



Appeal Decision

Inquiry Opened on 1 December 2020

Site visits made on 20 November and 9 December 2020

by Paul Griffiths BSc(Hons) BArch IHBC

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

Decision date: 19th January 2021

Appeal Ref: APP/D1265/W/20/3256221

Land South-West of Blandford Forum By-Pass, Blandford St Mary, Dorset

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for the approval of details required by a condition attached to a grant of outline planning permission.
 - The appeal is made by Bellway Homes (Wessex) Ltd against Dorset Council.
 - The application Ref.2/2019/1627/REM, dated 11 November 2019, sought approval of details pursuant to condition No.3 of a grant of outline planning permission Ref.2/2015/1935/OUT, granted on 30 November 2016.
 - The development proposed was described as 'develop land by the erection of up to 350 dwellings and community uses (commercial and non-commercial), including vehicle access from A350, public open spaces, play areas, car parking, including ancillary works and associated infrastructure, (outline application to determine access)'.
 - The details for which approval is sought are appearance; landscaping; layout; and scale.
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Preliminary Matters

1. Owing to the ongoing pandemic, the Inquiry was carried out on a 'virtual' basis. I am obliged to all parties for their forbearance and flexibility throughout, and to Gail Larkin of PINS who facilitated the proceedings.
2. I made an unaccompanied visit to the area in advance of the Inquiry on 20 November 2020, where I took in some of the viewpoints highlighted by the parties, and the residential area to the north of the appeal site, on the opposite side of the A354. I then carried out an accompanied visit to the site itself on 9 December 2020, after which I took in once more the various viewpoints highlighted by the parties, unaccompanied. I should also record that I remained until darkness fell so that I could gain an understanding of the night-time context of the site and its surroundings.
3. At the Inquiry an application for costs was made by the appellant against the Council. This application is the subject of a separate Decision.

Decision

4. The appeal is allowed and the details of appearance; landscaping; layout; and scale submitted pursuant to condition No.3 attached to outline planning permission 2/2015/1935/OUT, granted on 30 November 2016, in accordance with the application Ref. 2/2019/1627/REM, dated 11 November 2019, and the plans submitted with it, are approved, subject to the conditions in Annex A to this decision.

Main Issue

5. In the lead up to the Inquiry the Council confirmed that had it retained jurisdiction, it would have refused to approve the details submitted, setting out two putative reasons for that stance.
6. The first of these suggests that the proposal by reason of its layout, scale, and landscaping would result in an overly prominent development in a sensitive, valued landscape, within the settings of the Cranborne Chase and Dorset AONBs, which would result in significant harm to the intrinsic character and beauty of the area.
7. The second alleges that the layout, scale, appearance, and landscaping proposed would fail to provide an acceptable design by reference to its topography, prominence, and the importance of the existing group of protected lime trees on the site. Moreover, the proposed layout is not acceptable in the context of such a visually sensitive site because of the extent of built form, including the height and design of the houses on the upper slope.
8. In that context, the main issue is the effect the scheme put forward in seeking approval for the matters reserved is acceptable in character and appearance terms, having regard to the site and its surroundings, with particular reference to its potential impact on the settings of the Cranborne Chase and Dorset AONBs but also whether on-site features, notably the group of lime trees have been properly considered.

Reasons

9. Before one embarks on an appraisal of the details proposed, it is essential to set out the baseline against which that appraisal must take place. The Council granted outline planning permission for up to 350 dwellings on the site, amongst other things, and approved access at that stage.
10. This was the subject of much debate at the Inquiry, but it is clear to me that in doing so, the Council¹ must have satisfied itself that 350 dwellings could be satisfactorily accommodated on the site. If it was not satisfied that this number of dwellings could be satisfactorily accommodated, then it is difficult to see why outline planning permission was granted in these terms.
11. That grant of outline planning permission was subject to a series of conditions. Condition No.4 stated that: *The development hereby permitted shall be carried out in accordance with the following approved plans – 12169.55, 12169.57, 12169.58, 12169.59, 12169.60, 12169.61 and 12169.62.* A subsequent application for a non-material amendment, approved by the Council on 24 January 2019, removed the reference to drawings 12169.58, 12169.59, 12169.60, 12169.61 and 12169.62 from the condition on the basis that these drawings were only ever intended to be illustrative.
12. That leaves drawings 12169.55 and 12169.57. The former is entitled Location Plan & Topographical Survey and in effect, identifies the site with a red line, with an additional area outlined in blue immediately to the south-west of it. The latter is entitled Access and Technical Plan. It gives details of two means of access to the site, one from the A354, the other from the A350, a spine road between them, and other internal routes.

¹ At the time the decision was made this was North Dorset District Council

13. The Town and Country Planning (Development Management Procedure) (England) Order 2015² in dealing with applications for outline planning permission says that access means the accessibility to and within the site, for vehicles, cycles and pedestrians in terms of the positioning and treatment of access and circulation routes and how these fit into the surrounding access network.
14. Layout is defined as the way in which buildings, routes and open spaces within the development are provided, situated and orientated in relation to each other and to buildings and spaces outside the development.
15. There is something of a crossover in the way the DMPO defines access and layout but it seems to me that having approved access at outline stage, the Council accepted the two accesses into the site, and at the very least, the route of the spine road between them.
16. Further, on 16 November 2018, an application of for approval of the reserved matters for the first phase of the overall development was submitted to the Council (Ref.2/2018/1590/REM). As submitted, this referred to the first 211 dwellings, amongst other things, but was subsequently amended to 89 dwellings with garages, parking and associated infrastructure in the north-eastern part of the site. These details were approved by the Council on 8 January 2020. It was helpfully clarified that these approved details are a repeat of the treatment of the north-eastern part of the site in the details before me.
17. It is important too to appreciate why outline planning permission was granted for housing on the site. Policy 16 of the adopted North Dorset Local Plan Part 1³ deals with Blandford. Under the heading Meeting Housing Needs it states that at least 1,200 homes will be provided at Blandford Forum and Blandford St Mary between 2011 and 2031. In addition to infilling and redevelopment within the settlement boundary, Blandford's housing needs will be met through amongst others: h the development of land to the south east of Blandford St Mary. This includes the appeal site. The Local Plan clearly envisages development on the appeal site, therefore.
18. Further, and following on from Policy 16 of the Local Plan, the Blandford + Neighbourhood Plan 2011 – 2033 Submission Plan⁴ includes the appeal site, and the land to the south of it, within a new defined settlement boundary for Blandford (Forum and St Mary). The Neighbourhood Plan has been through examination and is in the latter stages of the process towards adoption. It can, therefore, be given significant weight. Like the Local Plan, it very clearly anticipates development on the appeal site.
19. Bringing those points together, the baseline for consideration can be clearly defined. Outline planning permission has been granted for up to 350 dwellings and associated infrastructure on the site as envisaged in Policy 16 of the Local Plan, and the Neighbourhood Plan. The main accesses to the site, and the spine road between them, have been approved, as have details of the first phase of 89 dwellings. I noted at my site visit that works to form the accesses and the spine road are well advanced, and a significant number of the first phase of dwellings and garages are under construction.

² Referred to hereafter as DMPO

³ Referred to hereafter as Local Plan

⁴ Referred to hereafter as Neighbourhood Plan

20. The appeal site lies close to two AONBs; it is roughly 450m to the south-east of the Dorset AONB and about 680m south-west of the Cranborne Chase and West Wiltshire Downs AONB⁵. The site and the group of lime trees upon it are visible in whole or part from both AONBs, and the site forms part of the setting of both AONBs. The Council suggests in its putative reasons for refusal that the site is sensitive, and part of a valued landscape, and I do not disagree.
21. However, I would observe the location of the site in the setting of two AONBs, and its sensitivity and value, did not present any barrier to it being effectively allocated in the Local Plan and Neighbourhood Plan, or the grant of outline planning permission for up to 350 dwellings and associated infrastructure on the site. In granting outline permission, the Council has effectively accepted that the site will undergo significant change. The essential question for me is whether the details put forward in pursuance of that grant of outline permission manage that change in a way that is acceptable. It is in that overall context that I turn to consider those details.
22. Dealing with the impact on the site itself first of all, it has characteristics, notably its open, elevated, upland nature, and the roundel of lime trees, that are characteristic of the Open Chalk Downland LCT⁶ it lies within. To my mind, the way in which the spine road, and the dwellings proposed, would climb the valley side respects the gently curving topography of the existing landform.
23. The existing roundel of lime trees is a very pleasing feature of the site that can be appreciated close-up, and in more distant views. The proposed layout allows ample space around it and makes a feature of the trees, adjacent to the NEAP⁷, as a counterpoint to the proposed Village Hall. In this way, they would be readily appreciated as a reminder of their position in what was an agrarian landscape. The MUGA⁸ has been carefully located to ensure that some longer distance views of the trees, a matter I return to below, are maintained.
24. As far as the treatment of the site itself is concerned, I am content that the proposals advanced are reasonable, having regard to the overall context in which they must be considered.
25. Before moving on to consider more distant views, and the settings of the AONBs, I need to deal with the Council's alternative suggestions trailed at the Inquiry. First of all, I would note that the Council's proposals do not cater for 350 dwellings. In the light of what I have set out above, that is a fundamental failing. However, I would also observe that level of excavation proposed, in order, it is said, to reduce the prominence of the dwellings, would fail to respect the existing topography. Such a treatment would appear highly incongruous. While ample space would be left around the lime trees (as one consequence of not including for 350 dwellings), the position chosen for the Village Hall would interfere, to an extent, with some longer distance views of the roundel of trees.
26. Alongside the criticism the Council made of what were termed 'generic' house types, this alternative proposal also needs to be seen in the light of the Council's approval of 89 dwellings with garages, parking and associated infrastructure on the lower, north-eastern part of the site.

⁵ Information taken from the Statement of Common Ground

⁶ Landscape Character Type

⁷ Neighbourhood Equipped Area for Play

⁸ Multi-Use Games Area

27. It seems to me that in doing so, the Council has accepted the general approach to the design of the individual houses and garages, and their layout following the profile of the landform, alongside the spine road, and what is more, directed the remaining 261 dwellings to the upper parts of the site. Concerns about houses being prominent because they are on the upper slopes of the site, and too close to the lime trees, have to be seen in that context.
28. Turning then to longer-distance views, and dealing first with the Dorset AONB, the Council highlights two representative viewpoints: 7 and 7B; the former from a footpath that runs west-east off New Road, and the latter from the vicinity of a bench at the side of New Road itself, which rises to north-west from the settlement on the opposite side of the A354 from the appeal site.
29. The photomontages suggest that little if anything of the development would be visible from Viewpoint 7 and nothing much more than some elements of roofscape would be seen above the existing settlement in the foreground from Viewpoint 7B. The view from these points in the Dorset AONB would undergo something of a change but given that the views take in the built form of the existing settlement in the foreground already, a relatively small increase in the extent of settlement visible, would have no harmful impact on the setting of the AONB.
30. As far as the Cranborne Chase and West Wiltshire Downs AONB is concerned, the Council highlights two representative sets of views, to the north-east and east of the site. The first of these which includes Viewpoint 9 is along a footpath that runs approximately north-south, crossing the B3082.
31. It is clear from the visualisations that the development will be readily visible from Viewpoint 9, and from other locations along the footpath. However, it would be read as an obvious extension of the existing settlement to the north of it, follow the established topography, and sit well below the skyline. It would not be particularly prominent. From this point, the lime tree roundel would be fully visible, due in part to the skilful siting of the MUGA. At the separation distance involved (around 1.3 km), the impact of the proposals on the setting of the AONB would be well within reasonable bounds and no more harmful than what must have been envisaged when the site was identified in the Local Plan and Neighbourhood Plan for housing, and outline planning permission was granted for up to 350 dwellings on the site.
32. The second representative set of views (including Viewpoints 11 and 11B) are from points on a footpath that runs north-east to south-west on land to the south-west of St Mary's Hill. Again, from the separation distance involved (the viewpoints are 2-2.5 km away), the development would be understood as a logical extension to the existing settlement. It would sit relatively comfortably in the topography of the landscape, well below the skyline, and would not appear particularly prominent. It would certainly be far less of a jarring feature in these views across the landscape than the Littleton Solar Farm, that lies to the immediate south-west of the appeal site.
33. Again, it seems to me clear that the manner in which the proposals have been designed would lead to no unacceptable impact on the setting of the AONB and certainly nothing beyond what would have been inevitable when the site was deemed suitable for housing in the Local Plan and the Neighbourhood Plan, and outline planning permission for 350 dwellings upon it was granted.

34. As a final point, I would say, that in reaching those conclusions, against the baseline set out, I am conscious that the site was identified as suitable for the necessary provision of housing after a rigorous site selection process. It was chosen because it was the least harmful option. If the Council's assertion that the site cannot accommodate 350 dwellings is correct, then the shortfall would have to be made up elsewhere. In the light of the conclusions of the site-selection process, they would have to be accommodated on sites where their impact on the setting of AONBs would be greater, or on sites in the AONBs themselves. To my mind, that further demonstrates why the position of the Council in relation to the amount of housing the site can accommodate is untenable. It is even more difficult to understand when the Council readily accepts that it cannot demonstrate a five-year supply of housing land.
35. Concerns about the potential impact of the proposal on dark skies have to be seen through that prism too. Even with careful design of the lighting to public areas, something that can be secured by condition, there will no doubt be some impact as a result of the proposal. However, it would be an extension of the existing settlement, bordered on two sides by major roads. The existing settlement is lit up at night, as are the roads, and the vehicles upon them. These are already negative influences on dark skies. It seems to me that placing necessary new housing in such a context would mitigate its additional impact, to a degree. Certainly the housing is far better located on the appeal site than in places where its negative influence on the night-time environment might not be so readily accommodated.
36. For all these reasons, in the light of the identified baseline, I find that the scheme put forward in seeking approval for the matters reserved is acceptable in character and appearance terms, having regard to the site itself, and the group of lime trees upon it in particular, and its impact on the settings of the Cranborne Chase and West Wiltshire Downs and Dorset AONBs.
37. As such, I find the details submitted to be in accord with Local Plan Policy 16 that deals with Blandford, and Policy 24 that addresses design. I see no departure from the requirements of Local Plan Policy 1 that deals with the presumption in favour of sustainable development or Local Plan Policy 4 that covers the natural environment. As such there is compliance with the development plan, read as a whole.
38. On top of that, the details submitted are in alignment with the expectations of the Neighbourhood Plan and I see no divergence from the requirements of the National Planning Policy Framework⁹, taken as a whole. These important material considerations weigh in favour too.
39. I note the references to the Cranborne Chase Partnership Plan 2019-2024 and the Dorset AONB Management Plan 2019-2024 but against the baseline I have set out, any variance from the requirements of these documents is insufficient as a material consideration to outweigh compliance with the development plan, and other material considerations.

Conditions

40. I have considered the suggested conditions in the light of advice in paragraph 55 of the Framework.

⁹ Referred to hereafter as the Framework

41. This tells us that planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise, and reasonable in all other respects.
42. I am also conscious that what is before me is a series of details required by a condition attached to a grant of outline planning permission. For that reason, the suggested commencement condition (suggested condition 1) is not required. This is covered by the original grant of outline planning permission.
43. I also have my doubts about the necessity of the plans condition (suggested condition 2). This sort of condition is routinely attached to grants of planning permission to enable subsequent applications for non-material amendments. That facility is not available when a decision is made to approve details submitted in pursuance to a condition attached to a grant of planning permission. Nevertheless, given the significant number of plans involved, I can see the utility in setting them out for the sake of clarity and certainty.
44. A condition is suggested to deal with the programming of strategic and other planting and to deal with any replacements necessary in the first five years (suggested condition 3). This is clearly necessary, but I have removed the final sentence which sets out the situation in relation to any disagreement because the Council has enforcement powers to deal with that.
45. The Council has put forward a condition that requires the submission of a landscape and ecological implementation and management plan (or LEMP) (suggested condition 4). The appellant argues that this has already been addressed through details submitted some time ago which have not resulted in any objections from the Council. In that context, I am not satisfied that the suggested condition is necessary. Given that the Framework is clear that conditions should be kept to a minimum, I have not imposed it.
46. In the light of the presence of important trees on the site, a condition is required to ensure these are protected and managed before, during, and after the development (suggested condition 5).
47. Control needs to be exerted by the Council over external materials to be used for walls and roofs, hard landscaping, road surfaces, as well as boundary treatment. Suggested condition 6 is necessary therefore, and a reasonable imposition.
48. The development needs to be carried out in accordance with the management measures set out in the approved Construction Environmental Management Plan and Construction Traffic Management Plan. On that basis, I have imposed suggested condition 7.
49. Similarly, it needs to be made clear that the mitigation and enhancement measures set out in the approved Biodiversity Mitigation and Enhancement Plan are implemented in full, in accordance with the timetable therein, and maintained thereafter. As a consequence, suggested condition 8 is a reasonable one.
50. A timetable for the provision of the public art feature, and the railway link, along with their future maintenance and management (suggested conditions 9 and 10), needs to be set out. On that basis, the suggested conditions are a necessity.

51. Finally, details of the lighting of the public areas of the site needs to be approved in order to control the impact this could have on dark skies (suggested condition 11). I have amended this in line with the parties' subsequent submission, but I have removed the reference to other documents the details ought to be informed by. If the Council are concerned that any details that come forward in pursuance of the condition are not properly informed, then it need not approve them.

Final Conclusion

52. For the reasons given above, and having regard to all other matters raised, it is my conclusion that the appeal should be allowed, and the submitted details of appearance; landscaping; layout; and scale, pursuant to condition No.3 attached to the original grant of outline planning permission, should be approved.

Paul Griffiths

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Peter Wadsley of Counsel

He called¹⁰

Peter Radmall
MA BPhil CMLI

John Hewitt
BA DipArch
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Mark Christopher Wood
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FOR THE APPELLANT:

Satnam Choongh of Counsel

He called

Steve Clark
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David Nash
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Andrew Cook
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INTERESTED PERSONS:

Richard Burden
BSc DipCons MSc MCMI(rtd)
MCIPD FLI PPLI

Cranborne Chase AONB Partnership Board

¹⁰ Robert Lennis of Dorset Council took part in the discussion on conditions

INQUIRY DOCUMENTS

ID1	Copies of Comments from Tree & Landscape Officer and AONB Board on the original application for outline planning permission
ID2	Appellant's Opening Statement
ID3	Council's Opening Statement
ID4	Material relating to Dorset Council Local Plan Options Consultation
ID5	Bundle of material relating to the Littleton Solar Farm
ID6	Copies of various submissions on the application from the AONB Board
ID7	CPRE Light Pollution and Dark Skies Map for the site and surroundings
ID8	Sight Lines Plan
ID9	Images from Mr Nash's E-in-C and additional photomontage relating to Village Hall
ID10	Copy of comments from Highway Authority on original outline application
ID11	List of Suggested Conditions and subsequent amendment to No.11
ID12	Council's Closing Statement
ID13	Appellant's Closing Statement
ID14	Appellant's Application for Costs
ID15	Council's Response to Costs Application
ID16	Appellant's Final Response on Costs

Annex A: Schedule of Conditions

- 1) The development hereby permitted shall be carried out in accordance with the approved plans set out in Annex B to this decision.
- 2) The strategic planting (landscape buffers along the A350 and A354, and south-west boundary) shown on the approved landscaping plans shall be carried out within the first available planting season following commencement of the development. The remainder of the planting shall be carried out within first available planting season following substantial completion of the development. In the five year period following the substantial completion of the development any trees that are removed without the written consent of the local planning authority or which die or become seriously diseased or damaged, shall be replaced as soon as reasonably practical and not later than the end of the first available planting season, with specimens of such size and species and in such positions as may be agreed with the local planning authority.
- 3) The development hereby approved shall accord with the steps set out in the approved Tree Protection Plan 3416-05-2020, and the Arboricultural Impact Assessment and Method Statement prepared by Mark Hinsley Arboricultural Consultants Ltd dated 6th November 2019, setting out how the existing trees are to be protected and managed before, during and after development.
- 4) Notwithstanding the details on any approved plan, no development above damp course level of the 90th unit shall occur until samples, or detailed specifications, of all external facing materials for the walls and roofs of dwellings, boundary treatments (walls and fences), hard landscaping, and road surfacing materials, have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 5) The proposed development shall be constructed in accordance with the management measures set out in the approved Construction Environmental Management Plan & Construction Traffic Management Plan (CEMP) prepared by Bellway, received on 15th November 2019.
- 6) The mitigation and enhancement measures set out in the approved Biodiversity Mitigation and Enhancement Plan prepared by ACD Environmental dated 10th December 2019 shall be implemented in full in accordance with the timetable set out in the report, or in the absence of a specific timetable, prior to the development hereby approved being first brought into use. The site shall thereafter be maintained in accordance with the approved mitigation proposals.
- 7) The public art feature shall be installed in accordance with the approved details on layout plan 19259 - P101B and the Design and Access Statement prior to final occupation of the 89th dwelling hereby approved, unless otherwise agreed in writing with the local planning authority. Its long-term maintenance and management shall be incorporated into the terms of the Management Company for the site, the details of which are to be approved and implemented in accordance with the S106 agreement dated 30th November 2016 relating to the grant of outline planning permission Ref.2/2015/1935/OUT.

- 8) The railway link shown on layout plan and highways details drawing 18-204/101 Rev G and 19259 – P101B hereby approved shall be implemented prior to first occupation of the 89th dwelling unless otherwise agreed in writing with the local planning authority. Its long-term maintenance and management shall be incorporated into the terms of the Management Company for the site, the details of which are to be approved and implemented in accordance with the S106 agreement dated 30th November 2016 relating to the outline planning permission 2/2015/1935/OUT.
- 9) Prior to occupation of any part of the development, a lighting strategy and implementation plan for the public spaces, parking courtyards, roads, footpaths, cycleways and railway, shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details and retained as such thereafter.

Annex 2: Schedule of Approved Plans

Plan/Document Reference	Plan/Document
19259 – S101	Location Plan - Full Site
CEMP	Construction Environmental Management Plan
BMEP (10.12.2019)	Biodiversity Mitigation & Enhancement Plan
BMEP Certificate (10.12.2019)	Biodiversity Mitigation & Enhancement Plan
18-204/01	Drainage and SUDS Maintenance Plan
18-204/02A	Drainage Strategy Technical Note
18-204-001G	Surface Water Drainage Strategy
18-204-002F	Foul Water Drainage Strategy
19259 – P101B	Proposed Site Layout
19259 – P102B	Affordable Housing Layout
19259 – P104B	Boundary Materials Layout
19259 – P105B	Surface Materials Layout
19259 – P106B	Car Parking Layout
19259 – P107B	Refuse Strategy Layout
19259 – P108	Apartment Blocks A and B - Floor Plans and Elevations
19259 – P109	Apartment Block C - GF and 1F Plans
19259 – P110	Apartment Block C - 2F and Roof Plans
19259 – P111	Apartment Block C - Elevations - Edge

19259 – P112	Apartment Block D - Floor Plans and Elevations
19259 – P113	Apartment Block E and F - Floor Plans
19259 – P114	Apartment Block E and F - Elevations
19259 – P115	Apartment Block G – Plans
19259 – P116	Apartment Block G - Elevations – Streets
19259 – P117	Blacksmith - Semi - Floor Plans
19259 – P118	Blacksmith - Semi - Elevations - Streets and Drives
19259 – P119	Blacksmith - Semi - Elevations – Edges
19259 – P120	Blemmere-Chandler - Semi - Floor Plans
19259 – P121	Blemmere-Chandler - Semi - Elevations – Edge
19259 – P122	Blemmere-Chandler - Semi - Elevations - Central Green
19259 – P123	Blemmere-Chandler - Semi - Elevations - Streets & Drives
19259 – P124	Blemmere-Chandler - Semi - Elevations - Streets & Drives
19259 – P125A	Bowyer - Detached - Floor Plans

19259 – P126	Bowyer - Detached - Elevations Central Green
19259 – P127A	Bowyer - Detached - Elevations Streets and Drives
19259 – P128	Bowyer - Detached - Elevations Streets and Drives
19259 – P129	Bowyer - Detached - Elevations – Edge
19259 – P130A	Carver - Detached - Floor Plans
19259 – P131	Carver - Detached - Elevations - Streets and Drives
19259 – P132	Carver - Detached - Streets and Drives
19259 – P134A	Carver - Detached - Elevations – Edges
19259 – P135A	Chandler - Semi - Floor Plans
19259 – P136A	Chandler - Semi - Elevations – Edge
19259 – P137A	Chandler - Semi - Elevations – Edge
19259 – P138	Chandler - Semi - Elevations - Streets & Drives
19259 – P139	Chandler - Semi - Elevations - Streets & Drives
19259 – P140A	Cooper-Thespian - Semi - Floor Plans
19259 – P141	Cooper-Thespian - Semi - Elevations – Edges
19259 – P142A	Cooper-Thespian - Semi - Elevations - Central Green
19259 – P143	Cooper-Thespian - Semi - Elevations - Streets and Drives
19259 – P144	Cooper-Thespian - Semi - Elevations - Streets and Drives
19259 – P145	Cooper-Thespian - Semi - Elevations - Streets and Drives
19259 – P146A	Cooper - Semi - Floor Plans

19259 – P147A	Cooper - Semi - Elevations – Edges
19259 – P148	Cooper - Semi - Elevations - Streets & Drives
19259 – P149	Cooper - Semi - Elevations - Streets & Drives – Stepped
19259 – P150	Cooper - Semi - Elevations - Streets and Drives
19259 – P151	Cooper - Terrace x3 - Floor Plans
19259 – P152	Cooper - Terrace x3 - Elevations - Central Green - Stepped
19259 – P153	Cooper - Terrace x3 - Elevations - Streets and Drives
19259 – P154	Cooper - Terrace x4 - Floor Plans
19259 – P155	Cooper - Terrace x4 - Roof Plan
19259 – P156	Cooper - Terrace x4 - Elevations - Streets and Drives
19259 – P157	Farrier - Detached - Floor Plans
19259 – P158	Farrier - Detached - Elevations - Streets & Drives
19259 – P159	Gateway Bungalow V1 - Floor Plans
19259 – P160	Gateway Bungalow V1 - Elevations - Edges
19259 – P161	Gateway Bungalow - Floor Plans
19259 – P162	Gateway Bungalow - Elevations - Central Green
19259 – P163A	Joiner - Terrace x3 - Floor Plans
19259 – P164	Joiner - Terrace x3 - Elevations - Streets and Drives
19259 – P165A	Joiner - Terrace x3 - Elevations - Edges – Stepped
19259 – P166A	Maisonette Block - Floor Plans - Private
19259 – P167A	Maisonette Block - Floor Plans – Affordable
19259 – P168A	Maisonette Block - Elevations - Streets and Drives
19259 – P169	Maisonette Block - Elevations - Streets and Drives

19259 – P170	Maisonette Block - Elevations - Central Green
19259 – P171A	Maisonette Block - Elevations – Edges
19259 – P172A	Mason - Detached - Floor Plans
19259 – P173A	Mason - Detached - Elevations - Central Green
19259 – P174	Mason - Detached - Elevations - Streets and Drives
19259 – P175	Mason - Detached - Elevations - Streets and Drives
19259 – P176	Milliner - Detached - Floor Plans
19259 – P177	Milliner - Detached - Elevations - Streets and Drives
19259 – P178	Potter - Semi - Floor Plans
19259 – P179	Potter - Semi - Elevations - Streets and Drives
19259 – P180	Potter - Terrace x3 - Floor Plans
19259 – P181	Potter - Terrace x3 - Roof Plan
19259 – P182	Potter - Terrace x3 - Elevations - Streets and Drives
19259 – P183A	Quilter - Detached - Floor Plans
19259 – P184A	Quilter - Detached - Elevations - Streets and Drives

19259 – P185	Quilter - Detached - Elevations - Streets and Drives
19259 – P186	Quilter - Detached - Elevations - Streets and Drives
19259 – P187	Quilter - Feature - Floor Plans
19259 – P188	Quilter - Feature - Elevations - Streets and Drives
19259 – P189A	Reedmaker - Detached - Floor Plans
19259 – P190A	Reedmaker - Detached - Elevations - Edges
19259 – P191A	Reedmaker - Detached - Elevations – Edges
19259 – P192	Reedmaker - Detached - Elevations - Streets and Drives
19259 – P193	Scrivener - Detached - Floor Plans
19259 – P194	Scrivener - Detached - Elevations - Streets and Drives
19259 – P195	Scrivener - Detached - Elevations – Edges
19259 – P196	Scrivener - Detached - Elevations - Edges
19259 – P197	Shoemaker - Semi - Floor Plans
19259 – P198	Shoemaker - Semi - Elevations - Streets and Drives
19259 – P199	Shoemaker - Semi - Elevations – Edges
19259 – P200	Shoemaker - Terrace x3 - Floor Plans
19259 – P201	Shoemaker - Terrace x3 - Elevations - Streets and Drives
19259 – P202	Shoemaker - Semi - Elevations - Streets and Drives
19259 – P203	Slater-Blacksmith - Semi - Floor Plans
19259 – P204	Slater-Blacksmith - Semi - Elevations - Streets and Drives
19259 – P205	Slater-Blacksmith - Semi - Elevations - Streets and Drives
19259 – P206A	Joiner-Slater - Semi - Floor Plans
19259 – P207A	Joiner-Slater - Semi - Elevations - Edges
19259 – P208	Joiner-Slater - Semi - Elevations – Edges
19259 – P209	Joiner-Slater - Semi - Elevations - Streets and Drives
19259 – P210	Joiner-Slater - Semi - Elevations - Streets and Drives
19259 – P211	Joiner-Slater - Semi - Elevations - Streets & Drives
19259 – P212	Joiner-Slater - Semi - Elevations - Central Green
19259 – P213	Slater-Joiner - Terrace x3 - Floor Plans
19259 – P214	Slater-Joiner - Terrace x3 - Elevations - Streets and

	Drives
19259 – P215	Slater-Joiner - Terrace x3 - Elevations - Central Green
19259 – P216	SO1 - Semi - Floor Plans
19259 – P217	SO1 - Semi - Elevations - Streets and Drives
19259 – P218	SO1 - Semi - Elevations – Edges
19259 – P219	SO1 - Terrace x3 - Floor Plans

19259 – P220	SO1 - Terrace x3 - Roof Plan
19259 – P221	SO1 - Terrace of 3 - Elevations - Streets and Drives
19259 – P222	SO1 - Terrace of 3 - Elevations - Edges
19259 – P223	SO2 - Semi - Floor Plans
19259 – P224	SO2 - Semi - Streets and Drives
19259 – P225	SO2 - Semi – Edges
19259 – P226A	SO2 - Terrace of 3 - Floor Plans
19259 – P227A	SO2 - Terrace of 3 - Roof Plans
19259 – P230	Spinner - Semi - GF and 1F Plans
19259 – P231	Spinner - Semi - 2F and Roof Plans
19259 – P232	Spinner - Semi - Elevations - Central Green
19259 – P233	Spinner - Semi - Elevations - Streets & Drives
19259 – P234	Tailor - Semi - Floor Plans
19259 – P235	Tailor - Semi - Elevations – Edges
19259 – P236	Tailor - Semi - Elevations - Streets and Drives
19259 – P237	Tailor - Semi - Elevations - Streets and Drives
19259 – P238A	Tailor - Terrace x3 - Floor Plans
19259 – P239A	Tailor - Terrace x3 - Elevations – Edges
19259 – P240	Tailor - Terrace x3 - Elevations - Streets & Drives
19259 – P241	Thespian - Floor Plans
19259 – P242	Thespian - Elevations - Streets and Drives
19259 – P243	Thespian - Elevations - Streets and Drives
19259 – P244A	Turner - Semi - Floor Plans
19259 – P245	Turner - Semi - Elevations – Edges
19259 – P247	Turner - Semi - Elevations - Streets and Drives
19259 – P248A	Turner - Semi - Elevations - Streets and Drives
19259 – P249A	Woodcarver - Detached - Floor Plans
19259 – P250	Woodcarver - Detached - Elevations - Edges
19259 – P251	Single and Double Garage - Edges and Central Green
19259 – P252	Single and Double Garage - Streets and Drives
19259 – P253	Sub-Station and Shed - Plans and Elevations
19259 – P254	Sales Garage Pre-Occupation – Edge
19259 – P255	Sales Garage Post-Occupation – Edge
19259 – P256	Double Parking Pergola
19259 – P257	Triple Parking Pergola
19259 – P258	SO3 Semi-Detached (Floor Plans)
19259 – P259	SO3 Semi-Detached (Elevations Streets and Drives)
19259 – P260A	Quilter - Detached - Elevations (Central Green)
19259 – P261	SO2 - Terrace of 3 - Elevations – Edge

19259 – P262	SO2 Terrace of 3 (Elevations Edges)
19259 – P263	Chandler V2 - Semi - Floor Plans
19259 – P264	Joiner V2- Terrace x3 - Floor Plans
19259 – P265	Bowyer V2- Detached - Floor Plans
19259 – P266	Mason V2 - Detached - Floor Plans
19259 – P267	Quilter V2 - Detached - Floor Plans
19259 – P268	Quilter V2 - Detached - Elevations (Central Green)
19259 – P269	Carver V2 - Detached - Floor Plans
19259 – P270	Turner V2 - Semi - Floor Plans
19259 – P271	Turner V2 - Semi - Elevations - Central Green
19259 – P272	Turner V2 - Semi - Elevations - Central Green
19259 – P273	Tailor V2 - Terrace x3 - Floor Plans
19259 – P274	Cooper-Thespian V2 - Semi - Floor Plans
19259 – P275	Cooper V2 - Semi - Floor Plans
19259 – P276	SO2 V2- Terrace of 3 - Roof Plans
19259 – P277	SO2 V2 - Terrace of 3 - Elevations – Edge
19259 – P278	SO2 - Terrace of 3 - Elevations – Edge
18-204-SK100D	Refuse Vehicle Swept Path Analysis (Sheet 1 of 2)
18-204-SK101D	Refuse Vehicle Swept Path Analysis (Sheet 2 of 2)
18-204-SK102D	Fire Tender Swept Path Analysis (Sheet 1 of 2)
18-204-SK103D	Fire Tender Swept Path Analysis (Sheet 2 of 2)
18-204-SK104D	Pantehnicon Swept Path Analysis (Sheet 1 of 2)
18-204-SK105D	Pantehnicon Swept Path Analysis (Sheet 2 of 2)
18-204-SK110D	Visibility Splays Layout (Sheet 1 of 2)
18-204-SK111C	Visibility Splays Layout (Sheet 2 of 2)
18-204-100F	Section 278 General Arrangement (Sheet 1 of 3)
18-204-101G	Section 278 General Arrangement (Sheet 2 of 3)
18-204-102D	Section 278 General Arrangement (Sheet 3 of 3)
18-204-200B	Section 278 Swept Path Analysis
3416-11-2019/JC/IMP/11/19	Arboricultural Impact Assessment
3416-11-2019/JC/MTH/11/19	Arboricultural Method Statement
3416-05-2020	Tree Protection Plan
BELL22310 14 E – Sheet 1	Soft Landscape Proposals – Sheet 1
BELL22310 14 E - Sheet 2	Soft Landscape Proposals – Sheet 2
BELL22310 14 E - Sheet 3	Soft Landscape Proposals – Sheet 3
BELL22310 14 E - Sheet 4	Soft Landscape Proposals – Sheet 4
BELL22310 14 E - Sheet 5	Soft Landscape Proposals – Sheet 5
BELL22310 14 E - Sheet 6	Soft Landscape Proposals – Sheet 6
BELL22310 14 E - Sheet 7	Soft Landscape Proposals – Sheet 7
BELL22310 14 E - Sheet 8	Soft Landscape Proposals – Sheet 8
BELL22310 14 E - Sheet 9	Soft Landscape Proposals – Sheet 9
BELL22310 14 E - Sheet 10	Soft Landscape Proposals – Sheet 10
BELL22310 14 E - Sheet 11	Soft Landscape Proposals – Sheet 11
BELL22310 14 E - Sheet 12	Soft Landscape Proposals – Sheet 12

BELL22310 14 E - Sheet 13	Soft Landscape Proposals – Sheet 13
BELL22310 14 E - Sheet 14	Soft Landscape Proposals – Sheet 14
BELL22310 14 E - Sheet 15	Soft Landscape Proposals – Sheet 15
BELL22310 14 E - Sheet 16	Soft Landscape Proposals – Sheet 16



Costs Decision

Inquiry Opened on 1 December 2020

Site visits made on 20 November and 9 December 2020

by Paul Griffiths BSc(Hons) BArch IHBC

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

Decision date: 19th January 2021

Costs application in relation to Appeal Ref: APP/D1265/W/20/3256221 Land South-West of Blandford Forum By-Pass, Blandford St Mary, Dorset

- The application is made under the Town and Country Planning Act 1990, sections 78, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Bellway Homes (Wessex) Ltd for a full award of costs against Dorset Council.
 - The inquiry was in connection with an appeal against the failure of the Council to issue a notice of their decision within the prescribed period on an application for the approval of details required by a condition attached to a grant of outline planning permission.
-

Preliminary Matters

1. The appellant made their costs application in writing, towards the end of the Inquiry. I gave the Council a period of time after the Inquiry closed to respond, in writing, and then allowed the appellant a further short period for a final written response. As indicated below, I have attached these written submissions to my parallel decision on the appeal as Inquiry Documents.

Decision

2. The application for an award of costs is allowed in the terms set out below.

The submissions for the Appellant

3. The submissions for the applicant were made in writing¹.

The response by the Council

4. The written response from the Council was made in writing².

The final response by the Appellant

5. The appellant's final response was made in writing³.

Reasons

6. The PPG⁴ tells us that where a party has behaved unreasonably, and this has directly caused another party to incur unnecessary or wasted expense in the appeal process, they may be subject to an award of costs.

¹ ID14

² ID15

³ ID16

⁴ Planning Practice Guidance

7. One of the aims of the costs regime, we are told, is to encourage local planning authorities to properly exercise their development management responsibilities, to rely only on reasons for refusal which stand up to scrutiny on the planning merits of the case, and not to add to development costs through unavoidable delay.
8. In setting out examples of the type of behaviour that may give rise to a substantive award against a local planning authority the PPG cites; preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy, and other material considerations; failure to produce evidence to substantiate each reason for refusal on appeal; vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis; acting contrary to, or not following, well-established case law; and refusing to approve reserved matters when the objections relate to issues that should already have been considered at the outline stage.
9. In their application for costs, the appellant gives a series of examples of what is seen as unreasonable behaviour on the part of the Council. The Council, in turn, has responded to those examples. However, there are two main points, in my view, that go to the heart of the matter.
10. The first relates to the grant of outline planning permission and the baseline. Put simply, the Council granted outline planning permission for up to 350 dwellings on the site, in line with the clear expectations of Policy 16 of the Local Plan. As I have set out in my parallel decision on the appeal, to have done so, the Council must have satisfied itself that 350 dwellings could be satisfactorily accommodated on the site, otherwise it is difficult to understand why outline planning permission was granted in those terms. It is clear to me from the evidence put forward in advance of, and during, the Inquiry, that the Council sought to row back from that. On the face of it, that is unreasonable behaviour.
11. That unreasonable start point fed into the way in which the baseline for consideration of the details put forward was handled. The Council did not appear to have started from the position that 350 dwellings could be satisfactorily accommodated on the site but treated the use of 'up to 350' as an invitation to suggest that the baseline could be significantly less than 350. The alternative scheme the Council put forward at the Inquiry is an example of that line of thinking. In that, the Council appeared to be engaged in the design of a layout it would find acceptable, without taking the need to accommodate 350 dwellings as a constraint. That is demonstrably unreasonable.
12. Rather, the Council should have been asking itself whether the details submitted were an acceptable way in which 350 dwellings could be accommodated on the site, bearing in mind that the main accesses, and the spine road connecting them, were fixed by the grant of outline permission, and details pertaining to the lower, north-east section of the site had already been approved. That leads me to my second, and main point in relation to unreasonable behaviour.
13. In assessing the details, the Council set great store on the 'prominence' of the development, the way the lime tree roundel would be treated, and the injurious impact that would result on the settings of the nearby AONBs. Visualisations were produced that purported to show these impacts.

14. However, it is very plain from analysis of the visualisations, informed by site visits, that the scheme that would result from the submitted details would not be unduly prominent, and the treatment of the lime tree roundel would be respectful. From the viewpoints chosen by the Council as representative, and bearing in mind the correct baseline, impacts on the setting of the AONBs would be marginal in relation to the Dorset AONB, and well within reasonable bounds in relation to the Cranborne Chase and West Wiltshire Downs AONB. I cannot see how the visual evidence produced by the Council can remotely justify the conclusions that were drawn. That is unreasonable behaviour.
15. Bringing those points together, I am of the view that the Council has prevented or delayed development which should clearly be permitted, having regard to its accordance with the development plan, national policy, and other material considerations; failed to produce evidence to substantiate each reason for refusal on appeal; made vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis; acted contrary to, or not followed, well-established case law; and refused to approve reserved matters when the objections related to issues that should already have been considered at the outline stage. In simple terms, the submitted details should have been approved, and the appellant has had to pursue an appeal that should not have been necessary.
16. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated and that a full award of costs is justified.

Costs Order

17. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Dorset Council shall pay to Bellway Homes (Wessex) Ltd, the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
18. The applicant is now invited to submit to Dorset Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Paul Griffiths

INSPECTOR