



Appeal Decision

Site visit made on 4 March 2024

by Robin Buchanan BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 April 2024

Appeal Ref: APP/M1710/W/23/3328579

Land west of Somerset Fields, Hole Lane, Bentley, Hampshire GU10 5LP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Manor Oak Homes against the decision of East Hampshire District Council.
 - The application Ref is 55417/009.
 - The development proposed **was described as 'a rural exception site comprising 9 no. affordable homes and 3 no. market homes with all matters apart from access and layout reserved'**.
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Decision

1. The appeal is allowed and planning permission is granted for a rural exception site comprising 9 no. affordable homes and 3 no. market homes with all matters apart from access and layout reserved at land west of Somerset Fields, Hole Lane, Bentley, Hampshire GU10 5LP, in accordance with the terms of the application, Ref 55417/009, and the plans submitted with it, subject to the conditions set out in the attached schedule.

Preliminary Matters

2. The application is in outline with the principle of the proposal and details of access and layout for 12 dwellings to be considered now. These details are shown in a site layout plan¹, including means of access to the site which the Council did not object to. I have determined the appeal on this same basis.
3. Details of scale, appearance and landscaping were reserved for future determination; so while the application includes some of these details they are not part of the formal proposal, just one possible way the site could be developed in these respects.
4. On 19 December 2023 the Government published a revised National Planning Policy Framework (NPPF). I refer to relevant new paragraph or footnote numbers as necessary. The Council updated what it considers to be its housing land supply position and the appellant made comments in these respects. I have taken these submissions into account in determining the appeal.
5. During the appeal the appellant submitted an executed Section 106 legal agreement dated 6 December 2023 (S106). It relates to the provision of affordable housing on the site and to a transport contribution for highway improvements. The main parties intend the S106 to overcome reason for refusal (RfR) 5 cited in the **Council's** decision notice.

¹ Drawing number SL.01 Rev P4

6. Though not cited in RfR1, the Council considers that the proposal is contrary to other policies of East Hampshire District Local Plan: Joint Core Strategy, June 2014 (CS) and Bentley Neighbourhood Plan, February 2016 (NP). The appellant has addressed these other policies so I have taken them into account.

Main Issues

7. The main issues in this appeal are:
- the effect of the proposal on the character and appearance of the area;
 - its effect on the character or appearance of Bentley Conservation Area by development in its setting and on the setting of listed buildings;
 - whether there is a need for affordable housing at Bentley;
 - whether the site would be a suitable location for the proposal having regard to the development plan spatial strategy, including provision of rural exception affordable housing; and
 - its effect on the living conditions of the occupiers of dwellings in Somerset Fields with respect to rear gardens and privacy.

Reasons

Character and appearance of the area

8. The site is about half of a large, almost square field managed as rough grassland. This currently homogenous parcel of rural land is intrinsically part of the countryside around Bentley village and locally distinctive as such. It is, though, bordered by residential development on two sides. The northern and southern parts of the site would be less intensely developed to reflect the equivalent parts of housing in Somerset Fields to the east, and the single dwelling on the southern part would also match the looser knit arrangement of more dwellings south of the site fronting Main Road. Dwellings and plots in the centre of the site would be smaller and closer spaced, in keeping with this equivalent part and majority of Somerset Fields.
9. Most dwellings would be inset from the north site boundary and the mainly curved west boundary to give a landscaped margin of undeveloped land on these outer edges of the site with an aspect towards the wider countryside. As well, a less intense and abrupt transition with the countryside than the more regimented border of housing and plots in Somerset Fields. An open vista through Somerset Fields cul-de-sac would be maintained and views of the site from Public Footpath No.2, St **Swithun's Way**, on higher ground to the north west, are distant and would remain largely of a landscaped or village backdrop.
10. I am, therefore, satisfied that the layout would be compatible in this immediate developed context and with similar housing in nearby cul-de-sacs east of Hole Lane, north of Main Road. Furthermore, that suitable details of the scale and appearance of the dwellings could be resolved at a reserved matters stage, as well as landscaping of the site, including a condition to ensure trees next to the south boundary of the site which have significant visual amenity value are protected from ground excavations.
11. Existing features of the site would, though, be permanently lost with the rural integrity and presence of the field reduced in substance by the development. This would have a moderate adverse effect on the character and appearance of

the area, so there is some conflict with CS Policies CP2, CP20 and CP29 and NP Policy 2. These policies include that layout of development should protect the natural environment, local distinctiveness, sense of place and openness at the urban edge of settlements in the wider landscape and respect the character and identity of villages.

Bentley Conservation Area (CA) and listed buildings

12. The significance of the CA includes mainly older dwellings and plot layouts forming a long, narrow linear frontage along the north side of Main Road². The two most relevant in this appeal are Ganwells and Cedar Cottage grade II listed buildings, south of part of the field and the site respectively. They have innate architectural and historic interest and as part of this frontage make a positive contribution to the character and appearance of the CA.
13. Positioned close to Main Road, facing it, these buildings have a main southerly aspect largely not constrained by opposing buildings and towards an open panorama of lower lying fields on the south side of Main Road in the CA. This mostly undeveloped foreground to these buildings is locally distinctive and also the most important part of the setting of Ganwells and Cedar Cottage, including because these features can be appreciated in significant views from Main Road and give a clear impression and understanding of the historic settlement pattern.
14. Part of the site and the rest of the field are next to the north boundary of the CA. This land is not in the CA and is distant from Main Road as well as Ganwells and Cedar Cottage. It has a more discrete background presence and secondary feel in relation to the rear elevations of the buildings fronting Main Road in the CA, including the gardens, upper storeys and rear facing windows of Ganwells and Cedar Cottage. It is, though, part of the rural edge of Bentley so makes a modest intrinsic positive contribution to the setting of the CA and the rearward setting of Ganwells and Cedar Cottage.
15. However, even the closest part of the site is separated from Main Road and Ganwells and Cedar Cottage by a deep, wide swathe of garden land, with intervening hedgerow and some trees along the common boundary with the CA. This part of the site would be least intensely developed by a single dwelling set well back from the boundary with the CA and well behind Ganwells and Cedar Cottage. Though most of the dwellings would be on the more gently elevated northern part of the site, they would be even more distant. Subject to suitable details of scale and appearance no dwelling would be experienced in any meaningful public view from Main Road or elsewhere in the CA due to intervening buildings, walls, fences, hedgerow or trees. A significant view north from Main Road in a wider gap between buildings is too far to the west so not towards the site.
16. The layout of the dwellings would have more in common with the housing development in Somerset Fields (which is not in the CA) than Main Road or Ganwells and Cedar Cottage. Previous expansion of the village with similar backland residential development north of Main Road, next to but beyond the north boundary of the CA and behind other listed buildings, has maintained the integrity of the historic Main Road corridor settlement pattern. It has also left

² Bentley Conservation Area Character Appraisal and Management Plan, August 2014

the primary front facing aspect of listed buildings in this part of the CA intact, as would still be the case at Ganwells and Cedar Cottage.

17. Taking all the above into account, I am satisfied that the proposed layout would be compatible with this heritage context. Also, that suitable details of the scale and appearance of dwellings and landscaping of the site could be resolved at a reserved matters stage, including so that there was no appreciation of any significant built form or roofs in the Main Road streetscene.
18. Nonetheless, existing features of the site would be permanently lost. These outcomes would have a limited negative effect on this part of the setting of the CA and this part of the setting of Cedar Cottage and Ganwells listed buildings. This would not preserve or enhance the character or appearance of the CA overall³ or preserve the setting of Cedar Cottage and Ganwells listed buildings overall⁴. Consequently, there is some conflict with CS Policies CP2, CP20 and CP29 and NP Policy 2. These policies include that layout of development should protect historic features or natural and built environment heritage, such as rural buildings and open areas or spaces around buildings.

Need for affordable housing at Bentley

19. The CS acknowledges a housing affordability problem for local people in the district, especially in rural areas. Also, a significant deficit in affordable housing supply. It was a pressing need and priority in 2014 when this plan was adopted, with the examination Inspector finding an acute and urgent need for affordable housing in the district; as did an Inspector in a 2015 dismissed appeal for housing development near the current appeal site⁵. **The Council's officer report for the current appeal application suggested that local need for affordable housing was 'low' and that 'a number of applications with better connection would meet the need'** but it has not substantiated either claim.
20. Even if affordable housing (as opposed to more affordable market housing) already exists locally, as some interested parties suggest, there is no evidence that any identified local affordable housing need has already been met. Nor would be met (in whole or in part) by the proposal or by any extant planning **permissions in or at Bentley. The Council's** latest published need for affordable housing in the district is a significant 613 dwellings per annum⁶ and in 2021 housing affordability remained a notable barrier to home ownership⁷. The CS and the NP do not allocate sites for any housing in the settlement boundary or next to it at Bentley. I have not been informed about any other sites within the village that are promoted for housing, including affordable housing.
21. Subject to a suitable planning obligation **the Council's Housing Enabling Officer** supported the proposal (albeit after the Council had made its decision) — confirming that 22 people seeking housing on requisite registers expressed a local connection to Bentley (in terms of residence, close family or work) and a further 14 households had a preference to live in Bentley in shared ownership, shared equity and rent to buy housing⁸. I have not been informed of any change in these regards.

³ Section 72(1) - Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended)

⁴ Section 66(1) - Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended)

⁵ APP/M1710/W/15/3008871

⁶ Housing and Economic Development Needs Assessment 2022

⁷ Housing Needs and Requirement Background Paper

⁸ Consultation memorandum, 19 May 2022

22. These are the sort of circumstances that CS Policy CP14 is designed to help address and these housing tenures (as well as appropriate dwelling sizes) are reflected in the S106. It also requires a qualifying local connection and transfer of the affordable housing⁹ units to an appropriate provider (ie in perpetuity, unless in certain exceptional circumstances which the Council has agreed to as a party to the S106). On this basis, the S106 is necessary, related directly to the development and fairly related in scale and kind. As such it accords with the provisions of Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010 and the NPPF tests for planning obligations.
23. I therefore find that 9 affordable homes (75%) of the proposed 12 dwellings would make a significant contribution towards meeting local unmet affordable housing need at Bentley. Consequently, the proposal complies with CS Policy CP14 a), b), c) and f). The Council did not object to the market dwellings (25%) or related provisions in the S106. This level is within the scope of CS Policy CP14 which requires a respective minimum 70% and 30% split in dwelling type, so in this case biased more towards affordable housing.

Whether a suitable site for the proposal

24. In CS Policy CP2 Bentley is a lower Level 4 settlement with a settlement boundary defined by NP Policy 1. Some small-scale development may be appropriate within such settlements and most have access to local facilities and workplaces. Such development can be beneficial where it would support them. These settlements also have reasonable access to higher order centres to meet at least daily needs and where appropriate will accommodate development to meet local needs.
25. The site is not in the settlement boundary so in the countryside where CS Policy CP19 restrains development unless it needs to be there. CS Policy CP14 permits small-scale affordable housing for rural communities outside settlement boundaries in the countryside as an exception to CS Policy CP19, including subject to criteria d) and e). Even if there has already been modest housing growth at Bentley the development plan sets out a minimum number of new homes, so the housing requirement is not a cap to further suitable and justified housing.

Small-scale

26. **There is no apparent definition of 'small-scale' for CS Policies CP2 and CP14** or in the NPPF. The NP supports smaller scale housing development of between 8-12 dwellings to meet local needs. Some 230 dwellings in the village in 2014 were increased to almost 270 by Somerset Fields. The proposed 12 dwellings, including 9 affordable homes is a small-scale scheme by definition under the NP and by this relative absolute and percentage change in dwellings.

Criterion d) - services and facilities

27. Albeit under a previous interim housing policy to address a housing land supply deficit, the Council granted planning permission for Somerset Fields considering it to be well located for village facilities within a relatively short walking distance. The site is next to Somerset Fields. In addition, though a rural village the Council considered Bentley to be one of the larger and more sustainable

⁹ As defined by NPPF Annex 2: Glossary

Level 4 settlements with a number of local facilities, so comparatively one of the most appropriate villages to absorb additional residential development.

28. There is no longer a doctors surgery in Bentley. This is a significant change, including since the 2015 appeal decision referred to earlier. But that decision does not elaborate on the nature or extent of apparently '**limited' services or facilities** then, now some 9 years ago. In any event, in my view, CS Policy CP2 (and relevant supporting text to this policy) does not anticipate or insist that services and **facilities in Bentley must provide for 'all the day-to-day living requirements' of occupiers of new dwellings**, as that Inspector observed.
29. Albeit a snapshot, **Bentley has a primary school, children's nursery, public recreation and sports ground with equipped playground, village hall, pub, large 'village stores' convenience shop with Post Office and a coffee shop/cafe** selling hot and cold food to eat-in or takeaway. There are also employment units in the Bentley Industrial Centre and some allotments. Although some minor roads would need to be crossed, these are all roughly within a most conducive 10 minute or 800m walk¹⁰ from the site by suitable, safe shared surfaces or pavement which include street lighting. Despite no dedicated cycle lanes, including in the busier Main Road, all are within a short cycle ride.
30. Bus services from Bentley include to Alton (with the nearest doctors surgery), Farnham and Guildford. Bus stops are within the same conducive walking distance of the site. Though not on Sundays, the level of service Monday to Friday and Saturday is roughly between 60 to 90 minutes from early morning to late afternoon/early evening. Alton and Farnham are only about 6km away so these journey times are quite short. Bentley railway station includes hourly services to Alton and Farnham, with journey times below 10 minutes, and to London. The station is about a 2km walking distance, usually with the greatest potential to replace short car trips¹¹ but there is no continuous pavement or street lighting. This would reduce the attractiveness of walking but it could be cycled to. Many additional living needs could therefore be conveniently met at these towns by bus or train and some by cycling, as well as by rail to London.
31. I accept that some needs would still likely be met by car, such as weekly family food shopping or some commuting to work. However, Bentley has a useful range of local services and facilities to meet a number of day-to-day living requirements. These could be accessed by walking or cycling and occupiers of the proposed dwellings would likely support some or all of them in a meaningful way, in-line with aspirations of the NP. There is also useable access by other modes to larger settlements with a wider range of services and facilities. Even if modestly, these travel options would reduce dependence on cars so future occupiers of the dwellings would not be heavily or overly reliant on them.

Criterion e) - scale, location and size of the site

32. Much of the low-density layout would contain no buildings or other built form, including gardens, public open space, drainage swale and wildlife habitat. The area of site to be developed with 12 dwellings would be limited in extent in relation to the relatively small 1.2h site area. The southern edge of the site is next to the settlement boundary, with houses beyond in the village, and houses

¹⁰ Manual for Streets – paragraph 4.4

¹¹ Manual for Streets – paragraph 4.4

in Somerset Fields next to the settlement boundary are now part of the village. The proposed dwellings would not be isolated or detached from the village and be near most of the services and facilities along Main Road. This development would also counterbalance the similar cul-de-sac housing on the east side of Hole Lane, north of Main Road up to the edge of the built-up area of the village, so maintain a compact settlement envelope and form. In scale, location and size the site therefore relates well to the existing settlement, consistent with objectives of the NP for housing development in small clusters or separate pockets connected to the village.

33. On plain reading, the four criteria set out towards the end of CS Policy CP10 apply to small-**scale housing development that is 'in addition to' that which** accords with CS Policies CP14 and CP19, so do not apply in this case. Even if they did, the proposal would meet a community need with no evidence it could otherwise be met within the built-up area, would reinforce the role and function of Bentley and is a form of development identified in the NP by reference to a framework of relevant CS policies, including CS Policy CP14¹².
34. Taking all the above into account, I find that the site would be a suitable location for the proposal having regard to the development plan spatial strategy, including for the provision of rural exception affordable housing. Consequently, it complies with CS Policies CP14 d) and e) and CP31 and with NP Policy 1. As such there is no conflict with CS Policies CP2 or CP19, nor does it undermine the sustainable development objectives of CS Policy CP1.

Living conditions of the occupiers of dwellings in Somerset Fields

35. The first part of RfR6 and the **Council's** appeal statement refer to rear gardens in Somerset Fields, which is not to the south of the site as later cited in RfR6. The position (ie layout) **of the dwellings is not 'indicative' as RfR6 otherwise** states but details of scale and appearance (thus including dwelling storeys and window placement) is not being considered now. Five rear gardens border the site so have the most potential to be adversely affected by overlooking from first floor windows of the dwellings (other rear gardens would be further away or not in direct line of sight). The six dwellings on plots 1 and 5 to 9 would be the closest to these rear gardens.
36. The layout of plots 1, 5 and 9 indicate front and rear dwelling elevations orientated roughly north-south, so views from first floor windows would be at an oblique angle to Somerset Fields. Perpendicular first floor rear elevation windows at plots 6 and 7 would be inset a significant distance from the east site boundary, comparable to usual separation distances between dwellings and gardens. The dwelling at plot 8 would be closest to the east boundary but even if a flat above garage three first floor elevations would face in other directions, including scope for rooflights with upward views. Floorplans could locate rooms such as kitchens or bathrooms (with obscured glazing) to mitigate overlooking.
37. There is no objective evidence to suggest that the proposed layout would result in first floor windows in dwellings at plot 1 and plots 5 to 9 having direct, unduly proximate or intrusive downward views towards the adjoining rear gardens. As a result, I am satisfied that suitable details of the scale and appearance of the dwellings could be resolved at a reserved matters stage to avoid undue adverse effect on the living conditions of the occupiers of dwellings

¹² NP paragraph 4.9

in Somerset Fields with respect to rear gardens and privacy. Consequently, the proposal complies with CS Policy CP27 which includes that development should not have an unacceptable effect on the amenity of occupiers of neighbouring properties through loss of privacy.

Other Matters

Emerging draft Local Plan (draft LP)

38. In the draft LP the whole field, including the site, is allocated for 20 homes not limited to rural exceptions housing and Bentley is elevated to a higher Tier 3 settlement¹³. This plan is at an early stage of preparation and subject to consultation, so may change. Accordingly, it is not yet an agreed strategy for meeting development needs across the district, whereas the current task in hand is the individual planning merits of the proposal before me. While a potential direction of travel, these provisions of the draft LP therefore have no weight in my decision.

Housing land supply

39. The draft LP is a Regulation 18 stage plan which contains a policies map and proposed housing allocations towards meeting housing need. The Council therefore has to demonstrate a 4 year supply of its 5 year housing requirement¹⁴. The Council did not fail the 2022 Housing Delivery Test and in February 2024 considered it had a 4.74 year supply of deliverable housing sites without any buffer¹⁵. This position was considered in a recent appeal decision, provided by the appellant, for housing development elsewhere in the district¹⁶. The Inspector found a 3.59 year housing supply, though that detailed evidence is not before me. Although I have not been informed of a challenge, the period for high court challenge has not expired. In these circumstances, the housing land supply position outlined in that decision is not yet settled. Accordingly, while I have had regard to it, I give it no weight in my decision.

Thames Basin Heaths Special Protection Area (SPA)

40. The SPA is designated a European Site and is also internationally important because of habitat for certain ground nesting and breeding birds susceptible to harmful impacts due to recreational use of this land. The site is beyond a 5km zone of influence of the SPA but within 7km of an edge of it. The main parties agree that in this location proposals for less than 50 dwellings do not require SPA assessment or mitigation, as set out in a delivery framework adopted by the Council and prepared with advice from Natural England¹⁷. I therefore have no reason to find otherwise or that there would therefore be a likely significant adverse effect on the nature conservation interest of the SPA and adverse effect on its integrity.

Transport contribution

41. A transport contribution in the S106 is agreed by the main parties. I have been provided with some explanation of why it was sought and how the sum was

¹³ BEN1 – Land west of Hole Lane, Bentley

¹⁴ NPPF paragraph 226 and Planning Practice Guidance paragraph 68-056-20240205

¹⁵ Addendum to October 2023 East Hampshire Five-Year Housing Land Supply Position Statement

¹⁶ APP/M1710/W/23/3329928, 10 April 2024

¹⁷ Thames Basin Heaths Special Protection Area Delivery Framework – Thames Basin Heaths Joint Strategic Partnership Board February 2009

calculated. But I have not been informed about what transport infrastructure it would be used for 'to support the development' or to 'provide improvements that link the site to the wider transport network'. Nor is there any programme for delivery, including relative to potential commencement or completion of the development in the event that the appeal was allowed. Nor do I know if the contribution would be sufficient by itself or need to be pooled, but if so the mechanism and timing is unclear. I therefore cannot be certain that this obligation in the S106 accords with CIL Regulation 122 or the relevant NPPF tests. In these circumstances, and albeit not a determinative factor in my decision, there is no transport contribution benefit in this appeal.

Other interested party comments

42. Bentley Parish Council (BPC) and many local residents also objected for other reasons. Details of external lighting and a surface water drainage scheme for this greenfield site, which might also have off-site flood risk benefits, could be secured by a condition(s). There is no objective evidence that the site is best and most versatile agricultural land or that other infrastructure to support the proposal would not be provided in a timely manner. The Highway Authority did not object to the modest increase in traffic generation or its effect on the surrounding road network and it was not a Council reason for refusal. The percentage increases in traffic along Hole Lane referred to by BPC are given without any context about overall traffic numbers, so have limited meaning.
43. Whether or not the proposal is a precursor to a further phase of housing development on the residual part of the field is not material to my decision because a planning application would need to be considered on its individual planning merits. There is no objective evidence before me that the Council gave undertakings that land west of Somerset Fields would not be developed.

Heritage Balance

44. The NPPF aims to conserve the historic environment. Designated heritage assets are an irreplaceable resource to be conserved in a manner appropriate to their significance. In a limited way the proposal would undermine the significance of the CA and the significance of Ganwells and Cedar Cottage listed buildings by virtue of development in the respective settings, so in each case the harm would be less than substantial. The NPPF requires that great weight should be given to the conservation of a designated heritage asset irrespective of the level of harm. The proposal would undermine **the Council's** relevant development plan objectives in these regards, which are broadly consistent with these aspects of the NPPF. Where a proposal will lead to less than substantial harm to significance this harm should be weighed against the public benefits of the proposal.
45. By virtue of the housing land supply position in this appeal, NPPF footnote 8, paragraph 11 d) is not engaged. Consequently, the presumption in favour of **sustainable development (the 'tilted balance')** does not apply in this case. However, the Council agrees this in itself 'is not a barrier to supporting an **affordable housing rural exception site such as this**'. There is an identified need for affordable housing at Bentley and the site is a suitable location in principle to meet some of it in the scale and manner proposed, including an acceptable level of market housing to facilitate this and help meet the Council's overall housing requirement. Employment would be sustained during construction works and the dwellings would generate CIL receipts with 25%

directed to BPC to invest locally due to the made NP. Future occupiers of the dwellings would likely support services and facilities in Bentley. There would be no undue impact on the most important wildlife habitat or on protected species. Subject to a condition there would be adequate ecology mitigation and compensation at the site with an overall biodiversity net gain exceeding 10%.

46. These outcomes would accord with relevant development plan policy aims. They are consistent with objectives of the NPPF to significantly boost the supply of new homes and meet the needs of people with specific local affordable housing requirements in rural areas on exception sites. In these respects, an effective use of this rural land with an appropriate density of housing and new residents to help enhance or maintain the vitality of Bentley, including the rural economy by supporting the retention or new accessible local services and community facilities. This pattern growth would offer a genuine choice of transport modes, recognising the rural location of the site. It would also enhance habitats and ecology.
47. In my view, these 12 dwellings would make an appreciable contribution in these regards, so each consideration has significant weight in favour of the appeal. The public benefits of granting planning permission would, therefore, outweigh the loss of significance and level of heritage harm in this case. In these terms there is a clear and convincing justification for the proposal.

Conditions

48. The Council suggested some planning conditions if the appeal was allowed. The appellant has given written agreement to pre-commencement of development conditions. I am satisfied that those details must be established at the outset so they can be incorporated in the development at the appropriate time to achieve the desired outcomes. Where required, I have considered modified wording in the interests of clarity or precision, including consultee responses and some wording suggested by the appellant. I have also had regard to the relevant tests in the NPPF and Planning Practice Guidance, including to keep conditions to the minimum required.
49. In addition to standard conditions for securing details of the reserved matters and time limit for commencing development, a condition to specify the approved plans would give certainty about the details of access and layout that would be built. The site is agricultural land so a condition would be justified to ensure it is not contaminated by this use and could ensure any necessary mitigation for future residential use of it. It is also in an area of known undisturbed archaeological potential so a condition for on-site investigation and, if necessary, mitigation and recording of artefacts would be justified.
50. The development would be near existing residential properties and accessed along residential roads. Although for a temporary period, some noise or disturbance is an inevitable consequence of new development but a condition could secure a construction management plan to help ensure safe and free flow for all users of the highway. Also, to avoid intrusion to residential amenity at antisocial times of the day or certain times of the weekend and on public holidays. Additionally, to ensure that proposed off-street car parking was provided to reduce the scope for congestion in the cul-de-sac or parking elsewhere, and suitable cycle storage to encourage this mode of travel. A condition could secure suitable storage for domestic waste at each property.

Planning Balance and Conclusion

51. There would be no harm to the living conditions of the occupiers of dwellings in Somerset Fields with respect to rear gardens and privacy. This is a neutral factor in my decision. Some countryside would be permanently lost as a result of the proposal and undermine relevant development plan policy aims. These are consistent with objectives of the NPPF to recognise the intrinsic character and beauty of the countryside. The loss would be relatively small but this harm adds further modest weight against the proposal.
52. However, there is otherwise no apparent reason why future approval of details of scale, appearance and landscaping would not (with the details of access and layout) result in well-designed development that was visually attractive and sympathetic to local character and history, including surrounding built environment and landscape setting. This would maintain a strong sense of place and Bentley as a distinctive place to live or visit.
53. The benefits of granting planning permission therefore outweigh the totality of the harm. Since I intend to allow the appeal on this basis, even if the Council does not have a 4 year supply of deliverable housing sites this would not affect my decision or, therefore, alter the outcome of the appeal.
54. The proposal does not comply with certain policies of the development plan and conflicts with some provisions of the NPPF. However, there are other important material considerations that indicate the decision should be made in accordance with the development plan taken as a whole¹⁸, consistent with other relevant provisions of the NPPF and planning permission granted subject to conditions and the S106.
55. Consequently, for the reasons given above the proposal is acceptable, so the appeal succeeds.

Robin Buchanan

INSPECTOR

Schedule of Conditions (12)

- 1) Details of scale, appearance and landscaping (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.

¹⁸ Section 38(6) Planning and Compulsory Purchase Act 2004 (as amended) and NPPF paragraph 12

- 4) The development hereby permitted shall be carried out in accordance with the following approved plans:
- | | | |
|--------|--------|--------------------|
| SLP-01 | Rev A | site location plan |
| SL.01 | Rev P4 | site layout plan |
- 5) No development shall commence on site until details of a scheme for foul and surface water drainage shall have been submitted to and approved in writing by the local planning authority, based on principles within the submitted Flood Risk Assessment (FRA)¹⁹. Such details shall include:
- (a) provision for all surface water drainage from parking areas and areas of hardstanding to prevent surface water from discharging onto the highway;
 - (b) a detailed drainage layout and construction details based on site investigation and percolation tests with run-off calculations for the peak event;
 - (c) a technical summary with any changes to the design in the FRA;
 - (d) infiltration tests undertaken in accordance with BRE365 and providing a representative assessment of those locations where infiltration features are proposed;
 - (e) detailed drainage plans to include type, layout and dimensions of drainage features and cross reference to drainage calculations;
 - (f) detailed drainage calculations to demonstrate existing runoff rates are not exceeded and there is sufficient attenuation for storm events up to and including 1: 100 years plus climate change;
 - (g) evidence that urban creep has been included in the calculations;
 - (h) confirmation that sufficient water quality measures have been included to satisfy the methodology in the CIRIA SuDS Manual C753; and
 - (i) exceedance plans demonstrating the flow paths and areas of ponding in the event of blockages or storms exceeding design criteria.

The proposed hard surface(s) shall either be made of porous materials or provision shall be made to direct run-off water from the hard surface(s) to a permeable or porous surface within the site. The development shall be carried out in accordance with the approved details before any part of the development is first occupied and shall be retained and maintained thereafter.

- 6) No development shall commence on site, or excavations or groundworks take place, until the following details shall have been submitted to and approved in writing by the local planning authority:
- (a) a scheme outlining a site investigation and risk assessments (including desktop study) designed to assess the nature and extent of any contamination on the site;
 - (b) a written report of the findings including a description of the extent, scale and nature of any contamination, an assessment of

¹⁹ Ref 406-FRA-01-B, prepared by Martin Andrews Consulting (MAC) Limited June 2022.

all potential risks to known receptors, an update of the conceptual site model (devised in the desktop study) and identification of all pollutant linkages; and, unless identified as unnecessary in the written report, an appraisal of remediation options and a proposed preferred option(s) identified as appropriate for the type of contamination found on the site; and

- (c) a detailed remediation scheme designed to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historic environment. The scheme shall include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works, site management procedures and a verification plan outlining details of the data to be collected in order to demonstrate the completion of the remediation works and any arrangements for the continued monitoring of identified pollutant linkages.

The above schemes and reports shall be completed by a competent person²⁰. The site works shall be undertaken in accordance with DEFRA and the Environment Agency 'Model Procedures for the Management of Land Contamination, CLR 11' and BS10175: 2011 Investigation of potentially contaminated sites – Code of practice.

- 7) No development shall commence on the site, or excavations or groundworks take place, until an Arboricultural Method Statement and Tree Protection Plan, based on principles within the submitted arboricultural impact assessment²¹, shall have been submitted to and approved in writing by the local planning authority. The development, including excavations and groundworks, shall be carried out in accordance with the approved details.
- 8) No development shall commence on the site until a programme of archaeological evaluation, and as necessary a programme of archaeological mitigation of impact, has been implemented in accordance with a Written Scheme of Investigation (WSI) that shall have been submitted to and approved in writing by the local planning authority. The WSI shall also include arrangements for submitting a post-completion of archaeological fieldwork report setting out and securing appropriate post-excavation assessment, specialist analysis and reports, publication and public engagement.
- 9) No development shall commence on the site until a Construction Method Statement (CMS) shall have been submitted to and approved in writing by the local planning authority. The CMS shall include the following details for the operation of the site during the construction phases:
- (a) a programme and phasing of construction work;
 - (b) vehicle parking arrangements for site operatives and visitors;
 - (c) hours of working at the site, including arrangements and timings for deliveries;
 - (d) means of access and egress for plant and machinery;

²⁰ NPPF Annex 2: Glossary

²¹ Ref 220128 1078 AIA V1, prepared by Wharton Natural Infrastructure Consultants, 4 February 2022

- (e) protection of pedestrian routes within and adjoining the site; and
- (f) location of temporary site buildings, compounds, construction material, spoil heaps and plant storage areas.

The approved CMS shall be adhered to throughout the construction phases of the development.

- 10) No development shall commence on the site, or excavations or groundworks take place, until a Biodiversity Mitigation and Enhancement Plan (BMEP), including a sensitive lighting design strategy and construction environmental management plan, based on principles within the submitted ecological impact assessment²², addendum and technical note²³, shall have been submitted to and approved in writing by the local planning authority. These details shall include:
- (a) risk assessment of potentially damaging construction activities;
 - (b) identification of biodiversity protection zones;
 - (c) practical physical measures and sensitive working practices or method statement to avoid or reduce impacts during construction;
 - (d) the location and timing of sensitive works to avoid harm to biodiversity features;
 - (e) the times during construction when specialist ecologists, an ecological clerk of works or similar competent person need to be present on site to oversee works, including responsibilities and lines of communication; and
 - (f) use of protective fences, exclusion barriers and warning signs.

The development, including excavations and groundworks, shall be carried out in accordance with the approved BMEP and as relevant thereafter retained and maintained in accordance with the BMEP.

- 11) No part of the development hereby permitted shall be occupied until details for the on-site provision of refuse and recycling bin and cycle storage facilities shall have been submitted to and approved in writing by the local planning authority and the approved details have been implemented on the site. The approved details shall be retained thereafter for these purposes.
- 12) No part of the development hereby permitted shall be occupied until the approved layout and provision of car parking has been implemented on the site. The approved details shall be retained thereafter for these purposes.

²² Ref 220929 1078 ECIA V2 ISSUE, prepared by Wharton Natural Infrastructure Consultants, 29 September 2022

²³ Both undated, prepared by Wharton Natural Infrastructure Consultants