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## Appeal Decision

Hearing held on 27 & 28 March 2024

Site visit made on 28 March 2024

**by M Bale BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 08 May 2024

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**Appeal Ref: APP/D1265/W/23/3323727**

**Land between Salisbury Street, Tanzey Lane and Sodom Lane, Marnhull, Dorset**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
  - The appeal is made by Mr Paul Crocker against Dorset Council.
  - The application Ref is P/OUT/2023/00627.
  - The development proposed is up to 67 dwellings.
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### Decision

1. The appeal is allowed and planning permission is granted for up to 67 dwellings at Land between Salisbury Street, Tanzey Lane and Sodom Lane, Marnhull, Dorset in accordance with the terms of the application, Ref P/OUT/2023/00627, subject to the conditions in the attached schedule.

### Preliminary Matters

2. The Hearing related to this appeal and another elsewhere in Marnhull, reference APP/D1265/W/23/3323728. That appeal is the subject of a separate Decision.
3. The appeal relates to an application for outline planning permission. Approval is sought for access at this stage with all other matters being reserved for subsequent consideration. Plans have been provided showing a possible layout for the development, which I have treated as illustrative.
4. A unilateral undertaking has been provided. There is no dispute that the planning obligations therein, satisfy the tests of Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended). There is no reason for me to conclude otherwise, so I find that the tests are met and I have taken the undertaking and obligations into account in determining the appeal.

### Main Issues

5. The main issues in this appeal are:
  - a) Whether the site is in an appropriate location with regard to local planning policy controlling the location of development and accessibility;
  - b) Whether surface water can be adequately controlled and the effect of the development on flood risk; and

- c) Whether there are any other material considerations that might indicate otherwise that the development should be permitted, with particular regard to the supply of housing land.

## **Reasons**

### *Location and accessibility*

6. Policies 2, 6 and 20 of the North Dorset Local Plan Part 1 2016 (LP) seek to control the location of development. Collectively, they identify four main towns as the main service centres and focus for growth. Stalbridge and eighteen larger villages are identified as the focus for growth to meet local needs outside these towns.
7. In locations outside the defined boundaries of the above settlements, which includes the appeal site, development should not be permitted unless there is an overriding need for it to be located in the countryside or it is to enable essential rural needs to be met. The supporting text to Policy 20 suggests that 'overriding' needs relate to development that requires a countryside location rather than addressing generic needs for housing that are unable to be met within settlements and there is no compelling evidence to lead me away from that position.
8. Marnhull is the largest of the 18 identified villages. It benefits from a modest range of services and facilities, although I understand that the appellant's list overstates the situation. There are some, albeit fairly poor, public transport links to destinations beyond the village. Moreover, the local services and facilities that are present in Marnhull are not particularly close to the site. The existing highway network via Crown Road and Sodom Lane do not provide safe walking or cycling routes to them.
9. Alternatively, a path crosses the field beyond Tanzey Lane that adjoins the site. It leads to Ashley Road, where there is a more extensive footpath network, but the field path is unsurfaced and steep in places. That field has planning permission for residential development (the Crown Road site), but there is no clear intention or requirement to upgrade the path as part of the development. Once built, the estate road of the Crown Road site would provide a safe paved link to the village. Despite minor obstructions on egress, the link to Ashley Road was deemed suitable for the Crown Road site. However, there is currently no timetable for its delivery.
10. These characteristics are such that walking or cycling between the site and the main part of Marnhull would not presently be an attractive option for all people nor at all times of the day or year. There is, scope for some journeys to be made by foot or the limited bus connections which can be conveniently accessed from the site. However, future residents would likely be reliant upon private cars to meet their needs for most services.
11. That said, there is a further part of Marnhull, within a settlement boundary, at Corner Close and Stonelawn that are further from the main part of the settlement and its facilities than the appeal site. But for a narrow strip of allotments and Salisbury Street itself, these areas border the site. They are separate from the main part of Marnhull, and subject to a settlement limit. The presence of a settlement limit, while tightly drawn, indicates that housing development would be generally deemed appropriate there.

12. LP Policy 6 sets out that Stalbridge and the 18 villages will receive at least 825 dwellings. However, while some growth was, therefore, anticipated in Marnhull, there are no specific site allocations and the boundary appears to be fairly tightly drawn for the entire settlement. It is not clear how any anticipated development needs would be met without the release of land outside the various parts of the settlement limit. Locations next to settlement limits, which for the above reasons include the appeal site, would be the most logical.
13. The 825 figure has already been exceeded and the Council anticipates that over 1800 homes will have been delivered in these locations by the end of the plan period. Of these, I heard at the Hearing that Marnhull has received proportionally more than the other villages. Dividing the anticipated growth across Stalbridge and the 18 villages in proportion to the relative pre-LP size of the settlements, Marnhull can be seen to have received around 3 times its anticipated growth. The figure was said to be around double in the other settlements.
14. I can see that calculating relative proportions of development for the settlements may have been a useful community planning tool. However, the LP does not set individual targets for the various settlements and my attention has not been drawn to any other policy basis for such a division. As Marnhull is the largest and best served of the settlements, there may well be a logic to it taking a greater proportion than the others, even accounting for the lack of employment opportunities and the view of the Council and local residents that it is accommodating more than its 'fair share'. Moreover, LP Policy 6 provides the 825 figure as a minimum and the supporting text clarifies that it should not be seen as a cap on development.
15. There is, however, already significant development commitment in Marnhull which, with this proposal, would result in a significant proportional growth in population across the plan period. This would likely go beyond meeting the needs of the local population in terms of market and affordable housing provision. The LP is clear that the focus in Stalbridge and the villages should be on meeting local, rather than strategic, needs. Such an approach would allow communities to adapt more gradually and would minimise the need to travel beyond the settlement.
16. The historic roads around Marnhull were never intended to accommodate the traffic and pedestrian flows arising from modern living and travel patterns. Residents are concerned about safety from conflicting vehicle and pedestrian movements throughout the village, especially around the school. The increase in traffic around the village that would result from the development, especially in combination with other development, would exacerbate this situation. However, the Council has raised no specific safety concern about traffic around Marnhull in general.
17. Aside from the effects on the highway network, the main effects of the greater than anticipated growth would be on the village infrastructure and services. Extensive planning obligations would be secured to mitigate the effects on a number of services and facilities, including education, healthcare and recreation. Despite the levels of growth, therefore, I have no substantive evidence that material harm would arise to the community.
18. Nevertheless, while there may be little tangible adverse effects on various discrete matters and while Marnhull is identified for some growth, it is a clear

aim of the above policies to meet local rather than strategic needs, so general housing development on the cumulative scale proposed is not supported by the development plan. Therefore, the proposal would be in conflict with the aims of LP Policies 2, 6 and 20 insofar as they seek to control the broad location of development.

*Drainage and flood risk*

19. Following additional submissions from both parties, the remaining dispute is, in essence, whether a suitable connection can be made to an appropriate surface water discharge point. 5 options have been presented by the appellant, 3 of which would see connections to sewers that either are, or feed, combined foul and surface water sewers. In turn, they would convey water to sewage treatment works (STWs).
20. I understand that it is the policy of Wessex Water to resist additional flows to STWs, although I have been presented with no planning policy support for this position. There is also no substantive evidence that the STWs could not cope with additional flows. Nevertheless, I can see that increasing surface water flows would be undesirable in the context of aims to improve the water quality eventually discharging from STWs, especially given the anecdotal evidence that I have about previous overflows at the STWs.
21. For the two other schemes, there is a dearth of information. It is unclear as to where road gullies in Sodom Lane adjacent to the site lead and whether they flow to a dedicated highway drain or a culverted watercourse. If it is the former, then connection may not be permitted by the local highway authority. Either way, although they sometimes become overloaded, the gullies must drain somewhere, suggesting that some fall in levels towards a watercourse from Sodom Lane, and therefore the site, must exist.
22. On this basis, the appellant's favoured solution would be to construct a ditch over adjoining agricultural land in his control. There appears to be little gradient between Sodom Lane and the watercourse, which calls into question the ability for water to flow across this land. However, at the Hearing, the Council did not dispute that, even where there was a minimal fall along a ditch, the effect of a 'hydraulic gradient' would mean that the ditch would fill and then gradually drain into the existing watercourse.
23. The land on which the ditch would be constructed on the opposite side of Sodom Lane is at risk of surface water flooding. Indeed, there was extensive rainfall during the second day of the Hearing, and by the time I visited the site that evening, large parts of the land over which the ditch would be constructed, and Sodom Lane itself, were underwater. The potential for the adjoining land to already be inundated, calls into question the ability of a ditch across it to adequately deal with surface water discharge from the site.
24. However, I heard that the site currently drains naturally across this adjoining land. Surface water attenuation could be provided as part of the development such that rates and volumes discharging at peak times would result in no greater flows from the site than the current situation. If the discharge system were exceeded, then I was told that it would follow its existing course and, once again, mimic the surface water flooding that I witnessed. Therefore, I have no reason to believe that such a situation would necessarily increase flood risk elsewhere.

25. The Council has suggested that the development's reliance on a ditch on land at risk of flooding should mean that the whole development should be subject to the flood risk sequential test. However, given that other options may also be available, I find that the development is not, necessarily, reliant on this land. The site itself is not at risk of flooding and, therefore, the sequential test does not need to be considered.
26. Clearly, further work is required to demonstrate that the preferred, or indeed any other, option is achievable and would not lead to increased flood risk elsewhere. At this stage in proceedings, this is an undesirable situation. However, a range of options have been presented and a final scheme could be secured by planning condition. If this were a pre-commencement condition, then it would provide sufficient safeguard to ensure that development could not proceed in the face of unacceptable schemes that would increase flood risk elsewhere. If the required works were so extensive or significant to require a separate grant of planning permission in their own right, that would adequately safeguard the interests of neighbouring land owners, who may wish to be consulted on such a scheme.
27. To that end, my findings set out above, should not be taken to indicate that any one of the presented schemes is definitely available. Rather, I do not believe that there is no prospect at all of an acceptable scheme coming forward within the lifetime of any planning permission that I may grant.
28. Therefore, I find that finalisation of a suitable drainage scheme can be the subject of a planning condition. With such a condition in place, there would be no conflict with LP Policies 3 and 13 that require development to make provision for dealing with flood risk.

#### *Housing land supply*

29. The Council believes that applying the temporary arrangements set out at Framework paragraph 226, there is only a need to demonstrate a 4 year supply of housing land. Those temporary arrangements apply to local planning authorities which have an emerging local plan that has either been submitted for examination or has reached Regulation 18 or Regulation 19 stage, as set out in the Town and Country Planning (Local Planning) (England) Regulations 2012, including both a policies map and proposed allocations towards meeting housing need.
30. Following the formation of Dorset Council, there has been a Regulation 18 consultation on a Dorset Local Plan that the parties agree included a policies map and proposed allocations. However, a report to the Council's Cabinet (the Cabinet Report) on 12 March 2024 indicated that it would not be possible to submit that plan for examination by the anticipated cut-off date of 30 June 2025 under transitional arrangements to a new plan-making system introduced by the Levelling Up and Regeneration Act 2023 (LURA).
31. The Cabinet Report went on to explain that for this and some other reasons, it was necessary for the Council to move across to the new plan-making system and to formally start preparing a new-style local plan later this year. It describes the new 30 month timetable stemming from the LURA and sets out in a revised Local Development Scheme (LDS) how this timetable will start in November 2024.

32. At the Hearing, it was suggested that a choice of the words 'the official start of the new plan preparation process' were unfortunate, given that the Council's officers intend the actual process to be more of a continuation of the existing draft Dorset Local Plan. However, it was also undisputed that the ultimate plan will need to cover a different local plan period, and the Council confirmed that it might also include the former Purbeck District area that was previously excluded from the Dorset Local Plan.
33. There may be an ability to use a lot of the background information that informed the Dorset Local Plan, including that gained through the previous Regulation 18 consultation. Nevertheless, it appears to me that the resultant local plan, which will have to go through all stages of the new plan-making process will, in effect, be an entirely new plan. That process will start, from the beginning, in earnest, later this year. Formal consultation will likely be required in accordance with yet-to-be-published new regulations. There is no reference to plans prepared in this way within Framework paragraph 226, only to the Regulations 18 and 19 stages of the 'old' system, which the ultimate Dorset Local Plan will not be required to pass through.
34. I acknowledge the undeniable position that there is a plan that has passed through the Regulation 18 stage that has not been formally withdrawn or abandoned. However, the reality of the situation is that the plan in the form that it was at that time will not progress. On the basis of the LDS now, no plan will be adopted before end of the temporary arrangements and I, therefore, conclude that the need to demonstrate only a 4 year supply of housing land in the circumstances set out in Framework paragraph 226 does not apply in this case. Demonstration of a 5 year supply is required.
35. The Council's latest published housing supply report shows that there is a 5.02 year supply of housing. Numerically, that is just 9 units above the required 5 year supply. The appellant submits that 3 of the sites within the Council's trajectory do not meet the definition of deliverable set out in the Framework and should not be included. Two of the three sites have outline planning permission for major development. The other is allocated in a neighbourhood plan. In accordance with the Framework, these sites should only be considered deliverable where there is clear evidence that housing completions will begin on site within 5 years. I consider these below.

Lower Bryanstone Farm, Blandford St Mary

36. A reserved matters application was submitted for the site in June 2022. There has been continuous dialogue between the Council and applicant, but there are outstanding issues relating to housing mix, landscaping and urban design. The Council's additional statement on this issue suggests that an acceptable scheme should be achievable (my emphasis) and at the Hearing, the Council emphasised that the site was in a visually sensitive location.
37. It was further confirmed at the Hearing that drainage matters were not fully resolved at outline stage. This has resulted in the applicant having to undertake additional work and alter the site design. At the time of the Hearing, further consultation, including with the Lead Local Flood Authority was ongoing. The application may be presented to the Council's planning committee in June, but that is not certain, nor is the ultimate decision.

38. I understand that the applicant has been seeking approval for various pre-commencement conditions, that initial site works in preparation for the site access have been undertaken and initial marketing advertisements have been placed at the site. However, at the present time, there is still uncertainty about the acceptability of the scheme before the Council.
39. Following reserved matters approval, development would usually have to commence within 2 years. There is no formal evidence of an intent to start work promptly. The Council explained at the Hearing that they would usually expect to see the first completions around 12 months after commencement.
40. Taking this into account, even if reserved matters approval is given soon, there is no clear evidence that there would be any commencement before spring 2026, with the first completions likely around a year later. The Council's trajectory currently shows 40 completions forecast for 2026/27, but the evidence does not support this.
41. I, therefore, find that the site should not feature in the deliverable supply at all, but even taking an optimistic view that approval may be forthcoming soon, the 40 units forecast for 2026/27 should certainly be removed.

#### Ham Farm and Newhouse Farm

42. The site is within the Gillingham southern extension. Following a Housing Infrastructure Fund loan, a new principal street through the development has been completed. Drainage infrastructure has also been installed. The first phase of 34 dwellings has full planning permission and the second phase (1b) by the same developer has outline permission with reserved matters approval pending. At the Hearing, the appellant accepted that this second (1b) phase is now deliverable.
43. Dispute remains over the next phase (known as phase 2) for up to 280 dwellings, of which 225 are included in the 5 year supply. At the Hearing, the Council explained that their main concerns with the application had been resolved and that they expected reserved matters approval to be given at the latest at the June planning committee, if not under delegated authority beforehand. Given the outstanding issues described, this seems a realistic assumption.
44. However, notwithstanding the considerable investment in upfront infrastructure, it appears that the phase 2 site is dependent on the phase 1b site for a connection to the principal street. I was told that the two developers are working together but there is no substantive evidence of this and there appears to be no formal trigger for the delivery of the highway infrastructure.
45. The Council confirmed at the Hearing that the applicant for the site had suggested that it would deliver 30 dwellings in the year 2024/25, with 65 in each of the subsequent years. However, given that completions would usually be at least 12 months after commencement, they would not occur in the year 2024/25, even if the developer is poised to start now. The Council has also taken the developer's suggestion that 65 dwellings can be completed each year without evidence, while accepting that this is at the higher end of the normal delivery rates, and on a site that also has another outlet.
46. I, therefore, cannot accept the forecast delivery rates. Although I find the site to be deliverable, there is no clear evidence to support the expected delivery

timetable. While I have concerns about the suggested 65 dwellings per year rate, any reduction would be arbitrary and baseless. However, at least 30 dwellings for the year 24/25 should be removed from the supply.

#### Land east of Franwill Industrial Estate

47. It was undisputed at the Hearing that the Council has been considering a full application for 15 dwellings since July 2021. New information was submitted in February this year and the Council explained that various design issues are still unresolved. The new information being provided so long after the original submission, demonstrates a lack of any particular urgency on the part of either main party to move matters forward. There is also a draft planning obligation which could be completed reasonably quickly once heads of terms were agreed, but there is no clear evidence that such agreement has been reached.
48. The Council also confirmed that the applicant is the land owner and a trustee, not a developer. There is no clear evidence of any developer involvement now. While, being a small site, it could probably be built out fairly quickly. However, it would appear that land transactions may also have to take place following any grant of permission. There is no clear evidence as to when planning permission will be granted, nor when a commencement is likely. Therefore, these 15 dwellings should be removed from the supply.

#### Small sites

49. There are a number of small sites with planning permission that, in accordance with the Framework, should be considered deliverable unless there is clear evidence that the homes will not be delivered within five years. A number of Council's apply a 'non-implementation' or 'lapse rate' to such sites but there is no policy requirement to do so.
50. There is no dispute that some planning permissions lapse, but other unexpected sites may also gain planning permission. There is no substantive evidence concerning the numerical difference between the lapses and new permissions in the North Dorset area before me. Given this and the definition of 'deliverable' set out in the Framework, I have no reason to discount the small sites with planning permission from the supply.

#### The resulting supply

51. In light of the above findings, at least 85 dwellings should be removed from the 5 year deliverable housing supply. Based on the Council's latest published position, that leaves 2162 dwellings in the deliverable supply against an agreed requirement of 2238 including the relevant buffer. That equates to, at best, a 4.83 year supply. The implication of this shortfall is that the benefits associated with the supply of housing receive substantial weight and that the policy set out in Framework paragraph 11(d) falls to be considered. I turn to that below.

#### **Other matters**

52. The site would see a suburban-style expansion of the existing settlement into a landscape recognised for its attractiveness and cultural associations with Thomas Hardy. Along with the Crown Road site, it would result in a significant incursion into the countryside. Nevertheless, the site would be seen within the context of other surrounding development that is already visible from some key surrounding footpaths and routes. The overall character of Marnhull is varied,

but the closest existing parts of the settlement, including that around Ashley Road, Stoneylawn and Corner Close are distinctly suburban in form. The first of these is also street-lit.

53. The Council accepts that, with a more carefully considered layout than shown on the illustrative plans, harm to the character and appearance of the area would not be significant. While the density would be higher than at the Crown Road site, given the context, I have no reason to disagree or find that any significant additional harmful light spillage would result from the development. There is also no reason that a layout could not be produced that avoided harm to the living conditions of existing nearby residents.
54. Grade II listed Laburnum Cottage sits on Tanzey Lane close to the appeal site. Its significance derives from its interest as a 17<sup>th</sup> century coarsed rubble agricultural worker's cottage. Thus, its significance is enhanced by its stand-alone location at the edge of the adjoining field, allowing its purpose to be understood in its original context. The ultimate layout could pay better respect to the setting of Laburnum Cottage than that shown in the indicative plans. Nevertheless, development of the site for large-scale housing, especially in combination with the Crown Road site would still diminish this wider rural landscaped setting and cause less than substantial harm to the Cottage's significance.
55. Nash Court was formerly a single 16/17<sup>th</sup> century single house, listed at grade II for its architectural and historic interest and as the home of the Hussey family. The Council has explained that the site would be visible from the south façade and the immediate setting of Nash Court. There are strong historical links to the land around Marnhull and the appeal site is part of the field system, along with Laburnum cottage, that was formerly part of the estate. As such, Nash Court's setting extends to some distance. The presence of built form within the field system would diminish, to a small degree, the extensive agrarian landscape setting and understanding of the importance of the house within Marnhull. Such, would result in less than substantial harm to its significance.
56. The Council has confirmed that the settings and significance of other listed buildings within the locality would not be harmed by the development and I have no reason to disagree. The Council's position is also that the less than substantial harm to the significance of Laburnum Cottage and Nash Court would be outweighed by the public benefits of boosting housing supply.
57. While the conservation of heritage assets is of great weight, I have also ascribed substantial weight to the benefits of increased housing supply. In addition, the planning obligation would secure 40% of the dwellings as affordable housing. While there may be a perception that any need particular to Marnhull will be addressed by existing permissions, there is evidence of a high need across the wider Dorset area and so the significant affordable housing contribution would also be a substantial benefit. I find that these benefits outweigh the harm to the heritage assets.
58. The site may result in the loss of grade 3a agricultural land, but not the highest grades 1 and 2. Grade 3a is still considered to be the best and most versatile agricultural land, but the Council is not aware of any other land of a lesser grade that is available in the locality. As such, if housing in this general area was found to be needed, this matter would not be determinative.

59. Notwithstanding the characteristics of Salisbury Street and the close proximity of the proposed access to that which would serve the Crown Road site, the Council has confirmed that the local highway network can safely accommodate the additional vehicular traffic likely to be generated.
60. There is some concern about pedestrian safety where people would emerge from the proposed pedestrian link onto Tanzey Lane to join the footpath across the Crown Road site. However, while some traffic, particularly delivery vehicles following satellite navigation, may use Tanzey Lane as a cut through, traffic volumes are low and speeds would necessarily be very low due to the width and alignment of the road. The details and position of the link are not finalised and, while there may be some associated visual effects, the Council confirmed at the Hearing that a safe egress can be provided.
61. There is also concern about pedestrian safety on Sodom Lane in the event that an emergency access shown on the indicative plans is delivered. The Highway Authority comments on the matter are couched in the terms 'if the link is provided'. Thus, there is no particular evidence that such a link is a necessary part of the development or, if it is, that it needs to be provided to Sodom Lane. In any case, there is no obvious reason that a link direct to Sodom Lane would more greatly encourage walking on Sodom Lane than the proposed link to the northern reaches of Tanzey Lane.
62. Moreover, given the safety concerns noted above, and while some people would be unable to do so, I find it more likely that people would take the cross-field route through the Crown Road site than use Sodom Lane. Indeed, I passed people walking on this route, even in the falling light levels and inclement weather at my site visit. Therefore, I find the resulting effects to be more closely aligned with accessibility and a deterrent to walking or cycling than to highway safety concerns.

### **Planning balance**

63. The conflict with the settlement strategy and associated shortcomings in accessibility that I have identified bring the proposal into conflict with the development plan, read as a whole. Moreover, the poor connectivity may be most strongly felt by elderly or disabled future occupiers. Such residents would share protected characteristics as defined in the Equality Act 2010 (the EA).
64. The public sector equality duty (PSED) outlined within the EA requires me to have due regard to the need to eliminate discrimination, harassment, victimisation and other prohibited conduct, advance equality of opportunity, and foster good relations between persons who share a relevant protected characteristic and those who do not share it. The potential for the access to services to be more challenging to the elderly and disabled would not advance equality of opportunity for accessing new homes.
65. However, the housing land supply situation is such that the provisions of Framework paragraph 11 d) need to be considered. This indicates that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when considered against the policies in the Framework taken as a whole.
66. Of benefit, is the sizable supply of homes, including a substantial affordable housing contribution that would help to meet the Council's housing supply

requirements. While I understand that delivery rates have increased significantly in recent years, and the trajectory appears on paper to be optimistic for the remainder of the plan period, there is, nevertheless insufficient supply to meet the expectations set out in the Framework at the present time.

67. While the main towns would, undoubtedly provide better locations for growth in terms of accessibility there is no particular evidence that these preferred locations can be relied upon to produce the additional housing required in the near future. My conclusions in respect of housing land supply indicate that they are not doing so now. Therefore, some reliance on the less desirable locations, such as Marnhull must be expected.
68. The Framework is clear that planning policies and decisions should aim to achieve healthy, inclusive and safe places, including through developments that allow for easy pedestrian and cycle connections. I have found that the safety concerns with the walking routes add to the deterrent rather than being demonstrable harm. This development would fall short on that basis, especially compared to well-connected urban locations, but the Framework is clear that decision making should take account of variation in the ability to maximise sustainable transport solutions between urban and rural areas.
69. There would also be some harm to the character and appearance of the area, and a small loss of agricultural land that may fall into the best and most versatile category. However, in the context that some presently undeveloped land will be required to meet housing needs such harm will likely occur somewhere. The harm in this case, is not significant. There is less than substantial harm to the significance of two listed buildings, but I have already found that to be outweighed by the benefits and so those policies of the Framework relating to heritage matters do not weigh against the proposal.
70. I do understand the concerns that the resultant, cumulative level of growth may change the character of Marnhull to some degree. However, there is no substantive evidence of adverse effects on the highway network beyond the immediate environs of the site. Unmitigated adverse effects on other village facilities have similarly not been substantiated. Some change to the character of Marnhull as a settlement as a whole might well be noticeable, but not necessarily harmful, especially as the development would adjoin the part of the village that already exhibits a more suburban character.
71. On this basis, I find that the adverse impacts of the development would not significantly and demonstrably outweigh the benefits when considered against the policies of the Framework taken as a whole. The proposal, therefore, benefits from the presumption in favour of sustainable development outlined at Framework paragraph 11 and this weighs very strongly in favour of granting permission.
72. In this case, while having due regard to the disadvantage that may be caused to some people with protected characteristics in terms of their choice to live in this particular development of new housing, I find that the policies of the Framework indicate that a decision should be taken otherwise than in accordance with the development plan and planning permission should be granted.

## Conditions

73. In addition to the standard conditions controlling submission of reserved matters and the time for implementation of the permission, a condition is required listing the access plans which are being approved now, in the interests of certainty.
74. To ensure satisfactory surface and foul water drainage schemes are provided and to avoid any increase in flood risk off-site, full details of a surface water drainage scheme and maintenance strategy, and foul drainage scheme must be agreed prior to the commencement of any development. To protect biodiversity and environmental interests, conditions are required to secure a final biodiversity plan, a construction environmental management plan, and any unexpected land contamination must be remediated. To secure appropriate archaeological records at the site, a scheme of archaeological investigation is required.
75. In the interests of highway safety, pedestrian connectivity, and reducing travel demand as far as possible, details of a footpath link to the route across the Crown Road site must be submitted, the footway along Salisbury Street between the site access and Tanzey Lane must be widened, and a travel plan implemented. Details of the site access must be finalised, visibility splays provided, and a construction traffic management plan submitted and implemented.
76. The Council suggested a number of other conditions that are not necessary. A condition limiting the number of dwellings that can be constructed at the site is not needed as the description of development is for 'up to' 67 dwellings, and 'layout' and 'scale' are reserved matters in any event. Building heights, landscaping and tree protection measures, as well as ongoing management of any landscaping, details of the internal highway layout and construction, including vehicle and cycle parking could be agreed, controlled and secured as part of the reserved matters approval process. The parties agreed at the Hearing that electric vehicle charging would be secured through the Building Regulations and did not require a planning condition.
77. Some of the Council's conditions included reasons for their imposition, lists of details to be submitted or reference to other approval processes, guidance and legislation. My conditions focus on the actions required to be taken in the interests of precision, and I have omitted generic lists so that the parties can agree the relevant factors for this site, in accordance with prevailing guidelines at the relevant time. I have made some other changes to the Council's suggested conditions in the interests of consistency and clarity, and to ensure compliance with the Framework and Planning Practice Guidance.

## Conclusion

78. For the reasons given above, the appeal is allowed.

*M Bale*

INSPECTOR

## **SCHEDULE – Conditions**

1. Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the Local Planning Authority before any development takes place 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 3 years from the date of this permission.
3. The development hereby permitted shall take place not later than 2 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: 22039/P001; 106.0027-0001 Rev P01; 106.0027-0002 Rev P01; 106.0027-0003 Rev P01.
5. No development shall commence until a detailed surface water management scheme for the site and connection to an agreed discharge point, based upon the hydrological and hydrogeological context of the development, including clarification of how surface water is to be managed during construction, and a timetable for its implementation, shall be submitted to and approved in writing by the Local Planning Authority. The surface water management scheme shall be fully implemented in accordance with the submitted details and approved timetable and thereafter maintained as such.
6. No development shall commence until details of the maintenance and management of both the surface water management scheme and any receiving system for the lifetime of the development, and any arrangements to secure the ongoing operation of the scheme have been submitted to and approved in writing by the Local Planning Authority. The surface water management scheme shall thereafter be maintained and managed in accordance with the approved details.
7. No development shall commence until a detailed foul drainage scheme has been submitted to and approved in writing by the Local Planning Authority. Thereafter, the development must be carried out in accordance with the agreed details prior to the occupation or use of any dwelling hereby permitted and shall thereafter be maintained as such.
8. No development shall commence until a final biodiversity plan has been submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be carried out in accordance with the approved details and implemented in full in accordance with the timescales within the biodiversity plan and any features specified for ongoing retention shall be thereafter maintained as such.
9. No development shall commence until details of a programme of archaeological work in accordance with a written scheme of investigation have been submitted to and approved in writing by the Local Planning Authority. The scheme must cover archaeological fieldwork, together with post-excavation work and publication of the results. Thereafter, the archaeological works shall be carried out in accordance with the approved details.

10. No development shall commence until details of the footpath link between the development site and public right of way N47/34 have been submitted to and approved in writing by the Local Planning Authority. The link shall be delivered in accordance with the approved details prior to the occupation of any dwelling on the site and thereafter maintained as such.
11. No development shall commence until a Construction Traffic Management Plan (CTMP) has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in strict accordance with the approved CTMP.
12. No development shall commence until a Construction Environment Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in strict accordance with the approved CEMP.
13. Prior to the first occupation of any dwellings hereby permitted, a replacement 2 metre wide footway shall be provided along the northern side of Salisbury Street from the main site access to the junction with Tanzey Lane in accordance with details that shall previously have been submitted to and approved in writing by the Local Planning Authority. Once provided, the footway shall thereafter be maintained as such.
14. Prior to the first occupation of any dwellings hereby permitted, the first 15.00 metres of the vehicle access, measured from the rear edge of the highway (excluding the vehicle crossing), shall have been laid out and constructed to a specification that shall previously have been submitted to and approved in writing by the Local Planning Authority and shall thereafter be maintained as such.
15. Prior to the first occupation of any dwellings hereby permitted the visibility splay areas as shown on drawing number 106.0027-0003 Rev P01 must be cleared/excavated to a level not exceeding 0.6 metres above the relative level of the adjacent carriageway. The splay areas must thereafter be maintained and kept free from all obstructions.
16. Prior to the first occupation of any of the dwellings hereby permitted the Travel Plan dated February 2023 shall be implemented. Within 6 calendar months of 50% occupation of the development hereby approved, a baseline travel survey shall be carried out and the results submitted to the Local Planning Authority in an updated version of the Travel Plan. Thereafter, on an annual basis for a period of 5 years a monitoring travel survey shall be carried out and submitted to the Local Planning Authority in a monitoring report. The survey shall confirm whether or not the objectives of the Travel Plan have been achieved and shall contain, where necessary, recommendations for amendments or improvements to the Travel Plan.
17. In the event that contamination is found at any time when carrying out the development hereby permitted that was not previously identified, it must be reported in writing immediately to the Local Planning Authority along with a timetable for remediation. An investigation, risk assessment and remediation strategy shall be submitted to and approved by the Local Planning Authority and

implemented in accordance with the approved timetable. Following completion of measures identified in the approved remediation scheme a verification report shall be submitted to and approved in writing by the Local Planning Authority.

**End of conditions**

Richborough

## **APPEARANCES<sup>1</sup>**

### **FOR THE APPELLANT:**

Paul Cairnes KC  
Counsel, instructed by Chapman Lily Planning Ltd  
Clare Spiller BSc (Hons) PG Dip TP MRTPI  
Associate Director, Chapman Lily Planning Ltd  
Jeff Richards BA (Hons) MTP MRTPI  
Senior Director, Turley  
Caitlin Turley BEng (Hons) MCIHT  
Associate, Paul Basham Associates  
Steve Millard IEng MICE  
Director PFA Consulting Ltd  
Paul Crocker  
Appellant

### **FOR THE LOCAL PLANNING AUTHORITY:**

Rob McDonald  
Case officer  
Hannah Smith  
Northern Team Area Manager  
Philip Reese  
Senior Planning Policy Officer  
Sara Hardy  
Senior Planning Policy Officer  
Steve Savage  
Transport Development Manager  
Alister Trendell  
Lead Local Flood Authority Project Engineer  
Cass Worman  
Case Officer  
Tobias Carleton-Prangnell  
Conservation Officer

### **INTERESTED PARTIES:**

|                |                |
|----------------|----------------|
| Julie Bartlett | Terry Rickeard |
| Lucy Bowden    | Jenifer Selim  |
| Stephen Boyce  | Tim Selim      |
| Rob Cullender  | Mark Turner    |
| K Emery        | Peter Watts    |
| Ros Eveleigh   | Steve Winder   |
| Terry Howells  |                |

## **DOCUMENTS SUBMITTED AT THE HEARING**

1. LP Policy 24 – Design, including supporting text and figures

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<sup>1</sup> Persons who appeared at the Hearing, whether or not they spoke in connection with this appeal.