



Appeal Decision

Inquiry held on 20 - 22 January 2015

Site visit made on 19 January 2015

by R Schofield BA(Hons) MA MRTPI

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

Decision date: 24 February 2015

Appeal Ref: APP/Q3305/A/14/2224843

Land at Green Pits Lane, Nunney, Somerset BA11

- 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 BDW Trading Limited against the decision of Mendip District Council.
 - The application Ref 2014/0198/OTS, dated 7 February 2014, was refused by notice dated 27 August 2014.
 - The development proposed is outline planning permission for the erection of up to 100 no. dwellings, vehicular access from Glebelands, highways improvements, public open space, drainage and associated works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was made in outline with all matters reserved, other than access, for later consideration. In advance of the determination of the application, revised plans were submitted that changed the location of the vehicular access point, moving it to Green Pits Lane, along with changes to the pedestrian access. These were available for public consideration. Thus, notwithstanding the description of development in the header above, which is taken from the application form, I have considered the appeal on the basis of the revised plans.
3. Since the Council issued its decision notice, it adopted the Mendip Local Plan Part 1 (the Part 1 Plan) in December 2014. Following the close of the Inquiry I was made aware of a High Court challenge, albeit not made by the appellant, over the Council's decision to adopt the Part 1 Plan. This challenge includes consideration of the Part 1 Plan's overall housing requirement, which was not a matter in dispute between the parties to this appeal.
4. The parties were given the opportunity to comment upon the High Court challenge and I have taken their respective views into consideration. However, until such time as any legal judgment to the contrary is reached on this matter, I consider that the Part 1 Plan remains the up-to-date development plan for the District and have determined the appeal accordingly.

Main Issues

5. At the Inquiry, following the submission of a completed S106 agreement by the appellant, the Council decided not to pursue its reason for refusal related to the lack of submission of such an agreement. Thus, the main issues are:
- the District's housing land supply position and its policy implications;
 - whether, having regard to the requirements of the development plan and national policy, the level of development proposed would be located where the need to travel would be minimised and where services, facilities and employment would be accessible from the site by a range of modes of transport other than the private car;
 - the effect of the proposed development on the character and appearance of the area; and
 - whether, having regard to the benefits and disbenefits of the proposal, it would represent a sustainable form of development.

In the interests of clarity, my conclusion on the final Main Issue is found in my overall conclusion to this decision.

Reasons

Housing Land Supply and policy implications

6. The Part 1 Plan runs from 2006 to 2029 and sets out a housing requirement of 9635 dwellings for this period. There are four areas of dispute between the parties with regard to whether or not the Council is able to demonstrate a five-year supply of deliverable housing land against the undisputed housing requirement and I deal with them below. The appellant agreed that, other than data in relation to housing completions for 2013/14, no new evidence was being presented beyond that which was before the Part 1 Plan Inspector and on which he reported in October 2014. The appellant also agreed that although reference was made in evidence to market signals and affordable housing provision, this was purely contextual information and no reliance was placed upon these factors in support of their case.
- i) *'Historic' oversupply of housing*
7. The housing requirement set out in the Part 1 Plan is derived from two sources. That from 2006/07 to 2010/11, giving a target of 415 dwellings per annum, is as set out in the Draft Regional Spatial Strategy (RSS). That from 2011/12 to 2028/29, giving a target of 420 dwellings per annum, is derived from the Council's Objective Assessment of Need (OAN) for housing.
8. The 2006/07 to 2010/11 figure is not derived from an OAN and the Planning Practice Guidance (the Guidance) states that it should be borne in mind that evidence which dates back several years, such as that drawn from revoked regional strategies, may not adequately reflect current needs.¹ Nonetheless, the Guidance goes on to make it clear that in assessing an OAN (i.e. the period 2011/12 to 2028/29) consideration can be given to evidence that the Council has delivered over and above its housing need in previous years.² In addition,

¹ Ibid

² Ibid ID 3-036-20140306

although case law³ has established that there is no need for any shortfall against RSS targets to be added to up-to-date assessments of housing need, it does not automatically follow from this that such a principle must apply to an oversupply. Nor was any ruling in law that states so drawn to my attention.

9. Paragraph 47 of the National Planning Policy Framework (the Framework) states at bullet two that local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide five years' worth of housing against their housing requirements. This does not state that the whole of the 'requirement' should be based upon the OAN and, as agreed between the parties, the Part 1 Plan identifies a housing requirement for the whole plan period. I consider that it is this full period, with its adopted requirement, rather than solely that part of it based upon the OAN, against which demonstration of a five-year supply should be judged.
10. Consequently, in the absence of any new evidence on this matter, I see no reason to depart from the view of the Local Plan Inspector who reached, as the appellant acknowledged (albeit disagreeing with it), a reasonable conclusion that the Council could judge its past performance in delivering housing against the Draft RSS target⁴. As such, I also consider it to be reasonable to take the oversupply against the 2006/07 to 2010/11 annualised figures into account when assessing the delivery of housing in the District to date. Against the 2006/07 to 2010/11 requirement the Council can, therefore, demonstrate an oversupply, which, when rolled into the completions figure for 2011/12 to 2013/14, gives an oversupply of dwellings against the totality of the average annual targets for the plan period 2006/07 to 2013/14.

ii) A 5% or 20% Buffer

11. The Framework, at paragraph 47, bullet two, states that local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide five years' worth of housing against their housing requirements, with an additional buffer of 5% moved forward from later in the plan period. This buffer should be increased to 20% where there has been a record of persistent under delivery of housing.
12. The greatest period of completions data presented to me was that stretching from 1992/93 to 2013/14. Looked at over this time period, years of under delivery are balanced with those of oversupply. There is also an oversupply of housing against the total delivery target. Consequently, there is nothing in this data range that would lead me to the conclusion that the Council has persistently under delivered against its housing requirements.
13. From 2011/12 to 2013/14, the OAN period of the Part 1 Plan housing requirement, there has been a three-year run of under delivery against the annual average. If a five-year period is looked at, to 2013/14, the annual average is missed on four of these years. However, in line with advice in the Guidance⁵, which indicates that it is best to take a longer term view, as this is likely to take account of the peaks and troughs of the housing market cycle, I do not consider five years, let alone three years, to be a sufficient period of time over which to judge delivery. Looked at over a period of 10 years

³ Zurich Assurance v Winchester City Council and South Downs National Park [2014] EWHC 758 (Admin)

⁴ Mendip District Local Plan Part 1 Inspector's Report 2 October 2014 paragraph 120

⁵ Planning Practice Guidance Reference ID: 3-036-20140306

(2004/05 to 2013/14), years of under delivery are again balanced with those of oversupply and a surplus was achieved.

14. There is nothing in the Framework or Guidance to suggest that it is only appropriate to assess delivery against the OAN rather than the historic housing requirement for a given area. Indeed, case law⁶ indicates that this is a matter of judgment for the decision maker, who may or may not take the figures in a previous plan into account as a measure of what the housing requirement was in order to assess whether there has been a persistent under delivery of housing. Thus, I consider that the application of a 5% buffer to the five-year supply of deliverable housing sites is appropriate.

iii) Non-implementation rate

15. The Council has, historically, applied a 10% discount rate to its housing delivery assessments, to take account of the possible non-implementation of permissions. This changed to a figure of 5% during the Part 1 Plan hearings in 2014. The Council justifies this approach on the basis that it has undertaken a robust analysis of likely future delivery, informed by discussion with landowners and developers of sites with planning permission, to produce a refined list of sites with an increased certainty of delivery. The appellant disagreed with the application of a 5% figure, on the grounds that it did not take account of historic lapse rates but, instead, projected current information into the future. However, there is no 'right' way to come to a conclusion on non-implementation and no evidence was presented to support the case that a 10% rate was more appropriate. Indeed, it was acknowledged by the appellant that their judgment on this matter was just that.
16. My attention was drawn to a recent appeal decision⁷, in another District, in which it was concluded that a 10% non-implementation rate was more appropriate as there was no evidence before the Inspector relating to past take up rates. However, I do not know the arguments that were presented to that Inspector, which may have led her to the conclusion that 10% was appropriate in those particular circumstances. Consequently, I can give that decision little weight as a comparative example and, based upon all that I have read and heard in relation to the appeal before me, I consider that the Council's approach is reasonable and that it is able to sustain a case for the application of a 5% non-implementation rate.

iv) Specific Sites

17. There was dispute between the parties about the likely deliverability of housing on four sites during the five-year period in question. First, with regard to the Uppingstock Farm, Glastonbury site there are clear concerns about drainage. However, there was no suggestion that the Somerset Drainage Boards Consortium, or any other body, has maintained an in principle objection to the site's development nor to suggest that drainage could not be satisfactorily addressed. Even so, the Council has taken a cautious approach to delivery on this site, not assuming any completions until 2017/18. I consider this to be a reasonable assessment.
18. The Thales site, on Wookey Hole Road, Wells, has land contamination issues. However, the most recent information with regard to this site indicates that a

⁶ Cotwold DC v SCLG and Fay and Son Limited [2013] EWHC 3719 (Admin)

⁷ APP/J3720/A/14/2215757

detailed remediation scheme, which should take no more than a year to agree and implement, has been submitted to the Council's Contaminated Land Officer. As such, the Council's assessment of delivery appears to be reasonable.

19. Turning to the Glebeland site, Chilcompton, there are issues with the provision of off-site highways works. However, the most recent evidence submitted by the Council, drawing upon communication with the developer, indicates that this is not a viability matter, as the appellant suggests. Again, the Council's approach to delivery is cautious and reasonable, with no housing expected from the site until 2017/18.
20. Finally, in relation to the Strategic Land Partnerships (SLP) site at Wookey Hole Road, the appellant stated that information from SLP suggested no completions before 2017/18. However, this opinion actually came from David Wilson Homes South West, in relation to a possible purchase of the site by Barratt Bristol, and is not corroborated by the landowner. Again, I consider the Council's judgment over the deliverability of this site to be reasonable. Even if this were not the case, removing 35 dwellings from the trajectory, as proposed by the appellant, would not alter the outcome of my conclusion below.

v) *Conclusion on Housing Land Supply and Policy Implications*

21. I have no reason to consider that the Council's assessment of the deliverability of the disputed sites is not robust. Thus, also taking account of my conclusions on past oversupply, the buffer and non-implementation, I conclude that the Council is able to demonstrate in excess of a five-year supply of deliverable housing land and, as such, development plan policies relevant to the supply should not be considered out-of-date.
22. Notwithstanding the above, the appellant advanced arguments that the development plan was absent, silent and out-of-date for other reasons and, thus, that the appeal proposal should still be assessed against the provisions of bullet 4 of paragraph 14 of the Framework. This explains that where relevant policies are absent, silent or out-of-date then (unless material considerations indicate otherwise) 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 or specific policies in the Framework indicate that development should be restricted.
23. First, it was suggested that as the development plan is to be made in two parts, and has yet to be completed, it was both absent and silent, insofar as Part 2 (the Part 2 Plan) does not yet exist and the Part 1 Plan does not specify precisely where allocations are to take place. However, this is not the same as saying that the Development Plan when taken as a whole is absent or silent. The Part 1 Plan identifies those settlements to which development is to be directed and the appropriate scale of that development. It also sets out additional policies which, notably when used in conjunction with those articulating the overall development strategy, provide decision makers and applicants with a clear framework within which development proposals, such as the appeal scheme, can be assessed and a judgment made about their acceptability.

24. My attention was drawn to an appeal decision⁸ where it was suggested that the Inspector had concluded that a development plan was absent and silent, as the second part had yet to be produced. I do not know the precise arguments presented to the Inspector in that case. However, for the reasons set out above, on the balance of the arguments put to me, while noting that it may not yet contain the degree of precision for which the appellant wishes in terms of specific sites, I do not consider that the development plan can reasonably be considered to be either silent or absent.
25. Turning to the matter of the Part 1 Plan being out-of-date, paragraph 215 of the Framework states that weight should be given to existing Development Plan policies according to their degree of consistency with the Framework. The closer the Development Plan policies to those in the Framework, the greater the weight they may be afforded. The development limits from the Mendip Local Plan 2002 have been carried across to the Part 1 Plan. This, the appellant suggests, renders them out-of-date by virtue of the fact that, as they are drawn, they will be unable to accommodate the levels of development proposed for Mendip generally, and Nunney specifically, and therefore, do not reflect evidence of local housing need, in conflict with the requirements of the Framework.
26. In order to secure the District's housing requirement the Part 2 Plan is likely to need to make provision for the re-drawing of some, or all, of the current development limits of those settlements to which housing allocations are to be made. However, this will take place as part of a planned process and there is no evidence that, over the plan period to 2029, the fulfilment of the housing requirement will not be achieved or that changes to development limits are necessary now to ensure that delivery against the annual housing target is maintained in advance of the Part 2 Plan's adoption. Consequently, I do not consider the development limits as currently drawn to be out-of-date.
27. A number of other appeal decisions were drawn to my attention, where Inspectors have reached the view that proposals should be judged against bullet four of paragraph 14 of the Framework irrespective of the fact that a local planning authority could demonstrate a five-year supply of deliverable housing sites. It was agreed, however, that all of these decisions were case sensitive to the extent that they could not be regarded as directly comparable with the proposal or context before me. It was also agreed that the Inspectors in those cases did not reach their views on the basis of the arguments that the appellant was seeking to advance. I agree with this and, as such, afford them little weight in my considerations.
28. Thus, I further conclude that the policies set out in the Part 1 Plan should be regarded as up-to-date and should be applied to the consideration of the appeal proposal.

Accessibility by a Range of Modes of Transport

29. Nunney is defined as a Primary Village by policy CP1 of the Part 1 Plan. This means that the Council accepts that it and other specified villages offer key community facilities (including the best available public transport services) and some employment opportunities, which makes them best placed to accommodate most new rural development. In this context, the quantum of

⁸ APP/M1710/A/14/2225146 and Costs decision

housing development to be allocated to the Primary Villages is set out by Part 1 Plan policy CP2, with a finer grain of detail set out in the supporting text and in Table 8. From this, it is clear that the Primary Villages will be allocated 1780 dwellings, with Nunney receiving 55. These figures are minima, albeit with a 70 dwelling limit as set out in the Local Plan Inspector's Report and the Council's supporting evidence to the Local Plan Hearings, and I address this matter elsewhere.

30. The process behind the establishment of the allocation figures for each Primary Village is explained in some detail in the Part 1 Plan and the Local Plan Inspector's Report. In short, however, proportionate growth was considered to be a figure of 15% of existing housing stock in each village, up to a maximum of 70 dwellings, adjusted to take account of local consultation and identified local constraints to tailor development levels to an appropriate scale. As the Local Plan Inspector acknowledged⁹, this method is not scientific. Nor has the Council claimed otherwise. Nonetheless, it is up to individual local planning authorities to come to a view on how best to distribute development in their area and I agree with the Local Plan Inspector¹⁰ that the method followed is a reasonable approach to take. Thus, the Council reached a judgment on a figure, set out in adopted development plan policy, for a proportionate level of development for Nunney over the plan period.
31. Nunney has a good size convenience shop, suitable for day-to-day needs, a pub, a primary school, a pre-school, a church, a village hall and a play area. A post office operates from the village hall for two mornings a week. All of these services, and the limited local employment in the village, would be in reasonable walking or cycling distance from the appeal site. Accessibility, however, is not just about proximity. In this context, I share the concerns of third parties and of the County Council (as set out in the Addendum to the Transport Assessment) about the nature of the pedestrian/cycle route to many of the village's facilities.
32. There is a pavement running along some of Catch Road, which could be accessed from the appeal site through Glebelands and Flowerfield. This runs on to the primary school and to the bus stop on the corner of Dallimore Mead and Catch Road, where it stops soon after. Pedestrian access beyond this point is along the road itself. The road is single lane and unlit, with vehicles moving along it at up to 20mph. At the time of my site visit traffic flow was not constant, but vehicles passed regularly in both directions and I have no reason to doubt that this frequency is increased at peak times in the morning and evening. The road's narrowness is exacerbated in places by lines of parked cars and, overall, there is very little opportunity for pedestrians to take refuge from the traffic. To my mind, although cycling the route may be possible, this represents a seriously inadequate pedestrian linkage, from a site that would accommodate up to 100 dwellings, for those wishing to access a number of the village's facilities.
33. Beyond this, while some day-to-day needs may be met in Nunney, it is clear that most residents will need to leave the village for larger settlements in order to access higher order retail, employment, secondary education and health services. Walking to such settlements, although possible, is very unlikely to be an attractive, regular option for most residents given the distances (over three

⁹ Mendip District Local Plan Part 1 Inspector's Report 2 October 2014 paragraph 70

¹⁰ Ibid paragraph 73

miles to Frome) involved. Similarly, although it is feasible to cycle to the nearest town of Frome the appellant accepted that the busy, high speed nature of the A361 would make it unattractive for many. The alternative route proposed, along Frome Road, is along winding, hilly, unlit rural roads, which are narrow in places. Consequently, although it may be quieter, in my judgment it is not likely to prove a significantly more appealing option. The very low number of existing journeys to work by bicycle, as noted in the Travel Plan data, would appear to support this.

34. Nunney is served by three bus services. Of these, the 31 is solely for children attending school in Bruton and the 662 is only a single service to Shepton on weekdays and Saturdays, which does not return. The main service, therefore, is the 161 between Wells and Frome. This is an approximately two hourly service, with a three-hour gap between two of the afternoon weekday services. The earliest weekday bus into Frome is 0958 and the latest return is 1920. This changes to 1053 and 1945 on Saturdays, with no service on Sundays. Thus, it cannot be considered that there is either a frequent bus service to the main centres or that the services are convenient for the majority of those who may seek to use them for work.
35. The appellant submitted a planning obligation committing them to the implementation of a Travel Plan. This aims to secure a reduction, albeit small, in the number of single occupancy vehicle journeys from the site to be achieved through the provision of a range of incentives, including Green Travel Vouchers, a Travel Information Pack, a new footway from the site to the bus stop on Catch Road and the provision of funds towards the enhancement of *'bus services in the vicinity of the development'*.
36. Assumptions have been made that the latter would result in the addition of a peak morning bus service on the 161 route, along with the provision of a bus shelter for the stop on Catch Road, which would incentivise the service's use by those working in Frome and, thus, make a significant contribution to a reduction in single occupancy vehicle journeys. However, the obligation provides no such specificity and is also time limited to five years, with no assurance that the County Council would continue funding the service after this time. Given the appellant's view that the additional morning service would be a key part of any attempts to secure a reduction in single occupancy vehicle journeys, and the emphasis put on the difference that a bus shelter at a bus stop can make in terms of encouraging bus use, this lack of certainty about what would be provided, and whether it would be sustained, is a significant shortcoming.
37. Even if this were not the case, there was no evidence that a significant number of Nunney residents work, or would work, in Frome such that the provision of a peak morning bus service on the 161 route would, in reality, make any appreciable difference to single occupancy vehicle movements. Nor can seeking a relatively minor reduction in significantly increased single occupancy vehicle movements through a Travel Plan secured by a S106 agreement reasonably be regarded as, or be seen in the spirit of, planning positively to locate increased levels of development where it can maximise the use of sustainable transport modes. Therefore, notwithstanding the County Council's support, I give little weight to the Travel Plan and bus contribution obligations as a means of overcoming the District Council's policy objections.

38. The Council was aware of the predominant use of the private car, and the restricted opportunities for other modes of transport, when it identified Nunney as a Primary Village. However, it is also this situation, as well as the village's rural location, that was part of the context for the Council's judgment about the appropriate, proportionate level of housing growth that should be allocated to Nunney, namely 55 dwellings. The appeal proposal would result in a very substantial increase in housing for Nunney over and above that to be allocated in the Part 2 Plan. This would lead to a commensurate increase in the number of journeys being made by single occupancy private vehicles from the village, with limited opportunities for pedestrian and cycle access to services and facilities, both locally and further afield, and with public transport routes of debateable quality to service a development of the scale proposed.
39. Thus, even making allowance for the site's rural situation, I conclude that the scale of development proposed by the appeal scheme would not be located where the need to travel would be minimised or where services, facilities and employment would be accessible from the site by a range of modes of transport other than the private car. The appeal proposal would conflict, therefore, with Part 1 Plan policies CP2 and DP9. These seek, among other things, to ensure that new development is focussed on higher order settlements, with their greater range of services, facilities and employment, and can demonstrate how it will improve or maximise the use of sustainable forms of transport.
40. It would also conflict with the requirements of the Framework, which advises¹¹ that plans and decisions should ensure that developments that generate significant movement are located where the need to travel will be minimised and the use of sustainable transport modes can be maximised. The Framework notes in this respect that account needs to be taken of policies elsewhere within it, particularly in rural areas. However, it is clear that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities¹². I address this with regard to Social Benefits below.
41. The Framework goes on to state¹³ that developments should be located and designed where practical to give priority to pedestrian and cycle movements and have access to high quality public transport facilities. The development proposed by the appeal scheme would also conflict with the Framework in this regard.

Character and Appearance

42. The appeal site is a large field, which has been in agricultural use, and a smaller grassed field, on the edge of Nunney. There is existing residential development immediately to the north and east. A café, parking area and further residential development extend across much of the southern end of the site, with the A361 beyond. In summary, although the site is more apparent in longer range views from the west, it is surrounded by development on three sides, as well being bordered by roads, which serves to contain it within the landscape such that it does not readily appear as an integral part of the wider countryside that forms the setting of the village.

¹¹ Paragraph 34

¹² Paragraph 55

¹³ Paragraph 35

43. Development on the site would bring housing nearer to existing residential development and result in the loss of the fields. There would be a change in the site's appearance and its undeveloped character when viewed from close quarters, be that from Green Pits Lane or existing dwellings. These changes do not, however, necessarily equate to harm. Considering the site's wider context, outlined above, development upon it would not appear as a significantly detrimental incursion into the open countryside. In addition, although development on the site would result in a change in outlook from a number of dwellings, there is no reason to consider that a scheme could not be designed that would ensure no significant adverse impacts beyond the loss of the current view.
44. Concerns were raised about the potential impact of three-storey dwellings on the site. Dwellings of this scale could well appear at odds with the prevailing character of residential development in the vicinity of the site, but this is something that could be addressed at a reserved matters stage.
45. My attention was drawn to an appeal decision¹⁴ in which the Inspector reached a view that development upon a greenfield site was harmful to the character and appearance of the countryside. This may be so, but such a conclusion is far from unusual, depending upon individual site characteristics, and I do not have the details of that site before me. Consequently, there is no way to judge whether this decision is directly relevant to the appeal proposal before me and I give it little weight as a comparative case.
46. It was also suggested that the visual impact of the required level of development in Nunney could be lessened if it were distributed across a wider range of sites. This may be so, but no detailed assessment of alternative scenarios was presented in support of this statement.
47. Development on the appeal site would result in a change to the character and appearance of the area. I conclude, however, that this change would not result in any substantial harm to that character and appearance. The proposal would not conflict, therefore, with Part 1 Plan policy DP4. This seeks, among other things, to ensure that development does not degrade the quality of the local landscape and demonstrates that its siting and design are compatible with the pattern of natural and man-made features of the Landscape Character Areas.

Sustainable Development

48. I have concluded that the Council is able to demonstrate a five-year supply of deliverable housing land and that the development plan is not absent, silent or out-of-date. Nonetheless, the appellant has stated that the appeal scheme would provide a number of benefits and I consider these below.

i) Social Benefits

49. Although it provides a total housing allocation figure for the plan period, the Part 1 Plan is clear that this figure is for a minimum number of units. In addition, there are a number of 'floating' dwellings yet to be allocated to specific settlements. It was suggested that in this situation the 55 unit figure for Nunney could not be regarded as an absolute ceiling, that the rural areas would receive more housing and, thus, that the provision of additional housing, including affordable housing, in the settlement would be of benefit in

¹⁴ APP/Z2830/A/14/2216712

significantly boosting housing supply in the District, in line with the aims of the Framework.

50. This argument is not without merit. However, the Framework also supports a plan-led approach and it does not automatically follow that just because a figure is minimum it must be exceeded, whether generally or in relation to a specific settlement, particularly where such proposals would result in conflict with the development plan. In addition, the existence of a five-year supply of deliverable housing land in the District reduces, in my judgment, the weight to be given to the social benefit of any housing provision so significantly over and above the indicative settlement figure.
51. It was suggested that 100 dwellings in Nunney would be beneficial to the village as the population was 'ossifying' and its services and facilities suffering a concomitant decline. New development would bring additional residents and additional spending. The village's demographic was not disputed nor was the support of the school's Headteacher for additional pupils. However, no evidence was presented that could lead to the conclusion that the overall vitality of Nunney's community is under threat or that, even if it was, 100 dwellings rather than any other figure would be needed to enhance or maintain such a state of affairs. Consequently, I give this factor little weight.
52. It was further suggested that the provision of an additional bus service would benefit the village and the Council accepted that there was a greater likelihood of securing an obligation in relation to bus provision from the appeal scheme than from what may be several smaller allocations. However, for the reasons set out above, I give this matter little weight and, as the appellant acknowledged, the County Council would have objected to the application without the relevant obligations. As such, they must be regarded as a requirement rather than a benefit.
53. The site would provide a play area and public open space. However, these are policy requirements of a development of the size proposed, rather than benefits of the scheme, and as such I give them little weight.

ii) Economic Benefits

54. The Framework does not regard housing development as economic development *per se*. However, the government has made clear its view that house building plays an important role in promoting economic growth. In economic terms, the appeal scheme would provide construction jobs during its build out and would generate New Homes Bonus (NHB) and Council Tax receipts for the District Council. Albeit that these jobs would be transitory, and no direct link between the spend of the NHB and Council Tax funds and Nunney was established, I give these economic benefits moderate weight.

iii) Environmental Benefits

55. It is evident that the scheme would not result in any significant adverse environmental impacts and that Nunney has no obvious environmental constraints. However, lack of harm does not equate to a benefit. There may be opportunities to enhance biodiversity through native tree and shrub planting, secured through condition, and I give this factor a little weight.

56. The appellant also sought to advance the Travel Plan and associated bus service contribution, as set out in the S106 agreement, as environmental benefits and my conclusions on these are set out above.

Other Matters

57. The Part 1 Plan states¹⁵ that opportunities for the provision of additional housing may arise *'where the most effective planning of sites needed to meet the requirements of individual settlements would naturally enable somewhat higher levels of development'*. The Council stated that this should mean minor increases over and above the allocated figure for a settlement, proportionate to that allocation, where appropriate or desirable. This is not an unreasonable view and would not lead to artificial constraints on development. It is, in my judgment, preferable to the appellant's view that just because the appeal site may be large enough to accommodate 100 dwellings it is, by default, *'effective planning'* for it to provide 100 dwellings.
58. The appellant also asserted that some of the appeal site would have to come forward anyway, on the basis of the current range of Strategic Housing Land Availability Assessment sites, if the housing allocated to Nunney were to be delivered. This may be so, at present. However, even if this situation were to endure there was no suggestion that the whole site would need to come forward and, again, this is not a sound reason for allowing a scheme for considerably more housing than the development plan, with which it would conflict, considers to be proportionate for the village.
59. I note that the Council's case officer was initially minded to recommend the appeal scheme for approval. That may be so, but the scheme was refused and I must determine the proposal on its merits.
60. A S106 agreement has been provided that would secure obligations for the provision of affordable housing, public open space (with Locally Equipped Area of Play) and a Travel Plan (with an associated bus service contribution). However, although acknowledging the benefit of the affordable housing, these would not overcome my concerns in relation to the harm arising from the proposal and, thus, they have not had a significant bearing upon my decision.

Conclusion

61. I have found that the proposal would not cause significant harm to the character and appearance of the area. However, I have found that the Council is able to demonstrate a five-year supply of deliverable housing land and that the development plan is not absent, silent or out-of-date. The scheme would, therefore, by virtue of the fact that it lies outside the development boundaries of Nunney, conflict with Part 1 Plan policy CP2. This seeks to ensure that development outside established development limits is restricted to allocated and strategic sites. I give significant weight to this conflict with the development plan.
62. The proposal would also conflict with both the development plan and the Framework, as the level of development proposed, significantly over and above that indicated for Nunney by the development plan, would not be located where the need to travel would be minimised and where services, facilities and employment would be accessible from the site by a range of modes of

¹⁵ Paragraph 4.22

transport other than the private car. I am not persuaded that there is a compelling need or requirement for such significant over provision of housing above the indicative figure for Nunney that would outweigh this conflict or that the proposed S106 travel provisions would overcome it. This is also a matter to which I afford significant weight.

63. The scheme would offer some moderate economic benefits and minor biodiversity benefits. It would provide some additional housing, both market and affordable, which is a matter to which I afford moderate weight.
64. Thus, placing all of the relevant material considerations in the balance, I find that the suggested benefits of the proposed development would not significantly and demonstrably outweigh the harm. In the circumstances I conclude that the proposal would not represent a sustainable form of development and, for the reasons given above, and taking all other matters into consideration, I conclude that the appeal should be dismissed.

R. Schofield

INSPECTOR

Richborough Estates

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Ms Nadia Sharif

Of Counsel, instructed by Mendip District Council

She called:

Mr Ian Bowen BA(Hons) BTP(Dist) MRTPI
Mr Andre Sestini BA(Hons) MRTPI
Mr Matthew Williams DipTP MRTPI

Mendip District Council
Mendip District Council
Mendip District Council

FOR THE APPELLANT:

Mr Christopher Boyle

Of Queen's Counsel, instructed by Pegasus Group

He called:

Mr Christopher Miles BSc(Hons) AMICE
CMIHT MCILT
Mr Roger Daniels MA MPHIL MRTPI
Mr Daniel Weaver BA(Hons) MA MRTPI

FMW Consultancy
Pegasus Group
Pegasus Group

INTERESTED PERSONS:

Mr Ken Lloyd	Nunney Parish Council
Mr Jeremy Gaunt	Local Resident and Member of Nunney Parish Council
Ms Lisa Dando	Local Resident
Ms Deborah Cooper	Local Resident
Ms Lisa Ramsay	Local Resident

DOCUMENTS SUBMITTED AT THE INQUIRY

1. CIL Compliance Statement, submitted by the Council.
2. Completed S106 Agreement, submitted by the Appellant.
3. Costs Decision APP/M1710/A/14/2225146, submitted by the Appellant.
4. Mendip District: Five Year Housing Land Supply Deliverability Evidence October 2014 (update 21.12.14) and Mendip Housing Trajectory and 5-Year Supply website version (1.10.14) (corrected 22.12.14), submitted by the Council.
5. Appeal Decision APP/Z2830/A/14/2216712, submitted by the Council.
6. Opening Statement on behalf of the Council.
7. Nunney Spar shop opening times, submitted by the Council.
8. Bus timetables for routes through Nunney, submitted by the Council.
9. Planning application consultation response from Wessex Water, submitted by the Council.
10. Email from Somerset County Council to Mendip District Council regarding Nunney First School places, dated 9 April 2014, submitted by the Council.
11. Email from David Wilson Homes to Pegasus Group regarding Land Adjoining Wookey Hole Road, dated 12 January 2015, submitted by the Appellant.
12. Amended updated to Roger Daniels' Proof of Evidence, dated 20 January 2015, submitted by the Appellant.
13. Position Statement on Agreed Transport Matters, submitted by the Appellant.
14. Statement of Common Ground Addendum, submitted by the Appellant.
15. Email from Somerset County Council to Christopher Miles regarding public consultation on proposals to reduce bus services to Nunney, dated 20 January 2015, submitted by the Appellant.
16. Additional bus timetables for routes through Nunney, submitted by the Council.
17. Email from Somerset County Council to Mendip District Council regarding Travel Plan costs, dated 21 January 2015, submitted by the Council.
18. Email from Somerset County Council to Mendip District Council regarding Nunney First School places, dated 22 January 2015, submitted by the Council.
19. Nunney Parish Council Housing Needs Survey Report – July 2009, submitted by the Council.
20. Emails from Mendip District Council Planning Officers regarding contested sites, submitted by the Council.
21. Closing Submissions on behalf of the Council.
22. Closing Submissions on behalf of the Appellant.

DOCUMENTS SUBMITTED FOLLOWING THE CLOSE OF THE INQUIRY

23. Email from Somerset County Council to Mendip District Council, dated 26 January 2015, regarding the S106 bus service contribution.
24. Email from the Appellant to the Planning Inspectorate, dated 4 February 2015, in response to a request for comments on a High Court challenge to the adopted Mendip Local Plan Part 1.
25. Email from the Council to the Planning Inspectorate, dated 4 February 2015, in response to a request for comments on a High Court challenge to the adopted Mendip Local Plan Part 1.

Richborough Estates