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## Appeal Decision

Inquiry opened on 15 February 2022

Site visits made on 23 February and 5 April 2022

**by David Wildsmith BSc(Hons) MSc CEng MICE FCIHT MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 27<sup>th</sup> April 2022**

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### **Appeal Ref: APP/D0121/W/21/3285343**

#### **Land at Moor Road, Yatton, North Somerset**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Persimmon Homes Severn Valley ('the appellant') against the decision of North Somerset Council ('the Council').
  - The application Ref 19/P/3197/FUL, dated 23 December 2019, was refused by notice dated 6 July 2021.
  - The development proposed is residential development of 60 dwellings (Use Class C3) with supporting infrastructure and enabling works, including new vehicular access with Moor Road, public open space, landscaping and infrastructure.
  - The inquiry sat for 6 days on 15-17 February, 22 February, 4 April and 6 April 2022.
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### **Decision**

1. The appeal is allowed and planning permission is granted for residential development of 60 dwellings (Use Class C3) with supporting infrastructure and enabling works, including new vehicular access with Moor Road, public open space, landscaping and infrastructure in accordance with the terms of the application Ref 19/P/3197/FUL, dated 23 December 2019, subject to the conditions set out in the attached schedule.

### **Preliminary and procedural matters**

2. A number of different landscaping and planting plans had been submitted over the lifetime of this proposal, including amended versions of Plans Y-12 (Landscape Masterplan), Y-13 (Planting Plan) and Y-14 (Planting Schedule) put forward in Mr Clarkson's rebuttal proof of evidence submitted just a week or so before the inquiry opened. The appellant requested that the appeal be determined on the basis of these revised plans, and having considered arguments on this matter from both the Council and the appellant, I concluded that the latest versions of these plans did not materially change the substance of the scheme which was originally submitted and consulted upon. As such I further concluded that no-one with an interest in this case would be unduly or unacceptably prejudiced by me determining this appeal on the basis of the February 2022 set of Y-12 to Y-14 plans.
3. It was clear, however, that accepting these plans meant that further work would need to be undertaken by the ecology witnesses for the appellant and the Council to establish reliable biodiversity net gain (BNG) and Habitat Evaluation Protocol (HEP) calculations, and that Natural England (NE) would also need to be reconsulted on the basis of these amended plans. After hearing evidence on other matters, I therefore adjourned the inquiry for a period of about 6 weeks, to allow

this additional ecology and biodiversity investigation and consultation work to be carried out. This topic was then considered when the inquiry resumed in early April 2022. Details are given later in this decision.

4. A range of documents accompanied the application including a Planning Statement, a Design and Access Statement, a Landscape and Visual Assessment, an Arboricultural Impact Assessment, a Heritage and Archaeology Statement, a Transport Assessment and a Shadow Habitats Regulations Assessment (HRA). These, and other supporting and background documents, are referenced in the list of Core Documents (CDs) at the end of this decision. In the run-up to the inquiry the appellant agreed a Statement of Common Ground (SoCG) with the Council, which can be found at CD3.
5. Planning obligations were submitted to the inquiry in the form of an agreement between the Council and the appellant, made under section 106 (S106) of the Town and Country Planning Act 1990, as amended. I deal with these obligations in more detail under the fifth main issue.

### **Site description, surrounding area and details of the appeal proposal**

6. The appeal site lies within 2.5 kilometres (km) of the North Somerset and Mendip Bats Special Area of Conservation (SAC) and comprises some 2.71 hectares in 2 separate fields which lie on the north-eastern side of Yatton, to the west of Moor Road, outside but adjoining the settlement boundary. The northern field comprises land which was previously used by the adjacent Yatton Rugby Club (YRC) for junior pitches, whilst the southern field comprises a former orchard. The northern field is allocated for residential development of 60 dwellings under Policy SA1 of the Council's Sites and Policies Plan Part 2, Site Allocations Plan (SAP), adopted in April 2018, and the appellant seeks to construct 60 houses within this northern field through the current appeal proposal. These dwellings would be served by an access road which would pass across the former orchard to a new junction with Moor Road.
7. At the time of my site visits much of the orchard was being used as a paddock for 2 horses, and contained just 6 apple trees, well-spaced out in 3 groups, each of 2 trees, and with only 4 of the trees still standing. One of the standing trees supports the rare Orchard Tooth Crust Fungus, which is a national priority species recorded in only about 20 sites within the UK. Stowey Rhyne runs along the north-eastern site boundary with fields beyond, whilst a Grade II listed building, The Grange, abuts the south-western boundary of the site. The Council Officer's Report (OR) to Committee indicates that The Grange was a cider producing farm and the former orchard was clearly a part of this enterprise. Other existing housing in Moor Road, Moorside and Grange Farm Road lies generally to the south of the site.
8. The proposal was recommended for approval by Council Officers but was refused planning permission by Members of the Council's Planning and Regulatory Committee who considered that the proposed road would result in the unacceptable loss of trees, hedgerow and habitat and would have a detrimental impact on the rural character and appearance of the former orchard and rural setting of the village. As such the Council maintained that it would be at odds with a number of development plan policies and Supplementary Planning Guidance (SPG), which I discuss and examine later in this decision.

### **Main issues**

9. No objections were raised to the proposed housing itself. Therefore, in light of the above points, and having regard to the Council's reason for refusal and the

evidence submitted by all parties, I consider the main issues in this case can best be expressed as:

- The effect of the proposed access road on the character and appearance of the former orchard and the surrounding area;
- Whether alternative access arrangements could reasonably be made, avoiding the former orchard;
- The effect of the proposed development on biodiversity, ecology and the natural environment;
- The extent to which the proposed development would be consistent with the development plan for the area, and the weight to be given to relevant development plan policies;
- Whether the submitted planning obligations would satisfactorily address the impact of the proposed development.

10. Following my assessment of the main issues, I then look at another matter raised, before moving on to consider the benefits and disbenefits of the proposal. I then carry out a final planning balance and reach my overall conclusion.

### **Reasons**

11. I consider it helpful to first outline the planning framework against which this proposal needs to be assessed, before turning to consider the main issues.

### ***The Planning Framework***

12. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the development plan for the area, unless material considerations indicate otherwise. In this case the SoCG between the Council and the appellant confirms that the development plan includes the North Somerset Council Core Strategy (CS), adopted in January 2017; the Development Management Policies (DMP) Sites and Policies Plan Part 1, adopted in July 2016; and the SAP, already referred to above.

13. The National Planning Policy Framework ('the Framework'), last updated in July 2021, is an important material consideration in this case, providing national policy guidance as well as clearly setting out the decision-taking process that should be adopted when considering planning proposals. In particular, it explains in its paragraph 11(c), that development proposals that accord with an up-to-date development plan should be approved without delay.

14. Whether the development plan is considered up-to-date depends on consistency with the Framework - the closer the policies in the development plan are to the policies in the Framework, the greater the weight that may be given to them. In situations where the development plan policies which are most important for determining the application are out-of-date - which includes circumstances where the Council cannot demonstrate a 5-year supply of deliverable housing sites, with the appropriate buffer - paragraph 11(d) of the Framework makes it plain that planning permission should be granted unless:

- i. the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

15. The issue of housing land supply (HLS) was in dispute between the main parties and was debated at the inquiry. I consider the respective arguments later in this decision, under the fourth main issue.
16. From the CS, the Council's reason for refusal alleges a conflict with Policies CS4 and CS5. The first of these deals with nature conservation, and amongst other things it seeks to ensure that new development is designed to maximise benefits to biodiversity, incorporating, safeguarding and enhancing natural habitats and features and adding to them where possible, particularly networks of habitats. It further states that a net loss of biodiversity interest should be avoided, and a net gain achieved where possible. This policy also seeks to protect, connect and enhance important habitats; promote the enhancement of existing and provision of new green infrastructure of value to wildlife; and promote native tree planting and well targeted woodland creation, and encourage the retention of trees, with a view to enhancing biodiversity.
17. CS Policy CS5 states that the character, distinctiveness, diversity and quality of North Somerset's landscape and townscape will be protected and enhanced by the careful, sensitive management and design of development. It also states that the Council will conserve the historic environment, having regard to the significance of heritage assets, with particular attention being given to aspects of the historic environment which contribute to the distinctive character of North Somerset.
18. From the DMP, the Council's reason for refusal alleges a conflict with Policies DM9, DM10 and DM32. Policy DM9 sets out a number of matters which any development proposals which affect trees should take into consideration. These include that the retention, protection and enhancement of tree canopy cover should be considered throughout the design and development process; that development proposals should achieve a high quality design by demonstrating that the long-term retention of appropriate trees is realistic; and that where practical, appropriate new tree planting and woodland creation is an integral part of the design and landscaping of new developments.
19. Policy DM10 contains criteria aimed at protecting and enhancing the diversity, quality and distinctive qualities of the landscape. Amongst other things it requires development proposals to not have an unacceptable adverse impact on the designated landscape character of the district, and to respond to the distinctive qualities of the landscape. It also requires new development to be carefully integrated into the natural, built and historic environment, aiming to establish a strong sense of place, respond to local character, and reflect the identity of local surroundings, whilst minimising landscape impact. Where some harm to the local landscape character is unavoidable, but a development is otherwise deemed beneficial, positive mitigation measures should be secured by a landscape condition or S106 planning obligations, involving works on or off-site as necessary.
20. Policy DM32 states that the design of new development should contribute to the creation of high quality, distinctive, functional and sustainable places where opportunities for physical activity and recreation are maximised. It requires the design and planning of development proposals to demonstrate sensitivity to the local character and setting, and enhance the area taking into consideration the existing context. It further requires design solutions to seek to enhance local distinctiveness and contribute to the creation of a sense of place and identity, and states that proposals which cause unacceptable harm to the character or appearance of the area will not be permitted.

21. The final policy referred to in the reason for refusal is SAP Policy SA1, which deals with housing allocations, and simply states that residential sites of 10 or more units are shown on the Policies Map and set out at Schedule 1 together with any specific site-related requirements or key considerations to take into account. I discuss this policy in more detail later in this decision, but at this stage it is relevant to highlight 2 of the 'site specific details/notes' within Schedule 1 which relate to the Moor Road allocation. These are firstly, that there should be no development in the orchard; and secondly, that the provision of an access road across the orchard will only be considered if alternative access arrangements cannot be made, and subject to a suitable scheme being agreed with NE.
22. The appellant contends that some of the aforementioned policies have to be considered out-of-date, and also considers that there are other policies from both the CS and the DMP which fall into the category of being most important in the determination of this appeal, but which also have to be considered to be out-of-date. I deal with these points under my consideration of the fourth main issue.

***Main issue 1 – the effect on character and appearance***

23. The Council and the appellant adopted somewhat different approaches to the consideration of this issue. The Council explained that its objection was not concerned with landscape matters as such, but was centred on its view that the characterful nature of the orchard and the positive contribution it makes to the setting of the village would be harmed by building a road across it. In contrast, the appellant provided more detailed landscape-based evidence, drawing on the Landscape and Visual Impact Assessment<sup>1</sup>, submitted to support the planning application. I have had regard to the evidence from the respective witnesses, but have also made my own assessment of the likely impact of the proposed access road, based on observations made during my accompanied and unaccompanied visits to the appeal site and the surrounding area.
24. As noted above, the appeal site lies adjacent to part of the north-eastern settlement boundary of Yatton, to the west of Moor Road. The Council's case is that the appeal site, and in particular the former orchard, acts as an entrance into the village from the highly sensitive landscape of the moors to the north-east, with the gentle slope within the orchard making this part of the appeal site more visible on arrival in the village than a parcel of ground at the same level as the surrounding moor would be. The Council further maintains that this sense of arrival is enhanced by the alignment and level of Moor Road, set below the level of the orchard and overhung by vegetation, which creates a tunnel effect which is particularly noticeable when the trees and hedge plants are in leaf.
25. As such, the Council contends that Moor Road in the vicinity of the proposed new access has a very distinctive semi-rural character. It argues that the need to remove some 40 metres (m) of the roadside hedging in order to construct the new junction, coupled with the proposed engineering works necessary to construct the new access, would have a significant negative effect on this character and would unacceptably urbanise this important entrance into Yatton and result in the loss of much of the impression of the sunken road.
26. The Council also considers that notwithstanding the proposal to add new fruit trees to the orchard, the proposed construction of a 5.5m wide access road and associated footway through the former orchard, necessitating the removal of 2 of

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<sup>1</sup> CDA6

the remaining apple trees, and a hedgerow ash, all of which are protected by a Tree Preservation Order<sup>2</sup> (TPO), would significantly impact the orchard's existing rural character by introducing hard, urban elements which could not easily be concealed. In the Council's view this would have a harmful effect on views across the orchard when entering the village from the north, and would further dilute the existing relationship between the farmhouse and its orchard. The Council argues that this relationship provides a physical narrative of why the landscape evolved to its current appearance, through its characteristic farming activity.

27. For these reasons the Council considers that the appeal proposal would be in conflict with the development plan policies set out in the reason for refusal. The reason for refusal also contends that the proposed development would be at odds with the North Somerset Council Landscape Character Area (LCA) Supplementary Planning Guidance (SPG) 2018<sup>3</sup>, although it does not elaborate on this matter and so it is not entirely clear in what way the Council alleges a conflict.
28. On this latter point, land to the north-east of Stowey Rhyne lies within the Kingston Seymour and Puxton Moors Character Area, but the plan of this LCA in the SPG clearly shows that the appeal site lies within the settlement of Yatton, and therefore outside this LCA. Development on the appeal site can therefore only have an indirect effect on the LCA. Moreover, whilst I acknowledge that this land to the north-east is of high sensitivity, as detailed in the Council's Landscape Sensitivity Assessment 2018<sup>4</sup>, this same Assessment classifies the northern part of the appeal site as a housing allocation (and therefore excludes it from the Assessment), whilst the former orchard itself is assessed as being of low sensitivity.
29. The appeal proposal makes it plain that there would be no street lighting or 'above ground' features associated with the proposed road, and I am therefore not persuaded that its presence would be particularly noticeable in any medium and longer-distance views when approaching the village from the north. I therefore do not consider that it would have an unacceptable visual impact, or adversely affect the character of the area when viewed from these locations. Accordingly, I do not consider that the road and associated changes to the orchard field would adversely impact upon the Kingston Seymour and Puxton Moors LCA.
30. I accept that the proposed road may be visible from viewpoints on Moor Road closer to the village entrance, and that vehicles using this road would be noticeable. But any such traffic movements would only be intermittent, and I share the appellant's view that from such locations the former orchard would only be seen in angled or oblique views, filtered by the existing roadside vegetation, with the wider vista including existing housing at the northern end of Kenn Moor Road. Because of this, I further share the appellant's view that the visual effects of an access road in the former orchard, for people arriving into Yatton from the north, would be relatively small. In any case these points would have to be seen in the context of new housing development on the northern field, which would be an inevitable consequence of the growth of the village, planned for through the SAP allocation.
31. Furthermore, I saw at my site visit that the existing junction between Moor Road and Kenn Moor Road already has an engineered, 'urban' appearance, and lies within the village boundary. People would have therefore already entered the village by the time they encountered the proposed new junction, and whilst I acknowledge

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<sup>2</sup> CDE11

<sup>3</sup> CDE9

<sup>4</sup> CDE10

that the nature and appearance of this stretch of Moor Road would inevitably be changed by the construction of the new access, I consider it to have an edge-of-settlement feel and appearance, with existing housing close by, rather than being of semi-rural character. It is also a cul-de-sac serving a limited number of properties, and therefore is not a main entrance into Yatton for vehicles.

32. Despite the presence of an ash tree protected by a TPO, the existing hedging to be removed is only categorised in the Arboricultural Report which accompanied the application as being of moderate condition, with some elms starting to die off, and I saw that it has been reinforced in at least one location by an old pallet. Although the new junction would be noticeable, it would only be seen in angled views from the Kenn Moor Road junction. Moreover, the submitted landscape and planting plans indicate that new native hedgerows would be planted around the junction, with plants that are estimated to produce a dense hedge 2m to 3m high in around 4 to 7 years. No firm, contrary evidence was put forward on this point, and there is therefore no reason to dispute the appellant's assertion that the new hedgerows would form attractive landscape elements in the short to medium term.
33. With regards to character and appearance of the former orchard itself, I find it difficult to accept the Council's contention that there is a clear physical relationship between The Grange and this field, suggestive of former times and past cider-making activity, when at the present time the orchard is almost devoid of trees and is currently in use as a horse paddock. I consider it more likely that the planting of new trees through the appeal proposal would result in a meaningful visual relationship between The Grange and the orchard, than would be the case if the field continues in its current form and use. Although the Council is clearly correct when it argues that the orchard could be restored without the need for a road to pass across it, no firm evidence was put before me to suggest how any such restoration would arise, in the absence of the current appeal proposal.
34. I have noted the point put forward by the Council's planning witness, that the old orchard is valued by local people, as evidenced by the attempt to have this area designated as a Local Green Space in the Yatton Neighbourhood Plan, which was made in 2019. However, this attempt was not successful, and no claim has been made by the Council, or others, that the former orchard constitutes a valued landscape in accordance with paragraph 174(a) of the Framework. The refusal to grant any such status by the Neighbourhood Plan Examiner clearly makes sense in light of the SAP allocation of the adjoining northern field for housing, with the clear indication in the site specific notes accompanying this allocation that an access across the old orchard would be permissible and in accordance with Policy SA1, in certain circumstances, as I discuss later.
35. Having regard to all the matters detailed above, and the evidence put forward by all parties, I share the appellant's view that the visual effects of the proposed access road would be highly localised, mostly glimpsed and often short-term. Whilst I accept that the nature of the visual changes would be largely negative in the short-term, I consider that once the proposed new orchard tree planting and the new hedgerow at the site access have become established, the visual effects for receptors around the site would be largely neutral. In coming to this view, I have also been very mindful of the fact that the field to the north of the former orchard is a housing allocation within the SAP, and hence development of this site and visual change is clearly expected, as is the possibility of an access road across the former orchard, in accordance with SAP Policy SA1.

36. Drawing all of these points together, I conclude that the proposed access road across the former orchard would not have an unacceptable impact on the character and appearance of the orchard itself, or on the surrounding area. I therefore find no conflict with the relevant parts of CS Policy CS5, DMP Policies DM9, DM10 and DM32, and SAP Policy SA1. Nor do I find any conflict with the North Somerset Council Landscape Character Area SPG 2018.

***Main issue 2 – whether alternative access arrangements could be made***

37. As already noted, Schedule 1 to SAP Policy SA1 states that for the development of the Moor Road allocation for 60 dwellings, the provision of an access road across the orchard will only be considered if alternative access arrangements cannot be made, and subject to a suitable scheme being agreed with NE.
38. The issue of possible alternative accesses was explained in the OR to Committee<sup>5</sup>, with a total of 3 alternatives being referred to. However the OR makes it clear that one of these options, which would avoid the former orchard by crossing the Stowey Rhyne and linking across to Moor Road to the north/north-east, had been discounted at the time of an earlier, similar application for 66 dwellings in 2019<sup>6</sup> due to its potential impacts. Having considered the points set out in the OR, and as no persuasive evidence in support of such a route was placed before me, I see no reason to disagree with the Officer's comments that this alternative is not considered to be a desirable solution that can be supported.
39. Of the 2 remaining alternatives referred to in the OR, one would involve a link to the existing residential development served by Grange Farm Road to the south of the appeal site, with the second option involving a possible access through the YRC land to the north and west of the appeal site. A further option through Dairy Close, to the south-west of the appeal site, was referred to in the evidence of the Council's highways witness, but has been dismissed as it would require the demolition of an existing dwelling and would involve a substandard footway provision. Again, I see no reason to disagree with this view.
40. Insofar as any possible access through Grange Farm Road is concerned, this would clearly be technically feasible in engineering terms, as an existing cul-de-sac with a parking area beyond adjoins the south-western boundary of the appeal site's northern field. However, the highway adoption plan for Grange Farm Road indicates that the publicly adopted highway does not run to the appeal site's boundary, and it was confirmed at the inquiry that the strip of land beyond the adopted highway has been retained by another house building company. As such it is not available to the appellant, and the appellant's planning witness was unable to provide details of any attempts the appellant may have made to secure this access.
41. Whether or not any such attempts have been made is therefore unclear. The simple fact remains, however, that access from Grange Farm Road is not currently available to the appellant. On this point I note that in closing its case the Council argued that compliance with this aspect of Schedule 1 to SAP Policy SA1 requires a developer to conscientiously try to secure a suitable access which avoids crossing the Orchard. But whilst that is clearly the Council's interpretation of this part of Schedule 1, it does seem to me to go beyond what the schedule actually says.
42. In this regard the appellant's interpretation – that the schedule should be taken to mean 'if alternative access arrangements cannot be made within the plan period' –

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<sup>5</sup> CDB1

<sup>6</sup> Application reference 16/P/0888F



also goes beyond the simple wording of the schedule. But to my mind this is quite a reasonable interpretation, in view of the fact that the housing allocation itself is clearly expected to come to fruition during the SAP plan period. For these reasons I therefore give more weight to the appellant's arguments on this matter, and take the view that in the context of the current appeal proposal an alternative access through Grange Farm Road cannot be made.

43. In terms of a possible alternative access through the YRC, this could only reasonably be achieved as part of a wider development involving the rugby club land, as a dedicated access from the B3133 (where the rugby club currently takes its access), to simply serve the appeal site, would involve a fairly lengthy road across otherwise undeveloped land. However, it seems to me that at present there are a number of problems with any such alternative access.
44. Firstly, development of the rugby club land would not be in accordance with the current development plan. I understand that such a development may accord with the new, emerging Local Plan – but this is at an early stage, with public consultation anticipated on a Preferred Options document in March/April 2022. As such, the main parties accept that it can only attract little weight at present.
45. Secondly, outside of this Local Plan process, I was provided with some details of a planning application for 87 dwellings on the rugby club land which was submitted during the first week of the inquiry<sup>7</sup>. The layout plan accompanying this application shows a 'Potential Future Connection' into the northern part of the appeal site. However at the resumption of the inquiry, in early April 2022, I was told by the appellant that this application does not appear on the Council's website, and as things currently stand there is no firm evidence before me to indicate that the applicants in that case (Strongvox Homes Ltd and YRC) are intending to meaningfully pursue this proposal.
46. In any case, it would clearly be many years before any such proposal could come to fruition, as a new home would have to be found for the rugby club, and replacement pitches would have to be made available – a process which the OR states normally takes up to 2 growing seasons. Importantly, the Council accepts that the rugby club site does not form part of its 5-year housing land supply. There is also agreement between the main parties that if access across the former orchard is not permitted, the Moor Road allocation would not be deliverable within the SAP plan period.
47. Having regard to the above points it is clear to me that the only realistic and pragmatic conclusion to reach is that no alternative access is available to deliver this Moor Road allocation. Accordingly, the proposed development would not be in conflict with SAP Policy SA1 and its accompanying Schedule 1, provided the proposed scheme is acceptable to NE – a matter I explore under the next main issue. With regards to Schedule 1, there was a difference of opinion between the parties as to its status. The Council maintained that it is a part of Policy SA1, whereas the appellant's view is that as the contents of this schedule are described in Policy SA1 itself as things 'to take into account' – not mandatory criteria – it should not be seen as part of the policy. But as I am satisfied that the appeal proposal accords with the schedule's requirements in this case, I do not consider it necessary for me to come to a firm view on the schedule's status.

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<sup>7</sup> Document (Doc) 27

**Main issue 3 – the effect of the proposed development on biodiversity, ecology and the natural environment**

48. As already noted, the appeal site lies within 2.5km of the North Somerset and Mendip Bats SAC, which is designated for breeding and wintering populations of greater Horseshoe bat and wintering populations of lesser Horseshoe bat. Ecological consultants engaged by the appellant have been conducting surveys at the Moor Road site for some 7 years, and this survey work has shown the use of the appeal site and adjacent habitats by both of these species.
49. The initial consultation response from NE stated that there is very likely to be a functional link between the orchard field, established Horseshoe bat roosts at The Grange, and the SAC. NE also referred to the appellant's Shadow HRA submitted with the application which concluded that all 3 boundaries of the orchard field are used for commuting by Horseshoe bats, and that night roosts for Horseshoe bats have been confirmed in the outbuilding, cellar and stables at The Grange. NE did not object to the proposals but did make it clear that this lack of objection was subject to a number of matters, including that mitigation planting should be undertaken at the earliest possible opportunity, ideally in advance of or at the commencement of construction on the site. I return to these points shortly.
50. Constructing the proposed access road across the former orchard would necessitate the removal of some lengths of hedgerow on both the north-western and south-eastern hedgerows of the orchard field, and there is therefore the potential for likely significant effects on the SAC. To comply with Regulation 63(1) of the Conservation of Habitats and Species Regulations 2017 it is therefore necessary for me to undertake an Appropriate Assessment. I have been assisted in this process by the updated Shadow HRA<sup>8</sup> submitted by the appellant. This identifies that taken together with other identified development schemes within proximity of the appeal site, less than 1% of the total potential foraging habitat is likely to be lost by the appeal proposal.
51. Figures provided by the appellant indicate that the number of greater Horseshoe bats that have been recorded using the appeal site (likely fewer than 5 bats regularly of both species, but potentially up to 10) constitutes less than 1% of the estimated total of the SAC's population of greater Horseshoe bats and very likely less than 1% of the lesser Horseshoe SAC population. Nevertheless, given the presence of night roosts at The Grange and the commuting routes available to these bats, the vegetated corridors within the appeal site may be of significant importance to bats associated with the SAC. In the absence of mitigation, the impacts identified would be expected to result in a decline in the conservation status of the SAC population.
52. However, the appeal scheme does propose several mitigation measures. Hedgerow gaps, which would be created to accommodate the new access road, would be kept to a minimum; and there would be no artificial lighting along the proposed access road itself, thereby minimising the barrier effect that this road would otherwise cause. The appellant also intends to plant new species-rich hedgerows along the new access into the site from Moor Road to maintain the extent of hedgerow along this boundary, with tree planting at this location aimed at minimising the gap needing to be crossed by bats, thereby reducing the fragmentation effect of the new road on foraging and commuting bats. In addition, a new night roosting

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<sup>8</sup> Doc 34

structure is proposed to the east of the new road as an ecological enhancement measure, to increase opportunities for night roosting bats.

53. Furthermore, suggested planning conditions would require the submission and approval of a Construction Environmental Management Plan (CEMP) and a Landscape and Ecological Management Plan (LEMP). As appropriate, these would provide for phasing, habitat creation, protection and retention, providing for early habitat creation where possible, along with measures for the establishment, enhancement and management of habitats within the appeal site. A further suggested condition details landscape planting and habitat creation measures which would be delivered in advance of construction work commencing on the site, or at the immediate outset of construction, to accord with the views expressed by NE.
54. In addition, the appellant indicated a willingness to provide some temporary mitigation measures in the form of Heras fencing panels with fresh vegetation cut and tied to them, to recreate the linear hedgerow. These have been used on other construction projects elsewhere within the local area, with the panels being installed along the line of the hedgerow at the end of each working day to restore the linear feature which has necessarily been removed for construction. Such measures could be secured through the CEMP.
55. In summary, the Shadow HRA states that the mitigation measures proposed could reasonably be expected to reduce potential effects upon the bats and, in turn, the SAC, to acceptable levels. In addition, sufficient habitat would be created, in accordance with the HEP guidance, to mitigate for proposed losses, thereby maintaining foraging capacity on site. It goes on to say that with the implementation of the suggested conditions and their respective monitoring programmes, it can safely be concluded, applying the precautionary principle, that the risk of adverse effects upon the North Somerset and Mendip Bats SAC can be ruled out beyond reasonable scientific doubt. I share that view.
56. The updated Shadow HRA has been shared with NE, who state in their letter dated 23 March 2022<sup>9</sup> that subject to the early delivery of the mitigation proposed, they accept its conclusions that the proposed development would not have an adverse effect on the integrity of the SAC. NE further confirm that they do not object to the proposal in relation to impacts on European sites. Having regard to all of the above points, I am satisfied that the proposed mitigation measures would reduce the adverse effects of the appeal proposal to a *de minimus* level, and that accordingly, the integrity of the SAC would be preserved.
57. On other ecological matters, I have noted the uncontested view of the appellant's arboriculturist that in the baseline 'do-nothing' scenario, all the remaining orchard trees on the southern field are likely to have died and/or fallen within about 10 to 15 years, including the tree which hosts the rare Orchard Tooth Crust Fungus. This means that the fungus would not survive on site beyond that timescale, since once this tree falls its dead heartwood would become too moist to host the fungus. In such a scenario, the appellant contends that this field would just be a privately-accessed paddock with some fallen, decaying trees, and no firm, contrary evidence was put forward to dispute this point.
58. However, I further note that the appellant now intends to retain all 6 of the remaining orchard trees on the site, by relocating the 2 trees which lie in the path of the proposed access road. One of these trees is proposed to be translocated and

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<sup>9</sup> Doc 31

structurally supported, whilst the other (which has already fallen) would be moved as a dead wood habitat. The orchard trees are considered to be veteran trees on the basis of the dead wood and the fact that one of the trees (which would be retained and protected throughout construction) is host to the rare Orchard Tooth Crust Fungus, as noted above. In these circumstances the ecological function of the orchard trees as veteran trees providing dead wood habitat for the fungus as well as other fauna would be maintained. As such, there would be no conflict with that part of CS Policy CS5 which seeks to protect veteran trees, nor with paragraph 180(c) of the Framework which requires there to be no loss or deterioration of irreplaceable habitats, such as veteran trees.

59. Being mindful of these points, I see no reason to dispute the appellant's assertion that the appeal proposal would result in the restored orchard becoming a publicly-accessible community asset, with over 30 new trees and a species-rich wildflower meadow, together with measures to ensure that the 4 veteran orchard trees that are still standing remain upright in the future, thereby preserving their contribution to character as well as the ecological value of their dead heartwood. In addition, there would be a much greater likelihood that the tree which contains the rare fungus would remain standing in the long term.
60. All the above points, taken together with the fact that no development is proposed adjacent to Stowey Rhyne within the orchard field, beyond the excavation of an attenuation pond, and the fact that this whole area would be managed under the aforementioned LEMP to maximise its biodiversity value, lead me to the view that the appeal proposal would result in overall ecological and biodiversity benefits.
61. At the commencement of the inquiry there was a clear difference between the parties on this issue, with this situation being complicated by the fact that there was some uncertainty as to which landscaping and planting plans formed part of the scheme at appeal, and a consequent lack of clarity with regards to BNG and HEP calculations. As noted earlier, I adjourned the inquiry for a period of about 6 weeks, to allow time for these matters to be discussed between the ecology witnesses, and for NE to be reconsulted.
62. As it transpired, very meaningful progress was made during the adjournment such that upon resumption of the inquiry, the Council indicated that in light of a number of developments it no longer opposed the appeal proposal on ecology or biodiversity grounds. In summary, these matters were the aforementioned confirmation by NE that the proposed development would not have an adverse effect on the integrity of the North Somerset and Mendip Bats SAC, and that they therefore did not object to the proposal; and the signing of a SoCG on Ecology and Biodiversity<sup>10</sup> which indicates that the admitted loss of biodiversity could be compensated for by off-site provision, secured by condition.
63. Accordingly, the Council formally agreed that the proposed development would not have an adverse impact on ecological interests. It also made it clear that as it was content that the ecological impact of the appeal proposal would be acceptable on its own terms, it would not be material to take account of the ecological benefits which might be associated with an alternative scheme that did not involve the construction of an access road across the former orchard.
64. Having regard to all the above points, I conclude that not only would the appeal proposal preserve the integrity of the North Somerset and Mendip Bats SAC, it

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<sup>10</sup> Doc 30

would not have an adverse effect on biodiversity, ecology and the natural environment. Accordingly I find no conflict with the relevant parts of CS Policy CS4, DMP Policies DM9 and DM10, and SAP Policy SA1.

***Main issue 4 – Consistency with the development plan, and the weight to be given to relevant development plan policies***

65. I have already considered the development plan policies referred to in the Council's reason for refusal, and have not found the appeal proposal to be at odds with them. I have noted, however, that the appellant contends that some of these policies should be regarded as being out-of-date – namely CS Policy CS4, DMP Policy DM9 and SAP Policy SA1. In the case of the first 2 of these policies, I accept the appellant's point that the policies' treatment of veteran trees does not fully accord with the principle set out in paragraph 180(c) of the Framework, and that in this regard these policies cannot be seen as up-to-date. But in the context of this appeal I do not consider that this difference is significant, or that these policies should carry materially less weight in this appeal.
66. In the case of SAP Policy SA1, the appellant argues that it has to be seen as out-of-date as the SAP seeks to deliver the housing allocations identified in the CS which, as a matter of common ground, are agreed to not be based on a Framework-compliant assessment of local housing need. This is quite true, but as the appeal site is identified as a specific allocation within the SAP, I do not consider that Policy SA1 should carry any less weight for the purposes of this appeal.
67. In addition to the policies referred to in the reason for refusal, the appellant considers that there are other policies which should be seen as part of the 'basket' of 'most important policies' for determining this proposal, with several of these also seen as being out-of-date. These are CS Policies CS13 and CS14, dealing respectively with the scale of new housing and the distribution of new housing; CS32, dealing with Service Villages, such as Yatton; and DMP Policy DM8, Dealing with Nature Conservation.
68. Dealing with these in turn, it is common ground, as just noted, that the adopted CS does not include a Framework-compliant assessment of local housing need. To my mind this means that Policy CS13 is clearly out-of-date - as is Policy CS14, which simply seeks to distribute this out-of-date housing figure, having regard to settlement boundaries which, self-evidently, also have to be seen as out-of-date. As CS Policy CS32 also makes reference to settlement boundaries current at the time of adoption of the CS I consider that it, too, has to be considered out-of-date. However, in the particular circumstances of this case, I am not persuaded that any of these policies can really be regarded as 'most important policies' in the determination of the current appeal proposal.
69. This is because whether or not the CS housing figure and plans for its distribution are up-to-date, the fact remains that the appeal site has been specifically allocated for development of 60 dwellings through SAP Policy SA1. This is clearly a most important policy in the context of this appeal – as are the other policies referred to in the reason for refusal, as they all impinge on the specifics of this case. Whilst the SAP allocations have, at their root, the CS housing figure, my view is that now that this site has been allocated in the SAP for residential development of 60 dwellings, it is not necessary to continue to 'harp back' to these CS policies.
70. The thrust of the other policy referred to above, DMP Policy DM8, is that development proposals should take account of their impact on local biodiversity and

identify appropriate mitigation measures to safeguard or enhance attributes of ecological importance. This does not fully reflect the current requirement set out in Section 15 of the Framework, for policies to provide net gains for biodiversity, and because of this the appellant argues that this policy should also be considered out-of-date. I consider this to be a correct assessment, but in the context of this proposal, which the Ecology and Biodiversity SoCG confirms would result in a shortfall in BNG for habitats – albeit one which could be addressed by off-site measures or contributions to be secured by planning condition – I am, again, not persuaded that it would be appropriate to give this policy any less weight. But nor do I consider that there is any material conflict with this policy.

71. Having regard to the points discussed above, it is my view that the 'basket' of policies which are most important for determining this appeal are, indeed, those referred to in the Council's reason for refusal. As stated above, I am of the view that they can still be given very great weight in the consideration and determination of this proposal. However, I cannot avoid the conclusion that as some of these policies have to be considered out-of-date, for reasons already given, then it is necessary for me to assess this proposal using the process set out at paragraph 11(d) of the Framework, often referred to as the 'tilted balance'.
72. It is also necessary to have regard to the Council's current HLS situation. In summary, at the outset of the inquiry there was agreement between the parties that the housing requirement for the period 2021/22 to 2025/26 was 6,946 dwellings, which included a 5% buffer. The Council's position was that it could demonstrate a deliverable supply of 7,762 dwellings, amounting to a HLS of 5.6 years, whereas the appellant argued that the deliverable supply was only 4,558 dwellings, amounting to a HLS of 3.3 years. The disputed sites<sup>11</sup> were discussed at a round table session at the start of the inquiry, but a number of changes occurred whilst the inquiry was adjourned, such that upon resumption, the parties submitted an Addendum to the SoCG<sup>12</sup>, dealing specifically with HLS.
73. There were 2 main changes. Firstly, the Office for National Statistics published new 2021 Affordability Ratios on 23 March 2022. This meant that the revised Standard Method Calculation for North Somerset would be 1,392 dwellings per annum (dpa), an increase from the previous figure of 1,323 dpa. As a consequence, the Council's 5-year housing requirement, with a 5% buffer, increased to 7,308 dwellings. Secondly, as a result of a number of concessions made by the Council in evidence to another planning appeal<sup>13</sup> held in March 2022, the Council's assumed deliverable supply dropped to 7,599 dwellings. This means that the Council's up-to-date deliverable HLS figure is 5.2 years, amounting to a surplus of supply over demand of 291 dwellings. The appellant's estimate of supply is now 4,501 dwellings, which gives a deliverable HLS figure of 3.2 years, and a shortfall of 2,807 dwellings.
74. There is therefore a large difference between the Council's and the appellant's supply figures, amounting to some 3,098 dwellings in total, with the bulk of these relating to large sites with outline planning permission (445 dwellings), Weston Villages Strategic Sites (1,761 dwellings), and allocated sites (740 dwellings). I have noted the Council's comment that the CS focussed on securing the regeneration of large, complex brownfield sites within the Weston Urban Area and

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<sup>11</sup> covering large sites with detailed planning permission, large sites with outline planning permission, Weston Villages strategic sites, and site allocations, along with small sites with planning permission and a windfall allowance

<sup>12</sup> Doc 35

<sup>13</sup> Reference APP/D0121/W/21/3285624

the Weston Villages, and that because of the challenges involved in the delivery of such sites they were programmed to deliver most new homes in the latter part of the plan period. This has meant that in the early part of the plan period the supply was always likely to be constrained, but the Council contends that the tide has begun to turn, with the output from the Weston Villages having increased substantially in recent years. It maintains that this can be seen by the fact that the Housing Delivery Test result published in January 2021 was 81%, whereas it had increased to 89% by January 2022.

75. I do accept that these are positive signs, and I have no doubt that Mrs Richards, who gave evidence on this topic for the Council, has had a long-term, close and detailed involvement with the proposals for these various sites, and possesses a thorough knowledge of the issues likely to affect delivery. But notwithstanding these points, it seems to me that in respect of the disputed sites, there is still an absence of clear evidence of delivery from a number of the major sites which do not yet have full planning permission, or reserved matters approval. Cases in point are sites 4/558e<sup>14</sup>, 4/611<sup>15</sup>, and 4/645<sup>16</sup>, all of which were dealt with in detail the appellant's response to further Council evidence<sup>17</sup>, submitted upon the resumption of the Inquiry in early April 2022.
76. The difference between the parties in terms of expected housing delivery from just these 3 sites amounts to some 400 dwellings, which would be more than enough to drop the Council's HLS figure to less than 5 years if the appellant's concerns prove to be justified. As can be gleaned by the parties' differing estimates of delivery set out in paragraph 74 above, these 3 sites are not the only ones where the appellant maintains that the evidence put forward by the Council falls short of what the Framework and the Planning Practice Guidance expect. I generally share the appellant's view, and consider there to be a lack of clear evidence to justify some of the Council's assumptions, leading me to the overall view that the Council's claim of a 5.2 year HLS is questionable. I therefore consider the most robust course of action is for me to assume that the Council cannot demonstrate a deliverable 5-year HLS.
77. Having regard to all the above points, I conclude on this issue that the proposed development would not be in conflict with the development plan, taken as a whole, and that the most important policies for determining this appeal can still carry significant weight. That said, these policies have to be considered out-of-date, because of some conflict with the Framework, and the fact that in my assessment there is a strong likelihood that the Council cannot demonstrate a deliverable 5-year HLS. I shall therefore determine this appeal on the basis of the Framework's 'tilted balance'.

### **Main issue 5 – Planning obligations**

78. There is no mention in the Council's reason for refusal of the need for any planning obligations associated with this proposed development, but a signed and completed S106 agreement<sup>18</sup> was put before me, along with a Planning Obligations Compliance Statement<sup>19</sup>. and it is therefore necessary for me to consider and assess these documents.

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<sup>14</sup> Weston Villages, Land south of Locking Head Drive

<sup>15</sup> Walliscote Place, Weston-super-Mare

<sup>16</sup> Station Gateway, Weston-super-Mare

<sup>17</sup> Doc 36

<sup>18</sup> Doc 39

<sup>19</sup> Doc 40

79. The S106 agreement makes provision for:

- not less than 30% of the proposed dwellings to be delivered as affordable housing units;
- the transfer of the freehold of the Open Space Land to the Council or its nominee;
- a contribution of £38,038 for maintaining the playing features and picnic tables and associated street furniture on the Open Space Land, for a period of not less than 15 years;
- contributions reasonably necessary to maintain the Open Space land in accordance with the LEMP, for a period of not less than 15 years;
- a contribution towards the cost of supervising and inspecting the Open Space works;
- a contribution of £140,000 towards the construction and provision of alternative playing pitches for YRC, or to serve the Yatton area;
- a contribution of £258,156.67 towards School Travel for Secondary School Pupils;
- a sustainable transport contribution of £120 per dwelling towards travel information packs, public transport taster tickets and cycle vouchers for each residential unit to ensure the development is not reliant on single-occupancy car trips;
- funding of a total of £4,600 for a Traffic Regulation Order, to assist with the management of traffic in the area, to prevent on-street parking within and immediately adjacent to the development;
- a contribution of £3,000 towards the cost of maintaining fire hydrants; and
- a contribution of £19,400 to ameliorate the drainage capacity of the Stowey Rhyne to avoid surface water flooding in the vicinity of the development.

80. As appropriate, all of the above contributions would be index linked.

81. Having had regard to the above details, and the submitted Planning Obligations Compliance Statement, I am satisfied that all of these obligations are necessary to make the development acceptable and that all meet the requirements of paragraph 57 of the Framework and Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010. The obligations are necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development.

82. I therefore conclude that the submitted planning obligations would satisfactorily address the impact of the proposed development, and that the appeal proposal would therefore not be at odds with CS Policy CS34 ('Infrastructure delivery and development contributions'), nor with DMP Policy DM71 ('Development contributions, Community Infrastructure Levy and viability').

### **Other Matters**

83. In this section I deal briefly with heritage concerns, as this matter was not covered by the main issues.

#### *Heritage*

84. As already noted, The Grange, a Grade II listed farmhouse, sits just to the west of the south-western boundary of the appeal site, adjacent to the former orchard. The



proposed development would lie within the setting of this listed building and I have therefore had regard to the duty under section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended), to have special regard to the desirability of preserving its setting. I have also been mindful of the requirement to conserve the historic environment under CS Policy CS5, and the similar requirement to preserve and where appropriate enhance the character, appearance and special interest of listed buildings and their settings, under DMP Policy DM4.

85. I share the view of Council Officers, as set out in the OR to Committee, that some harm would be caused to the setting of this building as a result of the traffic using the proposed access road. But as no dwellings are proposed within the orchard the wider view of the building's context would still be capable of being appreciated, especially as the proposed orchard tree planting would help to reinstate this historic aspect and feature of this site. As the Officers say, this would bring back the associated historic character and reflect something of the historic role of The Grange as a cider-producing farm – a view that I share.
86. With these points in mind, I conclude that the appeal proposal would have a limited negative effect on the setting of this listed building, equating to less than substantial harm in accordance with paragraph 202 of the Framework. This was agreed by the main parties in the SoCG. The Framework explains that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. I carry out this exercise later in this decision, under the 'planning balance' heading, having first considered the likely public benefits of the proposal in the following section.

### **Benefits and disbenefits**

#### *Benefits*

87. A clear benefit of this proposal is that it would assist in delivering the Council's own housing and development strategy set out in its adopted development plan. As such, the development would reflect and support the guidance set out in paragraph 15 of the Framework, which states that the planning system should be genuinely plan-led. I consider that **significant weight** should be given to a proposal which delivers development set out in the development plan.
88. Clear social benefits would also arise from the provision of 60 new homes on this allocated housing site. It would support the Government's objective of significantly boosting the supply of homes, as set out in paragraph 60 of the Framework, and in these circumstances I consider that the provision of new homes through this scheme should also carry **significant weight**. The proposed development would also provide the policy-compliant figure of 30% affordable units, which in this case would amount to 18 new affordable homes. Again I consider that this should attract **significant weight** in the proposal's favour.
89. The delivery of 60 new homes would also give rise to some economic benefits, as a result of the jobs created during the construction phase and the increased spending power of new residents within the local economy. In this regard the appellant estimates that the proposed development would result in 46 direct and 44 indirect jobs, and increased commercial expenditure of around £1.5 million per annum - figures which were not disputed by the Council. I accept that these benefits would arise from any similar-sized housing development, no matter how it was accessed, and that they would not be unique to this proposal. Nevertheless, they do

constitute real economic benefits which should be acknowledged and which, in my view, should carry **moderate weight** in the planning balance.

90. In terms of ecological matters, it is clear that there would be some disbenefits as well as benefits. I have therefore tried to keep these separate – as did the appellant’s planning witness in her proof of evidence – so as to more appropriately allow the final planning balance to be undertaken. So, in terms of benefits, these would be the provision of a new community orchard involving the planting of over 30 new orchard trees, the planting of some 260m of new native hedgerows, the provision of publicly accessible open space, the enhancement of habitat to secure the future of the Orchard Tooth Crust Fungus, and the provision of an additional night roosting structure for bats. Taken together, I consider that these benefits should carry **significant weight**.

*Disbenefits*

91. There would be some limited harm to the setting of The Grange, and therefore some conflict with the relevant parts of CS Policy CS5 and DMP Policy DM4, which in essence seek, as a minimum, to conserve or preserve the historic environment. This harm is agreed by the appellant and Council to be ‘less than substantial’. Paragraph 199 of the Framework makes it quite clear that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation, irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. As a result I consider that **great weight** should be given to the heritage harm in this case.
92. The ecological disbenefits, considered separately, would be the loss of some 40m of hedgerow along Moor Road, and around 10m between the northern and southern field of the appeal site. There would also be some limited harm to habitat receptors and the species which use them. But as the hedgerow loss would be compensated for by the proposed new lengths of hedgerow, and as it is agreed between the parties that the habitat harm is capable of being mitigated, thereby preserving the integrity of the SAC and compensating for the shortfall of BNG for habitats, I consider that this harm should only attract **moderate weight**.
93. Some moderate to minor harm to landscape would arise from the construction and use of the access road through the former orchard. But this would be localised, generally short-term, and seen in the context of development of an allocated site, with compensatory landscaping improvements within the orchard field. As a result I consider that this matter can only carry **limited weight** against the proposal.

***Summary, planning balance and overall conclusion***

94. In summarising the above points I deal first with the less than substantial harm to the setting of The Grange. This harm has to carry great weight, but I am satisfied that this would be outweighed by the public benefits which would arise from the provision of new market and affordable housing, in accordance with the adopted development plan, and the ecological benefits, all as outlined in the previous section. This means that there are no Framework policies falling under paragraph 11(d)(i) which would prevent the grant of planning permission and it also means, in my assessment, that the limited conflict with the heritage aspects of CS Policy CS5 and DMP Policy DM4 should not prevent planning permission from being granted.
95. Furthermore, I have found no conflict with the development plan policies listed in the Council’s reason for refusal – CS Policies CS4 and CS5, DMP Policies DM9, DM10

and DM32, and SAP Policy SA1. I consider that these policies broadly accord with Framework objectives, although some aspects of some of the policies render them out-of-date, in Framework terms. My assessment of the Council's current HLS situation, whereby I cannot be certain that the Council can demonstrate a deliverable 5-year supply of housing land, also means that it is necessary to regard the aforementioned development plan policies as being out-of-date. In these circumstances the Framework requires development proposals to be determined by application of the 'tilted balance', set out in its paragraph 11(d)(ii).

96. I have concluded, above, that **significant weight** should be given to this plan-led development, and that **significant weight** should also be given to the provision of 60 new dwellings, again with **significant weight** being given to the fact that 18 of these new dwellings would be affordable homes. I have also concluded that the economic benefits arising from the construction and occupation of these new dwellings should carry **moderate weight**. Furthermore, I have concluded that the overall ecological and environmental benefits which would arise should carry **significant weight** in the appeal proposal's favour.
97. Set against these benefits, I have concluded that **great weight** should be given to the heritage harm; that **moderate weight** should be given to the specific elements of ecological harm I have identified; and that the moderate to minor harm to landscape should carry **limited weight**.
98. In my assessment, balancing the benefits and disbenefits detailed above indicates quite clearly that the adverse impacts of allowing this proposal would **not** significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. This means that the appeal proposal would constitute sustainable development, and this is a further weighty material consideration in the appeal proposal's favour.
99. With these points in mind my overall conclusion is that this proposal should be allowed, subject to the imposition of the conditions discussed at the inquiry and set out in the attached schedule. I consider that these conditions all meet the appropriate tests and I have summarised the reasons for imposing them, below. Where necessary I have made minor amendments to the wording of some of the conditions, in the interests of clarity.

#### Conditions

100. Condition 1 is the standard time condition, with Condition 2 being imposed to provide certainty and to ensure that the development is carried out in accordance with the approved plans. Conditions 3, 7, 11, 27 and 28 are imposed to protect and maintain the biodiversity and ecological importance of the site, to safeguard protected species and, where appropriate, to protect the future orchard environment and the ecological benefits that the orchard provides to the wildlife habitat.
101. Condition 4 will ensure that no excavation, tipping, burning, storing of materials or any other activity takes place within this protective zone, whilst Condition 5 is imposed to ensure that trees and hedges to be retained are not adversely affected by the development, in the interests of the character and biodiversity value of the area. Condition 6 is imposed in order to protect the living conditions of nearby residents, in the interests of highway safety, and also to safeguard protected species and biodiversity.

102. Conditions 8 and 9 are necessary to safeguard the character and appearance of the area, whilst Conditions 10 and 26 are imposed in the interests of promoting the use of sustainable forms of transport, to improve the sustainability of the proposal. Condition 12 will ensure that new and additional planting, together with the pond and the benefits that it will provide to the ecology of the area, is established at the earliest opportunity in mitigation for the proposed removal of the sections of existing hedgerow, and to maintain and enhance the future habitat for bats. In addition, Conditions 13, 14 and 15 are necessary to ensure that a satisfactory and effective landscaping scheme is prepared and implemented.
103. Condition 16 is imposed to ensure that there is no restriction in the conveyance of the flow or volume of water, to preserve the biodiversity and habitats in the water corridor and ensure that clear access to watercourses for maintenance is allowed, whilst Condition 17 is necessary to reduce the risk of flooding to the development from surface water/watercourses. Condition 18 is also needed to reduce the risk of flooding and to ensure that maintenance of the sustainable drainage system (SUDS) is secured for the lifetime of the development, with Condition 19 being imposed so as to allow safe access onto the development from the main highway for emergency services and residents, and to reduce the risk of flooding to the development from surface water/watercourses. Condition 20 is needed to ensure that sufficient width of land is available to accommodate the future maintenance of the existing watercourse and to mitigate the risk of flooding.
104. Condition 21 is imposed in order to secure a high level of energy saving by reducing carbon emissions generated by the use of the buildings hereby approved. Condition 22 will encourage sustainable waste collection initiatives in the interests of local amenity and sustainable waste management, whilst Condition 23 is imposed to ensure that the necessary water reliant infrastructure is installed in the interests of public safety. Condition 24 will ensure that the necessary measures are put in place to protect nesting birds and roosting bats, with Condition 25 being imposed in the interests of highway and pedestrian safety. Condition 29 is imposed to ensure that an acceptable play provision appropriate to the scale of the development is provided and that the detailing is visually sympathetic to the setting of the orchard. Finally, Condition 30 is imposed to ensure effective monitoring of the LEMP and to ensure that on and off-site BNG will be delivered as approved.
105. I have had regard to all other matters raised, including the points put forward in opposition to the proposal on behalf of Yatton Parish Council, the Yatton and Congresbury Wildlife Action Group, and local residents, but find nothing sufficient to outweigh the considerations which have led me to conclude that this appeal should be allowed.

*David Wildsmith*

**INSPECTOR**

**Schedule of conditions (30 in total)**

- 1) The development hereby permitted shall be begun before the expiry of 2 years from the date of this permission.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans and documents:

<b>Plan</b>	<b>Number</b>	<b>Date</b>	<b>Revision</b>
Layout Plan	100	12 November 2020	AK
Location Plan	101	1 November 2017	#
External Materials Plan	102	3 August 2020	L
Storey Heights Key Plan	103	3 August 2020	J
Affordable Homes Key Plan	104	3 August 2020	H
Adoptable Highways Plan	105	3 August 2020	A
Retained Land Plan	106	19 December 2020	A
External Works Plan	110	3 August 2020	A
Fences & Enclosures Detail	115	14 August 2020	A
R20 Range	Various	16 October 2020	/
Street Scenes Key	150.2	2 October 2020	/
Street Scene 1	-	2 October 2020	/
Street Scene 2	-	2 October 2020	/
Street Scene 3	-	2 October 2020	/
Street Scene 4	-	2 October 2020	/
Street Scene 5	-	2 October 2020	/
Landscape Masterplan *	Y-12	February 2022	-
Planting Plan *	Y-13	February 2022	-
Planting Schedule *	Y-14	February 2022	-
* Subject to Condition 13			

- 3) No plant, vehicles, machinery, or materials associated with or required for the construction of the development hereby approved shall be stored, used, or parked within the existing and retained orchard land unless details of the location has otherwise been submitted to and approved in writing by the Local Planning Authority. The Orchard shall thereafter be retained as open space that prioritises biodiversity objectives in accordance with a management plan to be submitted to and approved in writing by the Local Planning Authority prior to the occupation of the first dwelling. No means of external illumination shall be installed within the Orchard land and the proposed access road passing through the Orchard.
- 4) Other than the establishment of habitats including through the planting of replacement hedgerows and erection of bat roosts, no site clearance, preparatory work or development shall take place until a plan for the protection of the Orchard and the trees to be retained (the tree protection plan) including those outside the site boundary that may be affected by the development and the site specific statements for working methods in relation to demolition, construction, landscaping in accordance with Sections 5 to 8 of British Standard BS5837: 2012 - 'Trees in relation to design, demolition and construction - recommendations'

- (the arboricultural method statement) has been submitted to and agreed in writing by the Local Planning Authority. These measures shall be carried out as described and approved.
- 5) Other than the establishment of habitats including through the planting of replacement hedgerows and erection of bat roosts, no development shall commence until a phasing plan showing the location and design and timing of tree and hedge protection fencing for existing and proposed trees and hedges has been submitted to and agreed in writing by the Local Planning Authority. The agreed protection measures shall be carried out in accordance with the approved phasing plan.. The agreed fencing shall remain in place during site works. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, including compaction of the ground by any other means, without the written consent of the Local Planning Authority.
- 6) Other than the establishment of habitats including through the planting of replacement hedgerows and erection of bat roosts, no development shall take place until a Construction Environmental Management Plan (CEMP) and Method Statement has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period and any changes shall be submitted to and approved in writing by the Local Planning Authority before they are carried out. The Statement shall include but not be limited to:
- a. hours of construction;
  - b. routing of vehicles;
  - c. details of site enabling works; method of works, including: siting and installation of services such as drainage;
  - d. the parking of vehicles of site operatives and visitors;
  - e. loading and unloading of plant and materials;
  - f. storage of plant and materials used in constructing the development;
  - g. the erection and maintenance of security fencing, where appropriate;
  - h. wheel-washing facilities;
  - i. measures to control the emission of dust and dirt during construction;
  - j. a scheme for recycling/disposing of waste resulting from demolition and construction works;
  - k. measures for prevention of pollution; and
  - l. measures to control noise from works on the site.
- 7) Other than the establishment of habitats including through the planting of replacement hedgerows and erection of bat roosts, no development shall take place until a Biodiversity Protection Plan (BPP) has been submitted to, and approved in writing by, the Local Planning Authority. The approved Plan shall include measures for avoidance of harm to ecological features and trees. The BPP shall include the following:
- a. Risk assessment of potentially damaging construction activities;
  - b. Identification of 'biodiversity protection zones';
  - c. Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements);

- d. The location and timing of sensitive works to avoid harm to biodiversity features;
- e. The times during construction when specialist ecologists need to be present on site to oversee works;
- f. Responsible persons and lines of communication;
- g. The role and responsibilities on site of an ecological clerk of works or similarly competent person
- h. Use of protective fences, exclusion barriers and warning signs.

Works shall be implemented in strict accordance to the approved methodology.

- 8) Details of the finished floor and ridge height levels for each dwelling in context to the existing ground levels and the ridge height of neighbouring properties, shall be submitted to and approved in writing by the Local Planning Authority before any foundations are excavated. The development shall thereafter be carried out in accordance with the agreed finished ground, floor and ridge height levels.
- 9) Notwithstanding the approved external materials plan, Drawing No 102 Rev L, no development above foundation slab level shall take place until sample panels of the roofing and external wall materials, including colour of render, and surface materials to be used in the construction of the access road, driveways and parking areas, respectively have each been submitted to and approved, in writing, by the Local Planning Authority. Construction shall be only in accordance with the approved sample panel in terms of colour of stone, mortar mix, jointing and means of laying. The development shall be carried out in the approved materials.
- 10) The cycle storage facility for each dwelling, including the cycle storage for the proposed apartments, as shown and referred to on Drawing No 110 & Drawing No 102 Rev L shall be provided in a secure lockable form prior to the occupation of each respective dwelling and shall thereafter be retained by the future occupiers at all times.
- 11) Other than the establishment of habitats including through the planting of replacement hedgerows and erection of bat roosts, no development shall commence until details of a Landscape Ecological Management Plan (LEMP) has been submitted to and approved in writing by the Local Planning Authority. This shall include: a location plan, planting schedule and workplan, detailing management objectives, timings and details of management prescriptions. The submitted detail shall also incorporate a monitoring schedule to cover bat activity during construction and in years 1, 3 and 5 post-construction, together with light levels within retained dark corridors. The approved detail shall thereafter be implemented in full in accordance with the recommendations and mitigation requirements of the LEMP.
- 12) Other than the establishment of habitats including through the planting of replacement hedgerows and erection of bat roosts, no development shall commence until a Landscape 'Phasing' Planting Plan (LPPP) has been submitted to and approved in writing by the Local Planning Authority. The LPPP will deliver the Landscape Masterplan referred to in Condition 13 and shall relate to the overall site. The LPPP must include details and phasing of the pond construction, landscape planting, and habitat creation measures as identified within the Advance Habitat Creation Phasing Plan (A1) as provided within Appendix 4 of Mr Clarkson's Proof of Evidence (January 2022). The LPPP will establish elements that will be delivered in advance of construction work commencing on the site

- (the Advance Planting); at the immediate outset of construction; and at any other key milestones. Upon completion of the Advance Planting, and at the completion of construction, a report is to be provided to the Local Planning Authority prepared by the landscape architect or ecologist confirming that the measures have been implemented and that they are considered appropriate.
- 13) Notwithstanding the submitted landscape masterplan Drawing No Y-12, the planting plan Drawing No Y-13, and the planting schedule Drawing No Y-14, no development shall commence until further details of a landscaping scheme, including full details of the size, species and spacing of plants and trees, have been submitted to and approved in writing by the Local Planning Authority.
  - 14) All works comprised in the approved details of landscaping shall be carried out during the months of October to March inclusive with the initial phase of planting within the Orchard taking place in accordance with the requirements of condition 12, and thereafter all other details of landscaping to be implemented following occupation of the dwellings or completion of the development, whichever is the sooner.
  - 15) Trees, hedges and plants in any development phase shown in the landscaping scheme to be retained or planted, which during the development works or during a period of 10 years following implementation of the landscaping scheme in that development parcel, which are removed without prior written approval from the Local Planning Authority or which die, become seriously diseased or damaged, shall be replaced in the first available planting season with other such species and size as are to be agreed in writing with the Local Planning Authority.
  - 16) No culverting of watercourses on the site shall take place without the agreement in writing of the Local Planning Authority.
  - 17) Other than the establishment of habitats including through the planting of replacement hedgerows and erection of bat roosts, no development shall commence until surface water drainage works have been implemented in accordance with details that have first been submitted to and approved in writing by the Local Planning Authority. Before these details are submitted, an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system (SUDS) in accordance with the principles set out in the National Planning Policy Framework, associated Planning Practice Guidance and the non-statutory technical standards for SUDS. The results of this assessment shall be provided to the Local Planning Authority with the submitted details. The system shall be designed such that there is no flooding for a 1 in 30-year event and no internal property flooding for a 1 in 100-year event + 40% allowance for climate change. The submitted details shall:
    - a. provide information about the design storm period and intensity, the method employed to delay and control the surface water discharge rate and volume from the site in accordance with the approved Flood Risk Assessment and the measures taken to prevent pollution of the receiving groundwater and/or surface waters; and, taking into account long-term storage, and urban creep
    - b. provide a plan indicating flood exceedance routes, both on and off site in the event of a blockage or rainfall event that exceeds the designed capacity of the system. This should contain spot levels, finished floor levels and contours.
  - 18) Other than the establishment of habitats including through the planting of replacement hedgerows and erection of bat roosts, no development shall take



place until details of the implementation, maintenance and management of the approved sustainable urban drainage system (SUDS) have been submitted to and approved, in writing, by the Local Planning Authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details. The details to be submitted shall include:

- a. a timetable for its implementation and maintenance during construction and handover; and
  - b. a management and maintenance plan for the lifetime of the development which shall include details of land ownership; maintenance responsibilities/arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the SUDS throughout its lifetime; together with a description of the system, the identification of individual assets, services and access requirements and details of routine and periodic maintenance activities.
- 19) Other than the establishment of habitats including through the planting of replacement hedgerows and erection of bat roosts, no development shall be commenced until satisfactory details have been submitted to, and approved in writing, by the Local Planning Authority to show how the road drainage in the existing highway along the frontage of the site secures functionality and effective drainage of the highway and site access to the rhyne. The approved detail shall be implemented in accordance with the submitted and approved detail.
- 20) No development, including planting, shall take place within 6 metres of the top of the bank of the watercourse (Stowey Rhyne) located at the north-east of the site.
- 21) The dwellings hereby approved shall not be occupied until measures to generate 15% (less if agreed in writing with the Local Planning Authority) of the energy required by the use of the development (measured in kilowatt hours - KWh) through the use of micro renewable or low carbon technologies have been installed on site and are fully operational in accordance with details that have been first submitted to and approved in writing by the Local Planning Authority. Thereafter, the approved technologies shall be permanently retained unless otherwise first agreed in writing by the Local Planning Authority.
- 22) The dwellings hereby approved shall not be occupied until the space and facilities provided on site for the storage and collection of waste have been constructed and implemented in accordance with the approved plans, Drawing Nos 110 Rev A and 102 Rev L. Thereafter, the approved space and facilities for the storage and collection of waste shall be permanently retained unless otherwise agreed in writing with the Local Planning Authority.
- 23) Prior to first occupation, a scheme for the provision, location and implementation of fire hydrants to serve the development to a standard recommended by the Avon Fire Service shall be submitted to and approved in writing by the Local Planning Authority. The development shall not be occupied until the approved scheme has been implemented in accordance with the approved details.
- 24) No development shall commence until a bird nesting and bat roosting strategy has been submitted to and approved in writing by the Local Planning Authority. The submitted strategy shall include the specification and locations of proposed bird nesting places and bat roosting places. The development shall thereafter be carried out in full accordance with the approved details.

- 25) Planting within the visibility splays located to either side of the proposed site access shall provide no obstruction to visibility at or above a height of 0.6 metres above the nearside carriageway level and maintained as such for the life of the development.
- 26) No dwelling shall be occupied until a Travel Plan has first been submitted to and approved in writing by the Local Planning Authority, and those parts of the Approved Travel Plan as are capable of being implemented prior to occupation have been implemented. Those parts of the Approved Full Travel Plan that are identified therein as being capable of implementation after occupation shall be implemented in accordance with the timetable contained therein and the agreed targets met and shall continue to be implemented as long as any part of the development is occupied.
- 27) Details of fencing proposed around the areas of Orchard that will be located to either side of the proposed access road shall be submitted to and approved by the Local Planning Authority prior to construction. The Fencing Plan shall include both construction and occupation phases and must stipulate milestones for installation of fencing.
- 28) The LEMP required by Condition 11, LPPP required by Condition 12, and the Fencing Plan required by Condition 27 will form an Orchard Management Plan to be administered by the Local Planning Authority or its nominee. The Orchard Management Plan shall oversee the Orchard and other parts of the site that are not located within the private ownership control of the individual plots or any management company.
- 29) Details of the proposed play area shall be submitted to the Local Planning Authority for approval on, or before the access to the development site is laid out and available for use by construction traffic. The submitted details for the proposed play area shall be designed using materials appropriate to the Orchard setting. The agreed plans shall thereafter be implemented, and the play area made available for use at the earliest safe opportunity and not later than occupation of the twentieth dwelling.
- 30) Prior to the first occupation of any part of the development, full details of a Plan for on- and off-site delivery and monitoring of Biodiversity Net Gain (BNG) in accordance with the LEMP, shall be submitted to and approved in writing by the Local Planning Authority. The Plans shall be in accordance with the approved BNG Assessment and shall include the following:
  - a. Confirmation that four (4) Biodiversity Units have been secured, in accordance with the Ecology Statement of Common Ground Issued 1 April 2022;
  - b. updated BNG habitat map for on-site proposed habitats;
  - c. The LEMP as required by condition 11 and an Off-site Habitat Management Plan;
  - d. Long term aims and objectives for habitats (extents, quality) and species;
  - e. detailed prescription methods and specifications for the management of habitats and achievement of stated objectives;
  - f. Details of any management requirements for species-specific habitat enhancements;
  - g. Annual work schedule for at least a 30 year period;

- h. Detailed monitoring strategy for habitats and species, particularly species-rich grassland, and methods of measuring progress towards and achievement of stated objectives;
- i. Details of proposed reporting to the Local Planning Authority and Local Authority Ecologist, and proposed review and remediation mechanism;
- j. Proposed costs and resourcing, and legal responsibilities.

The BNG, Habitat Management and Monitoring Plans shall be implemented in accordance with the agreed details and timetable, and all habitats and measures shall be retained and maintained thereafter in accordance with the approved details.

## **APPEARANCES**

### **FOR THE COUNCIL**

Mr Timothy Leader of Counsel

instructed by Richard Kent, Planning Manager  
for North Somerset Council (NSC)

**He called:**

Mrs Natalie Richards

Principal Planning Policy Technical Officer,  
NSC

Mr Steven Thorne  
BSc(Hons) PGCE MSc

Strategic Transport Planning Manager, NSC

Mr Jim Phillips  
BSc(Hons) MA MCIEEM  
Mr Michael Muston BA(Hons)  
MPhil MRTPI

Managing Director, Ethos Environmental  
Planning Ltd  
Director, Muston Planning

### **FOR THE APPELLANT**

Mr Charles Banner QC

instructed by Persimmon Homes Severn  
Valley

**He called:**

Mr Nick Paterson-Neild  
BA(Hons) MPhil MRTPI

Partner, Barton Willmore LLP, now Stantec

Mr Peter Mansell  
BSc CEng FICE FCIHT

Director, Key Transport Consultants Ltd

Mr Jeremy Smith  
BSc(Hons) DipLA CMLI

Director, SLR Consulting Ltd

Mr Tom Clarkson  
BSc MSc MCIEEM

Managing Director, Clarkson & Woods Ltd

Mrs Kathryn Ventham  
BSc(Hons) MSc MRTPI

Planning Partner, Barton Willmore LLP, now  
Stantec

### **INTERESTED PERSONS OPPOSING THE PROPOSAL**

Mr Christopher Jackson

Vice Chair of Yatton Parish Council and Chair  
of the Parish Council's Planning Committee

Mr Tony Moulin

Chairman of the Yatton and Congresbury  
Wildlife Action Group (YACWAG)

Mrs Ann Hodgson

Local resident

Mr John Cockram

Local resident

**CORE DOCUMENTS**

<b>Document Number</b>	<b>Document Title</b>
<b>SECTION A: PLANNING APPLICATION DOCUMENTS</b>	
A1	Covering letter
A2	Covering letter
A3	Planning Statement
A4	Design and Access Statement
A5	Supplementary Report – Policy Position on Alternative Access
A6	Landscape and Visual Assessment
A7	Arboricultural Impact Assessment
A8	Heritage and Archaeology Statement
A9	Transport Assessment
A10	Road Safety Audit
A11	Residential Travel Plan
A12	Proposed Site Access off Moor Road
A13	Energy Statement
A14	Shadow Habitats Regulation Assessment
A15	Proposed Drainage Strategy
A16	Statement on Drainage Strategy
A17	Drainage and SUDS Maintenance Plan
A18	Addendum to FRA
A19	Layout Plan
A20	Location Plan
A21	External Materials Plan
A22	Storey Heights Key Plan
A23	Affordable Homes Key Plan
A24	Adoptable Highways Plan
A25	Retained Land Plan
A26	External Works Plan
A27	Fences & Enclosures Detail Sheet
A28	R20 Range
A29	Street Scenes Key
A30	Street Scene 1
A31	Street Scene 2
A32	Street Scene 3
A33	Street Scene 4
A34	Street Scene 5
<b>SECTION B: COMMITTEE REPORTS AND DECISION NOTICES</b>	
B1	Committee Report, 21 Apr 2021, for application 19/P/1397/FUL
B2	Committee Update Sheet, 21 Apr 2021
B3	Committee Report, 24 Jun 2021, for application 19/P/1397/FUL
B4	Committee Update Sheet, 24 Jun 2021
B5	Decision Notice
<b>SECTION C: APPEAL DOCUMENTS</b>	
C1	Appellant Statement of Case
C2	NSC Statement of Case
C3	Statement of Common Ground

C4	Draft Section 106
<b>SECTION D: DEVELOPMENT PLAN DOCUMENTS</b>	
D1	North Somerset Council Core Strategy
D2	Development Management Polices Sites and Polices Plan Part 1
D3	Sites and Policies Plan Part 2: Site Allocations Plan
D4	Yatton Neighbourhood Plan
D5	Inspector's Report on the Examination of Sites and Policies Plan Part 2
<b>SECTION E: OTHER RELEVANT LOCAL PLANNING AUTHORITY DOCUMENTS</b>	
E1	Housing Delivery Test Action Plan
E2	SHLAA Second Interim Report
E3	Five Year Housing Land Supply Initial Findings Statement
E4	Housing Trajectory
E5	Residential Land Survey Headline Findings
E6	Housing Requirement Paper
E7	Annual Monitoring Report
E8	SHLAA Main Report
E9	Landscape Character Assessment Supplementary Planning Document
E10	Landscape Sensitivity Assessment
E11	Tree Preservation Order 1046 2016
E12	Highways Development Design Guide
<b>SECTION F: APPEAL DECISIONS</b>	
F1	Hanging Lane, Birmingham (3192918)
F2	Woolpit, Suffolk (3194926)
F3	Sonning Common, Oxfordshire (3265861)
F4	Brereton Heath, Cheshire (2192192)
F5	Old Crawley Road, Horsham (3266503)
F6	Bleaddon, Weston-Super-Mare (3259109)
F7	Land at Bleaddon Hill, Weston-Super-Mare (3142927)
F8	Land at Bleaddon, North Somerset (3211789)
F9	Youngwood Lane and Netherton Wood Lane, Nailsea (3212682)
F10	Former Weston Trade Centre, Banwell (3206914)
F11	Farleigh Road, Backwell (3153935)
F12	Lostwood, Langford (3207635)
F13	Elm Grove Nursery, Locking (3229938)
F14	Land east of Brinsea Road, Congresbury (3176151)
F15	Weston Business Park, Laney's Drove, Locking (3184845)
<b>SECTION G: SUPREME COURT AND HIGH COURT JUDGEMENTS</b>	
G1	Supreme Court: Suffolk Coastal District Council (Appellant) v Hopkins Homes Ltd and another (Respondents) Richborough Estates Partnership LLP and another (Respondents) v Cheshire East Borough Council (Appellant) [2016] EWCA Civ 168, [2015] EWHC 132 (Admin) and [2015] EWHC 410 (Admin)
G2	High Court: R (on the Application of East Bergholt Parish Council) v Babergh District Council [2019] EWCA Civ 2200 - C1/2019/0140
G3	High Court: Hallam Land Management Ltd v Secretary of State for Communities and Local Government & Eastleigh Borough Council [2018] EWCA Civ 1808 - C1/2017/3339
G4	High Court: Forest of Dean v Gladman Developments [2016] EWHC 2429 (Admin) - CO/978

G5	Corbett v Cornwall Council [2020] EWCA Civ 508 - C1/2019/2179
G6	Wavendon Properties Ltd and SoS for Housing Communities and Local Government and Milton Keynes Council [2019] EWHC 1534 Admin – CO/200/2019
<b>SECTION H: HIGHWAYS DOCUMENTS</b>	
H1	Highways Adoption Plan, Grange Farm Road
H2	Highways Adoption Plan, Moor Road
H3	Crash map data and plan of proposed alternative access locations
<b>SECTION I: ECOLOGY AND BIODIVERSITY DOCUMENTS</b>	
I1	CIEEM Guidelines for Ecological Impact Assessment in the UK and Ireland: Terrestrial, Freshwater, Coastal and Marine Version 1.1
I2	Biodiversity: Code of practice for planning and development BS 42020
I3	Biodiversity metric 3.0 User Guide
I4	Bat Conservation Trust and Institute of Lighting Professionals Guidance Note 08/18: Bats and Artificial Lighting in the UK
I5	Biodiversity Net Gain: Good practice principles for development CIEEM, CIRIA, IEMA
I6	Biodiversity Net Gain: Good practice principles for development: A Practical Guide CIRIA

### **DOCUMENTS SUBMITTED AT THE INQUIRY, AND SHORTLY BEFORE**

Document	1	Opening submissions on behalf of the appellant
Document	2	Opening submissions on behalf of the Council
Document	3	SoCG between the Council and the appellant, 15 Feb 2022
Document	4	Statement from Mr Jackson on behalf of Yatton Parish Council
Document	5	Statement from Mr Moulin on behalf of YACWAG
Document	6	Statement from Mrs Hodgson
Document	7	Statement from Mr Cockram
Document	8	Note on the appellant's ecological evidence and application to exclude evidence or adjourn the inquiry, dated 14 Feb 2022, submitted by the Council
Document	9	Letter from Barton Willmore, now Stantec, dated 21 Oct 2021 lodging the appeal, submitted by the Council
Document	10	Email from Barton Willmore, now Santec, dated 9 Feb 2022
Document	11	Bundle of plans Y-12, Y-13 and Y-14, dated Dec 2018 and Dec 2019
Document	12	Bundle of plans Y-12, Y-13 and Y-14, dated Aug 2020
Document	13	Bundle of plans Y-12, Y-13 and Y-14, dated Nov 2020
Document	14	Bundle of plans Y-12, Y-13 and Y-14, dated Feb 2022
Document	15	Email to Council from Natural England, dated 16 Feb 2022
Document	16	Appellant's response to the Council's Note and Application dated 14 Feb 2022
Document	17	Agenda and bundle of related documents, concerning disputed sites, for the Housing Land Supply Round Table Session
Document	18	Appellant's Statement for the Housing Land Supply Round Table Session
Document	19	Housing Trajectory Apr 2021 – Preferred Options Local Plan 2038 Comparison, submitted by the appellant

Document	20	Email to the Council, confirming the withdrawal of Application No 20/P/2724/FUL
Document	21	Land Registry Office Copy Entry for Title No ST176709
Document	22	Email trail raising some issues with the proposed S106 agreement, submitted by the Council
Document	23	Note for the inquiry, concerning the NSC Local Plan Preferred Options Consultation Draft – Proposed Residential Allocation at Yatton Rugby Club, Yatton/Moor Road, Yatton, submitted by the Council
Document	24	Appeal Decision Ref APP/V0510/W/21/3282449 – Land to the North East of Broad Piece, Soham, submitted by the appellant
Document	25	Email from Jenny Ford, Head of Development and Placemaking, NSC, dated 18 Feb 2022, confirming information relating to Council owned sites, arising from discussions at the Housing Land Supply Round Table Session
Document	26	Highways Adoption plan for Grange Farm Road
Document	27	Bundle of documents relating to a planning application for the Yatton Rugby Club site
Document	28	Summary of and note for the Inspector on the S106 agreement, submitted by the Council
Document	29	Statement of Intent, dated 21 Feb 2022, prepared jointly by the appellant's ecology witness Mr Clarkson and the Council's ecology witness Mr Phillips
Document	30	Ecology and Biodiversity Statement of Common Ground between the Council and the appellant
Document	31	Updated consultation response from Natural England, dated 23 Mar 2022
Document	32	Ecology Addendum proof of evidence of Mr Phillips, dated 31 Mar 2022, on behalf of the Council
Document	33	Ecology and Biodiversity Addendum proof of evidence of Mr Clarkson, dated March 2022, on behalf of the appellant
Document	34	Shadow Habitats Regulations Assessment Version 6.0, Mar 2022, submitted by the appellant
Document	35	Housing Land Supply Addendum SoCG, dated Apr 2022, with Appendix
Document	36	5-Year HLS - appellant's response to further Council evidence, dated Apr 2022
Document	37	Proposed site visit itinerary and map
Document	38	Note setting out the Council's updated position on biodiversity and ecology, dated 5 Apr 2022
Document	39	Signed and completed S106 Agreement
Document	40	CIL Compliance Statement, submitted by the Council
Document	41	Email from Mr Phillips, suggesting additional ecology/biodiversity related conditions
Document	42	Final draft schedule of suggested conditions
Document	43	Closing Submissions on behalf of the Council
Document	44	Closing Submissions on behalf of the appellant