
Appeal Decision

Hearing held on 8 March 2016

Site visit made on 9 March 2016

by John Woolcock BNatRes(Hons) MURP DipLaw MRTPI

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

Decision date: 03 June 2016

Appeal Ref: APP/R3325/W/15/3133660

Land west of Gainsborough, Milborne Port, DT9 5BA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Waddeton Park Ltd against the decision of South Somerset District Council.
 - The application No.14/03377/OUT, dated 17 July 2014, was refused by notice dated 24 June 2015.
 - The development proposed is 54 residential units (including 35% affordable housing), care home (Use Class C2), allotments, heritage interpretation board(s), associated access, parking, landscaping and infrastructure.
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Application for costs

1. At the Hearing an application for costs was made by Waddeton Park Ltd against South Somerset District Council. This application is the subject of a separate Decision.

Decision

2. The appeal is dismissed.

Preliminary matters

3. The appeal application is in outline, but with access and layout to be determined as part of the application. It was clarified at the Hearing that the Council considered a revised scheme from that originally submitted with the application. The revised layout set the proposed housing further back from the A30 and from part of the western boundary of the site, modified the configuration of the open area towards the south-eastern corner of the site, and removed a proposed balancing pond. It is the scheme shown on Drawing No.131201 L 02 01 revision L that I have used in my consideration of the layout and access details. The site boundary is edged red on the Location Plan Drawing No.131201 L 01 01 revision B. I have had regard to any other details concerning scale, appearance and landscaping shown on the submitted drawing as illustrative material not forming part of the application.
4. A planning obligation by unilateral undertaking, dated 7 March 2016, provides for 35% of the dwellings to be affordable housing, along with provision for public open space, education and leisure contributions, off-site highway improvements and a travel plan.¹

¹ HD3.

5. Historic England (HE) was not originally consulted on the application, and subsequently submitted a written representation at the appeal stage, dated 2 February 2016. I requested a statement from HE setting out in more detail its views on the effects of the proposal on heritage assets. I also suggested that it would be helpful if a representative from HE could attend the Hearing. This request was declined, but HE did submit a written statement, dated **26 February 2016, setting out further details about HE's involvement in this case and the advice given.** This was copied to the main parties to the appeal and discussed at the Hearing.
6. After the close of the Hearing an email, dated 21 March 2016, from Philip Davis referred to a road traffic accident at the junction of Gainsborough and Crackmore.² The parties were invited to comment on this matter. I have taken into account the response from the appellant.³ The Council did not respond.

Site and surrounds

7. The 3.44 ha site comprises a single field bounded by mature hedgerows, which is used for pasture. The site is located at the junction of the roads called Gainsborough and Crackmore. The latter is part of the A30. The appeal site lies towards the western side of the village of Milborne Port, to the west of Gainsborough and to the north of Crackmore,. The site slopes down to the south-east from a high point of over 100 m AOD in the west, to less than 90 m AOD in the east. A group of trees (G1) near to the southern boundary of the appeal site, adjacent to the A30, and a horse chestnut tree (T1) in the middle of the field some 60 m north of G1, are the subject of a Tree Preservation Order (TPO). The field comprises grade 3a agricultural land.
8. Milborne Port Conservation Area comprises two separate elements. The larger area encompasses the historic core of the village to the south-east of the appeal site. The other part of the conservation area includes the historic part of New Town, a 19th Century planned estate, which lies some 260 m to the north of the appeal site.
9. The appellant's **Heritage Assessment states that there are no listed buildings** within the appeal site, but it was confirmed at the site visit that this is not correct. The grade II listed former Pump House, which is located at the corner of the A30 and Gainsborough is included within the red line appeal site boundary, but the site does not encompass the historic well to the south-west of the former Pump House. It was clear at my site visit that the former Pump House and the adjoining stone retaining wall are included in the conservation area.
10. The Church of St John the Evangelist, which is located to the east of the appeal site, is a grade I listed building. The former County Primary School, a grade II listed building, lies on the other side of Gainsborough to the appeal site, near to its south-eastern corner. This building has a prominent clock tower. Sherborne House located to the east of Rosemary Street is also a grade II listed building. So too, is the former Vicarage, **now Tapp's Hotel**, which is sited to the south of Sherborne House. The Pump House, Primary School and Vicarage were all designed by Henry Hall, and this association adds to the

² HD22.

³ HD23.

historical value of these assets. An Area of High Archaeological Potential extends into the extreme eastern part of the appeal site. The grade I Registered Park and Garden at Sherborne Park lies about 300 m to the west of the site. The garden at Ven House, some 450 m to the south-east of the site, is registered grade II.

Proposed development

11. Of the 54 dwellings proposed 19 would be affordable units. The layout provides for allotments in the north-western corner of the appeal site, adjoining existing allotments. The care home, comprising five separate blocks, would be sited in the north-eastern corner of the site. An area of open space would be located along the A30, extending around T1, and continuing along the higher part of the site towards the proposed allotments. The scheme proposes a new access off Gainsborough, with the existing gated access for pedestrian use. The former Pump House would be retained and an interpretation board is proposed.

Main issues

12. The main issues in this appeal are:
- (a) The effects of the proposed development on the character and appearance of the area.
 - (b) The effects of the proposed development on heritage assets.
 - (c) The effects of the proposed development on highway safety.
 - (d) Whether the loss of best and most versatile agricultural land would be justified, having regard to relevant policy and guidance.

Planning policy

13. The development plan for the area includes the South Somerset Local Plan 2006-2028, which was adopted in March 2015 (LP). Milborne Port is designated in LP Policy SS1 as a Rural Centre, a market town with a local service role, where provision for development will be made that meets local housing need, extends local services and supports economic activity appropriate to the scale of the settlement. The appeal site lies outside the Development Area defined in the LP.
14. LP Policy SD1 has similar provisions to the *National Planning Policy Framework* (hereinafter the *Framework*) regarding sustainable development. LP Policy SS4 sets out the district-wide housing provision, and LP Policy SS5 provides that the distribution would be in line with a total housing requirement of 279 in Milborne Port, of which 77 additional dwellings would be required above existing commitments at April 2012.
15. LP Policy EQ2 provides that development will be designed to achieve a high quality, which promotes local distinctiveness and preserves or enhances the character and appearance of the district. LP Policy EQ3 provides that heritage assets will be conserved and where appropriate enhanced for their historic significance and important contribution to local distinctiveness, character and sense of place. The policy expects new development to, amongst other things, safeguard the significance, character, setting and local distinctiveness of heritage assets.

16. The parties at the Hearing accepted that South Somerset District Council cannot demonstrate a five-year supply of deliverable housing sites.⁴ Paragraph 49 of the **Framework** provides that housing applications should be considered in the context of the presumption in favour of sustainable development, and that relevant policies for the supply of housing should not be considered to be up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites. Policies SS4 and SS5 are relevant in this regard. So too, are Policies EQ2 and EQ3, because they could in effect constrain supply and so are relevant policies for the supply of housing. Therefore, for decision-taking, paragraph 14 of the **Framework** provides that the presumption in favour of sustainable development means that 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 (Limb 1), or specific **Framework** policies indicate that the development should be restricted (Limb 2). I return to this later. I have also had regard to the **Planning Practice Guidance** (hereinafter the **Guidance**).
17. I am required by Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving the setting of a listed building. For that part of the appeal site that lies within the conservation area, I have paid special attention to the desirability of preserving or enhancing the character or the appearance of the area. I have also had regard to the provisions of the **Framework** concerning development affecting the setting of a heritage asset.⁵

Reasons

Character and appearance

18. **The Council's reason for refusal and evidence to the Hearing refer to the appeal scheme resulting in the loss of the distinctive setting and character of the village by reason of its layout, location and close proximity to heritage assets. This provides the substance of the Council's combined landscape/heritage case against the proposal. However, in determining this appeal I have dealt with character and appearance as a separate issue from the effects on heritage assets, although I acknowledge that there is some overlap here between these considerations with respect to the setting of the village and heritage assets.**
19. In terms of landscape character, a change from an open field on the edge of the village to urban development would be of moderate-major significance. But this would be likely to be so for any expansion of the settlement that provided the additional housing considered necessary for Milborne Port. What is particularly significant about the appeal site is that it includes an open field adjoining an important approach to the village. The transition from rural surrounds to village edge is marked sharply here, by the line of mature trees along the A30, with open agricultural land beyond, contrasting sharply with the built form along the northern side of Gainsborough, which is highlighted by the landmark school tower. Houses in the southern part of the proposed development would dilute this effect and diminish the impact of the tower as a landscape feature. This would harm the landscape resource. I deal next with visual effects.

⁴ The undisputed current figure is 4 years 4 months.

⁵ Paragraph 129 of the **Framework**.

20. Views from Gainsborough would initially be adversely affected by the removal of a substantial length of the existing hedgerow to construct the new access to the site.⁶ But in time replacement landscaping would soften the outlook, and buildings along this frontage could be seen as an extension of built form that reflected development along the northern side of Gainsborough. However, the houses in the southern part of the proposed development would be visible from the A30 and adjoining footway, albeit glimpsed between the roadside trees. It was evident at my site visit that these buildings would mark the start of the village in this approach, but they would project forward of the adjoining dwellings, which would be set back an increasing distance from the A30 so as to maintain views of the school tower. This contrived layout would have an adverse effect on views from the A30. Landscaping would not disguise the appearance of these houses in such a prominent location. They would appear as an intrusive and unexpected feature in the countryside setting surrounding the village, which did not relate in any way to the village itself.
21. On the first main issue, I find that the proposal would have a significant adverse effect on the character and appearance of the area, and so would conflict with LP Policy EQ2.

Heritage assets

22. HE's primary concern relates to the impact of the scheme on the character and experience at the gateway to the conservation area, and erosion of the separation between the main conservation area and the New Town sub-area. HE finds that the development would cause some moderate harm to the setting of the conservation area, and that the overall level of harm that would be caused to the conservation area would be minor. HE considers that the proposal would have some minor impact on views towards the grade I listed Church of St John the Evangelist from the periphery of the New Town estate, but concludes that harm to the setting of the church would be negligible. The historic estate of Sherborne Castle lies to the west of the site, but HE considers that this has limited visual interaction with the village.
23. HE also notes that the listed former County Primary School, former Pump House and Vicarage contribute to the character and historic interest of Milborne Port Conservation Area because of their architectural style, age and the gateway that their presence creates when entering the historic village core. HE concluded that the development would impact on the setting of grade II listed heritage assets within close proximity of the site, but that these issues do not fall within the statutory remit of HE, and therefore recommendations were deferred to the local conservation advice from South Somerset District Council.
24. Given the separation distance and intervening development, I concur with HE that the proposal would have a negligible effect on the significance of the grade I listed Church of St John the Evangelist. It was apparent at my site visit that the same would apply to the likely effects on Sherborne House, which relates more to the nearby road, and the former Vicarage, which is located in a secluded position. The proposal would also have a negligible impact on the historic estate of Sherborne Castle because of the distance and local topography. Similar considerations apply to the garden at Ven House. The proposed development would not be within the setting of these gardens. I turn next to consider the grade II listed heritage assets within close proximity of the

⁶ Site Photographs D and E of the appellant's Landscape and Visual Assessment.

- site, which HE thought would be impacted, but did not provide any specific comments.
25. The former Pump House dates from the 19th Century, but incorporates a 17th Century or earlier porch. The Pump House is a small composite structure from historic components, but it is in a prominent position on the edge of the village. It has significant local historical value and its setting at the edge of the village is an important element of its historical context and enhances the appreciation of its value. This is best appreciated from Sherborne Road to the east, but is also apparent from the junction with Gainsborough. The open field rising up behind the former Pump House adds to the significance of the asset because it emphasises its relationship with the settlement. The proposed development would change the setting of the Pump House. From some vantage points its existing background of an open field and T1 would be replaced by houses located in the southern part of the proposed development.⁷ This would detract significantly from the setting of the former Pump House, as it would no longer be seen outside the edge of the settlement.
26. The former County Primary School is an impressive late 19th Century building, which is considered to be very advanced in design for that date. The front elevation facing Sherborne Road has an attractive colonnade, but the rear elevation, which is seen from Gainsborough, includes a tall tower. It is this elevation that is depicted in the photograph in the listing description for the grade II building. The tower was clearly designed to be a feature that marked out the building and its importance in the village. The listing description states **that it is "a 5 stage tower; having small quatrefoil in diamond lights to stage 2, single cusped light stage 3, ashlar to stage 4 with clock faces North and South under an apron, a wood open bell turret and steep pitched spirelet with weathervane."** It is evident that the tower was intended to dominate its surroundings.
27. It is clear from the photographs and from my site visits that the school tower is an attractive and dominant feature on the edge of the village. The open field opposite to the school provides space for the tower to be properly appreciated as the impressive landmark feature it was designed to be, and so the field makes a positive contribution to the significance of the asset.⁸ The proposed development would change the setting of this listed building. From the A30, the proposed houses on the southern part of the appeal site would be sited so as not to block out altogether views towards the tower. However, by reason of their likely apparent height in the local landscape, resulting from their proximity to the viewer, along with the local topography, these buildings would dominate views towards what is currently a focal point at the start of the village. This would significantly diminish the importance of the clock tower as a prominent way-marker on the approach to the village centre. I disagree with **the appellant's view that the clock tower's prominence would not be challenged** by the appeal scheme. The proposed layout would adversely affect the setting of the former County Primary School, and this would harm the significance of the heritage asset.
28. The appellant's Heritage Assessment divides Milborne Port Conservation Area into sub-areas. Conservation Area sub-area 8 Western Approach/Sherborne Road is the area nearest to the appeal site. The appeal site forms part of the

⁷ Site Photographs A and B of the appellant's Landscape and Visual Assessment.

⁸ Site Photographs J and K of the appellant's Landscape and Visual Assessment.

- agricultural landscape to the west of the settlement fringe. Its role as a gateway into the settlement contributes to its aesthetic value, and the proposed development would, to some extent, have an adverse effect on the setting of this part of the conservation area.
29. New Town is included within sub-area 9. The appeal site forms part of the wider agricultural landscape surrounding sub-area 9, which emphasises its historic context as an isolated planned estate, with considerable historic value. However, the existing development between the appeal site and the New Town part of the conservation area already erodes this effect. This development includes a dwelling, which was formerly a police station, a large area of allotments and a large recreation/play space, along with a doctors' surgery and its car park. The proposed development would not, therefore, unduly affect the relationship between the different parts of the conservation area.
30. The proposed layout shows a footway along the inside of the existing hedgerow along Gainsborough, which appears to indicate a link with the proposed widened footway along the western side of Gainsborough. There is a difference in ground level here and a stone retaining wall, but the details about this link are not before me, and would be for consideration at reserved matter stage.
31. Subject to appropriate scale, appearance and landscaping, which are reserved matters, I consider that there would be a reasonable prospect that a detailed scheme could be devised that would be likely to preserve both the character and the appearance of Milborne Port Conservation Area itself. However, modern development, of the layout proposed, located near to the edge of the village, would to some extent have an adverse effect on the historic setting of the conservation area. I consider that the proposal would have a minor adverse effect on the setting of Milborne Port Conservation Area.
32. The proposal would not have any adverse impact on other heritage assets in the locality. The archaeological survey work undertaken indicates that this is a matter that could be reasonably addressed by the imposition of an appropriate planning condition. The proposal to provide interpretation boards to explain the significance of the local heritage assets would be beneficial.
33. The proposed development would have a minor effect on the setting of Milborne Port Conservation Area, but a significant adverse impact on the setting of the nearby former County Primary School, and the setting of the former Pump House, both of which are listed buildings. The harm to the significance of these assets brings the proposal into conflict with LP Policy EQ3. I find that the proposal would result in 'less than substantial harm' to the significance of designated heritage assets, which in accordance with paragraph 134 of the *Framework* should be weighed against the public benefits of the scheme.

Highway safety

34. **The Council's second reason for refusal states that** it has not been demonstrated that the local road network can safely accommodate the additional traffic without severe adverse impact on highway safety. **At the Hearing the Council did not dispute the appellants' predicted traffic generation** from the proposed development, or its distribution, but maintained an objection on highway safety grounds. The objection concerned the operation of the junction of Gainsborough with the A30, taking into account the proximity of

nearby junctions with Rosemary Street (32 m) and Goathill Road (51 m). However, no convincing evidence was adduced to indicate that junction modelling should include the Goathill Road junction. The Council acknowledged that the PICARDY programme can only model 3 armed junctions, crossroads and staggered 4 armed junctions, but did not at any time indicate what other information it considered would be necessary to demonstrate that the network could safely accommodate the likely additional traffic.

35. With respect to the Rosemary Street junction, the Council did not dispute that the proposed development would only add 7 left turn movements out of Gainsborough in the am peak hour, and 4 in the pm peak hour. No evidence was submitted by the Council in support of its concern that vehicles attempting to leave Rosemary Street would have increased left turn traffic from Gainsborough to negotiate, which would be well within the stopping distance of the vehicle, and that this would have significant safety implications. In particular, no evidence was submitted about the speed of vehicles exiting left from Gainsborough when they had reached the Rosemary Street junction, or of vehicle speeds into and out of Rosemary Street. I observed how this junction operated for a considerable time on my unaccompanied site visit. Given the likely number of vehicles making this movement, and likely vehicle speeds, it seems to me that the additional traffic from the appeal scheme would have a negligible effect on the risk to those negotiating these junctions with the A30.
36. The scheme would add to pedestrian flows in the locality, where some of the footways are currently sub-standard. However, with the imposition of appropriate planning conditions, along with the provisions in the planning obligation, I do not consider that this would pose an insurmountable obstacle to the development proceeding. These measures would include pedestrian improvements in the vicinity of the bus stop on the A30, along with widening of the footway on the western side of Gainsborough to 1.8 m near to its junction with the A30.⁹ This would **narrow Gainsborough's carriageway to 5.1 m, but** would still permit a car and HGV to pass.¹⁰ It would also make it clearer that two large vehicles attempting to pass would need to reduce their speed, and for one vehicle to give way to the other. I do not consider that this would increase the risk to road users.
37. I have taken into account the accident record, and note that this does not record all collisions. However, recorded injury accidents do not indicate an underlying problem on the local network that would be exacerbated by vehicles from the proposed development. There are few confirmed details about the recent accident on the A30, and nothing to indicate at this stage that it was associated with a highway problem in the vicinity of the appeal site that would be made worse by traffic from the appeal scheme.
38. There is local concern about the adequacy of parking provision, and that the care home might result in on-street parking. However, it seems to me that the proposed layout could provide for adequate parking in accordance with relevant standards, and that this is a matter that could be dealt with in determining the details of reserved matters.
39. On the evidence before me, there are no grounds to dismiss the appeal for highway safety reasons. I find that the proposed development would not

⁹ As shown on Drawing No.14315/T06.

¹⁰ HD17.

conflict with LP Policy TA5 concerning either safe and convenient access on foot, cycle and by public and private transport that addresses the needs of all, or by compromising the safety and/or function of the local or strategic road networks in terms of volume and type of traffic generated, or inadequate parking.

Agricultural land

40. The ***Framework*** provides that the planning system should contribute to and enhance the natural and local environment by, amongst other things, protecting and enhancing soils. It also adds that account should be given to the economic and other benefits of the best and most versatile agricultural land, defined as grades 1, 2 and 3a land, and where significant development of agricultural land is necessary areas of poorer quality land should be preferred to that of a higher quality. This preference is reiterated in the ***Guidance***.
41. The proposal would utilise 3.44 ha of grade 3a agricultural land. I was referred to the current organic status of the land. If this is so, it is farmed in this way at the discretion of the current farmer, and its management in the future could be changed. I do not, therefore, consider that any organic status of the land would elevate its significance for the purposes of assessing the use of best and most versatile agricultural land, having regard to relevant planning policy.
42. However, the land surrounding the village is predominantly grade 3a land.¹¹ It is difficult to envisage how the village could expand to provide for the necessary additional dwellings without using some grade 3a land. I do not consider that the loss of 3.44 ha of the best and most versatile agricultural land would, in the circumstances that apply here, weigh significantly against the proposal.

Other matters

43. Local residents question the need for the proposed care home. There is evidence of interest in this proposal.¹² Furthermore, it could gain support from LP Policy HG6. But its completion is not secured or tied to the completion of dwellings on the appeal site. The Council cited two instances where permitted schemes that originally included care homes had proceeded without construction of the care homes. If built, a care home on this site would provide a useful local facility, local employment and a contribution towards the local economy.¹³ However, in the absence of any mechanism to secure its completion, not much weight can be given to the potential for such benefits.
44. The additional allotments included in the appeal scheme would be useful. But there is nothing to indicate a specific need for these allotments, particularly as they would adjoin a substantial area of existing allotments. I have no reason to doubt local reservations about the need for the allotments. Their provision as part of this scheme should, accordingly, be given some, but limited weight as a beneficial element of the proposal in the overall planning balance. However, the open space provision would be beneficial and would accord with LP Policy HW1.

¹¹ HD6.

¹² HD18.

¹³ LP text at paragraph 8.84 notes that more employment opportunities should be provided in Milborne Port, and could potentially reduce the level of out-commuting.

45. There is local concern about the adequacy of local infrastructure and services to provide for the additional demand that would result from the proposed development. However, this is a reasonably accessible location for development of this scale, given the facilities in the village and the availability of public transport. The obligation would provide an appropriate contribution towards improved capacity and facilities at Milborne Port Primary School. I have taken into account all other matters raised in evidence, but have found nothing to outweigh the main considerations that lead to my conclusions.

Planning balance

46. I am required to decide this appeal having regard to the development plan, and to make my determination in accordance with it, unless material considerations indicate otherwise. I have found that the scheme would be contrary to LP Policies EQ2 and EQ3, and would conflict with the development plan as a whole. But given that relevant policies are out-of-date, the ***Framework*** is a very important material consideration. Relevant development plan policies are out-of-date, but that does not mean that they should be disregarded. The purpose of these policies is a factor to be taken into account, along with the scale of the housing shortfall, in determining what weight should be given to relevant policies that are out-of-date.

47. The purpose of Policy EQ2, insofar as it seeks high quality design and promotion of local distinctiveness, accords with the provisions of the ***Framework***. It should be given some, but limited weight given the housing shortfall. But in my view, more weight can be given to Policy EQ3, because its underlying purpose reflects national policy, which provides that in considering the impact of a proposed development on the significance of a designated heritage asset great weight should be given to the assets conservation, and that significance can be harmed by development within its setting. Furthermore, the aims of Policy EQ3 are similar to those which underlie the statutory requirements for listed buildings and conservation areas. I have, therefore, given Policy EQ3 significant weight, notwithstanding that it is out-of-date for the purposes of applying the ***Framework***.

48. The likely harm to the significance of designated heritage assets would be sufficient to bring the proposal into conflict with provisions of the ***Framework*** that provide for the recognition of heritage assets as an irreplaceable resource, and for their conservation in a manner appropriate to their significance.¹⁴ The level of harm to designated heritage assets that I have identified, and the specific policy conflict, mean that the development should be restricted. As a result, the presumption in favour of sustainable development, which for decision-taking here means granting permission unless Limb 1 or Limb 2 of paragraph 14 of the ***Framework*** is relevant, is dis-applied in this case.

49. The ***Framework*** therefore requires an un-weighted balancing exercise of combined harm against overall benefits, having regard to the economic, social and environmental dimensions of sustainable development. This is not the balancing exercise that the appellant applied in the submissions made to the Hearing. I have found that the proposal would result in less than substantial harm to the significance of designated heritage assets, which must be weighed

¹⁴ Paragraph 126 of the ***Framework*** refers to local plan strategies, but that does not mean that it has no relevance in decision-taking.

directly against the public benefits of the proposal.¹⁵ In doing so, I have given considerable weight and importance to the desirability of preserving the setting of listed buildings. The harm that would result from the appeal scheme to the setting of the former Pump House, and to the former County Primary School, weighs heavily against the proposal. The additional environmental harm to the character and appearance of the area is also significant and tips the balance further against allowing the appeal.

50. The benefits of the scheme include an important contribution to the supply of housing, and provision of 19 affordable units, in an area of need. The proposed open space and allotments could be beneficial to residents other than those occupying the dwellings on the appeal site. Construction would result in employment opportunities, and local spending, both during construction and thereafter by occupiers, would contribute to the local economy. The care home, if completed, would provide local jobs, but for the reasons set out above this potential can only be given limited weight. These socio-economic benefits would be significant, but in my judgement would not be sufficient to outweigh the environmental harm I have identified. I find that the planning balance here falls against allowing the appeal. The proposal would not be sustainable development, and would not accord with the provisions of the *Framework*, or comply with LP Policy SD1.

Conclusions

51. I have found that the planning balance here falls against the proposed development. The proposal would conflict with the development plan, but the *Framework* is of particular significance in determining this appeal. However, I have found that the scheme would not gain support from national policy. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

John Woolcock

Inspector

¹⁵ Paragraph 134 of the *Framework*.

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

David Norris MA MRTPI	Development Manager.
Mark Baker BSc MICE C Eng FCIT FCILT Eur Ing	Mark Baker Consulting Ltd.
Robert Archer DipLA CMLI	Landscape Architect.

FOR THE APPELLANT:

David Corsellis LLB Honours Law	Stephens Scown LLP.
Mark Scoot MRTPI MRICS	Amethyst Planning.
Richard Morton BA(Hons) MCIfA	Cotswold Archaeology.
Chris Britton BSc(Hons) MLA CMLI	Chris Britton Landscape Associates.
Mark Rowe BA(Hons) MCIHT	Hydock Consultants Ltd.
Gerry Keay	Waddeton Park Ltd.

INTERESTED PERSONS:

Baron Rochard	Local resident.
Philip Davis	Local resident.
Claud Leonard	Local resident.
Richard Douglas	Local resident.
Steve Underwood	Local resident.
Cllr Sarah Dyke-Bracher	Ward Member.
Eleanor Wilson	Local resident.
Martin Richie	Local resident.
Sally Phipps	Local resident.
Bob Walden	Local resident.
Howard Bullivant	Local resident.
Andrew Martin	Local resident.
John Edmunds	Local resident.
Patricia Dawson	Local resident.
Rod Johnson	Local resident.
Ian Stewart	Local resident.
Roy Crowe	Local resident.
Wendy House	Local resident.
Mark Gay	Local resident.
John Rioke	Local resident.
Mr Johnston	Local resident.

Other local residents also joined in the discussion and asked questions about suggested planning conditions, but it is not possible to identify all those who spoke from the completed attendance list. The above appearances may not, therefore, include all those who contributed to the discussion at the Hearing.

DOCUMENTS SUBMITTED AT THE HEARING (HD)

Document 1	Appeal Ref: APP/R3325/W/15/3131031 Martock.
Document 2	Appeal Ref: APP/R3325/W/15/3003376 Yeovil.
Document 3	Planning obligation by unilateral undertaking dated 7 March 2016.
Document 4	Appellant's Highways Summary Sheet.
Document 5	Statement of Common Ground.
Document 6	Milborne Port extracts from Strategic Housing Land Availability Assessment. Including Agricultural Land Quality Map.
Document 7	South Somerset District Council's response to application for costs.
Document 8	Application for a full or partial award of costs by appellant.
Document 9 & 10	Statements by Eleanor Wilson.
Document 11	Statement by Claud Leonard, along with email dated 12 February 2016.
Document 12	Traffic count 29 February 2016 by R&J Johnson and S Phipps.
Document 13	Statement by Richard Douglas, along with email dated 11 February 2016.
Document 14	Statement by Philip Davis, along with letter dated 6 February 2016.
Document 15	Email from Rod Johnson dated 12 February 2016.
Document 16	Representation including photographs from JBA Rochard dated 5 February 2016.
Document 17	Annotated Drawing No. 14315/T06B indicating 5.1 m carriageway remaining after proposed footway widening.
Document 18	Letter from Castleoak dated 4 March 2016 concerning interest in care home development.
Document 19	Emails dated 27 May 2015 re education contribution.
Document 20	Supplementary evidence on planning obligations from community, health and leisure.
Document 21	Suggested conditions.

Documents submitted after the close of the Hearing

Document 22	Email dated 21 March 2016 from Philip Davis regarding accident at the junction of Gainsborough and Crackmore.
Document 23	Appellant's email dated 4 April 2016 commenting on the accident.

SCHEDULE OF PLANS

Plan A	Location Plan Drawing No.131201 L 01 01 revision B.
Plan B	Drawing No.131201 L 02 01 revision L.

Costs Decision

Hearing held on 8 March 2016

Site visit made on 9 March 2016

by John Woolcock BNatRes(Hons) MURP DipLaw MRTPI

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

Decision date: 03 June 2016

Costs application in relation to Appeal Ref: APP/R3325/W/15/3133660 Land west of Gainsborough, Milborne Port, DT9 5BA

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Waddeton Park Ltd for a full, and in the alternative, a partial award of costs against South Somerset District Council.
 - The hearing was in connection with an appeal against the refusal of outline planning permission for development of 54 residential units (including 35% affordable housing), care home (Use Class C2), allotments, heritage interpretation board(s), associated access, parking, landscaping and infrastructure.
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Decision

1. The application for a full award of costs is refused, but the application for a partial award of costs is allowed in the terms set out below.

The submissions for Waddeton Park Ltd

2. The costs application was submitted in writing.¹ The following additional points were made orally. Consultees and the Council's officers were clear about the acceptability of the proposal. The Member's response lacked objective analysis. At the Hearing the Council was unable to indicate the degree of harm likely to heritage assets. The Council's case does not demonstrate any serious residual impact, and strayed beyond the reasons for refusal in referring to the travel plan.

The response by South Somerset District Council

3. The response was made in writing.² In summary Members have a responsibility to take into account the views of consultees, but are entitled to come to a different view. There is a degree of subjectivity in assessing landscape impact and effect on historic assets. The PICARDY model cannot be relied upon for this type of junction and Members used their local experience to come to a view about traffic impact given that the evidence submitted was not comprehensive. No evidence was provided to justify the loss of best and most versatile agricultural land. Members carried out an appropriate planning balance and there is no evidence of unreasonable behaviour or wasted expenses.

¹ HD8.

² HD7.

Reasons

4. The *Planning Practice Guidance* advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
5. **The Council's case regarding** the effects on the setting of the village and heritage assets did not lack substance. The way the Council dealt with these issues was not unreasonable. The weight given to the effects on agricultural land in the planning balance is a matter of judgement. I have come to a different conclusion to the Council about this. However, I do not consider that it was unreasonable for the Council to exercise its judgement in the way that it did, or to find conflict with national policy on these grounds. There are no grounds to justify a full award of costs. I deal next with the application for a partial award, which concerns the way the Council dealt with highway issues.
6. It was appropriate to discuss the travel plan at the Hearing. This discussion did not introduce a new reason for refusal, because if targets were not met additional traffic might use the A30/Gainsborough junction.
7. **The Council's second reason for refusal states that it has not been** demonstrated that the local road network can safely accommodate the additional traffic without severe adverse impact on highways safety. **At the Hearing the Council did not dispute the appellant's predicted traffic generation** from the proposed development, or its distribution, but maintained an objection on highway safety grounds. This concerned the operation of the junction of Gainsborough with the A30, taking into account the proximity of the junctions with Rosemary Street and Goathill Road. However, the Council did not at any time indicate what other information it required to demonstrate that the network could safely accommodate the likely additional traffic.
8. With respect to the Rosemary Street junction, the Council did not dispute the predicted left turn movements out of Gainsborough in the peak hours attributable to the proposed development. Furthermore, no evidence was adduced by the Council in support of its concern that vehicles attempting to leave Rosemary Street would have increased left turn traffic from Gainsborough to negotiate which would be well within the stopping distance of the vehicle, and that this would have significant safety implications. No evidence about vehicle speeds was submitted in support of this assertion. I consider that the **mainstay of the Council's concerns** about highway safety lacks substance. As a detailed and technical matter this is not something that could reasonably be determined solely by judgement. Members did not take any alternative technical advice in forming their stance contrary to their **officers' professional advice. I find that the Council's approach to highway safety was unreasonable.**
9. Local residents also raised concerns about the highway impact of the proposal, and it would have been likely that the appellant would have taken measures to address these concerns at the Hearing, **irrespective of the Council's case.** However, it seems to me, in the absence of a highway objection from the Council, that this might have been a matter that the appellant believed could have been adequately addressed by its planning expert, without the need for a highways expert to appear. **The Council's stance probably denied the appellant this choice. I find, therefore, that the Council's unreasonable behaviour was**

likely to have resulted in the appellant engaging a highways expert to appear at the Hearing, which might otherwise not have been necessary.

10. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the **Guidance**, has been demonstrated, and that the application for a partial award of costs should be allowed.

Costs Order

11. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that South Somerset District Council shall pay to Waddeton Park Ltd, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in the appearance of a highways expert at the Hearing.
12. The applicant is now invited to submit to South Somerset District Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

John Woolcock

Inspector