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## Appeal Decision

Inquiry opened on 15 April 2015

Site visit made on 3 June 2015

**by Alan Woolnough BA(Hons) DMS MRTPI**

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

**Decision date: 2 July 2015**

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**Appeal Ref: APP/R3325/A/14/2224654**

**Land at Dancing Lane, Wincanton, Somerset BA9 9DE**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
  - The appeal is made by Oxford Law Ltd against South Somerset District Council.
  - The application, ref no 14/01704/OUT, is dated 11 April 2014.
  - The development proposed is described on the planning application form as 'up to 40 dwellings'.
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### Formal Decision

1. The appeal is allowed and outline planning permission is granted for the erection of up to 25 dwellings on land at Dancing Lane, Wincanton, Somerset BA9 9DE in accordance with the terms of the application, ref no 14/01704/OUT dated 11 April 2014 and the plans submitted with it, subject to the conditions set out in the schedule attached to this decision.

### Procedural Matters

2. At the Inquiry an application for costs was made by Oxford Law Ltd against South Somerset District Council. This application will be the subject of a separate decision.
3. The Inquiry sat for three days, adjourning at the end of 16 April 2015 after two days and resuming for one final day on 2 June 2015.
4. The planning application was made in outline form with all matters of detail reserved for future consideration with the exception of access. At the Inquiry, it was agreed between the Appellant and the Council that the element of the proposal subject to detailed consideration at this stage should comprise only the section of proposed access that would fall within the public highway and link the housing development with the vehicular carriageway of Dancing Lane, as depicted on application drawing no 13780/T04. I concur and will therefore regard all other components of the scheme, including the layout of roads and footpaths within the site itself, as illustrative.
5. At a meeting of the Council's Area East Committee held on 8 October 2014, following submission of the subject appeal, it was resolved that the following objections to the proposal should be defended:
  - The proposal is for up to 35 dwellings on a site that is not within reasonable walking distance remote of primary schools, employment opportunities and

- the services and facilities available in the town centre. Given the distances, topography and nature of the route and the lack of regular bus services future residents would have no realistic alternative to the private motor car to access services and facilities necessary for daily life.
- The submitted travel plan does not satisfactorily demonstrate that the future residents would have any option but to rely on the private motor car for virtually all their daily needs. Such lack of choice of transport modes constitutes unsustainable development contrary to the presumption in favour of sustainable development running through the National Planning Policy Framework (NPPF) which is not outweighed by any reasonable benefit arising from the development. Accordingly the proposal is contrary to the policies contained within the NPPF and saved policies ST3, ST5 and TP2 of the South Somerset Local Plan (2006).
  - It has not been demonstrated that the loss of best and most versatile agricultural land (grades 1 & 3a) has been justified in this instance where there is other lower grade land available.
  - Dancing Lane by reason of its width, lack of pavements and use by the school is incapable of safely accommodating the additional traffic generated by this development without detriment to pedestrian safety.
  - It has not been demonstrated that the proposal to develop up to 35 houses on this site could be satisfactorily achieved whilst maintaining the setting of the grade 2 listed Verrington Lodge.
6. Notwithstanding the description of development set out in the above heading, the subject planning application was revised at an early stage such that it sought permission for up to 35 dwellings rather than 40. Drawing no 1174/03 dated 12 March 2014 depicted an illustrative layout of 35 dwellings covering the whole of the appeal site. Prior to the appeal the Appellant submitted a revised layout plan to the Council, bearing the same reference number but dated 30 July 2014. This showed an illustrative scheme for 25 dwellings covering only the southern part of the site and contained no indication of the intended use of the northern part.
7. The purpose of the latter drawing was not fully resolved between the main parties prior to the Inquiry. This is reflected in the officer report to the committee meeting of 8 October 2014 and the minutes thereof, which focus on the 35 dwelling scheme. It has also led to a degree of confusion amongst local residents as to the scale and extent of the appeal development. At the Inquiry, the Appellant confirmed that, notwithstanding an indication to the contrary in the Statement of Common Ground, the revised drawing was intended to supersede that dated 12 March 2014. Consequently, outline planning permission was now sought for up to 25 dwellings across the reduced area indicated, with the northern part of the site remaining subject to the application/appeal but designated a 'no build zone'.
8. It emerged that a trigger for the appeal against non-determination of the application had been the Council's stance that further public consultation on the revised plan was required, which the Appellant considered unnecessary. In the case of *Bernard Wheatcroft Ltd v SSE* [1982] JPL P37 the High Court established that, in deciding whether to accept amendments, *'the main, but not the only criterion on which....judgment should be exercised is whether the development is so changed that to grant it would be to deprive those who should have been consulted on the changed development of the opportunity of such consultation'*.

9. In fact, the Council did undertake public consultation on the revised drawing for the Dancing Lane site a week or so before the appeal was lodged and, indeed, received several responses from interested parties. At the Inquiry, some residents indicated that they had experienced difficulty in accessing the revised drawing via the internet and were thus hampered in conveying their objections. Nonetheless they would have been able to review a hard copy of the drawing at the Council's offices and, in most cases, are likely to have been aware of the revision by the time of the Inquiry.
10. In any event, applying the *Wheatcroft* principle, I found that the revised proposal, by reason of the fact that it reduced the number of dwellings and extent of site coverage, did not introduce new considerations on which there should be an entitlement to comment. I therefore ruled that the Inquiry should proceed on the basis that permission was now sought for 'the erection of up to 25 dwellings'. I have determined the appeal accordingly and am satisfied that no injustice has arisen as a result.
11. It emerged during the course of the Inquiry that Tree Preservation Order (TPO) ref no WRDC (Wincanton No 2) 1971 safeguarded four elm trees that had occupied the island of highway land in front of the appeal site, through which the proposed access link to Dancing Lane would run. However, only deceased remnants of these trees remain. The TPO has not therefore been a significant material consideration in reaching my decision.
12. The Council's case was presented with reference to the perceived cumulative impact, in terms of housing land supply and traffic implications, of the proposal before me and that of proposed development of 55 houses on land to the rear of Wincanton Community Hospital, several metres to the east and also accessed from Dancing Lane. Some of the evidence from local residents and their representatives was presented along similar lines. The 'hospital scheme' is the subject of a separate appeal (ref no APP/R3325/A/14/2222697), in relation to which a separate Inquiry is pending. The outcome of that appeal is therefore unknown and no planning permission for housing development exists on that land at the present time.
13. As written submissions received prior to the Inquiry contained cumulative data I allowed evidence to be presented at the event relating to the combined impact of both schemes as well as in relation to the proposal before me in isolation. However, I am mindful that the 'hospital site' is not allocated for residential development by the development plan and, accordingly, the mere possibility that housing may be approved there on appeal in the near future can carry only limited weight for the purposes of my decision. I have determined the appeal before me on that basis. Nonetheless, my decision to grant planning permission in this case becomes a more significant material consideration in determining the hospital site appeal.

### **Unilateral Undertaking**

14. On the final day of the Inquiry the Appellant submitted an executed copy of a unilateral undertaking pursuant to section 106 of the 1990 Act as amended. In the event that planning permission is granted this would provide for financial contributions towards, in summary, the provision of additional capacity at Wincanton Primary School, the provision of a learner pool at Wincanton Sports Centre and off site youth facilities, the expansion/enhancement of changing rooms and playing pitches at Wincanton Sports Ground, the enhancement of

- the existing youth facilities and play area at Cale Park and the long term maintenance of some of those enhancement works.
15. The undertaking also secures the provision of affordable housing as part of the subject development and the implementation/monitoring of a Travel Plan Statement (TPS), together with the payment of the District and County Council's reasonable legal costs. The undertaking was reviewed by the District and County Councils prior to execution. It was confirmed at the Inquiry that both found it to be sound in its final form and to make adequate provision for the matters it is intended to address.
  16. I heard updated oral evidence at the Inquiry from Ms Pincombe for the District Council in relation to recreational and community facilities. I have also perused expanded written submissions from Mr Clews for the County Council in relation to education. I am satisfied that, following certain amendments to the undertaking to ensure that it reflects that evidence, its financial provisions now meet the tests set out in Regulation 122(2) of the Community Infrastructure Levy (CIL) Regulations 2010 and that all the payments thus secured are necessary to make the development acceptable in planning terms, directly related thereto and fairly and reasonably related in scale and kind.
  17. Moreover, in the light of the above, I am also persuaded that, despite Regulation 123(3)(b) of the 2010 Regulations having effect from 6 April 2015, the finalised undertaking still constitutes a reason for granting planning permission insofar as it relates to local infrastructure. This is because the Council has yet to adopt a CIL charging schedule and, on the evidence now before me, none of the individual projects or types of infrastructure addressed by this undertaking has, since 6 April 2010, already been provided for by means of five or more legal obligations.
  18. This being so, I conclude that the Appellant has made adequate provision towards local infrastructure in accordance with the development plan and national policy, such that this need not constitute a 'main issue' for the purposes of my decision. Although some interested parties have challenged the adequacy of the provision thus made, particularly in relation to perceived limitations on the capacity of local medical facilities, no cogent evidence to substantiate these concerns has been forthcoming. Accordingly, there is no sound reason to conclude that Wincanton does not have the infrastructure capacity, subject to delivery of the provisions contained in the Appellant's undertaking, to cater for an additional 25 dwellings
  19. The affordable housing provisions within the undertaking tally with the written evidence provided by Mr McDonald of the District Council. This has not been challenged effectively by any party and I find no reason to query it. I therefore further conclude that the Appellant has adequately addressed the need for affordable housing satisfactorily and that it is not necessary to explore this further. I will revisit the undertaking insofar as it concerns the Appellant's TPS when considering the issue of sustainability.

### **Main Issues**

20. In the light of the above, the main issues in determining this appeal are:
  - whether the District has a five-year supply of deliverable housing sites and the effect of local settlement policy;

- the implications of the proposal for the local supply of best and most versatile agricultural land;
- the effect of the proposal on the character and appearance of the surrounding area, with particular regard to the settings of adjacent Grade II listed buildings;
- the implications of the proposal for highway safety; and
- whether the proposed development would be sustainable.

### **Planning Policy**

21. The development plan includes the South Somerset Local Plan 2006-2028 (LP), adopted on 5 March 2015. Its policies supersede all the saved policies of the South Somerset Local Plan 2006 referenced in the Council's stated objections to the appeal proposal. Paragraph 215 of the NPPF records that due weight should be given to relevant policies in existing plans according to their degree of consistency with it. I find no significant conflict with the NPPF in respect of the current development plan policies cited in this case. Accordingly, I will give them full weight insofar as they are relevant to the appeal.

### **Reasoning**

22. The appeal site comprises approximately 2.4 hectares of land which, for the most part, is undeveloped and located to the rear of a ribbon of houses and bungalows that fronts the north-west side of Dancing Lane. The only developed part of the site is the bungalow known as Troodos, itself located within the said ribbon of development, and its curtilage. Troodos aside, the site lies outside but immediately adjacent to the built confines of the town as defined by the development plan.
23. The site is crossed by two public rights of way, linking Dancing Lane with Verrington Lane to the east. Verrington Lodge and Verrington Lodge Barn, both individual dwellings and Grade II listed buildings, lie to the immediate east with rear gardens abutting the appeal site. The northern and eastern parts of the land are characterised by particularly steep, undulating topography. There is anecdotal evidence before me to the effect that the land was once farmed, but it is common ground between the main parties that this has not been so for several years. The bulk of the site now comprises unkempt grass and scrub, with several mature trees and hedging plants along its boundaries.
24. The appeal seeks outline planning permission for the erection of up to 25 dwellings on that part of the site that extends behind the houses and bungalows fronting Dancing Lane. Most of the land proposed for development is at a similar level to the properties it is adjacent to. However, it includes land at the eastern end which is set considerably higher than Verrington Lodge. The northern portion of the site has been designated a 'no build zone' by the Appellant, within which no dwellings or associated development would be provided with the potential exception of a surface water storage facility intended to form part of a sustainable urban drainage system.
25. The principal estate road serving the site would cut through the curtilage of Troodos, which would be demolished. It would turn sharply eastward at the current frontage of that property to run along a section of metalled public highway, then turn south-eastward to cross a planted island of highway land to connect with the principal vehicular carriageway of Dancing Lane. That section

of the road which would occupy public land is put forward for detailed consideration at this stage.

*Housing land supply and local settlement policy*

26. Paragraph 47 of the NPPF requires local planning authorities to identify and update annually a supply of specific deliverable sites sufficient to provide five years' worth of housing against their housing requirements. It further specifies that, where there has been a record of persistent under delivery, authorities should identify an additional buffer of 20% to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land.
27. LP Policy SS4 requires delivery of a minimum of 15,950 units over the Plan period, equating to at least 725 units per year. However, since 2009/2010 the Council has only delivered approximately 500 units per annum. Consequently, there is agreement between the Appellant and the Council that the latter has consistently failed to deliver the minimum housing target and that the 20% buffer requirement applies. Having said this, in his report on the examination into the LP, dated 8 January 2015, the Inspector accepted that the Council had by then demonstrated a housing land supply equivalent to five years and one month (including the 20% buffer).
28. This conclusion was reached on the basis that the 20% buffer should be applied only to the five year requirement and not to the backlog in supply. Although the Appellant initially contended that the buffer should apply to the backlog, in which case the five year target would not have been met, this line of argument was not pursued. It is clear that applying the buffer to the backlog would increase the total housing requirement over the lifetime of the Plan, thus representing a penalty on the Council which is not intended by the NPPF. I thus find the LP Inspector's approach to be sound and that the Appellant was correct to concede that point.
29. There is no cogent evidence before me demonstrating that the supply has since dwindled to a level below the five year threshold. Consequently, the provisions of paragraph 49 of the NPPF, to the effect that relevant policies for the supply of housing should not be considered up-to-date if a five-year supply of deliverable housing sites is not demonstrated, are not engaged and the associated provisions of paragraph 14 do not apply. Nonetheless, the LP Inspector expressed concern that the Plan before him identified a residual requirement in Wincanton for only five dwellings up to 2028 (698 being already committed), but provided no indication of how any longer-term development needs, including those for affordable housing, would be met.
30. He found the Council's reliance on its Annual Monitoring Report to identify such needs to be unsound, as it would not reflect an appropriate strategy for the town and would incorporate insufficient flexibility. He therefore recommended that a commitment to review housing policies for Wincanton within three years be included in the LP and that a 'permissive approach' be taken towards the consideration of housing proposals prior to the adoption of the Council's Site Allocations Development Plan Document (DPD), anticipated by the end of that time frame.
31. Consequently, Policy SS5 of the adopted LP records that a permissive approach will be taken prior to the adoption of the Site Allocations DPD when considering

'directions of growth' at the Market Towns. It further states that the overall scale of growth and the wider policy framework will be key considerations in taking this approach, with the emphasis upon maintaining the established settlement hierarchy and ensuring sustainable levels of growth for all settlements. LP Policy SS1 identifies Wincanton as a Primary Market Town. Policy SS5 goes on to confirm that the same key considerations should also apply when considering housing proposals adjacent to the development area at Wincanton and certain other settlements.

32. It is common ground between the main parties that, in the light of this policy, the permissive approach essentially allows housing proposals relating to land on the edge of the development area at Wincanton to come forward and be assessed on their planning merits until such time as the Site Allocations DPD is adopted. In other words, for the time being, the fact that such sites lie outside the defined settlement area does not render their development for housing unacceptable in principle. Instead, such proposals fall to be assessed having regard to other material considerations in the same way as a site that lies within the development area. This being so, until such time as specific site allocations are made, the possibility that other land might be available in or on the edge of Wincanton to accommodate extra housing would not be a determining factor in assessing proposals of this kind.
33. Some have sought to argue that, having regard to the wording of LP Policy SS5, a permissive approach is only relevant in the context of Wincanton when considering 'directions of growth' as distinct from housing proposals. Moreover, the absence of a 'direction of growth' for housing in the adopted Plan is highlighted and ascribed to the small scale of the residual housing requirement. Reliance is also placed on the examining Inspector's comment in paragraph 100 of his report that '... there is currently no justification for increasing housing provision in the short term' in Wincanton.
34. However, the latter observation was made in the context of a suggestion that the direction of growth should encompass a mixed use scheme in order to increase the supply of housing. It does not, as some have suggested, convey a short term moratorium on larger scale housebuilding on the outskirts of the town pending adoption of the Site Allocations DPD. It is also clear that the examining Inspector found reliance on a residual requirement of only five units to be inadequate as an indication of how the longer term housing development needs of Wicanton would be met. Moreover, I am drawn to paragraph 89 of the Inspector's report, where he refers to the Council's proposal to add to Policy SS5 to explain that 'in appropriate circumstances it will take a permissive approach to housing (including in Crewkerne and Wincanton)'.
35. Additionally, paragraph 100 explicitly recommends that the Council reviews housing policies for Wincanton within three years and takes a permissive approach 'towards the consideration of housing proposals' in the meantime. I am also mindful that any housing proposal on the outskirts of town will require consideration to be given to 'directions of growth'. This being so, I give little credence to the alternative interpretation of the effect of LP Policy SS5 favoured by certain interested parties and find no sound basis for departing from that agreed between the Council and the Appellant. I do not therefore regard the proposal before me as 'premature'.

36. I have noted evidence supplied by interested parties to the effect that planning permissions have recently been granted for housing in and around Wincanton which, cumulatively, exceed the identified residual requirement of five units. Although these assertions are not fully substantiated with documentation, their accuracy has not been challenged and I have no reason to question them. However, nothing in the development plan specifies that the permissive approach should cease once a certain number of additional dwellings has been approved. Rather, it continues to apply until the adoption of the Site Allocations DPD.
37. Nor do I find on the evidence before me that the granting of planning permission for additional housing tempers the weight that should be attached to LP Policy SS5 for the purposes of my decision. In this regard I am mindful that the overall housing requirement for the Plan period as specified in LP Policy SS4 is a *minimum* requirement. It is logical that the specific requirement for Wincanton should be interpreted in the same way. It is also relevant that, taking into account the shortfall in delivery from the beginning of the LP period in 2006, the Council must deliver about 1046 dwellings per annum for the next five years just to meet that minimum overall requirement. This will necessitate a very substantial step change over and above past performance.
38. Having said this, I do not share the Appellant's view that the latter factor, or the somewhat 'knife-edge' status of the Council's current five year supply, are themselves material considerations that weigh in favour of granting planning permission, over and above the endorsement in Policy SS5 of the principle of housing development on the periphery of Wincanton. The permissive approach embodied in the policy is intended to address recent shortcomings in relation to housing land supply and already reflects the marginal nature of the existing five year surplus and need for a step change in supply.
39. It follows that adding a further presumption in favour of development based on these considerations for the purpose of the balancing exercise inherent in my decision would essentially amount to double-counting and, as such, would overstate the case for the appeal development. Nor should the permissive approach be interpreted as a *carte blanche* or 'green light' for housing development on sites in any peripheral location.
40. I conclude that, despite the five year housing land supply requirement being just about met at the present time, LP Policy SS5 continues to endorse the principle of land on the edge of Wincanton but outside the defined development area being developed for housing on the scale envisaged in this case. I further conclude that there are no considerations that justify setting aside or departing from the permissive approach embodied in that policy. The appeal proposal therefore falls to be assessed on its planning merits.

#### *Agricultural land*

41. The appeal site comprises land falling within Grades 1, 3a and 3b (excellent, good and moderate respectively) of the national Agricultural Land Classification. Annex 2 of the NPPF defines land in Grades 1, 2 and 3 as 'the best and most versatile agricultural land' (BMVAL). Paragraph 112 of the NPPF advises that the economic and other benefits of BMVAL should be taken into account and that, where significant development of agricultural land is



- demonstrated to be necessary, use of areas of poorer quality land should be sought in preference to that of higher quality.
42. All the Grade 1 land within the appeal site falls within the envisaged 'no build zone', with only Grade 3a and 3b land proposed for development. Loss of BMVAL would thus be limited. It could be argued that development of the Grade 3a and 3b land would fetter any practical agricultural use to which Grade 1 land within the 'no build zone' might be put, rendering it too small an area to be economically viable or attractive. However, the site itself is only 2.4 hectares in size and, as it does not abut any existing arable unit, would have to be farmed in isolation.
43. The larger site therefore has only limited agricultural potential. On the evidence before me, the site has not been used actively for agricultural purposes for several years. It is not therefore contributing to the local economy by reason of its BMVAL status. Nor am I aware that anyone has expressed interest in putting the land to agricultural use apart from an approach by Mr Tindal and his neighbour some nine years ago. Moreover, the steep topography and awkward shape of the site are considerable hindrances to practical farming of the kind that would benefit in particular from the use of BMVAL (ie arable production rather than grazing).
44. Indeed, the Council conceded at the Inquiry that the proposal would not constitute 'significant development' of agricultural land in the terms of paragraph 112. I concur and, in conclusion, find that the loss of Grade 3a land on the site to development and any consequent fettering of the agricultural potential of the safeguarded Grade 1 land would not affect the availability of BMVAL in the District to such an extent as to justify a refusal of planning permission. I therefore find no serious conflict with the relevant provisions of the NPPF.

#### *Character and appearance*

45. The appeal site is, for the most part, an open field and, whilst not presently in agricultural production, reads clearly as the beginning of the countryside beyond the northern perimeter of Wincanton. Its steep topography, treed surroundings and long outward views contribute towards a spacious, sylvan and resolutely rural sense of place. The wider landscape beyond the site is also attractive. Having said this, substantial boundary treatments go some way towards isolating the land from its setting, such that it is perceived primarily by those occupying adjacent properties or using the public rights of way that cross it and is not particularly prominent from afar.
46. An additional 25 houses outside the defined built up area of the town would, in all likelihood, inevitably and irrevocably change the character and appearance of the countryside, simply by extending the spread of built development, and that this in itself would cause harm to the rural sense of place. However, in circumstances that stem from a pressing need for additional housing which has not been met within the town's built confines and the permissive approach embodied in LP Policy SS5, impacts of this kind are unavoidable. I am also satisfied that, notwithstanding views to the contrary expressed by local residents, the proposal would integrate reasonably well with the existing pattern of development, the illustrative layout depicting a housing scheme which, for the most part, would tuck in neatly behind established frontage development.

47. Beyond the obvious consequence of built development taking place on agricultural land, I found that the higher density of the appeal scheme relative to its immediate environs, as demonstrated by the illustrative layout, would be unlikely to be readily apparent from public viewpoints outside the site. I am also mindful of the fact that the land is not subject to any special landscape designation or the source of any protected outward views. Indeed, the reduced area now proposed for development was evaluated in the Council's peripheral landscape study of Wincanton undertaken in 2008 as having a high capacity to accommodate built development.
48. I have considered the effect on the street scene of demolishing the existing bungalow at Troodos and the removal of vegetation to accommodate the proposed access link to the vehicular carriageway of Dancing Lane. The additional side road would be viewed from within the context of an established housing estate, so would not in itself appear incongruous. Moreover, the existing planting that would need to be removed from the island in front of Troodos is relatively low-lying and not of particular visual importance. Mature trees retained to the immediate west would offset its loss and ensure that this section of road retained its sylvan character.
49. I am therefore satisfied that, with appropriate landscape mitigation in place, the proposal is generally acceptable in visual impact terms. One caveat applies in this regard, namely the effect that the development would be likely to have on the setting of an adjacent Grade II listed building, Verrington Lodge. Another listed building, Verrington Lodge Barn, also lies adjacent to the appeal site. However, the potential effect on the setting of that property has been greatly mitigated by the reduction in the maximum number of proposed units to 25 and the introduction of the 'no build zone'.
50. Bearing this in mind, together with the housing land supply context in which I must reach my decision, I find the setting of Verrington Lodge to be the determinative consideration in assessing this particular issue. The property is an attractive detached two storey dwelling with a double roof plan, dating from around the late 18<sup>th</sup> century. It displays elevations in colour-washed local stone rubble and traditional sash windows beneath a clay plain tile roof. The dwelling's rear garden abuts the appeal site and is tiered on two levels. The building nestles at the eastern end of the appeal site, set considerably lower than most of the land proposed for development and existing dwellings fronting Dancing Lane.
51. The potentially dominating impact of the latter is mitigated considerably by steep banking and a substantial tree belt, which effectively preclude overlooking or visual intrusion from that direction. Having said this, the property does not read in isolation from other built development, being closely grouped with Verrington Lodge Barn to the immediate north. Whilst its neighbour would once have been an ancillary outbuilding, it is now a separate property with a domestic appearance which readily identifies it as a self-contained dwelling.
52. Paragraph 133 of the NPPF specifies that where a proposed development will lead to substantial harm to a designated heritage asset, consent should be refused unless it can be demonstrated that the substantial harm is necessary to achieve substantial public benefits that outweigh the harm and that certain specific requirements are met. Paragraph 134 adds that where a development

- proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.
53. Case law arising from the Court of Appeal's judgment in *Barnwell Manor Wind Energy Ltd v E Northants DC, English Heritage, National Trust & SSCLG* [2014] EWCA Civ 137 clarifies how a decision taker must address the issue of harm to the setting of a listed building. This decision followed on closely from that of the High Court in *North Norfolk DC v SSCLG & Mack* [2014] EWHC 279 (Admin), which provided that under paragraph 134 of the NPPF one did not carry out a simple balancing exercise but had to determine 'whether there is justification for overriding the presumption in favour of preservation'.
  54. This emphasised that in enacting section 66(1) of the Listed Buildings Act 1990, Parliament had intended that the desirability of preserving the settings of listed buildings should not simply be given careful consideration for the purpose of deciding whether there would be some harm, but should be given 'considerable importance and weight' when the decision taker carried out the balancing exercise, thus properly reflecting the statutory presumption that preservation is desirable. This is the case whether the harm is 'substantial' (and thus engages paragraph 133 of the NPPF) or is 'less than substantial' (engaging paragraph 134).
  55. The DCLG's Planning Practice Guidance (PPG) defines the setting of a heritage asset as the 'surroundings in which an asset is experienced'. The Council finds that the proposal would cause harm to the setting but that this, in the terms of the NPPF, would be 'less than substantial'. The above judgments make clear the point that less than substantial harm to the setting of a listed building does not equate to a less than substantial objection to the grant of planning permission. I have assessed the matter accordingly.
  56. The Council points out that the fact that the rear elevation of the listed building faces out over open countryside is an important part of its setting. I agree. Indeed, before the 'no build zone' was introduced and housing numbers reduced accordingly, the development of the northern part of the appeal site would certainly have caused harm to the setting of Verrington Lodge, albeit probably less than substantial. However, the revised proposal essentially reduces concerns relating to the setting of the Lodge to the potential effect of development at the north-eastern extremity of the area now proposed to accommodate housing.
  57. This is shown to be occupied by a pair of semi-detached dwellings, both labelled Plot 25 (there is no Plot 24 on the illustrative plan), positioned to the immediate west of the raised section of the listed building's garden and to the south-west of the house itself. The land in question slopes steeply upward from Verrington Lodge, such that any building it accommodates would be set significantly higher than that property. Potential over-dominance is therefore the principal consideration.
  58. It is apparent that any development on this part of the site would be readily visible from the garden of Verrington Lodge. It is also clear that both listed building and new development could be taken in simultaneously by those viewing from the adjacent public right of way. The setting of the Lodge would thus be altered. However, given that the property is already grouped with another dwelling I do not find that this would amount to harm, substantial or

otherwise. Indeed, the Council would seem to have reached a similar conclusion regarding the relationship between this part of the development and the rear garden of Verrington Lodge Barn, given the absence of any objection in relation thereto.

59. My own on-site assessment of potential visual impacts, undertaken from several directions and levels, leads me to conclude that inter-visibility between the listed building and whatever might be built on 'Plots 25' would be limited. The elevated position of the new development sounds a note of caution. However, I share the view of the Council's Conservation Officer that a more carefully considered alternative to the pair of semi-detached dwellings currently shown on the illustrative plan should satisfactorily address this concern and could be adequately dealt with at the reserved matters stage, keeping in mind that the very sensitive nature of this part of the site calls for a design of particularly high quality.
60. I do not therefore consider that dismissal of the appeal on the grounds of matters arising from this issue or an extension of the 'no build zone' to incorporate 'Plots 25' could be justified. Nor do I find it necessary to reduce the maximum number of dwellings to less than 25 in order to protect the setting of the listed building. Should it emerge that, as the Conservation Officer has implied, a single dwelling in this location is the only feasible alternative, the present illustrative scheme is at a sufficiently low density to demonstrate that, in all likelihood, an additional dwelling could be incorporated into the main body of the estate in a suitable way.
61. I note that, within the illustrative scheme, a spur from the access road and a surface water storage facility would lie within the 'no build zone' and would be in relatively close proximity to Verrington Lodge. However, despite the prevailing topography neither need be a feature raised significantly above ground level and I find that the visual impact of both could be mitigated by means of a carefully considered landscaping scheme. These matters thus fall legitimately to be addressed in the context of a detailed application in the wake of a grant of outline planning permission.
62. I conclude that the proposal would, by its very nature, cause a degree of harm to the character and appearance of the appeal site simply by reason of the loss of open countryside. This in itself engenders a degree of conflict with LP Policies EQ2 and EQ5. However, it is inevitable in the context of the permissive approach to housing development on the outskirts of the town and not so significant as to outweigh the principle of housing development on the site. Moreover, I am satisfied that no harm, substantial or otherwise, need be caused to the setting of the adjacent listed buildings and that, this being so, there is no significant conflict with LP Policy EQ3 or paragraphs 128, 133 or 134 of the NPPF.

#### *Highway safety*

63. In the context of this issue, the Council's objections to the proposal span the implications of increased traffic generated by the appeal development along Dancing Lane for the safety of children walking to and from school, the difficulties that large vehicles may experience in negotiating parts of Dancing Lane and the adequacy of the access arrangement that would link the appeal development to the existing public highway. I will consider each of these in turn.

64. The only data before me relating to 'existing' traffic flows along Dancing Lane is drawn from surveys conducted in January 2011. These comprised an automatic traffic count (ATC) at the entrance to Wincanton Community Hospital and a turning count at the junction of Dancing Lane with Springfield Road. Both were undertaken in association with another housing proposal on a different site and are now a little out-of-date. I am also mindful that January is not generally regarded as a 'neutral' month favoured by the PPG for surveys of this kind. Moreover, the ATC data reflects traffic levels along that part of Dancing Lane to the east of the junction with Springfield Road and the proposed access to the appeal site rather than that section to the west of the access that runs past the school.
65. Nonetheless, both the Appellant and the Council have relied on it in presenting their cases and there is no other technical data before me. I must therefore work with what I have. In this regard, the absence of a more up-to-date, comprehensive and seasonably appropriate base survey would be a matter for concern in a busier traffic environment. However, nothing before me suggests that any part of Dancing Lane already suffers from significant safety or capacity problems or that changes have taken place in close proximity to the appeal site in the last four years that are likely to affect significantly the amount of traffic carried by any part of Dancing Lane.
66. The ATC recorded 27 two-way movements between 0800 and 0900 hours, 42 between 0900 and 1000 hours, 42 between 1500 and 1600 hours and 21 between 1700 and 1800 hours in January 2011. On any reasonable assessment, this shows the eastern section of Dancing Lane to have been lightly trafficked even at the busiest times. A review of the turning count does not suggest a level of flow along the western part of Dancing Lane significantly greater than that to and from the hospital, despite the presence of the school. There are gaps in the survey data relating to traffic associated with existing dwellings in Dancing Lane and the school which did not pass or utilise the Springfield Road junction. However, bearing in mind that the school is dual-entranced, such that it can be accessed from both Dancing Lane and West Hill, this is likely to be relatively minor in scale.
67. Accident data reveals no existing safety issues. I am also reassured by the fact that the Appellant's Transport Statement (TS), submitted in accordance with advice in paragraph 32 of the NPPF was audited by the local highway authority (LHA), which found it to be sound. Reliance on the 2011 survey data is readily apparent from the TS and the Council has made no material criticism of its methodology. I am therefore content that, although not ideally suited to its purpose, the data before me is adequate as a starting point for my assessment of highway safety.
68. According to the Council, the reduced appeal scheme would generate, respectively, an additional 14, 10, 13 and 15 hourly two way movements at the proposed site access to the ATC figures listed above. Although the Appellant concurs, I am mindful of the Council's arguments that a higher than average degree of dependency on private vehicular transport might transpire. I will explore this possibility further when I come to assess the sustainability of the development but, for the time being, will assume on a hypothetical basis that this might be the case, as it is not clear whether the above figures have taken this into account.

69. Having done so I am satisfied that, even in those circumstances, Dancing Lane would remain lightly trafficked. It has been suggested by the Council that a 5% increase in traffic, which these figures indicate would be exceeded, is usually regarded as material. However, guidance to that effect was superseded in 2007 and current advice in the PPG requires judgments to be made on a case by case basis as to whether a proposal would generate significant amounts of movement. Such a finding might be justified in association with development on this scale in circumstances where road capacity was already stretched. However, nothing before me indicates that Dancing Lane does not have the existing capacity to accommodate an increase on this scale with ease.
70. The vehicular carriageway is predominantly 5.5 metres wide and I have seen no evidence to the effect that kerbside parking is likely to cause significant obstruction. Indeed, most, if not all, properties fronting the road enjoy off-street parking facilities. I acknowledge that the presence of a footway on only one side of the vehicular carriageway along part of Dancing Lane will lead pedestrians to cross the road. Nonetheless, the above figures further suggest that the likely increase in the frequency of vehicle movements stemming from the appeal development would not approach a level that would make it difficult for pedestrians to do this safely, even at the busiest times.
71. The Council and others have also drawn my attention to the fact that the road to the west of the school access has no footways. However, the presence of the alternative access in West Hill, which is served by footways, renders the school site permeable. This suggests that schoolchildren would be most unlikely to walk along that particular stretch, lying as it does between the two school entrances/exits. Given that there are other routes to and from the town centre that adult pedestrians could use, and bearing in mind the low level of increased traffic flow likely to stem from the appeal development, it has not been demonstrated that pedestrian safety along that stretch of road would be compromised.
72. I give little weight to the Council's concern that the carriageway of the eastern part of Dancing Lane narrows to 5.2 metres in width, at which point it would not be sufficient for two heavy goods vehicles to pass. This strikes me as an irrelevance in the context of the subject appeal, given that the proposed development is most unlikely to generate significant vehicular traffic of any kind in the direction of the hospital.
73. The Council has also criticised the safety of the access/egress arrangements to and from the appeal development itself. These have been designed on the basis that visibility from the proposed access is suitable for a road carrying traffic travelling at 25 mph and that the junction spacing to Springfield Road is appropriate for a 20 mph design speed. No speed surveys have been undertaken. However, having driven the road myself in both directions I consider it most unlikely that any driver exercising reasonable care would exceed 20 mph, given existing highway geometry and the presence of the junction.
74. I have seen nothing of substance to support the Council's argument that the introduction of the access as proposed would increase the likelihood of 'rear end shunts'. Although the envisaged estate road incorporates sharp bends, forward visibility for those following along Dancing Lane or Springfield Road would be good. Whilst vehicles would inevitably slow before making a turn

into the appeal development and negotiating the bends, they would be in clear sight of the driver behind. Having regard to the swept path analyses included in the TS I find the geometry of the access road itself to meet the required standards and I have no reason to question the LHA's endorsement in this regard.

75. I have noted the reference by one interested party to the County Council's standards relating to road access to agricultural vehicles. However, details of these provisions are not before me and, in any event, the swept path analyses referred to above lead me to reject as unfounded concerns that the proposed access road would not be able to accommodate agricultural vehicles safely. Notwithstanding this, I consider the likelihood of significant agricultural traffic making use of the access to be very slim in the light of my earlier findings on the limited agricultural potential of the 'no build zone'.
76. There is a suggestion on the part of the Council that, even if it is found that individual highway safety concerns are insignificant in themselves, they nonetheless amount cumulatively or incrementally to a substantial hazard. However, I give very little credence to this argument. If each aspect of the proposal is itself 'safe' in highways terms, there is no reason why they should add up to create a situation which is unsafe.
77. As I have previously indicated, the possibility that housing might be approved on the 'hospital site' to the east that would contribute to traffic along Dancing Lane carries only limited weight for the purposes of my decision. Whilst the Council chose to present its evidence on this appeal in such a way as to include cumulative traffic assessments of the two potential developments, I must bear in mind that there is no policy commitment to housing on that other site and no planning permission has been approved to date in relation thereto.
78. I am also mindful that in the absence of more comprehensive evidence relating to that other scheme and the opportunity to cross-examine those involved with it, I am not in a position to make a reliable assessment of its potential implications for the local traffic environment. Indeed, even attempting to do so in the context of determining this appeal could be prejudicial to the conduct and outcome of the forthcoming Inquiry. Any findings on that scheme on my part would therefore be most inappropriate. The timing of the Inquiries dictates that my decision will become a significant material consideration in determining that other appeal, rather than *vice versa*.
79. I conclude that the LHA's endorsement of the scheme before me was well-founded insofar as this concerned highway safety and that no evidence advanced since undermines the reliability of the LHA's findings. I therefore further conclude that the proposal would not result in unacceptable detriment to highway safety and that there is no significant conflict in this regard with LP Policies TA5 or TA6 or the relevant provisions of the NPPF.

### *Sustainability*

80. The Council contends that, taking into account local topography and the nature of the route, the appeal site is not within reasonable walking distance of primary schools, employment opportunities and the services and facilities available in the town centre. It therefore objects to the proposal on the grounds that, given a lack of regular bus services, future residents would have no option but to rely on the private car for travel purposes associated with

their daily needs and deems the proposed development unsustainable in locational terms.

81. I am mindful that the definition of sustainable development set out in national policy spans considerations somewhat broader in scope than location alone. I will therefore assess sustainability in those broader terms, having regard to the economic, social and environmental dimensions of sustainable development set out in paragraph 7 of the NPPF. With regard to economic considerations, additional housing would provide employment during the construction period and the eventual residential occupiers would contribute to the local economy.
82. In social terms, the development would provide much needed housing, at least 35% of which would be affordable housing, which would help to meet the needs of the local community. Moreover, the financial contributions secured by the Appellant's unilateral undertaking would enhance local facilities and thus support the community's social well-being. Both these roles therefore highlight positive sustainable attributes of the development.
83. By contrast, as I have already explained, the proposal would inevitably have a negative environmental impact by the simple reason of building over open countryside, despite my finding that the setting of Verrington Lodge could be adequately safeguarded. However, the weight that might reasonably be attributed to the relatively limited harm thus caused is tempered significantly by the 'permissive approach' to housing development promoted by LP Policy SS5. This brings me back to the disputed topic of the degree of dependence on private motor vehicles and the environmental consequences thereof.
84. In the light of the recently adopted LP Wincanton as a whole cannot be regarded as an unsustainable location unsuitable for further large scale development, despite assertions to the contrary made by some. However, I attach only limited weight to the findings of the Sustainability Appraisal undertaken by the Council some years ago in association with the preparation of its draft Core Strategy and cited by the Appellant in support of the proposal. This found the part of Wincanton and its periphery that includes the appeal site to be the highest scoring option in sustainability terms for locating new development. Nonetheless, setting aside its age, the appraisal is too 'broad brush' for my purposes and I will focus instead on more localised considerations.
85. In determining an appeal against the refusal of planning permission for residential development on the land to the rear of the hospital in August 2012 (ref no APP/R3325/A/12/2170082), my fellow Inspector concluded that the site before her was 'not in a particularly sustainable location'. Her reasoning focussed on the need for people to travel from the site to the town centre for employment and shopping or to access public transport that would enable them to commute to work further afield. She found there to be little provision for public transport to and from the town centre and that, given the gradient of footpaths and limited road crossing points *en route*, people would be unlikely to walk or cycle, thus leading to undue dependence on the private car.
86. Having walked the route into town from both that site and that which is before me, in both directions, I find little reason to disagree with my colleague's findings in the context of the case she was dealing with. The route to the town centre is largely common to both sites, featuring steep hills and relatively busy roads which some would not find conducive to walking or cycling, particularly



- when heading uphill on the way back to Dancing Lane. I also accept that the bus services readily accessible from both sites, although useful to a degree, are not so frequent as to provide a particularly convenient alternative means of transport.
87. The Council takes no issue with the distances from the current appeal site to local facilities set out in the Appellant's TS, albeit pointing out that these were 'garden gate' measurements taken from the appeal site access to the edge of the facilities in question. I concur, alternative distances suggested by others either being unsubstantiated or acknowledged as inaccurate (for example, Cllr Winder's estimates were taken from the entrance to the hospital car park rather than the appeal site).
88. I also acknowledge that some town centre facilities, including the wide range available in Wincanton High Street and both the town's primary schools, fall within the preferred maximum walking distance of 1200 metres prescribed in the Institute of Highways and Transportation's *Guidelines for Providing for Journeys on Foot*. Nor do I find serious conflict with the relevant provisions of national guidance in *Manual for Streets*, which advocates a degree of flexibility in applying distance thresholds and emphasises that walking offers the greatest potential to replace short car trips, particularly those under 2 kilometres.
89. Nonetheless, I do not dismiss lightly the effect that steep topography is likely to have on perceptions of acceptable walking distances or cycling routes. There is no clear indication that gradients are factored into the relevant guidance. Whilst the County Council's *Estate Roads in Somerset Design Guidance Notes* state that collector roads and footpaths should not generally be steeper than 1:14 (which, on the evidence before me, is the average gradient of Springfield Road), it would be unreasonable to interpret this as an indication that the gradient is comfortable for walkers or cyclists.
90. This being so, I readily acknowledge that local conditions in Wincanton will, for some, curtail the length of journeys which are likely to be undertaken by means other than the private car. This will apply particularly to those with modest impairment to mobility, whether by reason of mild disability or encumbrance with prams, pushchairs or heavy bags. However, having said this, it is also my view that many younger and fitter members of the local population, when unencumbered, would not be discouraged from tackling even the steepest route from town to the current appeal site by foot. Nor, in my assessment, are any of the roads on foot so busy as to deter walkers in that category.
91. Although my colleague did not conclude similarly, I am mindful that the site she considered is significantly further from the town centre than the site before me. The greater the distance, the less likely it will prove conducive to walking. As for cycling I note that, generally speaking, the longer the route into town the less challenging the gradient. In my experience, a slightly longer journey in order to avoid a challenging hill is unlikely to deter a cyclist and encourage them to take the car instead.
92. Notwithstanding the Appellant's contention to the contrary I recognise that, taking into account local topography, two of the town's supermarkets are beyond what could be deemed a reasonable walking distance. However, in my experience, most supermarket shopping trips are now undertaken by car irrespective of travel distance by simple reason of the bulk of goods purchased

at any one time. Small scale 'top up' shopping by many residents of the appeal development could, in my assessment, be undertaken with reasonable ease on foot or by cycle in trips to smaller shops in the High Street. Additionally, I must bear in mind that the appeal site is not wholly isolated from the town's facilities. The hospital, sports centre and, most significantly, the secondary school would all be within easy walking distance of the proposed development.

93. Moreover, I must have regard to the mitigating effects of the Appellant's TPS, the provisions of which would be secured by the unilateral undertaking. There is no indication before me that such a measure was before my colleague in determining the 2012 appeal. The TPS comprises several components which, cumulatively, are designed to encourage residents of the appeal development to embrace the principles of 'Green Travel'. It must be recognised that, within the context of a housing development as distinct from an employment facility, it is not possible to require individual residents to adhere to the TPS's objectives and doing so remains a matter of individual choice.
94. However, the measures include a number of enticements and information resources (a notice board, travel information packs, travel vouchers, car share promotion, car charging points and similar) aimed at reducing reliance on private vehicles powered by fossil fuels and thus facilitating adaptation to climate change and a move towards a low carbon economy, as promoted by the NPPF. The effectiveness of some of these measures, such as payments towards season tickets for use on public transport, would inevitably be tempered by the limitations of local bus services. Nonetheless, existing services would, in all probability, suit the arrangements of some local residents, who would therefore be likely to take advantage of the offers available to them.
95. I therefore reject the Council's contention that the TPS would have little meaningful effect, whilst nonetheless recognising its limitations. I also note that the TPS was found fully acceptable by the LHA and was a factor in its decision not to object to the planning application. This being so, and taking all other factors into account, I find that the level of dependency on the private car amongst occupiers of the appeal development would be greater than national and local policy seeks to achieve, but that residents would by no means be wholly or excessively reliant on that mode of transport.
96. The consequence would be a slightly deeper carbon footprint than would usually be associated with a 25 dwelling estate such that, overall, the proposal would not amount to 'sustainable development' for the purposes of the NPPF. However, its sustainability credentials are markedly better than those of the scheme considered by my colleague in 2012. Not only would the latter have been located further from the town centre, but it also seems to have lacked the mitigating measures provided in this case by the TPS. Moreover, the sustainability assessment in that other case was made with regard to locational considerations alone, without factoring in the economic and social dimensions which weigh in favour of the current proposal. It is also pertinent that sustainability was only one of a number of grounds for dismissal.

97. I am mindful that whilst national and local policy contains a presumption in favour of sustainable development, it does not preclude the granting of planning permission for proposals that do not comply with that definition and that, in this case, the appeal scheme does not fall far short of compliance. I therefore conclude that the proposal is consistent with LP Policies TA1 and TA4 and that there is only limited conflict in the context of this issue with LP Policy SD1 and the NPPF. Accordingly, I further conclude that the subject development would not be so unsustainable that this in itself gives grounds for dismissing the appeal.

### **Other Matters**

98. I have considered all the other matters raised. Although some have expressed concerns relating to the effect of the proposal on biodiversity, the Appellant has submitted a comprehensive ecological impact assessment that supports the scheme. Its conclusions have not been challenged effectively by cogent evidence and I find no significant conflict with LP Policy EQ4 in this regard. A number of interested parties contend that more suitable sites are available elsewhere on the periphery of Wincanton. However, in the light of the development plan's permissive approach there is no requirement for a comparative site selection process to be followed.
99. I have been referred to a recent appeal decision relating to housing development in Crewkerne with particular reference to questions of housing land supply and sustainability (ref no APP/R3325/A/13/2210545). However, each proposal falls to be assessed primarily on its own merits and, although the Council and certain interested parties perceive similarities between the two locations, it is apparent that there are also significant differences. In any event, that scheme was markedly larger in scale than that before me. Questions of precedent, raised by some in relation to the implications that a planning permission pursuant to this appeal might have for adjacent land, fall to be considered in the same way and thus carry little weight.
100. During the Inquiry, Mr Tindal presented compelling video evidence of existing flooding issues. However, I am mindful that it is not the role of the developer to remedy ongoing drainage problems, but merely to ensure that the proposed development is safe in those terms and does not worsen the prevailing situation. The Appellant's flood risk assessment and drainage strategy is comprehensive and has not been effectively challenged by means of conflicting and cogent technical evidence, notwithstanding the misgivings expressed by some.
101. I have noted the drainage-related comments of one of the Council's engineers, Mr Meecham, in response to a later planning application for development on the appeal site (ref no 14/04234/OUT). However, nothing before me suggests that the matters he refers to could not be addressed adequately by conditions. I therefore find no significant conflict with LP Policy EQ1. Issues relating to riparian water rights must be addressed separately from any planning permission and are not matters for me.
102. Although several properties that back onto the appeal site are not adequately screened at present along their rear boundaries, I am satisfied that there is ample scope for securing a detailed layout at the reserved matters stage that would not impinge unduly on the living conditions of

neighbouring residents. It is also clear that an architectural approach in keeping with the surrounding area could be devised.

103. I have taken into account the Cheshire East appeal decisions cited by the Council (ref nos APP/R0660/A/13/2209335, 2197529 & 2197532) and the content of the PPG insofar as these are relevant. However, nothing therein nor any other matter is of such significance as to outweigh the considerations that have led to my conclusions on the main issues. I am therefore minded to grant outline planning permission subject to conditions.

### **Conditions**

104. I have considered the conditions suggested by the Council and the Appellant in the Statement of Common Ground and discussed at the Inquiry, having regard to the advice set out in the relevant section of the PPG. In some cases I have subdivided or combined conditions and edited the suggested wording to reflect that advice. In doing so I have removed all suggested clauses that would provide an informal mechanism for departing from the fundamental requirements of conditions (eg ‘...unless otherwise agreed with the local planning authority’), as these would undermine the democratic nature of the planning process.
105. I have attached a condition listing the approved drawings in order to facilitate applications for minor material amendments. Conditions limiting the approved scheme to no more than 25 dwellings, protecting peripheral trees and vegetation and imposing a ‘no build zone’ safeguarded from most development are necessary in the interests of visual and residential amenity and the settings of the adjacent listed buildings. The approval and implementation of a surface water drainage scheme and the subsequent management thereof is required to protect the water environment and guard against flooding.
106. The need to safeguard ecological interests justifies requirements relating to the approval and implementation of measures for the enhancement of biodiversity, monitoring of badger setts and management/enhancement of the ‘no build zone’. Conditions to secure the construction of means of vehicular access and parking facilities to each dwelling at the appropriate times are necessary in the interests of highway safety. Adherence by the developers to an approved Construction Management Plan during the construction period is required to protect both residential amenity and highway safety.

### **Conclusion**

107. For the reasons given above I conclude that the appeal should be allowed and outline planning permission granted subject to conditions.

*Alan Woolnough*

INSPECTOR

## **APPEARANCES**

### FOR THE LOCAL PLANNING AUTHORITY:

David Fletcher	Of Counsel, instructed by South Somerset District Council
He called	
Mr M Baker BSc MICE CEng FCIT FCILT EurIng	Director, Mark Baker Consulting Limited
Mr M Muston BA(Hons) MPhil MRTPI	Director, Muston Planning
Ms L Pincombe BA(Hons) MCMi	Community Health and Leisure Manager, South Somerset District Council

### FOR THE APPELLANT:

Giles Cannock	Of Counsel, instructed by Mr N Jillings, Jillings Hutton Planning
He called	
Mr J McKechnie BA(Hons) PGDip CMILT MCIHT	Transportation Director, Hydrock Consultants Ltd
Mr N Jillings BSc(Hons) MA MRTPI	Director, Jillings Hutton Planning

### INTERESTED PERSONS:

Cllr N Colbert	Ward Councillor, South Somerset District Council
Mr T Carroll	Former Deputy Leader of South Somerset District Council
Cllr C Winder	Ward Councillor, South Somerset District Council
Mrs S Brennan	Local resident
Mr R Tindal	Local resident
Mr R Pratt	Local resident

## **DOCUMENTS SUBMITTED OR SUPPLIED AT THE INQUIRY OR DURING THE ADJOURNMENT**

- 1 List of documents put in on Days 1 and 2 of the Inquiry, supplied by the Council
- 2 Amendment to Ms Pincombe's proof, submitted by the Council
- 3 Revised draft and executed copies of unilateral undertaking, submitted by the Appellant
- 4 Full copy of the South Somerset Local Plan 2011-2018 (adopted March 2015), supplied by the Council
- 5 Appeal decisions ref nos APP/R0660/A/13/2209335, 2197529 & 2197532, submitted by the Council
- 6 Statement by Mr T Carroll, submitted by Mr Carroll
- 7 Statement by Cllr N Colbert, submitted by Cllr Colbert
- 8 Statement by Cllr C Winder and addendum thereto, submitted by Cllr Winder
- 9 Statement by Mrs S Brennan, submitted by Mrs Brennan
- 10 Notification/consultation letters dated 20 August 2014, supplied by the Council
- 11 Extract from *Estate Roads in Somerset: Design Guidance Notes*, supplied by the Appellant
- 12 Discussion paper and minutes dated 5 July 2011 concerning direction of growth for Wincanton, submitted by the Council
- 13 Extracts from and full copies of Transport Statements associated with appeal ref nos APP/R3325/A/12/2170082 & 14/2222697, submitted by the Council
- 14 Letter dated 15 April 2015 from Shakespeares Legal LLP, submitted by the Appellant
- 15 Email dated 16 April 2015 from Mr D Clews to Ms S Hickey, submitted by the Council
- 16 Email dated 14 May 2015 from Mr D Clews to the Planning Inspectorate, submitted by the Council
- 17 Statement by Mr R Pratt with attachments, submitted by Mr Pratt
- 18 Copy of Tree Preservation Order ref no WRDC (Wincanton No 2) 1971, supplied by the Council
- 19 Letter dated 1 June 2015 from Mrs S Trott, submitted by Mrs Trott
- 20 Statement by Mr R Tindal with attachments, submitted by Mr Tindal
- 21 Officer reports relating to planning application ref no 14/00479/FUL, identifying a five year housing land supply in South Somerset, submitted by Mr Carroll
- 22 Appeal decision ref no APP/R3325/A/14/2223834, relating to land south of Bayford Hill, Wincanton and dated 27 January 2015, submitted by Mr Carroll
- 23 Letter dated 2 June 2015 from Shakespeares Legal LLP, submitted by the Appellant
- 24 Decision notice for refusal of planning permission ref no 14/02107/OUT, relating to windmill Farm, Wincanton and dated 23 September 2014, supplied by the Council
- 25 Written costs application, submitted by the Appellant

## **PLANS**

- A.1 to A.4 Application drawings comprising location plans at 1:2500 and 1:5000 scale, drawing no 1174/03 dated 30 July 2014 and drawing no 13780/T04
- B Superseded application drawing no 1174/03 dated 12 March 2014
- C Extract from *Cycling and Walking in Wincanton*, submitted by the Appellant
- D Accessibility Plan ref no 13780/T02A, submitted by the Appellant
- E Draft Core Strategy Preferred Options Inset Map 13 Wincanton, submitted by the Appellant
- F Results of Land Drainage Site Investigations, ref no 13780-SKC100A, submitted by the Appellant

## **SCHEDULE OF CONDITIONS**

The outline planning permission hereby granted is subject to the following 14 conditions:

- 1) Details of the appearance, landscaping, layout, and scale of the development hereby permitted (hereinafter called 'the reserved matters') shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission. The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
- 3) The development hereby permitted shall be carried out in accordance with the following approved plans, subject to any departure therefrom required by other conditions attached to this permission: location plans at 1:2500 and 1:5000 scales and drawing no 13780/T04 dated 15 April 2014.
- 4) The development hereby approved shall comprise no more than 25 dwellings.
- 5) The development hereby permitted shall not commence until such time as a surface water drainage scheme (to include a full drainage masterplan, associated drainage calculations and a management plan governing future responsibility for and maintenance of the scheme) has been submitted to and approved in writing by the local planning authority. The scheme shall be fully implemented and subsequently maintained and managed in accordance with the timing/phasing arrangements and management plan embodied within it.
- 6) As part of a reserved matters application, details of a 'no build zone' shall be submitted in plan form to and approved in writing by the local planning authority. The 'no build zone' shall correspond closely to the area shown as undeveloped on illustrative layout site layout plan ref no 1174/03 dated 30 July 2014. No development shall take place within the 'no build zone' other than any that may be required in association with any approved drainage scheme.
- 7) As part of a reserved matters application, details of measures for the enhancement of biodiversity, to include a landscape and ecology enhancement and management plan relating specifically to the 'no build zone', shall be submitted to and approved in writing by the local planning authority. These measures shall be implemented in accordance with the approved details.
- 8) Prior to, and within 2 months of, the commencement of each significant stage of ground works, an update survey for badger setts shall be undertaken by a competent person, the identity of whom shall first be submitted to and approved in writing by the local planning authority. A schedule of the said significant stages shall be submitted to and approved in writing by the local planning authority before any development commences. If any badger setts are found to be present within 30 metres (including on adjoining land) of any area of activity, the works shall not proceed until a method statement for the protection of badgers has been submitted to and approved in writing by the local planning authority and any necessary Natural England licences have been obtained. Any method statement thus approved shall be implemented in full in the approved manner.



- 9) No work shall commence on the site until the works within the public highway shown on drawing no 13780/T04 dated 15 April 2014 have been fully implemented. A detailed design and specification for those works shall be submitted to and approved in writing by the local planning authority before any works take place and shall thereafter be adhered to in full.
- 10) Any proposed roads approved at the reserved matters stage, including footpaths and turning spaces where applicable, shall be constructed in such a manner as to ensure that each dwelling, before it is occupied, shall be served by a properly consolidated and surfaced footpath and carriageway constructed to at least base course level between the dwelling and the existing public highway of Dancing Lane. The roads shall subsequently be completed in accordance with an approved timetable. The timetable shall be submitted to and agreed in writing by the local planning authority before any dwelling so served is first occupied.
- 11) Before each dwelling hereby permitted is first occupied, a properly consolidated and surfaced access linking it to the relevant access road shall be constructed in accordance with details which shall first be submitted to and approved in writing by the local planning authority. These accesses shall not be surfaced in loose stone or gravel.
- 12) As part of a reserved matters application, a plan showing parking spaces in accordance with the Somerset County Council Parking Strategy shall be submitted to and approved in writing by the local planning authority. Each parking space shall be properly consolidated in the approved manner before any dwelling it is intended to serve is first occupied and shall thereafter be made available at all times solely for the parking of vehicles in association with those dwellings.
- 13) The development hereby permitted shall not commence until a Construction Management Plan has been submitted to and approved in writing by the local planning authority. The plan shall include details of construction vehicle movements, construction operation hours, construction vehicular routes to and from the site, construction delivery hours, expected numbers of construction vehicles per day, vehicle parking for contractors, specific measures to be adopted to mitigate construction impacts in pursuance of compliance with the Environmental Code of Construction Practice and a scheme to encourage the use of public transport by contractors. The plan as approved shall be fully adhered to at all times throughout the construction period.
- 14) The development hereby permitted shall not commence until details of a scheme for the protection of trees and vegetation around the periphery of the site, and specifically in the vicinity of Verrington Lodge, has been submitted to and approved in writing by the local planning authority. The scheme as approved shall be adhered to in full throughout all phases of construction activity relevant thereto.

END OF SCHEDULE

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