
Appeal Decision

Inquiry held on 27-30 January 2015

Site visit made on 30 January 2015

by G D Jones BSc(Hons) DMS DipTP MRTPI

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

Decision date: 18 March 2015

Appeal Ref: APP/D0121/A/14/2223975

Land at Scot Elm Drive, Wick, Weston-super-Mare, Somerset

- 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 Summerfield Developments (SW) Ltd against the decision of North Somerset Council.
 - The application Ref 13/P/2409/O, dated 22 November 2013, was refused by notice dated 27 June 2014.
 - The development proposed is residential development and associated works with appearance, landscaping, layout and scale all reserved for subsequent approval.
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Decision

1. The appeal is allowed and outline planning permission is granted for residential development and associated works with appearance, landscaping, layout and scale all reserved for subsequent approval at Land at Scot Elm Drive, Wick, Weston-super-Mare, Somerset in accordance with the terms of the application, Ref 13/P/2409/O, dated 22 November 2013, subject to the conditions contained within the Schedule at the end of this decision.

Preliminary Matters

2. I have used the description of the proposed development as identified in the Statement of Common Ground (SoCG) as it is agreed between the main parties, closely aligns with those used on the appeal form and the decision notice and provides a comprehensive expression of the proposals.
3. The planning application form refers to Mr Mead as the appellant. Nonetheless, it is clear from the wider evidence that he is an employee of the company and that Summerfield Developments (SW) Ltd is the appellant.
4. The proposal is for outline planning permission with approval sought at this stage for access only, with layout, appearance, landscaping and scale reserved for future approval. The details submitted with the application include an Illustrative Masterplan and a Design and Access Statement which make reference to layout and scale and show how the site might be developed for 72 dwellings. Whilst not formally part of the scheme, I have nevertheless treated the details as a useful guide as to how the site could be developed.

Main Issues

5. The main issues are:

- The effect that the proposed development would have on the supply of employment land locally and on the Council's employment-led strategy; and
- If there would be a detrimental effect on the supply of employment land and on the Council's employment-led strategy, whether there are any other matters, including the absence of a five year housing land supply in the area, sufficient to outweigh any harm.

Reasons

Policy Context

6. The National Planning Policy Framework (the Framework) outlines a presumption in favour of sustainable development, which it indicates has three dimensions – economic, social and environmental. Plans and decisions need to take local circumstances into account, so that they respond to the different opportunities for achieving sustainable development in different areas. Planning policies should aim for a balance of land uses within their area so that people can be encouraged to minimise journey lengths for employment, shopping, leisure, education and other activities. The Framework also states that due weight should be given to relevant development plan policies that pre-date the Framework according to their consistency with it.
7. Although it is a weighty material consideration, the Framework does not change the statutory status of the development plan. The development plan for this area includes the North Somerset Replacement Local Plan, adopted in March 2007, (the Local Plan) and the North Somerset Core Strategy, adopted April 2012, (the Core Strategy). The period for which the Local Plan sought to meet the district's development needs ended in 2011, while the Core Strategy sets out the broad long-term vision, objectives and strategic planning policies for North Somerset up to 2026.
8. Following a legal challenge¹, Core Strategy Policy CS13, concerning the scale of new housing, was found to be unlawful. The Judgment required CS13 and eight other Core Strategy policies to be remitted for re-examination. The re-examination is in progress and the appointed Inspector wrote to the Council on 22 April 2014. In this letter he concluded that Policy CS13 as submitted was not sound or compliant with national guidance. I was advised at the inquiry that, at the time, the Council was consulting on proposed Main Modifications to the Policy.
9. The Council's reasons for refusal indicate that the appeal development would be contrary to Policy E/5 of the Local Plan and Policy CS20 of the Core Strategy. These are the most pertinent development plan policies to the appeal proposals. The Employment-led Delivery at Weston-super-Mare Supplementary Planning Document, November 2014, provides additional guidance on the application of Core Strategy Policy CS20. The SPD emphasises the importance of the Junction 21 Enterprise Area (J21EA) as a priority location to which employment growth should be directed.

¹ University of Bristol v. North Somerset Council High Court Judgement Case No. CO/5259/2012

10. The North Somerset Sites and Policies Development Plan Document Consultation Draft (the draft Sites and Policies DPD) was published in February 2013. With reference to Core Strategy Policy CS20, Policy DM50 and Schedule 2 of the draft DPD seek to allocate and safeguard sites for employment development. The appeal site is among the identified sites. Although it has been the subject of public consultation the draft DPD has made limited progress since its publication and it is also the subject of outstanding objections. Consequently, it may be subject to further amendment such that, with reference to paragraph 216 of the Framework, I am able to attribute only limited weight to the draft Sites and Policies DPD.

Site Context and Background

11. The appeal site, which is some 2.17 hectares in area, is located to the south west of Junction 21 of the M5 motorway and is in the West Wick area of Weston-super-Mare. There are a range of uses in the surrounding area including a strategic water attenuation lake and a Lidl distribution warehouse which are located beyond Scot Elm Drive to the east and north respectively, a caravan park adjoins the site to the west, beyond which there is a residential development to the south and west, which includes a primary school.
12. The site is located close to the B3440, the A370 and Junction 21 such that it has good connections with the local and strategic highway networks. The area is served by bus routes C1-C4, which link to the town centre, Worle railway station, Clevedon and north Bristol. Worle station is located a little to the north of the A370 and is on the Exeter-Bristol main line, with connections at Bristol for London. There is also a wide range of shops, services and facilities to the north of the A370 in the vicinity of the station including three supermarkets, restaurants/pubs and a secondary school.
13. The evidence indicates that there is an extant planning permission at the site for an office scheme comprising eight individual buildings, totalling 8,440m² of net usable accommodation ranging in size from 616m² up to 2,379m². This permission followed another planning permission for office related development granted in 2001. To the south-east of the site on the opposite side of Scot Elm Drive there is another site, known as South Gate, which has been identified for development and jointly marketed with the appeal site for employment purposes. Both sites fall within the J21EA, which is one of five sub-regional Enterprise Areas designated by the West of England Local Enterprise Partnership.
14. The J21EA is located at the south-east of Weston-super-Mare close to Junction 21 of the M5. The employment areas of the J21EA total around 72 hectares and the West of England Strategic Framework describes it as having the potential to deliver 2,000 jobs by 2017 and highlights its close proximity to the M5, mainline railway, Bristol Airport and Portbury Dock and to a highly skilled workforce. There are other initiatives that support economic growth in the Enterprise Areas including the City Deal, which allows 100% of business rate growth from these Areas to be retained at the West of England level, and the J21EA Local Development Order, which enhances permitted development rights in the area.
15. The appeal site and South Gate have a number of common characteristics and they have been jointly marketed. Nonetheless, they are physically distinct, separated by Scot Elm Drive, and in different ownership. Due to the location of

the two sites relative to the M5, the development of the appeal site would not affect the visibility of South Gate from the motorway and neither site is readily visible from A370. Development at the appeal site would affect South Gate's visibility to the north from Scot Elm Drive. However, as this road does not form part of the strategic highway network, this would be unlikely to have any significant affect on South Gate's profile and attractiveness as an employment development site. Nor would it be left isolated given its substantial direct frontage to the M5 and the existing employment development to the north including the Lidl warehouse. Overall, I am not persuaded that residential development of the appeal site would have a significant influence on South Gate's potential development for employment purposes including for class B1 offices. Therefore, the proposed development of the appeal site would not harm the continuation of other sites for employment use/development.

Employment Land Supply and Strategy

16. The overall approach of the Core Strategy is 'employment-led' and largely directed at addressing a long-perceived problem of out-commuting, particularly to Bristol, and lack of 'self containment' which arises from an imbalance between jobs and housing, particularly in Weston-super-Mare. This manifests itself in Core Strategy provisions, including Policy CS20, which seek to significantly boost employment and to prevent the over-delivery of housing. Self containment has been a long standing objective of the development plan. As part of the associated strategy the appeal site has been identified, along with other sites, for employment development since before the current Local Plan.
17. Policy CS20 identifies the employment land requirement for the plan period and sets out the Council's strategy for its delivery. It seeks to provide at least 10,100 additional employment opportunities, including around 114 hectares of land for B1, B2 and B8 uses, and to address what is stated as the existing imbalance at Weston-super-Mare.
18. Among other things, Policy CS20 states that the focus of employment development will be at Weston-super-Mare primarily through town centre and gateway regeneration and the new development at Weston Villages, where new residential development will be provided in step with employment opportunities and with an emphasis on new B1 (a) office employment. The appeal site is not located within the town centre, gateway or Weston Villages areas.
19. There are two further paragraphs under the Weston-super-Mare sub-heading of Policy CS20, which in summary state that:
 - Throughout Weston-super-Mare proposals should provide for 1.5 jobs per home over the plan period both at Weston Villages and elsewhere on sites of 10 or more dwellings; and
 - Outside of the Weston Villages and allocated sites, if on-site provision is not suitable, financial contributions will be sought towards economic development through the use of planning obligations.
20. While Policy CS20 clearly envisages that further employment sites may need to be allocated, it sets out a general provision to protect the existing stock of employment land. The Policy's headline figure of 114 hectares of land for B class uses is to a large extent based on remaining allocations in the Local Plan.

21. The period for which the Local Plan sought to meet the area's development needs ended in 2011. Nonetheless, those policies of the Local Plan that are saved, including Policy E/5, continue to form part of the development plan and the remaining allocations in the Local Plan, which include the appeal site, are envisaged to be rolled forward subject to a review process. For these reasons the development plan is not silent in this regard.
22. I recognise, bearing in mind that it is identified for employment use only, that the Core Strategy is unlikely to have envisaged its potential development for residential purposes. Nonetheless, the site is in Weston-super-Mare, but not part of the Weston Villages area, and, if planning permission were to be granted, it is reasonable to assume that its development would yield more than 10 dwellings. Consequently, the 1.5 jobs per home requirement does apply in this case. Such provision is also required at Weston Villages and at allocated housing sites; however, in these locations the Policy does not require financial contributions towards economic development. As the proposed development would not secure 1.5 jobs per home it would conflict with Policy CS20; it would result in the loss of the land to a non-employment use and there would be no direct provision of long term jobs to balance the proposed homes.
23. Policy E/5 states that within existing B1-B8 business employment areas, as well as land identified on the Proposals Map for business employment development, proposals for unrelated non B1-B8 development will be permitted subject to compliance with any one of three listed criteria. The appeal site forms part of a larger area identified by the Policy for employment development. The first of the three criteria of the Policy is that the proposal would not harm the range or quality of land and premises available for business use development within existing employment areas or expressly identified in the Local Plan to meet economic development or local business employment needs and the number of job opportunities provided.
24. The site's quality is augmented by its proximity to the strategic road network in terms of connectivity and visibility. Other benefits include its proximity to Worle station and facilities in the area, as well as its deliverability. It also has the potential to deliver office development that would provide high-density employment in line with the Council's strategy.
25. Nonetheless, the evidence indicates that there is a very considerable amount of potential employment land available not only in North Somerset and Weston-super-Mare, some 191 and 151 hectares respectively, but in the vicinity of the appeal site. For instance, around the time of the Inquiry the Council was advertising 72 hectares of available employment land within the J21EA alone.
26. The evidence indicates that there are numerous other sites in Weston-super-Mare that are available for employment development. These include Weston Business Quarter, South Gate, Dowlas Weston Gateway Business Park, Parkland Village and Locking Parklands all within the J21EA; and the Weston Links site at Herluin Way and the site adjacent to Sunnyside Road North and Station Approach. Through the application of the criteria of accessibility, deliverability and visibility/profile the appellant's commercial property witness, Mr Price, concluded that these five sites within the J21EA are prime sites, as are two other sites elsewhere in Weston-super-Mare². Based on the

² Mr Price evidence in chief and cross-examination

information before me and having visited area I have found no good reason to disagree that these are high quality, prime sites. In total these sites amount to some 36.6 hectares.

27. Although Mr Price for the appellant does not accept that the appeal site is 'prime' employment land³, it undoubtedly has numerous factors in its favour including, in his terms, accessibility and deliverability. However, it is not visible from the A370 to the north due to the topography and intervening planting and extensive, large scale development. While it is visible from the M5 to the east, views are fleeting due to a combination of travel speeds along the motorway, its separation from the carriageway, the topography and the screening effect of intervening planting and structures. I note the Council's submissions that the site's visibility from the motorway could be improved 'by asking others' to deal with things such as vegetation and bunding. However, there is no substantive evidence to suggest that such works could be secured or that they would necessarily enhance the site's visibility.
28. Views from the motorway would be likely to be all but obscured with development of the South Gate site. I consider that the site's current and longer term visibility diminish its quality as a business employment development site. For this reason, although the two sites have been jointly marketed, are located close to each other and share a number of characteristics, the appeal site is of a lesser quality than that of the South Gate site.
29. The evidence indicates that only 50 hectares of land within the J21EA is suitable for office use, of which 26 hectares falls within the appellant's definition of 'prime', and of which only the 4 hectares at the South Gate site has direct and visible access to the M5. A net loss of development plan allocated employment land would commensurately affect range and quality in the terms of Local Plan Policy E/5.
30. While the development would affect range and quality, the question is whether this would be harmful. Given its limited size and bearing in mind its constrained visibility along with the quality and quantity of other development land available in the area, I do not consider that the site's development for non-employment purposes would harm the range or quality of land and premises available for business development. Consequently, the appeal development would not conflict with Policy E/5 of the Local Plan.
31. The Council's second reason for refusal refers to evidence regarding the marketing of the site for employment purposes. While I have taken all of the evidence into account on this matter, I have had particular regard to that of Mr Price. This is due to his direct involvement in the site's marketing for much of the time since it was acquired by the appellant in 2004. This evidence includes formal measures such as advertising, as well as the appellant's and Mr Price's activity via their networks of contacts in the region as well-established commercial developers and agents respectively. Having done so, I am satisfied that the site has been reasonably marketed for an appropriate variety of potential uses, over a very extensive length of time, which has included an appropriate range of economic circumstances. Notwithstanding this marketing activity the site remains undeveloped.

³ Cross-examination

32. My attention has also been drawn to an appeal decision elsewhere in North Somerset⁴ involving the proposed development of an employment site for residential purposes which the Inspector concluded would conflict with Policy E/5. There are clearly some similarities between that case and the current appeal and I am mindful of the need for consistency in these matters. I note that when concluding on Policy E/5 the Inspector made particular reference to the limited nature of the advertising of the land in question, which for the reasons outlined above this is not the case in respect to the current appeal. Moreover, each proposal falls to be assessed on its own merits and, in any event, I am not aware of all of the circumstances associated with this other case.
33. Furthermore, although not forming part of the reasons for refusal, the evidence refers to the effect that the determination of the current appeal may have on other future planning decisions. I have considered the current appeal on the specific circumstances of the case, including the reasonably small size of the site and its somewhat discrete nature as described at paragraph 15. Any such future decisions at other sites would also be made on the basis that each proposal falls to be assessed on its own merits with reference to their specific circumstances, which are unlikely to directly replicate those of the current appeal. Consequently, I can give these matters only limited weight.
34. The proposals would, nonetheless, conflict with Policy CS20 and affect the Council's overall employment strategy, particularly as it would prevent an identified employment site from yielding any long term jobs and as it would deliver additional dwellings ahead of planned job creation.
35. In respect to the economy, the Framework sets out the Government's commitment to securing economic growth and ensuring that the planning system does everything it can to support sustainable economic growth. It adds that significant weight should be placed on the need to support economic growth through the planning system and, to achieve this, local planning authorities should plan proactively to meet the development needs of business and support an economy fit for the 21st century. Planning policies should seek to address potential barriers to investment, including among other things a lack of housing.
36. The evidence refers to the 'Building a strong, competitive economy' sub-section of the Framework. Paragraph 22 of the Framework states that planning policies should avoid long term protection of sites allocated for employment use where there is no reasonable prospect of a site being use for that purpose and that land allocations should be regularly reviewed. Whether such prospects exist was a point of marked disagreement between the main parties.
37. In order to be 'reasonable', in my view, this assessment must be time-limited otherwise there would always be at least some 'prospect'. I consider that it is reasonable to apply the timeframe of the Core Strategy, to 2026, as this is the period over which the Council has planned for its employment-led strategy.
38. Although the appeal site has been allocated for employment development since 2000, there are considerations that may explain why it has not yet been developed for employment purposes. The evidence also includes examples of recent local investment in office development, such as the Knightstone Housing

⁴ Appeal Ref: APP/D0121/A/11/2164247

'Grade A' office building at Weston Gateway Business Park, and in infrastructure, such as improvements to Junction 21 completed in 2014. It also refers to, among other things, the upturn in the economy, healthy levels of enquiries for office space, potential investment associated with Hinckley Point, enhanced marketing and the reduced availability of development opportunities elsewhere. Consequently, there may be reason to believe that the site, and other undeveloped sites that have been identified for employment development for many years, will now become attractive to the market.

39. On the other hand, past trends indicate a limited office market in Weston-super-Mare, which the evidence suggests has predominantly been for second-hand floorspace. The appellant maintains that there is nothing to indicate that this will change significantly in future. In this regard Mr Price refers to his knowledge of the market both past and present, the current availability of floorspace elsewhere including some 1,240m² within Knightstone House, undeveloped available/deliverable sites such as the appeal site and a scheme known as Enterprise House at the Weston Gateway Business Park, and that the signs are that while investment associated with Hinckley Point is emerging, it is going elsewhere in the region.
40. Past trends should be viewed in the context of the Council's recognition that there has been a limited market for office development in Weston-super-Mare and that part of its employment-led strategy is to create such a market. Nonetheless, it is of, at least some, value to look at what has happened in the past when considering what might happen in the future. I recognise that there are some recent changed circumstances that may give cause for optimism; yet, I have found nothing clear-cut in the evidence that leads me to believe that the site is likely to be developed for employment purposes before 2027. However, there is also no certainty that it will not be. Give the length of time concerned, on balance I do not consider that there can be no reasonable prospect of the site being use for employment purposes over this timeframe.
41. Nonetheless, it should be borne in mind that the appeal site was rolled forward as part of the employment land identified in the Core Strategy and that limited progress has yet been made with the draft Sites and Policies DPD. The Council has carried out periodical reviews of the employment sites in the district. However, there is no evidence to suggest that these have been subject to any form of external scrutiny, nor is there any information to indicate that those involved in the reviews have significant knowledge, experience and qualifications relevant to employment development, such as a chartered surveyor.
42. Consequently, I have found nothing in the evidence that gives me good reason to believe that sites allocated in the development plan for employment purposes have been the subject of thorough scrutiny and reassessment since being examined as part of the Local Plan adoption process, over 7 years ago. I am also mindful that the plan period for the Local Plan ended over 3 years ago. In my view these circumstances diminish the weight that can be attached to the appeal site as land allocated for employment development in the development plan in the light of the advice of the Framework.
43. Although it would accord with Local Plan Policy E/5, the development would conflict with Policy CS20 of the Core Strategy as it would result in the loss of the land to a non-employment use and there would be no direct provision of

long term jobs to balance the proposed homes. I am also mindful that it would be necessary to identify additional land for employment purposes to make up the 114 hectares identified in Policy CS20 in future development plan allocations. Consequently, if the appeal was to be allowed, it would provide a mechanism to allocate other land to make up the 114 hectares identified in CS20 and I have found no good reason to conclude that there would be significant difficulty in doing so. Nonetheless, the proposed development would, overall, have a harmful effect on employment land supply and on the associated employment-led strategy of the development plan. Accordingly, this weighs against the proposal.

Housing Need

44. In respect to housing delivery, the Framework requires the Council to meet the full, objectively assessed needs for market and affordable housing in the housing market area, as far as is consistent with the policies set out in the Framework. Applications for housing should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.
45. Shortly before the Inquiry the Council advised that for the purposes of this appeal it could not demonstrate a Framework compliant supply of housing land. At the Inquiry the main parties produced a document⁵ that sets out their agreed position in respect to housing supply, which supplements the SoCG. Notwithstanding the common ground that was found between the parties in respect to housing land supply, they were unable to agree the extent of the shortfall. The Council's recalculated figures using the Sedgefield method indicate a supply of only 4.4 years of housing land, whereas the appellant's evidence indicates that the supply could be as low as 1.4 years.
46. The Council acknowledges that the supply of housing land falls in the range between these figures. I have found no reason to disagree. No matter which figure is preferred it is clear that the shortfall, measuring at least 783 dwellings, agreed between the parties and, accordingly, warranting no further examination by me is significant and contrary to the Framework's requirements. Consequently, the development of the site for housing would provide a much needed contribution to meeting a serious shortage of housing in the district and would assist in bringing supply closer to what is required by the Framework. I find this to be a substantial benefit of the scheme.
47. Based on the submitted Illustrative Masterplan, the development would provide 22 affordable homes. These proposals accord with the Policy CS16 of the Core Strategy which identifies a benchmark of 30% affordable housing as what will be sought as a starting point for development of the scale and kind proposed.
48. The annual total housing requirement of households in need for the district identified in the West of England Strategic Housing Market Assessment June 2009 (the SHMA) is 904 dwellings. During cross-examination the appellant's witness conceded that this figure is now out of date and that it is a 'policy on' figure, as it ignores the contribution of the private rented sector, and she also advised that she does not know what the current objectively assessed need for

⁵ Document 12

affordable housing (AHOAN) is⁶. In contrast Policy CS16 identifies a target for the provision of affordable housing of at least 150 dwellings per year. However, it is not clear from the evidence how this figure was derived and, like the appellant, the Council has not submitted an updated AHOAN as part of its evidence.

49. The Council's Housing Needs Position Statement for the initial Core Strategy in 2011 stated that it 'accepts that the SHMA indicates a substantial level of housing need for North Somerset over the plan period which is considerably in excess of what could realistically be delivered', that the 'SHMA indicates that the annual net need within North Somerset is 904 dwellings pa', and that 'the practical implication of this is that affordable housing opportunities should be maximised'. The Core Strategy also states that there are serious housing affordability issues with affordable housing completions falling well below the required amount. Although they were made in the context of the AHOAN identified in the SHMA, these statements serve to underline that the target of 150 affordable homes per year is a minimum target.
50. Based on the information before me, it is also reasonable to conclude that the current AHOAN is likely to be greater than 150 dwelling per year. For instance, the appellant's uncontested evidence identifies that the housing register for the area currently stands at 3,543 households and, as summarised below, there has not been a significantly high level of delivery of affordable homes in the district since 2006. The Inspector conducting the examination of the remitted Core Strategy has also identified that there is a substantial need for affordable housing in North Somerset.
51. The Council's evidence states that 221 affordable houses were delivered during 2012/13, including 89 additional dwellings acquired by Housing Association Registered Providers. The appellant's evidence looks at a much longer period from 2006/07 to 2013/14 during which it identifies that 1,092 affordable homes were delivered, averaging at 137 per year. If the Council's figure of 221 was used instead of the appellant's figure of 138 for 2012/13 the overall total rises to 1,165. There would, nonetheless, remain a shortfall against the Council's minimum target of 1,200 dwellings over the eight year period.
52. Therefore, although the proposed development would only deliver in the region of 22 affordable homes and 50 market homes, it would make a valuable contribution to identified housing need. For the reasons outlined, I find that the need for both market and affordable housing carries substantial weight in favour of the proposal.

Planning Balance and Sustainable Development

53. In undertaking the planning balance I have considered the identified conflict with Policy CS20 of the Core Strategy and made an assessment of whether the proposals would amount to sustainable development in the terms of the Framework. In doing so I have had regard to, among other things, the absence of a demonstrable five-year housing land supply and the contents of the Framework as a whole.
54. As the appeal site is an allocated employment site in the development plan the proposal conflicts with Core Strategy Policy CS20; it would result in the loss of

⁶ Mrs Boyd cross-examination

the land to a non-employment use and there would be no direct provision of long term jobs to balance the proposed homes. Notwithstanding that the Core Strategy was adopted after the publication of the Framework, the weight carried by this policy conflict is somewhat diminished for the reasons outlined above, as summarised at paragraph 42.

55. In terms of the social dimension of sustainable development, there is good reason to believe that the proposed development is deliverable. It would increase the supply and choice of housing, including affordable homes, in an area where there is not a Framework compliant supply of housing land. Notwithstanding that it is identified for employment purposes in the development plan, the Council's evidence indicates that the site is a sustainable and suitable location for housing. Given its proximity to local services, including shops and schools, and employment opportunities along with its accessibility, including via public transport, I agree.
56. Regarding the environmental dimension, through the careful consideration of the reserved matters, a high quality built environment within the site could be achieved, including public open space that would be secured via the final S106 Agreement. All of these matters together carry very considerable weight in favour of the proposals.
57. In terms of the economic dimension of sustainable development, the development would contribute towards economic growth in terms of employment and local spending on suppliers and services during the construction phase. Local spending would also be likely to increase once the development is occupied. I recognise that similar economic activity would be associated with employment development at the site, albeit that, for the reasons outlined above, there is no certainty that it would be developed for these purposes if the appeal were to be dismissed. Nonetheless, as outlined above, the appeal development would have a harmful effect on employment land supply and on the associated employment-led strategy of the development plan.
58. The evidence also indicates other matters that weigh against the proposals including joblessness, low skills, low wages and multiple deprivation in Weston-super-Mare. The development may also contribute to continuation of long-distance commuting, green house gas emissions and congestion contrary to paragraphs 30 and 37 of the Framework. While these matters do weigh against the proposals, their weight is restricted given the limited scale of the site and the quality and quantity of other land available for employment development.
59. The Council also suggests that the investment in improvements to Junction 21 of the M5 would be wasted and that this would conflict with paragraph 31 of the Framework. The evidence indicates that these improvements were, at least in part, intended to promote planned employment development in the area, including at the appeal site. Nonetheless, as the benefits of the investment are not limited to the appeal site, which itself only amounts to some 2.17 hectares, and are also likely to benefit any form of development at the site, this matter carries only limited weight.
60. Although the development would cause some harm including to the supply of employment land and to the Council's adopted employment-led strategy, I find that this harm is outweighed by the matters outlined above such that overall

the appeal proposal would represent sustainable development in the terms of the Framework.

Other Matters

61. Before the Inquiry the appellants and the Council submitted a signed Agreement (the Original S106 Agreement), dated 16 January 2015, made under Section 106 of the Town and Country Planning Act 1990 (the Act). There were, nonetheless, further discussions between the main parties regarding the education contribution. These discussions led to the submission of a Deed of Variation, made under Section 106A of the Act, which varies the Original S106 Agreement in respect to the amount of the education contribution. For ease of reference I describe the Original S106 Agreement as varied, as 'the final S106 Agreement'. Notwithstanding reservations expressed prior to the Inquiry, the appellant also confirmed before the close of the event that these matters are resolved by the final S106 Agreement.
62. The Council has submitted a detailed statement⁷ (the S106 Statement), which addresses the application of statutory requirements to the planning obligations within the final S106 Agreement. It supports the need for the provision of on-site affordable housing at a rate of 30% and numerous financial contributions. The contributions would be towards education and youth services; highway works, including pedestrian crossing facilities and pedestrian/cyclist safety improvements; library services; off-site sports facilities, including playing pitches; community facilities; and supporting employment and training, including the Council's Ready4Work scheme. I have considered these in light of Regulation 122 of The Community Infrastructure Levy (CIL) Regulations 2010 (as amended) and government policy and guidance on the use of planning obligations.
63. Since the production of the S106 Statement the main parties have jointly changed their position regarding the amount of the education contribution; this is reflected in the final S106 Agreement. Having balanced the evidence submitted by the appellant on this matter with the relevant contents of the S106 Statement, I consider that the reduction in the education contribution identified in the final S106 Agreement is justified. The final S106 Agreement would also secure the provision, maintenance and transfer of on-site open space and play equipment. Although not directly addressed in the S106 Statement, from the information before me, I consider that the provisions of this obligation would fairly and reasonably respond to the needs of future occupiers of the appeal development in scale and kind.
64. All of the obligations contained in final S106 Agreement are in line with the local policies referred to in the S106 Statement, notably Core Strategy Policies CS34 and CS16 concerning infrastructure delivery and development contributions, and affordable housing respectively. I am satisfied that these obligations are directly related to the proposed development, fairly and reasonably related to it and necessary to make it acceptable in planning terms.

My attention has also been drawn to other proposals and development, including other appeal decisions. However, as set out above, each scheme falls to be assessed on its own merits and, in any event, I am unaware of the full circumstances associated with any such other case.

⁷ Document 19

Conditions and Conclusion

65. The Council and the appellant jointly submitted a schedule of suggested conditions⁸. At the Inquiry this was jointly amended by the main parties through the deletion of suggested conditions 6, 10-14, 16 and 22. I have considered the remaining conditions in the light of government guidance on the use of conditions in planning permissions and made amendments accordingly.
66. For the avoidance of doubt and in the interests of proper planning, a condition requiring that the development is carried out in accordance with the approved plans would be necessary bearing in mind that access is not a reserved matter. To mitigate flooding and ensure that the site is adequately drained, conditions to control the finished floor levels of the development and to secure the implementation of schemes for surface and foul water drainage would be necessary. A condition to ensure that any requisite ecological mitigation is carried out would also be necessary in the interests of biodiversity.
67. A condition would be necessary to ensure that features of archaeological interest are properly examined/recorded. The provision of a composter and a water storage butt for each dwelling would also be necessary to encourage recycling and sustainable water use. A condition to secure the implementation of a Construction Method Statement would also be necessary in the interests of highway safety and to protect the living conditions of local residents during the construction period.
68. In addition to those suggested, a condition to secure appropriate noise attenuation would also be necessary to mitigate identified traffic noise in the interests of the living conditions of the occupiers of the development.
69. A condition to ensure that the sight lines at the proposed access points would be provided and retained unobstructed has been suggested. However, as these sight lines are within the highway, well beyond the site boundary, such a condition would be unreasonable and unnecessary. A condition to control the remediation of any unsuspected contamination that may affect the site has also been suggested. However, I have found nothing in the evidence to suggest that the site may be affected in this manner. Consequently, such a condition would not be reasonable or necessary.
70. A condition requiring the approval and implementation of a detailed site development project plan setting out key milestones in the development has also been suggested. Much of the matters that might be covered by a condition of this type, such as the provision of the public open space, play equipment and flood mitigation measures would be controlled by other suggested conditions and by the final S106 Agreement. An exception identified by the Council is the timing of the delivery of on-site highway works. However, with the exception of the proposed two access points from Scot Elm Drive, highway works would form part of the matters reserved for future consideration. On this basis such a condition would be unnecessary.

⁸ Document 15

71. In summary, notwithstanding the policy conflict and its effect on the supply of employment land and on the Council's adopted employment-led strategy, given the absence of a five-year housing land supply, the availability of other employment development land and the status of the current employment land allocations of the development plan, I find that the appeal proposals would be sustainable development. I conclude, therefore, that the appeal should be allowed subject to the identified conditions and planning obligations.

G D Jones

INSPECTOR

Richborough Estates

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Timothy Leader, of Counsel	Instructed by the Solicitor to North Somerset Council
He called	
David Robins	North Somerset Council
Peter Barrett	Lambert Smith Hampton

FOR THE APPELLANT:

Christopher Young, of Counsel	Instructed by Simon Collier, WYG
He called	
Simon Price	Alder King LLP
Elizabeth Boyd	Tetlow King Planning
Simon Collier	WYG

DOCUMENTS submitted at the Inquiry

- 1 Peter Barrett - summary proof of evidence
- 2 David Robins - summary proof of evidence
- 3 Opening statement on behalf of the Local Planning Authority
- 4 Appeal Decision Ref APP/D0121/A/11/2164247
- 5 Extracts from the North Somerset Replacement Local Plan 2007, pages 23, 27 and 119 to 123
- 6 Appeal Decision Ref APP/J3720/A/14/2217115
- 7 Photographs and viewpoint plans
- 8 Angus Meek Architects photographs, key plan and images
- 9 Photographs from the A370
- 10 Letter from Cream residential care, dated 21 January 2015
- 11 Extract from Tapping the Potential, July 1999
- 12 Agreed position statement between the main parties in relation to housing supply, dated 27 January 2015
- 13 Opening statement on behalf of the appellant
- 14 Copy of Land Registry Register of Title No ST204988 and Plan
- 15 List of suggested conditions prepared jointly by the main parties
- 16 Eastleigh Borough Local Plan 2011-2029 Examination - ID/4: Inspector's Preliminary Conclusions on Housing Needs and Supply and Economic Growth (Post Hearing Note 2)
- 17 Report on the Examination into Mendip District Local Plan Part I: Strategy and Policies
- 18 Report on the Examination into Bath and North East Somerset Council's Core Strategy
- 19 Planning Obligations Justification Statement
- 20 Draft Unilateral Undertaking
- 21 Draft Deed of Variation
- 22 North Wiltshire District Council v Secretary of State for the Environment [1992] 3 PLR 133
- 23 South Northamptonshire Council v Secretary of State for Communities and Local Government & Barwood Land and Estates Limited [2014] EWHC 573 (Admin) CO/12394/2013

- 24 Bloor Homes East Midlands Limited v Secretary of State for Communities and Local Government & Hinckley and Bosworth Borough Council [2014] EWHC 754 (Admin) CO/2334/2013
- 25 Dartford Borough Council v Secretary of State for Communities and Local Government & Landhold Capital Limited [2014] EWHC 2636 (Admin) CO/2082/2014
- 26 Gallagher Homes Limited, Lioncourt Homes Limited v Solihull Metropolitan Borough Council [2014] EWHC 1283 (Admin) & [2014] EWCA Civ 1610
- 27 Revised Statement of Common Ground, dated 26 January 2015

Richborough Estates

SCHEDULE OF CONDITIONS FOR APPEAL REF APP/D0121/A/14/2223975:

- 1) Details of the layout, appearance, landscaping 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 development hereby permitted shall be carried out in accordance with the following approved plans insofar as they relate to access: Drawing No 1762 P01; Drawing No 1002-GA-101 A.
- 5) Finished floor levels of the dwellings hereby permitted shall be set at a minimum of 5.85 metres AOD.
- 6) Details of a site-wide surface water drainage strategy and an assessment of the hydrological and hydrogeological context of the development shall be submitted to and approved in writing by the Local Planning Authority and shall include:
 - (i) Sustainable drainage principles;
 - (ii) Details of phasing of surface water drainage infrastructure and works, including source control measures;
 - (iii) A timetable for implementation; and
 - (iv) Full operation and surface water maintenance strategy including the ownership, operational and maintenance arrangements for the works over the lifetime of the scheme.The approved details shall be fully implemented in accordance with the approved timetable.
- 7) Details of a site-wide foul water disposal strategy, including a timetable for implementation, shall be submitted to and approved in writing by the Local Planning Authority. The approved strategy shall be fully implemented in accordance with the approved timetable.
- 8) The development hereby permitted shall not be commenced until details of a strategy to protect wildlife, including a timetable for implementation of any mitigation measures or works, has been submitted to and approved in writing by the Local Planning Authority. Any mitigation measures or works identified in the approved strategy shall be fully implemented in accordance with the approved timetable.
- 9) The Local Planning Authority shall be notified in writing not less than seven days before the initial excavations associated with the development hereby permitted are due to commence and access shall be afforded to any archaeologist nominated by the Local Planning Authority to allow them to observe the initial excavations and record items of interest and finds.
- 10) Each dwelling hereby permitted shall be provided with a water storage butt and a composter prior to occupation unless details of proposed exceptions have first been supplied to and approved in writing by the Local Planning Authority.

- 11) 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 and 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;
 - (vii) A scheme for recycling/disposing of waste resulting from construction works; and
 - (viii) Measures to control noise from works on the site.
- 12) No development shall take place until a noise attenuation scheme to protect occupants of the development hereby permitted from traffic noise has been submitted to and approved in writing by the Local Planning Authority. The approved attenuation measures shall be fully implemented in accordance with the recommendations of the approved scheme and these shall be retained thereafter.

Richborough Estates