



TOWN AND COUNTRY PLANNING ACT 1990 (As amended)

Appeal by Persimmon Homes Severn Valley against the non-determination of the outline planning application for up to 190no. homes (including 50% affordable homes) to include flats and semi-detached, detached and terraced houses with a maximum height of 3 storeys at an average density of no more than 20 dwellings per net acre, 0.13ha of land reserved for Class E uses, allotments, car parking, earthworks to facilitate sustainable drainage systems, orchards, open space comprising circa 70% of the gross area including children's play with a minimum of 1no. LEAP and 2no. LAPS, bio-diversity net gain of a minimum of 20% in habitat units and 40% in hedgerow units, and all other ancillary infrastructure and enabling works with means of access from Shiners Elms for consideration. All other matters (means of access from Chescombe Road, internal access, layout, appearance and landscaping) reserved for subsequent approval.

Land at Rectory Farm (north), Chescombe Road, Yatton, North Somerset

**Max Smith M.Sc (Hons) MRTPI
North Somerset Council, Principal Planning Officer, Strategic
Development Team
PROOF of EVIDENCE**

**Planning Inspectorate reference: APP/D0121/W/24/3343144
Local Planning Authority reference: 23/P/0664/OUT**

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1 Introduction

- 1.1 My name is Max Smith. I am a Principal Planning Officer in the Strategic Development Team. I have worked for North Somerset Council (The Council) since January 2024. I have worked as a professional town planner for 20 years holding various positions in Local Government and the Civil Service.
- 1.2 I have an M.Sc (with distinction) in City and Regional Planning from the University of Wales, Cardiff.
- 1.3 My evidence addresses the matter of whether the scheme accords with the development plan and whether planning permission should be granted having regard to this assessment and the consideration of other material considerations. I address reason for refusal 1 and provide the planning balance.
- 1.4 Other Council witnesses are Mrs Natalie Richards (housing land requirement and supply positions), Mr Marcus Hewlett (sequential test) and Mr Simon Bunn (flood risk).
- 1.5 My evidence should also be read in conjunction with the statements of common ground (SOCG).
- 1.6 The facts stated in this evidence are true to the best of my knowledge and belief, and the views I express represent my professional opinion.

2 Main Issues

- 2.1 The main issues for this appeal are:
 - a) whether the site is an appropriate location for housing, having regard to the spatial strategy of the development plan;

- b) whether the proposal would pass the flood risk sequential test set out in the National Planning Policy Framework (the Framework);
- c) whether the proposal would be safe from flood risk for its lifetime, and whether it would increase the risk of flooding elsewhere;
- d) the nature and extent of any economic, social and environmental benefits.

3 Background

- 3.1 The site description, surrounding context and description of development are agreed in the Statement of Common Ground.
- 3.2 The parties agree that the site is located in the high-probability, tidal flood Zone 3a shown on the Council's Strategic Flood Risk Assessment (SFRA) and confirmed by the National Flood Map for Planning. The appeal site is not subject to any formal ecological designations, though the Cheddar Valley Railway Walk Local Nature Reserve (LNR) runs adjacent to the Site's western perimeter, as does the Biddle Street Yatton Site of Special Scientific Interest (SSSI). There are no heritage designations on the site itself or in close enough proximity to be affected by the appeal scheme.
- 3.3 The site has no relevant planning history.
- 3.4 The planning application was originally submitted on 27/03/2023. However, the application was held in abeyance for much of the subsequent time, in mutual agreement, whilst the outcome of the Lynchmead appeal [Core Document I2] was awaited, which was expected to have relevance with regard to the application of the Sequential Test.
- 3.5 The proposal is described in the Statement of Common Ground. The description of development was amended at the request of the applicant on 26/03/2024 to include the references to orchards, that the open space would comprise circa 70% of the gross area including children's play with a minimum

of 1no. LEAP and 2no. LAPS and bio-diversity net gain of a minimum of 20% in habitat units and 40% in hedgerow units.

3.6 The appellants submitted additional information on 26/03/2024, including a revised Sequential Test, technical information relating to flooding and a response to ecological concerns raised by the Council and Natural England. However, a request for an extension of time for a sufficient period to allow this new information to be reviewed was declined. The appellants appealed against non-determination on 17/04/2024.

3.7 As set out in the Council's Statement of Case, had the Council been able to determine the application, it would have been refused for the following reasons:

1. The proposed development of up to 190 dwellings would deliver a scale of development that is contrary to the spatial strategy for the development plan, which permits sites of up to around 25 dwellings adjoining the settlement boundaries of service villages. The proposed development is therefore contrary to policies CS14 and CS32 of the North Somerset Core Strategy, and the Yatton Neighbourhood Plan.

2. Housing development should only be permitted in a 'High Probability' (3a) flood zone 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 applicant's Flood Risk Sequential Test fails to demonstrate this, and the proposed development is therefore inappropriate in a 'High Probability' floodplain, which is contrary to Policy CS3 of the North Somerset Core Strategy, paragraphs 165, 167 and 168 of the National Planning Policy Framework.

3. The proposal, on account of the lack of a safe access to the development and increased flooding to neighbouring properties during the 1 in 200 year plus climate change flood event, would fail to adequately mitigate against the risks of flooding, contrary to Policy CS3 of the Core Strategy as well as paragraph 173 of the National Planning Policy Framework.
4. The proposed development, on account of the loss of a site safeguarded for a new primary school, would result in the potential for there to be insufficient primary school capacity in Yatton, to the detriment of the longer-term educational opportunities and well-being of primary school aged children in the village. As such, the proposal is contrary to Policy CS25 (Children, young people and higher education) of the Core Strategy and Policy DM68 (Protection of sporting, cultural and community facilities) of the Development Management Policies.

3.8 The Council has subsequently confirmed that the appeal scheme is not contrary to any specific policies contained within the Yatton Neighbourhood Plan and as such this no longer forms part of Reason for Refusal 1.

3.9 Following constructive discussions between the parties, the Council has confirmed to the appellant that no evidence will be offered for reason for refusal 4 and it is now agreed that there would be sufficient primary school places within Yatton if this site were consented without the site allocation.

4 Planning Policy, the Development Plan and relevant guidance

National Policy

4.1 The National Planning Policy Framework (The Framework) sets out the government's overarching planning policies. It is a material consideration for planning purposes.

- 4.2 The Framework describes the planning system's purpose as being to achieve sustainable development. Paragraph 8 identifies the three overarching objectives of sustainable development; economic, social and environmental. Paragraph 9 requires that these objectives be delivered through the preparation and implementation of plans and the application of policies in the Framework, taking local circumstances into account, to reflect the character, needs and opportunities of each area.
- 4.3 Paragraph 11 notes that there is a presumption in favour of sustainable development. However, as noted at paragraph 12, it does not change the statutory status of the development plan as the starting point for decision-making. Relevant policies in the Framework will be referred to throughout my evidence.
- 4.4 The adopted development plan was produced in conformity with the Framework details how sustainable development will be achieved locally. It comprises:
1. North Somerset Core Strategy (the 'CS') adopted 2017.
 2. North Somerset Sites and Policies Plan Part 1 – Development Management Policies (the 'DMP') adopted July 2016.
 3. North Somerset Sites and Policies Plan Part 2 – Site Allocations Plan (the 'SAP') adopted April 2018
 4. Yatton Neighbourhood Development Plan (the 'YNP') made in July 2019
- 4.5 Each part of the development plan was adopted following examination in public at which the plans were found to be 'sound'. In determining the soundness of the development plan documents they were found to meet the tests outlined in NPPF paragraph 35 in that they were consistent with national policy so as to enable the delivery of sustainable development.
- 4.6 The Council acknowledges that it does not have a four year housing supply at present, with the supply position currently standing at 3.88 years as set out in

Mrs Richards evidence. Given however that the site is in an area at risk of flooding and that there is a clear reason for refusal, footnote 7 to paragraph 11 of the NPPF has the effect that the tilted balance is not engaged. It is not necessary for the Council to demonstrate that the adverse effects of the development would 'significantly outweigh' the benefits.

- 4.7 The Council is currently progressing work on an updated Local Plan. Consultation on a Regulation 19 Plan was carried out from November 2023 to January 2024. A new Regulation 19 version was approved by Executive Committee in July 2024 for publication and consultation. The emerging Local Plan has subsequently been paused whilst the implications of the government's proposed planning reforms are reviewed. However, the emerging Local Plan is at a relatively advanced stage and demonstrates that work has progressed on identifying land for housing development. The weight to be attached depends on the tests in paragraph 48 of the NPPF.

5 Housing Supply

- 5.1 The Council's housing supply situation is relevant in relation to the weight that can be attached to particular policies in the development plan. As set out in the evidence of Natalie Richards, the Council are currently required to demonstrate a four year supply.
- 5.2 In her evidence, Natalie Richards demonstrates that the current housing supply situation forecasts supply at 3.88 years. I adopt Mrs Richards' evidence and consider that the deliverable supply is 3.88 years. This is relevant for the weight that should be attached to the housing shortfall in considering the current appeal.

6 Whether the site is an appropriate location for housing, having regard to the spatial strategy of the development plan

- 6.1 The first refusal reason states that the development is contrary to the development plan's spatial strategy, with the proposed 190 residential units well exceeding the 'about 25 dwellings' threshold for developments adjoining the settlement boundaries of Service Villages. Policy CS32 of the Core Strategy states 'sites outside the settlement boundaries in excess of about 25 dwellings must be brought forward as allocations through Local Plans or Neighbourhood Plans'.
- 6.2 Policy CS14 of the Core Strategy sets out the planned distribution of housing across North Somerset and reflects the Plan's underlying spatial strategy, consistent with national guidance on delivering sustainable patterns of development. The mainstay of this is a settlement hierarchy, with development focused on the main towns, in particular Weston-super-Mare. The other three towns of Clevedon, Nailsea and Portishead are also the focus of significant development.
- 6.3 Below these in the hierarchy are the nine 'service villages', of which Yatton is one, and then the 'infill villages'. The spatial strategy anticipates that service villages would provide a much more limited scale of development than the towns. The text of policy CS14 notes that 'at service villages there will be opportunities for small-scale development of an appropriate scale either within or abutting settlement boundaries or through site allocations'. Development beyond settlement boundaries will only be acceptable where a site is allocated in a Local Plan or where it comprises sustainable development that accords with the policy.
- 6.4 Whilst the service villages do not have individual identified housing requirements, the indicative broad distribution is set by Policy CS14 for each tier of the hierarchy. This attributes 10% of the housing requirement for the plan period to the service villages category, equating to 2,100 dwellings in

total. If this were to be evenly distributed between the nine settlements this would equate to around 233 per service village.

6.5 So far in the plan period, Yatton has by far exceeded this notional share. On large sites alone (there have also been small windfall sites around the settlement) there have been 458 completions, broken down in table A below:

Site	Completions
Arnolds Way phase 1	150
Arnolds Way phase 2a	72
Arnolds Way phase 2b	39
Egret Drive	28
Titan Ladders	37
North End	132
Total	458

Table A – Housing completions in Yatton over the plan period

6.6 In addition, the North End site is continuing to build out, with 22 units left under construction. Moor Road Yatton has full consent for 60 units and groundworks have started, whilst the Rectory Farm site to the south of the appeal site has outline permission and a reserved matters application under consideration for 98 units.

6.7 Under current permissions therefore, Yatton will contribute a level of additional housing provision well in excess of that anticipated in the spatial strategy if the total for service villages was shared equally. Whilst a degree of growth to Yatton would be expected given that it is one of the larger service villages, the additional 190 proposed in this appeal would be in addition to significant expansion of the village that has occurred in recent years.

- 6.8 Policy CS32 requires that developments outside of the settlement boundary of Service Villages in excess of 25 dwellings must be brought forward through the Local Plan or Neighbourhood Plan. As neither the North Somerset Site Allocations Plan, nor the Neighbourhood Plan for Yatton, identify the appeal site for development, the appeal proposal for 190 dwellings greatly exceeds the 25 dwelling limit and is in clear conflict with Policy CS32.
- 6.9 As set out in the supporting text to Policy CS32 at paragraph 4.89 *'the cumulative impact of development will be a significant consideration and a succession of piecemeal developments which individually or taken together have an adverse effect on any individual village are unlikely to be supported'*.
- 6.10 The Council's spatial strategy was supported by the Inspector Jonathan Bore when the Core Strategy was examined, with his Inspector's report [Core Document F4] at Paragraph 37 stating that *'the Council is perfectly within its rights, in the interests of the proper planning of the area, to put a figure on the maximum size for individual developments on unallocated sites that it considers compatible with the settlement hierarchy and spatial strategy. The policy wording will enable additional housing land to be brought forward on smaller sites immediately adjacent to settlements, which will improve the flexibility of the plan and reduce the risk of housing under-supply whilst remaining consistent with the spatial strategy'*.
- 6.11 The Inspector also commented at paragraph 38 that *'the size limitations have the advantage of providing greater certainty, and they are appropriate so can be flexed in accordance with local circumstances. Larger unallocated developments would present a significant risk to the spatial strategy. It is entirely appropriate in accordance with the plan-led system that larger sites should be brought forward in local plan or neighbourhood plan allocations'*.
- 6.12 With reference specifically to Policy CS32, Mr Bore states at paragraph 70 that it *'strikes the right balance by supporting new development within or adjoining the settlement boundaries, whilst ensuring that the form, design and*

scale of development respects the local character and reinforces local distinctiveness, has regard to housing requirements and does not have significant adverse impacts on infrastructure. It also aims to limit cumulative impacts and indicates that sites in excess of about 25 dwellings outside the settlement boundaries must be brought forward as allocations. This is neither too restrictive nor too liberal; it is a sound modification that allows the service villages to contribute more to the overall requirement whilst avoiding development of an excessive scale with the negative impacts described above.'

- 6.13 As set out elsewhere in my evidence, it is accepted that the Council does not have a 4 year housing supply and that weight must be given to housing delivery, though in accordance with footnote 7 to paragraph 11, the tilted balance is not engaged on the appeal proposal as the application of policies in the Framework provide a clear reason for refusal.
- 6.14 Allowing such a significant amount of development which is so clearly contrary to the spatial strategy and the government's environmental objectives in relation to sustainable development would compromise the plan led process and undermine confidence in future plan making endeavours. It should also be borne in mind that as the site is in the 3a Flood Zone, any housing development here would cross a threshold and bring into consideration land not previously viewed as suitable for this use. If the Council were to countenance such a drastic step to meet housing supply shortfall, which they are not, it should only be done through the Local Plan process and having exhausted all other options, rather than through an individual speculative application.
- 6.15 The planning system as a whole relies on the engagement of local people, who contribute their time over many years towards developing Neighbourhood Plans and engaging with consultations on local plans, collaboratively identifying sites for development. In this context the spatial strategy as set out in policies CS14 and CS32 cannot be lightly set aside.

7 Whether the development fails the Sequential Test

- 7.1 The site is in a 3a 'High Probability' tidal flood zone in the Council's 'Level 1 Strategic Flood Risk Assessment' 2020. This is land which has a 1 in 200 or greater annual probability of sea flooding. National policy on planning and flood risk is set out in paras 159 to 169 of the Framework and in the National Planning Practice Guidance (PPG).
- 7.2 Paragraph 159 of the Framework directs development away from areas at high risk of flooding, paragraph 161 specifies a sequential, risk-based approach to the location of development whilst paragraph 162 states that "development should not be...permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding." Policy CS3 of the Core Strategy specifies that a sequential test should be district-wide for housing proposals outside settlement boundaries, such as this proposal.
- 7.3 In Mr Hewett's evidence he considers the appellant's Sequential Test. He concludes that there are 36 'reasonably available' sites that can accommodate the development at a lower risk of flooding.
- 7.4 Mr Hewlett also addresses the appellant's argument, which is based on an incorrect reading of planning policy, that development need should specifically be met in the Yatton area rather than the district as a whole.
- 7.5 Mr Hewlett concludes that the Council does not need to consider land at risk of flooding, such as the appeal site, to meet its housing needs. There are both reasonably available sites at a lower flood risk and a larger pool of sites to meet development needs.

7.6 I adopt Mr Hewlett's evidence and consider that the sequential test is failed. This further has the consequence that the 'tilted balance' set out in paragraph 11d of the NPPF is not applied and is a clear reason for refusal.

8 Whether the development would be safe over its lifetime in terms of flood risk

8.1 Policy CS3 of the Core Strategy requires that where development, on its own or cumulatively, would result in air, water or other environmental pollution or harm to amenity, health or safety it will only be permitted if the potential adverse effects would be mitigated to an acceptable level by other control regimes, or by measures included in the proposals.

8.2 Paragraph 173 of the NPPF requires that development only be allowed in areas at risk of flooding (subject to the sequential and exceptions tests), provided it can be demonstrated that (a) within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location; (b) the development is appropriately flood resistant and resilient such that, in the event of a flood, it could be quickly brought back into use without significant refurbishment; (c) it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate; (d) any residual risk can be safely managed; and (e) safe access and escape routes are included where appropriate, as part of an agreed emergency plan.

8.3 The evidence of Simon Bunn addresses whether the development is appropriately flood resistant and would have safe access routes.

8.4 Mr Bunn notes in his evidence that the development site is at risk of flooding for the 1 in 200 year plus climate change design flood event. His evidence states that flood defences are at risk of breach and there is no certainty they will be present and in a reasonable condition for the lifetime of the development. His evidence reviews existing flood defences in the district

relevant to the appeal site and concludes that some of these are in a poor condition in places. There are plans to upgrade defences in the Severn Estuary Shoreline Management Plan, but funding is not guaranteed and the Plan is not statutory.

- 8.5 Mr Bunn further observes that the flood depths in a 1 in 200 year plus climate change event would present a 'hazard to most' based on the Department for the Environment, Food and Rural Affairs' (Defra's) "Supplementary Note on Flood Hazard Ratings".
- 8.6 Mr Bunn sets out the risks to human health from the flooding of the site if the development were to proceed. These include drowning and physical trauma, as well as electrocution, but also include the often overlooked mental health impacts of having a flooded home.
- 8.7 As detailed in Mr Bunn's evidence too, there would be environmental and economic impacts from the flooding of the site. Of particular note is the calculation that the emissions from restoring a 3 bedroom flood-hit home would equate to 13.9 tonnes of carbon dioxide.
- 8.8 Finally, Mr Bunn assesses whether there would be a safe access to the development. Mr Bunn observes that the Shiner's Elms access would flood. The prospective access from the south would be via higher ground, but its utility is dependent on it being completed. In any event, in the Undefined Scenario both accesses would be compromised, with flood depths at the southern access being classified as a 'danger to most' and those at Shiner's Elms being a 'danger to all'.
- 8.9 I adopt Mr Bunn's evidence and conclude on the basis of it that the site is inherently unsustainable for housing development and would not be safe over its lifetime. As such the proposal would be contrary to Policy CS3 of the Core Strategy and Paragraph 173 of the Framework, in particular (b), (d) and (e). Given the risks to life detailed in the evidence, I find it surprising that the appellant would wish to progress housing development on such a site,

particularly in light of the many alternative sites set out in Mr Hewlett's evidence.

9 Increased flooding to neighbouring sites

9.1 Paragraph 173 of the NPPF requires that development must not increase flood risk elsewhere.

9.2 The appellant's Flood Consequence Assessment (FCA) shows that in the 1 in 200 plus climate change flood event, flood levels to the east of the site, would increase, affecting a number of homes. This is due to land raising on the site itself. The increased flood risk elsewhere forms the basis for the objection by the Environment Agency and is referred to in the third putative reason for refusal in the Council's Statement of Case.

9.3 Whilst the increase in flood depth would affect properties that would already be flooded in a 1 in 200 year plus climate change flood event, it would represent a clear breach of national planning policy as set out in the NPPF. Were the proposed ground levels to be reduced to prevent increased off-site flooding, the result would be worse flood depths on the site itself. The increased off-site flooding reinforces the Council's concerns set out in Mr Hewlett and Mr Bunn's evidence regarding the inherent unsuitability of the site for residential development.

10 Exception Test

10.1 Paragraph 169 of the NPPF states that if it is not possible for development to be located in areas with a lower risk of flooding (taking into account wider sustainable development objectives), the exception test may have to be applied.

- 10.2 As noted above, it is the Council's position that the sequential test is failed and it is therefore not necessary to apply the exceptions test. For the benefit of the inquiry, it would be helpful to consider whether the exceptions test would be passed were it to be found that the sequential test was complied with.
- 10.3 Paragraph 170 of the NPPF identifies two elements to the exceptions test that are needed to be satisfied for it to be considered to be passed. These are: (a) the development would provide wider sustainability benefits to the community that outweigh the flood risk; and (b) the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall. Paragraph 171 requires that both parts (a) and (b) of 164 should be satisfied for development to be permitted.
- 10.4 With regard to part A, there are two parts that need to be considered. Firstly, it is necessary to consider whether the development provides wider sustainability benefits to the community, and secondly whether those benefits are outweighed by the flood risk. It should be noted that this is a different test to the overall planning balance. For instance, the provision of affordable housing is an example of a wider sustainability benefit, but market housing is not.
- 10.5 With this in mind, the 50% affordable housing comprises a sustainability benefit. The provision of open space, new access routes for pedestrians and cyclists and biodiversity net gain across the site can also be classified as benefits for the purposes of the exceptions test.
- 10.6 The Exception Test is about making exceptions. It is not possible to confirm that certain benefits will always outweigh the flood risk as this would undermine its purpose. Each case needs to be considered on its own merits taking into account the scale of the benefits compared to the scale of the development and the significance of the flood risk.

- 10.7 In my view, the sustainability benefits identified above are insufficient to outweigh the flood risk and part A of the exception test would be failed, were it to be applicable.
- 10.8 It is clear from Mr Bunn's evidence that part B of the exceptions test would be failed, as the development would not be safe over its lifetime. Furthermore, as set out above in section 9, flood risk would be increased elsewhere.

11 Planning Balance

Benefits

- 11.1 Paragraph 6.14.2 of the appellant's Statement of Case lists a series of suggested benefits from the proposal. I shall review the weight to be attached each of these in turn, before turning to consider any benefits the appellant's may have overlooked.
- 11.2 The contribution of 190 homes in normal circumstances would be a clear benefit from the appeal scheme attracting **substantial weight**. The housing supply situation and the acknowledged failure to identify a four year supply is set out elsewhere in the Council's evidence. Significantly increasing the supply of homes is a key government objective.
- 11.3 The 50% contribution to affordable housing, above policy requirements, would also attract **significant weight** in itself in normal circumstances.
- 11.4 Additional spending on convenience and comparison goods in Yatton is presented as a benefit to businesses in the high street. Given the reasonable proximity of the development to services at the centre of Yatton it is accepted that there could be a boost to local businesses that could benefit the commercial vitality of the village. To this I would attach **limited weight**.

- 11.5 There would be a temporary economic benefit from jobs during construction and further small scale job creation in particular from the Class E unit. Construction jobs would be temporary in nature and are a generic benefit that arises as the result of any housing scheme, and the Class E unit is of a limited size with no known end user. Nevertheless, I would give this benefit **limited weight**.
- 11.6 A series of enhancements and benefits are offered on the site itself. It is recognised that these enhancements have been offered by the appellant at a late stage to try and off-set some of the identified harms.
- 11.7 The first of these are proposed ecological enhancements that go beyond policy requirements. These include the proposed 20% net gain in habitat units and 40% net gain in hedgerow units. Not mentioned in the appellant's list of benefits but also relevant to this offer is the proposed bat roost next to the Strawberry line. These are a welcome small contribution to biodiversity and increasing habitats. Given the baseline of the current condition of the site however, such enhancements would be straightforward to achieve in light of the varied landscaping to be created across the site. As such I would give this benefit **limited weight**.
- 11.8 The second is the increased connectivity across the site. New pedestrian and cycling routes are proposed, providing new options to connect Yatton to the Strawberry Line and other existing walking and cycling infrastructure. This would encourage walking and cycling both by existing residents in Yatton and those who would move into the development. The new routes would primarily serve residents of the new development and as such I would give this element **limited weight**.
- 11.9 Finally, there is the substantial offer on open space. The half of the site adjacent to the Strawberry Line would be dedicated to open space and include community orchards, allotments and woodland. Overall, open space would take up 70% of the site once space amongst the houses, buffers to rhynes etc are taken into account.

- 11.10 It is evident that with regard to the open space, a virtue is being made of necessity. Significant parts of the site would need to be left as open space, or at least undeveloped, in any case for landscaping reasons to provide, for instance, buffers to the Strawberry Line and to the rhynes. Nevertheless, the proposed open space has variety and would contribute to and complement existing provision in Yatton and the setting of the Strawberry Line, subject to appropriate detailed design and maintenance measures being secured. As such I would give this ***moderate weight***.
- 11.11 The appellant suggests that 'an enhanced edge to Yatton through a more sensitively designed and response urban form' should be given moderate weight. However, the appellant's own LVIA notes that there would be some landscaping harm and so this should be credited as a limited harm rather than a benefit in the planning balance.
- 11.12 Finally, though not identified in the appellant's Statement of Case as a benefit, some off-site highways contributions would be secured through a legal agreement. Whilst these are required to off-set the impacts of the scheme, it should be acknowledged that there would be wider public benefits to the improvements to the Strawberry Line and bus shelters that should be given ***limited weight***.

Harms that would result from the appeal proposal

- 11.13 Mr Hewlett's evidence eloquently sets out how there are numerous reasonably available sites comparable to the appeal site which are at lower risk of flooding. In the appellant's own Planning Statement it is conceded that a failure of the sequential test should attract very substantial weight against the proposal. I agree with this assessment and attach ***very substantial weight*** to the failure of the sequential test. Failure of the sequential test is a clear reason for refusal in the terms of the Framework.

- 11.14 The provision of housing on this site also needs to be seen in the context of Simon Bunn's evidence on flood risk, in which he sets out how the development would not be safe over its lifetime. In particular he observes that flood depths on site would be a 'hazard to most' and that there would not be safe access to the site.
- 11.15 In a well-functioning regulatory regime, a product with unacceptable health impacts, or excessive risk of catastrophic failure, would not be allowed onto the market. The economic benefits of, say, a particular make of car would not be weighed against its failure to meet safety standards. It simply would not be allowed on to the road.
- 11.16 I see the proposal for housing at Rectory Farm as being an equivalent faulty product. The key difference is that housing, once built, cannot be recalled. Generations of future residents would have to bear the unacceptable flood risk set out in the Council's evidence.
- 11.17 A 1 in 200 year flood event in North Somerset that overtopped flood defences would be a very grave matter. Many properties would be inundated and the district would be fortunate to avoid fatalities. Overstretched emergency services would have to make very difficult choices on where to allocate resources and would not welcome a further 190 households either trapped in their homes or requiring temporary accommodation.
- 11.18 The situation for the occupants of the affordable housing would be of particular concern. Occupants of the market housing would have more options on the open market and be able to make a judgement as to whether they wanted to live in a home at risk of flooding. In contrast, those on the housing waiting list would be faced with an invidious choice between continuing in sub-standard accommodation or moving to the appeal site where they would be at risk. Furthermore, it is not clear if affordable housing Registered Providers would be willing to take on properties that were compromised by flood risk.

- 11.19 In light of this, I must give **very substantial** negative weight to a proposal that would put future occupants to unacceptable risk, further stretch the resources of emergency services and add to the destruction in a major flood event.
- 11.20 The scheme would result in deeper flood water at properties adjacent to the site. This reinforces concerns set out in the Council's evidence regarding the unsuitability of the site in flooding terms. I would give this impact **substantial weight** against the proposal on the basis that it is also a clear breach of national policy and quite frankly dangerous.
- 11.21 As noted above at 11.12, the harm to the landscape would be minor and as such I would give this **limited weight**. The efforts of the appellant to mitigate the impact are however acknowledged.

12 Conclusion

- 12.1 In summary, the appeal site is fundamentally unsuitable for the development proposed due to flood risk and failure of the sequential test. It would also be contrary to the spatial strategy. In my evidence I have identified where the proposal is contrary to individual policies, as well as the NPPF and the Development Plan as a whole. The harms of the proposal significantly outweigh the benefits.
- 12.2 NPPF paragraph 11(d) is engaged on the basis that the Council cannot demonstrate a 4-year housing land supply. However, given that the site is in an area at risk of flooding, and there are sequentially preferable sites at a lower risk, paragraph 11(d) is not applicable by reason of sub-paragraph (i) and associated footnote 7 as the NPPF provides a clear reason for refusal.
- 12.3 On a without prejudice basis, were the Inspector to conclude that the tilted balance were engaged, I still consider that the harms of the proposal in terms of the conflict with the spatial strategy and the flood risk would significantly

and demonstrably outweigh the benefits of the appeal proposal, when assessed against the policies in the NPPF taken as a whole.

12.4 I therefore respectfully invite the Inspector to dismiss the appeal.