

**Statement of Common Ground**

**Between Mead Realisations Ltd and North Somerset Council**

**Land At Lynchmead Farm,  
Ebdon Road,  
Weston-super-Mare**

**Appeal Reference Number: APP/D0121/W/22/3313624**

**March 2023**

**This Statement of Common Ground has been agreed between the Appellant (Mead Realisations Ltd) and the LPA (North Somerset Council).**

Signed on behalf of the Appellant: *Jan Jewson*

Date: 13.3.23

Signed on behalf of the LPA:

*NRichards*

Date: 13.3.23

**1. Introduction**

1.1 This Statement of Common Ground (SOCG) has been prepared in relation to an appeal against the decision by North Somerset Council (NSC) to refuse planning permission at Lynchmead Farm, Weston-super-Mare.

1.2 The SOCG is set out under the following headings:

1. Introduction
2. The Appeal Application
3. Appeal Site Background
4. The Development Plan
5. Matters not in dispute
6. Matters in dispute
7. Planning Conditions
8. Planning Obligations

**Appendix 1: Appeal Document List**

## 2. The Appeal Application

2.1 The description of development is as follows:

*“Outline planning application for a residential development of up to 75no. dwellings and associated infrastructure, with access for approval and appearance, scale, layout and landscaping reserved for subsequent approval”.*

2.2 The appeal application was validated on the 9<sup>th</sup> July 2020 under LPA reference 20/P/1579/OUT. The appeal application was accompanied by the plans and supporting documents as set out in the table at **Appendix 1**. The application was refused by the Council under delegated powers on the 8<sup>th</sup> July 2022 for the following reasons:

*1. Housing development should only be permitted in a 'High Probability' (3a) floodplain when it is necessary, and where it has been demonstrated through a flood risk sequential test that there are no 'reasonably available' sites in areas with a lower flood risk where the development can be provided. The Council consider that the applicant's Flood Risk Sequential Test fails to demonstrate this, and the proposed development is therefore unnecessary in a "High Probability" floodplain, which is contrary to Policy CS3 of the North Somerset Local Plan, paragraphs 159, 162 and 163 of the National Planning Policy Framework.*

*2. The proposal would not provide wider sustainability benefits to the community that outweigh the flood risk. The application therefore fails the Exception Test. This is contrary to Policy CS3 of the North Somerset Local Plan, paragraphs 164, and 165 of the National Planning Policy Framework.*

*3. The application has failed to demonstrate that the impacts of artificial lighting during construction and occupation of the proposed development, which has a clear potential to cause unacceptable harm to European Protected Species (Bats) which use the site, can be mitigated. This is contrary to policy CS4 of the North Somerset Core Strategy, policy DM8 of the North Somerset Sites and Policies Plan Part 1, and paragraphs 174,179 and 180 of the National Planning Policy Framework.*

2.3 A copy of the Council's delegated officer's report and decision notice will be provided as Core Documents.

**3. Appeal Site Background**

- 3.1 The appeal site comprises approximately 4.9 hectares of agricultural land as shown edged red on the site location plan. The site is located on the north side of Ebdon Road, adjacent to the Settlement Boundary of Weston-super-Mare, North Somerset.
- 3.2 Weston-super-Mare is the primary town in North Somerset and the major economic centre in North Somerset, catering for the employment, retail, social and leisure needs of the population.
- 3.3 The site includes two whole fields and part of two other fields. The fields are contiguous at the northern part of the site, but they are otherwise divided into two parts by cottages fronting Ebdon Road. Site boundaries include hedgerows and ditches. Vehicle access to the site is currently provided from a farm access in Ebdon Road. The 'Oxhouse' industrial site adjoins the north-east boundary of the site.
- 3.4 According to the Council's planning website no other relevant planning applications have been submitted on the site in recent years. Pre-application planning advice was obtained from the Council in 2018 (reference number 17/P/5072/PRE).
- 3.5 The proposed development does not fall within Schedule 1 or 2 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 and is not within a 'sensitive area' as defined in the Regulations. A formal EIA screening opinion is not, therefore, required.

#### **4. The Development Plan**

4.1 The Development Plan comprises the following documents relevant to this appeal:

- North Somerset Core Strategy (2017)
- Sites and Policies Part 1: Development Management Policies (2016)
- Sites and Policies Plan part 2: Site Allocations Plan (2018).

4.2 The Council is preparing a new local plan. A Regulation 18 Preferred Options Consultation Draft was published in March 2022. This plan is currently of limited weight. The most recent Local Development Scheme (dated November 2022) anticipates adoption in March 2024.

4.3 In relation to this appeal the National Planning Policy Framework and National Planning Practice Guidance are material considerations, as are the following Supplementary Planning Documents and guidance notes:

- North Somerset Parking Standards SPD
- Creating Sustainable Buildings and Places in North Somerset SPD
- North Somerset and Mendip Bats Special Area of Conservation (SAC) Guidance on Development SPD
- Accessible Housing Needs Assessment SPD
- Development Contributions SPD
- Employment led delivery at Weston-super-Mare SPD
- Affordable Housing SPD
- Travel Plans SPD
- Biodiversity and Trees SPD
- North Somerset Development Management Advice Note: Development and flood risk issues

**5. Matters Not In Dispute**

5.1 The site is within the defended tidal Flood Zone 3a.

5.2 The only areas of dispute between the parties relate to those matters set out in the Council's decision notice dated 8<sup>th</sup> July 2022 relating to sequential test, exceptions test (part a) and the impact of lighting on European Protected Species (bats). Matters relating to ecology (outside of those relating to the impact of lighting on bats), drainage, heritage, landscape, highways, design, noise, air quality, ground conditions, renewable energy, sustainable design and residential amenity are not in dispute (except for where they may have implications for managing flood risk), subject to appropriate conditions and obligations and any future reserved matters application.

5.3 Other than those policies referred to in the reasons for refusal (and associated national planning practice and local guidance related to those reasons) the parties agree that subject to appropriate conditions and obligations the appeal proposal accords with national policy and guidance, the development plan and other supplementary guidance

5.4 For the purposes of this appeal, it is agreed that the Council is unable to demonstrate a five-year housing land supply (5YHLS) in accordance with the tested position set out in the Farleigh Farm, Backwell appeal of 22<sup>nd</sup> June 2022 (Appeal ref APP/D0121/W/21/3285624) standing at 3.5 years. It is agreed that this shortfall is very significant.

**6. Matters In Dispute**

- 6.1 This section sets out the matters in dispute between the appellant and the LPA.
- 6.2 As set out in the 1<sup>st</sup> reason for refusal the Council considers that the submitted sequential test fails to demonstrate that there are no 'reasonably available' sites in areas with a lower flood risk where the development can be provided.
- 6.3 As set out in the 2<sup>nd</sup> reason for refusal the Council considers that the proposal would not provide wider sustainability benefits to the community that outweigh the flood risk and therefore part a of the exceptions test is failed. It should be noted that consideration of the exceptions test is only required in the event that the sequential test shows that it isn't possible to use an alternative site, and this is not the LPA's conclusion.
- 6.4 The appellant considers that the Council's assessment of the sequential test is unjustified and in terms of the exceptions test the proposals would clearly result in wider sustainability benefits. As a result, the appellant considers that there is no reason to withhold planning permission on flood risk grounds.
- 6.5 It is the Council's position that as the site is in an area at risk of flooding NPPF Paragraph 11 d) i. and Footnote 7 are relevant. The appellant considers that Paragraph 11d) ii applies.
- 6.5 In relation to the 3<sup>rd</sup> reason for refusal it is anticipated that a suitably worded condition can be agreed.



**7. Planning Conditions**

7.1 The appellant and Council will agree draft planning conditions prior to the appeal being heard.

**8. Planning Obligations**

8.1 In the event that the appeal is allowed it is agreed (subject to receiving justification from the LPA) that a legal agreement will be required to secure planning obligations as follows:

- 30% of the dwellings to be as 'affordable housing' to be on site as part of the development.
- Financial contribution of £122,500 towards employment support for those in the local labour market.
- Construction Phase 'Local Labour Agreement and Action Plan' bound by the principles of the 'Construction Training Industry Board Client Based Approach'.
- £120 per dwelling towards sustainable Travel
- The cost of installing and maintaining ten fire hydrants
- On site Green Infrastructure including Neighbourhood Open Space; Woodland; a Conservation Site; green buffer zones; an equipped children's/toddler play area, and maintenance sums, unless these are paid for by a private management company

8.2 The appellant and LPA will endeavour to agree details of the legal agreement prior to the inquiry.

**Appendix 1**

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Appeal Application List of Documents

Document reference		Date submitted to LPA	Description with Appeal Document Reference
A	1	Jun-20	A1. 20_P_1579_OUT-APPLICATIONFORMREDACTED-2943702
A	2	Jun-20	A2. 180809_L_01_01_LOCATION_PLAN_REV_F-2943674
A	3	Jun-20	A3. 180809_L_02_02_D_ILLUSTRATIVE_MASTERPLAN-2943677
A	4	Jun-20	A4. PLANNING_STATEMENT_LYNCHMEAD_FARM_JUNE_2020-2943694
A	5	Jun-20	A5. 180809_R_02_01_C_DESIGN_AND_ACCESS_STATEMENT-2943678
A	6	Jun-20	A6. STATEMENT_OF_COMMUNITY_INVOLVEMENT_JUNE_2020-2943698
A	7	Jun-20	A7. SECTION_106_-_DRAFT_HEADS_OF_TERMS_JUNE_2020-2943695
A	8	Jun-20	A8. AFFORDABLE_HOUSING_STATEMENT_JUNE_2020-2943693
A	9	Jun-20	A9. LANDSCAPE_AND_VISUAL_APPRAISAL-2943688
A	10	Jun-20	A10. ECOLOGICAL_IMPACT_ASSESSMENT-2943680
A	11	Jun-20	A11. TRANSPORT_ASSESSMENT-2943691
A	12	Jun-20	A12. 184199-GA-01-REV_B_SITE_ACCESS_ARRANGEMENTS_-_VISIBILITY_SPLAYS-2943690
A	13	Jun-20	A13. INC. SURFACE_WATER_DRAINAGE_STRATEGY-2943681
A	14	Jun-20	A14. HISTORIC_ENVIRONMENT_ASSESSMENT-2943676
A	15a	Jun-20	A15a. GEOPHYSICAL_SURVEY_-_PART1-2943685
A	15b	Jun-20	A15b. GEOPHYSICAL_SURVEY_-_PART2-2943683
A	15c	Jun-20	A15c. GEOPHYSICAL_SURVEY_-_PART3-2943682
A	16	Jun-20	A16. ARBORICULTURAL_IMPACT_ASSESSMENT_REPORT-2943671
A	17	Jun-20	A17. 05201_TREE_PROTECTION_PLAN_01_AND_02-2943673
A	18a	Jun-20	A18a. 05201_-_TREE_CONSTRAINTS_PLAN_01-2943672
A	18b	Jun-20	A18b. 05201_TREE_CONSTRAINTS_PLAN_02-2943670
A	19	Jun-20	A19. 05201_-_TREE_SURVEY_SCHEDULE_07.03.19-2943669
A	20	Jun-20	A20. ARCHAEOLOGICAL_MAGNETOMETER_SURVEY-2943675
A	21	Jun-20	A21. TOPOGRAPHICAL_SURVEY-2943689
A	22	Jun-20	A22. RESIDENTIAL-DWELLING-UNITS_SUPPLEMENTARY-INFORMATION-LYNCHMEAD-2943696
A	23	Jun-20	A23. LYNCHMEAD_FARM_INDICATIVE_SPECIES_LIST__LANDSCAPING_-_2943686
A	24	Jun-20	A24. FLOODING_-_SEQUENTIAL_TEST_REPORT_JUNE_2020-2943697
A	25	Jun-20	A25. ENERGY_AND_SUSTAINABILITY_STATEMENT-2943679
A	26	Jun-20	A26. 2714_05_ILLUSTRATIVE_LANDSCAPE_MASTERPLAN_A-2943687
A	27	Jun-20	A27. 20_P_1579_OUT-COVER_LETTER_-_JUNE_2020-2947463

B	1	Aug-20	B1. APRIL_2020_-_V2_TRANSPORT_ASSESSMENT-2955499
C	1	Nov-20	C1. ACD1953_LYNCHMEAD_FM__WSM_ARCHAEOLOGY_REPORT-3005052
D	1	Jan-21	D1. ARCHAEOLOGICAL_EVALUATION_REPORT-3004606
D	2	Jan-21	D2. 9010_LYNCHMEAD_ALC-3005051
E	1	Mar-21	E1. SWEPT_PATH_ANALYSIS_OF_PROPOSEDSITE_ACCESS_ROUNDABOUT_LARGE_REFUSE_VEHICLE_4-3020419
E	2	Mar-21	E2. SWEPT_PATH_ANALYSIS_OF_PROPOSEDSITE_ACCESS_ROUNDABOUT_LARGE_REFUSE_VEHICLE_4-3020418
E	3	Mar-21	E3. SITE_ACCESS_GENERAL_ARRANGEMENT-3020417
E	4	Mar-21	E4. 184199_RSA_DESIGNERS_RESPONSE_V0B-3020416
E	5	Mar-21	E5. 184199_FRA_LYNCHMEAD_FARM_ADDENDUM_V1-3020413
E	6	Mar-21	E6. R01-AP-184199-LYNCHMEAD_FARM-RSAS1_-_120121-3020420
F	1	Apr-21	F1. ARBORICULTURAL_IMPACT_ASSESSMENT_REPORT-3039617
F	2	Apr-21	F2. TREE_PROTECTION_PLAN_02-3039615
F	3	Apr-21	F3. TREE_PROTECTION_PLAN_01-3039616
G	1	Jul-21	G1. TREE_SURVEY_10_06_21-3067816
G	2	Jul-21	G2. TREE_CONSTRAINTS_PLAN-3067815
G	3	Jul-21	G3. ARBORICULTURAL_IMPACT_ASSESSMENT_REPORT-3067814
G	4	Jul-21	G4. TREE_PROTECTION_PLAN_REV_C-3067813
H	1	Oct-21	H1. P886_LYNCHMEAD_STATIC_DATA-3105614
H	2	Oct-21	H2. 211020_P886_LYNCHMEAD_FARM_ECOLOGY_RESPONSE-3105613
I	1	Dec-21	I1. TECH_NOTE_-_ECOLOGY_RESPONSE_NOVEMBER_2021-3115992
I	2	Dec-21	I2. P887_EBDON_RD_BAT_STATIC_DATA-3115991
J	1	Mar-22	J1. 08_03_22_-_LIGHTING_IMPACT_ASSESSMENT-3144413
J	2	Mar-22	J2. 04_03_22_-_LIGHTING_STATEMENT_-_TECHNICAL_NOTE-3144412
K	1	Mar-22	K1. SITES_CONSIDERED_IN_SEQUENTIAL_TEST-3145694
K	2	May-22	K2. ADDITIONAL_SITE_ASSESSMENTS_2022_SHLAA-3166164