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## Appeal Decision

Hearing Held on 23 January 2019

Site visit made on 23 January 2019

**by K Taylor BSc (Hons) PGDip MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 05 March 2019

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**Appeal Ref: APP/F1230/W/18/3206604**

**Land east of Wynd Close, West Stafford DT2 8AJ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by West Stafford LVA LLP against the decision of West Dorset District Council.
  - The application Ref WD/D/17/000035, dated 21 December 2016, was refused by notice dated 19 February 2018.
  - The development proposed is the construction of ten houses with associated parking, access and landscaping.
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### Decision

1. The appeal is allowed and planning permission is granted for the construction of ten houses with associated parking, access and landscaping at land east of Wynd Close, West Stafford DT2 8AJ in accordance with the terms of application Ref WD/D/17/000035, dated 21 December 2016, subject to the conditions in the attached schedule.

### Preliminary matters

2. The application was made in outline with all matters reserved for future consideration except for access. The proposed site plan drawing shows the access arrangements as well as a site layout. At the hearing it was agreed by both the Council and the appellant that I should treat all information on the drawing as indicative other than that related to access.
3. In the evidence, including the decision notice, the Council refer to drawing number SK06. However, the drawing submitted by the appellant was drawing number SK06 Revision A. During the hearing, the Council was unable to provide clarity as to whether the Revision A drawing had been submitted before the application was decided. However, it is referred to in a letter dated 13 December 2017 from the County Council's Flood Risk Engineer and it appears it was submitted along with other drainage information. In any event, the Council did agree that there would be no prejudice in my decision being based on the Revision A drawing. This shows an alternative layout and includes an indicative location of an infiltration basin. As the site layout is indicative I agree that basing my decision on this drawing would cause no prejudice to any party.
4. Since the close of the Hearing, the results of the Housing Delivery Test have been published. This reflects the provisional results reported in the Council's five year housing land supply report and it does not change the application of Policy. As such, I am content that I can proceed to decide this appeal without further comments from the parties.

## Background and main issues

5. The Council's decision notice cites a single reason for refusal relating to the location of the appeal site. However, in the statement two additional matters of significance were raised relating to the effect of the development on designated heritage assets and whether the proposals for the provision of affordable housing are appropriate.
6. At the hearing the approach to decision making was explored taking account of the context of an agreement between the main parties that the Council cannot demonstrate a five year supply of deliverable housing sites. Because of the need to consider the effect of the development on designated heritage assets and the reference to these in footnote 6 of the National Planning Policy Framework (the Framework) it would mean that the 'tilted balance' in paragraph 11d is not triggered unless the proposal can first pass the simple balancing exercises in paragraph 195 (in cases where harm to the significance of a designated heritage asset is judged to be substantial), or 196 (where any harm is found to be less than substantial).
7. On that basis, the correct approach to decision making here would be to first assess whether any harm would be caused to the significance of the designated heritage assets affected. If any is found, then the degree of that harm needs to be defined. Then, that harm needs to be balanced against the public benefits of the proposal. If the public benefits do not outweigh the harm then, following the Framework's path, planning permission should be refused for the proposal.
8. If the public benefits outweigh the harm caused to the significance of the designated heritage assets, then the 'tilted balance' in paragraph 11d would be re-engaged and the policies which are the most important for determining the application should be considered out-of-date. That would mean 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 in the Framework, taken as a whole. It is only if the proposal passes the tests in paragraphs 195 or 196 that any additional harm (ie that arising from the location of the site) would need to be considered. In either scenario proper regard must also be had to the Development Plan and Statute.
9. Policy INT1 of the West Dorset, Weymouth & Portland Local Plan adopted October 2015 (the Local Plan) sets out the approach to decision making where the relevant policies in the Local Plan are out of date. For applications involving the provision of housing, this would include situations where the Council cannot demonstrate a five year supply of deliverable housing sites. The Policy requires that a number of factors are taken into account including a balance similar to the 'tilted balance' in the Framework.
10. The appellant's approach to the provision of affordable housing has evolved and discussions with the Council have continued through the appeal process. At the hearing the appellant's finalised position was clarified and a signed Unilateral Undertaking, dealing with this, and other matters, was submitted. The provision of affordable housing is relevant to the public benefits of the scheme. I have ordered the main issues to take account of this and the need to consider the effect on designated heritage assets. These are:
  - a) whether the proposals for the provision of affordable housing are appropriate;

- b) the effect of the development on the setting of the West Stafford Conservation Area and the setting of nearby listed buildings and, in the event that any harm is found, what is the degree of that harm;
- c) if there is any harm to designated heritage assets, would the public benefits of the development outweigh that harm; and
- d) whether the location of the appeal site is appropriate for the provision of housing having regard to local and national planning policy.

## Reasons

### *Affordable housing*

11. The evolution to the approach to providing affordable housing has primarily been due to the changes in National Policy. Initially the appellant had regard to the Written Ministerial Statement made on 28 November 2014 relating to section 106 obligations imposed on small-scale developers. Subsequently the publication of the revised Framework in July 2018, particularly the Policy in paragraph 63, has resulted in a revised approach.
12. Policy HOUS1 of the Local Plan sets out that, for West Dorset, affordable housing will be sought at 35%. In most cases it is expected that these houses will be provided on the site with the open market homes. The Policy also allows for a financial contribution to make up for any shortfall which cannot be provided on site.
13. The appeal site is located in a designated rural area where paragraph 63 of the Framework states that policies in a local development plan can set a threshold of 5 units or fewer for the provision of affordable housing. Under paragraph 64, the Framework requires that, for major development, planning policies and decisions should expect at least 10% of the homes to be available for affordable home ownership as part of the overall affordable housing contribution.
14. At the hearing the appellant presented its finalised approach which is enshrined in the submitted Unilateral Undertaking. This is to provide 3 affordable homes on site. Not fewer than 2 of these will be affordable rented units and one of these could be a starter home. This would equate to 30% on-site provision. The Unilateral Undertaking would also secure a contribution to equate to 5% which would be available to be used to provide affordable housing elsewhere.
15. During the hearing the Council confirmed it was satisfied that the affordable housing provisions were appropriate when considered against local and national planning policy. Taking the on-site provision and off-site contribution together the development would be policy compliant in terms of the amount. The Local Plan was adopted prior to the publication of the 2018 Framework and, while it makes reference to intermediate housing including shared equity products, it makes no specific provision for starter homes. Taking account of the Framework's requirement to provide affordable home ownership I am satisfied that the appellant's approach is appropriate and balances this with the requirements of the development plan.
16. Having regard to local and national policy, the affordable housing provision, as secured in the Unilateral Undertaking, would be necessary to make the development acceptable in planning terms, directly related to the development and also fairly and reasonably related in scale and kind to it.

17. During the hearing the Council provided details of households on the housing register who have a connection to West Stafford; in total there are 6. This evidence demonstrates that there is an established local need for affordable housing and the development could meet half of this. The development would provide 3 affordable homes on the ground and there is no evidence that the affordable need is likely to be met in the near future by any other means. I also note that the Council confirmed there are currently over 1,500 households registered as being within affordable housing need across the Local Plan area.
18. Policy SUS2 sets out the strategy for the distribution of development and provides a settlement hierarchy. West Stafford does not have a defined development boundary, but the Policy allows for some growth in such areas to meet the local needs. The provision of the affordable housing would accord with this policy aim.
19. I therefore give significant weight to the benefits that would arise from the affordable housing.

*Designated heritage assets*

20. The Conservation Area includes much of the housing in the village and a significant area of land to the north. The boundary of the Conservation Area sits to the immediate west and north of part of the appeal site. At the hearing both main parties confirmed that none of the site, such as the boundary on the western side of the top of the site, was located within the Conservation Area. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990<sup>1</sup> is only relevant to buildings or land in a conservation area. As the appeal site does not lie within the Conservation Area this section of the Act is not engaged. This being the case, the relevant issue is the effect of the development on the setting of the Conservation Area.
21. A number of listed buildings are located within the village; during the hearing the Council confirmed that it considered the setting of 3 separate buildings would be affected by the development. These are: The Manor House (Grade I), the former entrance gate piers to The Manor House (Grade II) and The Parish Hall (Grade II).
22. Section 66(1) of the Act says that in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority, or, as the case may be, the Secretary of State, shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
23. Paragraph 193 of the Framework sets out that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Harm to the significance of a designated heritage asset can arise from its alteration, destruction, or from development within its setting. Any harm should require clear and convincing justification.
24. A burial ground sits to the immediate north of the appeal site. Approximately half of this is occupied by graves and this falls within the Conservation Area.

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<sup>1</sup> Referred to hereafter as the Act

Much of the rest of the land is largely free of burials and this is located outside of the Conservation Area. There is a significant boundary hedge between the burial ground and the appeal site. Given the date of my site visit, screening is likely to be greater at other times of the year. Even so, only the tallest monuments could be seen over the hedge from the appeal site.

25. The housing in the Conservation Area includes several properties accessed from Wynd Close; of these, 1 and 2 Chestnut Cottages have been identified as locally listed and therefore these would be non-designated heritage assets. Numbers 1-6 Wynd Close are 3 pairs of semi detached houses and these sit outside of the Conservation Area and opposite part of the appeal site.
26. Part of the Conservation Area is also designated as Land of Local Landscape Importance, this includes the grounds of The Manor House, the road to the immediate south of this and land to the north. The burial ground is not within this designation. A public footpath is accessed from Wynd Close and runs in a north easterly direction. This footpath marks the southern extent of the site. It is located outside of the Conservation Area, but there are views into it from this path.
27. The burial ground has an edge of settlement location. The height of the boundary hedge is such that there are no views from this land of the fields where the appeal site is located. However, the open views above the hedge are significant to the setting of this part of the Conservation Area by providing a pleasant open aspect. I do note that the burial ground is not included in the 'definition of the special interest of the Conservation Area' set out in The Osmington, West Knighton, West Stafford & Owermoigne Conservation Area Appraisal. However, I still consider that this is an important and positive feature of the designated heritage asset and it contributes to its significance.
28. The appeal development would introduce houses to the site and these would be visible from the burial ground. This would erode the important open views from this land. There is no reason why, with careful attention to landscaping on the boundaries, and within the site, the views could not be filtered, and a verdant character introduced. This would minimise the harm that would arise, however it would not remove it altogether.
29. There are views of the Conservation Area from the footpath, with the development some of these would be reduced, or lost altogether, from parts of the path when heading in both directions. Only a small section of the footpath would be impacted, nevertheless this would affect the surroundings in which the Conservation Area is experienced. Given that views would be eroded, and lost, this change would be harmful. With appropriate siting of the buildings, boundary treatments and landscaping, a suitable environment for the path could be created which would be in keeping with its edge of village location. However, in itself, this would not mitigate the harm to the setting of the Conservation Area.
30. The Conservation Area Appraisal describes West Stafford as a compact village and states that the edges of development are very clean and clear, defined by drainage, topography, landownership and the presence of the railway.
31. The boundary of the development would align with the eastern boundary of the burial ground which also broadly aligns with the eastern extent of the houses in The Paddock. The southern boundary would be defined by the footpath which

- does not extend as far south as the existing properties in Wynd Close and Glebeland Close which are defined by the railway embankment.
32. Given its close relationship with the existing development and the southern and eastern extent of this, the appeal scheme would not erode the compact nature of the village. With an appropriate siting of the buildings and landscaping, particularly to the boundaries, there is no reason the edges of the development could not be clear and well defined. In this respect the development would not undermine the character of the village or be harmful to the setting of the Conservation Area.
33. Numbers 1 and 2 Chestnut Cottages sit close to other properties and their main outlook is towards the burial ground. The currently undeveloped nature of the appeal site is not integral to their setting and so appropriate development on the appeal site would not be harmful to these buildings or their setting. There would be a number of locations within the Conservation Area, including the main road that runs through the village, where the appeal development would be visible. However, as the character and appearance of the Conservation Area is significantly defined by residential development, views of houses, provided the siting, appearance and landscaping was appropriate, would not be harmful to the setting of the designated heritage asset in this respect.
34. The Manor House itself is located a considerable distance from the appeal site and sits at a lower land level by a significant margin. There is not any substantive inter-visibility between the site and the building. The grounds are extensive, and, at the southern extent, they are fairly close to the site. Most of the grounds are located at a lower level than the road and there is a bank with tree and hedge planting along much of the boundary. There is no visibility of the appeal site from a large portion of the grounds. Even if the landscaping on the boundary was significantly reduced, the bank and land levels are such that the site would still not be greatly visible from a large section of the grounds.
35. There are limited parts of the grounds, when stood on elevated land, where there is inter-visibility with the site. Even from these locations, views of the site are filtered by vegetation along the boundaries of the burial ground. Housing sits close to the western boundary of The Manor House and so it is not isolated, nor does it have an entirely countryside setting. However, some of the significance of the setting of this building is derived from its edge of settlement location.
36. The appeal development would be separated from the grounds of The Manor House by the road and the burial ground. Any views would primarily be of some additional roof forms filtered by existing landscaping. Further landscaping secured as part of the reserved matters application(s) could also assist in providing a well-landscaped development reducing the dominance of the built form. Open and undeveloped countryside would remain to much of the northern, eastern, and southern surroundings of the listed building. The significance that results from the edge of settlement position would remain. When all these factors are taken into account, the appeal development would not harm the setting of this listed building or its significance.
37. The listed gate piers for The Manor House are located at an entrance which is now not used as the primary access to the building. The views which would include both the gate piers and the appeal site would primarily be of the roofs of the dwellings. The development would appear visually distant and separate

from these listed structures. Existing and additional landscaping would aid in filtering views and providing an appropriate landscape setting to the buildings. I therefore conclude that there would not be harm to the setting, and thereby significance, of these structures.

38. The Parish Hall is located to the north west of the appeal site; it is a single storey building. There are some views of this building from Wynd Close, where both the appeal site and the Parish Hall could be seen in the same context. There are also some views, primarily of the roof of the building, from the site itself. The Parish Hall is located in what could be considered as central to the village: by a junction and opposite the public house. There is also residential development in close proximity to the building. The undeveloped nature of the appeal site does not add to the significance of the setting of this building. The site is some distance away from it and, with existing vegetation and additional landscaping, the appeal development would not have any adverse effect on the setting of this building.
39. Talbothayes Lodge is also a Grade II listed building located to the east of the appeal site. Thomas Hardy designed it for his brother and 2 sisters. The Council is of the view that harm would not arise to the setting of this building, however it has been mentioned by interested parties. The building is partly visible from the appeal site, but views are filtered by some intervening vegetation. This house is located a considerable distance away and its orientation is such that its front and rear elevations do not face towards the site. Having regard to all these factors, I conclude that the development would not harm the setting of this building.
40. Drawing these factors together, I conclude that harm would arise to the setting, and thereby significance, of the Conservation Area in respect of the burial ground and the views from the footpath. There would not be any specific harm to the Land of Local Landscape Importance. For the reasons I have set out above, there would also not be harm to the setting of the listed buildings.
41. To properly assess the heritage impacts of the proposal against the provisions of the Framework it is necessary to assess whether the harm caused would be substantial, or less than substantial. The Planning Practice Guidance sets out that whether a proposal causes substantial harm will be a matter for the decision maker and, in general terms, substantial harm is a high test, so it may not arise in many cases. In my judgement, the harmful impacts to the setting of the Conservation Area would not attain this high threshold. The existing landscaping between the appeal site and the burial ground is such that the inter-visibility is limited and only a very small part of the setting of the Conservation Area would be affected. On that basis, the harm would be less than substantial.
42. Nevertheless, in view of paragraph 193 of the Framework the harm that would be caused to the significance of the designated heritage assets must attract significant weight on the negative side of the balance.
43. In terms of the effect on heritage assets the central policy in the development plan is Policy ENV4 of the Local Plan. This Policy requires that any harm to the significance of a designated heritage asset must be justified and sets out that the public benefits of a proposal will be weighed when an application is considered. This is considered below.

*Public benefits*

44. Paragraph 196 of the Framework says that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. For the reasons I have set out above, I give significant weight to the provision of affordable housing.
45. Although the general position in respect of the Council's supply of deliverable housing sites was agreed, the appellant was not satisfied that the Council's figure of 4.88 years was robustly demonstrated by the evidence. The Council's five year housing land supply report was published in December 2018 and has a base date of April 2018. The appellant's concern is that the report does not provide the detail as to how the Council determined that individual sites would come forward in the anticipated time scale. At the hearing the appellant did not seek to provide any evidence which would enable me to reach any firm conclusions on this.
46. The report shows that there has been an upward trend in the number of planning permissions that the Council considers to be deliverable since April 2014 (the earliest year reported). This indicates that it has been granting planning permissions in good numbers. I also note that delivery has exceeded the number of homes required under the Housing Delivery Test in each of the last 3 years. However, the report also shows that, since the year 2011/12 (the base date for the Local Plan), the completions have never met the annual target of 775 homes. Given the Local Plan was adopted less than 5 years ago this is the key target to measure delivery against.
47. In this context and bearing in mind the Government's objective to significantly boost the supply of homes, I attach significant weight to the contribution the development would make to the supply of houses. The Framework advises that small and medium sized sites can make an important contribution to meeting the housing requirement and are often built out relatively quickly. The appeal site is not larger than 1 hectare and so it can be considered to be a small-medium sized site. There is no evidence that there are any constraints at the site which would inhibit delivery. I give these factors modest positive weight.
48. The development would provide 3 serviced self-build plots. There is evidence of a need for self and custom-build plots across the Local Plan area. There was some evidence of a more localised need generally to Dorchester or the Dorchester area. However, the evidence from the Council was that this was not a specifically defined location and so it is not clear to what extent there is a localised need for West Stafford.
49. The Unilateral Undertaking does not contain any local-connection restriction for these plots. Therefore, the plots would not specifically meet a local need and, in this regard, it would not conform with the exception in Policy SUS2 of the Local Plan to allow limited growth in a village with no defined development boundary.
50. The Council was of the view that the extant planning permissions for single plots was more than sufficient to meet the identified need across the Local Plan area. There was debate as to whether it was reasonable to assume that all such permissions would meet the relevant definition of a 'serviced plot' and I was not provided with sufficient evidence to reach a conclusion on this matter.



However, these plots in the appeal development would specifically aid in meeting the need (across the Local Plan area) for self and custom-build plots rather than just being potentially available for such a purpose. Therefore, I do give limited positive weight to this factor.

51. The Framework sets out that housing in rural areas should be located where it will enhance or maintain the vitality of rural communities and that planning policies should identify opportunities for villages to grow and thrive, especially where this would support local services. West Stafford has very limited local services which includes a public house, a village hall, a church, and some small businesses. I have little doubt that the occupants of the appeal dwellings would make some use of the local services, although there was no evidence that these services required additional support to survive. I therefore give very limited positive weight to the additional support to these services.
52. Taken together, the benefits of the development would be very significant. The harm to the Conservation Area would be less than substantial and limited in degree and location. I do give significant weight to the loss of significance that would arise to the designated heritage asset. However, the public benefits of the proposal would outweigh this harm. This amounts to clear and convincing evidence which would justify the harm. As such, there would not be conflict with Policy ENV4 of the Local Plan. Having reached this view the 'tilted balance' in paragraph 11d of the Framework is engaged.

#### *Location*

53. Policy SUS2 of the Local Plan seeks to focus development in the identified towns and direct development in rural areas to the settlements with defined development boundaries. Settlements with no development boundaries may have some growth to meet their local needs. The Policy goes on to set out a number of exceptions for the types of development which may be permissible outside of development boundaries.
54. Affordable housing is one of the exceptions. While this forms part of the appeal development, considered as a whole, the proposal would not meet with any of these exceptions. The development would not accord with the strategy for the distribution of development set out in the Local Plan and it would conflict with Policy SUS2.
55. There are extremely limited services and facilities in the village, and the evidence provided at the hearing confirmed that the local bus service no longer operates. The appeal site is located less than 2 miles from the edge of Dorchester and less than 3 miles from the centre. There is a wide range of services, facilities, and employment as well as public transport options in the town. Part of the National Cycle Network links West Stafford to Dorchester.
56. Even though the distances are short it is highly likely that most future residents of the dwellings would use a private motor vehicle in their day-to-day lives. This would result in some harm, including in respect of pollution. However, the harm that would arise is tempered because many journeys residents are likely to make would be short. Overall the location of the site, and the transport implications, weigh on the negative side of the balance, but only modestly so.

#### *Other matters*

57. The development would result in the loss of an area of agricultural land. However, this would be a very modest loss and so the harm associated with it

would also be very modest. Accordingly, I attach very modest weight to this matter.

58. The appeal site is located within the 400m - 5km buffer area around the Dorset Heathlands Special Protection Area (the SPA). Policy ENV2 of the Local Plan only permits development that is likely to have an adverse effect on the SPA where there is provision to avoid, or secure effective mitigation of, any potential adverse effects.
59. The Council's adopted Community Infrastructure Levy (CIL) secures contributions towards the provision of alternative natural green space and management of the existing heaths area. It was confirmed that this is 'top-sliced' from the CIL contributions. With the relevant contribution secured, the mitigation would be sufficient so that the development would be unlikely to have a significant effect on the SPA.
60. The junction of Wynd Close is located near to a bend in the road which runs through the village. However, the visibility is adequate to allow for safe exiting of the junction particularly from the section of road to the east of the grassed triangle. There is nothing about the local road network which would mean it could not be safely navigated by construction traffic. Much of the roads in the village are devoid of pavements, this includes the routes from the appeal site to the locations where the school bus stops to collect and drop-off children. This is not unusual in small villages and there is no evidence that any associated highway safety matters would be severe. The traffic generation associated with 10 additional homes would be small. This would not give rise to significant additional impacts on the road network, including the use of Wynd Close by horse riders, or in terms of the effect on the occupiers of neighbouring houses from noise or other disturbance.
61. The Framework is clear that arguments that a planning application is premature are unlikely to justify a refusal of planning permission, particularly where the presumption in favour of sustainable development (which would include the 'tilted balance') applies. The development is not substantial in scale, its cumulative effects would not be so significant that granting planning permission would undermine the plan making process, nor is there an emerging local plan at an advanced stage.
62. There have been suggestions that alternative sites, including those closer to Dorchester, would be available for development. However, those proposals are not before me and this does not, in itself, indicate harm.
63. It is evident that the County Council has considered the ecological implications of the development and has not raised any objections. In reaching this view it would have taken into account the time of year any surveys were undertaken. Had this undermined the results, the County Council would not have reached the view it did. I have no substantive evidence to lead me to an alternative conclusion.
64. The site is located sufficiently far from the neighbouring properties, and the site is of a sufficient size, so that 10 houses could be accommodated without harm to the living conditions of the occupiers of those properties in terms of privacy, overbearing and noise. A degree of lighting associated with housing is not unusual and, while this would change the current outlook from neighbouring properties, it would not be harmful to the living conditions of the occupants of

these houses. The impact on an existing view is not a matter which I can attach any significant weight to in a planning decision. Inevitably a degree of disturbance would occur during the construction phase. However, this would be for a time-limited period and there is nothing about the site which would result in an unusually adverse impact on local residents.

65. I have no substantive evidence that the Southern Water pumping station is at capacity and that the development would have a related detrimental impact. I also note that the Council has not raised this as a matter of concern.
66. I note the concerns in respect of capacity in local schools, however the housing need for the Local Plan area would result in similar impacts regardless of the precise location of new housing. There is no cogent evidence to demonstrate that the appeal development would result in an adverse impact on tourism.
67. Each planning proposal needs to be judged on its own particular merits, as such I do not consider that the proposal would unduly set a precedent. I have also taken account of the results of the Parish Council survey; however I must have regard to all the relevant material considerations in reaching a view on the overall planning balance. Therefore, I cannot attach any substantive weight to the outcome of the survey, but I have taken full account of the matters raised by the Parish Council.

#### *Planning balance*

68. I have concluded that the public benefits of the scheme would outweigh the harm to the significance of the Conservation Area. In addition, modest harm would arise due to the site's location and very modest harm from the loss of agricultural land. When I consider the totality of the harm this would not significantly and demonstrably outweigh the totality of the public benefits when the development is assessed against the policies in the Framework taken as a whole. Following the approach to decision making set out in paragraph 11 of the Framework this would indicate that planning permission should be granted.
69. The development would not align with the strategy for the distribution of development in the Local Plan. Policy INT1 sets out that where the relevant policies are out of date, as is the case here due to the housing land supply situation, a number of factors will be taken into account. Although not all the relevant strategic objectives of the Local Plan would be met, the development would positively contribute to the provision of market and affordable housing. Having regard to my conclusion on the second main issue, none of the specific policies in the Framework indicate that development should be restricted.
70. Taking all matters into consideration the adverse impacts of granting planning permission would not significantly outweigh the benefits. Therefore, having regard to the specific circumstances in this case, the development would accord with Policy INT1 of the Local Plan. As this sets out the approach to decision making, where the relevant policies in the Local Plan are out of date, it follows that the development would accord with the Local Plan when it is considered as a whole.

#### **Conditions and planning obligation**

71. I have imposed a condition specifying the relevant plans as this provides certainty. As all matters, save for access, are reserved the condition needs to only specifically relate to the access details shown on the Proposed Site Plan.

72. To ensure that these matters are dealt with adequately, a condition is necessary to secure the provision of drainage schemes and the future maintenance and management of these. This also needs to include a surface water scheme for the development phase. It is possible to combine the two conditions suggested by the Council and simplify the wording. At the hearing it was agreed that the suggested wording 'hydrological and hydrogeological context of the development' should use the word 'site' rather than 'development'. To be effective, it is necessary that these details be submitted prior to any work being undertaken on site.
73. It is clear that the County Council has issued a certificate of approval for a Biodiversity Mitigation Plan. The appeal evidence does include a mitigation plan, however it is undated and so I cannot be certain that the submitted document is the approved plan. This matter could not be resolved during the hearing. As such both main parties agreed that a condition to have the approved plan submitted would deal with this matter. To ensure that ecological matters are dealt with appropriately I agree that this is necessary. To be effective this must be dealt with before development commences.
74. In the event that unexpected contamination is found a condition to ensure this is adequately mitigated is also necessary. Both the Council and the appellant agreed that the suggested wording would need to be amended to ensure the condition is effective; I have done so.
75. As the access details are shown on the submitted drawing, there is no reason to require further details of these. In addition, the internal highway layout, turning and parking would be included as part of any layout reserved matters submission(s) and so a condition to deal with this is not necessary.
76. At 10 dwellings, the development would be small scale. The site is not unduly small or otherwise constrained. As such, a construction management plan would not be necessary.
77. As landscaping is a reserved matter, it is not necessary for an additional condition to specifically require such details to be submitted. Similarly, as appearance is a reserved matter, details of external materials need not be secured as part of an outline planning permission.
78. The suggested conditions include a requirement to seek to reuse excavated material onsite. This matter was also raised by a Planning Officer from the County Council. The appeal site is located largely within a Minerals Safeguarding Area. In view of the size of the site, the Minerals Planning Authority is of the view that it would be unreasonable to require prior extraction of any minerals. However, it does suggest seeking to secure any reuse of minerals extracted during the construction period. The site is fairly flat and any excavation is likely to be very limited. As such, reuse of extracted minerals is also likely to be very limited. In this context, I am not persuaded that a condition to reuse this material is necessary in order to allow the development to proceed. In reaching this view I note that the minerals planning authority has not provided any policy basis for the condition proposed.
79. The description of the development is specifically for 10 houses, as such a condition limiting the number of dwellings to 10 would not be necessary. At the hearing an interested party did make representations that she would wish to see such a condition. However, that was in the context of a desire to prevent

further development on adjacent land in the future. Any condition on this planning permission would not serve to prohibit future development of an adjacent site which would need to be considered on its own merits were such an application to be submitted.

80. Although not included in the conditions formally suggested by the Council, I have noted the suggestion from the Rights of Way advisor that two additional conditions are included. The footpath is located at the extreme southern edge of the site and the indicative information shows that a development of 10 homes could be accommodated on the site without the need to divert the footpath. As this is a matter that is primarily related to layout, I am also content that the Council could reasonably raise any matters associated with this in considering any reserved matters application(s) for layout.
81. During the hearing the Council confirmed that it was content with the wording of the Unilateral Undertaking. I have addressed the provision of affordable housing on-site, and the related contribution, above. In addition to this, the obligation would secure three of the houses as self build plots. As the provision of this forms part of the benefits that I have taken into account in reaching a view on the overall planning balance, it would be necessary to secure these as part of the development. This being so, this is necessary to make the development acceptable in planning terms, directly related to the development and reasonably related to it in scale and kind.

### **Conclusion**

82. For the reasons given above, the appeal should be allowed.

*K Taylor*  
INSPECTOR

Appeal Decision APP/F1230/W/18/3206604  
Land east of Wynd Close, West Stafford DT2 8AJ

**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 takes place.
2. Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
3. The development hereby permitted shall take place not later than 2 years from the approval of the last of the reserved matters to be approved.
4. The development hereby permitted shall be carried out in accordance with the Location Plan and drawing number SK06 Revision A in so far as it relates to access only.
5. No development shall take place until a detailed foul and surface water management scheme for the site has been submitted to and approved in writing by the local planning authority. The scheme shall:
  - be based upon the hydrological and hydrogeological context of the site;
  - include surface water management during the construction phase;
  - a programme of implementation; and
  - include details of the maintenance, management, and responsibility of the foul and surface water drainage schemes and associated infrastructure.

The scheme shall be implemented in accordance with the approved details, including the programme of implementation, and thereafter maintained and managed in accordance with the approved details for the lifetime of the development.

6. No development shall take place until the Biodiversity Mitigation Plan for which the Certificate of Approval, dated 28 July 2017, was issued by Dorset County Council, has been submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with the approved plan.
7. If during the development, contamination not previously identified is found to be present at the site then no further development shall be carried out until details of an investigation and risk assessment and, where necessary, a remediation strategy and verification plan, which details how the unsuspected contamination shall be dealt with, has been submitted to and approved in writing by the local planning authority. Where relevant, following the completion of the measures identified in the approved remediation strategy and verification plan, a verification report demonstrating completion of the remediation works and their effectiveness shall be submitted to and approved in writing by the local planning authority. No dwelling shall be occupied until such written approval has been given.

End of Schedule

## **APPEARANCES**

### FOR THE APPELLANT:

Mr Matt Holmes BA(Hons) MA MRTPI	Director with Chapman Lily Planning Ltd
Mr Paul Cairnes QC	No 5 Chambers
Mr Robert Tizzard	Director with West Stafford LVA LLP

### FOR THE LOCAL PLANNING AUTHORITY:

Mr Robert Lennis	West Dorset District Council
Mr Trevor Warrick	West Dorset District Council

### INTERESTED PERSONS:

Mrs Sandy Tubby	West Stafford Parish Council
Mr Gordon Shaw	West Stafford Parish Council
Mrs Jane Ollerton	Local resident

## **DOCUMENTS SUBMITTED DURING THE HEARING**

- 1 Unilateral Undertaking dated 23 January 2019
- 2 West Stafford Conservation Area map
- 3 West Stafford Inset 38 map from the West Dorset, Weymouth & Portland Local Plan 2015.
- 4 Email from Paul Derrien Housing Enabling Team Leader
- 5 Extract from the Osmington, West Knighton, West Stafford & Owermoigne Conservation Area Appraisal