



Appeal Decision

Inquiry held on 6 June 2022 to 15 June 2022

Site visits made on 5 June, 9 June and 16 June 2022

by L Fleming BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2nd August 2022

Appeal Ref: APP/D0121/W/22/3292961

Land to the east of Church Lane and north of Front Street, Churchill, BS25 5LZ, 343802, 160012

- The appeal is made under section 78 of the Town and Country Planning Act 1990 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 Beechcroft Land Ltd against North Somerset Council.
 - The application Ref 21/P/2049/OUT is dated 13 July 2021.
 - The development proposed is the erection of up to 62 dwellings (30% affordable housing) alongside a new access, landscaping and other associated works.
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Decision

1. The appeal is dismissed, and planning permission is refused.

Preliminary Matters and Main Issues

2. The application was submitted in outline with approval being sought for detailed matters relating to the access only. I have dealt with the appeal on that basis, treating the plans as illustrative only except where they relate to the access. An amended illustrative layout was submitted on 28 April 2022¹, this shows a revised alignment of a public right of way (PRoW) and minor associated illustrative layout changes. This plan has been considered in the evidence and I have accepted and considered it in reaching my decision. I am satisfied no party has been prejudiced by my approach.
3. A Case Management Conference (CMC) was held on 21 April 2022. The purpose of the conference was to provide a structure for the ongoing management of the case and the presentation of evidence. There was no discussion of the merits of the respective cases.
4. A legal agreement under S106 of the Town and Country Planning Act 1990, was submitted after the close of the Inquiry. This provides for 30% of the proposed housing as affordable housing, home to school travel contributions, transport contributions towards bus stop and highways safety improvements on Church Lane, on-site open space provision and maintenance (including ecological areas) and fire safety. I am satisfied these obligations are directly, fairly and reasonably related and that they are necessary to make the proposed development acceptable in planning terms. As such they accord with Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as

¹ Drawing No 194414-IDL-01-ZZ-DR-A-C10005-S1-P12

amended). I have therefore had regard to these planning obligations in my determination of the appeal.

5. In response to my request the main parties made written submissions² on the implications of two other appeal decisions made shortly after the close of the Inquiry. I have taken those written submissions into account in my decision. Among other things those submissions include common ground that the five-year housing land supply position is in the range of 3.46 and 2.96 years. Although I heard evidence and led a round table session on that matter, I have no reason to doubt the agreed position and for the reasons that follow it has not been necessary for me to assess in detail the Council's housing land supply as this would not have influenced the outcome of the appeal. I have not therefore considered the matter of five-year land supply as a main issue and instead dealt with it as part of my overall planning balance.
6. The main issues are therefore:
 - the effect of the proposal on the character and appearance of the area, the Churchill Conservation Area, the grade I listed St John's Church and the landscape including the Mendip Hills Area of Outstanding Natural Beauty.
 - whether the site would be a sustainable location for the proposed development having regard to the development plan and national policies.

Reasons

Character and appearance

Context

7. The appeal scheme would adjoin the village of Churchill. Churchill is split into three separate built-up areas each with its separate settlement boundary³. The appeal site would adjoin one of those areas which includes the Churchill Conservation Area (CA) and is referred to hereafter as Churchill's historic core.
8. The appeal site is made up of three fields bound by hedging. It is located on the corner of Front Street and Church Lane and mainly used for grazing horses. Other than a small single storey building, a manege, other horse related paraphernalia, two veteran trees, PRoW's passing through it, fencing and vegetation around the edges the appeal site appears as open grassland.
9. Opposite the appeal site on the corner of Church Lane and Churchill Green (where it meets Front Street and outside the CA) is Churchill Academy, a large educational campus. To the south of Churchill's historic core are the Mendip Hills and the Mendip Hills Area of Outstanding Natural Beauty (AONB).
10. The PRoW's passing through the appeal site connect Front Street with Windmill Hill, an area of high ground and the grade I listed St John's Church on Church Lane opposite the northwest corner of the appeal site. The part of the appeal site which adjoins Front Street forms part of the CA, the rest of the site adjoins the CA and is within its setting.

² Inquiry Documents 34 & 35

³ Inquiry Document 20

The Significance of Churchill Conservation Area

11. The CA covers the majority of Churchill's historic core and some undeveloped land around its edges including part of the appeal site. It includes Churchill Green at Arben Bloom up to where Front Street meets Dinghurst Road (A368)⁴ as well as a small number of properties on Dinghurst Road.
12. It is not my role to determine whether or not parts of the CA should have been included in the CA boundary when it was designated. I accept that not all elements of a conservation area will necessarily contribute to its significance⁵ and inevitably parts of a conservation area will contribute more to its significance than others. However, the fact remains part of Churchill which includes part of the appeal site has been formally designated as a conservation area and I must assess the effect of the appeal scheme on the CA as a whole.
13. Front Street, almost spans the full extent of the CA. It is characterised by C16 to C19, mainly detached properties positioned a similar distance from the road set in relatively spacious plots. These properties are finished in a variety of traditional materials such as stone and slate and have attractive traditional architectural detailing with some notable Georgian, Victorian and Edwardian architectural features.
14. There are some modern dwellings, some off small side roads (such as Orchard Walk) and some on smaller infill plots behind or between the traditional properties. However, these are generally of simple form and of a lesser architectural interest than the traditional properties. The parts of Churchill Green and Dinghurst Road within the CA also accommodate a variety of traditional properties although these are arranged more loosely than the linear arrangement of the buildings on Front Street.
15. Throughout the CA, hedging, trees, planting in gardens, stone boundary walls, narrow roads with limited pavements and minimal street furniture are notable attractive and distinctive features. Furthermore, glimpsed views of the countryside including the appeal site, Windmill Hill and the Mendips are afforded from a variety of vantage points within and outside of the CA. Indeed, the Churchill Conservation Area Appraisal and Management Plan (2020)⁶ (CAA) notes that the garden and paddocks to the rear of properties on the north side of Front Street and views across Barrowfield to and from St John's Church contribute to the character of the CA and its setting. I accept the Church is concealed from view up until part way across the PRoW which diagonally crosses the appeal site towards the Church and there are limited views of the appeal site from within the churchyard. However, even these limited views maintain a sense of connection with the countryside and a historical route across countryside between the Church on the edge of the village and Churchill's historic core.
16. Therefore, insofar as is relevant to this appeal I find the significance of the CA derives from the predominantly spacious linear pattern of development and the architectural quality of the traditional buildings within it. Furthermore, its significance is also founded on its rural country lane character, the spaces and greenery between buildings and the ability to appreciate the positioning of the

⁴ Core Document F1 page 9

⁵ Paragraph 207 of the National Planning Policy Framework

⁶ Core Document F1

CA and the village in an attractive countryside valley between Windmill Hill and the Mendips AONB.

Effect on the Significance Churchill Conservation Area

17. A number of appeal decisions⁷ have been put before me where Inspectors have considered among other things the effect of new development on the CA. However, although those schemes were all close to the appeal site and considered the effects of development on Front Street nearby and the CA overall, none directly relate to the appeal site⁸. The appeal site is substantially larger, and it is unclear to me what evidence was before those other Inspectors. Thus, whilst I am satisfied that my assessment of the significance of the CA is consistent, my assessment of the effects of this scheme on the character, appearance and significance of the CA is based on the merits of this entirely different scheme and cannot be comparable.
18. The illustrative details before me show a mix of detached, semi-detached and terraced dwellings would be informally arranged around a spine road, cul-de-sacs, parking areas and a network of open space. Even though landscaping details are reserved, the illustrative layout shows the veteran trees would be retained, new tree and hedge planting and areas of open space, particularly at the Church Lane / Front Street junction and opposite the entrance to the grade I listed Church on Church Lane.
19. However, approval is being sought for access and the details⁹ show the existing access from Front Street would require significant alteration. The proposed access would need to be some six metres wide with a two metre wide footway and associated visibility splays in both directions. It would significantly open up views into the site from Front Street when passing by it or when approaching it from Hilliers Lane towards the junction with Front Street. I accept the proposed access would draw some similarities with the Hillier Lane / Front Street junction. However, based on the illustrative details the views through the proposed access would be towards a row of six modern dwellings, which would be positioned close together, with limited space between them and close to a section of new spine road which would gradually rise up from Front Street.
20. I accept these views would be alongside the proposed open space at the Church Lane / Front Street junction. However, even with established landscaping, through the size and shape of the open space, walkways through it and the estate backdrop, this open space would inevitably appear as a green area attached to and forming part of a new modern housing estate. It would have a very different character to that of pastoral countryside.
21. Thus, even with the proposed open space, based on the illustrative layout and the number of dwellings proposed, I am not satisfied that the level of development proposed could be accommodated on the site without the proposed development appearing as a relatively compact modern housing estate attached to Churchill's historic core. That new estate with its engineered spine road and parking areas, and compact arrangement of dwellings would appear in noticeable conflict with the spacious linear pattern of development on

⁷ Core Documents G11-G15

⁸ Inquiry Document 18

⁹ Core Document H3

- Front Street. Furthermore, that conflicting form of development would replace fields bound by hedging, the effect of which I consider below.
22. The appeal site is characteristic of late medieval enclosed open fields. I accept such fields are not rare and the historical maps¹⁰ show the field boundaries of the appeal site have been altered significantly over time and a footpath shown on the 1888 map is no longer present. There is also currently a modern post and rail fence dividing part of the site. I also note the archaeological investigations did not reveal any evidence of significant historical activity on the site. The appeal site is clearly not fossilised or preserved with its evolving boundaries. Its characteristics are also similar to many parcels of undeveloped land on the edges of other villages. However, these factors do not mean the contribution of the appeal site to the setting and significance of the CA as pastoral fields bound by hedging is neutral.
23. When leaving Front Street within the CA and following the PRow towards Windmill Hill, even though the fields outside of the appeal site behind Barrowfield Cottage, Kewstoke Lodge and Oakhill would be unaltered, the illustrative details show the remainder of the route would pass directly to the side of a compact arrangement of dwellings (plots 53-62) and their associated parking areas. Using the same PRow travelling from Windmill Hill towards Front Street the existing view south is towards the back of Barrowfield Cottage, Kewstoke Lodge and Oakhill. These properties are not heritage assets and there is no evidence to suggest they have any architectural or historic interest. However, they are positioned noticeably in relatively spacious plots close to and orientated towards Front Street, with space between them without any specific development behind them.
24. Thus, irrespective of their age and architectural quality they are arranged consistent with the linear settlement pattern of this part of Churchill. I accept this arrangement would still be noticeable from within the proposed development. However, the illustrative informal layout and pattern of development proposed would be in noticeable conflict with the layout of these dwellings and the majority of the properties arranged along Front Street. Moreover, the illustrative details show the PRow which cuts diagonally across the appeal site towards Church Lane would pass through elements of estate open space but would be flanked by modern dwellings on both sides for most of its length. Thus, in my view, based on the illustrative details, the character of both PRow's which pass through the site would be changed from that of countryside footpaths to urban walkways.
25. Furthermore, the proposed open space shown on the illustrative details towards the northern corner of the site, would be relatively small with development and parking areas arranged around it. In my view, it would be insufficient in character and scale to provide a meaningful gap between the grade I listed Church and the buildings on the opposite side of Church Lane. Even though behind hedging and landscaping the illustrative details show Church Lane would also have development on both sides. Whilst I accept there would be gaps created by open space, at least the roofs of the proposed dwellings along the road frontage would be visible above hedging. In my view, due to the scale of the built form which would be added to the Church Lane street scene as shown on the illustrative details, the character of this main

¹⁰ Appendix 2 of K Hudson-McAuley Proof of Evidence

approach route to the CA would be altered from a rural lane to a road more likely to be experienced in an urban area.

26. Thus, even taking into account the comments relating to the National Design Guide¹¹ based on the illustrative details I am not satisfied the appeal site could accommodate the level of development proposed without resulting in a compact residential environment which would be at odds with the spacious linear pattern of development of the predominantly traditional buildings in the CA. The proposed roads and parking areas would be in stark contrast with the narrow country lane feel of the roads in the CA.
27. Furthermore, with the scheme in place the grade I listed Church and surrounding buildings on Church Lane would appear joined up with the historic village core in and around Front Street. This would exacerbate the effect of the significant extension of the built-up area of the village into the countryside creating a more compact urban settlement edge and degrading the country lane character of the CA and the approach to it from Church Lane.
28. Whilst substantial, I am not convinced that the network of open spaces shown on the illustrative details would be sufficient to mitigate these effects and instead the scheme would erode the relationship between the built-up parts of the village and its attractive countryside valley setting.
29. Thus, for these reasons, based on the illustrative and access details I am not satisfied the proposed 62 dwellings could be sensitively delivered without causing harm to the setting and significance of the CA. I am therefore led to conclude it would fail to preserve the character and appearance of the CA and would harm its setting. The scheme would therefore be harmful to the setting and significance of the heritage asset. However, that harm would be less than substantial and would be towards the lower end of the range. The Framework requires great weight to be attached to such harm and for it to be balanced against the public benefits of the scheme. I will return to this as part of my overall planning balance.

The Significance of St Johns the Baptist Church

30. The grade I listed St John's Church is a designated heritage asset of the highest significance. It is 12th century in origin, with significant C14 and C15 extensions and alterations. It is constructed mainly of coursed rubble with the west façade of its square, three staged tower finished in dressed stone. It has a part slate, part leaded roof and displays a rich variety of attractive ecclesiastical architectural details of varying ages which include buttresses, moulded string courses, decorative parapets, gargoyles and high quality internal ecclesiastical architectural features, fixtures and fittings.
31. Located on the north edge of the village in a churchyard close to only a handful of other buildings, it is visible over open countryside to the north and separated from Churchill's historic core by fields which include the appeal site. Its tower has monumental and way-finder value as one of the oldest and tallest buildings in the locality and its positioning in relation to other built features. Through its age and positioning it also provides an indication as to how the village has grown and the Church's evolving role as part of the village.

¹¹ Mr Cook - Landscape Proof of Evidence

32. Insofar as is relevant to this appeal, I find the significance of the grade I listed Church is founded on the craftsmanship and quality of its architectural detailing which narrates the evolution of the building from the 12th century. Its significance also derives from its value and use as a place of worship and its landmark and way-finder positioning on the edge of the settlement with limited built form around it in a relatively spacious rural setting.

Effect on the significance of St John's Church

33. The setting of the Church has changed significantly over time since the Church was constructed in the 12th century including the establishment of the Churchill Academy and the construction of the majority of the buildings in and around Churchill.

34. However, there is no substantive evidence before me which explains why the Church is separated from the historic core of the village or that any earthworks lying to the north of the Church demonstrate Churchill grew around the Church. There is also no substantive evidence to suggest the appeal site and the Church were ever in common ownership. Overall, there is no substantive evidence of any historical relationship between the appeal site and the Church.

35. I accept putting development next to a listed building is not inherently harmful and that even with the proposal in place the Church would still be a landmark and way-finding feature. I also accept that the most important components of the significance of the grade I listed Church are most experienced from within the churchyard, close to and inside the building. I agree that worshipping would generally take place inside the Church.

36. However, other than alterations to the field boundaries and some relatively minor equestrian related development and possibly some minor development associated with historical farming activities, there is nothing before me to indicate that the appeal site has not always had the same open pastoral character.

37. The diagonal PRoW across the appeal site is one of the few locations the grade I listed Church can be viewed close to the main historic core of the village. That footpath has clearly been in place for many years and leads directly to the Church across countryside from dwellings in the historic core of the village on Front Street. In my view, the presence of the PRoW demonstrates a connection between the historic core of the village and the Church, with the footpath passing through the site acting as a conduit for this relationship.

38. The architectural detailing of the Church is most appreciated close to it, indeed from the churchyard the entirety of the building can be appreciated, including the various extensions and alterations which communicate its evolution. However, people would still travel to and from the Church as part of their experience and Church services such as funerals, burials and weddings, would all involve use of and significant experience of the setting of the Church and its surroundings. I therefore do not accept the setting of the grade I listed Church is limited to its churchyard or associated buildings or structures.

39. The three staged tower, finials and associated tower detailing of the grade I listed building can be experienced from the PRoW towards the northern corner of the appeal site. I acknowledge views of the Church from within or across the appeal site are not noted in the CAA or any other evidence before the

Inquiry. However, as soon as the Church tower becomes visible from the PRow heading towards it, the Church's scale and positioning on the edge of the village next to only a few buildings and open fields becomes evident and more apparent the closer you get to it.

40. I accept even with the scheme in place, you would still be able to appreciate the monumental, aesthetic and evidential value of the Church. However, for the reasons set out above, the grade I listed building would be absorbed into the main built-up part of the village, and views of it from the PRow, which connects it to the historic core of the village would be from within a modern housing estate and not countryside. I also accept that most views of the Church from outside the churchyard are with built form within its foreground. However, this built form is relatively limited in scale and in most cases, the spacious positioning of the grade I listed building on the edge of the village can still be appreciated.
41. Thus, in my view, based on the illustrative details, I find the appeal scheme would erode the spacious rural setting of the grade I listed building. This would harm its setting and significance and fail to preserve the listed building. That harm would be less than substantial and would be towards the lower end of the scale. Even so, it carries great weight and must be balanced against any public benefits of the scheme. I will return to this matter in my planning balance below.
42. In reaching these conclusions I have noted the reports which explain the Council's decisions to allow fencing associated with Churchill Academy and development at Little Court¹². However, those schemes clearly do not have the same effects as the scheme before me, so I have afforded those details limited weight.

Landscape and Visual Impact and Impact on the AONB

43. The appeal site is within the Bristol, Avon Valley and Ridges National Character Area (NCA 118)¹³ its key characteristics being among other things, low-lying shallow vales that contrast with high, open downland ridges and settlements dating from the medieval period clustered around the springhead of the Cotswold scarp or along the spring line of the Mendips. However, NCA 118 covers a large geographical area such that the quality and sensitivity of the landscape in different parts of it will vary considerably.
44. However, the North Somerset Council Landscape Character Assessment Supplementary Planning Guidance (2018)¹⁴ defines local landscape types and character areas. The appeals site is within the River Yeo Rolling Valley Farmland landscape character area (LCA) which is described as Rolling Valley Farmland landscape character type. The key characteristics of the LCA are noted as including the gentle rolling landform, a strong valley feel, the rural pastoral landscape with animals grazing, irregular medium sized fields of medieval enclosure along the river and on the hill side, hedgerows, scattered farmsteads, villages on higher ground and at the base of ridges and along major routes, A roads and minor and winding rural lanes. The LCA is still a large area, but a much more localised area than NCA 118 and for this reason

¹² Core Documents F12 & F13

¹³ Core Document E4

¹⁴ Core Document B2

- and based on its attributes, I find the LCA has a medium to high landscape quality and moderate to high sensitivity to change.
45. The appeal site shares a number of characteristics with NCA 118 and the LCA which inform its landscape quality and sensitivity. These include its rural and valley feel, fields divided and bound by hedgerows, its pastoral use and character and its positioning on the edge of a valley settlement. It is also partly within the CA, close to a number of other designated heritage assets and PRow's pass through and around it. Thus, even though the appeal site is not within a protected landscape, is relatively flat and has a general edge of village character, its characteristics, in my view, give it as part of the wider NCA 118 and LCA, a medium to high landscape value and a medium to high sensitivity to change. These characteristics also make it different to other sites on the edge of villages which the Council may or may not need to allocate for development as part of its emerging Local Plan.
 46. Pastoral fields would be replaced with a housing development and an associated network of open space. Based on the illustrative details all hedging removed would be replaced or translocated and additional hedging would be planted. Much of the perimeter vegetation would be retained along with the veteran trees and there would be additional planting including trees. The grassland would be improved, the site topography would be broadly unaltered, water features would be added and recreational opportunities enhanced.
 47. However, whilst there would be greater opportunity to appreciate the veteran trees up close they would be absorbed into a housing estate such that they could no longer be experienced as prominent rural landscape features. Furthermore, I have already found the ability to appreciate the grade I listed Church from open countryside would be eroded and that there would be a noticeable conflict between the proposal and the existing development within Churchill's historic core.
 48. The changes to hedging and the field boundaries would be negligible in year one but, neutral in year 15. However, the change associated with the loss of the rural setting of the veteran trees and the loss of the open pastoral fields in a valley would erode features of landscape character in both the short and long term. Thus, on balance with regard to these features I find the scheme would result in moderate adverse effects on the immediate local landscape which would not significantly change over time.
 49. I have noted the modern developments including The Drive and Orchard Walk which can be seen from various vantage points identified in the Landscape and Visual Impact Assessment¹⁵ in the same context of the historic core of the village. However, the appeal scheme would join the existing development along Front Street with that on Church Lane and would be of a different layout and character to the majority of the buildings in the historic core of the village. However, taking into account other modern development nearby, there would be a moderate adverse landscape effect associated with the development of the fields for housing. This is because even though it would be conflicting in form, the scheme would appear as an extension to the existing settlement.
 50. Therefore, through its comparative size, the effect on the overall landscape character of NCA 118 would be negligible and there would be a minor adverse

¹⁵ Core Document C6

effect on the LCA. However, for the reasons given, overall, there would be a moderate adverse effect on the immediate landscape setting of Churchill.

Effect on Visual Amenity

51. I find the visual envelope identified by Mr Etchel's¹⁶ is reasonable and accurate for its purpose. With the site landscaping in place, hedging retained and restored, significant views of the scheme would be restricted to its immediate environs. Beyond which, there would be more glimpsed views where you would not be able to appreciate the scheme in its entirety and the scheme would be experienced alongside other development.
52. However, I have found the character of the sections of the PRow's which pass through the appeal site would change from footpaths through countryside to walkways through a residential neighbourhood. Whilst that neighbourhood would not be unpleasant, the peacefulness, open views across the site and overall tranquillity associated with limited human activity would be eroded. Even though users would still be able to appreciate the valley setting, I find there would be a minor adverse effect on the visual amenity of users of the parts of the PRow's which are within the appeal site.
53. When using the PRow outside the appeal site approaching it from Windmill Hill, users would still be able to appreciate the valley setting of Churchill and its positioning in the wider countryside. I accept that no views from Windmill Hill, looking back towards the village are identified in any of the evidence as important. I also accept that when passing over Windmill Hill travelling towards the appeal site, the built-up parts of Churchill are seen before the appeal site, such that any new development on the appeal site would be seen in the context of the existing settlement. However, a large modern housing estate would replace pastoral fields, bringing built development much closer to the rising land of Windmill Hill. The new development would therefore be much more prominent than the existing buildings from these vantage points. In my view the scale of these effects on the visual amenity of the users of this part of the PRow outside the appeal site would also be minor adverse.
54. For the reasons given above, users of Church Lane, Front Street and Hilliers Lane would experience a significant urbanisation of the rural country lane character of the roads which extend along the appeal site boundaries. Furthermore, from Hilliers Lane and Front Street there would be a noticeable conflict between the existing and proposed pattern of development. I find, although clearly there is no right to a view, this would still lead to minor adverse effects on the visual amenity of the occupiers of dwellings on Front Street and Church Lane immediately nearby. It would also have minor adverse effects on the visual amenity of the users of the roads in the immediate locality of the appeal site.
55. For the above reasons these effects are informed by the illustrative details and features which are bespoke to the locality. I do not accept that the same effects are automatically applicable to any greenfield site on the edge of a settlement which may need to be allocated for development in the emerging Local Plan to meet the need for development in the area which I deal with below.

¹⁶ Figure 3 of Appendices the Council's Proof of evidence on Landscape and Visual Matters

Harm to the AONB

56. The Planning Practice Guidance¹⁷ requires development within the setting of the AONB to be sensitively handled taking into account potential impacts. When walking over Windmill Hill and down the hillside towards the appeal site there is a clear view towards the Mendips AONB, particularly its wooded escarpment. However, the AONB boundary is some distance away. The roofs of properties in Churchill are already noticeable particularly those in and around Front Street from this viewpoint and although the appeal scheme would be within the foreground of the settlement it would very much appear as part of the Churchill built-up area.
57. There are numerous settlements within the setting of the AONB and when viewed in the foreground and as part of Churchill, with the AONB boundary a significant distance away, there is nothing in the illustrative details which leads me to believe the appeal scheme would harm the setting of the AONB in anyway. From within the AONB, the scheme would be visible. However, it would be softened by existing and proposed landscaping and would very much appear as part of Churchill from all vantage points. Furthermore, the adverse effects I have identified above would not be noticeable from such distance.
58. Consequently, there is no conflict with Policy DM11 of the DMP insofar as it seeks to avoid harm to the AONB or its setting. This is irrespective of how this policy should be interpreted or whether it or any interpretation is consistent with national policy or any relevant legal judgements.
59. In reaching these conclusions I have also considered the Parish Landscape Sensitivity Study¹⁸ submitted during the Inquiry. However, I am not aware as to whether this document has been made available to the public or whether it has been subject to any public consultation during its preparation. I have therefore attached limited weight to it in considering the schemes effect on landscape and visual amenity and the AONB. In any event, even if I had afforded it full weight, it would not have altered my findings with regard to this main issue.

Sustainable development and planning balance

60. Applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The most important development plan policies are those set out in the Council's putative reason for refusal.
61. Policy CS5 of The North Somerset Core Strategy 2006-2026 (CS) seeks to ensure the character, distinctiveness, diversity and quality of the landscape and townscape is protected and enhanced. Policy DM10 of the Site and Policies Plan Part 1: Development Policies (DP) requires development to be carefully integrated into the natural, built and historic environment, aiming to establish a strong sense of place, respond to local character, and reflect the identity of local surroundings, whilst minimising landscape impact.
62. Furthermore, Policy CS32 of the CS is supportive of schemes in locations such as the appeal site subject to criteria including, where its form, design and scale of development is high quality, respects and enhances the local character,

¹⁷ Paragraph ID 8-042-20190721

¹⁸ Inquiry Document 13

contributes to place making and the reinforcement of local distinctiveness, and can be readily assimilated into the village and it results in high quality sustainable schemes which are appropriate to context and makes a positive contribution to the local environment and landscape setting. To recognise the intrinsic beauty of the countryside it naturally follows that there would be an expectation any new development would have a positive effect on it in landscape terms. Therefore, in this regard I find Policies CS5 and CS32 of the CS and Policy DM10 of the DP are consistent with the aims of paragraphs 130 and 174 of the Framework.

63. I have found a minor adverse effect on the LCA and moderate adverse effects on the immediate landscape setting of Churchill. Furthermore, I have also found minor adverse effect on the visual amenity of the occupiers of dwellings on Front Street and Church Lane, minor adverse effect on the visual amenity of the users of the roads in the locality of the appeal site and minor adverse effect on the visual amenity of the users of the PRoW's which pass through and around the appeal site. Thus, there is a clear conflict with Policies CS5 and CS32 of the CS and Policy DM10 of the DP. That landscape and visual harm combined carries moderate weight against the proposal.
64. Consistent with paragraph 195 of the Framework, Policies DM3, DM4 of the DP make clear the Council will conserve the historic environment having regard to the significance of heritage assets, including listed buildings and conservation areas. The less than substantial harm to the setting and significance of the CA I have identified means there is also conflict with Policies DM4 and DM5 of the DP. The harm to the CA carries great weight against the scheme.
65. Furthermore, I have also identified harm to the setting and significance of the grade I listed St John's Church, which is also contrary to the aims of Policies DM3 and DM4 of the DP. The harm to the listed building also carries great weight against the proposal.
66. Policy CS14 identifies Churchill as a 'service village' providing opportunities for small scale development within the village boundary or through allocations. Such locations are allocated around 10% of the total housing requirement, subject to the provisions of Policy CS32 of the CS. Policy CS32 of the CS, subject to specific criteria, permits development adjoining settlement boundaries up to 25 dwellings, stating sites in excess of such must be brought forward through Local Plans or Neighbourhood Plans. Policy CS33 of the CS also restricts open market housing in the countryside subject to exceptions. Although not referenced in the putative reason for refusal, this policy should also be regarded as most important in the interests of completeness.
67. The appeal site is not allocated, is outside the settlement boundary and exceeds 25 dwellings and there is no made neighbourhood plan. It is in the countryside and the proposal would not meet any of the exceptions listed in Policy CS33 of the CS. The appeal scheme is therefore in conflict with Policies CS14, CS32 and CS33 of the CS in this regard. For the reasons that follow, I afford limited weight to these particular conflicts. However, having considered all the most important policies in detail, and having regard to all others in the development plan, on balance and overall, I find the scheme would not accord with the development plan as a whole.
68. However, under paragraph 11(d) of the Framework those most important policies are deemed out of date, because the Council cannot demonstrate a

five-year supply of deliverable housing sites. The Framework indicates that planning permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed which include policies relating to designated heritage assets or 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.

69. The CS was adopted in full in 2017. However, the CS was first adopted in 2012 but legally challenged for reasons relating to the amount of housing. That challenge was upheld and the relevant policies (Policy CS13 of the CS and others) were remitted for re-examination. In re-examining those policies, the examining Inspector concluded that the minimum housing requirement of 20,985 dwellings was unsound and required Policy CS13 of the CS to include a commitment to review the housing requirement by 2018. This has not yet been completed.
70. It is common ground the Council cannot demonstrate a five-year land supply, indeed the land supply could be as low as 2.96 years, a shortfall of 2,981 homes¹⁹ which is the position (the appellant's best case) I have taken for determining this appeal. I have noted the appellant's comments that the Council have not been able to demonstrate a five-year supply for around eight years. I have also noted the Council's timeline in its Local Development Scheme and work done to date on the emerging Local Plan. However, consistent with another Inspector's recent findings²⁰, it is clear to me that the review of the housing requirements and new sites being allocated for housing are some way off. Thus, whilst it is clear the Council is taking action, given the relatively early stage of plan preparation I am not convinced that the Council will be able to make up the shortfall quickly.
71. Whilst the 25 dwelling threshold in Policies CS14 and CS32 clearly provides some flexibility for unallocated sites to come forward in the interim, it also constrains the delivery of sites larger than 25 units such as the appeal scheme. Indeed, the extent of the shortfall demonstrates in fact this policy mechanism on its own or in combination with any others is not working. Thus, even with this flexibility, Policies CS14 and CS32 are restrictive of new homes and in light of the absence of a five-year supply the conflict with them in this regard should be afforded limited weight.
72. Against this background the proposal would provide market housing and 30% affordable housing. I am satisfied there would be a reasonable likelihood that the proposed dwellings would be swiftly delivered, significantly boosting the supply of housing in the area in line with paragraph 60 of the Framework. These homes would significantly contribute towards addressing the shortfall of housing generally and the need for affordable housing²¹. The Council has not contested that those homes would be located where they would be served by a range of sustainable transport choices to access day to day services and employment. Thus, in this case, in my view, the delivery of new homes carries substantial weight and the delivery of affordable homes in line with the requirements of Policy CS16 of the CS also carries substantial weight.

¹⁹ Inquiry Document 35

²⁰ APP/D0121/W/21/3286677 paragraph 145

²¹ Statement of Common Ground on Housing Land Supply (paragraphs 2.5, 2.10 & 2.18)

73. The proposal would also deliver significant economic benefits both during construction and as a result of local expenditure from the occupants. Having regard to paragraph 81 of the Framework and the scale of the development, this would be a benefit to the local and wider area to which I attach significant weight.
74. Although disputed by the Council, in the absence of substantive evidence to the contrary I also accept the appeal scheme would deliver substantial biodiversity net gain (BNG). For the avoidance of doubt, I have taken the appellant's best case, this being 44.13%. This would be achieved in part by a generous network of green and blue infrastructure. This also carries significant weight in favour of the scheme. It is also common ground that the scheme would result in betterment to surface water drainage in the area. This carries moderate weight in favour of the scheme.
75. However, taking into account the planning obligations, the substantial weight attached to the delivery of new homes, the substantial weight attached to the affordable housing, the significant weight attached to the economic benefits, the substantial weight attached to the environmental benefit of the proposed BNG and open space and the moderate weight associated with the environmental benefit of drainage betterment, although public benefits, are significantly and demonstrably outweighed by the harm I have identified to the CA and the grade I listed building both of which carry great weight. The harm I have identified to the landscape and visual amenity only adds further weight against the scheme.
76. Thus, bringing all this together, the appeal site would not be a sustainable location for the proposed development as it would not accord with the development plan. The application of policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusing the development proposed. Furthermore, the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits when assessed against the policies in this Framework taken as a whole. The presumption in favour of sustainable development is therefore not a material consideration which indicates this scheme should be determined other than in accordance with the development plan.

Other Matters

77. Although there is no dispute between the main parties, the appeal site is approximately 2.8km from the North Somerset and Mendip Bats Special Area of Conservation (SAC) which support populations of Greater Horseshoe and Lesser Horseshoe Bats. It is also approximately 3.9km from the Mendip Limestone Grassland SAC. As the competent authority under the Conservation of Habitats and Species Regulations 2017 (as amended) (Habitat Regulations) had I been minded to grant planning permission I would have been required to conduct an appropriate assessment. Therefore, to assist as requested at the CMC the appellant prepared shadow Habitats Regulations Assessment²² and I heard evidence on this at the Inquiry. However, there is no need for me to consider this matter any further because I have found the scheme unacceptable for other reasons and I am dismissing the appeal.

²² Inquiry Document 12

78. A large number of appeal decisions have been put before me. Whilst I have only felt the need to reference some of those decisions in my decision, I have fully considered all of them. In any event I have determined this appeal on its merits based on the detailed circumstances which are specific to this case. I have also had regard to all Supplementary Planning Documents put before me.

Conclusion

79. For the reasons given above and taking into account all other matters raised, I conclude that the appeal should be dismissed, and planning permission should be refused.

L Fleming

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

T Leader of Counsel, instructed by R Kent, Head of Development Management at NSC.

Who Called:

J Etchells (Jon Etchells Consulting Limited)

K Hudson McAulay (North Somerset Council)

N Richards (North Somerset Council)

A Stevenson (North Somerset Council)

R Willmot (North Somerset Council)

FOR THE APPELLANT

K Garvey of Counsel instructed by G Wakefield

Who Called:

D Farmer (Ecology Solutions)

A Cook (Pegasus)

R Sutton (Cotswold Archaeology)

G Wakefield (Ridge Planning)

INTERESTED PERSONS:

R Kent (North Somerset Council)

K Long (North Somerset Council)

P Keating (North Somerset Council)

C Jones (Ridge Planning)

I Thomas (Langdale estates)

P Fletcher (Lion Rock Estates)

J Lyons (Landowner)

J Murray (Resident & Churchill Parish Councillor)

R Jeacocke (Resident)

R Baker (Resident)

E Clausen (Resident)

S Clausen (Resident)

O Turburville (Resident)

J Winstone (Resident)

INQUIRY DOCUMENTS RECEIVED JUST BEFORE AND AT THE INQUIRY

- ID1 Biodiversity Net Gain calculation and metric
- ID2 Evidence of Dr Robert Jeacocke (received 30th May 2022)
- ID3 Additional evidence of Dr Robert Jeacocke (received 7th June 2022)
- ID4 Summary of appeals relevant to the inquiry
- ID5 Mr Tiley's rebuttal to the LPA's Housing Land Supply Proof of Evidence
- ID6 Mr Cook's rebuttal to the LPA's Landscape Proof of Evidence
- ID7 Planning Obligations Compliance Statement
- ID8 Agreed List of Draft Conditions
- ID9 Response from Clive Onions to comments made by Dr Jeacocke (6th June 2022)
- ID10 Site Visit Itinerary and Map
- ID11 Response from Andrew Kenyon to comments made by Dr Jeacocke (1st June 2022)
- ID12 Updated Shadow Habitats Regulation Assessment
- ID13 Churchill and Langford Parish Landscape Sensitivity Study August 2021
- ID14 Comparison of land supply position advanced at recent inquiries
- ID15 Mr Farmer's Qualifications and Experience
- ID16 Stroud District Council Judgement (Stroud DC v SSCLG [2015] EWHC 488 (Admin))
- ID17 Summary of comparison of Landscape and Visual Assessments
- ID18 Plan showing boundaries of appeal decisions compared to appeal site
- ID19 Submission from Jan Murray (7th June 2022)
- ID20 Churchill policies map extract
- ID21 Extract from the Challenges and Choices Part 2 consultation document
- ID22 Questions put forward by Richard Baker written by Jan Murray
- ID23 Email from Jane Ogden referring to heritage points
- ID24 The Housing Land Supply Scott Schedule
- ID25 Submission from Dr Elizabeth Clausen (10th June 2022)
- ID26 Submission from Dr S Clausen (10th June 2022)
- ID27 Witness Statement Mr Nathan Connolly
- ID28 Witness Statement Oliver Turburville

ID29 Page 15 of the North Somerset Local Plan 2038 Preferred Options consultation document

ID30 North Somerset Council Appeal Viewing Figures

ID31 Housing land supply for Weston Villages sites

ID32 Updated Inspector's Itinerary Plan

ID33 Agreed Site Visit itinerary notes

INQUIRY DOCUMENTS RECEIVED AFTER THE CLOSE OF THE INQUIRY

ID34 Response from North Somerset Council on outcomes of recent appeals (APP/D0121/W/21/3286677 & APP/D0121/W/21/3285624) received 01 July 2022

ID35 Appellant's response to Rectory Farm appeal decision APP/D0121/W/21/3286677 and Farleigh Farm appeal decision APP/D0121/W/21/3285624 received 01 July 2022

ID36 Planning Obligation