



---

## Appeal Decision

Inquiry held on 27-31 January, 3-6 February and 25-27 February 2015.  
Site visits made on 4 and 26 February 2015.

**by Geoffrey Hill BSc DipTP MRTPI**

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

**Decision date: 20 May 2015**

---

### **Appeal Ref: APP/F0114/A/14/2215930**

### **Land at Boxbury Hill, Midsomer Norton, BS39 7SL<sup>1</sup>**

- 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 Mr J Down, Mrs M Mowlam, Mrs White & Edward Ware Homes Ltd., against the decision of Bath & North East Somerset Council.
  - The application Ref 13/048880/OUT, dated 8 November 2013, was refused by notice dated 18 February 2014.
  - The development proposed is described as "outline planning application for a residential development of up to 124 dwellings and associated infrastructure".
- 

### **Decision**

1. The appeal is dismissed.

### **Applications for Costs**

2. At the inquiry an application for costs was made by the Appellants against Bath and North East Somerset Council, and an application was made by Bath and North East Somerset Council against the Appellants. These applications are the subject of separate Decisions.

### **Preliminary Matter**

3. The appeal is in respect of an application for outline planning permission with all matters except access reserved for subsequent consideration.

### **Main Issues**

4. There are four main issues in this appeal.
  1. Whether there is a 5-year housing land supply available in the Housing Market Area, and how that may bear upon the relevance of development plan policies affecting the directions for growth and the release of housing sites.
  2. The effect of the proposed development on the separate settings of Paulton and Midsomer Norton.

---

<sup>1</sup> Address given as Midsomer Norton on the planning application form.

3. The effect of the proposed development on the character and appearance of the area.
4. The effect of the proposed development on the setting of the non-designated heritage asset, the Old Colliery Batch.

## **Reasons**

### ***5-year Housing Land Supply***

5. Policy DW1 of the recently adopted Bath and North East Somerset Core Strategy (CS) sets the need for 13,000 homes over the plan period (2011-2019). Because of previous under-delivery of housing in the housing market area, the CS accepts that, for the first five years of the plan's period, housing land supply requirements have to be increased by 20% in order to comply with paragraph 47 of National Planning Policy Framework (NPPF) which looks for a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land.
6. For reasons explained in the supporting justification for Policy DW1, the distribution of housing sites across the district is divided between five Policy Areas. The justification for this is that Bath is seen to be the primary focus for new development, that a balance should be achieved in the Somer Valley Policy Area between jobs and houses so as to minimise the need for out-commuting from communities in the valley, and to permit sufficient housing in the Rural Areas so as to meet local needs in the main settlements. That is, for reasons of supporting a sustainable pattern of development, the CS is based upon a strong rationale for directing growth at appropriate levels or proportions into the various Policy Areas.
7. At the inquiry the Council put forward the latest iteration of its Strategic Housing Land Availability Assessment (SHLAA) to support the contention that there is a supply of housing land which meets the expectations of the CS. The Appellants brought forward evidence to challenge the robustness of the SHLAA, and sought to argue that, because some sites may not be available, or that the delivery of some sites may only come forward at a slower pace than that envisaged in the SHLAA, the Council cannot demonstrate that there is a full 5-year supply in accordance with the expectations of the CS.
8. I note that the appeal was lodged before the CS was adopted, at a time when the land supply position may have been uncertain. However, in June 2014 the Inspector conducting the Examination into the CS found that, on the evidence available to him, the Council did have a land supply which would meet the expectations of the CS and that the plan could be found sound. The CS was subsequently adopted 10 July 2014. However, even before the plan had been formally adopted, The Planning Inspectorate had agreed to co-join this appeal with two others, on the basis that they all included a challenge as to whether there was a 5-year supply of housing land.
9. It was argued at the inquiry that persisting with the appeal was unreasonable; that an Inspector had heard evidence at the Examination and had concluded that there was a 5-year land supply. In which case there was no substance to this aspect of the Appellants' arguments. On the face of it, I appreciate that it must have been enormously frustrating for the Council, having only just received an endorsement from a Planning Inspector that it had a 5-year land

supply, to immediately be placed in a position to have to defend that in detail at a Section 78 planning appeal inquiry. However, the Appellants are entitled to make a planning application and to take the case to appeal if they consider the refusal of planning permission to be unwarranted.

10. Paragraph 47 of NPPF implies that the supply situation may only have to be reviewed on an annual basis. Since the close of the inquiry Planning Practice Guidance (PPG) has been revised to add weight to that view<sup>2</sup>. However, neither NPPF nor the PPG suggests that the supply figures cannot be challenged or reviewed at any time. Indeed, paragraph 3-030-20140306 of PPG advises that it is necessary to have an identified 5-year housing land supply at all points during the plan period. Whilst I would not attempt to challenge the credibility of what was discussed at the CS Examination, it is not unreasonable for the Appellants to seek to ensure that the information is up to date and that the expectations of the NPPF and PPG can be met.
11. At the inquiry the Council effectively acknowledged weaknesses in the land supply position presented at the local plan Examination by presenting a new version of the SHLAA. Furthermore, the Council accepted that not all of the sites it has listed in the latest version of the SHLAA would come forward as shown. Some sites may not come forward at all because of difficulties in achieving access, other sites have changed ownership, and the delivery of some sites may be slower than expected on account of the time taken to get full planning permission, or because of delays incurred in transferring ownership to active housing developers.
12. I do not propose to go through in detail the trajectory assumed by the Council for all of the sites queried by the Appellants at the inquiry. For the purposes of this appeal I consider it is sufficient only to note that the Council conceded that the numbers of sites which might come forward should be reduced by 538, bringing the supply figure down from 5,945 to 5,407. I acknowledge that the figure may also be further reduced if some, or all, of the potential problems identified by the Appellants on other sites across the District were to materialise. Indeed, the Appellants put forward the view that the overall supply may be as low as 4,589, compared the Council's original contention that the supply figure is as high as 5,945.
13. However, those figures are for housing land supply across the District as a whole. At the inquiry it was agreed by the witnesses for the Council and for the Appellants that, for the reasons discussed at paragraph 6 above, it is reasonable to consider the distribution of those figures against the apportionment between the Policy Areas set out in Policy DW1. Of the 13,000 houses required over the plan period, Policy DW1 apportions 7,020 to Bath (54%), 2,150 to Keynsham (16.5%), 2,471 to Somer Valley (19%), 1,120 to Rural Areas (8.5%) and 200 to the Whitchurch fringe of Bristol (1.5%).

---

<sup>2</sup> Planning Practice Guidance ID 3-033-20150317

14. Translating these into annualised figures over 18 years gives:

**TABLE 1 – Basic annual housing need by Policy Area**

<b>Policy Area</b>	<b>Core Strategy Total</b>	<b>Annual need</b>	<b>% of 13,000 CS total</b>
Bath	7,020	390	54.0%
Keynsham	2,150	120	16.5%
Somer Valley	2,471	137	19.0%
Rural Areas	1,120	62	8.5%
Whitchurch	200	11	1.5%
<b>TOTALS</b>	<b>12,961</b>	<b>722</b>	

15. This annual need figure then has to be multiplied up to give a 5-year need figure, and to which has to be added a proportion of the agreed back-log (608) to give an adjusted 5-year need, which itself has to be increased by 20% to provide the buffer looked for by paragraph 47 of NPPF and acknowledged in the CS. This results in the supply figure which is shown in Table 2 below:

**TABLE 2 – Housing supply by Policy Area**

<b>Policy Area</b>	<b>Annual need</b>	<b>x 5 yrs</b>	<b>+ % of backlog*</b>	<b>Basic 5 year need</b>	<b>+20%</b>	<b>Supply figure</b>
Bath	390	1,950	329	2,279	456	2,734
Keynsham	120	600	101	701	140	841
Somer Valley	137	685	115	800	160	960
Rural Areas	62	310	53	363	72	436
Whitchurch	11	55	10	65	13	78
<b>TOTALS</b>	<b>722</b>	<b>3,600</b>	<b>608</b>	<b>4208</b>	<b>841</b>	<b>5,022</b>

\* % taken from distribution of growth between Policy Areas given at Table 1 above.

16. Taking the supply figure and setting this against the Council's SHLAA figure for each Policy Area, as given in Table 15 of Mr Harbottle's evidence, and adjusted to take account of the concessions made at the inquiry (as set out in Inquiry Document EWH 12) gives the distribution set out below:

**TABLE 3 – 5-year housing supply in Policy Areas as accepted by BANES**

<b>Policy Area</b>	<b>Supply figure</b>	<b>Annual supply</b>	<b>Adjusted SHLAA figure</b>	<b>% of supply in SHLAA</b>	<b>Shortfall /excess</b>	<b>Years' supply</b>
Bath	2,734	547	2,052	75%	-682	3.75
Keynsham	814	163	1,185	146%	+371	7.27
Somer Valley	960	192	1,399	146%	+439	7.29
Rural Areas	436	87	646	148%	+210	7.43
Whitchurch	78	16	125	160%	+47	7.81
<b>TOTALS</b>	<b>5,022</b>	<b>1,004</b>	<b>5,407</b>	<b>107%</b>	<b>+385</b>	<b>5.38</b>

17. Table 3 shows that, using the figures for land supply (adjusted as *per* concessions made at the inquiry) all of the Policy Areas except Bath can demonstrate more than a 5-year supply of housing land. The overall position is that there is 5.38 year's supply across the District. Therefore, on the basis of the concession figures accepted at the inquiry and having regard to the advice given at paragraph 49 of NPPF, because the Council can demonstrate a 5-year supply of deliverable housing sites, it is not appropriate to consider that the relevant policies for the supply of housing are out of date.
18. I acknowledge that preparing the SHLAA is not an exact science, and that it relies upon assumptions and predictions that may only be a 'best guess' at the time it is drawn up. The SHLAA which was presented at this inquiry had seemingly not been open to testing at Examination, nor had it been independently reviewed. In which case, it is not possible to be fully confident that it presents a robust trajectory, based on up-to-date and sound evidence, as envisaged at paragraph 3-033 of PPG. In any event, as acknowledged above, circumstances change and the likely supply assumptions can change almost unpredictably as new sites come forward and resolving problems on other sites may become either easier or more difficult. In which case, and without the benefit of a wider discussion involving more of the stakeholders who have a role in the housing market area about the assumptions and conclusions of the SHLAA, I acknowledge that it may not be realistic to conclude authoritatively that the figures given in Table 3 above are determinative.
19. Taking the (arguably) more pessimistic view set out by the Appellants in Mr Harbottle's evidence, even if there is an overall District-wide shortfall in housing land supply, the situation remains that there is an excess of supply in four of the five Policy Areas, with only Bath showing a significant shortfall. This scenario is set out in Table 4 below.

**TABLE 4 – 5-year housing supply in Policy Areas using Appellants’ figures in Mr Harbottle’s Table 15**

<b>Policy Area</b>	<b>Supply figure</b>	<b>Annual supply</b>	<b>Supply available</b>	<b>% of supply figure</b>	<b>Shortfall /excess</b>	<b>Years’ supply</b>
Bath	2,734	547	1,601	59%	-1,133	2.92
Keynsham	814	163	921	131%	+107	5.65
Somer Valley	960	192	1,296	139%	+366	6.75
Rural Areas	436	87	646	148%	+210	7.43
Whitchurch	78	16	125	160%	+47	7.81
<b>TOTALS</b>	<b>5,022</b>	<b>1,004</b>	<b>4,589</b>	<b>92%</b>	<b>-403</b>	<b>4.57</b>

20. Some of the doubts raised by Mr Harbottle over progress on two of the MoD sites in Bath (Warminster Road and Foxhill) may be overly pessimistic in view of the recent decisions made by the Council to grant planning permission (see Documents EWH 13 and BANES 07). But this may be countered – at least in part - by the fact that Paulton House in Midsomer Norton is currently being marketed for offices rather than for conversion into flats, and therefore the 58 units envisaged there in the SHLAA may not come forward.
21. The argument then remains, if the situation is as set in Table 4 with an overall shortfall in housing land supply, paragraph 49 of NPPF says that the policies for the supply of housing should not be considered up to date. If this were the situation, then the circumstances set out at the fourth bullet point of paragraph 14 of NPPF are brought into play. This requires that planning permission should be granted unless “any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in this Framework taken as a whole”.
22. Even if the scenario set out at Table 4 were to be corroborated by means of a wider discussion which involved more of the relevant stakeholders, and that there is indeed an overall shortfall, then in order to make up that shortfall the question arises of whether it is appropriate to grant planning permissions (which might be otherwise acceptable in all other respects) to address that shortfall in locations which could skew the concept of a sustainable distribution of growth which is embodied in Policy DW1.
23. Paragraph 17 of NPPF sets out the core planning principles. The first of these is that planning should be genuinely plan-led. In the circumstances of this appeal I see this as being of paramount importance. The Core Strategy was adopted less than a year ago and it would be overly critical – if not churlish – to so quickly regard such a recently adopted document as being irrelevant. As noted at paragraph 6 above there are rational reasons supporting the principle set out in Policy DW1 to promote a sustainable distribution of development across the District for housing land supply, divided amongst the five Policy Areas.
24. For the purposes of this appeal – which relates to a site in the Somer Valley Policy Area - the figures given in both Table 3 and Table 4 show that there is

more than a 5-year supply of housing land in the Rural Policy Area. That is, on the face of it, there is no urgent necessity to increase the supply of housing land in the Policy Area.

25. The proposed schemes for 124 dwellings at Boxhill would bring the total number of planned or committed sites on the trajectory for Somer Valley to something in the order of 2,513 on the Appellants' evidence, or 2,764 on the Council's evidence. I acknowledge that the 2,471 figure given in Policy DW1 is not a cap, and that it is an indicative "about" figure, suggesting that variations above or below that figure would be compliant with the policy. 2,764 would be 293 above the indicative figure – or a 12% excess: 2,513 would be 42 above the 2,470 figure – or a 1.7% excess.
26. In principle, an excess of perhaps up to 10% might not unduly skew the overall target in the Policy Area, but these figures are for the supply over the whole of the plan period. If the appeal scheme was to be permitted, and using Mr Harbottle's figures, this would bring the proportion available at the moment up to 1,420 in Somer Valley – 57% of the indicative 18-year allocation. But this would be within the first eight years of the plan period (2011-2019). Allowing for the fact that the 20% buffer (160) which has been brought forward into the current 5-year land supply should be subtracted from the supply for the remainder of the period<sup>3</sup>, this would leave only 890 of the plan's 18-year requirement to meet the needs of the last 10 years of the plan.
27. This would mean that more than half of the indicative allocations would have been committed within the first 8 years (44%) of the plan period. Subject to the disagreements over individual sites noted in the SHLAA, nothing was put forward at the inquiry to demonstrate that the current commitments would not, or could not, be completed. This would mean that within the policy area the rate of growth would be significantly biased towards the beginning of the plan period. If all permissions were to be built-out then this could lead to the situation where greater restraints may have to be applied towards the end of the plan period, leaving the plan potentially unable to respond appropriately to future – and as yet unforeseen – needs. That would not be consistent with the plan > monitor > manage principle underlying the local plan system.
28. More to the point, the corollary of allowing a greater proportion of housing development in the Somer Valley solely to make up the possible overall shortfall across the District, would undermine or dilute the strategy of directing the main initiatives for growth to Bath and accommodating a smaller proportion of additional housing in the other Policy Areas - where some degree of limitation or restraint is seen to be appropriate for reasons of achieving a balanced, sustainable growth strategy.
29. That is, even if the housing supply situation is as set out at Table 4 above, I do not consider that permitting additional development in Somer Valley at this time would be compliant with the core principle of NPPF which looks for a planned planning system. This is a principle which carries great weight. With it being less than a year since the CS was adopted, I consider it is far too early to accept that its policies for apportioning and distributing growth are out of date and that it would be contrary to the NPPF first core planning principle to permit a dilution of its strategy so early in the plan period by diverting

---

<sup>3</sup> See NPPF paragraph 47 on how to factor in the 20% buffer across the plan period.

pressure away from the Bath Policy Area. I acknowledge that information which has become available since the adoption of the CS suggests that it does not fully sit comfortably within the expectations of paragraph 49 of NPPF, but it is not the overall strategy which is out of date, it is the assumed delivery rates or the 'fit' with the sites identified in the SHLAA which are in need of up-dating. But for the strategy to remain relevant and credible this would have to be addressed within the Bath Policy Area – not across the plan area as a whole.

30. Drawing these points together on the first main issue, from the evidence heard at this inquiry I consider that the SHLAA figures initially presented by the Council do not give a robust, reliable indication of the amount of planned or committed housing across the District. On the other hand, I am inclined to the view that the figures presented by the Appellants are likely to be too pessimistic. However, the Appellants' comments on many of the SHLAA sites suggest that, even with the Council's concessions, there have to be continuing doubts over the trajectory presented by the Council. Nevertheless, in both of the situations shown in Tables 3 and 4 above there is more than a 5-year supply of housing land in all of the Policy Areas except Bath. It being so early in the plan period I do not consider that it is correct to allow additional development outside the Bath Policy Area because the consequence of this would lead to distortion of the sustainability balance embodied in the principal component of the CS's strategy. That is, it would not be in accordance with the core planning principles of NPPF to accept that the shortfall in housing land supply in the Bath Policy Area automatically justifies permitting additional development elsewhere across the District, and particularly in locations where there may be other cogent objections on grounds of sustainability.
31. In terms of the policy set out at paragraph 14 of NPPF, I come to the view that permitting significant growth in excess of the current land supply situation in the Policy Areas outside Bath would undermine the principles of sustainable development set out in the CS. To do that so early after the adoption of the CS would significantly harm the value and purpose of the detailed, lengthy and collaborative plan-making process which has taken account of the views of local people in wishing to shape their surroundings. This would undermine confidence in the plan-making process, which constitutes an adverse impact that would significantly and demonstrably outweigh the benefits of topping up the housing supply by permitting further development in the Somer Valley.

***The effect of the proposed development on the separate settings of Paulton and Midsomer Norton.***

32. The appeal site is within Paulton parish – although the site address is given as Midsomer Norton on the planning application form.
33. At the inquiry it was argued that development of the appeal site would result in the merging of Paulton and Midsomer Norton, resulting in the loss of a separate identity for both settlements.
34. Although the appeal site is within Paulton parish, it is more readily perceived as being on the edge of Midsomer Norton: it is directly opposite to development on the east side of Phillis Hill which is in Midsomer Norton, and it fronts onto the A362 which runs east-west through Midsomer Norton to the Tesco store. The roadside sign marking the point of entry into Midsomer Norton is on the A362 frontage of the site, and the sign and associated



'gateway' feature for Paulton is at the top of Phillis Hill, some 250 metres to the north of the appeal site.

35. Although the proposed scheme would fill in an undeveloped frontage on the west side of Phillis Hill, it would not extend development further northwards: there is already housing on the higher parts of the hillside above the appeal site. Beyond this to the north the land is open farmland up the valley side, which is visually enclosed at the crest of the hill. At the crest of the hill is the Paulton name board, opposite to the hospital. The name board and hospital mark the beginning of the settlement of Paulton, which extends away to the north. Standing on the appeal site, or at any point around either the A362 or Phillis Hill frontages, it is not possible to see any part of the settlement of Paulton.
36. That is, although the proposed scheme would be new residential development on land which is within Paulton parish, having regard to the landform and the physical separation of undeveloped farm land between the appeal site and the crest of the hill, the site does not readily relate to the settlement of Paulton. There would be a clear stretch of open countryside between the substantive built up areas of the two settlements of Paulton and Midsomer Norton, with no inter-visibility between the two in close views or from across the wider area, either from Paulton itself or from the opposite side of the valley to the south.
37. The site is adjacent to the built up area of Midsomer Norton, and from a social perspective development here would be perceived to be part of Midsomer Norton – not an isolated or detached element of the settlement of Paulton. I find it hard to believe that residents of the proposed scheme would feel themselves to be unnaturally separated or exiled from the settlement of Paulton and its sense of community. It may be possible that residents here may wish to associate with the social life of both settlements which, I am sure, would not lead to any confusion or erosion of the identity of either settlement. Any sense of exclusive association or community within the administrative boundaries of a particular parish is unlikely to be of overriding relevance to most prospective residents.
38. I am sure residents here would more readily regard themselves as living in Midsomer Norton, and would not feel disadvantaged, remote, or isolated from whatever services and community activities may be available in Midsomer Norton. They would not be excluded from those facilities simply because they lived within the boundaries of another parish, nor would they be required only to use or engage with the services and community life of Paulton. I do not consider that this would harm or disorient the sense of belonging, or create a confused identity, for the residents of either settlement. For people choosing to live in houses on the appeal site it would be obvious which settlement they would relate to best. Nor would the residents of the settlement of Paulton believe that they had been divorced from, or kept apart from, a detached body of fellow villagers.
39. Drawing these points together, I do not consider that the proposed scheme would, to any practical or material degree, in either physical or social terms, harm or diminish the separate settings of Paulton and Midsomer Norton.

***The effect of the proposed development on the character and appearance of the area.***

40. The Council's reasons for refusal state that the appeal site is "an important open space" and that development here would have a significant detrimental impact on local character and the landscape setting of the immediate and wider area.
41. CS Policy CP6 looks to safeguard the distinctive character of the local landscapes and Policy CP7 seeks to maintain, protect and enhance the green infrastructure network.
42. The reasons for refusal also refer to various policies of the BANESLP. Policy NE.1 expects new development to conserve or enhance the local distinctiveness of the landscape. With the NPPF's emphasis on promoting sustainable development, there is a degree of incompatibility with BANES Policy NE.1 which could be seen to be establishing a blanket ban on new development in the countryside. Nevertheless, amongst the core principles of NPPF are the conservation and enhancement of the natural environment, and recognising the intrinsic character and beauty of the countryside.
43. BANESLP Policy D.2 expects new development to be well connected to its surroundings, and Policy BH.15 protects open spaces that make a contribution to the character of a settlement. These can be seen as setting the context for the most relevant policy – Policy NE.3 – for the matters at consideration under this main issue. Policy NE.3 seeks to resist any development which would adversely affect the hillside character of the setting of Norton-Radstock.
44. The reasons for refusal also refer to Policy D.4, but this is concerned with matters which are not really relevant to this outline application.
45. The appeal site is not within a nationally protected area of landscape such as an Area of Outstanding Natural Beauty. Neither is it subject to any specific local protection categorisation. That is, whilst the appeal site may be regarded as part of a pleasant and attractive area of countryside, there are no specific restrictions on permitting new development, subject to the consideration of Policies D.2, BH.15 and NE.3.
46. As discussed above, the appeal site occupies the south facing slope of the valley, as it rises up from the A362. Whereas development on the appeal site would be an obvious change from open farmland to residential development, such change might be the inevitable consequence of the need to develop more housing to meet the needs of the area. That is, change *per se* cannot be a substantive basis for an objection to new development. The extent of the change in the context of its setting and in relation to any neighbouring development has to be assessed to consider if the scheme would be contrary to the objectives of the development plan policies.
47. Inevitably, the higher up the valley side development takes place then the more obvious or conspicuous it becomes. In this vicinity development has historically taken place along the bottom and lower slopes of the valley, but more recent housing has spread onto land which stands above the older parts of Midsomer Norton. Recent examples of this being the development along Thicket Mead and Blackberry Way to the east of Phillis Hill. The appeal scheme would extend development up to the 120 metre (m) contour, some 20m or so

above the level of the A362. The Blackberry Way development also extends up to the 120m contour.

48. The appeal site has not been identified in a policy document as an important open space which makes a contribution to the character of the settlement. In which case, the relevance of Policy BH.15 is somewhat diminished. The site is little different to many undeveloped parcels of land on the periphery of the settlement and, although its loss may be regretted by some, it would be overstating its significance to accept that it is an important open space which makes a contribution to the character of the settlement. However, it is clearly part of the as yet undeveloped hillsides which form the setting of Norton-Radstock.
49. In the immediate vicinity of the appeal site, new development would be clearly seen from the A362 and from Phillis Hill. The impact is likely to be similar to that of the Thicket Mead and Blackberry Way development. This appears to have matured into an accepted part of the urban form and does not appear to be an incongruous or unnatural expansion of the built development of Midsomer Norton. In which case, and subject to consideration of detailed design and layout, it is likely that any development on the appeal site would also be fairly readily absorbed or integrated as an extension of the present built development of the town. In which case, there would be no conflict with BANES Policy D.2.
50. From view points in the wider area, the appeal site can be seen from locations on the opposite side of the valley along Northmead Road (B3355) and from the residential development in the roads to the east of Northmead Road. It is also seen from points along Clapton Road, 1.0-1.5 kilometres to the south west. New development on the appeal site would therefore be clearly visible from across a wide area.
51. On the opposite side of Phillis Hill permission has been granted for housing development on land to the south of Monger Lane. This land runs up to the 130m contour and is, therefore, higher up the valley side than the appeal site, and would be at least as conspicuous in the wider views, if not more so, than development on the appeal site.
52. Apart from the hedgerow along Boxbury Hill, the site has few features which could be regarded as contributing to the green infrastructure of the area. The public footpath across the site could be retained, and appropriate planting could be required across and around the periphery of the site to maintain and possibly enhance the green infrastructure for recreational and nature conservation interests. The scheme need not, therefore, conflict with CS Policy CP7.
53. Having regard to the points discussed above, development of the appeal site would extend development further across the hillside setting of Norton-Radstock, and it would be seen to be eroding the local distinctiveness of the landscape, which Policy NE.1 seeks to protect. However, the degree of harm would not be so great as to be unacceptable; development here would, for the most part, be seen to be an extension or expansion of the present pattern of development, which has successfully integrated into the hillside setting of the settlement. I do not consider that this would be in conflict with Policy NE.3.

54. In conclusion on this main issue, subject to there being no other objections to development of this site, I do not consider that the proposed scheme would unacceptably harm the character and appearance of the area and it would not, therefore be contrary to the objectives of the development plan policies.

***The effect of the proposed development on the setting of the non-designated heritage asset, the Old Colliery Batch.***

55. The Old Colliery Batch is a distinctive feature in the Somer Valley, visible over a wide area. It is located immediately to the west of the appeal site, on land previously part of the Old Mills Colliery. It is a conical, steep sided mound of colliery spoil and is an obvious legacy of the area's history of mining in the Somerset Coalfield. Apart from its notable height, the steepness of its slopes and conical shape, it is also distinctive in that no moves have been made to remove or modify the mound, and neither has there been any attempt to vegetate it. It therefore retains its original form, extent and features.
56. In the Council's Reason for Refusal it is stated that the feature is "part of a non-designated heritage asset". It is accepted by the Appellants that the Old Colliery Batch is a non-designated heritage asset, but at the inquiry the Council was not able to produce any specific document – a local plan policy, a supplementary planning document, a 'local list' or even a council resolution – which establishes this<sup>4</sup>. Evidence was produced to show that it was once a candidate site for inclusion as a Scheduled Ancient Monument by English Heritage, but this did not carry through to it being selected and recorded as such. Apparently, no further work has been done on formally recognising the heritage value of the site and formulating policies for protecting it in the 20 years since.
57. The 2013 SHLAA had identified the appeal site as acceptable for development in landscape terms, which would have only "a moderate impact on the landmark tip". The Council has seemingly changed its mind over the acceptability of development on this site and how that may affect an appreciation of the non-designated heritage asset. The Appellant's witness acknowledged that it was open to the Council to change its view, but such a change ought to be clearly documented. I have much sympathy with that observation. The only indication of the change of view appears to be a single internal email from the Council's Senior Conservation Officer at application stage. Nevertheless, it is now accepted by the Appellants that it is to be regarded as a non-designated heritage asset.
58. Because of the lack of any kind of documentation recording the categorisation of the site as a non-designated heritage asset, it is not possible to clearly distinguish how far the asset is thought to extend. The use of the phrase "part of" in the Reason for Refusal suggests that there is a specific footprint or some sort of curtilage<sup>5</sup> which includes not only the spoil heap but an area of land around it which is also seen to be an essential component of the asset. These are matters which might be addressed through the Placemaking Local Plan which is said to be under preparation. However, until that process has

---

<sup>4</sup> See Planning Practice Guidance paragraphs 18a-006-20140306, 18a-039-20140306 and 18a-041-20140306.

<sup>5</sup> The terms 'curtilage', 'context' and 'character' are used in this Appeal Decision in their ordinary, everyday meaning – not necessarily as given in the English Heritage consultation draft Note 3: The Setting of Heritage Assets (Inquiry Document B/EWH/EK/APP, Appendix E).

concluded, I am only able to consider the arguments that were put to me in evidence at the inquiry.

59. As well as the asset itself, it is also necessary to give consideration to how the asset relates to its setting, and how that setting establishes the significance of the asset. The definition of the setting of a heritage asset given in the Glossary to the NPPF suggests this is a somewhat flexible concept. There is, therefore, a degree of uncertainty – or it is matter of judgement - as to what has to be taken into consideration when assessing the likely impact of the proposed scheme on the Old Colliery Batch and its setting.
60. The appeal site is separated from the spoil heap by Boxbury Hill; a lane lined by mature hedges which sets a clear boundary for The Batch and the land immediately surrounding it. Along much of Boxbury Hill there is no clear view of the spoil heap: the hedges lining the lane, together with the trees and shrubby planting on the land and slopes leading up to the spoil heap, prevent a clear view from most vantage points.
61. However, it is from more distant locations that the scale, form and visual impact of the spoil heap become apparent. The spoil heap is seen in the approaches to Midsomer Norton from the west along the A362, and in views from across the opposite side of the valley from Northmead Road (the B3355) and the residential streets running off it to the east. It is also seen from viewpoints along Clapton Road, some 1-1.5 kilometres or so to the southwest. The spoil heap is seen as a large element in the landscape, set against the skyline from many viewpoints, but also seen – perhaps surprisingly – with a foreground of green fields; principally the appeal site.
62. From intermediate viewpoints, the mass and height of the spoil heap are clearly seen. The size, form and visual prominence of the spoil heap is apparent when looking towards the west from the open frontages of Phillis Hill (ie where there are no hedges along the western side of the road), and when travelling westwards from Midsomer Norton along Thicket Mead and along the A362. The clearest of these intermediate views of the spoil heap and its foreground are from the roundabout at the junction of Phillis Hill and the A362, and then continuously – but to varying degrees - along the A362 as one travels westwards almost until one reaches the Tesco roundabout, where the trees around the base of the spoil heap screen views of the heap itself. Phillis Hill marks a strong and readily identifiable divide between the developed area on the north side of Midsomer Norton of the A362 and the undeveloped foreground of the Batch.
63. CS Policy CP6 seeks to protect the historic environment by protecting, conserving and enhancing the character and setting of heritage assets – which would include non-designated assets. Policy D4 of the BANESLP, whilst not directly addressing non-designated heritage assets, requires that new development proposals should have regard to the potential landscape impact of the scheme, and should “complement attractive qualities of local distinctiveness”. In this appeal, it is reasonable to accept that the Old Colliery Batch is a distinctive local feature which falls within the remit of this policy. The need to protect heritage assets is, as explained in NPPF and PPG, a core planning principle.
64. Because the appeal scheme would have no direct impact on the asset itself, the primary consideration under this main issue is the effect of the proposed

scheme on the setting of the Old Colliery Batch. As discussed above, the Batch is seen as a large feature in the wider views and in views from nearby roads. It is a legacy of the mining past of the area, and it clearly has a resonance with the local population. I saw numerous references to the wider area's coal mining history, with mine tubs used as markers to the boundary of towns and villages, and a museum at Radstock with a mining theme, together with cycle tracks or footpaths laid out along the course of the railway lines which served the collieries. The Batch can therefore be seen to have at least an historical value locally.

65. The evidence given at this inquiry was that the Somerset Coalfield mines were developed in largely rural locations. Accordingly, it is very relevant that the Old Colliery Batch should be seen to be associated with undeveloped farmland. The industrial character and impressive, incongruous and perhaps even alien appearance of the Batch are emphasised by it being experienced in at least semi-rural surroundings, both from distant and reasonably near viewpoints. That is, the undeveloped land which forms the foreground or setting of the Batch - essentially the appeal site - is important to establishing and appreciating the significance of the Batch as a heritage asset. Indeed, it is the last remaining parcel of the rural foreground to The Batch on this side of Midsomer Norton.
66. The proposed scheme would introduce built development over most of the immediate foreground of The Batch in viewpoints from the east and south. This would have a markedly negative impact on the significance of its setting, representing considerable harm. I do not consider that I am able to categorically state that this would constitute substantial harm because of the limited information - and certainly any that will have been endorsed by a Council resolution and tested through public consultation - available at the inquiry to explain the extent, the historic or cultural significance of The Batch and what is considered to constitute its setting. I acknowledge that the housing would probably be at a relatively low height, with the majority not standing higher than the hedges along Boxbury Hill. However, it would be the change from an open, undeveloped foreground to a foreground populated with built development; that is, there would be a fundamental and harmful change in the perceived character of the foreground of The Batch. From the information available at this inquiry I consider that, on balance, the harm to the setting of the non-designated heritage asset would outweigh the potential benefits of additional housing at this location.
67. With there being no overriding need for additional residential development in the Somer Valley (as discussed at paragraphs 5-31 above) it would not be justifiable to permit development of the appeal site. I acknowledge that the scheme would include notable benefits, including a significant proportion of affordable housing units, but this would not outweigh the harm to the setting of the Old Colliery Batch, contrary to the objectives of the CSP and BANESLP policies and the NPPF.

### **Conditions and Section 106 Obligations.**

68. Suggested planning conditions were discussed at the inquiry. Were the appeal to be allowed I consider that, subject to minor rewording, the draft conditions would meet the tests given at paragraph 206 of NPPF. However, as the appeal is to be dismissed it is not necessary for me to go through the suggested

conditions to explain why it would have been necessary to have attached them to a permission.

69. Similarly, a completed planning obligation in the form of a Unilateral Undertaking made under Section 106 of the Town and Country Planning Act was submitted. Apart from one of the offered contributions, the submitted obligation meets the three tests given at paragraph 204 of NPPF. The one contribution which does not meet the tests is the undertaking by the developer to pay the Council's costs of monitoring the implementation of each of the deeds. A contribution of this kind was found to be unlawful by the High Court and, on the face of it, the circumstances appear to be similar in this appeal<sup>6</sup>.
70. However, the submitted obligation includes a 'blue pencil' clause (Clause 9) which provides that, should any of the payments be seen to be incompatible with the tests set out at Regulation 122 of the Community Infrastructure Levy Regulations (CIL Regulations), then that invalidity should not affect the enforceability of the remaining provisions of the deed. That is, should the appeal be allowed, I am satisfied that, subject to striking out the requirement to pay the Council's monitoring costs, the obligation would be necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development.
71. Since the close of the inquiry it has been brought to my attention that the Council has adopted a Community Infrastructure Levy Charging Schedule (CIL Levy) which would come into effect on 6 April 2015. If the decision in this appeal were to be issued after that date then several matters which are included in the Section 106 planning obligations would be duplicated by the CIL Levy. To endorse payments in a Section 106 obligation which would also be payable under the CIL Levy would be contrary to Regulation 122. However, in view of the fact that the appeal is to be dismissed it is not necessary for me to go on to specify which elements of the Section 106 planning obligation needs to be struck out in order to comply with the CIL Regulations.
72. Nevertheless, what is offered in the planning obligation, or which would be required under the Council's CIL Levy, does not overcome the objections to the scheme as discussed in detail above.

### **Overall Conclusions**

73. I have come to the conclusion that there is a shortfall in the 5-year housing land supply in the Housing Market Area, and therefore the expectations set out at paragraph 49 of NPPF come into play. However, for rational reasons of promoting sustainable development, the Housing Market Area requirement given in the CS is distributed across five Policy Areas and it is only in the Bath Policy Area that there is a shortfall in supply; in the Policy Area relevant in this appeal (Somerset Valley) there is more than a 5-year supply of developable housing land. Despite the shortfall in the Bath Policy Area, I do not consider that the CS can be considered to be out of date and that paragraph 14 of NPPF is not engaged in the determination of these appeals in seeking to address the shortfall.

---

<sup>6</sup> Oxfordshire County Council v Secretary of State for Communities and Local Government, Cala Management Limited, William Roger Freeman, Ross William Freeman, Julian James Freeman, Cherwell District Council: [2015] EWHC 186 (Admin).

74. Nevertheless, even though there may be a 5-year land supply, this does not automatically preclude granting planning permission for further development, subject to the proposed scheme complying with other development plan policies. However, as discussed above, I have concluded that granting planning permission for the proposed development would unacceptably prejudice the implementation of the Core Strategy, and would be contrary to the objectives of the BANESLP.
75. Although there are positive aspects of the scheme, not least the 35% proportion of affordable housing being offered, I consider that the adverse impacts of approving the proposal would significantly and demonstrably outweigh the benefits. Accordingly the appeal should be dismissed.

*Geoffrey Hill*

INSPECTOR

Richborough Estates



## APPEARANCES

### For Bath and North East Somerset Council:

Mr M Edwards of Counsel                      Instructed by Bath and North East Somerset Council

#### **He called:**

Mr Richard Walker BA(Hons) DipTP	Planning Policy Officer
Ms Rachel Tadman MTP MRTPI	Senior Planning Officer
Ms Helen Hoynes	School Organisation Manager
Mr Daniel Stone BSc MTCP MRTPI	Senior Planning Officer
Ms Caroline Waldron IHBC MRTPI	Senior Conservation Officer
Mr Charles Potterton BA DipLA CMLI	Potterton Associates Ltd
Ms Tessa Hampden BSc MTCP MRTPI	Senior Planning Officer

#### **Not called to give evidence**

Mr Gary Lewis	Acting Team Leader, Highways Development Control
Mr Andrew Chard	Team Manager, Parks & Bereavement Service

### For the Appellants:

Miss Suzanne Ornsby QC                      Instructed by Ian Jewson Planning Ltd., (agent for the Appellants)  
*assisted by*

Miss Stephanie Hall of Counsel

#### **She called:**

Mr Julian Harbottle MRICS	Director: Savills (UK) Ltd.,
Mr Ian Jewson BA(Hons) DipTP MRTPI	Director: Ian Jewson Planning
Mr Craig Rawlinson EurIng BEng(Hons) CEng MCIHT CMILT MIOd	Managing Director: Transport Planning Associates
Mr Edward Kitchen MA	Partner: Planning & Development Department, Montagu Evans LLP
Mrs Jane Jarvis BSc(Hons) DipLD MA CMLI	Principal Landscape Architect: SLR Consulting

### Interested Persons:

Mr V Pritchard                                      BANES Councillor

Mr K Betton	Stowey-Sutton Parish Councillor
Ms Sally Monkhouse	Local resident
Ms Liz Hardman	BANES Councillor
Mr B Piper	Paulton Parish Councillor
Mr B Maher	Local resident
Mr J Bull	BANES Councillor
Mr M Evans	BANES Councillor and Midsomer Norton Town Councillor
Miss J Lewis	Midsomer Norton Town Councillor

## DOCUMENTS

### CORE DOCUMENTS

<i>Ref</i>	<i>Document</i>
CD 01	National Planning Policy Framework
CD 02	National Planning Policy Guidance
CD 03	Bath and North East Somerset Core Strategy (July 2014)
CD 04	Report on the Examination into Bath and North East Somerset Council's Core Strategy (June 2014)
CD 05	Bath and North East Somerset Local Plan (October 2007)
CD 06	Bath and North East Somerset Planning Obligations Supplementary Planning Document (July 2009)
CD 07	Bath and North East Somerset Placemaking Plan Launch Document (July 2013)
CD 08	Bath and North East Somerset Placemaking Plan Options Document (November 2014)
CD 09	Guidelines for Landscape and Visual Impact Assessment, Third Edition (2013)
CD 10	English Heritage - Seeing History in the View (May 2011)
CD 11	English Heritage - The Setting of Heritage Assets (October 2011)
CD 12	Rural Landscapes of Bath and North East Somerset - A Landscape Character Assessment Supplementary Planning Guidance (April 2003)
CD 13	Valuing People, Place and Nature: A Green Infrastructure Strategy for Bath and North East Somerset (March 2013)
CD 14	Paulton Village Design Statement Supplementary Planning Guidance (March 2001)

- CD 15 Paulton Conservation Area Character Appraisal Supplementary Planning Guidance (2003)
- CD 16 Bath and North East Somerset Home to School Transport Policy
- CD 17 Childcare Sufficiency Update - March 2014
- CD 18 Primary and Secondary School Organisation Plan 2013 - 2017
- CD 19 Strategic Housing Land Availability Assessment (November 2013), comprising:
- Findings Report
  - Appendix 1: Site Assessments and Plans
  - Appendix 2: SHLAA Housing Trajectory 2011 -2029
- CD 20 Strategic Housing Land Availability Assessment Housing Trajectory 20112029 (March 2014)
- CD 21 Changes to the Strategic Housing Land Availability Assessment Housing Trajectory between November 2013 and March 2014 (March 2014)
- CD 22 Strategic Housing Land Availability Assessment Findings Report (December 2014)
- CD 23 Strategic Housing Land Availability Assessment Housing Trajectory 20112029 (December 2014)
- CD 24 Bath and North East Somerset Settlement Classification (October 2009)
- CD 25 Inspector's Note - Progression of the Examination 2014 (ID/44)
- CD 26 Core Strategy Topic Paper 7 - Keynsham and Somer Valley Site Capacities and Delivery
- CD 27 Core Strategy Topic Paper 8 - Central Bath and River Corridor Site Capacities and Delivery
- CD 28 BANES Response to ID/7 - Issue 2 - SHLAA and Flood Risk
- CD 29 BANES Response to ID/7 - Issue 2 - Bath
- CD 30 BANES Response to ID/7 - Issue 2 - Keynsham
- CD 31 BANES Response to ID/25 - SHLAA Somer Valley
- CD 32 BANES Response to ID/45 - Windsor Gas Holder and Bath Flood Risk Management Project
- CD 33 Core Strategy Statement of Common Ground - Land adjoining Odd Down
- CD 34 Core Strategy Statement of Common Ground - Land adjoining Weston (Mr Perry and Crest Nicholson)
- CD 35 Core Strategy Statement of Common Ground - Land adjoining Weston (The Silverwood Partnership)
- CD 36 Core Strategy Statement of Common Ground - Land adjoining Weston (The Equestrian Centre)

- CD 37 Core Strategy Statement of Common Ground - Land adjoining East Keynsham
- CD 38 Core Strategy Statement of Common Ground - Land adjoining South West Keynsham
- CD 39 Core Strategy Statement of Common Ground - Land at Whitchurch (Horseworld)
- CD 40 Core Strategy Statement of Common Ground - Land at Whitchurch (Barratt Homes)
- CD 41 Core Strategy Statement of Common Ground - Land at Whitchurch (Sir Michael Gregory and Belinda Gregory)
- CD 42 Ouseley J, South Northamptonshire Council v Secretary of State and Barwood Homes: [2014] EWHC 570 (Admin)
- CD 43 Lindblom J, Bloor Homes v Secretary of State & Hinckley and Bosworth Borough Council: [2014] EWHC 754 (Admin)
- CD 44 Appeal Decision: Land Between Iron Acton Way and North Road, Engine Common (APP/P0119/A/12/2186546)
- CD 45 Appeal Decision: Land at the former Lymgne Airfield, Aldington Road, Lymgne (APP/L2250/A/13/2210752)
- CD 46 Appeal Decision: Land at Monger Lane, Midsomer Norton (APP/F0114/A/13/2199783), including:
- Site Location Plan
  - Landscape Strategy Plan
- CD 47 Appeal Decision: The Batch, Bishop Sutton (APP/F0114/A/13/2196478)
- CD 48 Appeal Decision: Land north of Upper Chapel, Launceston (APP/D0840/A/13/2209757)
- CD 49 Appeal Decision: Land off Nantwich Road, Tarporley (APP/A0665/A/11/2167430)
- CD 50 Appeal Decision: Land at Brookfield Farm, Hallfields Lane, Rothley (APP/X2410/A/11/2161715)
- CD 51 Appeal Decision: Land to the north of Fosseyway Gardens, Westfield (APP/F0114/A/13/2203361)
- CD 52 National Character Area Profile 118: Bristol, Avon Valleys and Ridges, Natural England (2013)
- CD 53 Landscape Assessment of Mendip District (May 1997)
- CD 54 Planning Case Officer's Report on Land at Cappards Road, Bishop Sutton for Development Control Committee on 12th February 2014
- CD 55 Planning Case Officer's Report on Land at Cappards Road, Bishop Sutton for Development Control Committee on 12th March 2014

- CD 56 Planning Officer's Delegated Report for Land at Boxbury Hill Midsomer Norton (13/04880/OUT)
- CD 57 Planning Officer's Delegated Report for Land at Abbotts Farm Close, Paulton (13/03547/OUT)
- CD 58 Stowey Sutton Parish Council Housing Needs Survey Questionnaire
- CD 59 Stowey Sutton Parish Council Housing Needs Survey Results
- CD 60 Stowey Sutton Parish Council Neighbourhood Survey Questionnaire
- CD 61 Stowey Sutton Parish Council Neighbourhood Survey Results
- CD 62 Lewis J., Cotswold District Council v Secretary of State and Fay and Son Limited: [ 2013] EWHC 3719 (Admin)
- CD 63 Mitting J., Save Britain's Heritage v Gateshead Metropolitan Borough Council: [2014] EWHC 896 (Admin)
- CD 64 Lang J., R(East Meon Forge and Cricket Ground Protection Association) v East Hampshire District Council and South Downs National Park Authority: [2014] EWHC 3543 (Admin)
- CD 65 HHJ Waksman QC., R(Hughes) v South Lakeland District Council: [2014] EWHC 3979 (Admin)
- CD 66 Gilbert J., Pugh v Secretary of State: [2015] EWHC 3 (Admin)
- CD 67 Kenneth Parker J., Colman v Secretary of State, North Devon District Council and RWE Npower Renewables Limited: [2013] EWHC 1138 (Admin)
- CD 68 Lang J., William Davis Limited and Jelson Limited v Secretary of State and North West Leicestershire District Council: [2013] EWHC 3058 (Admin)
- CD 69 Appeal Decisions:  
Land at Pulley Lane, Newland Road and Primsland Way (APP/H1840/A/13/2199085) and Land north of Pulley Lane and Newland Lane (APP/H1840/A/13/2199426)
- CD 70 Appeal Decisions:  
Land east of Springwell Lane, Whetstone (APP/T2405/A/12/2170192): Land east of Springwell Lane, Whetstone (APP/T2405/A/12/2170201) : Land off Countesthorpe Road and Springwell Lane, Whetstone (APP/T2405/A/12/2170207)
- CD 71 Appeal Decision: Land south of Broughton Road, Banbury (APP/C3105/A/14/2220513)
- CD 72 Appeal Decisions:  
Land to the north of Acland Park, Feniton, Devon (APP/U1105/A/13/2191905): Land to the west of Ottery Road, Feniton, Devon (APP/U1105/A/13/2197001): Land to the west of Ottery Road, Feniton, Devon (APP/U1105/A/13/2197002): and Land to the south of Station Road, Feniton, Devon (APP/U1105/A/13/2200204)

- CD 73 Draft Strategic Housing Land Availability Assessment Housing Trajectory 2011-2029 (November 2014)
- CD 74 Appeal Decision: Land opposite Rose Cottages, Holmes Chapel Road, Brereton Heath (APP/R0660/A/13/2192192)

## **PROOFS OF EVIDENCE**

### **Housing Land Supply**

#### ***For Mr Richard Walker***

- HLS/BANES/RW/POE Proof of evidence
- HLS/BANES/RW/APP 1-7 Appendices to proof of evidence
- HLS/BANES/RW/SUM Summary proof of evidence

#### ***For Mr Julian Harbottle***

- HLS/EWH/JH/POE Proof of evidence
- HLS/EWH/APP Appendices to proof of evidence (in 2 volumes)
- HLS/EWH/SUM Summary proof of evidence

### **Appeal A – Cappards Road, Bishops Sutton**

#### ***For Mr Daniel Stone***

- A/BANES/DS/POE Proof of evidence
- A/BANES/DS/APP 1-6 Appendices to proof of evidence
- A/BANES/DS/SUM Summary proof of evidence

#### ***For Mr Gary Lewis***

- A/BANES/GL/POE Proof of evidence (including overall conclusions)

#### ***For Mr Andrew Chard***

- A/BANES/AC/POE Proof of evidence
- A/BANES/AC/APP A-B Appendices to proof of evidence

#### ***For Ms Helen Hoynes***

- A/BANES/HH/POE Proof of evidence

#### ***For Mr Ian Jewson***

- A/EWH/ IJ/POE Proof of evidence
- A/EWH/ IJ/APP Volume of appendices to proof of evidence
- A/EWH/ IJ/SUM Summary proof of evidence

**Appeal B – Boxbury Hill**

**For Ms Caroline Waldron**

B/BANES/CW/POE	Proof of evidence
B/BANES/CW/APP	Appendices to proof of evidence
B/BANES/CW/SUM	Summary proof of evidence

**For Mr Charles Potterton**

B/BANES/CP/POE	Proof of evidence (including Summary Proof of Evidence) with Appendices
----------------	---

**For Ms Tessa Hampden**

B/BANES/TH/POE	Proof of evidence
B/BANES/TH/SUM	Summary Proof of evidence

**For Mr Gary Lewis**

B/BANES/GL/POE	Proof of evidence
----------------	-------------------

**For Mr Andrew Chard**

B/BANES/AC/POE	Proof of evidence
B/BANES/AC/APP A-B	Appendices to proof of evidence

**Ms Helen Hoynes**

B/BANES/HH/POE	Proof of evidence
----------------	-------------------

**For Mr Edward John Kitchen BA MA**

B/EWH/EK/POE	Proof of evidence
B/EWH/EK/APP	Volume of appendices to proof of evidence
B/EWH/EK/SUM	Summary proof of evidence

**For Mrs Jane Jarvis**

B/EWH/JJ/POE	Proof of evidence
B/EWH/JJ/APP	Appendices to proof of evidence (in 2 volumes)
B/EWH/JJ/SUM	Summary proof of evidence
B/EWH/JJ/REB	Rebuttal proof of evidence

**For Mr Ian Jewson**

B/EWH/IJ/POE	Proof of evidence
B/EWH/IJ/APP	Volume of appendices to proof of evidence
B/EWH/IJ/SUM	Summary proof of evidence

**Appeal C – Abbotts Farm Close, Paulton**

**For Ms Rachel Tadman MTP MRTPI**

C/BANES/RT/POE Proof of evidence (no summary) including Appendix

**For Ms Helen Hoynes**

C/BANES/HH/POE Proof of evidence

C/BANES/HH/APP 1-4 Appendices to proof of evidence

C/BANES/HH/SUM Summary proof of evidence

**For Mr Gary Lewis**

C/BANES/GL/POE Proof of evidence (including overall conclusions)

**For Mr Andrew Chard**

C/BANES/AC/POE Proof of evidence (including overall conclusion)

C/BANES/AC/APP A-B Appendices to proof of evidence

**For Mr Craig Rawlinson**

C/EWH/CR/POE Proof of evidence

C/EWH/CR/APP Volume of appendices to proof of evidence

C/EWH/CR/SUM Summary proof of evidence

C/EWH/CR/REB Rebuttal proof of evidence with appendices

**For Mr Ian Jewson**

C/EWH/IJ/POE Proof of evidence

C/EWH/IJ/APP Volume of appendices to proof of evidence

C/EWH/IJ/SUM Summary proof of evidence

**DOCUMENTS HANDED IN DURING THE COURSE OF THE INQUIRY**

**For Bath and North East Somerset**

BANES 01 Bundle of copy emails relating to discussions on SHLAA sites submitted by Mr Walker.

BANES 02 Appeal Decision APP/F0114/A/14/2218780 – Stitchings Shord Lane, Bishops Sutton, Bristol BS39 5UB.

BANES 03 Appeal Decision APP/F0114/A/14/2217941 – Land at Ham Lane, Bishops Sutton, Bristol BS39 5UB.

BANES 04 Appeal Decision APP/Y3425/A/14/2217578 – Land between Ashflats Lane and A449 Mossnit, Stafford ST18 9BP.

BANES 05 i Monuments Protection Programme: The Coal Industry. Recommendations for Protection (Step 4 Report) and possible



- inclusion of The Batch as a scheduled monument, submitted by Ms Waldron.
- BANES 05 ii Monuments Protection Programme - Site Assessment Old Mills Colliery Tip, submitted by Ms Waldron.
- BANES 06 Supplemental proof of evidence on the meaning an application of the words 'around' and 'balance' – put in by Mr Walker.
- BANES 07 Draft Committee Minutes re: MOD Warminster Road and MOD Foxhill applications.
- BANES 08 Cost Application.

***For the Appellants***

- EWH 01 Mr Harbottle's up-dated table of comments on SHLAA sites.
- EWH 02 Errata sheet for Mr Harbottle's proof of evidence.
- EWH 03 Replacement Appendix 8 to Mr Harbottles's proof of evidence.
- EWH 04 Enlargement of up-dated table of comments on SHLAA sites (Document EWH 01).
- EWH 05 Mr Harbottle's trajectory for deliverability of three appeal sites.
- EWH 06 Revised access drawing for Abbott's Farm Close – CMR/2.
- EWH 07 Appeal Decision APP/F0114/A/13/2208178 – Land at Greenlands Road, Peasedown St John, Bath.
- EWH 08 Consultation response relating to education provision for Peasedown St John application -31 May 2013.
- EWH 09 January 2015 Supplementary Statement of Common Ground re: Transportation Issues.
- EWH 10 i Local Plan Proposed Modification drawings relating to protected hillsides at Midsomer Norton.
- EWH 10 ii Contour lines at Boxbury Hill
- EWH 10 iii Comparisons of Visual Impact Assessment.
- EWH 11 Note on Employment /Housing Balance put in by Mr Jewson.
- EWH 12 Note on concessions made by Mr Walker on SHLAA sites – put in by Mr Jewson.
- EWH 13 BANES Committee Reports on planning applications for MOD Warminster Road and MOD Foxhill sites
- EWH 14 Grounds of Claim in relation to Stafford Town Appeal - CO/85/2015.
- EWH 15 Grounds of Claim in relation to Lypne Appeal – CO1479/2014.
- EWH 16 High Court Judgement: Dartford Borough Council [2014] EWHC 2636 (Admin).
- EWH 17 Section 106 Planning Obligation for Cappards Road site.

EWH 18	Section 106 Planning Obligation for Abbott's Farm Close site.
EWH 19	Section 106 Planning Obligation for Boxbury Hill site.
EWH 20	Costs Application 1 – relating to 5 year Land Supply.
EWH 21	Costs Application 2 – relating to late evidence put in by Mr Walker.
EWH 22	Costs Application 3 – relating to late evidence put in by Ms Waldron.
EWH 23	Response to BANES' Costs Application.

**For Interested Persons**

IP 01	Copy of e-mail from Ms Tracey Brown re: Boxbury Hill.
IP 02	Script of statement of Mr K Betton with appendices re: Cappards Road.
IP 03	Script of statement by Mr V Pritchard with plans re: Cappards Road.

**PLANS**

**Appeal A – Cappards Road, Bishops Sutton**

**Application plans**

	<i>Drawing No.</i>	<i>Subject/ Description</i>
Plan A.1	725/102E	Illustrative Master Plan

**Illustrative drawings supporting the application**

Plan A.2	100-1 Rev D	Illustrative layout
Plan A.3	112	Illustrative Sections
Plan A.4	2817/01	Topography
Plan A.5	2817/02	Landscape Planning Designations and Character Areas
Plan A.6	2817/03A	Zone of Theoretical Visibility on Completion
Plan A.7	2817/04A	Landscape Strategy
Plan A.8	2817/ PHOTO/01	Photographic Viewpoint 1
Plan A.9	2817/ PHOTO/02	Photographic Viewpoint 2
Plan A.10	2817/ PHOTO/03	Photographic Viewpoint 3
Plan A.11	2817/ PHOTO/04	Photographic Viewpoint 4
Plan A.12	2817/ PHOTO/05	Photographic Viewpoint 5
Plan A.13	2817/ PHOTO/06	Photographic Viewpoint 6

## Appeal B – Boxbury Hill

	<i>Drawing No.</i>	<i>Subject/ Description</i>
<b>Application plans</b>		
Plan B.1	5734-01C	Application Site Plan
Plan B.2	1306-59 Figure 4.1	Proposed access strategy
<b>Illustrative drawings supporting the application</b>		
Plan B.3	5734-SK04A	Illustrative Site Layout Option 2
Plan B.4	131017-BXH-TCP-NC-1.1	Tree Constraints Plan
Plan B.5	Volume of drawings and photographs	Landscape Planning Context
<b>Superseded plans</b>		
Plan B.6	5734-SK02	Illustrative Site Layout
Plan B.7	5734-01A	Application Site Plan
Plan B.8	5734-SK04	Illustrative Site Layout Option 2

## Appeal C – Abbots Farm Close, Paulton

	<i>Drawing No.</i>	<i>Subject/ Description</i>
<b>Application plans</b>		
Plan C.1	13131/1030A	Location Plan
Plan C.2	1109-84 CMR/2	Access Arrangements
<b>Illustrative drawings supporting the application</b>		
Plan C.3	13000/3200 D	Framework Plan
Plan C.4	2586-05B	Landscape and Planting Strategy
Plan C.5	13131/2100 B	Site Sections
Plan C.6	13131/2101	Site Section C-C
Plan C.7	130715-AFCPN-TCP-AM-1.2	Tree constraints plan
<b>Superseded plans</b>		
Plan C.8	13000/3200 B	Framework Plan
Plan C.9	13000/3200 C	Framework Plan
Plan C.10	13131/2100	Site Section

Plan C.11

2586-05

Landscape and Planting Strategy

Richborough Estates