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# Appeal Decision

Inquiry held on 25 - 27 September 2013

Site visit made on 27 September 2013

**by Mike Robins MSc BSc(Hons) MRTPI**

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

**Decision date: 29 October 2013**

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**Appeal Ref: APP/R3325/A/13/2196919**

**Land east of Slades Hill, Templecombe, Somerset BA8 0HE**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
  - The appeal is made by Mr Derek Mead of Mead Realisations Ltd against South Somerset District Council.
  - The application Ref 12/03277/OUT, is dated 13 August 2012.
  - The development originally proposed was a mixed-use development consisting of up to 100 dwellings (including affordable dwellings), 325 sqm (GIA) A1 retail, 675 sqm (GIA) B1 a, b, c employment, 230 sqm (GIA) D1 multi-purpose community building, access, school expansion area, public open space and allotments.
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## Application for costs

1. At the Inquiry an application for partial costs was made by Mead Realisations Ltd against South Somerset District Council. This application is the subject of a separate Decision.

## Decision

2. The appeal is allowed and planning permission is granted for a mixed-use development consisting of up to 75 dwellings (including affordable dwellings), 675 sqm (GIA) B1 a, b, c employment, 230 sqm (GIA) D1 multi-purpose community building, access, school expansion area, public open space and allotments at Land east of Slades Hill, Templecombe, Somerset BA8 0HE, in accordance with the terms of the application, Ref 12/03277/OUT, dated 13 August 2012, subject to the conditions listed at Annex A.

## Preliminary Matter

3. The original application was submitted in outline with all matters other than access reserved for future determination. This application comprised a scheme of up to 100 dwellings, but with specified scales of employment and retail space. The application was appealed as a result of non-determination by the Council within the relevant period.
4. Following this a second application was submitted for the Council's consideration, described as a:  
  

*"mixed-use development comprising up to 75 dwellings, B1 a, b and c employment, D1 multi-purpose community building and associated development"*
5. I made it clear at the Inquiry that it would not be possible for this appeal to address the later application, as this had not been formally considered and concluded on by

the local planning authority. Nonetheless, the appellant sought to revise the original scheme under appeal to either one mirroring that set out in the later application, or a scheme involving only a similar reduction in the residential units and the removal of the retail unit.

6. I have considerable sympathy for the case put to me at the Inquiry that to determine the later scheme directly would be contrary to the democratic process. However, this does not mean that the appropriateness of accepting a revision to the original scheme to mirror the later application should not be assessed. Such assessments generally refer to the case of *Wheatcroft*<sup>1</sup>, which, in essence, sets out the principles of whether a change to a development is so substantial as to lead to prejudice to any party.
7. In the case before me, the Council accepted that the reduction in dwellings and removal of the retail unit would be in compliance with these principles. However, they considered that the option to mirror the later appellation would not, because it was a rebalancing scheme with a concurrent significant increase in the employment space.
8. The appellant points out that all parties have had an opportunity to comment on the later application through the formal consultation, which ended 2 September 2013. In addition, local residents were contacted on this matter by the appellant's agent, in letters dated 4 September and 18 September 2013.
9. I can understand that for local residents, presented with a scheme that was refused and then appealed, and then presented with a revised scheme for consideration by the Council, which would then appear to be the subject of the appeal, could have been somewhat confusing. This was borne out in a response to the informal consultation and comments made at the Inquiry. I note also that the letters sent to local residents indicating the intention to revise the proposal under consideration at the appeal, did not reference the increased employment space.
10. I appreciate there has been consultation on the later application, but in light of the relatively late proposal of these amendments to this appeal, not all of the statements I have before me have dealt in detail with an amended scheme. The appellant refers me to another case, that of *Breckland*<sup>2</sup>, where the principle of a revision that resulted in an increase in the scale of a scheme was acknowledged not to be invalid. However, to my mind, the change in relation to the employment space is substantial, from 0.19 to 1.07 hectares. Although I have consultation responses in relation to this later scheme, I have little information on the Council's position on what are different considerations to those in the original appeal, notably those related to provision of over five times the level of employment space.
11. To my mind, the proposal to include significantly increased levels of employment land would be a substantial change that would raise issues, different to those central to the original proposal. These matters are such that it may lead to prejudice to parties were I to consider them prior to their proper assessment by the Council
12. Nonetheless, I consider that the reduction in housing and removal of the retail unit on their own would not be a substantial change, and any objections to the scheme, if they remained, would be of the same nature as to the original scheme. I concur with the Council's view on this matter, and I have no reason to think that any party

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<sup>1</sup> *Wheatcroft (Bernard) Ltd v. Secretary of State for the Environment and Harborough DC* [1982] P&CR 233

<sup>2</sup> *Breckland District Council v. Secretary of State for the Environment and Hill*. P&CR 65

would be prejudiced by proceeding in this way. I consider that to determine the appeal on the basis of the amended scheme would be consistent with the principles set out in the Wheatcroft judgement.

13. The appellant's clear preference expressed at the Inquiry was that I should consider a revised scheme, and only consider the original were I to find that the revisions were not acceptable. Accordingly I have considered the appeal on the basis of the following description:

*"a mixed-use development consisting of up to 75 dwellings (including affordable dwellings), 675 sqm (GIA) B1 a, b, c employment, 230 sqm (GIA) D1 multi-purpose community building, access, school expansion area, public open space and allotments"*

### **Procedural Matters**

14. Although the Council failed to reach a formal decision on the original scheme, a report was taken to the Area East Committee in June 2013. In this the Council confirmed that they considered the proposal to represent unsustainable development, out of scale with the character of Templecombe and its status within the hierarchy of settlements in the District. Furthermore, the Council supported the objections raised by the Highway Authority to the proposed access from Slades Hill, on the grounds of highway safety.
15. Concerns were raised by local residents with regard to consultation on this scheme. However, I am aware that a local consultation event did take place, and accepting that there would have been some confusion for local people as regards the amending of the proposal, I am satisfied that parties were properly notified of both applications and the Inquiry. The Statement of Community Involvement, dated July 2012, also shows that there had been dialogue with the local school and the Education Authority.
16. A Statement of Common Ground (SoCG) was submitted to the Inquiry in relation to planning matters. This set out matters in agreement, including that the Council was unable to demonstrate a 5 year Housing Land Supply (HLS), although the level of shortfall was contested. Points of disagreement related to the reasons set out in the committee report.
17. A SoCG on transport matters was also submitted, in which matters relating to the transport network and traffic flows were agreed. The area of disagreement related specifically to the nature of the proposed junction off Slades Hill.
18. A draft legal agreement was submitted by the appellant under the provisions of S106 of the Town and Country Planning Act 1990. This was to address affordable housing, contributions and travel plan elements as sought by the Council and the County Council. Necessary revisions made during the Inquiry entailed a short period post-Inquiry to complete signatures, which was duly done. A certified copy of the S106 agreement has been provided and is signed and dated 4 October 2013, I have considered it later in my decision.
19. The National Planning Policy Framework, (the Framework) was published in March 2012, and set out an implementation period in relation to development plan policies. While the starting point for determination of any appeal remains the development plan, Paragraphs 214 and 215 indicate the importance of consistency with the Framework up to, and now following the 12 month implementation period. I have taken this into account in my decision.

## Main Issues

20. I consider that there are two main issues in this case:

- whether, taking account of the development plan and other material considerations, including the five year supply of deliverable housing land, Templecombe is a sustainable and appropriate location for a mixed-use development of the scale proposed; and
- the effect of the development on the highway safety for users of the A357, Slades Hill.

## Reasons

### *The Site*

21. The appeal site is an open area of agricultural land. Although located adjacent to, but outside of the settlement boundary for Templecombe, as defined in the South Somerset Local Plan (1991-2011) (the Local Plan), the site has housing to the west and south, is adjacent to the school and church with the large industrial site, associated with Thales, to the east. It is to the north of the village, which includes a primary school two shops, a post office, take away, public house and main line railway station.
22. Templecombe itself shows clear evidence of development over time with a number of older buildings, but much more recent development present, along Station Road for example, with two small housing estates close to the appeal site at The Hamlet, dated 1986, and Blackmore Vale Close. The latter estate comprising a short private cul-de-sac extending into the middle of the appeal site.
23. The western boundary of the appeal site abuts the A357, Slades Hill. This is a classified road that connects Wincanton with the A350 to the south. The road here is restricted to 30 mph.

### *The Policy Framework*

24. An Order to revoke the Regional Strategy for the South West came into force in May 2013. The Order also revokes all directions under paragraph 1(3) of Schedule 8 to the Planning and Compulsory Purchase Act 2004 preserving policies contained in structure plans in the area. Thus the relevant parts of the Somerset and Exmoor National Park Joint Structure Plan no longer forms part of the development plan for the area.
25. The extant development plan therefore comprises the South Somerset Local Plan, adopted in 2006. This addressed the period 1991-2011 and while it may be considered time-expired, relevant policies in it were saved, and in accordance with section 38(6) of the Planning and compulsory Purchase Act 2004, any development must be considered against the policies of the development plan unless material considerations indicate otherwise.
26. The Local Plan sets out specific criteria for development<sup>3</sup>, while its strategic approach directs development to a hierarchy of settlements. In this strategic approach Templecombe is identified as a village<sup>4</sup>, where development should be

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<sup>3</sup> Policy ST5

<sup>4</sup> Policy ST2

commensurate with its size and accessibility. Outside of the identified settlement boundary, the plan seeks that development should be strictly controlled<sup>5</sup>.

27. The Council set out in the SoCG and confirmed at the Inquiry, that they could not demonstrate a 5 year HLS, which I deal with in more detail later. In absence of which, they accepted that the settlement boundaries associated with Policy ST3 could be given significantly less weight, albeit I accept that Policy ST3 has an element that directs development generally in terms of accessibility. The Council's acceptance of the 5 year HLS position would indicate that relevant housing policies in the development plan are out-of-date, and this needs to be considered against the Framework's presumption in favour of sustainable development<sup>6</sup>.
28. The Framework also sets out that policies should be assessed against their consistency with the framework, and due weight be accorded to the development plan. It is the weight of material considerations that are decisive, in this case the Framework itself and the emerging South Somerset Local Plan 2006-2028 (the eLP).
29. The eLP is well advanced in its preparation, although it has been suspended until early 2014 awaiting further information. This information relates to a number of matters, set out in an interim report from the examining Inspector<sup>7</sup>, which included the provision of significant levels of housing around Yeovil. The report explicitly states that it does not address the formal conclusion on the soundness of the plan. However, the Council suggested that the lack of comment on housing numbers, and indeed on Policy SS2, which addresses development in rural settlement, implies acceptance of these matters.
30. I can understand their thinking on this, as it could be considered that were there to be fundamental concerns regarding these matters, as there clearly was with those set out in the report, then this would have been raised. However, there are objections outstanding to other parts of the plan, and the consideration of housing provision in Yeovil may well have strategic implications for the whole plan area.
31. It can be no part of this decision to reach conclusions on the soundness of the eLP, nor can an interim report be considered as a final statement on plan soundness. The weight that can be given to the eLP is therefore commensurate with its progress<sup>8</sup>. In this case, in light of the matters set out above, I afford it moderate weight.
32. I turn then to the main issues.

*Is Templecombe a sustainable and appropriate location for this scale of development.*

33. Templecombe is considered to be within the lowest order of settlements set out in the hierarchy in both the Local Plan, where it is considered a village, and the eLP, where it is considered a rural settlement. In the context of this appeal, the appellant does not challenge this. However, this does not mean that no development is anticipated to take place, but that any that does must be sustainable, both in terms of the location and the effect on the village overall.
34. During the preparation of the Local Plan, the Council proposed the appeal site for housing. This allocation was deleted on the recommendation of the Local Plan

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<sup>5</sup> Policy ST3

<sup>6</sup> Framework Paragraph 49 and paragraph 14

<sup>7</sup> Dated 3 July 2013

<sup>8</sup> Framework Paragraph 216

Inspector at that time. Although the reason for this referred to the unsustainability of Templecombe, the Inspector's report highlighted a number of features which set the village apart from other rural settlements in the area.

35. I am satisfied that the scheme now before me differs from that earlier allocation, not least in terms of scale, 75 houses as compared to 150. The earlier allocation was also considered against the strategic housing context at that time, which drew on household projections from the 1990s.
36. Templecombe's status as a lower order settlement implies that there is some sustainability deficit, unsurprising in light of location away from the main towns, where more extensive employment and facilities are likely to be located. Nonetheless, as noted by the earlier Local Plan Inspector, there are a wide range of facilities and services such as the train station, primary school, public house, shops and take-away, post office and GP surgery, albeit operating at reduced hours.
37. Furthermore, there is a major employment site adjacent to the appeal site, Thales. Although I accept that this is a specialist defence contractor, and is likely to have some highly specialised roles, it employs approximately 700 people, including some recently transferred from another site. I consider that not all would fall into the specialised category, and it will offer the opportunity for a range of jobs suitable for local employment. The facilities available in Templecombe are set out in the Council's Role and Function Report<sup>9</sup>, which informed the preparation of the eLP. While the Council concluded that Templecombe should be a rural settlement, the report highlighted instances where the provision of transport, employment and local services in Templecombe matched or even exceeded that of higher order settlements.
38. Villages, or rural settlements, cannot be considered as being exempt from any housing development. Such an approach may lead to a gradual decline and a decreasing customer base to support local services and facilities. Consequently limited development is accepted in both the Local Plan and the eLP. In an area where the accepted lack of a 5 year HLS renders policies restricting development to identified settlement boundaries out-of-date, the eLP, in Policy SS2, gives an indication of the Council's strategic approach to such development going forward.
39. Policy SS2 retains strict control over development, and limits it to that which provides appropriate employment opportunities, creates or enhances community facilities, and/or meets identified housing needs. In supporting text<sup>10</sup>, the eLP accepts that this could be in excess of 50 dwellings in unusual circumstances. These are defined as where there is previously developed land, major employment opportunities or where it will be served by a range of community facilities, services and public transport<sup>11</sup>.
40. Templecombe has very good train links and acceptable bus provision and offers employment opportunities at Thales, and potentially as part of the development itself. The eLP sets out eight services needed in a settlement or cluster of settlements to support new homes<sup>12</sup>. Templecombe provides all, even though the eLP seeks only two. Although only moderate weight can be given to the eLP, I consider that the site meets the unusual circumstances set out in the emerging policy.

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<sup>9</sup> Baker Associates April 2009

<sup>10</sup> Paragraphs 4.50

<sup>11</sup> Text added as a Minor Modification

<sup>12</sup> Paragraph 4.44

41. The Council and local residents are concerned about the scale of the proposed housing and its impact on the character of the village. I accept that in a village of just over 700 households and approximately 1750 people, the introduction of 75 houses would be a significant increase. The greater number of people and increased activity would have an effect on the character of the village.
42. However, while I also understand residents' concerns that this could increase pressure on services and facilities, it could equally be considered to provide an additional customer base to support the viability of certain services and retail provision in the village. Although I deal with contributions later, these, along with specific additional community facilities within the scheme, would address the increased pressure on services introduced by the proposed housing.

#### *Conclusion on first main issue*

43. Templecombe is an unusual settlement in having good train links and a range of village services available to its residents. It is also unusual in having a major employer within the village. However, it remains a village, and this scheme would represent a significant increase in the scale of housing. There would be additional movements associated with access to employment or more extensive services, and many of these will be made by private car. The site can only be considered as being relatively sustainable in terms of access.
44. It must be noted that the scheme would provide for some employment land, which would, in principle, be supported by the development plan policies. Nonetheless the housing proposed would conflict with elements of Local Plan Policies ST5, TP5 and ST3, in terms of the loss of open, undeveloped land, outside of previously identified settlement boundary and the pattern of land use and transport that would result. Nonetheless, the site, and the scheme itself, would appear to conform to emerging policy on housing in rural settlements, and the harm associated with this conflict is limited by, and must be set against, the emerging strategic approach and the pressure on housing supply in the area.

#### *Highway Safety*

45. The Council accepted there to be sufficient capacity for the traffic associated with this scheme on the road network. The A357 itself has many narrow sections, some requiring provision of a signalised shuttle flow through the nearby villages, such as Henstridge, with a number of other 30 or 40 mph sections between the major junction south of Stallbridge and Wincanton. As a result, traffic tends to form discrete groups when travelling from south to north, an effect that I found was noticeable when driving along the road or observing traffic flows.
46. Furthermore, there are restrictions to traffic flow, and potential pedestrian conflicts, a short distance to the south of the site where the road passes under the railway near the prioritised junction for School Lane and Thales industrial site. There are routes to the appeal site for pedestrians from the centre of the village, but, in absence of some sections of footway, these are intermittent, unless a short footpath linking to the school and village hall is used. There is currently a proposal to provide enhanced pedestrian routes from the site, and in particular, through the railway bridge; this proposal would directly support the delivery of this. This would be necessary to provide safer access from the site to the village centre, but would also be a benefit to the village generally, particularly in relation to those accessing the school or village hall from the other side of the bridge.

47. The Council, supported by the County Council Highway Authority, considered that a scheme of this size should have a ghost island or similar junction provided at the access point to the A357. Traffic movements are accepted to be of the order of 1650 average annual daily traffic (AADT), for 100 houses, which would be proportionately less for a scheme involving 75 houses. However, I note that the Council do not consider that this lessens the need for the higher order of junction.
48. The appellant has considered whether such a junction could be provided on the land available to the developer. A plan was drawn up<sup>13</sup>, and it was concluded that it could not, as a result of the length of frontage between Blackmore Vale Close and the property to the north of the site. However, the appellant further considered that such an upgrading of the junction is unnecessary and not supported by guidance.
49. I accept that following the Design Manual for Roads and Bridges (DMRB), TD 42/95, AADT flows of this magnitude suggest a junction based on a ghost island or similar upgraded junction<sup>14</sup>. The Council consider that the need to maintain traffic flows at reasonable speeds should also take precedence over the need of access. Quite rightly, highway safety must be paramount in any consideration.
50. Nonetheless DMRB is specifically for the design of junctions on trunk roads. The A357 is not a trunk road, although the Council refer to it as a strategic route. Nonetheless any confusion over whether DMRB should be the primary guidance has been comprehensively addressed following the production of Manual for Streets<sup>15</sup> (MfS), and particularly Manual for Streets 2<sup>16</sup> (MfS2). MfS focussed on lightly-trafficked streets, but MfS2 extended the guidance to busier streets and non-trunk roads, and drew on more recent sources and research. In the opening statement to MfS2 it states that *'the strict application of DMRB to non-trunk roads is rarely appropriate for highway design in built up areas, regardless of traffic volume'*.
51. The stretch of A357 alongside the appeal site cannot be considered as a built up area, nonetheless it has relevant characteristics, as it is within the extent of the village, it has street lighting and the speed is restricted to 30 mph. The direct applicability of MfS standards is explicitly stated in relation to 30 mph zones<sup>17</sup>, and for rural villages<sup>18</sup>, where it states that for a classified route there is no requirement to apply DMRB standards unless the route is part of the trunk road network. Furthermore, the DMRB advice in paragraph 2.15 relates to rural roads. Although not defined in TD42/95, rural roads are defined elsewhere in DMRB as all purpose roads not generally subject to a local speed limit<sup>19</sup>.
52. The relationship between DMRB TD42/95 and MfS2 is addressed in paragraph 9.4.7, which implicitly accepts higher flows for simple prioritised junctions than DMRB. In particular, while I accept the need for maintaining traffic flow along the A357, the current route has many points of restriction and reduced flow speeds, such that I am satisfied there will be gaps in traffic, and the right turn element of traffic entering the site would be unlikely to contribute significantly to congestion. The grouping of cars passing the site would be even more pronounced were the scheme

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<sup>13</sup> Ref 0303-012, Appendix G, Mr McIntyre's Proof of Evidence

<sup>14</sup> Paragraph 2.15 and 2.16, Figure 2/2

<sup>15</sup> Department for Communities and Local Government and Department for Transport, 2007

<sup>16</sup> Chartered Institution of Highways & Transportation, 2010

<sup>17</sup> Paragraph 1.3.4

<sup>18</sup> Paragraph 2.7.11

<sup>19</sup> TD27/05



related to the railway bridge to be completed; something that funding from this proposal would help deliver.

53. Despite not referring to the appellant's assessment of the impracticality of a ghost island, the Council accepted at the Inquiry that the information was provided and suggested that if a ghost island could not be achieved then a signalised junction or roundabout should be considered. However, neither of these options would address the matter of flow on the main route. The Council accepted at the inquiry that there was not a significant accident record associated with this stretch of the road, and that sufficient inter-visibility between vehicles could be achieved at the junction.
54. There is a ghost island junction on the A357 close to its junction with the A371 where it crosses under the A303 some three miles to the north of the appeal site. However, this is on a stretch subject to the national speed limit, and would appear to be the only upgraded junction along the A357 in the area local to the site.

#### *Conclusion on the second main issue*

55. While safety considerations must be paramount, guidance leading to the need for an upgraded junction applies principally to trunk roads, and specifically to rural roads. MfS has promoted more place sensitive junctions based on the practical circumstances of the site and the capacity of the roads leading to the junctions. This stretch of the A357 has a speed restriction, and clearly matches the circumstances outlined in MfS2 for adoption of standards based on capacity. The Council have not challenged the appellant's capacity assessment for the junction, and a simple prioritised junction would comply with the relevant guidance.
56. The proposed scheme would therefore comply with Local Plan Policy ST5, which seeks to ensure that development provides a satisfactory means of access, and with the Framework, which similarly seeks safe and suitable access, and improvements to the transport network that limit severe impacts.

#### *Other Material Considerations*

57. I turn now to the other considerations that are material in this appeal.

#### *Housing supply*

58. The Council accepted that they could not demonstrate a 5 year HLS. Nonetheless in their submitted evidence they indicate that this position may soon be resolved, and that their 'conservative' estimates indicated that they have a 4 year and 10 month supply. The appellant strongly refuted this, presenting various scenarios suggesting that the actual HLS is considerably less, particularly when shortfall from the previous plan period is included and a 20% buffer applied.
59. A considerable number of Inspector and Secretary of State decisions were provided to the Inquiry, which detailed the emphasis placed on the 5 year HLS. They also addressed the principal approach to the incorporation and resolution of shortfalls and the concept that there is no element within the Framework that deals with lesser weight to be applied to limited undersupply, although previous decisions support the possibility of additional weight being applied to significant shortfalls.
60. It is not for me to reach final judgement on these matters in this case, or indeed to assess in detail whether the demand figure in the eLP is sound, or the projected supply promoted is robust. It is necessary for me to consider the weight in favour

of the scheme from the Council's acceptance that they could not demonstrate a 5 year HLS.

61. With the revocation of Regional Strategies, the draft Regional Spatial Strategy for the South West (the dRSS), cannot be adopted. Nonetheless, the evidence base that underpins the housing requirements it set out is capable of being a material consideration. The weight that can be given must, over time, erode as more recent growth projections, housing needs and community planning initiatives influence the understanding of housing requirements, however, the dRSS remains the only publicly tested figures before me.
62. The Council have outlined their housing figures to inform the eLP, and the headline figure of 15,950 is acknowledged. However, I note that there are outstanding objection considering that figure to be both too low and too high. I also note that the dRSS figure of 19,700 is based on historic projections. Despite this, while I have nothing to suggest that the eLP figures are unsound, and the Council cannot rely on the Interim Report for this, I can not give significant weight to it in accordance with paragraph 216 of the Framework.
63. This is not a simple case of 'a stark choice' between the dRSS and the eLP. The recent Hunston case<sup>20</sup> highlights this. Although clear distinction can be drawn between this case and the circumstances associated with the eLP, as the Regional Strategy figures in that case were based on a policy of constraint, which would have depressed them below objectively assessed needs, it does highlight the necessity of considering of up-to-date projections.
64. Although I favour the dRSS figures at this stage, which provide a conservative approach to ensuring the adequate provision of housing, I must give some weight to the emerging evidence base in light of its more up to date projections and the extent of more local engagement in assessment of needs. However, on the evidence presented to me, there are questions over whether an acceptable level of shortfall has been incorporated, and also whether spreading that which was included over the whole of the plan period is acceptable. On the supply side, while I have limited details, the Council could not refute suggestions that there were permissions included which had lapsed. Actual completions over the past year have also been significantly below predictions.
65. On balance, I have insufficient evidence to support any reduction in the significant weight that arises in favour of the scheme from the acknowledged shortfall in the 5 year HLS and the Framework's ambitions to boost significantly the supply of housing. Its absence confirms that housing policies should not be considered up-to-date, and the Framework's presumption in favour of sustainable development applies.

### *Affordable Housing*

66. The scheme proposed 35% affordable housing, to be secured through legal agreement. This is in accordance with policy aspirations<sup>21</sup>, and I am satisfied that there is a real demand for the provision of affordable homes in the area<sup>22</sup>. This adds some weight in favour of the scheme.

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<sup>20</sup> Hunston Properties Ltd v Secretary of State for Communities and Local Government and another {2013} EWHC 2678

<sup>21</sup> Local Plan Policy HG7

<sup>22</sup> Strategic Housing Market Assessment, 2009

### *Other benefits*

67. The scheme includes a number of additional elements along with the housing and employment land, including the transfer of land, allowing for the cemetery and provision of a sports pitch for the school, allotments and Travel Plan improvements. Further elements regarding the provision of open space and funding for highway improvements and bus stop shelters, are necessary parts of the scheme to respond to the planning impacts of the scheme itself, nonetheless they will also provide some benefit to the wider village.
68. A conclusion has been reached regarding the provision of funding to secure the ongoing use of community buildings in the village. The Travel Plan, again now agreed, would provide positive benefits to future occupants to encourage participation in alternative transport choices; some of these benefits would also be available to the wider village. These features of the proposal are positive ones, which add weight in support of the scheme.

### *Other Matters*

69. I note some local residents' concerns regarding the impact on wildlife and flood risk. I am satisfied that the reports prepared on ecology, including surveys in 2010 and 2012, properly addressed concerns regarding wildlife and suitable mitigation would be provided subject to condition. Similarly, I consider that a drainage scheme, which can be properly secured by condition, would address the risk of increased run-off from the site.
70. I also note concerns over the loss of agricultural land and the value that this site has in terms of the setting of the village. The proposal would represent a significant change, and the outlook from properties near the site would be affected. I understand the concerns for those that live close to the site, but note that the scheme, although in outline, is not one proposing a high density of housing. The site is already relatively self-contained with development to all sides, at least in part. Nonetheless this loss of a currently open area of agricultural land to the edge of the village does add a little to the weight against the proposal.

### *Contributions*

71. The legal agreement between the appellant, the Council and Somerset County Council secures matters relating to affordable housing, the Travel Plan and contributions to a range of facilities. These include play and youth facilities on site and contributions to: playing pitch and changing rooms for the Templecombe Recreation Ground; the village community hall; highway works; education; and leisure facilities, including swimming pool, tennis courts, artificial grass pitches, sports hall and theatre.
72. These represent a wide range of significant contributions and need to be considered in light of the Framework, paragraph 204, and the statutory tests introduced by Regulation 122 of The Community Infrastructure Levy (CIL) Regulations, 2010.
73. The Council have provided an evidence document, which includes an assessment provided for the planning application, which addresses the policy requirements and methodology for the calculation of these contributions. The evidence includes up-to-date assessment of the quantitative and qualitative deficit in facility provision, and confirms that the local primary school is currently over-subscribed.

74. Travel Plan requirements are addressed in Local Plan Policy TP2, and I note that the County Council have produced travel plan guidance, albeit it has not been formally adopted by relevant District Councils. The majority of issues on the travel plan have been agreed, I note only here that the requirement for five promotional events to be held each year is considerably in excess of the guidance. While I accept that there are potential benefits from an increased number of events, it strikes me that this is in excess of what could reasonably be considered for a development of this scale. I note that the signed agreement does include five events to be held each year, but I do not find this to be in accordance with the relevant tests, accordingly I have not afforded it weight in my consideration of the proposal.
75. Local Plan Policies CR2, CR3 and ST10 address the need for new development to address any infrastructure impact, and I am satisfied that, with regard to the provision of on-site space and contributions to the community facilities of Templecombe, the contributions are necessary, reasonable and related in scale and kind to the development. I note that the provision of a sports field for school use is an allocation in the Local Plan under proposal CR/ABTE/2.
76. I heard at the Inquiry that there is increasing pressure on the Octagon Theatre, following closures of other theatres in the area, and the requirements for a learner swimming pool has been subject to a recently adopted needs assessment. Along with the contributions to other leisure facilities at some distance from the site, I am satisfied that these are more strategic facilities that will be subjected to some increased pressure from new housing in the district.
77. Overall, I accept that there will be direct impact on infrastructure arising from the proposed development. On the information before me, I conclude that, excepting that element of the Travel Plan set out above, the required provision, and contributions to provision of infrastructure are necessary, and would comply with the requirements of the CIL Regulations and the tests set out in the Framework.

*The overall planning balance*

78. The Framework explains, at paragraph 12, that its existence does not change the statutory status of the Development Plan as the starting point for decision making. This means that a determination must be made in accordance with the Development Plan unless material considerations indicate otherwise. Further, at the heart of the Framework is a presumption in favour of sustainable development. For decision taking, this means that, where relevant policies of the development plan are out-of-date any adverse impacts of the development would need to significantly and demonstrably outweigh the benefits when assessed against the Framework as a whole.
79. The Framework sets out three elements of sustainable development. I consider that the proposal would meet the economic role, meet the social role in part, particularly in relation to a wider choice of housing and in terms of some community benefits. However, its location, in terms of sustainable transport options, while better than some rural locations, would still result in additional transport to and from the larger centres in the area. I consider that the proposal would meet the environmental role, although some measures would still need to be addressed at the reserved matters stage.
80. In my consideration of this appeal, I have found that the proposal would be of significant scale in relation to the village size overall, and that there would be a

reduction in the overall value of the appeal site as an open space, and in the contribution it makes to the quality of its surroundings. These are considerations which weigh against the proposal. I have not found there would be significant material effects on the highway safety of the A 357, and improvements to pedestrian routes under the railway bridge, required to make the development acceptable, would further benefit others throughout the village. Other benefits have been noted.

81. However, of considerably greater weight, in my view, are the benefits that the proposed development would have in terms of making significant contributions to addressing the clear shortfall in the Council's housing supply, and the pressing need for more affordable housing in the area. I note the concerns raised by a local Councillor that houses should only match to the jobs available, but even at the Council's own lower figure of housing need, they are not meeting the demand. All housing cannot be directed to the larger towns, both national and local strategic approaches recognise the need to support villages, and while this would be a significant addition to Templecombe, the village has a number of very specific features which lead me to conclude that it could assimilate this growth, in accordance with the eLP.
82. Taking all of this into account, I consider that the proposal represents sustainable development, and the overall balance of material considerations weighs in favour of granting planning permission.

#### *Conditions*

83. I have considered the conditions put forward by the Council against the requirements of Circular 11/95 – *The Use of Conditions in Planning Permissions*. In addition to the standard outline conditions (1, 2, 3), I have imposed a condition to restrict the level of housing to 75 units as agreed (4). A condition confirming delivery of the access is necessary in the interest of highway safety (6).
84. In light of the scale of the development and to protect the living conditions of neighbouring occupiers a condition requiring submission of a construction method statement is necessary (7). The management of surface water on the development site is a necessary element of the proposal, and I have imposed a condition requiring the submission of full details, implementation and long term management, subject to the approach set out in the Flood Risk Assessment (FRA) (5). Foul drainage must also be addressed through condition (8).
85. No significant history of contamination was reported for the site, nonetheless former uses and neighbouring activities may be of relevance, and I have therefore required consideration of contamination (9, 10, 11). Similarly an archaeological programme is necessary (12). Updated surveys have been carried out with regards to badgers, and it is necessary that ecological migration measures are submitted for approval to address wildlife matters on the site (13).
86. This proposal has been assessed on the basis of a 75 dwellings, revisions to the permitted development order could allow for the conversion of commercial units to residential use, and it is necessary that this is properly managed on a site of this nature (15). I have therefore withdrawn relevant permitted development rights in relation to the commercial uses. Finally, to ensure proper delivery of the components of the scheme, I have required submission of a phasing plan (14).

87. The Council sought conditions on some matters forming part of those reserved for later considerations, such as the layout of estate roads, and materials, I have not imposed these. Nor have I imposed the conditions regarding floor levels, as the FRA confirms that floor levels would exceed the relevant flood risk level, plus freeboard. Matters relating to potential noise from the Thales site can be addressed at reserved matters stage and inter-visibility for traffic has been fully assessed as part of the scheme.
88. Otherwise than as set out in this decision and conditions, for the avoidance of doubt and in the interests of proper planning, it is necessary that the development shall be carried out in accordance with the approved plans (16). Where necessary and in the interests of clarity and precision I have altered the conditions to better reflect the guidance in Circular 11/95.

### **Conclusion**

89. For the reasons given above and having regard to all other matter raised, I conclude that the appeal should be allowed.

*Mike Robins*

INSPECTOR

Richborough Estates

## APPEARANCES

### FOR THE LOCAL PLANNING AUTHORITY:

Christopher Young  
of Counsel

Instructed by Mr Ian Jewson

He called:

Mr Jewson  
BA(Hons), Dip TP, MRTPI

Planning consultant  
Ian Jewson Planning Ltd

Mr McIntyre  
BSc(Hons), CEng, MICE, MCIHT

Highways consultant  
Key Transport Consultants Ltd

### FOR THE APPELLANT:

Ned Helme  
Of Counsel

Instructed by Angela Watson,  
South Somerset District Council

He called:

Mr Noon  
BA(Hons), PGDip

Team Leader  
South Somerset District Council

Mrs Wilkins  
MA, MRTPI

Planning Policy Officer  
South Somerset District Council

Mr Foyne  
MA, DipEnvPlg, MRTPI

Spatial Policy Manager  
South Somerset District Council

Mr Brinkman  
I.Eng, FIHE

Principle Planning Liaison Officer  
Somerset County Council

### INTERESTED PERSONS:

Councillor Winder  
Mr Webb  
Mrs Webb

District Councillor  
Local Resident  
Local Resident

## DOCUMENTS

### Core Documents:

- COR 1 Somerset County Council comments – 22<sup>nd</sup> February 2013
- COR 2 Key transport consultants response to SCC comments March 2013
- COR 3 SCC comments 22 April 2013
- COR 4 DMRB Standards TD42/95
- COR 5 DMRB Standards TD46/97
- COR 6 DMRB Standards TD79/99
- COR 7 DMRB Standards TD27/05
- COR 8 Department of Transport Research report RR65 1986

- COR 9 Manual for Streets 2
- COR 10 Response - Bev Norman, Traffic Team Manager, to questions raised at key members meeting 3 July 2008
- COR 11 A357 SCC Proposed highway improvements
- COR 12 SCC pre-application Augdit, 10 May 2011
- COR 13 South Somerset Local Plan Saved Policies – TP5, HE7, CR2 and CR3
- COR 14 South Somerset Local Plan 2006 – 2008 Proposed Submission Draft
- COR 15 South Somerset Local Plan Additional Minor Modifications
- COR 16 AMR 2005-06
- COR 17 AMR 2006-07
- COR 18 AMR 2011-12
- COR 19 DCLG Publication 'Land Supply Assessment Checks' May 2009
- COR 20 Appeal Decisions:
  - a. APP/H1840/A/12/2171339
  - b. APP/F1610/A/12/2173305 and APP/F1610/A/11/2165578
  - c. APP/A0665/A/11/2167430
  - d. APP/F1610/A/10/2130320
  - e. APP/X3025/A/10/2140962
  - f. APP/T2405/A/13/2193758
  - g. APP/K2420/A/12/2181080
  - h. APP/P1133/A/12/2188938
  - i. APP/P0119/A/12/2186546
  - j. APP/C3105/A/12/2184094
  - k. APP/C1630/A/11/2146206

Inquiry Documents:

- INQ 1 Wheatcroft (Bernard) Ltd v. Secretary of State for the Environment  
Harborough DC [1982] P&CR 233
- INQ 2 Breckland District Council v. Secretary of State for the Environment and  
Hill [1992] P&CR 65
- INQ 3 Appellant's rebuttal proofs of evidence
- INQ 4 Plans for the 2013 revised scheme
- INQ 5 Council opening
- INQ 6 Conditions
- INQ 7 Consultation responses to the 2013 revised scheme
- INQ 8 Council submissions on contributions
- INQ 9 Ward members comments
- INQ 10 Written Statement – Mrs Webb
- INQ 11 Extract from Lichfield Examination Report
- INQ 12 Somerset County Council Travel Plan Guidance
- INQ 13 Outstanding Travel Plan issues
- INQ 14 Closing Statement for South Somerset District Council
- INQ 15 Closing Statement for the Appellant
- INQ 16 Hunston Properties Ltd v Secretary of State for Communities and Local  
Government and another [2013] EWHC 2678
- INQ 17 Notes of Cases – Wessex Regional Health Authority v Salisbury District  
Council and Secretary of State for the Environment (1983)
- INQ 18 Notes of Cases – Wadehurst Properties Ltd v Secretary of State for the  
Environment and Wychavon District Council (1990)



## Schedule of Conditions

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) The residential component of the development hereby approved shall comprise no more than 75 dwellings.
- 5) Prior to submission of reserved matters, details of the implementation, maintenance and management of the sustainable drainage scheme shall be submitted to and approved in writing by the local planning authority. The scheme shall be in accordance with the FRA (prepared by BWB consulting ref BMW/1224/FRA Rev E, dated 31 July 2012) and shall be implemented and thereafter managed and maintained in accordance with the approved details. Those details shall include:
  - i) a timetable for its implementation, and
  - ii) a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage scheme throughout its lifetime.
- 6) No development shall take place until details of the access to the site have been submitted and approved in writing by the local planning authority. Such details shall be in accordance with KTC Figure 3, entitled 'Proposed Site Access'. Once approved such details shall be implemented prior to the commencement of development.
- 7) No development shall take place until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
  - i) the parking of vehicles of site operatives and visitors
  - ii) loading and unloading of plant and materials
  - iii) storage of plant and materials used in constructing the development
  - iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
  - v) wheel washing facilities
  - vi) measures to control the emission of dust and dirt during construction
- 8) No development shall take place until details of foul water drainage works have been submitted to and approved in writing by the local planning authority. These shall be implemented in accordance with the approved details prior to occupation of the relevant part of the development, and shall be maintained and retained thereafter.
- 9) No development shall take place until a site investigation of the nature and extent of contamination has been carried out in accordance with a

methodology which has previously been submitted to and approved in writing by the local planning authority. The results of the site investigation shall be made available to the local planning authority before any development begins.

- 10) If any contamination is found during the site investigation, a report specifying the measures to be taken to remediate the site to render it suitable for the development hereby permitted shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures before development begins.
- 11) If, during the course of development, any contamination is found which has not been identified in the site investigation, additional measures for the remediation of this source of contamination shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures.
- 12) No development shall take place until a programme of archaeological work has been implemented in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority.
- 13) No development shall take place until an updated ecological report has been submitted to and approved in writing by the local planning authority. This report shall be based on the extended phase 1 habitat survey and later reports by Sedgehill Ecology Services, and shall provide for updated mitigation strategies to safeguard the ecological interest of the site. The recommendations shall be implemented in accordance with the approved details, and shall be maintained and retained thereafter.
- 14) No development shall take place until a phasing plan has been submitted to and agreed in writing by the local planning authority. This plan shall reflect the development hereby permitted and shall conform to the Masterplan ref 10-009-P 012 Rev H, except in respect of the amendments as set out in this decision.
- 15) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), the use of the employment/start-up units hereby approved shall be limited to uses within the B1 use class, and not any other use.
- 16) The development hereby permitted shall be carried out in accordance with the following approved plans: Nos 10-009-P 001 Rev F, 10-009-P 012 Rev H, 10-009-P 013 Rev H, 10-009-P 014 Rev H, except in respect of the amendments as set out in this decision.