would not be ideal to encourage walking and cycling to and from local facilities, that is a different consideration from highway safety. The HA is satisfied that the road has capacity to accommodate the additional movements without adversely affecting the free flow of traffic or the safety of other highway users. Having regard to this and the evidence before me, I conclude that the appeal proposal would not be detrimental to highway safety.
71. No substantive evidence has been put forward to support the concerns regarding the effect on wildlife. The site falls within the 5km consultation zone for the North Somerset and Mendip Bats Special Area of Conservation (SAC). Surveys have identified the importance of the central, eastern and southern hedges for foraging by a variety of bat species. Appropriate mitigation measures for bats and other protected species could be secured through the condition requiring a Landscape and Ecological Management Plan together with the retention and relocation of existing hedges which form bat foraging routes and flyaway areas.
72. The application was made in outline with all matters other than the means of access reserved for subsequent approval. A number of the other matters raised by local residents could have been satisfactorily addressed by means of conditions including foul and surface water drainage arrangements, a requirement for an archaeological watching brief and a construction management plan. I am satisfied that the proposed dwellings could be sited

to avoid significant adverse impacts on the living conditions of adjoining occupiers. The organisations responsible for healthcare provision have not sought any contributions from the development.

73. The existence of a private covenant on the land is not a planning matter to which I can have regard. Similarly, there is no further evidence to substantiate the claim that a PROW passes through the site and there are other procedures under which this matter can be addressed.

Planning Balance and Conclusion

74. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the development plan unless material considerations, which include the Framework, indicate otherwise.
75. The proposal would comply with CS Policy CS28 in terms of its scale, the provision for green infrastructure and biodiversity, access, accessibility by public transport and impact on services. However, the ridges and hinterland to the south of the town would not be enhanced as required by CS28 and there would be further conflict with CS Policy CS5 and DMP Policies DM10 and DM11 arising from the harms to character and appearance and landscape character. However, in the absence of a five-year supply of housing sites, these policies cannot be considered as up-to-date. The conflict with development plan policy has to be considered in the context of material considerations which include the presumption in favour of sustainable development as set out at paragraph 14 of the Framework.
76. The presumption which applies in this case means that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework, taken as a whole. The economic, social and environmental dimensions of sustainable development are mutually dependent and should be jointly and simultaneously addressed through the planning system.
77. The appeal proposal would provide a number of benefits. It would assist in meeting the shortfall in housing land supply and increase the mix and choice of properties. The delivery of affordable housing is of particular benefit in an area where the identified need in the wider Housing Market Area is 1453 per annum¹³ and the average price of a property is seven times full average earnings¹⁴. The appellant has indicated that the site could be delivered within the next five years thus making an early contribution to delivery. Having regard to the preparation stage of the Site Allocations Plan, the contribution that the development would make towards boosting the supply of housing in accordance with the Framework is a benefit to which I attach significant weight.
78. The economic role would be met through the jobs created during construction and spending by new residents which would help to support local services and facilities, including public transport. The economic benefits of the scheme attract moderate weight in favour of the proposal.

¹³ Joint Spatial Plan Wider Bristol HMA Strategic Housing Market Assessment

¹⁴ North Somerset Housing Strategy 2016 - 2021

79. The site is Grade 3b agricultural land and there would be no loss of the best and most versatile agricultural land. Enhancements to habitats and green infrastructure are primarily mitigation to avoid adverse effects on protected species but public access to the southern field would be secured through the UU. The site would be in a reasonably accessible location. Taken as a whole, the environmental benefits of the proposal would be modest and I give them limited weight in the planning balance.
80. I note the appellant's submissions regarding potential benefits resulting from other matters that would be secured via the S106 agreement and conditions. Some of these including the improvements to bus services and community facilities and library stock will be of benefit to the wider community. However, as they are primarily intended to respond to needs arising from the proposed development, any such benefit would be limited and as such attracts little weight in favour of the proposal.
81. On the other side of the planning balance, the proposal would harm the character and appearance of the area and would fail to conserve and enhance the setting and thereby the natural beauty of the AONB and would cause material harm to a valued landscape. Whilst the conflict with CS Policies CS5, CS28 and DMP Policies DM10 and DM11 has to be considered in the context of the land supply position, the harm that would be caused carries substantial weight against the grant of planning permission in the overall planning balance.
82. My conclusion is that the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits and the proposal would not comply with the development plan, read as a whole. As a result, the application of paragraph 14 of the Framework does not indicate that permission should be granted and the proposal would not represent sustainable development. In the circumstances of this appeal, the material considerations considered above do not justify making a decision other than in accordance with the development plan.
83. For the reasons outlined above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Sarah Housden

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr Tim Leader of Counsel Instructed by Mr C Kent, North Somerset Council

He called

Mr Neil Underhay MA Principal Planning Officer

Mr Kevin Carlton BA S106 Project Officer and Landscape Officer
DipLA

FOR THE APPELLANT:

Mr G Cannock of Counsel Instructed by Mr Neal Jillings, Jillings Heynes
Planning

He called

Mr C Britton BSc (Hons) Managing Director, Chris Britton Landscape
MLA CMLI Architects

Mr N Jillings BSc (Hons) Planning Consultant, Jillings Heynes Planning
MA MRTPI

Mr J Troake BSc (Hons) Transport Consultant, Planning Associates
MSc MRTPI CMILT MTPS

Mr N Emery BA (Hons) Director, Clifton Emery Design
Dip TP MAUD MRTPI

FOR THE BLEADON HILL AND WENTWOOD DRIVE ACTION GROUP

Mr APR Searle Resident

Mrs P White Resident

Mr M Ripley, FRICS Resident

Mr J Ley-Morgan Resident

INTERESTED PERSONS:

1. Mrs J Horrigan
2. Councillor AP Rees
3. Mr M Harryman
4. Mr Hazzard

5. Mr P Horrigan
6. Mr P Howard
7. Mr Hicks
8. Miss J Butler-Crane (age 11)
9. Ms D Gutsell
10. Mrs L Hazzard
11. Mr R Warwick
12. Mr W Lawley
13. Councillor T Porter
14. Miss I Clark

Richborough Estates

DOCUMENTS SUBMITTED AT THE INQUIRY

- ID1 Addendum Report dated 23.11.16 by North Somerset Council re Inspector's Report on soundness of the consequential changes to Policies CS6, CS14, CS28, CS30, CS31 and CS33 of the North Somerset Core Strategy
- ID2 Letter from Mendip Hills AONB Partnership to North Somerset Council dated 19.3.15
- ID3 Pages 33, 81 & 125 reproduced in greater clarity from Annex A of Mr C Britton's Proof of Evidence
- ID4 Map of Weston-super-Mare settlement boundary
- ID5 S106 Proposed Final Draft Version
- ID6 Landscape Sensitivity Map & Enlargement from Appendix 5 of Mr K Carlton's Proof of Evidence
- ID7 Extracts from Council for Protection of Rural England Tranquillity Maps showing full extent of Mendip Hills AONB and area around appeal site
- ID8 Technical Note: Background to Preparation of Illustrative Perspectives, Neil Emery, Clifton Emery Design
- ID9 Email dated 30.11.16 from Paul Baker North Somerset Council Transport Manager to Councillor Elfan AP Rees re No 4/4A Bus Service
- ID10 Illustrations of proposed development submitted with objection ?
- ID11 Photographs submitted by Mr P Howard
- ID12 Transcript of statement by Mrs White, Rule 6 Party
- ID13 Summary of distances to local services and amenities from the centre of the appeal site agreed by the appellant and the Council
- ID14 Email dated 12.12.16 from Mr N Underhay to PINs re pooling of contributions to High Growth Business Support in North Somerset
- ID15 Appeal Decision Ref APP/D0121/W/16/3151660, Land off Wentwood Drive, Weston-super-Mare
- ID16 Existing and proposed peak hour route of the No 4A bus service
- ID17 Email dated 5.12.16 from Paul Baker to Councillor E Ap Rees re No 4/4A bus service
- ID18 Transcript of statement by Miss J Butler-Crane (age 11)

- ID19 Emails dated 8.12.16 and 14.12.16 between Mr J Troake (Transport Planning Associates) and Mr Jones-Pratt (Crosville Motor Services) re operation of existing 4A bus service and new 108 service
- ID20 Email dated 14.12.16 from Ms R Fickweiler (Avon Wildlife Trust) to Mr N Jillings re grassland site to the south of appeal site
- ID21 Plan Ref 140502 L01 03 'Existing Means of Access'
- ID22 Transcript of statement by Ms L Hazzard
- ID23 Planning Obligation by Deed of Agreement under s106 dated 9.12.16
- ID24 Planning Obligation by Deed of Unilateral Undertaking dated 14.12.16 (relating to Wildlife Site)
- ID25 Agreed conditions in the event of the appeal being allowed
- ID26 Derwent Holdings Ltd v Trafford Borough Council, Tesco Stores Ltd, Lancashire County Cricket Club [2011] EWCA Civ 832
- DOCUMENTS SUBMITTED AFTER THE INQUIRY
- ID27 Location Plan of Drove Road Playing Fields site
- ID28 Further clarification from North Somerset Council of requests for financial contributions towards Built Sport, Leisure Facilities, Playing Pitches, Education and Library Services
- ID29 Deed of variation to s106 Deed of Agreement dated 5.1.17