



Ministry of Housing,  
Communities &  
Local Government

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Our ref: APP/D0121/W/16/3153935

Your ref: 15/P/0315/O

28 March 2018

Dear Sir

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78  
APPEAL MADE BY CHARLES CHURCH DEVELOPMENTS LTD**

**LAND AT FARLEIGH FIELDS AND 54, 56, 58 FARLEIGH ROAD, FARLEIGH ROAD,  
BACKWELL, SOMERSET  
APPLICATION REF: 15/P/0315/O**

1. I am directed by the Secretary of State to say that consideration has been given to the report of G D Jones BSc(Hons) DipTP DMS MRTPI who held a public local inquiry on 14-17 and 21-24 March 2017 into your client's appeal against the decision of North Somerset Council to refuse planning permission for your client's application for planning permission for residential development of up to 220 new dwellings with supporting infrastructure and facilities including the demolition of 56 Farleigh Road, in accordance with application ref: 15/P/0315/O, dated 7 June 2016.
2. On 21 March 2017, this appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990.

**Inspector's recommendation and summary of the decision**

3. The Inspector recommended that the appeal be dismissed.
4. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions, and agrees with their recommendation. He has decided to dismiss the appeal. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

## **Matters arising since the close of the inquiry**

4. On 29 September 2017, the Secretary of State wrote to the main parties to afford them an opportunity to comment on an email dated 15 September 2017 from North Somerset Council regarding the Council's revised Site Allocations Plan and position with regard to their 5 year land supply. The Secretary of State received your representations on 6 October. These representations were circulated to the other parties on 16 October 2017. No responses were received in reply to your representation. Copies of these letters may be obtained on written request to the address at the foot of the first page of this letter.
5. On 14 February the Secretary of State wrote to the main parties to afford them an opportunity to comment on change to the National Planning Practice Guidance ("the PPG") on 10th August 2017 on the Written Ministerial Statement ("WMS") on neighbourhood planning dated 12th December 2016. A list of representations received in response to this letter is at Annex A. These representations were circulated to the main parties on 1 March.
6. The Secretary of State has taken these representations into consideration when reaching his decision.

## **Policy and statutory considerations**

7. In reaching his decision, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.
8. In this case the development plan includes the remaining saved policies of the North Somerset Replacement Local Plan 2007 (NSRLP), the Core Strategy 2015, the Development Management Policies Sites and Policies Plan Part 1 2016 ( DMPP Pt1) and Backwell Neighbourhood Plan March 2015 (the NP). The Secretary of State considers that the development plan policies of most relevance to this case are those set out at IR22-28.
9. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework ('the Framework') and associated planning guidance ('the Guidance'), as well as the Written Ministerial Statement on Neighbourhood Planning of 12 December 2016 (the WMS), and associated Guidance (located in the PPG at Paragraph: 083 Reference ID: 41-083-20170810) and the Supreme Court ruling of 10 May 2017, *Suffolk Coastal District Council v Hopkins Homes Ltd and another; Richborough Estates Partnerships LLP and another v Cheshire East Borough Council (2017) UKSC 36*.

## *Emerging plan*

10. The emerging plan comprises emerging local planning policy documents, the Site Allocations Plan Sites and Policies Plan Part 2 (the eSAP) and the Joint Spatial Plan (the eJSP).
11. Paragraph 216 of the Framework states that decision makers may give weight to relevant policies in emerging plans according to: (1) the stage of preparation of the emerging plan; (2) the extent to which there are unresolved objections to relevant policies in the emerging plan; and (3) the degree of consistency of relevant policies to

the policies in the Framework. While broadly consistent with the Framework, the eSAP has yet to reach an advanced stage and is subject to a significant number of unresolved objections, and therefore the Secretary of State has given it limited weight in his consideration. The eJSP has yet to complete examination, and the Secretary of State thus gives it moderate weight.

## **Main issues**

### *Housing Land Supply (HLS)*

12. The Secretary of State has carefully considered the Inspector's analysis of the supply of housing land in North Somerset (IR310- 336). He notes the main parties disagree over whether or not the Council can demonstrate a 5 year HLS.
13. The Secretary of State has had regard to representations from the Council, stating that by instructing the Council to proceed with the Proposed Modifications consultation, the Local Plan Inspector has demonstrated that she is satisfied that the additional housing sites have made the plan capable of being found sound, including in respect of the 5 year supply position.
14. The Secretary of State has also carefully considered your representations made on the 6 October 2017 where you strongly disagree with the council's representation that they can now demonstrate a 5 year HLS.
15. The Secretary of State notes that the Local Plan Inspector has not concluded that the Council can demonstrate a 5 year HLS, or that the Site Allocations Plan (SAP) is sound. He further concludes that the allocations set out in the SAP are subject to public consultation, and to the completion of the SAP examination, and as such it is not yet possible to conclude that they are suitable or deliverable.
16. He has therefore gone on to consider the appeal Inspector's analysis of the HLS position. For the reasons given at IR311 the Secretary of State agrees that the 'Sedgefield' methodology should be used when calculating HLS. He further agrees, for the reasons given by the Inspector at IR315-321, that there is a record of persistent under delivery, and as such that a buffer of 20% is applicable.
17. The Secretary of State has given careful consideration to the Inspector's analysis of housing delivery. With regard to small consented sites, the Secretary of State agrees that it is reasonable to apply a lapse rate of 10%, for the reasons given at IR323-324. As such he reduces total supply by four units, giving a subtotal of 8,213.
18. The Secretary of State has gone on to consider the disputed 'large consented sites'. For the reasons set out by the Inspector at IR325-327, he concludes that 328 units should be removed from supply, reducing the subtotal further to 7,885 (IR326).
19. With regard to 'Local Plan allocations' sites, the Secretary of State concludes, for the reasons given at IR328, that delivery should be reduced by 40 dwellings, giving a subtotal of 7,845.
20. He further reduces total delivery by 263 dwellings in regard to the 'strategic sites', for the reasons set out by the Inspector at IR329. The Secretary of State concludes that this gives a subtotal of 7,582 units.

21. For the reasons given at IR330-332, he deducts another 157 units from supply in respect of 'emerging allocations' sites, reducing the sub total to 7,425 dwellings. He discounts another 180 dwellings from the supply figure with regard to the empty homes allowance, for the reasons given at IR333-334. This gives a total deliverable supply figure of 7,245 units.
22. He sets this against a housing requirement of 9,293 dwellings, giving a 3.9 year supply of housing.

*Written Ministerial Statement on Neighbourhood Planning 2016 (WMS)*

23. The WMS sets out how planning applications and appeals should be determined in circumstances where the local planning authority cannot demonstrate a five year supply of housing, but a neighbourhood plan is in force. The Secretary of State concludes, for the reasons given, that the Inspector has correctly stated how the WMS should be interpreted (IR336). The Secretary of State notes that the WMS is less than two years old.
24. The Secretary of State has had regard to your representations of 28 February 2018, noting that at paragraph 9 of your letter you state that the WMS and the Guidance would not be relevant as the BNP does not allocate sites, and or, the Council cannot demonstrate a 3 year HLS. For the reasons given at paragraphs 13 above, he has concluded that the Council can deliver a 3 year supply of sites.
25. For the reasons given by the Inspector at IR361, the Secretary of State notes that the NP does not state a specific quantum of dwellings to be built, and that the Council does not use these sites in calculating its housing land supply. However, the Secretary of State has had regard to in particular paragraph 8.9 of the NP and the associated plan indicating development sites where residential development will be supported, and concludes that this means that the NP, when read as a whole, allocates sites for housing, in agreement with the Inspector at IR361. Given his findings on HLS, the Secretary of State therefore concludes that all three criteria of the WMS are met and, consequently, that the WMS (and associated Guidance) applies in this case, and therefore that significant weight should be given to the Neighbourhood Plan notwithstanding the fact that the local planning authority cannot demonstrate a 5-year supply of deliverable housing sites.

*Location strategy for new development in the District*

26. The Secretary of State has carefully considered the Inspector's assessment of the location strategy for new development (IR338-343). He considers the most relevant policies to be Core Strategy Policy CS32 which identifies Backwell as one of the nine 'Service Villages' and allows new development within as well as adjoining the Settlement Boundaries of Service Villages subject to certain criteria. He notes that the policy goes on to say that sites that lie outside the Settlement Boundaries for development in excess of about 25 dwellings must be brought forward as allocations through Local Plans or Neighbourhood Plans.
27. The Secretary of State is in agreement with the Inspector (IR341) that the appeal development would substantially exceed 'about 25 dwellings', and thus conflicts with Policy CS32.

28. The Secretary of State accepts that the appeal proposal is outside the settlement boundary as defined by NSRLP Policy H/7. However, for the reasons given at IR343, he does not find any direct conflict with Policy H/7 or Policy CS33.
29. However, he further considers that the proposal conflicts with NP Policy Development 1 for the reasons given at IR343.

#### *Character and appearance of the area*

30. The Secretary of State has carefully considered the Inspector's analysis (IR344-358) of the impact on the character and appearance of the area. He notes that the Inspector has considered the appeal on the basis of public access within the site being limited to public rights of way which cross the site. For the reasons given, he agrees with the Inspector that the proposed development would have limited effect beyond the immediate area of the site. He further agrees that the proposed development would significantly affect the setting and character of Backwell (IR354) and this carries significant weight against the proposal. As such, he agrees with the Inspector that the proposal would conflict with Policies CS5 and CS2 of the Core Strategy, Policy DM10 of the DMPP Part 1, and Policy Development 1 of the NP. He further agrees, for the reasons set out at IR356 that the proposal would conflict with DMPP Part 1 Policy DM32.

#### *Development plan*

31. The Secretary of State notes that Policies DM10, DM25, DM32 and Policy CS5 are not said by any of the parties to be policies for the supply of housing (IR364) and thus agrees that they should carry full weight. Having had regard to the decision of the Supreme Court in *Suffolk Coastal District Council v Hopkins Homes Ltd and another; Richborough Estates Partnerships LLP and another v Cheshire East Borough Council [2017] UKSC 36*, and for the reasons given at IR365-368, he agrees that NP Policy Development 1 and Core Strategy Policy CS32 are no longer relevant policies for the supply of housing for the purposes of paragraph 49 of the Framework, and as such should carry full weight in this case even in the absence of a 5 year supply of housing land.
32. Given the conflict with NP Policy Development 1, the Secretary of State has had regard to p198 of the Framework, which states that where an application conflicts with Neighbourhood Plan that has been brought into force, permission should not normally be granted. As stated above, applying the WMS (and associated Guidance), the Secretary of State gives significant weight to the Neighbourhood Plan. Even were the WMS not engaged, the Secretary of State considers that following the *Hopkins* judgment NP Policy Development 1 is not a policy for the supply of housing, and as such it would still be given significant weight in the circumstances of this case.

#### *Benefits of the proposal*

33. The Secretary of State concludes that the appeal proposal would assist in delivery of affordable and market housing (IR384), including 30% affordable, in a sustainable location, in an area without a 5 year housing land supply. He further finds, for the reasons set out at IR369, that the proposal would deliver a range of social, economic and environmental benefits, including expenditure on construction and investment in the area, the creation of construction jobs, financial contributions towards offsite infrastructure, the provision of public open space and green infrastructure, the

enhancement of public rights of way and delivery of new footpaths, and enhancements to biodiversity.

### **Planning conditions**

34. The Secretary of State has given consideration to the Inspector's analysis at IR374-379, the recommended conditions set out at the end of the IR and the reasons for them, and to national policy in paragraph 206 of the Framework and the relevant Guidance. He is satisfied that the conditions recommended by the Inspector comply with the policy test set out at paragraph 206 of the Framework. However, he does not consider that the imposition of these conditions would overcome his reasons for dismissing this appeal and refusing planning permission.

### **Planning obligations**

35. Having had regard to the Inspector's analysis at IR380, the planning obligation dated 22 March 2017, paragraphs 203-205 of the Framework, the Guidance and the Community Infrastructure Levy Regulations 2010, as amended, the Secretary of State agrees with the Inspector's conclusion for the reasons given in IR380 that the obligation complies with Regulation 122 of the CIL Regulations and the tests at paragraph 204 of the Framework and is necessary to make the development acceptable in planning terms, is directly related to the development, and is fairly and reasonably related in scale and kind to the development. However, the Secretary of State does not consider that the obligation overcomes his reasons for dismissing this appeal and refusing planning permission.

### **Planning balance and overall conclusion**

36. For the reasons given above, the Secretary of State considers that the appeal application is not in accordance with Core Strategy Policies, DMPP Policies, and NP Policy Development 1 of the development plan, and is not in accordance with the development plan overall. He has gone on to consider whether there are material considerations which indicate that the proposal should be determined other than in accordance with the development plan.
37. The lack of a 5-year housing land supply means that the presumption in favour of sustainable development applies, as set out at paragraph 14 of the Framework. However, given his findings on the NP WMS above, he concludes that the housing policies in the NP should be afforded significant weight, in line with the Guidance.
38. The proposals would deliver a range of social, economic and environmental benefits, in particular the provision of market and affordable housing (30%, 65 in number) in a sustainable location, in an area without a 5 year supply. This carries very significant weight in favour of the appeal proposal.
39. Against this is the conflict with the development plan, and in particular the Backwell NP and with NP Development 1, which is not a policy for the supply of housing. The Framework (paragraph 198) states that applications in conflict with a made neighbourhood plan should not normally be granted. The proposal would also cause harm to the character and appearance of the area. Overall the Secretary of State gives substantial weight to these adverse impacts.
40. Applying his planning judgment therefore, the Secretary of State concludes that the adverse impacts of granting the appeal development planning permission would

significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

41. The Secretary of State therefore concludes that the appeal be dismissed.

### **Formal decision**

42. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby dismisses your client's appeal and refuses planning permission for residential development of up to 220 new dwellings at Farleigh Fields and 54, 56, 58 Farleigh Road, Farleigh Road, Backwell, Somerset.

### **Right to challenge the decision**

43. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged. This must be done by making an application to the High Court within 6 weeks from the day after the date of this letter for leave to bring a statutory review under section 288 of the Town and Country Planning Act 1990.

44. A copy of this letter has been sent to North Somerset Council; Persimmon Homes and Backwell Parish Council, and notification has been sent to others who asked to be informed of the decision.

Yours faithfully

*Phil Barber*

Phil Barber  
Authorised by Secretary of State to sign in that behalf

## **Annex A**

### **SCHEDULE OF REPRESENTATIONS**

#### **Representations received in response to the Secretary of State's letter of 29 September 2017**

<b>Party</b>	<b>Date</b>
David Hutchison, Pegasus Planning Group	6 October 2017

#### **Responses received in response to the Representations from Pegasus Planning Group circulated 16 October 2017**

<b>Party</b>	<b>Date</b>
Nil	

#### **Representations received in response to the Secretary of State's letter of 14 February 2018**

<b>Party</b>	<b>Date</b>
David Hutchison, Pegasus Planning Group	28 February 2018





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# Report to the Secretary of State for Communities and Local Government

by G D Jones BSc(Hons) DipTP DMS MRTPI

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

Date: 14 July 2017

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**TOWN AND COUNTRY PLANNING ACT**  
**NORTH SOMERSET COUNCIL**  
**APPEAL BY**  
**CHARLES CHURCH DEVELOPMENTS LTD**

Inquiry opened on 14 March 2017

Land at Farleigh Fields and 54, 56, 58 Farleigh Road, Farleigh Road, Backwell, Somerset

File Ref(s): APP/D0121/W/16/3153935

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**File Ref: APP/D0121/W/16/3153935**

**Land at Farleigh Fields and 54, 56, 58 Farleigh Road, Farleigh Road, Backwell, 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 Charles Church Developments Ltd against North Somerset Council.
- The application Ref 15/P/0315/O, dated 22 January 2015, was refused by notice dated 7 June 2016.
- The development proposed is described as residential development of up to 220 new dwellings with supporting infrastructure and facilities including the demolition of 56 Farleigh Road, creation of new vehicular.
- The Inquiry sat for 7 days on 14-17 and 21-24 March 2017.

**Summary of Recommendation: The appeal be dismissed**

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**Preliminary Matters**

1. Determination of the appeal was recovered by the Secretary of State during the course of the Inquiry by way of a direction dated 21 March 2017 for the reason that 'the appeal involves proposals for residential development of over 150 units or on sites of over 5 hectares, which would significantly impact on the Government's objective to secure a better balance between housing demand and supply and create high quality, sustainable, mixed and inclusive communities'.
2. The appeal proposal is for outline planning permission with access only to be determined at this stage and with appearance, landscaping, layout and scale reserved for future approval. Whilst not formally part of the scheme, I have treated the details relating to these reserved matters submitted with the application and the appeal as a guide as to how the site might be developed.
3. The application was refused for two reasons. In summary the grounds for these were that:
  - 1) The appeal site is not within Backwell's 'Settlement Boundary' nor allocated for development in the Backwell Neighbourhood Plan, and the scale of the proposed development would be disproportionate to the size of the existing village and have a detrimental impact upon the character of the area; and
  - 2) The proposed development, outside the established settlement, would be out of keeping with the overall character of the village and its landscape setting and quality causing harm to the setting and edge of the village.
4. The Development Management Policies Sites and Policies Plan Part 1 July 2016 (the DMPP Pt1) was adopted after the appeal planning application was determined, as were the remitted policies of the North Somerset Core Strategy (the Core Strategy). As a consequence, a number of policies of the North Somerset Replacement Local Plan 2007 (the NSRLP) are now superseded, including Policy H/8, as superseded by Core Strategy Policy CS33, but not Policy H/7. Additionally, Policy GDP/3 of the NSRLP has been superseded by Policy DM32 of the DMPP Pt1.
5. A legal agreement dated 22 March 2017 containing planning obligations pursuant to Section 106 of the Act (the S106 Agreement) was submitted by the appellant during the Inquiry - CD18.9a.
6. I carried out a site visit on 20 March 2017, which covered the site and the

surrounding area. That visit was unaccompanied, as agreed by the parties at the Inquiry, and included all locations and views which those parties had asked me to cover.

7. After I had closed the Inquiry a further appeal decision (the Oldmixon Road appeal) was brought to my attention concerning proposed development involving housing at a site at Weston-super-Mare<sup>1</sup>. As that decision is in the public domain and the given the need for consistency among Inspectors, having sought the views of the main parties on its admission, I decided to take it into account along with the other material submitted prior to the closure of the Inquiry. I have advised the parties of my decision in this regard.
8. Additionally after the Inquiry closed, the Supreme Court issued a judgment on 10 May 2017 (the Supreme Court Judgment)<sup>2</sup> concerning, among other things, the interpretation of para 49 of, and its relationship with para 14 of, the National Planning Policy Framework (the Framework). I gave the parties opportunity to make further submissions in view of that Judgment and I have taken these into account when writing my report<sup>3</sup>.

### **The Site and Surroundings**

9. The appeal site is located within the village of Backwell, which is situated roughly 0.5km to the south of the settlement of Nailsea, some 8km roughly to the west of the Bristol urban area and 14km to the north east of Weston-super-Mare. Backwell is identified in the Core Strategy as a Service Village. According to the 2011 Census, it had a resident population of 4,589 and the total number of dwellings was some 1,891.
10. The village has a range of facilities with a variety of shops including two convenience stores and a post office. It also has Infants, Junior and Secondary schools, medical and dental centres, and a swimming pool and leisure centre. Most of these facilities are within walking and/or cycling distance of the site. Backwell is also served by public transport including by a mainline railway station with direct services to Bristol, Weston-super-Mare and beyond, as well as by regular bus services.
11. The site, known locally as Farleigh Fields, is located between Backwell, including West Town, to the west, Farleigh to the northeast and Church Town to the south. These three areas have, over time, become linked by development, principally in the form of ribbon development along Farleigh Road, the A370, to the north of the site linking Backwell and Farleigh, and along Church Lane to the east connecting Farleigh and Church Town. Consequently, the site is largely encircled by the buildings which now line the surrounding roads, which also include Dark Lane to the west. Exceptions to this arrangement include where the site extends northward into Farleigh Road in the form of two T-shaped areas. The first includes an existing undeveloped corridor between 30 and 32 Farleigh Road and a length of highway, while the second includes Nos 54, 56 and 58 and a further stretch of this street.

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<sup>1</sup> INSP.6

<sup>2</sup> [2017] UKSC 37 on appeals from: [2016] EWCA Civ 168, [2015] EWHC 132 (Admin) and [2015] EWHC 410 (Admin)

<sup>3</sup> INSP 5

12. Other than Nos 54, 56 and 58, the land is largely undeveloped and in agricultural use. It generally rises, reasonably steeply in parts, from Farleigh Road southward towards Church Town. Two public rights of way cross the site. Footpath ref. LA2/6/10 crosses it on a generally northwest-southeast alignment linking Farleigh Road, initially via the corridor between Nos 30 and 32, with St Andrews Church/Church Lane in Church Town. Footpath ref. LA2/4/20 crosses the site on a northeast-southwest alignment linking Church Lane in the vicinity of St Andrews Church with another part of Church Lane in the vicinity of Fairfield Primary School to the northeast. These footpaths form part of a circular walk around Backwell known as the Backwell Round.
13. The site is not located within the Green Belt, is not designated as Local Green Space (LGS) in the development plan and contains no heritage assets, nor is it directly affected by any wider adopted landscape, ecology or heritage designations. It does, however, lie within 4km of the North Somerset and Mendip Bats Special Area of Conservation (the SAC), and the Brockley Halls Stables SSSI forms part of the SAC site and is within 2.4km of the closest part of the site.
14. Backwell Church Town Conservation Area (the Conservation Area) also lies to the south of the site but no part of the site is within the designated area. The only point at which the site adjoins the Conservation Area is where the right of way noted above connects to the neighbouring Grade I listed St Andrews Church.
15. The North Somerset Landscape Character Assessment SPD 2005 (the Landscape Character SPD) identifies a series of Landscape Character Types and Landscape Character Areas (LCAs)<sup>4</sup>. The site straddles two LCAs with its upper part falling within LCA E6: Cleeve Ridge and the lower part within LCA J5: Land Yeo and Kenn Rolling Valley Farmland. The strategy for the former is to conserve the peaceful remote character, and for the latter to conserve the intact pastoral landscape with hedgerow networks, winding rural roads and stone farmsteads, while strengthening elements of weaker character such as village edges and orchards<sup>5</sup>.

## **Planning Policy**

16. The Framework outlines a presumption in favour of sustainable development, which it indicates has three dimensions – economic, social and environmental. Para 14 sets out how this presumption is to be applied and indicates that development proposals which accord with the development plan should be approved without delay, while going on to say that where it is absent, silent or relevant policies are out-of-date, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits or specific policies in the Framework indicate development should be restricted.
17. In respect to housing delivery, it requires North Somerset Council (NSC) to meet the full, objectively assessed needs for market and affordable housing in the housing market area, as far as is consistent with the policies set out in the Framework, including identifying key sites which are critical to the delivery of the

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<sup>4</sup> Extracts at CD1.27a App.8 and CD15.4 Appx 5

<sup>5</sup> Further details of these LCAs are set out at CD14.4 paras 3.3 to 3.14

housing strategy over the plan period. Applications for housing should be considered in the context of the presumption in favour of sustainable development.

18. The Framework adds that relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites. The Written Ministerial Statement on Neighbourhood Planning of 12 December 2016 (the WMS) is also relevant in this regard. Among other things it states that relevant policies for the supply of housing in a neighbourhood plan should not be deemed to be 'out-of-date' under para 49 of the Framework where all of the following apply:
- The WMS is less than two years old, or the neighbourhood plan has been part of the development plan for two years or less;
  - The neighbourhood plan allocates sites for housing; and
  - The local planning authority can demonstrate a three-year supply of deliverable housing sites.

The parties disagree over whether Backwell's neighbourhood plan allocates sites for housing and whether NSC can demonstrate either a three or a five year supply of deliverable housing sites.

19. The WMS also states, among other things, that the Government confirms that where a planning application conflicts with a neighbourhood plan, planning permission should not normally be granted<sup>6</sup>, yet communities who have been proactive and worked hard to bring forward such a plan are often frustrated that it is being undermined because their local planning authorities cannot demonstrate a five-year land supply of deliverable housing sites.
20. The second refusal reason also expressly alleges conflict with Framework paras 56, 64, 66 and 109 resulting from the appeal development.
21. Although weighty material considerations, neither the Framework nor the WMS change the statutory status of the development plan. The development plan for the area includes the remaining saved policies of the NSRLP, the Core Strategy, the DMPP Pt1 and Backwell Neighbourhood Plan March 2015 (the NP).
22. In view of the changed development plan context since the planning application for the appeal development was determined, NSC indicated prior to the Inquiry that the development plan policy conflict alleged in its refusal reasons is now in respect to Policy H/7 of the NSRLP, Policies CS5, CS12, CS32 and CS33 of the Core Strategy, Policy DM32 of the DMPP Pt1, and Policy Development 1 of the NP. The evidence also refers to DMPP Pt1 Policies DM10 and DM25 which are 'linked' to Structure Plan Policies CS5 and CS12 respectively.
23. The Core Strategy covers the plan period 2006-26 and was originally adopted in April 2012. Following a legal challenge to Policy CS13, which had set the area's housing requirement, it was remitted for re-examination. A number of other policies, including Policy CS32, were also remitted on the basis that should the housing requirement change there may be consequences for those Policies. All other policies remained adopted, including Policies CS5 and CS12. Policy CS13

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<sup>6</sup> This consistent with Framework para 198

was re-adopted with an increased minimum housing requirement of 20,985 dwellings in September 2015, while the other remitted policies, including Policy CS32, were re-adopted in January 2017.

24. The plan period of the NSRLP ran to 2011. Policy H/7 remains part of the development plan. It establishes the 'Settlement Boundaries' for the area and is primarily concerned with proposed development within rather than beyond those boundaries.
25. The character, distinctiveness, diversity and quality of North Somerset's landscape are to be protected through Core Strategy Policy CS5 and DM Policy Plan Pt1 Policies DM10, while Policy DM25 aims to protect and enhance the existing public rights of way network and ensure the provision of new and improved multi-user routes connecting with new developments. Core Strategy Policy CS12 and Policy DM32 of the DMPP Pt1 relate to high quality design and place-making.
26. Core Strategy Policy CS32 identifies nine 'Service Villages', which include Backwell. It states that new development within or adjoining the Settlement Boundaries of Service Villages which enhances the overall sustainability of the settlement will be supported subject to the number of criteria, but that sites outside the Settlement Boundaries in excess of about 25 dwellings must be brought forward as allocations through Local Plans or Neighbourhood Plans. Its supporting text at para 4.85 states that 'The Council will not support proposals which either on their own or in aggregate cause significant adverse impacts on the character or functioning of the village.'
27. Policy CS14 also refers to those settlements in setting out the broad district-wide distribution of new dwellings based on the following hierarchy and minimum net additional dwellings to be delivered across the plan period:
  - Weston-super-Mare will be the focus for new residential development, including the strategic allocation at Weston Villages, with 6,300 dwellings in the Weston urban area plus 6,500 at Weston Villages;
  - Then most additional development is to take place at the towns of Clevedon, Nailsea and Portishead totalling 5,100 dwellings;
  - At Service Villages there will be opportunities for small-scale development of an appropriate scale either within or abutting settlement boundaries or through site allocations totalling 2,100 dwellings; and
  - Elsewhere development will be more strictly controlled although appropriate development will be acceptable within the settlement boundaries of infill villages totalling 985 dwellings.
28. Core Strategy Policy CS33 indicates that development outside the areas covered by other area based policies of the Core Strategy, including CS32, will be strictly controlled in order to protect the character of the rural area and prevent unsustainable development.
29. The appeal site is not allocated for development in the NP. Its Policy Development 1 states, among other things, that housing development in Backwell which is at a level appropriate to the size and character of the settlement will be supported and adds that infilling, defined as one or two additional dwellings, will also be acceptable. Para 8.9 refers to 'development sites' and states that 'the Neighbourhood Plan identifies sites where residential

development and in the case of Sites A and B, residential and employment development, is supported.' Five 'development sites', A to E inclusive, are shown, delineated on an accompanying map.

30. The evidence also refers to NP Policy Development 4, which states that significant development of agricultural land that has been demonstrated to be necessary should also demonstrate that it prioritises the use of poorer quality agricultural land over the use of higher quality agricultural land.
31. Although not part of the development plan there are also two emerging local planning policy documents, the Site Allocations Plan Sites and Policies Plan Part 2 (the eSAP) and the Joint Spatial Plan (the eJSP).
32. The Publication Version of the eSAP, dated October 2016, identifies proposed residential allocations to meet the Core Strategy housing requirement as well as reviewing existing sites and identifies potential LGS and strategic gaps. The appeal site is not proposed to be allocated for development in the eSAP, while it does propose to designate some, but not all, of the site as LGS. At the time of the Inquiry the eSAP was the subject of a significant number of unresolved objections, which will need to be considered at the Examination in due course.
33. The eJSP is a strategic plan being prepared jointly by the West of England authorities for the plan period 2016-2036. It is intended that it will identify the overall housing requirement and district apportionment, strategic development locations and key infrastructure requirements; and set the context for a new North Somerset Local Plan 2018-2036 which will review and roll-forward the existing plans. The latest housing target for the eJSP area is around 105,000 dwellings of which around 32,200 should be affordable. The eJSP Consultation document Towards an Emerging Spatial Strategy includes a potential strategic development location at Nailsea/Backwell for some 3,600 dwellings. It is common ground between the main parties that the eJSP is at an early stage of preparation and carried limited weight at the time of the Inquiry.

### **Planning History**

34. The appeal site has been the subject of the number of planning applications for residential development since the mid-1980s, the most recent of which was dismissed on appeal by the Secretary of State following an Inquiry in 2000 (the 2000 Appeal)<sup>7</sup>. The site has also been promoted for development through the plan-making process. Although it has been recommended by Local Plan Inspectors for allocation in the past it has remained unallocated<sup>8</sup>.

### **The Proposals**

35. The appeal planning application as initially submitted proposed the development of up to 340 dwellings. However, the application was revised in July 2015 reducing the number of dwellings proposed to up to 220. The revisions to the application included a revised Concept Master Plan, Parameter Plans and amendments to an internal road linking two proposed areas of housing, and were supported by a number of other revised documents which were updated to deal with the changes.

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<sup>7</sup> CD8.1 – Inspector's report for appeal ref. APP/D0121/A/99/1035049, dated 10 October 2000

<sup>8</sup> CD18.13 - Woodspring Local Plan Inspector's Report – Statement of Decisions and Reasons, dated June 1999



36. The revised Concept Master Plan<sup>9</sup> shows two linked residential development parcels with a total area of some 7.3ha, covering roughly 35% of the overall site. Some 12.9ha of the site, roughly 60%, is shown as being proposed to be retained as green infrastructure, including landscape buffers and public open space. Existing hedgerows and trees within the site are proposed to be retained except where sections are to be removed to accommodate the internal access road. The Design and Access Statement states that the proposed houses would be mostly 2 storey with 2.5 storey buildings in key locations, while the residential development would have a net density of some 25 dwellings per hectare<sup>10</sup>.
37. The land between the two hedgerows which runs almost parallel to footpath LA2/6/10 is proposed to be used as public open space. While it would be left largely undeveloped it would be crossed by a new road that would link the two proposed housing areas. A further area of open space would be retained on the southern/eastern parts of the site, on its upper slopes, which would separate the proposed development from the Conservation Area to the south. An area of some 5.5ha within the southern field is proposed to be retained as agricultural grazing land with the existing public access rights retained and enhanced. These principal areas of retained open space would form roughly a T-shape with the two areas of proposed housing to either side. The alignments of the two existing rights of way are not proposed to be altered.
38. Consent is sought at this stage for access details. A new vehicular access is proposed to Farleigh Road running between Nos 54 and 58, which would be retained as houses while No 56 would be demolished. Associated works are proposed within the existing highway including pedestrian crossing refuges and a right hand turning lane off Farleigh Road into the site. The access proposals also show details of works to where the footpath LA2/6/10 meets Farleigh Road, a further pedestrian crossing refuge and a new Toucan crossing to Farleigh Road.
39. With the exception of those areas adjacent to and within Farleigh Road where highway/access works are proposed, the site stands as an area of undeveloped land outside of, but largely adjacent to, the Backwell Settlement Boundary.

### Other Agreed Facts

40. NSC and the appellant (the main parties) produced a general Statement of Common Ground (the SoCG) prior to the inquiry<sup>11</sup>. Backwell Parish Council (BPC), a Rule 6 party at the Inquiry, was not a signatory to the SoCG. The main parties have also agreed a separate Housing Land Supply Statement of Common Ground (the HLS SoCG)<sup>12</sup>. The SoCG describes the site, the proposal and the policy context. Along with the HLS SoCG, it also confirms that the main parties agree that:
- The appeal proposal conflicts with Core Strategy Policy CS32 given that the scheme would exceed 25 dwellings and the site is not allocated for housing in the development plan;
  - NSC does not have an adopted Site Allocations Plan which allocates sites in excess of 25 dwellings at the Service Villages and PN Policy Development 1

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<sup>9</sup> CD1.5

<sup>10</sup> CD1.19

<sup>11</sup> CD11.1 and CD11.1a

<sup>12</sup> CD11.2

makes no reference as to whether all new housing should be within the Settlement Boundary;

- The adopted housing requirement of 20,985 dwellings from 2006 to 2026 forms the appropriate figure against which to assess housing land supply and, in that regard, it is appropriate to assess supply for the five year period 1 April 2016 to 31 March 2021;
  - When annualised the requirement, which was not calculated until 2013 or adopted until September 2015, has not been achieved in any of the previous 8 years, while the annualised requirement of NSRLP was broadly met for the period 2006-11. Additionally, there was a backlog at March 2016 of 2,498 dwellings against the adopted minimum housing requirement and it is unlikely that that minimum requirement will be achieved in 2016/17;
  - The Sedgfield methodology should be used when calculating the five-year housing land supply;
  - A number of the emerging site allocations, designed to accommodate the housing requirements of the Core Strategy, will be outside the current defined Settlement Boundaries, and they are being reviewed as part of the eSAP but no such change is proposed in the vicinity of the appeal site;
  - Backwell has been identified by NSC as being the most sustainable service village in North Somerset<sup>13</sup>, and is capable of accommodating new development appropriate to the size and character of the settlement in order to enhance the village's role as a local hub for community facilities and services, has the ability to support sustainable patterns of living, has a range of facilities within walking and cycling distance of the site and the proximity of public transport services is likely to encourage use of these services;
  - The appeal proposals accord with Core Strategy Policy SC16 to deliver 30% affordable housing on site as part of the scheme and there is an identified and unmet need for affordable housing across North Somerset;
  - The planning obligations within the S106 Agreement are likely to mitigate a number of impacts of development on community infrastructure and it covers all infrastructure items that were requested by NSC, including in respect to education, highways and public open space, and that there is an existing deficit of open space within the parish; and
  - The proposed development is acceptable in arboricultural terms and most of the trees and hedgerows would be retained, would not harm the setting of the Conservation Area nor that of any nearby Listed Building, is not likely to have a significant effect on the SAC and, following the implementation of the recommendations set out in the ecological assessment, it would result in a net gain to biodiversity.
41. It should also be noted that during the course of the Inquiry both main parties' positions on anticipated housing supply over the relevant five year period evolved somewhat in view of each other's evidence such that some aspects of the HLS SoCG are superseded. Their updated position is set out in a spreadsheet, which they jointly prepared and submitted towards the end of the Inquiry<sup>14</sup>.

<sup>13</sup> CD.5.8 and CD.5.9

<sup>14</sup> The spreadsheet in question forms part of CD18.18

42. The summaries of cases of the parties set out in the following sections are based on the closing submissions<sup>15</sup> and on the written and oral evidence, with references given to relevant sources, up to the point at which I closed the Inquiry. It should be noted that that evidence was put prior to the Supreme Court Judgment and as such it should be read in the context of the parties' pursuant comments<sup>16</sup>. In summary, these comments are that in the view of both NCS and BPC the weight to be given to development plan policy is unaltered, and in the view of the appellant only Core Strategy Policies CS14 and CS32 and NP Development Plan Policy 1 are now relevant policies for the supply of housing and overall the appellant does not believe that the Judgment materially effects its evidence as previously presented.

## **The Case for North Somerset Council**

### ***Introduction***

43. NCS considers that this is a case about a housebuilder that has purchased and wishes to develop a site which is demonstrably special to the people of Backwell and which holds particular local significance because of its recreational value and its contribution to the character and setting of the village.
44. It contends that although the appellant appears to have controlled the site for many years, and that it undoubtedly understands that planning is intended to be plan-led, it has decided to promote its development outside the development plan process. It adds that that is so notwithstanding that the Core Strategy clearly indicates schemes of this scale should be advanced through a local or neighbourhood plan, even as NSC prepares for the examination of its eSAP. According to NSC the appellant faces the difficulty that the site is not allocated in the NP and may have calculated this did not matter when it lodged its appeal. However, in the light of the WMS, NSC considers that what the NP says is now a matter of considerable importance and local people are entitled to expect their NP to be given effect.
45. NSC sees it as no surprise in the circumstances that nearly 1,000 villagers have formally objected to the scheme. It also adds that 'they are doubtless fortified by the fact that past attempts to develop this special site have foundered because of the harm that would be caused to the character of the village'.
46. Thus the balance to be struck is, in NSC's view, between the benefits of providing about 10 times more housing and affordable housing than it considers the policy indicates is appropriate in this kind of location, and harm this would cause to the character and setting of the village. More generally, NSC sees this appeal is an important test of the weight which is to be afforded to neighbourhood plans which the Housing White Paper (the White Paper)<sup>17</sup> indicates are likely to play an increasingly important role in shaping local communities and turning the rhetoric of localism into reality.

### ***Issue 1 - Effect on the locational strategy for new development in the district***

47. Core Strategy Policy CS13 requires a minimum of 20,985 new homes to be delivered over the plan period, while Policy CS14 specifies the broad distribution

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<sup>15</sup> INSP.2, INSP.3 and INSP.4

<sup>16</sup> INSP.5

<sup>17</sup> CD3.4

of those dwellings:

(1) The focus will be on Weston super Mare, including strategic allocations at Weston Villages. Accordingly, in NSC's view, Policy CS28 provides that new development should take place within or adjacent to the settlement boundary, but sites for in excess of about 75 dwellings outside the boundary must be brought forward through the Local Plan or Neighbourhood Plan process.

(2) Outside Weston "most additional development will take place at the towns of Clevedon, Nailsea and Portishead, on sites within or abutting settlement boundaries, but outside the Green Belt". NSC says that Policy CS31 stipulates that sites of more than about 50 dwellings outside a settlement boundary must be brought forward through the development plan process.

(3) Core Strategy Policy CS32 provides that in Service Villages there will be opportunities for "small-scale development of an appropriate scale either within or abutting settlement boundaries or through site allocations". NSC considers that the key words here are 'small scale'.

48. Policy CS32 specifies what is meant by "small-scale development" within or abutting Service Villages – the short point, in NSC's view is that outside Service Villages' settlement boundaries sites for more than about 25 dwellings must be brought forward as allocations through Local Plans or neighbourhood plans.
49. Thus, in NSC's opinion, the Plan seeks to direct large scale development to sites in or adjacent to the most sustainable locations; 'large scale in this context means more than about 50 dwellings, while 'most sustainable locations' means Weston-super-Mere, Weston Villages, Clevedon and Nailsea. Service Villages are intended to grow, but only small increments of up to 25 dwellings are intended to be brought forward on the edge of settlements through the development management process according to NSC.<sup>18</sup>
50. The flexibility imparted by the development management process under Core Strategy Policy CS32 is, in NSC's view, intended to ensure the requirement will be met over the plan period without threatening the character of villages, over-burdening their infrastructure or undermining the spatial strategy, while it is also calculated to ensure the form, design and scale of development reinforces local distinctiveness.<sup>19</sup>
51. NSC considers that it is possible that in some cases larger schemes could be accommodated without harming those policy objectives. However, in a plan-led system, the question of whether, in a particular village, that is so, how big a scheme can be accommodated and where it should take place ought, in the view of NSC, to be mediated through the Local Plan or Neighbourhood Plan process; while Policy CS32 does not admit the development of larger sites through the development management process under any circumstances. NSC adds that although there was reference during the Inquiry to development at Yalton, that is not necessarily due to Policy CS32 and the Inquiry has not been told about the full circumstances associated with what happened in those other cases.

<sup>18</sup> NSC also state: That flexibility also relaxes the strict constraint on development in the countryside adjacent to a settlement boundary imposed by NSRLP Policy H/7, such that it is 'hopeless' to argue settlement boundaries only reflect the need to meet the historic housing requirement. Setting to one side the fact the eSAP alters settlement boundaries to accommodate the required quantum of development, provided proposals satisfy criteria relating to the qualities and scale of Policies CS28, CS31 and CS32 they do not constrain future housing growth.

<sup>19</sup> CD5.5 paras 69 and 70 respectively

52. The NP, as part of the development plan, defines the village's settlement boundary. Policy Development 1 admits development at a level appropriate to the size and character of the village.<sup>20</sup> NSC contend that 'appropriate' development is not confined to that which is within the settlement boundary, such that, reading the Plan as a whole, Policy Development 1 can and should be read consistently with Core Strategy Policy CS32. It follows, in the view of NSC, that NP Policy Development 1 allows development of up to about 25 homes abutting the settlement boundary provided a scheme would satisfy the other criteria of Policy CS32.
53. NSC says that the appeal proposal exceeds the threshold specified by Policy CS32 by a factor of 10 and consequently 'it is likely to cause the kind of mischief' the Examining Inspector for the remitted Core Strategy policies sought to avoid when he specified that threshold.
54. Therefore, the effect of allowing the appeal would be to cause conflict with, and undermine, the locational strategy of the development plan, in NSC's opinion; and the appellant's planning witness Mr Hutchinson concedes conflict with Policies CS14 and CS32 at paras 7.92, 8.30 and 8.47 of his proof of evidence.

### ***Issue 2 - Effect on the character and appearance of the area***

#### *The scope of the issue*

55. This issue is addressed by the appellant's landscape witness Mr Cooper<sup>21</sup>, and NSC state that he expressly agreed that the second refusal reason makes three particular allegations, namely that the erection of 220 dwellings outside the settlement boundary would be a form of development:
- 1) Out of keeping with the overall character of the village;
  - 2) Out of keeping with its landscape setting and the quality of that setting; and
  - 3) That (1) and (2) would cause harm to the setting and appearance of the edge of the village.

#### *The scope of the appellant's evidence*

56. NSC maintain that Mr Cooper acknowledges that the parties do not join issue on the scheme's impact on the wider landscape in itself, whether viewed as a resource, that is as a receptor in its own right, or in terms of its wider visual impact. On this basis NSC also states 'Mr Cooper's evidence generally, and his repeated references in chief to the report prepared by NSC's landscape architect, is akin to a striker who wheels away to celebrate in front of a disbelieving stadium, having just shot his football into the wrong goal'.

#### *The 'correct' approach*

57. NSC sees the 'way home' as being indicated by the second refusal reason's reference to Core Strategy Policies CS5 and CS12. Policy CS5 is headed 'Landscape and the historic environment', while Policy CS12 is concerned with 'achieving high quality design and place making'. It added that Mr Cooper agreed that these strategic policies are 'operationalised' by DM10 and DM32 respectively<sup>22</sup>. NSC considers this to be important:

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<sup>20</sup> CD5.11, p.11

<sup>21</sup> CD14.4, para 1.13

<sup>22</sup> CD5.6 - Links to CS5 and CS12 on pages 28 and 76 respectively

- 1) DM10 requires that all development proposals should 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’. These matters relate, in NSC’s view to place and character, rather than landscape in itself.
  - 2) In a similar vein, DM32 requires that ‘The design and planning of development proposals should demonstrate sensitivity to the local character, and setting, and enhance the area taking into account the existing context. Design solutions should seek to enhance *local distinctiveness* and contribute to the creation of a sense of *place and identity*.’ (NSC’s emphasis) And continues ‘Proposals that reflect community aspirations and values will be encouraged. Proposals which cause unacceptable harm to the character or appearance of the area will not be permitted.’
58. NSC considers that the impact of the scheme on the character and appearance of the area therefore requires:
- 1) An appreciation of Backwell’s existing ‘sense of place’; that is, those features which impart particular character and identity.
  - 2) Consideration of the extent to which the scheme would respect and enhance those characteristics, reinforce what makes Backwell distinctive, and which give it its sense of place and identity.
59. NSC state that, when questioned about the application of Policy DM32, Mr Cooper agreed it is material to consider:
- 1) Whether the scheme enhances local distinctiveness<sup>23</sup>.
  - 2) The local community’s aspirations.
60. NSC also maintains that Mr Cooper repeatedly rejected the notion that the site’s function is relevant to an assessment of the scheme’s impact on *character and distinctiveness*, and that specifically he rejected that it is material to consider:
- 1) The site’s role in creating physical and visual separation between Church Town and Farleigh/ West Town;
  - 2) The site’s function as a focus of the Backwell Round;
  - 3) The site’s actual use as public open space; and
  - 4) The community’s aspiration that the site should be designated as LGS.
61. However, adopting Framework para 64, NSC’s case is that the impact of a scheme on the character of an area is inseparable from an analysis of the way it functions.<sup>24</sup> Thus Mr Cooper’s rejection of this principle, in NSC’s view, serves to underline the narrow scope of his evidence and its limited relevance to this issue.

*The character of Backwell and how the site contributes to that character*

62. In NSC’s view Backwell’s distinctive character arises from the historical pattern of development of the hamlets of Church Town, Farleigh, Backwell Common and West Town. Each was established in the Mediaeval period. They became linked by ribbon development along Church Lane and Farleigh Road in the early part of the 20<sup>th</sup> Century. The last major phase of development was in the 1980’s, which

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<sup>23</sup> NSC additionally stated that - while it serves to underline the appellant’s ‘misplaced’ focus on the scheme’s wider landscape impact - in re-examination Mr Cooper was invited to agree that the issue of whether the scheme enhances local distinctiveness is not a matter that had been raised by NSC, but that is incorrect - see for example DC14.5 paras 9.6 and 9.25-9.27.

<sup>24</sup> DC14.5 para 9.1 for instance

saw the village expand north towards the railway, and the consolidation and growth of West Town.

63. In that context NSC considers that Mr Cooper agreed that Church Town has a particularly distinctive character, with St Andrews Church as its focus standing in an elevated location at the heart of the Conservation Area, which is marked by a mix of architectural types, styles and materials and where plot sizes and the orientation of properties are irregular. There is relatively little modern infill and it is subservient to the rich, fine grained and historic character of this area. Most important of all, in NSC's view, the Appellant's Heritage Assessment states:

"The hamlet is situated against a dramatic sylvan backdrop formed by the wooded scarp and associated coombes of Backwell Hill to the south, and is linked to the main body of Backwell by Chapel Lane and Dark Lane. *Open fields lie to the east, west and north (the field to the north being the proposed development site) of the Conservation Area, resulting in the readability of the hamlet as a separate settlement to the main sprawl of Post-war Backwell*".<sup>25</sup> (NSC emphasis)

This, in NSC's view, emphasises 'in the appellant's own words' that Church Town is a separate settlement from 'the main sprawl'.

64. The open fields referred to in that Heritage Assessment make a distinctive contribution to the setting of Backwell in NSC's opinion; they physically separate Church Town from Farleigh and West Town and as a matter of fact and policy, the land is countryside. It has a rolling, open character. The 2000 Appeal Inspector described it as having a 'rural appearance'<sup>26</sup> and NSC considers that he was right. Mr Cooper agreed that nothing has changed on the ground and NSC sees that as having important consequences:

1) Looking north from the church, Farleigh and West Town are viewed at a distance of 400-500m across farmland. Development along Church Lane lies outside a person's peripheral vision. Church Town appears as an entirely different village.

2) Looking south from the entrance to the site, the sense is of leaving one settlement and setting out across the countryside to another. That sense of transition is sharpened by the contrast between the elevated view of the historic Church and the Conservation Area, which is reinforced by its hillside location compared with the strongly suburban character of Farleigh and West Town.<sup>27</sup> NSC say that a key point, noted by the 2000 Inspector and agreed by Mr Cooper, is that viewed from the footpath at the northern end of the site, ribbon development along Church Lane is either not perceived or is only seen in part.<sup>28</sup>

65. The whole of the appeal site has remained free of development notwithstanding persistent pressure for its development since the mid-1980s. Mr Cooper ascribes its remaining intact to an *historical accident*<sup>29</sup>. That, in NSC's view, is factually incorrect and it says may be due to him not being fully informed of the factual matrix within which his evidence was set; NSC maintains that it is the result of

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<sup>25</sup> CD1.26 para 5.5

<sup>26</sup> CD8.1 para 119

<sup>27</sup> In NSC's view, whilst it is still possible to identify the older parts of the latter two hamlets, their historic character has been submerged by modern development.

<sup>28</sup> CD8.1 para 119 and Mr Cooper in cross examination indicated that about eight dwellings could be seen at first floor or roof level only, and that the eye is drawn to the church

<sup>29</sup> CD14.4, para 2.3

the consistent application of policy and development management, which has resulted in development being resisted for the reason, amongst other things, that it would harm the character of Backwell.<sup>30</sup>

66. NSC considers that the countryside between Church Town and West Town / Farleigh is well used by the public, and is crossed by the two public rights of way. However, from NSC's perspective, the evidence to the inquiry was that the public wander freely across the whole of the site except for the two fields that are proposed for development and it considers that there was no evidence that they are, or have been, prevented from doing so. On that basis NSC maintains that the area actually operates as public open space.
67. Footpath ref. LA2/6/10 runs about 25 metres to the east of the western area of proposed housing and, in NSC's view, whether moving north or south it remains close at hand and clearly in view along most of its length. A substantial length of footpath ref. LA2/4/20 runs immediately to the south of the eastern site. The actual line of the footpath and that which is designated provide, in NSC's opinion, sustained and clear views across the eastern site. Consequently, NSC considers that the development sites operate as 'stand-offs', which keeps Farleigh and West Town at a distance and that maintain the rural quality of the footpaths and the strong sense of walking through relatively tranquil countryside.
68. According to NSC the importance of the site for recreation is clearly conveyed by the plan of the Backwell Round<sup>31</sup>; it is, NSC say, the hub of a series of circular walks around the village and the surrounding countryside and that function is a key component of character, and provides an opportunity to appreciate the characteristics of the surrounding area.
69. NSC sees the survival of this 'extensive area of highly accessible countryside within a village but outside its settlement boundary' as highly unusual<sup>32</sup> and a distinctive feature of Backwell, which is 'cherished by local people', who have communicated their aspiration to keep it open through the NP, representations on the eSAP and some 953 representations on the planning application.

#### *The effect of the appeal proposals*

70. The development of the east and west parcels would, in NSC's opinion, detract from the character and distinctiveness of Backwell by:
- 1) Eroding the distinctive rural setting of Church Town.
  - 2) Harming the character / enjoyment of the rights of way / public open space.
  - 3) Frustrating the community's aspiration that the whole site should be designated as LGS, and harming the character of the alternative which NSC proposes to allocate through the SAP.

#### *'Erosion of the distinctive rural setting of Church Town'*

71. NSC also state that Mr Cooper accepted that houses up to 2.5 storeys in height

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<sup>30</sup> NSC refers to decision notices in respect of applications 1016/84, 2116/85 and the 2000 Appeal decision paras 118-126 and 162 in support of this point - CD18.17 and CD8.1 respectively

<sup>31</sup> CD5.11, p.5

<sup>32</sup> NSC added that Mr Cooper could not think of another example and the example of Winscombe produced by the appellant's planning witness, Mr Hutchinson, is its view quite different as it is 'plainly much smaller' (entirely filled by 175 dwellings), it sits within the settlement boundary and its development is 'supported by local people' (it is allocated in the eSAP).



would be seen to rise up the hill from around 28m AOD adjacent to Farleigh Road up to a height of 37m AOD at the southern end of the western site. Whether viewed from St Andrew's Church, the entrance to the site from Farleigh Road or footpath ref LA2/6/10, the development of the western parcel would be perceived to virtually link West Town with Church Town, in NSC's opinion, and Church Town's distinct and separate historic character would be substantially eroded in conflict with the objects of DM10 and DM32, and consequently CS5 and CS12.

*The character and enjoyment of the public rights of way and public open space*

72. NSC also state that Mr Cooper agreed that those houses which would sit next to footpath ref. LA2/6/10 would stand up to 2.5 storeys in height.<sup>33</sup> Those houses would in NSC's view be a stone's throw away and highly visible. The journey between Farleigh / West Town and Church Town would, in NSC's opinion, cease to be a walk through open countryside but rather a walk next to houses, thereby destroying any sense of solitude, and would be likely to erode tranquillity.
73. According to NSC that 'loss' would be reinforced by these aspects of the scheme:
- (1) The road / footpath that links the east and west parcels is likely to require a retaining wall or similar structure, would sever the path and would appear as an entirely incongruous, urbanising feature, which would introduce all kinds of vehicular traffic across the path of walkers enjoying the countryside<sup>34</sup>.
  - (2) The road / footpath would also have to be lit and it is doubtful whether very low intensity lighting would be fit for purpose if the residents are to walk to local schools and other facilities.
  - (3) The footpath itself would be hard surfaced and that would further urbanise the walk through countryside.
74. NSC considers that the development of the eastern site would have a similar impact on the basis that it would bring housing up the slope south to within a short distance of the footpath that people actually use and they would look down into 2-2.5 storey houses, which would fill the foreground along at least half of the length of footpath ref LA2/4/20.
75. The cumulative impact of both schemes must be considered in NSC's view. The diminished experience of footpath users heading south along footpath ref LA2/6/10 would, it says, be compounded by the development of the eastern site if they turn east along footpath ref LA2/4/20 to enjoy a circular walk, and walks in other directions along the Backwell round would be similarly affected.
76. In short, the rural, tranquil and open character of the rights of way and the public open space would be substantially diminished in the opinion of NSC and would also constitute a clear conflict with CS5, CS12, DM10, DM32 and DM25 and Framework para 75. NSC also considers it untenable to argue that the severance of footpath ref LA2/6/10 would not harm its enjoyment and amenity.

*'Frustrating' the site's designation as LGS / 'harm' to future LGS*

77. The local community aspires to secure the allocation of the whole site as LGS and NSC agrees that at least part of the site should be designated as such. That

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<sup>33</sup> See CD1.8

<sup>34</sup> NSC added that Mr Cooper's submission that the land could be graded to avoid the need for retaining structures is inconsistent with the topographical drawings in the Flood Risk Assessment (CD1.23) and CD18.5a

question of how much land ought to be designated remains to be resolved via the eSAP. That LGS will be designated appears, in NSC's view, to be highly probable.

78. It also states that the appellant asserted repeatedly that NSC concluded the site ought to be designated as LGS solely because of its beauty, yet that is not so - Schedule 4 of the eSAP describes the proposed allocation as followings:

'Two fields meeting in a T shape near St Andrew's Church. Pasture, but considered to exceptionally warrant LGS designation because of their particular importance in terms of the setting of the Grade 1 listed St Andrew's Church, being high lying, prominent and visible from a significant distance to the south. They are also crossed by public rights of way, which lead towards and afford views of the church.'<sup>35</sup>

79. NSC considers that the site also complies with other relevant criteria specified by the Framework<sup>36</sup> - it is closely proximate to the community it serves, and demonstrably holds a particular local significance.
80. The grant of planning permission would prevent allocation of the whole site as LGS. Alternatively, for the reasons set out above it would, in the opinion of NSC, harm the function of the land that it proposes to allocate as LGS, thereby detracting from amenity value, and that would frustrate a legitimate community aspiration, thus giving rise to further conflict with Policy DM32.

### ***Issue 3 - Five year and three year housing land supply***

#### *Five year supply*

81. NSC maintains that the appellant contention that NSC should not advance the case it has a five year supply because it has recently adopted a different position is wholly without merit. NSC expressly reserved its position on the five year supply at the Bleadon Hill and Oldmixon Road appeals<sup>37</sup> - in each case the principal issue was landscape impact, while recent development management decisions merely report NSC's tested supply, rather than the untested evidence advanced at this inquiry. That is both sensible and reasonable in its view.
82. However, there can be no doubt that the question of whether NSC can demonstrate a five years supply is a live issue. That is recognised by the eSAP Examining Inspector, who identified the tension between the views expressed by the Inspector who examined Policy CS13 and the other remitted policies of the Core Strategy, and the Sandford and Banwell appeal Inspectors<sup>38</sup>. In short, NSC sees that there was 'bound to come a day' when five year housing land supply would have to be dealt with, and at this stage it is key given the WMS.

#### *Whether NSC is an authority which has persistently under-delivered housing*

83. NSC concedes that if it is concluded that there is a record of persistent under delivery it cannot demonstrate a five year housing land supply and adds that whether a record of delivery discloses persistent under delivery requires a conclusion to be drawn on two matters:
- 1) The period over which delivery is to be measured.

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<sup>35</sup> CD5.7, pp64

<sup>36</sup> Para 77

<sup>37</sup> CD8.8 and INSP.6

<sup>38</sup> CD8.2 and CD8.3

- 2) The appropriate benchmark (the requirement).
84. In October 2016 the Banwell appeal Inspector concluded that the relevant period was 2006 to 2016 and that the relevant requirement was that specified in CS13<sup>39</sup>. On that basis he found a 20% buffer ought to be applied. In November 2016 the Inspector examining the remitted Core Strategy policies expressed a contrary opinion. He had regard to the whole economic cycle - 1996/97 to 2015/16 - and measured against the benchmark of the fluctuating requirements which NSC had to plan for over that same period, which led him to decide that a 5% buffer was more appropriate. NSC considers that invites that examining Inspector's approach should be adopted in this case, and adds that it accords with that commended by the Local Plans Expert Group (the LPEG) and the timescale adopted by that Inspector also reflects National Planning Practice Guidance (the NPPG) at ID3-035.
85. NSC state that the appellant's housing witness, Mr Tiley, agreed that annual average delivery rates are 'simply abstract statistics'; they do not bear any resemblance to reality, which is characterised by 'lumpy' delivery, which reflects periods of 'feast and famine'. On that basis, NSC says, he accepted it is appropriate to measure delivery by reference to the total number of houses delivered compared with the requirement over the relevant reference period. It adds, there then followed a number of calculations, which can be summarised:
- 1) If one adopts the period 1996/97 to 2015/16 and applies the requirement specified by the development plan that was in force over that period (including a requirement for 1,049 dpa in 2013/14 and 2014/15), delivery just exceeds 86% of the target. That would not trigger a 20% buffer under the proposals contained in the White Paper.
  - 2) If the same period is adopted, and the number of years in which supply matched or exceeded any requirement that was in force at the time, NSC under-delivered in 11 out of 18 years, equating to a 61% delivery rate compared with the 65% threshold suggested by the LPEG.
  - 3) If a 10 year period is adopted whether by reference to the Core Strategy requirement or otherwise, NSC conceded that the picture is one of persistent under delivery.
86. NSC advances the approach of the remitted Core Strategy policies examining Inspector pending a full and rounded review of this topic via the eSAP process.

*Housing Land Supply assuming a 20% buffer*

87. NSC says that it is necessary to consider this issue in the light of the WMS.

*Matters of principle*

88. NSC adds:

(1) *Lead in times*: Mr Tiley accepted that the use of median lead in times obscures the fact that in reality the speed with which a site can be brought forward depends on a range of factors (size, brownfield/ greenfield etc). Consequently, his median delivery time for all sites is not terribly useful. He appeared to accept that a balanced judgment needs to be taken on a site by site

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<sup>39</sup> CD8.3 para 30

basis, having regard to its particular characteristics and common sense professional judgments.<sup>40</sup>

(2) *Lapse rates*: Mr Tiley accepted a lapse rate should be expressed as the number of dwellings permitted by a stock of planning permissions granted over a certain period which are not subsequently commenced in accordance with s91 or s92 of the Act, expressed as a percentage of the total number of all dwellings granted by all planning permissions for dwellings over that period.

He accepted that his assessment of lapse rates was not compiled on this basis. His approach of taking the number of extant permissions in a particular year and assuming the sum of those which lapse over the following three years can be used to calculate a lapse rate is plainly wrong. It would be rare for a permission to lapse in years 1 or 2, and his base stock will include permissions which have been implemented. In short, NSC sees the statistic he produces as meaningless.

NSC accepted that Ms Richards' assessment is 'infected by a similar defect'. The Inspector examining the remitted Core Strategy policies was not persuaded by either approach.<sup>41</sup> Therefore, the 'standard' 10% lapse rate which Mr Tiley acknowledged tends to be the default statistic absent reliable evidence on the point should be adopted, although it is noted that the Banwell appeal Inspector adopted a 9% lapse rate and rejected the 'assertion' it should be set at 24%.<sup>42</sup>

(3) *Draft allocations*: the Wainhomes judgment<sup>43</sup> and the NPPG ID3-031 indicate a local planning authority may rely on draft allocations provided they are supported by robust evidence of deliverability. The Banwell appeal Inspector was satisfied that those relied on by NSC satisfy that criterion, and that its research of their deliverability meant certain objections made could safely be set aside<sup>44</sup>. NSC invited me to adopt the same approach in the light of NSC's housing witness, Ms Richards', knowledge and the 'advanced' stage of the eSAP.

(4) *Unimplemented local plan allocations*: NSC has reviewed the deliverability of sites it intends to carry forward into the SAP and considers as a matter of principle such sites should be counted towards the supply, consistent with the Banwell appeal decision<sup>45</sup> and the NPPG.<sup>46</sup>

(5) *Empty homes*: while the potential contribution of empty homes was discounted by the Banwell appeal Inspector for want of substantial evidence, NSC considers that that shortcoming has been remedied and that its housing witness Ms Richards was not seriously challenged on the point.

(6) *Rural buildings*: Banwell appeal Inspector recognised that whilst supply from this source is finite it is not unrealistic to expect this category to continue to contribute to supply<sup>47</sup> and nothing has changed such that this category towards the overall supply.

(7) *Base date*: While the appellant is content to remove sites from the supply since 1 April 2016 it resists additions. NSC considers that this must be wrong in

<sup>40</sup> That was, in NSC's view, certainly the approach taken by Mr Tiley and Mrs Richards at the 'round table' session

<sup>41</sup> CD5.5, para 19

<sup>42</sup> CD8.3, para 41

<sup>43</sup> Wainhomes (South West) Holdings Ltd v Secretary of State for Communities and Local Government, Neutral Citation: [2013] EWHC 597 (Admin)

<sup>44</sup> CD8.3 para 40

<sup>45</sup> CD8.3 para 42

<sup>46</sup> ID3-030

<sup>47</sup> CD8.3, para 43

principle and Ms Richards' approach is to make balanced changes, so that the supply includes sites that have come forward since the base date. It says that this approach is justified and preferred to that of the appellant for three reasons:

- (a) The base date was nearly 11 months old at the time of the Inquiry. A practical, common sense approach dictates use of the most up-to-date information to calibrate the baseline. The data has its limitations. However, housing land supply calculations are inevitably imprecise. That does not matter provided their output is meaningful.
- (b) Ms Richards' oral evidence was that a similar approach was adopted in the Sandford and Banwell appeal decisions and NSC sees that there is no good reason for taking a different approach in this case.
- (c) NPPG ID3-041 to 043 show that one does not have to 'slavishly' tick off every source of supply.

#### *Matters of detail*

89. The main areas of dispute, in NSC's view, concern the deliverability and trajectory of large sites and the trajectory of strategic sites. The differences between the parties were narrowed during the round table session. The parties' experts have made a final response in respect of various outstanding matters. NSC asks the following are taken into account in coming to a view on this matter:

- (1) The Banwell appeal Inspector adjudicated on this issue less than 6 months ago and he made a full and carefully reasoned decision, having been presented with comprehensive evidence, which was tested through cross-examination.
- (2) He concluded that housing land supply stood at about a 4.2 year supply based on essentially the same information - he is unlikely to have got his assessment very wrong in NSC's view.
- (3) Since then the eSAP has advanced, strategic sites have progressed and planning permissions have been granted - the direction of travel, it says, is up.
- (4) In the circumstances, NSC says it would be surprising if supply were to fall below 4 years, and unsurprising if it were to be maintained or increased.

90. In that context, Ms Richards concludes that if a 20% buffer is applied supply stands at around 4.4 years, which is consistent with the Banwell appeal decision. NSC considers that it is 'probably about right'.

#### *The consequence of the assessment of Housing Land Supply*

91. If a 20% buffer is applied, or the supply is judged to fall below five years for other reasons, NSC's case is that the WMS is engaged and that full weight should be attached to the NP, as follows:

- (1) The WMS is less than two years old;
- (2) The NP allocates sites for housing:
  - (a) Page 12 sets out a plan entitled "Development Sites A to E";
  - (b) Sites A to E are identified by para 8.9 as "sites where residential development and in the case of Sites A and B, residential and employment development, is supported";
  - (c) The proposals map at p.21 repeats those allocations, a "potential

development site" is a perfectly good description of an allocation, it indicates clearly what kind of development will be permitted on each site; and

(d) The appellant's contrary argument is 'based on the misconception' that the absence of an *allocations policy* means there are no allocations. NSC says that is wrong because:

(i) If a plan makes allocations an *allocations policy* (which sets out criteria for making allocations) is unnecessary; and

(ii) If a "schedule" or list which identifies allocated sites is required, then one refers to para 8.9.

(3) NSC contends that it can demonstrate a three year supply of sites:

(a) It is submitted that this criterion simply means a three year supply calculated as part of the annual five year assessment;

(b) That would be consistent with the object of giving effect to housing proposals contained in neighbourhood plans "unless there is significant lack of land in the wider authority area" (i.e. less than three years based on the standard five year assessment);

(c) The appellant's alternative approach would make it less likely that the NP would have effect and that runs contrary to the policy of the WMS in NSC's view. It should also be noted that Aylesbury Vale DC has not adopted that approach as first claimed by the appellant's housing witness; and

(d) NSC's approach is consistent with the White Paper, which indicates that the Government proposes to allow local authorities to assess the state of their five year supply each year, but makes no proposal for a separate calculation of the three year supply (even though it affirms the policy of the WMS).

92. The result is that the provisions of NP Policy Development 1 should be given full weight and, as noted above, it should be read consistently with Core Strategy Policy CS32, in the view of NSC.

#### *Other material considerations*

93. NSC notes that the primary benefits of this scheme comprise the provision of market and affordable housing. Subject to the caveats that there is no evidence of a particular need for affordable housing in Backwell and that these homes are better located in more sustainable high order settlements, NSC accepts each benefit ought to be accorded substantial weight.

94. NSC comments on the other benefits claimed by the appellant<sup>48</sup> as follows:

(1) There is no substantial evidence that the development would inject substantial expenditure into the local economy, therefore, this carries limited weight;

(2) There is no evidence that the scheme would create construction jobs in the local area, therefore, this carries limited weight;

(3) The provision of homes for economically active people and younger families is an aspect of the provision of market and affordable housing and should be

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<sup>48</sup> CD14.1, para 8.47

discounted;

(4) The provision of public open space and green infrastructure does no more than formalise what exists and which will be guaranteed by the designation of LGS, and therefore carries limited weight;

(5) The 'enhancement' of public rights of way is not a benefit at all as their hard surfacing would harm the character of the site; and

(6) The appeal site is said to be deliverable yet there appears to be an issue regarding the deliverability of the access, which puts a question mark against the scheme.

### ***The overall planning balance***

95. The balance to be struck, in NSC's view, is essentially whether the provision of up to 220 market and affordable houses on the site outweighs the scheme's 'admitted' conflict with the development plan's locational strategy for the provision of housing, the harm it would cause to the character and setting of Backwell and development plan policies for the protection of the environment.

### ***The starting point***

96. For the reasons that have been given, NSC considers that the scheme conflicts with Core Strategy Policies CS14, CS32, CS5 and CS12, DMPP Pt1 Policies DM10, DM25 and DM32 and NP Policy Development 1; and in accordance with s38(6) of the Act planning permission should be refused unless other material considerations indicate otherwise.

97. Furthermore, NSC maintains that that conflict with the development plan rebuts the presumption in favour of sustainable development with reference to *East Staffordshire DC v SSCLG and Barwood Strategic Land* [2016] EWHC 2973 (Admin) at paras 30 and 31. NSC adds that, whilst there exists a residual discretion to allow the appeal, that should only be exercised, if, in the circumstances of this case, the benefits of granting planning permission are considered to be exceptional.

98. More particularly, in NSC's view, in accordance with Framework para 17(1) and the WMS, local people who have invested substantial time and resources in preparing the Core Strategy, DMPP Pt1 and the NP are entitled to expect that the policies of each will be given effect, so that they act as a predictable and efficient framework for decision making.

99. If it is concluded that NSC cannot demonstrate a five year housing land supply the policies of the Core Strategy and the DMPP Pt1 (with the exception of DM25) will be deemed to be out of date. Nonetheless, they should continue to attract substantial weight in the opinion of NSC; each has been found to comply with the Framework within the last 12 months and they are a flexible suite of policies that balance the need for new homes with the need to protect the environment.

100. In any event, NSC considers that NP Development Policy 1 indicates clearly that this scheme should be rejected: there can be no serious room for doubt that it will harm the character and setting of the village. That policy objection continues to attract full weight in NSC's opinion. It also contends that the other material considerations that are 'prayed in aid' by the appellant do not tip the balance in its favour.

101. NSC considers that if this site is to come forward then in accordance with Core Strategy Policy CS32 it should be advanced through the SAP process; that would allow a sensible judgment to be made about its relative merits compared with the plethora of other sites which have been identified in the village<sup>49</sup>. NSC adds that this is particularly important in view of the special importance local people attach to maintaining the site as open countryside, and its and Secretary of State's consistent findings that development would harm Backwell's character. Additionally, NSC considers the loss of best and most versatile farmland (BMV) land also weighs against the scheme.
102. For these reasons, NSC respectfully invites me to recommend to the Secretary of State that the appeal should be dismissed.

### **The Case for Backwell Parish Council**

#### ***Approach***

103. If the proposals are found to comply with the provisions of the development plan, then permission should be granted. However, in BPC's view it is obvious that is not the case; the proposals fail to comply at least with Core Strategy Policy CS32 and NP policies development 1 and 4 so there is no presumption in favour of the development. Indeed BPC considers that the proposals fail to comply with the development plan in a number of respects, as follows.
104. The Framework is clear that it does not change the statutory status of the development plan as the starting point for decision-making. It also has as its first core principle that planning should be genuinely plan-led, empowering local people to shape their surroundings, with succinct local and neighbourhood plans setting out a positive vision for the future of the area. BPC considers the appeal proposal to be contrary to that vision.
105. BPC considers that it is important that the statutory presumption is applied properly; in particular, because certain policies may be out-of-date does not mean that the breach of the development plan becomes a technical or trivial one. Such breaches, being the breach of the policies and vision put in place to secure sustainable development appropriate to the particular needs and characteristics of the plan area, remain potentially very significant and weighty matters. The Framework does not advocate that if policies are out of date then its para 14 stands alone as providing the decision-making framework; rather, in BPC's view, the Framework emphasises that the presumption in favour of the plan remains the proper starting point.
106. Consequently, in any weighing exercise under s38(6) or under Framework para 14 proper consideration and weight must be given to the breaches of the plan on the negative side of the balance, as is made very clear in, for example, the NPPG ref 41-083 which guides the approach to breaches of a neighbourhood plan where there is not a five year housing land supply: 'In this situation, when assessing the adverse impacts of the proposal against the policies in the Framework as a whole, decision-makers should include within their assessment those policies in the Framework that deal with neighbourhood planning. This includes paras 183-185 of the Framework; and para 198 which states that where a planning application conflicts with a neighbourhood plan that has been brought

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<sup>49</sup> See CD5.10



into force, planning permission should not normally be granted’.

107. This was also addressed in the East Staffs judgment<sup>50</sup>, in the opinion of BPC, by means of a series of decision-making steps. The Court confirmed that the starting point remains the presumption in favour of the development plan (para 21). Where proposals are inconsistent with the plan Framework para 14 may be a material consideration that would justify departing from the development plan (para 22), yet this does not change the presumption that proposals inconsistent with the plan should not be approved (para 22). Paras 35 to 40 emphasise the relationship between the development plan and sustainable development. Framework para 14 uses the development plan as a pivot (para 30), such that the para 14 exercise allows for the breaches of the development plan to be weighed in the balance. Accordingly, in BPC’s view, the Framework para 14 balance is not to be carried out without regard to the development plan; that would be to displace the presumption in favour of the plan.
108. Framework paras 14 and 49 do not make ‘out-of-date’ policies for the supply of housing irrelevant in the determination of the application, nor prescribe the appropriate weight. Those policies and that legal presumption continue to apply. It is, therefore, ‘clear’ to BPC that the breaches of the plan weigh against the proposal within the para 14 balances, and that the presumption against such development continues to apply. The weight to be given to the policies and their breach is a matter for the decision-maker. This is likely to be less than the full weight that an up-to-date plan would attract, but it may still be significant and will vary according to the circumstances, including, for example:
- (i) The extent to which relevant policies fall short of providing for the five year supply of housing land; and
  - (ii) The action being taken by the local authority to address it.
109. BPC submits that there is a clear public interest in applying the policies as a coherent expression of what is sustainable development.

### ***Housing Land Supply***

110. NSC maintains it can demonstrate five years’ and certainly three years’ supply for the purposes of this appeal, and BPC accepts that.

### ***Action being taken***

111. BPC considers that the eSAP will help to deliver the key policies set out in the Core Strategy, which include the housing needed within North Somerset, and that it is well-advanced as it has been submitted examination. NSC considers the eSAP to be sound. While there are objections to it and these will be tested, recent supply has increased and BPC finds it hard to see what else NSC could do to deliver housing.

### ***Countryside and the character and identity of the village***

112. BPC considers that the policies in issue are all consistent with core principles and policies of the Framework, para 17(5), regarding countryside, confirm that planning must take account of the different roles and character of different areas, and also that they should recognise the intrinsic character and beauty of the

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<sup>50</sup> CD8.7

countryside. Whilst BPC acknowledges that this is not the same as protecting it for its own sake, it considers it to be it is a protective principle; the positive attributes of the countryside should be protected. The role and character of different areas, in BPC's view, includes the role and character of countryside in providing the rural setting for villages, and maintaining the settlement pattern. The 'intrinsic character and beauty' of the countryside is that which gives the countryside its essential and true characteristics, which BPC considers are its openness, agricultural use, and rural character and appearance, which are exhibited at the site.

113. The development plan clearly defines its policies in the view of BPC:

- 1) Core Strategy Policies CS12, CS14 and CS32 are broadly consistent with the Framework, and the appeal site is open, undeveloped, rural and agricultural land exhibiting precisely the intrinsic character and beauty that are recognised in the Framework. Thus the application of these Policies to the site is consistent with the Framework; and
- 2) DMPP Pt1 Policy DM10 seeks to protect and enhance the quality and distinctive qualities of the landscape, and in particular proposals should be carefully integrated into the natural environment and reflect the identity of local surroundings, whilst minimising landscape impact. Policy DM25 seeks to protect and enhance the existing public rights of way network and Policy DM32 seeks to ensure high quality design of buildings. These policies are entirely consistent with the Framework.

114. BPC also maintains that the Backwell Settlement Boundary is consistent with the plan which NSC considers sound to meet its development needs, and forms the basis of the application of its policy, such that NSC must consider that boundary to be consistent with national policies, including to meet its full, objectively assessed needs for housing in balance with recognising the intrinsic character and beauty of the countryside.

### ***Backwell Neighbourhood Plan***

115. BPC maintains that the NP must be read as a whole, and that it is framed explicitly to identify relevant issues and objectives, as well as provide the policies for ensuring the protection of identified positive contributors to village character and the needs/aspirations of the community. Policy Development 1 explains that housing development in Backwell which is at a level appropriate to the size and character of the settlement will be supported, while Policy Development 4 explains that significant development of agricultural land that has been demonstrated to be necessary should also demonstrate that it prioritises the use of poorer quality agricultural land over the use of higher quality agricultural land.
116. The NP Examiner was made aware and was presented with evidence that there would be a need for increased number of dwellings to be delivered in the district, but he confirmed that it satisfied the relevant tests and recommended that the NP could be made without the need to identify higher levels of development. The NP is entirely consistent with the Framework and up-to-date in relation to these policies and their purposes. Therefore, BPC considers that any concerns are with the delivery of housing supply at a district level.

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**Character and appearance**

117. In order to assess the effect that the scheme will have on the character and appearance of the area, BPC considers that it is necessary to understand and identify the role and function that the site serves in combination with the quality and contribution of the site in landscape terms. There is no dispute that the development will create some harm. BPC says that it would be significant, especially when considered at a local level. Indeed it is accepted in the evidence of the appellant's landscape witness, Mr Cooper, that taken from viewpoint 1, on the north-west public footway entrance to the site, there would be direct views of the new housing and also of the new link road that will dissect the fields. Those effects are considered to be 'adverse and important' but it is suggested that these will reduce to moderate importance/important 15 years after planting.
118. While it may not be at the centre of the village, the site has been described by BPC and the local residents as being the 'treasure in the heart of the village' and as a 'rural oasis', and it 'undoubtedly provides a rural setting that positively contributes to and enhances the character and identity of the village'. The scheme's effect on the character of Backwell would, according to BPC, be felt not only in the way the community operates and perceives itself but also the visual impact. It also says that the evidence from the local residents is that Farleigh Fields are regarded and have been used extensively without challenge, as open space for recreational purposes as well as being used as part of the public right of way the route which forms part of the Backwell Round.
119. BPC considers that the visual impression upon entering Farleigh Fields from Farleigh Road is one of passing from and away from the busy road into open countryside; an impression which remains until the higher ground is reached. Along with the sense of being in the countryside, there is also the sense of tranquillity. The peace and tranquillity afforded to the fields by residents and the value that they place upon this countryside and their relationship with it was well documented, in the view of BPC, during the course of the inquiry by the residents. Once the role of the site is taken into account, the proposal's impacts can be established; the fields and their surrounds are clearly sensitive to residential development as a result of its particular role as village setting, and this is precisely the role that BPC considers that the NP seeks to protect.
120. The value of objective assessments is that it can help place the site in context by reference to the role it plays in relation to the settlement and the countryside, and the extent to which in visual and landscape terms it is characteristic of the wider countryside. BPC says that the valued character of this setting, and which is characteristic, is encapsulated in the NP, and that once the proper role and character of the site is understood, then the impacts of its development are seen as unacceptable.
121. However, BPC considers that the assessment undertaken in the LVIA<sup>51</sup> fails to recognise that proper role, character and function of the site - while it emphasised the quality of the landscape, the magnitude of that change was then not addressed before the conclusion reached that the significance of the effect of appeal development on the site was considered to be low/insignificant. In BPC's opinion the assessment fails 'a common-sense test', and it is clear that the initial

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<sup>51</sup> CD11.2

- assessment of role/sensitivity and then magnitude has gone awry; the issue concerns a failure to identify the rural character of the site, its openness and the value of the fields both in landscape terms but also in terms of its function. The significance and degree of the change that would occur would, in BPC's view, fundamentally change the character of the site and how it is used.
122. There would also be visual and perceptual effects, and BPC considers that there will be significant harm in landscape and visual terms experienced at close proximity to the site. The experience of the use currently afforded by the many frequent users of the public rights of way will invariably deteriorate, and the site would no longer display qualities of calm and tranquillity, of being an oasis and bringing a sense of calm.
123. The site and the surrounds would, in BPC's opinion, be more sensitive to any change because of the way the fields are used by the public engaged in recreation. The site forms part of the definitive footpath network and the public have regularly deviated from those paths without challenge. BPC says that there is no suggestion that this current use is likely to be brought to an end, and 'as seen on site' there are views of it from public and private viewpoints overlooking the proposed development.
124. In BPC's view the proposals seek to introduce an inappropriate scale and type of development on the site which would result in inappropriate and harmful urbanising effects. Whilst assessed simply as landscape character impacts the effect is considered by the appellant to be of borderline or minimal significance, when considered in the context of the identity of the village, as should have happened, the impacts are significant in the opinion of BPC, and it adds that these issues must be judged to reflect the role of the site in contributing to the character and identity of the village of Backwell.
125. BPC seeks to have Farleigh Fields designated as LGS, as it sees them as meeting the necessary criteria in full: they are in reasonably close proximity to the community they serve; they are demonstrably special to the local community and hold particular local significance; are local in character; and do not amount to an extensive tract of land. NSC supports BPC's aims, albeit it does not accept that all of the fields should necessarily be designated as LGS. If Farleigh Fields were designated as LGS, this would afford the land 'special protection'. BPS says that a key concept of LGS is that the land is demonstrably special and thus can only remain the case if there is sufficient surrounding undeveloped and open land to create this special nature, in terms of beauty, tranquillity and affording a haven for wildlife. However, it is proposed to construct an access way, Sustainable Drainage System (SuDS) infrastructure, a play area and associated infrastructure works over the land that would be LGS, in conflict with that designation and the field would effectively amount to no more than a green corridor in the view of BPC. It firmly of the view, therefore, that there is a direct conflict with the aims of such designation and the proposed use of the fields in the manner proposed.
126. BPC considers that the construction of those works and elevated access way would be inconsistent with the proposed LGS status, dominate the landscape and create visual and perceptual harm, be out of keeping with the rural feel and peaceful nature currently afforded by the land and create a possible safety hazard and conflict between users of the right of way and the access way. The that public footpath would be dissected in the normal meaning of the word and

this would in itself amount to a harmful impact on it as a right of way contrary to Framework para 75 and DMPP Pt1 Policy DM25 which seek to protect and enhance footpaths. Whilst improved accessibility may occur if the footpath were to be resurfaced, the visual impact that would result would in the opinion of BPC conflict with its rural feel and amount to an urbanising impact.

127. When properly assessed and placed alongside the policies that have been considered above, BPC considers that the appeal proposal:

- 1) Fails to take proper account of the role and character of the site within its landscape context, and fail to recognise the intrinsic character and beauty of the countryside in the terms of Framework para 17(5);
- 2) Breaches NP Policy Development 1 as it is too large in this location to be considered of a level commensurate with the size and character of the settlement, which is to be read alongside Core Strategy Policy CS32;
- 3) Conflicts with Policy CS32 in relation to Service Villages requires that 'sites outside the Settlement Boundaries in excess of about 25 dwellings must be brought forward as allocations through Local Plans or Neighbourhood Plans';
- 4) Is additional to the NP's planned development of around 100 dwellings by 2026. While that is not a cap, BPC says that 320 new dwellings would represent a significant and substantial increase over the 1,680 existing dwellings in Backwell main village. This scheme, if permitted, would be the largest development for over 50 years. There is thus, in the view of BPC, a direct conflict with Policy CS32 that envisages only 'small scale development' in Backwell, 'proposals for small scale development appropriate to the size and character of the village which respects the character of the village and supports or enhances the village's role as a local hub for community facilities and services, employment and affordable housing, including public transport will be supported'; and
- 5) Is neither small in scale nor appropriate when considered in the context of the character of the village.

#### ***Loss of best and most versatile agricultural land***

128. The site falls into the category of BMV. Framework para 112 and NP Policy Development 4 seek to encourage the prioritisation of poorer quality agricultural land over the use of higher quality. This scheme fails to comply with this aims in BPC's view. The appellant suggests that around 12ha of the land would remain capable of reverting to agricultural use, and while BPC accepted during the Inquiry that the land not proposed for housing would not be sterilised, it would be unlikely that it would revert to an active agricultural use and as such BPC considers that the site would cease to remain in active agricultural use.

#### ***Infrastructure and Services***

129. DMPP Pt1 Policy DM70 seeks to allow development where the necessary infrastructure to support it is in place or can be provided in a timely manner through developer funded contributions. BPC says that the position in relation to education is that the appellant accepts existing infrastructure is inadequate and so proposes 'necessary' planning obligations, and the issue that arises is whether that infrastructure would be provided in a timely manner.

### **Education**

130. BPC submits that the appellant has not provided and neither was it required of the appellant to produce evidence in support of the delivery of educational infrastructure, indeed:

(a) There are no identified plans for the provision of any permanent new school or infrastructure within Backwell; and

(b) Consequently village children are unlikely to be able to be educated in the village, at least during the short to medium term while the infrastructure is provided to cope with the development. There are already examples of schools being oversubscribed in this way and concerns raised by interested parties.

131. BPC does not consider that the appellant has provided any evidence as to what expansion works, if any, have been identified, when these may take place, or how much they may cost, and this was not requested by any party. However, in the view of BPC the justification for the education contribution is silent on what expansion works will be undertaken, when or at what cost and the planning obligations do not identify the particular capital project and no costings of a project have been provided. BPC says it cannot have any confidence or certainty that the education funds will be spent within the parish of Backwell as the S106 Agreement simply requires the money to be spent within the vicinity of the site, which could fall outside the Parish.

132. It is not sufficient in BPC's opinion to say that a contribution is made; the school is full or near to capacity and permitting further development would mean that children cannot be educated in the village would promote unsustainable transport, and does not promote inclusive communities in the terms of Framework para 69. BPC sees this as the developers simply paying funds based on a standard formula, with no evidence having been provided to indicate that the impacts of the development would be mitigated, or that additional capacity sufficient to meet the needs of the community is likely to be provided.

### **Highway concerns**

133. Access to developments must be safe in the terms of Framework para 32. BPC considers that the issue in this case is the intensification in the use of the A370 and the dangerous levels of congestion experienced in Station Road combined with the cumulative impacts that would stem from the appeal development and other development sites. Whilst appreciating that the impact on the highways may not be considered to be 'severe' and thus was not considered to warrant a reason for refusal, the impact on the highway, in BPC's view, would be considerable and sufficient to create additional pressures / stresses on the network and the rat runs with the consequential concerns / frustrations that would follow.

134. The NP recognises that the delivery of infrastructure improvements at Backwell crossroads is extremely challenging and that increasing its capacity could have adverse traffic generation impacts and other adverse consequences. Accordingly BPC considers that there is potential for conflict between users of the highway and safety concerns.

135. In BPC's opinion, the local evidence shows that typically there are significant queues at peak morning and evening times and any increased flow of traffic from

the site would increase these queues adding to the frustration experienced by the road users. Backwell has very little employment so the majority of any new residents would have to out-commute. BPC's view is that the experience of existing residents and human nature is such that irrespective of any Travel Plan, the majority would use private cars, despite the apparent availability of public transport, thereby adding to the existing traffic congestion.

136. The junction at the village cross-roads is equipped with a system that is responsive to traffic conditions and optimises the flow of traffic at the junction, such that BPC sees no further improvements to traffic flow being possible to that junction. The appellant's short-term modelling to 2019 identifies only short-term effects and overlooks, in the opinion of BPC, the forecast tripling of traffic queues at the cross-roads in the longer term, which would affect Backwell for many years after the planned development would be complete. That tripling effect by 2026 was predicted in a TPA study used to inform the NP before the effect of the appeal proposals, which would only worsen the situation in BPC's view.

### ***Balance and Conclusions***

137. BPC has set out what it considers to be the proper approach to the determination of the appeal proposal including that if it is found to accord with the development plan it should be granted permission, but that that is not the case as its policies are breached. It invites the Secretary of State to accord weight to the competing considerations for and against in light of its submissions as summarised above.
138. An issue of particular significance to BPC is the weight to be given to the NP, which it considers is up-to-date and Framework compliant, and that the only issues of weight arise as a result of the application of Framework para 49, and that paras 184, 185 and 198 remain a critical part of the para 14 balancing exercise.
139. BPC considers that the WMS strongly endorses the principle that development that fails to accord with an up to date and made neighbourhood plan should be refused even where the district is unable to identify a five year housing land supply at the district level. It says that the WMS makes clear:
- 1) Where an application conflicts with a neighbourhood plan that has been brought into force, planning permission should not normally be granted; and
  - 2) Building on proposals to further strengthen neighbourhood planning through the Neighbourhood Planning Bill, the Government makes clear that where communities plan for housing in their area in a neighbourhood plan, those plans should not be deemed out of date unless there is a significant lack of and supply for housing in the wider local authority area.
140. BPC says that the WMS contains an operative part which disapplies Framework para 49 where three considerations are met, the first of which is met as the WMS is less than two years old. The second requires the NP to allocate sites for development, and BPC considers that it has clearly demonstrated that there were two separate and distinct processes in the consideration of NP development sites.
141. BPC refers to NP Evidence Base G<sup>52</sup> and maintains that at G.40 it shows that

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<sup>52</sup> CD5.16

the NP 'identified' sites put forward by 17 developers and that was followed by an objective process as described at G.41 to determine the most appropriate sites to be allocated and 5 sites were proposed at G.59. It also refers to G.60 point 4, which uses the words 'allocate' and 'allocation' but acknowledges that these words are not used in the 'made' plan. While it accepts that there is no policy in the NP that refers to the allocation of sites, BPC considers that it is clear 'on a plain reading of the NP' that five sites, A to E, were allocated as outlined on the plan referred to in para 8.9 of the NP. Furthermore, what was proposed in the NP in terms of those allocated sites is such that all of those have now come forward, albeit at various stages, for development.

142. BPC considers that even if the Secretary of State concludes that the NP does not allocate sites, it is nevertheless up to date and provides for housing in a permissive way that is consistent with meeting greater housing needs; it is not capped. BPC says that on that basis the WMS is consistent with Framework paras 184, 185 and 198 and endorses the giving of significant weight to breaches of the NP, which is also endorsed in the White Paper. BPC maintain that this is at odds with the applicants' submissions that in the circumstances that exist in this district and parish the development plan policies should be given significantly reduced weight as a result of para 49 or for any other reason. It adds that in many cases breaches of the NP are given very substantial and indeed determinative weight against the acknowledged benefits of the provision of market and affordable housing.
143. BPC acknowledge that the White Paper is a material consideration, but considers that there remain a number of stages including consultation before it generates substantive changes to national policy or the law, and the weight given to it must reflect this. It considers that certain themes are apparent:
- (1) The Government wishes to boost housing supply, consistent with the Framework while the message is to build the right homes in the right places;
  - (2) The plan-led system remains central and there will be increased action to ensure authorities have up to date plans;
  - (3) The role of local communities in planning for their areas is endorsed - provide greater certainty for authorities that have planned for new homes and reduce the scope for local and neighbourhood plans to be undermined by changing the way that land supply for housing is assessed;
  - (4) Infrastructure must be provided at the right time in the right place; and
  - (5) Encouraging housing that meets the needs of the future population.
144. Although in its opinion the weight to be afforded to the White Paper is limited, BPC considers that it confirms the importance given to neighbourhood plans by the WMS and the Framework. In BPC's submission it is entirely consistent with the NP approach. As part of its overall conclusion, BPC states that one of the key aims, as expressed in the NP, at para 4.6, is that 'residents wish to safeguard Backwell for future generations as an attractive place to live with a sustainable village-feel in close proximity to the countryside.'
145. For all of the reasons given above BPC submits that the proposals are contrary to identified policies within the development plan including identified policies within the NP, it would undermine and conflict with the clear vision and aspirations of the local community as properly expressed through an up-to-date



and made neighbourhood plan, and applying the Framework, the NPPG, and the WMS planning permission should be refused.

146. While Framework para 49 may be triggered due to housing land supply at the district level, for the reasons it has identified BPC considers that the development plan policies should still attract significant weight and policies in the eSAP identify the same core purposes as the existing development plan. In the language of the WMS and the Framework, BPC considers that the local community has done exactly what it should and made the NP which provides its vision for the area, and which identifies the right types of development for that community. The shortfall at district level, if any, is not significant in the opinion of BPC and should not in any event frustrate the proper use of neighbourhood plans as a powerful tool in the decision-making process.

147. When the balance is properly addressed BPC considers that it is clear:

- 1) The appeal proposal is contrary to the development plan, including an up to date neighbourhood plan, and the material considerations in support of the proposals put forward by the applicant do not indicate that permission should be granted having regard to section 38(6) of the Act; and
- 2) As a result of those breaches, and the harm caused, it does not amount to sustainable development, but rather when balanced in full, the harm significantly and demonstrably outweigh the benefits.

148. For these reasons, BPC requests that the appeal be dismissed.

## **The Case for Charles Church Developments Ltd**

### ***The Policy Context***

149. The appellant considers that the components of the statutory development plan are agreed as set out in the SoCG. Core Strategy Policy CS14 provides the Service Village minimum requirement of 2,100 homes to be delivered during the plan period. This has increased from 805 homes since re-adoption following examination of the remitted policies. The appellant says that the development plan has yet to determine where this requirement will be accommodated amongst the nine Service Villages – an exercise that will require an assessment of their relative sustainability credentials as they are not the same. In its view the context in which Policies CS14 and CS32 were examined was, among other things, the approach to indicative levels appropriate for windfalls at each tier of the settlement hierarchy to increase flexibility<sup>53</sup>, i.e. about 25 for the Service Villages.

150. The appellant's view is that the minimum requirement for the Service Villages has implications for the existing Settlement Boundaries. Policy CS14 retains the NSRLP Settlement Boundaries as adopted in 2007 '... pending any alterations as part of any future Local Plan or neighbourhood Development Plan...' <sup>54</sup>. The NSRLP only planned for development up to 2011 and the appellant sees, as a consequence, the Settlement Boundaries as being effectively time expired, not being intended to meet the needs of the adopted Core Strategy and that they will necessarily have to flex to accommodate allocations to address the requirement.

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<sup>53</sup> CD5.5 paras 35-39 & 68-70

<sup>54</sup> CD5.3 para 3.199 – also see paras 3.197 & 4.89

151. The appellant accepts that its scheme conflicts with the 'about 25' limitation in Policy CS32 and has not been brought forward as an allocation through Local Plans or the NP, because the proposal is for 220 dwellings thereby exceeding the 'windfall threshold' and it is not an allocated site. However, both CS14 and CS32 expressly anticipate that to meet the minimum Service Village requirement there will have to be allocations. It says however, in the absence of an adopted SAP the development plan is presently silent as to where this requirement is to be met. It also notes that when examining the remitted Core Strategy policies the Examining Inspector increased the Service Village requirement from 805 to 2,100 but the spatial strategy remained unchanged, and that while he endorsed the approach that larger sites should be allocated through the local plan process that Inspector made no comment regarding upper limits or the scale of allocations<sup>55</sup>.
152. In the appellant's view Policy CS32 is intended to assess sites of less than about 25 dwellings and provides useful development control criteria and, aside from the acknowledged conflict, the only remaining issues in dispute relate to bullet points 1 and 4. These relate principally to form, character and landscape setting, which are addressed below. The appellant does not consider that the Policy requires that all development at Services Villages must take place within Settlement Boundaries or that development proposals outside them must be refused, nor that there is a percentage restriction or limitation on the increase of dwellings to be accommodated at the Service Villages. The mathematical approach advocated by NSC's planning witness Mr Tate<sup>56</sup> is simply wrong in the appellant's view, Policy CS32 does not limit each village to 25 houses (the 'about 25' relates to the scale of a windfall site). Similarly, in the appellant's opinion, his suggestion that a 'policy compliant' approach to CS32 would represent an increase of only 1.5% at Backwell is also erroneous<sup>57</sup>. The appellant says that the obvious flaws to this approach are demonstrated by the simple fact that a limit of 25 per Service Village would only deliver 225 dwellings over the plan period, roughly 10% of the minimum requirement.
153. Irrespective of the housing land supply position, the appellant considers that the development plan is presently silent within the meaning of Framework para 14. The appellant refers to the South Oxfordshire case<sup>58</sup> in terms of whether or not the development plan is presently silent within the meaning of Framework para 14. In its view that judgment identified there was no distinction to be drawn between an argument that the policies in the development plan were silent because there was no DPD and the argument that the plan was out of date because there was no DPD. As held in the Bloor case<sup>59</sup>, 'silent' within para 14 meant an absence of relevant policy, and consequently, in the appellant's view, it is a matter of planning judgement for the decision-maker to determine whether there is a body of policy sufficient to determine whether the scheme is acceptable or unacceptable in principle. In the South Oxfordshire case the local planning authority had no SAP and Gilbert J observed at para 95:

'...The question "how much housing does the Development Plan intend should be allocated in the period x to y" is not the same question as "where does the Plan

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<sup>55</sup> CD5.5 paras 38 and 69-70 respectively

<sup>56</sup> CD15.5 para 8.1 on ward

<sup>57</sup> CD15.5 para 9.19

<sup>58</sup> CD18.22

<sup>59</sup> CD18.23

say that housing could or should be built?" In some cases, it can be the second question that matters. Whether it does so depends on the circumstances and is a matter for the planning judgment of the decision maker.'

154. The appellant says that in this appeal the minimum requirement for the Service Villages has been identified but the eSAP has yet to allocate where within the Service Villages that housing could or should be built. Therefore, in its view, the tilted balance in para 14 of the Framework is engaged irrespective of the housing land supply situation.
155. Policies CS14 and CS32 are acknowledged to be policies relevant to the supply of housing and therefore the absence of a five-year supply of deliverable housing sites Framework paras 49 and 14 in any event. It is the appellant's case that this will involve an assessment of the weight to be afforded to these policies as per the principles in the *Suffolk Coastal v Richborough Estates* case<sup>60</sup>. That will be informed by the extent of the housing land supply deficit, which the appellant's planning witness Mr Hutchison described as 'dire'. The appellant's point in this regard is that these policies are clearly not providing the mechanism for delivering the number of houses that are needed right now. It also maintains that the deficit is also a 'stark demonstration' that NSC is failing to comply with the national policy imperative to boost significantly the supply of housing. When the development plan is looked at a whole and in the context of the increasing deficit then, in its view, there should be no need to await an allocation and consequently conflict with this element of the policies should be afforded significantly reduced weight.
156. The weight to be afforded to the eSAP is reduced, in the appellant's opinion, due to the significant number of objections and identified concerns of its Examining Inspector. There is no prematurity objection raised by NSC. The appellant believes that it is likely that NSC will have to consider further sites and in that context it says that the site clearly represents an opportunity. It also considers that the appeal scheme should be viewed in the context of Backwell's acknowledged sustainability credentials when compared with the other Service Villages – in cross examination Mr Reep, NSC's planning policy witness, referred to Backwell as being 'top of the pile'. The appellant says that much time was spent during the Inquiry considering NSC's Comparative Assessment of Rural Settlements<sup>61</sup> that identifies the most sustainable locations for development outside the main towns. The RAG approach employed therein allows for a consistent approach to be taken across all nine Service Villages, as agreed by Mr Reep, and Backwell tops that list in the appellant's view.
157. The appellant also says that, as acknowledged by Mr Reep, when determining where to allocate the Service Village minimum requirement, the first step would be to allocate development to the best and most sustainable locations, this being consistent with Core Principle 11 of the Framework. This was, in the appellant's view, graphically demonstrated by its planning witness in evidence when he went through the Policies Map<sup>62</sup> to illustrate the constraints in the other Service Villages. The appellant says that the next stage is to determine the sustainability credentials of the site. In the context of the site, the appellant sees the

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<sup>60</sup> CD18.4

<sup>61</sup> CD5.8 and CD5.8a

<sup>62</sup> CD5.21a, b and c

site-specific sustainability credentials as impressive including the absence of any heritage, public right of way, highways, ecology or BMV related refusal reasons, and the site is neither within Green Belt, floodplain or any landscape designation, although elsewhere within Backwell development is restricted by constraints including Green Belt and floodplain.

158. Regarding the NP, the appellant's primary contention is that the appeal scheme does not conflict with its policies on the basis that Policy Development 1 supports housing development in Backwell which is at a level appropriate to the size and character of the settlement. Character is not limited to the visual considerations in the appellant's opinion, it is broader than that and will include, among other things, its role as a Service Village and how it functions. According to the appellant, Backwell's position as the most sustainable of the Service Villages indicates that as a settlement it represents a good location for housing. The appellant considers that when the site and scheme are then assessed they confirm that this permissive policy is satisfied; in particular there is no cap or limit on the scale of housing at Backwell.
159. The WMS is a 'red herring' in the opinion of the appellant because there is no conflict with the NP in any event and, even if it was engaged, tests 2 and 3 are not met, firstly because the NP does not allocate sites as it contains no allocation policies. Whilst the NP was being progressed its Steering Group was assisted by NSC and, the appellant considers it of particular note that as part of that process NSC twice told the Steering Group prior to the examination of the draft NP that 'there should be a specific policy which allocates development sites...' <sup>63</sup>. The NP examiner expressly noted that 'the Policies of the Neighbourhood Plan do not designate, or allocate sites and the wording should reflect this fact' <sup>64</sup> and consequently recommended changes to the draft. The appellant says that those changes were subsequently adopted in the 'made' plan and considers that it is also worth noting that two of the sites referred to in the NP, Moor Land and Etrick Garage, were then identified as having potential viability issues and the uses favoured by their owners were not then known <sup>65</sup>. Such uncertainties would, in the view of the appellant, ordinarily preclude allocation of those sites as demonstrated by the Toolkit produced by BPC during this inquiry <sup>66</sup>. The appellant say, moreover, the plan attached to the NP only refers to 'potential development sites'.
160. This is unsurprising to the appellant in view of the context in which the NP was being prepared. The appellant say as was acknowledged by BPC's witness, the Steering Group was planning to accommodate an element of the residual Service Village housing requirement of 805 homes rather than the 2,100 ultimately adopted, a 161% increase, and were only anticipating having to find sites for about 60 houses <sup>67</sup>. However, when the NP was examined the extent of that increased requirement was not known albeit that the examiner noted that '... District housing numbers will be considerably higher than previously thought' <sup>68</sup> and accordingly, in the appellant's view, advocated the flexible and permissive Policy Development 1.

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<sup>63</sup> CD17.3 para 5

<sup>64</sup> CD5.12 pages 30-31

<sup>65</sup> CD5.15 para 10.4

<sup>66</sup> CD18.7 page 7

<sup>67</sup> CD5.16 page 10

<sup>68</sup> CD5.12 page 10

161. The appellant says that the Policies map<sup>69</sup> confirms that NSC recorded Moor Lane as a safeguarded employment site while the other Backwell Sites are not shown. It adds that the eSAP refers to 'all' allocated sites but contains no reference to the NP<sup>70</sup>. Furthermore, there is no reference to these sites being allocations in the LPA's Five-Year Housing Land Supply Paper April 2016<sup>71</sup> and 'if only *allocation* could be stretched as far as that sought by NSC and BPC then we would all be millionaires' according to the appellant.

162. The third test for the application of the WMS is the three years housing land supply and in the appellant's view that test is also failed. The appellant also considers that the WMS is only concerned with Framework para 49 where there is no requisite five years housing land supply. It adds that where, 'as here', the development plan is 'silent' as to where housing could or should be built then the tilted balance in para 14 of the Framework is engaged in any event.

### ***Housing Land Supply***

163. There is an agreed Schedule / Table document that has been prepared for the inquiry and the different positions are as follows<sup>72</sup>:

- Backlog 2,498<sup>73</sup>, but predicted to be 2,765<sup>74</sup> at April 2017
- Appellant 2.73 years (-4,217 dwellings)
- LPA 5.05 years (+86 dwellings)

164. The appellant considers it important to place this issue into 'its proper context'; it says NSC is now contending that it can demonstrate a Framework compliant supply of housing land although its housing witness, Ms Richards, acknowledged that it was 'marginal' – the appellant called it 'wafer thin' - and only on the basis of a 5% buffer, and her position has decreased since giving that oral evidence concession. It also said the latest five year housing land supply evidence was published in May 2016 and relates to the supply as at 1 April 2016, although NSC's trajectory was not available until the Banwell inquiry.

### ***The Buffer***

165. The appellant says that NSC contends for the 5% buffer solely on the basis that it was suggested by the Examining Inspector for the remitted policies of the Core Strategy – the appellant referred to this as tantamount to defying gravity. It added that Ms Richards accepted in cross examination that that Inspector did not interrogate the details of the five years housing land supply, that his position was derived from the hearings in June but asserted he did consider the framework and methodology. Since that examination, the appellant adds, the housing land supply in the district has been tested and NSC has been found to have a 'significant deficit'.

166. Five year housing land supply was subsequently tested at both the Sandford<sup>75</sup>

<sup>69</sup> CD5.21c

<sup>70</sup> CD5.7, page 17

<sup>71</sup> CD6.1

<sup>72</sup> The appellant also states that it nonetheless appears that NSC has subsequently identified another position to the eSAP examining Inspector with an even smaller surplus

<sup>73</sup> HLS SoCG para 2.8

<sup>74</sup> CD14.7 para 104

<sup>75</sup> CD8.2 paras 24 and 25

and Banwell<sup>76</sup> appeals and both Inspectors confirmed the absence of a five year housing land supply and that the appropriate buffer to be applied was 20% due to persistent under delivery. The Banwell Inspector determined the housing land supply to be no greater than 4.2 years whilst the Sandwell Inspector did not conclude on a precise figure. The appellant adds that since then NSC has accepted that it is unable to demonstrate a Framework compliant supply of housing land and that the appropriate buffer is 20% for the purposes of evidence at appeals<sup>77</sup>. The findings of these Inspectors and the approach taken by NSC are, in the appellant's opinion, material considerations in the determination of this appeal, as is the need for consistency of approach by NSC.

167. However, the appellant says that NSC has taken a contradictory approach to its stance in this appeal as recently as March 2017. The following applications were considered by NSC members on the basis that it was unable to demonstrate a five year housing land supply and that a 20% buffer should be applied. The following planning applications were granted by NSC's Planning and Regulatory Committee in this context<sup>78</sup>:

- Application Ref 16/P/1521/O - Land at Wrington Lane, Conglesbury, on 8 February 2017;
- Application Ref 16/P/152744/OT2 – Land at Wolvershill Road, Banwell on 8 February 2017;
- Application Ref 17/P/0023/F2 – Cothill, Station Road, Sandford, Winscombe on 8 March 2017; and
- Application Ref 16/P/2490/O - Withydale Farm, Weston Road, Congresbury on 8 March 2017.

168. The appellant said that NSC's housing witness, Ms Richards, agreed in cross examination that the last time the issue of the appropriate buffer was tested was at the Banwell appeal inquiry and that as there has been no material change in circumstances since that time the 20% buffer should still apply. It added that that this approach is also entirely consistent with the acceptance by NSC that it has not met the annualised housing requirement<sup>79</sup> of the adopted Core Strategy in any one of the previous eight years and will not meet it next year<sup>80</sup>.

169. The appellant also considers that NSC's current approach of using historic requirements, including 'the unlawful requirement' prior to the judicial review to the previously adopted Core Strategy to be flawed. To assess delivery against requirements rather than needs simply excuses under-delivery in the eyes of the appellant. The appellant's evidence is that, in any event, there is still a record of persistent under delivery using any period and any definition. It adds that the LPEG approach<sup>81</sup> to assessing the appropriate buffer is not policy, and it has not been replicated in the Housing White Paper, yet even that approach shows a record of persistent under delivery in North Somerset.

<sup>76</sup> CD8.3 para 27

<sup>77</sup> As was accepted by Ms Richards in cross examination these were the *Wentwood Drive* appeal (8 November 2016); the *Station Road* appeal (5 December 2016); and the *Oldmixon Road* appeal (23 December 2016).

<sup>78</sup> CD6.4 to CD6.7 inclusive

<sup>79</sup> The appellant states "the need being the appropriate measure as indicated by Lewis J in the Cotswold case" - see CD16.2 para 47

<sup>80</sup> HLS SoCG para 2.8

<sup>81</sup> DC18.25 para 4

170. The appellant states that in making an assessment of the five year housing land supply the decision maker will have to determine whether the sites contended for in NSC's trajectory and disputed by the appellant are deliverable within the meaning of Framework Footnote 11 and the relevant NPPG having regard, among other things, to the following principles and considerations.

#### *Lead-in Times*

171. The appellant considers that there will 'obviously' be some delay between the grant of permission and delivery of houses and that this will be affected by the nature of the permission, whether outline or detailed as well as site specific issues. It also says that its housing witness, Mr Tiley, has provided a robust assessment of the average lead-in times in North Somerset<sup>82</sup> derived from the identified sites which indicates that on average, the time between the validation of an outline application and first delivery is about 5.5 years, which he then compared with other known studies<sup>83</sup> to ensure that his assessment is realistic. It adds, in contrast Ms Richards for NSC relies on 100% delivery in respect of large sites on a trajectory that the appellant maintains is wholly unrealistic, as supported by the alternative trajectories in block graph form attached to the HLS SoCG, and does not take account of past trends. According to the appellant, her assertion that government and NSC proposals<sup>84</sup> will speed up determinations has 'no track record' in the appellant's opinion and as discussed during the round table session on housing supply she still assumes some sites will achieve completions this year despite the absence of any implementable permissions or applications.

#### *Sites which post-date the base date*

172. There is, in the appellant's view, now a significant body of appeal decisions in which Inspectors have indicated that such an approach is not appropriate in the absence of proper accounting - if such sites are to be included then account must also be taken of the housing requirement that has accrued during the same period<sup>85</sup>. In this appeal the agreed base date is 1 April 2016. Whilst Ms Richards has identified sites that have accrued since that date, the appellant says that she has not factored in the increased requirement and increased backlog. Consequently, in the appellant's opinion, whilst those sites will inevitably be included in the trajectory they will address the needs from the next base date and not the needs as at 1 April 2016.

#### *Sites in operational use*

173. The NPPG indicates that availability requires an assessment of the operational requirements of landowners, and the appellant adds that to comply with Framework Footnote 11 a site that is currently subject to the operational requirements of landowners should not be considered available now and therefore should not be considered deliverable.

#### *Rural Buildings and Empty Homes*

174. Despite agreeing that rural buildings are a finite resource, the appellant says

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<sup>82</sup> CD14.2 p31 Table 8.3

<sup>83</sup> CD15.2 Appendices 17 & 18

<sup>84</sup> CD17.1 para 5.10

<sup>85</sup> CD8.9 paras 11-13, CD8.10 para 30, CD8.12 paras 20-24

that Ms Richards relies upon a constant supply from this source albeit over a limited period, while its witness Mr Tiley has demonstrated that there is a marked downward trend of deliveries from this source. The appellant considers that it is simply not realistic to assume the constant delivery rate contended for by NSC.

### *Empty Homes*

175. The NPPG indicates that an empty homes allowance should be included in the trajectory only where this has been robustly tested through an examination. Ms Richards for NSC accepted during cross-examination that such an allowance had not been robustly tested in North Somerset. Furthermore, in the appellant's view, the approach adopted by her is unrealistic given that North Somerset already has the 7th lowest number of empty homes in the country out of 326.

### *Strategic Allocations*

176. The appellant considers that specific matters discussed during the housing delivery round table session need to be factored into the delivery trajectory for these sites, including the 'failure' of NSC to take account of the most recent delivery assessments provided by Persimmon and Mead Realisations to the Weston Villages Joint Delivery Review Board<sup>86</sup> and the delivery problems associated with phase 2 of Haywood Village concerning the 1.5 jobs per dwelling and other viability issues. Moreover, the assumed delivery rates must, in the appellant's opinion, be viewed in their proper perspective - the assumed delivery rates will exceed anything ever achieved within the district<sup>87</sup> or on any site nationally<sup>88</sup>. The appellant maintains that in view of NSC's delivery track record that is 'more akin to fantasy than a realistic assessment of housing delivery'.

### *Emerging Allocations*

177. The appellant considers that reliance upon emerging allocations in the eSAP needs to be viewed in the context of Framework para 216 and that 'significant' objections that have been lodged. It also maintains that to this must be added the concerns raised by the eSAP Examining Inspector and that previous Inspectors have expressed caution about including the delivery of such sites<sup>89</sup> as have the Courts<sup>90</sup>. Specifically, some of the sites relied upon as emerging allocations by NSC, namely Engine Lane, North West Nailsea and Moor Road, are all outside existing Settlement Boundaries and of a scale that conflict, in the appellant's view, with existing development plan policy. The appellant considers that the reliance on such sites requires that there are material considerations which suggest that applications on these sites should be approved, such that this would require that either NSC accepts that there is not a five year housing land supply or that it is prejudicing the appropriate plan-making process by relying on sites which have not yet been subject to examination.

### *Small Site Lapse Rates*

178. Although this would only affect some 89 units, the appellant's witness Mr Tiley felt that it is important that this figure is mathematically sound and that in his

<sup>86</sup> The Board includes landowners and developers of the Weston Villages development and NSC

<sup>87</sup> HLS SoCG para 2.18

<sup>88</sup> CD14.2 para 8.105

<sup>89</sup> CD5.5 para 21; and CD15.2 Appx 29 at para 47, Appx 30 at para 21, and Appx 6 at para 32

<sup>90</sup> CD15.2 Appx 31 at para 35



opinion NSC had wrongly calculated the lapse rate in respect of year 1 and calculated it to outstanding permissions only - this approach fails to account for the fact that permissions usually last for three years and consequently NSC's figure is artificially reduced. He added that NSC has calculated the lapse rate in a way which is inconsistent with the way in which it is applied and also said that his approach is consistent with that of other local planning authorities<sup>91</sup>.

179. For all of these reasons, in the appellant's view, Mr Tiley's assessment of the housing land supply within the district should be favoured, which demonstrates that NSC is unable to demonstrate a five years or a three years housing land supply in whichever way the latter is to be assessed.

***The effect of the proposals on the character of the settlement of Backwell***

180. When considering this issue, in the appellant's view, it is important to examine the reasons for refusal. The first contends that the scale of the proposal would have a detrimental impact upon the character of the area. This is echoed in the second reason for refusal, which confirms that it is the scale - 220 dwellings - that is out of keeping with the overall character of the village and will harm the quality of its landscape setting and edge of the village.

181. Such details as are provided in these refusal reasons must, in the opinion of the appellant, be considered in the context of the site. NSC's own evidence acknowledges, among other things, that the 'site is enclosed by existing development'; that the visual impacts 'would be largely localised to the site itself and limited to its immediate surroundings'; and '... no objection can be raised to the impact upon the 'wider landscape' character...'<sup>92</sup>. The SoCG confirms that the site is not located in the Green Belt and not directly affected by any adopted landscape, ecology or heritage designations<sup>93</sup>. Moreover, the appellant says, there is no objection to the effects of the appeal proposals on either the wider landscape or the wider landscape character areas.

182. The appellant states that the alleged impact is upon the immediate character 'which NSC claims is rural despite being surrounded by houses'. The evidence of the appellant's landscape witness, Mr Cooper, is that the site is semi-rural, which the appellant considers is consistent with the Landscape Character SPD, which notes the noise and nuisance of the A370 as 'a dominant presence'<sup>94</sup> and the 'ubiquitous ribbon development along major roads which weakens the rural character of the otherwise largely pastoral landscape'<sup>95</sup>. The appellant maintains that this reflects the wider character of Backwell as evidenced by its historic pattern of growth. Mr Cooper illustrated the evolution of Backwell by reference to the historic maps of the settlement<sup>96</sup>, in particular:

- Between 1883 and 1902 West Town, Backwell Church Town and Farleigh were completely separate, and with separate settings. Although the site is related to Church Town, there was and remains no relationship between the site and West Town or Farleigh;

<sup>91</sup> CD14.2 p.36

<sup>92</sup> Quotes from CD14.5 paras 2.1, 8.27 & 8.33

<sup>93</sup> SoCG para 3.6

<sup>94</sup> CD1.27a App.8 p143 of the Area J5 Rolling Valley Farmland.

<sup>95</sup> CD1.27a App.8 p.144 'Character'.

<sup>96</sup> CD15.4 App.1 L5

- By 1930-1932 ribbon development had already started along the road to Nailsea and along Dark Lane;
- Between 1932-1960 there was a period of considerable ribbon development. Houses had been built around the periphery of the triangle comprising Dark Lane, Church Lane and Farleigh Road. These maps indicate that by 1960 the housing in Church Town was physically linked to Farleigh;
- The 1980 map illustrates the extensive development period that had taken place since 1960 between Dark Lane, West Town and Nailsea including the new school and further development around the triangle; and
- The most recent map is dated 2005 and shows how development has now linked all three hamlets into Backwell. Farleigh has even become Farleigh Backwell. Although the site is still partially in the setting of Church Town the proposals are agreed to have no effect upon that hamlet.

In Mr Cooper's view the present day settlement of Backwell has 'no landscape logic'. The appellant considers it to be largely a modern settlement with some historic parts that is the product of ribbon development and infilling and adds there is no harm in this, it is simply the way the settlement has developed.

183. In the appellant's view this would necessarily have provided the context for NSC's Landscape Officer's assessment of the appeal scheme and informed his consultation response<sup>97</sup>, which followed 'extensive pre-application discussions' during which it was agreed that the application LVIA followed the appropriate methodology and had assessed all relevant viewpoints<sup>98</sup>. The appellant asks for the following comments from that consultation response to be noted in particular:

- The housing would be visually contained at a lower level on either side of the central space;
- The site would only be visible from local viewpoints and, when seen at longer views, in the context of development; and
- Existing houses recede into background and the visual effects '...can be dealt with by mitigation.

184. The appellant also considers that NSC's Landscape Officer's consultation response undermines the weight to be attached to the subsequent allegations of landscape and visual harm relied upon by NSC. Firstly, reference has been made to the letter from Brandon Lewis dated 27 March 2015<sup>99</sup> - this pre-dates that consultation response. The appellant contends moreover that that letter concerns impact on landscape character as an important consideration in the decision-making process and it was not identified as such in the Landscape Officer's consultation response or in the case officer's subsequent delegated report. The Landscape Officer explained that 'The proposal avoids any adverse impact upon the Green Belt, the wider landscape and the setting of Tynesfield, and will be largely unseen from much of the village.'

185. Mr Cooper, for the appellant, explained that, whilst outline the appeal scheme has been 'landscape led' and followed a long period of discussion with landscape

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<sup>97</sup> CD9.14 & CD9.15

<sup>98</sup> SoCG para 7.60

<sup>99</sup> NSC's appeal document ref. NSC 27

and other officers, including a reduction in extent based on landscape and visual guidance. The site comprises private land with two public rights of way. In the appellant's view, the residential development is restricted to the lowest and least visible land<sup>100</sup>; no housing is proposed on the central field; no housing is proposed in the vicinity of the Conservation Area; the long views of the moors and the Mendips are retained; development is proposed within the less sensitive landscape character area J5 Rolling Valley Farmland<sup>101</sup> as opposed to the more sensitive E6 Cleeve Ridge; the hedgerows and trees are to be retained, managed and replanted, particularly those on the western side and along the upper fields; lower building heights are proposed around the edges of the site; and residential amenity has been addressed through mitigation and set-backs. In the appellant's opinion these have been acknowledged by NSC's Landscape Officer.

186. In the appellant's view the design matters now put forward by NSC are a recent invention and not indicated in the officer's report, the refusal reasons or NSC's Statement of Case. The appellant considers that the premise was always that the scale of the proposals was unacceptable in the context of Backwell's position in the settlement hierarchy and no issue was ever taken with the case studies explained in the Design and Access Statement. Irrespective of their 'lack of provenance' the design criticisms are unfounded in the appellant's view as it is common ground between the appellant and NSC that because this is an outline scheme, details relating to layout, scale and appearance can be considered in subsequent reserved matters applications<sup>102</sup>.
187. The second refusal reason expressly refers to Framework para 109, which affords protection to valued landscapes and NSC's witness on landscape matters, Mr Tate, carried out a GLVIA3 Box 5.1 exercise in his evidence<sup>103</sup>. However, the appellant maintains that such a contention is wholly contrary to NSC's Landscape Officer's assessment of the scheme, did not form part of the refusal reasons, nor was it an issue raised in pre-application discussions. To be a valued landscape it must have physical attributes that take it out of the ordinary, beyond mere countryside, as per the Stroud case<sup>104</sup>. Mr Cooper, the appellant's landscape witness, explained that the site simply does not meet the Box 5.1 criteria – in particular: the site has no historical or landscape significance, no special physical attributes, and views from the site do not form any part of that assessment process<sup>105</sup>. Neither, in the appellant's view, are Farleigh Fields unique in comprising undeveloped farmland with public rights of way surrounded by buildings - the same can equally be said of the land in the 'centre' of Winscombe, which has now been granted planning permission<sup>106</sup>.
188. Additionally, the appellant considers that NSC's contention that the site represents a valued landscape, despite the absence of any landscape designation whatsoever or recognition in landscape character guidance, would also be inconsistent with its approach to the proposed Backwell LGS in the eSAP<sup>107</sup>.

<sup>100</sup> CD1.19 p.47 Illustrative Masterplan

<sup>101</sup> CD15.4 App 1 L6 'noting that J5 is adversely affected by the A370 and this has a *moderate* character (p144 of the Landscape Character SPD) and the strategy is to strengthen the weaker character of the village edges and plant orchards'

<sup>102</sup> SoCG para 7.44 onward

<sup>103</sup> CD14.5 paras 8.46-8.47

<sup>104</sup> CD8.6

<sup>105</sup> CD14.4 paras 3.18-22

<sup>106</sup> CD18.20

<sup>107</sup> CD5.5

NSC's reason for the northern and southern fields of the site 'exceptionally' warranting LGS designation is the public rights of way and their particular importance in terms of the setting of the Grade 1 listed St Andrew's church. Neither those rights of way nor the impact upon heritage assets are mentioned in the refusal reasons, while none of the other identified criteria were considered to have been met in the appellant's view. The appellant also considers it to be of particular significance that the definition of 'Beauty' as one of the designation criteria expressly includes the contribution of a site to '...the character of the settlement, which would normally be expected to be significant'<sup>108</sup>, yet this is not mentioned in the site assessment<sup>109</sup>. The appellant says moreover, the eastern and western fields on which the built development is proposed 'do not even figure' and it is proposed to provide the promoted LGS as public open space in any event - a matter that was considered in the delegated report to be a benefit.

189. The Backwell Round footpath would be unaffected by the appeal development in the appellant's view and it considers that the proposal would be seen in the context of the existing development in such limited views of the proposed development that will be available. Mr Cooper's evidence for the appellant is that in these circumstances simply because the houses can be seen is not necessarily harmful; and, apart from Church Town, this part of Backwell is now almost wholly a new settlement and there is nothing significant about the open space, apart from the fact that it has been enclosed. The public open space proposed as an integral component of the scheme will, in the appellant's view, help to address an acknowledged deficit in the settlement, afford greater public access than is presently enjoyed<sup>110</sup> and the appeal scheme may present the 'opportunity' to upgrade the existing public rights of way<sup>111</sup>.

190. Insofar as concerns have been raised over views and the road crossing the public rights of way the appellant maintains that:

- Views from upper fields will be retained as indicated in the Design and Access Statement<sup>112</sup>, houses added on the cross sections shown in the Design and Access Statement represent the heights of buildings shown in the parameters plans, and show that long views of the Moors and the Mendip hills would be retained from the key upper fields of the site; and
- The design of central open space 'was shown by its witness', Mr Cooper, to have the potential to remain open in character with no inappropriately steep gradients, the land being regraded back to the existing slopes, the lane crossing of the open space was compared to well-known example, the Downs in Bristol, a semi-rural landscape crossed without harm by lanes and access roads, with no footpaths on either side, and no lighting.

191. The appellant considers that the evidence of Mr Cooper also demonstrates that this outline scheme can address all the design, landscape, visual and character concerns that have been raised by NSC, BPC and members of the public. Indeed, through its witness, BPC confirmed that it would continue to seek LGS status for the retained open land if planning permission was granted. In the appellant's

<sup>108</sup> NSC appeal document Ref NSC 6

<sup>109</sup> Ref NSC 6 - definition of 'beauty' at p.5; the designation criteria at p.11; and the assessment at p.44.

<sup>110</sup> The appellant also says there is no evidence before the Inquiry to support potential Village Green status

<sup>111</sup> SoCG para 7.50

<sup>112</sup> CD1.19 p33

view this indicates that this land would still meet the LGS exceptional criteria relied upon by NSC<sup>113</sup> in those circumstances.

### ***Other Material Considerations and the Planning Balance***

192. The appellant maintains that the 220 extra houses in Backwell would have no detrimental effect upon the spatial strategy in the adopted Core Strategy, there is no prematurity objection being run by NSC, and Backwell is the most sustainable of the Service Villages. In the appellant's opinion much was made of the localism agenda during the Inquiry but it considers that it should be borne in mind that much greater proportionate increases have been considered appropriate at some other 'less sustainable' Service Villages<sup>114</sup> including 25% at Yatton, 25% at Churchill, 14% at Winscombe and 18% at Sandford. The appellant considers that, on that basis, it cannot be argued that the appeal scheme represents a disproportionate scale of development for the settlement<sup>115</sup> or undermine confidence in the plan-led system.
193. Some concerns have been raised by both BPC and interested parties over harm to community cohesion, but in the appellant's view there is simply no basis for what it sees as unsubstantiated assertions and that it would be contrary to the evidence. Backwell represents, in the appellant's opinion, a vibrant and welcoming community with a multitude of facilities and opportunities for community involvement. As expressed in the NP Evidence Base G, it represents an attractive destination that is unaffordable to many who aspire to live there, particularly young people<sup>116</sup>. The appellant also considers that concerns over infrastructure impacts, including highways and education issues that have been raised by BPC and others, have also been addressed to the satisfaction of the relevant statutory authorities.
194. The planning history of the site figured during the Inquiry including the 'footprints' of the previous schemes that correlate with the planning history as summarised in the SoCG<sup>117</sup>. While the appellant's planning witness Mr Hutchison acknowledged that the countryside has not changed since a previous scheme was refused in 2000<sup>118</sup>, nor has it changed much since 1985 in the appellant's view. The appellant adds that it can be seen from the Woodspring Local Plan Inspector's Report<sup>119</sup> that three previous Inspectors and the Secretary of State have not considered impact on character to be a pivotal issue. The site has been recommended for approval at appeal and as a Local Plan allocation<sup>120</sup>. The appellant contends that 'suffice it to say' the planning judgments made by Inspectors over the years in terms of impact on the character of the settlement have been varied.
195. While not an issue with NSC, BPC has raised the issue of loss of BMV agricultural land, yet the appellant submits that some 60%, 12.88ha, of the site

<sup>113</sup> NSC's appeal document Ref NSC6

<sup>114</sup> Here the appellant refers to its witness Mr Hutchison in Chief, CD5.8 and that Taylor Wimpey is promoting 650 to the west of Backwell and the eJSP has suggested up to 3,600 between Backwell and Nailsea.

<sup>115</sup> The appellant says, particularly as Backwell increased by 89 dwellings from the 2001 to the 2011 census (9dpa)

<sup>116</sup> CD 5.16 G.21 and G.17 respectively

<sup>117</sup> SoCG para 4.1

<sup>118</sup> NSC appeal Ref. NSC 15

<sup>119</sup> CD18.12 & CD18.13 – the appellant adds that following the recommendation to allocate the site for housing that Council declined because it had a surplus of housing rather than because of impact on the character of the settlement

<sup>120</sup> The appellant adds that this contrary to the inference made by BPC in its representation to have the appeal recovered for determination by the SoS.

will not be sterilised but remain as open land that, if necessary, could be brought back into agricultural use. The appellant also maintains that the loss of BMV would not be significant in terms of requiring Natural England be notified<sup>121</sup>.

196. The appellant commends the overall planning balance exercise that has been conducted by its witness Mr Hutchison along with his conclusions in his proof of evidence at paras 55 to 59. It also asks that it be noted that this exercise was 'essentially unchallenged' by NSC and BPC, save, it says, for the weight to be attached to the proposed public open space, albeit still acknowledged to be a benefit.

197. The appellant also maintains that this is essentially a greenfield freehold site<sup>122</sup> that could provide the access within a year of grant and delivery of the houses over the ensuing four years; and consequently, its development could make a significant contribution to the 'dire' housing deficit for both market and affordable homes that persists within the district. There would, in the appellant's view, be little identifiable harm as a result of the appeal scheme and significant benefits. In short, it says, the proposal represents an excellent example of sustainable development in the context of Framework para 14.

198. For all of these reasons the appellant respectfully requests that this appeal be allowed.

### **The Case for Other Parties Who Gave Evidence at the Inquiry<sup>123</sup>**

#### ***The Case for Martin Powell***

199. He expressed concern that during the short period in which NSC is getting organised to address the housing land supply issue developers are taking advantage and that this developer, having paid agricultural values for land, is being opportunistic. He is also critical of the level of public engagement undertaken by the appellant in contrast to that associated with the NP, for which there was a 96% 'for' vote which included, in his view, no development beyond the settlement boundary and the NP identifies sites for development which is enough, the rest should be protected. He added that Farleigh Fields is the consequence of three hamlets joining over time and allowing the development would undermine that and there would be an overall harm to the character and appearance of the area caused by the development.

200. Mr Powell also stated that the appellant has shown no benefits would result from the development in contrast to a number of problems that would result including the loss of green space and rural character, the formation of a road to link the two development areas and the proposed play area further encroaching on the green space, off-site congestion/traffic, increased flood risk, limited capacity of local services including medical and schools, light noise and air pollution, harm to / loss of wildlife habitat, and that the development would be a disproportionate over development relative to the village.

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<sup>121</sup> Mr Hutchinson, the appellant's planning witness, also notes some 10 potential allocations in the Service Villages involve the loss of BMV such that in the appellant's view it is 'clearly necessary' to address the housing requirement.

<sup>122</sup> The appellant states 'save for elements of the access in respect of which the developer has acquisition rights'

<sup>123</sup> CD18.8

### ***The Case for David Andrews***

201. He explained that he spoke on behalf of himself and his wife who have lived in Backwell for 20 years, not adjacent to Farleigh Fields, but within a 15 minute walk and set out their involvement in local groups and activities. To them Backwell means a vibrant, caring community supporting local initiatives that improve village life, greenery, open spaces, and the freedom to live life at one's own pace, with room to breathe; and the whole of Farleigh Fields is the "treasure in the heart of the village" - somewhere to walk, relax and drink in the quiet views of the houses, the church and the surrounding trees, somewhere to find a little peace.
202. He added that this sense of peace will be destroyed if any of the fields are developed and instead there would be an impact on Backwell's infrastructure, which he states is that of a village not an urban area. In his view the new road junction and traffic would cause delays to the commuters currently using that road and may also interfere with the effective working of the existing lights and with local traffic attempting to cross the main road; and there would be more people parking on the side roads near the railway station as the car park will be full, and using the already busy Station Road to drive to Nailsea so they can shop there. And with this greater risk to pedestrians including school children, particularly given the narrow carriageways and very narrow pavements, in the village with some roads having a pavement on one side only.
203. He queries with local doctors and dentists as well as schools could cope with around 500-600 extra residents, with no apparent available space around the current surgeries for them to expand, and moving to a new location would be expensive in his view. In conclusion he states that this proposal is allowed to go ahead the people of Backwell would not only lose the "treasure in the heart of the village" but would have to live in a far more congested environment with, in all probability, a detrimental effect on their well-being.

### ***The Case for Rachel Beckingsale***

204. She explained that she has lived in Backwell for 11 years and wider local area for more than 30 years, and is able to appreciate Farleigh Fields and its abundant wildlife on a daily basis as her home overlooks the fields. She added that she observes this haven of green space being enjoyed by the many walkers and runners who use the footpath between Church Town and the A370 on a regular basis and the farmer looking after the fertile fields with crops being harvested annually and cattle grazing on the slopes in the distance. In her view these fields are not a 'hole' as described by the developers but a haven of peace giving Backwell its truly individual village character - the developers propose to retain the footpath to the Church and some of the green space around it, however this land would be useless for farming, it would have to be maintained at considerable expense, and the peace and tranquillity of this rural vista would be destroyed.
205. Backwell is a village with a thriving community – as a mother of two young children Ms Beckingsale explained that she appreciates the closeness of community which village life provides, and that the demand for school places

increased to such an extent that the infant school increased its intake in September 2013 from 45 to 60 and immediately filled all the places, a trend she understands has continued over the last 4 years. She also stated that the two local preschools have also been operating at capacity in recent years, and the volunteer run toddler group is currently thriving.

206. She also stated that she understands that more housing is required countrywide and supported the NP which allowed for modest development in the village. With the approval of a planning application to build 65 homes off Moor Lane as well as 8 3 bed homes in the centre of the village and a further 9 new homes likely to be built in West Town, she believes this is as many as Backwell would be able to absorb at this time given the present infrastructure. Even this number of homes could cause a critical shortage of school places and will in her view undoubtedly add vehicles to the already highly congested roads in the village. She does not believe that the building of a further 220 homes on Farleigh Fields is at all in keeping with the size and character of Backwell as a village, and the increase in the number of residents and the traffic they would contribute to the local roads would be unsustainable.

### ***The Case for Peter Hoare***

207. He explained that while they do not have a view over Farleigh Fields he and his wife have lived nearby in Church Town since 2001, and that while they have been fortunate enough to live in some attractive places none are as agreeable as Backwell. He added that although not all of the village is pretty it combines a balance of open space with sensible development, an adequate infrastructure and thriving community life which, unlike others we have seen, is welcoming and inclusive; indeed we rapidly became involved in local affairs and he is now Chairman of the local Royal British Legion Branch.
208. He said that he is probably one of the most frequent users of Farleigh Fields as he and his wife walk their dog there almost daily, often on the way to our allotment behind the George Inn, and they take a circular route using both main footpaths. He added that that what they love about Farleigh Fields is the glorious view, the feeling of space and the agricultural setting, with one part used for arable crops and the other for livestock. During school holidays their grandchildren enjoy walking and playing in the fields and they also go blackberrying in the late summer.
209. The proposal would in his view totally change this carefully preserved rural 'oasis' for ever. He said that he appreciates that Charles Church only state the intention to use two of the 4 fields for houses plus roads on the third, but does not believe things would stop there. He also said that any form of development, whether for an access way or for housing, would have a marked impact on the rural sense that you get when walking around this area. The impact that an access way over which cars can and would go being built across one of the fields would in his opinion go against the very purpose of the local green space allocation that has been sought and the views would also be such that the whole feel of the area would change from a rural to urbanised setting.
210. He stated that he thinks the remaining parcel would be too small to farm effectively and BPC would not have the resources to maintain it and that it would become overgrown and eventually be surrendered for housing; consequently, the 'jewel in the crown' of Backwell, the Conservation Area around the Church, would



be lost in a sea of modern housing, just as has happened in nearby Nailsea. He concluded by saying that for decades the people of this village have worked hard to support sensitive proposals but to prevent over-development and he urges the appeal to be rejected and Farleigh Fields be preserved for generations to come.

### ***The Case for Peter Hemmings***

211. Mr Hemmings has lived in Backwell for over 20 years and has been Backwell's volunteer Rights of Way Officer for the last 17. He moved to the village on job re-location from London to North Bristol and after looking for places to live all around Bristol, he chose Backwell because of its semi-rural setting and facilities. He added that for the last 17 years he has organized summer walks around the village and helped publish a free "family friendly" walks booklet, which booklet gives details of six easy walks along the most used and scenic paths of the village and highlights interesting points of interest along the routes, and as the ROW Officer, he said that he has surveyed all 62 paths of the Parish and give regular feedback to assist BPC and NSC to keep them accessible throughout the year.
212. He also explained that he liaised with NSC during the creation of the Backwell Round Walks which form part of a series of local walks linking paths in and around villages in North Somerset that can be easily accessed by "Kissing Gates" instead of stiles. He added that Farleigh Fields and St Andrews Church are included in both the Backwell Round paths and the Backwell Walks booklet because these paths have some of the best views across the valley towards Clevedon and Weston-Super-Mare and can be easily accessed by families and older members of the community who are unable to walk the steeper paths behind the church to the top of Backwell Hill.
213. Prior to work starting on the Neighbourhood Plan he attended a presentation given by a government sponsored official. After the meeting he was told by the presenter that, after it was agreed, it would be the definitive document until 2026; many people spent a lot of time overcoming policy changes to get the document formally approved. He closed by saying that the paths and views around Farleigh Fields are valued assets of the village, and that it would be completely spoilt by any development and should be protected for people to appreciate and enjoy in the future.

### ***The Case for Bob Taylor***

214. Mr Taylor spoke as a local resident and as Chairman of BPC. He said that he has been a councillor for 22 years and a chairman for 6 years, and that he and his wife have been privileged to live in Backwell for nearly 40 years during which time they ran the village newsagent for over 35 years and got to know many of the residents personally. He heads not just a Council of 15 members but also 'an army of volunteer residents' that believe as he does, that their village needs to grow and prosper in a controlled manner. He added that in order to maintain its attractive character, this is not only for their current residents' future benefit, but also for the next generation of children and their children.
215. To enable this to happen he explained that it became obvious to BPC that they needed to know what residents' thoughts and aspirations were and they therefore commissioned a survey called a Community Plan, which formed the ground work that led them to volunteer to be a 'pilot parish', and to prepare a Neighbourhood Plan.

216. He added that this was far from easy as there was no agenda or guidance to work with, just a general directive from NSC. It involved a steering group of 15 Backwell volunteers headed by Parish Councillor Chris Perry. The plan took 4 years to prepare and was eventually adopted by NSC. It was the first in North Somerset and only the 30th in the country. He added that at the village referendum nearly 1,500 residents turned out to approve the plan by a majority of 96%, and they went on to become a 'N Plan champion' recruited by the DCLG to assist other councils nationally to prepare their own Neighbourhood Plans.
217. He also explained that in the NP one thing that became obvious was that there was demand from older residents for opportunities for them to down-size and starter homes for younger residents, and that they then had to identify and allocate the best area in the village to site them. He added that the site chosen was situated in Moor Lane which has close proximity to schools, buses, the railway station, the garage and associated convenience store, with the main shopping area only 10 minutes' walk away, and at that time the Moor Lane site was designated for industrial use but it had been left dormant so was 'ideal' for this development.
218. He stated that the steering group through the NP quite rightly also tried to identify alternative employment opportunities and sites, specifically the disused and dormant Cole's quarry, and that since the NP was finalized the erection of small industrial units has been agreed for this site. He added that the village is a thriving community, with many successful organizations, plus an active cultural and social life – specifically, Backwell Playing Fields Charity offers its residents both old and young, 4 football pitches, 4 tennis courts, a youth club, scouts and guides organisations, judo plus a play school facility; there are also 20 pieces of play equipment as well as a skate board ramp and a BMX circuit, and a very popular bowls club which also houses 2 Probus clubs. He added that other village assets are the Leisure Centre, the W.I. Hall and the purpose-built Play House Theatre and Film Club, that BPC own and maintain a further 2 play areas plus our allotment site consisting of 80 allotments, and that annual village events are the Donkey Derby, Flower Show, 2 day musical festivals.
219. He said that BPC provides funding annually to many of the 40 organizations that make Backwell what it is, in total to the tune of £40,000, and that this funding ranges from providing their own lolly pop lady, the 'Meeting Point' organisation which gives our senior residents help and advice, to assisting the tennis club and the junior football club update their facilities and promote active mixed sports for boys and girls. BPC are also heavily involved in and help fund the 16-acre Sports Recreation facility the Parish Hall and our Youth Club.
220. He added that BPC have responded to NSC cuts by cutting our own grassed areas and maintained street cleanliness including the voluntary village clean up; that it also helps to retained our village's attractive appearances by maintaining our floral displays and providing a 24 foot Christmas tree on the village green, along with the festive Christmas light display on the main road; and it takes its involvement in the social side of the village very seriously – for instance it will be organizing our Christmas Party for 90 senior residents, Christmas around the Crib for our young families and the Chairman's Christmas drinks, in order to show gratitude for helping make Backwell a close and active community. He added that it was with great pride that they welcomed the Olympic Torch in 2012 when it visited Backwell, held by a youngster from the village and our volunteers

- provided breakfast and snacks for over 80 residents.
221. Cllr Taylor went on to say that Backwell provides plenty of community facilities and opportunities for undertaking various leisure activities, however, many residents simply like to enjoy leisurely walks and to relax in the beautiful landscape that makes up parts of the village, in particular Farleigh Fields. These fields make a valuable contribution to the quality of life in the area. It is an area where people can stroll and admire our beautiful countryside where cattle still graze as well as the abundant wildlife. These fields represent a typical English countryside environment of peace, quiet and serenity. He added that the historic Church of St Andrews overlooks these fields adding to their historic appeal and beauty, and from Farleigh Fields there are views across to the Tyntesfield estate and on a good day to South Wales.
222. To Backwell residents Farleigh Fields is, in his view, an important asset just the same as any club or play equipment, and as such it must be protected, and the character and appearance of a development of the size proposed would result in a change from a rural appearance to one of a heavily built up development. He added that above the fields is the oldest part of Backwell which contains the 'well', which gave the village its name, and it also contains the old Manor House, several converted farm buildings, St Andrew's School House, the War Memorial and the Jubilee Stone, erected to celebrate Queen Victoria's Jubilee. In his opinion residents 'mental picture' of the village is synonymous with the Church nestling above Farleigh Fields.
223. He added that from 1984 to 2000 Farleigh Fields was targeted for development by numerous planning applications, all of which were refused at officer level, committee level, government inspector level and finally by the Secretary of State. He also said that at the last appeal in 2000, the government inspector stated "do not bring this application back before us again". Such was, in Cllr Taylor's view, the inappropriateness of the application to build on Farleigh Fields.
224. He went on to say that the A370 and its adjoining infrastructure have remained unaltered for over 50 years and as a result, the capacity of the community to 'accept' new houses is limited. He has concerns about whether the village itself is capable of accepting such a substantial increase in population over a relatively short time period. He added that the village has accepted small pockets of development and has never said no to sensible development; however the 65 homes in Moor Lane proposed in the NP, plus a further 30 in small pockets around the village would provide sustainable development whilst protecting our rural village life which we love so much. He closed by respectfully ask that the appeal be dismissed.

### ***The Case for Jayne Kearney***

225. Ms Kearney started by explaining that she has lived in Backwell for 10 years. She added that she walks across Farleigh Fields with her dog most days, and loves the fact that by taking just a few steps off the main road you can find yourself in open countryside, and that the fields provide an incredibly cathartic escape from the constant hustle and bustle of everyday life and she often takes some time to stop and breathe and enjoy the space and the views. For her they are a chance to reconnect with nature - a reminder of the changing seasons - the vivid greens as the hedgerows burst into life in Spring; the warmth of the summer sun making it a pleasure to walk through the long grasses and

wildflowers; the wild field mushrooms that pop up so suddenly in Autumn; and the beauty of a crisp, clear, frosted winter's morning. She added that even when it is pouring with rain and blowing a gale, she would still rather battle her way through the mud than trudge past what she sees as yet more characterless houses.

226. She went on to say that the fields are also a haven for wildlife, and that she has very happy memories of wildlife spotting with her son when he was younger, armed with his I-Spy Nature book they would love to watch the goldfinches flashing amongst the hedgerows, the curious robin hopping ever closer to us along the fence and the crows chasing the buzzards away from their nests. He added that their butterfly identification was always 'a bit ropey' and they were never very good at remembering how many spots were good on a ladybird, but they had lots of fun nonetheless and the dog was very happy to spend the time following scent trails left by the rabbits, badgers and hedgehogs etc. She also said that they spent a memorable afternoon dissecting what they thought were owl pellets collected from around the church - only to discover, after much research and a wealth of learning, that they were probably Buzzard pellets.
227. She concluded by saying that all this would be lost if these fields became a housing development; the wildlife would largely disappear with the destruction of their habitat and a strip of land with a footpath through the middle could never recapture the peace and diversity of the current fields and hedgerows.

#### ***The Case for Norma Knight***

228. She explained that she has in Church Lane, a short walk from Farleigh Fields since 1984 and has enjoyed the beauty of the fields and their role of the parish, and as a qualified historian with experience in researching local history. She added that she has traced their use in the development of Backwell; first recorded in Domesday Book in 1086, Backwell's prosperity depended on agriculture and this area was prime agricultural land providing pasture for sheep and cattle as well as for crops. She also explained that there was no central settlement, instead there were numerous farms and several small hamlets; the earliest and most important was around the church and manor house and was known as Church Town, and to the east lay Farleigh where inns, a market and a fair became established.
229. She said that until the 18th century the main road through Backwell ran from Farleigh directly to Church Town bounding Farleigh Fields on the south side, which is now Church Lane, and in the 1760s a more direct route between Farleigh and another hamlet at West Town was developed. She added that highway wardens' accounts recorded the use of gunpowder and local labour to level and straighten an existing track and this road, now A370, bounded these Fields on the north side.
230. She explained that Backwell formed part of the Longleat Estate after 1709 and all development was closely controlled by the Marquess of Bath, and that in 1939 the Marquess sold all his land here and this opened the way for new houses and shops. She added that most building was delayed until the end of the Second World War and was concentrated in the middle of the parish where the modern village developed, however even then it was all on a modest scale, with small estates and infill. She added that in her view this continues to be the best way to provide for the future of the parish.

231. She closed by saying that Farleigh Fields lie outside the settlement area and are still good agricultural land, and that they also lie between two conservation areas at Church Town and Farleigh and provide a valuable open space for the health and enjoyment of all parishioners.

***The Case for Mark Mallett***

232. Mr Mallett said that he has been a Backwell resident on Farleigh Road since 2003, and that his wife and he have taught at the Secondary School and their children attended both the schools in Backwell. He added that he has walked Farleigh Fields on an almost daily basis — exercising his dogs, attending St Andrew's Parish Church or simply in order to gain refreshment and stress-relief from the vicissitudes of life as a Comprehensive School Teacher. He and his family are vehemently opposed to the proposal and outlined three reasons in particular why to allow the Appeal would be to diminish the character of Backwell and the quality of life for its residents.

233. Firstly, in his view Farleigh Fields is an oasis — a green lung — for a village which has become a commuter route between Bristol, Weston-Super-Mare and the M5. The views below St Andrew's are stunning in his opinion. He added that one's direct and peripheral vision is dominated by the landscape of Farleigh Fields in all directions and then the eye is drawn to Backwell Common, Wraxall and Tickenham Woods and the coastline from Clevedon to Weston, and that on a clear day you can see across the channel to Wales. In his view the experience of being in this tranquil haven above the bustle and congestion of the A370 is priceless. He is aware that the revised proposal leaves two fields intact from development, but to allow the appeal would in his opinion represent an amputation and cancel much of the tranquillity described. He considers that the scenic quality of the landscape would be marred by the introduction of a built form of development within the lower fields.

234. Secondly, in his opinion it would inevitably have an impact on wild life. As well as the farm-stock occupying the fields, he said that there are colonies of rabbits and field-mice and that he has regularly seen foxes and red deer. In the skies above, kestrels and buzzards hunt the fields by day and bats are seen and owls heard from dusk until the dawn. This, he feels, illustrates the way in which Farleigh Fields represents a green corridor between Backwell Common and the fields and woodland above St Andrew's on Backwell Hill. Development of some of the fields would in his opinion fatally compromise the habitat there.

235. His final point relates to educational infrastructure – speaking as a parent, teacher in Backwell, and a Headteacher at Chew Valley Secondary School. He said that Backwell School's outstanding reputation has seen it grow markedly over the last twenty years, and that there is a very serious danger of it being required to expand further (because of housing development in the locality) in a way that would significantly detract from the educational experience of local children. He explained that the school is already 1750 strong, and that in his view the impact of being in so large a school is to make a child's experience potentially one of anonymity. Further growth at the Secondary School would, in his view, be educationally deleterious for the young people in its care, and there is also the point that Backwell Junior School is already at capacity on what he sees as being an incredibly cramped site. In his opinion expansion of housing threatens the very high quality of education which these two superb schools currently provide.

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**The Case for Cyril Routley**

236. Mr Routley explained that he and his wife live on 45 Station Road near the station and also lived at 34 Farleigh Road during 1964-71 enjoying this view and appreciating all that it offered. He said that important to them at that time was the visual aspect leading up to the church on the hill, a view they saw every morning from our bedroom window. He added that there was the tranquillity it afforded them of an open space removed from the bustle of modern life; the opportunity to walk along the footpaths. Frequently then it was the custom for groups of walkers to explore the various footpaths in the village on a Friday evening, an activity which continues to this day. He also said that similarly they would appreciate the uninterrupted view from the churchyard down onto the village and he still finds this uplifting even now to stand there and gaze.
237. Farleigh Fields is in his view good quality agricultural land and is used by the farmer for arable and grazing, and is the habitat for much wildlife. All of this would be destroyed forever, he added, if this development were approved. It is specious, in his opinion, to claim that "the houses will not affect the landscape or the character of the village". He stated that adding 220 houses on this site is a gross overestimate of what Backwell can absorb, and coupled with other known smaller planned developments in Backwell, this would add some 300 houses to a village of 1,750. He said that local people care passionately about the character of the village, that Backwell has absorbed small developments successfully in recent decades, and that it would be hard to maintain its character with such a sudden increase.
238. He went on to say that having spent the whole of his working life in education he knows of the reputation of the village schools extremely well, that many people move into the village on this account, and that his next door neighbours are an example and their predecessors, something that is replicated in many of the house sales locally. He added that the comprehensive school is always oversubscribed as are the junior and infant schools. The new housing on Farleigh Fields would in his opinion create an influx of some 400 children and the parents would most definitely be seeking for them to be educated in the village, and this would be impossible without some consideration being given to expansion of education opportunities here. He added that it would be tragic to put the current outstanding schools at danger with this unwelcome development, and that the alternative would be a greater use of the already dangerous and inadequate Station Road, with parents driving their children to Nailsea schools.
239. He also referred to the Backwell Neighbourhood Plan which he said he had perused over the time it has been under consideration, and that from that, it is clearly the belief in the village that the overwhelming majority of villagers are very much opposed to development on this site, being out of character with the greater part of the village. He added that draining the water that flows down the hill is an issue, and that when he lived on Farleigh Road, the field entrance was just one house away from his and that this was the focal point of much water pouring off the hill from exactly where the westerly part of the development will take place. This, he said, created regular flooding on to the A370 during periods of heavy rain, and covering the grassland with ever more concrete and tarmac would exacerbate this danger.
240. He closed by explaining that although he and his wife moved away from Farleigh Road in 1971 they still regard Farleigh Fields as a crucial part of village

life, and value it no less since they moved. He added that his wife was born in Backwell, and is an organist at St Andrew's church, and that she has taught music to countless Backwell boys and girls over the years - often to a couple of generations. He said that Backwell is a stable place, with a fantastic, caring community and asked that this is not endangered with such an unwelcome development on such well-loved fields.

### ***The Case for Colette Howard***

241. She explained that she has lived in Backwell since 2002 and wished to express her strong feelings regarding the heavy traffic and bad parking experienced in Backwell on a daily basis, especially close to the railway station. She added that she believes that the proposal would significantly add to congestion in and around Backwell and would add even more chaos and hazards to our roads for pedestrians and motorists alike, and that while she had voiced my concerns many times to NSC and BPC, some suggestions on how to improve the situation have been discussed such as parking permits very little has ever changed for the better.
242. She said that she had been a commuter using Nailsea & Backwell Railway Station since 2002, travelling to Bristol and more recently to Bath on a daily basis, and that she had witnessed significant growth in the levels of traffic using the main roads and side roads during that period, and it has been extremely noticeable how many more people are now using Nailsea & Backwell Railway Station, which has impacted on the volume of traffic too. It is quite noticeable in her view how busy the station now is, not only by how little platform space there is available to stand on when waiting for the train, but also the lengthy queues to buy rail tickets, the large volume of cars parking down side streets etc; and she added that she felt that a large proportion of these rail users are not locals, and are driving to Backwell from other villages to commute to Bristol and beyond.
243. She gave an example of commuter numbers by saying that when her regular train arrives in Backwell at 5.30 each evening, at least 2 out of the 8 carriages disembark, and those people then spread themselves amongst the local side streets and to the station car park to collect their cars and head off out of Backwell to wherever they live, which causes chaos along these narrow residential roads and Station Road especially; and this relates to only one train. She added that she has witnessed people leaving this train to collect their cars, doing 3 point turns and blocking off roads; parking on double yellow lines all day down our narrow residential streets, as they rush to catch the morning train and just cannot be bothered to use the station car park, even though there are still spaces available; and they generally cause a nuisance of themselves to local residents by their inconsiderate parking right outside their houses and their quite often arrogant and rude behaviour whilst doing so.
244. She explained that she believes that another housing development would produce even more traffic on our streets, with more people potentially using the railway system, and parking on our streets, a situation that is already creaking at the seams; and although you may think residents of this new development could easily walk to the railway station from the Farleigh Fields development, she would put money on it that a lot of them would not. She added that in any event more traffic would then be added to the mix along Station Road and the residential side roads, which are already congested to an unacceptable level for those who already living there, let alone adding more traffic to the situation.

245. She believes a new development like this would bring a significant level of extra traffic to the area, it would cause severe congestion to the village especially at busy periods, on a scale that you would expect from a town not a village, and it would become a bottleneck for motorists, locals and business people alike, trying to go about their daily business in the area in a safe way. In her view some common sense is needed here and she suggests that Backwell already struggles from a traffic perspective, and if a comprehensive study were carried out, it would quickly become clear that our roads cannot cope now with what is being asked of them, let alone coping with higher volumes of traffic created by such a development. She added that no new residential roads being proposed by the developers would remove the congestion that would still hit the A370 and Station Road at some point.
246. She explained that she had thought the investment that locals had already committed to producing the NP would show evidence of residents' willing to compromise and plan for growth in the village, as they realise they cannot stand still, and it is a document produced by intelligent people who know change must come and have worked hard to put forward sensible and manageable suggestions to handle future growth of the village over the next few years with input from villagers. On that basis she asks why is this being ignored, is the message we should take from this inquiry an indication that if a developer fancies a piece of land, such arrangements already in place should be ignored - not a good message to be sending out in her view, nor does it inspire people in the future to work on producing such a document? She closed by saying that she is against the proposals.

#### ***The Case for Alistair Ireland***

247. He explained that he has lived in Backwell for 10 years, some 15 minutes' walk from Farleigh Fields, and that he has always been an active person, from a young age involved in competitive sport as well as being a keen walker. He explained that following an injury five years ago he has used Farleigh Fields more and found it a helpful and enjoyable environment that aided his recovery.
248. Whilst walking in Farleigh Fields, he said that he meet other regular walkers also enjoying the very special ambiance and the wonderful views, and that he is able to slow down and unwind, finding a calmness and serenity that is not possible to achieve if you are having to dodge traffic as you do on other walks in the village. He added that he feels that Farleigh Fields are a very special place; the lower part provides a pleasing visual break that is experienced quite swiftly upon entering from the road, as you walk up the hill, the views from the footpath as you look both right and left are extensive and provide a sense of being in the countryside. He added that that if any part of the fields were built upon this sense of being in the countryside would be eroded and destroyed, and that no amount of planting or landscaping would reduce this very permanent and damaging impact.
249. The fields have in his view many interesting variations in the plants, and he said that that he has found special parts of the fields that have an abundance of bees and pollinating insects feeding on the clover at certain times of the year, and incidentally has found more four leaved clover there than anywhere else. He added that that he purchases local honey, made from hives kept just above Farleigh Fields and must say the honey is the best he has tasted and prevented the occasional bouts of hay fever. He expressed concern regarding potential



flooding associated with the development and closed by saying that losing this beautiful space would be a tremendous blow to himself and to those who already enjoy walking in what we regard as our "Village Green" and would remove forever an oasis of calm from an increasingly "busy" world.

***The Case for James Harwood***

250. Mr Harwood explained that he has lived in what he considers to be the amazing, unique village of Backwell for nearly five years with this wife and three children. He is originally from Yorkshire and feels that he has found a true home from home. Having children was his driving force to get out of a big city environment and Backwell has in his view definitely been that as it has a true village feel and is a perfect size to allow for an amazing community spirit. He added that that when they first discovered Backwell they were drawn by the lovely open spaces surrounding the village and the fantastic country environment that surrounds and is integral to this amazing village.
251. Farleigh Fields, in his view, forms a significant portion of that feel and without it he does not feel that Backwell will ever be the same again, as it would lose its village feel. He explained that as a family they love walking across the fields and my children often remark on how lucky we are to have such a fantastic environment on their doorstep, and that they often walk across the fields appreciating the wildlife and wild flowers that are in abundance. In his opinion it is a truly educational experience for his children and they see different things every time they walk across them; whether it is up to the church or to continue walking up to the woods above Backwell. Building on any of the fields will in his view result in the loss of the very pleasing, open and agricultural attributes of the area. The character and appearance of the entire area would, he feels, be adversely affected and changed forever through the construction of the buildings, roads and hard surfaced areas. He added that there is likely to be some street lighting as well which will create an unwelcome intrusion in an otherwise rural setting.
252. He explained that he feels that building on this integral part of Backwell would be so detrimental on so many levels, and that it would change the whole aspect of the village feel and would restrict my children's appreciation of the natural surrounding environment. He added that his children absolutely adore the open spaces of Farleigh Fields and often will ask to put on their wellies and venture across the fields. They are also at the local schools and it is in his view a very privileged option to walk them to school. As it stands, he said, there is significant traffic already along the busy A370 and traffic is a major concern to most parents, and at school times it is always essential to watch our children closely as cars and lorries seem to be an endless cause of danger along the busy remain road into Bristol. Building a further 220 house on the fields would in his opinion be ridiculous; the congestion and danger would be so much worse. He also said that Backwell struggles with the traffic it already has, and that with an extra 220 homes he would expect at least an extra 1.5 cars per household, so an extra 330 cars at a conservative estimate - Backwell would not cope in his view. He added that the danger to his children would be increased, the congestion would be increased, the pollution would be increased and Backwell would become a worse place to live.
253. With the extra 220 homes school places would in his opinion be a problem, while doctors' appointments would become impossible - they are often hard to

get already, he added. With the extra suggested development and Backwell being a draw to families he estimated a potential of 400 extra children to the Backwell population. He explained that he feels that the village is already at breaking point for school places and doctors' appointments and that the extra development is definitely not in the best interest of the village and totally against the NP, which was supported by many residents.

254. He said that there are already close to 80 new homes passed to be built in the area, which is sustainable, but that 220 extra homes is definitely not. He added that the area close to the new ring road closer to Bristol centre would be more sustainable with better travel links and better links to employment. Backwell is in his opinion a predominantly a family village with very limited employment options, such that any new development would see its inhabitants having to travel out of Backwell to jobs outside the area, thus adding to the already dangerous traffic conditions on the Backwell roads.

255. He concluded by saying that the development of the land be rejected again and never be allowed to be reconsidered, and that it is not right for the village, not sustainable and would inevitably make Backwell a poorer place to live; be that for the children and the adults of the village.

#### ***The Case for Richard MacLeavy***

256. Mr MacLeavy explained that he spoke in opposition to the scheme in a personal capacity, as a life-long resident of Backwell, and as a Parish Councillor - a member of BPC. His objection is on the grounds that the application is, in his view, made in direct contravention of the policies outlined in the NP, and the planning policies adopted by NSC. He said that quite simply, the development proposals do not conform to the NP and that the appeal directly opposes, and is contrary to, the government's Localism Acts.

257. Regarding the NP, he explained that he fully supports the policies proposed and adopted therein because they were developed through thorough research, analysis, planning and consultations with local residents and businesses, and it was then ratified by a referendum which indicated overwhelming support in the village. However, the appellant, in his opinion, seeks to ignore the NP. He added that while he had no direct role in the preparation of the Plan he is deeply committed to it and an enthusiast for localism as he said that he has witnessed at first hand the real and positive results of local democracy as a local councillor. He also said that any approval to the application development would constitute a blatant defiance of the NP, and portray serious disrespect for the wishes of the locality and NSC as local planning authority.

258. Regarding what he described as the impact on the village identity, Mr MacLeavy said that there is no doubt that such a development would have a serious detrimental impact on the character of the village, and place an intolerable burden on the village's facilities. He added that NP allows for moderate, sustainable growth, but a development of this size, and in this location, would place extreme demands and an unacceptable strain on the village's resources. He also said that the prime agricultural land is a feature of the community and confirms its position as an attractive and desirable village within North Somerset. In his view the non-affordable housing proposed are likely to be priced towards the higher end of the market, such that the development will not provide for young people growing up in the community who

- may wish to purchase a home and remain within the village.
259. Regarding localism, he said that it was Greg Clark MP who introduced the original legislation and who in September 2011, announced:
- ˘ Neighbourhood planning will hand power back to communities to decide the vision for their area as they see fit, encouraging people to plan positively for their future.
  - ˘ This is localism in action and the enthusiasm across the country for neighbourhood planning shows how keen communities are to get involved. '
260. Clearly, in Mr MacLeavy's view, government statements have encouraged belief in the status of neighbourhood plans and galvanised communities across the country to prepare them and to adhere to them, and to allow this development would fly in the face of the NP resulting in erosion in public confidence in the planning system.
261. In conclusion he said that the proposals blatantly contravene the NP by proposing to build on land that falls outside the village settlement boundary and potentially placing an intolerable burden on the village's resources. Most importantly, he added, approving the proposals will strip Backwell of a popular, well-made development plan; alarm communities involved in neighbourhood planning throughout the country; and expose the government's localism policies as a charade and a failure of democracy.

### ***The Case for Geoff Wells***

262. Mr Wells said that he was speaking on behalf of himself and his wife and also for Backwell Residents Association (BRA), which he said was formed in the early 1980's to maintain the village as a vibrant and caring community. He added that on planning matters they have always opposed housing on Farleigh Fields but that they do support projects for some 80 dwellings, as identified in NP; adding that the BRA has almost 350 household members, each paying £10 annual subscription.
263. He explained that he was born in the Midlands into a family working in agriculture, although his working life in Bristol has been office based, and that Backwell still has lots of agriculture around it which he greatly values. He explained that he lives in the village centre, close to the Playing Fields, so in no way are we adjacent to Farleigh Fields, where he often walks. He said that he takes great pleasure from seeing Farleigh Fields being worked as farming land - sometimes arable, other times grazing for sheep or beef cattle. He added that there are often buzzards overhead, and a few years ago, a ploughing match was held there, with the field full of vintage tractors.
264. He explained that he took over an allotment, when they were created in 1977, and chairs the allotments committee, and that Backwell allotments field is well kept and popular with over 80 families who work them, and many walkers who use the popular footpaths through the field. He also said that he has always played tennis on the excellent courts in Backwell Playing Fields, and still enjoys it, and that every week, hundreds of people, young and old, enjoy the varied facilities offered at the Playing Fields. He added that there are 3 great open spaces in Backwell; the allotment field, the Playing Fields and Farleigh Fields - each has its merits, with Farleigh Fields being the only one that is farmed, and is

still perfectly tranquil.

265. He went on to say that Farleigh Fields is a small acreage to be farmed, and that, should any building take place on the fields, it would certainly make farming unviable on any remaining and the link to agriculture would be lost. He added that donating some of the land to the village as a so called amenity would be of no value whatsoever – there would be a cost to maintain it, and it would quickly deteriorate.
266. He also said that prior to the inquiry, he and his wife examined the latest comments on the proposal in detail and of the 353 comments only 3 were in favour. He also said that he created a geographical map of objectors and found that a quarter live adjacent to Farleigh Fields, while a quarter live in 3 areas remote from the centre - near the station, and at the Weston and Bristol ends of the village. The remaining half were, he said, in the central area of the village near the shops, neither close nor far from Farleigh Fields, which in his view shows that they are appreciated by the whole village, and not just by those who live on their borders.
267. In summary, he said that Farleigh Fields are outside the settlement boundary, and should be protected as an agricultural asset; they are easily accessible to most houses in the village, which make Backwell very different from a suburb of Bristol. He closed by saying that he hopes the Inquiry will judge, as others have in the past and that Farleigh Fields should be retained to the benefit of the whole community, as a unique piece of farming land in the heart of our village.

#### ***The Case for Mike Phillis***

268. He explained that he and his wife have lived in the village since 1978 as Backwell appeared to offer a great deal as a place to raise a family, and that over the years their decision has proved to be a winner in every sense. He added that Backwell has every facility to provide a full healthy lifestyle that good Town Planning seeks to achieve as an objective; as developed to date the village thrives as a success story. He went on to say that as a village caring community they have spent much time and effort in examining where might further development take place which could complement the existing without prejudicing the vibrancy and balance, and that this has been incorporated in the NP, which was formally approved and adopted in 2015.
269. The appeal proposal, in his view, amounts to a carbuncle in the very heart of this village and if allowed would destroy the community as exists today. He added that it seeks to increase the number of houses within the village significantly and in doing so is taking out of use almost 8 hectares of grade 2 agriculture land against national policy in an area that contributes so much to the beauty and tranquillity of the open views up to the Church and down across the valley to the Wraxall hills. He also stated that there is no doubt that the proposal would damage the concept of Local Green Space and would take away much loved open space and fresh air from close to the village centre in direct conflict with accepted good practice, and that it would negate all of the good planning objectives achieved to date to meet the standards of sustainability and would fly directly in the face of National Planning Policies. The addition of 220 units would, in his opinion, bring significant and possibly saturation levels of extra traffic movements to the A370, Dark Lane, Church Lane and Station Road increasing serious safety issues particularly at peak times especially as all are

school routes.

270. In conclusion he stated that he feels that there is absolutely no merit in any direction that can possibly support this appeal but so much can be saved by dismissing it, and that the proposal directly challenges the formally approved planning policies and objectives and any allowance of the appeal would make a total mockery of all the sophisticated planning framework developed over the many years.

### ***The Case for Chris Miles***

271. He explained that he has lived in the village since 2014 with his wife and two young children, some 10 minutes' walk from Farleigh Fields, which would be will be detrimentally changed forever should the proposal go ahead. He stated that he has numerous reasons to oppose it but would focus on two key issues that he feels most passionately about - the strain on the local schools and the destruction of local green space.

272. Regarding local schools he said that his family has first-hand experience of the existing strain already placed on both Backwell primary schools - West Leigh Infants and Backwell Junior School, and that when they first moved to the village their daughter was unable to secure a place at West Leigh as it was already heavily oversubscribed. He went on to say that eventually they secured a place in Nailsea, so instead of walking to the local school they drove, and soon found this was a common problem. He added that he shudders to think how many extra cars are on our local roads at peak times because of this. After a year, his daughter got a place at West Leigh and his son was accepted this academic year as a sibling. He explained that they are both active parents involved in the school drop off and collection at the infant and junior schools, and that they can see these schools are already at capacity and there are more siblings coming through.

273. He also stated that if the application were approved, it would not be a case of a few extra children but about 100 to 200. He asked where on earth do these new extra children go to school - squeeze them in at Backwell, or Nailsea, Long Ashton and so on? In his view to have more cars and traffic is not right or healthy, and ultimately the schools will become overcrowded and the children's education will suffer.

274. Regarding local green space he said that they are lucky to have their niece and nephew at Fairfield School who they collect on a regular weekly basis. The trip from the junior school, after picking up their daughter across, across Farleigh Fields is taken as often as possible. He said that their children, like so many in the village, enjoy the opportunity to see the cattle and wildlife up close, and only recently they saw and heard their first owl in the trees at the back of the school. This local green space provides a haven for wildlife in his opinion and provides a safe open environment for children to walk and play without fear of vehicles.

275. He added that he was lucky enough to grow up in the Cotswolds so can appreciate a good view, but said that there are two views he finds the most magical all year round. He stated that as a keen cyclist, he regularly cycles down Wraxall Hill to the junction of Bristol Road and the view looking back towards my home, and village across the valley with St Andrews Church and Farleigh Fields at the centre is the most glorious around. But the most important view, in his

opinion is from our village looking back toward Wraxall from the Conservation Area at the top of Farleigh Fields by the church. He added that the full panoramic scene makes him realise how lucky they are to live in the village. He closed by saying that if this application were granted it would be a travesty and to emphasis this point he asked that reference is made to a photograph that he has supplied<sup>124</sup>.

### ***The Case for Sarah Rees***<sup>125</sup>

276. Ms Rees explained that she has lived in Backwell for 26 years and works as a Therapeutic Counsellor with many North Somerset people who are struggling with a variety of Mental Health concerns. She added that her interest in keeping Farleigh Fields as what she describes as an oasis of unspoiled green, focusses on the benefits to health and wellbeing of this area of natural beauty and tranquillity. She said that this compact yet natural and open green space offers a haven for nature lovers, ramblers and dog walkers, and that it is a safe route from the Church Town area to the village through unspoiled countryside for people of all ages, but especially for students at the 3 schools in Backwell.

277. She referred to what she described as considerable evidence to support the need for green open spaces to support people of all ages with improving and maintaining their wellbeing and said that:

1. A recent study by Dr Ian Alcock et al at the University of Exeter Medical School, evidenced that 'green spaces deliver lasting mental health benefits'. In a five year study, using data from over 1,000 participants, he showed that green space in towns and cities can lead to significant and sustained improvements in mental health. They found that, on average, movers to greener areas experienced an immediate improvement in mental health that was sustained for at least 3 years after they moved. The study also showed that people relocating to a more built up area suffered a drop in mental health. In 2012 the World Health Organisation cited depression as the leading cause of disability worldwide, and this study builds on research that has found natural environments could act as vital resources to improve health and wellbeing.
2. The Groundwork 'Green Space report' in 2012 also summarized the health benefits of green spaces stating that:
  - The more time people spend outdoors the less stressed they feel — an important consideration given the cost to the UK economy of depression and mental illness, which has been calculated at £26.1bn pa.
  - A study of GP records in the Netherlands indicated that the annual prevalence rates for 15 of 24 chosen disease clusters was lower where there was more green space within 1km. This correlation was strongest for anxiety and depression, and among children.
3. The National Institute for Health and Care Excellence has also published

<sup>124</sup> Mr Miles supplied a photograph which is attached to his statement at CD 18.8

<sup>125</sup> Ms Rees provided the following References to support her statement: 1. Longitudinal Effects on Mental Health of Moving to Greener and Less Green Urban Areas - Ian Alcock Mathew P. White Benedict W. Wheeler Lora E. Fleming and Michael H. Depledge - Environ. Sci. Technol., 2014, 48 (2), pp 1247-1255 Publication Date (Web): December 9, 2013 (Article); 2. Grey Places Need Green Spaces. The case for investing in our nation's natural assets - Julian Dobson 2012; and 3. NICE <https://www.nice.org.uk/Guidance/PF18> Physical activity and the environment. Public Health guideline 8 (PH8) 2008

guidelines on the importance of public open spaces for health and wellbeing. The Public Health guideline 8 (PH8) published in January 2008 on Physical activity and the environment says in Recommendation 4 that designers and managers of public open spaces, paths and rights of way, as well as local authorities should, amongst other things ensure public open spaces and public paths ... are safe, attractive and welcoming to everyone.

278. She closed by saying that these three all evidence the importance of keeping this area of natural and unspoiled green in Backwell, to maintain and improve the mental health and wellbeing of residents.

***The Case for Lorraine Hopkinson***

279. She explained that she is a mother of two 2 boys and with her husband and dogs they have enjoyed living in Backwell Village for around 12 years, and they moved to the village because they wanted to bring up their children in a healthy and safe village environment and enjoy all that goes with that. Their boys have attended the local schools and currently the 12 year old walks to Secondary School on his own each day. She and her 7 year old either scoot or cycle to the Junior School each day. She added that the benefits of children walking or cycling to school each day are well documented and encouraged by all Government agencies, and as well as all of the health benefits for the children, (and the grownups!), there are of course the environmental benefits too, things that are very important to them as parents.

280. She went on to say that their journey to school is not without its issues, however, as traffic travelling through the village on Farleigh Road to Bristol is very heavy, similarly traffic travelling to and from Nailsea on the narrow Station Road, where buses have to mount the pavement in places to pass, is very congested, particularly as the entrance to the Secondary School sits on Station Road. She added that children already frequently spill on to Station Road as the pavements are narrow and overcrowded, and that there have sadly been two incidents recently with pedestrians (one a school child) being hit by cars on Station Road. She also said that the Junior School sits at the top of Dark Lane, next to the recycling centre and the proposed new business park, again these are very busy roads indeed.

281. She then asked 'how on earth could Backwell Village cope with an additional 220 houses?', and added that extra cars on the already congested roads, extra children trying to find a place at the small Infant and Junior Schools, which she said are already full, extra patients at the Doctors Surgery and so on. She added that 220 houses bring people, children and cars who all need to be supported by an infrastructure, Backwell is a Village, it is not equipped to support this significant increase in the number of houses being built over what she imagines would be a relatively short period of time. Its roads are in her view narrow village roads and its pavements are narrow village pavements, while the Schools are small village schools.

282. She feels that the impact of 220 houses would be to the detriment of everyone, with gridlock on the roads, an increase in pollution, safety issues with cars and pedestrians alike, resentment amongst the community as parents compete to get their children in to the local school, more parents driving as they cannot get their children in to the local village school. And ultimately, she said, the enjoyment and quality of life from living in a village is gone, because all of

the things that make it a village, like walking and cycling to your local school have gone.

283. Finally, she said that she would like to add that people in Backwell are not NIMBYs, or adverse to any type of change; people moving to the village are always welcomed but that a rapid influx of new people will, she feels, be difficult for a village of this size to absorb over a short period of time and will cause social tension and disrupt the social cohesiveness of our tightknit community. She added that it would impose a strain on the local roads and local facilities and stated that over 80 new houses have already been allowed and are allocated within three locations in the village. She closed by saying that Backwell is the community's village and as a community they have a duty of care to everyone both old and new, to ensure that it remains a village, with all that entails and something they protect for future generations - because once it is gone, it is gone forever.

#### ***The Case for Bill Charnock***

284. Mr Charnock explained that he lives 10 minutes from Farleigh Fields and arrived here for a number of reasons which he outlined. He was attracted by open spaces close to place of work and the huge local interest in natural History embodied in North Somerset Wildlife wardens. He explained the work that had been done to undertake a comprehensive wildlife survey of parish involving those wardens and local residents creating the Backwell Environment Trust (BET), of which he was the founder Chairman from 2004 to 2012. He added that the BET canvassed every house in Backwell and following numerous small donations plus a grant from NSC it has bought 22 acres of nature reserves, for which there is a huge weekly volunteer input to managing them. This work has led to him being awarded the Queen's award for volunteering.
285. He said that the NP involved the comprehensive collection of all available information on Backwell biodiversity with input from a range of groups and organisations. He added that his main point is that for agricultural land Farleigh Fields are particularly bio-diverse, and that this is due to their connectivity to moorland to west, open country to east, Oldfield Down to south and Backwell Lake to Tickenham Ridge to the north. He added that the work associated with the NP and the areas special characteristic led to the recommendation that Farleigh Fields at large be designation as LGS which has the overwhelming support from villagers. He closed by saying that losing Farleigh Fields would be a significant loss of connectivity and one could forget about the continued presence of peregrines on the Church Tower.

#### ***The Case for Keith Riches***

286. Mr Riches said that he and his wife have lived in Backwell since 1973, in four different parts of the village, since 1984 in Farleigh Road, and that during the first 24 years he was away much of the time in the Royal Navy and it was always a source of comfort to him that his family were settled in a safe, pleasant community. He added that they have always tried to take advantage of, and contribute to, the life of the village, and their sons attended the three village schools.
287. His first point was to endorse all that has been said about Backwell by the council representatives and other residents. In his view Backwell is not a picture



postcard village and it is blighted by very busy roads; nevertheless it is a vibrant community and a very special place to live, and as regular walkers they have always enjoyed the open and accessible nature of Farleigh Fields as an integral part of the village's character. He added that the two footpaths reflect the agricultural use of the fields - they are wet and muddy for much of the year, and one is steep in places - but they are ancient rights of way, and are shown on the OS maps; and they are part of a complex network of such paths in working fields, none of which have, or need hard surfaces. He said that he had heard it said that Backwell has a deficit of hard surface, flat, accessible paths, but he does not agree and referred to the playing fields, the open space behind Backwell Vale, Backwell Lake and Rockwell Environment Trust Nature Reserve all having appropriate hard surface paths in his view.

288. As part of this development it has been proposed that ten or twelve hectares would remain as some sort of open space, with various hints that it could still be used for agriculture, however he does not consider this would be viable and predict that any development would result in all of this best and most versatile land being taken out of agricultural use.
289. The access onto Farleigh Road is narrow and seems to be reliant on unsightly retaining walls in his opinion, and the road connecting the two halves of the proposed development, now called a lane, crosses the steep middle field. This lane, he said, would require significant landscaping and crossing points, and would be the route for service and residents' vehicles for approximately 100 houses. He added that presumably there would have to be street lighting throughout the site, resulting in this development being a beacon of unwanted illumination instead of the current dark space. He also said that at the moment, much of Backwell does not have street lighting and that is how most residents prefer it - in short, this lovely rural setting would be lost in his view.
290. He said that at present, Farleigh Fields are a satisfactory 'Rural Drainage System' most of the time, soaking up rain as it falls, but that this 'system' can be overcome by heavy rain, causing a mini flash flood and ponding on Farleigh Road bad enough to disrupt traffic. He added that on several occasions during recent years, prolonged heavy rain has resulted in the south side gardens becoming water-logged, with more serious flooding on the road, and consequential overflow into gardens and buildings on the north side, and on a couple of recent occasions this has been bad enough to cause costly damage in the school buildings. He went on to say that against this background of very real concerns he notes that in the 2000 application a 'village pond' was proposed at the bottom of the middle field, and in the 2015 application 'attenuation ponds' were proposed, and these are now called 'SuDS'. He stated that he is not convinced that these proposed drainage areas would be big enough to safeguard all the properties mentioned, and that he is also certain that most of the time these areas will not be bone dry or nice full ponds, but a muddy wet mess.
291. He said, to summarise, some features of the development proposal are as flawed as previous applications and demonstrate a serious and continuing lack of sensitivity for the site and its environs.
292. He then turned to what he described as wider village issues and said that unfortunately, there is far too much reliance on cars for work and trips to the schools and shops. One end of this proposed development he feels is not far from the village centre but the other end is quite some distance further. He

added that villagers are lucky to have a reasonable bus service along the A370, a less frequent bus service to Nailsea, and a train station - on the face of it a sustainable location; but this ignores the local and regional details. He also said that not many employment centres are directly accessible from these bus and train routes, so most people use a car, and while the village does have a small supermarket and other useful shops, a great deal of shopping is done in the bigger retail facilities in Nailsea, by car. He also said that although three local schools are close by, the Infants school is some 1.5km to the northwest. If normal patterns prevail, it is in his opinion likely that younger pupils would be taken by car, perhaps en route to work.

293. He went on to say that he has read and heard what the appellant's consultant has to say about traffic predictions, apparently based on what he described as a brief, localised survey and some fancy modelling. In his view something does not stack up; and he said that there is a continuing, remorseless increase in traffic along the main road, bark Lane and especially Station Road, and villagers have to contend with the cumulative effect of other developments which feed increasing amounts of traffic through Backwell. He added that there have been numerous accidents over the last couple of years, local and commuting journeys by the new residents in these 220 houses would exacerbate all these issues. He said that he acknowledges that some people will walk to the shops, the bus stop or the train station, but that Station Road in particular is already too busy to be pleasant to walk along and cycling is hazardous. He added that the proposed development is not as sustainable as it is claimed to be.

294. He closed by asking that the NP and the wishes of Backwell residents are supported, and invited the Secretary of State to reject this appeal in line with past decision making.

#### ***The Case for Jayne Kirkbride***

295. She explained that she has lived in Farleigh Road for 16 years and that there are many reasons why she believes that the proposal should not proceed, but concentrated on what she described as her real concerns with the proposed access sites and related traffic issues. She said that the proposed vehicular and pedestrian access points are situated between the entrances for two schools, and added that during the last 16 years, she has been a full time housewife, walking both of her sons to the local schools, walking her dog, walking to local amenities and driving her car through the village, on a daily basis. As such she says that she sees the traffic at all times of the day, every day, from the perspective of both a driver and a pedestrian.

296. Farleigh Road is, in her view, a busy and fast road with deceptively dangerous bends, and that during the daily rush hour, at bank holidays, on the first day of school holidays and when there are accidents or delays on the local M5, stationary or very slow moving traffic tails past the entrance to Church Lane, and often up to the George Inn. She and her neighbours along both sides of Farleigh Road currently experience difficulties in joining the traffic in both directions.

297. The proposed 'huge' increase in traffic entering Farleigh Road at this dangerous point in the road would in her opinion lead to immense problems, not just to the residents, but all other road users and pedestrians, including drivers attempting to join the A370 from the development. Motorists would, she feels, find the time taken to get through the crossroad traffic lights, greatly increased.

She added that this currently results in motorists taking risks, regularly driving on the pavement, to undertake traffic turning right, either to homes, the leisure centre or making a right turn into Station Road, regardless of pedestrians particularly children being on the pavement. She went on to say that an impatient tanker driver carrying aviation fuel tried to undertake traffic turning right just past the pedestrian access point, that she and four children were walking home from school on this bit of pavement, and that the police were involved.

298. She also said that there have been numerous accidents along this stretch of the road, since she has lived here and that this includes the traffic island outside her house being destroyed 5 times, the lamp post outside no. 48 being knocked over and replaced twice. She added that in October 2015, the whole road including pavements were closed for 6 hours outside her house and no. 52, when a refuse lorry lost control driving past no. 56 towards Weston on a dry sunny afternoon at school going home time, swung across the road, hit a van and landed on its side in the middle of the road. In the autumn, her 16 year old, son was knocked off his bike and thrown onto a car, whilst doing a right hand turn, although he was wearing a fluorescent jacket and it was a bright sunny day.

299. She concluded by saying that recently, a car travelling towards Bristol careered across the road and demolished the metal fence at no. 38, and that the most recent accident (Sunday 26th February 2017) was a car travelling to Bristol, which lost control opposite the pedestrian access, mounted the pavement and destroyed the traffic island, outside no. 34.

### ***The Case for Lisa Bates***

300. Mrs Bates read a letter prepared on her and her husband's behalf concerning their property 58 Farleigh Road, which forms part of the site and specifically part of the proposed vehicular access to Farleigh Road. In summary, the letter explains that in order to construct the highways works and dedicate the access land as highway the appellant would need to reach an agreement with Mr and Mrs Bates, and that while they are in negotiation, at this stage it remains unclear whether agreement will be reached. The letter concludes that as things stand the appellant would not be able to satisfy the suggested Grampian condition regarding access provision and adds that if the position changes after the close of the Inquiry an update would be provided.

## **Written Representations**

### ***Representations Made at Appeal Stage***<sup>126</sup>

301. There are some 334 further individual written representations on the appeal from some 282 different sources/addresses, including from local residents, the Federation of West Leigh Infants School and Backwell C of E Junior School, and the Backwell Residents' Association. These largely raise objections to the proposal on grounds similar to those made at the Inquiry by NSC, BPC and the other interested parties who gave evidence.

302. There are also two written representations from residents of Backwell who support the appeal development on the basis that it would deliver additional

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<sup>126</sup> INSP.1

housing in the village and assist affordability in the area, the site is better suited to housing than other proposed sites and is not very good agricultural land, and the scheme is sympathetic to the environment.

### **Representations Made at Application Stage**

303. The representations made in respect to the planning application were attached to the appeal questionnaire and summarised in NSC officer's report on the appeal development<sup>127</sup>. The report records that approximately **929 letters of representation were received** from interested parties, predominantly local residents **923 objecting** and **6 supporting** the proposal. It provides an analysis of the matters raised in the objections, which are generally on grounds repeated by interested parties at the appeal stage. The officer's report also sets out the majority of the responses from **consultative bodies** to the application<sup>128</sup>.

### **Conditions**

304. During the course of the Inquiry NSC and the appellant jointly submitted a schedule of conditions. At the Inquiry session on conditions there was also further discussion and broad agreement between the main parties regarding some of the detail of the suggested conditions, which led to a final schedule of 32 suggested conditions<sup>129</sup>.

### **Obligations**<sup>130</sup>

305. In summary, the S106 Agreement contains planning obligations in respect to:

- The provision of on-site affordable housing at a rate of not less than 30% of the total number of dwellings developed;
- The provision, use and management of on-site informal public open space, attenuation areas/SuDS, landscaping buffers and play area;
- The provision of highways works including a priority junction with a ghost island and right turn lane, a pedestrian and toucan crossing, four pedestrian islands, and signing and lining works to support the proposed 30mph speed limit in Farleigh Road, along with financial contributions and bonds to support their delivery; and
- Financial contributions, which would be index linked, to provide:
  - Improvements to two bus stops between the proposed site access points on Farleigh Road;
  - Primary School, Early Years, Special Needs, Youth Facilities educational capacity<sup>131</sup>;
  - Built Sport and Leisure facilities at Backwell Leisure Centre, Scotch Horn Leisure Centre, community halls in Backwell and parking improvements at the Rodney Road shopping area;
  - Playing Pitches to improve drainage, changing and training facilities

<sup>127</sup> CD1.42

<sup>128</sup> CD9

<sup>129</sup> CD18.29

<sup>130</sup> The obligations are set out in CD18.9a and summarised in CD18.9c

<sup>131</sup> The education contribution provides for two scenarios regarding the timing of the appeal scheme and another proposed development in the area in order to mitigate against over-payment should both schemes be developed

at Backwell Recreation Ground;

- Library facilities at Nailsea Library and the visiting mobile library;
- Travel information packs, public transport taster tickets and cycle vouchers; and
- Improvement of 12 existing structures on the public right of way network in the vicinity of the site.

306. NSC has provided a 'Section 106 Statement of Justification' (the Planning Obligations Statement) in support of all of the obligations<sup>132</sup>. It addresses the application of statutory requirements to the planning obligations within the S106 Agreement, including pooling for infrastructure projects, and also sets out the relevant planning guidance and policy justification.

### **Inspector's Conclusions**

307. The numbers in square brackets in this section are references to previous paragraphs in the Report which are particularly relied upon in reaching the conclusions.

### **Main Considerations**

308. Having regard to the reasons for refusal, the relevant policy context and the evidence to the Inquiry, the main considerations that need to be addressed are:

- a) Whether or not NSC is able to demonstrate a five-year and/or three-year supply of housing land for the area and the extent of any potential shortfall;
- b) The effect of the appeal scheme on the location strategy for new development in the District;
- c) Its effect on the character and appearance of the area; and
- d) Whether any development plan conflict and harm arising is outweighed by any material considerations including the housing land supply.

309. In broad terms, in the three following subsections I conclude against the relevant development policies and then in the final subsection deal with the weight to be attached to these policies and other material considerations.

#### *a) Supply of Housing Land [7, 8, 17, 40, 41, 81-94, 163-191]*

310. In respect to housing delivery, the Framework requires NSC to meet the full, objectively assessed needs for market and affordable housing in the housing market area, as far as is consistent with the policies set out in the Framework. Applications for housing should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if NSC cannot demonstrate a five-year supply of deliverable housing sites. The main parties disagree over whether or not NSC can do so.

311. Policy CS13 of the Core Strategy sets the housing requirement for the period 2006-26 at a minimum of 20,985 dwellings. The main parties agree that there was a shortfall on delivery against that annualised requirement at the end of 2015/16 of 2,498 dwellings and that the Sedgfield methodology should be used

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<sup>132</sup> CD18.9b

when calculating the five-year housing land supply. I have found no reason to disagree.

312. The other principal areas of disagreement between the main parties in regard to housing supply concern which buffer, 5 or 20%, and the level of supply that will actually be forthcoming from the sources identified by NSC. In respect to the latter point this is due to disagreement over the level of lapse rate to be applied to 'small sites with consent', the inclusion of and delivery rates from a number of sites, and the likely yields from 'change of use of rural buildings' and from 'empty homes'. As a result NSC contends for a total supply of 8,217 dwellings over the five year period while the appellant claims it to be 5,076 dwellings.
313. In summary, NSC's preferred scenario - based on a 5% buffer, which results in a five year requirement of 8,131 homes, and its assessment of anticipated delivery - indicates 5.05 years housing land supply, a surplus of 86 dwellings. In contrast, the appellant's preferred scenario - based on a 20% buffer, gives a five year requirement of 9,293 homes, and its assessment of housing delivery - indicates 2.73 years housing land supply, a deficit of 4,217 dwellings.
314. I deal firstly with the buffer and then with the various points of disagreement regarding NSC's housing land supply over the five year period.
315. I recognise that a 5% buffer was used by the Inspector when examining the remitted policies of the Core Strategy and that the complete version of the Core Strategy was adopted on that basis reasonably recently in January 2017. It appears that that approach was established at or prior to the associated hearings in June 2016. The matter has subsequently been considered in what is likely to have been some detail at the Sandford appeal and then at the Banwell appeal. Both of these appeal Inspectors concluded that a 20%, rather than 5%, buffer should be applied and on the evidence before me I agree with them. There are a number of considerations that have led me to this conclusion as outlined below.
316. As the Sandford appeal Inspector identified, the most recent examining Inspector for the Core Strategy was clear that while the five year housing land supply position was relevant to that examination insofar as he needed to know whether the remitted policies are capable of allowing for the early delivery of sites sufficient to ensure an ongoing five year supply, he did not want to replicate a detailed s78 type discussion on the subject.
317. On that basis although the examining Inspector had evidence before him on this matter and stated that he had no real evidence of persistent under-supply over the whole of the economic cycle and that NSC has had to deal with changing housing requirements so it seemed to him that the buffer should be 5%, it appears very likely that the matter was considered in significantly greater detail at the subsequent Sandford and Banwell appeals. This is supported by the reasonably detailed assessment of whether or not NSC has a record of persistent under delivery set out in the respective decision letter for those appeals. The matter was also explored at some length during the current appeal Inquiry.
318. Having considered all of the evidence before me, I find that I broadly agree with the approach adopted by the Banwell appeal Inspector on this particular point. For instance, *assessing for persistent under delivery as far back as 1996 as promoted by NSC seems unnecessary as during the last ten years there have been improving economic conditions (to 2006), high economic activity (2007/8),*

*a recession (to 2011) and improving economic conditions again since 2011. I also agree that this is a reasonable period of time for avoiding any undue influence arising from a temporary or short-lived fluctuation.*

319. On that basis, and given that NSC has not met the annualised housing requirement in eight out of the last ten years and as the evidence indicates that it will not do so in the following year, 2016/17, I consider that there is a record of persistent under delivery.
320. In coming to this view I have taken into account all of NSC's evidence on this matter, including that the housing requirement as it is now understood was not available for much of that ten year period and that the approach set out in the LPEG report should be favoured. However, while I recognise that the development plan policy circumstances in which NSC has operated over recent years has been challenging, in my view it is appropriate for performance to be measured against the actually housing requirement for that period rather than a figure that has been found to be unlawful by the Courts. Moreover, I give little weight to the LPEG approach as it is not planning policy at any level and with reference to the White Paper there is no reason to believe that it is likely to be adopted by the government, indeed the contrary seems most likely.
321. For these reasons, therefore, I conclude that there is currently a record of persistent under delivery and as such a buffer of 20% is applicable.
322. I turn now to the various points of contention between the main parties regarding NSC's identified sources of housing delivery over the five year period. For ease of reference I follow the order of those issues as they appear on the spreadsheet which summarises the parties' final positions on housing supply<sup>133</sup>. The sources in question are all 'small consented sites', 12 of the 'large consented sites', four 'Local Plan allocations', five of the 'strategic sites', 13 of the 'emerging allocations', 'change of use of rural buildings' and 'empty homes'.
323. Regarding small consented sites both parties consider that it is appropriate to apply a lapse rate to this source but they do not agree over the rate. NSC's application of a 9% lapse rate for small sites is based on past trends, however as the appellant's housing witness identifies in his evidence<sup>134</sup> that approach appears to be mathematically flawed. In any event, however, although I note that the Banwell appeal Inspector favoured NSC's approach on this matter, as both parties' figures are based on a short period I am not persuaded that they offer a reliable representation of past lapse rates.
324. In the absence of a reliable figure and given that both parties agree that a lapse rate should be applied to small sites, I consider it reasonable to employ a flat rate of 10% as a proxy as is often done by my colleague Inspectors in such circumstances. The evidence shows that 148 such dwellings are under construction with 357 yet to start. Applying the 10% lapse rate to the latter figure gives a total of 469 dwellings, compared to 473 dwellings predicated by NSC. Total supply should therefore be reduced by four units from 8,217 to 8,213.
325. I deal now with the disputed 'large consented sites'. Both the Oxford Plasma

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<sup>133</sup> That spreadsheet forms part of CD18.18

<sup>134</sup> This is set out in some detail at paras 8.27-8.45 of Mr Tiley's Proof of Evidence CD14.2

Technology and Bleadon Quarry sites are still in use but also had extant planning permission for residential development at the time of the Inquiry. Both occupants have indicated their intention to relocate. The Framework also states that sites with planning permission should be considered deliverable until permission expires<sup>135</sup>. On this basis I consider that they should both remain in the five year housing land supply. Moreover, the timing and rates of delivery identified by NSC do not appear to be unrealistic such that no reduction is warranted.

326. It is common ground that it is appropriate to assess supply for the five year period starting from 1 April 2016, however NSC includes sites in its anticipated supply that have been consented since that base date. As the appellant identifies, there is a significant body of appeal decisions in which Inspectors have indicated that such an approach is not appropriate in the absence of proper accounting<sup>136</sup>. I share those Inspectors' broad view that if such sites are to be included then account must also be taken of the housing requirement that has accrued during the same period. NSC has not factored in that increased requirement or the increased backlog accrued after 1 April 2016, such that there is an imbalance in its inputs and a consequential artificial inflation of its supply of housing land over the five year period in relative terms. Accordingly, all of those sites<sup>137</sup>, which amount to 328 dwellings, should be omitted for the purposes of this exercise. Total supply should therefore be reduced from 8,213 to 7,885 homes.
327. The appellant has undertaken a detail assessment of lead-in times for large development. While it provides useful context it is no substitute for site by site assessment based on site specific evidence. Having reviewed that detailed evidence I consider that NSC's revised estimates regarding the timing and annual delivery of the remaining contested 'large sites'<sup>138</sup> are not unrealistic and consequently no further reduction to the anticipated delivery from the 'large consented sites' is warranted in my view.
328. There are four disputed 'Local Plan allocations' sites. The appellant has raised several issues about each of these sites. While they all appear to be legitimate concerns, having regard to the wider evidence they do not appear to be insurmountable. Consequently, on balance it seems likely that most of those sites would come forward within the five year period. Nonetheless, bearing in mind the on-going use of the Westacres Caravan Park site and as there is still no planning permission for its redevelopment, NSC's trajectory should now be delayed by a year in my view, thereby reducing delivery across the five year period by 40 homes. Total supply should therefore be reduced from 8,213 to 8,173 dwellings.
329. Five 'strategic sites' remain in contention. While NSC has amended its projections in light of the Banwell appeal decision the appellant considers that further deductions are appropriate and I recognise that there remain challenges associated with their delivery. However, although NSC's forecasts are reasonably optimistic, like the Banwell Inspector, broadly speaking I do not see them as

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<sup>135</sup> Footnote 11 to para 47 of the Framework

<sup>136</sup> CD8.9 paras 11-13, CD8.10 para 30 and CD8.12 paras 20-24

<sup>137</sup> Coates House, Wentworth Drive, North of A368 Sandford, Wolverhill Road, Wrington Lane, Tickenham Garden and Former Royal Oak

<sup>138</sup> Arnolds Way Phase 2, Pudding Pie Lane East and Woodborough Farm



being necessarily unrealistic. However, there are two exceptions in my view, particularly given the passage of time since the Banwell appeal, namely 'Locking Parklands future phases' and 'Winterstoke Remainder'. As the first of these has only outline planning permission it seems unlikely, particularly in light of the general evidence on lead-in times, that it will deliver 60 dwellings in 2017/18, such that I favour the appellant's forecast delivery from this site. Regarding the latter of these sites, the latest information from the site's developer, Persimmon, gives good reason to believe that delivery will be delayed by a year compared to NSC's prediction. Consequently, I also favour the appellant's forecast for this site, which results in a reduction of 200 dwellings. Although a small point, the evidence also indicates that the 'Winterstoke Village Phase 1' site is proposed for 239 rather than 242 homes. Therefore, total supply should be reduced by 263 homes from 8,173 to 7,910 dwellings.

330. There are 11 disputed 'emerging allocations' sites, which are all housing allocations proposed in the eSAP. The eSAP has yet to reach an advanced stage and there are also outstanding objections such that in my view it carries limited weight in terms of planning policy and in the context of Framework para 216. However, as the Banwell appeal Inspector identified, sites should not be discounted merely because of objections and the inclusion of the emerging allocations appears to have been carefully researched by NSC.
331. While I note the Sandwell appeal Inspector's comments in this regard<sup>139</sup>, I agree with the Banwell appeal Inspector that, on balance, reliance can be placed upon them for the purposes of assessing housing land supply, such that, while reasonably optimistic, they are not unrealistic for this purpose. In coming to this view, along with the wider evidence, I have taken into account the eSAP Examining Inspector's letter to NSC which post-dates the Banwell appeal<sup>140</sup>. I do not see the points raised by the Examining Inspector as 'concerns' as such, as the appellant has put it, but rather matters to be addressed. In light of NSC's response to that Inspector<sup>141</sup> I see no overriding to reason to remove any of these sites from NSC's delivery forecast.
332. I also note that the Banwell appeal Inspector decided not to make any adjustment to NSC's forecasts regarding homes to be delivered as a result of change of use from rural buildings. However, in view of the evidence before me I favour the appellant's estimates in this regard. There are a number of reasons for this. Rural buildings are a finite resource such that at some point in time delivery of new homes from this source will decline and cease. There is no reason to believe that delivery will cease over the five years in question. Nonetheless, NSC's assumption that delivery will be constant and that consented schemes will all be implemented appears over-optimistic, particularly in the face of the appellant's evidence regarding the downward trend in the number of applications for this type of development. The appellant's evidence also indicates that there is likely to be at least some overlap from this source and from small site windfalls, a source which the appellant does not contest. Therefore, total supply should be reduced by 157 homes from 7,910 to 7,753 dwellings.
333. Regarding an empty homes allowance, the appellant maintains that the NPPG

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<sup>139</sup> CD8.2 (particularly para 32)

<sup>140</sup> CD5.22

<sup>141</sup> CD18.19a&b

indicates that such an allowance should be included in the trajectory only where this has been robustly tested through an examination. However, the NPPG actually says that when at examination of a draft Local Plan local planning authorities seeking to count the bringing of empty homes back into use against housing need would have to provide robust evidence, for example, to test the deliverability of the strategy and to avoid double counting; it does not say that it must have been through the examination process<sup>142</sup>. On that basis the key point from this part of the NPPG appears to be that the supporting evidence must be robust, and I see no reason why that approach should apply any less to the development management process than to plan-making.

334. I note that the Banwell appeal Inspector discounted this source on the evidence before him. Since then NSC has adopted a new Empty Property Delivery Plan for the period 2016-21 and its current evidence is that 180 homes will be delivered from this source over the five year period. While the adoption of the new Delivery Plan appears to be a positive step, I note that it is not an entirely new initiative as it replaces an earlier Plan produced in 2011. The figure of 180 homes is based on past trends such that it has some evidential support. However, in my view NSC's case on this aspect of potential housing delivery is not robustly evidenced in the terms of the NPPG. For instance, the evidence does not clearly test the deliverability of the strategy or demonstrate that there would be no double counting. Consequently, the allowance of 180 units from this source should be discounted and total supply reduced from 7,753 to 7,573 dwellings.
335. For the foregoing reasons, therefore, over the five years in question, the housing delivery would be 7,573 dwellings compared to a requirement of 9,293 homes, which equates to a 4.07 years housing land supply, a deficit of 1,720 dwellings.
336. The WMS also raises the question of whether or not NSC can demonstrate a three-year supply of deliverable housing sites. The main parties also dispute how this figure should be calculated. The appellant advances the approach that housing land supply should be recalculated following the same principles as for the calculation of the five-year supply but for three years only. However this would result in a proportionately worse housing land supply position compared to the five year period. Give that the WMS is clearly intended to help support relevant policies for the supply of housing in a neighbourhood plan at times when a five-year housing land supply cannot be demonstrated, the appellant's approach cannot reasonably be said to be what is intended by the WMS. Accordingly, I favour NSC's approach, which indicates a 4.07 year supply as identified above, and as such it can demonstrate a three-year supply of deliverable housing sites in the terms of the WMS.
337. I deal with the effects of the absence of a demonstrable five-year supply of housing land for the area, the extent of the shortfall and the presence of a three-year supply as part of my fourth main consideration later in my report.

*b) Location Strategy for New Development* [9, 21-29, 35-40, 47-54, 149-162]

338. NSC's location strategy for new development in North Somerset is set out in

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<sup>142</sup> NPPG Paragraph: 039 Reference ID: 3-039-20140306

the development plan. It includes Core Strategy Policy CS14 which establishes a settlement hierarchy with Weston-super-Mare as the focus for new housing within its urban area and at a new allocation know as Weston Villages. Below Weston-super-Mare in the hierarchy are the three towns of Clevedon, Nailsea and Portishead which act as service centres, followed by the nine Service Villages, and then other settlements and countryside.

339. The site is located adjacent to and encircled by development within the greater settlement of Backwell. It is not, however, within the defined Settlement Boundary of Backwell, as established via NSRLP Policy H/7 and retained by the Core Strategy pending any alterations as part of any future Local Plan<sup>143</sup>.

340. Core Strategy Policy CS32 identifies Backwell as one of the nine 'Service Villages'. It allows new development within as well as adjoining the Settlement Boundaries of Service Villages subject to certain criteria. However, it adds that sites that lie outside the Settlement Boundaries for development in excess of about 25 dwellings must be brought forward as allocations through Local Plans or Neighbourhood Plans.

341. The appeal development would very substantially exceeded the 'about 25 dwellings' threshold set out in Policy CS32. The Neighbourhood Plan does not allocate the site for housing development and nor is it currently included in the eSAP as a housing allocation. There is also no reason to believe that the proposals would fully meet any of the wider relevant exception criteria for development beyond Settlement Boundaries set out in the development plan. Consequently, in this regard the appeal scheme would be at odds with the location strategy for new development in the District, in conflict with Policy CS32 of the Core Strategy.

342. NSC considers that the proposed development would also conflict with NSRLP Policy H/7 and Core Strategy Policy CS33. While it establishes Settlement Boundaries, Policy H/7 is primarily concerned with proposed development within those Boundaries rather than beyond them such that I do not see the scheme as being directly at odds with this Policy. Similarly, Policy CS33 is concerned with the development outside the areas covered by other area based policies of the Core Strategy, including Policy CS32. On that basis, as the site is clearly covered by Policy CS32 as outlined above, I also see no direct conflict with Policy CS33 arising in this case. Nonetheless, my conclusions in respect to these policies do not alter my finding that the appeal scheme would be at odds with the location strategy in conflict with Policy CS32 as set out above.

343. I also take the view the appeal development would conflict with NP Development Policy 1 for the reasons identified by NSC [52]. In short, this Policy forms part of the development plan, and the development plan also defines the Settlement Boundaries and should be read as a whole; it admits development at a level appropriate to the size and character of the village, and 'appropriate' development is not confined to that which is within the settlement boundary; and thus it should be read consistently with Policy CS32. It follows that NP Development Policy 1 allows development of up to about 25 homes abutting the settlement boundary provided a scheme would satisfy the other criteria of Policy CS32. However, in this case the scale of the proposed development would

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<sup>143</sup> Core Strategy paras 3.199, 3.201, 4.87 and 4.93

significantly exceed that threshold.

c) *Character and Appearance* [9-15, 20-29, 35-40, 55-80, 112-127, 180-191]

344. NSC's concerns in this regard relate to a large extent to matters of character and appearance rather than landscape impact as such. The site is reasonably self-contained, in large part due to the screening effect of the existing development that surrounds it as well as to an extent by planting and topography. For this reason, combined with the proposed location of the proposed houses and associated works to the lower lying parts of the site, and subject to careful consideration of the matters that would be reserved for future consideration, the appeal scheme would have a very limited effect on the character and appearance of the area beyond the immediate area. Indeed any such effects would be largely limited to within the site itself.

345. The undeveloped, greater part of the site is unusual in that it is surrounded by development. It is used for agricultural purposes and has many of the features that are associated with other nearby agricultural land that lies beyond the settlement. Based on the representations of local people and from what I have seen and heard during the appeal process, it appears that the two public footpaths that cross the land are well used, and this is consistent with what I observed when I visited the site<sup>144</sup>. I also found that, notwithstanding the proximity of the busy A370, highway noise is not particularly noticeable within the site and that it has a reasonably tranquil quality, a point also reflected in some of submissions from interested parties.

346. Users of these rights of way are very likely to be very well aware that the site is surrounded by development as it is readily apparent as one enters and leaves the site. It is also often, at least in part, apparent when walking across the site along these footpaths. Nonetheless, for the reasons outlined above, combined with its reasonably substantial size along with the features within it, the site has a distinctly rural, countryside character and appearance. In my view its importance - both as a local resource, via the rights of way that cross it, and in terms of its contribution to the unusual countryside setting of the village - is elevated by the fact that it lies within the settlement, surrounded by the development. In short, the site is important locally in those terms and that importance stems in large part from the fact that it remains open, undeveloped countryside.

347. With reference to the Guidelines for Landscape and Visual Impact Assessment<sup>145</sup>, particularly Box 5.1, the site cannot be said to display the characteristics necessary for it to be a 'valued landscape' in the terms of Framework para 109 [187-188]. However, this does not alter the importance of the site as described above.

348. While the planning application is in outline with all matters reserved except for access, the appellant's evidence is based on the scheme as shown on the revised Concept Master Plan<sup>146</sup>. That Plan shows two parcels of land that would be developed for housing to the north and west of the site adjacent to the existing

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<sup>144</sup> In addition to my formal site visit on 20 March 2017, as I explained during my opening on the first day of the Inquiry, I also visited the site and surrounding area on 13 March 2017.

<sup>145</sup> CD 4.1

<sup>146</sup> CD 1.5

development which lines Farleigh Road and Dark Lane. While these two proposed areas of housing would be joined via a link road and footway, they would be otherwise separated by what is currently a field through which footpath LA2/6/10 runs.

349. In addition to the link road and footway, the land that would be located between the two areas of housing is shown<sup>147</sup> as accommodating twin flood attenuation basins proposed to be located to each side of the existing right of way, as well as a 'play zone'. This land along with the remaining site located to the south and east is proposed to be open space, with a series of new footpath links shown supplementing the existing public footpaths.
350. In my view the northern/eastern area of proposed housing would be less prominent than that proposed to the west due mainly to its relative size. Nonetheless, even allowing for the proposed mitigation, the fact that both parcels of land had been developed for housing would be readily apparent to users of the existing rights of way, including the route known as the Backwell Round, as they moved through the site. This would be primarily due to the filtered views that would be available through the hedges and planting, as well as views that would be available over these landscape features and via gaps required for access and movement, particularly via the openings required to accommodate the proposed link road. While I recognise that existing housing and other development is reasonably close at hand, the appeal development would bring development, and development of a reasonably large scale, significantly closer to the users of the rights of way, which for the reasons outlined above would be readily perceived.
351. While the appellant considers that the link road and the associated footway would be low key features, regardless of their design they would nonetheless herald the presence of the two areas of housing which they are intended to serve. The flood attenuation features and play zone would also be likely to alert users of the rights of way to the presence of the homes that they would serve.
352. I acknowledge that all of these features could be very carefully designed to minimise their effect on the character and appearance of this part of the site. However, based on the evidence and my experience of such matters, no matter how carefully they might be designed, the road in particular, but also the basins, would appear as engineered forms that would sit awkwardly with the site's current rural character. These proposed features, combined with the play zone, would have a markedly urbanising effect on a portion of the site that is part of the area proposed to be designated as LGS in the eSAP. With that development there are also likely to be some additional works that would further the urbanising effect, such as street lighting and footpath surfacing.
353. In addition to their physical appearance, the use of these features, particularly the road due to the nature and frequency of vehicle movements, would also have an urbanising effect that would harm further the area's rural quality. These effects would be particularly prominent given the proximity of these proposed features to footpath LA2/6/10.
354. For these reasons therefore, while in this regard the appeal development

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<sup>147</sup> As shown on the various illustrative documents submitted by the appellant, including Indicative Drainage Strategy drawing no TE/1177/400/D and Landscape Strategy drawing no 04658.00003.004.4

would have a limited effect beyond the immediate area of the site, the reasonably substantial quantum of development proposed and the resulting marked reduction in the undeveloped area of the site would significantly diminish and damage the countryside character of Farleigh Fields. For these reasons and in this context, the appeal development would be excessive in size and cause significant harm to the setting and character of Backwell. Given the site's local importance, as outlined above, that harm carries considerable weight against the appeal proposal.

355. Consequently, while matters of detailed design, layout and scale of the built form could be carefully controlled at the reserved matters stage and notwithstanding NSC's landscape officer's comments, the introduction of development of the extent and type proposed to the site would be at odds with Policies CS5 and CS32 of the Core Strategy, Policy DM10 of the DMPP Pt1, and Policy Development 1 of the NP. Although I do not see that the appeal scheme would conflict with Policy DM25 of the DMPP Pt1 in terms of the usability or safety of the rights of way, the amenity associated with their use would be detrimentally affected such that the scheme would also conflict with this development plan policy.
356. I also note that the Oldmixon Road appeal Inspector found that Core Strategy Policy CS12 and Policy DM32 of the DMPP Pt1 have no direct applicability to an outline planning application with all matters reserved but would be relevant at the reserved matters stage. I agree with him in respect to Policy CS12. However, while 'linked' to Policy CS12, I find Policy DM32 to be broader in its scope. For instance, it states, among other things, that 'proposals which cause unacceptable harm to the character or appearance of the area will not be permitted'. Accordingly, for the reasons identified, the appeal development would also conflict with DMPP Pt1 Policy DM32.
357. As explained in my 'Location Strategy for New Development' section above, there is no conflict with Policy H/7 of the NSRLP, as it is concerned with development within rather than beyond Settlement Boundaries, or with Core Strategy Policy CS33, as it is concerned with development proposed outside the areas covered by other area based policies of the Core Strategy, including CS32.
358. The evidence, both written and oral makes reference to the site being use as open space. However, the land is in private ownership and as such I have considered the appeal on the basis of public access within the site currently being formally limited to the two public rights of way that cross it.
- d) Other Issues and Planning Balance* [2, 5, 7-15, 18, 19, 29, 32, 40, 42, 93-101, 103-109, 128-147, 149-164, 192-197]
359. In undertaking the planning balance I have considered the weight to be given to the relevant development plan policies and made an assessment of whether the appeal proposal would amount to sustainable development in the terms of the Framework. In doing so I have had regard to, among other things, the absence of a Framework compliant supply of housing land and the contents of the Framework as a whole, as well as to the WMS given that I have found there to be a greater than a three-year supply of housing land. I deal with this latter point first.
360. In the context of housing land supply, the WMS states that relevant policies for

the supply of housing in a neighbourhood plan should not be deemed to be 'out-of-date' under para 49 of the Framework where all of three criteria apply. The WMS is considerably less than two years old and I have found that NSC can demonstrate a three-year supply of deliverable housing sites such that the first and third criteria are met. The second criteria relates to whether or not the NP allocates sites for housing.

361. While none of its policies specifically allocate development sites, the NP at large does nonetheless allocate sites for housing. I have come to this view primarily on the basis that the NP contains a plan entitled 'Development sites A to E' on page 13 and those five sites are identified, and that plan is referenced, at para 8.9 of the NP as *sites where residential development and in the case of Sites A and B, residential and employment development, is supported*. The 'Backwell Neighbourhood Plan Map' at page 22 of the NP, which amounts to a proposals map, also shows these sites labelled as 'potential development site', which I accept as being a 'perfectly good' description of an allocation. That Map and the NP, when read as a whole, indicates clearly what kind of development, including housing, will be permitted on each site, such that it does allocate sites for housing for the purposes of the WMS.
362. Therefore, all three criteria of the WMS are met and, consequently, any relevant policies for the supply of housing in the NP should be deemed to be 'up-to-of-date' under para 49 of the Framework. I would add that the WMS refers to policies of the NP only in this regard and makes no mention of relevant policies for the supply of housing within the wider development plan. Consequently, as NSC cannot currently demonstrate a five-year supply of deliverable housing sites relevant policies for the supply of housing in the wider development plan should not be considered 'up-to-of-date'. I return to the effect of and weight to be given to the WMS a little later, but first I deal with the effect of Framework para 49.
363. As relevant policies are 'out-of-date' or not 'up-to-of-date', the effect of para 49 of the Framework is to take the decision-taker to Framework para 14. In these circumstances and as I have not found any specific policies in the Framework indicate that the appeal development should be restricted, para 14 states that, unless material considerations indicate otherwise, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. In other words, notwithstanding the WMS, the absence of a Framework compliant supply of housing land triggers the operation of the 'tilted balance' in para 14.
364. I have identified, as outlined above, that the appeal development would conflict with Core Strategy Policies CS5 and CS32, DMPP Pt1 Policies DM10, DM25 and DM32, and NP Policy Development 1. Policies DM10, DM25 and DM32 post-date the publication of the Framework, and like Policy CS5 are now not said to be policies for the supply of housing by any of the parties. Consequently, while bearing in mind the evidence, I see no reasons why these four Policies should not carry full weight in this case.
365. Notwithstanding the Supreme Court Judgment the appellant maintains that Core Strategy Policy CS32 and NP Policy Development 1 are relevant policies for the supply of housing. Both are policies 'affecting', or at least potentially affecting, the supply of housing. However, following the 'narrow' interpretation

now required by the Supreme Court Judgment, neither is a policy 'for' the supply of housing.

366. I am also mindful that the NP was prepared at a time when the housing requirement in North Somerset was, due to the issues I have described with the Core Strategy, markedly lower than is the case now. Consequently, I broadly agree with the appellant's case that the NP is likely to plan for less housing than is required by the current version of the Core Strategy. [23, 151, 160]
367. I have, nonetheless, concluded that Policy Development 1 of the NP, as well as Core Strategy Policy CS32, carry full weight in this case. I have come to this view bearing in mind that the wider development plan provides mechanisms for the delivery of further, currently unallocated, housing development via the flexibility offered by its policies through the development management process and more significantly via the opportunities afforded by the eSAP process to identify and allocate further housing sites should they be required. When viewed in the context of the WMS and bearing in mind that I have found that NSC can demonstrate a supply of deliverable housing sites which comfortably exceeds the three-years identified in the WMS, those Policies should carry full weight.
368. I also recognise that the Settlement Boundary of Backwell is established by the NSRLP, which was adopted in 2007. Nonetheless, its retention and continued use is provided for in much more recent development policy documents, notably the Core Strategy, which also provides a mechanism for its review/alteration, for instance via the eSAP. Consequently, I see no reason to reduce the weight to be given to the Settlement Boundary or its associated development plan policies, particularly in the context described in the preceding paragraph.
369. The proposals would deliver a range of social, economic and environmental benefits including the provision of market and affordable housing in a sustainable location – particularly relative to the other Service Villages - with access to a good level and range of services and transport options, expenditure on construction and investment in the area, the creation of construction jobs, financial contributions towards off site infrastructure, the provision of public open space and green infrastructure, the enhancement of public rights of way and delivery of new public footpaths, and enhancements to biodiversity. While I recognise that those matters that would be secured via the S106 Agreement are primarily intended to respond to the needs arising from the proposed development they would also be of benefit for the wider community.
370. Assuming the development were to come forward in a timely manner<sup>148</sup>, overall, I consider that, particularly bearing in mind the government's objective to boost significantly the supply of housing along with the identified need for market and affordable housing<sup>149</sup> in North Somerset, these benefits should collectively carry very significant weight in favour of the appeal proposal. Nor am I persuaded by the evidence - largely due to the considerations summarised in the preceding paragraph - that the scale of development proposed would necessarily be disproportionate to the existing settlement or that, as a matter of

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<sup>148</sup> While I note the comments of the owners of 58 Farleigh Road [300], for the purposes of the balancing exercise I have assumed that any such negotiations would not delay delivery of the proposed development.

<sup>149</sup> Overall housing need is outlined in the *Supply of Housing* sub-section above and for the purposes of this exercise I have used, as a benchmark, the appellant's position regarding affordable housing need in North Somerset and Backwell, as set out in Mr Tiley's Proof of Evidence, particularly at paras 12.7 to 12.24



principle, it would have a significant effect in terms of community cohesion. I also note that many aspects and effects of the proposed scheme have been addressed to the satisfaction of NSC, statutory authorities and other consultees.

371. There are those matters which I have identified – the conflict with NSC’s location strategy for new development, the harm to the character and appearance of the area, and the associated conflict with the development plan – which must be weighed against the benefits applying the ‘tilted balance’.
372. Given the extent of harm that would arise, particularly in respect to the effect of the development on the character and appearance of the area, that I have found that the relevant Policies of the development plan carry full weight, and bearing in mind the contents of the WMS, these considerations carry substantial weight against the appeal scheme in the circumstances of the case. On this basis I find that the adverse impacts of granting the appeal development planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
373. Although not determinative, to these adverse impacts must be added the other, lesser disbenefits of the scheme which include the loss of BMV, the potential effect on the designation of the proposed LGS and the residual effect of traffic on the road network. These add further, albeit limited, weight against the scheme.

### **Conditions**

374. Conditions to be imposed on a grant of permission were discussed at the Inquiry, which are agreed by the main parties<sup>150</sup>. A set of conditions, incorporating the agreed amendments and minor improvements to wording, which are recommended in the event of the appeal being allowed is included in an Annex. I set out below a justification for the conditions.
375. In order to provide certainty, conditions requiring that the development is carried out in accordance with the approved plans, insofar as they relate to details of access including sight lines, and that the reserved matters are in general accordance with the proposed development parameters would be necessary. In the interests of highway safety and to secure an acceptable living environment for residents, conditions to secure appropriate on-site parking and circulation arrangements, and the implementation of the proposed access arrangements would also be necessary. A condition to control ground floor slab levels would also be necessary to help the development harmonise with its context and to reduce flood risk. For this latter reason conditions would also be necessary to control surface water run-off and drainage arrangements.
376. To protect the environment and to secure acceptable living conditions for residents a condition to control foul water drainage would be necessary. Conditions would also be necessary to secure the proposed arboricultural and biodiversity mitigation including details of lighting to protect the character and appearance of the area as well as trees and hedgerow and wildlife and their habitat. A condition to safeguard against unsuspected contamination that might affect the site, along with any requisite remediation, would be necessary to protect the health and well-being of future occupiers.

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<sup>150</sup> CD11.1a

377. A condition would be necessary to ensure that features of archaeological interest are properly examined/recorded. A condition to secure the provision of storage refuse, recycling and composting materials would be necessary in the interests of character and appearance and of supporting recycling. The submission and approval of a Construction Method Statement would also be necessary to safeguard the living conditions of local residents and in the interests of highway safety.
378. A condition to secure micro renewable and low-carbon measures are part of the development would be necessary to safeguard the environment. To promote sustainable modes of transport and reduce the need for travel and in the interests of highway safety, conditions to secure the implementation of a Travel Plan would also be necessary.
379. However, as suggested condition Nos 15, 16, 17 and 18 relate to matters directly reserved for future consideration, they would not be necessary.

### ***Obligations***

380. I have considered the S106 Agreement in light of Regulation 122 of The Community Infrastructure Levy (CIL) Regulations 2010 (as amended) and government policy and guidance on the use of planning obligations. Having done so, I am satisfied that the obligations therein would be required by and accord with the policies set out in NSC's Planning Obligations Statement. Moreover, notwithstanding the concerns expressed locally including by BPC, having regard to the wider contents of the Planning Obligations Statement I also consider that those obligations are directly related to the proposed development, fairly and reasonably related to it and necessary to make it acceptable in planning terms. [305-306]

### ***Overall Conclusion***

381. The WMS was published considerably less than two years ago. I have found that NSC can demonstrate a housing land supply well in excess of the three-years identified therein and that the NP does allocate sites for housing. Consequently, the up-to-datedness of any relevant policies for the supply of housing within the NP are not affected in the terms of Framework para 49. Nonetheless, as NSC cannot currently demonstrate a Framework compliant supply of housing land, and given that as a consequence other policies for the supply of housing within the wider development plan are not to be considered up-to-date, the tilted balance of para 14 of the Framework is engaged.
382. The site is located adjacent to but outside of the Settlement Boundary of Backwell as established in the development plan. Consequently, given its scale and type, the appeal scheme would be at odds with the location strategy for new development in the District, contrary to Core Strategy Policy CS32 and NP Development Policy 1.
383. Although the proposals would have a limited effect beyond the immediate area and notwithstanding that matters of detail would be controlled at the reserved matters stage, given the scale and type of development proposed and the resulting marked reduction in the undeveloped area within Farleigh Fields, there would be significant harm to the character and appearance of the area resulting from the appeal development. Consequently, in that regard, it would also conflict with Core Strategy Policies CS5 and CS32, Policies DM10 and DM25 of the DMPP

Pt1 Policy, and Policy Development 1 of the NP. Moreover, I have found that all of these Policies carry full weight in the circumstances of the case.

384. In applying the 'tilted balance' I acknowledge that there are numerous matters that weigh in favour of the appeal development. Most notable among these are the delivery of affordable and market housing, and collectively these benefits weigh very significant in the appellant's favour.

385. In many respects the proposal would contribute positively to sustainable development objectives as set out in the Framework, particularly in respect to the benefits associated with housing delivery, and planning conditions and obligations could deal satisfactorily with infrastructure and many of the impacts arising.

386. Nonetheless, the WMS is clearly intended to support community-led planning and to allow communities, such as Backwell, who brought forward neighbourhood plans in advance of the WMS time to review their plans. There will also be opportunities to allocate further sites for housing via the eSAP process. As outlined above, in this context and bearing in mind that there is a four-year supply of housing sites along with the identified conflict with NSC's location strategy for new development, harm to the character and appearance of the area and development plan conflict, combined with other matters that weigh against the appeal scheme, these matters significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

### **Recommendation**

387. I recommend that the appeal be dismissed. In the event that the Secretary of State disagrees, I recommend that the conditions set out in the attached Annex be applied to any permission granted and that the provisions of the S106 Agreement are viewed as being necessary.

*G D Jones*

INSPECTOR

## Appearances

### FOR THE APPELLANT:

Paul Cairnes, of Queens Counsel	Instructed by Pegasus Planning Group
He called	
Julian Cooper BSc(Hons)	Director of Landscape Architecture, SLR
DipLD FLI	Consulting - landscape
Graham Eves BSc CEng	Director of PFA Consulting Ltd – highways
MICE MCIHT	and transport
Neil Tiley Assoc RTPI	Associate, Pegasus Group – housing land
	supply
David Hutchison BSc(Hons)	Executive Director, Pegasus Group - planning
DipTP MRTPI	
Joshua Ashwin <sup>151</sup>	Planner, Persimmon Homes

### FOR THE LOCAL PLANNING AUTHORITY:

Timothy Leader, of Counsel	Instructed by Richard Kent Head of
	Development Management, North Somerset
	Council (NSC)
He called	
Michael Reep DipTPS	Planning Policy Manager, NSC – planning
BSc(Hons) MRTPI	policy
Natalie Richards	Research and Monitoring Supervisor, NSC –
	housing land supply
David Tate DipTP MA	Principal Planning Officer, NSC –
	environmental impact, sustainability and
	planning balance

### FOR BACKWELL PARISH COUNCIL:

Polly Reynolds	Instructed by Backwell Parish Council
She called	
Mr M Rose	Backwell Parish Council
Mr C Perry	Backwell Parish Council

### INTERESTED PERSONS:

Martin Powell	Local Resident
David Andrew	Local Resident
Rachel Beckingsale	Local Resident
Peter Hoare	Local Resident
Peter Hemmings	Local Resident
Bob Taylor	Local Resident and Chairman of BPC
Jayne Kearney	Local Resident
Norma Knight	Local Resident
Mark Mallet	Local Resident
Cyril Routley	Local Resident
Colette Howard	Local Resident

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<sup>151</sup> Mr Ashwin contributed to the session on Planning Conditions and S106 Agreement only

Alistair Ireland	Local Resident
James Harwood BSc(Hons) MCOptom	Local Resident
Richard MacLeavy	Local Resident
Geoff Wells	Local Resident
Mike Phillis	Local Resident
Chris Miles	Local Resident
Sarah Rees	Local Resident
Lorraine Hopkinson-Parker	Local Resident
Bill Charnock	Local Resident
Keith Riches	Local Resident
Jayne Kirkbride	Local Resident
Lisa Bates	Part owner of part of the appeal site

## Documents

### Core Documents

#### CD1 Application and Appeal Documents

CD1.1	Covering letter with application – 22.1.2015
CD1.2	Application forms – 22.1.2015
CD1.3	Notices to Owners and Tenants – 22.1.2015
CD1.4	Site Location Plan - 500-03_D
CD1.5	Concept Masterplan - 500-002_02_M
CD1.6	Constraints and Opportunities Plan - 500-002_1_E
CD1.7	Land Budget Parameter Plan - 500-002_1_H
CD1.8	Scale & Massing Parameter Plan - 500-005_E
CD1.9	Access & Movement Parameter Plan - 500-006_C
CD1.10	Density Parameter Plan - 500-007_F
CD1.11	Swept Path Analysis – P706-14_B
CD1.12	Proposed Access Cross Section Plans – P706_15
CD1.13	Proposed Pedestrian/Cycle & Crossing Points on Farleighs Road – P706_10_C
CD1.14	Proposed Access Priority Junction with Ghost Island Right Turn Lane – P706_13_C
CD1.15	Agricultural Assessment Report (Reading Agricultural Consultants, Nov 2014).
CD1.16	Archaeological Geophysical Report (Pre-Construct Geophysics – November 2014)
CD1.17	Bat Survey Report (MWA – dated January 2015).
CD1.18	Breeding Bird Report (MWA – dated January 2015).
CD1.19	Revised Design and Access Statement (RPS Group - dated July 2015).
CD1.20	Ecology Report (MWA – dated January 2015).
CD1.21	Reptile Survey Report (MWA – dated January 2015).
CD1.22	Energy Statement (E2S Consultants – dated November 2014).
CD1.23	Flood Risk Assessment (Callidus, July 2015) inc Drainage Strategy Plan 400 Rev D
CD1.24	Land Contamination and Geotechnical Risk Assessment Report (NPS Nov 2014)
CD1.25	Health Impact Assessment (RPS Group – dated January 2015)
CD1.26	Heritage Assessment (Cotswold Archaeology – dated November 2014)
CD1.27a	Landscape and Visual Impact Assessment (SLR – dated January 2015) and)
CD1.27b	LVIA Addendum (SLR - dated 29.7.2015)
CD1.27c	Landscape Strategy Plan 416 04658 00003-004_4
CD1.28	Revised Planning Statement (Charles Church - dated July 2015).
CD1.29	Statement of Community Involvement (Charles Church – dated January 2015).
CD1.30	Road Safety Audit (TMS – dated November 2014).
CD1.31	Topographical Survey Plans 1127 (Benjamin Moore Land Surveys Ltd)
CD1.32a	Transport Assessment (PFA – dated January 2015)

CD1.32b	Supplementary Transport Assessment Report (PFA- dated July 2015)
CD1.33	Travel Plan (PFA – dated January 2015).
CD1.34a	Tree Constraints Report (JP Associates – dated July 2014).
CD1.34b	Tree Survey Plan D35-22-P1 Rev A
CD1.34c	Tree Constraints Plan D35 22P2 Rev A
CD1.35	Utilities Report (Callidus – dated November 2014).
CD1.36	Overarching Lighting Strategy (Clarkson & Woods Ecological Consultants, July 15)
CD1.37	Precautionary Working Method Statement (GCN) (Clarkson & Woods Ecological Consultants – dated July 2015)
CD1.38	Applicant Covering Letter revised plans dated 29.7.2015
CD1.39	Applicant Response to Peter Evans Partnership Objection (August 2015)
CD1.40	Emails between Case Officer and Applicant (September & October 2015)
CD1.41	Ecological Letter from Clarkson & Woods dated (20.10.2015)
CD1.42	Officer's Delegated Report
CD1.43	LPA Decision Notice dated 7.6.2016

### **CD2 Correspondence and Documents Associated with the Appeal**

CD2.1	Letter from Appellant to Taylor Wimpey dated 12.1.2017
CD2.2	Email from Taylor Wimpey to Appellants dated 19.1.2017
CD2.3	Letter from Appellant to PINS dated 9.2.2017
CD2.4	Letter from Taylor Wimpey dated 13.2.2017
CD2.5	Letter from North Somerset to Appellant dated 15.2.2017

### **CD3 National Planning Policy and Guidance**

CD3.1	National Planning Policy Framework 2012
CD3.2	National Planning Practice Guide
CD3.3	Written Ministerial Statement by Gavin Barwell, 12 December 2016 (HCW5346)
CD3.4	DCLG "Fixing our broken housing market" February 2017

### **CD4 Landscape Assessment Guidance Documents**

CD4.1	Guidelines for Landscape & Visual Impact Assessment - LI and IEMA 3 <sup>rd</sup> Edition
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### **CD5 North Somerset Council Local Planning Policies and Guidance and other relevant Local Policy Documents and studies**

CD5.1	North Somerset - Replacement Local Plan "Saved Policies" (adopted March 2007
CD5.2	North Somerset - Core Strategy, Version following High Court Judgement March 2013 and Re-adoption of Policy CS13 - September 2015
CD5.3	North Somerset - Core Strategy (adopted April 2012, re-adoption in Jan 2017)
CD5.4	Inspector Report - Re-Examination of Policy CS13, 11 March 2015
CD5.4a	Appendix A - Inspector Report - Re-Examination of Policy CS13, 11 March 2015
CD5.5	Planning Inspectorate Core Strategy - Inspectors Report – 8 November 2016
CD5.5a	Appendix - Planning Inspectorate Core Strategy - Inspectors Report – 8 Nov 2016
CD5.6	North Somerset - Sites and Policies Plan Part 1: Development Management Policies (adopted 19 July 2016)
CD5.7	North Somerset - Sites and Policies Plan Part 2: Site Allocations Plan, Publication Version (October 2016)
CD5.8	North Somerset - Assessing the sustainability and settlement hierarchy of rural settlements in North Somerset, Final Report - February 2016
CD5.8a	Appendix C - Assessing the sustainability and settlement hierarchy of rural settlements in North Somerset, Final Report - February 2016
CD5.8b	North Somerset - Reviewing the sustainability and settlement hierarchy of settlements in North Somerset, Final Report – July 2016
CD5.9	North Somerset - Reviewing the sustainability and settlement hierarchy of settlements in North Somerset, Executive Summary – October 2016
CD5.10	North Somerset - Residential Site Assessments

CD5.11	'Backwell Future' Backwell Neighbourhood Plan 2014-26 (made 24 March 2015)
CD5.12	'Backwell Future' Backwell Neighbourhood Plan 2014-26 A Report to North Somerset Council of the Examination into the Backwell Neighbourhood Plan – October 2014
CD5.13	West of England - Joint Spatial Plan – Towards the emerging spatial strategy – November 2016
CD5.14	North Somerset - CC-ID/07 North Somerset Core Strategy Consequential Changes Examination - Inspector's questions for the examination – 17.6.2016
CD5.15	"Backwell Future" Backwell Neighbourhood Plan 2014-2026 – Pre-examination version – March 2014
CD5.16	Evidence Base G: New Development forming part of the report by the Independent Examiner (Nigel McGurk) October 2014
CD5.17	Evidence Base K: New Development forming part of the report by the Independent Examiner (Nigel McGurk) October 2014
CD5.18	Evidence Base L: New Development forming part of the report by the Independent Examiner (Nigel McGurk) October 2014
CD5.19	Evidence Base T: New Development forming part of the report by the Independent Examiner (Nigel McGurk) October 2014
CD5.20	Long Ashton Neighbourhood Development Plan 2013-2033 – May 2015
CD5.21a	North Somerset Planning Maps for Each Service Village
CD5.21b	North Somerset Planning Maps for Each Service Village
CD5.21c	North Somerset Planning Maps for Moor Lane
CD5.22	Inspectors Letter 6.3.2017 – Examination into the soundness of the North Somerset Site Allocations Plan
CD5.23	North Somerset Housing Strategy 2016-2021

#### **CD6 Housing Land Availability**

CD6.1	North Somerset – Residential Land Survey and Five-Year Housing Land Supply Paper April 2016
CD6.2	North Somerset and South West Strategic Development Ltd - Statement of Common Ground for Appeal at Land North of Oldmixon Road, Weston Super Mare (APP/D0121/W/16/3150985)
CD6.3	North Somerset – Five Year Land Supply Position Statement – Dec 2016 Update
CD6.4	North Somerset – Planning and Regulatory Committee Report – Land at Wrington Lane, Conglesbury (16/P/1521/O) – 8.2.2017
CD6.5	North Somerset – Planning and Regulatory Committee Report – Land at Wolvershill Road, Banwell (16/P/152744/OT2) – 8.2.2017
CD6.6	North Somerset – Planning and Regulatory Committee Report – Cothill, Station Road, Sandford, Winscombe (17/P/0023/F2) – 8.3.2017
CD6.7	North Somerset – Planning and Regulatory Committee Report – Withdale Farm, Weston Road, Congresbury (16/P/2490/O) – 8.3.2017
CD6.8	North Somerset Annual Monitoring Report 2016

#### **CD7 Not Used**

#### **CD8 Relevant Appeal Decisions, Planning Applications and Legal Judgements**

CD8.1	APP/D0121/A/99/1035049 – Land at Farleigh Road, Backwell
CD8.2	APP/D0121/W/15/3139633 - Land north of A368, Sandford, North Somerset
CD8.3	APP/D0121/W/15/3138816 – Land south of Knightscott Road, Banwell, Somerset
CD8.4	Suffolk Coastal District Council v Hopkins Homes Ltd, and Richborough Estates Partnership LLP and Cheshire East Borough Council [2016] EWCA Civ 168 (17 March 2016)
CD8.5	Solihull Metropolitan Borough Council v Gallagher Estates Ltd and Lioncourt Homes [2014] EWCA Civ 1610 (17 December 2014)
CD8.6	Stroud District Council v Secretary of State for Communities & Local Government and Gladman Developments Ltd [2015] EWHC 488 (Admin) (6 February 2015)

CD8.7	East Staffordshire Borough Council v Secretary of State for Communities & Local Government and Barwood Strategic Land [2016] EWHC 2973 (Admin) (22/11/16)
CD8.8	APP/D0121/W/16/3142927 - Land at Bleadon Hill, Weston Super Mare, BS24 9JN
CD8.9	APP/C3105/A/13/2201339 - Land North of Gaveston Gardens and Rear of Manor Farm, Banbury Road, Deddington, Oxfordshire
CD8.10	APP/D3125/W/15/3139687 - Land west of Shilton Road, Burford
CD8.11	APP/G5180/W/16/3144248 - Land to the rear of former Dylon International Premises, Station Approach, Lower Sydenham, London SE26 5HD
CD8.12	APP/W0530/A/13/2207961 - Land to the west of Cody Road, Cambridge CB25 9LS

#### **CD9 Principal Consultation Responses on the appeal application 15/P/0315/0**

CD9.1	Backwell Environment Trust - 19.8.2015
CD9.2	Backwell Parish Council – 6.3.2015
CD9.3	Backwell Parish Council – 13.3.2015
CD9.4	Backwell Parish Council – 18.3.2015
CD9.5	Backwell Parish Council – 25.8.2015
CD9.6	Environment Agency – 9.3.2015
CD9.7	Highways Agency – 6.3.2015
CD9.8	Highways England – 10.9.2015
CD9.9	Highways England 4.8.2015
CD9.10	Natural England – 12.3.2015
CD9.11	Natural England – 24.8.15
CD9.12	North Somerset - Access Officer – 25.2.2015
CD9.13	NSC Highway Comments – 17.9.2015
CD9.14	NSC Landscape Comments – 23.9.2015
CD9.15	NSC Natural Environment – 25.8.2015
CD9.16	Wessex Water – 2.3.2015
CD9.17	Wessex Water – 11.8.2015

#### **CD10 Other Inquiry Documents**

CD10.1	North Somerset - Pupil Projections for North Somerset Schools 2016-20 (June 16)
CD10.2	North Somerset – Education Provision in North Somerset, A Commissioning Strategy 2015 to 2018 (August 2015)
CD10.3	Pegasus Report to North Somerset Core Strategy Examination of Remitted Policies, Hearing Statement: Matter 2 (May 2016)

#### **CD11 Statements of Common Ground**

CD11.1	SofCG on Planning
CD11.1a	Appendix A Planning Conditions
CD11.2	SofCG Housing Land Supply

#### **CD12 Statements of Case**

CD12.1	Appellant - Planning Statement of Case - 6 <sup>th</sup> July 2016
CD12.2	Local Planning Authority - Statement of Case – January 2017
CD12.3	Rule 6 Party – Statement of Case – Backwell Parish Council
CD12.4	Rule 6 Party – Statement of Case – Taylor Wimpey

#### **CD13 Not Used**

#### **CD14 Proofs of Evidence**

CD14.1	Appellants - Proof of Evidence on Planning Matters – David Hutchison
CD14.2	Appellants – Proof of Evidence on Housing Land Supply – Neil Tiley
CD14.3	Appellants - Proof of Evidence on Transportation Matters – G Eves
CD14.4	Appellants – Proof of Evidence on Landscape – Julian Cooper



CD14.5	NSC- Proof of evidence – Planning – D Tate
CD14.6	NSC- Proof of evidence – Planning Policy – M Reep
CD14.7	NSC- Proof of evidence – Housing Land Supply – N Richards
CD14.8	Rule 6 Party – Proof of Evidence –M Rose, Backwell Parish Council
CD14.9	Rule 6 Party – Proof of Evidence –C Perry, Backwell Parish Council

### CD15 Appendices to Proofs of Evidence

CD15.1	Appellants – Appendices to Proof of Evidence on Planning – D Hutchison
CD15.2	Appellants – Appendices to Proof of Evidence on Housing Land Supply – N Tiley
CD15.3	Appellants – Appendices to Proof of Evidence on Transportation Matters – G Eves
CD15.4	Appellants – Appendices to Proof of Evidence on Landscape Matters – J Cooper
CD15.5	NSC- Appendices Proof of evidence – Planning – D Tate
CD15.6	Rule 6 Party – Appendices to Proof of Evidence –M Rose, Backwell Parish Council
CD15.7	Rule 6 Party – Appendices to Proof of Evidence –C Perry, Backwell Parish Council

### CD16 Summary Proofs of Evidence

CD16.1	Appellants – Summary Proof of Evidence on Planning Matters – David Hutchison
CD16.2	Appellants – Summary Proof of Evidence on Housing Land Supply – Neil Tiley
CD16.3	Appellants - Summary Proof of Evidence on Transportation Matters – G Eves
CD16.4	NSC- Summary Proof of evidence – Planning – D Tate
CD16.5	NSC- Summary Proof of evidence – Planning Policy – M Reep
CD16.6	NSC- Summary Proof of evidence – Housing Land Supply – N Richards
CD16.7	Rule 6 Party – Summary Proof of Evidence –M Rose, Backwell Parish Council
CD16.8	Rule 6 Party – Summary Proof of Evidence –C Perry. Backwell Parish Council

### CD17 Rebuttal Proofs including Appendices

CD17.1	NSC – N Richards Rebuttal – Housing Land Supply
CD17.2	Appellant – N Tiley – Errata
CD17.3	NSC – M Reep Rebuttal – Planning Policy

### CD18 Documents Submitted During Inquiry

CD18.1	NSC Map showing Photo Viewpoints dated 9.3.2017
CD18.2	NSC – Habitats Regulation Assessment (Updated and finalised March 2017)
CD18.3a	Appellant Site Specifics – SCOTCH Table
CD18.3b	NSC Site Specifics – SCOTCH Table
CD18.4	Site Allocations Plan 2006-2026: Publication Version November 2016 – Comment from NHS dated 19.12.2016
CD18.5a	Appellant Aerial View of Open Space (416.04658.00003.007.0)
CD18.5b	Appellant Photos (416.04658.00003.008.0)
CD18.5c	Appellant Extract from DAS – Cross Section Plan
CD18.6	Appellant Email – Neil Tiley on affordable housing definitions, 13 March 2017
CD18.7	Site Assessment for Neighbourhood Plans: A Toolkit for Neighbourhood Planners
CD18.8	Pack of scripts read by speakers at the Inquiry
CD18.9a	Section 106 Agreement dated 22.3.2017
CD18.9b	Section 106 Justification
CD18.9c	S106 Summary
CD18.10	2000 Appeal Scheme – Application Boundary and Site Plans
CD18.11	Illustrative Layout from 2000 Appeal Scheme
CD18.12	Woodspring Local Plan – Report of the Public Local Inquiry into Objections to the Plan – relating to Farleighs Field, dated 1998
CD18.13	NSC Woodspring Local Plan Inspectors Report – Statement of Decisions and Reasons dated June 1999.
CD18.14	NSC Table of Record of Delivery
CD18.15	Photograph provided by Mr Miles
CD18.16a	PINS Letter Notifying of Recovery of Appeal dated 21 March 2017

CD18.16b	Notification of SoS recovering the appeal dated 20 March 2017
CD18.16c	Letter from Secretary of State to Dr L Fox MP dated 19.12.2016
CD18.16d	Letter from Dr L Fox MP to the Secretary of State dated 30 November 2016
CD18.16e	Letter from Temple Bright Solicitors to Dr L Fox MP dated 15 November 2016
CD18.17	Previous Planning Application Decision Letters Reference 1016/84 dated 12 <sup>th</sup> April 1984 and Reference 2116/85 dated 5 September 1985.
CD18.18	Bundle relating to 'Points of Clarification' on 5YRHLS Matters
CD18.19a	Council's Response to Inspector Burden dated 21 March 2017
CD18.19b	Appendix to Council's response to Inspector Burden
CD18.20	Maps of Winscombe Allocation and Planning Permission
CD18.21	Closing Submissions for Aylesbury Vale Appeal and covering note
CD18.22	South Oxfordshire District Council v Secretary of State for Communities and Local Government and Cemex Properties Limited EWHC 1173 (Admin) (19 <sup>th</sup> May 2016)
CD18.23	Bloor Homes East Midlands Ltd v Secretary of State for Communities and Local Government and Hinckley and Bosworth Borough Council EWHC 754 (Admin) (19 March 2014)
CD18.24	Trustees of the Barker Mill Estate v Test Valley Borough Council and Secretary of State for Communities and Local Government EWHC 3028 (Admin) (25/11/2016)
CD18.25	Approach to Calculating 5 Year Housing Land Supply, Appendix 13 to 'Local Plans Report to Government', Local Plans Expert Group, March 2016
CD18.26	Parking Standards SPD, NSC, November 2013
CD18.27	Plans to be attached to the S106 Agreement
CD18.28	Map of rights of way
CD18.29	Final Suggested Conditions

### **Plans**

- Location: Dwg No 500\_003 rev D
- Site Access: Dwg No P706/10 Rev C, and Dwg No P706/13 Rev C
- Illustrative drawings, including Masterplan: Dwg 500\_002\_2 Rev M

### **Inspector's Documents**

- INSP.1 Wallet of appeal representations
- INSP.2 Closing Submissions on Behalf of North Somerset Council
- INSP.3 Closing Submissions on Behalf of Backwell Parish Council
- INSP.4 Closing Submissions on Behalf of the Appellant
- INSP.5 Responses of (a) Backwell Parish Council, (b) North Somerset Council, and (c) the appellant to the Supreme Court Judgment of 10 May 2017
- INSP.6 Appeal decision ref APP/D0121/W/16/3150985, dated 10 April 2017

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**Annex: Recommended conditions**

1. Application(s) for approval of the reserved matters shall be made to the Local Planning Authority before the expiry of three years from the date of this permission.
2. The development hereby permitted shall be begun before the expiry of two years from the date of approval of the last of the reserved matters to be approved.
3. Approval of the details of the layout, scale and appearance of the buildings, and the landscaping of any given part of the site (hereinafter called 'the reserved matters') shall be obtained from the Local Planning Authority (LPA), in writing before any development in that part of the site is commenced unless otherwise approved in writing by the LPA.
4. The development hereby permitted shall, unless otherwise subsequently approved by the Local Planning Authority in writing, be carried out in accordance with the following approved plans:
  - Site Plan (ref: 500\_003-D)
  - Proposed Pedestrian/Cycle & Crossing Points on Farleigh Road (ref: P706/10 Rev C)
  - Proposed Access Priority Junction with Ghost Island Right Turn Lane (ref: P706/13 Rev C)
  - Swept Path Analysis (ref: P706/14)
  - Traffic Calming Scheme (ref: P706/16.
  - Highway Dedication Plan (ref: P706/17)
5. Applications for approval of Reserved Matters submitted pursuant to Condition 3 shall be in general accordance with the following approved Parameter Plans unless variations thereto are approved by the Local Planning Authority (LPA) as part of the Reserved Matter applications or where approved by the LPA to comply with the requirements of the other conditions listed in this decision notice:

• Land Budget Parameter Plan	500_002_1_H
• Concept Masterplan	500_002_2_M
• Scale & Massing Parameter Plan	500_005_E
• Access & Movement Parameter Plan	500_006_C
• Density Parameter Plan	500_007_F
6. No dwelling shall be occupied until sight lines have been provided at the junction between the new means of vehicular access and Farleigh Road in accordance with the approved plans.
7. Before occupation, each dwelling shall be provided with a properly consolidated and surfaced parking area at a ratio of no less than 1 space for a 1 bedroom dwelling, 2 spaces for a 2 or 3 bedroom dwelling and 3 spaces for a 4+ bedroom dwelling unless otherwise approved via the reserved matters. The internal footprint measurements for the garages shall be no less than 3.0 x 7.0 metres. The access and parking spaces shall be used for no other purpose.
8. No development shall commence on site until details of the estate roads, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, for provision of such works, have been submitted to and approved by the Local Planning

- Authority. No dwelling shall be first occupied until the above approved works which serve that dwelling have been implemented in full, unless an alternative timetable is approved in those details.
9. No dwelling shall be occupied until the surface of the public footpath ref. LA2/6/10 has been improved and enhanced in accordance with details to be submitted to and approved by the Local Planning Authority.
  10. All reserved matters applications shall include details of the proposed ground floor slab levels for the proposed dwellings.
  11. The development hereby permitted shall not commence until details of the design, implementation, maintenance and management of the sustainable drainage scheme which takes water off site at greenfield run off rates and volumes, taking into account climate change, long term storage and urban creep has been submitted to and approved in writing by the Local Planning Authority.
  12. The drainage system hereby approved shall not be constructed until the pre-construction requirements have either been; submitted to and approved by the Local Planning Authority, or adhered to as stipulated within the requirement.
  13. The drainage system must be maintained by the developer prior to the management company adoption to ensure it functions as designed. The maintenance requirements must have either been submitted to and accepted by the Local Planning Authority or adhered to as stipulated within the requirement prior to handing over to the management company.
  14. No dwelling shall be occupied until a scheme for the disposal of foul water has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall, thereafter, be implemented in accordance with its requirements and recommendations.
  15. Details of external lighting, including temporary/construction and permanent lighting, shall be provided at Reserved Matters stage including:
    - Details of the type and location of the proposed lighting;
    - Existing lux levels affecting the site;
    - The proposed lux levels; and
    - Lighting contour plans.

This scheme shall ensure that light levels do not exceed 0.5 lux (and ideally are maintained at below 0.04 lux) along the boundary hedgerows and habitats (most importantly the southern and western boundaries) to permit continued foraging and commuting of horseshoe bats across the landscape. Details shall be submitted to and approved in writing by the Local Planning Authority (LPA). Any external lighting shall be installed and operated in accordance with the approved details and shall not be varied without approval in writing by the LPA.
  16. Before the commencement of development, a Landscape and Ecological Management Plan shall be submitted and approved in writing by the Local Planning Authority (LPA). The Plan shall include measures for establishment and management of semi-natural habitats within the site, including planting schedules that include early establishment and protection of boundary habitats; a timetable for implementation and details of ongoing management. This shall also include details of design and planting of waterbodies within the site, location of bird nesting and bat roosting features and other measures to maximise biodiversity interest including continued use of part of the site for

cattle grazing as part of the proposed Bat Mitigation. The Plan shall include a pre-commencement badger survey of the site and surrounding area of relevance, and a report detailing the findings and proposed avoidance, mitigation and compensation measures shall be provided to the LPA. The reporting process shall include a timetable for management activities as well as a monitoring schedule.

17. If, during development, contamination not previously identified is found to be present at the site then no further development, unless otherwise approved in writing with the Local Planning Authority (LPA) shall be carried out until the developer has submitted a remediation strategy to the LPA detailing how this unsuspected contamination shall be dealt with and obtained written approval from the LPA. The remediation strategy shall be implemented as approved.
18. The developer shall notify the Local Planning Authority (LPA) not less than seven days before the commencement of development and shall afford access at all times to any archaeologist nominated by the LPA, and allow him or her to observe the initial excavations and record items of interest and finds.
19. No development comprising the erection of dwellings shall commence on site until details of the storage of refuse, recycling and composting, including details of location, size, means of enclosure and materials, have been submitted to and approved in writing to the Local Planning Authority. No dwelling shall be first occupied until the approved refuse, recycling and composting storage for that dwelling has been completed and made available for use in accordance with the approved details and it shall be subsequently maintained in accordance with the approved details thereafter.
20. No development shall take place, until a Construction Method Statement has been submitted to, and approved in writing by, the Local Planning Authority (LPA). The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
  - The parking of vehicles of site operatives and visitors;
  - Loading and unloading of plant and materials;
  - storage of plant and materials used in constructing the development;
  - The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
  - Wheel washing facilities;
  - Measures to control the emission of dust and dirt during construction;
  - A scheme for recycling/disposing of waste resulting from demolition and construction works;
  - Measures to control noise from works on the site; and
  - A plan showing measures for habitat protection and retention shall be provided, including protection and retention of at least 5m buffer zones from hedgerows.Once approved, the CMS shall be adhered to at all times, with any amendments approved in writing by the LPA before proceeding.
21. No dwelling hereby approved shall be occupied until measures to generate 15% or less, if approved by the Local Planning Authority (LPA) of the energy required by the use of the overall development (measured in carbon) through the use of micro renewable or low-carbon technologies and a programme for their implementation have been submitted to and approved in writing by the LPA. Once approved the measures shall be installed on site and become fully operational in accordance with the approved details and programme.

- Thereafter, the approved technologies shall be permanently retained unless otherwise first approved in writing by the LPA.
22. The dwellings shall not be occupied until a Travel Plan for the new residents, which seeks to reduce the number of vehicle trips to and from the site, has been submitted to and approved by the Local Planning Authority (LPA). The Travel Plan should include an information pack and green vouchers distribution mechanism and the appointment of a travel plan co-ordinator who shall establish a suitable travel plan review and monitoring framework. Upon approval, the development shall thereafter be in accordance with the proposals in the approved Travel Plan unless amendments to the Travel Plan are first submitted to and approved by the LPA.
23. The development shall proceed in strict accordance with the avoidance, mitigation and enhancement measures set out in the following Michael Woods Associates (MWAs) ecological survey reports: Section 7 of the Bat Survey Report (2015); Section 6 of the Breeding Bird Survey (2015); and Section 6 of the Reptile Survey (2015), which must be implemented through the relevant ecological conditions (site enabling, construction, lighting and landscaping plans). If amendments to the methodology are required, details of the changes must be submitted in writing and approved by the Local Planning Authority before relevant works proceed. The development shall then be implemented in accordance with the approved changes.
24. Prior to the commencement of development, a site enabling/vegetation clearance Plan, to include:
- Update protected species surveys (bats, reptiles, badgers) /checks required to inform: demolition of buildings, site clearance and species method statements if the existing surveys have become out of date
  - Timings and details of precautionary avoidance and mitigation measures required to avoid harm to legally protected (e.g. bats, reptiles, badgers, nesting birds, great crested newt), Section 41 species (e.g. common toad, brown hare, hedgehog) and wild mammals;
  - A detailed method statement for translocation of reptiles; and
  - Ecological supervision of vegetation and site clearance, with structural vegetation lowered by stages (scrub to 15cm within winter period) and regularly maintained as unsuitable habitat.
- The use of herbicides is to be avoided. Plan shall be submitted to the Local Planning Authority in writing and implemented in accordance with the submitted details.
25. A Construction Environment Management Plan (CEMP) shall be submitted to and approved by the Local Planning Authority prior to commencement of development. This shall include:
- Surveys/ walk over checks that may be required to inform avoidance and mitigation measures; methods of works;
  - Siting and installation of services such as drainage;
  - Sensitive storage locations for materials and soils (shown on submitted plans);
  - Measures for dust control, disposal of waste;
  - Prevention of pollution, to protect surface waters and ground waters, in accordance with best practice;
  - All measures for avoidance and mitigation of harm to legally protected and Section 41 species and wild mammals;

- Specification of buffers and fencing for the protection of ecological features and trees; and
- Details of the appointment of an Ecological Clerk of Works with overall responsibility for the successful implementation of the CEMP, to advise project management staff and contractors on ecological issues, and to ensure mitigation measures are implemented correctly.

Works shall be implemented in strict accordance with the approved details/methodology.

26. Prior to the commencement of development, an updated/amended landscaping and ecological management plan (LEMP) for the site shall be submitted to and approved in writing by the Local Planning Authority. The aim of the LEMP is to secure the long term safeguarding and management of on-site retained and created habitats. The LEMP shall include:
- The landscaping specification to including details of species, planting requirements, monitoring and replacement;
  - Site and habitat management objectives;
  - Detail of the annual work plans for ongoing annual management requirements;
  - Specifications for:
    - The creation and monitoring of new habitat features; and
    - An on-site notice board detailing habitats and management (with exception of bat roost which is sensitive);
  - Sign-off completion statement by ecological consultant;
  - Monitoring proposals, to include monitoring of light levels within retained bat habitats in years 1, 2 and 5 of the operational phase; with provision for remedial additional planting should light levels exceed 1 lux within retained horseshoe bat habitats;
  - A planting and maintenance schedule for the SuDS scheme; and
  - A plan of showing locations of bird, bat and hedgehog boxes and provision for annual checks and replacement where necessary of bird nesting and bat roosting features.
- Ongoing management shall be carried out in accordance with the approved details.
27. No other development hereby approved shall commence until the first 20m of the proposed Farleigh Road access works shown on drawing P706/13C, or other such arrangement approved in writing by the Local Planning Authority, has been completed to at least binder course level.
28. Prior to the first occupation the pedestrian and cycle access on drawing P706/10, or other such arrangement approved by the Local Planning Authority (LPA), has been constructed to the satisfaction of the LPA.



# Ministry of Housing, Communities & Local Government

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## RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

**These notes are provided for guidance only and apply only to challenges under the legislation specified. If you require further advice on making any High Court challenge, or making an application for Judicial Review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, Queens Bench Division, Strand, London, WC2 2LL (0207 947 6000).**

The attached decision is final unless it is successfully challenged in the Courts. The Secretary of State cannot amend or interpret the decision. It may be redetermined by the Secretary of State only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

### SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS

The decision may be challenged by making an application for permission to the High Court under section 288 of the Town and Country Planning Act 1990 (the TCP Act).

#### **Challenges under Section 288 of the TCP Act**

With the permission of the High Court under section 288 of the TCP Act, decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application for leave under this section must be made within six weeks from the day after the date of the decision.

### SECTION 2: ENFORCEMENT APPEALS

#### **Challenges under Section 289 of the TCP Act**

Decisions on recovered enforcement appeals under all grounds can be challenged under section 289 of the TCP Act. To challenge the enforcement decision, permission must first be obtained from the Court. If the Court does not consider that there is an arguable case, it may refuse permission. Application for leave to make a challenge must be received by the Administrative Court within 28 days of the decision, unless the Court extends this period.

### SECTION 3: AWARDS OF COSTS

A challenge to the decision on an application for an award of costs which is connected with a decision under section 77 or 78 of the TCP Act can be made under section 288 of the TCP Act if permission of the High Court is granted.

### SECTION 4: INSPECTION OF DOCUMENTS

Where an inquiry or hearing has been held any person who is entitled to be notified of the decision has a statutory right to view the documents, photographs and plans listed in the appendix to the Inspector's report of the inquiry or hearing within 6 weeks of the day after the date of the decision. If you are such a person and you wish to view the documents you should get in touch with the office at the address from which the decision was issued, as shown on the letterhead on the decision letter, quoting the reference number and stating the day and time you wish to visit. At least 3 days notice should be given, if possible.