



Town and Country Planning Act 1990
Planning and Compulsory Purchase Act 2004

Section 78 Appeal by Persimmon Homes Severn Valley

**Land at Rectory Farm (North),
Chescombe Road, Yatton**

Planning Proof of Evidence
Kathryn Ventham – BSc (Hons), MSc, MRTPI

LPA: 23/P/0664/OUT
APP/D0121/W/24/3343144

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1 QUALIFICATIONS AND EXPERIENCE

1.1 Qualifications

1.1.1 My name is Kathryn Ventham. I hold a Bachelor of Science Degree (with Honours) in Human Geography from the University of Reading (1997) and a Masters Degree in City and Regional Planning from the University of Wales (Cardiff) (2000). I am a Chartered Member of the Town Planning Institute.

1.2 Experience

1.2.1 Stantec is one of the world's leading consultancies: planners, designers, engineers, scientists, and project managers, innovating together at the intersection of community, creativity, and client relationships. Balancing these priorities results in projects that advance the quality of life in communities across the globe. Barton Willmore, which became part of Stantec UK in April 2022, was formed as an architectural practice in the 1930s. It developed into a comprehensive planning, architectural, landscape and urban design practice in the 1970s to 1990s and has a strong track record in the design and implementation of major housing and mixed-use development.

1.2.2 I am currently a Director at Stantec, having been a Partner at the Birmingham Office of Barton Willmore since 2013. At Stantec, I lead the East and West Midlands Planning Teams. I joined the company as a Senior Planner in October 2003, having previously been employed as a Planning Consultant by the Derek Lovejoy Partnership (now part of Capita Symonds). I have also held positions at Chiltern District Council and Cherwell District Council. In total, I have over 24 years' experience working in both the public and private sector.

1.2.3 I currently undertake a wide range of professional town planning consultancy work advising private developers, landowners and public sector clients on a wide range of planning issues. I have extensive experience of S78 Appeals dealt with via all methods.

1.2.4 I was involved with the preparation and submission of the planning application and subsequently the planning appeal.

1.2.5 The evidence which I have prepared and provide for this appeal in this proof of evidence is true and has been prepared, and is given in accordance, with the guidance of my professional institution and I confirm that the opinions expressed are my true professional opinions.

2 THE APPEAL PROPOSALS

2.1 Planning Application

- 2.1.1 This evidence is given on behalf of Persimmon Homes Severn Valley (the Appellant) against the non-determination of a full planning application by North Somerset Council (NSC) for the proposed development of land north of Rectory Farm, Chescombe Road, Yatton (the Appeal Site).
- 2.1.2 The application was submitted to the Council on the 27th March 2023 and validated on the 6th April 2023.
- 2.1.3 The Appeal Scheme was accompanied by a comprehensive suite of technical reports in accordance with NSC's planning application validated requirements. Subsequent amendments to the scheme were made following discussions with consultees. A full suite of the Appeal Scheme documents is listed in the Core Documents.
- 2.1.4 The description of development for the Appeal Scheme as originally validated was:

“Outline planning application for the development of up to 190 homes (including 50% affordable homes), 0.13ha of land reserved for Class E uses, allotments, car parking, earthworks to facilitate sustainable drainage systems, open space 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, scale, layout, appearance and landscaping) reserved for subsequent approval.”

- 2.1.5 However on the 4th April 2024 and following the submission of amended documents the following amended description of development was agreed between the Appellant and the Council (to respond to matters raised in recent case law¹, which will be discussed in later sections of my evidence).

Outline planning application for the development of 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

¹ R (Mead Realisations Ltd. & Redrow Homes Ltd.) v. Secretary of State for Levelling Up, Housing and Communities [2024] EWHC 279 (Admin)

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.

- 2.1.6 The Appeal Scheme failed to be determined by NSC and therefore on the 24th April 2024 an appeal against non determination was lodged by the Appellant. Despite chasing by the Appellant for clarity on the potential putative reason(s) for refusal, the first feedback was provided by the Council in an amended draft SoCG received on the 27th June 2024 and the reasons for refusal then confirmed in their Statement of Case on the 2nd July 2024.

2.2 Reasons for Refusal

- 2.2.1 NSC's Statement of Case (**CD.D2**) confirms that the Council resolved that they would have refused the application with the following reasons for refusal:

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 (Distribution of new housing) and CS32 (Service villages) 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 assessment fails to demonstrate this, and the proposed development is therefore inappropriate in a 'High Probability' flood zone, which is contrary to Policy CS3 (Environmental impacts and flood risk management) 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 (Environmental impacts and flood risk management) of the Core Strategy and 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 Policies DM1 (Flooding and drainage) and DM68 (Protection of sporting, cultural and community facilities) of the Sites and Policies Plan Part 1: Development Management

- 2.2.2 In accordance with Article 35(1) of the Development Management Procedure Order 2015, the reason for refusal must be full and state all of the policies of the Development Plan with which there is a conflict.
- 2.2.3 Following the receipt of the Council's Statement of Case and further to discussions between the Council and the Appellant, the Council made 2 revisions to their case. However at the time of writing my evidence, I am not aware that either of these have been communicated to PINS and therefore the details are set out below and the relevant correspondence is appended:
- (i) On the 29th July 2024, the Council advised that they would no longer be advancing a case in respect of conflict with the Yatton Neighbourhood Plan (**Appendix 1**). I have taken this to be in the context of Reason for Refusal 1 as this is the only place where this is mentioned.
 - (ii) On the 16th August 2024, the Council advised that they would no longer be pursuing reason for refusal 4 or putting forward any evidence in respect of the provision of school places (**Appendix 2**).
- 2.2.4 Furthermore, on the 21st August 2024, in a meeting between the two drainage witnesses, the Council advised that they were using a different flooding model to that which the Appellant had previously been advised by the Environment Agency was the correct model to use. The model input and output files have, at the time of settling the Appellant's evidence, not been supplied to the Appellant for their use. The Appellant wrote to PINS on the 22nd August 2024 (**Appendix 3**) expressing their serious concerns in this regard and the implications on the timing of the supply of evidence on drainage matters; potential knock on implications on drainage, sequential and exception testing evidence (and therefore also the planning evidence) and the timing of the Inquiry.
- 2.2.5 Given that the Appellant has not yet been supplied with a full copy of the flood model, as set out in the paragraph above, the Appellant will now not be able to meet the deadline for the submission of evidence in relation to drainage matters and therefore insofar as my evidence cross references to drainage matters in addressing Reason for Refusal 3, this will be updated upon confirmation of all matters relating to drainage.
- 2.2.6 Any implications which may arise for the provision of my evidence in relation to flood risk sequential testing, will need to be addressed in rebuttal evidence depending on the scale of changes which may arise from the Council using a different model.

2.3 The Appeal Proposals

- 2.3.1 The Appeal Scheme seeks permission for up to 190 dwellings at Land at Rectory Farm (North), Yatton. The scheme includes the following:

- Up to 190 homes, including 50% affordable;
- High quality housing in a range of house types, sizes and tenure;
- Land reserved for Class E uses. Such uses can include, but are not limited to, café, creche, shops and offices.
- New allotments;
- Accessible open space and equipped play and informal recreation areas;
- New vehicular access from Shiners Elms and from the proposed housing development site to the south;
- Pedestrian and cycle links throughout the Site, promoting active travel and providing wider connections to the Strawberry Line multi-use path;
- Circa 70% onsite Green Infrastructure (GI), SuDS features, retained trees and hedgerows, buffer planting, habitat creation, community facilities and allotments; and
- Sustainable Drainage (SuDS) features through an effectively designed and managed regime complementing the site's rhynes.

2.4 Site Description

- 2.4.1 The Application Site is located on the western edge of Yatton and is comprised of grazing land and agricultural fields, measuring approximately 13.79 hectares. It is formed of multiple fields divided by rhynes (water drainage ditches), with hedgerows and trees located within the Site and around its perimeter. The existing western boundary currently forms a poor edge to the settlement with poor definition and a lack of transition to the rural area.
- 2.4.2 The Site is irregular in shape, with hedgerows and trees located internally and along the majority of the Site's boundaries. A series of rhynes are located within the Site which border the various individual fields. There are no Public Rights of Way, bridleways or cycleways within the Site. There is a cycleway / pedestrian walkway located adjacent to the Site's western boundary which provides links from Weston Road to Yatton Rail Station. Overhead powerlines with associated pylons cross the Site.
- 2.4.3 There is currently no formal entry route into the Site. Informal access into the Site is currently provided via Biddle Street or via the cycleway / pedestrian walkway located adjacent to the west Site boundary.
- 2.4.4 It is confirmed by the Environment's Agency online mapping system that the entirety of the Site is located within Flood Zone 3 (land having 1 in 100 or greater annual probability of river flooding, or land having a 1 in 200 or greater annual probability of sea flooding). With a network of drainage water ditches running through various parts of the Site, risk from surface water flooding consists of low and medium probabilities. Further to this, as identified on North Somerset Council's planning constraints

mapping system, the Site is defended Flood Zone 3 land with the following reference: SFRA L1 2020 Tidal Flood Zone 3a.

- 2.4.5 The Site itself is free from any formal ecological designations. The Cheddar Valley Railway Walk Local Nature Reserve (LNR) runs adjacent to the Site's western perimeter and provides pedestrian links from Weston Road to Yatton Rail Station. The Biddle Street Yatton Site of Special Scientific Interest (SSSI) is located opposite to the Site's western boundary and is approximately 150ft west of the Site. The Cadbury Hill LNR is located approximately 1.9km south east of the Site and beyond this is the North Somerset and Mendip Bats Special Areas of Conservation (SAC) and Kings Wood and Urchin Wood SSSI which is located approximately 2.9km away. The Site is located within the Biddle Street Yatton SSSI Impact Risk Zone.
- 2.4.6 Historic England's online mapping system confirms that there are no heritage assets located within or adjoining the Site. The Grade II Listed house '114 High Street' is located approximately 0.5km to the east of the Site. The Grade II Listed 'Cadbury Farmhouse' is located approximately 0.6km to the south of the Site. 'St Mary's Church' (Grade I listed) is located centrally within Yatton, however there is intervening development between the Site and the Church.
- 2.4.7 The northern boundary of the Site is bordered by pasture fields with trees and hedgerows located along the northern Site perimeter. Beyond this lies Yatton Rail Station, existing residential development and Arnolds Way Industrial Site. To the east of the Site lies existing residential development and beyond this is Yatton town centre. To the south of the Site is the Land at Rectory Farm, Chescombe Road (21/P/0236/OUT) development and beyond this is agricultural land and pasture fields. To the west of the Site is the Cheddar Valley Railway Walk LNR, beyond which is the Biddle Street Rhyne and drainage ditches.
- 2.4.8 Bus stop provision to the Site is provided along High Street which runs through the centre of Yatton. Cherry Grove bus stop is located approximately 0.5km to the east of the Site and Chescombe Road bus stop is located approximately 0.6km to the east of the Site.
- 2.4.9 In terms of education, St Mary's Pre-School is located approximately 0.6km to the south east of the Site and Stonecroft Day Nursery and Pre-School is located approximately 0.8km to the south east of the Site. Yatton C of E Controlled Junior School is located approximately 0.8km to the east of the Site; and Chestnut Park Primary School is located directly north approximately 1.7km away. North Somerset Council's website shows the Site as falling within the catchment area for Backwell secondary school which is just over 8km from the Site.
- 2.4.10 Yatton has a range of shops and services including: a bakery; tea rooms; restaurants / public houses; and a Co-Operative supermarke. Further to this, Yatton has a variety of health and community facilities including: Mendip Vale Medical Practice; Yatton Dental Centre and Yatton Post Office. There are several recreational spaces located within a 15 minute walking distance to the Site, including: Rectory Way Playground; Yatton Junior Football Club; Claverham Cricket Club; Yatton Recreation Ground; Yatton and Cleeve United Football Club; Yatton Rugby Club; and Horsecastle Playground. In addition to this, there are a number of local employment opportunities within walking distance, north of the site, off Arnolds Way and Wemberham Lane.

2.4.11 Weston-super-Mare is located approximately 12.9km to the south west of the Site, providing further employment opportunities. Weston-super-Mare can be reached by both rail and bus from Yatton.

2.4.12 Yatton has been proven, through recent planning applications, successive Plan reviews and again through the emerging Local Plan, to be a highly sustainable location for new development.

2.5 Drainage

2.5.1 The topography of the site, the surrounding area and the rhyne system have been used to define an innovative sustainable drainage strategy. Three suitably located attenuation ponds are identified to hold and control the release of surface water. The ponds also complement and respect the rhyne system being attractive and functional features within the built areas and open spaces.

2.5.2 The Site's drainage strategy is presented within the Foul & Surface Water Drainage Strategy and Flood Risk Assessment & Hydraulic Modelling Report (**CD.A11**) and will be addressed further in the evidence of Mr Mirams subject to the caveats in my paragraphs 2.2.4 to 2.2.6 above.

2.6 Design

2.6.1 The design concept presented follows careful consideration of the location, local character, constraints and opportunities, high level conceptual design and public consultation. A Design and Access Statement produced by EDP (**CD.A8**) sets out this design evolution and journey, urban design and placemaking principles and the design parameters of the proposed development.

2.6.2 A sensitive, considered approach has been taken to design principles at the outline stage. The new homes which will cover less than half of the site (around 30% of the land area) will be sited on its eastern side - adjoining the built edge of Yatton. The housing density responds positively to the site's location and character – notably the rhyne system and hedgerow and tree network within and on the periphery of the site. It also maintains separation through a large area of open space with planting between the new homes and the Strawberry Line. The height scale and density will create an attractive, greened environment for residents and visitors.

2.6.3 Land reserved for Use Class E uses is proposed on the east of the Appeal Site, within close proximity to the proposed access at Shiners Elm. Such uses could include, but are not limited to offices, creche, café or shop. The Site will provide a suitably located and highly visible, safe and accessible space for use by existing and future residents, which would be part of the community integrating the old and the new..

2.6.4 Design details of the appearance, internal access, scale, layout and landscaping are reserved and will be subject of a future Reserved Matters application.

2.7 Green Infrastructure, Open Space and Allotments

- 2.7.1 Generally the western part of the Appeal Site includes green infrastructure and woodland. The Illustrative Masterplan has been informed and shaped by ecological and landscape considerations.
- 2.7.2 The features of the site, which include level open space, individual trees and peripheral tree buffers and the system of open and culverted rhine watercourses have been considered in detail and enhanced.
- 2.7.3 New allotment provision for community use are also included within the scheme.

2.8 Access

- 2.8.1 Vehicular and pedestrian access is proposed from Shiners Elms to the north east of the Appeal Site. A planned road through the site will connect to the recently approved residential development to the south leading to Chescombe Road. Secondary roads will connect all other development parcels within the site.
- 2.8.2 There will be a network of pedestrian pathways and links to allow movement through the site and into the open spaces, land for community use (Use Class E) and on to the road network and Strawberry Line.
- 2.8.3 Bicycle and pedestrian links will be provided to the Strawberry Line multi-use path at two places along the western boundary. In addition, bicycle and pedestrian links will be provided at West Road and Marsh Road offering car-free movement and connections to the High Street and Rail Station.

2.9 Car and Cycle Parking

- 2.9.1 Car parking and cycle spaces will be provided in line with the requirements of the North Somerset Parking Standards Supplementary Planning Document but are not for approval at this stage.

3 The Appeal Case

3.1 Main Issues / Evidence Structure

3.1.1 Following the Case Management Conference (CMC) on the 18th July 2024, the following matters were confirmed by the Inspector as the likely main issues:

- 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 effect of the proposal on the future provision of primary education in Yatton; and
- e) the nature and extent of any economic, social and environmental benefits.

3.1.2 My evidence deals with main issues (a), (b) and (e) and in doing so I draw conclusions on the accordance of the scheme with the Development Plan and also carry out the planning balance. As set out at Section 12 of my evidence; I draw the conclusion that the scheme is in accordance with the Development Plan when taken as a whole and I conclude that the Appeal Schemes should therefore be **approved without delay** as per paragraph 11c) of the NPPF. In the event that the Inspector should disagree with me on the above, I also conduct the planning balance and conclude that there are no adverse impacts which outweigh the benefits, let alone significantly and demonstrably and I therefore conclude that following this approach, planning permission should also be granted.

3.1.3 In assessing the accordance of the scheme with the Development Plan and undertaking the planning balance, I draw on the evidence of the following witnesses as set out in the table below. Given that the Council have advised that they are not pursuing Reason for Refusal 4 but have yet to formally confirm this to PINS, the evidence of Mr Hunter is appended to my evidence and I reference this as appropriate when addressing main issue (d); the Appellants reserve the right to call Mr Hunter as a witness should this be necessary following the exchange of evidence.

Table 1: Witnesses for the Appellant

Mr Nick Paterson-Neild	-	Stantec	(who deals with five year housing land supply)
Mr David Parker	-	Pioneer	(who deals with affordable housing)

Mr Simon Mirams	-	Rappor	(who deals with flood risk)
Mr Nigel Jones	-	Chesters Harcourt	(who deals with the availability of land – in relation to the application of the flood risk sequential test).
Mr Ben Hunter (see 3.1.3)	-	EfM	(who deals with education matters)

3.1.4 I also note that the deadline for the Appellant’s evidence in relation to housing land supply matters is a week later than the other evidence due to the late supply of data from the Council.

3.1.5 My evidence is structured as follows:

- Section 4.0 - Planning History
- Section 5.0 - Evolution of the Appeal Scheme
- Section 6.0 - The Development Plan
- Section 7.0 - Other Material Considerations
- Section 8.0 - Main Issue 1 / Reason for Refusal 1
- Section 9.0 - Main Issue 2 / Reason for Refusal 2
- Section 10.0 - Main Issue 3 / Reason for Refusal 3
- Section 11.0 - Main Issue 4 / Reason for Refusal 4
- Section 12.0 - Planning Assessment
- Section 13.0 - Main Issue 5 / Planning Balance
- Section 13.0 - Interested Parties
- Section 14.0 - Obligations and Conditions
- Section 15.0 - Summary and Conclusions

4 Planning History

4.1 Site Planning History

- 4.1.1 A review of North Somerset Council's online planning search has been undertaken and no relevant planning application history relevant to the current proposals was found.

4.2 Wider Planning History

Land at Rectory Farm, Chescombe Road, Yatton – 21/P/0236/OUT

- 4.2.1 An outline planning application (21/P/0236/OUT) was submitted at 'Land at Rectory Farm' (to the south of the application site) in 2021 for the following description of development: 'Outline planning application for a residential development of up to 100no. dwellings and associated infrastructure following demolition of existing buildings on site, with access for approval and all other matters for subsequent approval'.

- 4.2.2 The application was refused under delegated powers for the following reasons:

1. The proposed development of up to 100 dwellings would deliver a scale of development that is in conflict with the spatial strategy for the development plan, which permits sites of up to around 25 dwellings adjoining the settlements edges of service villages. The proposed development is therefore contrary to policies CS14 and CS32 of the Core Strategy and the made Yatton Neighbourhood Plan.

2. The proposed development, due to its location in close proximity to the North Somerset and Mendip Bats SAC, would have significant effect on this habitat site. The site is located in Bat Consultation Zone B as designated in the North Somerset and Mendip Bats SAC SPD and the survey evidence and consultation with Natural England suggests that SAC bats would be adversely affected by the development. The proposed mitigation measures do not prioritise onsite mitigation, and the proposed offsite mitigation is unsuitable.

Additionally, the development, due to its location in close proximity to the Biddle Street SSSI, is likely to result in operational impacts and increase recreational pressure on this nationally designated site. The submitted Ecological Impact Assessment has not adequately identified and considered the scope of these impacts, nor identified how mitigation could be achieved.

3. The proposal also fails to adequately demonstrate how a Biodiversity Net Gain can be achieved on site, as the

calculation of Biodiversity Net Gain includes habitat utilised for mitigation purposes. The proposed development is therefore contrary to Policy CS4 of the Core Strategy, Policy DM8 of the Sites and Policies Plan Part 1: Development Management Policies, the North Somerset and Mendip Bats SAC SPD and paragraphs 175 and 177 of the NPPF.

4. The proposed development, by reason of its protrusion in an area of high landscape sensitivity in close proximity to the Strawberry Line, does not accord with the linear form of the village and would appear an incongruous projection into open countryside. The proposal would cause unacceptable harm to the amenity value of the Strawberry Line being a popular recreational route forming part of the strategic cycle network. The proposed development is therefore contrary to Policies CS5 and CS9 of the Core Strategy, Policy DM10 of the Sites and Policies Plan Part 1 – Development Management Policies, the North Somerset Landscape Character Assessment SPD, and paragraphs 98 and 170 of the National Planning Policy Framework.

5. The proposed development, due to the substandard width of Chescombe Road, the inadequate visibility splays at the adjacent junction between Chescombe Road and Mendip Close, and the lack of submission of a Road Safety Audit and tracking data for cars and emergency vehicles, would have an unacceptable impact on highway safety. The proposed development is therefore contrary to Policy DM24 of the Sites and Policies Plan Part 1: Development Management Policies, and paragraph 108 and 1098 of the National Planning Policy Framework.

4.2.3 Following the above, an appeal was submitted². The Inspector determined that the appeal was to be allowed (CD.I11) and outline planning permission granted, on the basis that (paragraph 154):

“Taking all of the above into consideration, applying the tilted balance pursuant to paragraph 11d of the NPPF, the adverse impacts of granting permission plainly would not significantly and demonstrably outweigh the benefits of doing so. The Council cannot demonstrate a 5YHLS and the overall benefits of the appeal proposals clearly outweigh the harm”.

² (PINS Reference: APP/D0121/W/21/3286677)

Land at Rectory Farm, Chescombe Road, Yatton – 23/P/0238/RM

- 4.2.4 Following the above consent for outline planning permission at Land at Rectory Farm, Chescombe Road, an application for reserved matters was validated on 1st March 2023³. The reserved matters description of development is as follows:

‘Reserved matters application for layout, scale, appearance and landscaping in relation to the erection of 98 dwellings, provision of open space, landscaping, car parking and associated infrastructure pursuant to the outline planning consent ref 21/P/0236/OUT (Outline planning application for a residential development of up to 100no. dwellings and associated infrastructure following demolition of existing buildings on site, with access for approval and all other matters for subsequent approval - approved under appeal reference APP/D0121/W/21/3286677)’.

- 4.2.5 The submission is yet to be determined at the time of writing my evidence.

³ 23/P/0238/RM

5 Evolution of the Appeal Scheme

5.1 Application Submission

- 5.1.1 A pre-application enquiry was submitted to the Council on the 30th September 2022 (reference: 22/P/2451/PR2) (**CD.E1**); and this was followed by a further pre-application submission on the 12th December 2022 (**CD.E5**) requesting feedback in respect of the approach and methodology for the production of a flood risk sequential test (FRST). A response was received from the Council on 16th February 2023 in relation to the original pre application submission. A copy of this is provided at **CD.E9**. I note that despite the explicit request for feedback on the FRST methodology, other than providing confirmation that it should be district wide, no further feedback was received, despite a number of meetings being held between the Appellant and the Council.
- 5.1.2 Prior to the submission of the Appeal Scheme, a request for a screening opinion was submitted to the Council on 5th October 2022 (**CD.E2**). The Council provided a response to the request on 20th January 2023 (reference: 22/P/2963/EA1) and this confirmed that the proposals did not constitute EIA development. A copy of the Screening Opinion is provided at **CD.E7**.
- 5.1.3 The Appellant carried out public consultation prior to the submission of the planning application. Yatton Parish Council were contacted and a total of 3,539 leaflets were distributed to the residents of Yatton on 1st November 2022 inviting them to view a website which provided further information about the development and giving the option to provide any feedback. The leaflet also advertised that a public consultation event was due to be held on 10th November 2022 at 7pm. This provided residents with the opportunity to discuss the proposals with the relevant technical consultants.
- 5.1.4 Full details of the consultation carried out is provided within the Appellant's Planning Statement (**CD.A18**).

6 The Development Plan

6.1 The Development Plan

6.1.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires local planning authorities to determine planning applications in accordance with the Development Plan unless material considerations indicate otherwise.

6.1.2 The Development Plan comprises the following:

6.2 Core Strategy (2006-2026) (adopted (in full) 10th January 2017);

6.2.1 I deal with the relevant policies in each with a particular focus on those in the reasons for refusal (in bold / italics)

- CS1 – addressing climate change and carbon reduction,
- CS2 – delivering sustainable design and construction,
- **CS3 – environmental impacts and flood risk management**
- CS4 – nature conservation
- CS5 – landscape and the historic environment,
- CS9 – green infrastructure,
- CS10 – transportation and movement,
- CS11 – parking,
- CS12 – achieving high quality design and place making,
- CS13 – scale of new housing,
- **CS14 – distribution of new housing**
- CS15 – mixed and balanced communities,
- CS16 – affordable housing,
- **CS25 – children, young people and higher education**
- CS27 – sport, recreation and community facilities,
- **CS32 – service villages** and
- CS34 – infrastructure delivery and development contributions.

6.2.2 The Core Strategy (**CD.F1**) was first adopted on 10th April 2012. Following a successful High Court challenge to Policy CS13, on the basis that the inspector failed to give adequate or intelligible reasons for his conclusion that the [housing] figure [14,000 dwellings] made sufficient allowance for latent demand i.e., demand unrelated to the creation of new jobs. Policy CS13 and 8 other policies which could have had consequential changes if the housing number were increased, were remitted for re-examination. On 18th September 2015, Policy CS13 – Scale of new housing was re-adopted following consideration by the Secretary of State of the Inspector's Report.

6.2.3 The remaining remitted policies were then re-examined. On 10th January 2017, the Council adopted the remaining remitted policies CS6, CS14, CS19, CS28, CS30, CS31, CS32 and CS33.

6.2.4 Within the Core Strategy are a series of 'Visions' – Vision 6 is the vision for the Service Villages (of which Yatton is 1 of 9) and states (page 18):

“By 2026, the Service Villages will become thriving rural communities and a focal point for local housing needs, services and community facilities. They will become more self-contained in terms of providing jobs and serving the local and surrounding community for all their day-to-day needs, whilst protecting their individual character.”

- 6.2.5 In addition, the first priority objective of the Core Strategy is identified as the delivery of sustainable development across North Somerset through the provision of a minimum of 20,985 new homes by 2026 to meet local housing needs (my emphasis).
- 6.2.6 This housing requirement is detailed in Policy CS13 (Scale of New Housing) which indicates that a supply of deliverable and developable land will be identified to secure the delivery of a minimum of 20,985 dwellings within North Somerset 2006-2026. Importantly it confirms that ***“the appropriate level of new homes will be reviewed by 2018.”***
- 6.2.7 Policy CS13 was reconsidered by an Examination held between March 2014 and January 2015. The Inspector concluded at paragraph 75 that, in relation to the now adopted Policy CS13 (CD.F5):

“The development of Policy CS13 does not comply with national guidance in that it is not based on a full objective assessment of housing need in the whole of the recognised HMA. However, I am satisfied that, provided that the housing requirement set out in the MD6/6(a) version of the Policy is sufficient, this difficulty can be overcome by embedding a commitment to an early review of the requirement into the Plan. The MD6/6(a) version does this.”

- 6.2.8 The supporting text of the policy states that:

“3.181 A new joint Strategic Housing Market Area assessment for the wider housing market area was being carried out at the time that Policy CS13 was being examined. Until this work is completed the Council cannot move forward on the basis of a full objective assessment of housing need as required by the NPPF.

3.182 The provisions of this policy should therefore be seen as an interim position pending a review of housing requirements and provision which will be based on the findings of the new SHMA. The policy includes a specific reference to this review.”

- 6.2.9 Paragraphs 3.183 and 3.184 then state:

“3.183 ... by early 2017 therefore the Council will be able to plan for a fully NPPF compliant and West of England agreed housing provision. Policy CS13 will be applied on the basis

of that revised figure once it has been adopted. The Council will then need to review and have adopted a replacement plan, whether this be a Local Plan or a review of this Core Strategy, in order to put the requirements of the adopted JSPS into local effect.

3.184 If for any reason the JSPS has not been finalised the Council will move ahead with a review of the document on the basis of the best information available to it (including the NPPF compliant SHMA). In either case, the review will be completed by the end of 2018 with a replacement policy adopted by that time.”

6.2.10 Finally, paragraph 3.190 concludes

3.190 Policy CS13 is an interim position which will be reviewed through the duty to cooperate by the production of a joint development plan, the JSPS, by the West of England authorities and with a replacement policy adopted by the of 2018.

6.2.11 It is clear beyond any doubt, that the current housing target is not based upon an NPPF compliant assessment of local housing need, and that the current CS13 position was taken forward on the basis that a review would have been completed by the end of 2018 and a revised policy adopted. I highlight paragraph 40 of the Local Plan Inspector’s Report (CD.F5) into Policy CS13 which states:

***“I have considered the MD6(a) [Main Modification] version on this basis and stress that the interim position provided by the MD6/6(a) version of the policy should be seen only as a ‘stepping-stone’ towards development of a Plan which is NPPF compliant. To rely on any interim version of Policy CS13 beyond 2018 runs the risk that housing delivery could diverge unacceptably from a properly assessed requirement and provision trajectory”.* (my emphasis)**

6.2.12 Paragraph 77 then states:

“Whilst there is some evidence to suggest that the housing requirement is lower than it should be, I do not consider that the other evidence which has been put forward is so persuasive that I should necessarily accept it as an alternative to that provided by the Council. Given that the Council has given a firm commitment to a review of Policy CS13 before the end of 2018, I am satisfied that, if after pragmatic and realistic consideration in the light of the forthcoming joint SHMA, the housing requirement had been set too low, there would be a ready opportunity for the Council to promptly address any real backlog in housing provision which had built up”.

6.2.13 There can be no doubt, that the Local Plan Inspector noted that the housing figure may be too low and that it was not an NPPF compliant housing figure, but that he allowed the Council to proceed on the basis that a review and replacement policy would be in place by the end of 2018. For the reasons which are set out in Section 7 of my evidence, this has yet to happen, and the plan is now some 6 years beyond the date in which a review was planned to have been completed and the housing numbers must therefore be treated as out of date. In addition, both parties are agreed that a period of greater than 5 years has now passed since the adoption of Policy CS13 (September 2015) and therefore, in accordance with Paragraph 77 of the NPPF, local housing need should be calculated using the Standard Method (footnote 42 of the NPPF).

6.2.14 Policy CS14 (Distribution of Housing) identifies Weston-super-Mare as the focus for residential development, including the strategic allocation at Weston Villages, and outside Weston, most additional development will take place at the towns of Clevedon, Nailsea and Portishead. However, the policy identifies that 2,100 net additional dwellings will be delivered in the Service Villages. There is no apportionment of this figure between the 9 Service Villages. Of specific relevance to this appeal is that the policy indicates 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.”

6.2.15 The policy also states.

“Settlement boundaries define the area within which residential development is acceptable in principle, subject to compliance with other policies in the plan. Development outside the settlement boundaries will only be acceptable where a site is allocated in a Local Plan or where it comprises sustainable development which accords with the criteria set out in the relevant settlement policies (...CS32).”

6.2.16 I address the way in which the settlement boundaries should be treated in Section 8 of my evidence.

6.2.17 Paragraph 3.197 confirms that in the rural areas, the Core Strategy approach is

“to support an appropriate level of small-scale growth which reflects the function and character of individual villages. Nine of the larger villages which support a wider range of facilities and act as a hub for surrounding areas are identified as Service Villages. Within and adjoining the settlement boundaries of the Service Villages small scale development may be appropriate subject to the criteria set out in Policy CS32. Proposals of a larger scale outside settlement boundaries must come forward as part of a formal site allocation with revision to the settlement

boundary through the Local Plan or Neighbourhood Development Plan.”

6.2.18 **Policy CS32 (Service Villages)** advises that new development within or adjoining the settlement boundaries of Yatton which enhances the overall sustainability of the settlement will be supported where:

- Results in a form, design and scale of development which is high quality, respects and enhances the local character, contributes to place making and the reinforcement of local distinctiveness;
- Has regard to the size, type, tenure and range of housing that is required;
- Will not cause significant adverse impacts on local services and infrastructure;
- Results in high quality sustainable schemes which is appropriate to its context and makes a positive contribution to the local environment and landscape setting;
- No significant adverse cumulative impacts are likely to arise from the development;
- The location maximises opportunities to reduce the need to travel and encourages active travel; and
- Demonstrates safe and attractive pedestrian routes.

6.2.19 The policy goes on to state that where sites are outside the settlement boundaries and in excess of about 25 dwellings, they must be brought forward as allocations through Local Plans or Neighbourhood Plans. Given the Council's housing land supply position, and that it is self evident that the Council is going to be unable to meet its housing requirement without development taking place on some sites that do not fit with its existing policies for the distribution of new housing, this policy is considered to be out-of-date.

6.2.20 Turning away from housing numbers, the Council also cite policies CS3 and CS25 in their reasons for refusal.

6.2.21 Policy CS3 deals with environmental impact and flood risk assessment. Insofar as it relates to the Appeal Site, its relevance is in relation to the application of the flood risk sequential test (FRST). The policy wording is set out below and states:

“Development in zones 2 and 3 of the Environment Agency Flood Map will only be permitted where it is demonstrated that it complies with the sequential test set out in the National Planning Policy Framework and associated technical guidance and, where applicable, the Exception Test, unless it is:

- ***development of a category for which National Planning Policy Framework and associated technical guidance makes specific alternative provision; (our emphasis) or***
- ***development of the same or a similar character and scale as that for which the site is allocated, subject to demonstrating that it will be safe from flooding,***

without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.

For the purposes of the Sequential Test:

- 1. The area of search for alternative sites will be North Somerset-wide unless:***
 - It can be demonstrated with evidence that there is a specific need within a specific area; or***
 - The site is located within the settlement boundaries of Weston (including the new development areas), Clevedon, Nailsea and Portishead, where the area of search will be limited to the town within which the site is located.***

Other Local Development Documents may define more specific requirements.

- 2. A Site is considered to be 'reasonably available' if all of the following criteria are met:***
 - The site is within the agreed area of search.***
 - The site can accommodate the requirements of the proposed development.***
 - The site is either:***
 - a) owned by the applicant;***
 - b) for sale at a fair market value; or***
 - c) is publicly-owned land that has been formally declared to be surplus and available for purchase by private treaty.***

Sites are excluded where they have a valid planning permission for development of a similar character and scale and which is likely to be implemented."

6.2.22 I deal with this matter in detail in Section 9 of my evidence. However with regard to part 1 of the Policy, I set out later in my evidence (Section 9) that there is both a District wide but also settlement specific need for housing but the Appellant has adopted the more robust approach of assessing the whole District in accordance with the sole aspect of feedback on the methodology from the Council.

6.2.23 Pulling the strands of the sequential test together, it is my view that this is passed however in Sections 9 and 13 of my evidence, and following the approach of LJ Holgate in the Mead Realisations / Redrow High Court judgement, I address the consequences of the failure of the sequential test in relation to the planning balance exercise and set out how this can equally be applied to the exception test in relation to the Appeal Site.

6.2.24 Policy CS25 relates to the provision of new / improved education facilities with the policy set out in full below:

CS25: Children, young people and higher education

Where local provision for children and young people will be inadequate to meet the needs of new residential developments, improved facilities/services or new learning facilities (for example, schools, pre-schools, children's centres, childminding provision, youth provisions) will be sought to meet any identified shortfall.

These learning facilities will be provided in tandem with population growth. Where appropriate, new schools will become focal points for communities and act as avenue for a wide range of community activities.

New schools / children and young people facilities will be sited in a location that would facilitate safe routes to the venue and be directly accessible to a pedestrian and cycleway network.

The provision of further and higher education and training initiatives and facilities, particularly with regards to the role and expansion of Weston College as a focus for higher education within the district, will be supported.

This policy contributes towards achieving Priority Objective 8.

6.2.25 I address this matter further in Section 11 of my evidence, drawing also on the evidence of Mr Hunter. However I note that in effect there are 3 parts to the policy:

- (i) Is local provision for children / young people inadequate to meet the needs of new residential development?

6.2.26 Mr Hunter's evidence demonstrates that the answer to this is no. Therefore there is no requirement for the Appellant to take this matter further. However on an assumption that the Inspector considered the answer to be yes, then:

- (ii) Is the facility provided in tandem with population growth and can the facility become a focal point for the community?

6.2.27 Mr Hunter's evidence is that the facility would not be provided in tandem with population growth. However the Appellant is proposing land which can deliver facilities for the community on it and can act as a local hub. Thus rather than delivering no facility (as there is no need for the school) – the Appellant is proposing land for the provision of a new facility which could serve as a focal point for community.

- (iii) Is the location on which would facilitate safe routes to the venue and would directly accessible to a pedestrian and cycleway network.

6.2.28 Given that NSC allocated part of the Appeal Site (see Section 11 of my evidence for the extent of the area); it must then follow that it is the Council's view that this part of the site (and indeed the wider Appeal site of which it forms a part given the size of the site) can facilitate safe access (in both highways and flooding terms and is accessible to a pedestrian and cycleway network). In flood risk terms, I note that in accordance with the Flood Risk Vulnerability Classification (Annex 3) to the NPPF, both dwelling

houses and educational facilities are both classified as 'more vulnerable' developments.

6.3 Sites and Policies Plan part 1: Development Management Policies (2006-2026) (adopted 19th July 2016);

6.3.1 There are multiple detailed policies within the Sites and Policies Plan part 1 ('SAPP Part 1'), I therefore focus only on those which are cited in the reasons for refusal and those which are most relevant to the consideration of the Appeal Scheme. Again those in the reasons for refusal are in bold / italics.

- **DM1 – flooding and drainage,**
- DM19 – green infrastructure,
- DM24 – safety, traffic and provision of infrastructure etc associated with development,
- DM27 – bus accessibility criteria,
- DM32 – High quality design and place making,
- DM34 – Housing type and mix,
- DM36 – Residential densities,
- **DM68 – Protection of sporting, cultural and community facilities,**
- DM70 – development infrastructure and
- DM71 - development contributions, Community Infrastructure Levy and viability.

1.1 Policy DM1 is set out below and overleaf. The Policy aim is identified as:

Policy DM1

All development must consider its vulnerability to flooding, taking account of all sources of flood risk and the impacts of climate change, up to 100 years ahead on residential or mixed use sites and 60 years ahead on non residential sites. Exceptions to national policy on flood risk (as elaborated in national technical guidance and in Policy CS3 of the North Somerset Core Strategy) will not be permitted.

All development that would increase the rate of discharge of surface water from the site must consider its implications for the wider area, including revised or amended proposals. Sustainable drainage systems are expected for all major developments; alternatives will only be permitted where sustainable drainage is impractical or would compromise the viability of the scheme and the alternative does not conflict with national or local planning policy. If discharge of surface water to a public sewer is proposed, the applicant must demonstrate that capacity exists, otherwise, how excess surface water will be managed into the long-term. Essential flood prevention and drainage works for developments that include new housing must be completed at the latest prior to first residential occupation, except in the case of phased developments where alternative arrangements are agreed.

Open areas, including highways, within developments must be designed to optimise drainage and reduce run-off, while protecting groundwater and surface water resources and quality.

Land is safeguarded for a strategic flood solution at the former Weston Airfield and to the south of the Cross Rhyne, and for flood management infrastructure along the River Banwell as shown on the Policies Map.

6.3.2 Mr Mirams will address flood risk matters in detail in his evidence. Although I note that this policy is cited in relation to Reason for Refusal 4 in which there is no reference to drainage and which the Council are no longer contesting in any case. I do however note that baked into this policy is an acceptance that “essential flood prevention and drainage works” could be needed for developments involving new housing and that this is acceptable in principle provided that are completed prior to first occupation at the latest (unless it’s a larger phased development). The Appellant will agree to this provision via a suitably worded planning condition.

6.3.3 Policy DM68 is set out below and overleaf

Land and buildings in existing use, last used for, or proposed for use for a sporting, cultural or community facility, are protected for that purpose unless the land is allocated for another purpose in another planning document.

Development of such sites or buildings for other uses will only be permitted if one of the following bullet points applies:

• Where acceptable alternative provision of at least equivalent community benefit is made available in the same vicinity and capable of serving the same catchment area. In such cases, all of the following criteria must be met:

a) the new site is at least as accessible to pedestrians, cyclists and motor vehicles; and

b) the replacement facility is at least equivalent in terms of size, usefulness, attractiveness and quality to the facility it replaces; and

c) in the case of a replacement for an existing facility, the replacement will be available for use before use of the existing facility is lost.

• Where the site or building is genuinely redundant/surplus to requirements for cultural/community uses and does not comprise open space or undeveloped land with recreational or amenity value. A site will be deemed genuinely redundant/surplus for community uses if any of the following circumstances apply:

a) the site is in an unsuitable location for alternative community use by reason of its distance from the local population or poor accessibility for non-car users; or

b) the space is unsuitable for appropriate alternative community use, bearing in mind the possibilities for subdivision and opportunities for shared and mixed uses, and it is not feasible or appropriate to redevelop the site for community use; or

c) evidence is submitted that demonstrates, to the satisfaction of the local planning authority, that attempts to rent/dispose of the property for community uses have failed (attempts being for at least 6 months, at normal market value for such uses). In addition, if the local planning authority considers it appropriate, a business plan shall be produced identifying the extent and combination of usage and charges necessary to make the facility profitable; or

d) the local planning authority, through consultation with relevant Council departments, town/parish councils, service providers and voluntary groups, etc. is satisfied that there is no demand for any appropriate form of community facility in the vicinity.

• Where the partial development of the site will secure the retention and improvement of the remainder of the site for community use;

• Where proposals relate to the intensification of community use;

• In the case of school playing fields, where the development is for education purposes or the Department for Education is satisfied that the land is no longer required for school use and its loss would not result in a shortfall in recreational open space/playing pitches for the local community.

Designated community assets shall be retained in community use.

6.3.4 I deal with the weight to be afforded to this Policy in Section 12 of my evidence, however insofar as it is applied to the Appeal Site (albeit the Council is no longer pursuing this Reason for Refusal), it is the first criteria which is applicable for the reasons which I set out below:

- Alternative provision is provided within the same catchment for a facility which is arguably of more use to a greater proportion of the existing community than a primary school (for which the Appellant has demonstrated that there is no need in any case).
- The land for the facility proposed is equally as accessible as the primary school site.

- The replacement land (mindful there is no existing facility in place at the moment) is more useful to a greater proportion of the community and will serve a role as a focal point for the community.
- On the basis that this aspect is satisfied, there is no need to address any further criteria within this policy.

6.4 Sites and Policies Plan Part 2: Site Allocations Plan (2006-2026) (adopted 10th April 2018);

6.4.1 The Part 2 Plan is not referenced in the reasons for refusal, however within this plan under Schedule 4 to Policy SA8 – part of the Appeal Site is identified for a replacement primary school site (carried over from the Replacement Local Plan) – and therefore I address this insofar as it relates to RfR4.



6.4.2 Part of the Appeal Site is safeguarded under Policy SA8 (Land allocated or safeguarded for the relevant community use listed in Schedule 4 [of the Sites and Policies Plan, Part 2 Site Allocations Plan 2018] for a “primary school replacement site” - identified as a ‘rollover’ from the previous local plan. It is also highlighted that a higher level of surface water attenuation and reduction in existing flood risk is required. As set out previously in paragraph 6.2.28; a primary school and residential

development fall in the same category of flood vulnerability. I remain of the view that this policy is fairly and squarely out of date in relation to the Appeal Site and should be afforded no more than limited weight. Given that the Council are no longer pursuing this Reason for Refusal, it should be concluded that they are also of the same view.

6.5 Yatton Neighbourhood Plan (2017-2026) ('made' July 2019).

6.5.1 In respect of the Yatton Neighbourhood Plan (2019) the Council have confirmed that they are no longer advancing an objection in respect of alleged conflict with the Neighbourhood Plan.

6.5.2 The Yatton Neighbourhood Plan (YNP) covers the period 2017 to 2026 and was 'made' in July 2019 following a successful referendum result in April 2019.

6.5.3 The YNP sets out objectives and policies relating to businesses, the environment, housing and transport. The objectives and policies relevant to this proposed development are as follows:

6.5.4 Business Objective BO1: To maintain a thriving local economy by supporting businesses based in Yatton.

6.5.5 Business Policy BP1: Development proposals which are considered likely to have significant transport impacts on footways, bicycle routes and car and bicycle parking capacity in Yatton will be supported, where accompanied by a Transport Assessment, the scope and nature of which should reflect the scale of development and the extent of the implications.

6.5.6 Environment Objectives EO1: To protect the rural character of Yatton by enhancing:

- Local wildlife habitats and biodiversity;
- Valued landscapes including trees and hedgerows; and
- The 'dark skies' over Yatton.

6.5.7 Environment Objectives EO2: To enhance access to the surrounding countryside, green spaces, public spaces, and sports and leisure facilities.

6.5.8 Environment Objectives EO3: To ensure that the provision of open space for sports and recreational facilities is maintained at an appropriate level to meet the existing and future needs of the community.

6.5.9 Environment Policy EP1: Development proposals which contribute to improved access from residential areas of Yatton to local public footpaths will be supported.

6.5.10 Environment Policy EP3: Development proposals incorporating amenity areas for planting with appropriate indigenous trees, where appropriate, will be supported.

6.5.11 Environment Policy EP4: Development proposals which are subject to development control and incorporating external lighting designed to conform to The Institute of Lighting Engineers (ILE) Guidance notes for the reduction of obtrusive light, 2011 for

Environmental Zone E2, will be supported. External lighting for new development will normally be expected to demonstrate that:

- All night-time lighting is concentrated in appropriate areas;
- Upward lighting is minimised;
- Light pollution is minimised; and
- Energy consumption is minimised.

6.5.12 Housing Objective HO1: to maintain a mixed housing stock that includes affordable homes so that future generations can choose to stay in Yatton.

6.5.13 Housing Objective HO2: To avoid any increase in the risk of flooding in Yatton as a result of new housing developments.

6.5.14 Housing Policy HP1: A brownfield site at Mendip Road, Yatton is allocated for residential development. This site has subsequently been developed with new homes located on the edge of the village.

6.5.15 Transport Objective TO1: To make journeys to, from and within Yatton safer and more sustainable.

6.5.16 Transport Policy TP1: Development proposals will be supported where they include measures for pedestrians and cyclist to enhance traffic safety, and which encourage walking and cycling through well designed pedestrian and bicycle routes through the village.

6.5.17 I agree with the Council's position – that there is no conflict with the policies in the YNP.

6.6 Summary

6.6.1 As set out in Section 12 of my evidence, I draw a conclusion of compliance with the Development Plan read as a whole.

7 OTHER MATERIAL CONSIDERATIONS

7.1 National Planning Policy Framework (NPPF)

7.1.1 The NPPF sets out the Government’s planning policies for England and how these are expected to be applied. Its focus is primarily on achieving sustainable development and is a material consideration in the determination of planning applications and appeals.

7.1.2 Paragraph 7 confirms that the purpose of the planning system is to contribute to the achievement of sustainable development. As such, the objective of sustainable development is summarised as meeting the needs of the present without compromising the ability of future generations to meet their own needs.

7.1.3 Paragraph 8 outlines three overarching objectives for achieving sustainable development – economic, social and environmental. These are independent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives).

7.1.4 At the heart of the NPPF is a presumption in favour of sustainable development which, as set out a Paragraph 11 c) for decision-taking means:

“approving Development Proposals that accord with an up-to-date development plan without delay”;

7.1.5 Or, as per Paragraph 11 d):

“where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date (Footnote 8), granting planning permission unless:

i. The application of policies in this Framework that protect areas or assets of particular importance provides a clear reason [my emphasis] for refusing the development proposed (Footnote 7); or

ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole”.

7.1.6 NPPF Footnote 7 directs that the policies are those in the Framework as opposed to those in Development Plans, and includes amongst others “areas at risk of flooding”. The Planning Practice Guidance (Paragraph: 001 Reference ID: 7-001-20220825) defines such areas as:

Areas at risk of flooding are those at risk of flooding from any source, now or in the future. Sources include rivers and the sea, direct rainfall on the ground surface, rising groundwater, overwhelmed sewers and drainage systems, reservoirs, canals and lakes and other artificial sources.

Flood risk also accounts for the interactions between these different sources. This term is key to the application of the presumption in favour of sustainable development in paragraph 11 of the National Planning Policy Framework.

For areas at risk of river and sea flooding, this is principally land within Flood Zones 2 and 3 or where a Strategic Flood Risk Assessment shows it will be at risk of flooding in the future. It can also include an area within Flood Zone 1 which the Environment Agency has notified the local planning authority as having critical drainage problems.

- 7.1.7 I acknowledge that in relation to this site, a large proportion of the site is Flood Zone Flood Zone 3 (albeit defended). The wording in paragraph 11d directs that there must be a “**clear reason for refusing the development proposed**”. For reasons which I set out in Sections 12 and 13 of my evidence, I do not consider that there is a ‘clear reason for refusal’ such that footnote 7 applies (and thereby dis-engages the presumption). For the avoidance of doubt therefore, I consider that the presumption remains engaged for the consideration of the appeal scheme.
- 7.1.8 It is a matter of common ground (paragraph 4.5 of the Council’s Statement of Case **CD.D2**) that the Council cannot demonstrate either a 4 year or 5 year supply of housing. The Council consider the supply position to be 3.8 years. The Appellant’s position will be set out in the evidence of Mr Paterson-Neild. The Council do not consider that the tilted balance is engaged however as they consider that footnote 7 applies.
- 7.1.9 Under the proposed new calculation of Standard Method, the Councils LHN figure increases from 1,324 dpa to 1,587 dpa. Under a very simplistic calculation across 15 years – this would alter the Council’s housing requirement from 19,860 new homes to 23,805 new homes. It can therefore not be said with any assurance that the Plan will progress in its current form and with proposed changes elsewhere in the NPPF; it could be argued that the Council should now be assessed against a 5year supply rather than 4 year supply. Given that both parties are agreed that there is a shortfall, it maybe that nothing turns on this. However the extent of the shortfall is nonetheless explored within Section 13 of my Evidence. The extent of the shortfall is a relevant material consideration in the determination of this Appeal (as per Hallam Land Management Ltd v Secretary of State for Communities And Local Government & Anor [2018] EWCA Civ 1808) [**CD.J5**].
- 7.1.10 Paragraph 12 confirms the statutory provisions of Section 38(6) of the Planning and Compulsory Purchase Act 2004, in that the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making.
- 7.1.11 Paragraph 38 identifies that local planning authorities should approach decisions on proposed development in a positive and creative way. Decision-makers at every level should seek to approve applications for sustainable development where possible.
- 7.1.12 Paragraph 41 identifies the benefits of resolving matters at the pre-application stage and includes the engagement of statutory consultees also. The aim being to secure the issue of timely decisions and ensure that Applicants do not incur unnecessary

delays and costs. In this instance, with particular reference to the approach to flood risk sequential testing, the Council continually failed to provide the Appellant with any feedback despite requests to do so both in meetings and in email.

- 7.1.13 Paragraph 47 re-affirms the primacy of the Development Plan and the use of other material considerations in decision-making.
- 7.1.14 Paragraph 60 clearly highlights that to support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed.
- 7.1.15 Paragraph 61 specifies that the local housing need figure should inform strategic policies to determine the minimum housing requirement. At this stage, it is agreed that the figure for the purpose of calculating housing land supply is the figure LHN figure.
- 7.1.16 Paragraph 64 outlines that where a need for affordable housing is identified, planning policies should specify the type of affordable housing required. The Appellants have committed to an uplift in affordable housing provision to 50% affordable housing.
- 7.1.17 With regard to the supply and delivery of housing, paragraph 77 identifies that local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their housing requirement. Any shortfall in the 4-year (or 5 year) housing land supply should be remedied urgently.
- 7.1.18 Paragraph 85 identifies that the Government places significant weight on the need to support economic growth. An Economic Benefits Statement is included at my **Appendix 4** in this respect.
- 7.1.19 Paragraph 102 emphasises the importance of having access to a network of high quality open space and opportunities for sport and physical activity. The Appeal Scheme, as well as securing housing delivery, is delivering a scheme which offers 70% of the site as open space.
- 7.1.20 Paragraph 104 recognises the importance of opportunities to connect into existing public rights of way as will be done with the provision of a pedestrian / cycleway connections into Yatton and along the Strawberry Line.
- 7.1.21 Section 9 (Paragraphs 108 -117) relates to 'promoting sustainable transport' and requires transport issues to be considered from the earliest stages of plan-making and development
- 7.1.22 Paragraph 114 sets out 4 matters which should be secured in development applications. These are listed as:

a) "Appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;

b) Safe and suitable access to the site can be achieved for all users;

c) The design of streets, parking areas, other transport elements and the content of associated design standards reflects current national guidance, including the National Design Guide and the National Model Design Code; and

d) Any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.”

- 7.1.23 Paragraph 115 states that development should only be prevented or refused on highways grounds if there would be unacceptable impacts on highway safety, or the residual cumulative impacts on the road network would be severe.
- 7.1.24 Consideration has been given to public transport and non-vehicular movements in accordance with Paragraph 116 of the NPPF and a Transport Assessment and Travel Plan were produced to support the Application in accordance with Paragraph 113. No objection is raised on highway grounds
- 7.1.25 Section 12 (Paragraphs 131-141) relates to ‘achieving well-designed and beautiful places’. Paragraph 131 highlights that good design is a key aspect of sustainable development. Following on from this Paragraph 135 states that planning decisions should ensure that developments: function well; add to the overall quality of the area for the lifetime of development; are visually attractive; have appropriate and effective landscaping; are sympathetic to the local character including the surrounding built environment; maintain a strong sense of place; optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space); and create places that are safe, inclusive and accessible and which promote health and well-being with a high standard of amenity for existing and future users.
- 7.1.26 Paragraph 137 advises that design should be considered throughout the scheme evolution and that schemes which demonstrate early pro-active engagement with the community should be looked upon more favourably than those which don’t. As set out earlier in my evidence, public consultation on this scheme was undertaken prior to submission and the Appellant sought to respond to comments raised where appropriate.
- 7.1.27 Paragraph 139 identifies that permission should be refused for development of poor design especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes. Significant weight should be given to development which reflects local design policies and government guidance on design.
- 7.1.28 The application is in outline at this stage, and detailed matters of design and layout will be considered through future Reserved Matters. However, the application is accompanied by an Illustrative Masterplan (Drawing Ref: edp7842_d003g) (**CD.A8**) and a Design and Access Statement (**CD.A30**), both of which demonstrate that the proposed development will be of a high standard of layout and design. The Design and Access Statement confirms the development is responsive to its setting and local context, with a proposed layout which responds to the site’s constraints. It will also

deliver an attractive edge of settlement environment close to, but separated from, the Strawberry Line, part of the National Cycling Network.

- 7.1.29 Section 14 deals with matters relates to, amongst others, climate change and flooding. The Council's Statement of Case and the reasons for refusal specifically cite paragraphs 165, 167, 168 and 173.
- 7.1.30 Paragraph 165 advises that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas of highways risk and that where development is necessary, the development should be made safe for its lifetime without out increasing flood risk elsewhere. Mr Miram's addresses this in his evidence.
- 7.1.31 Paragraphs 167 and 168 deal with the application of the sequential test (which I deal with in Section 9 of my evidence).

167. All plans should apply a sequential, risk-based approach to the location of development – taking into account all sources of flood risk and the current and future impacts of climate change – so as to avoid, where possible, flood risk to people and property. They should do this, and manage any residual risk, by: a) applying the sequential test and then, if necessary, the exception test as set out below; b) safeguarding land from development that is required, or likely to be required, for current or future flood management; c) using opportunities provided by new development and improvements in green and other infrastructure to reduce the causes and impacts of flooding, (making as much use as possible of natural flood management techniques as part of an integrated approach to flood risk management); and d) where climate change is expected to increase flood risk so that some existing development may not be sustainable in the long-term, seeking opportunities to relocate development, including housing, to more sustainable locations.

168. The aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. The strategic flood risk assessment will provide the basis for applying this test. The sequential approach should be used in areas known to be at risk now or in the future from any form of flooding.

- 7.1.32 Paragraph 169 continues, stating 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. The need for the Exception Test depends on the potential vulnerability of the site and development proposed, in line with the Flood Risk Vulnerability Classification set out in Annex 3 of

the NPPF. Residential development, such as that proposed, is classified as 'more vulnerable' development in Annex 3 of the NPPF.

7.1.33 Paragraph 170 states that the application of the Exception Test should be informed by a Flood Risk Assessment. To pass the Exception Test, it must be demonstrated that:

- 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.

7.1.34 Both elements of the Exception Test should be satisfied for development to be permitted. I deal with the Exception Test at Section 9 of my evidence.

7.1.35 Paragraph 173 deals with the determination of applications in relation to flood risk the requirements for flood risk assessments in areas at risk of flooding. Again, Mr Mirams covers this in his evidence and I adopt his conclusions in this regard.

When determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment⁵⁹. Development should only be allowed in areas at risk of flooding where, in the light of this assessment (and the sequential and exception tests, as applicable) 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.

7.1.36 Paragraphs 180 – 182 relate to, amongst other matters, harm to biodiversity, loss or deterioration of irreplaceable habitats, protection of habitats sites. No objections are raised in this regard and the Appeal Site can deliver a significant biodiversity net gain – which will be secured through the legal agreement

7.1.37 Section 16 deals with the conservation and enhancement of the historic environment. No objections are raised in this respect and there are no heritage assets which will be impacted by the Appeal Schemes.

7.1.38 As I set out later in my evidence, I conclude that the policies contained within the NPPF weigh in favour of the grant of planning permission for this site.

7.2 Planning Practice Guidance

- 7.2.1 Planning Policy Guidance ('PPG') was updated on 25th August 2022 to bring it in line with the changes introduced to the NPPF in 2021. There are now clearer requirements for multifunctional SUDS; the Sequential and Exception Tests have been updated to consider surface water; the definition of functional floodplain (Flood Zone 3b) has been changed; and there is increased promotion of Natural Flood Management (NFM) in new developments. Relevant extracts of the PPG in relation to sequential and exception testing are included at **CD.K15**.
- 7.2.2 The PPG indicates that where necessary, planning authorities should apply the Sequential Test and, if needed, the Exception Test, to ensure that flood risk is minimised and appropriately addressed⁴.
- 7.2.3 Paragraph 024 states that *"The Sequential Test ensures that a sequential, risk-based approach is followed to steer new development to areas with the lowest risk of flooding, taking all sources of flood risk and climate change into account. Where it is not possible to locate development in low-risk areas, the Sequential Test should go on to compare reasonably available sites:*
- *Within medium risk areas; and*
 - *Then, only where there are no reasonably available sites in low and medium risk areas, within high-risk areas⁵."*
- 7.2.4 Paragraph 024 also states that *"Initially, the presence of existing flood risk management infrastructure should be ignored, as the long-term funding, maintenance and renewal of this infrastructure is uncertain."*
- 7.2.5 With respect to planning applications, paragraph 027 states that the Sequential Test should be applied to major development proposed in areas at risk of flooding, and that ***"For individual planning applications subject to the Sequential Test, the area to apply the test will be defined by local circumstances relating to the catchment area for the type of development proposed. For some developments this may be clear, for example, the catchment area for a school. In other cases, it may be identified from other Plan policies. For example, where there are large areas in Flood Zones 2 and 3 (medium to high probability of flooding) and development is needed in those areas to sustain the existing community, sites outside them are unlikely to provide reasonable alternatives. Equally, a pragmatic approach needs to be taken where proposals involve comparatively small extensions to existing premises (relative to their existing size), where it may be impractical to accommodate the additional space in an alternative location⁶."*** (my emphasis)
- 7.2.6 Paragraph 028 gives a definition of 'reasonably available sites' as *"those in a suitable location for the **type of development** with a **reasonable prospect that the site is available** to be developed **at the point in time envisaged for the development**. These could include a series of smaller sites and/or part of a larger site if these would*

⁴ PPG Paragraph: 004 Reference ID: 7-004-20220825

⁵ PPG Paragraph: 024 Reference ID: 7-024-20220825

⁶ PPG Paragraph: 027 Reference ID: 7-027-20220825

be capable of accommodating the proposed development. Such lower-risk sites do not need to be owned by the applicant to be considered ‘reasonably available’” (my emphasis).

- 7.2.7 The PPG is clear that *“the absence of a 5-year land supply is not a relevant consideration for the sequential test for individual applications⁷.”*
- 7.2.8 Paragraph 029 states that *“Relevant decision makers need to consider whether the test is passed, with reference to the **information it holds on land availability**. The **planning authority will need to determine an appropriate area of search**, based on the development type proposed and relevant spatial policies. The applicant will need to identify whether there are any other ‘**reasonably available**’ sites within the area of search, that have not already been identified by the planning authority in site allocations or relevant housing and/or economic land availability assessments, such as sites currently available on the open market. The applicant may also need to check on the current status of relevant sites to determine if they can be considered ‘reasonably available’” (my emphasis).*
- 7.2.9 PPG builds on paragraph 164 of the NPPF in terms of Exception Testing. Paragraph 031 explains that it *“is not a tool to justify development in flood risk areas when the Sequential Test has already shown that there are reasonably available, lower risk sites, appropriate for the proposed development. It would only be appropriate to move onto the Exception Test in these cases where, accounting for wider sustainable development objectives, application of relevant local and national policies would provide a clear reason for refusing development in any alternative locations identified”*.
- 7.2.10 PPG sets out the circumstances where the Exception Test will be required. As the Site lies within Flood Zone 3a and residential development is classified as ‘More Vulnerable’ development, an Exception Test would be required to support the proposed application, and only *“if the Sequential Test has shown that there are no reasonably available, lower-risk sites, suitable for the proposed development, to which the development could be steered”*, as set out in **Figure 7-1** below. It is noteworthy that development relating to ‘educational establishments’ are also categorised as ‘More Vulnerable’ (NPPF Annex 3) and part of the site include an allocation for a Primary School, which I discuss later in my Evidence.

7.3 Development and Flood Risk Issues Advice Note (2019)

- 7.3.1 North Somerset Council published a ‘Development Management Advice Note’ in November 2019 about development and flood risk issues. This articulates government guidance post-dating the 2017 Core Strategy, however pre-dating the August 2022 PPG and December 2023 NPPF.
- 7.3.2 The Inspector in the Lynchmead Farm appeal⁸ (**CD.I2**) placed no reliance on this Note (DN35) as it *“has not been through the statutory process for adoption of local plan documents as set out in regulations⁹”*. I understand that this means this Note cannot carry any weight as a decision making document. I therefore say nothing further about

⁷ PPG Paragraph: 028 Reference ID: 7-028-20220825

⁸ PINS ref: APP/D0121/W/22/3313624

⁹ Town and Country Planning (Local Planning) (England) Regulations 2012

this document however if the Council adopt a different position, the Appellant reserves the right to make further submissions on this matter through evidence or legal submissions.

7.4 Emerging Local Plan 2039

7.4.1 North Somerset are currently in the process of preparing their Local Plan 2039, which will cover the period of 2023 to 2039. Once adopted, it will replace the current Development Plan, which comprises the Core Strategy, Site Allocations Plan and Development Management Policies.

7.4.2 With regard to the plan review, on the 2nd August 2024, the Council published the following statement:

“A new pre-submission plan 2040 was agreed by the Executive Committee on 17 July 2024 for consultation. This was based on our local housing target and no strategic allocations in the green belt. It also responded to comments received through the previous regulation 19 consultation in 2023 as well as an amendment to the plan period to 2025-2040.

We will not be going ahead with our consultation on the pre-submission plan 2040 in September as we had originally planned. This is due to the launch of the consultation on the governments proposed planning reforms on 30 July.

We will now review our pre-submission plan and take into account the proposed reforms. We will be working to progress a revised plan as quickly as possible”

7.4.3 As stated above the Regulation 19 Plan (**CD.G4**) has now been halted. However it has been made clear that under the new Government, housing requirements are likely to increase rather than reduce in many locations – including North Somerset. The Pre-Submission Plan recognised that the most sustainable patterns of growth for North Somerset was likely to result in the principal areas of new growth being generally located the main towns of Weston-super-Mare, Clevedon, Nailsea and Portishead. However, opportunities for an appropriate scale of growth would exist in the towns, villages and rural areas, subject to development being sustainably accommodated.

7.4.4 Policy SP8 (Housing) of the Pre-Submission Plan set out that ‘land will be identified to secure the delivery of a minimum of 14,902 dwellings within North Somerset from 2024 to 2039’. Policy DP43 (Affordable Housing (including rural exception schemes)) proposed that developments would be expected to provide 38.5% affordable housing on greenfield sites and 20% on previously developed land.

7.4.5 The spatial strategy (Policy SP3 – Spatial Strategy) for the Pre-Submission Plan advised that priority would be given to locating new residential and mixed-use development in or close to urban areas where there is an existing or proposed wide range of facilities, services and jobs, and there are opportunities to encourage active travel, particularly at locations which are currently, or have the potential to be, well served by public transport. Residential development in areas at risk of flooding will be

minimised outside the towns (I note the implicit acknowledged that not all residential development can be accommodated on areas which are not identified at risk from flooding). The amount of development at villages and in the countryside will relate to local community needs. It is noted that no specified quantum or amount of development in the towns, villages and rural areas is specified within the policy.

7.4.6 A total of 207 dwellings were be allocated within the Pre-Submission Plan for Yatton. The three allocations in Yatton include:

1. Land at North End, Yatton – 47 dwellings;
2. Moor Road, Yatton – 60 dwellings; and
3. Rectory Farm, Yatton – 100 dwellings.

7.4.7 None of these are “new sites” – they are all existing sites, which does then seem to run counter to the Council’s claim for the need for a new primary school site in the village. However Mr Hunter deals with this matter further in his evidence and the Council are no longer advancing a case in this respect.

7.4.8 Draft policy DP9 relates to Flood Risk stated:

“All development must consider its vulnerability to flooding, taking account of all sources of flood risk and the impacts of climate change, assessing at least 100 years from the completion of development on residential or mixed use sites comprising residential development and 75 years from the completion of development on non-residential sites.

Applying the Sequential Test where required in line with the NPPF and the Planning Practice Guidance (PPG), proposals for development must seek to avoid development in areas of greater risk of flooding from all sources unless for compatible uses in line with national policy. In order to pass the Sequential Test, proposals will need to demonstrate that there are no reasonably available alternative sites that could accommodate the proposed development at a lower risk of flooding.

Where required, the Exception Test will also be applicable in line with the NPPF and the PPG. Flood resilient construction should be utilised to manage any residual risk.

Residential development proposals for less than 10 dwellings within the settlement boundaries of Weston-super-Mare, Clevedon and Portishead will not be required to provide evidence that they have considered the sequential test but will need to demonstrate that the proposal is safe for its lifetime taking account of the vulnerability of the users, without increasing flood risk elsewhere, and where possible, will reduce overall flood risk.

Where the tests are required, robust information should be provided with the planning application in order to assist the council in assessing whether the tests are passed. Where either the sequential or exceptions tests are not passed, permission will not be granted. The search for alternative sites should be district-wide if the proposal is outside the main towns and should not be restricted to sites only capable of accommodating the proposed scale of development, and opportunities to provide development on more than one, sequentially preferable site should be explored where practical. A more focused search area may be justified taking into consideration the appropriate catchment area for the development proposed. If the proposal is inside one of the main towns, the search area will be the same main town.

In all cases, the precautionary principle will be applied when considering development proposals within areas at current and future risk of flooding.

The assessment of flood risk in relation to any proposed development, should take into account the North Somerset Strategic Flood Risk Assessment (SFRA) and its mapping in addition to mapping provided nationally within the PPG.”

7.4.9 The Regulation 19 Local Plan is supported by a ‘Flood Risk Sequential Test of proposals within the Pre-submission Local Plan’ report (CD.G3). It sets out at paragraph 2.3 that the Pre-Submission Local Plan proposes 81 residential allocations and that of the 36 sites which are not yet committed, ‘20 of these are indicated to be either partly, or entirely affected by one or more sources of flood risk either currently or in the future associated with sea level rise and associated tidal flood risk’. The Council was therefore actively seeking to allocate sites within areas at risk of flooding and with an increase in housing numbers, it is assumed this will continue to be the case and that further such sites will be required.

7.4.10 Paragraph 48 of the NPPF advises that Local Planning Authorities may give weight to relevant policies in emerging plans according to:

- a) the stage of preparation of the plan;
- b) the extent to which there are unresolved objections to the relevant policies; and
- c) the degree of the consistency with the Framework.

7.4.11 Following this statement and in the absence of a new plan (following the latest position statement as of the 2nd August, I afford no more than very limited weight at best to the draft Regulation 19 plan previously published.

7.5 Housing Land Supply

7.5.1 The Strategic policies in the adopted Core Strategy which include the housing requirement for the plan are over five years old and are ‘out of date’. The policies have

not been reviewed and found not to require updating. The Council is therefore required to “identify and update annually a supply of specific deliverable sites sufficient to provide either a minimum of five years’ worth of housing, or a minimum of four years’ worth of housing if the provisions in paragraph 226 apply” as per paragraph 77 of the National Planning Policy Framework (NPPF).

- 7.5.2 Paragraph 77 of the NPPF further sets out that in relation to housing supply, “The supply should be demonstrated against either the housing requirement set out in adopted strategic policies, or against the local housing need where the strategic policies are more than five years old”.
- 7.5.3 As set out above, the strategic policies in the NSC Development Plan are over five years old.
- 7.5.4 Footnote 42 of the NPPF confirms that “Where local housing need is used as the basis for assessing whether a five year supply of specific deliverable sites exists, it should be calculated using the standard method set out in national planning guidance”.
- 7.5.5 The housing requirement for NSC should therefore be the local housing need calculated in accordance with the Standard Method as set out by footnote 42 of the NPPF.
- 7.5.6 Paragraph 226 of the NPPF states that:

“From the date of publication of this revision of the Framework, for decision-making purposes only, certain local planning authorities will only be required to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of four years’ worth of housing (with a buffer, if applicable, as set out in paragraph 77) against the housing requirement set out in adopted strategic policies, or against local housing need where the strategic policies are more than five years old, instead of a minimum of five years as set out in paragraph 77 of this Framework. This policy applies to those authorities which have an emerging local plan that has either been submitted for examination or has reached Regulation 18 or Regulation 19 (Town and Country Planning (Local Planning) (England) Regulations 2012) stage, including both a policies map and proposed allocations towards meeting housing need.”

- 7.5.7 NSC has an emerging local plan that has been subject to a Regulation 19 stage consultation from November 2023 to January 2024 however given the latest announcement of the 2nd August 2023, I consider that there is every prospect that this is not the plan which can be taken forward.
- 7.5.8 As stated previously, the Council cannot demonstrate a 4 (or 5) year supply of housing land. The Appellant’s position in this regard will be updated following completion of Mr Paterson-Neild’s evidence.

7.6 Affordable Housing

- 7.6.1 In this respect I draw on the conclusions of Mr Parker. CS Policy CS16 ‘Affordable Housing’ targets the delivery of only 150 affordable homes per annum which equates to only c.14% of the overall 1,049 housing supply and falls significantly short of the level of affordable housing need identified within the 2009 West of England Strategic Housing Market Assessment (“SHMA09”) and within the North Somerset Local Housing Needs Assessment Report of Findings (October 2023) (“LHNA23”) – albeit the latter assessment excludes significant numbers of households eligible for affordable housing for sale.
- 7.6.2 Draft Local Plan Policy DP43 seeks 38.5% affordable housing on eligible Greenfield sites and 20% on eligible previously developed land (“PDL”) in a 77% Social Rent and 23% Shared Ownership split where First Homes are not provided (in line with proposed national planning policy reform).
- 7.6.3 With regard to the level of affordable housing proposed on the Appeal Site, Policy CS16 confirms a benchmark of 30% provision as a starting point and also confirms no upper limit on the level of provision.

Affordable housing Need

- 7.6.4 Based on affordable housing needs analysis, unless a significant additional net deliverable supply of affordable housing is identified across North Somerset and in Yatton Parish over the next five years an **affordable housing shortfall will continue to accrue, accumulating to 12.5k to 14.9k homes across North Somerset and to 304 to 509 homes across Yatton Parish by 2028/29** – the lower end of this range excludes a significant number of households eligible for affordable housing under the NPPF affordable housing definition. The potential supply of re-lets / re-sales of Affordable Housing will be insufficient to address the significant backlogs in unmet Affordable Housing need likely to accrue across the Parish
- 7.6.5 The appeal site, which will provide 50% of the homes proposed as affordable housing (20% more than the benchmark in the adopted Core Strategy policy), will assist with addressing unmet Affordable Housing need.

Affordability

- 7.6.6 Office for National Statistics data suggests that the ratio of median house price to workplace based earnings across the district has increased from 6.93 in 2009 to 10.01 in 2023. Affordability is suggested to be worse than it is across the South West as a whole (the latter has a ratio of 9.27 as at 2023).
- 7.6.7 Affordability pressures look set to remain high across North Somerset and where demand for private rented housing outstrips supply households unlikely to meet ‘waiting list qualifying criteria’ and unable to afford open market housing for sale will be prevented from accessing the homes they need.
- 7.6.8 The need for additional affordable housing in North Somerset remains acute. It is in the context of this ongoing significant, unmet affordable housing need, and that:
- the council does not have an NPPF compliant Housing Land Supply,

- the proposals will deliver 50% affordable housing which is in excess of the 30% policy benchmark,
- the outlook in terms of the Council providing enough affordable housing to address existing and future need remains bleak, and
- that the weight to be attached to the benefit of the additional affordable housing proposed in this Planning Appeal should be considered.

7.6.9 Drawing on the conclusions of Mr Parker, I therefore concluded that **very substantial weight** should be attached to the proposed delivery of affordable housing on the Appeal Site.

8 Main Issue 1 / Reason for Refusal 1

8.1 Spatial Strategy

8.1.1 Reason for Refusal 1 states:

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 (Distribution of new housing) and CS32 (Service villages) of the North Somerset Core Strategy, and the Yatton Neighbourhood Plan.

8.1.2 The Council have confirmed that they are no longer advancing any case in respect of breach of the Yatton Neighbourhood Plan.

8.1.3 This reason for refusal can be broken down into 3 parts:

- (i) Are the settlement boundaries up to date?
- (ii) Is the scale of development contrary to the spatial strategy?
- (iii) If so, what harm would arise?

Are the settlement boundaries up to date?

8.1.4 The settlement boundaries are defined on the Proposals Map accompanying the Sites and Policies Plan, Part 2 Site Allocations Plan and also the Yatton Neighbourhood Plan. I acknowledge that the Appeal Site lies outside of the Settlement Boundary.

8.1.5 I have previously set out that the Adopted Core Strategy does not include an NPPF compliant assessment of local housing need; that the plan was to have been reviewed by the end of 2018 (nearly 6 years ago by the time of the Inquiry) and that Policy CS13 (which is clearly linked to both Policy CS14 and CS32) was intended to be an interim policy replaced by an up-to-date housing requirement upon the review of the plan; and separately that, in my opinion, the Council cannot demonstrate a 4 year (or 5 year) supply of housing. There is already a tacit acknowledgement built into the Core Strategy and SAP that the housing numbers and the settlement boundaries are out of date as the Inspector could find no evidence of the settlement boundaries being reviewed through the SAP and they do not include sites allocated through the SAP. In addition, they are also deemed out of date by virtue of the dated housing requirements.

8.1.6 The Core Strategy is clearly predicated on a review of that plan having been completed by the end of 2018. At the time of writing my evidence, the Council is reviewing its options for its plan review in light of the proposed changes to national policy. I therefore afford very limited weight at best to the draft plan review. However it is self

evident, that assuming adoption at the very earliest in 2026; the review will have been some 8 years behind schedule.

- 8.1.7 The settlement boundaries in the Site Allocations Plan were rolled forward in this document, such that not even sites proposed to be allocated in the SAP were included within the settlement boundary. The examining Inspector could find no evidence of the Council having reviewed the settlement boundaries but allowed the plan to progress on the basis that a Core Strategy (which would have included a review of settlement boundaries) would be completed by the end of 2018.
- 8.1.8 Paragraph 33 of the NPPF requires that plans should be updated at least every 5 years; and where the strategic policies are more than 5 years old, housing land supply should be measured against local housing need, calculated using the Standard Method.
- 8.1.9 Paragraph 61 of the NPPF requires that in order to determine the minimum number of homes needed, strategic policies should be informed by a local housing need assessment calculated using the Standard Method.
- 8.1.10 All of the above point to the settlement boundaries therefore clearly being out of date. I assess the weight to be given to the settlement boundaries in Section 12 of my evidence. It is somewhat surprising that NSC make no mention of this in their SoC given that this matter was first dealt with at Appeal in April 2022¹⁰, where it was confirmed at paragraph 68 that:

“Dealing with these in turn, it is common ground, as just noted, that the adopted CS does not include a Framework-compliant assessment of local housing need. To my mind this means that Policy CS13 is clearly out-of-date - as is Policy CS14, which simply seeks to distribute this out-of-date housing figure, having regard to settlement boundaries which, self-evidently, also have to be seen as out-of-date. As CS Policy CS32 also makes reference to settlement boundaries current at the time of adoption of the CS I consider that it, too, has to be considered out-of-date”.

- 8.1.11 It has therefore already been clearly established that CS13, CS14 and CS32 (the latter two being the only policies now alleged to be breached in reason for refusal 1) – along with the settlement boundaries are all out of date and therefore the weight to them (and to any alleged breach) must be reduced accordingly as per Section 12 of my evidence.

Is the scale of development contrary to the Core Strategy?

- 8.1.12 Policy CS14 states that development outside settlement boundaries will only be acceptable where a site is allocated in a Local Plan or where it comprises sustainable development, which accords with the relevant settlement policy (Policy CS32 in the case of Service Villages). The policy goes on to state that at Service Villages (of which Yatton is one of 9), there will be opportunities for small-scale development of an appropriate scale either within or abutting the settlement boundaries or through site

¹⁰ Land at Moor Road, Yatton – APP/D0121/W/21/3285343

allocations. It is then stated that proposals of a larger scale outside settlement boundaries must come forward as part of a formal site allocation within revisions to the settlement boundaries through the Local Plan or DPD.

8.1.13 I highlight that despite having adopted a Site Allocations Plan in 2018, the settlement boundaries were not revised to take account of sites allocated in the SAP as it was concluded that this would be dealt with in the Core Strategy review which has yet to be concluded.

8.1.14 Policy CS32 is a criteria based policy which sets out where new development within or adjoining the settlement boundaries of Service Villages would be permitted. The policy then lists the criteria under which development which enhances the overall sustainability of the settlement would be permitted. However the final sentence of the policy, outside of the criteria, states that sites outside the settlement boundaries in excess of about 25 dwellings must be brought forward as allocations through Local Plans or Neighbourhood Plans. The appeal scheme is in excess of this approximate 25 dwelling threshold.

8.1.15 I therefore agree that the Appeal Proposal is in excess of the threshold in Policy CS32 however following from that (and mindful that this policy is out of date) I turn to the question then of whether it is appropriate in scale.

8.1.16 Through the evidence base underpinning the draft Regulation 19 Plan and the Regulation 18 Plan, it is clear that the Council proposes that Yatton is and remains a Service Village – which benefits from a high level of services along with good public transport connections including train connections direct to London and Bristol.

8.1.17 I would therefore conclude that whilst the scheme may be considered larger in scale (albeit scale is not defined bar the 25 dwelling reference), this does not render the development harmful as a matter of principle given that Yatton is identified as a Service Village which is a suitable and sustainable location for development.

8.1.18 The main substance to this RfR is therefore part (iii)

What harm arises from a development of a site of this scale in Yatton?

8.1.19 Other than a technical breach of policy, the Council have not identified any harm in principle arising from a development of this scale in Yatton. This is clearly correct given the status of Yatton within the settlement hierarchy and no objections from consultees which provide any evidence that this scale of development cannot be accommodated. Whilst there was objection to the loss of the land safeguarded for the school, this objection has now been withdrawn.

8.1.20 I note that in the delegated Officer report, when assessing the scheme against Policy CS32, the only conflict that is cited is the overall scale of development being in excess of 25 dwellings. Otherwise, the Officer report is overwhelming positive in respect of the assessment of the site against the remainder of the policy (**CD.C17 – pdf page 17**), stating:

With regard to the other criteria of policy CS32, the proposal's location would be in reasonable proximity to services within Yatton and public transport, in particular the

mainline rail station. It would be possible to secure safe and attractive active travel routes, both within and beyond the site. No significant adverse impacts on services have been identified and infrastructure, including highways, would be sufficient to accommodate the development (of which further discussion later in this report). As the application is in outline, detailed aspects of the scheme have yet to be decided. However, the masterplan and other details submitted with the application give a sound basis for ensuring that the final development, if acceptable in other respects, would be of high quality.

- 8.1.21 Policy CS32 is a criteria based policy containing 7 criteria against which the Council identify no conflict; and therefore the breach is a technical one only – against a policy which can only be afforded limited weight.

8.2 Summary

- 8.2.1 I therefore conclude that whilst there is some conflict with Policies CS14 and CS32 this has to be seen in the context of the out-dated nature of these policies and the weight to these policies should be moderated accordingly especially in the face of continued and sustained shortfall in the supply of housing. In this respect, I also refer to the Appeal Decision at Farleigh Fields, Backwell¹¹, where the Inspector concluded:

96. As the housing requirement figure in Policy CS13 is out of date consideration must be given to whether the spatial strategy, and its supporting policies, including CS Policies CS14, CS31 and CS32, are soundly based. Policy CS14 does not impose a cap on the number of dwellings that can be provided at each level of the settlement hierarchy. Nonetheless the approach to development within the hierarchy has been to set scale thresholds to ensure that development is appropriate to the size and character of the settlement. In this regard Policies CS31 and CS32 provide an allowance for development outside the settlement boundaries of towns and villages. However, the fact that anything above 50 and 25 dwellings respectively must be brought forward through Local or Neighbourhood Plans has constrained the degree to which delivery can be brought forward outside the site allocations process. Therefore, whilst the provision of housing against need has improved, the fact remains that with these policies in place supply has remained well below need.

97. These provisions generally reflect the Framework approach to how sustainable growth is to be achieved by requiring that development be well located in relation to facilities and services. Nonetheless, the evidence before me raises considerable doubts as to whether this strategy can be relied on to support the Government's objective to

¹¹ Land at Farleigh Farm and 54 and 56 Farleigh Road, Backwell: APP/D0121/W/21/3285624

significantly boost the supply of housing. Specifically, the strict application of Policies CS14 and CS32 is restricting development to the extent that the Council is unable to meet the requirement to provide a 5YHLS. Further, whilst of very limited weight as part of this decision, the fact that the eLP sets out a different spatial strategy, including the suggestion that Backwell could accommodate significant allocations, supports the view that the current strategy cannot accommodate the level of growth required. Therefore, the weight placed on conflict with CS Policy CS32 must be reduced.

- 8.2.2 This matter was also addressed in the Appeal at Rectory Farm, Yatton¹², where it is stated at paragraph 140 that:

“Planning law requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise. The appeal proposal for up to 100 dwellings would deliver a scale of development that is in conflict with the spatial strategy of the development plan which permits sites of up to around 25 dwellings adjoining the settlement edges of services villages. The proposed development is contrary to Policies CS14 and CS32 of the Core Strategy. However, there is no 5YHLS in this case and indeed there is a significant shortfall. Policies CS14 and CS32 are most important policies but they cannot be given full weight. These policies are out-of-date and can only be afforded limited weight. From the evidence that is before me I cannot agree with the Council’s suggestion that significant or moderate weight be given to these policies”

- 8.2.3 It is therefore already clearly established that Policies CS14 and CS32 are out of date and can be afforded no more than limited weight – a view with which I agree. The Council now agree that there is no conflict with the YNP. This agreed position accords with the view of the Inspector at the Rectory Farm appeal to the south of the appeal site, when also considering a greenfield scheme outside of the settlement boundary, he concluded (paragraph 122) that:

“The Council refers to the YNP in the first RfR. The YNP was made in July 2019 and covers the period 2017-2026. The YNP sets out a number of business, environment, transport and housing objectives which I have taken into account in this case. In relation to housing objectives the Plan includes one small allocation on a brownfield site under policy HP1. The YNP does not contain policies and allocations to meet its identified housing requirement”.

¹² Land at Rectory Farm, Chescombe Road, Yatton, NS49 4EU

In the absence of being able to demonstrate a 5YHLS, the most important policies for determining the application are irrefutably deemed to be out of date under paragraph 11(d) of the NPPF and the tilted balance applies subject to any protective policies in the NPPF which provide a clear reason for refusal. The YNP does not alter this position, firstly, because there is no conflict with it (and no specific policy conflict is even alleged) and secondly, because it does not seek to meet an identified housing requirement through its sole allocation.

This issue relates to RfR1 and the Council's assertion that the appeal proposal would deliver a scale of development that conflicts with the spatial strategy of the development plan [i.e. the same reason for refusal as is being alleged for this scheme] The Council states in RfR1 that the proposed development would be contrary to policies CS14 and CS32 of the Core Strategy and the made YNP.

However, at the Inquiry, the Council seemed to abandon the position taken in RfR1 that the development is not in accordance with the YNP. In cross examination Mr Underhay confirmed that there was in fact no conflict with any specific YNP policy. He argued that the scale and location of the proposal would be in conflict with the environmental objectives of the YNP. However, he accepted that the development plan is made up of its policies and the supporting text cannot impose criteria which are not contained in the policies themselves. He also confirmed that the Inspector is not looking at a three year threshold for housing land supply because there is no conflict with the YNP and therefore NPPF paragraph 14 is not engaged here. I agree that there is no conflict with the YNP.

8.2.4 It is therefore clear that the approach which the Council is following for the Appeal Site has already been considered at appeal and the following conclusions can be drawn:

- (i) Policies CS14 and CS32 (and CS13) are out of date and should be afforded no more than limited weight.
- (ii) That the above policies should be considered most important policies in the determination of the Appeal Scheme.
- (iii) That the settlement boundaries are out of date and therefore should be afforded only limited weight.
- (iv) That development outside of the settlement boundaries is not in conflict with the YNP.

8.2.5 I conclude that the appeal scheme is not contrary to the spatial strategy and that insofar as any breach of policy is identified, the weight to be afforded to both the policy

and the breach should be reduced. Furthermore, I note that the Council have identified no actual harm to the spatial strategy / distribution.

9 Main Issues 2 / Reason for Refusal 2

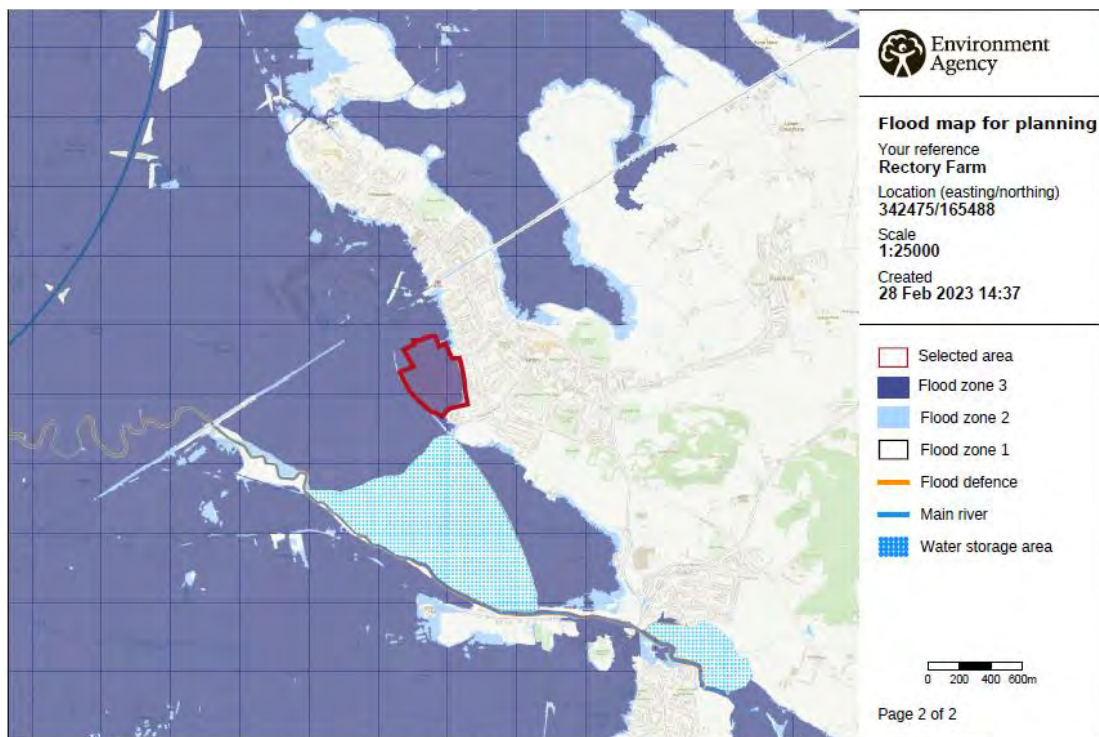
9.1 Reason for Refusal 2 – Sequential Test

9.1.1 Reason for Refusal 2 states:

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 assessment fails to demonstrate this, and the proposed development is therefore inappropriate in a 'High Probability' flood zone, which is contrary to Policy CS3 (Environmental impacts and flood risk management) of the North Somerset Core Strategy, paragraphs 165, 167 and 168 of the National Planning Policy Framework.

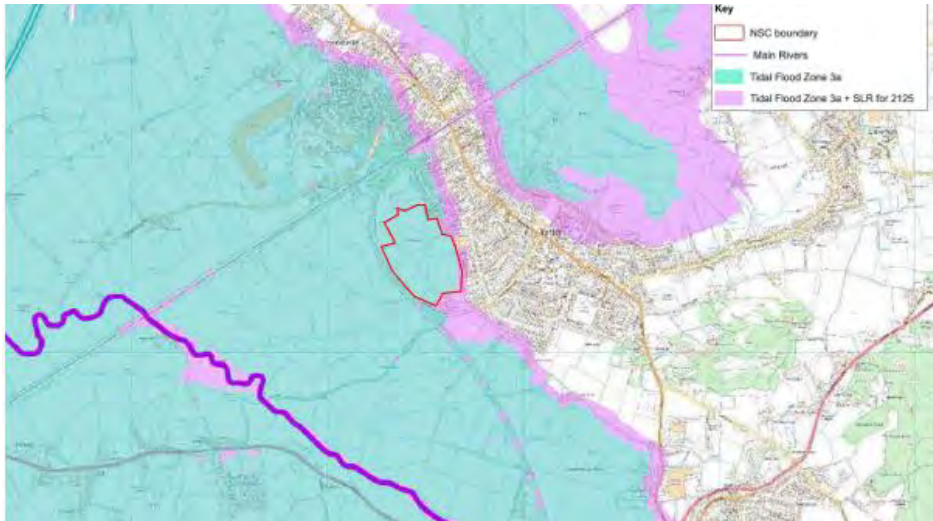
9.2 Flood Constraints

9.2.1 As set out Mr Miram's evidence, and as confirmed on the Environment Agency Flood Map for Planning, the Site is located within Flood Zone 3, as shown below:



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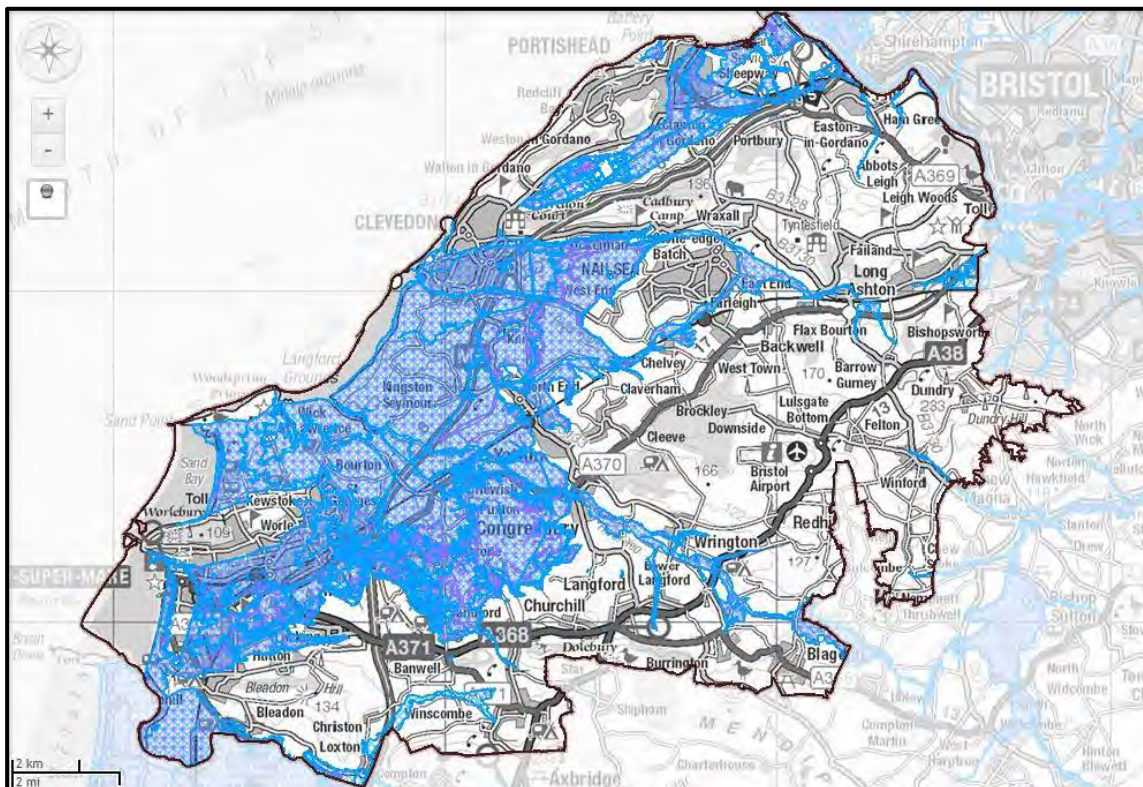
9.2.2 The Site is at ‘high risk’ from **tidal flooding**. The North Somerset Council Local Plan policies map confirms that the Site lies within Flood Zone 3a (Tidal Flooding), as opposed to Flood Zone 3b (Functional Flooding), as shown on below:



9.2.3 The Site is concluded as being at ‘low’ risk from **fluvial flooding** and outside all predicted flood events from approved fluvial only models

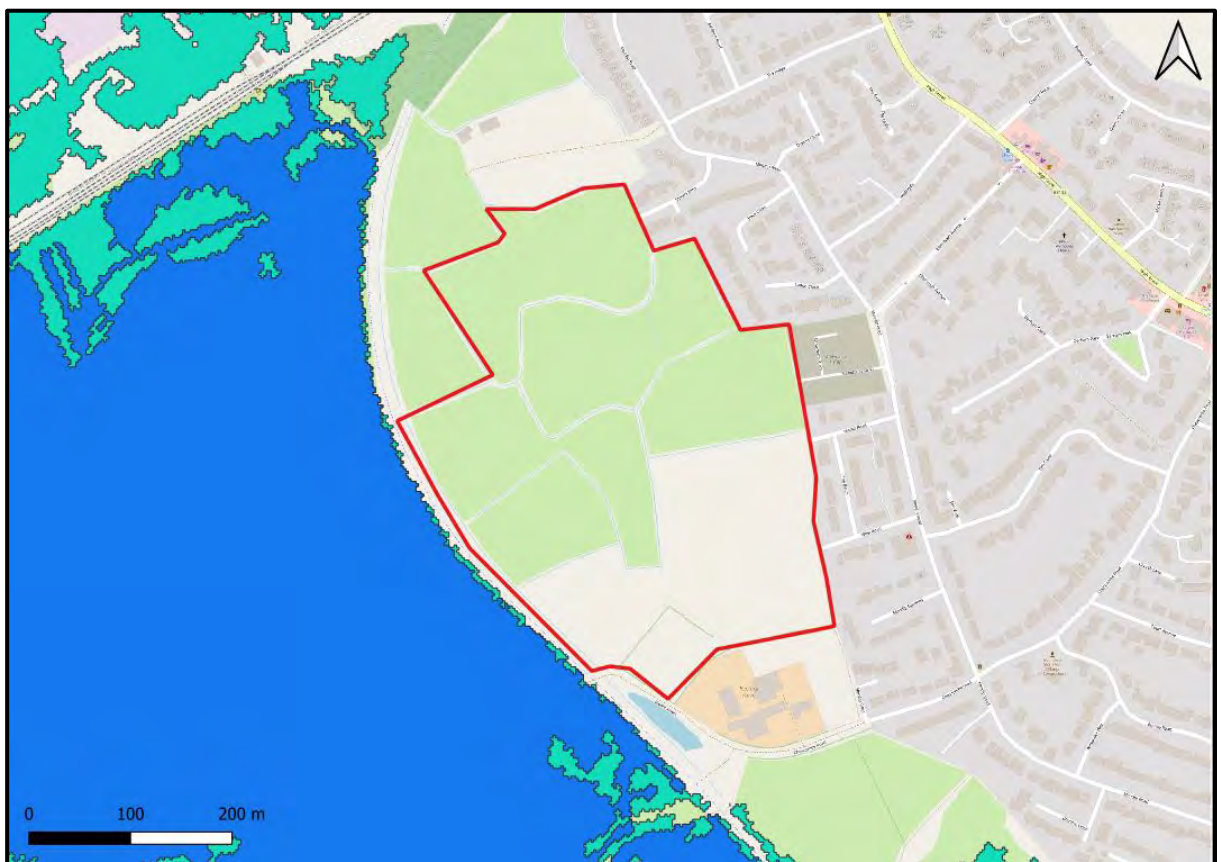
9.3 North Somerset Flood Constraints

9.3.1 A significant proportion of North Somerset District is within Flood Zones 2 and 3, as shown by the extent of the coverage on below:



9.3.2 Flood risk is therefore a constraint to development within much of the District and flood defences are required to protect many areas, including the application site. As set out earlier in my evidence, the Council cannot meet current or future housing need without recourse to sites affected either partially or entirely by flood risk. The draft Local Plan proposed 20 out of 81 allocations on such sites. Clearly with a likely pending increase in housing numbers as proposed through the amendments to the standard method; this number could increase and as such developing on sites such as the Appeal Site is unavoidable in North Somerset. However the Appeal Site does benefit from maintained flood defences as shown below:

Fluvial Flood Risk – Defended Outlines as per Environment Agency Model Information



9.3.3 The plan overleaf shows an annotated extract between the Woodspring Bay / Bristol Channel and the Appeal Site and shows the Appeal Site as benefitting from flood defences.

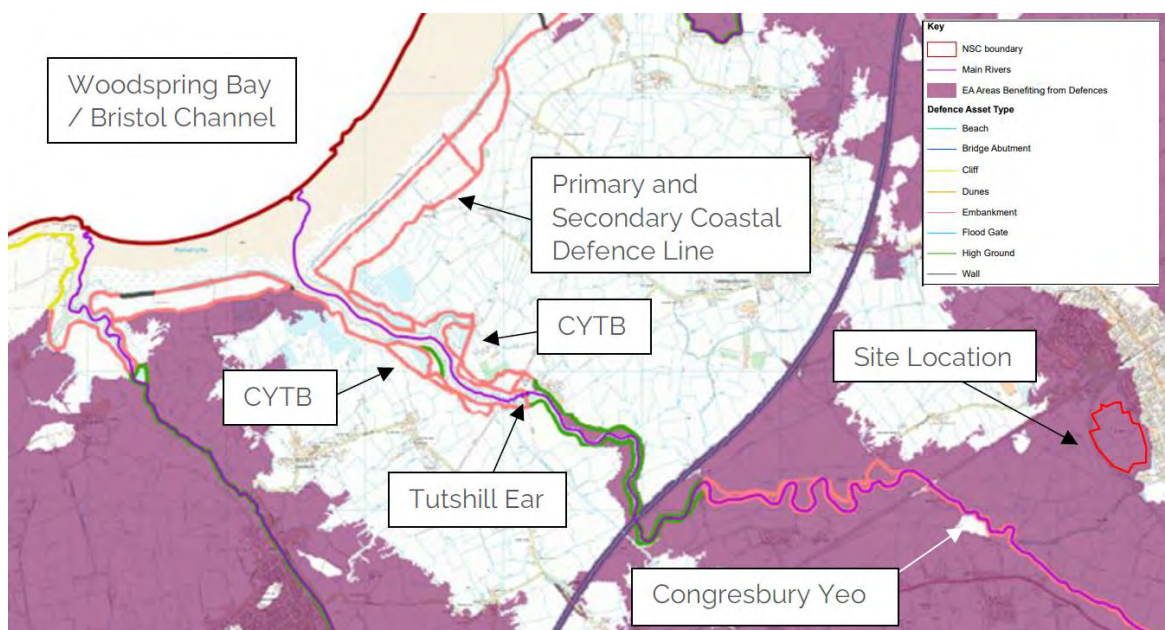


Figure 9-1 - Defence Types and Areas Benefitting From Defences – Annotated extract taken From North Somerset Council Level 1 SFRA Figure 040

9.4 Background

- 9.4.1 A pre-application enquiry was submitted to North Somerset Council on 30th September 2022¹³ (**CD.E1**). This was followed by a further submission on 12th December 2022 which specifically requested input into the approach and methodology for the Flood Risk Sequential Test and a methodology briefing note (**CD.E5**) was submitted to the Council, as the Council has not produced a methodology to assist Applicants. Other than advising that it should be district-wide, no further guidance was provided.
- 9.4.2 The outline planning application was submitted on 27th March 2023 and a comprehensive Flood Risk Sequential Test was included within this submission (**CD.A12**). Since this FRST was produced and submitted to NSC, there have been appeal decisions and a pertinent case law judgement where the topic of flood risk sequential testing has been a key consideration. As such, it was appropriate for the Appellants to review the methodology of the FRST in light of these decisions and update the FRST to reflect the most relevant case law and appeal decision.
- 9.4.3 An updated Flood Risk Sequential Test (**CD.B7**) was submitted to NSC on 3rd April 2024.
- 9.4.4 Throughout the entirety of this period from September 2022 up until the point at which the Council's Statement of Case received; no further feedback has ever been received from the Council (despite meetings and email chasing) on either the methodology or the outputs of the FRST. This is despite the matter clearly having been discussed internally as shown in the correspondence obtained through a FOI request as shown at my **Appendix 5**. This matter is not clarified in either the Council's Statement of Case or the schedule of agreed disputed sites.

¹³ 22/P/2451/PR2

- 9.4.5 Following the aforementioned High Court judgement, the Appellant sought advice from Kings Counsel in respect of responding to matters raised; and an updated submission pack was submitted in April 2024 accompanied by a Written Opinion from Kings Counsel (**Appendix 6**). However it is important to note that aside from matters related to the High Court judgement, the Appellant has sought to work pro-actively with NSC and the statutory consultees seeking to engage consultees in meetings to resolve issues and respond to matters as they arise.
- 9.4.6 Prior to then dealing with this matter in my evidence, it is necessary to establish the background through a review of relevant appeal decisions and case law, to my approach and conclusions drawn.

9.5 Planning Appeals

Land at Lynchmead Farm, Ebdon Road, Wick St Lawrence, Weston-super-Mare - APP/D0121/W/22/3313624 (“the Lynchmead decision”) (CD.J2)

- 9.5.1 North Somerset Council refused outline planning permission on 8th July 2022 for a development of up to 75 dwellings at Land at Lynchmead Farm, Ebdon Road, Wick St Lawrence, Weston-super-Mare (20/P/1579/OUT) and this appeal was dismissed on 20th June 2023 by Planning Inspector Guy Davies (APP/D0121/W/22/3313624).
- 9.5.2 The Inspector in this case considered the assessment and requirements of the sequential test against Policy CS3 of the Core Strategy which was adopted in 2017 (DN10 to DN22). He then goes onto consider the case in respect of national flood risk policy (DN23 to DN41): the then NPPF updated in 2021 and PPG updated in August 2022.
- 9.5.3 The Inspector acknowledges that against the requirements of Policy CS3 of the Core Strategy, taking the factors together, that there was insufficient evidence to demonstrate that any of the alternative sites proposed as reasonable alternatives by the Council meet all of the bulleted criteria set out in the second section of Policy CS3 (DN22).
- 9.5.4 However, when considering the NPPF and PPG which post-date the Core Strategy, the Inspector states that the second section of Policy CS3 is now inconsistent with the Framework and whilst the wording of national policy is largely the same as when CS3 was adopted, the interpretation of it has been clarified by more recent guidance contained in the PPG (DN23).
- 9.5.5 The Inspector notes that the PPG states that reasonably available sites could include a series of smaller sites and/or part of a larger site if these would be capable of accommodating the proposed development. He states that there is nothing in the PPG that requires smaller sites to be adjacent to one another, as suggested by the Appellant in this case. He states that a series of separate small residential sites would still provide suitable alternative land for equivalent development at a lower risk of flooding (DN25) and concludes at DN36 that there is no need for such smaller sites to be ‘contiguous’.
- 9.5.6 The Inspector considers what ‘reasonably available’ means in the context of local and national planning policy. CS3 allows sites to be excluded from the definition of

'reasonably available' if they meet the criterion in part 2 of the policy, however the Inspector states that there are no exclusions in the PPG relating to sites with planning permission or that publicly owned land must be formally declared to be surplus. Overall, he gives lesser weight to the second section of Policy CS3 than he does to the newer and more up to date Framework as interpreted by the PPG (DN26-27).

- 9.5.7 At DN29, the Inspector considers that the phrase 'type of development' means 'any site that is capable of accommodating residential development, the 'type' of development being 'residential'. He notes that although the Appellant may anticipate the proposal consisting of lower density suburban housing, the application had been made in outline and the only constraint on the type of development proposed is that contained in the description of development, which was for 'a residential development of up to 75 dwellings'.
- 9.5.8 Concerning the meaning of 'at the point in time envisaged for development' and 'available to be developed' the Inspector states that the latter does not mean that development of an alternative site would have to follow the same timescale envisaged for the appeal scheme. He considers that the start date for development and the build out rate could be affected by site-specific factors but that does not alter the fact that the land would be available to be developed (DN31).
- 9.5.9 On this basis, he considers that those alternative sites which have planning permission for residential development, a resolution to grant, are allocated for residential development in the development plan, or which in principle accord with the spatial strategy of the development plan (including suitably sized development on the edge of existing built-up areas) are available to be developed at the point in time envisaged for the proposed development. He considers that those which do not accord with the spatial strategy of the development plan and are reliant on the emerging plan to be allocated, would not be available. He reached this view because at the time of the decision (June 2023), the emerging plan was still at an early stage in its development, it may well have changed, and was unlikely to be adopted before early 2025 (when the Appellants envisaged their development commencing) (DN32).
- 9.5.10 At DN33 he disagrees with the Appellant's argument that housing need is a relevant consideration in the sequential test however also notes in this paragraph that larger schemes outside settlement boundaries are likely to conflict with the Council's spatial strategy.
- 9.5.11 Overall, the Inspector concluded that the sequential test was not complied with and that the development conflicted with Policy CS3 of the Core Strategy and therefore the development plan as a whole.

Land at Little Bushey Lane, Bushey, Hertsmere - APP/N1920/W/23/3314268 ("the Bushey decision") (CD.J3)

- 9.5.12 Hertsmere Borough Council failed to determine an outline planning application at Land at Little Bushey Lane, Bushey for a development of up to 310 dwellings which was submitted on 14th June 2022. An appeal against non-determination was submitted by the Applicant (Redrow Homes Limited) on 6th January 2023 and the Council's putative reasons for refusal were endorsed by the Council's Planning Committee on 23rd February 2023. One of the main issues in this appeal was whether the proposed

development would be in a suitable location with regard to local and national policies relating to flood risk. The only area of flood risk disagreement between the parties related to the application of the sequential test.

- 9.5.13 In this appeal, the Appellants produced a Flood Risk Sequential Test and considered sites 25% above and below the size and capacity of their site. The Council in this case did not set a clear maximum size parameter however a lower threshold of 80 homes was applied, without particular clear evidence as to how that was reached. The Appellant also considered larger sites of which the proposed development could form a part and smaller sites where they could be grouped, though the focus was on smaller sites being next to or close to one another (DN86).
- 9.5.14 This exercise was carried out following the approach taken for a site in Framlingham, East Suffolk¹⁴ where the Inspector referred to it as a 'standard approach'. However, the Inspector for the appeal in Bushey stated that they could see no reference to a standard approach in either the current PPG (August 2022) or in the previous PPG (March 2014). Overall, the Inspector was 'not convinced' that the Appellant's maximum and minimum site sizes and site capacities were robustly chosen and were consistent with the advice in the PPG on assessment of a series of smaller sites or later sites of which the development could form part (DN87).
- 9.5.15 The proposals at Bushey were for up to 310 homes plus land for a primary school, mobility hub and green infrastructure. The Inspector did not see any reasons why a number of smaller sites could not accommodate all these elements. They referenced the above Lynchmead appeal in North Somerset whereby the Inspector stated that smaller sites would not necessarily need to be contiguous. The Inspector in the Bushey case agreed with Hertsmere Borough Council that a series of sites would potentially indicate three or more sites, and was 'not convinced' that part of a larger site would not represent a reasonable proposition in some circumstances, though considerably larger sites may take longer to bring forward and would not be reasonably available (DN88).
- 9.5.16 The Appellant and Council in this case disagreed on the likely timescales for the first completions on site: 2025 and 2027 respectively. The Inspector had regard to a range of documents and data sources and considered on-site requirements to conclude that first completions were likely to be in 2026 (DN89-90). However, the Inspector stated that even if they agreed with the Appellant's first completions in 2025, they concurred with the Inspector in the North Somerset (Lynchmead) appeal that being available to be developed does not necessarily mean that the development of an alternative site would need to follow the trajectory of start and build out dates set for the appeal scheme and that it is only necessary for the alternative land to be available to be developed.
- 9.5.17 In this case, the Appellants reviewed 244 sites, concluding that the appeal site was the sequentially preferable site, however the Council disputed this and considered that 14 sites were sequentially preferable: 5 of these were larger than the appeal site, 9 were smaller than the appeal site. The Inspector agreed with the Appellant that one of the larger sites was not reasonably available as its development timescale was over 16 years. However, for the 13 other sites, the Inspector considered that it had not

¹⁴ PINS reference: APP/X3540/W/20/3250557

been adequately demonstrated that they were not reasonably available and that the proposed development could not be delivered through a series of smaller sites (DN93-99).

9.6 Case Law

R (Mead Realisations Ltd. & Redrow Homes Ltd.) v. Secretary of State for Levelling Up, Housing and Communities [2024] EWHC 279 (Admin) (“the Judgment”) (CD.J1)

- 9.6.1 The two above mentioned appeal decisions in North Somerset and Hertsmere were subject to legal challenges brought under Section 288 of the Town and Country Planning Act 1990. Hearings were held on 17th and 18th January 2024 and the Judgment was handed down by Justice Holgate on 12th February 2024.
- 9.6.2 Parts of the Judgment which are particularly relevant to this Sequential Test and Methodology are set out below. The Appellant’s updated planning application pack was accompanied by a Written Opinion from Kings Counsel (including in **CD.B10 but which can also be found at my Appendix 6**) in this regard, which dealt with the matters of the type of development; what is meant by a series of smaller sites; and the timescale for the sequential search. I summarise this below.

Type of Development

- 9.6.3 Paragraphs 102 to 104 of the Judgment consider the *type* of development (or housing) being proposed and if there is a specific need or demand for this. The Judgment advises that in line with Paragraph 162 of the NPPF (now Paragraph 168), this is a matter of judgement for the decision-maker to assess the merits of that case, and to decide whether it justifies carrying out the sequential assessment for that specific type or description of development (my emphasis) (para 102).
- 9.6.4 Paragraph 103 of the Judgment holds that a need and/or market demand case could be based on a range of factors, such as the location, the mix of land uses proposed and any interdependence between them, the size of the site needed, the scale of the development, density and so on. The Judgment states that the decision-maker may also assess whether flexibility has been appropriately considered by the developer and LPA.
- 9.6.5 At Paragraph 104, the Judgment holds that depending on the merits of the case put forward, this may be relevant to deciding the appropriate area of search and whether other sites in lower flood risk zones have characteristics making them “appropriate” alternatives.
- 9.6.6 As such, it is for the decision-maker to consider these points if put forward by the Applicant and failure to assess these points as part of the assessment of the Sequential Test would be contrary to planning judgement.

Series of Sites

- 9.6.7 In the Lynchmead decision, the Inspector stated at Paragraph 36 that “*there is no need for such smaller sites to be contiguous*”. In the Bushey decision, the Inspector stated at paragraph 88 that they “*see no reason why a number of smaller sites could not*

accommodate all these elements [referring to the development proposed: housing, primary school, mobility hub and green infrastructure]. *As in the North Somerset appeal* [the Lynchmead decision], *smaller sites would not necessarily need to be contiguous*'.

- 9.6.8 The PPG¹⁵ states that “reasonably available sites” could include “a series of smaller sites”. At Paragraph 110 of the Judgement, it holds that “the word “series” connotes a **relationship** between the sites appropriate for accommodating the **type** of development which the decision-maker judges should form the basis of the sequential assessment” (my emphasis).
- 9.6.9 Paragraph 110 continues, stating that “This addresses the concern that a proposal should **not** automatically fail the sequential test because of the availability of **multiple, disconnected sites across a local authority’s area**. The issue is whether they have a **relationship** which makes them suitable in combination to accommodate any need or demand to which the decision maker decides to attach weight” (my emphasis).
- 9.6.10 Holgate, J. notes that there were 14 disputed sites between the Appellant (Redrow) and Hertsmeare Borough Council at the Bushey inquiry (Paragraph 155 of the Judgement), with 5 of these being larger than the appeal scheme (Paragraphs 156 and 157) and 9 being smaller than the appeal scheme (Paragraph 158). Ground 1 of the Redrow challenge was that the Inspector’s approach to sites smaller than the appeal site was legally flawed and that the Inspector departed from the NPPF and PPG.
- 9.6.11 The Judgement is critical of the approach taken by the Inspector in the Bushey decision at Paragraph 164. Regarding the 25% parameters above and below the site size and capacity used in this Sequential Test, Justice, H states that “*Instead of looking at sites of around 18.2ha, or down to 13.6ha, and capable of accommodating 310 dwellings, or down to 232 units, she has considered an alternative based on a number of smaller, unconnected sites. She did not address the case advanced by Redrow that that approach could not deliver the range of interconnected benefits which the appeal scheme would deliver and for which there was a need*”.
- 9.6.12 At paragraph 165 of the Judgement, Holgate, J. considers that ‘*there is some force*’ in the Redrow case, which is relevant to the application of the sequential test and states that the Inspector did not appear to have addressed the matter and was a matter that should have been considered.
- 9.6.13 As such, when considering whether there are multiple sites that could form a “series” and their sequential preferability, the decision maker must consider Paragraph 110 of the Judgement, which is whether such sites “*have a relationship which makes them suitable in combination to accommodate any need or demand to which the decision-maker decides to attached weight*” alongside Paragraph 164 of the Judgement: whether these sites could “*deliver the range of interconnected benefits which the appeal scheme would deliver and for which there was a need*”.

Timescales for Development

¹⁵ Paragraph: 028 Reference ID: 7-028-20220825

- 9.6.14 Paragraph 028 of the PPG states that “reasonably available sites are those in a suitable location for the type of development with a reasonable prospect that the site is available to be developed at the point in time envisaged for the development¹⁶”. Paragraph 168 of the NPPF (previously Paragraph 162) states that “Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding.”
- 9.6.15 At Paragraph 106 of the Judgement, Holgate J. is clear that Paragraph 162 (now 168) of the NPPF does not require that the availability of an alternative site should always *align closely* with the trajectory of the developer’s proposal (my emphasis)”. The paragraph continues, stating that flexibility on all sides is a relevant consideration. Similarly, Paragraph 121 of the Judgement states, regarding the Lynchmead case and claim, that “*allowing for flexibility, the Inspector was entitled to say that development of an alternative site did not have to follow the same timescale as was envisaged for the appeal proposal. He recognised that the start date and build-out rates can be affected by many site-specific factors*”.
- 9.6.16 The question of this flexibility is referenced again at Paragraph 170 of the Judgement. The Bushey case discounted some sites larger than the appeal site on the basis of timescales to develop. The Inspector in this case was critical of the amount of evidence put forward by Redrow to support this point and whether this would be outside of the expected timeframe for delivery of the proposed development. In relation to this, the Judgement holds that “*In other words, the Inspector did not reject the timescale put forward by Redrow. The flaw in its case was the lack of evidence to show that alternative sites would take materially longer to come forward.*”
- 9.6.17 The Judgement therefore holds that precise or close alignment of expected delivery timescales is not strictly necessary. Instead, it is a matter of whether alternative sites would take *materially* longer to come forward than the application site.

Housing Need

- 9.6.18 As stated above, the Judgement holds that a specific need for a particular type of development could inform the catchment of the search area for the sequential test. Paragraphs 173, 174 and 178 of the Judgement are relevant to the relationship between housing need and the sequential test.
- 9.6.19 At Paragraph 173, the Holgate J. holds that he agrees with the Secretary of State’s advocate in that “*that approach describes the type of exercise which is undertaken in the preparation and examination of a development plan (see e.g. para. 026 of the PPG). Where there remains unmet need which cannot be allocated to areas satisfying the sequential test, that factor together with any other constraints, may lead to a policy decision that not all of the identified need should be met. Alternatively, **it may be decided that all or some part of that residual need should be met notwithstanding that the sequential test has not been satisfied.** Either way, the treatment of unmet need is not an input to the sequential assessment for identifying reasonably available alternative sites. The sequential approach is not modified in those circumstances.*

¹⁶ Paragraph: 028 Reference ID: 7-028-20220825

*Instead, **the policy-maker will decide what to do with the outcome of applying the sequential test.***” (my emphasis)

9.6.20 Paragraph 174 continues, “A *similar analysis applies in the determination of planning applications. **Where there is an unmet need, for example a substantial shortfall in demonstrating a 5-year supply of housing land, that shortfall and its implications (including the contribution which the appeal proposal would make to reducing that shortfall) are weighed in the overall planning balance against any factors pointing to refusal of permission (including any failure to satisfy the sequential test).** If the total size of sequentially preferable locations is less than the unmet housing need, so that satisfying that need would require the release of land which is not sequentially preferable, that too may be taken into account in the overall planning balance. But these are not matters which affect the carrying out of the sequential test itself. Logically they do not go to the question whether an alternative site is reasonably available and appropriate (i.e. has relevant appropriate characteristics) for the development proposed on the application or appeal site. Instead, they are matters which may, for example, reduce the weight given to a failure to meet the sequential test, or alternatively increase the weight given to factors weighing against such failure.*” (my emphasis)

9.6.21 Paragraph 178 states that Holgate J. “can see that if Redrow had submitted to the Inspector that **there was a substantial need for housing which could not be met entirely on sequentially preferable sites (and even more so in the next 5 years), so that additional sites with a similar or worse flood risk would need to be developed, that would be a significant factor to be addressed in the overall planning balance. It could reduce the weight to be given to the failure to satisfy the sequential test.** Here the Inspector gave that failure “very substantial weight” (DL 100). It would have been arguable that the flood risk implications of satisfying the unmet need for housing land was an “obviously material consideration,” such that it was irrational for the Inspector not to have taken it into account (*R (Friends of the Earth Limited) v Secretary of State for Transport [2021] PTSR 190 at [116] to [120]*). Alternatively, it could have been said that there was a failure to comply with the duty to give reasons in relation to a “principal important controversial issue” between the parties.” (our emphasis).

9.6.22 These extracts of the judgement show that a failure to comply with the sequential test is not automatically fatal to a planning application. It shows that other material considerations, such as housing need or a lack of supply, may mean that a failure to pass with the sequential test, or a failure to be **the** most sequentially preferable site within a search area can be outweighed by the planning balance. The Planning Balance exercise is addressed in Section 13 of my evidence.

9.7 Summary

9.7.1 The above planning policies and guidance documents, appeal decisions and case law show that there a range of national and local policies and decisions which consider the flood risk sequential test and the varying stances presented. It shows that there is a lack of consistency regarding key components of the Sequential Test which heavily impact on the methodology and quantum of analysis required.

9.7.2 The Judgment at **CD.J1** draws upon the conclusions of the Lynchmead and Bushey decisions and the relevant applications of the NPPF and PPG. As such, this forms the basis for my methodology for the undertaking of the Flood Risk Sequential Test, which I explain below.

9.7.3 Search Area:

- Paragraphs 102 to 104 of the Judgement.
- The Applicant can put forward a case for specific type of development (or housing) if necessary in planning terms and/or meets market demand. This could be based on location, mix of land uses and interdependence, site size, scale, density and so on.
- This can then inform the appropriate area of search and whether sites in lower flood risk zones are appropriate to the requirements of the proposal.
- Flexibility needs to be shown by both the Applicant and LPA.

9.7.4 Timescales for Delivery and Reasonable Availability:

- Paragraphs 106, 121 and 170 of the Judgement.
- The NPPF does not require that the availability of an alternative site should always align closely with the trajectory of the developer's proposal.
- Flexibility on all sides is a relevant consideration.
- Development of an alternative site does not have to follow the same timescale as was envisaged for the appeal proposal. Start date and build-out rates can be affected by many site-specific factors.
- Precise or close alignment of expected delivery timescales is not strictly necessary. It is a matter of whether alternative sites would take materially longer to come forward than the application site.

9.7.5 Disaggregation of Sites:

- Paragraphs 110 and 164 of the Judgement.
- When considering whether multiple sites that could form a "series" and their sequential preferability, the decision maker must consider whether such sites have a relationship which makes them suitable in combination to accommodate any need or demand and whether these sites could deliver the range of interconnected benefits which the proposals would deliver and their need.

9.7.6 This has been used to inform the methodology of the Flood Risk Sequential Test.

9.8 Methodology Introduction

- 9.8.1 In accordance with the policy, guidance, appeal decisions and case law set out above, it is necessary to define the parameters of the Sequential Test and it is proportionate to set out a methodology for the undertaking of the Test. The Applicant is required to identify where there are any other 'reasonably available' sites within the search area, that have not already been identified by the planning authority in site allocations or relevant housing assessments.
- 9.8.2 An updated Flood Risk Sequential Test (**CD.B7**) was submitted to NSC on 3rd April 2024. Details of the undertaking of these Tests are explained in the proceeding sections of my Evidence.

9.9 Geographical Area

- 9.9.1 The PPG sets out that the planning authority will need to determine the appropriate area of search, based on the development type proposed and relevant spatial policies. The Core Strategy states that the search area for alternatives sites will be North Somerset-wide unless there is specific need within a specific area, or the site is within the settlement boundaries of Weston, Clevedon, Nailsea and Portishead.
- 9.9.2 This Sequential Test covers the whole administrative area of North Somerset, therefore a thorough and comprehensive assessment has been undertaken.
- 9.9.3 My evidence also identifies, in addition to the district-wide analysis, the circumstances specific to Yatton and the need for housing within this parish in particular, with due regard to flood risk. Meeting this need is a specific benefit of this development in this location and would not be met by a series of sites located further afield.
- 9.9.4 In addition, as set out in my **Appendix 5**, the Council had also discussed an option which was related to relationship to public transport in Yatton. Given this has not been fed back to the Appellant at any point, even during this appeal, a scenario is included with this appeal.

9.10 Sources of Sites

- 9.10.1 The North Somerset Development and Flood Risk Issues Advice Note (2019) provides a list of sources of sites that could be used to inform a sequential test. Whilst this Note has been superseded by changes to national policy, this list is still useful to inform the sources of sites that should make up the sequential test.
- 9.10.2 The Note informs that alternative sites can include sites allocated in a Local Plan or Neighbourhood Plan and that suitable sites that have planning permission for the desired use should also be considered. It advises that sites can also be found from the Council's evidence base and background documents to inform the emerging Local Plan, which includes the SHLAA.
- 9.10.3 The FRST submitted in March 2023 (**CD.A12**) collected sites from the following sources:
- Strategic Housing Land Availability Assessment 2022;

- Allocations in the Sites and Policies Plan, Part 2, Sites Allocation Plan (the 'SAP');
- Draft allocations in the Regulation 18 emerging Local Plan;
- April 2021 housing land supply trajectory;
- Planning applications submitted since April 2021; and
- Neighbourhood Plan allocations

9.10.4 This first iteration of the FRST yielded a total of 364 site entries across North Somerset. Some of these entries appeared twice: for example where a planning application had been submitted on a site allocated in the SAP. However, this approach ensured a thorough search for sites was carried out and the sites were then refined.

9.10.5 When the FRST was updated for submission in April 2024 (**CD.B7**), a year had passed since the first submission. As such, to ensure that the assessment accounted for all possible sites, the following sources of data were also reviewed:

- Strategic Housing Land Availability Assessment 2023;
- Draft allocations in the Regulation 19 emerging Local Plan; and
- Planning applications submitted since December 2022.

9.10.6 This shows that a thorough and comprehensive search for all possible alternative sites had been undertaken when the second FRST was submitted.

9.10.7 This evidence has been prepared in May - July 2024. As such, to ensure all potential sites were reviewed, a further research exercise was undertaken. Planning applications submitted between March 2024 and July 2024 were collated and considered as part of this assessment.

9.10.8 All of the additional sites found as part of the refreshed searches were added to the existing list of sites. No sites were removed from the overall list of sites for completeness of the assessment.

9.11 Series of Sites

9.11.1 The Core Strategy states that a site can be considered to be reasonably available if it can accommodate the requirements of the development, whereas the Regulation 19 version of the emerging Local Plan states that the search should not necessarily be restricted to sites only capable of accommodating the proposed scale of development, and opportunities to provide development on more than one, sequentially preferable site should be explored where practical.

- 9.11.2 PPG also states that ‘reasonably available sites’ ‘*could include a series of smaller sites and/or parts of a larger site, if these would be capable of accommodating the proposed development*’¹⁷.
- 9.11.3 To ensure that all possible sites and series of sites are considered as part of the sequential test, this assessment reviews sites spatially to establish where series of sites could be formed. An example of this is where two adjacent sites are submitted to a call for sites consultation separately due to being under different landownerships or promotional agreements and are therefore registered separately on the Strategic Housing Land Availability Assessment (SHLAA). To ensure that sites are not viewed in silo, site locations have been reviewed to establish where sites can be grouped together, so to not prematurely discount smaller sites from the assessment.
- 9.11.4 The matter of disaggregation of a development across unconnected sites was a key consideration in the Lynchmead (**CD.I2**) and Bushey (**CD.I3**) decisions and the subsequent Judgement (**CD.J1**). As set out above, the Inspector in the Lynchmead case stated that there was no need for smaller sites to be ‘contiguous’ and this approach was also adopted by the Inspector in the Bushey case. The Judgment handed down relating to these two appeals also addressed this point. It states that ‘*the word ‘series’ connotes a relationship between sites appropriate for accommodating the type of development which the decision-maker judges should form the basis for the sequential assessment*’ (Paragraph 110 of **CD.J1**). It continues, stating that ‘*This addresses the concern that a proposal should not automatically fail the sequential test because of the availability of multiple, disconnected sites across a local authority’s area*’.
- 9.11.5 The Judgement states that the issue here is ‘*whether such a series of sites have a relationship which makes them suitable in combination to accommodate any need or demand to which they attach weight*’. It is therefore for the decision-maker to decide if such sites could, in combination, deliver the range of interconnected benefits which the appeal would deliver.

9.12 Type of Development / Disaggregation

- 9.12.1 There is clear interdependency between the components of the proposed development and benefits they offer. The site should be viewed as whole given that the residential element allows for the Use Class E land, open space, biodiversity net-gain and affordable housing (beyond policy compliant levels) to come forward. The housing, open space and biodiversity components go beyond minimum policy requirements enabling the scheme as a whole to achieve cohesive placemaking: a well-designed, sustainable development which could not be achieved without each component being present. Combined, as interconnected benefits, they present a sustainable mixture of compatible uses adjacent to the built form of Yatton with their proximity and use being a benefit to both existing neighbouring occupiers and future occupiers and users of the development.
- 9.12.2 These combined make up “the development” – this is “the development” as a whole for which planning permission is applied for; having regard to the need to deliver BNG; open space; quality placemaking; allotment provision; affordable housing provision

¹⁷ PPG Paragraph: 028 Reference ID: 7-028-20220825

and so on. The Council, in their Statement of Case, seek to argue that the open space is not development and should not be considered as part of “the development”. This is conflating two separate matters in my view – “the development” is that which has been applied for. The Council have at no point sought to refund the Appellant for part of their application fee for the inclusion of land which was not considered to be part of the development. In any case, the provision of open space is common across developments and indeed the Council have policies requiring its provision. Whilst the Appellant has provided open space in excess of policy requirements, both parties are agreed that this is a benefit of the development and in my opinion, will deliver high quality placemaking. To then seek to exclude this benefit from consideration in the application of the flood risk sequential testing then runs counter to the view of the beneficial nature of this and taken to its extreme would simply serve a race to the bottom providing the minimal requirements for the purpose of flood risk sequential testing i.e. the Council would be driving a less beneficial planning outcome, contrary to the public interest.

- 9.12.3 These placemaking benefits to the residential element from the other components are significant. Ultimately, any disaggregation of the site for sequential test purposes into multiple separated sites would not generate the same benefits. For example, multiple smaller schemes could not be guaranteed to deliver the same level of affordable housing; of open space and on-site BNG – along with a community building.
- 9.12.4 Core Strategy Policy CS12 specifically deals with achieving high quality design and placemaking alongside Policy DM32 of the Site Allocations Development Management Policies document. None of the reasons for refusal identify any conflict with either of these policies and therefore it must follow that the Council considers that the appeal scheme is capable of delivering high quality design and placemaking.
- 9.12.5 The Appellant submitted a comprehensive Design and Access Statement with the application with an entire Section of the DAS dedicated to placemaking and urban design principles. Furthermore, the Appellant has submitted a number of parameter plans, which alongside the DAS, can be conditioned to secure compliance. However in this particular instance, some of the placemaking benefits are included within the description of development to give further confidence in respect of the delivery and the importance of these aspects for the placemaking of the development. In this respect I refer to the appeal decision in Bramley, Hampshire¹⁸ (**Appendix 7**) where the Inspector was clear to conclude that whilst only an outline application (as is the case here), the Appellant will have to demonstrate how they continue to achieve high quality design at the reserved matters stage; and that the Council are the decision makers in this respect (paragraph 46).
- 9.12.6 That appeal also includes an area of significant open space (24% of the site) – paragraph 48. It is stated that the housing, community facilities and community building area proposed along the eastern edge with then the western and southern elements identified as community orchards and meadows. This is a remarkably similar on site distribution of uses as per the Appeal Site however in this instance, the level of open space provided is 70%. Attached at my **Appendix 8**, is the consultation response from the Council’s landscape officer who concludes:

¹⁸ Appeal Reference: APP/H1705/W/22/3302752 – The Street, Bramley, Hampshire

“In landscape terms the site can accommodate housing without impacting upon the wider landscape and Strawberry Line, subject to suitable buffers being retained. It is good to see that key characteristics like the watercourses have been accommodated in wide green corridors and the scheme can bring about visual improvements to this edge of Yatton if well designed and executed”.

9.12.7 He then also states (with regard to the illustrative masterplan) that he agrees with the general approach outlined.

9.12.8 Drawing on the conclusions of the Council’s landscape officer, I conclude that the open space is an integral part of the scheme providing a buffer to the Strawberry Line and enhancing the overall placemaking of the site. Should the Council seek to argue a case in this regard which is different to that set out by their own landscape officer, then the Appellant reserves the right to call their own design witness in this regard.

9.13 Site Capacity

9.13.1 It is therefore necessary to consider the capacity of sites as part of this assessment. In a case such as this, where the development cannot be split across sites without a relationship, the flexibility to be afforded to that series of sites is important, as emphasised in the Judgment (Paragraph 109 of the Judgement).

9.13.2 An appeal decision in Framlington, within East Suffolk (**CD.I10**)¹⁹ issued in September 2020 considers the range of sites to be assessed as part of the Sequential Test at paragraph 11, stating that *“The standard approach to these matters is to set a range within a certain percentage of the application site, usually 15 or 20% either way.”* It is noted that the East Suffolk appeal decision pre-dates the August 2022 PPG updates and is for a considerably smaller scheme than the appeal proposal, therefore should be considered in the context of up-to-date local and national policy and guidance.

9.13.3 The appeal site is 13.79 ha in size and outline permission is sought for up to 190 dwellings. The methodology of the FRST produced and submitted in March 2023 was informed by the Framlingham appeal decision and the requirements of the PPG. It was considered that it would be appropriate to assess sites with a 25% allowance above and below the site area and number of dwellings proposed. This takes the Framlington method, however affords greater flexibility to it. This would be sites or series of sites between 10.3ha and 17.2ha in size and which can accommodate a quantum of between 143 and 237 dwellings should be considered in the Sequential Test.

9.13.4 This methodology for assessing site capacity and size was also adopted as part of the FRST produced for the appeal in Bushey, Hertsmere by Redrow (the appeal subject to **CD.I3**). This methodology was not accepted by the Inspector in that case and was subject to part of the legal challenge²⁰. Ground 1 of the challenge against the Bushey decision related to sites and series of sites that were smaller than the appeal site and where a parameter of 25% smaller than the appeal site was used. Holgate, J. noted that the Inspector in that case did not consider the implications of the undeliverability

¹⁹ PINS reference: APP/X3540/W/20/3250557

²⁰ R (Mead Realisations Ltd. & Redrow Homes Ltd.) v. Secretary of State for Levelling Up, Housing and Communities [2024] EWHC 279 (Admin) (“the Judgment”) (**CD.J1**)

of the interconnected benefits of that appeal should it be delivered across a series of smaller sites.

9.13.5 The appeal proposal is for up to 190 homes including 50% affordable homes and other benefits such as 70% of the site being open space and the provision of a allotments, LEAP, 2 LAPs and an orchard – with regard to the latter – the NSC Green Infrastructure Strategy was produced in September 2021 and NSC Nature Emergency declared in November 2020. The GI Strategy sets out target of 20% canopy cover, Yatton has 9.1% - therefore the open space / orchard proposed on this site can contribute towards meeting that target. My evidence, alongside that of Mr Paterson-Neild and Mr Parker shows the need for housing and affordable housing in North Somerset and the weight to be attributed to these proposals alongside the Class E element. It should not be that every element of the appeal scheme should be 'necessary' within a competing site, but these components are beneficial to the community and to the delivery of all branches of sustainable development. Seeking sites which can deliver the *minimum* requirements for elements such as open space and affordable housing does not encourage high quality placemaking or the development of outstanding neighbourhoods that have the ability to deliver wider public benefits, such as the appeal scheme. Such an exercise would create a 'race to the bottom' which favours policy compliance over policy exceedance.

9.13.6 Furthermore, I highlight that as set out in Section 7 of my evidence, there is a compelling need for affordable housing in Yatton. Disaggregation of sites would not deliver the much needed affordable housing for Yatton.

9.13.7 As such, this sequential test discounts sites where the capacity is more than 25% smaller than the appeal proposals. This is sites or series of sites which cannot accommodate 143 dwellings or which are less than 10.3ha in size. This approach shows flexibility by the Applicant in setting out parameters for the site search, as repeatedly required by the Judgement.

9.14 Flood Risk Discounting

9.14.1 The Application Site is located in Flood Zone 3a and benefits from flood defences.

9.14.2 Sites have been considered on the basis on their flood risk from any sources, as required by the PPG. Sites have also been assessed against the comparative flooding risk at the Appeal Site.

9.14.3 Sites with a higher flood risk (i.e. part or all of the site lies within Flood Zone 3b or within Flood Zone 3a and does not benefit from flood defences) have been discounted as alternative sites. They would not present a sequentially preferable scenario in terms of flood risk compared to the application site, which lies in Flood Zone 3a and benefits from flood defences. This is what the Sequential Test strives to achieve.

9.14.4 Sites which present an equal or lesser flood risk than the application site are carried forward to be assessed in greater detail. Sites which are of an equivalent flood risk to the application site (Flood Zone 3a, defended) have not been discounted through this methodology as they do not present a sequentially worse situation than the appeal site. Instead, these sites are carried forward to allow a more complete assessment to

be carried out to ensure a comprehensive judgement is formed on their sequential preferability.

9.15 Planning Considerations

9.15.1 The next stage is to assess the filtered sites against strategic planning policies and to consider any planning permissions that could affect the ability of the sites or series of sites to accommodate the proposals. This could include planning policy reasons and constraints, such as location in the Green Belt, where extant planning permissions would not comply with the proposed development or where completions reduce available capacities beyond that required by the appeal scheme.

9.16 Reasonably Available and the Planning Balance

9.16.1 The scope of the Sequential Test up to this point focuses on drawing out the key facts of other sites, including their size, location, risk of flooding, planning policy considerations and impacts of extant permissions. Up to this stage, this exercise aims to find sites which could accommodate the capacity of the appeal proposals, as set out in the description of development, and where such sites are at equal or lower flood risk than the appeal site.

9.16.2 From this stage, there must be consideration of whether the residual sites and series of sites are 'reasonably available', i.e. '*in a suitable location for the type of development with a reasonable prospect that the site is available to be developed at the point in time envisaged for the development*²¹'.

9.16.3 Clearly land availability represents an important role in the identification of sequentially preferable sites.

9.16.4 This approach to the methodology has been devised following the Judgement handed down by Holgate J. in respect of the Lynchmead and Bushey challenge.

9.16.5 To support this part of the assessment, I draw on the evidence of Mr. Jones who clearly sets out the difference between option agreements and promotion agreements. With regard then to the existence of these and the availability of land to another third party, he advises as follows (paragraphs 3.13 – 3.18):

In both Option and Promotion Agreements, clauses are often included which prohibit the sale of the land to competing parties, i.e. other developers/promoters, or the assignment of the Agreement to a third party. The land owner often goes through a prolonged selection processes before entering an Agreement so as to pick a party which they believe have the resources and expertise necessary for that project. As a consequence they are personal agreements and not intended to be tradeable assets.

Even if such a clause is not present in the Agreement, as developers make their profit through the eventual sale of built properties on the site and promoters make their profit

²¹ PPG Paragraph: 028 Reference ID: 7-028-20220825

through the sale of the land once planning permission has been granted, it is unlikely to make commercial sense for developers or promoters to negotiate with any third party to assign the Option/Promotion Agreement to allow them an early exit.

For Promotion Agreements, the only time that the land would reasonably become available to a developer would be during the marketing stage once the promoter has secured planning permission and is actively marketing the site with planning permission. Hence there is little scope for an interim acquisition by a developer. Developers have little interest in securing promotion agreements as they do not guarantee them the eventual land purchase following planning – as the landowner requires a sale to the highest bidding party in the open market.

Fundamentally, promoters and developers would not invest significant time and funds in securing Option/Promotion Agreements, promoting the site and securing planning permission, if there was a risk that they could lose control of the site before they are able to generate their profit through development or the sale of the land. It is therefore reasonable to assume that land in either a Promotion or Option agreement is not available to a third party.

In relation to the Appellant's flood risk sequential test, I understand that the Appellant has written to developers and promoters who have control of sites whose availability needs to be tested, expressing their interest in those sites. For those sites under Promotion/Option Agreements, none of the developers and promoters have responded to the Appellant. This is entirely understandable given their contractual obligations almost definitely prevent it.

It is therefore reasonable to conclude that these sites are not available to the Appellant and that the Appellant has taken steps to determine that position.

9.16.6 Furthermore, as Mr Jones sets out in his paragraphs 3.19 – 3.20, in both Option and Promotion Agreements, 'non-competition' clauses are standard practice preventing commercial conflicts between sites; such that a developer would be unable to promote alternative sites where there are existing strategic assets of a similar scale.

9.16.7 Mr Jones also confirms that sites which would be seen as in competition with the Appeal Site would also be unavailable to the Appellant.

Timescales

9.16.8 With regard to the timescales for the development, the Appellant's delivery programme is set out in the table overleaf.

Timing	Delivery
OPP granted	Q4 2024
RM approved	Q4 2025
Start on site	Q1 2026
First completions – Q3 2026	
2026 - 2027	10
2027 – 2028	35
2028 – 2029	60
2029 - 2030	55
2030 - 2031	30

9.16.9 The current housing land supply period runs from 2024 – 2029 and therefore the Appeal Site will contribute in the final 3 years of the 5 year period – delivering 105 new homes.

9.16.10 Whilst the aforementioned High Court judgement has advised that the timescales do not need to align precisely; in this instance it is clear that a start will be made on the Appeal Site within the next 5 years and that the Appeal Scheme will contribute to the delivery of housing within the next 5 years thus assisting in making up some of the agreed shortfall in supply. That the Council is unable to demonstrate a 5 year supply regardless of the results of the flood risk sequential test must indicate that there are not sufficiently sequentially preferable sites which can come forward in the same timeframe as the Appeal Scheme – I deal with this in my Section 12. However as set out later in this section, I do not consider that the sites which the Council consider to be sequentially preferable (identified as coming forward within the 5 year period) are in fact sequentially preferable for reasons other than simply timescales.

9.17 Summary of Methodology

9.17.1 This methodology therefore sets out the following summarised scope of works for this stage of the Sequential Test:

- It is confirmed that sites across the entirety of North Somerset are considered. Circumstances specific to Yatton are addressed as part of the planning balance.
- Sites and series of sites are assessed to establish where development of at least 143 dwellings and of at least 10.3ha in size can be delivered. The overall

benefits of the components of the planning application are addressed in Section 12 of my evidence.

- Sites are assessed on their risk of flooding in comparison to that of the appeal site.
- Sites are assessed against strategic planning policy and extant planning permissions.
- Sites are assessed on their reasonable availability: if they are in a suitable location for the type of development with a reasonable prospect that the site is available to be developed at the point in time envisaged for the development.

9.17.2 The following section of this report discusses the undertaking of the sequential test at the Application Stage.

9.18 Carry Out the Sequential Test

9.18.1 The original Flood Risk Sequential Test submitted in March 2023 considered a total of 364 sites across North Somerset, using information from the 2022 Strategic Housing Land Availability Assessment; the Sites Allocation Plan; the Regulation 18 emerging Local Plan; the April 2021 Housing Land Supply trajectory; planning applications decided since April 2021; and neighbourhood plans. This data provided a thorough review of potential sites for development within the District.

9.18.2 The updated Flood Risk Sequential Test submitted in April 2024 built on this list and collated additional sites from the 2023 Strategic Housing Land Availability Assessment; the Regulation 19 emerging Local Plan; and planning applications decided since December 2022. This search yielded an additional 129 sites so that the total list of sites is 495.

9.18.3 This evidence has been prepared between May and August 2024. As such, to ensure all potential sites were reviewed, a further research exercise has been undertaken. Planning applications submitted between March 2024 and July 2024 were reviewed (9 in total) and added to the list of sites, taking it to 504 sites. These were collated and considered as part of this assessment. All of the additional sites found as part of the refreshed searches were added to the existing list of sites. No sites were removed from the overall list of sites for completeness of the assessment.

9.18.4 Some of the entries appear twice: for example where a planning application had been submitted on an allocated site. However, this approach shows that a thorough and comprehensive search for all possible alternative sites has been undertaken. All of the additional sites found as part of this refreshed search were added to the existing list of sites. No sites were removed from the overall list of sites for completeness of the assessment.

9.18.5 The following approach was adopted.

9.19 Spatial Review

- 9.19.1 Following the collation of all sites from the data sources listed above, sites were reviewed spatially to assess where sites could be 'grouped' together to be considered a 'series' of sites, as required by the PPG and as supported by the Lynchmead and Bushey Judgement (**CD.J1**).
- 9.19.2 The March 2023 FRST of 364 sites collated these into 195 series of sites. The additional 129 sites collated in March 2024 increased the total number of sites and series of sites to 205. The 9 additional applications found in July 2024 were all at sites which already formed part of the assessment, so it did not yield any new sites or series of sites for this assessment.
- 9.19.3 Following completion of a spatial review, the flood risk aspect of sites was then considered.

9.20 Flood Risk

- 9.20.1 Of the 38 sites which meet the size and capacity thresholds, there are 12 sites which contain a presence of Flood Zone 3b or an undefended Flood Zone 3a. As this presents a worse scenario than the application site, which is in Flood Zone 3a and benefits from flood defences, these sites are sequentially less preferable than the application site on flood risk grounds.
- 9.20.2 This left 26 sites which could accommodate the site size and capacity required and did not present a sequentially worse flood risk than the application site.
- 9.20.3 The FRST then moved on to planning considerations.

9.21 Planning Considerations

- 9.21.1 The next stage of the sequential test assesses whether there are any planning policy reasons why these sites could not deliver the proposals or if any extant permissions affect whether the development could be delivered on those sites. This part of the test found that 19 of the 26 sites would not be able to accommodate the proposals for reasons relating to planning policy or permissions.
- 9.21.2 In addition to these comments, whilst I consider that they cannot accommodate the proposals, for robustness of assessment, the Appellant has written to each of these landowners to enquire about the availability of the sites for development on the 14th, 19th and 20th June. At the time of writing, the Appellant has not received any responses to these enquiries.
- 9.21.3 For ease of reference, I have set out the planning assessment and the respective parties position based on the agreed list of sites in dispute at the time of the preparation of my evidence in a Sites Portfolio (**Appendix 9**) – which is a separate document accompanying my evidence.
- 9.21.4 This document reviews each site and explains why, in my opinion, it is not sequentially preferable to the Appeal Site.

9.22 Agreed position between the Appellant and the Council

9.22.1 Following the comprehensive identification and review of sites by the Appellant, there is now dispute in respect of 36 sites (as per an exchange of emails between the two parties on the 14th August 2024 – **Appendix 10**). On this basis, the Sites Portfolio appended to my evidence (**Appendix 9**) focuses on those 36 sites. Clearly if the Council add any additional disputed sites in within their evidence, then I reserve the right to respond to this in my rebuttal evidence.

9.23 Yatton and the Sequential Test

9.23.1 Mr Parker of Pioneer Property Services Ltd has prepared a Proof of Evidence before this Inquiry relating to local housing need and which reviews the market and affordable housing need including specifically within the Parish of Yatton, in which he concludes that:

- Assuming need arises per head of population at a rate commensurate with that suggested for the district (in the SHMA09 and LHNA23), taking account of likely affordable housing vacancy rates and additional affordable housing need projections based on demographic modelling and LHNA23 affordability assumptions, the following range of affordable housing need is suggested:
- 2009/10 to 2023/24 (15 years) – a need for 510 affordable homes (i.e. 34 per annum and assuming this continues into 2021/22 to 2023/24)
- 2024/25 to 2028/29 (5 years) – a need for 56 (constrained ‘policy on’) to 128 (all eligible households) affordable homes (i.e. 14 to 55 per annum).

9.23.2 At Parish level, the affordable housing need summarised in section 3.4 above during the 2009/10 to 2022/23 period can be compared to the additional affordable housing supply across the Parish during this period.

9.23.3 The Council have provided affordable housing supply data for the 2018/19 to 2023/24 period suggesting a total supply of 150 units, of which 75 were provided in the three years 2018/19 to 2020/21.

9.23.4 However, these are gross figures which do not reflect dwellings which change tenure as a consequence of Right to Buy sales to tenants. In that respect, 2011 and 2021 Census data suggests a net additional 69 Affordable Homes to have been provided in Yatton Parish²² over the 10 year period 2011 to 2021²³ – six dwellings less than the Council have reported for the three years 2018/19 to 2020/21. Furthermore, 2001 and 2011 Census data suggests a reduction of 9 affordable homes across the Parish over the 2001 to 2011 ten-year period (or 0.9 homes per annum).

9.23.5 The following table therefore reflects a loss of one Affordable Home per annum 2009/10 to 2010/11 and nil completions in the years 2011/12 to 2017/18, given that

²² Based on best fit LSOAs

²³ KS018 2001 Census and KS402EW 2011 Census for Yatton Parish and TS054 2021 Census based on best fit LSOAs

Council completions data suggests all net additional provision is likely to only have occurred 2018/19 to 2023/24:

Yatton Parish Affordable Housing Shortfall 2009/10 – 2023/24

Year	Annual Affordable housing Need	Affordable housing Supply (Net)	Surplus / Shortfall**
2009/10	34	-1	-35
2010/11	34	-1	-35
2011/12	34	0	-34
2012/13	34	0	-34
2013/14	34	0	-34
2014/15	34	0	-34
2015/16	34	0	-34
2016/17	34	0	-34
2017/18	34	0	-34
2018/19	34	11	-23
2019/20	34	4	-30
2020/21	34	60	26
2021/22*	34	17	-17
2022/23*	34	19	-15
2023/24*	34	39	5
TOTAL	510	148	-362

Source: SHMA09 and Pioneer Analysis as summarised at Section 3.4, 2001, 2011 and 2021 Census data and completions data provided by North Somerset Council, July 2024 *assumes SHMA09 affordable housing net annual need continues as assessed in the SHMA09 for the 2009/10 to 2020/21 period. **a minus indicates a shortfall

Figure 4.2.2 – Yatton Parish Affordable housing Shortfall 2024/25 – 2028/29

Year	Annual Affordable Housing Need (Yatton LHNA CDX)		Affordable Housing Supply (Net)	Surplus / Shortfall*	
	Constrained 'Policy-on'	All Eligible Households		Constrained 'Policy-on'	All Eligible Households
2024/25	14	to 55	25.6	11.6	to -29.4
2025/26	14	to 55	25.6	11.6	to -29.4
2026/27	14	to 55	25.6	11.6	to -29.4
2027/28	14	to 55	25.6	11.6	to -29.4
2028/29	14	to 55	25.6	11.6	to -29.4
TOTAL	70	to 275	128	58	to -147

Source: Affordable housing need: LHNA23 and Pioneer analysis for 2024/25 to 2028/29 – see Affordable housing need summary in section 3.5 above, Affordable housing supply: See paragraphs in Section 4.2 of this Proof of Evidence. *a minus indicates a shortfall

Figure 4.3.2 – Yatton Parish Affordable Housing Shortfall 2009/10 – 2028/29

Period	Affordable housing Need	Affordable housing Supply (Net)	Surplus / Shortfall*
2009/10 to 2028/29	580 to 785	276	-304 to -509

Source: Affordable housing need and supply analysis summarised in Sections 4.1 and 4.2 of this Proof of Evidence

*a minus indicates a shortfall

9.23.6 Alongside the need for affordable provision, the development also provide allotments at the south of the site. As of February 2024, there are currently two allotment sites in Yatton, one on Mendip Road and with a waiting list of 6 people and one on Arnolds Way, with a waiting list of 16 people; there is an identified need for the delivery of allotments in the village also.

9.23.7 On the basis of need in Yatton, the sequential test has also been considered for Yatton Parish only. Again the assessment of the sites in Yatton is included in the Site Porfolio document accompanying my evidence.

9.23.8 This sequential assessment demonstrates the Appeal Site can make a significant contribution towards housing provision in Yatton which as per the Judgment (**CD.J1**), which must be a consideration in the decision-making process. The development of housing at the appeal site not only meets policy requirements set by the Council, but exceeds them, delivering greater benefits to the Yatton community and addressing the local needs of Yatton. A series of sites further afield, or indeed a single site further afield, would not achieve this.

9.23.9 In addition, in the FOI response at my **Appendix 5**, the Council made reference to a scenario looking at sites in relation to public transport provision. Whilst this has never been communicated to the Appellant, the Sites Portfolio at my **Appendix 9** includes a scenario in this regard; and again concludes that when ranking sites based on public transport connectivity to key destinations, the Appeal Site would rank as the most sequentially preferable site. Unsurprising given the Appeal Site in an approximate 8 minute walk to a train station with direct connections to Weston-Super-Mare, Bristol and London.

9.24 Sequential Test Conclusion

9.24.1 It is my opinion that the Appeal Site is the most sequentially preferable site to accommodate the development proposed and that through the details provided by the Council to date; they have not identified any more sequentially preferable sites which are capable of accommodating the development and / or which are reasonably available to the Appellant in the timeframe envisaged. Much of their case (without having seen their evidence) appears to rely on a “series” of smaller sites however there has been no justification provided for this; how these sites are related to each other or a assessment of how the benefits could be provided across any such series

of sites. Should further evidence be forthcoming, I reserve the right to address this in rebuttal evidence.

9.24.2 In Section 13 of my evidence, I address the approach to the planning balance in the event that a different conclusion is reached in respect of the site being the most sequentially preferable and set out how, not only can this be addressed through the approach to the planning balance, but that due to the particular circumstances of this site, it would be a failure without consequences.

9.25 Exception Test

9.25.1 Having then completed the sequential test, it is necessary to turn to the Exception Test. In order to pass the Exception Test, it should be demonstrated that:

- 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.*

9.25.2 Whilst Mr Mirams deals with the technical aspects (part b) in his evidence, I identify the sustainability benefits of the site below:

1. The development will deliver much needed market housing in an area where is a proven significant shortfall in housing supply.
2. The site can deliver up to 190 new homes, including 50% affordable housing and—of particular importance when the need is so great.
3. The site will provide land for a new Class E uses to the benefit of the wider community.
4. The site can provide a significant area of open space (70% of the gross area) to the benefit of existing residents and future and with the delivery of a network of footways.
5. The site can deliver in excess of 10% BNG.
6. The site is in a highly sustainable location with access to local services and facilities.

9.25.3 There is nothing within the PPG which sets out that the benefits have to be “extraordinary benefits”. Indeed I draw attention to a recent appeal decision at Spencer’s Farm, Maidenhead²⁴ (**Appendix 11**) which addresses part (a) of the Exception Test at paragraph 18 of the judgement. In that instance, the benefits were identified as new homes, affordable housing (in the context of a shortfall in affordable housing); land for a new school; a large area of open space and construction jobs / retail expenditure. In effect, a set of sustainability benefits that are remarkably similar

²⁴ APP/T0355/W/23/3333834 Spencer’s Farm, North of Lutman Lane, Maidenhead

to that proposed to be delivered through the Appeal Site. In that instance the Inspector concluded (paragraph 18)

“...Taken together, these wider sustainability benefits would outweigh the flood risk in this case. Moreover, for the reasons set out above, I consider that the development would be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere”.

9.25.4 With regard to part (a) of the Exception Test, I note that the delegated Officer report states that “... part A of the exceptions test would have been failed”. However the Council’s Statement of Case (**CD.D2**), which should represent their full case for this appeal makes no reference to the failure of part (a) and states (paragraph 9.2) that:

“Were the exceptions test to be applicable it would fail under these grounds [in flooding terms] under Part B as the development would both increase flood risk elsewhere and fail to be safe over its lifetime”.

9.25.5 The Council’s case for this appeal is therefore one of failure of part (b) only and it must therefore be agreed that part (a) is passed.

9.25.6 With regard to Part (b), Mr Mirams will deal with this in his evidence upon resolution of matters relating to the modelling and I will defer to him in this regard.

9.26 Exception Test conclusion

9.26.1 Paragraph 031 of the PPG states that “The Exception Test is not a tool to justify development in flood risk areas when the Sequential Test has already shown that there are reasonably available, lower risk sites, appropriate for the proposed development. It would only be appropriate to move onto the Exception Test in these cases where, accounting for wider sustainable development objectives, application of relevant local and national policies would provide a clear reason for refusing development in any alternative locations identified”.

9.26.2 Drawing on the evidence of Mr Mirams, I conclude that the Exception Test is passed. However as with the sequential test, I assess the conclusions which can be drawn if a different conclusion in respect of compliance is reached.

10 Main Issue 3 / Reason for Refusal 3

10.1 Flood Risk

10.1.1 The reason for refusal in this respect states:

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 (Environmental impacts and flood risk management) of the Core Strategy and paragraph 173 of the National Planning Policy Framework.

10.1.2 At the time of preparing my evidence, the position on drainage is unclear given that the Appellant was advised at a meeting on the 21st August 2024 that the Council was using a different flood model to what which the Appellant was advised by the Environment Agency was the correct model to use and is the model upon which the Application / Appeal is based. The Appellant has written to PINS requesting an urgent ruling on this however this is unlikely to arrive prior to the date for the exchange of evidence and as such this aspect of my evidence will be updated as necessary in rebuttal evidence.

11 Main Issue 4 / Reason for Refusal 4

11.1 Land for Primary School

11.1.1 The reason for refusal in this regard states:

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 Policies DM1 (Flooding and drainage) and DM68 (Protection of sporting, cultural and community facilities) of the Sites and Policies Plan Part 1: Development Management

11.1.2 The Council advised the Appellant on the 16th August 2024 (**Appendix 2**) that:

“Further to discussions this morning, the Council will no longer be contesting the fourth putative reason for refusal or putting forward evidence on the provision of school places”.

11.1.3 However given that as far as I am aware, they have not yet notified PINS in this regard, I address this matter with reference to the evidence of Mr Hunter which was already prepared prior to the Council withdrawing from this reason for refusal and include his previously completed evidence as my **Appendix 12**.

11.1.4 Firstly I highlight that whilst Policy DM1 is cited in the reason for refusal; there is nothing in either the delegated Officer report (**CD.C1**) or the Council's Statement of Case (**CD.D2**) which references either this policy specifically or anything flooding / drainage related in respect of this reason for refusal. I have assumed therefore that this is a drafting error given flooding / drainage does not relate to this particular reason for refusal. Both Mr Mirams and I reserve the right to address this matter in rebuttal evidence should new points be taken in evidence in this regard.

11.1.5 The allocation exists to provide a replacement primary school which has already been provided. The allocation itself has been rolled over from previous Local Plans and was originally allocated as part of North Somerset's Local Plan 2000. It appears that this allocation for a replacement primary school arose due to the closure of Copperfields School in 1990. However, in 2021 a new primary school, Chestnut Park Primary, opened in Yatton thereby providing the replacement primary school.

11.1.6 In respect of the need or otherwise to safeguard the land for a primary school, I draw on the evidence of Mr Hunter in this regard who, with regard to the need land to be safeguarded for a primary school in Yatton, concludes that:

- Birth numbers are falling across North Somerset;

- There is capacity in the schools in Yatton, including a full 1FE's worth of space in Yatton Infant School;
- The number of spare places at schools in Yatton is forecast to grow, in spite of development coming forward in the village;
- The child yield of developments in Yatton has been lower than anticipated; and
- There is expansion potential at a school in Yatton that directly serves this development.

11.1.7 Mr Hunter therefore concludes, and I adopt his conclusions, that it is absolutely clear that there is no requirement for a Primary School site to be reserved on this development. The fact that no education contributions for school expansion have been requested for this development as part of the S106 is a clear indication that there is capacity within the existing schools.

11.1.8 With regard to this safeguarded site, I highlight that as set out in the evidence of Mr Hunter, since the land was first safeguarded for a primary school; Chestnut Primary School has already been constructed and continues to have capacity.

11.1.9 The reason for refusal is no longer being pursued by the Council however to assist the Inquiry, and noting that the refusal related only to the provision of land safeguarded for a primary school and not other uses, I briefly address Policy DM68 regardless. At the time Policy DM68 was drafted and adopted, the Use Class Order 2017 identified a primary school as falling within Use Class D1 (which also included Clinics, health centres, crèches, day nurseries, day centres, schools, art galleries (other than for sale or hire), museums, libraries, halls, places of worship, church halls, law courts, non residential education and training centres), which means that following construction, the use of the school could have been changed to any of the above without the need for planning permission.

11.1.10 Under the appeal scheme, land is proposed for Class E uses – which includes some, but not all, of the above namely: creche, day nursery, day centre; alongside gym / café / shop – i.e. facilities which are arguably most geared towards wider community cohesiveness than a law court or an art gallery for example.

11.1.11 Therefore in my view, in the clear absence of a need for a primary school (as per the evidence of Mr Hunter), land is capable of being delivered which will achieve a community function as per the first criteria of Policy DM68 – and comply with criteria (a) – the site is on the same wider site as the proposed primary school site and therefore it must naturally be deemed as being at least as accessible; and (b) the replacement is, in my opinion and in the absence of need for a primary school, at least equivalent if not better in terms of size, usefulness, attractiveness and quality.

11.1.12 It is my view that the above items in (b) should all be considered in the context of the facility being provided rather than be viewed in a literal way. For example, a village hall or a school may be significantly larger than a café for purely functional reasons specific to that use however a café or a shop could be arguably more attractive to a greater number of people – and quality can only be measured in relation the quality of the facility at hand. I do not therefore consider that these should be read literally in

order to achieve compliance with the policy. Furthermore, I highlight that it is open to the Council to condition the use of the building to specific uses within wider Class E definition – to specifically include / exclude particular aspects.

11.1.13 I consider that the provision of land for Class E uses ensures a mixed use development is provided enhancing community cohesiveness.

11.2 Summary

11.2.1 I therefore conclude there is no conflict with Policies CS25 and DM68. As above, in the absence of any detail in relation the alleged conflict with Policy DM1, I have assumed this is a drafting error and reserve the right to address this in rebuttal evidence if necessary.

12 Planning Assessment

12.1 The Development Plan

12.1.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 (“the Act”) states that:

“If regard is to be had to the development plan for the purposes of any determination to be made under the Planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise”.

12.2 The weight to be afforded to relevant Development Plan policies.

12.2.1 In dealing with circumstances where there is an alleged breach of the Development Plan, as the Council allege here, it is important to assess whether or not the policies in question are up to date. There are two circumstances when policies can be deemed out of date. The first is that the policy is out of date as it has been overtaken by things which have taken place since the plan was adopted. In this regard, in 2020, the Court of Appeal (**CD.J7**) held that the analysis of the meaning of ‘out of date’ in the former NPPF 2012 by Lindblom (**CD.J8**) applied in the same way to the 2020 NPPF in that policies are out-of-date (for purposes other than those that relate to Footnote 8 of para 11(d) of the NPPF) if they have been:

“...overtaken by things that have happened since the plan was adopted, either on the ground or through a change in national policy, or for some other reason, so that they are now out-of-date”.

12.2.2 With regard to this appeal, the current housing requirement as set out in the ALP does not address current housing need.

12.2.3 The second is when the Council is unable to demonstrate the requisite supply of housing land. It is agreed that the Council cannot demonstrate a 4 or 5 year supply of housing however the extent of the shortfall is in dispute

12.2.4 Turning then to the Policies in question, I set out in the table overleaf, the weight to afforded to relevant Development Plan policies.

12.2.5 I have previously set out that the Adopted Core Strategy does not include an NPPF compliant assessment of local housing need; that the plan was to have been reviewed by the end of 2018 and that Policy CS13 (to which Policy CS14 relates) was intended to be an interim policy replaced by an up-to-date housing requirement upon the review of the plan. There is already a tacit acknowledgement built into the Core Strategy and SAP that the housing numbers and the settlement boundaries are out of date as the Inspector could find no evidence of the settlement boundaries being reviewed through the SAP and they do not include sites allocated through the SAP. In addition, for reasons set out above, they are also deemed out of date by virtue of the dated housing requirements.

12.2.6 Policy CS14 also references the settlement boundaries and sets out that development outside the settlement boundary (as would be the case with the appeal site) will only be acceptable where a site is allocated in a Local Plan or where it complies with the criteria set out in the relevant policy (in this case Policy CS32). It is my opinion that Policies CS14 and CS32 are out of date as the housing supply policies do not address current need and consider this also applies insofar as there is any reference to ‘settlement boundaries’ within the policy which are out of date for the same reason. This has already been confirmed in a number of appeal decisions as per Section 6 of my evidence.

12.2.7 Policies CS14 and CS32 are both policies which seek to restrict development outside of the settlement boundaries. These boundaries arise from a housing requirement which is out of date. The approach I have taken here is in line with the Suffolk Coastal v Hopkins Homes: Richborough Estates v Cheshire East (2017) (CD.J4) and specifically paragraph 63 of the Supreme court judgement:

“He [the Inspector] was clearly entitled to conclude that the weight to be given to the restrictive policies was reduced to the extent that they derived from settlement boundaries that in turn reflect out-of-date housing requirements (paragraph 63)”.

12.2.8 I therefore attached only limited weight to Policies CS14 and CS32, alongside Policy CS13.

Table 1: Weight to be afforded to Development Plan Policies
 (Policies highlighted yellow are included in the reasons for refusal).

Policy	Up to Date Policy	Most Important Policy	Compliance	Weight
Core Strategy				
CS1: Addressing carbon emissions	Yes	No	Yes	Full
CS2: Delivering Sustainable design and construction	No – references outdated standards such as Code for Sustainable Homes which is no longer used	No	No (CfSH can no longer be achieved). Compliance with up-to-date elements	Limited
CS3: Environmental Impacts and Flood Risk Assessment	No	Yes	Yes	Limited – latter part of the policy is not consistent with NPPF / PPG.

Policy	Up to Date Policy	Most Important Policy	Compliance	Weight
CS9: Green Infrastructure	Yes	Yes	Yes	Full
CS10: Transportation and Movement	Yes	No	Yes	Full
CS11: Parking	Yes	No	Yes	Full
CS12: Achieving high quality design and place making	Yes	No	Yes	Full
CS13: Scale of new housing	No – the housing requirement is not based upon an NPPF compliant assessment of local housing need.	Yes	NA	Limited
CS14: Distribution of new housing	No – the housing requirement is not based upon an NPPF compliant assessment of local housing need and the settlement boundaries are out of date.	Yes	Yes	Limited
CS15: Mixed and Balanced Communities	Yes	No	Yes	Full
CS16: Affordable Housing	No – not based on an up to date local housing need figure.	Yes	Yes	Limited
CS25: Children, young people	No – does not reflect current education need.	Yes	Yes	Limited

Policy	Up to Date Policy	Most Important Policy	Compliance	Weight
and higher education ²⁵				
CS32: Service Villages	No – strategy and distribution not based on an up to date local housing need figure.	Yes	No – in relation to strategy. Yes – as a whole.	Limited
CS34: Infrastructure delivery and development contributions.	Yes	No	Yes	Full
Site Policies Plan, Part 2 Site Allocations Plan				
SA8	No – does not reflect current education need.	Yes	Yes	Limited
Development Management Policies				
DM1: Flooding and Drainage ²⁶	Yes	Yes	Yes	Full
DM68: Protection of Sporting, Cultural and Community Facilities ²⁷	No (insofar as it is being used in the Council's case to justify the retention of the safeguarded primary school site)	Yes	Yes	Limited (insofar as it is being used in the Council's case to justify the retention of the safeguarded primary school site)
DM19: Green Infrastructure	Yes	Yes	Yes	Full

²⁵ No longer forms part of the Council's case

²⁶ Only referenced in RfR4 which makes no reference to drainage and has been withdrawn

²⁷ No longer forms part of the Council's case

Policy	Up to Date Policy	Most Important Policy	Compliance	Weight
DM24: Safety, traffic and provision of infrastructure associated with development.	Yes	No	Yes	Full
DM32: High quality design and place making	Yes	No	Yes	Full
DM36: Residential densities	Yes	No	Yes	Full
DM48: Broadband	Yes	No	Yes	Full
DM70: Development Infrastructure	Yes	No	Yes	Full
DM71: Development contributions, CIL and viability	Yes	No	Yes	Full
Yatton Neighbourhood Plan				
The Council have confirmed that there is no breach of the Neighbourhood Plan and given there are no policies relating to the allocation of sites, I do not consider that any of the policies are 'most important' policies for the determination of the Appeal Scheme.				

12.2.9 In dealing with the weight to be attributed to the most important policies, I turn to the judgement of Wavendon Properties Ltd and SoS for Housing Communities and Local Government and Milton Keynes Council [2019] EWHC 1534 Admin (CD.J6). Paragraph 56 of the judgement sets out the approach to be taken in requiring decision-takers to consider individually whether policies could be out-of-date, and form an overall view as to whether the 'basket' of policies are out of date as part of a planning judgement:

“Mr Honey contended that there was no warrant for the interpretation that once one of the most important policies for determining the application had been found out-of-date the tilted balance would apply. He observed that the policy

specifically does not say that the tilted balance would apply when “one of” or “any of” the important policies for determining the application has been found to be out-of-date. To answer the question posed by paragraph 11(d) it is necessary, having identified those policies which are most important for the determination of the application, to examine them individually and then consider whether taken in the round, bearing in mind some may be consistent and some in-consistent with the Framework, and some may have been overtaken by events and others not, whether the overall assessment is that the basket of policies is rightly to be considered out-of-date. That will, of course, be a planning judgment dependent upon the evaluation of the policies for consistency with the Framework (see paragraph 212 and 213) taken together with the relevant facts of the particular decision at the time it is being examined”.

12.2.10 For the reasons which are expanded upon below, it is my opinion that the most important policies for determining the application, when taken in the round, should be considered out of date. I take this view in the context of the housing policies and settlement boundaries – which go to the heart of the principle of the acceptability of the development, being out of date. Together they set the amount and locational strategy for the delivery of housing, including restricting development outside settlement envelopes; and thus I conclude that the tilted balance is engaged regardless of the housing land supply position.

12.2.11 This position is one which has already been reached in NSC. At the previously referenced Moor Road appeal (CD.I9); the Inspector concluded (paragraph 71) that:

Having regard to the points discussed above, it is my view that the ‘basket’ of policies which are most important for determining this appeal are, indeed, those referred to in the Council’s reason for refusal. As stated above, I am of the view that they can still be given very great weight in the consideration and determination of this proposal. However, I cannot avoid the conclusion that as some of these policies have to be considered out-of-date, for reasons already given, then it is necessary for me to assess this proposal using the process set out at paragraph 11(d) of the Framework, often referred to as the ‘tilted balance’.

12.2.12 I assess the approach to the application of the tilted balance in the following section.

12.3 Accordance with the Development Plan

12.3.1 In assessing accordance with the Development Plan, I take account of the case of Cornwall Council v Corbett [2020] EWC Civ 508 (CD.J9) and the Court of Appeal findings which confirmed the Council’s approach of identifying a policy conflict (in that case a conflict in respect of the harm to an Area of Great Landscape Value) but concluding that there was compliance with the Development Plan as a whole. The

Court of Appeal noted that Local Plan policies can pull in different directions and that the weight to be given to policies and to determine compliance with the Development Plan as a whole, is a matter of planning judgement. It is my view, that this clearly confirms that the compliance with the Development Plan does not mean compliance with every policy therein, and that a failure to comply with the Development Plan does not automatically mean that the proposals are not in accordance with the Development Plan.

- 12.3.2 In respect of the Appeal Scheme, I conclude within this Section of my evidence that the proposals are in accordance with the Development Plan taken as a whole – dealing with the specific Development Plan policies cited within the 3 reasons for refusal first:
- 12.3.3 Policies CS3 / DM1: Drawing on the evidence of Mr Mirams also, I conclude that both the sequential and the exception test are passed; that safe access and egress can be provided; and that there will not be any increased flooding to neighbouring properties .
- 12.3.4 Policy CS14 is a locational policy predicated on delivering the housing delivery requirement in an out of date policy CS13. It is now self-evident through the review of the Local Plan to date that the current housing need cannot be accommodated within existing settlement boundaries. The adopted Core Strategy, despite having a figure which is lower than current housing need, has not been effective in meeting housing needs.
- 12.3.5 Continued strict application of Policy CS14 (and CS32) would exacerbate the situation. The policy can no longer be considered up to date because it can no longer be said that sufficient housing can and will be accommodated within defined settlement boundaries. This is particularly true when the plan itself anticipates development outside the settlement boundaries with the sites allocated through the Site Allocations Plan.
- 12.3.6 Policy CS32: This policy firstly states that new development that enhances the overall sustainability of the settlement can come forward on sites adjoining settlement boundaries where they comply with the 7 criteria listed. There is no objection from the Council to run against the narrative that the development will be high quality and will contribute to local character and distinctiveness; and can be easily assimilated into the village (given that the Council identify no harm bar a technical policy breach (1); the Council has raised no objection to the size, type, tenure and range of housing proposed and the Appellant has further enhanced this offer with the provision of 50% affordable housing (2); the Council have not raised concerns with regard to any adverse impact on services and infrastructure and no harm has been identified (3); as per criterion 1, there is no objection on design or landscape grounds and therefore it can be taken that the Appeal Scheme will deliver a high quality sustainable scheme appropriate to the context and landscape setting (4); no issue has been taken with regard to cumulative impacts (5) or the location of the development in relation to maximising opportunities to reduce the need to travel (6); no objection is raised in relation to access to facilities within reasonable walking distance (7). It is therefore my opinion that, the Appeal Scheme complies with the 7 criteria listed under Policy CS32; and the first part of the policy. This is also confirmed in the Officer Report **(CD.C1)**.

12.3.7 I then turn to the final sentence of Policy CS32 which advises that sites outside the settlement boundary in excess of about 25 dwellings must be brought forward as allocations through Local Plans or Neighbourhood Plans. I have previously set out that the settlement boundaries are out of date by virtue of the outdated housing requirement; sites allocated through the Site Allocations Plan are outside of the settlement boundaries with the boundaries yet to be amended; the Inspector examining the Site Allocations could find no evidence of the boundaries having been reviewed but accepted that position as at that point the boundaries were to have been reviewed through the Core Strategy review to have been completed in 2018. It is my view therefore that the breach is a procedural / technical one and that this conflict should attract only limited weight particularly when set against the reduced weight which I have already attributed to the settlement boundaries.

12.3.8 Taking account of conclusions reached in the aforementioned Cornwall case., I conclude that there is a breach of Policy CS32, but that this policy is out of date by virtue of the settlement boundaries being out of date and that this policy is therefore afforded only limited weight in the determination of this appeal. The same position is taken with regard to Policy CS14.

12.3.9 Policy CS25 – the evidence of Mr Hunter unequivocally demonstrates that there is no need for the retention of a safeguarded site for a primary school. This relates to a Reason for Refusal which no longer forms part of the Council's case.

12.3.10 With regard to Policy DM68, my evidence has shown that when combined with the evidence of Mr Hunter, the Appeal Scheme complies with Policy DM68 however the Council are no longer pursuing this Reason for Refusal.

12.4 Conclusion

12.4.1 My overall conclusion therefore is one of accordance with the up to date policies of the Development Plan.

13 Main Issue 5 / Planning Balance

13.1 The Need for the Development

13.1.1 At present, the Council are unable to demonstrate a four or five year Housing Land Supply and therefore Footnote 7 of the NPPF demonstrates that Paragraph 11(d) applies in this circumstance. Further to this, paragraph 61 of the NPPF states the importance of a sufficient amount and variety of land coming forward where it is needed, in order to support the Governments objective of significantly boosting the supply of homes.

13.1.2 In this regard, as set out in Section 8, the proposed development would deliver a considerable number of homes, in an area where there is a shortfall in housing land supply. Inspector Harold Stephens notes in the Rectory Farm appeal decision at paragraph 37 that:

“In Hallam Land Management Ltd v Secretary of State for Government [2018] EWCA Civ 1808, the Court made plain that the extent of any such shortfall [in housing land supply] will bear directly on the weight to be given to the benefits or disbenefits of the proposed development. In a 5YHLS shortfall scenario two things are relevant; (i) the extent of the shortfall and (ii) retrievability i.e., how likely or quickly it will be made up.”

13.1.3 North Somerset Council provided its latest Housing Land Supply trajectory in August 2024 (**CD.H20 and CD.H21**) which sets out the anticipated supply of housing from 1st April 2024.

13.1.4 As agreed at the Case Management Conference, the Appellant’s Housing Land Supply evidence will be submitted by the deadline of Tuesday 3rd September as the Housing Land Supply information was only provided on 8th August 2024.

13.1.5 As such, I reserve my position to comment further on matters relating to Housing Land Supply when evidence has been exchanged on this topic.

13.1.6 It is the Council’s position that they can demonstrate 3.8 years supply of housing against a 4 year requirement, I would attribute this **significant** weight in the planning balance. I draw this conclusion based on the fact that despite the Council having lost appeals showing a shortfall in supply some two years ago, no progress has been made on closing that gap and with a pause in the plan to reflect on the latest proposed changes to national policy; that gap appears likely to persist. However, as set out previously, it is arguable that the Council are now required to demonstrate a 5 year housing land supply; such that the shortfall (using the Council’s figures) would be 1,480 new homes – a shortfall against which I would attribute **very substantial weight**.

13.1.7 However I reserve the right to adjust this weighting upon completion of the Appellant’s evidence in this regard and will address this in rebuttal evidence.

13.2 The Need for Affordable Housing

- 13.2.1 The proposed development includes affordable housing provision of 50% to assist in meeting affordable housing need in Yatton and across the North Somerset area, which exceeds the adopted Core Strategy requirement of 30% at Policy CS16 (Affordable Housing).
- 13.2.2 The provision of 50% affordable housing from this Site will bolster supply. It will assist in supporting the Council in delivering good quality affordable housing – helping the Council to meet its requirements in a suitable and sustainable location and not fall further behind in providing such housing.
- 13.2.3 I have set out in detail in Section 7 of my evidence the need for affordable housing in North Somerset with reference to the evidence of Mr Parker and support his conclusion that nothing less than **very substantial weight** should be afforded to the provision of 50% affordable housing.

13.3 The Need for the Affordable Housing in Yatton

- 13.3.1 Mr Parker has also identified the need for a significant uplift in affordable housing provision in Yatton also and concludes (and I adopt his conclusions) that there is a significant and pressing need for new affordable housing within Yatton.

13.4 Open Space and Allotments

- 13.4.1 This Appeal Scheme provides approximately 70% of the site as open space – which is a **substantial** benefit and one which is not common to all sites. The provision of this is identified in the description of development and is therefore something which the applicants are committed to delivering. This provides health and well being benefits as advocated by the NPPF and is an aspect which should attract very substantial weight in the planning balance.
- 13.4.2 Furthermore as set out in Section 9 of my evidence, the Council are seeking to increase canopy coverage across the area to assist in managing climate and Yatton is some 11% short of the target canopy coverage provision.
- 13.4.3 The development also provide allotments at the south of the site. As of February 2024, there are currently two allotment sites in Yatton, one on Mendip Road and with a waiting list of 6 people and one on Arnolds Way, with a waiting list of 16 people. The delivery of allotments where there is an identified need attracts **moderate weight** in the planning balance.

13.5 Land for E Class Uses

- 13.5.1 It is noted that in more recent years, the point has been made by residents that some residential development in Yatton has come forward without any supporting community facilities. The proposal therefore to include land for Class E uses which can encompass a wide range of services subject to demand and/or need is a significant benefit to the scheme. This will deliver economic growth / social cohesion and has the ability to further supplement the sustainability of Yatton.

13.5.2 Whilst the end use for this land has yet to be identified, the Appellant is committed to its provision and identification of land for an 'E' class use provides a wider opportunity for potential end users. This is a social and economic benefit to Yatton which should attract **significant weight** in the planning balance.

13.6 Design

13.6.1 The NPPF requires that developments are of a good design, and this is echoed in local planning policy through the existing adopted Local Plan Policy CS12 (Achieving High Quality Design and Place Making).

13.6.2 The application is in outline at this stage, and detailed matters of design and layout will be considered through future Reserved Matters. However, the Appeal Scheme is accompanied by an Illustrative Masterplan (Drawing Ref: edp7842_d003g) and a Design and Access Statement, both of which demonstrate that the proposed development will be of a high standard of layout and design. The Design and Access Statement confirms the development is responsive to its setting and local context.

13.7 Bio-diversity net gain

13.7.1 The existing habitats present on the Site were assessed as being of low ecological value. These included a series of fields containing poor quality modified grassland, open ditches in poor condition, and a small number of mature trees and hedgerows of varying quality. To the west, the Site is bounded by wet ditches which form part of the Biddle Street SSSI.

13.7.2 Additional protected species surveys were undertaken for reptiles, great crested newt, water vole and otter, to confirm presence or likely absence. A breeding bird scoping survey was also undertaken, along with extensive monthly bat activity surveys. These surveys included static detector surveys in line with the North Somerset and Mendip Bats SAC guidance on development, to inform the likely impacts on horseshoe bats.

13.7.3 The reptile surveys recorded a low population of grass snake and slow-worm. The eDNA surveys confirmed the likely absence of great crested newt within adjacent ponds. Surveys for water vole recorded likely absence of this species, although otter appear to use the ditches within the Site occasionally. Bat activity surveys revealed that both greater and lesser horseshoe forage in the pasture on Site, and the hedgerows are valuable to a range of foraging and commuting bat species.

13.7.4 Avoidance and mitigation measures have been proposed to ensure that any adverse impacts to habitats and species are reduced as far as possible. These include protection of the offsite statutory and non-statutory designated sites, avoidance of detrimental impacts to ditches and hedgerows (both within and surrounding the Site), and the enhancement of these features.

13.7.5 Habitat mitigation proposals include the retention and enhancement of all hedgerows, with the exception of small lengths (33m in total) which require removal to create the access road and a public footpath. Approximately 720m of new species-rich hedgerow will be planted as mitigation for a range of species within the red line boundary. Approximately 7ha of modified grassland will be enhanced to create either 'other neutral grassland', broadleaved woodland or traditional orchard, through planting and

sensitive management. Retained ditches will be enhanced through sensitive management. Overall, the habitat mitigation proposals result in a significant increase in the value of habitats present within the red line boundary: this is demonstrated by use of the Natural England Biodiversity Metric 3.1. Through the description of development, the applicants are committed to providing 40% BNG in hedgerow units and 20% in habitat units – a provision which should attract **moderate** weight in the planning balance.

13.8 Economic Benefits

13.8.1 In accordance with paragraph 85 of the NPPF, significant weight should be placed on the need to support economic growth and productivity. The development of the site will deliver short term jobs during construction, varied post-completion employment opportunities and longer term jobs on the land identified for Class E (Commercial, Business and Service) uses – which should attract significant weight in the planning balance.

13.8.2 In this respect I acknowledge the recent High Court case (Bewley Homes PLC v Secretary of State for Levelling Up, Housing and Communities & Anor – **CD.J3**) which effectively advised that the decision maker was not bound to give significant weight to the provision of economic benefits. However in that instance, the Court also held that the scheme in question lacked specific evidence on the economic benefits of its proposal. That is not the case here and I attach an Economic Benefits Statement at **Appendix 4** and thus I maintain my view that **significant weight** should be afforded to the economic benefits.

13.9 Housing Need and the Sequential Test

13.9.1 There are 11 sites which the Council dispute and consider to be reasonably available alternatives to the Appeal Site in terms of the FRST, which are also included in their Housing Land Supply trajectory.

13.9.2 For the avoidance of doubt, they are set out below and total 1,648 homes.

Stantec 2024 FRST Appendix	Stantec 2024 FRST Series No	Site Name	HLS Quantity	HLS Reference
G, E	112	Moor Road, Yatton	60	4/654
G, E	113	Land at Rectory Farm and Biddle Street (to the south of the appeal site)	98	4/716
F	125	Four adjoining sites on the northern fringe of Weston-super-Mare not including Lynchmead Farm, including Ebdon Road, Lyefield Road, Anson Road	70	4/720
C	133	Weston Rugby Club	182	4/715
E	143	Parklands Village: Locking Parklands	555	4/558a-c
C	167	Former TJ Hughes store, 17 High Street, Weston-super- Mare	40	4/649
E	17	Farleigh Fields, Backwell	94	4/717 and 4/717a
C	39	Greenhill Lane	49	4/721

Stantec 2024 FRST Appendix	Stantec 2024 FRST Series No	Site Name	HLS Quantity	HLS Reference
C	45	Land Adjoining Coombe Farm and Shiphamp Lane, Winscombe	68	4/678
E	90	Youngwood Lane, Land south of The Uplands	282	4/596b
E	93	North West Nailsea	150	4/596
Total			1,648 dwellings	

13.9.3 The inclusion of these sites in both the Sequential Test and Housing Land Supply trajectories shows a clear contradiction within the Council's evidence. It cannot be that a site is reasonably available for the Appellant to develop for the purposes of sequential testing and be a deliverable site in terms of the Council's housing land supply projections.

13.9.4 The shortfall in supply against the 4 year requirement (using the Council's own calculations) amounts to 156 dwellings (the shortfall would be 1,480 homes if the calculation were based on 5 years). Under the Council's own calculations, they cannot demonstrate a 4 year supply of housing (and arguably now this should be 5 years) even factoring in those sites which they considered are sequential preferable and capable of delivering in the same timeframe as the Appeal Scheme. If the Appeal Site were allowed; a shortfall would remain in both a 4 year and 5 year scenario given that the Appellant's scheme will deliver in years 3 - 5. The logical and only conclusions which can be reached is that even if the Council's conclusions on the identified sites being sequentially preferable were accepted, there are insufficient sequentially preferable sites to the Appeal Site which can come forward within 4 or 5 years (the timeframe for the delivery of the Appeal Site) to meet current need based on the Council's own calculations given all 1,648 dwellings on allegedly sequentially preferable sites are already factored into their supply calculations. Again this is unsurprising given the draft plan proposed the allocation of sites at risk of flooding – clearly acknowledging that future (and current) housing need cannot be met on sites completely clear from flood risk. However clearly in such a situation, the focus should be on sites which are defended (such as the Appeal Site). This paragraph will however be reviewed further in rebuttal evidence upon completion of the evidence of Mr Paterson-Neild which will set out the Appellant's position on 4 and 5 year supply.

13.9.5 In the event that the Inspector considers that there are sequentially preferable sites available within the timeframe envisaged for the delivery of the Appeal Scheme – factoring in the Council's own calculations of housing need, the immediate housing need cannot be met in full (bearing in mind 4 or 5 years is a minimum requirement) by relying on those sites alone. Thus any alleged failure of the sequential test should not be determinative; consistent with the judgment of Holgate J. in the Mead case, it is a matter to be weighed in the planning balance.

13.9.6 In the event that the Inspector considers that there are sequentially preferable sites available within the timeframe envisaged for the delivery of the Appeal Scheme – factoring in the Council's own calculations of housing need be determined through the evidence of Mr Paterson-Neild), the immediate housing need cannot be met in full (bearing in mind 4 or 5 years is a minimum requirement) by relying on those sites

alone. Thus any alleged failure of the sequential test should not be determinative; consistently with the judgment of Holgate J. in the *Mead* case, it is a matter to be weighed in the planning balance.

13.9.7 Equally, in this case of the Appeal Site, but not in all cases, the same approach can be applied to the Exception Test. I say this in the context of very site specific matters namely, this site being in a nationally defended flood scenario some 3km from the coast and with a drainage strategy such that the development will be safe for its lifetime. In addition, if deemed necessary further flood warning measures can be captured by planning condition.

13.10 Application of the Planning Balance

13.10.1 When factoring in flood risk alongside other items such as Green Belt (and therefore the need to demonstrate very special circumstances for residential development of this scale); other planning matters such as existing planning permissions already in place and being delivered; presence of the strategic gap; and overall availability, then this shows that when taking a wider view and linking the results of the sequential test to other planning constraints and the timescales for the Appeal Site to come forward alongside and a case on housing need; there are no alternative better sites or series of sites to deliver the type of development proposed; and thus upon completion of the flood risk sequential test, the Appeal Site is the most sequentially preferable site for the proposed development.

13.10.2 However, in the event that a different conclusion is reached, this scenario was considered in the aforementioned *Mead Realisations / Redrow HC Judgement*. The case being levied by those opposing the Redrow case being that only “the” most sequential preferable site can come forward for development even in the face of significant housing need. LJ Holgate deal with this in the Judgement (**CD.J1**) where he concluded that:

***“A similar analysis applies in the determination of planning applications. Where there is an unmet need, for example a substantial shortfall in demonstrating a 5-year supply of housing land, that shortfall and its implications (including the contribution which the appeal proposal would make to reducing that shortfall) are weighed in the overall planning balance against any factors pointing to refusal of permission (including any failure to satisfy the sequential test). If the total size of sequentially preferable locations is less than the unmet housing need, so that satisfying that need would require the release of land which is not sequentially preferable, that too may be taken into account in the overall planning balance. But these are not matters which affect the carrying out of the sequential test itself. Logically they do not go to the question whether an alternative site is reasonably available and appropriate (i.e. has relevant appropriate characteristics) for the development proposed on the application or appeal site. Instead, they are matters which may, for example, reduce the weight given to a failure to meet the sequential test, or*”**

alternatively increase the weight given to factors weighing against such failure”.

13.11 Planning Balance

13.11.1 I use the following weighting criteria in my application of the planning balance as set out below:

Very Substantial
Substantial
Significant
Moderate
Limited
Neutral

13.11.2 Table 3 below sets out the harm against the benefits using the conclusions of the respective supporting application documents.

Impacts	Benefits
Development contrary to spatial strategy (Limited weight)	Up to 190 additional homes ²⁸
Development on a greenfield site (Limited weight)	Provision of some 95 affordable homes at the site (50% affordable housing) (Very substantial weight)
	Provision of 70% of the site dedicated to readily accessible Public Open Space (Significant weight)
	Delivery of temporary local employment provision (construction jobs) and post-completion associated employment. (Significant weight)
	Provision of land for a community facility / mobility hub to benefit the existing and proposed community.

²⁸ Weighting to be completed upon the finalisation of the evidence of Mr Paterson Neild.

	(Significant weight)
	Ecological Enhancements with 40% improvement in biodiversity ('Bio Net Gain') (Moderate weight)
	Improved connectivity and access to the Strawberry Line for existing residents as well as future residents. (Moderate weight)
	Support Public Transport through ease of accessibility by sustainable modes of transport to bus routes and the railway station (Moderate weight)
	Provision of allotments where there is identified demand locally. (Moderate weight)

13.12 Flat Balance

13.12.1 Notwithstanding that my primary case is firmly one of accordance with the Development Plan, were the Inspector to take a contrary view, I consider that benefits demonstrably outweigh harm. Turning to Section 38(6) of the Planning and Compulsory Purchase Act 2004, I conclude that are 'other material considerations' (these being the benefits which I have highlighted) which justify the grant of planning permission under the flat balancing exercise. There is no "clear reason for refusal" under NPPF para. 11(d)(i) in relation to flood risk.

13.13 The Tilted Balance

13.13.1 Even if the Inspector were to find the proposal does conflict with the Development Plan when taken as a whole (notwithstanding that aspects of the Development Plan can pull in different directions and it is not necessary to comply with each and every policy to demonstrate accordance with the Development Plan taken as a whole), the Inspector would need to consider the proposal against the application of NPPF para. 11(d).

13.13.2 With regard to paragraph 11d(i) of the Framework and footnote 7 which disengages the presumption in, amongst others, areas at risk of flooding or coastal change. The submitted FRA demonstrates that the scheme as designed, on a site which benefits from flood defences, is not at risk of flooding or coastal change, and as such the presumption can continue to apply. I also conclude that the sequential test is passed when looking both at Yatton specifically and also when looking across the District, and that there are no sequentially preferable sites to accommodate the development. I therefore conclude that there is no "clear reason for refusal" which would otherwise disengage the presumption in favour of sustainable development.

13.13.3 In this context therefore, in the event that any breach is identified (which I don't consider that there is), this is included within the planning balance exercise and weighed against the benefits provided.

13.13.4 Applying a tilted balance I consider there are no adverse actual impacts of the development and in contrast, the benefits are very extensive. In my view the adverse impacts of the proposal, of which there are none, can therefore not outweigh the benefits of the proposal, let alone doing so significantly and demonstrably.

14 Interested Parties

14.1 Summary

14.1.1 I enclose at my **Appendix 13** a summary of matters raised by third parties and my response to them insofar as they haven't already been addressed in evidence.

15 Obligations and Conditions

15.1 Planning Obligations

15.1.1 A Section 106 Agreement is being prepared for signing between the two parties. The following matters will be included:

- 50% of the dwellings to be as 'affordable housing' to be on site as part of the development.
- On-site Green Infrastructure, including 70% of the gross site area as open space, play areas, woodland, allotments, play areas and arrangements for maintenance for the lifetime of the development.
- Highways contributions as follows:
 - £180.00 per dwelling (£34,200.00) to be flexibly spent on bus/train taster tickets and/or towards a bike/cycling equipment.
 - £1,086,074.33 home to school transport costs
 - £160,000.00 for public transport improvements
 - £44,000.00 for Strawberry Line improvements.
 - £3,400.00 for a Traffic Regulation Order
 - £2,200.00 to improving the lining at local junctions linked to the site
 - £5,500.00 towards traffic calming measures

15.2 Conditions

15.2.1 A schedule of conditions will be agreed between the two parties.

16 Conclusion

- 16.1.1 For reasons which I set out in my Evidence, it is my view that the Appeal Scheme complies with the Development Plan read as a whole and should accordingly be granted planning permission, in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004.
- 16.1.2 However it is the Appellants view that it will be demonstrated through Mr Paterson-Neild's evidence, that the Council cannot demonstrate a 4 or 5 year supply of housing and that paragraph 11 d) of the NPPF is engaged. This confirms that 'where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date' planning permission should be granted, unless 'any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole'. As such, I conclude that the 'tilted balance' is engaged and that there is no 'clear reason for refusal' which would otherwise disengage the presumption.
- 16.1.3 It is evident that the harms are not outweighed by the benefits, let alone significantly and demonstrably and it is my view that this Appeal should be allowed and planning permission should be granted, subject to planning conditions and a Section 106 Agreement.
- 16.1.4 This would remain so even if the Inspector was to take a different view and identify adverse impacts or policy conflict associated with the Appeal Scheme.
- 16.1.5 If this were the case, it remains that material considerations overwhelmingly indicate that planning permission should be granted. These are:
- a. The overwhelming need for housing.
 - b. The Council cannot demonstrate a four or five year housing land supply (this matter is agreed)
 - c. The extent of the shortfall
 - d. Provision of affordable housing
 - e. Significant open space provision
 - f. Land for Class E uses
 - g. Provision of new allotments
 - h. Significant BNG
- 16.1.6 I conclude that the benefits the Appeal Scheme will deliver are substantial and the need for the scheme is compelling. In the event that any conflict is identified with the Development Plan, there are clear material considerations which indicate that planning permission should be granted. Furthermore, the balance, set out at

paragraph 11d) ii. of the NPPF, also tilts decisively in favour of the grant of planning permission.

16.1.7 I conclude that this Appeal should be allowed and planning permission should be granted, subject to planning conditions and a Section 106 Agreement.

APPENDIX 1

Ventham, Kathryn

From: Max Smith <Max.Smith@n-somerset.gov.uk>
Sent: 29 July 2024 11:38
To: Ventham, Kathryn
Cc: Marcus Hewlett; Natalie Richards; Roger Willmot; Featherston, Caroline
Subject: RE: Yatton
Attachments: NSC 2024 draft 5 year supply spreadsheet.xlsx; APPD0121W24334314 - Schedule of sites provided by LPA post Case Management Conference 18 July 2024.docx

Dear Kathryn

In the interests of aiding the inquiry, here is our current draft of 5 year land supply. Please note that our lead officer is on leave at the moment and we may need to amend the table, but we'd notify you as soon as possible if that was necessary.

Our education witness is just back from leave and is catching up but has availability to meet towards the end of this week to discuss common ground. Is that something that could be arranged? Appreciate that you'll still be in the public inquiry.

As of 29 July, and ahead of agreement of a Statement of Common Ground on the flood risk sequential test, I also attach a revised schedule of sites, rejecting a further four sites, and will not be suggesting these are 'reasonably available' for the purposes of this appeal. The further four sites are:

- Site no. 14 – Wyndham Way, Portishead
- Site no. 27 – land north of Sandford
- Site no. 72 – sites to the south east of Congresbury
- Site no. 76 – Park Farm Congresbury

Finally in the interests of narrowing areas of disagreement we will not be arguing that the proposal is contrary to the Yatton Neighbourhood Plan. This will be reflected in the updated Statement of Common Ground.

Kind regards

Max

Max Smith
Principal Planning Officer
Strategic Development Team
Place Directorate
North Somerset Council.

Post: Town Hall, Walliscote Grove Road, Weston-super-Mare, BS23 1UJ

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From: Ventham, Kathryn <kathryn.ventham@stantec.com>
Sent: Monday, July 22, 2024 11:36 PM
To: Max Smith <Max.Smith@n-somerset.gov.uk>
Cc: Marcus Hewlett <Marcus.Hewlett@n-somerset.gov.uk>; Natalie Richards <Natalie.Richards@n-somerset.gov.uk>; Featherston, Caroline <caroline.featherston@stantec.com>
Subject: RE: Yatton

Dear Max,

I confirm receipt of the email below and the amended version as supplied by Marcus. I note that this reverts back to the 50+ sites as opposed to the Appendix F sites as referenced by Mr Leader at the CMC which clearly totals far fewer sites.

We will work through them – I commence a 2 week Inquiry tomorrow which includes sitting next Monday and therefore I will struggle with a meeting in the short term.

Please could you supply contact details for your education witness so that the two consultants can make contact.

Many thanks

Kind regards,

Kathryn Ventham

Planning Director

Direct: +44 121796 8303

Mobile: 07833054382

kathryn.ventham@stantec.com

Stantec

10th Floor, Bank House, 8 Cherry Street

Birmingham B2 5AL



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From: Max Smith <Max.Smith@n-somerset.gov.uk>
Sent: Thursday, July 18, 2024 10:52 PM
To: Ventham, Kathryn <kathryn.ventham@stantec.com>
Cc: Marcus Hewlett <Marcus.Hewlett@n-somerset.gov.uk>; Natalie Richards <Natalie.Richards@n-somerset.gov.uk>
Subject: RE: Yatton

Dear Kathryn

As discussed at the case conference earlier today, please find attached our schedule of sites with additional commentary on why we consider that they are sequentially preferable to the appeal site. I also attach the site location plans of two sites that were not included in your sequential test but that we consider to be sequentially preferable.

In order to help the inquiry and save time, we have made a further adjustment, reducing by a handful the number of sites in dispute.

I've previously noted to you that the commentary in your sequential test on why the appendix F sites (those considered sequentially preferable) were ruled out is incomplete. Whilst you did not wish to discuss these sites at Monday's meeting, given the additional information we've provided in the attached schedule and in a spirit of cooperation I'd be grateful if you could reconsider. We would really like to understand your position on these.

I have also pointed out that the Wolvershill sites were placed in appendix D of your sequential test in error. Have you had the opportunity to reflect on whether there is any other reason you'd reject these sites?

As before, we'd be more than happy to meet again to discuss where we can agree further common ground. I regret that recollections of some of the finer points of Monday's meeting are at odds, and to avoid a repeat suggest that we record it next time.

Kind regards

Max

Max Smith
Principal Planning Officer
Strategic Development Team
Place Directorate
North Somerset Council.

Post: Town Hall, Walliscote Grove Road, Weston-super-Mare, BS23 1UJ

Web: www.n-somerset.gov.uk

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From: Max Smith
Sent: Wednesday, July 17, 2024 2:17 PM
To: Ventham, Kathryn <kathryn.ventham@stantec.com>
Subject: RE: Yatton

Max Smith
Principal Planning Officer
Strategic Development Team
Place Directorate
North Somerset Council.

Post: Town Hall, Walliscote Grove Road, Weston-super-Mare, BS23 1UJ

Web: www.n-somerset.gov.uk

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Kathryn

As discussed, please find attached our schedule of reasonably available alternative sites.

Kind regards

Max

From: Ventham, Kathryn <kathryn.ventham@stantec.com>
Sent: Wednesday, July 17, 2024 12:50 PM
To: Max Smith <Max.Smith@n-somerset.gov.uk>
Subject: Yatton

Max,

Updated SoCG attached for review – planning only so have removed flood risk etc – formatting and tracks make it really hard to read so there will be some editing to do – I might perhaps make a clean version and circulate so we can both read afresh

Kind regards,

Kathryn Ventham

Planning Director

Direct: +44 121796 8303

Mobile: 07833054382

kathryn.ventham@stantec.com

Stantec

10th Floor, Bank House, 8 Cherry Street

Birmingham B2 5AL



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APPENDIX 2

Ventham, Kathryn

From: Max Smith <Max.Smith@n-somerset.gov.uk>
Sent: 16 August 2024 17:13
To: Ventham, Kathryn
Cc: Featherston, Caroline; Natalie Richards; ben@efm-ltd.co.uk; Roger Willmot; Plaw, Marcus; MacDougall, Dominic
Subject: RE: Yatton - Update on primary school provisions

Kathryn

Further to discussions this morning, the Council will no longer be contesting the fourth putative reason for refusal or putting forward evidence on the provision of school places.

I will update the Statement of Common Ground accordingly and circulate.

Kind regards

Max

Max Smith
Principal Planning Officer
Strategic Development Team
Place Directorate
North Somerset Council.

Post: Town Hall, Walliscote Grove Road, Weston-super-Mare, BS23 1UJ

Web: www.n-somerset.gov.uk

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From: Max Smith

Sent: Wednesday, August 14, 2024 1:30 PM

To: 'Ventham, Kathryn' <kathryn.ventham@stantec.com>

Cc: Featherston, Caroline <caroline.featherston@stantec.com>; Natalie Richards <Natalie.Richards@n-somerset.gov.uk>

Subject: RE: Yatton

Hi Kathryn

On Shiner's Elms, the Highway Authority further comment as follows:

"The issue is that Shiner's Elms currently serves only as a small residential cul-de-sac serving approximately 15 dwellings and, as noted in our comments, we are concerned regarding the suitability of the current construction to cope with an additional 190 dwellings. The surface layer will certainly need some level of repair (as demonstrated by the pictures in our HTDM comments) but without investigative works it's unclear whether the current construction is suitable to deal with intended traffic volumes, particularly at the construction stage. If extensive works are required to facilitate the development it seems reasonable that this should be undertaken by the developer i.e. to mitigate the impact of the development on the existing highway infrastructure."

I hope that this addresses your query about the need for that contribution and the full suite of Highways S.106 requirements can now be agreed.

We continue to look forward to the first draft of the legal agreement.

With regard to flooding, our Statement of Case and accompanying putative reason for refusal 3 set out how the lack of safe access to the development would fail to adequately mitigate against the risks of flooding. Since then we have considered the proposed finished floor levels set out in your email of 02/07/2024. This states that the finished floor level would be 6.68m as opposed to the 8.48m ffl in the Flood Consequences Assessment submitted with the application. The lower finished floor level would result in the site itself being inundated in the defended and undefended 1 in 200 year plus up to date climate change event, rather than just the access to it. The impact of flooding will consequently be greater and this will be reflected in Simon Bunn's evidence. The evidence will also address the matters included within the statement of case, including section 6.9.32 and the future upgrade of flood defences. Reference will be made to the Shoreline Management Plan and appropriate policies.

Please let me know if you have any questions.

Kind regards

Max

Max Smith
Principal Planning Officer
Strategic Development Team
Place Directorate
North Somerset Council.

Post: Town Hall, Walliscote Grove Road, Weston-super-Mare, BS23 1UJ

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From: Max Smith
Sent: Friday, August 9, 2024 3:33 PM
To: Ventham, Kathryn <kathryn.ventham@stantec.com>
Subject: RE: Yatton

Hi Kathryn

Thank you for this.

I take your point about the works to Shiners Elms. The relevant people in highways are back from leave on Monday so I'll be able to confirm then. I take it the other highways matters are agreed?

We're happy to include wording on which policies are out of date.

I agree that a clean draft would be beneficial.

I'm pulling together the conditions list now. It would be good to see the S.106 draft though before I complete it to get an idea of what elements of the open space and other benefits need to be covered by condition.

Kind regards

Max

Max Smith
Principal Planning Officer
Strategic Development Team
Place Directorate
North Somerset Council.

Post: Town Hall, Walliscote Grove Road, Weston-super-Mare, BS23 1UJ

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From: Ventham, Kathryn <kathryn.ventham@stantec.com>
Sent: Tuesday, August 6, 2024 5:43 PM
To: Max Smith <Max.Smith@n-somerset.gov.uk>
Subject: Yatton

Hi Max,

Updated SoCG attached – think we're nearly there.

If its easier – I can create a clean copy.

Couple of other matters – our Solicitor has returned from leave as is drafting the S106. Are there any draft conditions for review?

Also on highway matters:

Further to the Internal Memorandum from NSC's Highways and Transport; Place Directorate commenting on Rectory Farm (North) we note that road structure investigations and significant upgrade works – so more than resurfacing - have been requested along Shiners Elms. Road surface condition photographs accompanied the Internal Memorandum. There is no justification provided for these works given that the road is adopted and, as such, should come under the Council's ongoing road maintenance arrangements and programme. The works suggested in the Memorandum after intrusive investigations could be significant – given, the Memorandum considers the road to be a substandard surface (extract below).

2.0 Access

Further information, S106 & S278 requirements

2.1 Proposed access at Shiners Elms

Ref. Proposed Site Access General Arrangement Design Dwg No 23257-HYD-XX-XX-DR-TP-0201 Rev P02. The proposed link has a 6m wide carriageway tapering down to 5.5m (within Shiners Elm) with a tactile crossing point within the site. The proposed footways on both sides are 2m wide and taper down to 1.8m width as it links into Shiners Elms.

2.2 Pre site development works, and improvement works on Shiners Elms

The applicant is to undertake investigation works of the structure and condition of Shiners Elms (such as cores/CBR check/condition surveys) to determine the current construction of the road and determine the condition of the existing carriageways and footways. The existing carriageway serving the dwellings on Shiners Elms is unsuitable for further development and the associated further trips. **The applicant is to design and deliver all associated upgrading to support the proposed development. Plans/further information is to be provided.** Any required upgrading is to be carried out during the S278/Technical Approval Stage (also includes the upgrading of kerbing/lighting/drainage construction). All matters are to be discussed and agreed with the HA during the process.

At 4.1.8 of the Transport Assessment (p17) stated that the 'roads are of a good standard', however, HTDM officers noted on a recent site visit the condition of Shiners Elms that requires upgrading. As shown in the photos below.



The applicant is to deliver appropriate improvements to the carriageway and footways on Shiners Elms. This will require substantial improvement works beyond simply layering on top of this substandard surface.

The appellant is, however, willing to consider the resurfacing of the wearing course of the road as part.

Could you send this to your colleagues in NSC's Highways and Transport for their consideration and response.

Thanks

Kind regards,

Kathryn Ventham

Planning Director

Direct: +44 121796 8303

Mobile: 07833054382

kathryn.ventham@stantec.com

Stantec

10th Floor, Bank House, 8 Cherry Street

Birmingham B2 5AL



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APPENDIX 3

Dear John / Helen,

Re: URGENT request for immediate ruling from the Inspector by 17:00 on 23rd August 2024
RE: APP/D0121/W/24/3343144 - Land at Rectory Farm (North), Chescombe Road, Yatton

I would be grateful if this correspondence could be passed to the Inspector as a matter of urgency given the bank holiday and the impending deadline for evidence (Tuesday 27th August).

Yesterday, on the 21st August (3 working days before the exchange of evidence – and at a time when the **Appellant's** planning consultant and KC are overseas on holiday), the Appellant (via a meeting that they had arranged with the LLFA to discuss drainage matters) was advised that North Somerset Council ("**the Council**") was using a new, different flood model to the one that the planning application was based on upon and different to the one which the Appellant was advised by the Environment Agency (EA) was the correct one to use. This model had been available to the Council for some months and they therefore knew it would form a significant part of **the Council's** evidence. The new model has not been supplied to the Appellant to date (indeed, the Appellant was not even aware of its existence let alone the **Council's reliance on it until** yesterday). This is despite the fact that the Council has shared the model with the EA (and therefore there cannot possibly have any remotely arguable basis for not sharing it with the Appellant, let alone not even telling the Appellant about it, until yesterday).

There is no reference to the Council using a different model in their Statement of Case (which should represent the full particulars of their case and should identify documentation upon which it intends to rely), nor was this raised by North Somerset Council at the Case Management Conference. No justification for this has been offered by the Council.

The Appellants were advised yesterday, in the same meeting, that upon receipt of a written request – this new flood risk model **upon which the Council's opposition to the appeal is now based** would be supplied to them. We hereby make this request through the Inspector.

However this now has consequences for the production of evidence. The flood risk model has fundamental implications for the application of the Exception Test (specifically **limb (b) of NPPF para. 170**: "*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***"), and also informs the application of the Sequential Test because it has implications for consideration of which sites are sequentially preferable.

Thanks to the **Council's covert preparation and reliance on a new model, which it only told the Appellant** about yesterday and which it has still not yet provided to the Appellant, the Appellant is as a result regrettably "**flying blind**" as to the case against it at this forthcoming inquiry. **Had the matter been set out in the Council's Full Statement of Cases as required by the PINS Guidance, the Appellant would have had several weeks' fair notice** which would have enabled it to prepare its proofs of evidence on an informed basis.

With now only 1 working day left before the exchange of evidence, the Appellant is placed in a situation where, without appropriate directions by the Inspector, it faces very serious prejudice. Put shortly, without **the Inspector's intervention on this point, the inquiry will not be procedurally fair and any consequent** decision against the Appellant would face an unanswerable challenge in the High Court under s.288 of the Town and Country Planning Act 1990.

The question then becomes, what intervention is necessary from the Inspector in order to rescue these proceedings from the serious threat to natural justice and procedural fairness now facing it due to the matters referred to above?

The Appellant proposes the following way forward and requests an immediate ruling from the Inspector by 17:00 on 23rd August 2024 to this effect:

Upon receipt of the new model – the Appellant requires one week from the receipt of the model to interrogate the model; understand the assumptions therein and then understand the implications for evidence as drafted.

From gaining an understanding of this new model, the Appellant can then move to respond to the Inspector and NSC with our suggested actions and a timescale for assessment and response. It may be that this new data will require new modelling scenarios to be run - the timescales for which are unknown at this stage. It may well also be that there will now need to be a further, antecedent debate to take place about which model is appropriate to use (which could require additional witnesses and proofs of evidence).

The events of yesterday mean that Tuesday's deadline for the submission of drainage evidence (including evidence relating to the exception test) cannot be met as the Appellant's are, as noted above, "flying blind" as to the case against it. It is no answer to suggest putting in a proof based upon a guess as to the case against the Appellant, and then backloading further analysis in a rebuttal. The Appellant and its team can (prior to receipt of the new model and time to consider it) have no confidence at all that the short time between exchange of proofs and exchange of rebuttals (which is, in orders of magnitude, less than the time between a Statement of Case and exchange of proofs, which is the time the Appellant was entitled to be given) will be sufficient to respond to a wholly new evidence base on this issue, and the Appellant is entitled to prepare and present a consolidated evidential case in a single proof based upon fair notice of the case **against it, rather than submit a 'stab in the dark' and then seek to backfill it in a couple of weeks (during which time many of its team have other professional commitments) once it is finally given fair notice of the case against it.** Debates based upon modelling take time to prepare – it is far from a simple exercise.

Furthermore, this could have knock on implications for evidence relating to the flood risk sequential test (and the inclusion / exclusion of sites) **but again, until the Appellant's are in possession of the model, we cannot say. As the Inspector is aware, the Appellant's are proposing a single witness for flood risk sequential test matters and planning matters and therefore the evidence as drafted is intertwined and cannot easily be separated out in the time available.**

Therefore the Appellant seeks the following immediate directions from the Inspector:

1. The Council provide the new model to the Appellant within 1 working day as well as a reasoned justification of how the Council proposes to rely on it (to the same degree of particularity as the PINS Procedure Guide requires to be contained in a Full Statement of Case) and of why the Council did not mention let alone provide the model earlier (for example in its Statement of Case).
2. The existing deadline of 27th August for the exchange of proofs of evidence is suspended in relation to the drainage evidence. All other proofs shall be submitted in accordance with that existing deadline.
3. An emergency CMC should be scheduled for no earlier than one week after the Appellant has been provided with the matters referred to in relation to point (1) above. That CMC will consider the procedural implications of the new model such as (i) a new deadline for exchange of proofs of evidence in relation to drainage; (ii) a new deadline for supplementary proofs of evidence in relation to the sequential test if required; and (iii) the complete or partial adjournment of the inquiry.

There will obviously be potential costs consequences of this, but that is not a matter for immediate consideration (it will be a matter for any applications at the end of the inquiry) and therefore we confine this **letter to commenting on the implications of the Council's reliance on the new flood risk model for the fair running of the inquiry as opposed to commenting on its procedural reasonableness which is a matter to which we shall return at the appropriate stage.**

Please can my colleague Caroline Featherston be copied in to any response in this regard, given as set out above, I am currently abroad.

Kind regards.

Kathryn Ventham
Director

APPENDIX 4



ECONOMIC BENEFITS STATEMENT
Land at Rectory Farm, Yatton

27 August 2024

Prepared for:
Persimmon Homes Severn Valley

Prepared by:
Stantec Development Economics

Project Number:
333135513

ECONOMIC BENEFITS STATEMENT

Revision	Description	Author	Date	Quality Check	Date	Independent Review	Date
Final	Economic Benefits Statement	RL	August 2024	JD	August 2024	KV	August 2024

The conclusions in the Report titled Economic Benefits Statement are Stantec's professional opinion, as of the time of the Report, and concerning the scope described in the Report. The opinions in the document are based on conditions and information existing at the time the scope of work was conducted and do not take into account any subsequent changes. The Report relates solely to the specific project for which Stantec was retained and the stated purpose for which the Report was prepared. The Report is not to be used or relied on for any variation or extension of the project, or for any other project or purpose, and any unauthorized use or reliance is at the recipient's own risk.

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ECONOMIC BENEFITS STATEMENT



1 Introduction

- 1.1 This Economic Benefits Statement (EBS) has been prepared by Stantec's Development Economics Team on behalf of Persimmon Homes Severn Valley ('the Appellant').
- 1.2 This Statement is prepared following the submission of an appeal (Appeal Reference: APP/D0121/W/24?3343144) by Persimmon Homes Severn Valley ('the Appellant') against the refusal of planning permission by North Somerset Council ('NSC'), for the proposed development of land north of Rectory Farm, Chescombe Road, Yatton (the Appeal Site).
- 1.3 The description of the development for the Appeal Scheme as originally validated was:
- “Outline planning application for the development of up to 190 homes (including 50% affordable homes), 0.13ha of land reserved for Class E uses, allotments, car parking, earthworks to facilitate sustainable drainage systems, open space 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, scale, layout, appearance and landscaping) reserved for subsequent approval.”***
- 1.4 This Statement will review the economic benefits associated with the development lifecycle of the Development, assessing both the construction phase and operational affects. Benefits generated throughout the construction period are expressed in terms of employment sustained and the value of the economic output (Gross Value Added, GVA) generated.
- 1.5 The operational phase will consider the economic benefits resulting from the future resident population, highlighting the level of GVA generated by economically active residents, along with the potential annual commercial household expenditure. It will also assess the fiscal impacts of the development, including council tax payments.



2 Economic Benefits of the Development

2.1 This Section assesses the range of economic benefits arising from the construction and operational phases of the Development. Given the nature of the Development, the following associated benefits are discussed:

- Direct and Indirect employment supported during the construction phase,
- Local expenditure by the new resident population and future workforce,
- Economic Output via Gross Value Added (GVA) over the construction and operational phases; and,
- Council tax.

Construction Phase Benefits

2.2 It is estimated that Development will be built over an estimated 24 months, generating a range of temporary economic benefits. These include the following:

- Direct construction jobs safeguarded, across a diverse range of occupations,
- Supply chain (indirect) jobs and employment in local services safeguarded (the construction multiplier effect); and,
- GVA sustained by the direct and indirect construction activity associated with the Development.

i) Direct Construction Employment

2.3 The number and type of jobs that will be required to construct the Development, is estimated using the Construction Industry Training Board (CITB) Labour Forecasting Tool (LFT). Stantec are amongst a select group of UK-based consultancies licensed by the CITB to use their LFT.

2.4 The inputs to the LFT are broad type of development, construction cost¹ and duration. The LFT is populated by construction cost and labour demand data from development projects across the UK.

2.5 The LFT accounts for 28 occupation groups, split into the following work types:

- Design - those involved in design process, including senior managers and support staff with design organisations,

¹ Estimated construction cost sourced from <https://costmodelling.com>



ECONOMIC BENEFITS STATEMENT

2 Economic Benefits of the Development

- Management of construction - those staff involved with the management of the delivery of the construction or installation. This includes professionals employed for the construction stage or the projects; and,
 - Construction operatives - those operatives involved in the delivery of the construction or installation.
- 2.6 Construction projects such as proposed here are relatively short term, during which several phases of construction activity take place. For the contractors involved, this is likely one of several projects that they will be involved in during the course of a year or number of years. Construction activity will take place temporarily and then move on to other projects, which might be local, elsewhere in the region or further afield. For this reason, we consider construction to be an activity that is safeguarded (sustained) by this type of project and treat the jobs (and associated GVA) accordingly, safeguarded because the project, but not created by it.
- 2.7 It is estimated that the Development could support approximately **117 direct construction jobs over the estimated 24-month construction period**. This will consist of a mix of design, management and construction operative roles.
- 2.8 Further direct construction employment will be supported by the proposed sports pavilion.
- 2.9 Table 2.1 sets out the split across the three groups that make up the occupations assessed within the LFT. It emphasises the varied occupation profile and skill requirements across the sector. Demand for each occupation type will vary throughout the construction programme.

Table 2.1: Construction Employment – Occupational Profile

Group	Occupation Category	Average Number
Design	Senior, executive and business process managers	1
	Civil engineers	1
	Other construction professionals and technical staff-Design	10
	Architects	2
	Surveyors	1
	Non-construction professional, technical, IT and other office-based staff (excl. managers)	2
	DESIGN TOTAL	18
Management	Senior, executive and business process managers	6
	Civil engineers	0
	Other construction professionals and technical staff-Design	3
	Architects	1
	Surveyors	3
	Non-construction professional, technical, IT and other office-based staff (excl. managers)	14



ECONOMIC BENEFITS STATEMENT
2 Economic Benefits of the Development

	Construction project managers	1
	Other construction process managers	7
	MANAGEMENT TOTAL	35
Operatives	Construction trades supervisors	1
	Wood trades and interior fit-out	9
	Bricklayers	9
	Building envelope specialists	6
	Painters and decorators	4
	Plasterers	2
	Roofers	2
	Floorers	1
	Glaziers	1
	Specialist building operatives nec	3
	Scaffolders	1
	Plant operatives	2
	Plant mechanics/fitters	2
	Steel erectors/structural fabrication	1
	Labourers nec	7
	Electrical trades and installation	4
	Plumbing and HV&C trades	7
	Logistics	1
Civil engineering operatives nec	0	
Non-construction operatives	1	
	OPERATIVES TOTAL	64

Source: CITB, LFT. Figures may not sum due to rounding

2.10 Direct employment activity throughout the construction phase will generate GVA. The GVA (£) per annum estimates we provide, are the product of our estimate of jobs (n) and GVA per job (£) sourced from Oxford Economics, under licence. GVA per job (£) is calculated by dividing total jobs (n) by total GVA (£) in relevant sectors (in this case the construction sector) across defined areas (in this case BCC).

2.11 Based on an average GVA per construction worker of around £45,682 per annum across the region (Oxford Economics, January 2024), the **117 direct construction jobs could generate GVA of approximately £5.4m per annum.**

ii) Indirect Construction Employment

2.12 In addition to the direct jobs resulting from the construction and management of the Development, further indirect jobs would be sustained as a result of spin-off and multiplier effects.



ECONOMIC BENEFITS STATEMENT

2 Economic Benefits of the Development

- 2.13 To establish the number of indirect jobs that could be supported during the construction phase, we apply employment multipliers published in The Green Book (HM Treasury, 2022)². Specifically, we apply the 'low' employment multipliers (x 0.4), recognising that new jobs are not created, just safeguarded.
- 2.14 Applied to the 117 direct construction jobs, this suggests that construction of **the Development could support a further 47 indirect jobs**.
- 2.15 Based on a national average GVA per worker of around £54,400 per annum across all industries (because the indirect jobs could be nationwide across different industries) (Oxford Economics, January 2024), **the 47 indirect construction jobs could generate GVA of approximately £2.6m per annum**.

iii) Net Local Employment to Somerset

- 2.16 A proportion of the employment sustained throughout the construction phase will directly benefit Somerset residents. The employment effect to Somerset is calculated through application of 'additionality' factors following guidance published in the 'Additionality Guide' (HCA, 2014)³ and The Green Book.
- 2.17 Assessment of additionality involves consideration of the following factors:
- Deadweight - the extent to which the economic activity associated with the proposed development will happen anyway, whether or not the proposed development takes place.
 - Substitution - where firms substitute one type of labour for another to benefit from the proposed development but do not increase employment or output.
 - Displacement - the economic activity likely to be lost, moved, or adversely affected by construction and proposed use.
 - Leakage - referring to the number of jobs likely to be taken up by people outside the local (target) area.
 - Multiplier effects - the additional economic benefit that will be derived as a direct result of the income earned by the new employment as an indirect result of the supply chain linkages.
- 2.18 The extent to which each factor is relevant and applicable depends on the nature of the uses envisaged, professional judgement and having regard to published data and or guidance in the Additionality Guide and Green Book.
- 2.19 In this instance, no deadweight, substitution or displacement is applied during the construction phase because construction workers are transient and will move from one construction job to another.

² HM Treasury (2022) The Green Book: Central Government Guidance on Appraisal and Evaluation

³ Homes and Communities Agency (2014) Additionality Guide, 4th Edition



ECONOMIC BENEFITS STATEMENT

2 Economic Benefits of the Development

- 2.20 The leakage factor is estimated by reference to Census 2011 commuting data, rather than Census 2021 commuting data which is heavily influenced by 'lockdown' during the coronavirus pandemic. The 2011 Census identified that 74% of people who work in Somerset, also live in Somerset, identifying a leakage factor of 26% (% of the Somerset workforce who live outside of Somerset).
- 2.21 As stated earlier, the Green Book's low employment multiplier (x 0.4) is applied to calculate indirect employment in the supply chain.
- 2.22 The additionality factors applied to direct construction employment of 112 FTE jobs (gross) is detailed in Table 2.2.

Table 2.2: Net Employment Effect to BCC – Construction Phase

	Jobs (FTE)
Gross direct job creation	117
Gross indirect job creation	47
Deadweight and Displacement (0%)	0%
Net jobs in the Somerset area (gross jobs minus displaced jobs)	117
Jobs filled by people who live outside of the Somerset area (26%)	30
Jobs (net direct) filled by BCC residents	105
Indirect supply chain jobs (multiplier effects x 0.4)	42
Total net employment (direct and indirect) to the BCC area	89

- 2.23 Table 2.2 illustrates that of the 117 direct FTE jobs supported during the construction of the Development, 105 of these will provide employment for residents of the Somerset area. A further 42 indirect FTE jobs will also provide employment for Somerset residents. Therefore, the net employment effect to the Somerset area during the construction phase is 89 FTE jobs.

Operational Phase Benefits

i) Market, Affordable and Self-Build Homes

- 2.24 The Development will deliver 190 homes comprising 80 affordable (comprising affordable rent, affordable ownership and first homes) and 80 market homes.



ECONOMIC BENEFITS STATEMENT

2 Economic Benefits of the Development

ii) Future Residents and Economically Active Population

- 2.25 Applying the average household size for the Somerset⁴ area, according to the 2014 household projections⁵, the Development's proposed 190 homes could **provide homes for approximately 418 residents.**
- 2.26 A proportion of the Development's future residents will be economically active and in employment. It is assumed, based on the proportion of Somerset's population who are currently economically active (48%)⁶, that the **Development could accommodate 199 economically active residents, of whom 193 are likely to be in employment** (on the basis that 46% of Somerset residents are in employment).
- 2.27 Utilising a GVA per worker figure of around £43,038 per annum⁷, **it is estimated that those residents in employment could generate around £8.3m of economic output (GVA) per annum**, contributing to the success of the local and wider economy.

iii) Commercial Expenditure

- 2.28 The Development's staff and residents will contribute to the local economy through spend in local shops, other local community facilities and throughout the supply chain.
- 2.29 Experian provide up to date retail and leisure expenditure data for all local authorities across the UK. Experian report (Experian Retail Planner Data, 2021 prices) that the average annual household expenditure on convenience (food), comparison (non-food), and leisure goods and services for BCC is as follows:
- Convenience - £6,256 per household per annum;
 - Comparison - £9,051 per household per annum; and
 - Leisure - £9,456 per household per annum.
- 2.30 On the basis of these figures, the Development's provision of 190 dwellings will generate an annual convenience goods expenditure of £1.2⁸m; comparison goods expenditure of £1.7m; and expenditure on leisure goods and services of £1.8m.
- 2.31 This represents approximately £4.7m of total commercial expenditure per annum (figures subject to rounding), a proportion of which will be spent within the local area and beyond. For example, around £1.8m of the total commercial expenditure generated by the Development's future household is expected to be spent on restaurants, cafes etc. This emphasises the positive contribution the Development could have on local businesses.

⁴ 2014 Household Projections <https://www.gov.uk/government/statistical-data-sets/2014-based-household-projections-detailed-data-for-modelling-and-analytical-purposes>

⁵ Office for National Statistics, 2021 Census. Derived from Table RM136

⁶ Nomis Jan 2023 – Dec 2023 (October 2022 to September 2023)

⁷ Oxford Economics (January 2024) 2015-2019 average GVA for SCC (all industries)

⁸ Expenditure figures subject to rounding



ECONOMIC BENEFITS STATEMENT

2 Economic Benefits of the Development

iv) Council Tax

2.32 Based on the average of Council Tax bands (groups A and H) for 2023/2024, relating specifically to Yatton, North Somerset County Council⁹, the Development's 190 units could generate around £500,00 in council tax payments per annum.

v) Additional Class E Space

2.33 The Development will also provide additional class E space. This space will support the community, facilitate retail spending and leisure uses. This could potentially provide employment opportunities.

⁹ North Somerset Council Tax - [Your Council Tax guide 2024/25 \(n-somerset.gov.uk\)](https://www.n-somerset.gov.uk/your-council-tax-guide-2024-25)



3 Summary

3.1 This EBS has identified the economic benefits associated with the Development which are summarised in Table 3.1 and Table 3.2.

Table 3.1: Construction Phase Economic Benefits

Construction Benefit (12 months)	Value
Gross direct jobs	117
Gross indirect jobs	47
Gross economic output (GVA) generated by direct jobs	£5.4m
Gross economic output (GVA) generated by indirect jobs	£2.6m
<i>Direct jobs benefitting Somerset residents</i>	105
<i>Indirect jobs benefitting Somerset residents</i>	42
<i>Net employment effects to Somerset</i>	89

Table 3.2: Operational Phase Economic Benefits

Operational Benefit	Value
No. of Dwellings	190
Affordable homes	95
Market homes	95
Resident Population	418



ECONOMIC BENEFITS STATEMENT
3 Summary

Operational Benefit	Value
Resident population economically active	199
Resident population in employment	193
GVA generated by employed residents (per annum)	£8.3m
Commercial expenditure (per annum):	£4.7m
Convenience Goods	£1.2m
Comparison Goods	£1.7m
Leisure Goods	£1.80
Total commercial Expenditure	£4.7m
Council Tax Per Annum	£510,000



APPENDIX 5

Levi Cardwell

From: Roger Willmot
Sent: 05 April 2024 10:26
To: Janice Allen; Georgia Humphrey
Cc: Max Smith
Subject: FW: 23/P/0664/OUT Land To North Of Rectory Farm Chescombe Road Yatton(Persimmon)
Attachments: Rectory Farm delegated report.docx

Hi both

Max is currently preparing a report on the above application, for which we have been given notice of intention to appeal.

As you will see Max has observed below, that he would value an update on or position on the need for the primary school site allocation, supported by evidence on numbers of pupils. Part of the application site is allocated in the Site Allocations Plan for a Primary School. Would you be able to assist Max with this as soon as possible next week.

I'm clearly aware that in recent times the Chestnut Park at North End has been built and opened, so I am not sure whether this will have affected your position. I note that in the Reg 19 version of the new Local Plan, the Batch site is referred to as a Replacement School site, which would presumably be for the Yatton C of E primary and VC Infant School between High Street and Stowey Road? Can you confirm there is still a need for the allocation?

Please can you provide Max, who is away until Monday, with any background you can provide on this?

Kind regards

Roger Willmot
Service Manager Strategic Developments
Place Directorate
North Somerset Council
[Tel:01934 426190](tel:01934426190)

Home improvements

Get practical advice at www.labcfrontdoor.co.uk

From: Max Smith <Max.Smith@n-somerset.gov.uk>
Sent: Friday, April 5, 2024 9:53 AM
To: Roger Willmot <Roger.Willmot@n-somerset.gov.uk>
Subject: 23/P/0664/OUT Land To North Of Rectory Farm Chescombe Road Yatton(Persimmon)

Morning Roger

Here's as far as I am with the Rectory Farm report (bits highlighted in yellow are sections I've completed).

May be worth staying your review until we get comments from Marcus on the sequential test later on.

Areas which need completing are:

- Flooding (exceptions test etc). The EA object but are currently reviewing updated information).
- Ecology. Again, Natural England objection but we're waiting for their review of additional info.
- Landscaping, highways and visual impact, but these are pretty straightforward
- Balancing section

We could do with the latest position on primary school need in Yatton to beef out are argument on retaining the site allocation, with some supporting numbers.

Their sequential test is really weak in my view. They could've made an argument around public transport access and eliminated sites on that basis. They've gone for this completely bogus need in Yatton argument instead.

Will do some more at the weekend. (I may need to take some compensatory hours off on Monday! Hope that's ok).

Logging off for now.

Thanks

Max

Max Smith
Principal Planning Officer
Strategic Development Team
Place Directorate
North Somerset Council.

Post: Town Hall, Walliscote Grove Road, Weston-super-Mare, BS23 1UJ

Web: www.n-somerset.gov.uk

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Please note - To ensure your emails are delivered to us please use good quality anti-virus protection systems, don't add attachments that are password protected and consider using delivery receipt.

APPENDIX 6

IN THE MATTER OF:
RECTORY FARM (NORTH), YATTON

OPINION

Introduction

1. I am instructed by Persimmon Homes Severn Valley (“**Persimmon**”) regarding their application for a 190-dwelling residential development of the above named site. An updated pack of information is currently being prepared to support that application, and any necessary appeal thereafter. I understand that this Opinion will be submitted as part of that pack.
2. The site is within flood zone 3, and therefore the sequential and exception tests under the NPPF need to be considered.
3. I shall assume that the reader of this Opinion is familiar with the relevant paragraphs of the NPPF (para. 162) and the PPG (para. 7-028) and I therefore do not quote them here.
4. The sequential test, as set out by NPPF para. 162 and elucidated by the PPG, was recently considered by the High Court (Holgate J.) in *R (Mead Realisations Ltd. & Redrow Homes Ltd.) v. Secretary of State for Levelling Up, Housing and Communities* [2024] EWHC 279 (Admin) (“**the Judgment**”). That judgment is currently the subject of a prospective appeal. Whilst Persimmon consider that the appeal should succeed, they have asked me to advise on what the implications of the judgment are in the meantime until such time as the prospective appeal is determined by the Court of Appeal.
5. Specifically, I am asked to advise on the implications of the Judgment in

relation to the following matters:

- a. The **type** of development to which the sequential search should relate;
- b. What is meant by a “*series of smaller sites*” for the purposes of the guidance on the sequential search in PPG para. 7-028
- c. What **timescale** for development should the sequential search be directed at; In the event that the sequential test is failed what is the relevance of **need** and **other planning considerations** (eg planning constraints affecting sequentially preferable sites, such as Green Belt and AONB)?

Type

6. The critical paragraphs of the Judgment are at paras. 102-103. Specifically Holgate J. held that “*a developer may put forward a case that the specific type of development he proposes is necessary in planning terms and/or meets a market demand*” (para. 102), which “*could be based on a range of factors, such as location, the mix of land uses proposed and any interdependence between them, the size of the site needed, the scale of the development, density and so on*” (para. 103).
7. These factors may be relevant to **both**: (i) “*the appropriate area of search*” **and/or** (ii) “*whether other sites in lower flood risk zones have characteristics making them “appropriate” alternatives*” (para. 104).
8. Holgate J. also made clear, in the same paragraphs of the Judgment, that whether an applicant/appellant has made out their case in these respects is a matter of planning judgment for the decision-maker (i.e. the LPA or an Inspector / the Secretary of State on appeal) based upon an analysis of the evidence put forward in the particular application/appeal in

question.

9. A failure by the LPA to consider the factors summarised at para. 6 above, either in relation to the area of search or in relation to the consideration of sequentially preferable alternative sites, would therefore be an unreasonable dereliction of the planning judgment which policy requires them to exercise.

Series

10. At para. 110 of the Judgment, Holgate J. held (emphasis added):

“I note that the PPG refers to a “series of smaller sites.” The word “series” connotes a relationship between sites appropriate for accommodating the type of development which the decision-maker judges should form the basis for the sequential assessment. This addresses the concern that a proposal should not automatically fail the sequential test because of the availability of multiple, disconnected sites across a local authority’s area. **The issue is whether they have a relationship which makes them suitable in combination to accommodate any need or demand to which the decision-maker decides to attach weight.**”

11. At para. 163, Holgate J. criticised the Inspector in the Redrow case for considering “*an alternative based on a number of smaller, unconnected sites*” without addressing “*the case advanced by Redrow that that approach could not deliver the range of interconnected benefits which the appeal would deliver and for which there was a need*” (emphasis added).

12. It therefore follows that in considering whether there are multiple sequentially preferable sites that can, as a “series”, deliver the proposed development, it is mandatory for the LPA to consider whether those sites, taken together, “*have a relationship which makes them suitable in combination to accommodate any need or demand to which the decision-maker decides to attach weight*”; or in other words whether they would in combination “*deliver the range of interconnected benefits which the appeal would deliver and for which there was a need*”.

Timescale

13. At paras. 106 and 121 of the Judgment, Holgate J. made clear that there was no absolute requirement for sequentially preferable alternatives to “*align closely*” (para. 106) with the proposed development, or for there to be “*precise alignment*” (para. 121). There is, according to Holgate J., a degree of flexibility in this respect, subject to the rational planning judgment of the decision maker. That begs the question: how much flexibility? The answer to this lies in para. 170 of the Judgment, where Holgate J. criticised the evidence base put forward by Redrow in its planning appeal on the basis of “*the lack of evidence to show that alternative sites would take **materially longer** to come forward*” (my emphasis).
14. In other words, precise or close alignment is not strictly necessary; the question is whether the sequentially preferable sites would take *materially* longer to come forward, “*material*” in this context meaning material in planning terms having regard to the nature of the evidenced need/demand for the type of development proposed.

Need and other planning considerations

15. As noted above, Holgate J. held that a specific need for the particular type of development proposed could inform the catchment of the sequential search.

16. At paras. 173-174 and 178 of the Judgment, he went on to hold that:

“173 ...Where [*in the context of plan making*] there remains unmet need which cannot be allocated to areas satisfying the sequential test, that factor together with any other constraints, may lead to a policy decision that not all of the identified need should be met. Alternatively, it may be decided that all or some part of that residual need should be met notwithstanding that the sequential test has not been satisfied. Either way, the treatment of unmet need is not an input to the sequential assessment for identifying reasonably available alternative sites. The sequential approach is not modified in those circumstances. **Instead, the policy-maker will decide what to do with the outcome of applying the sequential test.**

174. **A similar analysis applies in the determination of planning applications. Where there is an unmet need, for example a substantial shortfall in demonstrating a 5-year supply of housing land, that shortfall and its implications (including the contribution which the appeal proposal would make to reducing that shortfall) are weighed in the overall planning balance against any factors pointing to refusal of permission (including any failure to satisfy the sequential test). If the total size of sequentially preferable locations is less than the unmet housing need, so that satisfying that need would require the release of land which is not sequentially preferable, that too may be taken into account in the overall planning balance. But these are not matters which affect the carrying out of the sequential test itself. Logically they do not go to the question whether an alternative site is reasonably available and appropriate (i.e. has relevant appropriate characteristics) for the development proposed on the application or appeal site. Instead, they are matters which may, for example, reduce the weight given to a failure to meet the sequential test, or alternatively increase the weight given to factors weighing against such failure.”**

...

178. I can see that **if Redrow had submitted to the Inspector that there was a substantial need for housing which could not be met entirely on sequentially preferable sites (and even more so in the next 5 years), so that additional sites with a similar or worse flood risk would need to be developed, that would be a significant factor to be addressed in the overall planning balance. It could reduce the weight to be given to the failure to satisfy the sequential test. Here the Inspector gave that failure “very substantial weight” (DL 100). It would have been arguable that the**

flood risk implications of satisfying the unmet need for housing land was an “obviously material consideration,” such that it was irrational for the Inspector not to have taken it into account (*R (Friends of the Earth Limited) v Secretary of State for Transport* [2021] PTSR 190 at [116] to [120]). Alternatively, it could have been said that there was a failure to comply with the duty to give reasons in relation to a “principal important controversial issue” between the parties.”

17. It is clear beyond doubt from this part of the Judgment that Holgate J. did not consider that a failure to comply with the sequential test was automatically fatal to a planning application, either within the parameters of the NPPF or having regard to material considerations under s.38(6) of the Planning and Compulsory Purchase Act 2004. Other material considerations, including housing need and a lack of a 5 (or 4, as the case may now be depending upon the application of the December 2023 changes to the NPPF) year housing land supply may mean that a failure to comply with the sequential test is outweighed by the housing delivery and/or other benefits of the proposed development in question. Certainly, a refusal by the LPA to consider this issue, and instead to consider the failure of the sequential test to be automatically fatal to an application/appeal without further consideration, would be a clear and unreasonable misapplication of the Judgment.

Conclusion

18. I have nothing further to add as currently instructed. If those instructing me have any further questions, please do not hesitate to contact me in Chambers



LORD BANNER K.C.

**Keating Chambers
15 Essex Street
London WC2R 3AA**

15th March 2024

APPENDIX 7



Appeal Decision

Inquiry opened on 10 January 2023

Site visit made on 19 January 2023

by Mike Robins MSc BSc(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29/03/2023

Appeal Ref: APP/H1705/W/22/3302752

The Street, Bramley, Hampshire RG26 5BP

- 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 Holly Gardiner of Wates Developments Ltd. against Basingstoke and Deane Borough Council.
 - The application Ref 21/03758/OUT, is dated 7 December 2021.
 - The development proposed is for the demolition of one dwelling and erection of up to 140 dwellings and a community building of up to 250sqm under Use Class E, together with sports and leisure facilities.
-

Decision

1. The appeal is allowed and planning permission is granted for the demolition of one dwelling and erection of up to 140 dwellings and a community building of up to 250sqm under Use Class E, together with sports and leisure facilities. at The Street, Bramley, Hampshire RG26 5BP, in accordance with the terms of the application, Ref 21/03758/OUT, dated 7 December 2021, subject to the conditions set out in Schedule 2 below.

Preliminary Matters

2. The application was made in outline with all matters other than access reserved for later determination. While references were made to masterplans and other details in the Design and Access Statement (DAS), these have been treated as illustrative.
3. Following screening by Basingstoke and Deane Borough Council (the Council) and by the Secretary of State, the proposed development was considered to fall under the criteria of Schedule 2 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017. The planning application for the appeal scheme was therefore accompanied by an Environmental Statement (ES), dated March 2022. The ES was produced in accordance with the Regulations, and I am satisfied that the ES reasonably complies with the provisions of Schedule 4 of the EIA Regulations. I have taken into account the Environmental Information, as defined in the EIA Regulations, in determining the appeal.
4. The Council failed to determine the planning application within the prescribed period and therefore the appellant exercised their right to submit the appeal.

The Council confirmed in a letter to the appellant, dated 11 October 2022, its putative reasons for refusal. These comprised matters of landscape character, visual quality and sense of place; heritage concerns, in relation to listed buildings and the Bramley and Bramley Green Conservation Area (the CA); access for pedestrians; store servicing; drainage and infrastructure. A revised plan for the access, the principle of which was accepted, led to the County Highway Authority withdrawing its concerns and subsequently to the Council not pursuing reasons for refusal concerning the access and store servicing.

5. The Inquiry sat for 8 days and heard from the main parties as well as Councillors representing the Ward, District and Parish Councils. Statements of Common Ground (SoCG) in relation to planning matters; landscape; housing land supply; highway matters, with Hampshire Country Council (HCC); and drainage matters, with Thames Water, were agreed between the main parties and relevant consultees. The Council subsequently presented evidence only on landscape, heritage, housing land supply, drainage and planning matters. Nonetheless, issues regarding highway matters and infrastructure remained a significant concern for local residents and Councillors.
6. In addition to two unaccompanied visits I made to view the roads surrounding the site and the wider context of Bramley and Bramley Green, an accompanied visit was made with representatives of both main parties and local councillors. This included the opportunity to visit Stokes Farm, St James Church and the site itself and to take views from the surrounding roads and footpaths.
7. A planning obligation by unilateral undertaking, made under s106 of the Town and Country Planning Act 1990 (the UU), was submitted after closing the Inquiry. This made provision for among other matters, affordable housing, community and sports facilities, travel plans, a rights of way contribution and highway works. It is noted that the Council consider that the contribution to Public Rights of Way (PRoW) is necessary but the appellant does not, and in such circumstances the Council would retain their putative reason for refusal. This will be considered later in this decision.
8. Two appeal decisions on land near to the site relating to a solar farm and a battery storage facility were decided after closure of the Inquiry. The main parties were given the opportunity to comment on these.

Main Issues

9. I consider the main issues in this case to be:
 - Whether the proposal complies with the development plan and if not, whether there are any material considerations that would justify a departure from it, including the extent of the housing land supply shortfall;
 - The effect of the proposal on the landscape character and appearance of the area, including the settlement pattern;
 - The effect on heritage assets;
 - Whether the proposal makes adequate provision for foul drainage and other infrastructure requirements; and
 - The effect on transport capacity and highway safety.

Reasons

Background and policy position

10. The appeal site lies to the western edge of Bramley, a village defined in the Basingstoke and Deane Local Plan, adopted 2016 (the Local Plan) as a larger settlement for which there should be appropriate levels of growth. Policy SS1 sets out anticipated growth with housing to be delivered through development within existing settlements, primarily Basingstoke but also the larger villages, and through allocated or exception sites. In the Local Plan at that time the need for Bramley was envisioned to be at least 200 homes¹, which could be brought forward on multiple sites or one phased site. There have been a number of recent housing developments in the area, the largest being 200 houses at St James Park to the northeast of the site off Minchens Lane. The Parish Council identify some 351 houses that have been developed in proximity to the appeal site, and a considerably greater number to be delivered within the wider Parish.
11. Bramley benefits from a Neighbourhood Development Plan, made in 2017 (the NDP), which identifies among other matters, the settlement boundary, some key views and vistas, a vision for housing delivery as well as further facilities seen as needed or desired by the local community. The settlement boundary to the western side of Bramley, Figure 6a of the NDP, is drawn tightly around the houses and businesses comprising properties along Minchens Lane, The Street and extending into the area around St James Church. Accordingly, the appeal site, proposed on fields of approximately 21.4 hectares (Ha) located behind The Street, lies outside of the settlement boundary, where Policy H1 of the NDP seeks that development will only be supported where it is in accordance with the relevant Local Plan policies for housing in the countryside.
12. The relevant policy is Policy SS6, which allows for development only where housing would meet one of seven criteria, including exception sites. It is common ground that the appeal site does not comply with this policy.
13. While the Local Plan does not therefore envision development on unallocated, greenfield sites outside of settlement boundaries, the Council accepts that they cannot meet their five-year housing land supply (HLS) requirements. While I deal with the extent of that shortfall below, this does mean that policies which are most important for determining the proposal are out-of-date, as set out in the National Planning Policy Framework (the Framework)². The Local Plan addresses such circumstances in Policy SD1, and the Council, in this case, accept that some housing development will have to be delivered on unallocated, greenfield sites.
14. In terms of the spatial strategy for housing, the most important policies are agreed by the main parties to be Local Plan Policies SS1, SS5 and SS6 and NP Policy H1. Other policies relating to landscape, heritage and infrastructure are dealt with later.
15. Although not argued by the Council, a strong concern expressed by local Councillors was that the spatial strategy, as regards Bramley, has been achieved and that housing, if required should be delivered elsewhere. While this related partly to infrastructure and road network capacity, it also

¹ Policy SS5

² Framework Para 11

concerned, as set out above, the Local Plan promotion of ‘at least 200 houses’ for Bramley; this has been exceeded. As a result, the proposed housing in this scheme would exceed the minimum amount set out in Policies SS1 and SS5.

16. This concern is detailed in the Preface and elsewhere within the NDP and would appear to have contributed to the decision to not allocate any sites within the Plan³. There is logic to the development plan seeking not only to focus development on the larger towns and villages, but to assess their needs and spread housing development across the centres in accordance with those needs and sustainability criteria. However, towns and villages require certain levels of housing and growth to support or increase the provision of services and facilities, be that retail or leisure facilities, and the closure of schools, shops, pubs and other facilities in villages due to lack of demand or economic viability is evidence of that. Consequently, to focus all of development into only one of the centres may be to the disbenefit of others where such housing may be necessary for the vitality of that centre.
17. In this context, it would appear that the Council, in drawing up the Local Plan, assessed the needs of Bramley against the level of facilities and the identified levels of housing need, at that time some 72 households, to come up with the figure of 200. However, quite rightly they did not identify this as a maximum, and it is clear that the level of housing need has increased in Bramley⁴.
18. The expectation of 200 houses cannot be considered a maximum and the proposal here must be assessed on whether it represents an appropriate level of growth and whether it accords with relevant policies for protection of the countryside, heritage assets and other issues. These are dealt with in the main issues that follow, but I consider that there is no compelling evidence before me to suggest that delivering in excess of the minimum levels for Bramley would fundamentally harm the spatial strategy or deprive other centres of necessary growth.
19. Consequently, while development outside of the settlement boundary would conflict with Policies SS1 and SS6, the approach I take is to assess compliance with a range of policies most important for determining this proposal and consider these against the principles of Local Plan Policy SD1 and the policies of the Framework taken as a whole to determine whether the acknowledged conflict with the development plan’s **spatial strategy, specifically development** outside of the settlement boundary in the countryside, and any other harms are determinative in this case.
20. Although the Council are developing an emerging Local Plan update, it was common ground between the main parties that this is not at a sufficiently advanced stage to carry weight in relation to this appeal. I see no reason to disagree.

Housing Land Supply

21. A material consideration in how such policy conflict must be assessed is the Framework and in particular the five-year housing land supply (5YHLS) which, to support the objective of significantly boosting the supply of homes, should be clearly set out in planning policy.

³ NDP Para 5.23

⁴ The SoCG confirms that the number of households on the housing register with a verified local connection is 102.

22. Although it is common ground that the Council cannot currently demonstrate a 5YHLS, the main parties do not agree on the extent of the shortfall. The Council recently published their Annual Monitoring Report (AMR). There are minor differences between the main parties regarding start dates and lapse rates, but it was accepted that these were of minor importance. The principle differences arise in relation to whether specific sites can be considered deliverable.
23. The Framework glossary confirms that 'deliverable' includes all sites with detailed planning permission, or, for non-major development, sites with planning permission, unless there is clear evidence that homes will not be delivered, or major development with outline permission or allocated sites where there is clear evidence that housing completions will begin within 5 years.
24. To summarise the party's positions leading into the round table discussions held at the Inquiry, the Council considered there to be a moderate shortfall of a 4.6 years' supply and the **appellant, a severe shortfall of 3.71 years' supply**. During those discussion, and in their closing statement, the Council accepted that the actual figure may be somewhere between the two.
25. To understand the level of shortfall I have reviewed the disputed sites. It is important to note that such an assessment can only be based on the evidence presented at that time along with some judgment of the likely outturn, which will change over time. Such assessments must always, therefore, be made on a case specific basis.

Sainfoin Lane

26. This is an allocated site for 32 houses. Although application was made in December 2021 it does not have planning permission. The Council report that the developer has committed to delivery starting in 2023/24, but the appellant notes the absence of permission and refers to significant technical objections.
27. I have some detail on the technical challenges on the site, and note those identified regarding landscape and highways. In such circumstances, clear evidence is needed to confirm that housing will be delivered within the five years, and in absence of a planning permission, and noting the delay since the application was made, this is of importance to show that the site is deliverable. To that end, the Council have provided little other than the **developer's** estimates, and I consider that the site, at this time, cannot be considered deliverable.

Elmdene and Fairholme Road

28. This is a site for 13 houses for which planning permission was granted in February 2022. While I note the appellant refers to a previous permission that was not implemented and that there has been over seven years without development progressing, there is no clear evidence that homes will not be delivered as identified by the developer. I consider that this site is deliverable.

Upper Cufaude Farm

29. This is a large, allocated site proposed to deliver up to 390 units. The Council has identified that the developer has just reached completion of another

allocated site and is moving onto this with a view to build out at a similar rate, and they predict some 190 houses in the five-year period.

30. Nonetheless, the appellant notes that there have been no application to address reserved matters or deal with the pre-commencement conditions and they consider that the trajectory is too optimistic.
31. This is clearly a deliverable site, but evidence is still required to demonstrate the quantum of housing that will be achieved. This site has outline permission, and a signed legal undertaking in 2021, and on the Council evidence it is likely that, on completion of their existing development at Vyne Park, the developer will focus on this site. This may mean a start date in 2023, but reserved matters are still required. However, the delivery of housing, at a reduced rate, is anticipated for 2024/25. In absence of a reserved matters application, I do not consider that there is clear evidence that such a programme will be achieved, albeit some housing is likely to be delivered on the site. As such, I consider a **year's** delay to be a reasonable estimate. Consequently, although deliverable, I find this site likely to deliver some 120 units in the five-year period.

Manydown

32. This is an allocated site for up to 3,400 houses, of which the Council suggest delivery of some 570 within the five-year period. This site represents the largest point of disagreement between the parties and the appellant argues that there is a long history of delays. They point out that there is a highly complicated planning permission, no developer currently associated with the site and a need for multiple developers to build out at the proposed rate. They suggest this indicates that the site is not deliverable.
33. The Council accept that the site had previously stalled and that the permission is a complex one. However, while they note that Condition 5 has a cascading set of requirements necessary before reserved matters are resolved, they consider many had been addressed and what is described as a master developer has been involved since 2019. As a result, they point to a recently approve planning statement⁵, which includes a 15-year programme of delivery with commencement this year. Despite this, they accepted that the challenges on the site may mean some delay and that 570 may be optimistic.
34. This is an allocated site with permission but awaiting completion of reserved matters, and as such, evidence is required that housing will be delivered. I am satisfied that the Council has shown recent progress, which is indicative of a step change in the deliverability of the site. The involvement of the master developer, while not strictly a housebuilder, is nonetheless an important step in producing planning statements, addressing infrastructure requirements and moving the reserved matters applications forward.
35. However, I do not consider that the evidence provided to me is sufficient to justify the relatively early start to delivery and the rapid increase in numbers. Consequently, while I accept that the site is deliverable, there is likely to be at least a year's delay in resolving matters. This would need to include approval of conditions 5 and 7, the temporary access, required framework submissions and other elements of the outline permission⁶, as well as seeking the

⁵ ID16i

⁶ ID16ii

involvement of a range of housebuilders. A start date of 2025/26 would be more realistic and would suggest delivery of approximately 250 units on this site.

Andover Road

36. This is a site for 14 houses, which has outline permission and applied for reserved matters approval in July 2021. It would appear to me that in addition to other issues, the need to address nutrient impacts thorough confirmation of neutrality remains an issue. Despite some reassurance from Councillors, there is no substantive evidence before me that this has, or can be resolved.
37. I also note that previous AMRs have considered this site to be non-deliverable and I have no clear evidence to explain why circumstances have changed. Based on the evidence presented to me, I consider that this site is not deliverable at present.

Evingar Road

38. This is an allocated site with a hybrid permission which includes 60 houses and a reserved matters application submitted in May 2021. The appellant suggests that this site has significant constraints and has stalled.
39. Nonetheless, the Council argue that there is progress and that the issue of nutrient neutrality has been resolved, albeit no evidence was provided on this. However, a developer is involved who has confirmed a trajectory for delivery starting 2023/24.
40. This is a site that requires clear evidence of deliverability, and in absence of a decision on the reserved matters, and no timetable presented to me of when that might happen, it seems unlikely that housing could be delivered within the coming financial year. Nonetheless, at only 60 houses, even were the start of delivery to be delayed for two years, it would still be built out within the five-year period. With developer involvement, progress on reserved matters and a realistic build out rate, I consider that the site is deliverable.

Aldermaston Road

41. This is a site with outline permission for 21 houses. The site is reportedly owned by Homes England and cleared and ready for development. Nonetheless, the appellant notes that it has been marketed with no developers choosing to take up the option.
42. While this site may appear to have a realistic prospect of delivery, the failure of the offer to the market suggests that more evidence is needed to show that it remains deliverable, especially as it was agreed that Homes England would not develop it independently. On this basis, I find that this site cannot be considered deliverable on the basis of the evidence provided at this Inquiry.

Conclusion on HLS

43. Such assessments are of their time and cannot be entirely precise, but my assessment of deliverability, made against **the Framework's** expectations, are that there are likely to be some sites that cannot achieve **the Council's** suggested build out rates. Nonetheless, there is sufficient evidence of progress on others to confirm that they can be considered within the assessment of the 5YHLS. To that end, my assessment would suggest a figure around 3,700

which would represent around a 4.1 year supply. I note the Council felt the shortfall was moderate and the appellant, severe. I also note that in the Station Road development in Oakley⁷ a similar level was found, which was '**broadly accepted**' to represent a significant shortfall.

Landscape Character and Appearance

44. The appeal site comprises a large area of agricultural land immediately to the west of the rear gardens of houses along The Street. Notwithstanding the outline application, the issue of the nature of the scheme, for example its layout and design features, was discussed throughout the Inquiry. In particular, the **appellant's** assessments, including that of landscape character and urban design, were based on an illustrative plan in the DAS. Such plans are not binding and at reserved matters stage alternative proposals could come forward modifying details of the layout, design elements, materials or landscaping for example, promoted in the earlier stage of the scheme.
45. On this basis, the Council questioned whether such reliance could be placed on this illustrative proposal. Outline applications with such matters reserved will always have this issue. The responsibility lies with the applicant or appellant to demonstrate that a scheme of suitable quality can be delivered on the site.
46. While the Council suggest that they may not ultimately have control if a different scheme is presented that does not reflect that used in the assessments, I consider that this concern is overplayed. Councils do have the opportunity during pre-application discussions and any subsequent application for reserved matters to address the case put for any changes and consider each matter against the development plan. While I accept that the refusal of a reserved matters application may ultimately lead to an Inspector taking the final decision, the responsibility still lies with the appellant to show how any changes they may promote would still achieve the high quality of design and the appropriate protection of any specific features considered at the outline stage.
47. In my assessment of both landscape and heritage matters, it is clear that there are some key design and layout choices promoted that would need to be respected if future reserved matters applications were to be successfully made, and which would clearly, if not respected, provide reasons to refuse an application. Even in absence of a parameters plan or similar, this would have to include the areas of open space, the principle of the layout, the proposed absence of any buildings over 2.5 stories and, taking into account the general character of the village and its location, the approach to the materials proposed.
48. On that basis, one of the clear design decisions in this case is the extensive provision of large areas of public open space, leisure and recreational facilities, restricting housing to only approximately a quarter, 24%, of the site. The housing, community facilities and community building are proposed in the DAS to be in the eastern part of the site adjacent to the settlement edge, with the surrounding area to the west and south identified as community orchards and meadows with retained and reinforced hedgerow and tree planting.

⁷ APP/H1705/W/21/3269526

49. Currently, the appeal site comprises four large expansive open fields divided by hedgerows. There is only a gentle slope across the site, which remains relatively flat resulting in a visually contained site, other than from immediate local views associated with the public rights of way that lie to three sides of the site, and from the rear of the properties along The Street.
50. It is common ground that the site is not a designated landscape, nor is it **considered a 'valued landscape' in the terms of the Framework**⁸. Nonetheless, such areas of countryside do have a value both in landscape and aesthetic terms and in this case, in relation to the setting of the village itself, the conservation area (CA) to the south and to other listed buildings.
51. At a County level the appeal site is part of the North Hampshire Lowland Mosaic, with the landscape to the east and north of the appeal site classified as being in the Loddon Valley and Western Forest of Eversley character area. At a local level, the most recent assessment is the Basingstoke and Deane Landscape Character Assessment, 2021 (the BDLCA), which identified land to the west of Bramley, including the appeal site, as LCA 4, North Sherborne, and land to the north, east and south of the appeal site as LCA 6, Loddon and Lyde Valley.
52. The appeal site is reflective of a number of the key characteristics for this area as set out in the North Sherborne LCA including the pattern of arable farmland within an undulating landform. Just off site are further elements including characteristic woodland copses and a network of footpaths. The site is a contributor to the LCA strategic aim of conserving the rural pattern of farmland.
53. The BDLCA also considered Bramley with Bramley Green, observing that it is a settlement comprising a number of older parts, once isolated but now absorbed into the larger settlement. While noting the introduction of the railway, settlement growth is associated with housing built in the latter half of the 20th Century and into the 21st as modest scale urban extensions. It further considers that the north-western edge and setting, which includes the appeal site, is relatively flat with large scale, open fields, although smaller nearer the church, and with large steel pylons as a notable and detracting element associated with the sub-station at Bramley Frith Woods. The Brenda Parker long distance footpath that runs along the northern edge of the site is surfaced at this point providing access to this sub-station.
54. Among the key issues identified for this LCA is the pressure from housing development, including extensions to the existing urban edge such as at Bramley, among other settlements. However, it does state that new development should be associated with the existing settlements and should respond to the existing urban edge, here identified as being **'soft' and well-integrated** into the surrounding landscape.
55. In the Bramley Village Character Assessment the area to the south of the appeal site is classified as Area A, (Silchester Road/The Street passing through the conservation area), whereas the area to the east of the appeal site is classified as Area B (The Street past the conservation area toward the station).

⁸ Framework para 174

56. Set in context, the properties to the part of The Street which adjoins the appeal site present a mixture of styles and heights with generally mature domestic gardens, with a range of boundary treatments, some, such as at Stocks Farmhouse, relatively open to the adjacent fields. Although the main parties' views differed on this, my own view is that the experience of the settlement edge taken from the surrounding footpath network here is one of a relatively soft transition to the agricultural character, where the housing and village is not a strongly perceived or hard and defined feature. It contributes to the characteristics of the landscape and the setting of the settlement.
57. To the southern side, there are smaller fields and more extensive hedgerows and other vegetation towards the older parts of the settlement comprising the CA and the church. Nonetheless, the church tower is viewed from longer distance at points on the Brenda Parker Way but also on approach along footpaths to the south and west of the appeal site. Two further listed buildings, Stocks Farm and Middle Farm are found along the eastern boundary of the site and the Council argue that their settings also contribute to the landscape value of the appeal site.
58. The appellant presented a Landscape and Visual Impact Assessment (LVIA) as part of their application and this was reviewed and updated by their witness to the Inquiry. A number of permissions and appeals were referenced including the St James Park development⁹, the redevelopment of land adjoining Clift Surgery¹⁰ and the Station Road development in Oakley, a greenfield development of 110 homes with surrounding footpaths, a CA and nearby listed buildings; this scheme was also promoted by the appellant.
59. These assessments concluded that the proposal has been landscape led, referring to the level and quality of open space proposed, and while finding the site enclosed and of medium sensitivity, accepted that introducing housing to a greenfield site inevitably leads to some localised harm.
60. The Council argue that the site would be harmful in landscape and visual terms but would also harm the urban setting of the village, a point addressed by the appellant with evidence on the proposed design and layout, albeit within the context that these remained reserved matters.
61. Dealing with the settlement pattern and urban design point, it was apparent that the Council view was that, even restricted to the eastern side of the site, the proposal would be of a depth incompatible with the current linear form found along The Street, which they considered to be the focus.
62. It is clear that Bramley is a sum of three distinct parts, Bramley around the Church, the central part around the level crossing and Bramley Green to the east. While these have coalesced and the village expanded, these core elements, and in particular the areas of Bramley and Bramley Green covered by the CA, retain a distinct historic character. The presence of the large army base to the south has resulted in a sweep of development rather than a purely linear form between these elements.
63. Consequently, I find **the Council's** approach somewhat limited when the development proposed would form part of the accepted agglomeration of elements that make up present day Bramley. Development involving cul-de-

⁹ 14/01075/OUT

¹⁰ APP/H1705/W/22/3300098

- sacs or perimeter blocks is evident in locations all around the settlement, including relatively close to the appeal site, such as Beaurepaire Close or Ringshall Gardens, and is the form of the more recent development, such as St James Close or Cortland Drive. As a consequence, development at depth behind the main road through the village is not uncommon.
64. Nonetheless, this would represent a significant incursion into the countryside to the rear of The Street, and, as noted in the Landscape Sensitivity Assessment for Basingstoke and Deane (2021) (the LSA) development of the appeal site (BRAM001)¹¹, would be considered inconsistent with the general pattern of the settlement and the existing pattern of ribbon development along The Street.
65. I took a number of opportunities to walk around the area, and the experience of the village when on The Street, Minchens Lane or the surrounding footpaths is of a rural settlement. There are strong links to open spaces from The Street, for example, or to open countryside elsewhere. These root it in its rural setting. While the appellant argues compliance with national design guide expectations, such findings are dependent on reserve matters, and while I do not doubt that a high quality could be secured in terms of layout or materials, the housing proposed would affect that experience, some connections to open countryside would be eroded and there would be some harm to the setting from this proposal.
66. Turning to landscape character, the methodology adopted by both main parties was generally agreed, although they reached different conclusions. The appellant found the site to be of medium sensitivity increasing to high only at the southern edge, and took an elemental approach to effects, finding major/moderate and negative effects on the eastern part of the site, noted as being logical considering the introduction of housing on a greenfield site here, while effects on the wider landscape, assuming some benefits from new planting, would be minor.
67. The Council argued that the appellant had underplayed the existing value of the landscape, notably in relation to its role in the setting of heritage assets, and considered its sensitivity to be high. However, the principle point of difference was in relation to the treatment of the open space associated with the development. The Council found this would be of a more suburban and managed character and significantly more harmful than the **appellant's** view that the proposed planting, meadows, orchards and wetland features would be of neutral or even positive value. The Council further argued that the value of the site was such that there was no capacity to accommodate housing¹² or the associated open space and finding the landscape effects to be permanent, major/moderate negative with a significant level of change across the whole of the site.
68. There are two matters to address here before considering my own assessment of the landscape effects of the proposal. Firstly, the proposed scheme, albeit in outline form, has obviously sought to respond to the sensitivity of the site. The large areas of open space proposed and the focus of housing to the northern and eastern part of the site is clearly an attempt to focus the acknowledged harmful effects of introducing housing in a greenfield location to the area away

¹¹ CD5.4

¹² Notwithstanding **the Council's planning** witness conceding that some linear form development could take place to the rear of The Street

from the CA and listed church to the south and provide a buffer of sorts from the footpaths surrounding the site. It is necessary therefore to address some elements of the proposal separately.

69. Secondly, as the site is not nationally designated for landscape, guidance from both GLVIA3¹³ and more recent guidance from the Landscape Institute¹⁴ are useful, but they can only provide a framework for professional judgment.
70. The existing landscape is a managed one; agricultural use will change the nature of the fields throughout the seasons and there will, at times, be evidence of activity within those fields. However, entering into this landscape from access points around the CA, Middle Farm and on Brenda Parker Way, there is a relatively fast transition to a rural character. The village and sounds associated with it fade quickly and the expansive open nature of the fields provide an experience of entering onto the open countryside. Filtered views mean there remains some slight urban influence, but along the path to the west of the site, for example, the overriding experience is a measure of isolation and tranquillity.
71. There are some detracting elements, including the pylons, but I did not find these materially reduced the experience of the landscape here.
72. The introduction of housing would extend the urban influence further into this area, reducing both the strong rural character and elements of tranquillity experienced. I fully accept that there will be a measure of protection to the footpaths through the extensive open space proposed. I also disagree with the Council that such areas must necessarily be harmful to the degree suggested. They would be managed, with paths and possibly benches, marked play areas or equipment. However, while their form would not be as intrusive as housing, and the network of field boundaries would be retained, such features and the associated intensification in use, would materially change the rural character of the site.
73. I visited the other areas of open spaces around the village, including that at Bramley Green. I accept that such open space can retain a more rural character to the urban areas, that is exactly what these areas provide for Bramley. However, at Bramley Green, and in contrast to the open space proposed for this scheme, the space is influenced by the Sherfield Road and the access roads crossing it. It sits more naturally as a functional but beneficial element of the village setting, whereas in the appeal scheme, while providing some mitigation for the introduction of housing, the space brings with it further harmful landscape effects. I accept there are other benefits from this space which I address below, but in landscape terms within this area, which is strongly reflective of the wider landscape character, it cannot be considered of neutral or positive effect.
74. I have considered whether, with the recent decisions on appeals relating to a solar farm¹⁵ and a battery storage facility¹⁶, there would be a cumulative effect, but note those found the relatively low level and screened structures to have only a localised impact.

¹³ Guidance for Landscape and Visual Impact Assessment – Third edition - 2013

¹⁴ Technical Guidance Note 02/21 – Landscape Institute

¹⁵ APP/H1705/W/22/3304561

¹⁶ APP/H1705/W/21/3289603

75. Overall, I consider that there would be major/moderate negative effects where the housing is proposed and moderate negative effects associated with the open space. I therefore consider that the **appellant's** conceptual approach that the housing would have the typical but inevitable effect of housing within greenfield areas to be essentially true but find that they have underplayed the landscape effects
76. Turning to visual effects, the NDP sets out a number of important viewpoints, 1 to 6, and vistas, 4, 4a and 5, that they considered contribute to the character and **rural setting of Bramley**. **These are reflected in the appellant's chosen** viewpoints, 1-11, a number of which were developed into photomontages, albeit drawing on the illustrative layout. Roughly analogous viewpoints were also assessed by the Council, A-I.
77. A Zone of Theoretical Visibility was produced, and I have no challenge to its accuracy. It confirms that the landform and location of the site means that visual effects are relatively localised. Nonetheless, the site is seen in views from the rear of houses and from the perimeter footpaths that surround the other three sides of the site. I am satisfied that the appellant has identified and assigned sensitivities to the respective receptors in their LVIA and the updated conclusions by their witness.
78. A range of findings are presented in terms of the effect of the proposal. A similar argument remains between the main parties that where an important view or vista is noted, the illustrative layout has generally provided an intervening area of open space as a buffer from the housing, which the appellant considers is effective mitigation while the Council consider these areas to be significantly harmful in their own right.
79. As such, the appellant argues that while the housing would be visible in some views the effects would reduce over time and only one viewpoint, that on the Brenda Parker Way, would experience long-term significant visual effects, although this is one of the NDP important viewpoints. Thus, they find that the proposal would respect the important views and vistas and would complement the existing character of those views. The Council find these harms to be more extensive, ranging from medium high to very high, with the only medium effect being for the lower sensitivity residents along The Street.
80. I walked the footpaths as part of the accompanied visit, but also took the opportunity to visit when the sun was rising to gain a better understanding of the views. As a result of the large fields, extensive views are available across the site from the footpaths, either through gaps in hedgerows or where they run within the field boundaries. These views pick upon features such as the church tower and a generally filtered view of the rear of housing to The Street and Minchens Lane. Some buildings stand out more than others and, in some views, the more recent development of St James Park can be seen.
81. The NDP gives value to these views over the appeal site for an obvious and understandable reason that they provide the open vista as one leaves the urban area. These open views are revealed as you emerge from the area around Middle Farm, walk from or towards the church or appreciate the long views through the relatively sparse hedgerow along Brenda Parker Way.
82. While the housing proposed would be relatively well-contained by the existing hedgerows, and over time the planting would screen it more, there are still

long sections of the surrounding footpath network from which the proposal would be seen as an extension of the existing settlement edge, and from some points, truncation of the current open views experienced.

83. I find it hard to accept that the introduction of meadow and orchards would complement these existing views, the truncation and erosion would exist, but also cannot fully accept that, while representing a visual change, it would be harmful to the great extent promoted by the Council. As such, I consider that the proposal would fail to complement the important NDP views, but the harm would be moderate in all but the particular case of NDP viewpoint 6 where housing, if developed in line with the illustrative layout, would be prominent and in the foreground.
84. Before drawing these matters together, there was some discussion over the **findings of the Council's own LSA**, in which the appeal site was considered as Site BRAM001. As part of the development of their evidence base for the emerging Local Plan, this assessment considered a number of potential sites for development and scored these sites over a range of criteria. This was then summed to find an overall score to inform the landscape sensitivity of the site to development. The scores were subject to review and alteration if specific elements were felt to be over or under weighted.
85. The appeal site generally scored in the middle of the range except for a low sensitivity score for landform and drainage and higher scores for historic value, settlement pattern and intactness. The presence of the footpaths contributed to a maximum score on type of visual receptors.
86. Overall, the site scored 52 and was considered to have a medium landscape sensitivity, but the summary noted the continuum of rural character extending to the west and the inconsistency with the pattern of the settlement, as addressed above. Medium sensitivity is defined as a site with characteristics susceptible to change but which may be able to accommodate development. For context, another site referred to by the appellant in this Inquiry, Station Road, Oakley, was also scored at 45; a lower score but still of medium sensitivity.
87. **The Council's witness questioned whether the exercise had properly weighted** the relevant criteria and noted that the score placed the site at the upper end of medium. However, while this is a relatively broad-brush approach, nonetheless I consider that the findings, in landscape terms, align with the characteristics of the site, mainly due to the relative visual containment and localised effects.
88. Drawing these matters together, there would be the expected harm associated with the introduction of housing on a greenfield site, there would also be harm to the LCA and village setting through the extension of the urban form and loss of agricultural and rural character as well as visual harm to users of the footpaths and to a more limited extent, the existing residents of The Street. The extensive provision of open space would reduce but not remove this harm and as a result the proposal would conflict with Local Plan Policies EM1 and EM10, and NDP Policy D1 in this regard. These policies seek to ensure that proposals are sympathetic to the character and visual quality of the area and respect the quiet enjoyment of the landscape from rights of way, positively contribute to local distinctiveness and protect, complement or enhance the Bramley Character Areas.

Heritage Matters

89. The Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special regard shall be had to the desirability of preserving listed buildings or their settings or any features of special architectural or historic interest which they possess, s66(1). It also requires, with respect to any buildings or land in a conservation area, that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area, s72(1). This statutory duty is further expressed in policy at a local and national level.
90. There are four designated heritage assets as well as some non-designated assets (NDHA) that have been considered. These are the Church of St James, Grade I, Middle Farm, Grade II, Stocks Farm, Grade II, and the Bramley and Bramley Green Conservation Area (the CA). The NDHAs are buildings within the CA. Through the process of planning application, EIA and the appeal, the relevant heritage assets located around the site have been assessed by a number of different bodies and individuals. These included Historic England (HE), **the Council's** Conservation Officer and the two heritage witnesses to the appeal.
91. The Council argued that, in accordance with the principles set out by the Court of Appeal in *R(Wyatt)v Farnham Borough Council [2022] EWCA Civ983* (Wyatt), great weight must be given to HE's position, which found the harm to the CA, Stocks Farm and the Church to lie in the middle of less than substantial (LTS)¹⁷ harm. Notwithstanding **this, the Council's own** officer suggested a greater level of harm to the Church and the CA, while their own heritage witness to the appeal found lower levels of harm to the CA but higher to Stocks Farm.
92. Despite these differences, the Council argue that their cases align to an extent, indicating material harm to the principle historic assets that accords with the great weight given to the views of HE, and contrary to the **appellant's** own assessment, which the Council suggests represented a significant outlier.
93. In this context, the appellant argues three main points. Firstly, that the HE response should not necessarily be given great weight in light of later evidence, and that their responses to the application strayed beyond their remit to the level that they were unlawful. Secondly, that the **Council's** witness employed an unfounded matrix approach that resulted in double-counting; and thirdly, that the witness's reliance on this, the lack of historical information and limited direct appraisal of the site itself, led to an assessment that underplayed the importance of the full range of contributors to the significance of the assets and led to an over-estimation of harm.
94. Firstly, I see nothing of value **in the argument that HE's** advice at the screening stage of the EIA may have differed from their position as a consultee. Such comments are made with very different expectations and tests in mind. However, there is a principle that evidence presented and tested at an Inquiry carries additional weight for a decision maker. Nonetheless, as a starting point, it is my view that evidence provided from an expert national agency, in this case HE, must be given significant weight. As the body that has a direct role preserving and listing historic buildings and providing much of the

¹⁷ As per Framework paragraphs 199 and 202

- accepted guidance to authorities and applicants on how to consider assessment of those assets, their views are clearly of importance.
95. However, the appellant refers to the High Court Judgement, *Council of the City of Newcastle-upon-Tyne v SSLUHC [2022] EWHC 2751 (Admin)* (Newcastle) and a review of such case law in the Journal of Planning and Environmental Law¹⁸ (JPL) to suggest that such great weight may not hold in the face of expert witness evidence tested at an Inquiry, especially if the statutory consultee's **evidence** was not itself tested.
96. It strikes me that no matter the views expressed in the JPL or indeed that of the High Court, the starting point should be that of the Court of Appeal, in this case, Wyatt. Here, the judgement sets out the significant weight that can be expected to be given to **the advice of an 'expert national agency', and that** if a decision maker departs from that advice, they must have cogent reasons for doing so, noting that this is a basic point derived from a wealth of case law. By further reference to *Visao Limited v SSHCLG [2019] EWHC 276 (Admin)* (Visao), the Council noted earlier case law that suggests those reasons should be **'cogent and compelling'**.
97. **While in Newcastle, 'substantial reservations' are raised regarding whether the** authorities do establish such a principle, it does not seek to resolve the point, but **notes that with 'ample material', a decision maker, an Inspector in that** case, could disagree with the statutory consultee.
98. To my mind this does not address the matter of whether such advice should be given significant or great weight but goes to the requirements for cogent reasons for a decision taker to step away or disagree with it. This is perhaps at the heart of the arguments made in the JPL. Nonetheless, a statutory **consultee's** views should be given significant weight as a result of their direct involvement, expertise and experience in the relevant matters. However, there is no reason why further evidence, and the testing of that evidence by other parties could not aid the decision maker in reaching a different view, only that to do so, that judgment must be explained.
99. While I accept that in their first letter¹⁹, in addition to their commentary on the significance of the assets, HE commented on the policy approach, which is acceptable, but also on matters of allocation and need, public benefits and compliance with that policy. Such comments on matters of need and compliance would be outside of their remit and expertise, nonetheless, I do not read this as infecting their analysis of the assets. Similarly, their second letter²⁰ focusses on the assets, and reaches similar conclusions following the submission of further information. I have therefore given their position significant weight but have reviewed the case in light of the further evidence submitted; my findings are addressed below.
100. Turning to the second issue, the **Council's** witness employed a matrix approach, taking the value of the asset as well as the magnitude of change to derive a level of significance, which was then applied as a grading linked to a spectrum of response within the **Framework's** LTS and Substantial Harm categories. I can see the source of such an approach in landscape studies, EIA

¹⁸ ID22 - Issue 12 2022.

¹⁹ 8 March 2022

²⁰ 21 April 2022

approaches and that set out in the ICOMOS guidance²¹. The assessment of harm to significance is quintessentially one of judgement and providing a methodology that would appear to deal with the value of the asset, the scale of the change and a calculation of a relative level of significance is superficially attractive.

101. However, a number of clear issues arose when tested, not least that the concept of categorising harm as LTS or Substantial is a function of the **Framework's** approach, which then provides a clear commentary as to the relative weight that arises from these based on the value of the asset. Taking the value into account in assessing the effect on assets must differ from the approach expected by the Framework as it can only lead to counting the value of the asset twice in calculating the weight to be derived.
102. Furthermore, it is clear that the matrix as presented could not lead to a finding of substantial harm for assets listed below Grade I or II*; this is plainly wrong, and the suggestion of adding a column to allow for this retrospectively is no answer without a full appraisal of the implications for doing so to the methodology as a whole.
103. Nonetheless, at the heart of the methodology is an approach that seeks to identify the asset, assess its significance, and in this case, the contribution made by its setting, and then to assess the effects of the proposed development, and I have drawn the relevant parts of the assessment out to inform **my own, as I have done with the appellant's own evidence on this matter**.
104. It is common ground that the issues in relation to this case concern matters of setting only. The setting of an asset is the surroundings in which it is experienced and is not fixed. Consequently, while in my view, it can be mapped illustratively at a point in time, it cannot be permanently fixed nor can it, for example, be described as a fixed distance to or from the asset. While views will play an important part in assessing settings, other factors, such as historic relationships, are also relevant, and it is reasonable to take account of cumulative change over time.

Bramley and Bramley Green Conservation Area

105. Designated in 1983, a Conservation Area Appraisal (CAA) was produced following a review in 2003. The two parts of this CA are well separated, and the proposal would have no effect on that part associated with Bramley Green.
106. In relation to Bramley, a range of listed buildings are identified noting the importance of the Church and the open spaces in the village centre and identifying the open countryside to the north as creating an important setting for the village.
107. Although now part of the wider settlement, this original part of Bramley is largely uninfluenced by more modern development, notwithstanding some newer buildings within the CA. Its origin as a hamlet growing into a rural village of some significance is clear with the presence of the Church, the large Vicarage, Grays House, and other higher status buildings such as the Manor House, which forms another important part of the village. The presence of

²¹ ID3 – International Council on Monuments and Sites – Guidance on Heritage Impacts for Cultural World Heritage Properties

Church Farm and Street Farm within the CA reinforces its rural character. The CA map includes key views and vistas which include that out from the churchyard, from the western fields looking towards the Church and from the School House looking north

108. The significance of the CA, although primarily drawn from its architectural and historic interest, notably in the cluster of buildings and spaces around the Church, Grays House, Church Farm and the Old Bells, also depends on its close relationship with the surrounding agricultural land. In this regard, I note the specific inclusion of open land to the north, west and east of the Church within the CA.
109. This land remains as open land, albeit used for grazing and horses, and immediately adjoins the southern field of the appeal site, which itself includes the footpath section running from Middle Farm, and is within the CA.
110. Although it is not clear if the CAA reference to open countryside to the north refers solely to the fields drawn within the CA boundary, I am of the view that the well-established footpaths running within the northern edge of the CA and approaching from the north, as well as views north from the School House mean that the setting of the CA definitely extends out into the appeal site.
111. To the eastern side of the CA lies Middle Farm and a number of associated NDHAs. While intervisibility between the listed building and the appeal site is effectively precluded, there are more complete views with the NDHAs and the footpath emerges from this grouping into the southern fields of the site. Here, the central and southern fields materially contribute to the rural setting of the CA.
112. Longer distance views towards the CA from Brenda Parker Way can make out the Church and other buildings on the northern edge, but not their relationship to the CA as a whole. While the clarity of these view can change during the day and the season, I do not consider they contribute to the experience of the CA in the same way as the relationship to the central and southern fields does.
113. Development within these fields would have a direct effect on the CA where the footpath lies within it and on the rural setting in which the original parts of the village and its Church are experienced. The open land and vegetation along the northern edge of the CA limits intervisibility, particularly from within the historic core, but nonetheless there would be some harm to that setting through an erosion of the open countryside and rural character to the north.
114. It is important that there is a conscious response in urban design terms to the setting of assets, and to this extent, the illustrative plans for this proposal promote the retention of open space including a community orchard within the southern field. There was debate over the acceptability of an orchard here, and while its use may be proposed as a community one and involve increased use and activity of the area, orchards are a feature of traditional agricultural practice and indeed historic maps provide reference to such associated with land now developed around Middle Farm. However, the subtle differences arising from the increased use, potential provision of hard surfacing for walking routes or more manicured approach to land use will erode the rural character somewhat. Development of housing to the central field will increase the urban presence in views from within and on approach to the CA, and while the

effect of this will decrease over time with landscaping, there will be a direct loss of open countryside from this part of the setting.

115. While HE originally found the level of harm to be in the middle of the range of LTS harm, the appellant categorises it at the low end as did the Council at the Inquiry. My own view is that retention of the southern field as open land would be necessary to limit harm to the setting to the lower end of LTS and, in this case, the comprehensive review of the historic development of the village and its surroundings presented at the Inquiry leads me to a slight departure from the views of HE.

Church of St James

116. This is a Grade I Church, described in its listing as Norman with 12th century origins and a number of later additions. This small village church stands within a pastoral setting to the north of the CA. The main entrance, a later porch addition, and the larger windows face south towards the vicarage and the core of the village, while the graveyard to the north and its extension to the west is set on the edge of the countryside. There are a grouping of NDHAs around the School House to the north of the Church and a more recent, albeit sensitively designed Church hall lies a short distance to the east

117. The significance of the Church derives from the architectural and historic importance of the building, and its high value derives not just from its age but also particular physical features of the building. Nonetheless, to understand its function as a village church within a rural context, the setting also contributes. However, while historic mapping shows that the Church once stood in a more exposed area, the introduction of buildings around School House/Old School House and the development of barns to Church Farm and the Church hall itself, have all contributed to **some change in the Church's setting**. It retains its rural, edge of village character, and while its strongest relationships are into the village and the buildings and spaces there, an important relationship remains to the open land to the north, as set out in the CAA.

118. Although the Church and its setting are best appreciated from the western field within the CA and the identified views in the CAA, it, or more particularly its tower, is experienced in a number of views from the north. These are available from existing nearby footpaths, but also development of the site would open views of the tower and there are, as set out above, some views across the whole of the appeal site from the Brenda Parker Way.

119. While the long distance views do not, to my mind, assist in understanding the setting of the Church and its relationship to the village, set as they are within extensive vegetation and with other buildings to the foreground, there is a clear experience for those walking in from the north, west or east on the perimeter footpaths, that you are approaching a rural village with a Church building of some importance set on its edge.

120. The extension of urban character through introduction of housing in the fields on the centre and eastern part of the site would erode that experience, but only as walkers traverse past the development, while the more managed landscapes proposed within the open spaces of the development would alter the experience only somewhat. The Church would be experienced less within an open rural context, and more as part of the wider village. However, these are not substantial changes within the wider context **of the Church's setting**.

The debate over the recent permission for a garage to the north of the Church does not alter my views on this.

121. While HE originally found the level of harm to be in the middle of the range of LTS harm, the appellant categorises there to be no harm, finding that any views would not be illustrative of the historic or architectural interest of the Church. The Council found the impact to be minor, but elevated this to the middle of the LTS range through use of their matrix. My own view is again that retention of the southern field as open land would be necessary to limit harm to the setting, but the footpaths would experience change as set out above. The Church would be experienced less as a rural Church and more as a part of the village, in something of a continuum of the enclosure that has taken place since its origins. For reasons set out above, the harm would be at the lower end of the LTS spectrum, and again I consider that, in this case, the comprehensive review of the historic development of the Church and its surroundings presented at the Inquiry leads me to a slight departure from the views of HE.

Middle Farm

122. Middle Farm is a Grade II listed farmstead located alongside The Street and sitting at the north-eastern end of the CA. Noted as a timber framed building with 16th Century origins the house is no longer a farm and much of the immediate surroundings have been developed, albeit over some considerable period with some being conversion of former barns and considered NDHAs in their own right. A footpath passes just north of the house and enters into the southern field of the appeal site and the CA.

123. Any farmhouse must draw on its relationship to its agricultural lands to inform its historic context. However, the extent of development surrounding the site and its position now on the main road through the village, means that I consider there would only be a very minor change in the experience of the asset, principally for those using the nearby footpath.

124. The significance of this asset derives from its architectural interest, with some artistic and historic interest, the latter, in part, illustrated by a now mostly severed connection with its farmlands. Accordingly, the introduction of public open space to the southern fields would have a limited effect on the appreciation of this asset's role as one of the early farms in the village. I find this to be at the lower end of LTS harm to the significance of Middle Farm. I appreciate **that the Council's witness found this relationship of slightly more value**, although also at the low end of LTS and I note HE did not consider Middle Farm.

Stocks Farm

125. Stocks Farm is a Grade II listed farmhouse dating from the early 19th Century. It is located off Minchens Lane and consequently off the main route through the village. Now in residential use, it is reported to have ceased operating as an agricultural business over 30 years ago. The farmhouse sits in a large domestic curtilage including a pond, swimming pool and tennis court. The garden has an open boundary to the appeal site.

126. Near the driveway entrance is a well preserved, and listed, granary sitting on straddles, while to the north of the farmhouse there are a number of courtyard barns and outbuildings, most now converted to commercial use.
127. **The appellant's review of title** maps show the land associated with the farmhouse as including the northern and eastern fields of the appeal site proposed for housing, while parts of its other lands, including those to the north are now also built on, including the development at St James Park.
128. It is in this context of a loss of a direct link between the farmhouse and its former landholdings that the Council promoted a moderate impact on the setting, translated through their matrix to an impact at the upper end of LTS harm. This is greater than the medium level of harm identified by HE and the low level of LTS harm identified by the appellant.
129. The significance of the farmhouse derives primarily from its architectural and artistic, as well as its historic interest. While the functional links to the farmlands have been separated and patterns of use changed by the conversion of the outbuildings and the farmhouse itself, as well as the introduction of new housing, nonetheless there is a legible relationship between Stocks Farmhouse and the land to the west.
130. As such, while a considerable element of the farmhouse's setting is informed by the relatively intact buildings to the north and by the listed granary to the east, this visual relationship with the land to the west is a component. It is also important to take account of cumulative change over time. Much of the farmhouse lands locally, and with visual links, have been lost either to housing, parking or recreational use; the appeal site is the last remaining direct link and, in my view, this means that this element cannot be discounted when considering the significance of Stocks Farm.
131. I accept that farmhouses can still be appreciated even without direct access to farmlands, Middle Farm is one such case, but those relationships are a part of identifying and illustrating their historic context. Here the proposal would erode that. This is not a matter of designed views, which are rarely an important element of a farmhouse which develops over time according to the needs of the business, with main facades often facing away from the functional areas.
132. As set out above, urban design responses are important in such circumstances, and this is acknowledged **by the appellant's approach as set out** in the illustrative plans. These propose a separation of the housing blocks adjacent to the boundary with Stocks Farm and use of the area for a green corridor and drainage features. This would help retain something of an open character, but this area would not have the same character as the open fields, housing would still be present and the suggestion that a distant view through the site to other open meadow areas as being mitigation is not realistic.
133. However, the relationship of the farmhouse to the land has been significantly altered, partly through development to the north and east, but also the extensive development of the residential curtilage in which it sits. The functional relationship to the farm buildings remains clearly legible, although the visual appreciation of the historic link with the site and surrounding land is now relatively weak. There is no longer a functional link with the appeal site

134. Overall, I consider that there would be harm to the setting of Stocks Farm which would reduce the legibility and appreciation of its value as an important farmhouse within the village. However, the relatively large curtilage and the proposed layout, to be secured later through reserved matters, would retain an open aspect. This would result in harm in the lower part of the range of LTS harm to the significance of the asset, although I concur with the position of HE, not in magnitude, but in that the harm to Stocks Farm would be greater than that to the other assets.

Initial Conclusion on Heritage Assets

135. The appeal site sits adjacent to a number of heritage assets which are important components of Bramley and which demonstrate much of its historic development as a rural village. While I have found the harm to some towards the lower or even lowest parts of the range of LTS harm, that to Stocks Farm would be somewhat greater, while harm to the Grade I listed church must reflect the greater importance of that particular asset. Harm to heritage assets must be given the considerable importance as weight commensurate with the acknowledgement that heritage assets are an irreplaceable resource.

136. To this extent, the proposal would conflict with Local Plan Policies EM10 2c and EM11 as well as Policy D1 of the NDP. These seek to conserve or enhance heritage assets and protect the local historic environment. It is important to note that the Framework sets out the great weight that should be given to such assets but also that such LTS harm should be tested against the public benefits of the scheme; I address this in my planning balance below.

Foul Drainage

137. I am satisfied, despite the ongoing concerns of a number of those objecting to this proposal, that the **Council's** Community Infrastructure Levy (CIL) approach and further commitments in the **appellant's** submitted UU could address the additional pressure on infrastructure and service provision in the village; I address this in more detail below.

138. However, on the basis of the evidence provided by the Parish Council and the discussions between the Council, the water company, Thames Water, and the appellant, including a submitted SoCG on this matter, there is clearly an issue with foul drainage capacity in the village.

139. **The appellant's case is that there is a** duty on Thames Water under s94 and s37 of the Water Industry Act 1991 (the WIA) to provide capacity to accommodate new developments; this is agreed in the SoCG. Thames Water have indicated that they have a scheme for network reinforcement in place for Bramley, although requiring internal approval, they consider it could be delivered within their standard timescales of 18-20 months. As a result, the appellant is seeking a condition to address this matter, with temporary arrangements were the Thames Water scheme to be delayed.

140. Notwithstanding this, it is clear that there remains considerable concern within the village that such improvements will be delivered on time and will address not just the impact of the proposed scheme but the existing and ongoing problems that residents in various locations across Bramley are dealing with now. Even during the period of the Inquiry there was evidence of

sewers discharging within the village²². The local Council representatives referred me to considerable levels of correspondence²³ with Thames Water and set out their own concerns that any improvements will not achieve the necessary benefits for the whole village. They point to developments at St James Park, Bramley View and Centenary Park all taking place without a comprehensive scheme to address the issues.

141. I have considerable sympathy with local residents who have been affected but must consider the commitments that have been made by both the water company and the appellant in relation to this specific case. To that end I have a clear commitment from Thames Water that they have a solution awaiting implementation and that it will be delivered within their normal timescales, unless there is, what they described, as a complex solution being needed, in which case they would agree an infrastructure phasing plan.
142. This is an expected requirement on the water company who have a statutory duty to accommodate new developments. This duty is enforceable under s18 of the WIA, in this case by Ofwat. In planning terms, while I note the concerns of the local councillors that neither Thames Water nor the enforcing authority are meeting those commitments, the Framework specifically requires that in taking planning decisions it should be assumed that separate pollution control regimes, in this case including the WIA, should operate effectively²⁴. This does not mean that a proposal to operate with an unsustainable or inappropriate foul drainage scheme cannot be considered, but does apply where a proposal is to connect to a mains drainage network and there is no objection from the water undertaker.
143. The point of disagreement with the Council concerns the wording of the condition that would ensure that the proposal is delivered in line with the provision of upgrades to the foul drainage network. In this case, I consider that a **'Grampian' condition** could meet the relevant tests and could address concerns regarding the risk of pollution.
144. However, initial proposals, on which there was disagreement, related to the **appellant's suggestion** that should the anticipated improvements not be delivered, that the scheme could still deliver up to 50 units with provision for tankering the foul drainage. The scheme would require storage and a pumping station on site. At the round table session, it was established that it would be feasible that the storage capacity could hold foul flows from up to 50 units and allow for a daily, or more frequent, tankering of waste away to a suitable treatment works. However, this would represent a materially less sustainable solution and, as it would entail additional costs and environmental risks, and in my view, is not one suitable to be considered as a long-term solution.
145. At the time of the production of the SoCG, the Council remained concerned **that the appellant's proposed condition expressly allowed for temporary** measures as opposed to an infrastructure phasing plan that would link the delivery of housing with the provision of sufficient capacity. Following the round table discussion at the Inquiry, **a revised version of the appellant's** condition was presented identifying a timescale for improvements and specific triggers for implementation of agreed temporary measures.

²² ID17

²³ ID9

²⁴ Framework paragraph 188

146. To my mind, the focus must be on delivery of capacity improvements to align with occupation of any housing. The Planning Practice Guidance (PPG) notes that local authorities should consider how development should be phased where the timescales for improvement works do not align with development needs. However, developers should also be able to have confidence in their investment decisions and cannot be unfairly disadvantaged by delays which may be outside of their control.
147. As such the proposed revised condition seeks phasing of the occupation to delivery of improvement or submission of an infrastructure phasing plan, in this case, to include timescales for implementation and temporary measures for up to 50 houses. To my mind, a phasing plan should only be considered if the water undertaker is unable to deliver within its stated expected timeframe of 18 to 20 months, as set out in the SoCG, and it is important that any plan or temporary measures be agreed in writing with the Council. In such circumstances, I consider that this condition would meet the relevant tests and ensure that development of this site would not lead to exacerbation of the known sewerage issues within Bramley. It would therefore comply with Local Plan Policies CN6, EM6, EM12, which seek to ensure that infrastructure is provided by new development which should protect water quality and not result in pollution detrimental to quality of life.

Highway Safety and Capacity

148. This is not a matter of contention between the appellant and the Council following the submission and acceptance of the revised detailed design for the access. Nonetheless, I appreciate there are a number of ongoing concerns regarding The Street and the highway capacity through the village, with the potential for associated use of less suitable alternative routes.
149. On this matter, the appellant and the highway authority, Hampshire Country Council, agreed a SoCG. This confirmed that, subject to the original transport Assessment and two further addendums (the TA), details of the revised access arrangement, revised junction capacity testing, additional travel plan information and footway improvements, among other matters, they, and subsequently the Council, had no objections to the proposals.
150. Bramley is a village with some facilities and services, including the pub, shop, bakery and a range of community facilities. It has very good and accessible train links and is of a scale that most places are walkable. Indeed, I walked the route from the proposed access to the train station and over the level crossing and found it a relatively short and easy route, notwithstanding some issues with the pavements and crossing points, some of which are identified for improvement under this scheme.
151. Principle concerns remaining related to the excessive speeds of some drivers on The Street and the contribution the scheme could make to congestion in the village associated with operation of the level crossing. A wider issue was raised in relation to the increasing use of the rail line resulting in a greater number of crossing closures needing a strategic solution to the crossing. However, this is not a matter that could be addressed in relation to a single development, but is a matter that may be considered at a plan level and may involve solutions more associated with the road and rail network than development.

152. It is clear that the TA identified that speeds above the speed limit are a potential issue along The Street. While it can be argued that enforcement should ensure that speed limits are observed, I am satisfied that the junction and associated visibility spays have been designed to respond to these higher speed levels. I note that the design has been informed by an independent Stage 1 Road Safety Audit and would be subjected to further assessment before construction.
153. Turning to the issue of congestion. The TA made some assumptions on the levels of traffic likely to be associated with the scheme utilising industry standard approaches based on the TRICS²⁵ database. From this, an assessment of the split of drivers turning right and left out of the entrance was applied to assess the contribution of new traffic from the proposal to existing levels of traffic in the village. This was compared with the existing traffic flows based on survey data. Following discussions at the Inquiry, I am satisfied that these figures are reasonable and have allowed for the influence of the pandemic on travel levels.
154. While this strongly suggests that the scheme would not lead to a severe impact or unacceptable impacts on highway safety, local residents and Councillors remained concerned about the effect on queueing at the level crossing.
155. This train route is a busy one, evidence given at the Inquiry suggested some 36 freight movements and 96 passenger movements a day and that these are likely to increase. The TA considered existing capacity and queueing associated with level crossing closures and found that while there would be some additional cars added, the effect on using alternate routes would be minimal.
156. As suggested by interested parties, the level crossing would appear to close on some occasions for a longer period to allow for two trains to pass. It is unavoidable that at these times queue lengths will be increased and the scheme would add some additional cars to this queue. In addition to the perceived disruption residents suggest would be involved, there were concerns **expressed regarding "rat-runs" triggered by these queue lengths**. However, the assessment identified this would be around 30 extra cars per hour and would add only around two vehicles to the back of the maximum queue at the level crossing.
157. There are clearly a number of routes that can be taken to head towards Basingstoke as an example, from Bramley. The use of Minchens Lane as an alternative to bypass the crossing would place cars onto a noticeably poorer route with limited passing paces and forward visibilities. Nonetheless, the time delays do not appear to support a significant change to such routes over the well-established and, even with some queueing, faster route available to access the A33. On balance, while there could be some effect in delays; this position is agreed with the highway authority who found any increase to be within the capacity of the crossing; overall, I cannot conclude that these effects would meet the test of being severe in terms of the Framework²⁶.

²⁵ The Trip Rate Information Computer System

²⁶ National Planning Policy Framework – Paragraph 111

Other Matters

158. A number of concerns were put forward by local residents and other interested parties of which most have been addressed in the main issues above. However, among those put to this appeal, two remain: the development of a greenfield site and impact on ecology; and the overall impact on infrastructure, and in particular the capacity of the GP surgery.
159. While I note that an application was made for the site to be a Local Green Space²⁷, it is not recorded as such in the NDP²⁸ and there is no evidence before me that it is to be taken forward as such in the emerging Local Plan. In terms of ecology, while the proposal would build on current agricultural land, there is substantial evidence, in the biodiversity net gain calculations for example, that there would be an overall positive effect on biodiversity, albeit that cannot be species specific, and some species reliant on open farmland may be affected while other species may benefit very significantly. On balance, I do not consider that this weighs against the proposal.
160. Turning to infrastructure, I deal below with the contributions that will be made by the scheme and I note that it expressly seeks to address facilities identified in the NDP²⁹ as needed or desired by the community. This includes the community building which has been proposed, although not secured, as another retail outlet to the west of the settlement. Nonetheless, I also note the very real concerns regarding the GP surgery.
161. Proposal such as this contribute to an overall infrastructure requirement in accordance with plans set out by the Council, who have not objected on this basis. While I do not have sufficient evidence to conclude that the provision of storage in the community building to support the capacity for the surgery is secured, I do note that it is a proposal and overall, I conclude that additional pressure on infrastructure does not weigh materially against the proposal.

Planning Balance

162. That this is a sensitive site would not be an overstatement. There are heritage assets of value, direct public access to a network of public footpaths to three sides, including ones of obvious local use and a longer distance network regional value. The effect of that sensitivity is a proposal that includes an exceptionally high level of open space to provide separation, screening and the provision of facilities sought by the community.
163. I have found harm to heritage assets and have given this weight in accordance with my statutory duties and Framework expectations. Nonetheless, this harm would generally be to the lower end of LTS and must be considered against the public benefits of the proposal.
164. The scheme would provide important public benefits, including the provision of new and affordable homes in a district with an acknowledged shortfall in housing land supply, together with the provision of other community facilities. It would also provide considerable biodiversity benefits, additional footpath links and secure some pedestrian improvements within the local area.

²⁷ ID 11

²⁸ NDP - Illustration 6d

²⁹ NP Paragraph 5.35

165. Although the main parties differed on the descriptors to be applied to the scale of these benefits, I have taken on board their arguments, including in relation to the proposed facilities meeting or otherwise the needs of the community.
166. I give very significant weight to the benefits of the housing, notably in acknowledgement of the specific need in Bramley for affordable housing and in the district for market housing. I give significant weight to the economic benefits that would arise, and I give moderate weight to the community facilities as, while they would appear to be sought by the community, some, and possibly all in relation to the allotments, are in part to meet the needs of the development. I also give moderate weight to the biodiversity benefits, as although these would be considerable, they are a result of the need to create buffers around the housing to reduce harms to the heritage assets.
167. Nonetheless, set against my findings of heritage harm, even taking account of the importance of the Grade I listed church, I consider that these public benefits, taken in the round, would outweigh the LTS harm I have identified.
168. Turning then to the main issues and compliance with the Development Plan. I have generally found the relevant policies to be consistent with the Framework, including Policy SD1 that has a direct link to the Framework and the presumption it sets out in favour of sustainable development. Notwithstanding my findings on highway matters and drainage, I have found that the proposal does not align with the settlement strategy, Policy SS1 and Policy SS6, and would result in harm to the landscape character and appearance of the area contrary to Local Plan Policies EM1 and EM10 and NDP Policy D1. I have set out that this harm would be moderate to major adverse and I consider this to be of moderate weight against the proposal. I have also found harm to heritage assets contrary to Local Plan Policies EM10 and EM11 and NDP Policy D1. I have found this harm to be significant.
169. In addition, the appellant identified nearly 18Ha of the site as best and most versatile (BMV) agricultural land. Any development of a greenfield site will result in the loss of countryside, either of agricultural, recreational or ecological value. In this case, while much may be retained as open land, it would be lost from production other than for community use, and the loss of BMV consequently represents moderate harm against the proposal.
170. I have found benefits arising from the provision of housing, biodiversity, community facilities and economics that can be considered holistically as being of very significant weight in favour of the proposal. Nonetheless, overall, I consider that the proposal would not accord with the development plan and must be considered in accordance with Local Plan Policy SD1 against other material considerations, including the Framework.
171. As a result of the HLS position, those policies most relevant must be considered out-of-date and the tests under paragraph 11d) apply. My finding regarding heritage assets means that there are no policies within the Framework which provide a clear reason for refusal. The proposal therefore falls to be considered under paragraph 11d)ii.
172. In such circumstances, the adverse impacts I have identified do not significantly and demonstrably outweigh the very significant weight I have

identified in terms of the **proposal's** benefits; the presumption in favour of sustainable development applies.

173. Applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. However, in this case other considerations indicate the decision should be taken otherwise than in accordance with the development plan.

Planning Obligation

174. The Council has an adopted CIL Schedule, but additional contributions are addressed in the submitted Unilateral Undertaking (UU). This additionally sets out the provision of 40% affordable housing, which the Council have accepted would ensure appropriate provision, the provision of equipped play space, multifunctional green spaces, the skate park, bowling green and clubhouse, allotments and community building. It further secures the highway works including pedestrian and crossing improvements.
175. The Council raised concerns regarding the community building use, but I note that the UU requires Council agreement of a marketing, maintenance and management plan which should allow sufficient control over the intended use. However, it would remain dependant on commercial opportunities to determine whether it would be a shop, storage for the surgery or some other use for the community. Concerns regarding the allotments are adequately addressed in the requirement to approve the specification.
176. The UU also addresses contributions in relation to monitoring requirements and specifically to a School Travel Plan and to public rights of way, and I have considered these matters in light of the Framework, paragraph 57, and the statutory tests introduced by The Community Infrastructure Levy (CIL) Regulations, 2010.
177. In terms of these contributions, I note the justification in the HCC repsonsen dated 21 July 2022³⁰n and in principle acceptance by te appeant in the SoCG; I see no reason to disagree.
178. However, as set out above, the appellant questions the extent of the rights of way contribution sought. It is obvious that the introduction of housing here and links to the footpath network would result in increased pressure on these footpaths from new residents as well as from increased use by people from outside the development attracted by and accessing the new facilities proposed.
179. A detailed submission was made³¹ confirming the costings and intended delivery associated with the sums sought. On this basis, I am satisfied that this contribution meets the relevant tests
180. The S106 agreement is a material consideration. I am satisfied those provisions relating to affordable housing, community facilities and financial contributions meet the three tests of the 2010 Regulations, in that they are necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development. Each may be justified by reference to the objectives of

³⁰ CD2.9

³¹ ID19

the relevant parts of the development plan. I have therefore taken it into account in determining the appeal.

Conditions

181. Turning to conditions. I have had regard to the advice in the Planning Practice Guide and the suggested conditions, which were discussed at the Inquiry. In addition to standard commencement conditions, for an outline application (Conditions 2, 3 and 4), I have imposed a plans condition as this is necessary in the interests of certainty and highway safety (1). Specifications for the Reserved Matters are required to ensure delivery of a high-quality development (5), including landscaping (6) and site levels (7).
182. Pre-commencement conditions are required. I have imposed these in the interest of ensuring appropriate controls during the construction period related to living conditions and highways safety (8), as well as servicing of the community building (9) and highway improvements (10), also to accord with proposals and secure highway safety. Tree protection shall be secured through an approved protection plan (11) and, in light of the past historic connections of the site, archaeological surveys, and, if required, mitigation programmes are also necessary (12 and 13). Similarly, a condition requiring a contaminated land assessment is required, along with any required remedial works (14) and verification (15), to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors. Finally, to address flood risk, I have imposed a pre-commencement condition to prepare a drainage strategy (16) and to include future maintenance and management responsibilities (17).
183. To protect and enhance species and habitats on site, I have imposed conditions to ensure compliance with the prepared strategies and assessments, subject to verification surveys prior to works commencing on site (18 and 19), and to protect bats, I have imposed a condition requiring a lighting scheme (20). For highways safety and to ensure an appropriate provision I have imposed a condition seeking details of refuse and recycling provisions (21), and to ensure sustainable water use, one requiring details of construction to maximise efficiency (22). To address any noise concerns from required mechanical heating or ventilation, an internal noise rating is set out (23). Accessible and adaptable housing standards are required for a minimum of 15% of properties (24)
184. Prior to occupation, the access and appropriate visibility splays must be secured (25), as well as the future management and maintenance of streets within the development (26), in the interest of highways safety. Finally, it is necessary to address the foul drainage restrictions associated with the sewerage capacity issues within Bramley (27), as considered in my drainage section above.
185. I have chosen not to impose two conditions suggested by the Council which expressly dealt with matters that will be subject to Reserved Matters applications. Furthermore, there was discussion at the Inquiry over whether a condition requiring compliance with the DAS should be imposed, although no such condition was formally tabled. This scheme is highly dependent on a design which delivers on the ambition of extensive and protective open space of ecological value as set out in the DAS. I am satisfied that the requirement to comply with this ambition is sufficiently clear that a condition would be

unnecessary and, as set out above, I consider that the Council would be in a strong position to resist any deviation from the principal layout and delivery of facilities encompassed in the illustrative masterplan.

Conclusion

186. The appeal scheme would conflict with the development plan taken as a whole. However, in this instance, material considerations, namely the Framework, indicate that the appeal should be determined otherwise than in accordance with the development plan.

187. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be allowed.

Mike Robins

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Charles Banner KC
and Nick Grant

Counsel for and instructed by Wates
Developments Ltd

They called:

Jeremy Smith
BSc(Hons) PGDip LA, MCLI

Landscape: Director - SLR Consulting Limited

Richard Burton
AOU BA(Hons) DIPLA CMLI

Urban Design: Director - **Terence O'Rourke Ltd**

Gail Stoten
BA(Hons) MCIA FSA

Heritage: Director - Pegasus Planning Group

James Bevis
MEng CMILT

Transport/Highways: Partner of i-Transport LLP

Alan Brackley
BEng(Hons) CEng FICE
FIStructE FCIHT

Drainage: JNP Group Consulting Engineers

Asher Ross
BSc(Hons) MPhil MRTPI

Planning: Director - Wates Developments Ltd

FOR THE LOCAL PLANNING AUTHORITY:

Heather Sargent
of Counsel

Instructed by Basingstoke and Deane Borough
Council

She called:

Dr David Hickie
BSc(Hons) MA PhD CMLI
ASLA CEnv MIEMA IHBC

Landscape and Heritage:
Principal Consultant David Hickie Associates

Tim Dawes
BA(Hons) MRTPI

Planning Matters:
Planning Director Planit Consulting

INTERESTED PARTIES:

Mr Carne
Cllr Flooks
Cllr Bell
Cllr Tomblin
Cllr Durrant
Cllr Robinson

Local Resident – Stokes Farmhouse
Parish Councillor – Chair of Planning Committee
Bramley Parish Council
Parish and Ward Councillor
Parish and Ward Councillor
Ward Councillor – Chair of Development Control Committee

SCHEDULE 1: DOCUMENTS

Inquiry Documents and Core Documents are available on [22/00029/FTD | Outline planning permission Stocks Farm The Street Bramley Hampshire \(basingstoke.gov.uk\)](https://www.basingstoke.gov.uk/planning-permission/stocks-farm-the-street-bramley-hampshire)

INQUIRY DOCUMENTS

ID1	Notification Letter
ID2	British Standard 7913 – 2013 – see core document CD.5.16
ID3	ICOMOS guidance on heritage
ID4	Extract GLVIA 1
ID5	Council’s Case Law Authorities a) Wyatt b) Visao Limited
ID6	Council’s Opening Statement
ID7	Appellant’s Opening Statement
ID8	Cllr Bell’s comments
ID9	Package of sewerage statements and emails from the Parish Council
ID10	Future Development Challenges – Overview
ID11	Local Green Space – Site Promotion Form
ID12	Councillors Tomblin’s comments
ID13	Cllr Robinson’s comments
ID14	Housing Land Supply Statement of Common Ground
ID15	Basingstoke and Deane Borough Council: Updated Housing Land Supply Position (January 2023)
ID16.1	17/00818/OUT Manydown Decision Notice
ID16.2	23/00032/FUL Manydown Planning Statement
ID17.1	Sewage problems in Bramley, Feb 2023
ID17.2	Sewage Photos Bramley
ID17.2	Sewage Photos Bramley
ID18	Use Class Order – Extract
ID19	Countryside Planning Service – Right of Way Contribution Calculation
ID20	Council Closing Statement
ID21	Appellant Closing Statement
ID22	JPL Article
ID23	Case Law – Swainsthorpe Parish Council, R v Norfolk County Council [2021] EWHC 1014 (Admin)

Submitted after the Inquiry

ID24	Unilateral Undertaking signed and dated 1 February 2023
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CORE DOCUMENTS

CD1: Application Documents

- CD1.1 – Planning Statement
- CD1.2 – Design and Access Statement
- CD1.3 – Landscape and Visual Appraisal
- CD1.4 – Transport Assessment
- CD1.5 – Framework Travel Plan (May 2022)
- CD1.6 – Heritage Statement (March 2022)
- CD1.7 – Flood Risk Assessment and Drainage Strategy
- CD1.8 – Utilities Appraisal
- CD1.9 – Environmental Statement
- CD1.10 – Foul Water Drainage Strategy (31 January 2022)
- CD1.11 – 1st Transport Assessment Addendum (5 May 2022)
- CD1.12 – 2nd Transport Assessment Addendum (17 August 2022)

CD2: Council / Consultee Documents

- CD2.1 – Council Screening Report (Ref: 21/03344/ENSC)
- CD2.2 – Updated Housing Land Supply Position (March 2022)
- CD2.3 – **Council's Putative Reasons for Refusal**
- CD2.4 – 1st Historic England Response (8 March 2022)
- CD2.5 – 2nd Historic England Response (21 April 2022)
- CD2.6 – **Council's Historic Environment Response (3 May 2022)**
- CD2.7 – **Council's Landscape Team Response (26 April 2022)**
- CD2.8 – HCC Highways 1st Response (31 March 2022)
- CD2.9 – HCC Highways 2nd Response (21 July 2022)
- CD2.10 – HCC Highways 3rd Response (19 October 2022)
- CD2.11 – Council Annual Monitoring Report 21-22 (December 2022)

CD3: Planning Policy

- CD3.1 – Basingstoke and Deane Local Plan 2011-2029
- CD3.2 – Bramley Neighbourhood Development Plan 2011-2029 (March 2017)
- CD3.3a – Conservation Area Appraisal Bramley and Bramley Green
- CD3.3b – Conservation Area Map Bramley and Bramley Green
- CD3.4 – Housing SPD (2018)
- CD3.5 – Landscape, Biodiversity and Trees SPD (2018)
- CD3.6 – Planning Obligations and Infrastructure SPD (2018)
- CD3.7 – Heritage SPD (2019)
- CD3.8 – National Design Guide

CD4: Case Law / Judgements

- CD4.1 – APP/H1705/W/21/3269526, Land to the East of Station Road, Oakley, Hampshire Station Road Decision
- CD4.2 – APP/H2265/W/20/3256877, Land West of Winterfield Lane, East Malling ME19 5EY Winterfield Lane Decision
- CD4.3 – APP/H2265/W/20/3256877, Land between Woodchurch Road and Appledore Road, Tenterden, Kent TN30 7AY Tenterden Decision
- CD4.4 – APP/D0121/W/21/3286677, Rectory Farm, Chescombe Road, Yatton, Bristol BS49 4EU Yatton Decision

- CD4.5 – APP/H1705/W/21/3276870, Land Adjacent to Two Gate Lane, Basingstoke RG25 3TG Two Gate Lane Decision
- CD4.6 – APP/H1705/W/21/3274922, Land west of Pond Close, Overton RG25 3LY Pond Close Decision
- CD4.7 – APP/H1705/W/20/3256041, Land south of Silchester Road and west of Vyne Road, Bramley RG26 5DQ Silchester Road Decision
- CD4.8 – APP/A1720/W/20/3254389, Land east of Posbrook Lane, Tichfield, Fareham PO14 4EY Posbrook Lane Decision
- CD4.9 – APP/L3815/W/22/3291160, Land south of Clappers Lane, Earnley, Chichester PO20 7JJ Clappers Lane Decision
- CD4.10 – APP/H1705/W/22/3300098, Land adjoining Clift Surgery, Minchens Lane, Bramley, Basingstoke, Hampshire RG26 5BH Clift Surgery Decision
- CD4.11 – Council of the City of Newcastle Upon Tyne v Secretary of State for Levelling Up, Housing and Communities [2022] EWHC 2752 (Admin) (01 November 2022 Newcastle HC Judgement)

CD5: Other / Misc

- CD5.1 – Landscape Institute and IEMA: Guidelines for Landscape and Visual Impact Assessments Version 3 (2013)
- CD5.2 – Assessing Landscape Value Outside National Landscape Designations (Landscape Institute Guidance Note 02/21)
- CD5.3 – Basingstoke and Deane Landscape Character Assessment (2021)
- CD5.4 – Basingstoke and Deane Landscape Sensitivity Study (2021)
- CD5.5 – Basingstoke and Deane Green Infrastructure Study (2018)
- CD5.6 – **Natural England's National Landscape** Character Area (NCA) 129: Thames Basin Heath
- CD5.7 – Hampshire County Integrated Character Assessment (May 2012)
- CD5.8 – Basingstoke, Tadley and Bramley Landscape Capacity Study (February 2008)
- CD5.9 – ILP Guidance Note 01/21 – The Reduction of Obtrusive Light (2021)
- CD5.10 – Historic England The Setting of Heritage Assets Historic Environment Good Practice Advice in Planning Note 3 (2nd Edition)
- CD5.11 – English Heritage Conservation Principles: Policies and Guidance for the Sustainable Management of the Historic Environment (London, April 2008)
- CD5.12 – Historic England Managing Significance in Decision-Taking in the Historic Environment: Historic Environment Good Practice Advice in Planning: 2 (2nd Edition, Swindon, July 2015)
- CD5.13 – Historic England Statements of Heritage Significance: Analysing Significance in Heritage Assets, Historic England Advice Note 12 (Swindon, October 2019)
- CD5.14 – Planning Practice Guidance: Historic Environment (PPG) (revised edition, 23rd July 2019)
- CD5.15 – Secretary of State Screening Direction
- CD5.16 – BSI Guide to the Conservation of Historic Buildings (2013)

CD6: Appeal Documents

- CD6.1 – **Appellant's Statement of Case**
- CD6.2 – Overarching Statement of Common Ground
- CD6.3 – **Council's Statement of Case**

- **CD6.4** – Statement of Common Ground between Appellant and Hampshire County Council (Highways)
- **CD6.5** – Statement of Common Ground between Thames Water, Basingstoke and Deane Council and the Appellant (Drainage)
- **CD6.6** – Statement of Common Ground between Appellant and Basingstoke and Deane Council (Landscape)

SCHEDULE 2: CONDITIONS

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - **Site Location Plan** –Application Boundary
 - **Proposed Site Access Arrangement**, No: ITB15312-GA-001 Rev F
- 2) Details of the appearance, landscaping, layout and scale (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
- 3) Applications for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 4) The development hereby permitted shall begin no later than two years from the date of approval of the last of the reserved matters to be approved.
- 5) Applications for the approval of reserved matters shall be supported by a statement of how the development will be of a high quality of sustainable design. This will include reference to how the layout, design and construction of the development will involve the efficient use of natural resources through reducing resource requirements in terms of energy demands and water use; the consideration of opportunities for renewable and low carbon energy technologies; the use of passive solar design to maximise the use of the sun's energy for heating and facilitate sustainable cooling of buildings; and the mitigation of flooding, pollution and overheating.
- 6) Applications for the approval of landscape reserved matters shall be accompanied by a hard and soft landscape plan, ground levels and contours across the site and an implementation programme.

The development shall be carried out and thereafter maintained in accordance with the details so approved, (and in accordance with the separate Landscape Management Plan secured under any agreed Unilateral Undertaking, to include detailed long term design objectives, management responsibilities and maintenance schedules for all landscape areas to address all operations to be carried out in order to allow successful establishment of planting and the long term maintenance of the landscaping in perpetuity, and including provisions for review at least every five years).

Any trees or plants which, within a period of five years after planting, are removed, die or become seriously damaged or defective, shall be replaced in the next planting season with others of species, size and number as originally approved, to be agreed in writing by the local planning authority.
- 7) Applications for the approval of reserved matters shall be accompanied by a measured survey and a plan prepared to a scale of not less than 1:500 showing details of existing and intended final ground levels and finished floor levels in relation to a nearby agreed datum point which shall be submitted to and approved in writing by the local planning

authority. The development shall be carried out in accordance with the approved details.

- 8) No development shall take place (including site preparation and any groundworks) until a site-specific Construction Environmental Management Plan has been submitted to and approved in writing by the local planning authority. The approved Management Plan shall be adhered to throughout the construction period. The Management Plan shall include:
- **Procedures for maintaining good public relations including complaint management;**
 - **public consultation and liaison;**
 - **arrangements for liaison with the Council's Environmental Protection Team;**
 - **all works and ancillary operations which are audible at the site boundary, or at such other place as may be agreed with the local planning authority, shall be carried out only between the following hours: 0730 Hours and 1800 Hours on Mondays to Fridays and 0800 and 1300 Hours on Saturdays and at no time on Sundays and Bank Holidays;**
 - **deliveries to and removal of plant, equipment, machinery and waste from the site must only take place within the permitted hours detailed above;**
 - **mitigation measures as defined in BS 5528: Parts 1 and 2: 2009 Noise and Vibration Control on Construction and Open Sites shall be used to minimise noise disturbance from construction works;**
 - **procedures for emergency deviation of the agreed working hours;**
 - **an undertaking to require all contractors to be 'Considerate Contractors' when working in the Borough by being aware of the needs of neighbours and the environment;**
 - **control measures for dust, dirt and other air-borne pollutants;**
 - **measures for controlling the use of site lighting whether required for safe working or for security purposes;**
 - **the approved plan shall be adhered to during the demolition / construction period of the development;**
 - **means of direct access (temporary or permanent) to the site from the adjoining maintainable public highway;**
 - **the parking and turning of vehicles of site operatives and visitors off carriageway, timeframes of delivery to be provided;**
 - **loading and unloading of plant and materials away from the maintainable public highway, where appropriate;**
 - **storage of plant and materials used in constructing the development away from the maintainable public highway;**
 - **the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;**
 - **a scheme for recycling and disposing of waste resulting from construction work, the management and coordination of deliveries of**

plant and materials and the disposing of waste resulting from construction activities so as to avoid undue interference with the operation of the public highway, particularly during the Monday to Friday AM peak (0630 to 0930) and PM peak (1600 to 1830) periods;

- **the routes to be used by construction traffic** to access and egress the site so as to avoid undue interference with the safety and operation of the public highway and adjacent roads, including construction traffic holding areas both on and off the site as necessary;
- **method of cleaning wheels and chassis** of all HGV's, plant and delivery vehicles leaving the site;
- **means of keeping the site access road and adjacent public highway** clear of mud and debris during site demolition, excavation, preparation and construction. No vehicles shall leave the site in a condition whereby mud, clay or other deleterious materials shall be deposited on the public highway.

The scheme shall be implemented in accordance with the approved details and shall be installed and operational before any development commences and retained in working order throughout the duration of the development.

- 9) No development shall take place until a Service Management Plan including details of how the servicing of the use Class E unit will be managed, including limits on the maximum size and weight of vehicle which will serve the unit, has been submitted to and approved in writing by the local planning authority. The maximum size of vehicle serving the Class E unit shall not exceed 7.5T box van or a 7.5T rigid vehicle. The development shall be operated in accordance with the approved Service Management Plan for the lifetime of the development.
- 10) No development shall take place on the site until a scheme has been submitted to and approved in writing by the local planning authority detailing pedestrian and cycle connections to the surrounding network and improvements to the local pedestrian facilities on the highway including tactile paving provision and the upgrading of the bus stops, together with a scheme of delivery. The approved connections and highway works shall be implemented in accordance with the scheme of delivery agreed above.
- 11) No development or other operations (including site preparation and any groundworks) shall commence on site until a Tree and Hedgerow Protection Plan has been submitted to and approved in writing by the local planning authority to secure protection to trees and hedgerows which are to be retained on or close to the site (including the new access). These details shall include an Arboricultural Impact Assessment (AIA), an Arboricultural Method Statement (AMS) and a **Tree/hedge Protection Plan, all prepared in accordance with BS5837:2012 "Trees in relation to design, demolition and construction"**. The approved tree and hedgerow protection shall be erected prior to any site activity commencing and maintained until completion of the development. No development or other operations shall take place other than in complete accordance with the Tree and Hedgerow Protection Plan.

- 12) No development shall take place on site until an archaeological evaluation of the site has been carried out in accordance with a written scheme of investigation which has first been submitted to and approved by in writing the local planning authority. The results of the investigation shall inform mitigation required in connection with condition 13.
- 13) No development shall take place on site until a programme of archaeological mitigation (if required) has been submitted to and approved in writing by the local planning authority. The programme of archaeological mitigation shall be carried out in accordance with the approved details.
- 14) No works pursuant to this permission (excluding demolition, removal of existing hardstanding and any underground infrastructure) shall commence until there has been submitted to and approved in writing by the local planning authority: -
- (a) a site investigation report documenting the ground conditions of the site and incorporating chemical and gas analysis identified as being appropriate by the desk study in accordance with BS10175: 2011- Investigation of Potentially Contaminated Sites - Code of Practice; and, unless otherwise agreed in writing by the local planning authority,
- (b) a detailed scheme for remedial works and measures to be undertaken to avoid risk from contaminants/or gases when the site is developed. The scheme must include a timetable of works and site management procedures and the nomination of a competent person to oversee the implementation of the works. The scheme must ensure that the site will not qualify as contaminated land under Part IIA of the Environmental Protection Act 1990 and if necessary, proposals for future maintenance and monitoring.
- Important note: Unless part (a) identifies significant contamination, it may transpire that part (a) is sufficient to satisfy this condition, meaning parts (b) need not be subsequently carried out. This would need to be agreed in writing by the local planning authority. If during any works contamination is encountered which has not been previously identified it should be reported immediately to the local planning authority. The additional contamination shall be fully assessed and an appropriate remediation scheme, agreed in writing with the local planning authority. This must be conducted in accordance with DEFRA and the Environment Agency's 'Land Contamination Risk Management (LCRM)'.
<https://www.gov.uk/government/publications/land-contamination-risk-management-lcrm>
- 15) The development hereby permitted shall not be occupied/brought into use until there has been submitted to and approved in writing by the local planning authority a verification report carried out by the competent person approved under the provisions of condition 14(b) that any remediation scheme required and approved under the provisions of condition 14(b) has been implemented fully in accordance with the approved details (unless varied with the written agreement of the local planning authority in advance of implementation). Unless otherwise agreed in writing by the local planning authority such verification shall comprise:
- as built drawings of the implemented scheme;

- **photographs of the remediation works in progress;**
- **certificates demonstrating that imported and/or material left in situ is free of contamination.**

Thereafter the scheme shall be monitored and maintained in accordance with the scheme approved under condition 11(b).

- 16) No development shall take place until a detailed surface water drainage scheme for the site, based on the principles within the Flood Risk Assessment and Drainage Strategy ref: C86573-JNP-XX-XX-RP-C-1001, has been submitted and approved in writing by the local planning authority. The submitted details should include:

- **A technical summary highlighting any changes to the design from that within the approved Flood Risk Assessment.**
- **Detailed drainage layout drawings at an identified scale** indicating catchment areas, referenced drainage features, manhole cover and invert levels and pipe diameters, lengths and gradients.
- **Detailed hydraulic calculations for all rainfall events, including the listed below.** The hydraulic calculations should take into account the connectivity of the entire drainage features including the discharge location. The results should include design and simulation criteria, network design and result tables, manholes schedule tables and summary of critical result by maximum level during the 1 in 1, 1 in 30 and 1 in 100 (plus an allowance for climate change) rainfall events.

The drainage features should have the same reference that the submitted drainage layout.

- **Evidence that Urban Creep has been considered** in the application and that a 10% increase in impermeable area has been used in calculations to account for this.
- **Confirmation on how impacts of high groundwater will be managed** in the design of the proposed drainage system to ensure that storage capacity is not lost, and structural integrity is maintained.
- **Confirmation that sufficient water quality measures have been included** to satisfy the methodology in the Ciria SuDS Manual C753.
- **Exceedance plans demonstrating the flow paths and areas of ponding** in the event of blockages or storms exceeding design criteria.

The development shall be carried out in accordance with the approved details.

- 17) Details for the long-term maintenance arrangements for the surface water drainage system shall be submitted to and approved in writing by the local planning authority prior to the first occupation of any of the dwellings. The submitted details shall include;
- a) Maintenance schedules for each drainage feature type and ownership
 - b) Details of protection measures.
- 18) The recommendations and procedures contained within the Dormouse Mitigation Strategy by Ecology Solutions dated May 2022 shall be subject to a verification survey prior to works commencing on site. The verification survey report shall be submitted to and approved in writing

- by the local planning authority. Development should be undertaken in line with those recommendations, including any approved modifications arising from the survey.
- 19) The recommendations and procedures contained within the Ecological Assessment by Ecological Solutions dated 12/2021, shall be subject to a verification survey prior to works commencing on site. The verification survey report shall be submitted to and approved in writing by the local planning authority. Development should be undertaken in line with those recommendations, including any approved modifications arising from the survey.
 - 20) No development above ground floor slab level shall commence on site until a fully detailed lighting scheme has been submitted to and approved in writing by the local planning authority. The lighting scheme shall include full lighting specifications and address the cumulative effects of external lighting sources upon nocturnal animals sensitive to external lighting (such as owls, bats and dormice). The lighting shall be installed before the development is first occupied and shall thereafter be operated and maintained in accordance with the approved scheme.
 - 21) No development above slab level shall take place on site until details of the refuse and recycling storage and collection facilities have been submitted to and approved in writing by the local planning authority. All dwellings shall provide for 1 number 140ltr refuse 2-wheeled bin, 1 number 240ltr recycling 2-wheeled bin and 1 number glass recycling box within their respective curtilages with a transit route between the storage and collection point not more than 15 metres carrying distance from the carriageway. The areas of land so provided shall not be used for any purposes other than the storage (prior to disposal) or the collection of refuse and recycling. The approved details shall be constructed and fully implemented before the use hereby approved is commenced and shall be thereafter maintained in accordance with the approved details.
 - 22) No development above ground floor slab level shall commence on site until a Construction Statement detailing how the new homes shall meet a water efficiency standard of 110 litres or less per person per day (unless otherwise agreed in writing with the local planning authority through a demonstration that this requirement for sustainable water use cannot be achieved on technical or viability grounds) shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
 - 23) Where it is necessary to install mechanical ventilation heat recovery (MVHR) the internal noise levels associated with any mechanical units and associated ductwork shall not exceed noise rating (NR) 25. The ventilation system shall be designed to ensure that noise from external sources is not conducted into any habitable room.
 - 24) A minimum of 15% of the properties (an appropriate housing mix) shall be built to accessible and adaptable standards (M4(2) compliant) to enable people to stay in their homes as their needs change. No development above ground floor slab level shall commence on site until details of which properties are to be built to such standards are submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

- 25) No dwelling shall be occupied until the means of vehicular access to the site has been constructed in accordance with the approved plans (Drawing No. ITB15312-GA-001 Rev F). No structure, erection or planting exceeding 1.0m in height shall thereafter be placed within the visibility splays shown on the approved plans. These splays shall be maintained at all times thereafter. The access road and turning area shall be constructed to the equivalent of adoptable standards that thereafter maintained to a suitable condition to withstand repeated use by delivery vehicles or a waste collection vehicle of a minimum gross weight of 26 tonnes.
- 26) No dwelling shall be occupied until details of the proposed arrangements for future management and maintenance of the proposed streets within the development have been submitted to and approved in writing by the local planning authority. The streets shall thereafter be maintained in accordance with the approved management and maintenance details until such time as an agreement has been entered into under section 38 of the Highways Act 1980 or a private management and maintenance company has been established, details of which shall have first been submitted to and approved in writing by the local planning authority.
- 27) No dwelling hereby permitted shall be occupied until
- 1) the network reinforcement works necessary to accommodate the development are operational and the existence of sufficient sewage capacity is confirmed in writing to the local planning authority by the sewerage undertaker or
 - 2) an infrastructure phasing plan to ensure no exacerbation of sewage flooding in Bramley has been submitted to and agreed in writing with the local planning authority. The infrastructure phasing plan shall include details of the proposed infrastructure together with timescales for implementation, as well as trigger points for when any temporary measures may be brought into effect and details of what those temporary measures comprise.

APPENDIX 8

From: GI Landscape <>

Sent: Monday, April 24, 2023 2:03 PM

To: Lee Bowering <>

Cc: Samantha Phillips <>; Esther Coffin-Smith <>; Elaine Bowman <>; Andrew Carroll <>; Simon Bunn <>; Karlie Phillips <>; Kieran Oliver <>; James McCarthy <>

Subject: RE: Consultation - Land West of Yatton - Planning application 23/P/0664/OUT - Landscape & s106 GI Request

Hi Lee

It is noted that this is not an allocated site, but it has been previously discussed as having potential at the recent Rectory Farm appeal and at pre-application for a larger proposal 22/P/2451/PR2.

Illustrative Masterplan - Drwg.No. edp7842_d003g

This indicates the development in a strip broadly following the settlement edge, with a wide buffer to the Strawberry Line. The buffer is occupied by a large public open space and ecology zone.

The proposed built area is identified as of 'low' sensitivity to housing in the NS Landscape Sensitivity Assessment 2018. The fields bordering the Strawberry Line are 'Medium' sensitivity and the Strawberry Line and beyond is of 'High' sensitivity. The NS Landscape Character Assessment records the A1 Kingston Seymour and Puxton Moors LCA as of strong character and an area in good condition, however this section is heavily influenced by the settlement edge and contained from the wider moor by the extensive tree and shrub growth along the Strawberry Line bordering much of the site. In landscape terms the site can accommodate housing without impacting upon the wider landscape and Strawberry Line, subject to suitable buffers being retained. It is good to see that key characteristics like the watercourses have been accommodated in wide green corridors and the scheme can bring about visual improvements to this edge of Yatton if well designed and executed..

The illustrative plan indicates too many small scale play sites, often too close to dwellings. However the larger play area in the Community Park seems well sited and can form a central NEAP. I would suggest this is supplement by 2 LEAPS for younger children to the north and south of the site, (primarily toddler and pre-school), but it can feature a few junior items to cater for a wider age range if space allows (see s106 request below). I would suggest one goes southwest of the indicated Community Hub, on the opposite side of the road, as there is a good crossing point to the path network here. The second LEAP, near the allotments, would be better sited southeast of them where there would be better visibility of it.

Omit or move trim trail items outside properties on the east side of the plan.

Illustrative Landscape Masterplan - Drwg.No.YW-034 Rev D

I agree with the general approach outlined. Path connectivity to the Community Park, needs improving, both north and south (bridging the watercourses). Many of the public open space area appear to have no obvious maintenance access from

within the site, access from the Strawberry Line is not considered desirable because of the potential conflict with cyclists and pedestrians.

If minded to approve the proposal, detailed hard and soft landscape plans will be required for both the residential site and public open space areas along with the detail of the play areas trim trails and allotments (reserved matters).

Landscape and Visual Appraisal

This is a comprehensive appraisal of the site and its immediate surroundings, which I accept are well enclosed from the wider landscape, save for an elevated view from Cadbury Hill.

Whilst there are some high sensitivity receptors, only views from Shiners Elms would experience a medium/substantial change in view after construction, other views affected being under this magnitude. This is because it forms a main access into the site, opening it up to view. However it is noted *'Over time proposed vegetation including tree planting would progressively filter views into the site'*. It is noted residents, cyclists, pedestrians and vehicle users here would experience Moderate/Major negative visual effects.

The landscape effects on the overall character are considered moderate and negative but becoming neutral to the west. I would agree with the LVA notes in respect of this:

'The site is on the edge of the settlement within an area of settled character. The perception of landscape change would be localised as a result of the existing level of enclosure which would increase over time as proposed planting establishes. The change in character would be focused upon an area that is already strongly influenced by the settlement edge, with more open and remote areas to the west of the Strawberry Line having no direct effects and only short to medium term glimpses of the proposed new homes'.

S106 Green Infrastructure Request

Attached.

Regards

Kevin

Kevin Carlton
S106 Project Officer
Place Directorate
North Somerset Council

Tel:

E-Mail:

Post: Town Hall, Walliscote Grove Road, Weston-super-Mare, BS23 1UJ

Web: www.n-somerset.gov.uk

APPENDIX 9



Town and Country Planning Act 1990
Planning and Compulsory Purchase Act 2004

Section 78 Appeal by Persimmon Homes Severn Valley

**Land at Rectory Farm (North),
Chescombe Road, Yatton**

Flood Risk Sequential Test Sites Portfolio (APPENDIX KV.9)

Kathryn Ventham – BSc (Hons), MSc, MRTPI

LPA: 23/P/0664/OUT
APP/D0121/W/24/3343144

This report has been prepared by Stantec UK Limited ('Stantec') on behalf of its client to whom this report is addressed ('Client') in connection with the project described in this report and takes into account the Client's particular instructions and requirements. This report was prepared in accordance with the professional services appointment under which Stantec was appointed by its Client. This report is not intended for and should not be relied on by any third party (i.e. parties other than the Client). Stantec accepts no duty or responsibility (including in negligence) to any party other than the Client and disclaims all liability of any nature whatsoever to any such party in respect of this report.

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1 INTRODUCTION

1.1 Introduction

- 1.1.1 This Flood Risk Sequential Test (FRST) Sites Portfolio should be read alongside my Proof of Evidence. This Document provides details of the 36 sites in dispute between the parties and sets out my assessment of these sites as part of the Flood Risk Sequential Test.
- 1.1.2 As stated in my Evidence, sites were reviewed spatially to assess where sites could be 'grouped' together to be considered a 'series' of sites, as required by the PPG and as supported by the Lynchmead and Bushey Judgment (**CD.J1**).
- 1.1.3 The March 2023 FRST identified 364 sites and collated these into 195 series of sites. The additional 129 sites collated in March 2024 increased the total number of sites and series of sites to 205. The 9 additional applications found in July 2024 were all at sites which already formed part of the assessment, so it did not yield any new sites or series of sites for this assessment.
- 1.1.4 Through agreeing the list of disputed sites with the Council, the Appendices and Site References used in the March 2024 FRST (**CD.B7**) have been carried through to Evidence for consistency.
- 1.1.5 Most of the sites within this Document follow the same series and grouping as those in the March 2024 FRST, however some have been updated. An example of this is where the Council only disputes one site which formed part of a series in the March 2024 FRST (such as site 150 – Leighton Crescent) or where the Council have grouped two different sites or series together (such as sites 140 and 151 – Land at Elborough).

2 SITES IN DISPUTE

2.1 Statement of Common Ground

- 2.1.1 The parties are preparing a Flood Risk Sequential Test ('FRST') Statement of Common Ground ('SoCG') to set out the respective positions on methodological and site specific matters. It is proposed that this will include mapping for each site and will include settlement mapping in cases where the point being taken by the Council is that a "series" of sites could accommodate the development
- 2.1.2 The Council originally advised on 17th July 2024 that they disputed 57 sites and series of sites. Further iterations of the disputed sites table has been provided by the Council and the parties settled a final list of 36 sites and series of sites in dispute on Wednesday 14th August. This Sites Portfolio sets out my case for each of these in accordance with that agreement.
- 2.1.3 The Council has not provided any justification or reasoning for disputing these sites or for the evolution of their disputed sites list.
- 2.1.4 These 36 sites and/or series of sites in dispute between the parties are set out as follows in **Table 2.1**:

Stantec 2024 FRST Appendix	Stantec 2024 FRST Series No	Site Name	SHLAA References	Planning Application References	Size	Capacity
C	100	Land at Poplar Farm, north of West End, Nailsea	HE203006 (2023)		7.95ha	70 dwellings
G, E	112	Moor Road, Yatton	HE20425	19/P/3197/FUL 3285343	1.87ha	60 dwellings
G, E	113	Land at Rectory Farm and Biddle Street (to the south of the appeal site)	HE2010112	21/P/0236/OUT 23/P/0238/RM	3.85ha	100 dwellings
F	125	Four adjoining sites on the northern fringe of Weston-super-Mare not including Lynchmead Farm, including Ebdon Road, Lyefield Road, Anson Road	HE2027 HE20354 HE20471 HE20495	21/P/3529/OUT 23/P/1439/OUT	35.27ha	285 dwellings
C	133	Weston Rugby Club	HE20U20 (2023)		2.2ha	200 dwellings
C	134	Dolphin Square	HE20U10 (2023)		0.83ha	126 dwellings

Stantec 2024 FRST Appendix	Stantec 2024 FRST Series No	Site Name	SHLAA References	Planning Application References	Size	Capacity
D	136, 137	M5 J21: Sites at Wolvershill, north of Banwell	HE201016 HE201034 HE201086 HE202000 HE20500 HE20592 HE20594 HE20607 HE203003 (2023) 203005 (2023)	24/P/0572/EA2 24/P/0494/EA2		2,800 dwellings
C	138	M5 J21: East of Banwell at Eastermead Lane and Riverside	HE201055 HE20195			165 dwellings
E, F	140, 151	Land at Elborough	HE20637 HE201040			385 dwellings
E	143	Parklands Village: Locking Parklands	HE20U23	09/P/1614/F 12/P/0760/F 13/P/0997/OT2 15/P/1777/RM 17/P/5631/RM 18/P/2925/RM 19/P/0032/RM 21/P/3241/RM	70.09ha	769 dwellings
C	147	Land to the west of the M5, East of Trenchard Road and Land to the West of Trenchard Road		18/P/3038/OUT 22/P/1860/RM	6.04ha	75 dwellings
C	15	Moor Lane, Backwell	HE201014 HE201042 HE201071 HE20501	22/P/0252/OUT	4.64ha	145 dwellings
C	150	Leighton Crescent, WSM	HE201030		2.69ha	81 dwellings
F	16	West of Backwell including Grove Farm - Grove Farm / Rushmoor Lane, Westfield Drive / Rodney Road	HE202008 HE20595 HE203034 (2023)	20/P/1847/OUT 24/P/0533/RM		515 dwellings
C	167	Former TJ Hughes store, 17 High Street, Weston-super- Mare	HE20U25 (2023)	17/P/1832/F 23/P/0985/FUL	0.13ha	32 dwellings
E	17	Farleigh Fields, Backwell	HE203013	21/P/1766/OUT 22/P/2818/RM 23/P/2508/RM 24/P/1185/OUT		250 dwellings

Stantec 2024 FRST Appendix	Stantec 2024 FRST Series No	Site Name	SHLAA References	Planning Application References	Size	Capacity
C	180	Walliscote Place / Police Station / Magistrates Court / Roselawn	HE20712 HE20U18		0.7ha	70 dwellings
C	194	Former Police Depot, Winterstoke Road	HE20U22		0.91ha	36 dwellings
D	198	Site at SW Bristol including proposed smaller allocations (Land north of Colliters Way)	HE20110, HE20139, HE2018, HE2021, HE20286, HE20287, HE20288, HE20321 and HE20615		Allocation area only	215 dwellings
F	25	Cluster of sites to the south of Langford, A38 - Says Lane / Land south of A38 / Bath Road / Land South of Bristol Road and North of Bath Road	HE201013 HE20122 HE20196 HE20629 HE2010105	17/P/2344/O 22/P/0564/OUT	14.5ha	419 dwellings
C	26	Cluster of sites to the north of Langford - North of Pudding Pie Lane / Pudding Pie Lane West / Land South of Jubilee Lane / East of Ladymead Lane	HE201074 HE2023	15/P/1414/O 17/P/1894/RM 15/P/2521/O	7.36ha	191 dwellings
C	30	Land to west of Wyndhurst Farm, Langford	HE20590		3.54ha	100 dwellings
C	31	West of Ladymead Lane, Langford	HE20608		3.84ha	114 dwellings
C	36	Four sites west of Sandford - Land west of Sandford/ Land at Mead Lane/ Land at Mead Farm	HE201012, HE2034, HE2075, HE203008 (2023)		5.18ha	83 dwellings
C	37	Land off Hill Road, Sandford	HE201015		0.97ha	35 dwellings
C	39	Greenhill Lane	HE20344	17/P/0887/O (refused and dismissed) 18/P/3625/OUT (withdrawn) 22/P/0227/OUT (approved) 24/P/0808/RM (pending)	2.74ha	49 dwellings
C	43	Sandford Batch (Broadleaze Farm), Winscombe	HE20187		3.17ha	74 dwellings

Stantec 2024 FRST Appendix	Stantec 2024 FRST Series No	Site Name	SHLAA References	Planning Application References	Size	Capacity
C	45	Land Adjoining Coombe Farm and Shiphamp Lane, Winscombe	HE20716, HE20717	20/P/2724/FUL 22/P/2105/FUL	4.4ha	68 dwellings
C	46	West of Hill Road, adjacent to Quarry Lane, North of Winscombe	HE2076		0.9ha	30 dwellings
C, G	52	Brockley Way and Dunsters Way, North of Claverham	HE201072	15/P/0185/O (withdrawn)	6.8ha	120 dwellings
C	74, 87	Woodhill Nurseries and Land North of Bristol Road	HE20178			80 dwellings
E	90	Youngwood Lane, Land south of The Uplands	HE2065	16/P/1677/OT2 20/P/2347/RM 22/P/1558/RM 24/P/1047/MMA		282 dwellings
E	91	Land South of Nailsea / Land east of Youngwood Lane / Land north and south of Youngwood Lane / Land near the Perrings	HE20591 HE20612 HE202016 HE203007 (2023) HE203016 (2023) HE203020 (2023)	20/P/0861/FUL		600 dwellings
F	92	West End, Engine Lane and Netherton Wood Lane	HE20504 HE20611	23/P/2325/OUT	31.1ha	575 dwellings
E	93	North West Nailsea	HE20273		17.96ha	225 dwellings
C	97	Weston College site, Somerset Square	HE20U05 (2023)	15/P/0997/O 22/P/1296/FUL	0.15ha	28 dwellings

Table 2-1 - 36 Sites in dispute

2.1.5 This Sites Portfolio will now address each of these sites and series of sites in turn to explain why I do not consider that they are reasonably available for the appeal proposals, in accordance with Paragraph 028 of the PPG¹.

¹ PPG Paragraph: 028 Reference ID: 7-028-20220825

3 SMALLER SITES

3.1 Smaller Sites Analysis

- 3.1.1 My Evidence explains that the development and its interconnected benefits are required to be delivered on a site or series of sites that have a relationship as they cannot be delivered if disparately spread across sites which are not contiguous. If the component elements of the appeal scheme were disaggregated and split across an undefined number of sites in North Somerset, the benefits of the proposals would not be realised. This would mean a lesser delivery of affordable housing and less publicly available open space.
- 3.1.2 It is therefore necessary to consider the capacity of sites as part of this assessment. In a case such as this, where the development cannot be split across sites without a relationship, the flexibility to be afforded to that series of sites is important, as emphasised in the Judgment (Paragraph 109 of the Judgment) **(CD.J1)**.
- 3.1.3 On this basis, 25 of the 36 sites that are in dispute between the parties fall into my 'smaller sites' category. As explained in my Proof of Evidence and the previously submitted FRST's, this sequential test discounts sites and series of sites where the capacity is more than 25% smaller than the appeal proposals on the basis of being unable to deliver the benefits of the appeal scheme. This is sites or series of sites which cannot accommodate 143 dwellings or which are less than 10.3ha in size. This approach shows flexibility by the Applicant in setting out parameters for the site search, as repeatedly required by the Judgment.
- 3.1.4 The 25 sites and series of sites that fall into this category are set out in the following **Table 3.1**. 22 of these 25 sites were in the 'Appendix C' category of the March 2024 FRST which also related to smaller sites. Three sites (112 – Moor Road, Yatton, 113 – Rectory Farm, Yatton and 198 – SW Bristol (Land north of Colliters Way)) previously formed part of larger series which the Council do not dispute, and therefore without those other sites, are too small to accommodate the proposals.

Stantec 2024 FRST Appendix	Stantec 2024 FRST Series No	Site Name	SHLAA References	Planning Application References	Size	Capacity
C	100	Land at Poplar Farm, north of West End, Nailsea	HE203006 (2023)		7.95ha	70 dwellings
G, E	112	Moor Road, Yatton	HE20425	19/P/3197/FUL 3285343	1.87ha	60 dwellings
G, E	113	Land at Rectory Farm and Biddle Street (to the south of the appeal site)	HE2010112	21/P/0236/OUT 23/P/0238/RM	3.85ha	100 dwellings
C	133	Weston Rugby Club	HE20U20 (2023)	21/P/3368/OUT	2.2ha	200 dwellings
C	134	Dolphin Square	HE20U10 (2023)		0.83ha	126 dwellings

Stantec 2024 FRST Appendix	Stantec 2024 FRST Series No	Site Name	SHLAA References	Planning Application References	Size	Capacity
C	138	M5 J21: East of Banwell at Eastermead Lane and Riverside	HE201055 HE20195			165 dwellings
C	147	Land to the west of the M5, East of Trenchard Road and Land to the West of Trenchard Road		18/P/3038/OUT 22/P/1860/RM	6.04ha	75 dwellings
C	15	Moor Lane, Backwell	HE201014 HE201042 HE201071 HE20501	22/P/0252/OUT	4.64ha	145 dwellings
C	150	Leighton Crescent, WSM	HE201030		2.69ha	81 dwellings
C	167	Former TJ Hughes store, 17 High Street, Weston-super-Mare	HE20U25 (2023)	17/P/1832/F 23/P/0985/FUL	0.13ha	32 dwellings
C	180	Walliscote Place / Police Station / Magistrates Court / Roselawn	HE20712 HE20U18		0.7ha	70 dwellings
C	194	Former Police Depot, Winterstoke Road	HE20U22		0.91ha	36 dwellings
D	198	Site at SW Bristol including proposed smaller allocations (Land north of Colliters Way)	HE20110, HE20139, HE2018, HE2021, HE20286, HE20287, HE20288, HE20321 and HE20615		Allocation area only	215 dwellings
C	26	Cluster of sites to the north of Langford - North of Pudding Pie Lane / Pudding Pie Lane West / Land South of Jubilee Lane / East of Ladymead Lane	HE201074 HE2023	15/P/1414/O 17/P/1894/RM 15/P/2521/O	7.36ha	191 dwellings
C	30	Land to west of Wyndhurst Farm, Langford	HE20590		3.54ha	100 dwellings
C	31	West of Ladymead Lane, Langford	HE20608		3.84ha	114 dwellings
C	36	Four sites west of Sandford - Land west of Sandford/ Land at Mead Lane/ Land at Mead Farm	HE201012, HE2034, HE2075, HE203008 (2023)		5.18ha	83 dwellings

Stantec 2024 FRST Appendix	Stantec 2024 FRST Series No	Site Name	SHLAA References	Planning Application References	Size	Capacity
C	37	Land off Hill Road, Sandford	HE201015		0.97ha	35 dwellings
C	39	Greenhill Lane, Sandford	HE20344	17/P/0887/O (refused and dismissed) 18/P/3625/OUT (withdrawn) 22/P/0227/OUT (approved) 24/P/0808/RM (pending)	2.74ha	49 dwellings
C	43	Sandford Batch (Broadleaze Farm), Winscombe	HE20187		3.17ha	74 dwellings
C	45	Land Adjoining Coombe Farm and Shiphamp Lane, Winscombe	HE20716, HE20717	20/P/2724/FUL 22/P/2105/FUL	4.4ha	68 dwellings
C	46	West of Hill Road, adjacent to Quarry Lane, North of Winscombe	HE2076		0.9ha	30 dwellings
C, G	52	Brockley Way and Dunsters Way, North of Claverham	HE201072	15/P/0185/O (withdrawn)	6.8ha	120 dwellings
C	74, 87	Woodhill Nurseries and Land North of Bristol Road	HE20178			80 dwellings
C	97	Weston College site, Somerset Square	HE20U05 (2023)	15/P/0997/O 22/P/1296/FUL	0.15ha	28 dwellings

Table 3-1 - Smaller sites in dispute

3.2 Site Justifications

3.2.1 For each of these, I provide additional commentary below.

100 – Land at Poplar Farm, North of West End, Nailsea

3.2.2 This is SHLAA site HE203006 and covers an area of 7.95ha and has a capacity of 70 dwellings, which is below the lower size parameter. Whilst the Council consider that this site should be considered as part of other listed opportunities in Nailsea, it is physically separated from other disputed sites and doesn't therefore form part of a series of sites. This site is also within the control of Crest Nicholson and is therefore not available to the Appellant as per the evidence of Mr Jones.

3.2.3 This site is therefore not reasonably available to accommodate the development.

112 – Moor Road, Yatton

- 3.2.4 This site was granted full planning permission for 60 dwellings through an allowed appeal in April 2022². It covers an area of less than 2ha and is therefore below the lower size parameter required for the proposals. The consented scheme is also significantly different to the scheme which is the subject of this appeal.
- 3.2.5 In the Stantec March 2024 FRST, this site formed part of a series with other sites to the north east of Yatton which covered an area of 12.25ha and could cumulatively accommodate 300 dwellings. This series was previously discounted by the Appellant (see p. 32 of **CD.B7**) on the basis of there being completions on the central site in the series which severs the series of sites into two parts. The site at Moor Road was specifically discounted because it is already being brought forward for development by the Appellant. Furthermore, whilst the Council consider that it should be considered as part of other listed opportunities in Yatton / Claverham, it is physically separated from other disputed sites.
- 3.2.6 The Council's Housing Land Supply Trajectory (**CD.H21**) which was issued in August 2024 includes this site at Moor Road (ref: 4/654) and expects that all 60 dwellings will be completed in the 5 year period, noting that 'groundworks commenced'.
- 3.2.7 This site is therefore not reasonably available to accommodate the development.

113 – Land at Rectory Farm and Biddle Street (to the south of the appeal site)

- 3.2.8 This site was granted outline planning permission for 100 dwellings through an allowed appeal in June 2022³. A reserved matters application⁴ was submitted in March 2023 for 98 dwellings by St Modwen Homes. It covers an area of 3.85ha and is therefore below the lower size parameter required for the proposals. This site is being developed by St Modwen and is therefore not available to the Appellant.
- 3.2.9 In the Stantec March 2024 FRST, this site forms part of a series with the Appeal Site. This specific site was discounted on the basis of not being able to accommodate the proposals. Furthermore, whilst the Council consider that it should be considered as part of other listed opportunities in Yatton / Claverham, it is physically separated from other disputed sites.
- 3.2.10 The Council's Housing Land Supply Trajectory (**CD.H21**) which was issued in August 2024 includes this site at Rectory Farm (ref: 4/716) and expects that all 98 dwellings within the Reserved Matters application will be completed in the 5 year period.
- 3.2.11 This site is therefore not reasonably available to accommodate the development.

133 – Weston Rugby Club, Weston-super-Mare

- 3.2.12 This is SHLAA site HE20U20 and a proposed allocation site in the emerging local plan (albeit that plan is now on pause) which covers an area of 2.2ha with a capacity of 200 dwellings. Whilst the potential capacity could accommodate the number of units

² NSC Ref: 19/P/31974/FUL. PINS Ref: 3285343

³ NSC Ref: 21/P/0236/OUT. PINS Ref: 328667

⁴ NSC Ref: 23/P/0238/RM

of housing proposed, the site area is significantly smaller than the lower parameter required for the Appeal Scheme and would require a high density development, unlike the appeal proposals.

- 3.2.13 A hybrid planning application was approved in November 2022⁵ for the redevelopment of the site, comprising residential development, flexible Class E uses, offices, medical services, GP surgery, clubhouse and associated works, however no reserved matters application have been submitted to date. The Officer Report references the Sunnyside Road masterplan which '*identifies this site as suitable for high density residential development*'.
- 3.2.14 The Council's Housing Land Supply Trajectory (**CD.H21**) which was issued in August 2024 includes this site at Weston Rugby Club (Ref: 4/715) and expects 182 dwellings will be completed in the 5 year period.
- 3.2.15 This site is therefore not reasonably available to accommodate the development.

134 – Dolphin Square, Weston-super-Mare

- 3.2.16 This site refers to SHLAA site HE20U10 and an allocation site which covers an area of 0.83ha. The SHLAA and carried forward draft allocation details state that this site has a capacity of 80 dwellings however the Council have advised that they consider the capacity to be 126 dwellings on the basis of a pre-application enquiry submitted. No further information has been provided about this pre-application enquiry. Nonetheless, the site is still below the lower parameter required; would require the development of a high-density scheme and could not accommodate the proposals.
- 3.2.17 The Council has an extant Dolphin Square SPD dated May 2008 which shows that development opportunities at the site have been considered for over 16 years. There is no evidence that there is a realistic prospect of a deliverable scheme being developed.
- 3.2.18 The Council consider that this site should be considered as part of other listed opportunities in wider Weston-super-Mare. The site is located within the western part of the town and is physically separated from other disputed sites and doesn't therefore form part of a series of sites.
- 3.2.19 This site is therefore not reasonably available to accommodate the development.

138 – East of Banwell at Eastermead Lane and Riverside

- 3.2.20 This series relates to two sites to the east of Banwell comprising SHLAA sites HE201055 and HE20195. These sites were considered as a series as part of the Stantec March 2024 FRST and cover a total area of 6.42ha. The total capacity set out in the SHLAA is 445 dwellings, however the Council dispute this series on the basis of their 'potential' capacity within the SHLAA which is 135 dwellings at HE201055 and 30 dwellings at HE20195, totalling 165 dwellings over the same site area.

⁵ 21/P/3368/OUT

3.2.21 This series was discounted in the March 2024 FRST on the basis of not meeting the lowest size parameter required for the proposal, which is still the reason why this site is not reasonably available to accommodate the development.

147 – Land at Trenchard Road, Weston-super-Mare

3.2.22 This site is to the immediate north west of the intersection between the M5 and A371 in Weston-super-Mare. The site area is 6.04ha. Outline planning permission⁶ was granted in November 2020 for up to 75 dwellings and a reserved matters⁷ application for 74 dwellings was submitted in July 2022 by David Wilson Homes but withdrawn in May 2024.

3.2.23 An application⁸ to part discharge condition 2 of the outline application (which required the first application for the approval of Reserved Matters to be submitted within 3 years from the date of the permission) was submitted by Grassroots Planning in September 2023 on behalf of the Hayes Family. The letter sets out that the owner has now sold the land to a different housebuilder. The letter also references 'tougher market conditions' which have led to this.

3.2.24 This site was discounted in the March 2024 FRST on the basis of not meeting the lowest size parameter required for the proposal, which is still the reason why this site is not reasonably available to accommodate the development.

15 – Moor Lane, Backwell

3.2.25 This series relates to sites to the west of Backwell, to the south of the railway line. These SHLAA sites cover a total area of 4.64ha and have a capacity of 145 dwellings. Whilst the dwelling capacity just meets the lower parameter required, the site area is less than half of the area required. This site is also under the control of M7 Planning (a land promotion company). Therefore the series could not accommodate the appeal proposals.

3.2.26 The Council state that the sites should be considered as part of the other listed opportunities in the Backwell area. The series is only located near to series No. 16 (Grove Farm), however for reasons set out in Section 4, the Grove Farm site is also not reasonably available for development. As such, in my opinion, these cannot form a series of sites to make the Moor Lane development appropriate.

3.2.27 The Moor Lane series is therefore not reasonably available to accommodate the development.

150 – Leighton Crescent, Weston-super-Mare

3.2.28 This site relates to SHLAA site HE201030 which is 2.69ha in size and could accommodate 81 dwellings. As part of the Stantec March 2024 FRST, it formed part of a series totalling 4.63ha and with a capacity of 120 dwellings which included Land to the south of Bleadon Hill, however this site does not form part of the Council's

⁶ NSC Ref: 18/P/3038/OUT

⁷ NSC Ref: 22/P/1860/RM

⁸ NSC Ref: 23/P/1973/AOC

disputed list. This site is therefore below the lower parameter required for the appeal proposals.

3.2.29 Furthermore, whilst the Council consider that it should be considered as part of other listed opportunities in the Weston-super-Mare area, it is physically separated from other disputed sites.

3.2.30 This series of sites is therefore not reasonably available to accommodate the development.

167 – Former TJ Hughes Store, 17 High Street, Weston-super- Mare

3.2.31 This site relates to SHLAA site HE20U25. The Council consider that this site has a capacity of 32 dwellings and its site area is 0.13ha. It is listed in the SHLAA as having a capacity of 40 dwellings and planning permission⁹ granted in February 2024 was for 40 units. The site therefore does not meet the minimum requirements for the appeal proposal and would require a high density development.

3.2.32 The Council state that this site should be considered as part of other listed opportunities in wider Weston-super-Mare. The site is located within the western part of the town and is physically separated from other disputed sites and therefore cannot form part of a series of sites.

3.2.33 The Council's Housing Land Supply Trajectory (**CD.H21**) which was issued in August 2024 includes the Former TJ Hughes Store (ref: 4/649) and expects that 40 dwellings to be completed in the 5 year period.

3.2.34 This series is therefore not reasonably available to accommodate the development.

180 – Walliscote Place, Weston-super-Mare

3.2.35 This is an allocated site of 0.7ha in size and with a capacity of 70 dwellings, which is below the lower size parameter and would require a high density development. Whilst the Council state that this site should be considered as part of other listed opportunities in Weston-super-Mare, it is physically separated from other disputed sites and therefore cannot form part of a series of sites.

3.2.36 This site is therefore not reasonably available to accommodate the development.

194 – Former Police Depot, Winterstoke Road – Weston-super-Mare

3.2.37 This is SHLAA site HE20U22 which is 0.91ha in size and has a capacity of 36 dwellings, which is below the lower size parameter and would require a high density development. Whilst the Council state that this site should be considered as part of other listed opportunities in Weston-super-Mare, it is separated from other disputed sites and therefore cannot form part of a series of sites.

3.2.38 This site is therefore not reasonably available to accommodate the development.

⁹ 23/P/0985/FUL

198 – Site at SW Bristol (Land north of Colliters Way)

- 3.2.39 This site formed part of a larger series within the March 2024 FRST, however the Council have confirmed that the disputed site only relates to the allocation at Land north of Colliters Way. This allocation relates to SHLAA sites HE20286 which is 2.7ha in size and HE20615 which is 7.05 in size. Whilst the allocation is for 215 dwellings, the site size at 9.75ha is below the lower parameter for the site.
- 3.2.40 This site is therefore not reasonably available to accommodate the development.

26 – Sites to the North of Langford (North of Pudding Pie Lane / Pudding Pie Lane West / Land South of Jubilee Lane / East of Ladymead Lane) – Langford

- 3.2.41 This relates to a series of sites to the north of Langford. There is a current allocation in a central part of the site for 35 dwellings and proposed additional allocations of 156 dwellings (comprising sites of 70 dwellings (HE2023), 21 dwellings (also HE2023) and 65 dwellings (HE20174)), taking the total capacity to 191 dwellings across the series area of 7.36ha. SHLAA site HE2023 is under the control of M7 Planning and is therefore not available to the Appellant.
- 3.2.42 Whilst the dwelling capacity meets the lower parameter required, the site area is significantly less than the area required. This series was discounted in the March 2024 FRST on the basis of not meeting the lowest size parameter required for the proposal, which remains the reason why this site is not reasonably available to accommodate the development.

30 – Wyndhurst Farm, Langford

- 3.2.43 This relates to SHLAA site HE20590 which is 3.54ha in size and has a capacity of 100 dwellings, which is below the lower size parameter. The 2023 SHLAA (**CD.H19**) states that this site '*is detached from the main areas of settlement separated by the A38*'.
- 3.2.44 The Council state that this site should be considered alongside the 'cluster of sites to the south of Langford, A38 set out in a separate record'. This relates to series 25. For reasons set out in Section 4, the South of Langford series is also not reasonably available for development. Site 30 and Series 25 are also separated by the A38 bypass which would not deliver a cohesive development, the justifications for cohesiveness is set out in my Evidence. As such, these cannot form a series of sites to make the Wyndhurst Farm development appropriate.
- 3.2.45 The Wyndhurst Farm is therefore not reasonably available to accommodate the development.

31 – West of Ladymead Lane, Langford

- 3.2.46 This site relates to SHLAA entry HE20608 which is 3.84ha in size and where the Council estimate its capacity to be 114 dwellings.
- 3.2.47 This series was discounted in the March 2024 FRST on the basis of not meeting the lowest size parameter required for the proposal, which is still the reason why this site is not reasonably available to accommodate the development.

3.2.48 This site is therefore not reasonably available to accommodate the development.

36 – Four Sites West of Sandford – Sandford

3.2.49 This series relates to four SHLAA sites (HE201012, HE2034, HE2075 and HE203008) covering a site area of 5.18ha and with a capacity of 83 dwellings. Part of site HE2075 is proposed to be allocated for 35 dwellings and is controlled by Strongvox. The series is therefore below the lower parameters required for the appeal proposal. The Council state the potential should be considered alongside the other listed site opportunities in the Sandford/ Winscombe area, however this series is separated from other disputed sites by existing developments and built form.

3.2.50 This series is therefore not reasonably available to accommodate the development.

37 – Land off Hill Road – Sandford

3.2.51 This site relates to SHLAA site HE20253 which is 0.97ha in size and could accommodate 35 dwellings. As part of the Stantec March 2024 FRST, it formed part of a series totalling 6.24ha and with a capacity of 191 dwellings which included two sites to the south and west, however these do not form part of the Council's disputed list. This site is therefore below the lower parameter required for the appeal proposals.

3.2.52 The Council state the potential should be considered alongside the other listed site opportunities in the Sandford/ Winscombe area, however this site is separated from other disputed sites by existing developments and built form.

3.2.53 This series is therefore not reasonably available to accommodate the development.

39 – Greenhill Lane – Sandford

3.2.54 This is SHLAA site HE20344, covering an area of 2.74ha. It is a proposed allocation for 49 dwellings and outline planning permission¹⁰ was granted in April 2024 and a reserved matters¹¹ application was submitted three days later by Stonewood Homes and is awaiting determination. This site is therefore below the lower parameter required for the appeal proposals.

3.2.55 The Council state the potential should be considered alongside the other listed site opportunities in the Sandford/ Winscombe area, however this site is physically separated from other disputed sites by existing developments and built form.

3.2.56 The Council's Housing Land Supply Trajectory (**CD.H21**) which was issued in August 2024 includes the site at Greenhill Lane (ref: 4/721) and expects all 49 dwellings to be completed in the 5 year period.

3.2.57 This series is therefore not reasonably available to accommodate the development.

¹⁰ NSC Ref: 22/P/0227/OUT

¹¹ NSC Ref: 24/P/0808/RM

43 – Sandford Batch (Broadleaze Farm) – Winscombe

- 3.2.58 This allocated site (SHLAA site HE20187) is 3.17ha in size and has a capacity of 74 dwellings. It is therefore below the lower parameter required for the appeal proposals. It is owned by Mead and not available to the Appellant.
- 3.2.59 The Council state the potential should be considered alongside the other listed site opportunities in the Sandford/ Winscombe area. The site is to the to the south of the site at West Hill Road (Quarry Lane) (Site 46) which is 0.9ha in size and with a capacity of 30 dwellings. Cumulatively, these sites cover an area of less than half of the minimum parameter and therefore still could not accommodate the appeal proposals. This site is physically separated from other disputed sites by existing developments and built form.
- 3.2.60 This series is therefore not reasonably available to accommodate the development.

45 – Coombe Farm and Shipham Lane – Winscombe

- 3.2.61 This series relates to two sites (SHLAA sites HE20716 and HE20717) which are allocated and have a capacity of 68 dwellings over a site area of 4.4ha, which is below the lower parameter required for the appeal proposals. A planning application¹² was submitted in December 2022 for 68 dwellings which has a resolution to grant planning permission.
- 3.2.62 The Council state the potential should be considered alongside the other listed site opportunities in the Sandford/ Winscombe area, however this site is separated from other disputed sites by existing developments and built form.
- 3.2.63 The Council's Housing Land Supply Trajectory (**CD.H21**) which was issued in August 2024 includes the site at Coombe Farm (ref: 4/678) and expects all 68 dwellings to be completed in the 5 year period.
- 3.2.64 This series is therefore not reasonably available to accommodate the development.

46 – West of Hill Road, adjacent to Quarry Lane – North of Winscombe

- 3.2.65 This site relates to SHLAA site HE2076 which is 0.9ha in size with a capacity of 30 units. As part of the Stantec March 2024 FRST, it formed part of a series with SHLAA site HE2077 to the north covering a total area of 3.43ha and accommodating 110 dwellings, however this does not form part of the Council's disputed list. This site is therefore below the lower parameter required for the appeal proposals.
- 3.2.66 The Council state the potential should be considered alongside the other listed site opportunities in the Sandford/ Winscombe area. The site is to the to the north of the site at Sandford Batch (Broadleaze Farm) (Site 43) which is 3.17ha in size and with a capacity of 74 dwellings. Cumulatively, these sites cover an area of less than half of the minimum parameter and therefore still could not accommodate the appeal proposals. This site is physically separated from other disputed sites by existing developments and built form.

¹² NSC Ref: 22/P/2105/FUL

3.2.67 This series is therefore not reasonably available to accommodate the development.

52 – Brockley Way and Dunsters Way – Claverham

3.2.68 This relates to SHLAA site HE201072 which has a site area of 6.8ha and with a total capacity of 210 dwellings. As part of the Stantec March 2024 FRST, it formed part of a series with SHLAA site HE201076 totalling 8.53ha and with a capacity of 300 dwellings, however this does not form part of the Council's disputed list. The Council are disputing the site on the basis of its capacity in Regulation 19 submissions which is a reduction to 120 dwellings. This site is therefore below the lower parameter required for the appeal proposals.

3.2.69 The Council state the potential should be considered alongside the other listed site opportunities in the Yatton / Claverham area, however this site is physically separated from other disputed sites by extensive existing developments and built form.

3.2.70 This series is therefore not reasonably available to accommodate the development.

74 / 87 – Woodhill Nurseries and Land North of Bristol Road – Congresbury

3.2.71 This series comprises two sites: Site 74 which is SHLAA site HE20178 and Site 87 which is a Neighbourhood Plan allocation to the north of Bristol Road. SHLAA site HE20178 was part of a series of sites in the Stantec March 2024 FRST which covered a site area of 9.28ha and with a capacity of 284 dwellings, however the Council only dispute this site within the series. This site is controlled by M7 Planning. Cumulatively, the disputed sites have a capacity of 60 dwellings which cannot accommodate the proposals.

3.2.72 The Council state the potential should be considered alongside the other listed site opportunities in the Congresbury area, however these two sites are the only disputed sites in Congresbury and they have been considered as a series.

3.2.73 This series is therefore not reasonably available to accommodate the development.

97 – Weston College Site, Somerset Square – Nailsea

3.2.74 This site relates to SHLAA site HE20U08 which is 0.15ha in size and is allocated for 28 dwellings which would require a high density development, unlike the appeal proposals. It is therefore below the lower requirement for the appeal proposals. A planning application¹³ was submitted in June 2022 for the conversion of the building into 38 dwellings however it remains undetermined.

3.2.75 The Council state that this site should be considered as part of other listed opportunities in Nailsea. The site is located within central Nailsea and is physically separated from other disputed sites and therefore cannot form part of a series of sites.

3.2.76 This series is therefore not reasonably available to accommodate the development.

¹³ NSC Ref: 22/P/1296/FUL

3.3 Summary of Smaller Sites

- 3.3.1 **Section 3** of this report demonstrates that I have reviewed each of the sites and series of sites which fall into my 'smaller sites' category. I have considered where these could be considered alongside other sites within the settlement, as indicated by the Council, and still conclude that sites below the lower parameters set out in my evidence cannot accommodate the appeal proposals (i.e. "the development") and therefore cannot be considered reasonably available sites for the purposes of sequential testing.

4 LARGER SITES

4.1 Larger Sites Analysis

4.1.1 There are 11 sites and/or series of sites which fall into the size and capacity parameters set out in my Evidence, which are contained within the following **Table 4.1**.

4.1.2 I provide justification below for my conclusion that each of these sites is not reasonably available.

Stantec 2024 FRST Appendix	Stantec 2024 FRST Series No	Site Name	SHLAA References	Planning Application References	Size	Capacity
F	125	Four adjoining sites on the northern fringe of Weston-super-Mare not including Lynchmead Farm, including Ebdon Road, Lyefield Road, Anson Road	HE2027 HE20354 HE20471 HE20495	21/P/3529/OUT 23/P/1439/OUT	35.27ha	285 dwellings
D	136, 137	M5 J21: Sites at Wolvershill, north of Banwell	HE201016 HE201034 HE201086 HE202000 HE20500 HE20592 HE20594 HE20607 HE203003 (2023) 203005 (2023)	24/P/0572/EA2 24/P/0494/EA2		2,800 dwellings
E, F	140, 151	Land at Elborough	HE20637 HE201040			385 dwellings
E	143	Parklands Village: Locking Parklands	HE20U23	09/P/1614/F 12/P/0760/F 13/P/0997/OT2 15/P/1777/RM 17/P/5631/RM 18/P/2925/RM 19/P/0032/RM 21/P/3241/RM	70.09ha	769 dwellings
F	16	West of Backwell including Grove Farm - Grove Farm / Rushmoor Lane, Westfield Drive / Rodney Road	HE202008 HE20595 HE203034 (2023)	20/P/1847/OUT 24/P/0533/RM		515 dwellings
E	17	Farleigh Fields, Backwell	HE203013	21/P/1766/OUT 22/P/2818/RM 23/P/2508/RM 24/P/1185/OUT		250 dwellings

Stantec 2024 FRST Appendix	Stantec 2024 FRST Series No	Site Name	SHLAA References	Planning Application References	Size	Capacity
F	25	Cluster of sites to the south of Langford, A38 - Says Lane / Land south of A38 / Bath Road / Land South of Bristol Road and North of Bath Road	HE201013 HE20122 HE20196 HE20629 HE2010105	17/P/2344/O 22/P/0564/OUT	14.5ha	419 dwellings
E	90	Youngwood Lane, Land south of The Uplands	HE2065	16/P/1677/OT2 20/P/2347/RM 22/P/1558/RM 24/P/1047/MMA		282 dwellings
E	91	Land South of Nailsea / Land east of Youngwood Lane / Land north and south of Youngwood Lane / Land near the Perrings	HE20591 HE20612 HE202016 HE203007 (2023) HE203016 (2023) HE203020 (2023)	20/P/0861/FUL		600 dwellings
F	92	West End, Engine Lane and Netherton Wood Lane	HE20504 HE20611	23/P/2325/OUT	31.1ha	575 dwellings
E	93	North West Nailsea	HE20273		17.96ha	225 dwellings

Table 4-1 - Larger sites in dispute

125 – Four adjoining sites on the northern fringe of Weston-super-Mare.

- 4.1.3 This series relates to four sites to the north of Weston-super-Mare which cover an area of 35.27ha and have a total capacity of 285 dwellings: SHLAA sites HE2027, HE20354, HE20471 and HE20495.
- 4.1.4 In the FRST prepared by Stantec in March 2024 (**CD.B7**), this series also included land at Lynchmead Farm (SHLAA site HE20493) which was subject to a dismissed appeal¹⁴ in June 2023. The Council do not dispute the exclusion of the Lynchmead Farm site.
- 4.1.5 The former SHLAA site HE20495 (Land west of Anson Road) is the western most parcel and benefits from outline planning permission¹⁵ for 70 dwellings. This was granted in October 2023 and is being developed by Mead Realisations, who are a local housebuilder. This site is also a draft allocation in the Regulation 19 Local Plan for 70 dwellings. Despite there being a planning permission in place by a local developer, the Appellant contacted Mead Realisations to enquire about the availability of the site

¹⁴ NSC Ref: 20/P/1579/OUT PINS Ref: 3313624

¹⁵ NSC Ref: 21/P/3529/OUT

for development on 14th June 2024. A copy of this letter is held at **Appendix 1**. No response has been received to date.

- 4.1.6 The Council's Housing Land Supply Trajectory (**CD.H21**) which was issued in August 2024 includes the site at Anson Road (ref: 4/720) and expects all 70 dwellings to be completed in the 5 year period.
- 4.1.7 To the north of this, the site HE20471 is subject to an outline planning application¹⁶ for up to 75 dwellings. The Appellant has contacted M7 Planning on 14th June 2024 regarding the availability of this site however no response has been received to date. A copy of this letter is held at **Appendix 2**.
- 4.1.8 The remaining parts of this series are HE2027 and HE20354 which have a combined site area of 27.27ha. The SHLAA advises that HE2027 has a capacity of 505 dwellings however could only deliver 80 dwellings within the plan period and HE20354 has an estimated capacity of 60 dwellings over the plan period. This totals 140 dwellings within the plan period. Whilst this is below the lower parameter threshold set out in my Evidence, the Appellant has still required with the respective landowners: Groupwest and Sidney Gunningham by sending letters on 19th June 2024 about the availability of these sites for development, to which no response has been received. A copy of these letters is held at **Appendices 3 and 4** respectively.
- 4.1.9 Overall, part of this series lies within flood zone 3; there are sites being developed by others; and a lack of response from landowners as to the availability of sites to be developed. As such, I conclude that this series of sites is not reasonably available to be developed.

136 / 137 – Wolverhill – Weston-super-Mare

- 4.1.10 The Council have advised that the disputed sites in this series comprise series 136 from the Stantec March 2024 FRST which related to the allocation plus overlapping SHLAA sites and SHLAA site HE203003 which formed part of series 137. Series 137 also included SHLAA site HE20496 however this site is not disputed by the Council as it is in Flood Zone 3.
- 4.1.11 This series primarily relates to the proposed allocation at Wolverhill (north of Banwell) for 2,800 dwellings plus some additional land not included within the allocation which the Council consider could be used for open space. This is therefore the following SHLAA sites: HE201016, HE201034, HE201086, HE202000, HE20500, HE20592, HE20594, HE20607, HE203003 and HE203005.
- 4.1.12 This draft allocation, plus the surrounding SHLAA sites that could be used for open space, is the largest allocation in the emerging local plan. Two EIA scoping opinions¹⁷ were submitted in March 2024. Report reference 24/P/0572/EA2 relates to the western parts of the site and was submitted by Tetlow King on behalf of Wain Estates and report reference 24/P/0494/EA2 relates to a central part of the site and was submitted by Lichfields on behalf of Ainscough Group. The plan at **Appendix 5** is an extract from

¹⁶ 23/P/1439/OUT

¹⁷ NSC Ref: 24/P/0572/EA2 and 24/P/0494/EA2

the appendices of Scoping report 24/P/0572/EA2 showing the developer breakdown of the allocation.

4.1.13 The Wain Estates site broadly relates to SHLAA sites HE20500 and HE20200; the Ainscough Strategic Land site broadly relates to SHLAA site HE201086; and the Bloor Homes site broadly relates to SHLAA sites HE20607 and HE203003. The remaining SHLAA sites (HE201016, HE201034, HE20592, HE20594 and HE203005) are smaller parcels of land surrounding these key developers' sites.

4.1.14 The draft policy (**CD.G9**) stipulates several requirements given the size of the proposed development. These include:

- *“A single masterplan, delivery plan and supporting design codes will be prepared to guide its coordinated and comprehensive development and the creation of a sustainable community. This will include a phasing strategy linking the delivery of development parcels to infrastructure provision and a strategy for its future maintenance.”*
- *“The proposed development is reliant upon, and must be integrated effectively with the design and delivery of the Banwell Bypass”.*
- Justification: *“The policy provides key design and development principles set out to guide the masterplanning process and planning applications in due course. Further guidance will be prepared in the form of a Masterplanning Framework Supplementary Planning Document (SPD) that may review the development boundary and provide further detail on aspects including transport and access infrastructure, the distribution of land uses within the development, and green infrastructure. The SPD will form further guidance to the preparation and consideration of planning applications at the Wolvershill strategic location.”*
- Justification *“In order to satisfy the requirement for a single masterplan for the proposed allocation and to deliver the coordinated and comprehensive approach required, planning applications will be required to be supported by a visioning masterplan for the entire strategic location demonstrating how the application area sits within the wider context. This should be prepared in consultation with developers and promoters across the allocation to ensure effective planning and delivery. The expectation is that sub-area masterplans will then be created to underpin detailed applications, and these should be submitted to and agreed with the Council prior to the submission of reserved matters or full applications.”*
- Justification *“Applications should also be supported by a Delivery Plan that includes a phasing plan, and details regarding the delivery and phasing of required infrastructure with reference to the requirements for the range of infrastructure as set out in policy, and the Infrastructure Delivery Plan (IDP). Mechanisms should be employed to ensure the timely and efficient delivery of infrastructure including land equalisation or other approaches where necessary. The Delivery Plan will also be expected to set out a programme for the delivery of policy requirements that deliver action across a range of climate related themes spanning the implementation of the development, including*

climate resilience and adaptation measures. Design codes will also be required at outline application stage, with more detailed coding forming part of subsequent sub-area masterplans and reserved matters or detailed applications.”

4.1.15 These policy extracts show the Council’s aspirations to deliver a strategic development underpinned by an overarching masterplan and supporting SPD. It also shows that the draft allocation is reliant upon the delivery of the Banwell Bypass. The Appellant’s representations to the Regulation 19 Local Plan Consultation (**Appendix 6**) dated January 2024 discuss these issues in detail, including matters relating to the viability and delivery. The timescales and deliverability of the Wolverhill draft allocation therefore do not align with those for the appeal site and could not be considered reasonably available.

4.1.16 In addition, the Appellant has reached out to each of the landowners for the SHLAA sites which comprise this disputed series, as set out in the following **Table 4.2**, to enquire about the availability of these sites for development by the Appellant. These letters are enclosed at **Appendix 7**. No responses have been received.

Letter Addresses To	SHLAA Site	Date of issue
Bloor	HE20607	14.06.24
Bloor	HE203003	14.06.24
Michael Biddle	HE20594	19.06.24
Wain Homes	HE202000	20.06.24
Wain Homes	HE20500	20.06.24
Diane Priestley	HE201016	20.06.24
Teifion Newman, Valerie Newman	HE201034	20.06.24
Terra Strategic	HE203005	20.06.24
St Philips	HE20592	20.06.24
Ainscough	HE201086	20.06.24

Table 4-2 - List of letters issued to landowners of Series 136/137 sites

4.1.17 I consider that the series of sites is not reasonably available to be developed when assessed against Paragraph 028 of the PPG. I do not consider that there is a reasonable prospect that the series is available to be developed at the point in time envisaged for the development. The draft policy shows the extensive site wide requirements for the series; there is a reliance on the Banwell Bypass for delivery; there are concerns about the overall viability of the proposals; and responses to direct enquiries to landowners have not been forthcoming.

4.1.18 This series of sites is therefore not reasonably available to accommodate the development.

140 / 151 – Land at Elborough – Weston-super-Mare

- 4.1.19 This series of sites includes SHLAA site HE20637 which formed part of series 140 in the Stantec March 2024 FRST and SHLAA site HE201040 which was site 151. Series 140 previously included two other SHLAA sites (HE201025 and HE20237) however these are not disputed by the Council.
- 4.1.20 The Council state that they dispute a capacity of 385 across these sites which arises from the Regulation 19 submissions to the local plan for site HE20637 (315 dwellings) and the SHLAA capacity of site HE201040 for the first 5 years for the area of the site not within the National Landscape (70 dwellings).
- 4.1.21 Site HE20637 is partially located in Flood Zones 2 and 3 and the site was discounted as part of the 2023 SHLAA on the grounds of flood risk (**CD.B7**). It is being promoted by MacMic Group who are the strategic land arm of the Mactaggart & Mickel Group Limited. The Appellant has contacted MacMic to make enquiries about the availability of this land for development. A copy of the letter sent on 14th June is enclosed at **Appendix 8**.
- 4.1.22 The majority of site HE201040 is within the National Landscape, with only approximately 2.2ha of this site being outside of it. Despite the small scale of this parcel of land, the Appellant has still made enquiries with the landowners and a copy of the letter issued on 20th June 2024 is enclosed at **Appendix 9**. No responses have been received.
- 4.1.23 In addition to the matters raised above, these sites are disconnected from existing settlements and are not adjacent to any existing or proposed settlement boundaries.
- 4.1.24 I consider that this series is not reasonably available to accommodate on the grounds of part of the site being within Flood Zones 2 and 3; the disconnection of the site from existing settlements and the lack of responses to the Appellant's enquiries on availability.

143 – Parklands Village, Locking Parklands – Weston-super-Mare

- 4.1.25 The Stantec March 2024 FRST included multiple sites at the Weston Villages allocation. The Council have confirmed that the disputed sites at the Weston Villages relates to the planning permission reference 13/P/0997/OT2 within series 143 and that the August 2024 Housing Land Supply indicates the outstanding capacity.
- 4.1.26 Planning permission 13/P/0997/OT2 was granted in July 2015 for a large scale mixed use development including up to 1,200 dwellings. Planning applications 09/P/1614/F and 12/P/0760/F granted approval for a further 250 units, taking the total in the Housing Land Supply trajectory (ref: 4/558a-c) for these entries to 1,450 dwellings. The trajectory states that as of 1st April 2024, 803 dwellings had not commenced.
- 4.1.27 The Council's Housing Land Supply Trajectory (**CD.H21**) which was issued in August 2024 includes the site at Parklands (ref: 4/558a-c) and expects 555 dwellings to be completed in the 5 year period. Of these 555 dwellings, 119 have reserved matters permission and 436 do not have reserved matters approval.

- 4.1.28 The Committee Report for this permission discusses the development viability and states that the applicant submitted financial information indicating a lack of development viability and that not all obligations can be afforded. The Section 106 agreement attached to this permission states at Schedule 5 Paragraph 1 that “*Subject to paragraph 3, the Developer shall within each New Phase provide or procure the provision of at least 13% of the number of Dwellings actually constructed as Affordable Housing Units Without Public Subsidy (at least 82% of which shall be Affordable Rented Tenure Units and the remainder of which shall be Shared Ownership Units).* Paragraph 3 states that “*The Developer shall not be required to provide more than 30% in total of the number of Dwellings as Affordable Housing Units*”.
- 4.1.29 The appeal proposals include 50% affordable housing, and therefore this site would not be suitable for the proposals on the basis that they would not be suitable for the type of development proposed. The inclusion of 50% affordable housing is a key component and planning benefit of the appeal scheme proposals.
- 4.1.30 It is pertinent to the case that as part of the Lynchmead inquiry¹⁸, the Council agreed on the rejection of this site. This is set out in Paragraph 5.36 of **Appendix 10** and table MH2b in **Appendix 11**.
- 4.1.31 This site is therefore not reasonably available as the existing planning permission and legal agreement would not allow the appeal scheme to be delivered as proposed.

16 – Grove Farm – Backwell

- 4.1.32 This disputed site relates to the draft allocation site at Grove Farm, Backwell for 515 dwellings. SHLAA site HE20595 is the majority of this allocation, with sites HE203034 and HE202008 making up small parts of the allocation (0.61ha and 0.64ha cumulatively).
- 4.1.33 The Grove Farm site is under an option agreement with Taylor Wimpey, which is evidence by a Land Registry extract at **Appendix 12**. As set out in Mr Jones’ Evidence, this means that the site is unlikely to be available to the Appellant or anyone else for the purposes of development. Nonetheless, in the interests of robustness, the Appellants have written to Taylor Wimpey on 20th June 2024, as well as the owners of sites HE203034 and HE202008, to enquire about the availability of this land. These letters are held at **Appendix 13**. No response has been forthcoming. As such, I conclude that this site is not reasonably available.
- 4.1.34 I therefore do not consider that the site at Grove Farm is reasonably available on the basis that it is under option to another housebuilder and the lack of response to the Appellant’s enquiries on availability.

17 – Farleigh Fields – Backwell

- 4.1.35 This series comprises two sites at Farleigh Fields in Backwell. The first has outline planning permission¹⁹ for 125 homes and is a draft allocation and the second is SHLAA

¹⁸ NSC Ref: 20/P/1579/OUT PINS Ref: 3313624

¹⁹ NSC Ref: 21/P/1766/OUT

site HE203013 where an outline planning application²⁰ has been submitted for 125 dwellings. Both of these sites are being brought forward by the Appellant.

- 4.1.36 A reserved matters application²¹ was approved in April 2024 for 96 dwellings on the first site, of which 6 are self-build plots. The Council's Housing Land Supply Trajectory (**CD.H21**) includes this site under two entries (refs: 4/717 and 4/717a) and expects 94 dwellings to be completed in the 5 year period, noting that groundworks have commenced. This site is therefore not reasonably available for the appeal proposals.
- 4.1.37 The second site, whereby Persimmon Homes Severn Valley have submitted an outline planning application for 125 dwellings cannot accommodate the proposals and the application proposals are for a different development to that proposed in this appeal.
- 4.1.38 This series of sites is therefore not reasonably available on the basis that both are already being developed by the Appellant; as development on the northern site has already commenced and as the residual capacity at the southern site could not accommodate the appeal proposals.

25 – Sites to the South of Langford

- 4.1.39 This series relates to five sites to the South of Langford, covering an area of 14.5ha and with a total capacity of 419 dwellings, comprised of the following, which I address in turn:
- HE2010105 / 22/P/0564/OUT: 68 dwellings
 - HE20122: 168 dwellings
 - HE20629: 18 dwellings
 - HE201013: 87 dwellings
 - HE20196: 78 dwellings
- 4.1.40 The western most parcel of land has a draft allocation in the Regulation 19 Plan for 68 dwellings and where an application for outline planning permission was submitted in March 2022 by Vistry Homes for the same number of dwellings²². Should planning permission be granted on this site, it would be brought forward by Vistry Homes who are a national housebuilder. The adjacent parcels of land at HE20122 and HE20629 to the west of Says Lane and south of the A38 are also under option by Vistry Homes. The Appellant wrote to Vistry Homes on 20th June 2024 to enquire about the availability of these sites and no response has been forthcoming (**Appendix 14**). These sites are therefore not reasonably available to the appellant or anyone else due to contractual obligations.
- 4.1.41 The remaining sites within this series (HE201013 and HE20196) cover a site area of 5.5ha and have an estimated capacity of 165 dwellings. These sites are therefore

²⁰ NSC Ref: 24/P/1185/OUT

²¹ NSC Ref: 23/P/2508/RM

²² NSC Ref: 22/P/0564/OUT

substantially below the lower site size parameter of 10.3ha and are therefore not reasonably available for the proposals on account of their cumulative size not meeting the minimum requirement. Part of the eastern parcel (HE20196) was also subject to a dismissed appeal in March 2019²³. Nonetheless, the Appellant still contacted the landowner Lostwood Estates (HE20196) (on 20th June to enquire about their availability, with no response received. This letter is held at **Appendix 15**. The Appellant was not able to make contact with the landowners of site HE201013 on the basis that the land is unregistered.

4.1.42 As such, I conclude that this series of sites are not reasonably available on the basis of the lack of response to landowner enquiries by the Appellant; due to a previously dismissed appeal and as the residual capacity of the site not under control of another housebuilder could not accommodate the proposals.

90 – Youngwood Lane, Land south of the Uplands – Nailsea

4.1.43 This series relates to sites at Youngwood Lane in Nailsea, to the south of The Uplands. In the Stantec March 2024 FRST it included the large permission alongside smaller SHLAA sites, however the Council have confirmed that the area of dispute is just the consented outline planning permission²⁴ (450 dwellings) excluding the first phase of development which is under construction²⁵ (168 dwellings).

4.1.44 This leaves the second phase of the development which was granted reserved matters approval²⁶ in March 2024 for 282 dwellings which covers a site area of 11.25ha. This site is being brought forward by Taylor Wimpey and Crest Nicholson.

4.1.45 The Council's Housing Land Supply Trajectory (**CD.H21**) includes this site (ref: 4/596b) and expects all 282 dwellings to be completed in the 5 year period. It states that the full consent has been secured by Taylor Wimpey however NSC understand that Crest Nicholson have now purchased part of this site and submitted an application to modify house types²⁷.

4.1.46 I therefore consider that this site is not reasonably available for the appeal proposals on the basis that it is being brought forward by another housebuilder and as the Council themselves consider this will be delivered in a 5 year period.

91 – Land south of Nailsea

4.1.47 This series relates to sites to the south of Nailsea, as per the Stantec March 2024 FRST and comprises the SHLAA sites HE20591; HE20612; HE202016; HE203020; HE203007; and HE203016 which have a total capacity of 600 dwellings over an area of 43.93ha.

4.1.48 The majority of this site (34.84ha) is covered by the designated strategic gap between Backwell and Nailsea, therefore development could be contrary to policy SA7 of the

²³ NSC Ref: 17/P/2344/O. PINS Ref: 3207635

²⁴ NSC Ref: 16/P/1677/OT2

²⁵ NSC Ref: 20/P/2347/RM

²⁶ NSC Ref: 22/P/1558/RM

²⁷ NSC Ref: 24/P/1047/MMA

Sites and Policies Plan Part 2 (Site Allocations Plan) (**CD.F3**). The residual capacity of the site not within the strategic gap is only 9.09ha in size and therefore cannot accommodate the appeal proposals.

4.1.49 In addition, the apparent access to this site is within the flood zone 3, therefore the development of this site would also require a flood risk sequential test to be carried out.

4.1.50 Nonetheless, the Appellant wrote to each of the landowners within this series to enquire about the availability of the land. A summary of these letters is at **Table 4.3** and these letters are enclosed in **Appendix 16**. No responses have been received to these enquiries.

Letter Addresses To	SHLAA Site	Date of issue
Dennis Bidwells	HE20591	20.06.24
Gillian Johnson	HE20591	20.06.24
Gleeson Land	HE20612	20.06.24
North Somerset Council	HE202016	14.06.24
Fowler Family	HE203020	20.06.24
John Alison Land and Research	HE203007	20.06.24

Table 4-3 - Landowner Availability Enquiries for Series 91

4.1.51 I therefore conclude that the sites within this series are not reasonably available on the basis of conflict with Policy SA7; the residual capacity not within the strategic gap not being able to accommodate the proposals and due to the lack of response to the Appellant’s landowner enquiries about availability.

92 – West of Engine Lane and Netherton Wood Lane, South West Nailsea

4.1.52 This series relates to two sites to the south west of Nailsea: SHLAA sites HE20504 and HE20611 with a total capacity of 575 dwellings.

4.1.53 As part of the March 2024 FRST, this series included additional sites to the south west of Nailsea, however the Council have advised that the areas in dispute relate to the following:

- HE20504 – SHLAA potential of 375 dwellings; and
- HE20611 – planning application²⁸ capacity of 200 dwellings

4.1.54 Site HE20611 is under an Option Agreement to St Modwen. Site HE20504 is under the control of Barratt Homes. Land Registry confirmation of this is held at **Appendix 17**. As set out in Mr Jones’ Evidence, this means that the site is unlikely to be available to the Appellant for the purposes of development. Nonetheless, in the interests of robustness, the Appellants have written to the landowners on 19th June 2024 to

²⁸ NSC Ref: 23/P/2325/OUT

enquire about the availability of this land. These letters are held at **Appendix 18**. No responses has been forthcoming.

- 4.1.55 As such, I conclude that these sites are not reasonably available on the basis of being under the control of other developers and due to the lack of response to the Appellant's enquiries about their availability.

93 – North West Nailsea

- 4.1.56 The North West Nailsea site refers to SHLAA site HE20273 which covers an area of 17.96ha and was allocated in the SAP (**CD.F3**) for 450 homes. An outline planning application was submitted in October 2023 (23/P/2322/OUT) for 150 dwellings by the developer Vistry Group. However, in the Regulation 19 version of the emerging Local Plan, the allocation was reduced in size and down to 75 dwellings on the basis of flood risk. The latest version of the emerging Local Plan (CD.G9) now allocates the site for 225 homes.
- 4.1.57 The Council's Housing Land Supply Trajectory (**CD.H21**) includes this site (ref: 4/596) and expects 150 dwellings to be completed in the 5 year period, referencing the application that has been submitted for 150 dwellings.
- 4.1.58 The Appellant has written to Vistry Homes to enquire about the availability of the site, however no response has been received. This letter is held at **Appendix 19**.
- 4.1.59 I therefore consider that this site is not reasonably available on the basis of concern about its capacity potential due to flood risk and as it is under control of another Housebuilder, with no response to the Appellant's enquiries about availability.

4.2 Transportation and Connectivity Benefits

- 4.2.1 As referenced in **Section 9.23** of my Evidence, the Council had discussed an option for the FRST which related to public transport provision, however these comments were not fed back to the Appellant. Nonetheless, the Appellant has reviewed public transport accessibility for the 11 larger sites and the appeal site to Weston-super-Mare, Bristol and London. These destinations were chosen as Weston-super-Mare is the key settlement in North Somerset, Bristol is a major city in close proximity to the District and as London is the Capital City.
- 4.2.2 **Table 4.4** below provides a summary of the relative connectivity of each site to each location in terms of the journey time and the best means of travelling top these locations.

Stantec 2024 FRST Series No	Site Name	Time to WSM	Best Method to WSM	Time to Bristol	Best Method to Bristol	Time to London	Best Method to London
	Rectory Farm (North), Yatton APPEAL SITE	20 minutes	Walk to Yatton Station. Train to Weston-super-Mare Station	25 minutes	Walk to Yatton Station. Train to Bristol Temple Meads.	2 hours and 2 minutes	Walk to Yatton Station. Train to London Paddington
125	Four adjoining sites on the northern fringe of Weston-super-Mare not including Lynchmead Farm, including Ebdon Road, Lyefield Road, Anson Road	34 minutes	Walk and bus	48 minutes	Walk and bus to Weston-super-Mare Station. Train to Bristol Temple Meads	3 hours 1 minute	Walk and bus to Weston-super-Mare Station. Train to London Paddington
136, 137	M5 J21: Sites at Wolverhill, north of Banwell	37 minutes	Walk and bus	1 hour 6 minutes	Walk and buses Or Walk and bus to Weston-super-Mare Station. Train to Bristol Temple Meads	3 hours 16 minutes	Walk and bus to Weston-super-Mare Station. Train to London Paddington
140, 151	Land at Elborough	37 minutes	Walk and bus	1 hour 6 minutes	Walk and bus to Weston-super-Mare Station. Train to Bristol Temple Meads	3 hours 16 minutes	Walk and bus to Weston-super-Mare Station. Train to London Paddington
143	Parklands Village: Locking Parklands	40 minutes	Walk to Worle Station, Train to Weston-super-Mare Station	59 minutes	Walk to Worle Station. Train to Bristol Temple Meads	2 hours 53 minutes	Walk and bus to Worle Station. Train to London Paddington
16	West of Backwell including Grove Farm - Grove Farm / Rushmoor Lane, Westfield Drive / Rodney Road	46 minutes	Walk and bus	30 minutes	Walk and bus or Walk to Nailsea and Backwell Station. Train to Bristol Temple Meads	2 hours and 40 minutes	Walk to Nailsea and Backwell Station. Train to London Paddington.
17	Farleigh Fields, Backwell	36 minutes	Walk or bus to Nailsea and Backwell Station. Train to Weston-super-Mare Station	25 minutes	Walk and bus Or Walk to Nailsea and Backwell Station. Train to Bristol Temple Meads	2 hours 14 minutes	Walk to Nailsea and Backwell Station. Train to London Paddington

Stantec 2024 FRST Series No	Site Name	Time to WSM	Best Method to WSM	Time to Bristol	Best Method to Bristol	Time to London	Best Method to London
25	Cluster of sites to the south of Langford, A38 - Says Lane / Land south of A38 / Bath Road / Land South of Bristol Road and North of Bath Road	58 minutes	Walk and buses	38 minutes	Walk and bus	2 hours 45 minutes	Walk and bus to Bristol Temple Meads. Train to London Paddington.
90	Youngwood Lane, Land south of The Uplands	1 hour	Walk to Nailsea and Backwell Station. Train to Weston-super-Mare Station	51 minutes	Walk and bus Or Walk to Nailsea and Backwell Station. Train to Bristol Temple Meads	2 hours 40 minutes	Walk to Nailsea and Backwell Station. Train to London Paddington
91	Land South of Nailsea / Land east of Youngwood Lane / Land north and south of Youngwood Lane / Land near the Perrings	41 minutes	Walk to Nailsea and Backwell Station. Train to Weston-super-Mare Station	41 minutes	Walk to Nailsea and Backwell Station. Train to Bristol Temple Meads	2 hours 21 minutes	Walk to Nailsea and Backwell Station. Train to London Paddington
92	West End, Engine Lane and Netherton Wood Lane	1 hour 10 minutes	Walk or bus to Nailsea and Backwell Station. Train to Weston-super-Mare Station	53 minutes	Walk and bus Or Walk to Nailsea and Backwell Station. Train to Bristol Temple Meads	2 hours 52 minutes	Walk to Nailsea and Backwell Station. Train to London Paddington
93	North West Nailsea	1 hour 5 minutes	Walk or bus to Nailsea and Backwell Station. Train to Weston-super-Mare Station	50 minutes	Walk and bus	2 hours 48 minutes	Walk and bus to Nailsea and Backwell Station. Train to London Paddington

Table 4-4 - Journeys to Weston-super-Mare, Bristol and London

- 4.2.3 The access to the Appeal Site at Shiners Elms is located just an 8 minute walk from Yatton Railway Station which provides direct connections to locations including Weston-super-Mare (and the wider North Somerset area), Bristol, Taunton, Cardiff and London. As such, due to the highly sustainable location of the Appeal Site, it is not surprising that it has some of the greatest connections and shortest journey to these three key urban locations which are accessible from North Somerset District.
- 4.2.4 This therefore provides a response to the Council's point that the Appellant should have considered access to public transport as part of the FRST and demonstrates that taking an approach potentially under consideration by the Council, that the Appeal Site is the top performing site (i.e. the most sequentially preferable).
- 4.2.5 It also demonstrates the sustainability of Yatton as a settlement which is discussed further in the following section.

5 YATTON AND THE SEQUENTIAL TEST

5.1 Sites in Yatton

5.1.1 The March 2024 FRST was supported by a report prepared by Pioneer which set out the need for housing in Yatton and Appendix G to that FRST listed the 15 sites and series of sites within Yatton and Claverham.

5.1.2 **Section 9.23** of my Evidence and Mr Parker’s Evidence further demonstrate and emphasise the need for housing in Yatton, which as set out above, is a sustainable location for development.

5.1.3 **Table 5.1** below sets out the disputed sites which are in Yatton and Claverham.

Stantec 2024 FRST Appendix	Stantec 2024 FRST Series No	Site Name	SHLAA References	Planning Application References	Size	Capacity
G, E	112	Moor Road, Yatton	HE20425	19/P/3197/FUL 3285343	1.87ha	60 dwellings
G, E	113	Land at Rectory Farm and Biddle Street (to the south of the appeal site)	HE2010112	21/P/0236/OUT 23/P/0238/RM	3.85ha	100 dwellings
C, G	52	Brockley Way and Dunsters Way, North of Claverham	HE201072	15/P/0185/O (withdrawn)	6.8ha	120 dwellings

Table 5-1 - Disputed sites in Yatton and Claverham

5.1.4 All of these sites fall into my smaller sites category as set out in **Section 3** and cannot deliver the Appeal Proposals. As such, only the Appeal Site is capable of delivering this quantum of housing in Yatton.

5.2 Sites outside of Yatton

5.2.1 As part of this assessment, I have calculated the distance of the larger disputed sites from central Yatton, which is held at **Table 5.2**. This shows all of the larger sites which are disputed are outside of Yatton and therefore the development of these sites may not bring the benefits to Yatton that the development of the appeal site would bring.

Flood Risk Sequential Test, Sites Portfolio
 Land at Rectory Farm (North), Chescombe Road, Yatton

Stantec 2024 FRST Appendix	Stantec 2024 FRST Series No	Site Name	Distance to Yatton as the crow flies (KM) (all measured from Co-Op food on Yatton High Street)
		Rectory Farm (North), Yatton APPEAL SITE	0.5km
F	125	Four adjoining sites on the northern fringe of Weston-super-Mare not including Lynchmead Farm, including Ebdon Road, Lyefield Road, Anson Road	5.00km
D	136, 137	M5 J21: Sites at Wolverhill, north of Banwell	7.55km
E, F	140, 151	Land at Elborough	8.66km
E	143	Parklands Village: Locking Parklands	7.00km
F	16	West of Backwell including Grove Farm - Grove Farm / Rushmoor Lane, Westfield Drive / Rodney Road	5.40km
E	17	Farleigh Fields, Backwell	6.78km
F	25	Cluster of sites to the south of Langford, A38 - Says Lane / Land south of A38 / Bath Road / Land South of Bristol Road and North of Bath Road	6.00km
E	90	Youngwood Lane, Land south of The Uplands	4.71km
E	91	Land South of Nailsea / Land east of Youngwood Lane / Land north and south of Youngwood Lane / Land near the Perrings	5.62km
F	92	West End, Engine Lane and Netherton Wood Lane	4.50km
E	93	North West Nailsea	5.87km

Table 5-2 - Distance of larger disputed sites to central Yatton

6 CONCLUSION

6.1 Conclusion

- 6.1.1 This Flood Risk Sequential Test (FRST) Sites Portfolio provides details of the 36 sites in dispute between the parties.
- 6.1.2 This Portfolio demonstrates why I consider none of the 36 disputed sites are reasonably available to the Appellant, in accordance with the definition set out in the PPG²⁹. A summary of my position on each of these disputed sites along with key site details is held at **Appendix 20**.
- 6.1.3 This Portfolio is supported by evidence to demonstrate why I consider these sites not to be reasonably available. This includes information about where sites can and cannot form part of a series; where planning permission has been granted and commenced (where applicable); where sites are within the control of other developers, (which builds on the evidence of Mr Jones); where sites are considered to be delivered by the Council through their Housing Land Supply trajectory; and various other site specific reasons. It also includes details of where the Appellant has written directly to landowners to enquire about the availability of their land for development by the Appellant. A summary of all of landowner availability letters is enclosed at **Appendix 21**. At the time of writing, no responses had been received to any of these enquiries.

²⁹ PPG Paragraph: 028 Reference ID: 7-028-20220825

Appendix 1

Appellant availability enquiry letter to Mead Realisations regarding site 125

14th June 2024**Mead Realisations**

Puxton Park
Cowslip Lane
Hewish
Weston-super-Mare
BS24 6AH

To whom it may concern,

RE: Land to the West of Anson Road and Land to the North of Wick St. Lawrence

I am writing on behalf of Persimmon Homes Severn Valley regarding the above named property. We have recently undertaken a land study within North Somerset district to identify potential land suitable for residential development. During the exercise your land was identified as potentially appropriate to accommodate new homes.

From enquiries we have made, we understand you have promoted this land for development – and I enclose a plan with your land highlighted in red.

I would welcome the opportunity to discuss with you how we can use our resources to unlock the land's development potential and associated value for you as we have done on similar sites across the country. Persimmon Homes is one of the UK's leading house builders, which has the necessary expertise and resources, in addition to a proven track record of delivering exciting residential development.

Should you wish to explore how the full potential of your land can be realised, please do not hesitate to contact me on the details listed below. I look forward to hearing back from you.

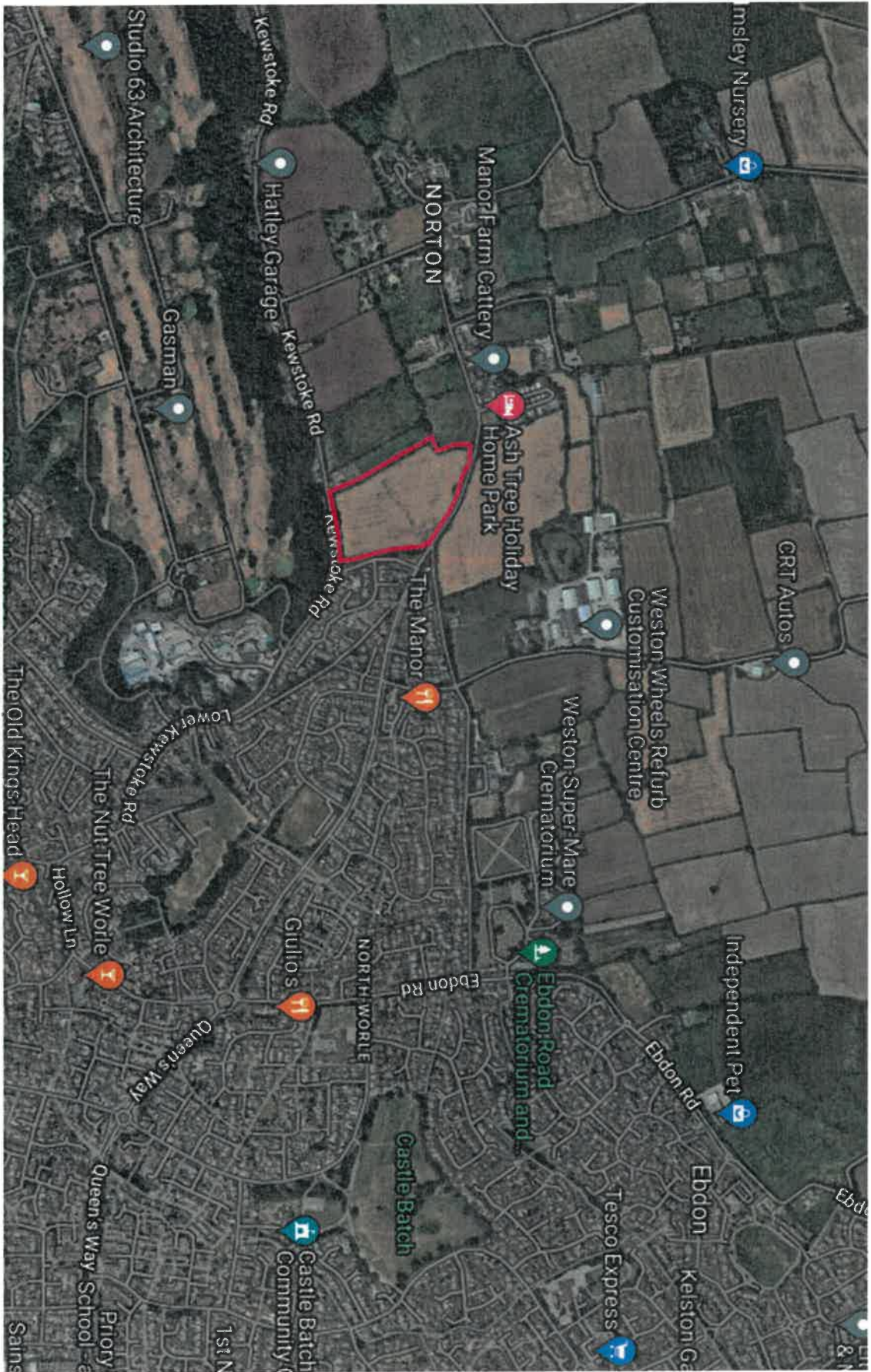
Yours faithfully,

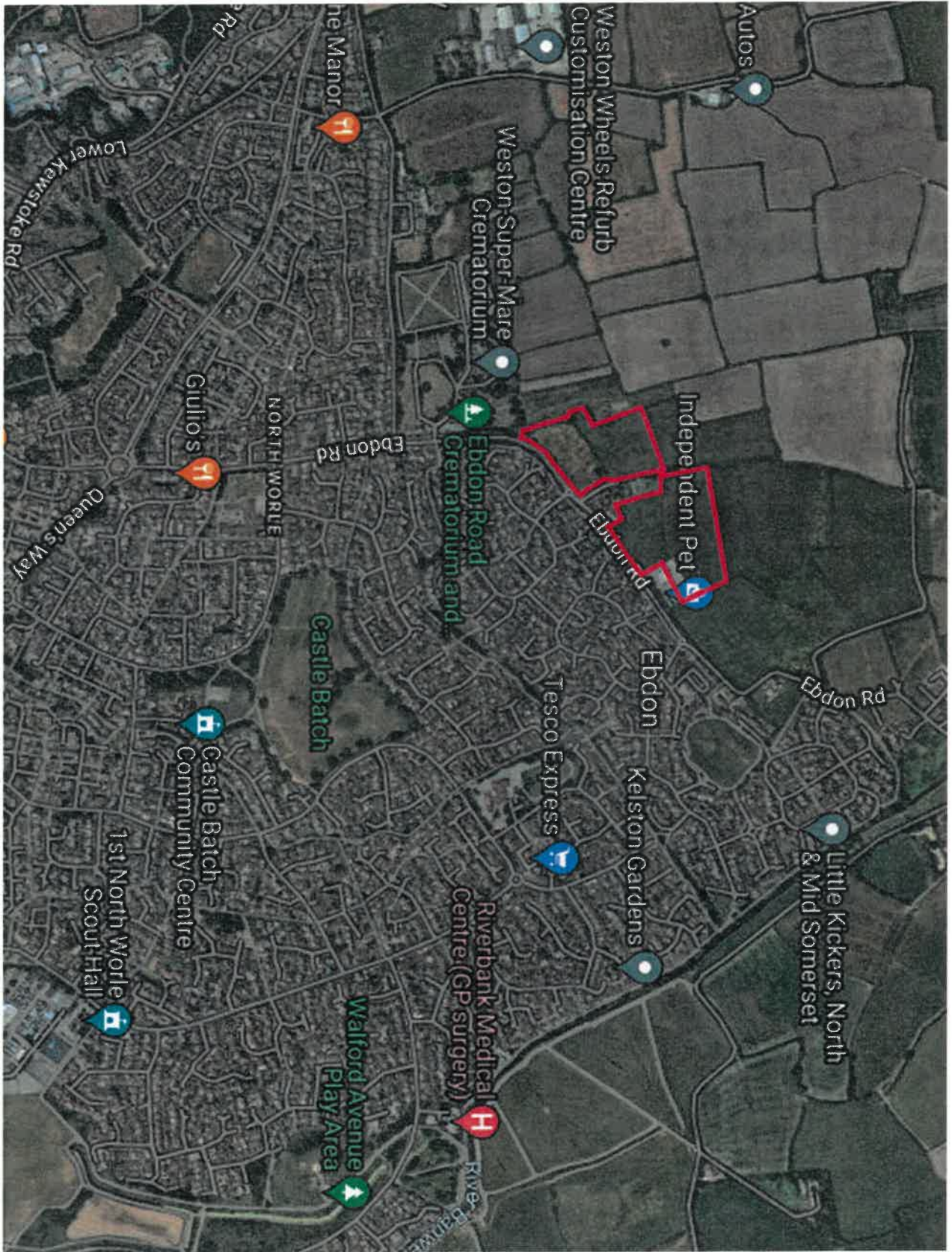


Dom MacDougall
Strategic Planner

dominic.macdougall@persimmonhomes.com







Appendix 2

Appellant availability enquiry letter to M7 Planning regarding site 125

14th June 2024**M7 Planning**
16 Riverside
Omega Park
Alton
Hampshire
GU34 2UF**Tel: 01275 396000**

To whom it may concern,

RE: Rose Tree Farm, North of Lower Norton Lane/Lyefield Road and Land East of Backwell

I am writing on behalf of Persimmon Homes Severn Valley regarding the above named property. We have recently undertaken a land study within North Somerset district to identify potential land suitable for residential development. During the exercise your land was identified as potentially appropriate to accommodate new homes.

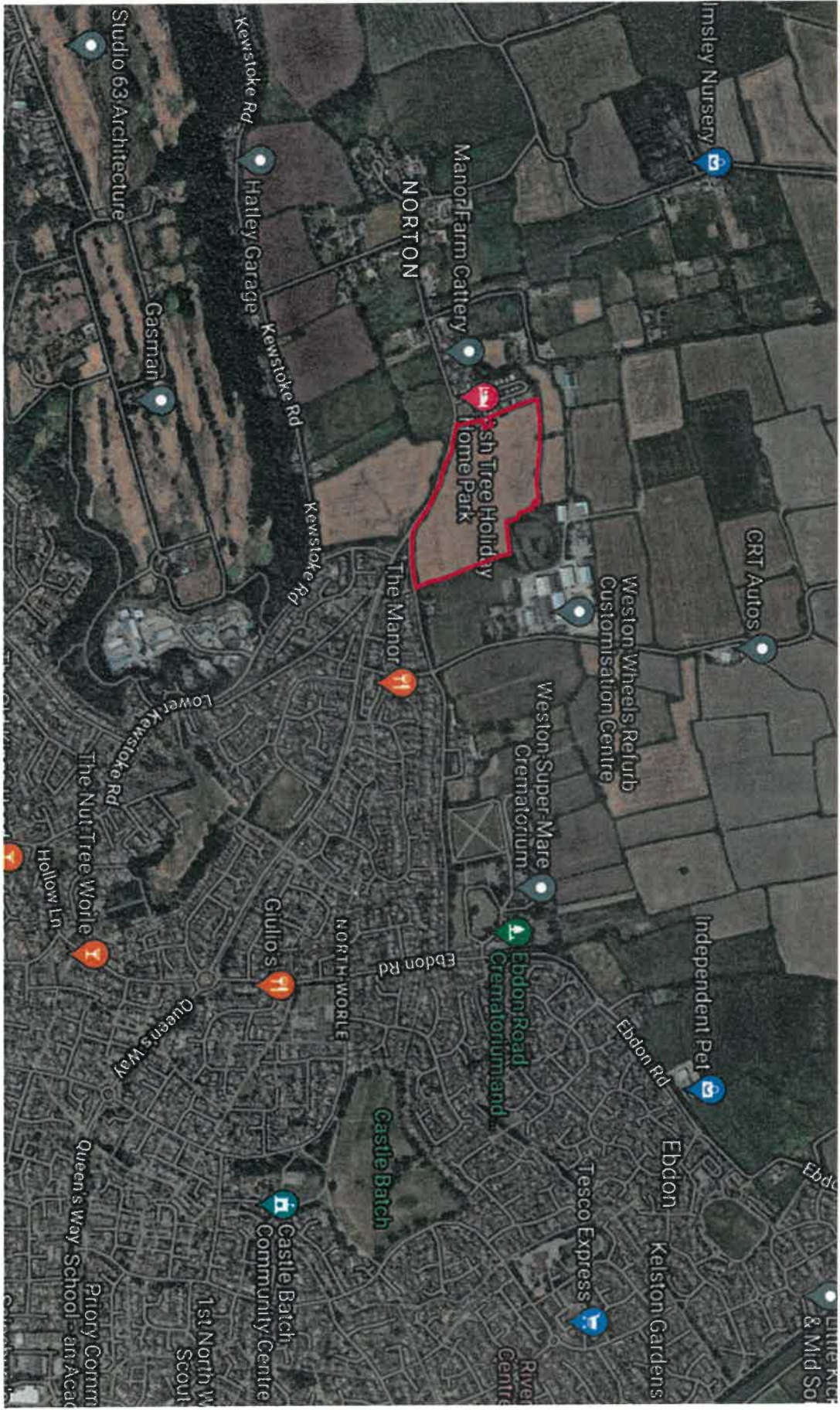
From enquiries we have made, we understand you have promoted this land for development – and I enclose a plan with your land highlighted in red.

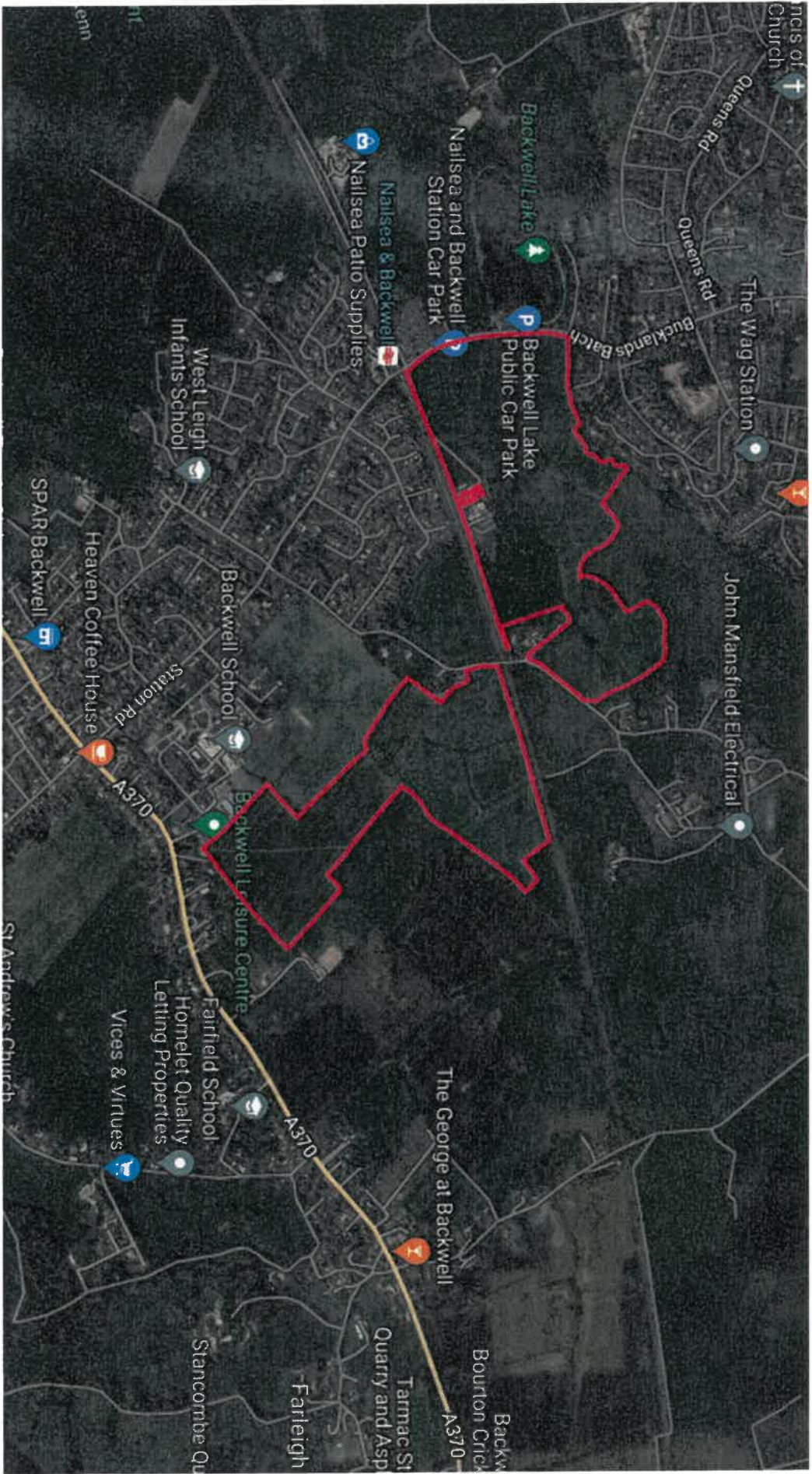
I would welcome the opportunity to discuss with you how we can use our resources to unlock the land's development potential and associated value for you as we have done on similar sites across the country. Persimmon Homes is one of the UK's leading house builders, which has the necessary expertise and resources, in addition to a proven track record of delivering exciting residential development.

Should you wish to explore how the full potential of your land can be realised, please do not hesitate to contact me on the details listed below. I look forward to hearing back from you.

Yours faithfully,

Dom MacDougall
Strategic Plannerdominic.macdougall@persimmonhomes.com





Appendix 3

Appellant availability enquiry letter to Groupwest regarding site 125

19th June 2024**Groupwest**
Elm House
10 Fountain Court
Newleaze
Bradley Stoke
BS32 4LA**Tel: 01275 396000**

To whom it may concern,

RE: Greenways Farm, Lyefield Road

I am writing on behalf of Persimmon Homes Severn Valley regarding the above named property. We have recently undertaken a land study within North Somerset district to identify potential land suitable for residential development. During the exercise your land was identified as potentially appropriate to accommodate new homes.

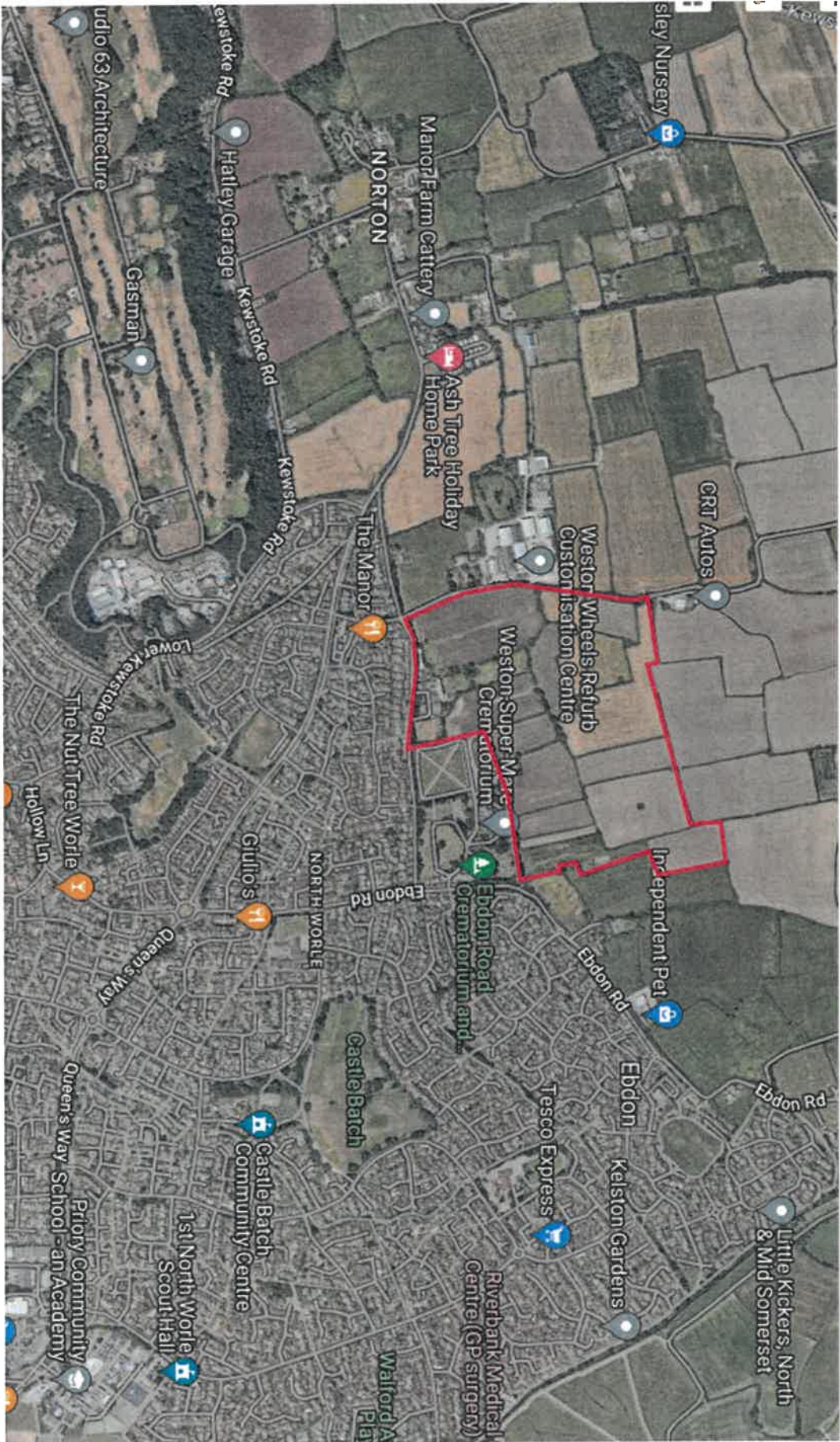
From enquiries we have made, we understand you have promoted this land for development – and I enclose a plan with your land highlighted in red.

I would welcome the opportunity to discuss with you how we can use our resources to unlock the land's development potential and associated value for you as we have done on similar sites across the country. Persimmon Homes is one of the UK's leading house builders, which has the necessary expertise and resources, in addition to a proven track record of delivering exciting residential development.

Should you wish to explore how the full potential of your land can be realised, please do not hesitate to contact me on the details listed below. I look forward to hearing back from you.

Yours sincerely,

Dom MacDougall
Strategic Plannerdominic.macdougall@persimmonhomes.com



Appendix 4

Appellant availability enquiry letter to Sidney Gunningham regarding site 125

19th June 2024**Sidney Gunningham**Manor Farm
Collum Lane
Kewstoke
Weston-super-Mare
BS22 9JL**Tel: 01275 396000**

Dear Sidney,

RE: South of Manor Farm, North of Lyefield Road

I am writing on behalf of Persimmon Homes Severn Valley regarding the above named property. We have recently undertaken a land study within North Somerset district to identify potential land suitable for residential development. During the exercise your land was identified as potentially appropriate to accommodate new homes.

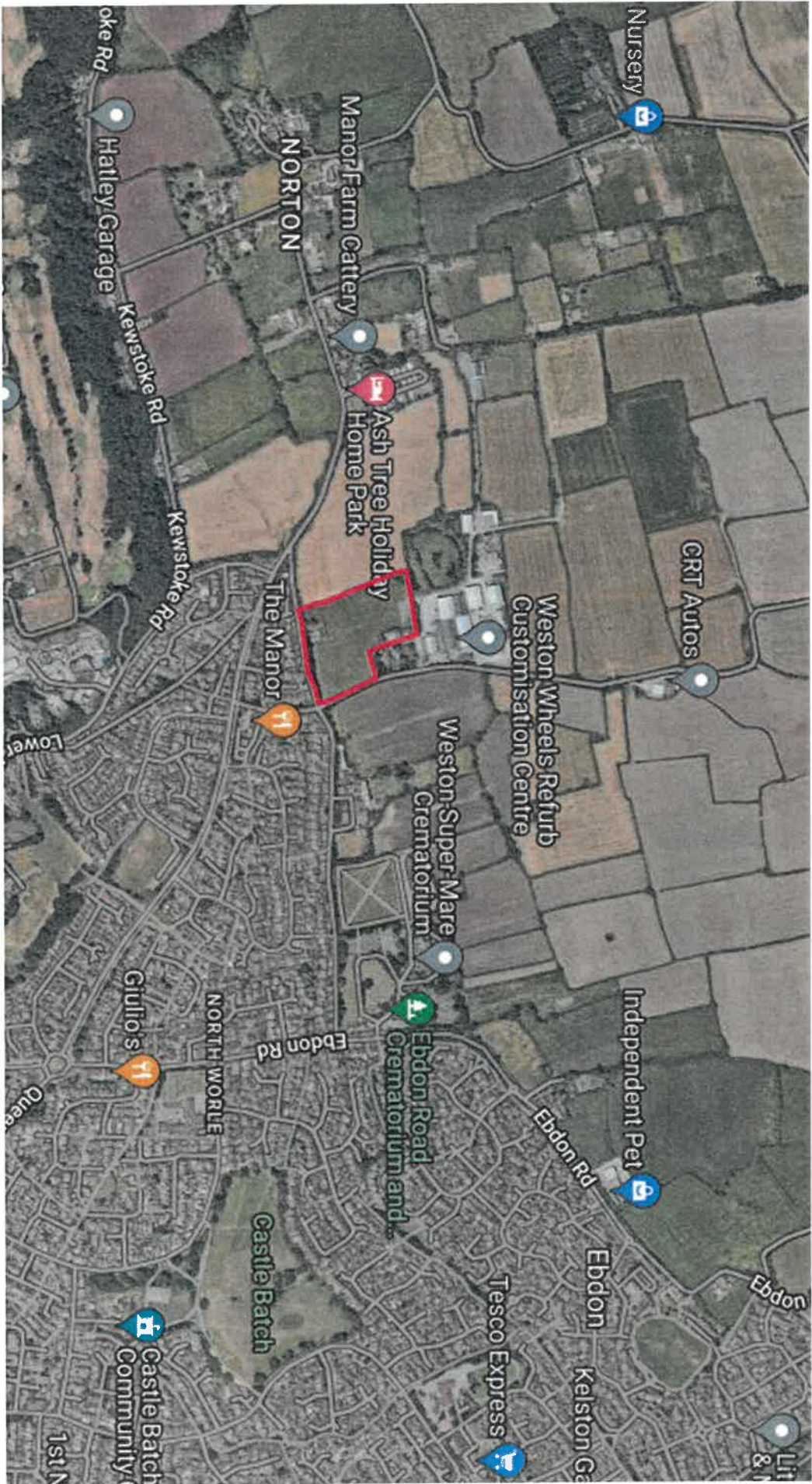
From enquiries we have made, we understand you have promoted this land for development – and I enclose a plan with your land highlighted in red.

I would welcome the opportunity to discuss with you how we can use our resources to unlock the land's development potential and associated value for you as we have done on similar sites across the country. Persimmon Homes is one of the UK's leading house builders, which has the necessary expertise and resources, in addition to a proven track record of delivering exciting residential development.

Should you wish to explore how the full potential of your land can be realised, please do not hesitate to contact me on the details listed below. I look forward to hearing back from you.

Yours sincerely,

Dom MacDougall
Strategic Plannerdominic.macdougall@persimmonhomes.com

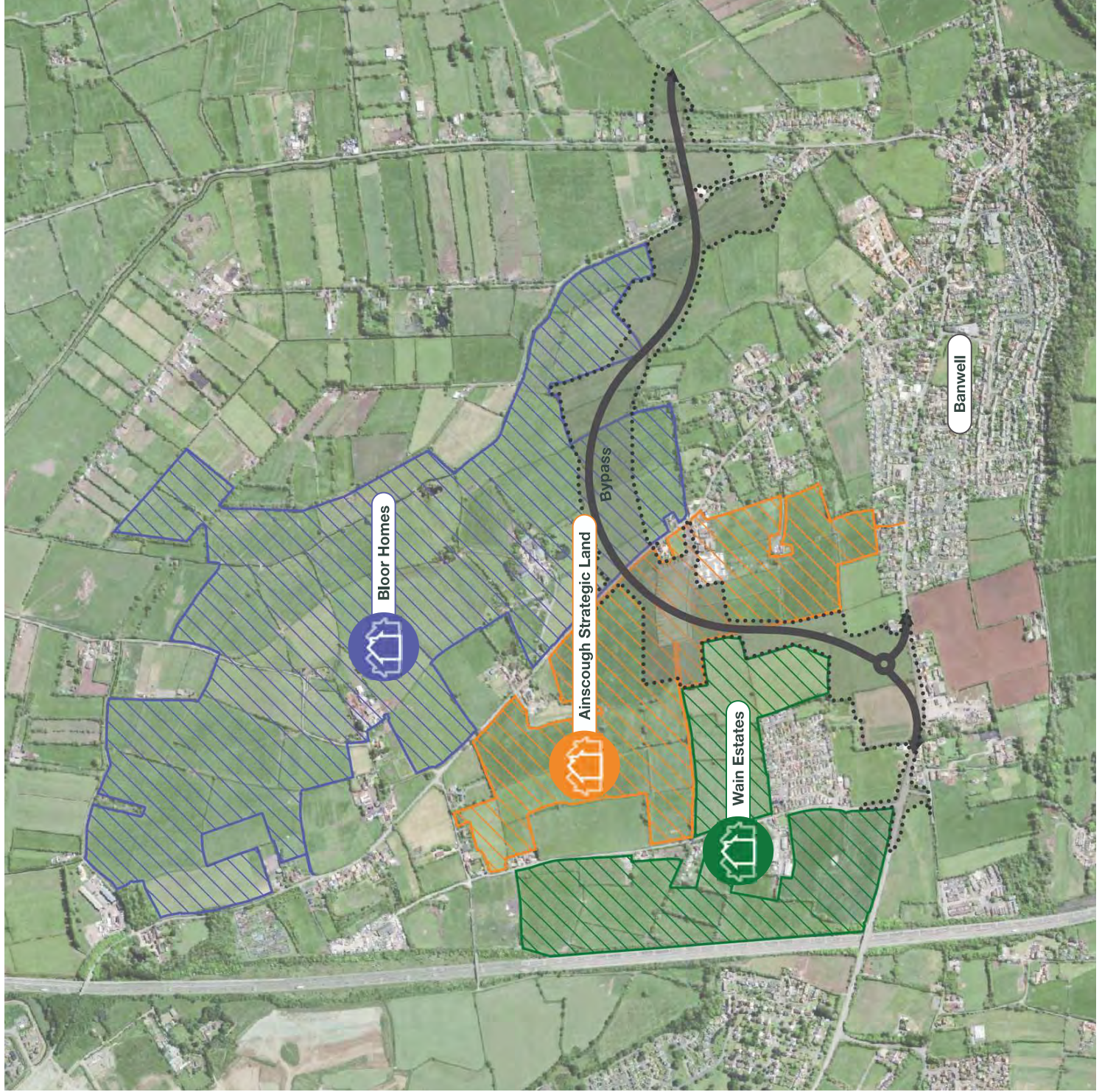


Appendix 5

Extract of Scoping Report 24/P/0572/EA showing developer breakdown at
Wolvershill regarding site 136 / 137

KEY

- Draft Allocation
- Bloor Homes
- Ainscough Strategic Land
- Wain Estates
- Land Subject to Compulsory Purchase
- Indicative Bypass Route



CLIENT:	Bloor Homes, Ainscough Group & Wain Estates
PROJECT:	Land West of Wolvershill, Banwell
DRAWING:	
Site Location	
PROJECT NUMBER:	BLOA3014
DRAWING NUMBER:	1010
CHECKED BY:	NMH
REVISION:	B
STATUS:	Draft
DATE:	March 2024
SCALE:	1:10,000 @ A3



Appendix 6

Appellants submission to Regulation 19 Local Plan consultation relating to site
136/137

22 January 2024

RE: CONSULTATION – LOCAL PLAN – REGULATION 19 – JANUARY 2024

Policy LP1: Strategic Location: Wolverhill (North of Banwell)

The Company objects to the above draft Policy in its current form.

The draft Policy identifies land at Wolverhill for 2,800 dwellings, including 980 affordable homes as well as two 420 place primary schools, one 210 place primary school and, if required, a new secondary school as well other ancillary facilities.

Delivery

The draft Plan anticipates that 2,800 dwellings will be delivered all within the Plan Period. If this were split evenly across the 15 year Plan period, this would equate to 187 dwellings each year if development were to begin in the first year of the Plan Period. However, this already seems impossible given the site does not benefit from planning permission or have a live application and therefore construction is not possible straight away.

The allocation is inherently linked to, and reliant upon, the delivery of the Banwell bypass through a Compulsory Purchase Order, as per the draft Policy text. The outcome of the CPO inquiry which was held in July 2023 is still unknown. The CPO powers were originally due to be exercised in Summer 2023 but this schedule has slipped, pushing back the delivery timescales for the bypass and so surely will affect that Council's anticipated forecasting of on-site delivery.

At North Somerset Council's Full Council meeting on the 14th November 2023, it was confirmed that the Banwell bypass is not expected to be complete until May 2026, with the Southern Link in August 2026 and the defects period concluding in January 2028. If residential development cannot begin until the bypass is complete then dwellings will not begin to be completed until three years into the Plan Period. Even if the development can be phased so that some parts do not rely on the bypass, the start of construction will still be some years away given the lack of an extant planning application. Assuming dwellings can start being completed in 2026, in order to meet the 2,800 dwelling capacity figure for the Plan Period, this will require 233 dwellings to be delivered each year. This is a completely unrealistic delivery rate and is without evidence, and would not reflect fundamental delivery issues with this allocation or any of this scale.

The allocation within draft Policy LP1 represents 18% of the Plan's housing supply. Any under-delivery will represent a significant reduction in housing supply. This is also against the Council's purported housing need which, as set out in separate representations, is considerably less than the actual figure based on Standard Method. The under-delivery

against actual housing need will therefore be significant. Based on this, draft Policy LP1 is not a sound policy and requires considerable work for it to be remedied.

Affordable Housing

Moreover, the evidence base does not support the targeted quantum of affordable housing within the draft Policy. The *Viability Assessment for North Somerset Local Plan 2039* (November 2023) establishes that 30% provision of affordable housing is only “likely to be viable”, and if a secondary school is required then even 20% affordable housing is likely unviable. The 980 affordable homes within LP1 represents 35% provision of affordable housing, which is not supported by the evidence base. The draft Policy has therefore not been based on proportionate evidence and fails to meet the soundness tests, notably NPPF para 35b, by not being justified.

It is requested that:

- Further viability be undertaken to determine what form LP1 needs to take in order to be viable and deliverable – this to address serious concerns as evidenced by the Council’s own evidence
- Following this, the dwelling capacity for LP1 be reconsidered which it is considered will reflect in it being significantly reduced in response to a likely delivery rate in that location.

Appendix 7

Appellant availability enquiry letters to multiple landowners regarding site 136/137

14th June 2024**Bloor Homes South West**

Unit 7 Latham Road

Swindon

Wiltshire

SN25 4DL

To whom it may concern,

RE: Land East of Wolverhill Road, Land North of Wolverhill, Land at Cobthorn Farm and Land at Jacklands Farm, Nailsea

I am writing on behalf of Persimmon Homes Severn Valley regarding the above named property. We have recently undertaken a land study within North Somerset district to identify potential land suitable for residential development. During the exercise your land was identified as potentially appropriate to accommodate new homes.

From enquiries we have made, we understand you have promoted this land for development – and I enclose a plan with your land highlighted in red.

I would welcome the opportunity to discuss with you how we can use our resources to unlock the land's development potential and associated value for you as we have done on similar sites across the country. Persimmon Homes is one of the UK's leading house builders, which has the necessary expertise and resources, in addition to a proven track record of delivering exciting residential development.

Should you wish to explore how the full potential of your land can be realised, please do not hesitate to contact me on the details listed below. I look forward to hearing back from you.

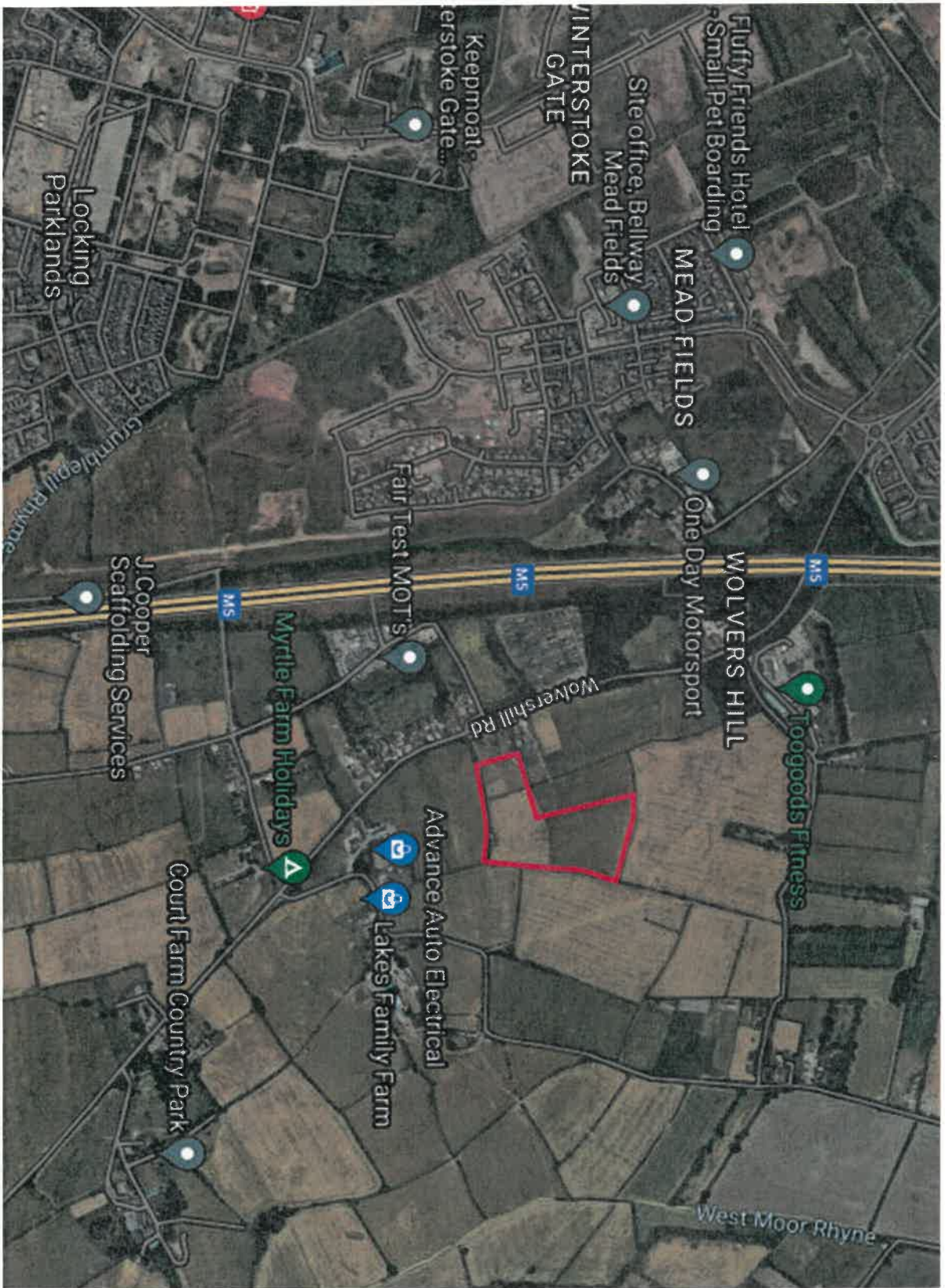
Yours faithfully,

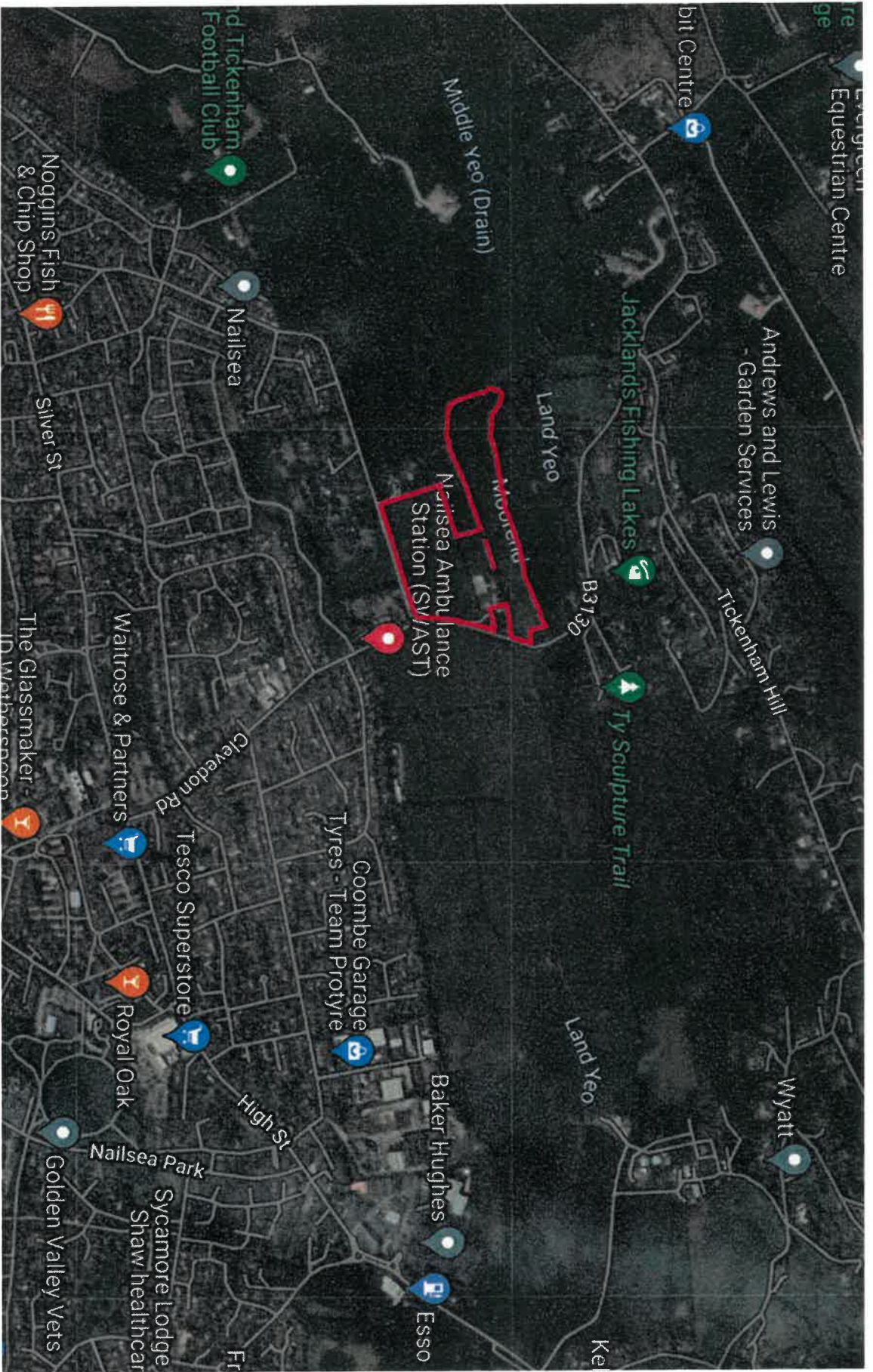


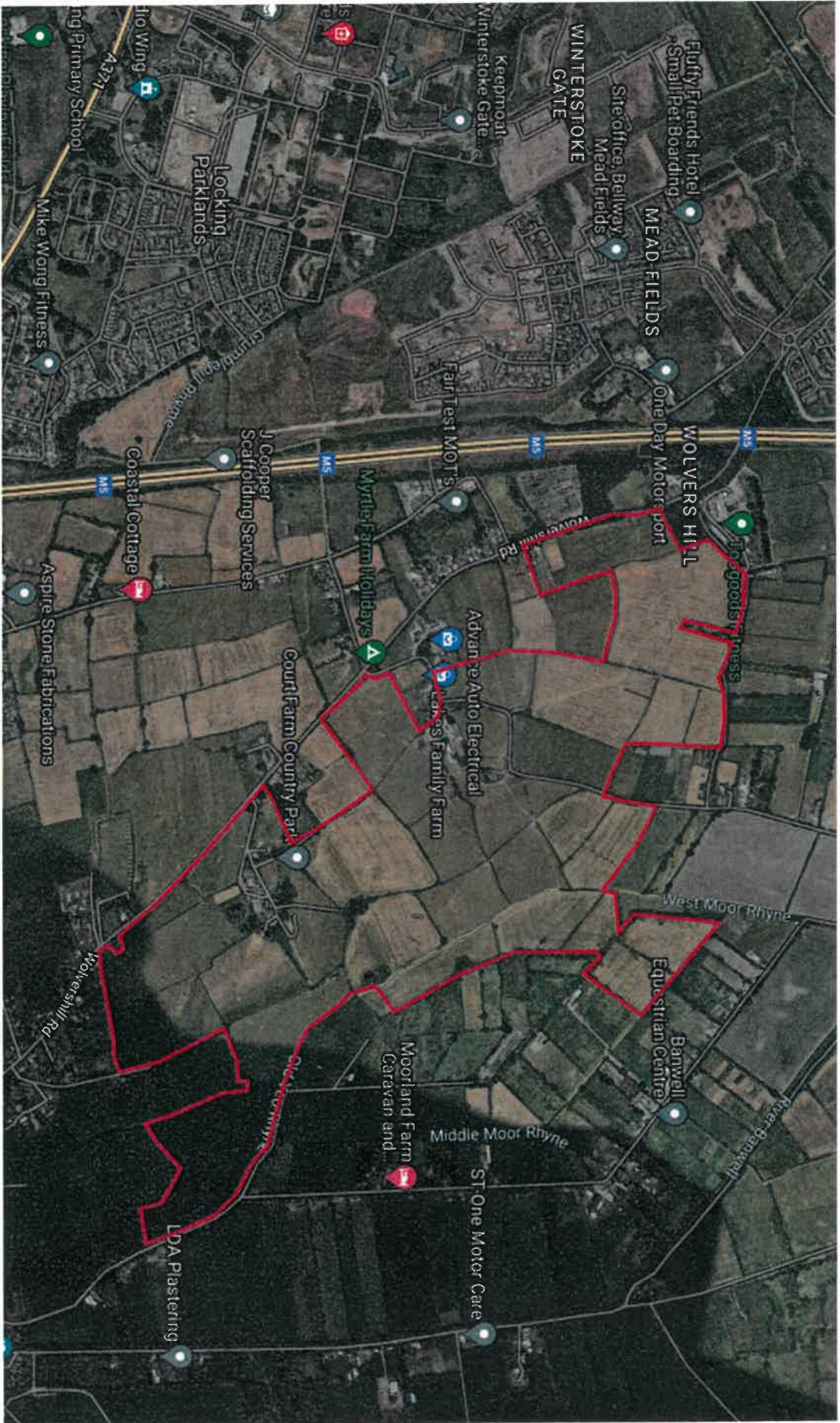
Dom MacDougall

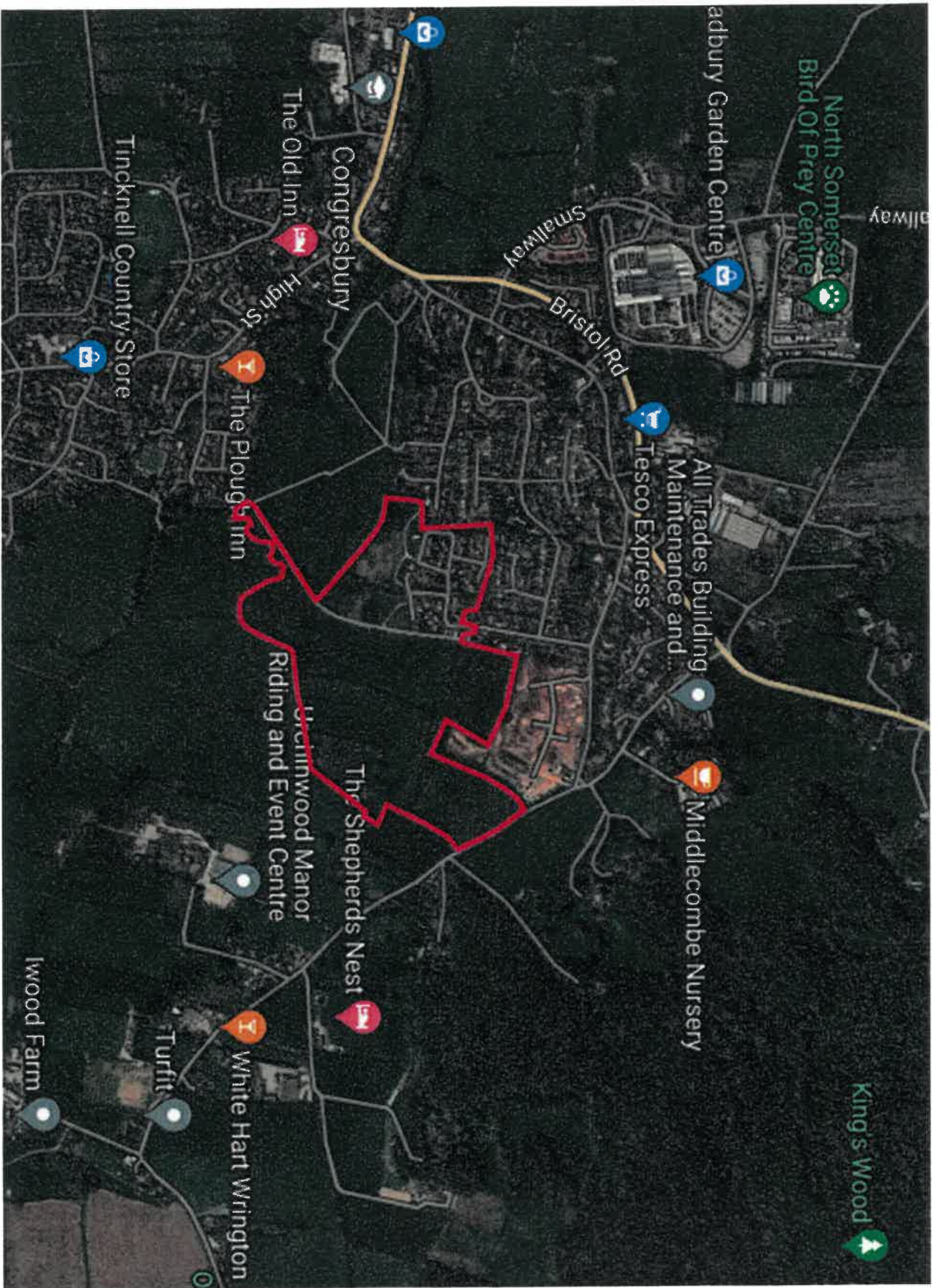
Strategic Planner

dominic.macdougall@persimmonhomes.com









19th June 2024

Michael Biddle
Park Farm
Wolvershill Road
Banwell
BS29 6DL

Dear Michael,

RE: Park Farm, Banwell

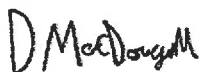
I am writing on behalf of Persimmon Homes Severn Valley regarding the above named property. We have recently undertaken a land study within North Somerset district to identify potential land suitable for residential development. During the exercise your land was identified as potentially appropriate to accommodate new homes.

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Should you wish to explore how the full potential of your land can be realised, please do not hesitate to contact me on the details listed below. I look forward to hearing back from you.

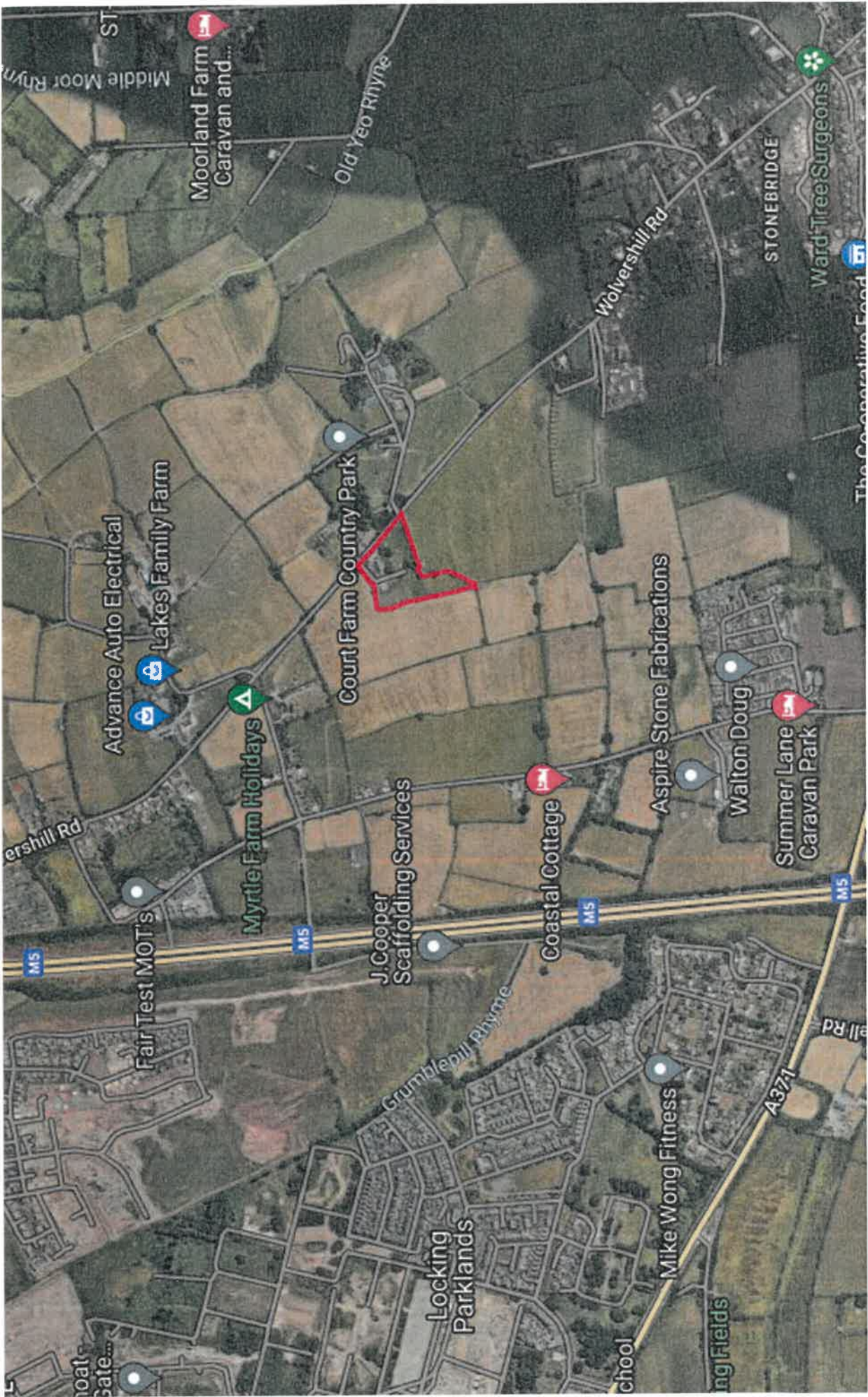
Yours sincerely,



Dom MacDougall
Strategic Planner

dominic.macdougall@persimmonhomes.com





19th June 2024

Wain Homes

Building 2
Great Park Court
Almondsbury Business Park
Bristol
BS32 4PY

To whom it may concern,

RE: Northeast of Nailsea, Land adjacent to M5 and Summer Lane and Land off Summer Lane

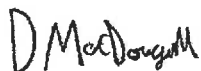
I am writing on behalf of Persimmon Homes Severn Valley regarding the above named property. We have recently undertaken a land study within North Somerset district to identify potential land suitable for residential development. During the exercise your land was identified as potentially appropriate to accommodate new homes.

From enquiries we have made, we understand you have promoted this land for development – and I enclose a plan with your land highlighted in red.

I would welcome the opportunity to discuss with you how we can use our resources to unlock the land's development potential and associated value for you as we have done on similar sites across the country. Persimmon Homes is one of the UK's leading house builders, which has the necessary expertise and resources, in addition to a proven track record of delivering exciting residential development.

Should you wish to explore how the full potential of your land can be realised, please do not hesitate to contact me on the details listed below. I look forward to hearing back from you.

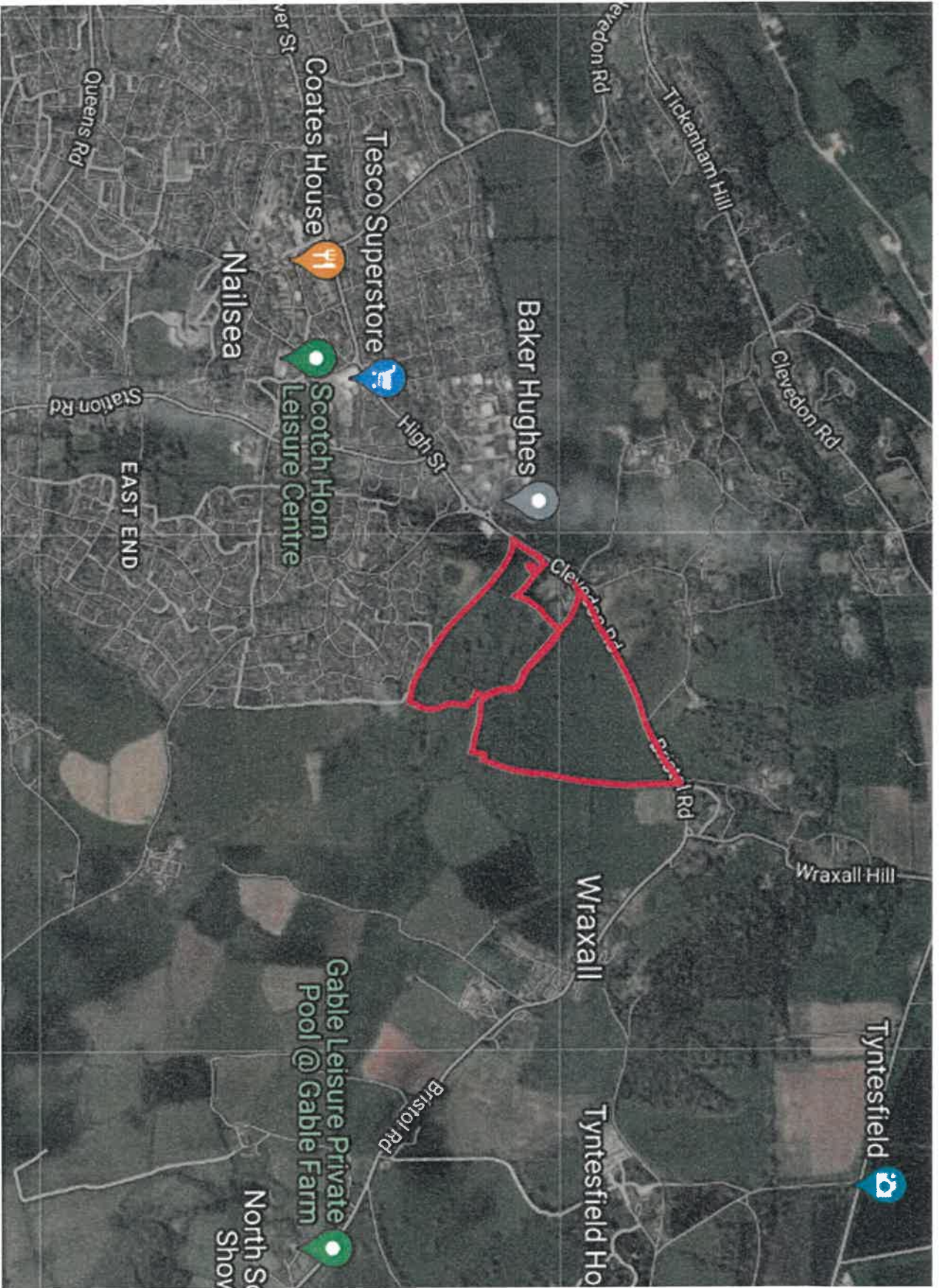
Yours faithfully,

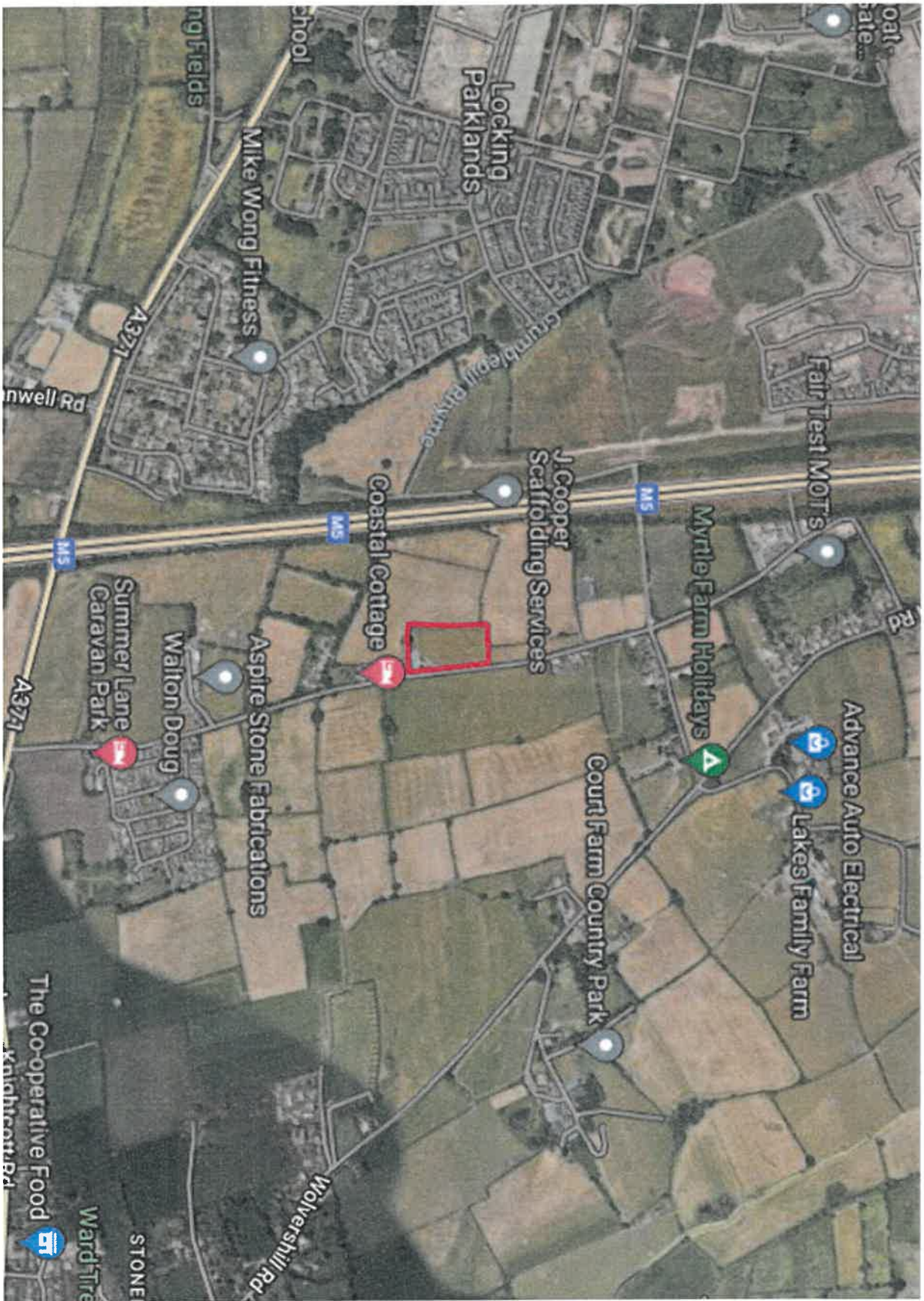


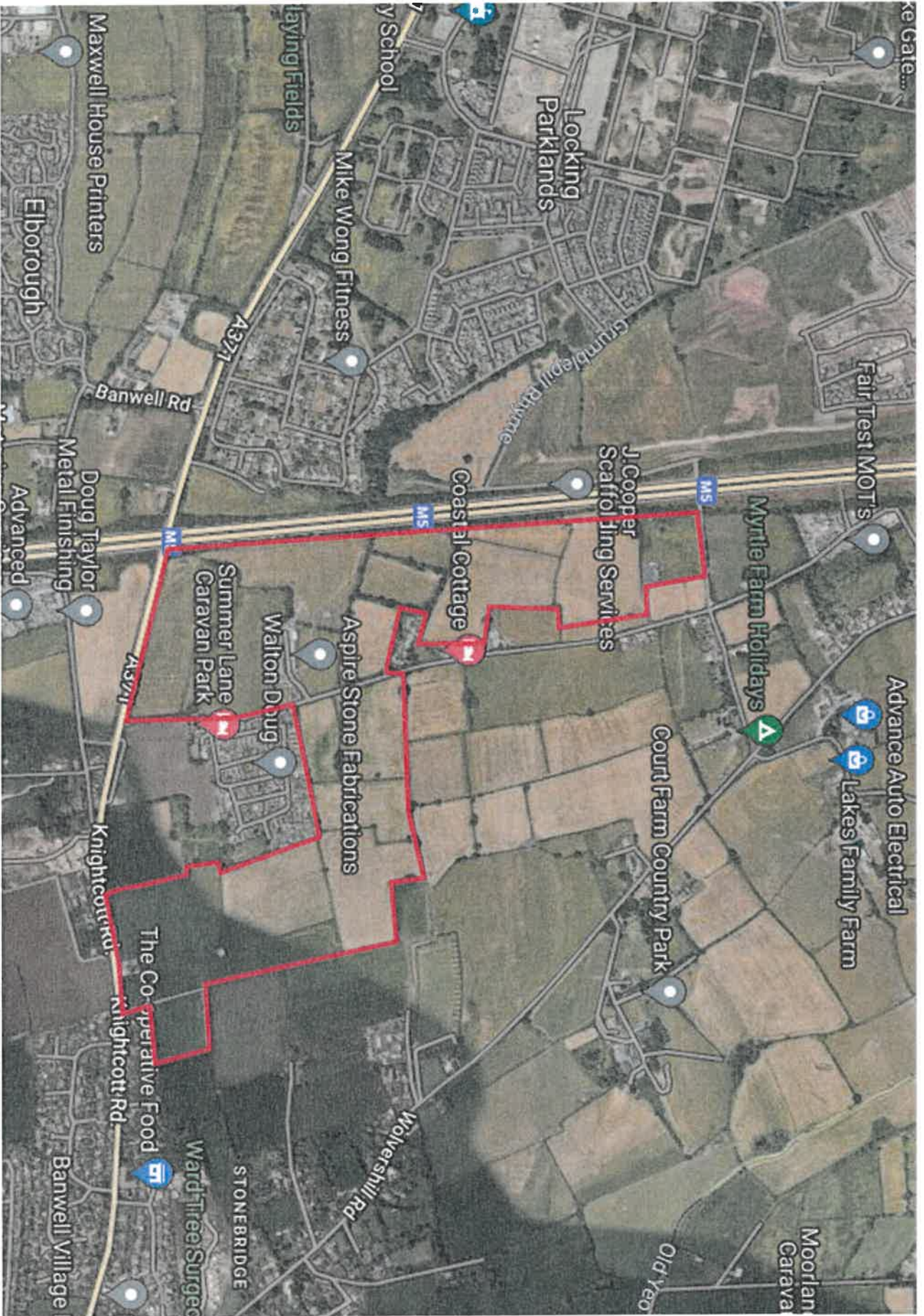
Dom MacDougall
Strategic Planner

dominic.macdougall@persimmonhomes.com









19th June 2024**Diane Priestley**
Myrtle Farm
Summer Lane
Banwell
BS29 6LP**Tel: 01275 396000**

Dear Diane,

RE: Land at Myrtle Farm

I am writing on behalf of Persimmon Homes Severn Valley regarding the above named property. We have recently undertaken a land study within North Somerset district to identify potential land suitable for residential development. During the exercise your land was identified as potentially appropriate to accommodate new homes.

From enquiries we have made, we understand you have promoted this land for development – and I enclose a plan with your land highlighted in red.

I would welcome the opportunity to discuss with you how we can use our resources to unlock the land's development potential and associated value for you as we have done on similar sites across the country. Persimmon Homes is one of the UK's leading house builders, which has the necessary expertise and resources, in addition to a proven track record of delivering exciting residential development.

Should you wish to explore how the full potential of your land can be realised, please do not hesitate to contact me on the details listed below. I look forward to hearing back from you:

Yours sincerely,

Dom MacDougall
Strategic Plannerdominic.macdougall@persimmonhomes.com



19th June 2024**Teifion Newman & Valerie Newman**Meadow Court
Wolvershill Road
Banwell
BS29 6DJ

Dear Teifion and Valerie,

RE: Land North of Banwell

I am writing on behalf of Persimmon Homes Severn Valley regarding the above named property. We have recently undertaken a land study within North Somerset district to identify potential land suitable for residential development. During the exercise your land was identified as potentially appropriate to accommodate new homes.

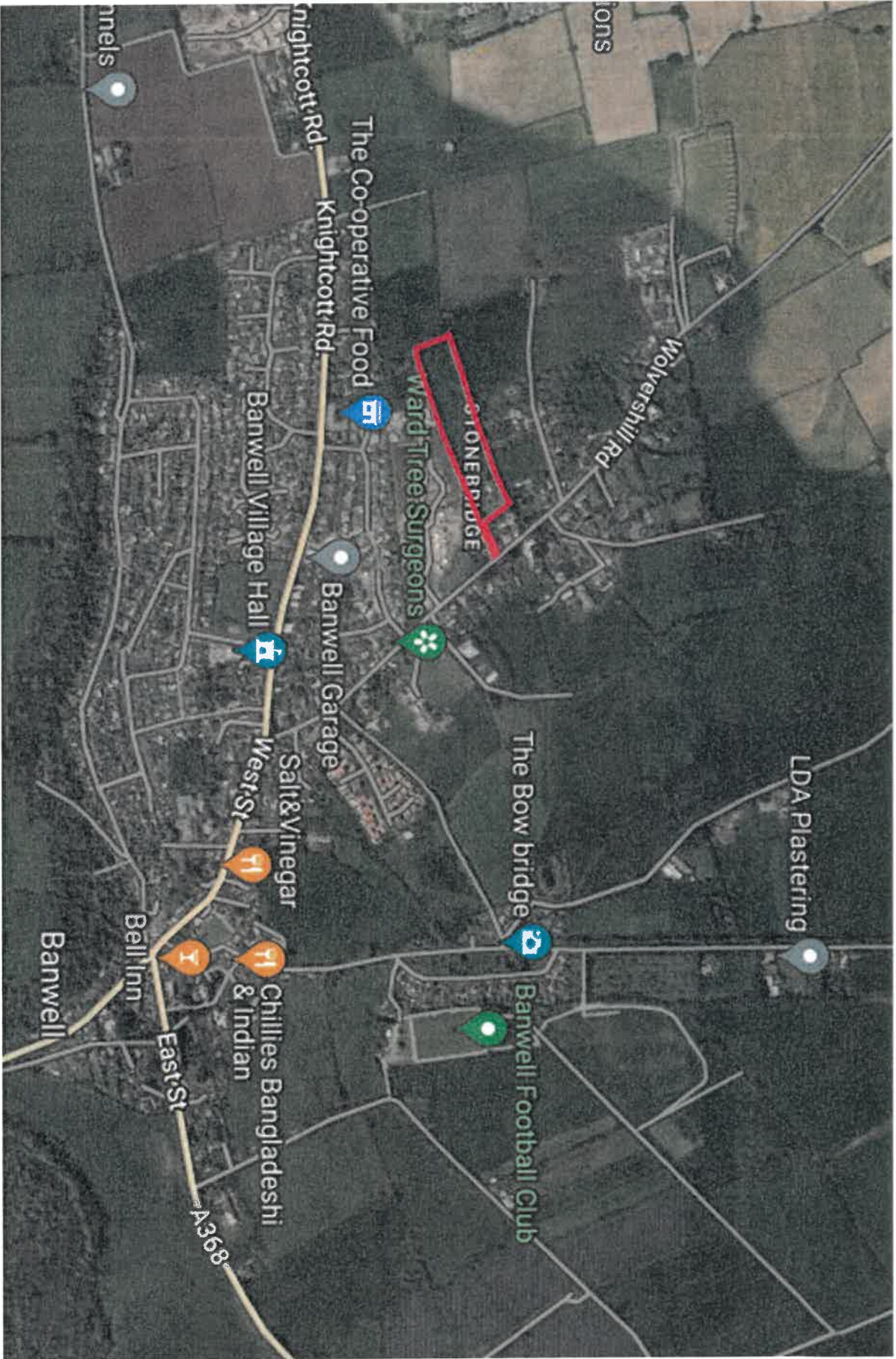
From enquiries we have made, we understand you have promoted this land for development – and I enclose a plan with your land highlighted in red.

I would welcome the opportunity to discuss with you how we can use our resources to unlock the land's development potential and associated value for you as we have done on similar sites across the country. Persimmon Homes is one of the UK's leading house builders, which has the necessary expertise and resources, in addition to a proven track record of delivering exciting residential development.

Should you wish to explore how the full potential of your land can be realised, please do not hesitate to contact me on the details listed below. I look forward to hearing back from you.

Yours sincerely,

Dom MacDougall
Strategic Plannerdominic.macdougall@persimmonhomes.com



20th June 2024**Terra Strategic**
Hayfield House
Arleston Way
Shirley
Solihull
B90 4LH**Tel: 01275 396000**

To whom it may concern,

RE: Land Adjacent to Summer Lane Bridge

I am writing on behalf of Persimmon Homes Severn Valley regarding the above named property. We have recently undertaken a land study within North Somerset district to identify potential land suitable for residential development. During the exercise your land was identified as potentially appropriate to accommodate new homes.

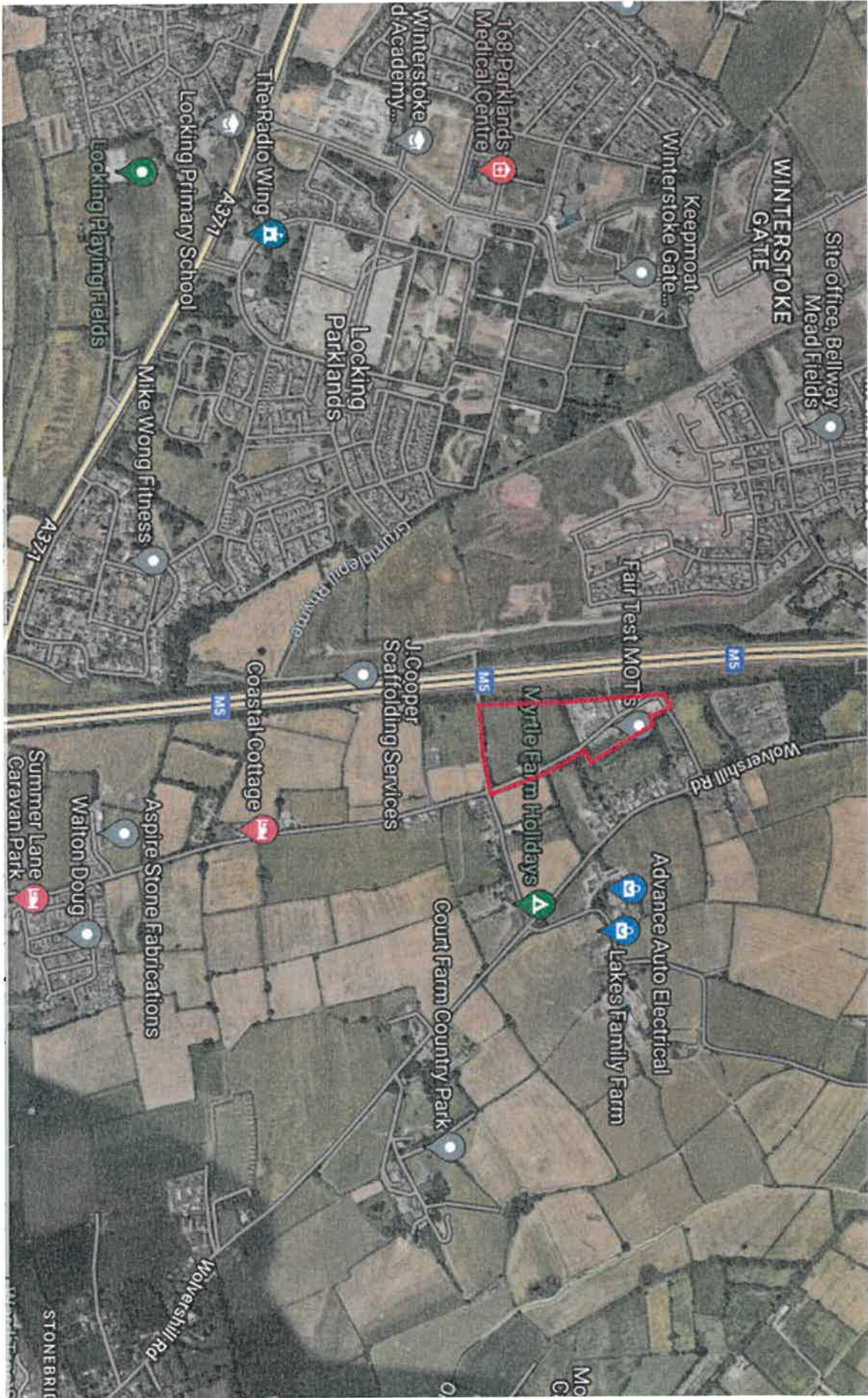
From enquiries we have made, we understand you have promoted this land for development – and I enclose a plan with your land highlighted in red.

I would welcome the opportunity to discuss with you how we can use our resources to unlock the land's development potential and associated value for you as we have done on similar sites across the country. Persimmon Homes is one of the UK's leading house builders, which has the necessary expertise and resources, in addition to a proven track record of delivering exciting residential development.

Should you wish to explore how the full potential of your land can be realised, please do not hesitate to contact me on the details listed below. I look forward to hearing back from you.

Yours faithfully,

Dom MacDougall
Strategic Plannerdominic.macdougall@persimmonhomes.com



20th June 2024**St. Philips**

Unit 3

Hagley Mews

Hall Drive

Stourbridge

DY9 9LQ

To whom it may concern,

RE: Land Adjacent to Summer Lane Bridge

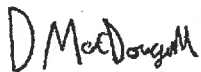
I am writing on behalf of Persimmon Homes Severn Valley regarding the above named property. We have recently undertaken a land study within North Somerset district to identify potential land suitable for residential development. During the exercise your land was identified as potentially appropriate to accommodate new homes.

From enquiries we have made, we understand you have promoted this land for development – and I enclose a plan with your land highlighted in red.

I would welcome the opportunity to discuss with you how we can use our resources to unlock the land's development potential and associated value for you as we have done on similar sites across the country. Persimmon Homes is one of the UK's leading house builders, which has the necessary expertise and resources, in addition to a proven track record of delivering exciting residential development.

Should you wish to explore how the full potential of your land can be realised, please do not hesitate to contact me on the details listed below. I look forward to hearing back from you.

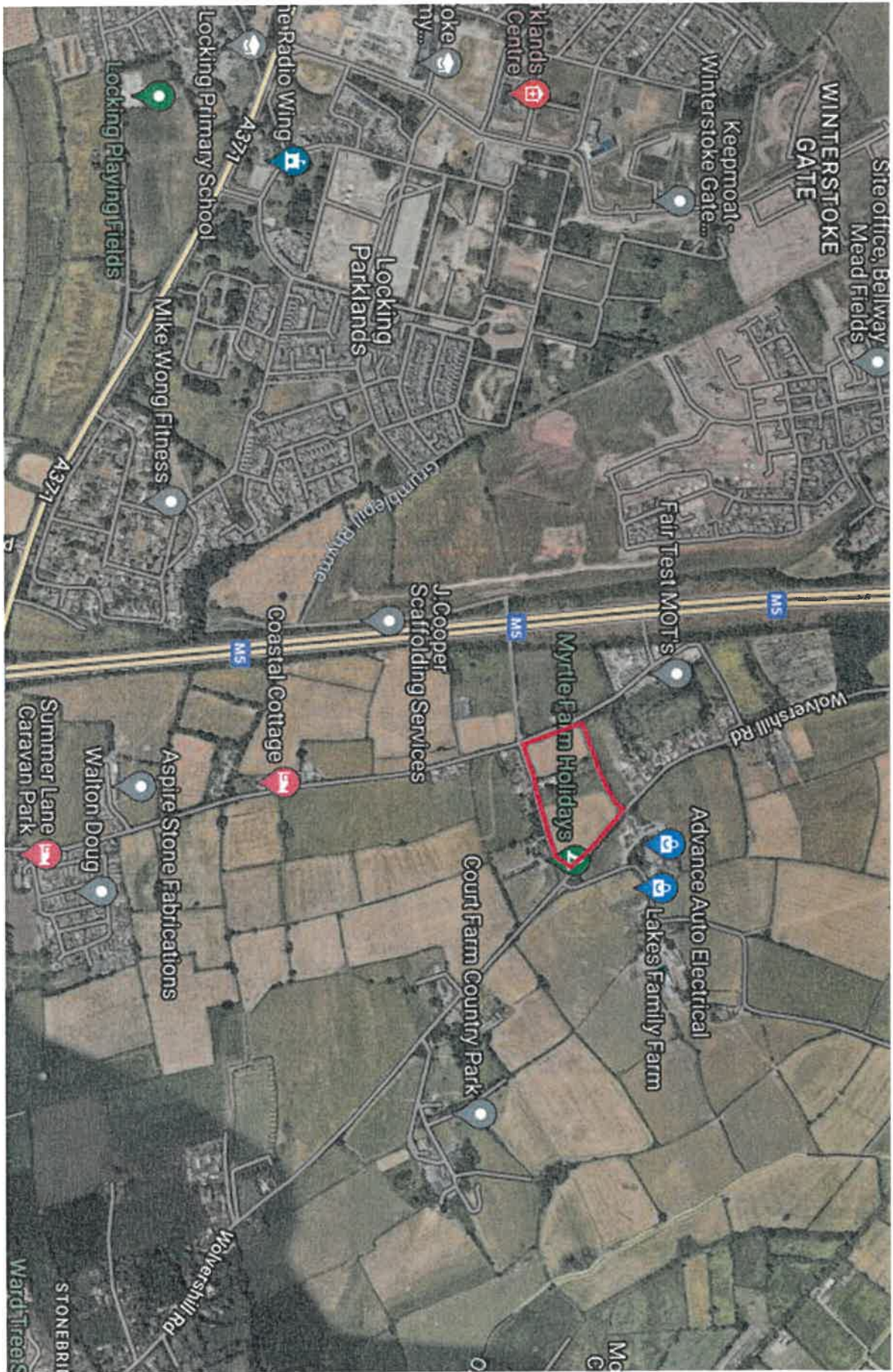
Yours faithfully,



Dom MacDougall

Strategic Planner

dominic.macdougall@persimmonhomes.com



20th June 2024**Ainscough Strategic Land**Oakland House
21 Hope Carr Road
Leigh
WN7 3ETTel: **01275 396000**

To whom it may concern,

RE: Land at East of M5, Banwell

I am writing on behalf of Persimmon Homes Severn Valley regarding the above named property. We have recently undertaken a land study within North Somerset district to identify potential land suitable for residential development. During the exercise your land was identified as potentially appropriate to accommodate new homes.

From enquiries we have made, we understand you have promoted this land for development – and I enclose a plan with your land highlighted in red.

I would welcome the opportunity to discuss with you how we can use our resources to unlock the land's development potential and associated value for you as we have done on similar sites across the country. Persimmon Homes is one of the UK's leading house builders, which has the necessary expertise and resources, in addition to a proven track record of delivering exciting residential development.

Should you wish to explore how the full potential of your land can be realised, please do not hesitate to contact me on the details listed below. I look forward to hearing back from you.

Yours faithfully,

Dom MacDougall
Strategic Plannerdominic.macdougall@persimmonhomes.com

Appendix 8

Appellant availability enquiry letter to Mactaggart & Mickel Group Limited regarding site 140/151

14th June 2024**Mac Mic Group**Suite 217
Aztec Centre
Aztec West
Bristol
BS32 4TD

To whom it may concern,

RE: Land at Flax Bourton/East of Backwell, Devils Elbow Farm and North of Banwell Road, Elborough

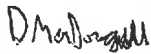
I am writing on behalf of Persimmon Homes Severn Valley regarding the above named property. We have recently undertaken a land study within North Somerset district to identify potential land suitable for residential development. During the exercise your land was identified as potentially appropriate to accommodate new homes.

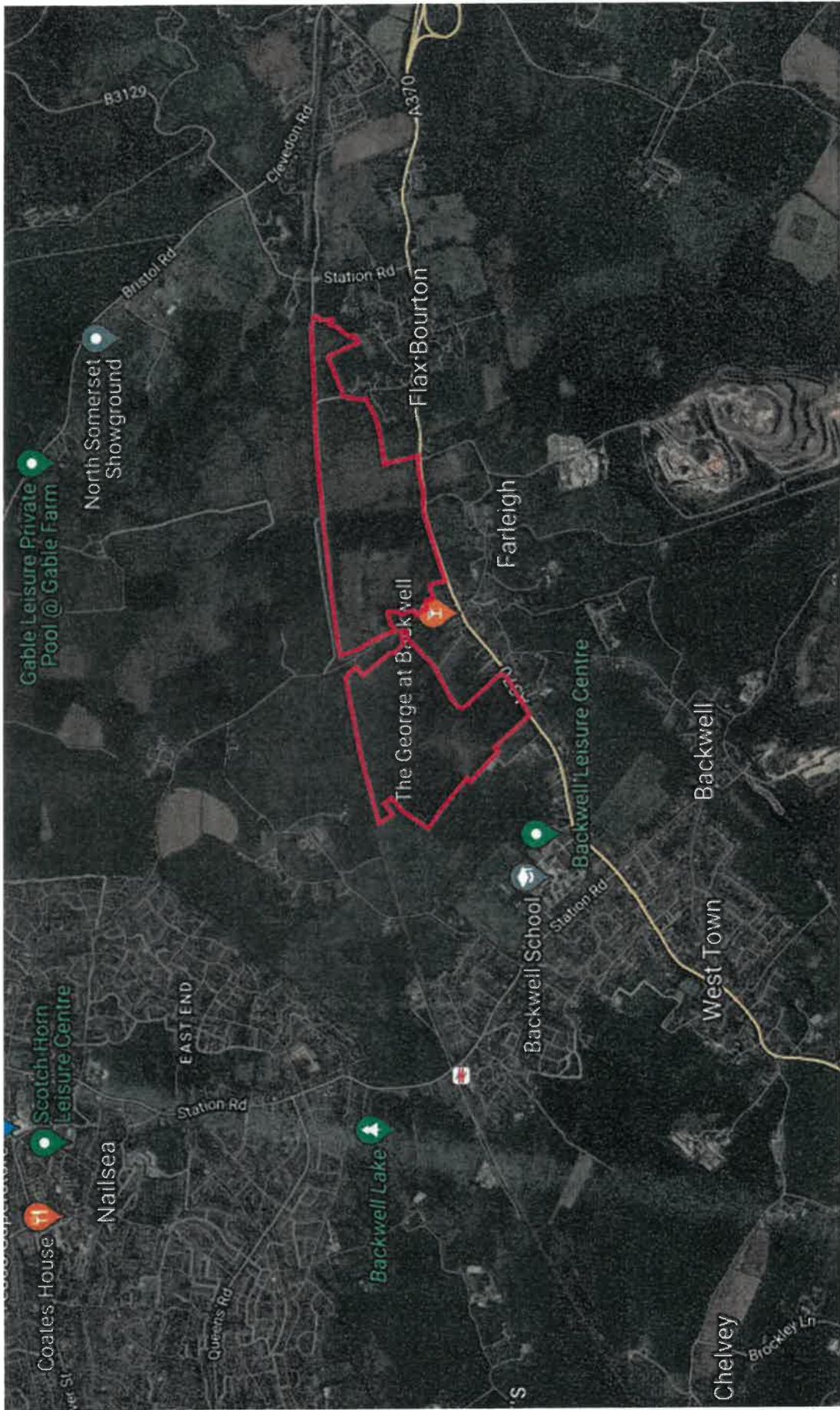
From enquiries we have made, we understand you have promoted this land for development – and I enclose a plan with your land highlighted in red.

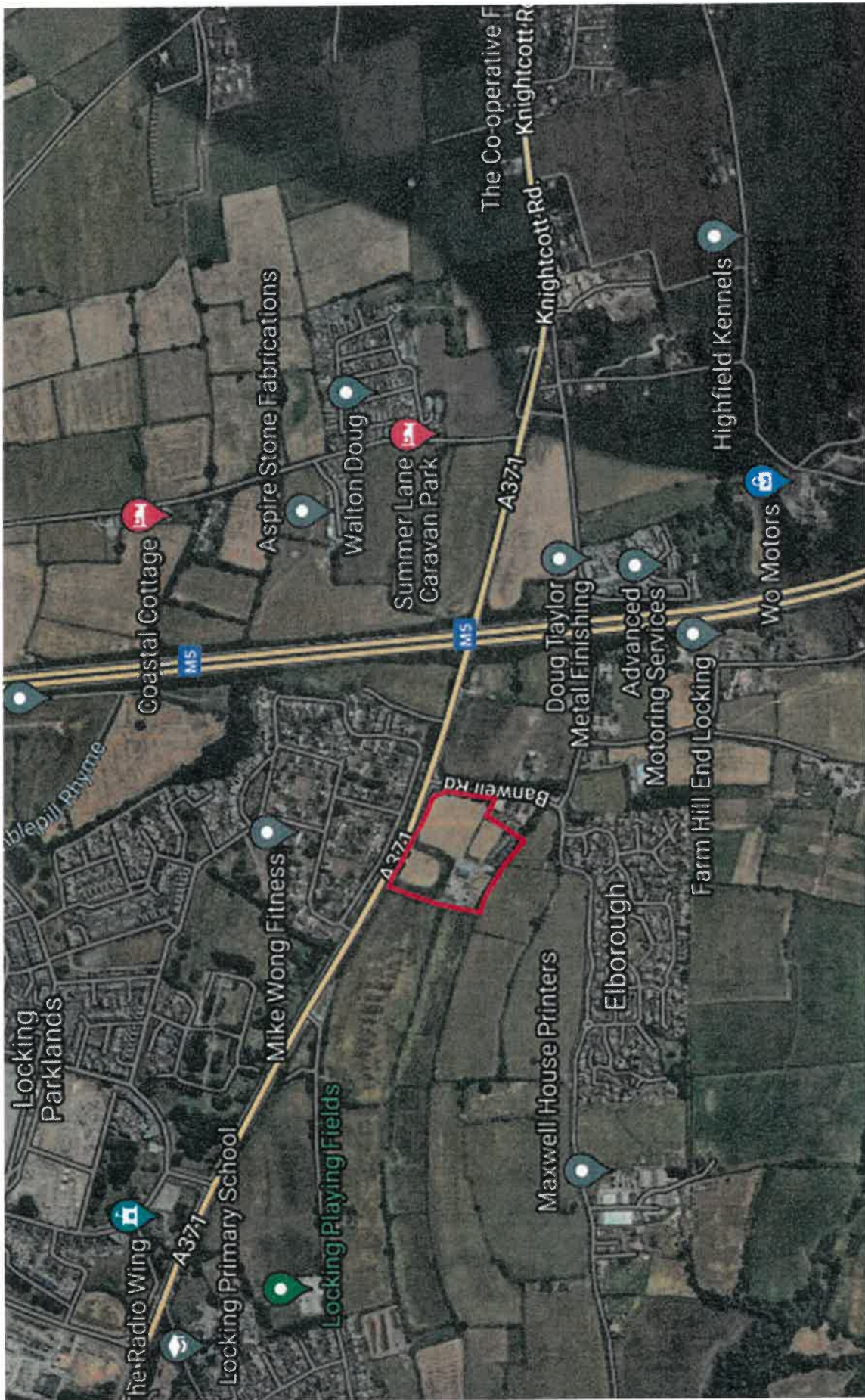
I would welcome the opportunity to discuss with you how we can use our resources to unlock the land's development potential and associated value for you as we have done on similar sites across the country. Persimmon Homes is one of the UK's leading house builders, which has the necessary expertise and resources, in addition to a proven track record of delivering exciting residential development.

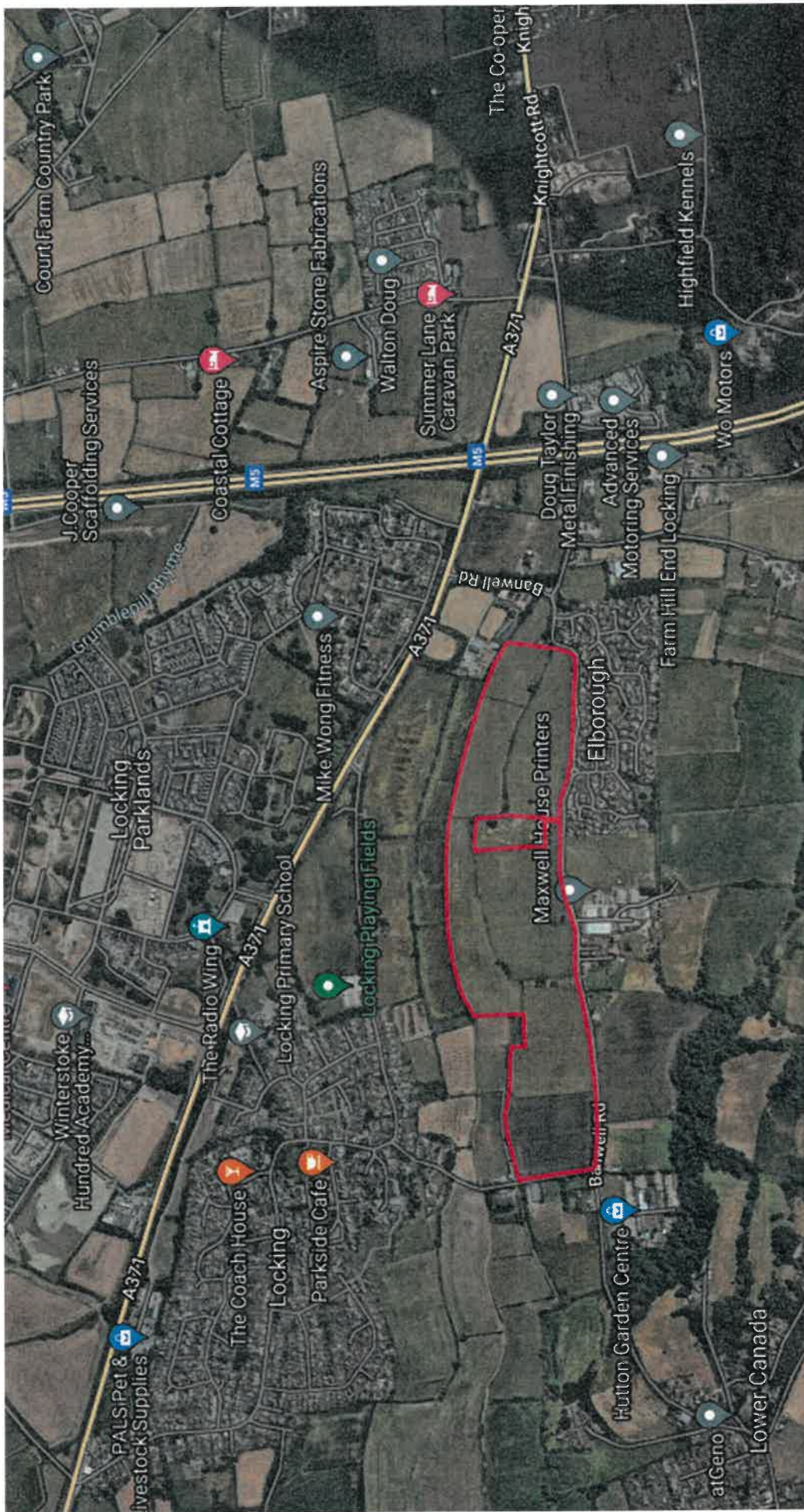
Should you wish to explore how the full potential of your land can be realised, please do not hesitate to contact me on the details listed below. I look forward to hearing back from you.

Yours faithfully,

Dom MacDougall
Strategic Plannerdominic.macdougall@persimmonhomes.com







Appendix 9

Appellant availability enquiry letter to landowners regarding site 140/151

19th June 2024

Alan Stephens, Juliet Stephens, Bevis Stephens
Elborough Farm
Banwell Road
Locking
BS24 8PB

Dear Alan, Juliet and Bevis,

RE: Land South of Elborough

I am writing on behalf of Persimmon Homes Severn Valley regarding the above named property. We have recently undertaken a land study within North Somerset district to identify potential land suitable for residential development. During the exercise your land was identified as potentially appropriate to accommodate new homes.

From enquiries we have made, we understand you have promoted this land for development – and I enclose a plan with your land highlighted in red.

I would welcome the opportunity to discuss with you how we can use our resources to unlock the land's development potential and associated value for you as we have done on similar sites across the country. Persimmon Homes is one of the UK's leading house builders, which has the necessary expertise and resources, in addition to a proven track record of delivering exciting residential development.

Should you wish to explore how the full potential of your land can be realised, please do not hesitate to contact me on the details listed below. I look forward to hearing back from you.

Yours sincerely,



Dom MacDougall
Strategic Planner

dominic.macdougall@persimmonhomes.com





Appendix 10

Extract of Proof of Evidence of Mr Hewlett presented to Appeal 3313624



North Somerset Council

Town and Country Planning Act 1990 Section 78

Appeal by Mead Realisations Ltd against the decision of North Somerset Council to refuse planning application 20/P/1579/OUT 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 on land at Lynchmead Farm, Ebdon Road, Wick St Lawrence, Weston-super-Mare

Planning Inspectorate reference: APP/D0121/W/22/3313624

Local Planning Authority reference: 20/P/1579/OUT

Proof of Evidence of Marcus Hewlett

Appendices

April 2023

Appendix MH2: Schedule of sites based upon appellant’s schedule set out in Appendix 1 to their Statement of Case

Appendix MH2 updates the interim site assessment position provided to the appellant on 31 March 2023. It is based upon the sites considered in the appellant’s schedule of sites presented within Appendix 1 to their Statement of Case, but with the addition of 12 further sites not considered by the appellant set out in Table MH2a.

Table MH2a: Alternative sites not considered by appellant
AS1: Wolvershill Strategic Growth Area (various sequentially preferable sites as set out in latest SHLAA (CD8.19 – CD8.22), corresponding to draft allocation in emerging local plan – see Policy LP1 of the emerging local plan (CD8.23, page 21))
AS2: Land at Mead Farm (SHLAA ref: HE2075) (draft housing allocation in emerging local plan – see CD8.23, Schedule 1, page 131)
AS3: Land west of Sandford (SHLAA ref: HE201012) (draft housing allocation in emerging local plan – see CD8.23, Schedule 1, page 131))
AS4: West of Hill Road, Winscombe (SHLAA ref: HE2076) (draft housing allocation in emerging local plan – see CD8.23, Schedule 1, page 133)
AS5: Land east of Ladymead Lane (SHLAA ref: HE2023) (draft housing allocation in emerging local plan – see CD8.23, Schedule 1, page 127)
AS6: North and south of Youngwood Lane (SHLAA ref: HE20612) (corresponds to draft housing allocation in emerging local plan – see CD8.23, Schedule 1, page 118)
AS7: Grove Farm, Backwell (SHLAA ref: HE20595) (corresponds to draft housing allocation in emerging local plan – see CD8.23, Schedule 1, page 123)
AS8: Greenhill Rd, Sandford. (Application ref: 22/P/0227/OUT) resolution to approve.
AS9: Land west of Trenchard Road, WsM (Application ref: 18/P/3038/OUT)
AS10: Pudding Pie Lane (west), Churchill (draft housing allocation in emerging local plan – see CD8.23, Schedule 1, page 128)
AS11: Weston College Site, Somerset Square, Nailsea (draft housing allocation in emerging local plan – see CD8.23, Schedule 1, page 121)

AS12: **Elm Grove Nursery, Locking** (SHLAA ref: HE207) (draft housing allocation in emerging local plan – see CD8.23, Schedule 1, page 112)

'AS' – Additional Site

Of the 69 separate site records considered by the appellant (once duplicate entries accounted for), I agree on rejection of 42 of the sites set out in Table MH2b. Paragraph 5.36 of my proof of evidence sets out the reasons for my agreement on the rejection of these sites.

Table MH2b: Sites where rejection is agreed
ST1: Queensway/Midhaven Rise, BS22
ST2: Parklands Village (former RAF Locking site)
ST3: Land North of Oldmixon Road, BS24
ST4: Land at Wentwood Drive, BS24
ST6: South of Herluin Way, Avoncrest Site, BS23 3YN
ST7: Station Gateway, BS23 3DE
ST11: Land at Atlantic Road South, BS23 2DE
ST12: Birnbeck Pier and Environs
ST13: Lynton House Hotel
ST15: South of Manor Farm, North of Lyefield Road
ST19: North of Amesbury Drive, Bleadon
ST20: Purn House Farm industrial estate
ST22: Land adjacent to Sweet Briar, West End, Nailsea, BS48 4DB
ST23: West of Engine Lane
ST25: Youngwood Lane, BS48 4NR
ST27: Court Farm, All Saints lane
ST28: 2-6 Bay Road
ST30: Old Mill Road, Portishead
ST31: Tickenham Garden Centre, Church Lane, Tickenham, Clevedon, Avon, BS21 6SD
ST32: Land to the east of Wolvershill Road
ST37: Woodborough Farm, Winscombe

ST38: Arnolds Way (Phase 2) Yatton
ST39: Land at North End, Yatton
ST42: Yatton Station, BS49 4BD
ST43: North of Nortons Wood Lane, Clevedon
ST44: South of Cedar Way, Portishead
ST45: Land south of Clevedon Road
ST46: North of Youngwood Lane
ST49: East of Frost Hill, Yatton
ST50: South of sports ground north of Cox's Green, Wrington
ST53: North of Wrington Mead
ST54: Park Farm, Congresbury
ST58: Land south of Knightcott Gardens, Banwell
ST59: Wooleys farm
ST60: Hilldale Road
ST61: South east of Church Lane, Backwell
ST62: Land at Dark Lane, Backwell
ST63: Hill Road, Sandford
ST64: Land West of Wolverhill Road, North of Wolverhill Park and Knightcott Park Banwell
ST65: Barrow Hospital, Barrow Gurney, Long Ashton, BS48 3SG
ST66: Land South of Cox's Green, Wrington, BS40
ST67: Cobthorn Way, Congresbury, BS48 5BJ

I disagree on the rejection of 27 of the sites considered by the appellant. Along with the 12 additional sites I consider represent reasonable alternatives from Table MH2a, these are set out with plans and supporting justification in the Site Templates section below.

The plan overleaf indicates the broad distribution of these sites in relation to the appeal site.

Appendix 11

Extract of Proof of Evidence Appendices of Mr Hewlett presented to Appeal 3313624



North Somerset Council

Town and Country Planning Act 1990 Section 78

Appeal by Mead Realisations Ltd against the decision of North Somerset Council to refuse planning application 20/P/1579/OUT 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 on land at Lynchmead Farm, Ebdon Road, Wick St Lawrence, Weston-super-Mare

Planning Inspectorate reference: APP/D0121/W/22/3313624

Local Planning Authority reference: 20/P/1579/OUT

Proof of Evidence of Marcus Hewlett

April 2023

comprehensively emerging/draft residential allocations from the new local plan although some such sites are included e.g. ST51, ST56, and ST57. Despite the method claiming that “*Sites identified as having development potential in the SHLAA (January 2022)...*” have been considered, many sites identified in the SHLAA have not been considered, and I include these within my assessment of sites.

5.35 The latest SHLAA⁶⁶ indicates 90 separate sites that are considered to have potential, 10 of which are in the WsM area⁶⁷.

Reasonably available sites

5.36 In my opinion, the appellant should have concluded that there are alternative ‘reasonably available’ sites at a lower risk of flooding able to accommodate the type of development, in this case housing. In Appendix MH2 I set out where I disagree with the conclusions reached on alternative sites considered by the appellant and why some of the sites ought to be considered as suitable alternatives. Early sight of this was provided to the appellant on 31 March 2023 as agreed at the Case Management Conference on 23 March 2023. I also indicate where I agree with the appellant’s rejection of an alternative site set out in Table MH2b of Appendix MH2. My agreement to the rejection of sites is for the following main reasons:

- where the site is under construction,
- where the site may be in conflict with the current Development Plan (in terms of locational strategy for housing as set out in Section 3), not proposed within the emerging local plan, and where its delivery may be longer term despite being identified in the SHLAA as a suitable candidate. Examples of such include sites **ST19** *North of Amesbury Drive, Bleadon*; **ST20** *Purn House Industrial Estate, Bleadon*; and **ST46** *Land north of Youngwood Lane*.

⁶⁶ CD8.19 to CD8.22.

⁶⁷ See CD8.20, Place Templates document.

- Where there are specific reasons to conclude that there is no ‘reasonable prospect’ of the site being delivered in the short-term.
- Where the site is the same or worse flood risk status.
- Sites within the Green Belt.
- Where the site is identified within the SHLAA however is not known to be available i.e. has not been submitted to the Council for consideration as part of the emerging local plan.
- Where a site is very small <10 units.

5.37 In addition, in Appendix MH2, Table MH2a I provide a schedule of sites considered to be ‘reasonably available’ alternatives that were not considered in the appellant’s latest assessment although were available for consideration⁶⁸. These were also provided to the appellant on 31 March 2023. These sites are identified from a review of land availability evidence, where I have identified sites considered suitable that are also emerging through the new local plan, sites that have planning consent for the type of development, and other draft allocations in the emerging local plan where there are indications of availability. It is worth noting that there are a larger range of sites within the SHLAA that are identified as being suitable for residential development, but I have not taken account of those which are not identified as potential allocations in the emerging local plan and are in conflict with the adopted development plan policies controlling the distribution of housing. This is because their delivery is less certain and may be longer-term. For the sites I do consider to be reasonably available, a set of plans and supporting information is provided as a series of Site Templates in Appendix MH2.

5.38 This evidence supports the conclusion that the appeal proposal fails the sequential test as set out in Policy CS3 and the Framework because there are

⁶⁸ Prefixed with site reference ‘AS’ – Additional Site.

Appendix 12

Land Registry extract relating to site 16

THIS IS A PRINT OF THE VIEW OF THE REGISTER OBTAINED FROM HM LAND REGISTRY SHOWING THE ENTRIES SUBSISTING IN THE REGISTER ON 24 MAR 2024 AT 18:53:05. BUT PLEASE NOTE THAT THIS REGISTER VIEW IS NOT ADMISSIBLE IN A COURT IN THE SAME WAY AS AN OFFICIAL COPY WITHIN THE MEANING OF S.67 LAND REGISTRATION ACT 2002. UNLIKE AN OFFICIAL COPY, IT MAY NOT ENTITLE A PERSON TO BE INDEMNIFIED BY THE REGISTRAR IF HE OR SHE SUFFERS LOSS BY REASON OF A MISTAKE CONTAINED WITHIN IT. THE ENTRIES SHOWN DO NOT TAKE ACCOUNT OF ANY APPLICATIONS PENDING IN HM LAND REGISTRY. FOR SEARCH PURPOSES THE ABOVE DATE SHOULD BE USED AS THE SEARCH FROM DATE.

THIS TITLE IS DEALT WITH BY HM LAND REGISTRY, PLYMOUTH OFFICE.

TITLE NUMBER: ST308712

There is/are search(es) pending against this title.

A: Property Register

This register describes the land and estate comprised in the title.

NORTH SOMERSET

- 1 (02.10.2013) The Freehold land shown edged with red on the plan of the above title filed at the Registry and being Grove Farm, Chelvey Road, Backwell, Bristol (BS48 3BD).
- 2 (02.10.2013) As to the part tinted blue on the title plan, the mines and minerals are excepted.
- 3 (02.10.2013) There are excluded from this registration the mines and minerals in respect of the land tinted pink on the title plan excepted by the Conveyance thereof dated 25 October 1939 made between (1) The Honourable Henry Frederick Thynne (2) Arthur Horace Penn and others and (3) Alfred Charles Vowles in the following terms and the land is also subject to the following ancillary powers of working:-

EXCEPT AND RESERVED unto the Vendor in fee simple (subject to the provisions of the Coal Act 1938) all mines and minerals and mineral substances which are or may be at a depth of not less than One hundred feet below the surface of the land and premises hereby conveyed Together with full power and authority for the Vendor and his successors in title and the owners and lessees for the time being of such mines minerals and mineral substances to work and get the same mines minerals and mineral substances and carry away the same and any minerals in or under any adjoining lands of the Vendor or his successors in title by underground workings only and for the purpose of such workings from time to time or at any time to do all things necessary or proper for the working or getting the same but so nevertheless that the vendor shall have no right or power whatsoever in or over the said land and premises hereby conveyed or the space extending in depth One hundred feet immediately thereunder but only to prosecute works underground below the surface and space aforesaid.
- 4 (02.10.2013) The Conveyance dated 25 October 1939 referred to above contains the following provision:-

"IT IS HEREBY EXPRESSLY AGREED AND DECLARED that the Purchaser or the persons deriving title under him shall not be entitled to any right of light or air which would in any manner diminish or interfere with the free and unrestricted user of any adjoining or neighbouring property now belonging to the Vendor either for building or any other purpose and the assurance hereby made shall not be construed to operate as implying the grant of or granting any such right or as implying the grant of or granting any easement right or privilege of way drainage watercourse support or other easement right or privilege for the benefit of the premises hereby assured over or against any such adjoining or neighbouring property whether or not the same has in fact heretofore been exercised or enjoyed over the same"
- 5 (02.10.2013) The land has the benefit of the rights granted by a Deed dated 27 February 1968 made between (1) Dorothy Edith Scull (2) Long Ashton Rural District Council and (3) Emily Vowles.

Title number ST308712

A: Property Register continued

NOTE: Copy filed under AV253008.

B: Proprietorship Register

This register specifies the class of title and identifies the owner. It contains any entries that affect the right of disposal.

Title absolute

- 1 (02.10.2013) PROPRIETOR: ROGER CHARLES FORTUNE of Grove Farm, West Town, Backwell, Bristol BS48 3BD.
- 2 (02.10.2013) The value as at 2 October 2013 for the land in this title and in ST311341 was stated to be between £500,001 and £1,000,000.
- 3 (02.10.2013) RESTRICTION: No disposition by a sole proprietor of the registered estate (except a trust corporation) under which capital money arises is to be registered unless authorised by an order of the court.
- 4 (23.10.2014) RESTRICTION: No disposition of the part of the registered estate shown edged and numbered 1 in blue on the title plan by the proprietor of the registered estate or by the proprietor of any registered charge not being a charge registered before the entry of this restriction is to be registered without a certificate signed by Taylor Wimpey UK Limited or its conveyancer that the provisions of clause 5 of an Agreement dated 9 October 2014 made between (1) Roger Fortune, Stephen Fortune and Elisabeth Fortune and (2) Taylor Wimpey UK Limited have been complied with or that they do not apply to the disposition.
- 5 (18.05.2022) RESTRICTION: No disposition of the part of the registered estate shown edged and numbered 1, 2 and 3 in blue on the title plan by the proprietor of the registered estate or by the proprietor of any registered charge, not being a charge registered before the entry of this restriction is to be registered without a certificate signed by Taylor Wimpey UK Limited (Co. Regn. No. 01392762) or its conveyancer that the provisions of clause 5 of an Agreement dated 11 May 2022 made between (1) Roger Charles Fortune and Stephen Christopher Charles Fortune and (2) Colin Stanley Pyke and Sharon Elizabeth Pyke and (3) Taylor Wimpey UK Limited have been complied with or that they do not apply to the disposition.
- 6 (03.08.2023) RESTRICTION: No disposition of the registered estate by the proprietor of the registered estate, or by the proprietor of any registered charge not being a charge registered before the entry of this restriction, is to be registered without a certificate signed by Taylor Wimpey UK Limited (Co.Regn.No. 01392762) or its conveyancer that the provisions of clause 10.1 of an Agreement dated 3 August 2023 between (1) Roger Charles Fortune and (2) Taylor Wimpey UK Limited have been complied with or that they do not apply to the disposition..

C: Charges Register

This register contains any charges and other matters that affect the land.

- 1 (02.10.2013) The land is subject to the rights granted by a Deed dated 23 February 1968 made between (1) Emily Vowles and (2) Long Ashton Rural District Council.

NOTE: Copy filed.

- 2 (26.11.2019) UNILATERAL NOTICE affecting the land edged and numbered 1 in blue on the title plan in respect of an Option Agreement for the purchase of the property dated 9 October 2014 made between (1) Roger Fortune and others and (2) Taylor Wimpey UK Limited as extended by a notice dated 3 October 2019 made between (1) Taylor Wimpey UK Limited

Title number ST308712

C: Charges Register continued

and (2) Roger Fortune and others.

NOTE: Copy notice filed.

- 3 (26.11.2019) BENEFICIARY: Taylor Wimpey UK Limited (Co. Regn. No. 1392762) of Gat House, Turnpike Road, High Wycombe, Buckinghamshire HP12 3NR.
- 4 (03.08.2023) UNILATERAL NOTICE in respect of an Option Agreement dated 3 August 2023 between (1) Roger Charles Fortune and (2) Taylor Wimpey UK Limited.
- 5 (03.08.2023) BENEFICIARY: Taylor Wimpey UK Limited (Co.Regn.No. 01392762) of Gate House, Turnpike Road, High Wycombe, Buckinghamshire, HP12 3NR.

End of register

Appendix 13

Appellant availability enquiry letters to landowners regarding site 16

20th June 2024**Taylor Wimpey**
Ground Floor
730 Waterside Drive
Aztec West
Almondsbury
BS32 4UE

To whom it may concern,

RE: The Vale, Long Ashton and Grove Farm, Backwell

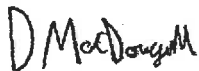
I am writing on behalf of Persimmon Homes Severn Valley regarding the above named property. We have recently undertaken a land study within North Somerset district to identify potential land suitable for residential development. During the exercise your land was identified as potentially appropriate to accommodate new homes.

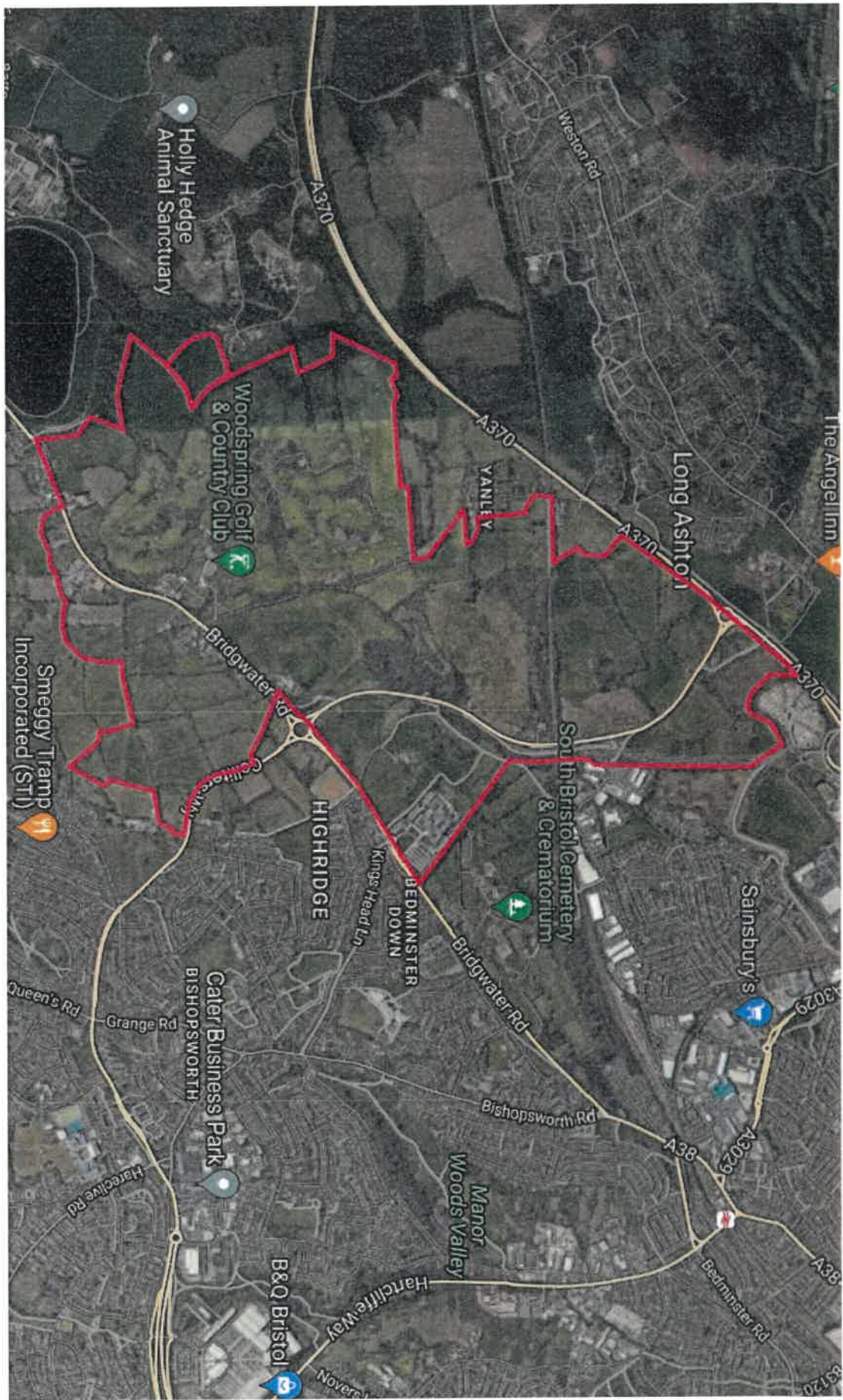
From enquiries we have made, we understand you have promoted this land for development – and I enclose a plan with your land highlighted in red.

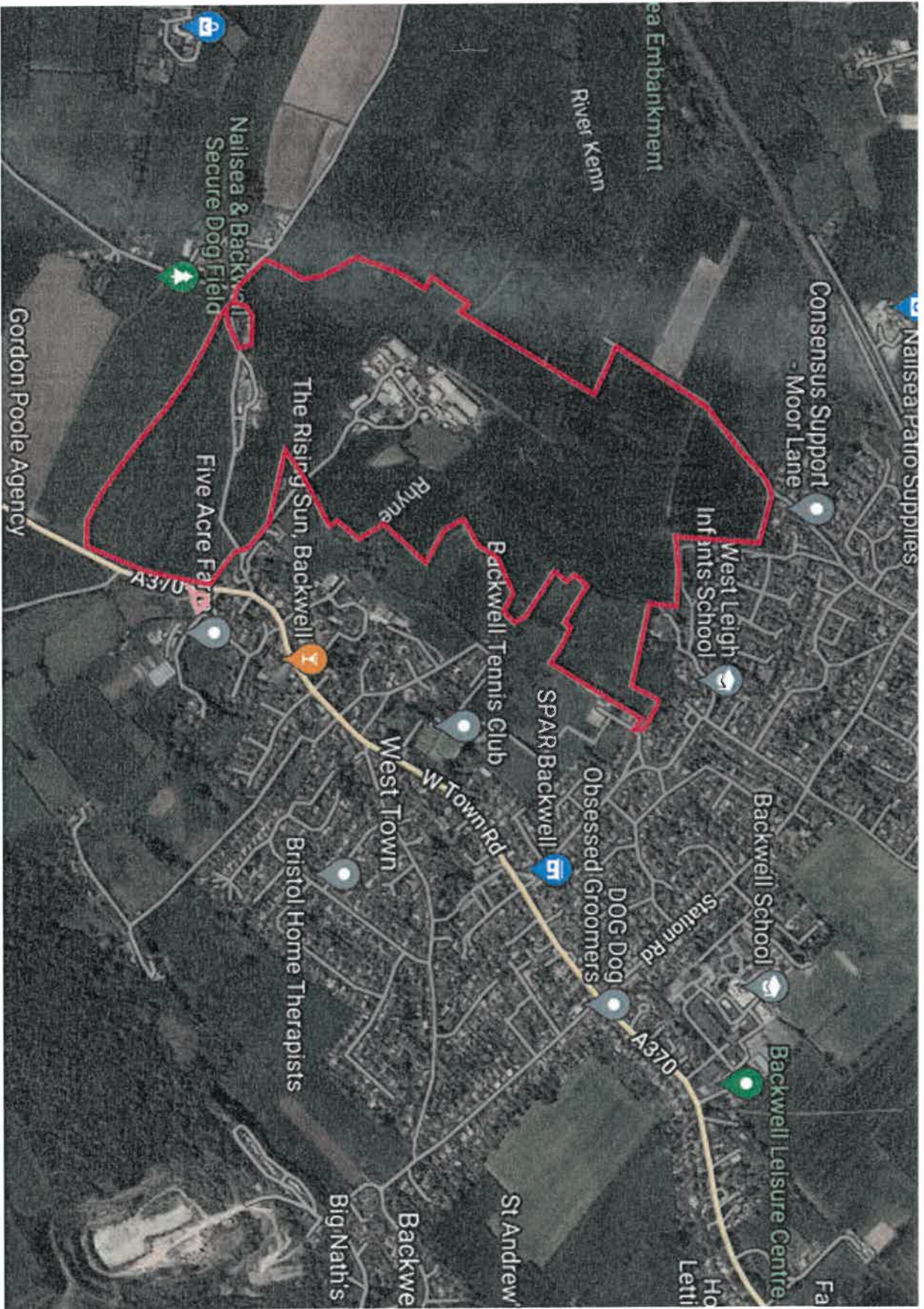
I would welcome the opportunity to discuss with you how we can use our resources to unlock the land's development potential and associated value for you as we have done on similar sites across the country. Persimmon Homes is one of the UK's leading house builders, which has the necessary expertise and resources, in addition to a proven track record of delivering exciting residential development.

Should you wish to explore how the full potential of your land can be realised, please do not hesitate to contact me on the details listed below. I look forward to hearing back from you.

Yours faithfully,

Dom MacDougall
Strategic Plannerdominic.macdougall@persimmonhomes.com





14th June 2024

Property Assets and Projects Team
North Somerset Council
Town Hall
Walliscote Grove Road
Weston-super-Mare
BS23 1UJ

To whom it may concern,

RE: The Uplands, Land at Youngwood Lane, Herluin Way, South of Locking Head Drove and Land off Westfield Drive

I am writing on behalf of Persimmon Homes Severn Valley regarding the above named property. We have recently undertaken a land study within North Somerset district to identify potential land suitable for residential development. During the exercise your land was identified as potentially appropriate to accommodate new homes.

From enquiries we have made, we understand you have promoted this land for development – and I enclose a plan with your land highlighted in red.

I would welcome the opportunity to discuss with you how we can use our resources to unlock the land's development potential and associated value for you as we have done on similar sites across the country. Persimmon Homes is one of the UK's leading house builders, which has the necessary expertise and resources, in addition to a proven track record of delivering exciting residential development.

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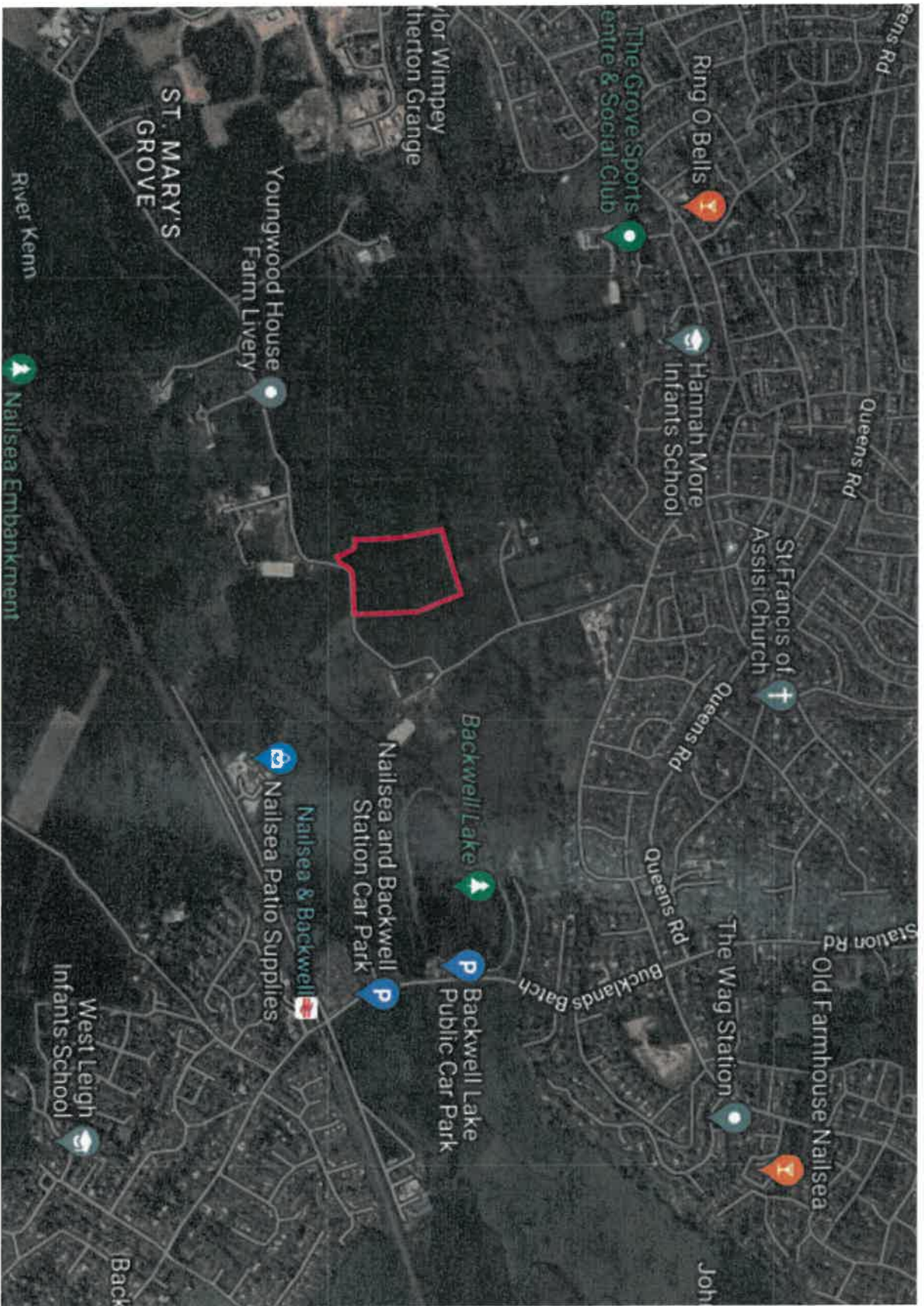
Yours faithfully,

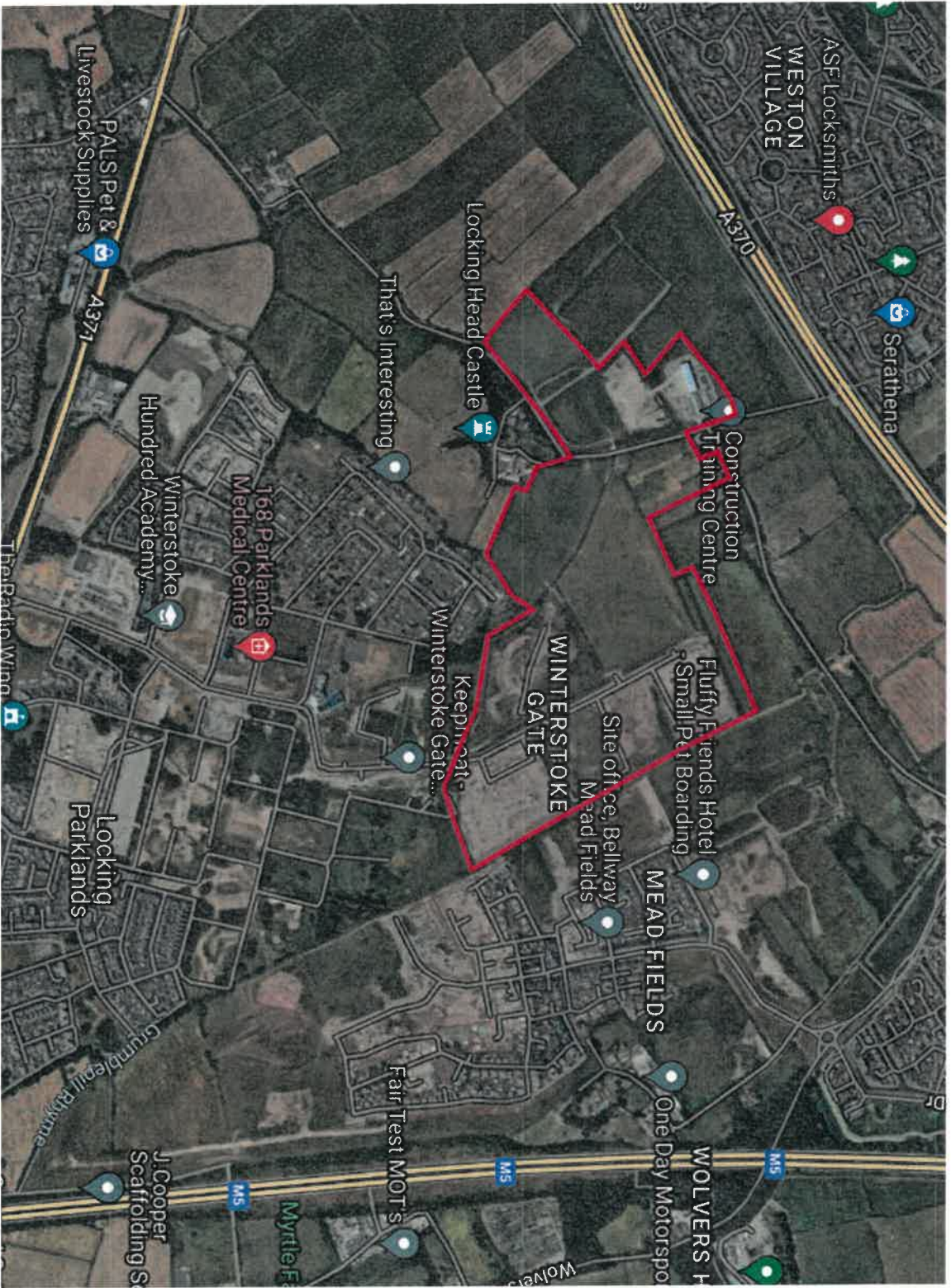


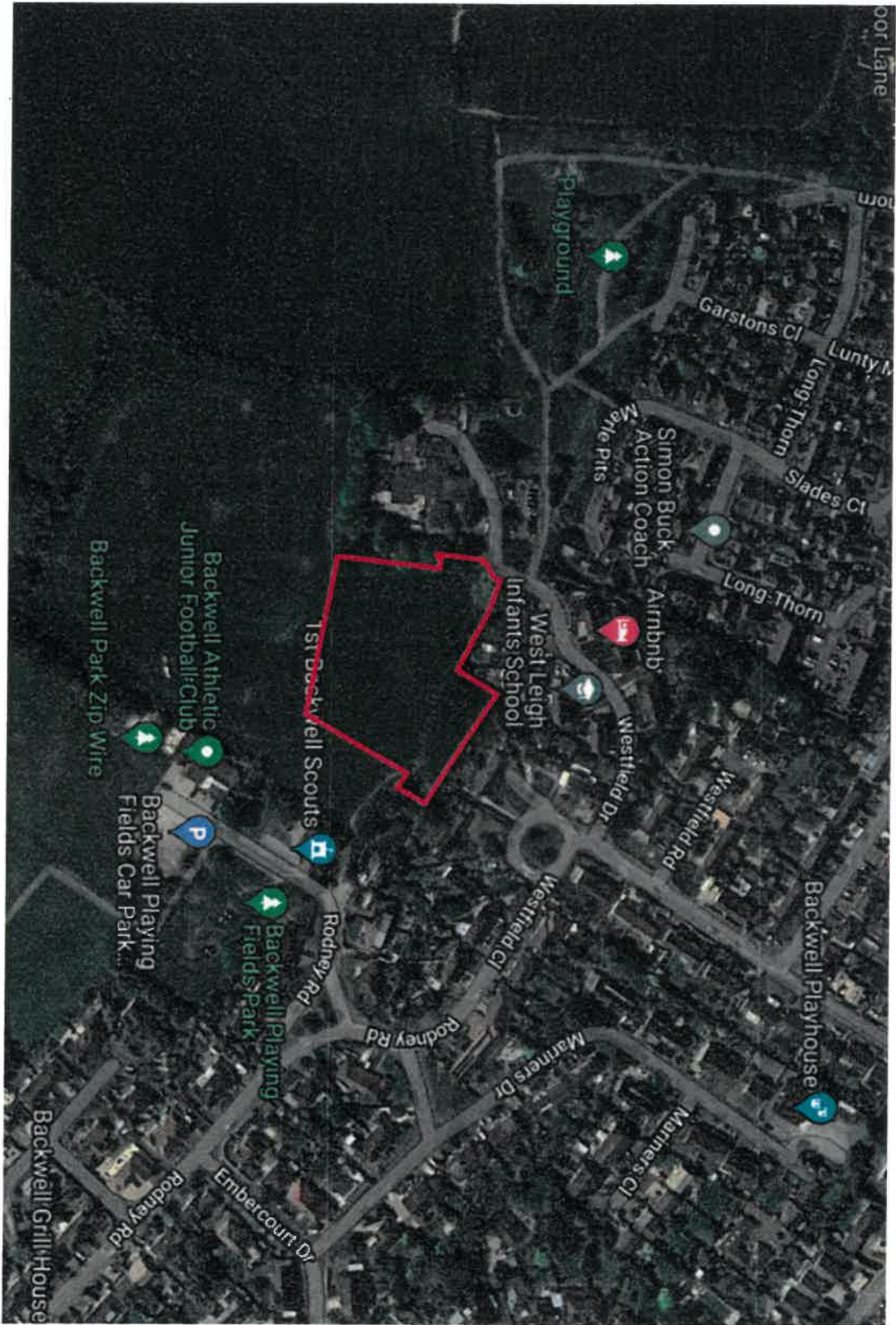
Dom MacDougall
Strategic Planner

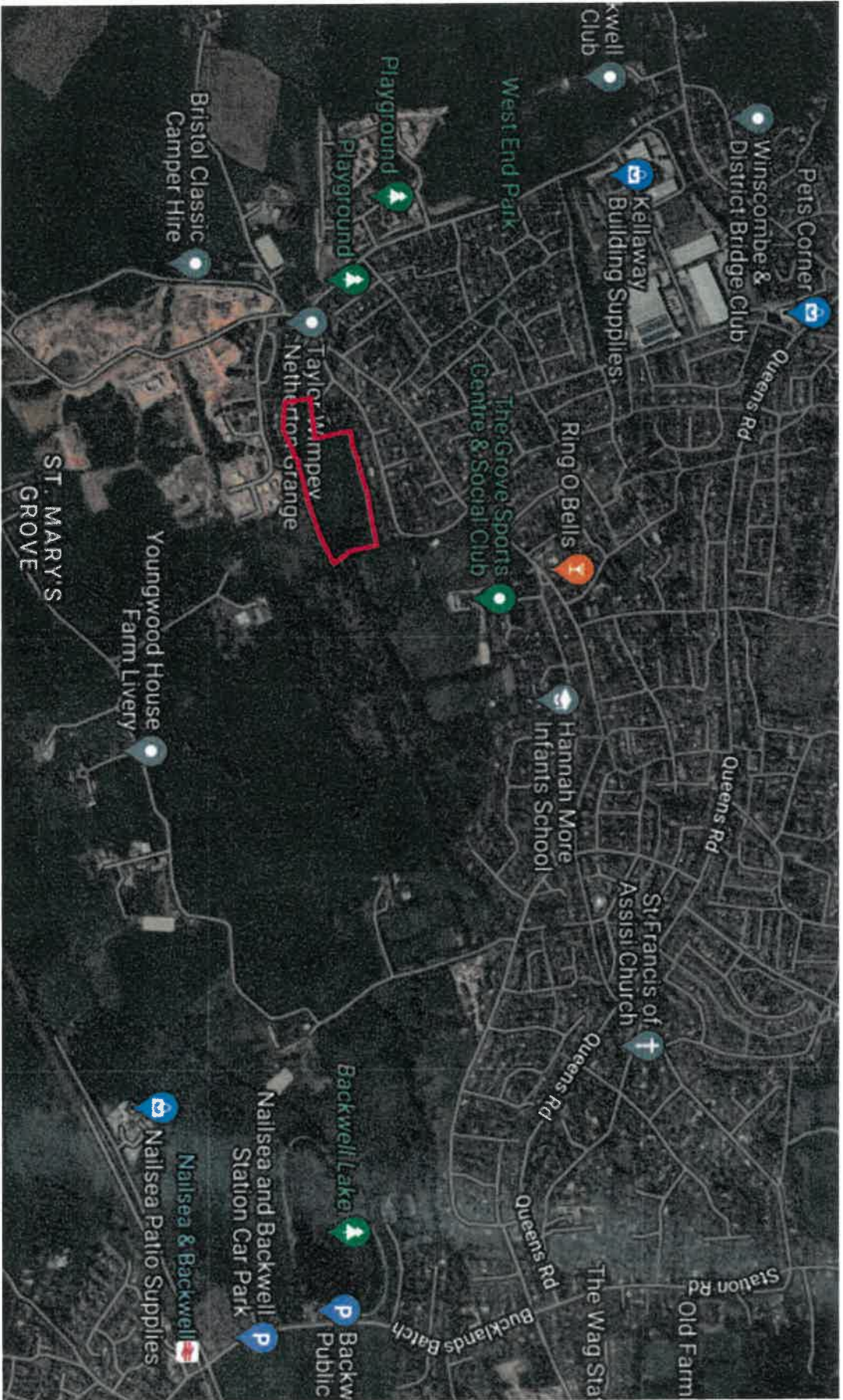
dominic.macdougall@persimmonhomes.com

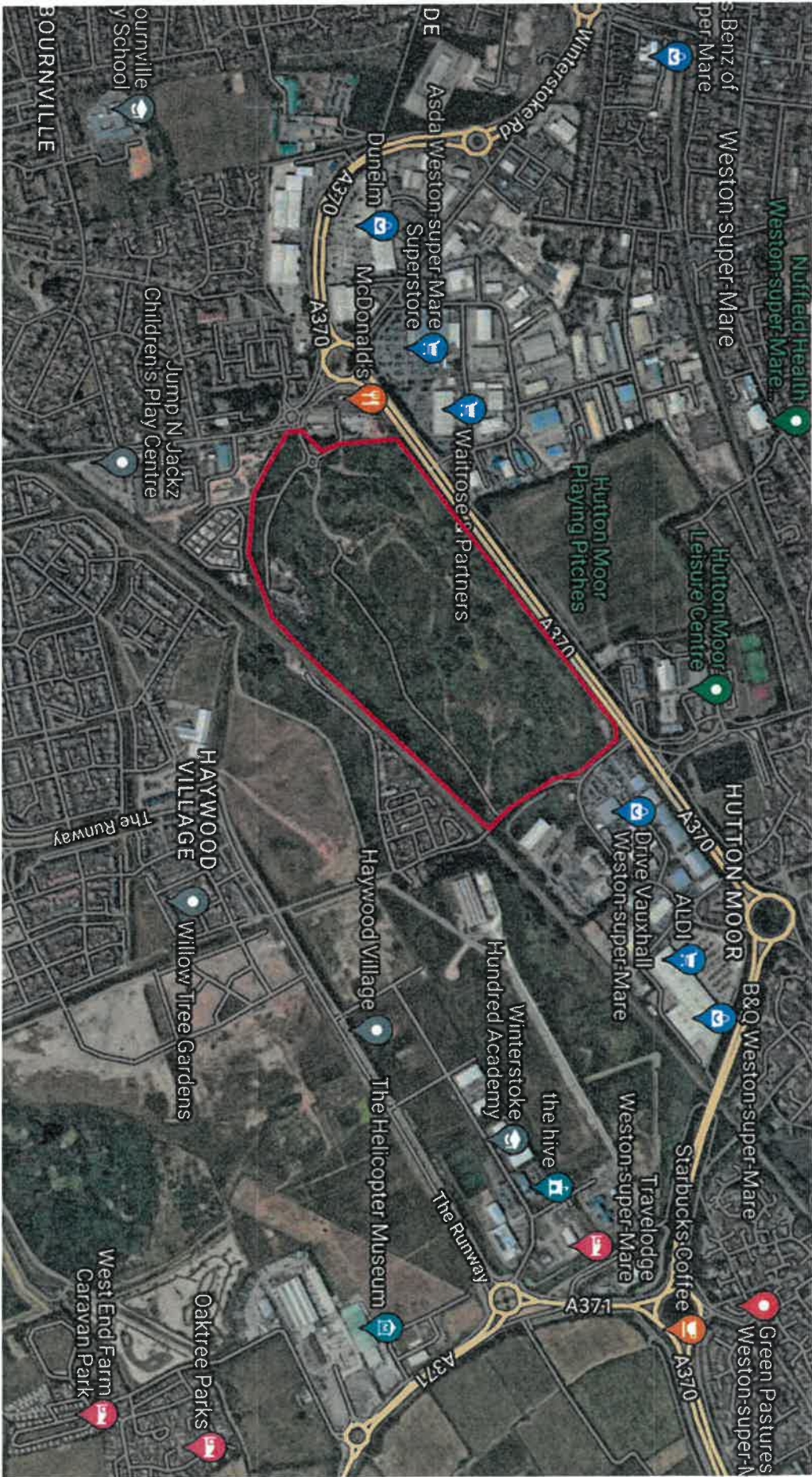












20th June 2024**Kenneth Edis & Karen Davis**Manor Farm
West Town
Backwell
North Somerset
BS19 3BE

Dear Kenneth and Karen,

RE: Land off Rushmoor Lane

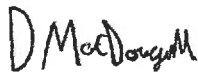
I am writing on behalf of Persimmon Homes Severn Valley regarding the above named property. We have recently undertaken a land study within North Somerset district to identify potential land suitable for residential development. During the exercise your land was identified as potentially appropriate to accommodate new homes.

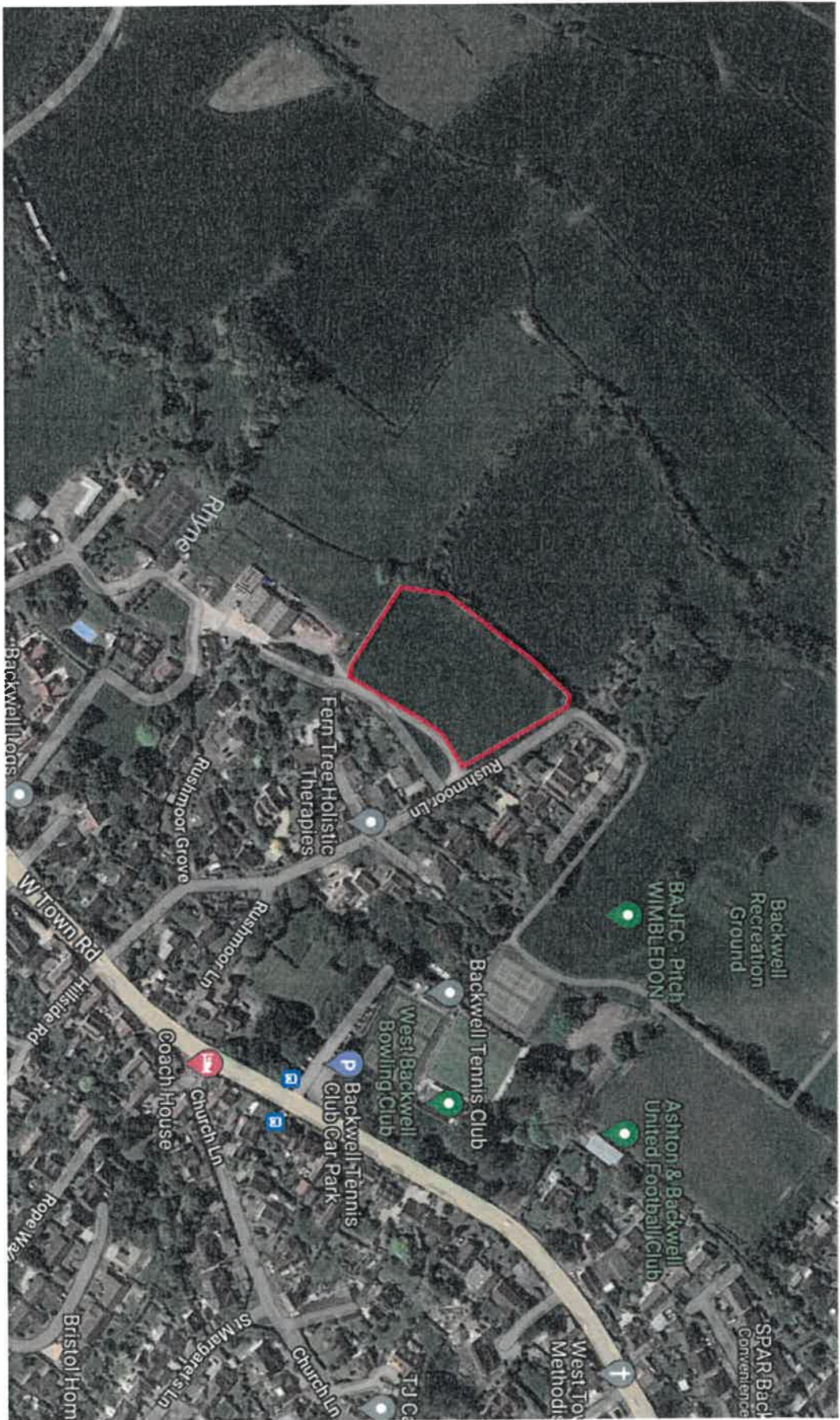
From enquiries we have made, we understand you have promoted this land for development – and I enclose a plan with your land highlighted in red.

I would welcome the opportunity to discuss with you how we can use our resources to unlock the land's development potential and associated value for you as we have done on similar sites across the country. Persimmon Homes is one of the UK's leading house builders, which has the necessary expertise and resources, in addition to a proven track record of delivering exciting residential development.

Should you wish to explore how the full potential of your land can be realised, please do not hesitate to contact me on the details listed below. I look forward to hearing back from you.

Yours sincerely,

Dom MacDougall
Strategic Plannerdominic.macdougall@persimmonhomes.com



Appendix 14

Appellant availability enquiry letter to Vistry Homes regarding site 25

19th June 2024**Vistry Bristol South West**First Floor
H2 Harlequin
Emerson Green
Bristol
BS16 7FN**Tel: 01275 396000**

To whom it may concern,

RE: Land at North West Nailsea, Land south of A38, Bath Road and Land off Wrington Road, Congresbury

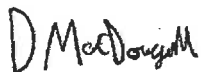
I am writing on behalf of Persimmon Homes Severn Valley regarding the above named property. We have recently undertaken a land study within North Somerset district to identify potential land suitable for residential development. During the exercise your land was identified as potentially appropriate to accommodate new homes.

From enquiries we have made, we understand you have promoted this land for development – and I enclose a plan with your land highlighted in red.

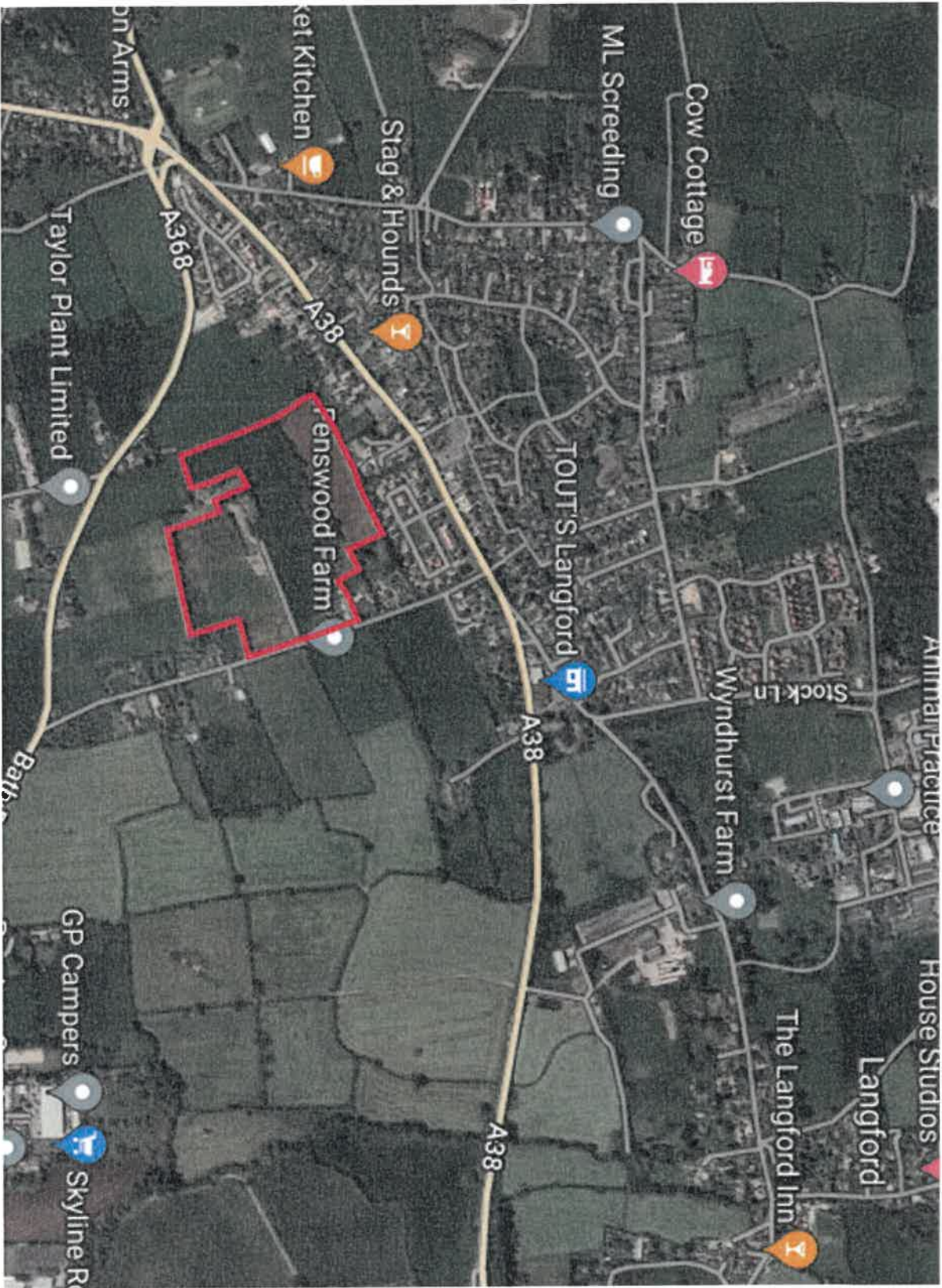
I would welcome the opportunity to discuss with you how we can use our resources to unlock the land's development potential and associated value for you as we have done on similar sites across the country. Persimmon Homes is one of the UK's leading house builders, which has the necessary expertise and resources, in addition to a proven track record of delivering exciting residential development.

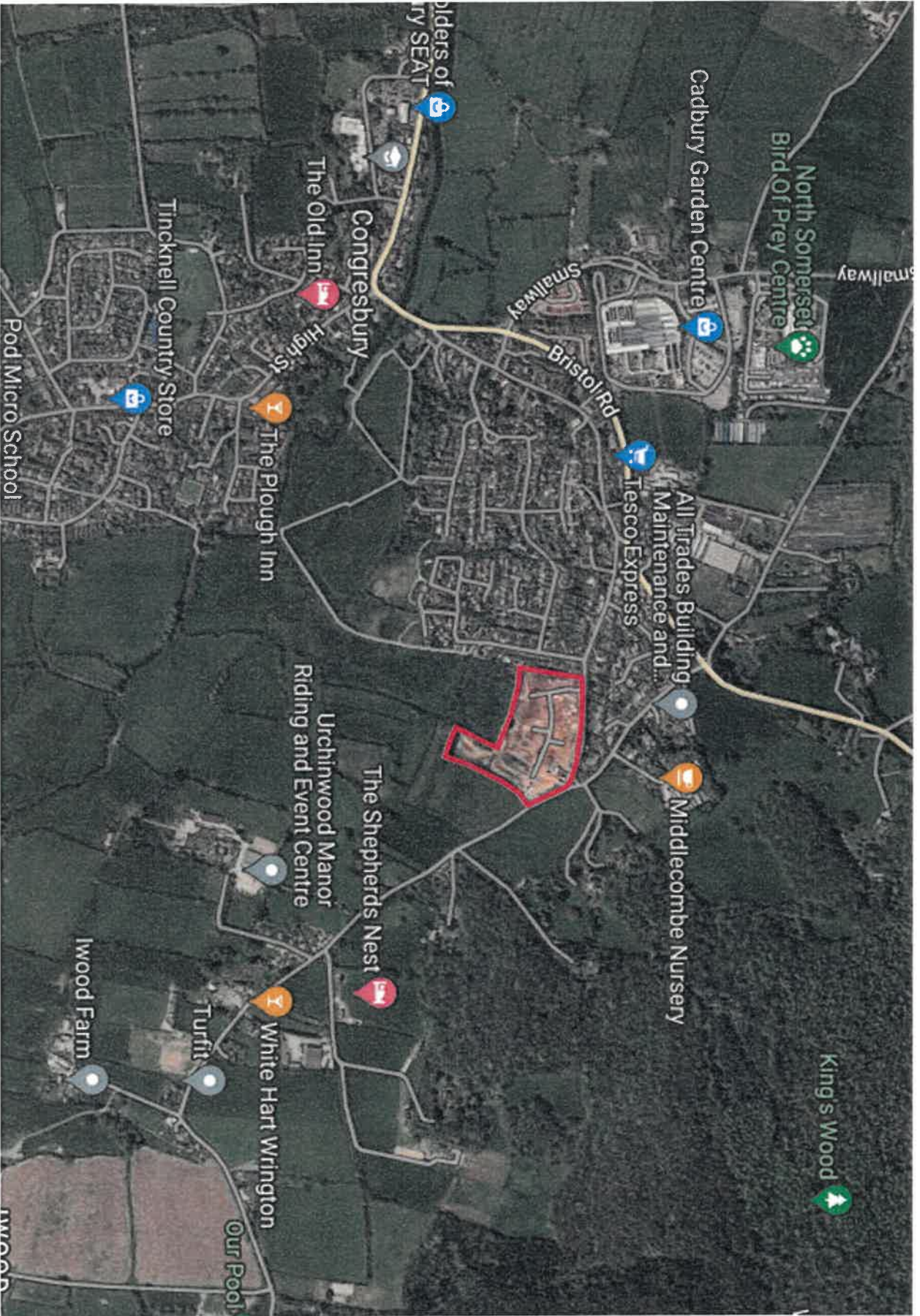
Should you wish to explore how the full potential of your land can be realised, please do not hesitate to contact me on the details listed below. I look forward to hearing back from you.

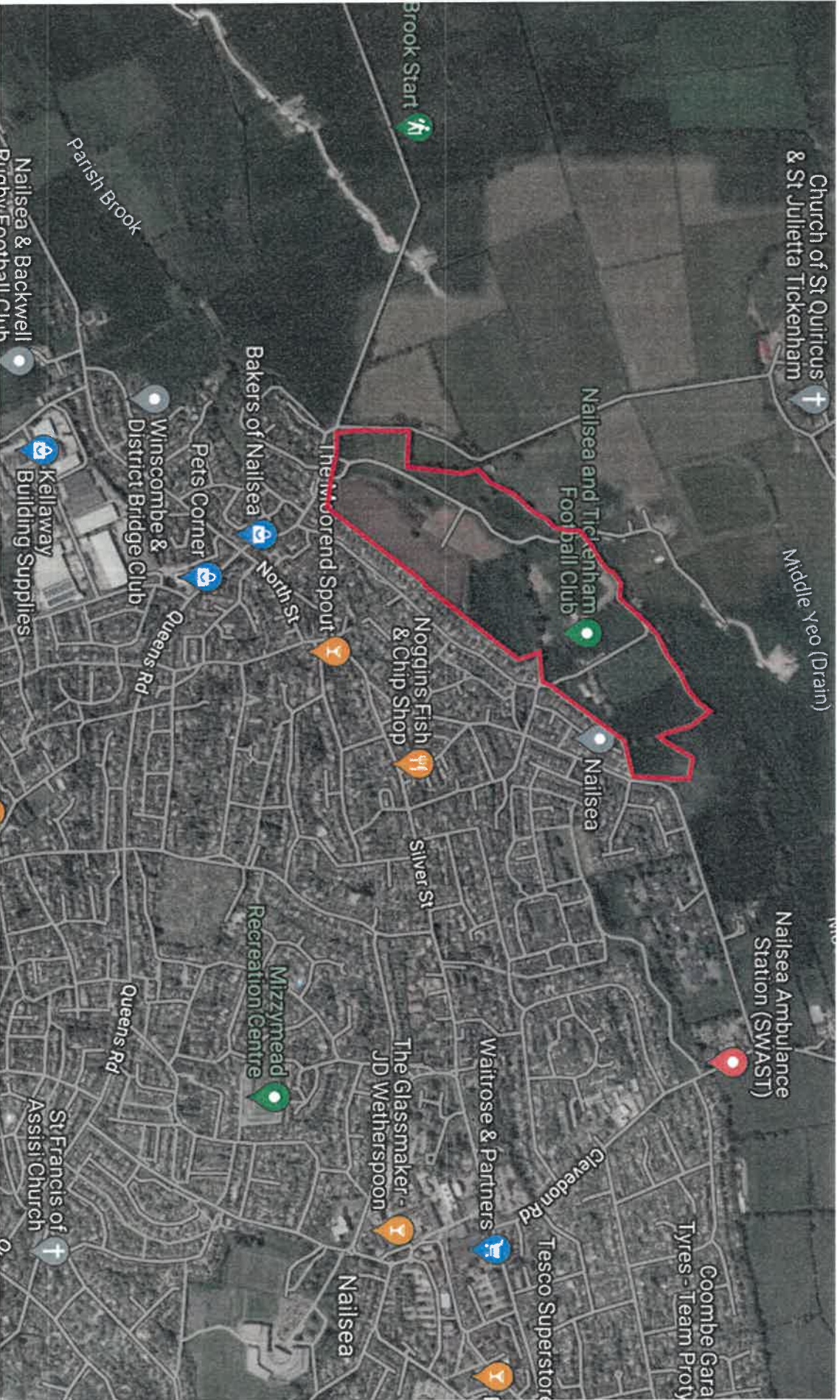
Yours faithfully,

Dom MacDougall
Strategic Plannerdominic.macdougall@persimmonhomes.com









Appendix 15

Appellant availability enquiry letter to Lockwood Estates regarding site 25

20th June 2024**Lostwood Estates Ltd.**Woodlands Garage
Woodlands Lane
Bradley Stoke
Bristol
BS32 4JY**Tel: 01275 396000**

To whom it may concern,

RE: Land to southeast of Langford

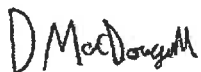
I am writing on behalf of Persimmon Homes Severn Valley regarding the above named property. We have recently undertaken a land study within North Somerset district to identify potential land suitable for residential development. During the exercise your land was identified as potentially appropriate to accommodate new homes.

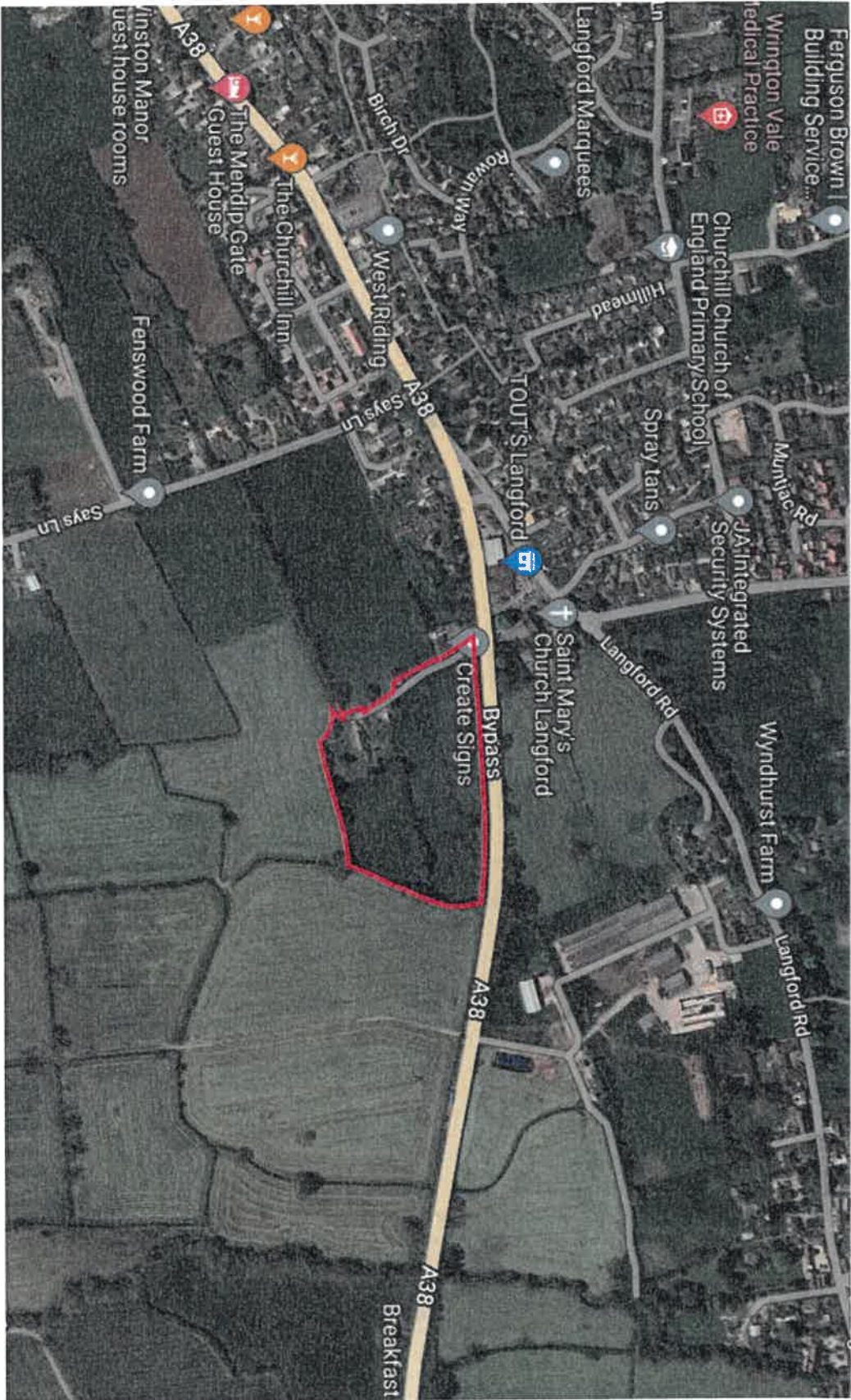
From enquiries we have made, we understand you have promoted this land for development – and I enclose a plan with your land highlighted in red.

I would welcome the opportunity to discuss with you how we can use our resources to unlock the land's development potential and associated value for you as we have done on similar sites across the country. Persimmon Homes is one of the UK's leading house builders, which has the necessary expertise and resources, in addition to a proven track record of delivering exciting residential development.

Should you wish to explore how the full potential of your land can be realised, please do not hesitate to contact me on the details listed below. I look forward to hearing back from you.

Yours faithfully,

Dom MacDougall
Strategic Plannerdominic.macdougall@persimmonhomes.com



Appendix 16

Appellant availability enquiry letters to landowners regarding site 91

20th June 2024**Dennis Bidwell**
51 Richmond Street
Bristol
BS3 4TL

Dear Denis,

RE: Land South of Nailsea

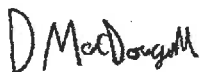
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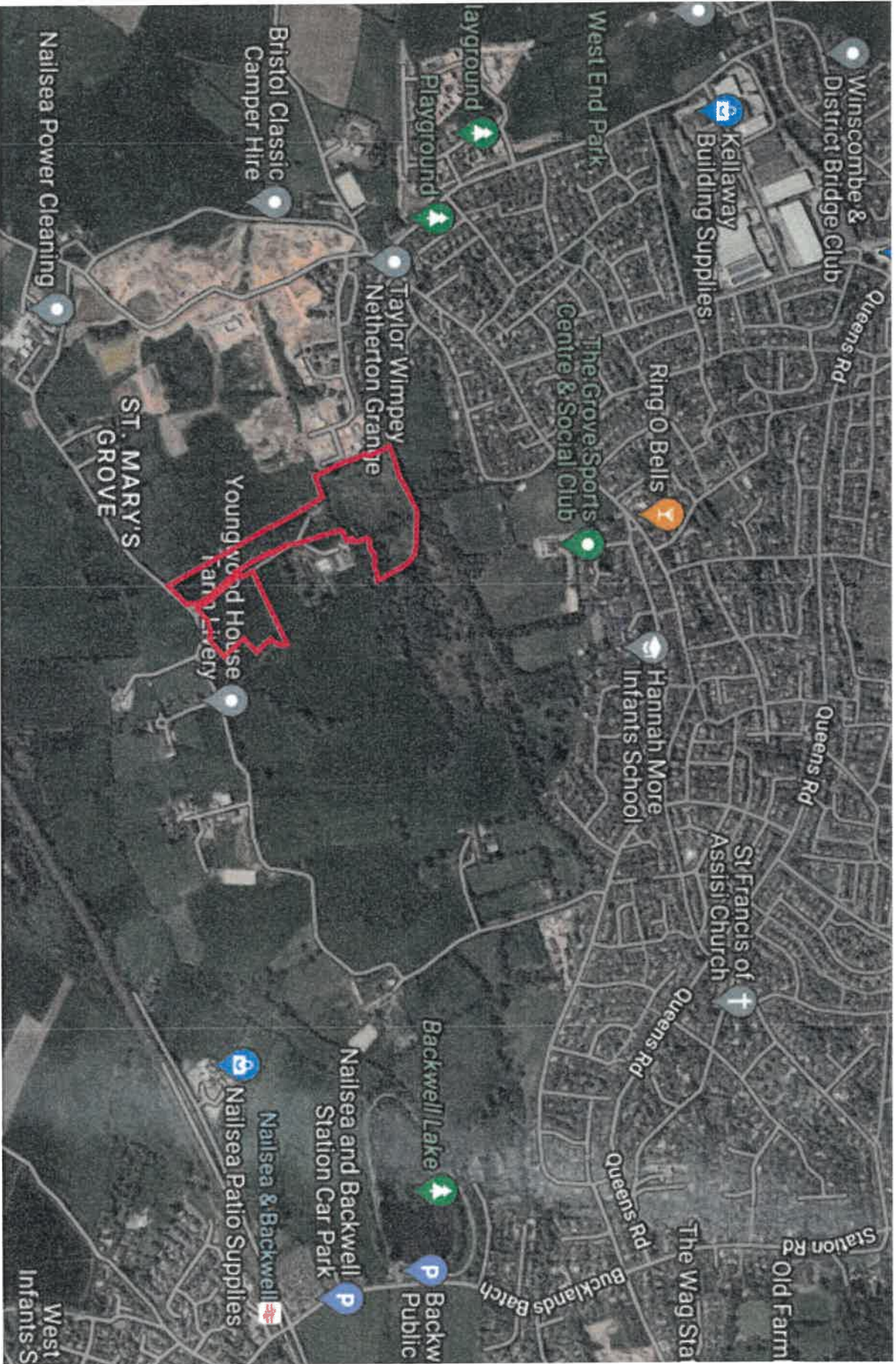
From enquiries we have made, we understand you have promoted this land for development – and I enclose a plan with your land highlighted in red.

I would welcome the opportunity to discuss with you how we can use our resources to unlock the land's development potential and associated value for you as we have done on similar sites across the country. Persimmon Homes is one of the UK's leading house builders, which has the necessary expertise and resources; in addition to a proven track record of delivering exciting residential development.

Should you wish to explore how the full potential of your land can be realised, please do not hesitate to contact me on the details listed below. I look forward to hearing back from you.

Yours sincerely,

Dom MacDougall
Strategic Plannerdominic.macdougall@persimmonhomes.com



20th June 2024**Gillian Johnson**
Little Manor
West Hewish
Weston-super-Mare
BS24 6RR

Dear Gillian,

RE: Land South of Nailsea

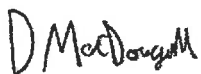
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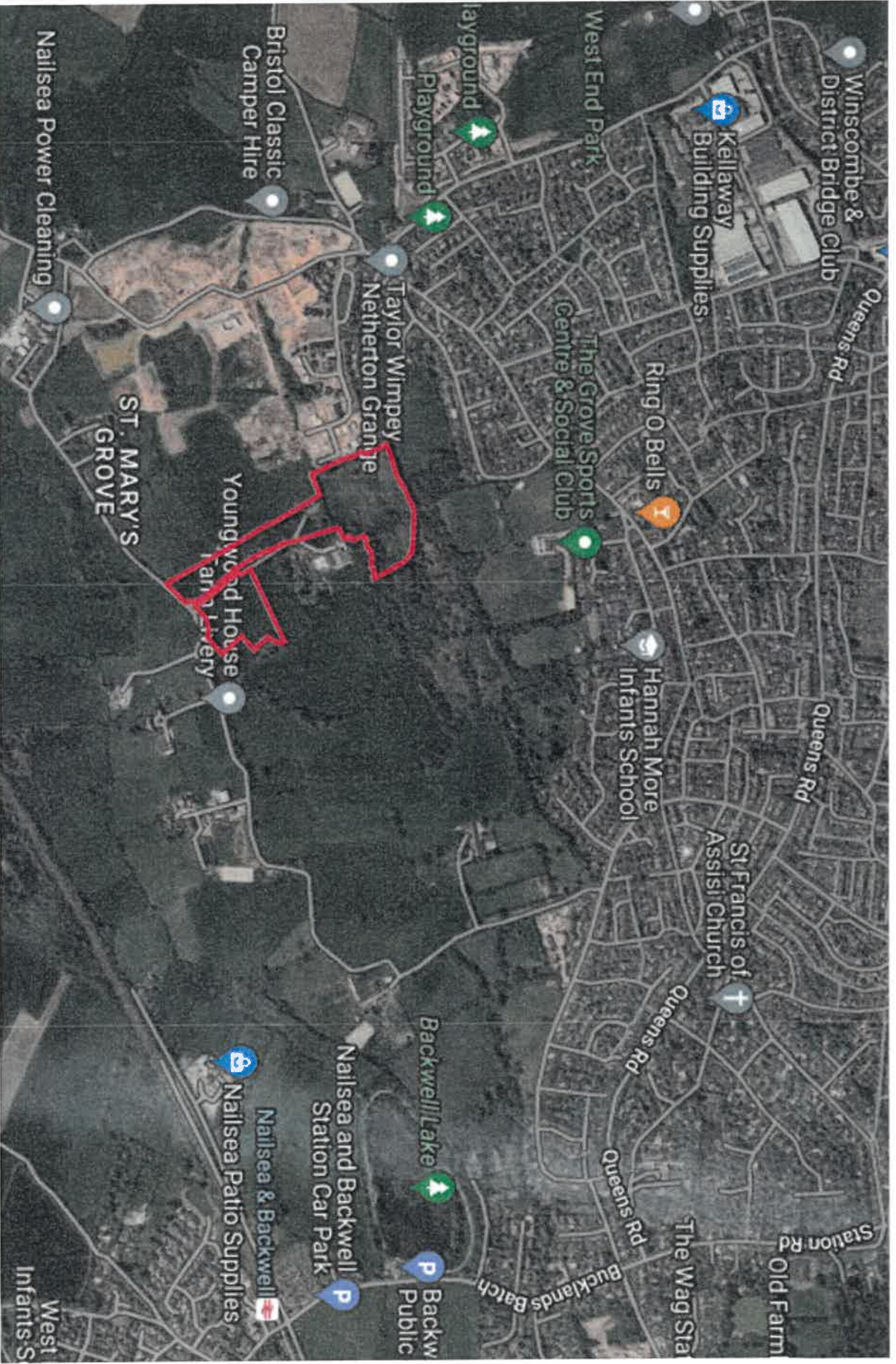
From enquiries we have made, we understand you have promoted this land for development – and I enclose a plan with your land highlighted in red.

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Should you wish to explore how the full potential of your land can be realised, please do not hesitate to contact me on the details listed below. I look forward to hearing back from you.

Yours sincerely,

Dom MacDougall
Strategic Plannerdominic.macdougall@persimmonhomes.com



20th June 2024**Gleeson Land**
Sentinel House
Harvest Crescent
Fleet
Hampshire
GU51 2UZ**Tel: 01275 396000**

To whom it may concern,

RE: North and South of Youngwood Lane

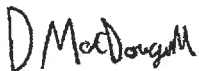
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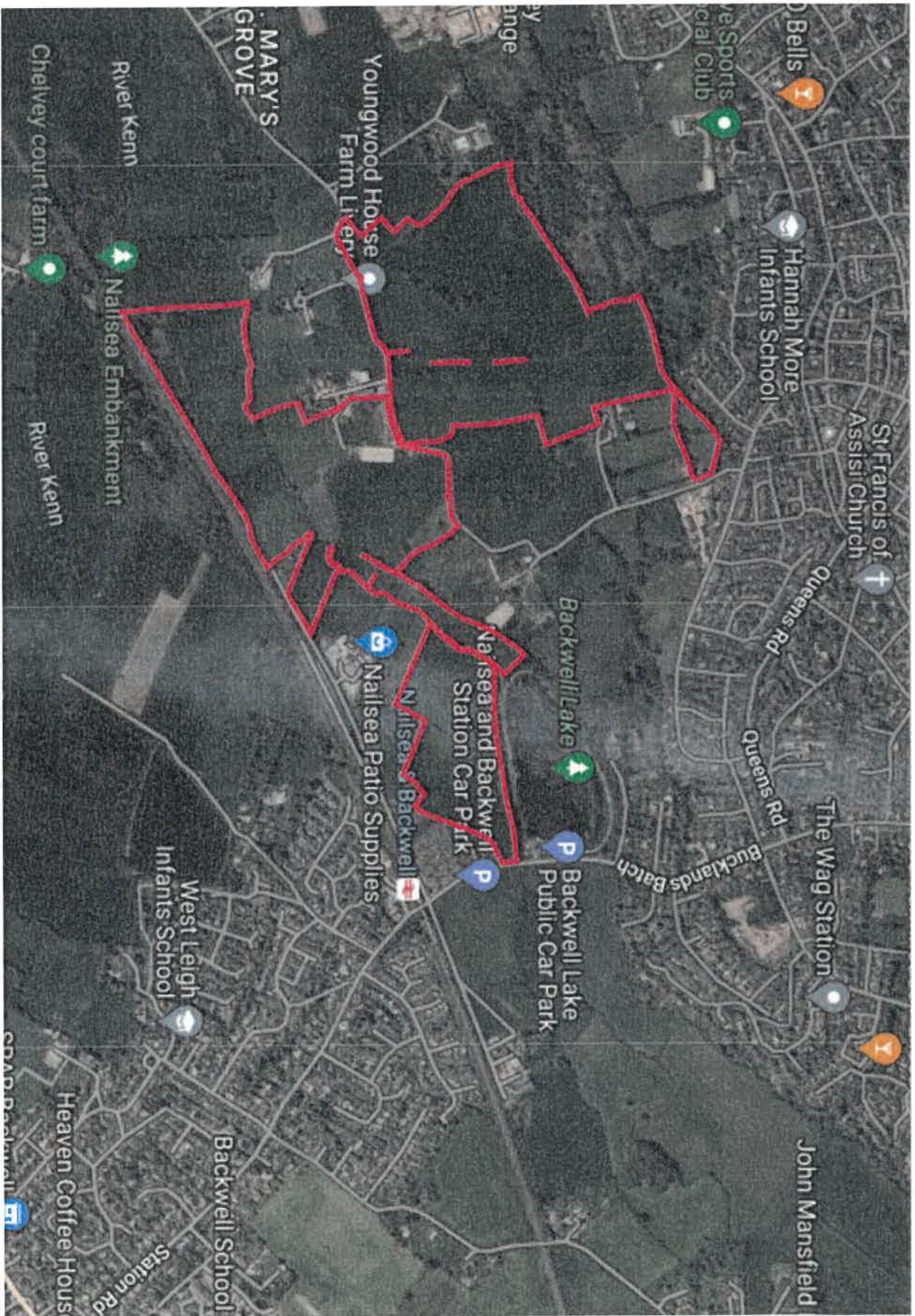
From enquiries we have made, we understand you have promoted this land for development – and I enclose a plan with your land highlighted in red.

I would welcome the opportunity to discuss with you how we can use our resources to unlock the land's development potential and associated value for you as we have done on similar sites across the country. Persimmon Homes is one of the UK's leading house builders, which has the necessary expertise and resources, in addition to a proven track record of delivering exciting residential development.

Should you wish to explore how the full potential of your land can be realised, please do not hesitate to contact me on the details listed below. I look forward to hearing back from you.

Yours faithfully,

Dom MacDougall
Strategic Plannerdominic.macdougall@persimmonhomes.com



14th June 2024

Property Assets and Projects Team
North Somerset Council
Town Hall
Walliscote Grove Road
Weston-super-Mare
BS23 1UJ

To whom it may concern,

RE: The Uplands, Land at Youngwood Lane, Herluin Way, South of Locking Head Drove and Land off Westfield Drive

I am writing on behalf of Persimmon Homes Severn Valley regarding the above named property. We have recently undertaken a land study within North Somerset district to identify potential land suitable for residential development. During the exercise your land was identified as potentially appropriate to accommodate new homes.

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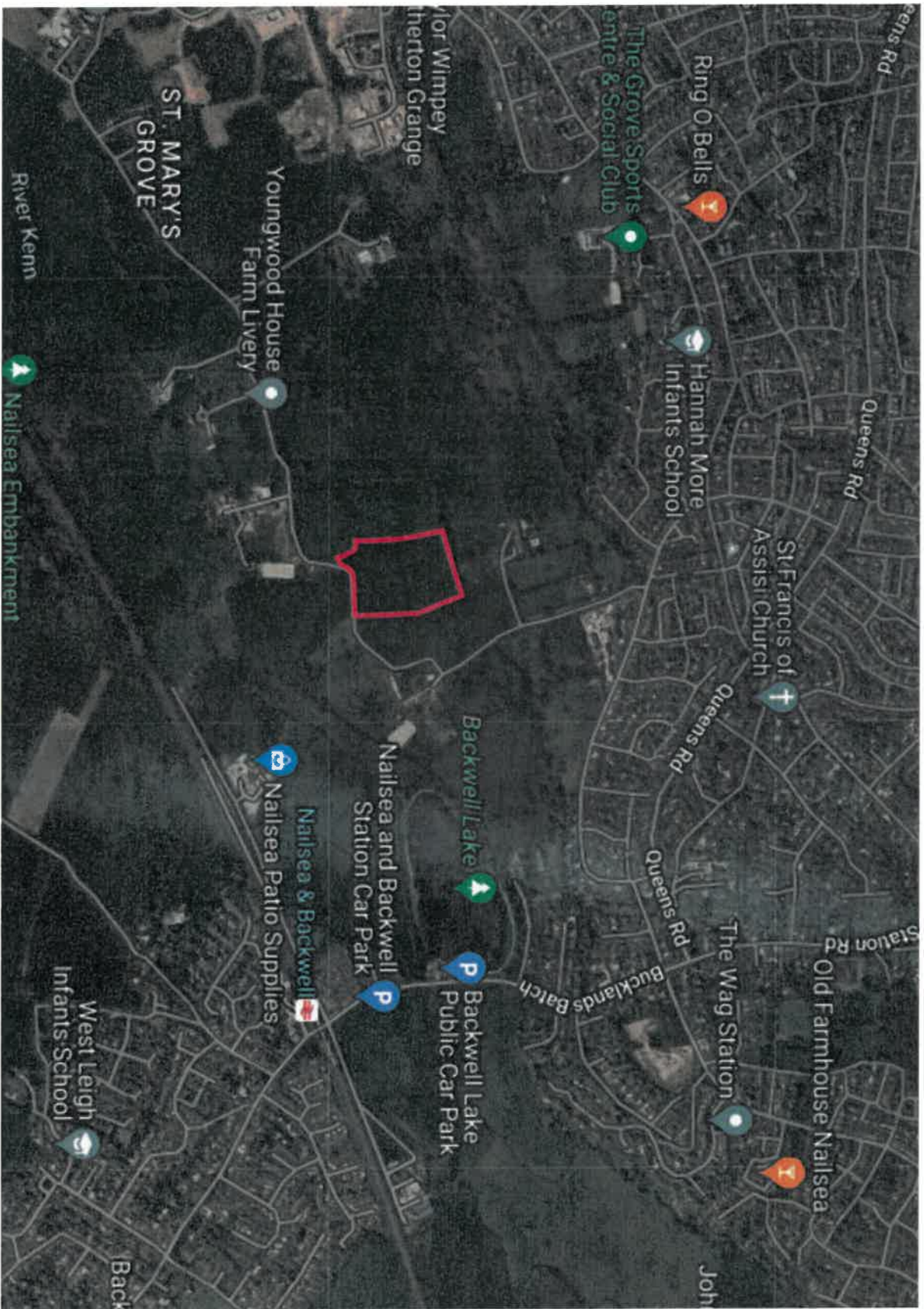
Yours faithfully,

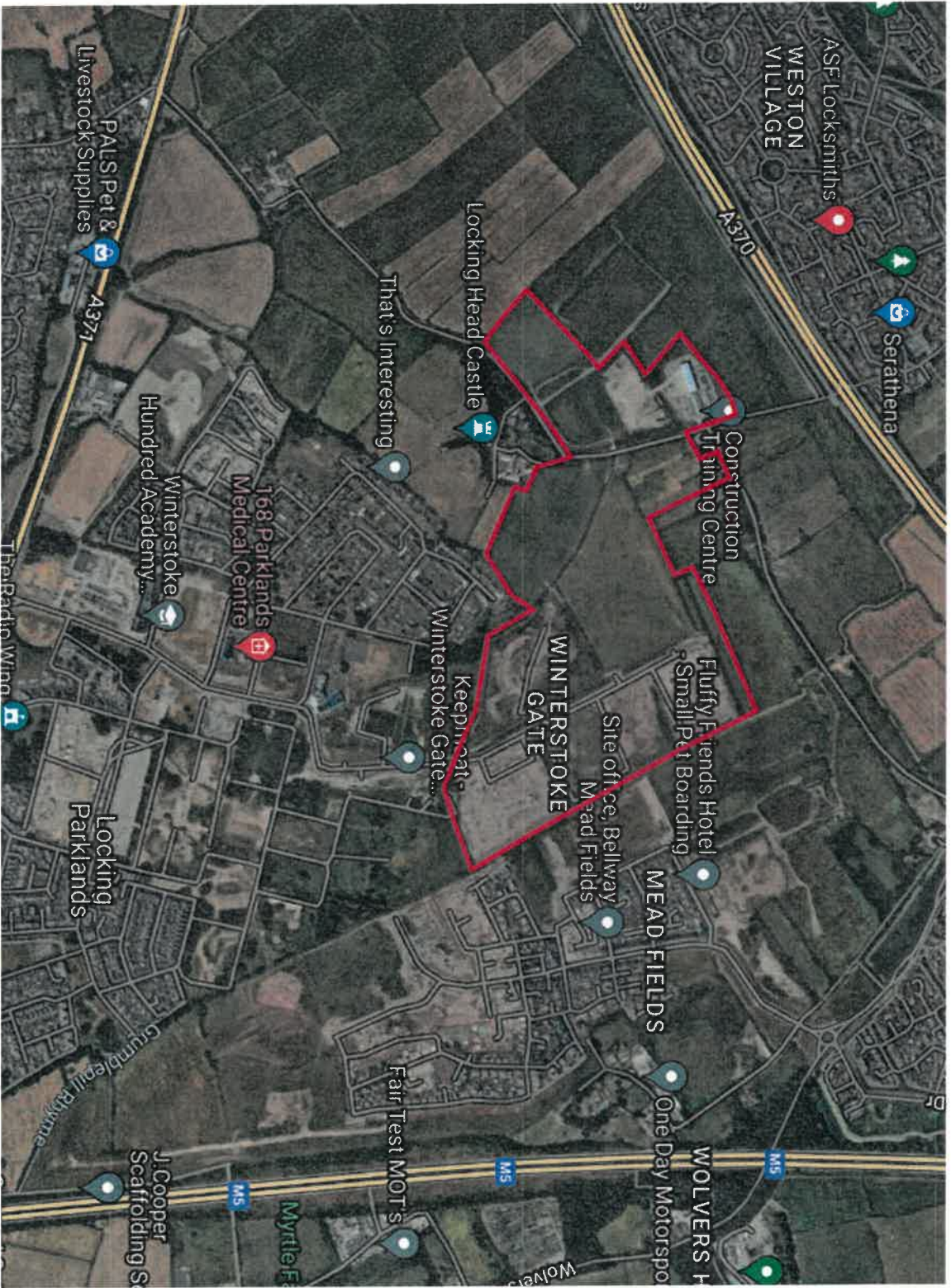


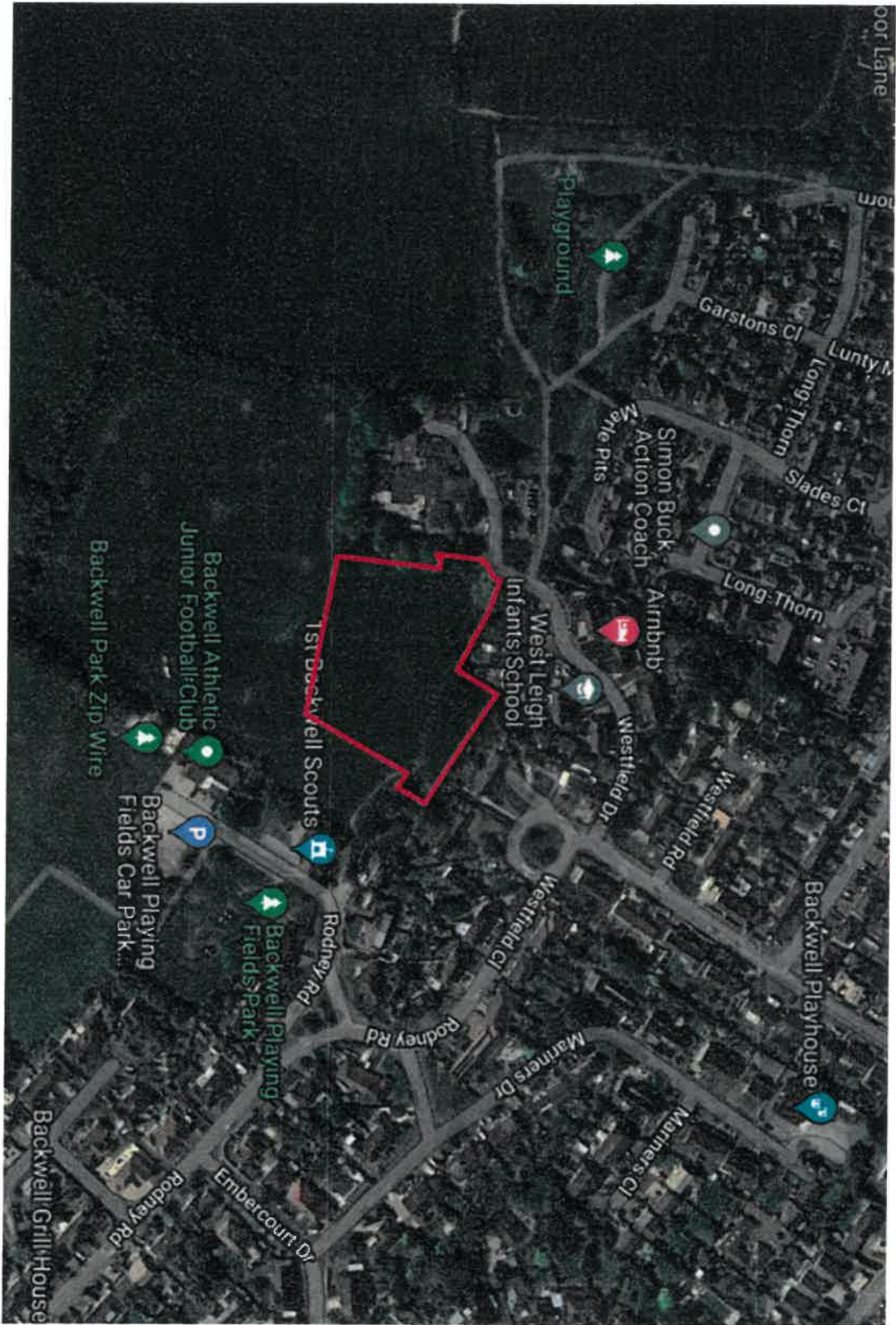
Dom MacDougall
Strategic Planner

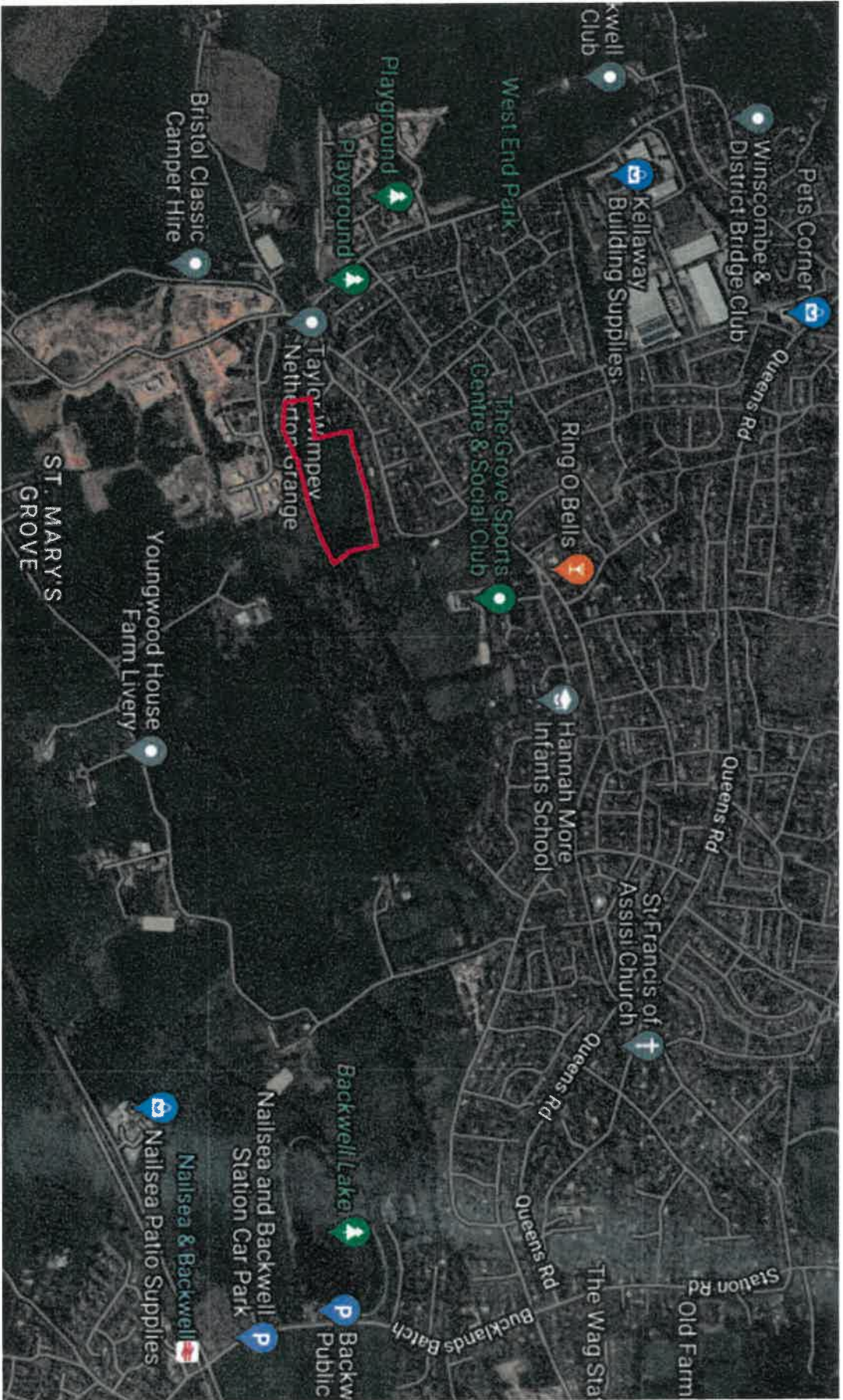
dominic.macdougall@persimmonhomes.com











20th June 2024

**Sasha Fowler-LeBlanc, Gemma Fowler
& Luke Fowler**
White Oak House
Youngwood Lane
Nailsea
BS48 4NS

Dear Sasha, Gemma and Luke,

RE: Land Near The Perrings

I am writing on behalf of Persimmon Homes Severn Valley regarding the above named property. We have recently undertaken a land study within North Somerset district to identify potential land suitable for residential development. During the exercise your land was identified as potentially appropriate to accommodate new homes.

From enquiries we have made, we understand you have promoted this land for development – and I enclose a plan with your land highlighted in red.

I would welcome the opportunity to discuss with you how we can use our resources to unlock the land's development potential and associated value for you as we have done on similar sites across the country. Persimmon Homes is one of the UK's leading house builders, which has the necessary expertise and resources, in addition to a proven track record of delivering exciting residential development.

Should you wish to explore how the full potential of your land can be realised, please do not hesitate to contact me on the details listed below. I look forward to hearing back from you.

Yours sincerely,



Dom MacDougall
Strategic Planner

dominic.macdougall@persimmonhomes.com



20th June 2024**John Alison Land and Research**
Unit 3
Priority Court
Poulton
Cirencester
GL7 5JB**Tel: 01275 396000**

To whom it may concern,

RE: Land North of Youngwood Lane

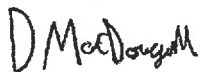
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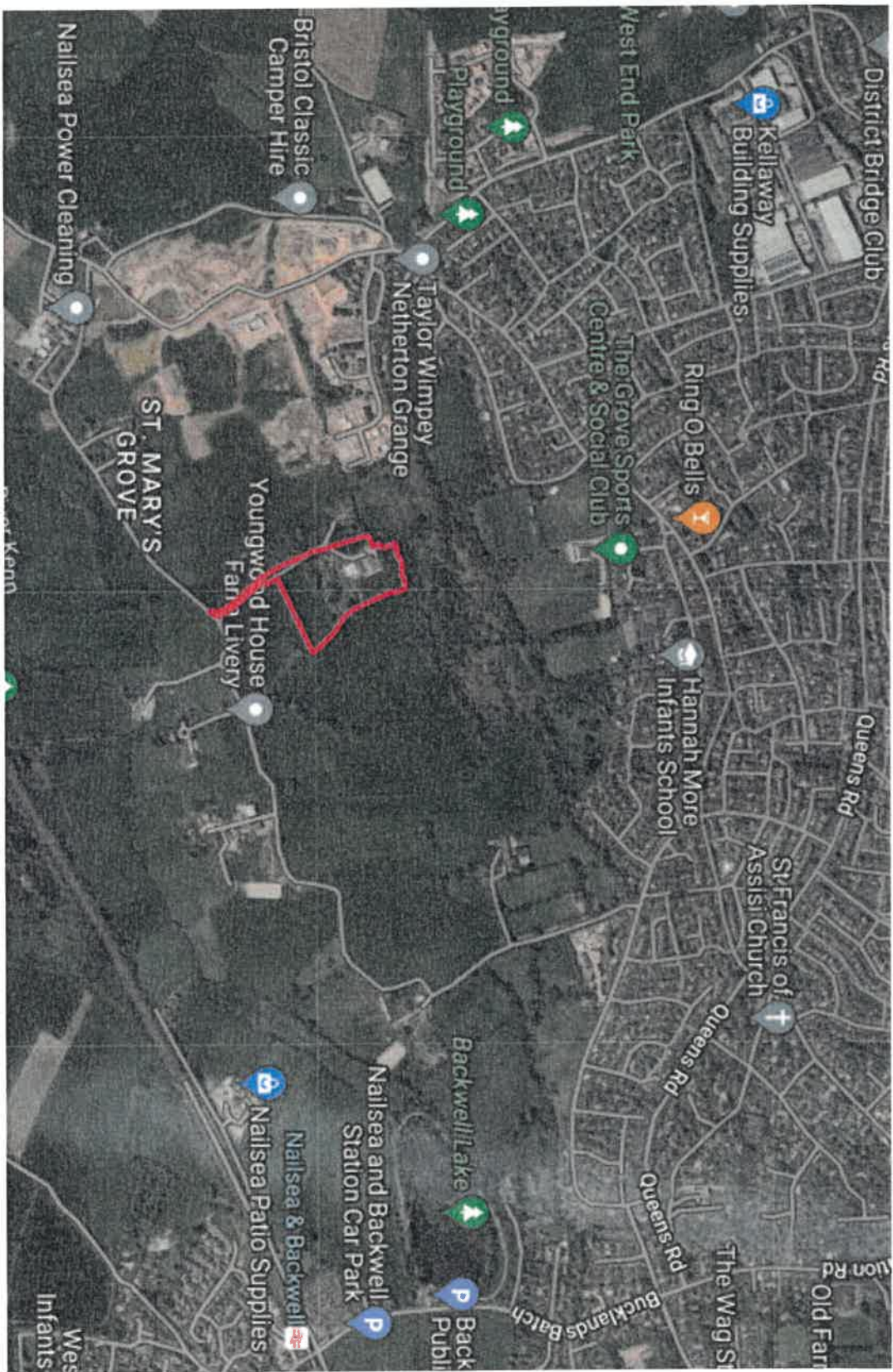
From enquiries we have made, we understand you have promoted this land for development – and I enclose a plan with your land highlighted in red.

I would welcome the opportunity to discuss with you how we can use our resources to unlock the land's development potential and associated value for you as we have done on similar sites across the country. Persimmon Homes is one of the UK's leading house builders, which has the necessary expertise and resources, in addition to a proven track record of delivering exciting residential development.

Should you wish to explore how the full potential of your land can be realised, please do not hesitate to contact me on the details listed below. I look forward to hearing back from you.

Yours faithfully,

Dom MacDougall
Strategic Plannerdominic.macdougall@persimmonhomes.com



Appendix 17

Land Registry extracts relating to site 92

THIS IS A PRINT OF THE VIEW OF THE REGISTER OBTAINED FROM HM LAND REGISTRY SHOWING THE ENTRIES SUBSISTING IN THE REGISTER ON 4 JUL 2024 AT 14:33:26. BUT PLEASE NOTE THAT THIS REGISTER VIEW IS NOT ADMISSIBLE IN A COURT IN THE SAME WAY AS AN OFFICIAL COPY WITHIN THE MEANING OF S.67 LAND REGISTRATION ACT 2002. UNLIKE AN OFFICIAL COPY, IT MAY NOT ENTITLE A PERSON TO BE INDEMNIFIED BY THE REGISTRAR IF HE OR SHE SUFFERS LOSS BY REASON OF A MISTAKE CONTAINED WITHIN IT. THE ENTRIES SHOWN DO NOT TAKE ACCOUNT OF ANY APPLICATIONS PENDING IN HM LAND REGISTRY. FOR SEARCH PURPOSES THE ABOVE DATE SHOULD BE USED AS THE SEARCH FROM DATE.

THIS TITLE IS DEALT WITH BY HM LAND REGISTRY, PLYMOUTH OFFICE.

TITLE NUMBER: ST363636

There is no application or official search pending against this title.

A: Property Register

This register describes the land and estate comprised in the title.

NORTH SOMERSET

- 1 (17.02.2021) The Freehold land shown edged with red on the plan of the above title filed at the Registry and being Battens Farm and Cherry Orchard Farm, Nailsea, Bristol (BS48 4NW).
- 2 (17.02.2021) As to the part tinted pink on the title plan, the mines minerals and mineral substances together with the ancillary powers of working are excepted.

B: Proprietorship Register

This register specifies the class of title and identifies the owner. It contains any entries that affect the right of disposal.

Title absolute

- 1 (17.02.2021) PROPRIETOR: ANTONY CLIFFORD BAKER of Pagans Hill Farm, Scot Lane, Chew Stoke, Bristol BS40 8UN and ANDREW JAMES BAKER of Battens Farm, Nailsea, Bristol BS48 4NN and DANIEL WILLIAM BAKER of Coombe Farm, West End Lane, Nailsea, Bristol BS48 4BZ and JAMES ANTONY BAKER of The Old Engine Shed, Pagans Hill Farm, Scot Lane, Chew Stoke, Bristol BS40 8UN.
- 2 (17.02.2021) The value as at 17 February 2021 was stated not to exceed £1,000,000.
- 3 (17.02.2021) RESTRICTION: No disposition by a sole proprietor of the registered estate (except a trust corporation) under which capital money arises is to be registered unless authorised by an order of the court.
- 4 (17.02.2021) RESTRICTION: No disposition by the proprietors of the registered estate is to be registered unless one or more of them makes a statutory declaration or statement of truth, or their conveyancer gives a certificate, that the disposition is in accordance with the trusts contained in a Deed of Exchange dated 22 March 1976 made between (1) Joseph Walter Baker and Philip John Baker and (2) Robert Ian Hoddell, William George Raymond and Simon John Douglas Awdry or some variation thereof referred to in the declaration, statement or certificate.
- 5 (01.12.2021) RESTRICTION: No disposition of the registered estate shown edged in blue on the title plan by the proprietor of the registered estate or by the proprietor of any registered charge not being a charge registered before the entry of this restriction is to be registered without a certificate signed by St. Modwen Developments Limited (Co.Regn.No. 00892832) of Park Point, 17 High Street, Longbridge, Birmingham, United Kingdom B31 2UQ or its Conveyancer that the provisions of clause 6.4 of a Deed dated 30 November 2021 made between

B: Proprietorship Register continued

(1) Antony Clifford Baker, James Antony Baker, Andrew James Baker and Daniel William Baker and (2) St. Modwen Developments Limited have been complied with or that they do not apply to the disposition.

C: Charges Register

This register contains any charges and other matters that affect the land.

- 1 (17.02.2021) The land is subject to any rights that are granted by a Deed of Grant dated 24 November 1965 made between (1) Walter Leonard Brake and (2) South Western Gas Board and affect the registered land.

By a Deed of Variation dated 17 January 2002 made between (1) Joseph Walter Baker and Antony Clifford Baker and (2) Transco PLC the terms of this Deed were varied as therein mentioned.

NOTE 1: No copy or examined Abstract of the Deed of Grant referred to above was produced on first registration

NOTE 2: Copy Deed of Variation (without plan) filed.

- 2 (17.02.2021) The land is subject to any rights that are granted by a Deed of Grant dated 17 January 2002 made between (1) Joseph Walter Baker, Antony Clifford Baker and Daniel William Baker and (2) Transco PLC and affect the registered land.

NOTE: Copy filed.

- 3 (01.12.2021) UNILATERAL NOTICE affecting the land edged red on the plan in respect of an option to purchase contained in an Agreement dated 30 November 2021 made between (1) Antony Clifford Baker, James Antony Baker, Andrew James Baker and Daniel William Baker and (2) St Modwen Developments Limited.

NOTE: Copy plan filed.

- 4 (01.12.2021) BENEFICIARY: St Modwen Developments Limited (Co. Regn. No. 00892832) of Park Point, 17 High Sreet, Longbridge, Birmingham B31 2UQ and care of Ladders Solicitors Llp, Number 10, Elm Court, Arden Street, Stratford upon Avon CV37 6PA..

End of register

THIS IS A PRINT OF THE VIEW OF THE REGISTER OBTAINED FROM HM LAND REGISTRY SHOWING THE ENTRIES SUBSISTING IN THE REGISTER ON 4 JUL 2024 AT 14:35:36. BUT PLEASE NOTE THAT THIS REGISTER VIEW IS NOT ADMISSIBLE IN A COURT IN THE SAME WAY AS AN OFFICIAL COPY WITHIN THE MEANING OF S.67 LAND REGISTRATION ACT 2002. UNLIKE AN OFFICIAL COPY, IT MAY NOT ENTITLE A PERSON TO BE INDEMNIFIED BY THE REGISTRAR IF HE OR SHE SUFFERS LOSS BY REASON OF A MISTAKE CONTAINED WITHIN IT. THE ENTRIES SHOWN DO NOT TAKE ACCOUNT OF ANY APPLICATIONS PENDING IN HM LAND REGISTRY. FOR SEARCH PURPOSES THE ABOVE DATE SHOULD BE USED AS THE SEARCH FROM DATE.

THIS TITLE IS DEALT WITH BY HM LAND REGISTRY, PLYMOUTH OFFICE.

TITLE NUMBER: ST318325

There is no application or official search pending against this title.

A: Property Register

This register describes the land and estate comprised in the title.

NORTH SOMERSET

- 1 (23.01.2015) The Freehold land shown edged with red on the plan of the above title filed at the Registry and being Land at Nailsea Moor, Nailsea, Bristol.

NOTE 1: A 0.6m strip of land between the points lettered A and B on the title plan is included in the title.

NOTE 2: A 0.3 strip of land between the points lettered B, C, D, E and F on the title plan is included in the title.
- 2 (08.07.2021) The land edged and numbered in green on the title plan has been removed from this title and registered under the title number or numbers shown in green on the said plan.
- 3 (08.07.2021) The land has the benefit of any legal easements reserved by the Transfer dated 23 June 2021 referred to in the Charges Register but is subject to any rights that are granted by the said deed and affect the registered land.

B: Proprietorship Register

This register specifies the class of title and identifies the owner. It contains any entries that affect the right of disposal.

Title absolute

- 1 (23.01.2015) PROPRIETOR: BERNARD WILLIAM GRAY of Nurse Batch Farm, West End Lane, Nailsea, Bristol BS48 4DB.
- 2 (23.01.2015) The value stated as at 23 January 2014 was £40,000.
- 3 (29.03.2017) RESTRICTION: No disposition of the part of the registered estate shown edged blue (other than a charge) by the proprietor of the registered estate, or by the proprietor of any registered charge, not being a charge registered before the entry of this restriction is to be registered without a certificate signed by National Grid Electricity Transmission plc of 1-3 Strand, London WC2N 5EH or its conveyancer that the provisions of clause 7.5 of an option agreement dated 27 March 2017 made between (1) Bernard William Gray and (2) National Grid Electricity Transmission plc have been complied with or that they do not apply to the disposition.
- 4 (08.07.2021) RESTRICTION: No disposition of the registered estate (other than a Charge) by the proprietor of the registered estate, or by the proprietor of any registered charge, not being a charge registered before the entry of this restriction, is to be registered without a certificate signed by a conveyancer that the provisions of clause 12.5 of the Transfer dated 23 June 2021 referred to in the

B: Proprietorship Register continued

Charges Register have been complied with or that they do not apply to the disposition.

C: Charges Register

This register contains any charges and other matters that affect the land.

- 1 (17.04.2015) UNILATERAL NOTICE in respect of an Agreement dated 15 April 2015 made between (1) Bernard William Gray and (2) Western Power Distribution (South West) plc which granted Western Power Distribution (South West) plc an option to take an easement over the land contained in the title.

NOTE: Copy filed.

- 2 (17.04.2015) BENEFICIARY: Western Power Distribution (South West) plc (Co. Regn. No. 02366894) of Avonbank, Feeder Road, Bristol, Avon BS2 0TB.

- 3 (21.12.2016) The land is subject to the rights granted by a Deed dated 15 October 2001 made between (1) Bernard William Gray and (2) Transco Plc .

The said Deed also contains restrictive covenants by the grantor.

NOTE: Copy filed.

- 4 (21.12.2016) By a Deed dated 15 October 2001 made between (1) Bernard William Gray and (2) Transco Plc the rights contained in the Deed dated 15 October 2001 referred to above have been varied.

NOTE: Copy filed

- 5 (29.03.2017) UNILATERAL NOTICE affecting the land edged blue on the title plan in respect of an Option Agreement for a lease dated 27 March 2017 for a term of 6 years made between (1) Bernard William Gray and (2) National Grid Electricity Transmission plc.

- 6 (29.03.2017) BENEFICIARY: National Grid Electricity Transmission plc (Co. Regn. No. 02366977) care of Company secretary, 1-3 Strand, London, WC2N 5EH.

- 7 (13.01.2021) A Deed of Variation dated 7 January 2021 made between (1) Bernard William Gray and (2) Western Power Distribution (South West) Plc in respect of an Agreement dated 15 April 2015 made between (1) Bernard William Gray and (2) Western Power Distribution (South West) Plc relating to an option to take an easement in favour of Western Power Distribution (South West) Plc.

NOTE: Copy filed.

- 8 (08.07.2021) A Transfer of the land edged and numbered ST366259 in green on the title plan and other land on the title plan and other land dated 23 June 2021 made between (1) Bernard William Gray and (2) BDW Trading Limited contains restrictive covenants by the Transferor.

NOTE: Copy filed under ST366259.

- 9 (08.07.2021) The Transfer dated 23 June 2021 referred to above contains a covenant as to the grant of rights in the events therein mentioned.

- 10 (07.06.2022) The land is subject to any rights that are granted by a Deed of Grant dated 16 May 2022 made between (1) Bernard William Gray and (2) Western Power Distribution (South West) PLC and affect the registered land.

The said Deed also contains restrictive covenants by the grantor.

NOTE: Copy filed under ST283851.

End of register

Appendix 18

Appellant availability enquiry letters to landowners regarding site 92

19th June 2024**Bernard Gray**
Nurse Batch Farm
West End Lane
Nailsea
BS48 4DB**Tel: 01275 396000**

Dear Bernard,

RE: Land at West End


I am writing on behalf of Persimmon Homes Severn Valley regarding the above named property. We have recently undertaken a land study within North Somerset district to identify potential land suitable for residential development. During the exercise your land was identified as potentially appropriate to accommodate new homes.

From enquiries we have made, we understand you have promoted this land for development – and I enclose a plan with your land highlighted in red.

I would welcome the opportunity to discuss with you how we can use our resources to unlock the land's development potential and associated value for you as we have done on similar sites across the country. Persimmon Homes is one of the UK's leading house builders, which has the necessary expertise and resources, in addition to a proven track record of delivering exciting residential development.

Should you wish to explore how the full potential of your land can be realised, please do not hesitate to contact me on the details listed below. I look forward to hearing back from you.

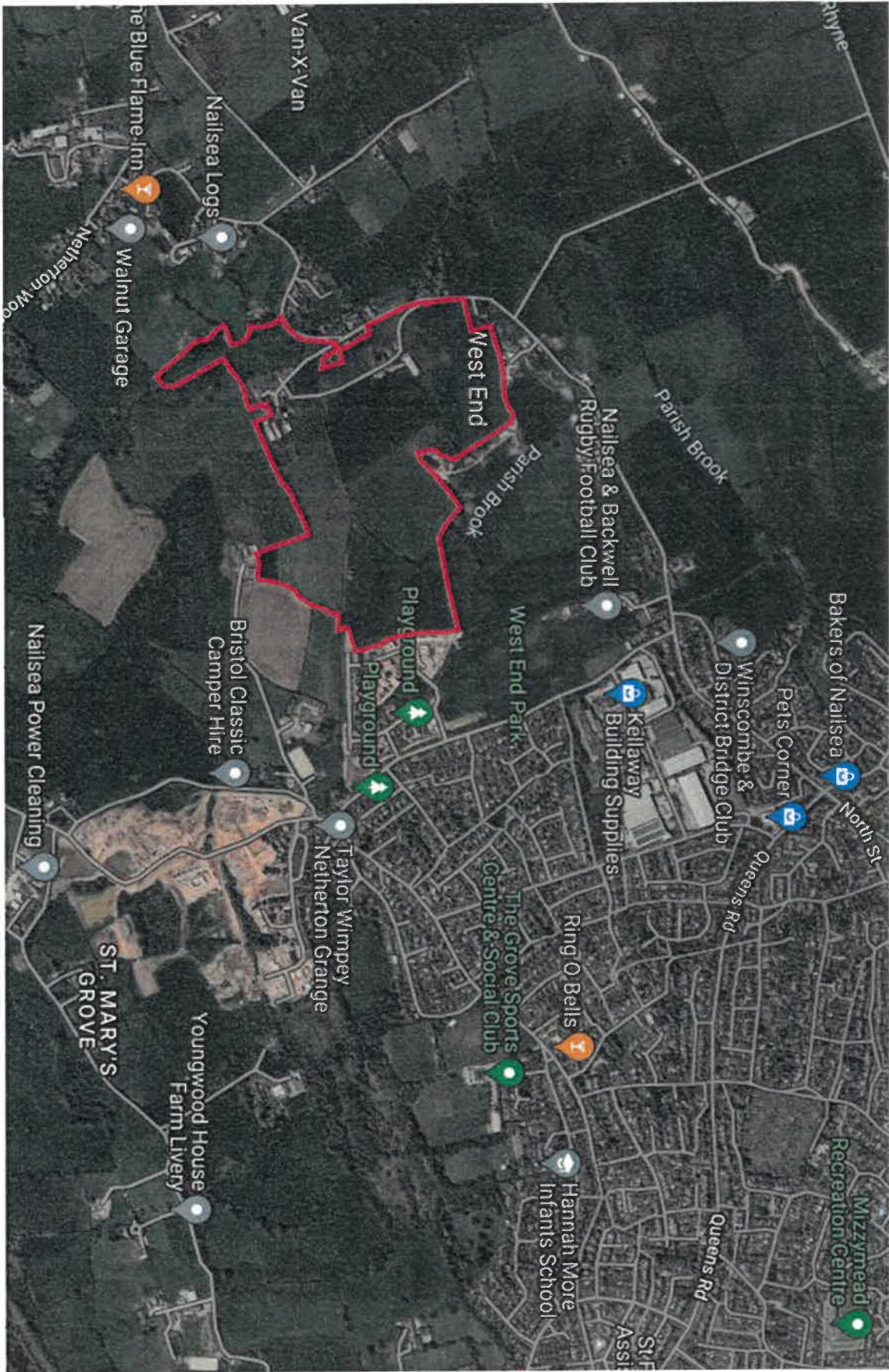
Yours sincerely,



Dom MacDougall
Strategic Planner

dominic.macdougall@persimmonhomes.com





14th June 2024**St. Modwen Homes**Two Devon Way
Longbridge
Birmingham
B31 2TS**Tel: 01275 396000**

To whom it may concern,

RE: West of Netherton Wood Lane and Locking Farm

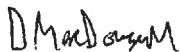
I am writing on behalf of Persimmon Homes Severn Valley regarding the above named property. We have recently undertaken a land study within North Somerset district to identify potential land suitable for residential development. During the exercise your land was identified as potentially appropriate to accommodate new homes.

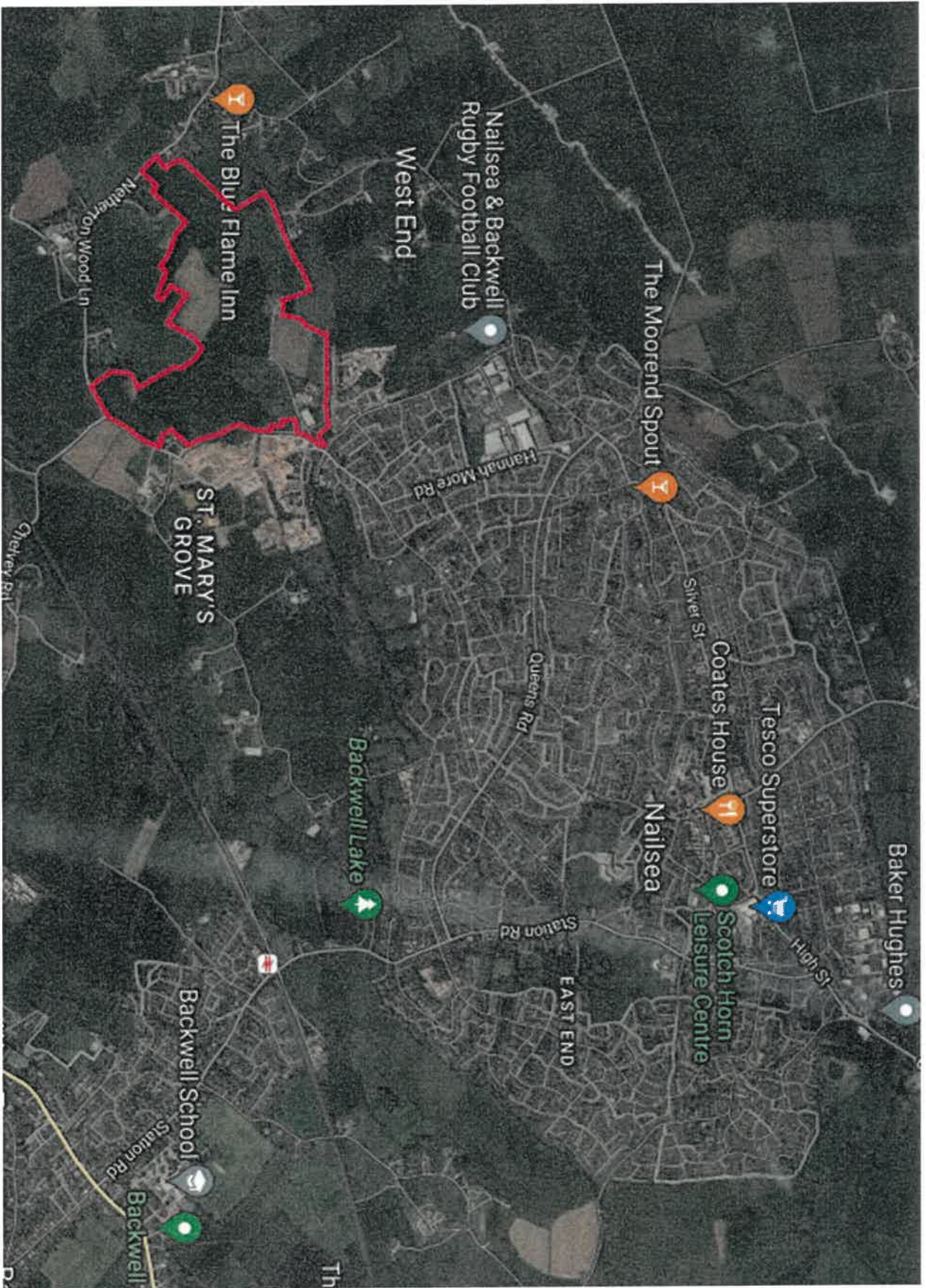
From enquiries we have made, we understand you have promoted this land for development – and I enclose a plan with your land highlighted in red.

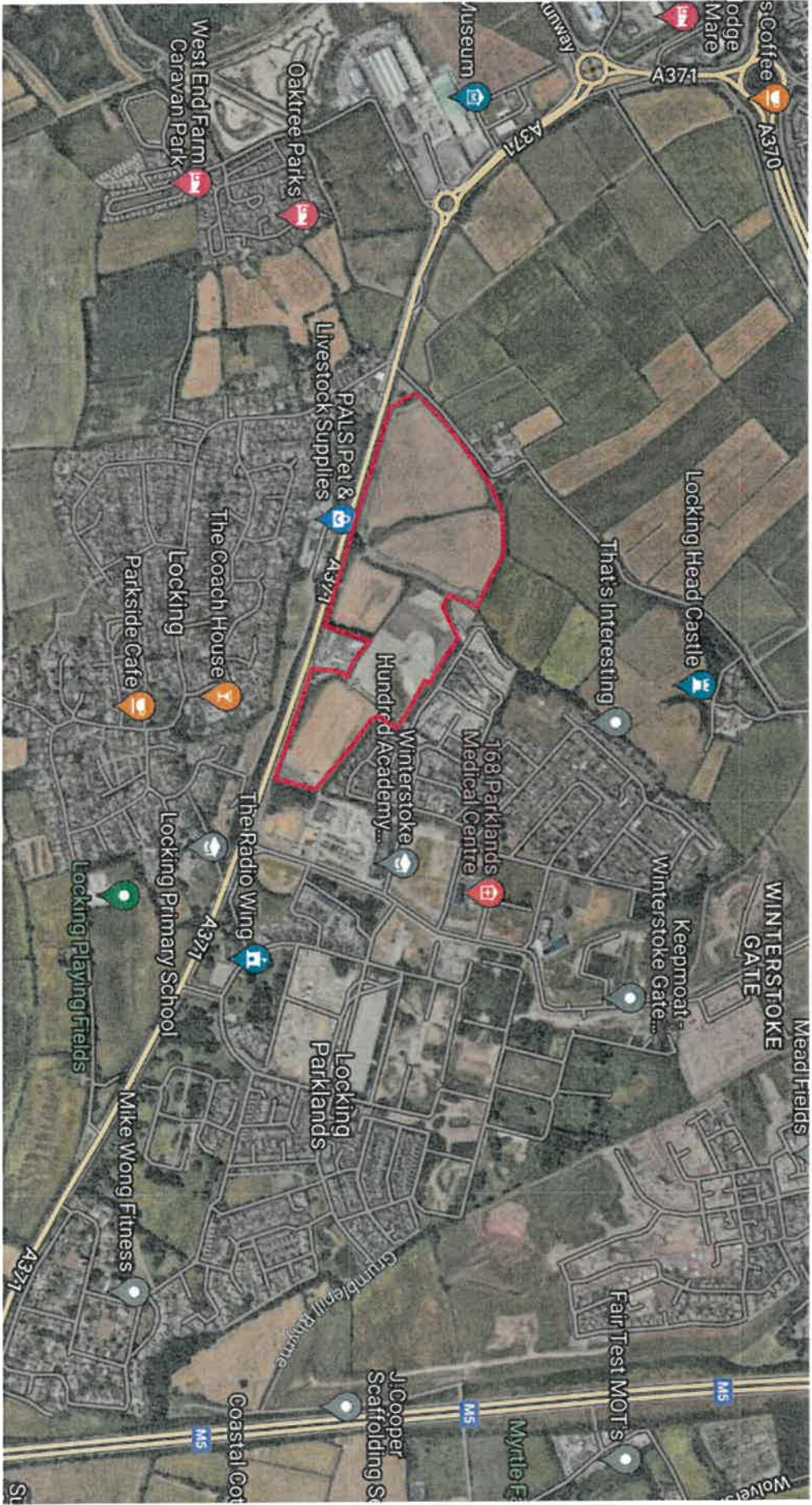
I would welcome the opportunity to discuss with you how we can use our resources to unlock the land's development potential and associated value for you as we have done on similar sites across the country. Persimmon Homes is one of the UK's leading house builders, which has the necessary expertise and resources, in addition to a proven track record of delivering exciting residential development.

Should you wish to explore how the full potential of your land can be realised, please do not hesitate to contact me on the details listed below. I look forward to hearing back from you.

Yours faithfully,

Dom MacDougall
Strategic Plannerdominic.macdougall@persimmonhomes.com





Appendix 19

Appellant availability enquiry letter to Vistry Homes regarding site 93

19th June 2024**Vistry Bristol South West**First Floor
H2 Harlequin
Emerson Green
Bristol
BS16 7FN**Tel: 01275 396000**

To whom it may concern,

RE: Land at North West Nailsea, Land south of A38, Bath Road and Land off Wrington Road, Congresbury

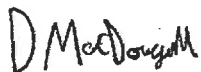
I am writing on behalf of Persimmon Homes Severn Valley regarding the above named property. We have recently undertaken a land study within North Somerset district to identify potential land suitable for residential development. During the exercise your land was identified as potentially appropriate to accommodate new homes.

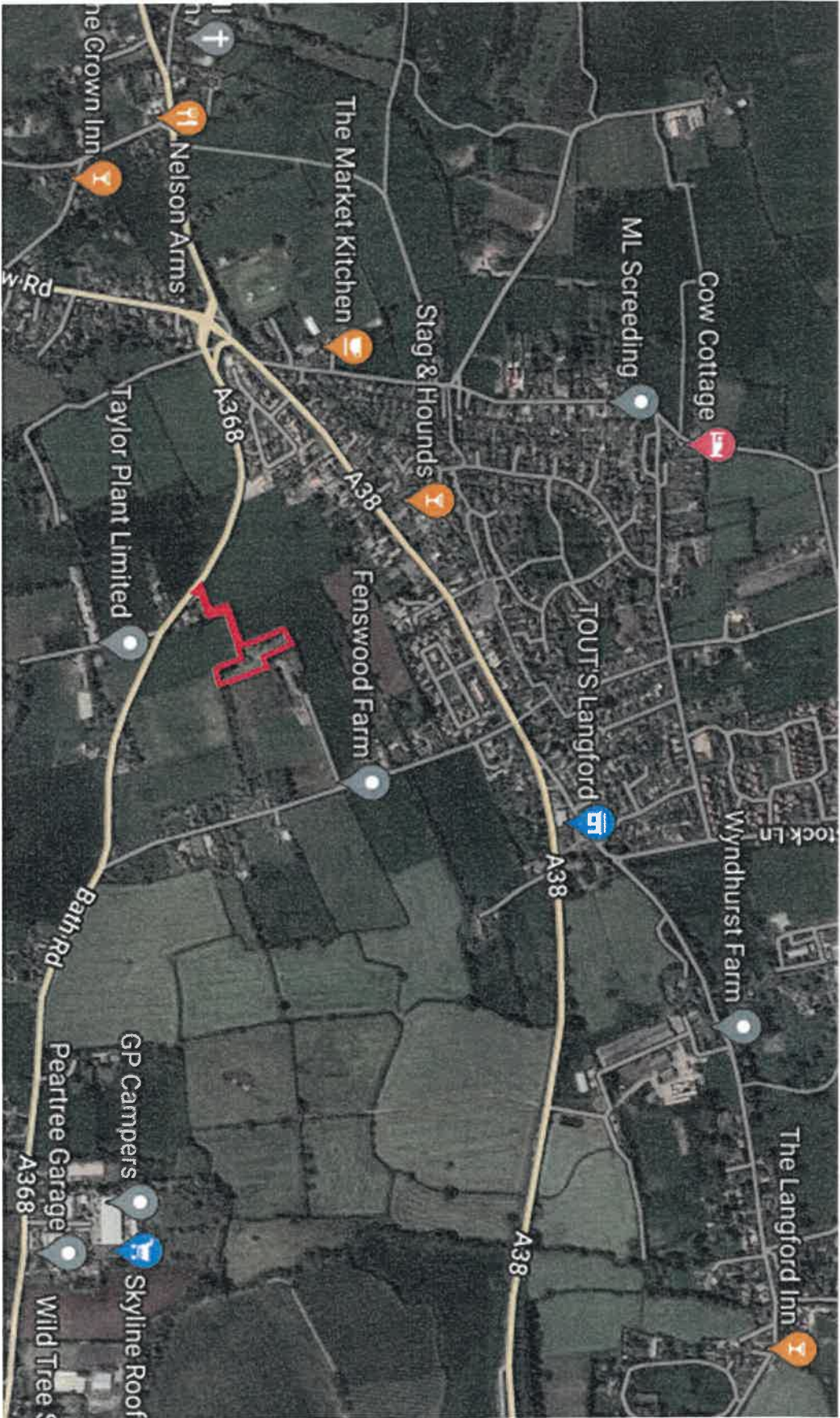
From enquiries we have made, we understand you have promoted this land for development – and I enclose a plan with your land highlighted in red.

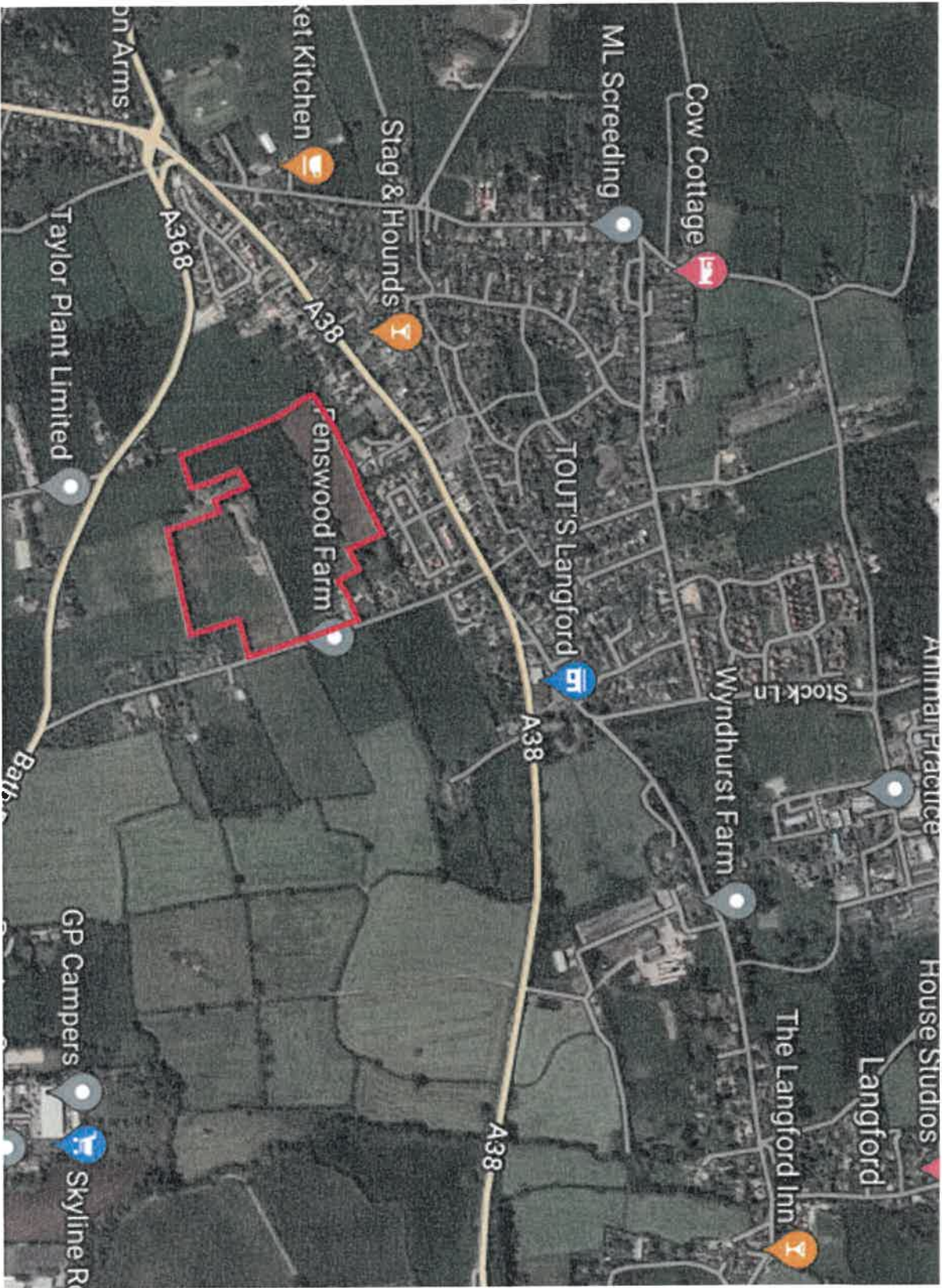
I would welcome the opportunity to discuss with you how we can use our resources to unlock the land's development potential and associated value for you as we have done on similar sites across the country. Persimmon Homes is one of the UK's leading house builders, which has the necessary expertise and resources, in addition to a proven track record of delivering exciting residential development.

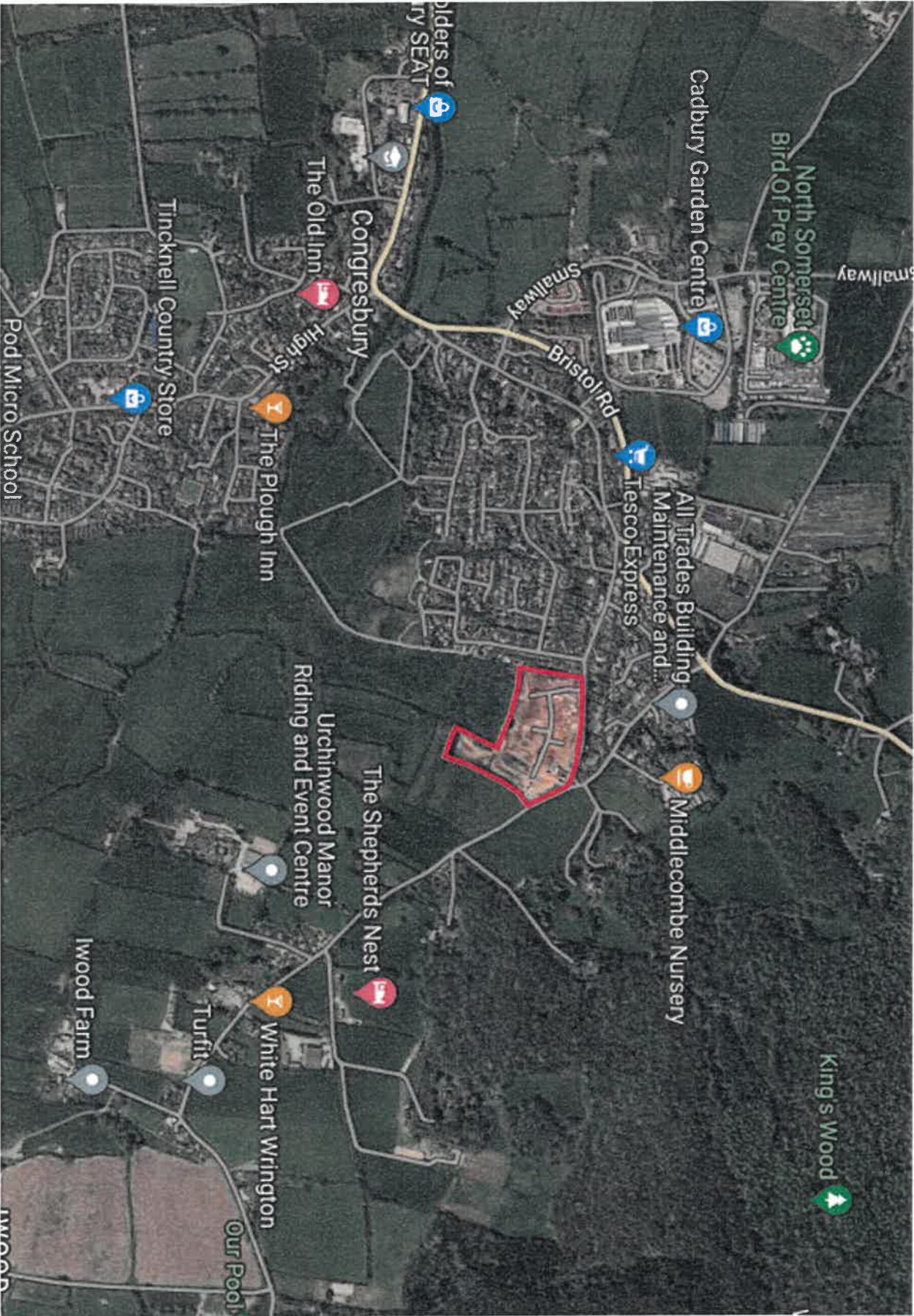
Should you wish to explore how the full potential of your land can be realised, please do not hesitate to contact me on the details listed below. I look forward to hearing back from you.

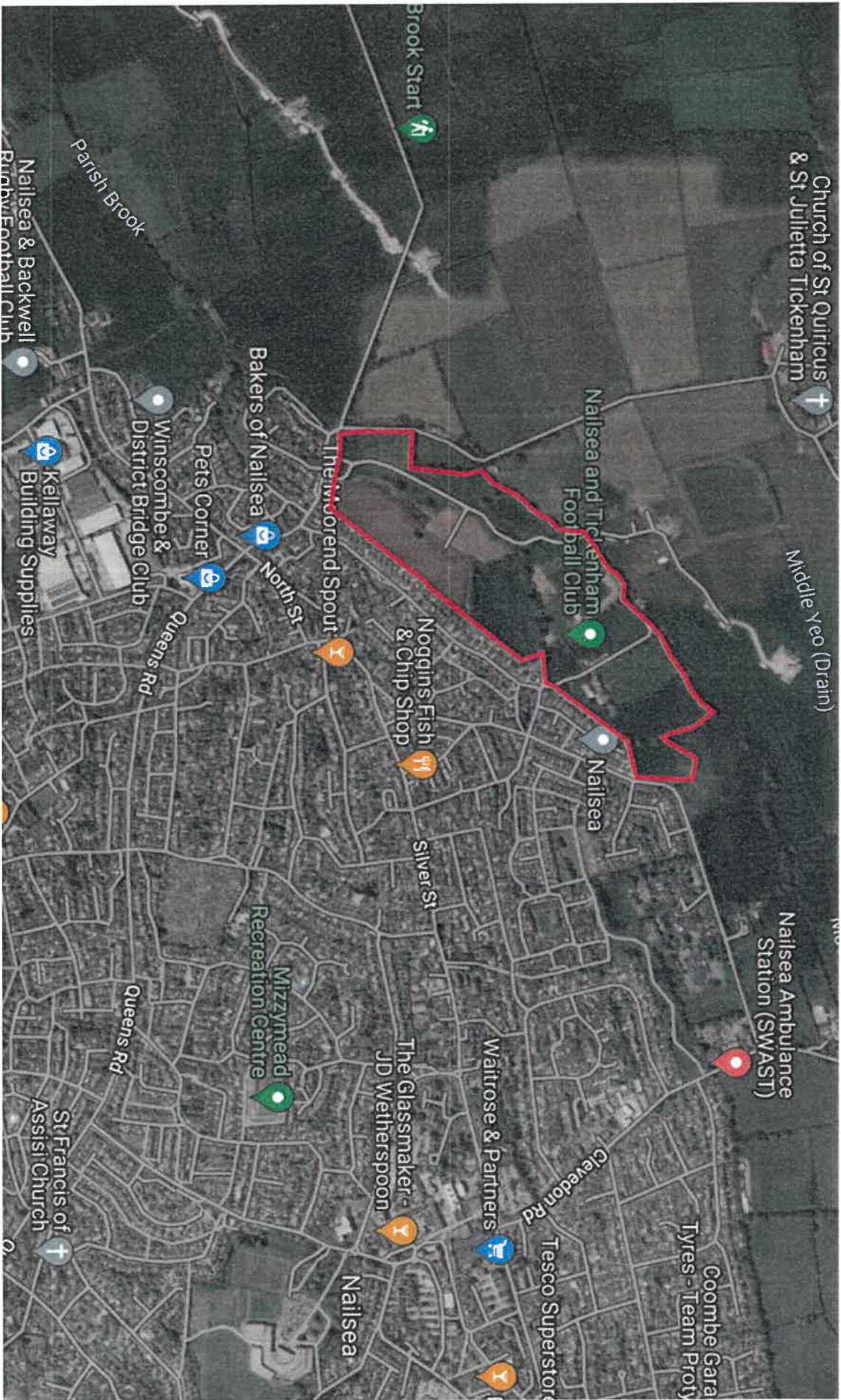
Yours faithfully,

Dom MacDougall
Strategic Plannerdominic.macdougall@persimmonhomes.com









Appendix 20

Summary table of Appellant position on disputed sites

Appendix 20 - Summary of Appellant Position on Disputed Sites

Stantec 2024 FRST Appendix	Stantec 2024 FRST Series No	Site Name	SHLAA References	Planning Application References	NSC Disputed Size (ha)	NSC Disputed Capacity (dwellings)	Appellant Comments	NSC HLS Trajectory (No. of dwellings)	NSC HLS Reference	Distance to Yatton	Time to WSM	Time to Bristol	Time to London
C	100	Land at Poplar Farm, north of West End, Nailsea	HE203006 (2023)		7.95	70	<ul style="list-style-type: none"> Site is below the lower size parameter Site is physically separated from other opportunities in Nailsea and doesn't form part of a series of sites. Site is within the control of Crest Nicholson Site is not reasonably available 						
G, E	112	Moor Road, Yatton	HE20425	19/P/3197/FUL 3285343	1.87	60	<ul style="list-style-type: none"> Site is below the lower size parameter Site was granted full planning permission at appeal Wider series of sites set out in March 2024 FRST not disputed Site is physically separated from other disputed opportunities in Yatton / Claverham Council's HLS trajectory includes this site. Site is not reasonably available 	60	4/654				
G, E	113	Land at Rectory Farm and Biddle Street (to the south of the appeal site)	HE2010112	21/P/0236/OUT 23/P/0238/RM	3.85	100	<ul style="list-style-type: none"> Site is below the lower size parameter Site was granted full planning permission at appeal Site is being brought forward by St Modwen Homes Site is physically separated from other disputed opportunities in Yatton / Claverham Council's HLS trajectory includes this site. Site is not reasonably available 	98	4/716				
F	125	Four adjoining sites on the northern fringe of Weston-super-Mare	HE2027 HE20354 HE20471 HE20495	21/P/3529/OUT 23/P/1439/OUT	35.27	285	<ul style="list-style-type: none"> Wider series of sites set out in March 2024 FRST included HE20493 which is not disputed here Site HE20495 benefits from outline planning permission and is being developed by Mead Realisations. Availability enquiry made to landowner and site included in Council's HLS trajectory Site HE20471 subject to outline planning application and availability enquiry made to M7 Planning Site HE2027 has a capacity of only 80 dwellings in the plan period. Nonetheless availability enquiry made to landowner Site HE20354 has a capacity of only 60 dwellings in the plan period. Nonetheless availability enquiry made to landowner Part of the site lies in Flood Zone 3 Series is not reasonably available 	70	4/720	5.00km	34 minutes	48 minutes	3 hours 1 minute
C	133	Weston Rugby Club	HE20U20 (2023)	21/P/3368/OUT	2.2	200	<ul style="list-style-type: none"> Site is significantly below the lower size parameter and requires high density development Site has planning permission for a mixed use redevelopment Council's HLS trajectory includes this site Site is not reasonably available 	182	4/715				
C	134	Dolphin Square	HE20U10 (2023)		0.83	126	<ul style="list-style-type: none"> Site is significantly below the lower size parameter and requires high density development Extant Dolphin Square SPD dated 2008 shows development opportunities considered for over 18 years No evidence of realistic prospect of deliverable scheme Site is physically separated from other disputed site opportunities in Weston-super-Mare and doesn't form part of a series of sites Site is not reasonably available 						

Appendix 20 - Summary of Appellant Position on Disputed Sites

Stantec 2024 FRST Appendix	Stantec 2024 FRST Series No	Site Name	SHLAA References	Planning Application References	NSC Disputed Size (ha)	NSC Disputed Capacity (dwellings)	Appellant Comments	NSC HLS Trajectory (No. of dwellings)	NSC HLS Reference	Distance to Yatton	Time to WSM	Time to Bristol	Time to London	
D	136, 137	M5 J21: Sites at Wolverhill, North of Banwell	HE201016 HE201034 HE201086 HE202000 HE20500 HE20592 HE20594 HE20607 HE203003 (2023) 203005 (2023)	24/P/0572/EA2 24/P/0494/EA2	Allocation plus some of HE203003	2,800	<ul style="list-style-type: none"> Dispute relates to Series 136 from March 2024 FRST plus overlapping SHLAA site HE203003 from Series 137. This is the draft allocation at Wolverhill plus additional land. Two EIA scoping opinions were submitted in March 2024 Appendix 5 shows the developer breakdown on the allocation area Draft policy stipulates several requirements given the size of the proposed development including: <ul style="list-style-type: none"> Requirement for single masterplan, delivery plan and design codes Reliance upon Banwell Bypass That further guidance will be prepared in the form of a Masterplanning Framework SPD Planning applications required to be supported by visioning masterplan for the entire location Applications should be supported by a Delivery Plan including a phasing plan Policy extracts demonstrate aspirations for strategic delivery Appellant's representations to Regulation 19 Consultation discusses issues including delivery and viability Timescales do not align with appeal proposals Availability enquiries issued to landowners Series is not reasonably available 			7.55km	37 minutes	1 hour 6 minutes	3 hours 16 minutes	
C	138	M5 J21: East of Banwell at Eastermead Lane and Riverside	HE201055 HE20195		6.42	165	<ul style="list-style-type: none"> Series is below the lower size parameter Capacity in Stantec 2024 FRST related to full capacity of sites and discounted on basis of size Disputed capacity relates to 'potential' capacity within the SHLAA: 135 dwellings at HE201055 and 30 dwellings at HE20195. Series is not reasonably available 							
E, F	140, 151	Land at Elborough	HE20637 HE201040			385	<ul style="list-style-type: none"> Dispute relates to SHLAA sites HE20637 and HE201040. Wider series of sites in series 140 set out in March 2024 FRST not disputed Dispute relates to Regulation 19 submission capacity of 315 dwellings for HE20637 and 70 dwellings for HE201040 (area not in National Landscape). HE20637 partially located in Flood Zones 2 and 3 and site discounted from 2023 SHLAA on flood risk grounds. HE20637 being promoted by Mactaggart & Mickel Group who the Appellant had made availability enquiries with Part of HE201040 not within the National Landscape is only 2.2ha in size however the Appellant has still made availability enquiries Sites are disconnected from settlements Series is not reasonably available 			8.66km	37 minutes	1 hour 6 minutes	3 hours 16 minutes	
E	143	Parklands Village: Locking Parklands	HE20U23	09/P/1614/F 12/P/0760/F 13/P/0997/OT2 15/P/1777/RM 17/P/5631/RM 18/P/2925/RM 19/P/0032/RM 21/P/3241/RM	70.09	769	<ul style="list-style-type: none"> Council only dispute capacity of permission 13/P/0997/OT2 at the Weston Villages Council's HLS trajectory includes this site. Committee Report for 13/P/0997/OT2 discusses development viability and references financial information submitted that not all obligations could be afforded The Section 106 agreement requires on 13% affordable housing compared to the appeal proposals of 50% affordable housing As part of the Lynchmead Inquiry, the Council agreed on the rejection of this site (Appendix 10 and Appendix 11) Series is not reasonably available 	555	4/558a-c	7.00km	40 minutes	59 minutes	2 hours 53 minutes	
C	147	Land to the west of the M5, East of Trenchard Road and Land to the West of Trenchard Road		18/P/3038/OUT 22/P/1860/RM	6.04	75	<ul style="list-style-type: none"> Site is below the lower size parameter Outline permission granted for 75 dwellings Reserved matters application submitted by David Wilson Homes withdrawn Site has been sold to another housebuilder Site is not reasonably available 							

Appendix 20 - Summary of Appellant Position on Disputed Sites

Stantec 2024 FRST Appendix	Stantec 2024 FRST Series No	Site Name	SHLAA References	Planning Application References	NSC Disputed Size (ha)	NSC Disputed Capacity (dwellings)	Appellant Comments	NSC HLS Trajectory (No. of dwellings)	NSC HLS Reference	Distance to Yatton	Time to WSM	Time to Bristol	Time to London
C	15	Moor Lane, Backwell	HE201014 HE201042 HE201071 HE20501	22/P/0252/OUT	4.64	145	<ul style="list-style-type: none"> Series is below the lower size parameter Site under control of M7 Planning (a land promotion company) Site is located near to Grove Farm (Site No.16) however could not form part of a series with this site as it is also not reasonably available. Series is not reasonably available 						
C	150	Leighton Crescent, WSM	HE201030		2.69	81	<ul style="list-style-type: none"> Site is below the lower size parameter Wider series of sites in March 2024 FRST not disputed Site is physically separated from other disputed site opportunities in Weston-super-Mare Site is not reasonably available 						
F	16	Grove Farm, Backwell	HE202008 HE20595 HE203034 (2023)	20/P/1847/OUT 24/P/0533/RM		515	<ul style="list-style-type: none"> Council dispute draft allocation at Grove Farm. Wider series set out in March 2024 FRST not disputed Site under option to Taylor Wimpey. Nonetheless the Appellant issues availability enquiries. Site is not reasonably available 			5.40km	46 minutes	30 minutes	2 hours and 40 minutes
C	167	Former TJ Hughes store, 17 High Street, Weston-super- Mare	HE20U25 (2023)	17/P/1832/F 23/P/0985/FUL	0.13	32	<ul style="list-style-type: none"> Site is significantly below the lower size parameter and requires high density development Site is physically separated from other disputed site opportunities in Weston-super-Mare Council's HLS trajectory includes this site Site is not reasonably available 	40	4/649				
E	17	Farleigh Fields, Backwell	HE203013	21/P/1766/OUT 22/P/2818/RM 23/P/2508/RM 24/P/1185/OUT		250	<ul style="list-style-type: none"> Series relates to two sites: the first with outline planning permission and the second where an application for outline planning permission has been submitted. The first site has reserved matters approval which the Council's HLS trajectory includes The Appellant is the applicant for the second site which is for a different development to the appeal proposals Series is not reasonably available 	94	4/717 4/717a	6.78km	36 minutes	25 minutes	2 hours 14 minutes
C	180	Walliscote Place / Police Station / Magistrates Court / Roselawn, Weston-super-Mare	HE20712 HE20U18		0.7	70	<ul style="list-style-type: none"> Site is below the lower size parameter Site is physically separated from other disputed site opportunities in Weston-super-Mare Site is not reasonably available 						
C	194	Former Police Depot, Winterstoke Road, Weston-super-Mare	HE20U22		0.91	36	<ul style="list-style-type: none"> Site is significantly below the lower size parameter and requires high density development Site is physically separated from other disputed site opportunities in Weston-super-Mare Site is not reasonably available 						
D	198	Site at SW Bristol including proposed smaller allocations	HE20110, HE20139, HE2018, HE2021, HE20286, HE20287, HE20288, HE20321 and HE20615		9.75	215	<ul style="list-style-type: none"> Site is below the lower size parameter Wider series of sites set out in March 2024 FRST not disputed SHLAA Site HE20286 is disputed only Site is not reasonably available 						

Appendix 20 - Summary of Appellant Position on Disputed Sites

Stantec 2024 FRST Appendix	Stantec 2024 FRST Series No	Site Name	SHLAA References	Planning Application References	NSC Disputed Size (ha)	NSC Disputed Capacity (dwellings)	Appellant Comments	NSC HLS Trajectory (No. of dwellings)	NSC HLS Reference	Distance to Yatton	Time to WSM	Time to Bristol	Time to London
F	25	Cluster of sites to the south of Langford	HE201013 HE20122 HE20196 HE20629 HE2010105	17/P/2344/O 22/P/0564/OUT	14.5	419	<ul style="list-style-type: none"> Series relates 5 sites HE2010105 / 22/P/0564/OUT is being brought forward by Vistry Homes and an outline planning application has been submitted HE20122 and HE20629 are also under option by Vistry Homes The Appellant has issued availability enquiries to Vistry Homes regarding these sites HE201013 and HE20196 cover an area of 5.5ha which is below the lower size parameter HE20196 was subject to a dismissed appeal and the Appellant has issued availability enquiries to Lostwood Estates Series is not reasonably available 			6.00km	58 minutes	38 minutes	38 minutes
C	26	Cluster of sites to the north of Langford - North of Pudding Pie Lane / Pudding Pie Lane West / Land South of Jubilee Lane / East of Ladymead Lane	HE201074 HE2023	15/P/1414/O 17/P/1894/RM 15/P/2521/O	7.36	191	<ul style="list-style-type: none"> Series is below the lower size parameter SHLAA Site HE2023 (70 dwellings) is under the control of M7 Planning Series is not reasonably available 						
C	30	Land to west of Wyndhurst Farm, Langford	HE20590		3.54	100	<ul style="list-style-type: none"> Site is below the lower size parameter 2023 SHLAA (CD.H19) states that this site 'is detached from the main areas of settlement separated by the A38' Site is located near to Series 25 however this site is not reasonably available and is separated from this site by the A38 bypass and could not form part of a series Site is not reasonably available 						
C	31	West of Ladymead Lane, Langford	HE20608		3.84	114	<ul style="list-style-type: none"> Site is below the lower size parameter Site is not reasonably available 						
C	36	Four sites west of Sandford - Land west of Sandford/ Land at Mead Lane/ Land at Mead Farm	HE201012, HE2034, HE2075, HE203008 (2023)		5.18	83	<ul style="list-style-type: none"> Series is below the lower size parameter Part of HE2075 controlled by Strongvox Site is physically separated from other disputed site opportunities in the Sandford / Winscombe area Series is not reasonably available 						
C	37	Land off Hill Road, Sandford	HE201015		0.97	35	<ul style="list-style-type: none"> Site is below the lower size parameter Wider series of sites set out in March 2024 FRST not disputed Site is physically separated from other disputed site opportunities in the Sandford / Winscombe area Site is not reasonably available 						
C	39	Greenhill Lane	HE20344	17/P/0887/O (refused and dismissed) 18/P/3625/OUT (withdrawn) 22/P/0227/OUT (approved) 24/P/0808/RM (pending)	2.74	49	<ul style="list-style-type: none"> Site is below the lower size parameter Reserved matters application submitted by Stonewood Homes Site is physically separated from other disputed site opportunities in the Sandford / Winscombe area Council's HLS trajectory includes this site Site is not reasonably available 	49	4/721				

Appendix 20 - Summary of Appellant Position on Disputed Sites

Stantec 2024 FRST Appendix	Stantec 2024 FRST Series No	Site Name	SHLAA References	Planning Application References	NSC Disputed Size (ha)	NSC Disputed Capacity (dwellings)	Appellant Comments	NSC HLS Trajectory (No. of dwellings)	NSC HLS Reference	Distance to Yatton	Time to WSM	Time to Bristol	Time to London
C	43	Sandford Batch (Broadleaze Farm), Winscombe	HE20187		3.17	74	<ul style="list-style-type: none"> Site is below the lower size parameter Site owned by Mead Realisations Site is to the south of Site 46 (0.9ha in size with capacity of 30 dwellings) however cumulatively the sites are less than half of the parameter Site is physically separated from other disputed site opportunities Site is not reasonably available 						
C	45	Land Adjoining Coombe Farm and Shiphamp Lane, Winscombe	HE20716, HE20717	20/P/2724/FUL 22/P/2105/FUL	4.4	68	<ul style="list-style-type: none"> Series is below the lower size parameter Site is physically separated from other disputed site opportunities in the Sandford / Winscombe area Council's HLS trajectory includes this site Series is not reasonably available 	68	4/678				
C	46	West of Hill Road, adjacent to Quarry Lane, North of Winscombe	HE2076		0.9	30	<ul style="list-style-type: none"> Site is below the lower size parameter Wider series of sites set out in March 2024 FRST not disputed Site is to the north of Site 43 (3.17ha in size with capacity of 74 dwellings) however cumulatively the sites are less than half of the parameter Site is not reasonably available 						
C, G	52	Brockley Way and Dunsters Way	HE201072	15/P/0185/O (withdrawn)	6.8	120	<ul style="list-style-type: none"> Site is below the lower size parameter Wider series of sites set out in March 2024 FRST not disputed Dispute on the basis of Regulation 19 submissions capacity of 120 dwellings Site is physically separated from other disputed site opportunities in the Yatton / Claverham area Site is not reasonably available 						
C	74, 87	Woodhill Nurseries and Land North of Bristol Road, Congresbury	HE20178			80	<ul style="list-style-type: none"> Series is below the lower size parameter Wider series of sites set out in March 2024 FRST for Series 74 not disputed Site 74 (HE20178) controlled by M7 Planning The two sites in this series are the only disputed sites in Congresbury so can't form a greater series Series is not reasonably available 						
E	90	Youngwood Lane, Land south of The Uplands	HE2065	16/P/1677/OT2 20/P/2347/RM 22/P/1558/RM 24/P/1047/MMA		282	<ul style="list-style-type: none"> Dispute relates to second phase of approval 16/P/1677/OT2 for 282 dwellings (22/P/1558/RM) Wider series of sites set out in March 2024 FRST not disputed Council's HLS trajectory includes this site which acknowledges that Taylor Wimpey have secured the site and that it has now been purchased by Crest Nicholson Series is not reasonably available 	282	4/596b	4.71km	1 hour	51 minutes	2 hours 40 minutes
E	91	Land South of Nailsea	HE20591 HE20612 HE202016 HE203007 (2023) HE203016 (2023) HE203020 (2023)	20/P/0861/FUL		600	<ul style="list-style-type: none"> Majority of the series is covered by the designated strategic gap between Backwell and Nailsea and the residual capacity of 9ha could not accommodate the proposals Apparent access to the site is in Flood Zone 3 which would require a flood risk sequential test The Appellant made availability enquiries to each of the landowners within this series Series is not reasonably available 			5.62km	41 minutes	41 minutes	2 hours 21 minutes
F	92	West End, Engine Lane and Netherton Wood Lane	HE20504 HE20611	23/P/2325/OUT	31.1	575	<ul style="list-style-type: none"> Sites in dispute relate to 2 sites: HE20504 and HE20611 with a total capacity of 575 dwellings Wider series of sites set out in March 2024 FRST not disputed Site HE20611 is under an Option Agreement to St Modwen and Site HE20504 is under the control of Barratt Homes. The Appellant made availability enquiries to each of the landowners within this series Series is not reasonably available 			4.50km	1 hour 10 minutes	53 minutes	2 hours 52 minutes

Appendix 20 - Summary of Appellant Position on Disputed Sites

Stantec 2024 FRST Appendix	Stantec 2024 FRST Series No	Site Name	SHLAA References	Planning Application References	NSC Disputed Size (ha)	NSC Disputed Capacity (dwellings)	Appellant Comments	NSC HLS Trajectory (No. of dwellings)	NSC HLS Reference	Distance to Yatton	Time to WSM	Time to Bristol	Time to London
E	93	North West Nailsea	HE20273		17.96	225	<ul style="list-style-type: none"> Disputed site relates to site HE20273 only of 17.96ha in size Site was allocated in the SAP for 450 dwellings Regulation 19 version of the Local Plan reduced the allocation to 75 homes on the basis of flood risk The latest version of the Regulation 19 Local Plan review increased the allocation to 225 homes Outline planning application submitted for 150 dwellings by Vistry Group Council's HLS trajectory includes this site The Appellant made availability enquiries to Vistry Group Series is not reasonably available 	150	4/596	5.87km	1 hour 5 minutes	50 minutes	2 hours 48 minutes
C	97	Weston College site, Somerset Square, Nailsea	HE20U05 (2023)	15/P/0997/O 22/P/1296/FUL	0.15	28	<ul style="list-style-type: none"> Site is significantly below the lower size parameter and requires high density development Planning application for the conversion of the building remains undetermined Site is physically separated from other disputed opportunities in the Nailsea area Site is not reasonably available 						

Appendix 21

Summary table of all appellant availability enquiry letters issued

Appendix 21 - Summary table of all Appellant Availability Enquiry Letters

Contact	SHLAA Ref	Land	Settlement	Date Sent
Barratt	HE20615	Land west of A4174, Highridge, Dundry	Edge of Bristol	20.06.24
Bloor	HE20607	Land east of Wolvershill Road	Banwell	14.06.24
	HE203003	Land north of Wolvershill	Banwell	
	HE202010	Land at Cobthorn Farm	Congresbury	
	HE20225	Land at Jacklands Farm, Nailsea	Nailsea	
North Somerset Council	HE20703	The Uplands	Nailsea	14.06.24
	HE202016	Land at Youngwood Lane	Nailsea	
	Herluin Way	Herluin Way	WSM	
	16/P/2758/RG4	South of Locking Head Drove	WSM	
	HE203034	Land off Westfield Drive	Backwell	
Mactaggart & Mickel	HE2062	Land at Flax Bourton/east of Backwell	Backwell	14.06.24
	HE20237	Devils Elbow Farm	Elborough	
	HE20637	North of Banwell Road, Elborough	Elborough	
Mead Realisations	HE20495	Land to west of Anson Road	Ebdon	14.06.24
	HE20493	Land to north of Wick St Lawrence	Ebdon	
Vistry	HE20651		Congresbury	20.06.24
	HE20273	Land at north west Nailsea	Nailsea	
	HE20122		Churchill	
	HE20629		Churchill	
M7 Planning	HE202012	Land east of Backwell	Backwell	14.06.24
	HE20471	North of Lower Norton Lane/Lyefield Road	Ebdon	
Del Piero	HE201059	Barrow Wood	Edge of Bristol	14.06.24
	HE203009		Edge of Bristol	
	HE203010		Edge of Bristol	
	HE203011		Edge of Bristol	
	HE203012		Edge of Bristol	
Strongvox	HE202010	Land at Cobthorn Farm	Congresbury	14.06.24
	HE201056	Goding Lane	WSM	
	HE20211	Land east of Brinsea Road	Congresbury	
Wain Homes	HE202000		Banwell	20.06.24
	HE20500		Banwell	
	HE20223	Northeast of Nailsea	Nailsea	
St Modwen	HE20U23		WSM	14.06.24
	HE20611	West of Netherton Wood Lane	Nailsea	

Appendix 21 - Summary table of all Appellant Availability Enquiry Letters

Contact	SHLAA Ref	Land	Settlement	Date Sent
Cardens Pensions Trustees Ltd	HE201037	Oaktree Park	Locking	19.06.24
Hollydale Ltd	HE207	Elm Grove Nurseries	Locking	20.06.24
Moor Park (North Somerset) Ltd	HE208	Land south of Moor Park	Locking	20.06.24
Alan Stephens, Juliet Stephens, Bevis Stephens	HE201040	Land south of Elborough	Elborough	20.06.24
University of Bristol	HE20139	South of Long Ashton, between railway and bypass	Long Ashton	20.06.24
Bloyce family	HE2018	Parsonage Farm, Church Lane	Long Ashton	19.06.24
S Pierce, P Tomlinson, M Lazo	HE2021	Land at Bridge Farm	Long Ashton	20.06.24
Wring Family Trust	HE20286	South east of A38/A4174 roundabout, Dundry	Edge of Bristol	20.06.24
Esteban Investments Ltd,	HE20287	South of fitness centre near Long Ashton Park and Ride	Edge of Bristol	19.06.24
Long Ashton Land Company	HE20321	Land at Gatcombe Farm, Weston Road, Long Ashton	Long Ashton	20.06.24
Diane Priestley	HE201016	Land at Myrtle Farm	Banwel	20.06.24
Teifion Newman, Valerie Newman	HE201034	Land east of Wolvershill Road	Banwell	20.06.24
Michael Biddle	HE20594	Park Farm, Banwell	Banwell	19.06.24
Parker Strategic	HE2068		Portishead	20.06.24
Peter Harris, Janet Harris	HE2066	North West Nailsea	Nailsea	19.06.24
LVA	HE20136	Land to the north of Nailsea / Northeast of Nailsea / Land at Jacklands Farm, Nailsea	Nailsea	20.06.24
Banwell Project Ltd	HE20603	M5 J21: Land to the east of Wolvershill Road, Goding Lane and Orchard Close, WSM Area	Banwell	19.06.24
Dr Phillip Cox	HE201025		Elborough	19.06.24
Sidney Gunningham	HE20354		Ebdon	19.06.24
Group West	HE2027		Ebdon	19.06.24
Bernard Gray	HE20504		Nailsea	19.06.24
Martin Parry, Jo-Anna Sholl-Evans (promoter)	HE20133		Portishead	20.06.24
Julie Ford, Andrew Bishop, Denise Cox, Jacqueline Murch	HE2067		Portishead	20.06.24
Valencia Waste Exeter Limited	HE20110		Long Ashton	20.06.24

Appendix 21 - Summary table of all Appellant Availability Enquiry Letters

Contact	SHLAA Ref	Land	Settlement	Date Sent
Taylor Wimpey	HE20110 HE20595		Long Ashton Backwell	20.06.24
Kenneth Edis, Karen Davies	HE202008		Backwell	20.06.24
Maeve Tutton	HE20303		Congresbury	20.06.24
Joanne Latchford	HE20304		Congresbury	20.06.24
Nesta Edwards	HE20305		Congresbury	20.06.24
Martin Thatcher	HE20587		Sandford	20.06.24
Lostwood Estates	HE20196		Churchill	20.06.24
Clive and Susan Morris	HE201080		Nailsea	20.06.24
Graham Thomas	HE2065		Nailsea	20.06.24
Gleeson Land	HE20612		Nailsea	20.06.24
John Alison L&R	HE203007		Nailsea	20.06.24
Dennis Bidwell	HE20591		Nailsea	20.06.24
Gillian Johnson	HE20591		Nailsea	20.06.24
Fowler	HE203020		Nailsea	20.06.24
Terra Strategic	HE203005		Banwell	20.06.24
St Philips	HE20592		Banwell	20.06.24
Ainscough	HE201086		Banwell	20.06.24
Church Commissioners	HE20509		Yatton	20.06.24
Smart Systems				20.06.24
Mervyn Baber				20.06.24
Graham Baber				20.06.24
Robert Frederick Cole				20.06.24
Roland Griffin, Frances Griffin				20.06.24
Ed Simmons Pic Ltd.				20.06.24
Ian Marshall				20.06.24
Rachel Marshall				20.06.24
Victoria West				20.06.24
Scott Milnes & Selina Milnes				20.06.24
Richard, Anita Simmons				20.06.24

APPENDIX 10

Ventham, Kathryn

From: Marcus Hewlett <Marcus.Hewlett@n-somerset.gov.uk>
Sent: 14 August 2024 11:34
To: Featherston, Caroline; Ventham, Kathryn
Cc: Max Smith; Natalie Richards
Subject: RE: Yatton - FRST sites

No problem Caroline.

Ah yes, 36 sites as you are considering 74 and 87 as a combined site at Congresbury– thank you, I'll ensure my evidence reflects this.

Kind regards

Marcus Hewlett
Planning Policy Team Lead - Delivery
Place Directorate
North Somerset Council

Tel: 01934 426 331

Post: Town Hall, Walliscote Grove Road, Weston-super-Mare, BS23 1UJ

Web: www.n-somerset.gov.uk

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From: Featherston, Caroline <caroline.featherston@stantec.com>

Sent: Wednesday, August 14, 2024 11:30 AM

To: Marcus Hewlett <Marcus.Hewlett@n-somerset.gov.uk>; Ventham, Kathryn <kathryn.ventham@stantec.com>

Cc: Max Smith <Max.Smith@n-somerset.gov.uk>; Natalie Richards <Natalie.Richards@n-somerset.gov.uk>

Subject: RE: Yatton - FRST sites

Hi Marcus,

Many thanks for replying so quickly and confirming.

When Kathryn is back from leave too the parties could add their comments to this list and it could form part of the SoCG on FRST.

Not to be pedantic, but I'm counting 36 disputed sites, not 37 – do you agree with this? (Same table re-attached here for reference).

Many thanks, and enjoy your holiday when it comes!

Caroline

Caroline Featherston

Planning Associate

Direct: +44 121 796 8304

Mobile: +44 7714 688 146

caroline.featherston@stantec.com

Stantec
10th Floor, Bank House, 8 Cherry Street
Birmingham B2 5AL



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From: Marcus Hewlett <Marcus.Hewlett@n-somerset.gov.uk>
Sent: Wednesday, August 14, 2024 11:23 AM
To: Featherston, Caroline <caroline.featherston@stantec.com>; Ventham, Kathryn <kathryn.ventham@stantec.com>
Cc: Max Smith <Max.Smith@n-somerset.gov.uk>; Natalie Richards <Natalie.Richards@n-somerset.gov.uk>
Subject: RE: Yatton - FRST sites

Hi Caroline,

Thank you for sending this through.

I confirm this constitutes the list of sites in dispute – 37 in total. In a couple of weeks I'll forward my additions/ revisions to the commentary and any other site details as necessary using your table.

Kind regards

Marcus Hewlett
Planning Policy Team Lead - Delivery
Place Directorate
North Somerset Council

Tel: 01934 426 331

Post: Town Hall, Walliscote Grove Road, Weston-super-Mare, BS23 1UJ

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From: Featherston, Caroline <caroline.featherston@stantec.com>

Sent: Wednesday, August 14, 2024 10:53 AM

To: Marcus Hewlett <Marcus.Hewlett@n-somerset.gov.uk>; Ventham, Kathryn <kathryn.ventham@stantec.com>

Cc: Max Smith <Max.Smith@n-somerset.gov.uk>; Natalie Richards <Natalie.Richards@n-somerset.gov.uk>

Subject: RE: Yatton - FRST sites

Importance: High

Hi Marcus,

Many thanks for your email.

I have provided additional commentary below and updated the attached document accordingly. All changes to the table are in the electric blue colour.

Please could you confirm that this now constitutes our list of disputed sites?

Please don't hesitate to contact Kathryn and I to discuss.

Many thanks, Caroline

Caroline Featherston

Planning Associate

Direct: +44 121 796 8304

Mobile: +44 7714 688 146

caroline.featherston@stantec.com

Stantec
10th Floor, Bank House, 8 Cherry Street
Birmingham B2 5AL



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From: Marcus Hewlett <Marcus.Hewlett@n-somerset.gov.uk>
Sent: Wednesday, August 14, 2024 8:41 AM
To: Featherston, Caroline <caroline.featherston@stantec.com>; Ventham, Kathryn <kathryn.ventham@stantec.com>
Cc: Max Smith <Max.Smith@n-somerset.gov.uk>; Natalie Richards <Natalie.Richards@n-somerset.gov.uk>
Subject: RE: Yatton - FRST sites

Hi Caroline,

Thank you for sending through the schedule. I may get time to review this today but if not, will do asap upon my return from leave so we can agree as part of the SofCG.

The NSC comment section will be updated as part of this.

To assist now, I have responded below to your additional queries and very happy to pick back up in a couple of weeks time.

Kind regards

Marcus Hewlett
Planning Policy Team Lead - Delivery
Place Directorate
North Somerset Council

Tel: 01934 426 331
Post: Town Hall, Walliscote Grove Road, Weston-super-Mare, BS23 1UJ
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From: Featherston, Caroline <caroline.featherston@stantec.com>

Sent: Tuesday, August 13, 2024 4:06 PM

To: Marcus Hewlett <Marcus.Hewlett@n-somerset.gov.uk>; Ventham, Kathryn <kathryn.ventham@stantec.com>

Cc: Max Smith <Max.Smith@n-somerset.gov.uk>; Natalie Richards <Natalie.Richards@n-somerset.gov.uk>

Subject: RE: Yatton - FRST sites

Hi Marcus,

Thanks for your email yesterday. We have now reviewed your comments and the site schedule.

Please find attached an updated site schedule to remove the sites that you've confirmed the LPA now reject as disputed (previously highlighted yellow) and including some other fields from the Stantec FRST such as SHLAA references and planning application references.

Further to your helpful comments below, we have the following additional comments in purple. These are also enclosed in the attached updated schedule.

- **112 – Moor Road Yatton**
 - Does this just refer to the site at Moor Road rather than the whole of series 112? **Yes, just the Moor Rd site.**
 - The HLS list states that this site has commenced, as per our Teams call, please can you therefore confirm this site is not disputed? **Natalie's HLS schedule reads 'groundworks commenced' - I understand there are pre-commencement conditions not yet discharged. This is likely to be a matter for evidence and the extent to which such sites fall within the scope of para 028 of the PPG (Flood Risk and Coastal Change). Perhaps a matter to confirm our respective positions as part of the SofCG?**

- **125 – Northern Fringe of WSM**
 - Which sites make up the 230 dwellings? Can you provide the HELAA / planning application references? **I will be referring to 285 dwellings from 4 sites – SHLAA references as follows: HE2027; HE20354; HE20471; and HE20495. For Rose Tree Farm subject to an application in progress, and the consented Anson Road (two of the sites) I assume the consented capacity and the capacity applied for. For the other two – the latest SHLAA (Autumn 2023) published capacity.**

- **134 – Dolphin Square**
 - The Reg. 19 plan includes a draft allocation for 80 units not 126. Please can you confirm and advise whether this is still disputed on this basis? **There is a current pre-app for 126 units also referred to in Natalie’s HLS schedule.**
- **136 – Wolverhill Strategic Allocation**
 - Does this entry comprise the draft allocation area only? **Large parts of the proposed allocation area. However some sites e.g. HE20607 extend beyond the proposed allocation area but can accommodate open space etc**
- **137 – Wolverhill (2)**
 - Please can you confirm the exact area that this entry relates to? Do you have a HELAA reference please? **Within your Appendix C, under site no.137 you had two site entries – HE20496 and HE203003. HE20496 is in FZ3 so not in dispute. But HE203003 is actually a small piece of the proposed Wolverhill allocation. So I consider it as part of the wider site no. 136.**
- **136 / 137 – Wolverhill**
 - Thank you for confirming.
 - Is it the proposed allocation, or the proposed allocation plus some additional areas? For clarity, it would be helpful to have a plan or map to confirm exactly the area in dispute. **Generally we will be referring to the emerging Wolverhill allocation as proposed but will refer to the specific SHLAA references to sites that form part of the allocation. The SHLAA reflects sites available and identified as potential at Wolverhill.**
 - Thank you – on that basis, can we merge entries 136 and 137 (as per the attached) to form one series, omitting HE20496 (which you state is not in dispute) but including HE203003 and with a series capacity of 2,800 dwellings, noting that some of the SHLAA sites extending beyond the allocation area could be used for POS should the site come forward?
- **138 – Eastermead Farm**
 - Following on from this, please can you confirm which of the sites comprise the Eastermead series in dispute? To the east of the Wolverhill area.
 - The two SHLAA sites have a capacity of 445 dwellings however your table suggests a dispute of 165. Could you confirm the area in dispute here please? **HE20195 – 30 unit capacity; HE201055 – 135 unit capacity. This is the SHLAA ‘potential’ capacity.**
 - Thank you for confirming.
- **140 – Elborough**
 - The table states ‘two large sites’ and references a capacity of 160 units. Please can you confirm which sites / land this relates to? Could you provide the HELAA references please. **This has an increased total capacity of 385 dwellings, open space and other uses and relates to SHLAA sites HE20637 and HE201040. The former has an associated representation to the Autumn 2023 Reg 19 consultation that can be viewed on our website from Mactaggart and Mickel.**
 - Site HE201040 forms part of series 151 which we discounted on the basis of being almost wholly within the AONB / National Landscape through Appendix E. The SHLAA states that this has a capacity of **560 but only 70 within the first 5 years. HE201040 is not entirely within the NL. The potential capacity relates to land outside.**
 - Site HE20637 (which was discounted as part of the SHLAA on grounds of flood risk) was one of the Appendix F sites. The SHLAA states that this has

a capacity of 442 or 280 over its area of 22.1ha **We assume a capacity of 315 submitted at Reg 19 by the promoter.**

- Do you intend to merge these two series as part of your disputing of these sites? Please can you confirm the area in dispute and where the 385 comes from? **Yes, potential from HE201040 and HE20637 merged into a single site.**
- Thank you. Table updated to reflect capacity of HE201040 as 70 (first 5 years set out in the SHLAA and area not in NL) and HE20637 as 315 based on your above comments about the Reg. 19 submission by the developer.

- **143/144/146 – Phases of Parklands Village**
 - The supporting text references 769 dwellings under 13/P/0997/OT2. This planning application reference relates only to series 142 in our Appendix E. Please can you confirm the exact area in dispute? **Your Appendix E site 143 refers to Locking Parklands and this is the site, associated with the above app ref to which we dispute. Natalies HLS schedule includes the outstanding capacity for this site.**
 - Site 143 – Thank you. On the basis that it is the capacity of outline application 13/P/0997/OT2 that is in dispute, I propose that series references 144 and 146 are removed and the site size is updated to 70.09ha which is the site area of the outline planning application. **Agreed, thank you.**
 - Thank you – table updated.

- **16 – West of Backwell including Grove Farm**
 - Confirmation is required please: Does this just relate to the draft allocation at Grove Farm for 515 dwellings, or the entirety of series 16 (600 dwellings?) **Yes draft allocation and 515**
 - Thank you – table updated.

- **17 – Farleigh Fields, Backwell**
 - Please can you confirm the exact area this relates to? The part of the site granted permission under application 23/P/2508/RM is noted to have commenced in the HLS data. **I understand there are pre-commencement conditions attached to the RM that are not yet discharged.**
 - Which area does this relate to – can you advise of the site area / dwelling numbers in dispute? **Farleigh Fields East consented and 88 dwellings as per the RM. Does the consented scheme form part of this disputed site? Yes, along with the application site in progress – the two sites.**
 - Thank you – updated table to reflect the 250 dwellings total capacity from these two sites.

- **52 – Land North of Claverham**
 - Which part of this series does the 120 dwellings relate to? **HE201072 – 120 capacity is a Reg 19 submission capacity.**
 - HE201072 - total capacity 210 dwellings, 110 in first 5 years.
 - HE201076 - total capacity 90 dwellings, 62 in first 5 years.
 - Thank you – table updated to refer to HE201072 at 120 dwellings and omitting HE201076.

- **90 – Youngwood Lane**
 - Is this the entirety of the series as presented? **Just the consented outline excluding first phase under construction.**
 - Thank you. On the basis that it is just the outline consent (16/P/1677/OT2) excluding the first phase under construction (20/P/2347/RM), I have removed the smaller sites to the north

SHLAA references HE20703 (20/P/2000/R3) and HE2065 and the smaller site to the south SHLAA reference HE201080.

- This leaves the second phase of the Youngwood Lane Outline application – RM application 22/P/1558/RM for 282 dwellings.

- **91 – South of Nailsea, Youngwood Lane**
 - Is this the entirety of the series as presented? **Yes, sites HE20591; HE20612; HE202016; HE203020; HE203007; and HE203016.**
 - Thank you. This series has been retained in the attached table as per the Stantec FRST document dated March 2024.

- **92 – West End, south west Nailsea**
 - Where does the 575 dwellings come from? **SHLAA potential of HE20504 plus the application in progress part of HE20611 (200 units)**
 - HE20504 - 2022 SHLAA states 110 dwellings in first 5 years. 2023 SHLAA states 375 total capacity
 - HE20611 - 2022 SHLAA states 110 dwellings in first 5 years. 2023 SHLAA states 350 total capacity
 - 17/P/1250/F - 171 dwellings.
 - Thank you – I have updated the table to reflect the SHLAA potential of HE20504 (375 dwellings) and the planning application proposal (23/P/2325/OUT) of 200 dwellings which is part of HE20611 and omitted reference to site 17/P/1250/F.

- For the two 'not considered' sites:
 - The site south of Langford (HE2010105) is included within our Series 25. I understand this site is subject to planning application 22/P/0564/OUT which is shown on the Appendix F included in our March 2024 FRST. Please can you confirm that you agree this site forms part of group 25 and therefore the separate entry within the table can be omitted? **Thank you for clarifying this – yes I can agree this site to form part of your no. 25 series and not a separate site.**
 - Thank you – I have removed this from the table and added HE2010105 back into the total capacity of Series 25 . **Thank you**
 - The site North of Bristol Road, Congresbury was included in our FRST and is series 87 on the March 2024 Appendix C. As series 87 is not disputed, please could you confirm that the North of Bristol Road site can also be omitted? **Thank you for clarifying this site – it was tricky without mapped information to locate. As its on the schedule it remains disputed along with the other site at Congresbury – HE20178 (proposed allocation in emerging Local Plan).**
 - Thank you for confirming, I have added this to series 74 (Woodhill Nurseries) **Thank you**

Please could you advise on the above queries? Please don't hesitate to contact Kathryn or I should you wish to discuss.

Many thanks, Caroline

Caroline Featherston

Planning Associate

Direct: +44 121 796 8304

Mobile: +44 7714 688 146

caroline.featherston@stantec.com

Stantec
10th Floor, Bank House, 8 Cherry Street
Birmingham B2 5AL



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From: Marcus Hewlett <Marcus.Hewlett@n-somerset.gov.uk>
Sent: Monday, August 12, 2024 10:13 AM
To: Ventham, Kathryn <kathryn.ventham@stantec.com>
Cc: Max Smith <Max.Smith@n-somerset.gov.uk>; Featherston, Caroline <caroline.featherston@stantec.com>; Natalie Richards <Natalie.Richards@n-somerset.gov.uk>
Subject: RE: Yatton - FRST sites

Ok, thank you Kathryn,

If we need to catch up after the 2nd, happy to do so, and I'll aim to get back asap on the draft that week.

Kind regards

Marcus

From: Ventham, Kathryn <kathryn.ventham@stantec.com>
Sent: Monday, August 12, 2024 9:24 AM
To: Marcus Hewlett <Marcus.Hewlett@n-somerset.gov.uk>
Cc: Max Smith <Max.Smith@n-somerset.gov.uk>; Featherston, Caroline <caroline.featherston@stantec.com>; Natalie Richards <Natalie.Richards@n-somerset.gov.uk>
Subject: RE: Yatton - FRST sites

By the time you return – we will have exchanged evidence – so we can have a draft prepared for when you return which takes accounts of anything in evidence also.

I won't be around on Monday 2nd as giving evidence at another Inquiry which is running over – but clear after that.

Kind regards,

Kathryn Ventham

Planning Director

Direct: +44 121796 8303

Mobile: 07833054382

kathryn.ventham@stantec.com

Stantec

10th Floor, Bank House, 8 Cherry Street

Birmingham B2 5AL



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From: Marcus Hewlett <Marcus.Hewlett@n-somerset.gov.uk>

Sent: Monday, August 12, 2024 9:22 AM

To: Ventham, Kathryn <kathryn.ventham@stantec.com>

Cc: Max Smith <Max.Smith@n-somerset.gov.uk>; Featherston, Caroline <caroline.featherston@stantec.com>; Natalie Richards <Natalie.Richards@n-somerset.gov.uk>

Subject: RE: Yatton - FRST sites

Thanks Kathryn,

That should work quite well for us both then on timings - perhaps we can aim for sharing drafts that first week of September?

Kind regards

Marcus Hewlett
Planning Policy Team Lead - Delivery
Place Directorate
North Somerset Council

Tel: 01934 426 331

Post: Town Hall, Walliscote Grove Road, Weston-super-Mare, BS23 1UJ

Web: www.n-somerset.gov.uk

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From: Ventham, Kathryn <kathryn.ventham@stantec.com>
Sent: Monday, August 12, 2024 9:14 AM
To: Marcus Hewlett <Marcus.Hewlett@n-somerset.gov.uk>
Cc: Max Smith <Max.Smith@n-somerset.gov.uk>; Featherston, Caroline <caroline.featherston@stantec.com>; Natalie Richards <Natalie.Richards@n-somerset.gov.uk>
Subject: RE: Yatton - FRST sites

Hi Marcus,

Oddly you're leave pretty much matches mine albeit I'm back on the 27th – but as far as this week goes, Weds is also my last day so it looks like we're both in the same place. I think we're also along the same lines as far as the SoCG – i.e. its akin to a scott schedule for the HLS work.

Kind regards,

Kathryn Ventham

Planning Director

Direct: +44 121796 8303

Mobile: 07833054382

kathryn.ventham@stantec.com

Stantec

10th Floor, Bank House, 8 Cherry Street

Birmingham B2 5AL



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From: Marcus Hewlett <Marcus.Hewlett@n-somerset.gov.uk>
Sent: Monday, August 12, 2024 9:11 AM
To: Ventham, Kathryn <kathryn.ventham@stantec.com>
Cc: Max Smith <Max.Smith@n-somerset.gov.uk>; Featherston, Caroline <caroline.featherston@stantec.com>; Natalie Richards <Natalie.Richards@n-somerset.gov.uk>
Subject: RE: Yatton - FRST sites

Dear Kathryn,

Thank you for sending over these queries. Please see responses below against each site in red text. I would be happy to discuss/clarify these with you if that would be helpful.

I go on leave from Wednesday for 2 weeks returning 2 September. I'd be happy to consider any draft of the ST SofCG first part of this week, but more likely the first week in September. Perhaps the scope of this primarily is to agree the final schedule of disputed sites ahead of the Inquiry and perhaps any clarifications on principles agreed.

Kind regards

Marcus Hewlett
Planning Policy Team Lead - Delivery
Place Directorate
North Somerset Council

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From: Ventham, Kathryn <kathryn.ventham@stantec.com>

Sent: Friday, August 9, 2024 5:31 PM

To: Marcus Hewlett <Marcus.Hewlett@n-somerset.gov.uk>

Cc: Max Smith <Max.Smith@n-somerset.gov.uk>; Featherston, Caroline <caroline.featherston@stantec.com>

Subject: Yatton - FRST sites

Dear Marcus,

Thank you for sharing your list of FRST disputed sites with us, re-attached here is the version you issued yesterday afternoon for ease

As we work on preparing the SoCG on this matter, we would be grateful for some clarifications and confirmation please:

- Please can clarify your reasons for disputing each of these sites?

Site specifics:

- 112 – Moor Road Yatton
 - Does this just refer to the site at Moor Road rather than the whole of series 112? **Yes, just the Moor Rd site.**
 - The HLS list states that this site has commenced, as per our Teams call, please can you therefore confirm this site is not disputed? **Natalie's HLS schedule reads 'groundworks commenced' - I understand there are pre-commencement conditions not yet discharged. This is likely to be a matter for evidence and the extent to which such sites fall within the scope of para 028 of the PPG (Flood Risk and Coastal Change). Perhaps a matter to confirm our respective positions as part of the SofCG?**
- 125 – Northern Fringe of WSM
 - Which sites make up the 230 dwellings? Can you provide the HELAA / planning application references? **I will be referring to 285 dwellings from 4 sites – SHLAA references as follows: HE2027; HE20354; HE20471; and HE20495. For Rose Tree Farm subject to an application in progress, and the consented Anson Road (two of the sites) I assume the consented capacity and the capacity applied for. For the other two – the latest SHLAA (Autumn 2023) published capacity.**
- 134 – Dolphin Square
 - The Reg. 19 plan includes a draft allocation for 80 units not 126. Please can you confirm and advise whether this is still disputed on this basis? **There is a current pre-app for 126 units also referred to in Natalie's HLS schedule.**
- 136 – Wolvershill Strategic Allocation
 - Does this entry comprise the draft allocation area only? **Large parts of the proposed allocation area. However some sites e.g. HE20607 extend beyond the proposed allocation area but can accommodate open space etc**
- 137 – Wolvershill (2)
 - Please can you confirm the exact area that this entry relates to? Do you have a HELAA reference please? **Within your Appendix C, under site no.137 you had two site entries – HE20496 and HE203003. HE20496 is in FZ3 so not in dispute. But HE203003 is actually a small piece of the proposed Wolvershill allocation. So I consider it as part of the wider site no. 136.**
- 140 – Elborough
 - The table states 'two large sites' and references a capacity of 160 units. Please can you confirm which sites / land this relates to? Could you provide the

HELAA references please. **This has an increased total capacity of 385 dwellings, open space and other uses and relates to SHLAA sites HE20637 and HE201040. The former has an associated representation to the Autumn 2023 Reg 19 consultation that can be viewed on our website from Mactaggart and Mickel.**

- 143/144/146 – Phases of Parklands Village
 - The supporting text references 769 dwellings under 13/P/0997/OT2. This planning application reference relates only to series 142 in our Appendix E. Please can you confirm the exact area in dispute? **Your Appendix E site 143 refers to Locking Parklands and this is the site, associated with the above app ref to which we dispute. Natalies HLS schedule includes the outstanding capacity for this site.**
- 17 – Farleigh Fields
 - Please can you confirm the exact area this relates to? The part of the site granted permission under application 23/P/2508/RM is noted to have commenced in the HLS data. **I understand there are pre-commencement conditions attached to the RM that are not yet discharged.**
- For the two 'not considered' sites:
 - The site south of Langford (HE2010105) is included within our Series 25. I understand this site is subject to planning application 22/P/0564/OUT which is shown on the Appendix F included in our March 2024 FRST. Please can you confirm that you agree this site forms part of group 25 and therefor the separate entry within the table can be omitted? **Thank you for clarifying this – yes I can agree this site to form part of your no. 25 series and not a separate site.**
 - The site North of Bristol Road, Congresbury was included in our FRST and is series 87 on the March 2024 Appendix C. As series 87 is not disputed, please could you confirm that the North of Bristol Road site can also be omitted? **Thank you for clarifying this site – it was tricky without mapped information to locate. As its on the schedule it remains disputed along with the other site at Congresbury – HE20178 (proposed allocation in emerging Local Plan).**

We look forward to hearing from you on these points.

Kind regards,

Kathryn Ventham

Planning Director

Direct: +44 121796 8303

Mobile: 07833054382

kathryn.ventham@stantec.com

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10th Floor, Bank House, 8 Cherry Street

Birmingham B2 5AL



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APPENDIX 11



Appeal Decisions

Inquiry Held on 5-8 and 12-15 March 2024

Site visit made on 7 March 2024

by Thomas Hatfield BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 May 2024

Appeal A Ref: APP/T0355/W/23/3333834

Spencer's Farm, North of Lutman Lane, Maidenhead

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by IM Land 1 Limited and Summerlease Limited (Summerlease) against the decision of Council of the Royal Borough of Windsor and Maidenhead.
 - The application Ref 22/01537, dated 30 May 2022, was refused by notice dated 26 July 2023.
 - The development proposed is described as **"Outline planning application for of up to 330 dwellings and land for a primary school of up to three forms of entry with associated landscaping, open space, car parking, drainage and associated works (means of access only to be considered at this stage with all other matters to be reserved)"**.
-

Appeal B Ref: APP/T0355/W/23/3333831

Spencer's Farm, North of Lutman Lane, Maidenhead

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by IM Land 1 Limited and Summerlease Limited against the decision of Council of the Royal Borough of Windsor and Maidenhead.
 - The application Ref 22/01540, dated 30 May 2022, was refused by notice dated 26 July 2023.
 - The development proposed is described as **"full planning application for enabling works comprising the provision of construction access, site preparation and earthworks (in connection with outline planning application for of up to 330 dwellings and land for a primary school of up to three forms of entry with associated landscaping, open space, car parking, drainage and associated works)"**.
-

Decisions

Appeal A

1. The appeal is allowed and planning permission is granted for 330 dwellings and land for a primary school of up to three forms of entry with associated landscaping, open space, car parking, drainage and associated works at **Spencer's Farm, North of Lutman Lane, Maidenhead** in accordance with the terms of the application, Ref 22/01537, dated 30 May 2022, subject to the conditions set out in the attached schedule.

Appeal B

2. The appeal is allowed and planning permission is granted for enabling works comprising the provision of construction access, site preparation and

earthworks at **Spencer's Farm, North of Lutman Lane, Maidenhead** in accordance with the terms of the application, Ref 22/01540, dated 30 May 2022, subject to the conditions set out in the attached schedule.

Application for Costs

3. At the Inquiry an application for costs was made by IM Land 1 Limited and Summerlease Limited against the Royal Borough of Windsor and Maidenhead ('RBWM'). This application is the subject of a separate decision.

Procedural Matters

4. Appeal A is in outline. In this regard, the means of access is to be considered at this stage, whereas appearance, landscaping, layout and scale are reserved for future consideration. Plans showing an indicative layout have been submitted, and I have had regard to these in determining this appeal.
5. No site address is provided in either planning application form. The addresses given above are therefore taken from the Appeal Forms, which provide an accurate description of the site location.
6. The descriptions of development given in my formal decisions omit some of the text from the descriptions provided on the planning application forms. For Appeal A, the omitted text simply states that it is an outline application with certain matters reserved. For Appeal B, the omitted text states that the proposals are connected to the Appeal A application. In both cases, the omitted text does not describe acts of development.
7. In respect of Appeal B, the **Council's Decision Notice identified** 4 reasons for refusal. The fourth of these states that ***"the application fails to demonstrate that the proposed works would have an acceptable impact on environmental quality in the surrounding area"***. However, the Council subsequently withdrew this objection to the development, subject to the imposition of conditions. I have therefore determined Appeal B on that basis.

Main Issues

8. The main issues are:
 - (a) Whether the developments would be consistent with local and national policy in relation to flood risk and would be safe for their lifetimes without increasing flood risk elsewhere;
 - (b) Whether the developments would prejudice highway safety; and
 - (c) In respect of Appeal B, the effect of the development on the living conditions of neighbouring occupiers with regard to noise and disturbance.

Reasons

Flood risk

9. The appeal site comprises a large area of open land on the northern edge of Maidenhead. It adjoins the existing urban area to both the south and west, and its eastern boundary is formed by the Maidenhead Ditch. Beyond this, the River Thames is located approximately 1 kilometre to the east.

10. The site is located partly within Flood Zones 2 and 3 for river flooding according to the Environment Agency's flood map for planning. In this regard, the areas of the site where new housing is proposed are partly in Flood Zone 2, whereas the proposed open space and emergency access leading to Westmead are in Flood Zone 3. However, the site was found to pass the Sequential Test (as set out at paragraph 168 of the National Planning Policy Framework [**the Framework**']) and was allocated for housing development and open space through the RBWM Borough Local Plan (adopted in 2022). The development of the site for these purposes is therefore acceptable in principle.
11. The Appeal B proposal for enabling works would raise the height of the land so that the housing and school proposed under Appeal A would effectively be in Flood Zone 1. However, the proposed open space and the pedestrian/emergency access route would remain in Flood Zone 3 post-development. In this regard, flood mapping produced by the appellant shows that this land would be inundated in a 1 in 100 year event plus a 35% allowance for climate change. In such an event, the adjacent football pitch and the vast majority of the proposed open space would also be flooded and so would not be in use at these times. Similarly, Westmead and parts of Aldebury Road would also be affected by flood waters. The likelihood that an emergency vehicle would need, or choose, to make use of this route during a flood event is therefore minimal. In any case, the main access into the site from Cookham Road would be in Flood Zone 1 and so would allow for safe access. This would also be the most direct route to take in order to attend an emergency at either the proposed dwellings or the school.
12. At the Inquiry, a number of potential scenarios were discussed that could result in the main access being blocked during a flood event. In this regard, there are a small number of retained trees that would be near to the proposed access route. However, none of these are in a poor condition such that they are at risk of falling over. In the unlikely event that one of these trees did fall onto the road, the Fire Brigade have equipment that would be able to cut through and remove such a blockage. In addition, no evidence has been provided that the area is susceptible to sinkholes, and given the 30 mph speed limit, it is highly unlikely that a lorry would jackknife along this route. Moreover, even if the main access to the development were temporarily blocked during a flood event, emergency vehicles would be able to use the proposed 3 metre wide cycleway and adjacent 2 metre wide footway to gain access into the site.
13. The probability that the site would simultaneously experience a 1 in 100 year flood event, that an emergency would occur, and that the main access and cycleway/footway were blocked, is very small. In this regard, the appellant has calculated that the risk of a fire coinciding with both a flood event and a blockage to the main access to be in 1 in 70,215,068,295, using assumptions that appear to be conservative. Accordingly, no significant safety risk would arise from the location of the proposed pedestrian/emergency access route in my view. I further note that the Fire and Rescue Service do not object to the proposed access arrangements on safety grounds. In this regard, they state that a depth of 800mm of water would not prevent a fire engine proceeding to a call, and that a specialised 4x4 vehicle is stationed at Maidenhead Fire Station that is capable of moving through flood waters. The ability of a fire engine to get close to a fire is particularly important given the water and heavy equipment that they carry. Conversely, police officers or paramedics would be

- able to proceed on foot to an emergency even if the main access road were blocked.
14. Accordingly, I do not consider it necessary to raise the height of the pedestrian/emergency access route so that it would be above the height of a flood event. In this regard, it would simply be used as a pedestrian and cycle route through the open space for the vast majority of the time, and during a flood event, the surrounding open space would not be in use in any case. Moreover, an alternative pedestrian, cycle and emergency access would be available via the main access from Cookham Road. The installation of signage on the approaches to the pedestrian/emergency access could also be secured by condition to that ensure that users of this route would be aware of the depth of waters during a flood event.
 15. **Table 2 in the Planning Practice Guidance ('PPG') sets out when an Exception Test is required and the approach that should be taken.** The notes to Table 2 state that *"some developments may contain different elements of vulnerability and the highest vulnerability category should be used, unless the development is considered in its component parts"*. In this regard, Annex 3 of the Framework identifies buildings for dwelling houses and educational establishments as 'more vulnerable' uses in flood risk terms, whereas outdoors sports and recreation facilities are considered to be 'water compatible'.
 16. The Appeal A proposals include housing in the central and western parts of the site, a primary school to the south, and woodland and open space to the north and east. Whilst layout is a reserved matter, these uses would inevitably occupy distinct areas within the site. The site is also subject to 2 separate Local Plan allocations (AL25 and AL28) for housing and a school, and open space, respectively. Given this arrangement and policy context, I consider that the development should be considered in its component parts for the purposes of the Exception Test. In this regard, the pedestrian/emergency access should be considered separately from the proposed housing, school and open space.
 17. The proposed pedestrian/emergency access does not feature in the list of examples given at Annex 3 of the Framework. However, the closest match is the example of a car park which is stated to be 'less vulnerable' development in flood risk terms. This is because the access would also be constructed in hardstanding and would be used by pedestrians and cyclists, and occasionally by vehicles. Table 2 of the PPG confirms that 'less vulnerable' uses are not required to pass the Exception Test when located in Flood Zone 3. Whilst it is argued that the pedestrian/emergency access should be considered as an integral part of the housing development, Annex 3 refers to *"buildings used for dwelling houses"* (my emphasis), which does not apply here.
 18. Policy AL25 of the RBWM Local Plan (2022) states that any application would need to demonstrate that the Exception Test can be passed. However, Policy AL25 was drafted before an application had been submitted and simply reflects the fact that part of the AL25 allocation is in Flood Zone 3. In any case, even if I had taken a different view regarding the applicability of the Exception Test, I consider that it would be passed. In this regard, the development would provide a number of wider sustainability benefits to the community, including the provision of 330 new dwellings, 40% of which would be affordable. This would be a significant benefit, particularly in the context of the Borough's affordability issues, high affordable housing need, and deficient housing land

supply position. The provision of land for a new school, and the creation of a large area of public open space would also be significant benefits. In addition, the development would make a significant contribution to the local economy through construction jobs, and future residents would support local shops, services, and facilities. Taken together, these wider sustainability benefits would outweigh the flood risk in this case. Moreover, for the reasons set out above, I consider that the development would be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere.

19. The Council has drawn my attention to a number of appeal decisions that relate to flood risk and the application of the Exception Test. With regard to the Needham Market decision¹, that Inspector concluded that it was not appropriate to disaggregate the site access route from the housing development in applying the Exception Test. However, that proposal was solely for housing, rather than for the mix of uses that is proposed here, and flood risk affected the main vehicular access rather than a secondary access. With regard to the Mirfield decision², there was a dispute in that case as to whether part of the site should be in Flood Zone 2 or 3. Such a dispute does not exist here. The main access into that proposal was also in Flood Zone 3. The Paddock Wood decision³ related to a small scheme for 2 dwellings that was **entirely within Flood Zone 3. The Inspector's comments regarding the needs and vulnerabilities of future occupiers were in the context of a scheme where the sole access point would have been inundated in a flood event, which is not the case here.** The Northmoor decision⁴ also relates to a small scheme (for a single dwelling) that was entirely within Flood Zone 3. That Inspector expressed concerns about the accuracy of the existing ground levels in the FRA, and the partial nature of the topographical data, which are not matters under dispute here. I have therefore reached my own view on the appeal proposals rather than relying on the approach taken by my colleagues elsewhere, in different circumstances.
20. At the Inquiry, the appellant proposed adjusting the height of the pedestrian/emergency access route to achieve the 1:20 gradient recommended **by the Department for Transport's 'Inclusive Mobility' guidance. This** adjustment would be very minor, and I am satisfied that it would not involve a fundamental change to the proposals, nor would it result in procedural unfairness to any party. Whilst it would involve some land raising within the flood plain, this would be modest in scale and there is ample scope to provide compensatory flood storage within the site at the same level. Accordingly, this matter is capable of being dealt with by way of a planning condition.
21. It is argued that the pedestrian/emergency access would constitute a mass evacuation route for the school in the event of a fire or other emergency. However, there is sufficient space within the land identified as a school to provide a car park that could act as a fire assembly point. Moreover, should it be necessary to move pupils further away from the school, the cycleway/footway leading to Cookham Road is the obvious route to take. In any case, the term '**mass evacuation**' implies a scale that would far exceed that associated with a single primary school. Accordingly, I do not accept that the pedestrian/emergency access should be regarded as a mass evacuation route.

¹ Ref APP/W3520/W/22/3308189

² Ref APP/Z4718/W/21/3279040

³ Ref APP/U2235/W/21/3277959

⁴ Ref APP/D3125/W/23/3314206

22. It is proposed that surface water runoff would be attenuated to greenfield rates on site and then discharged to the Maidenhead Ditch. In this regard, it is argued that the assumed greenfield run-off rates incorrectly include surface water flows from the west of the site, which currently drain to a man made depression and discharge via infiltration and evaporation. However, the greenfield run-off rate has been calculated using a standard approach. The submitted Land Quality Assessment also identifies that groundwater flows in this location are from west to east and so infiltrated water would be conveyed towards the Maidenhead Ditch in any event. The submitted drainage strategy also demonstrates that the worst case scenario of discharging all surface water to the Maidenhead Ditch without infiltration can be accommodated by the site. Full details of the drainage arrangements are capable of being secured at reserved matters stage, and I note that the Lead Local Flood Authority were content with that approach. In these circumstances, I am satisfied that the proposed arrangements would not increase flood risk elsewhere.
23. The peak events for river and surface water flooding have been considered separately in the modelling. However, given the respective catchment areas these peaks are highly unlikely to coincide. In this regard, flood waters from the Thames catchment of 8,000 km² could take days to reach the Maidenhead Ditch, whereas surface water flows would drain much more quickly to the site from a catchment of just over 1 km². Accordingly, this approach does not undermine the robustness of the submitted flood risk assessments.
24. Local residents have described the existing flooding issues that occur in and around Westmead. This **is corroborated by the Environment Agency's flood map** for planning which shows many of these properties as being in Flood Zone 3 for river flooding. However, the development has been designed to ensure that it does not increase flood risk elsewhere, including to neighbouring properties. As set out above, I consider the submitted flood risk assessments to be robust. I further note that neither the Environment Agency nor the Lead Local Flood Authority have objected to the development on these grounds.
25. For the above reasons, I conclude that the developments would be consistent with local and national policy in relation to flood risk and would be safe for their lifetimes without increasing flood risk elsewhere. They would therefore accord with Policy NR1 of the RBWM Borough Local Plan (2022) and guidance contained in the Framework relating to flood risk. This policy and guidance seek to ensure, amongst other things, that development is safe in relation to flood risk and meets the Sequential and Exception Tests where necessary.

Highway safety

26. The Appeal A proposal would involve the re-alignment of the existing route of Aldebury Road so that it would form a T-junction with the new access road. In addition, the existing junction between Aldebury Road and Cookham Road would be closed off. This arrangement would displace some existing on-street parking spaces around the bend in Aldebury Road leading to the junction. However, the number of spaces that would be lost is relatively small, particularly in the context of the wider Aldebury Road estate. Whilst the Council argued that up to 10 spaces would be displaced, that appears to be an over-estimate given that much of the kerbside along the bend is taken up by cross overs and driveways. That is also the case for the kerbside opposite the proposed turning area in what would become the cul-de-sac. In my view, the

- number of spaces that would be displaced **would be closer to the appellant's** estimate of 4, which is at a level that would not significantly affect parking stress in the area. I further note that the houses positioned around the bend appear to benefit from driveways and/or off-street parking spaces and so on-street parking in this location is likely to originate from further afield.
27. During my site visits, I observed cars parked around nearby junctions within the Aldebury Road estate, and the Council has also referred to this in its evidence. However, there is no record of any accident problem along Aldebury Road despite the presence of car parking in the vicinity that contravenes the Highway Code. Accordingly, I consider that any risk of sideswipe collisions as cars emerge from the proposed cul-de-sac to be minimal, given this is a low speed traffic environment and the cul-de-sac would serve just 8 properties. In terms of parking arising from the new school, there would be sufficient space within the site to accommodate parking for both staff and parents at drop-off times, as is accepted by the Highway Authority. Whilst it is asserted that traffic and parking generated by the development could block Aldebury Road, I consider that to be highly unlikely. In any case, Aldebury Road forms a loop and benefits from a second access onto Cookham Road to the south.
28. New footpaths would be created to the west of the proposed main access. These would follow the routes of both the existing footpath and the informal route along the edge of Cookham Road. It has been highlighted that both footpaths would be significantly in excess of the 1:20 gradient recommended by the Inclusive Mobility guidance. This would make them difficult to navigate for wheelchair users and could have safety implications, particularly along sections where the gradient is in excess of 1:12. However, there is sufficient land available in this location to provide a route that complies with the Inclusive Mobility standards. Accordingly, this matter is capable of being dealt with by condition.
29. A drawing has been submitted (Ref ITB4215-GA-035 Rev A) that shows indicative waste collection arrangements for properties along the new cul-de-sac that would be formed. This shows areas of hardstanding for new bin collection points, and the precise location and details of these could be secured by condition. Whilst this could lead to some inconvenience for existing occupiers compared to the present situation, I do not consider that it would raise significant highway safety concerns. In this regard, the creation of one or more bin collection points would avoid the need for lengthy reversing by waste collection vehicles down the cul-de-sac. Plan Ref ITB4215-GA-035 Rev A also shows that the bin carry distances set out in the Building Regulations could be met if the measurement is taken from the curtilage of the property. Moreover, whilst that Plan shows refuse vehicles stopping close to the entrance of Brookdene Close, any resulting blockage would be brief and such occurrences are not uncommon on residential estates on bin collection day. Accordingly, I do not consider that any significant highway safety issue would arise from this.
30. Both the Appeal A and appeal B proposals would be served by access points that would be positioned on a bend in Cookham Road in close proximity to a humpback bridge over the railway line. However, it has been demonstrated that these would have adequate visibility in both directions and that they would be safe and suitable access points. Neither the Council nor the Highway Authority object to the proposed access points on highway safety grounds, and I see no reason to take a different view.

31. The proposed route via Westmead would only be used in emergency situations. At all other times it would be a pedestrian route only and vehicular access would be prevented by collapsible bollards. Accordingly, this route would not give rise to any increase in vehicular traffic along Westmead.
32. It is argued that the development could have significant traffic implications for Cookham given **the appeal site's** proximity to Maidenhead Road and the B4447. In this regard, traffic moving north from the site through Cookham would utilise the roundabout connecting Maidenhead Road, Station Hill, and The Pound. To the east of this roundabout the road narrows significantly and leads towards Cookham Bridge, which is a busy route across the River Thames. A short distance to the west of the roundabout is Cookham Station, as well as local shops and other facilities.
33. The Transport Assessment submitted in support of the development is underpinned by modelling that was accepted by the Highway Authority. At the **Inquiry, the appellant's highways** witness stated that this modelling indicated that the development would result in up to 15 two-way movements at the Maidenhead Road/Station Hill/The Pound roundabout during the weekday morning peak hour. This equates to an average of 1 vehicle every 4 minutes. At the junction leading towards Cookham Bridge, the development would result in an increase of up to 5 two-way movements during the weekday morning peak hour. This equates to an average of just 1 vehicle every 12 minutes. At that level, such an increase would not be perceptible, nor would it give rise to any significant rise in emissions or disturbance during peak periods.
34. The assumed traffic flows reflect the 2011 Census Journey to Work data, which indicates that only a small proportion of residents in the vicinity of the appeal site work in settlements to the north east, such as Beaconsfield, Amersham, Gerrards Cross, or Bourne End. In addition, both Cliveden View shopping centre and Furze Platt railway station are in walking distance of the appeal site, and so future residents would be unlikely to travel to Cookham to access such facilities. Whilst it is asserted that the Transport Assessments supporting other nearby developments at Cannondown Road (Local Plan Ref AL37) and Hollands Farm, Bourne End indicate a different pattern of vehicle movements, those documents are not before me. In any case, those sites are in very different locations relative to Cookham. Moreover, given that the appeal site and the Cannondown Road site are both allocations in the RBWM Borough Local Plan (2022), their combined impact on the road network will have already been assessed through that process. The Framework states (at paragraph 115) that development should only be refused on highway capacity grounds where the residual cumulative impacts on the road network would be "severe". In my view, the impact on Cookham would fall below that threshold.
35. The additional traffic that the development would generate along Cookham Road has also been modelled. This analysis concludes that any increase to journey times along the Cookham Road corridor would be limited, and below the level that would justify refusal. That view is accepted by the Highway Authority. Moreover, whilst the applications were initially supported by traffic survey data collected in 2017, new surveys undertaken in November 2023 show overall reductions in traffic flows compared to 2017. This demonstrates that the original survey data underpinning the Transport Assessment remains robust.

36. For the above reasons, I conclude that the developments would not prejudice highway safety. They would therefore accord with Policy IF2 of the RBWM Borough Local Plan (2022), and guidance contained in the Framework relating to highways matters. This policy and guidance seek to ensure, amongst other things, that development is served by a safe and suitable access.

Living conditions – noise and disturbance

37. The Appeal B proposal would involve the importation of significant volumes of material in order to raise levels across most of the site by 1-2 metres. This would be transported using lorries that would enter the site along the proposed 6 metre wide haul road. It is currently assumed that an average of 42 deliveries of material would take place each weekday across a 10-month construction period.

38. Both the Council and the appellant have produced assessments of the noise that would be generated by vehicles using the haul road. However, the principal contractor who would undertake these works has not yet been appointed and so these assessments rely on assumptions that may be subject to change. A key point of contention is the speed at which vehicles using the haul road would be travelling at, as this significantly affects the noise that would be generated. The Council has assumed that such vehicles will be travelling at 8 km/h, based on details in the submitted Construction Environmental Management Plan. However, this document states that it is provisional in nature, and that ***"it is not yet possible to estimate in detail the number and types of construction vehicles, which will be generated by construction activities"*** (para 3.11.3). Accordingly, it is not definitive with regard to likely vehicle speeds along the haul road. An assumed speed of 8 km/h also appears to be low given that deliveries will be undertaken by road lorries along a route constructed to base course level. In my view, a speed of around 25 km/h, as is assumed **in the appellant's analysis**, is more realistic. I further note that F.2.7.2.1 of British Standard 5228-1 gives the example of a dump truck travelling at 25 km/h along a haul road. Whilst an example of a grader travelling at 7 km/h is also given, that is a very different type of vehicle to those that would be used here.

39. With regard to the method that should be used to calculate the impact of construction noise, **the appellant's assessment is based on the** limit set out in the **'ABC method'** at Annex E.3.2 of British Standard 5228-1. This is a standard approach to assessing the impact of construction noise, and it sets a threshold of 65 dB for a potential significant effect to occur at nearby dwellings in the daytime. Annex E.5 of British Standard 5228-1 also sets out a lower daytime threshold of 55 dB for *"construction works involving long-term substantial earth moving"* that are ***"more akin to surface mineral extraction"***. However, I consider **the 'ABC' method to be more** appropriate here despite the likely construction period exceeding 6 months. In this regard, the proposed earthworks are not more akin to surface mineral extraction in either scale, depth of extraction, or the plant and equipment that would be used. I further note that the precedent for this lower threshold was set by appeal decisions relating to the construction of ports, which are of a different scale to the current proposal.

40. As the haul road would be used for the importation of material, the vehicles that would bring this material to the site would need to travel on public roads.

They would therefore be road lorries rather than the dump trucks that are assumed in the submissions. Accordingly, it is unnecessary to include an additional allowance in the assessment for the noise generated by an empty dump truck moving along the haul road.

41. Applying a vehicle speed of 25 km/h, it is clear that noise from the haul road would be capable of meeting the 65 dB threshold set out in the ABC method. That is the case regardless of which source term is used. Whilst the ABC method does not factor in the duration of the works or the character of the noise unless the threshold limit is exceeded, that is a feature of the assessment method and is standard practice. With regard to noise generated by onsite construction activities, the evidence submitted by the appellant demonstrates that this can be adequately mitigated. Such activities would also move away from the southern edge of the site over the duration of the construction period. Moreover, there is sufficient space next to the proposed haul road, and along the southern boundary of the site, to install any necessary mitigation measures. Accordingly, I consider that no significant adverse impacts would occur and that this matter is capable of being dealt with by condition.
42. For the above reasons, I conclude that the Appeal B proposal would not significantly harm the living conditions of neighbouring occupiers with regard to noise and disturbance. It would therefore accord with Policy EP4 of the RBWM Borough Local Plan (2022), and guidance in the Framework relating to noise. This policy and guidance seek to ensure, amongst other things, that development does not generate unacceptable levels of noise that gives rise to significant adverse impacts on health and quality of life.

Other Matters

Housing land supply

43. It is common ground that the Council is unable to demonstrate a 5 year supply of deliverable housing sites, as is required by the Framework. In this regard, the Council acknowledges that it can only demonstrate a 4.7 year supply, whereas the appellant contends that the supply is in fact lower at just 3.7 years. However, I have found that the developments accord with the RBWM Borough Local Plan, which has only recently been adopted. In these circumstances, the Framework advises at Paragraph 11 that development should be approved "**without delay**". It is therefore unnecessary for me to reach a finding on the precise extent of the shortfall, as it would not affect the outcome of these appeals.

Planning obligation

44. A signed and dated s106 agreement has been submitted in relation to Appeal A that provides for onsite affordable housing, land for a new primary school, and provisions relating to the proposed public open space. It also contains provisions relating to a Travel Plan, car club, self and custom-build housing, biodiversity, contaminated land, carbon offsetting, and a highways contribution.
45. With regard to affordable housing, this is clearly necessary to deliver the affordable units in order to meet local need and to comply with Policy HO3 of the RBWM Borough Local Plan (2022). The provisions relating to the primary school are necessary to comply with Local Plan Policy AL25, which requires that

- this be provided. Similarly, the open space provisions are necessary to comply with Local Plan Policy AL28, and to ensure that the open space is publicly accessible and appropriately managed.
46. Provisions relating to a Travel Plan and car club are necessary to minimise the need to travel using a private car, and to comply with Local Plan policies IF2 and AL25. The provisions relating to self and custom-build housing are necessary in order to meet the requirements of Local Plan Policy HO2. Biodiversity provisions are necessary to secure biodiversity net gain in line with the mandatory national requirement. With regard to financial contributions towards monitoring of the Travel Plan and Biodiversity Onsite Compensation Scheme, these are based on a standard calculation that is agreed by both main parties. Further provisions relating to contaminated land are necessary to ensure that the land that is earmarked for a new primary school is appropriately remediated. I am satisfied that each of these contributions are fairly and reasonably related to the development in scale and kind.
47. With regard to the Highways Contribution, this includes measures to improve the accessibility of the development to public transport and to mitigate its impact on the highway network. These measures are necessary to make the development acceptable in planning terms. However, for the reasons set out above, I do not consider the Traffic Regulation Order Contribution to be necessary for the purposes of highway safety. I further note that the Highway Authority did not consider this to be necessary at application stage. Accordingly, the Traffic Regulation Order Contribution does not meet the first test at Regulation 122 of the Community Infrastructure Levy Regulations, which is "***necessary to make the development acceptable in planning terms***". I have therefore not given any weight to it in granting planning permission for the scheme.
48. The ninth schedule of the s106 agreement relates to carbon offsetting provisions, which are intended to ensure that the development achieves net zero emissions. It requires the submission of an Energy Statement that models carbon emissions from the development, and based on the findings of this, payment of a Building Emissions Contribution and Lifestyle Contribution. In this regard, the Building Emissions Contribution seeks to offset regulated and unregulated emissions arising from the use of buildings, whereas the Lifestyle Contribution relates to the other activities of residents that generate emissions, such as aviation, agriculture, transport, waste, etc. The s106 agreement also requires that a Performance Review be carried out post-development and that a Shortfall Contribution be paid if necessary.
49. These contributions are not required by an adopted Local Plan policy but are instead set out in an Interim Sustainability Position Statement (**'ISPS'**) that was published by the Council in 2021. I understand that the ISPS has not been subject to any public consultation, and it has not been independently examined. In this regard, I note that the PPG states: "***policies for planning obligations should be set out in plans and examined in public***"⁵. Moreover, PPG requires that any such policies be informed by a proportionate assessment of viability, which the Council accepts has not been undertaken in relation to the ISPS.

⁵ Paragraph ID: 23b-004-20190901

50. A Written Ministerial Statement was issued on 13 December 2023 in relation to local energy efficiency standards. This states that:

"... the Government does not expect plan-makers to set local energy efficiency standards for buildings that go beyond current or planned buildings regulations. The proliferation of multiple, local standards by local authority area can add further costs to building new homes by adding complexity and undermining economies of scale. Any planning policies that propose local energy efficiency standards for buildings that go beyond current or planned buildings regulation should be rejected at examination if they do not have a well-reasoned and robustly costed rationale that ensures:

- That development remains viable, and the impact on housing supply and affordability is considered in accordance with the National Planning Policy Framework.*
- The additional requirement is expressed as a percentage uplift of a **dwelling's Target Emissions Rate (TER)** calculated using a specified version of the Standard Assessment Procedure (SAP)."*

51. The approach taken in the ISPS is contrary to this, and the Written Ministerial Statement strongly implies that any such requirements should be set out in a Local Plan. It further states that a change to the building regulations is planned for 2025, which will mean that homes built to that standard will be net zero ready in any event.

52. Whilst it was put to me that other appeal Inspectors have found the requirements set out in the ISPS to be acceptable, no such examples are before me. It is therefore unclear whether the ISPS requirements were contested in those appeals, or whether they were issued before the Written Ministerial Statement of 13 December 2023. Consequently, whilst I appreciate that the Framework indicates that the planning system should support the transition to a low carbon future, I cannot be assured that in this particular instance the Building Emissions Contribution, Lifestyle Contribution, and Shortfall Contribution are necessary to make the development acceptable in planning terms. Therefore, I have not given weight to these provisions in granting planning permission for the scheme.

Other considerations

53. The site was removed from the Green Belt through the RBWM Borough Local Plan, which was adopted in February 2022. It is now a housing allocation where residential development is acceptable in principle. The accessibility of the site to local services and facilities, the need for new housing in the area, and the availability of brownfield sites in the Borough were considered in detail through the Local Plan process and I do not intend to revisit those matters here. The Local Plan also identifies the site as being suitable for around 330 dwellings and a primary school, as is currently proposed.

54. Whilst it is argued that vacant homes could be brought back into use instead of developing the appeal site, there is no evidence before me that such properties represent a genuine source of additional supply. In this regard, it is normal for a proportion of the housing stock to be vacant at any one time due to circumstances such as where the occupier has recently died, where a tenant

- has recently moved out, homes in the process of being sold/let, where the owner is working abroad, second homes, etc.
55. It is asserted that there is an existing oversupply of apartments in Maidenhead town centre, which these proposals would exacerbate. However, the appeal site is not in a town centre location, and there is no substantive evidence before me of an oversupply of apartments in this location. In any case, Appeal A is in outline and so the precise mix of apartments and houses are not for consideration at this stage.
56. The applications were accompanied by an Air Quality Assessment which details that subject to mitigation measures, the effect of the construction process on **dust and air quality would be acceptable. The Council's Environmental** Protection department did not object to the development on these grounds, and I see no reason to take a different view.
57. The site is not of high ecological value and is capable of delivering a biodiversity net gain of at least 10%, which is a mandatory requirement. Whilst it is asserted that a nearby Local Wildlife Site has not been surveyed for over 10 years, that does not imply that the development would have any negative effect on that site. In this regard, detailed Ecological Impact Assessments have been undertaken for both the Appeal A and Appeal B proposals. These recommended a series of mitigation and enhancement measures that are capable of being secured by condition. I further note that **the Council's ecologist has not objected to the developments** on these grounds.
58. The proposals would not undermine climate change objectives. In this regard, the properties would be built to modern energy efficiency standards and would be well served by public transport. I further note that the Council has not identified any conflict with the Local Plan policies that relate to climate change, and nor does any such conflict appear to exist.
59. The submitted Travel Plan assumes that up to 3.2 km (around 2 miles) is an acceptable regular walking distance. This is based on data from the National Travel Survey (2019) which found that walking accounts for 31% of journeys of between 1 and 2 miles. In any case, a convenience store, primary school, bus stops, and a railway station are all located within 1 km of the appeal site.
60. The development would not alter the existing footpath that runs along the southern boundary of the site between Westmead and the footbridge over the Maidenhead Ditch, and this would remain in situ.
61. Noise from the existing railway line is capable of being mitigated through appropriate design measures. These details are capable of being secured by way of a planning condition.
62. It is highlighted that the nearby Cookham Road bridge across the railway line has a weight limit that may preclude its use by HGVs carrying material to the site. However, other routes to the site are available that avoid this bridge.
63. In terms of sewerage, Thames Water were consulted at application stage and did not raise any objections to the development on capacity grounds.

Conditions

64. Lists of conditions were initially agreed between the Council and the appellant in relation to both Appeal A and Appeal B, and a number of further conditions were subsequently put forward during the Inquiry. I have edited a number of these conditions for clarity and enforceability. As required by Section 100ZA(5) of the Town and Country Planning Act 1990, the appellant has agreed to all of the attached pre-commencement conditions in writing.

Appeal A

65. In addition to the standard outline conditions, I have imposed a condition that requires the development to accord with the approved plans. This is necessary in the interest of certainty. Whilst the appeal is in outline, conditions requiring the development to accord with the principles set out in the Parameter Plan and Design Code are necessary in the interests of character and appearance and to ensure a high quality development.

66. I have imposed conditions requiring the submission and approval of a Construction Method Statement, and a timetable for the implementation of the Remediation Specification. These are necessary in the interests of highway safety and residential amenity, and to ensure that the site is appropriately remediated. A condition requiring the submission and approval of a phasing plan is necessary to ensure that infrastructure is delivered across the site in a coordinated way. Further conditions relating to a Construction Environmental Management Plan, a Landscape and Ecological Management Plan, and reptile translocation are necessary to protect biodiversity and to ensure new habitats are appropriately designed, managed and maintained. A condition requiring the submission and approval of a Written Scheme of Investigation is also necessary to ensure any archaeological remains are analysed and recorded. Another condition requiring the submission and approval of a surface water drainage scheme is necessary to ensure that the site is appropriately drained and is safe for its lifetime without increasing flood risk elsewhere. These conditions are pre-commencement in nature as they will inform the construction process and/or relate to works below ground level.

67. A condition requiring the submission and approval of a Noise Study is necessary to ensure that appropriate mitigation is secured in relation to noise and disturbance. Conditions relating to Categories M4(2) and M4(3) of the Building Regulations, and requiring the submission of an updated Energy and Sustainability Statement, are necessary to accord with the requirements of Local Plan Policies HO1 and SP2. Further conditions requiring the submission and approval of a Flood Management Plan and relating to flood risk mitigation measures and surface water drainage, are necessary in the interests of managing flood risk and ensuring that the development is safe. Other conditions relating to trees and hedgerows are necessary to ensure that retained trees are not damaged during construction works. A condition requiring the vehicular access to be in place prior to first occupation is also necessary to ensure that the site benefits from a safe and suitable access.

68. A condition requiring samples of the external materials to be submitted and approved is necessary in the interests of creating a high quality development. Conditions relating to an updated biodiversity net gain calculation, and biodiversity enhancements, are necessary to ensure the site delivers biodiversity improvements in line with national and local policy. A further

condition requiring the implementation of the mitigation measures in the Air Quality Assessment is necessary in the interests of residential amenity. Another condition relating to unanticipated contamination is necessary to ensure the site is appropriately remediated. Conditions relating to the proposed footpaths, emergency access gradient, and waste collection arrangements for Nos 226-234 Aldebury Road are also necessary in the interests of inclusive mobility, flood risk management, and highway safety.

Appeal B

69. In addition to the standard time limit condition, I have imposed a condition that requires the development to accord with the approved plans. This is necessary in the interest of certainty. I have also imposed conditions requiring the submission and approval of a Construction Method Statement, a Construction Noise Assessment, and in relation to the proposed temporary access. These are necessary in the interest of highway safety and residential amenity. A condition requiring the submission and approval of phasing and surface water management details is necessary in the interests of residential amenity and flood risk. A further condition requiring the submission and approval of a Written Scheme of Investigation is necessary to ensure that any archaeological remains are analysed and recorded. Conditions requiring the submission and approval of a Construction Environmental Management Plan, a timetable for the implementation of the Remediation Specification, and relating to reptile translocation are necessary to protect biodiversity and to ensure the site is appropriately remediated. These conditions are pre-commencement in nature as they will inform the construction process and/or relate to works below ground level.
70. A condition relating to unanticipated contamination is necessary to ensure the site is appropriately remediated. Conditions relating to trees and hedgerows are also necessary to ensure that retained trees are not damaged during the works. Further conditions relating to delivery hours, and requiring that the mitigation measures in the Air Quality Assessment be implemented, are necessary in the interests of residential amenity. Finally, conditions relating to flood risk mitigation and drainage are necessary to ensure that the site is safe for its lifetime without increasing flood risk elsewhere.

Conclusion

71. For the reasons given above I conclude that both Appeal A and Appeal B should be allowed.

Thomas Hatfield

INSPECTOR

SCHEDULE OF CONDITIONS - APPEAL A

- 1) Details of the appearance, landscaping, layout and scale (hereinafter called the 'reserved matters') shall be submitted to and approved in writing by the Local Planning Authority before any part of the development is commenced.
- 2) An application for the approval of the reserved matters shall be made to the Local Planning Authority within three years of the date of this permission.
- 3) The Development shall commence within two years from the date of approval of the last of the reserved matters.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - RG-M-25
 - RG-M-19 Rev C
 - ITB4215-GA-009 Rev E
 - ITB4215-GA-042 Rev A
- 5) The reserved matters application(s) shall be submitted in accordance with the principles set out within the Parameter Plan (Ref RG-M-14 Rev F).
- 6) The reserved matters application(s) shall be submitted in accordance with the principles set out within the Design Code Rev H (Stantec, May 2023).

Pre-commencement conditions

- 7) No phase of the development subject to an approved reserved matters application shall take place until a site specific Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The Statement shall include:
 - i) Procedures for complaint management, public consultation and liaison;
 - ii) Delivery and construction working hours. These shall only take place between 08:00 and 18:00 Monday to Friday, 08:00 and 13:00 on a Saturday, and at no time on a Sunday or Bank Holiday;
 - iii) Procedures for emergency deviation from the agreed working hours;
 - iv) Provision of a Dust Management Plan; and
 - v) Measures to control the use of site lighting in the interests of residential amenity.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 8) No phase of the development subject to an approved reserved matters application (including vegetation clearance) shall take place until a Construction Environmental Management Plan ('CEMP') has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall include:
 - i) A risk assessment of potentially damaging construction activities;
 - ii) Identification of biodiversity protection zones;

- iii) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction. This should include all mitigation measures outlined in the Ecological Impact Assessment (Grassroots Ecology, May 2022);
- iv) Reasonable avoidance measures during site clearance works for reptiles, nesting birds, and hedgehogs (including measures which would be undertaken should any individuals of these species be found), removal of the identified potential roost features under the supervision of a suitably qualified ecologist, and protection of the river and any vegetation to be retained;
- v) A lighting plan detailing the specification, location and orientation of the proposed external lighting to avoid disturbance or adverse effects on light-sensitive species, including bats;
- vi) The location and timing of sensitive works to avoid harm to biodiversity features;
- vii) An Invasive Species Method Statement;
- viii) Times during construction when a specialist ecologist needs to be present on site to oversee works;
- ix) The role and responsibilities on site of an ecological clerk of works or similarly competent person; and
- x) Use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to throughout the construction period for the development.

- 9) No development shall take place until a timetable for the implementation of the Remediation Specification (Campbell Reith, May 2022) has been submitted to and approved in writing by the Local Planning Authority. The Remediation Specification shall thereafter be implemented in accordance with the approved timetable. Upon completion of the identified measures, a verification report demonstrating the effectiveness of the remediation carried out shall be submitted to and approved in writing by the Local Planning Authority in accordance with the approved timetable.
- 10) No development shall take place until a phasing plan to demonstrate how different phases of the development shall come forward in sequence has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved phasing plan.
- 11) Other than site clearance, earthworks, and any remaining reptile translocation works, no development shall take place until a Landscape and Ecological Management Plan ('LEMP') has been submitted to and approved in writing by the Local Planning Authority. The LEMP shall include details of the following:
 - i) A Habitat Management Plan;
 - ii) Long term aims and objectives for habitats and species;
 - iii) Detailed management prescriptions and operations for newly created species specific habitats, locations, timings, frequency, durations, methods, specialist expertise (if required), specialist tools/machinery or equipment and personnel as required to meet the stated aims and objectives;

- iv) A detailed prescription and specification for the management of the new habitats;
- v) An annual work schedule for at least a 30 year period;
- vi) A detailed monitoring strategy for habitats and species and methods of measuring progress towards achievement of stated objectives;
- vii) Details of proposed reporting to the council and proposed review and remediation mechanisms;
- viii) Proposed costs and resourcing and legal responsibilities;
- ix) Hedge, tree and grassland planting which will provide further habitat for bats;
- x) Details of external lighting levels;
- xi) Description and evaluation of features to be managed, as well as biodiversity enhancements including native species planting, installation of bird and bat boxes onto the new buildings and retained trees, provision of hibernacula and the provision of gaps in any boundary fencing for wildlife to travel across the site; and
- xii) Ecological constraints on site that might influence management.

The LEMP shall be implemented as approved, unless any subsequent changes to management as a result of findings from the monitoring reports is first agreed in writing with the Local Planning Authority.

- 12) The remaining elements of the reptile translocation shall follow the methodology set out in the Ecological Impact Assessment (Grassroots Ecology, May 2022) and the Reptile Translocation report (Grassroots Ecology, November 2022). A report detailing the final reptile translocation results, details of the protection of reptiles during and following development and the management and maintenance of the receptor site in perpetuity, shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development.
- 13) No development shall take place until a Written Scheme of Investigation ('WSI') has submitted to and approved in writing by the Local Planning Authority. The scheme shall include an assessment of significance and research questions, and:
- i) The programme and methodology of site investigation and recording;
 - ii) The programme for post investigation assessment;
 - iii) The provision to be made for analysis of the site investigation and recording;
 - iv) The provision to be made for publication and dissemination of the analysis and records of the site investigation;
 - v) The provision to be made for archive deposition of the analysis and records of the site investigation; and
 - vi) The nomination of a competent person or persons/organization to undertake the works set out within the WSI.

Development shall take place in accordance with the approved WSI.

- 14) No development shall take place until a surface water drainage scheme for the development, based on the submitted sustainable drainage

strategy, has been submitted to and approved in writing by the Local Planning Authority. This shall include:

- i) A detailed strategy for the management of surface water flows from areas off-site including an assessment of the hazard to people classification to ensure the development is safe for its lifetime without increasing flood risk elsewhere;
- ii) A surface water management plan;
- iii) Calculations to include development runoff rates, volumes (attenuation and long-term storage) and topographic details, and any consents required from Thames Water;
- iv) Full details of all components of the proposed surface water drainage system including dimensions, locations, gradients, invert levels, cover levels, long sections, cross section and relevant construction details of all individual components;
- v) Evidence that discharge from the site would be of sufficient water quality that it would not result in detriment to any receiving water course; and
- vi) Details of the proposed maintenance arrangements and responsibilities relating to the surface water drainage system.

The surface water drainage system shall be implemented and maintained in accordance with the approved details and shall thereafter be retained.

Prior to development above ground level conditions

- 15) No phase of the development subject to an approved reserved matters application shall take place above slab level until a Noise Study has been submitted to and approved in writing by the Local Planning Authority. This shall include details of how the proposed dwellings are designed so that cumulative noise from surrounding uses does not harm residential amenity. This shall include any appropriate mitigation measures. The development shall be carried out in accordance with the approved details which shall thereafter be retained.
- 16) No phase of the development subject to an approved reserved matters application shall take place above slab level until details of how the units will be designed to meet Categories M4(2) and M4(3) of Approved Document Part M of the Building Regulations 2010 (as amended), in accordance with Policy HO 2, have been submitted to and approved in writing by the Local Planning Authority. The development shall be completed in accordance with the approved details.

Pre-occupation conditions

- 17) Prior to the first occupation of the development, the Cookham Road access shall be constructed in accordance with drawing Ref ITB4215-GA-042 Rev A. The access shall thereafter be retained as approved.
- 18) Prior to the first occupation of the development, a Flood Management Plan shall be submitted to and approved in writing by the Local Planning Authority. This shall include measures, including signage, to manage the impacts of flooding on the emergency access route leading to Westmead.

Other conditions

- 19) Prior to any equipment, machinery or materials being brought onto the site, details of the measures to protect the trees shown as being retained

- in the submitted Arboricultural Impact Assessment (FLAC, February 2024) during the construction period, shall be submitted to and approved in writing by the Local Planning Authority. The approved measures shall be implemented in full prior to any equipment, machinery or materials being brought onto the site, and thereafter maintained until the completion of all construction work and all equipment, machinery and surplus materials have been permanently removed from the site. These measures shall include fencing in accordance with British Standard 5837. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made.
- 20) No tree or hedgerow shown to be retained in the submitted Arboricultural Impact Assessment (FLAC, February 2024) shall be cut down, uprooted or destroyed, nor shall any retained tree be lopped or topped other than in accordance with the approved plans and particulars within 5 years from the date of the first occupation of the development. Any approved topping or lopping shall be carried out in accordance with British Standard 3998 Tree work.
 - 21) No development involving the use of any facing or roofing materials shall take place until samples of the materials to be used on the external surfaces of the development hereby approved have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
 - 22) An updated biodiversity net gain calculation and associated plan and timetable for onsite delivery and associated monitoring shall be submitted with each reserved matters application. This shall provide details of the biodiversity net gain which will be delivered as part of the development (including a clear demonstration through the use of an appropriate biodiversity calculator such as the Defra Metric 4.0 that a net gain would be achieved). Each approved plan shall be implemented in accordance with the approved timetable.
 - 23) All biodiversity enhancements shall be carried out in accordance with the details included within the submitted Ecological Impact Assessment (Grassroots Ecology, May 2022); or an alternative scheme that has been submitted to and approved in writing by the Local Planning Authority.
 - 24) The development shall be carried out in complete accordance with the mitigation measures set out in Section 6 of the Air Quality Assessment (WSP, May 2022).
 - 25) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the Local Planning Authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the Local Planning Authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the Local Planning Authority. These approved schemes shall be carried out before the relevant phase of development is resumed or continued.
 - 26) The development shall be carried out in accordance with the flood mitigation measures set out in the Flood Risk Assessment and Outline

Drainage Strategy (WSP, May 2022) and Flood Risk Assessment Addendum 2 (Overland Flow) (WSP, October 2022).

- 27) An updated Energy and Sustainability Statement shall be submitted with each reserved matters application to provide details of sustainable design and construction measures to be incorporated into the development. The approved details shall be implemented in accordance with the approved measures, and thereafter maintained.
- 28) No infiltration of surface water drainage into the ground shall be permitted from sustainable drainage systems.
- 29) Prior to the closing of the existing junction opposite 232 Aldebury Road to create a turning head (as shown in plan ITB4215-GA-042 Rev. A), and notwithstanding drawing ITBA4215-GA-035, details of a strategy for the collection of waste storage bins for 226-234 Aldebury Road, and an implementation timetable, shall be submitted and approved in writing by the Local Planning Authority. Any proposed bin collection points shall thereafter be installed prior to the closing of the existing junction opposite 232 Aldebury Road.
- 30) Notwithstanding the details shown in drawing Ref ITB4215-GA-042 Rev A, prior to the commencement of construction of the main vehicular access, details of the pedestrian routes in the area shown on that plan, and an implementation timetable, shall be submitted to and approved in writing by the Local Planning Authority. These details shall include proposed path gradients, surface materials, signage and any other measures necessary for pedestrian safety. The approved details shall thereafter be implemented in accordance with the approved timetable.
- 31) Notwithstanding the details shown in drawing Ref ITB4215-GA-009 Rev. E, prior to the commencement of construction of the pedestrian / emergency access, details of the height and gradient of that access shall be submitted to and approved in writing by the Local Planning Authority. These details shall ensure a maximum gradient of 1 in 20 to meet Inclusive Mobility requirements. These details shall also include any proposed compensatory flood storage required as a result of any change in levels within the 1%AEP plus 35% climate change defended floodplain. Flood Storage Compensation will be provided outside of the flood plain on a level for level basis plus a minimum increase in storage volume of 5% when compared with the existing volume that would be displaced by the proposed works. The approved details shall be implemented prior to the first occupation of the development.

SCHEDULE OF CONDITIONS - APPEAL B

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - RG-M-26 Rev. A
 - RG-M-20 Rev. B
 - ITB4215-GA-031 Rev. A
 - 70063905-WSP-XX-XX-DR-C-0019 Rev P01 (insofar as it relates to proposed land contours)

Pre-commencement conditions

- 3) No development shall take place until a site specific Construction Method Statement has been submitted to and been approved in writing by the Local Planning Authority. The Statement shall include:
 - i) Procedures for complaint management, public consultation and liaison;
 - ii) Delivery and construction working hours. These shall only take place between 08:00 and 18:00 Monday to Friday, 08:00 and 13:00 on a Saturday, and at no time on a Sunday or Bank Holiday;
 - iii) Procedures for emergency deviation from the agreed working hours;
 - iv) Provision of a Dust Management Plan; and
 - v) Measures to control the use of site lighting in the interests of residential amenity.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 4) No development shall take place until the temporary access has been constructed in complete accordance with drawing ITB4215-GA-031 Rev A. Within 12 months of the completion of the enabling works, if work has not begun on a new permanent access then the land accommodating the temporary access shall be restored to its previous condition.
- 5) No development shall take place until a Construction Noise Assessment (in accordance with BS5228-1:2009+A1:2014) has been submitted to and approved in writing by the Local Planning Authority. The assessment shall include details of any mitigation and monitoring procedures to protect adjacent residential properties.

Mitigation measures shall be installed on site prior to any HGV deliveries being made to the site and shall be maintained for the duration of the works thereafter. This excludes HGV movements associated with the construction of mitigation measures.

Subject to the use of Best Practicable Means, no works other than for the installation of noise mitigation, shall exceed 65 dB(A) LAeq, T as measured in the rear gardens of any residential property.

- 6) No development shall take place until the following details have been submitted to and approved in writing by the Local Planning Authority:

- i) A detailed plan to confirm the phasing of the earthworks;
- ii) A detailed strategy for the management of surface water flows from areas offsite to ensure the development is safe for its lifetime without increasing flood risk elsewhere; and
- iii) A surface water management phasing plan.

The development shall thereafter be implemented in accordance with the approved details.

- 7) No development shall take place until a Written Scheme of Investigation ('WSI') has submitted to and approved in writing by the Local Planning Authority. The scheme shall include an assessment of significance and research questions, and:
- i) The programme and methodology of site investigation and recording;
 - ii) The programme for post investigation assessment;
 - iii) The provision to be made for analysis of the site investigation and recording;
 - iv) The provision to be made for publication and dissemination of the analysis and records of the site investigation;
 - v) The provision to be made for archive deposition of the analysis and records of the site investigation; and
 - vi) The nomination of a competent person or persons/organization to undertake the works set out within the WSI.

Development shall take place in accordance with the approved WSI.

- 8) No development shall take place (including vegetation clearance) until a Construction Environmental Management Plan ('CEMP') has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall include:
- i) A risk assessment of potentially damaging construction activities;
 - ii) Identification of biodiversity protection zones;
 - iii) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction. This should include all mitigation measures outlined in the Ecological Impact Assessment (Grassroots Ecology, May 2022);
 - iv) Reasonable avoidance measures during site clearance works for reptiles, nesting birds, and hedgehogs (including measures which would be undertaken should any individuals of these species be found), removal of the identified potential roost features under the supervision of a suitably qualified ecologist, and protection of the river and any vegetation to be retained;
 - v) A lighting plan detailing the specification, location and orientation of the proposed external lighting to avoid disturbance or adverse effects on light-sensitive species, including bats;
 - vi) The location and timing of sensitive works to avoid harm to biodiversity features;
 - vii) An Invasive Species Method Statement;
 - viii) Times during construction when a specialist ecologist needs to be present on site to oversee works;

- ix) The role and responsibilities on site of an ecological clerk of works or similarly competent person; and
- x) Use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to throughout the construction period for the development.

- 9) The remaining elements of the reptile translocation shall follow the methodology set out in the Ecological Impact Assessment (Grassroots Ecology, May 2022) and the Reptile Translocation report (Grassroots Ecology, November 2022). A report detailing the final reptile translocation results, details of the protection of reptiles during and following development and the management and maintenance of the receptor site in perpetuity, shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development.
- 10) No development shall take place until a timetable for the implementation of the Remediation Specification (Campbell Reith, May 2022) has been submitted to and approved in writing by the Local Planning Authority. The Remediation Specification shall thereafter be implemented in accordance with the approved timetable. Upon completion of the identified measures, a verification report demonstrating the effectiveness of the remediation carried out shall be submitted to and approved in writing by the Local Planning Authority in accordance with the approved timetable.

Other conditions

- 11) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the Local Planning Authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the Local Planning Authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the Local Planning Authority. These approved schemes shall be carried out before the relevant phase of development is resumed or continued.
- 12) Prior to any equipment, machinery or materials being brought onto the site, details of the measures to protect the trees shown as being retained in the submitted Arboricultural Impact Assessment (FLAC, February 2024) during the construction period, shall be submitted to and approved in writing by the Local Planning Authority. The approved measures shall be implemented in full prior to any equipment, machinery or materials being brought onto the site, and thereafter maintained until the completion of all construction work and all equipment, machinery and surplus materials have been permanently removed from the site. These measures shall include fencing in accordance with British Standard 5837. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made.
- 13) No tree or hedgerow shown to be retained in the submitted Arboricultural Impact Assessment (FLAC, February 2024) shall be cut down, uprooted or destroyed, nor shall any retained tree be lopped or topped other than

in accordance with the approved plans and particulars within 5 years from the date of the first occupation of the development. Any approved topping or lopping shall be carried out in accordance with British Standard 3998 Tree work.

- 14) No deliveries in connection with the enabling works shall be taken or dispatched from the site between 08:00 and 09:00 hours and 14:45 and 15:45 hours.
- 15) The development shall be carried out in complete accordance with the mitigation measures set out in Section 6 of the Air Quality Assessment (WSP, May 2022).
- 16) The development shall be carried out in accordance with the flood mitigation measures set out in the Flood Risk Assessment and Outline Drainage Strategy (WSP, November 2022).
- 17) No infiltration of surface water drainage into the ground shall be permitted from sustainable drainage systems.

APPEARANCES

FOR THE APPELLANT:

Christopher Young KC, No. 5 Chambers	instructed by Stantec
He called:	
Louise Beamish BSc (Hons), MIOA	Director, WSP
Jamie Roberts MPlan, MRTPI	Associate, Tetlow King
Ben Thomas BSc (Hons), MSc, CTPP, MCIHT, CMILT	Associate Partner, i-Transport
Andrew Wilkinson BEng (Hons), MSc, CEng, MICE	Technical Director, WSP
Nicholas Paterson-Neild BA(Hons), MPhil, MRTPI	Director, Stantec
Kathryn Ventham BSc (Hons), MSc, MRTPI	Director, Stantec

FOR THE LOCAL PLANNING AUTHORITY:

Guy Williams KC, Landmark Chambers	instructed by the Royal Borough of Windsor and Maidenhead
He called:	
Philip Owen BSc (Hons) MIOA	Head of Acoustics, Trium Environmental
Chris Gent MEng (Hons), CEng, MICE, MCIHT	Director, Velocity TP
Ryan Saul BEng (Hons), IEng, MICE, MCIWEM, MCIHT	Partner, Odyssey Consult
Ian Manktelow BSc (Hons), MPhil, MRTPI	Principal Planning Officer, RBWM
Nigel Jarvis BA (Hons), MPhil, MRTPI	Director, Luken Beck
Adrien Waite	Assistant Director of Planning, RBWM
Helena Stevenson	Principle Lawyer, RBWM

INTERESTED PARTIES:

Hari Sharma	
Ann Darracott BSc, MSc	Maidenhead Civic Society
Paul Strzelecki	
Jean Sutherland	
Sasha Lakovic	
Andrew Hill LLB (Hons)	

INQUIRY DOCUMENTS

- ID1 List of appearances for the Council
- ID2 Opening submissions made on behalf of the appellant
- ID3 Opening submissions made on behalf of the Council
- ID4 The Millenium Walk leaflet (submitted as a visual aid)
- ID5 Written statement covering items presented by Paul Strzelecki
- ID6 Extract from Procedural Guide: Planning appeals – England (2024)
- ID7 WSP Addendum Noise Assessment (**appendix F to the Appellant’s Statement of Case**)
- ID8 Photographs of Lutman Lane (submitted as a visual aid)
- ID9 Photographs of Westmead and Aldebury Road (submitted as a visual aid)
- ID10 Photograph of the existing informal pedestrian route along Cookham Road (submitted as a visual aid)
- ID11 Photograph of existing surfaced pedestrian route between Aldebury Road and Cookham Road (submitted as a visual aid)
- ID12 Photograph of existing surfaced pedestrian route between Aldebury Road and Cookham Road (submitted as a visual aid)
- ID13 Photograph of delivery vehicle parked on Aldebury Road (submitted as a visual aid)
- ID14 CIL Compliance Statement prepared by the Council
- ID15 Flood risk note submitted by the appellant
- ID16 Email sent by the appellant to the Fire Service dated 12 September 2023
- ID17 Draft Noise Condition
- ID18 Speaking note submitted by Sasha Lakovic
- ID19 Noise modelling clarification note prepared by the Council
- ID20 Further draft conditions prepared by the appellant
- ID21 Costs application submitted by the appellant
- ID22 **Council’s costs application response**

ID23 **Appellant's** costs application final comments

ID24 **Council's** closing submissions

ID25 **Appellant's** closing submissions

APPENDIX 12

TOWN AND COUNTRY PLANNING ACT 1990
(as amended)

Appeal by Persimmon Homes Severn Valley

**Land to the North of Rectory Farm, Chescombe Road,
Yatton, North Somerset**

EDUCATION MATTERS

Section 106 Planning Obligation Requirements

North Somerset Council

PROOF OF EVIDENCE

Ben James Hunter

BA DipMS

PINS Reference: APP/D0121/W/24/3343144

LPA References: 23/P/0664/OUT

Date: 23rd August 2024

EFM
SUITE 2, UNIT 10, BRADBURY'S COURT,
LYON ROAD, HARROW, HA1 2BY

Tel: 07497 338456
Email: ben@efm-ltd.co.uk

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4.	Primary Education.....	20
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1 Introduction

- 1.1 My name is Ben James Hunter. I hold a Bachelor of Arts and Diploma in Management Studies. I have been an Education Consultant for Education Facilities Management Ltd (“EFM”) since September 2017, and Associate Director of EFM since April 2022. Prior to this I was a Development Management Project Manager for Northamptonshire County Council (as was) from 2012, responsible for negotiating and securing Section 106 planning obligations for Education. Prior to this I was responsible for negotiating, securing and managing Section 106 planning obligations, predominantly Education-related, in an Officer role between 2008 and 2012. The majority of my professional career has been related to the provision of social infrastructure, with a focus on Education.
- 1.2 I am experienced in giving evidence for planning inquiries including Local Plan Inquiries and Public Examinations. I am therefore aware of the application of the planning system in relation to these matters from both a developer and local authority perspective. I confirm that I understand that notwithstanding my instructions my primary duty is to help achieve the overriding objective by giving objective, unbiased opinion on matters within my expertise.
- 1.3 I am instructed to act for the Appellant in respect of this Appeal.
- 1.4 I am aware that my primary duty is to the Appeal, irrespective of by whom I am instructed. I confirm that the opinions expressed are my true and professional opinions.
- 1.5 EFM was instructed in June 2024. I was appointed to review the existing Education landscape, the impact that the development is expected to make on schools in Yatton, and to establish if there was any Education related reason why this development should not progress.
- 1.6 I was subsequently instructed by the Appellant to prepare this Proof to assist the Inspector in determining whether the Education related Reason for Refusal (the fourth reason) was robust, whether there is a clear and demonstrable reason for this development to reserve a Primary School site within its boundary, or whether the existing Education landscape was able to accommodate the pupils who will be living

in the new houses. Subsequent to the production of this Proof of Evidence, the fourth RfR has been rescinded. This Proof of Evidence will discuss why that was the correct decision.

1.7 Prior to the removal of RfR number four, the number of disagreements between NSC and the Appellants seemed to be essentially reduced to one issue: whether the development should safeguard space for a new Primary School within its boundary.

1.8 To specify the points of agreement, at the time of writing, are:

- New School infrastructure, if required, is to be funded via Community Infrastructure Levy (“CIL”) funds, as Educational facilities (CD F7) are included within the spending priorities of the latest Infrastructure Funding Statement (“IFS”). This includes Early Years provision, Primary School provision, Secondary and Sixth Form provision, and Special Education Needs and Disabilities (“SEND”) provision;
- There are three schools open and accommodating children of Primary School age within Yatton. The schools are organised within the Backwell Group B Planning Area, within the NSC administrative area;
- The catchment area Secondary School is Backwell School, which is located within the Backwell Secondary Planning Area, within the NSC administrative area;
- There are no outstanding issues between NSC and the Appellant in relation to Education beyond the need to safeguard land for a potential new Primary School at some point in the future.

1.9 This Proof will therefore detail why there is no need for a development of this size to safeguard land for a new Primary School due to a) existing capacity in the schools in Yatton, b) forecast falling rolls across the Backwell Group B Primary Planning Area; and expansion potential at a school already open to pupils within Yatton. There is no evidence to suggest that a new school is required (which NSC now agree is correct, and this will be discussed throughout the Proof.

2 Background

2.1 This Appeal relates to an outline planning application (23/P/0664/OUT) made by Persimmon Homes Severn Valley (“the Appellant”) for 190 dwellings (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.

2.2 The approximate outline of the development site can be seen below in Map 1:



Map 1: Approximate Site Boundary

2.3 The Application was submitted to North Somerset Council (“NSC”) in March 2023. NSC is the planning authority. NSC is also the education authority for the area. The term Local Education Authority (“LEA”) is no longer used by virtue of a 2010 statutory instrument (No. 1158) The Local Education Authorities and Children’s Services Authorities (Integration of Functions) Order 2010.

2.4 This Appeal is in relation to non-determination of the planning application for 190 dwellings.

2.5 NSC subsequently detailed their Reasons for Refusal (“RfR”) in their Statement of Case (CD D2). The first, second, and third reasons are Planning issues unrelated to the delivery of Education infrastructure provision. However, reason four states (which has subsequently been rescinded):

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 Policies DM1 (Flooding and drainage) and DM68 (Protection of sporting, cultural and community facilities) of the Sites and Policies Plan Part 1: Development Management Policies.

2.6 Related to this point, NSC states in Section 7 of their Statement of Case (CD D2) (page 10 onwards) the following:

A section of the southern part of the site is safeguarded for a primary school under Policy SA8 of the Site Allocations Plan. Policy DM68 of the Sites and Policies Plan states that land and buildings in existing use, last used for, or proposed for use for a sporting, cultural or community facility, are protected for that purpose unless the land is allocated for another purpose in another planning document.

2.7 Whilst this is not in dispute, what will be clearly and demonstrably evidenced throughout this Proof of Evidence is that the safeguarded land a) does not fulfil the

three tests of Community Infrastructure Levy (“CIL”) Regulation 122 (2) and therefore cannot be included in a Section 106 agreement, b) is clearly and demonstrably unnecessary based on existing capacity, falling roll numbers, and the expansion potential of a school that will directly serve this development, and c) if it was to be provided, would actually be a detriment to the existing Education landscape.

2.8 NSC continue in paragraph 7.2:

The Council will set out the projected demand for primary school places in Yatton, particularly given new developments consented or under construction in the village and why the retention of the site allocation is a necessary safeguard. It will be argued that Yatton Infant and Junior Schools, which currently serve the southern part of Yatton, are on a constrained site and do not have the capacity for expansion. The schools also rely on temporary buildings that are coming to the end of their life.

2.9 This Proof of Evidence will demonstrate that this statement is misleading. Whilst Yatton Infant and Junior Schools have the capacity for 90 Primary School pupils per Year Group (3 Forms of Entry, or “3FE”), Yatton Infant School is operating with 60 pupils or fewer per Year Group in the current academic year, with the projections produced by NSC demonstrating falling rolls and growing spare capacity. The spare capacity across Yatton Schools actually exceeds the child yield of this development, and the number of spare places is expected to grow and not fall.

2.10 NSC continue in paragraph 7.3 of the Statement of Case:

The appellant has argued that a replacement primary school has already been constructed in Yatton, which has capacity to expand to 2 forms of entry. Therefore, there is no longer any need to safeguard additional land in Yatton for this purpose. The Council will demonstrate that the Chestnut Park Primary School, which is located at the northern extremity of Yatton, is intended to absorb demand from new development at the end of the village and is insufficient to cater for prospective future demand throughout Yatton.

2.11 The point that Chestnut Park Primary School has the space on its existing site to be able to expand to 2FE is not in dispute. However, what this Proof will demonstrate is that this is certainly not the only factor that makes the need for a school site on this development redundant. Falling birth numbers, growing spare capacity, and schools operating under their actual physical capacities mean that the school site is clearly and demonstrably excessive, and unnecessary to make the development acceptable in planning terms.

2.12 Paragraph 7.4 states of the Statement of Case states:

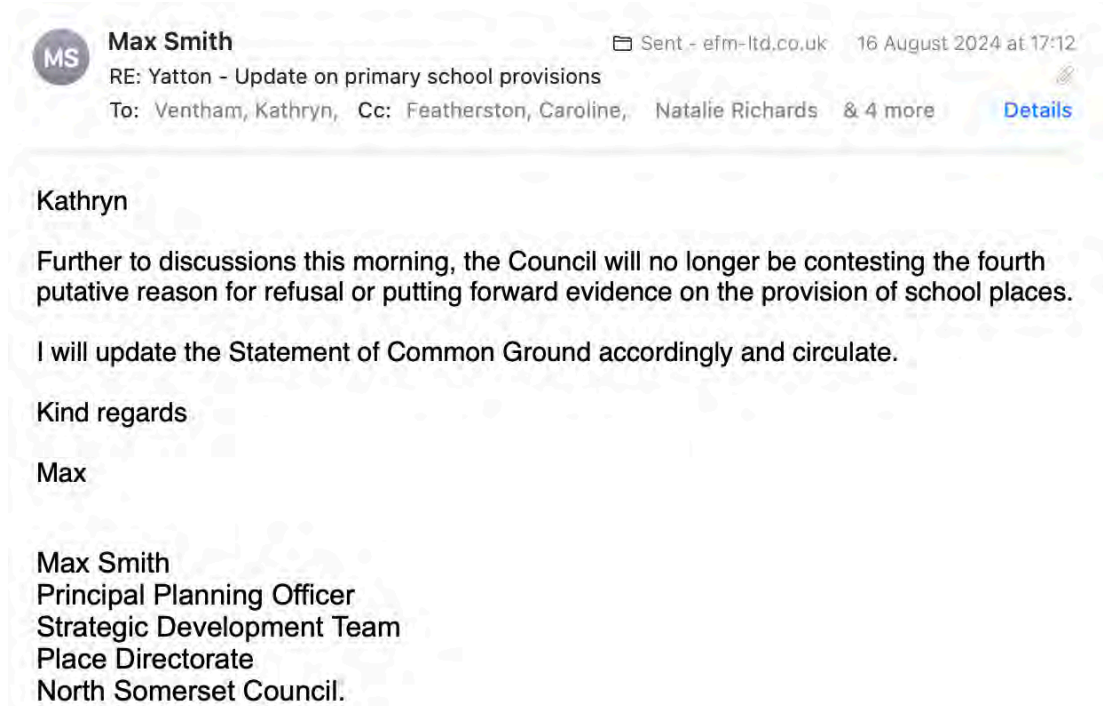
The primary school site allocation has been carried forward into the emerging Local Plan. The Council will argue that the Local Plan examination process is the appropriate forum for determining whether sufficient land has been allocated for primary schools in the plan period and whether the allocation itself is suitable.

2.13 The need for specific infrastructure on a development needs to be established on its merits at the time that an application comes forward. What is imperative is that whatever is included in a Section 106 agreement must fulfil the tests of CIL Regulation 122 (2) above all else. If the situation at the time a development comes forward does not support what is allocated in a Local Plan (which itself is a snapshot in time and subject to change), then it cannot be pursued because planning obligations must be able to stand up to scrutiny. If the evidence does not support specific infrastructure provision, then it is not necessary to make the development acceptable in planning terms. If that is the case, it should not be secured in any Legal Agreement, regardless of what is specified in the Local Plan.

2.14 Paragraph 7.5 concludes:

The Council will further argue that none of the exceptions set out in policy DM68 apply. The development would therefore have the potential to obstruct the provision of sufficient primary school capacity in Yatton and is therefore contrary to Policy CS25 of the Core Strategy and Policy DM68 of the Development Management Policies.

- 2.15 This Proof of Evidence will demonstrate that this not the case, and that new school site provision is no longer required to make the development acceptable in planning terms. It is on that basis that NSC is no longer seeking this provision, as confirmed by NSC in an email of 16th August 2024:



- 2.16 Prior to getting in to these details, this Proof of Evidence will discuss the Statutory and Policy Matters that govern Education:

3 Statutory & Policy Matters

- 3.1 There is a covenant between the State and its populace that has had statutory force for 154 years¹. Namely that; wherever <my emphasis> a child shall live, who is not otherwise provided for, the State will provide a school in accordance with the statutory arrangements, from the State or developers, as appropriate.² The covenant is not caveated by considerations of transience, fixed or temporary abode, nationality, residential status or home education authority, and means that however children arrive within an area (or are housed within an area) the local authority's statutory duty has to be met and is not a function of planning permission criteria.
- 3.2 **The Education Act 1996 (as amended) ("EA96"):** The primary Act relating to education is the Education Act 1996, which is; (a) a consolidating Act and (b) an Act amended from time to time by subsequent legislation. Unless otherwise indicated in this Proof as applying to education, all references are to the Education Act 1996 (as amended).
- 3.3 EA96 (at section 14(1)) states,
- A local education authority³ shall secure that sufficient schools for providing – (a) primary education and (b) secondary education... are available for their area.*
- 3.4 Sections 14(2) to 14(6) go on to explain what is meant by sufficient schools and that it includes implicitly that the requirement is for sufficient appropriate school places.

¹ The Elementary Education Act 1870 (section 5) thereafter Education Act 1921 (section 17), Education Act 1944 (section 8), Education Act 1996 (section 14)

² The Act actually says, "5. There shall be provided for every school district a sufficient amount of accommodation in public elementary schools (as hereinafter defined) available for all the children resident in such district for whose elementary education efficient and suitable provision is not otherwise made, and where there is an insufficient amount of such accommodation, in this Act referred to as "public school accommodation," the deficiency shall be supplied in a manner provided by this Act".

³ The local education authority has since 2010 been somewhat confusingly renamed 'local authority' to take account of the authority incorporating the duties of the children's services authority. For the purposes of clarity throughout this proof the term 'education authority' is used as the generic title to keep a clear separation from the planning authority.

- 3.5 EA96 (at Section 7) imposes a duty on “*every parent of every child of compulsory school age to cause him to receive efficient full-time education either by regular attendance at school or otherwise*”.
- 3.6 Section 14(1), together with s7, derives directly from s5 Education Act 1870 via s17 Education Act 1921 and s8 Education Act 1944. There have been no material changes over time, merely consolidating legislation, changes to school leaving ages and changes to terminology from time to time. It is, thus, a longstanding duty for the Education Authority as successor to the local school boards.
- 3.7 EA 96 Section 11 requires the Education Secretary of State (i.e. the State) to exercise their powers in respect of those bodies in receipt of public funds which carry responsibility for securing school provision for promoting school education. The duty of the education authority (to secure sufficiency of provision) is to enable the State to discharge its responsibilities within the covenant. Thus, the original premise still holds true: for all children of statutory school age, who are not otherwise provided for, **the State provides a school**, <my emphasis> in accordance with the prevailing statutory provisions.
- 3.8 EA96 Section 14 Subsection 3A is a more recent modification to its duty through a requirement for the education authority to exercise its functions under this section with a view to increasing: (a) diversity in the provision of schools, and (b) increasing opportunities for parental choice, and was inserted into Section 14 by Section 2 Education and Inspections Act 2006 with effect from 25th May 2007.
- 3.9 Thus, the duty of the education authority is to enable the State to discharge its responsibilities within the covenant: but, with sufficient headroom to allow for the discharge of its S14 (3A) duties.
- 3.10 The Education Secretary of State has determined that those ‘otherwise provided for’ include those whom provision is made via a Section 106 agreement or CIL. This legitimises planning obligations to fund or provide additional school places.
- 3.11 In securing sufficient schools for its area, an Education Authority assesses existing capacity and pupil numbers, data on births and migration, and how parental preferences are manifested. It forecasts (usually with a high degree of accuracy) the

need for additional capacity in each school planning area for the ensuing five years for primary schools and seven years for secondary schools.

- 3.12 The Education Authority then passes this information to the State [currently the Education and Skills Funding Agency (“ESFA”)] being the school’s operational arm of the Department for Education (“DfE”) by way of the School Capacity Returns (“SCAP”). The State then allocates additional school places as and where shown to be necessary. Each additional school place is accompanied by a formula driven capital funding associated with that place. This is known as Basic Need funding. Basic Need allocations to an education authority are aggregated into a single capital sum to be dispensed by the education authority to each project according to its needs.
- 3.13 Basic Need funding on a per-pupil-place basis covers increases in pupil numbers forecast, by the Education Authority, beyond existing and planned capacity, to arise because of rising birth rates, rising survival rates, rising inward migration rates and new housing (except when covered by Section 106 agreements or CIL).
- 3.14 The Basic Need pupil place funding system recognises, that whether or not a Section 106 agreement or a CIL charge has been applied by an LPA to a planning permission, is a matter purely for the LPA. It recognises the duty of the LPA to secure sufficient housing for its population and its growth agenda. The State holds that the ability or not of a planned housing scheme to fund school places necessary should not sway the determination of that application by the LPA. The disapplication of Basic Need provision where there is a Section 106 agreement or CIL charge is simply to avoid double-funding.
- 3.15 **Securing developer contributions for education (August 2023) (CD M7):**
- 3.16 In order to provide further clarity to education authorities, the DfE produced and published two Best Practice Guidance documents related to delivering schools to support housing growth under the Education Act 1996. These are non-statutory Guidance documents for local authorities planning for education to support housing growth and seeking associated developer contributions. The second of these Guidance documents is related to education provision in garden communities, and is

therefore not relevant to this Planning Appeal. The first, however, is related specifically to securing developer contributions for education.

3.17 The Guidance document is clear that (paragraph 7, page 8):

It is important that the impacts of development are adequately mitigated, requiring an understanding of:

- *The education needs arising from development, based on up-to-date pupil yield factors.*
- *The capacity of existing schools that will serve development, taking account of pupil migration across planning areas and local authority boundaries.*
- *Available sources of funding to increase capacity where required.*
- *The extent to which developer contributions are required and the degree of certainty that these will be secured at the appropriate time.*

3.18 Furthermore, the guidance states the following regarding establishing child yields for new developments, when it states (paragraphs 17 and 18, page 11):

Pupil yield factors should be based on up-to-date evidence from previous local housing developments, so you can predict the education needs for each phase and type of education provision arising from new development. To understand how pupil yield builds up in developments over time, you can consider pupil yield from developments completed 10 or more years ago as well as those built more recently. You are under no obligation to review pupil yields continually, but we recommend refreshing your data approximately every five years.

Pupil yield factors allow you to estimate the number of early years, school and post-16 places required as a direct result of development, underpinning local plan policies and the contributions agreed in planning obligations. We have published separate research data and guidance on estimating pupil yield, to assist local authorities producing and using pupil yield evidence.

3.19 This second paragraph is particularly pertinent to this Appeal, as the “separate guidance” produced by the DfE to establish child yields does not correspond with the figures being utilised by NSC. When looking at the Pro-forma for CIL Requests document (CD N22) in relation to this development, NSC has stated that a development of 190 dwellings is expected to accommodate 88 Primary School aged pupils (0.42FE) on site, which is a child yield of 0.461 pupils per dwelling. Compared to national averages, this is high, with England as a whole seeing an average of 0.2528 Primary School aged pupils per dwelling from new developments.

Projected numbers and ratios	2025/26	2026/27	2027/28	2028/29	2029/30	2030/31	2031/32	2032/33	2033/34	2034/35	2035/36	2036/37	2037/38	2038/39	2039/40	2040/41	2041/42	2042/43	2043/44	2044/45	2045/46	2046/47	2047/48	2048/49	2049/50
No. primary pupils	15	31	47	62	75	76	76	77	77	79	82	85	87	88	87	84	79	72	66	60	56	50	41	34	28
Ratio per 100 dwellings	40.7	40.8	40.8	40.9	39.6	39.9	40.1	40.3	40.5	41.5	42.9	44.6	45.8	46.1	45.6	44.2	41.3	38.0	34.6	31.7	29.6	26.3	21.8	17.8	13.9
No. secondary pupils	7	14	22	30	36	38	39	41	43	44	46	47	49	50	52	53	55	59	59	60	62	61	52	46	44
Ratio per 100 dwellings	18.3	18.7	19.1	19.5	19.1	19.9	20.8	21.6	22.4	23.3	24.1	24.9	25.7	26.5	27.2	27.8	29.2	30.9	31.0	31.8	32.4	31.9	27.1	24.4	23.1
Projected Year R pupils	2	5	8	11	13	13	13	12	10	9	8	8	8	8	8	8	8	8	8	8	8	8	8	8	8

Projected number of pupils from the year after the development commenced that shows the most pupils who will require a school place at the same time		Year	Ratio per 100 dwellings
Primary	88	2038/39	46.1
Secondary	62	2045/46	32.4

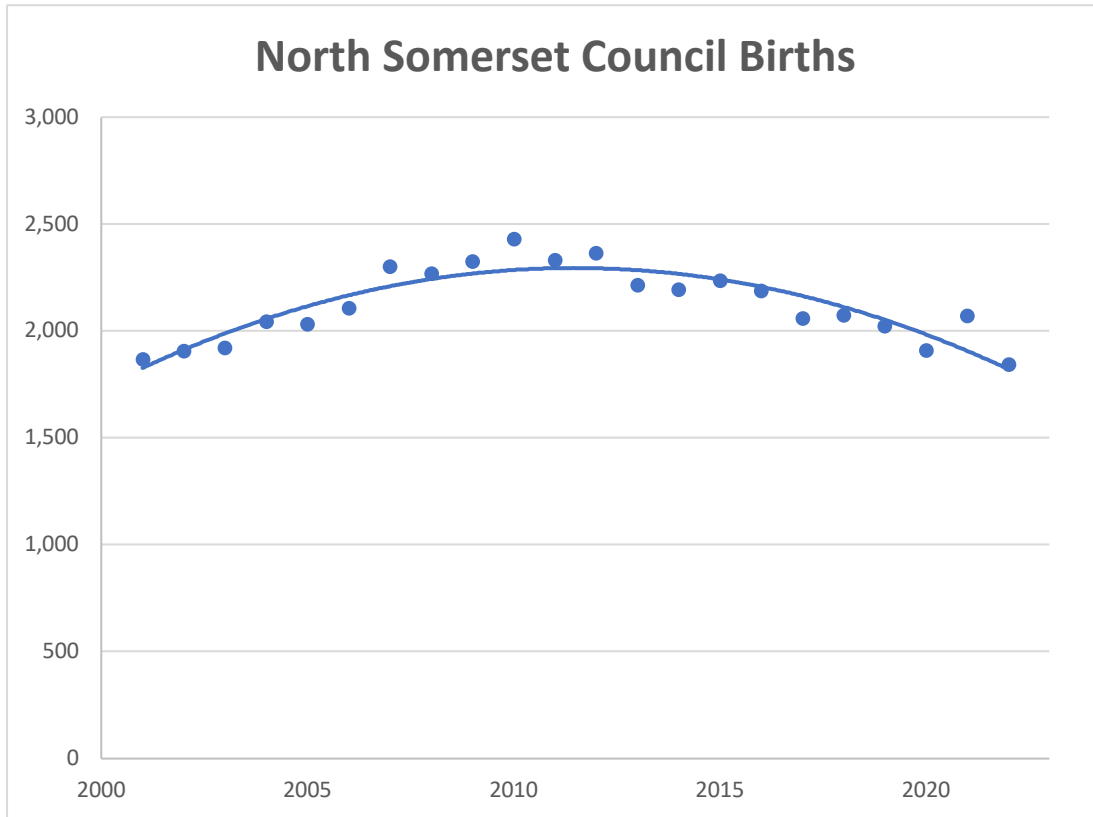
Table 1: NSC Child Yield Calculation

3.20 The DfE states that in their ten-year study of child yields from new developments across England that the NSC administrative area is seeing an average of 0.29 pupils per dwelling for Primary, which would equate to a Primary School child yield of 55 Primary School aged children (0.26FE), which is 37.5% lower than the anticipated yield discussed by NSC. On that basis, the actual impact on the Primary School landscape could be significantly lower than anticipated by NSC.

Year	LocalAuthority	EducationPhase	EducationType	TenureType	HousingType	Number of Bedrooms	Number of Pupils	Number of Completed Properties	PupilYield
2021/22	North Somerset	Early Years	Mainstream	All	All	All	343	4,792	0.071577629
2021/22	North Somerset	Post-16	Mainstream	All	All	All	62	4,792	0.01293823
2021/22	North Somerset	Primary	Mainstream	All	All	All	1,391	4,792	0.290275459
2021/22	North Somerset	Secondary	Mainstream	All	All	All	737	4,792	0.153797997

Table 2: DfE Child Yield Outcomes in NSC

3.21 The lower yield, and falling numbers generally across the Primary landscape in North Somerset (as discussed in Section 4 of this Proof of Evidence) is not surprising when looking at birth numbers across North Somerset, which in 2022 (the most recent year for which data is available in the public domain) were the lowest that they have been in over two decades:



Graph 1: NSC Births per annum (via the ONS)

- 3.22 These falling birth numbers are not unique to the NSC area, as birth numbers are falling considerably across the Country, and were at their lowest rate in 2022 since 2002. This is having an impact on Primary Schools across the Country, where many schools are having to reduce their capacities, or close.

- 3.23 NSC has provided the following Table of built out and forthcoming developments in Yatton, which includes applications such as Land off Arnolds Way Phase 1, which has totally built out (and thus the Primary School aged children are already within the school system), and Arnolds Way Yatton Phase 2, which has also already built out:

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No. primary pupils					Projected numbers																
Planning Ref:	Development	Number of dwellings	No Dwellings occupied	* Children attending North Somerset School from development	2016/17	2017/18	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24	2024/25	2025/26	2026/27	2027/28	2028/29	2029/30	2030/31	2031/32	2032/33
15/P/1498/RM	Land Off Arnolds Way Yatton Phase 1	150	150	43	14	30	46	64	68	72	74	76	77	79	79	78	74	70	67	63	59
15/P/0946/O	Land North of Arnolds Way and North End Road Yatton	15*	61	18						15	32	50	66	70	72	74	75	76	77	77	77
15/P/1488/O	Arnolds Way, Yatton - Phase 2	11*	111	33				11	23	35	39	42	45	48	51	54	58	59	57	54	52
17/P/2377/F	Titan Ladders, 195 - 201 Mendip Road, Yatton	37	37	7							8	9	10	11	12	13	14	15	17	16	16
18/P/3659/FUL	Former UTAS Site Claverham Works Bishops Rd, Claverham	77	57	7							14	23	25	27	29	31	33	35	38	39	37
19/P/0834/FUL	Arnolds Way Yatton - Phase 3	28	28	5							9	10	11	12	12	13	13	13	13	12	12
15/P/1299/O	Oxford Plasma Technology, North End Road, Yatton	55	0	0										6	12	19	20	21	22	22	22
19/P/3197/FUL	Land Off Moor Road Yatton	60	0	0									12	24	38	39	39	38	36	33	30
21/P/0236/OUT	Land At Rectory Farm Chescombe Road Yatton	98	0	0										11	23	34	35	37	38	39	40
21/P/1247/FUL	The Northern Field At The Former Claverham Works Bishops Road Claverham	24	Application in progress	N/A									5	9	9	10	10	10	11	11	11
21/P/1727/FUL	Land At Box Bush Farm North End Road Yatton	35	Application in progress	N/A										3	6	11	11	11	11	12	12
22/P/0455/FUL	Yatton Rugby Football Club North End Road Yatton Bristol BS49 4AW	87	Application in progress	N/A										4	9	15	16	18	19	21	23
23/P/0664/OUT	Land To North Of Rectory Farm Chescombe Road Yatton	190	Application in progress	N/A									15	31	47	62	75	76	76	77	77
	TOTAL where building has commenced	557	444	113	14	30	46	75	91	122	176	210	234	247	255	263	267	268	269	261	253
	TOTAL	1106	444	113	14	30	46	75	91	122	176	210	251	319	383	438	460	478	482	475	466

* January 2023 census data

Table 3: Developments in Yatton

3.24 Section 4 of this Report will discuss the appropriateness of utilising built out schemes, in which pupils within the new housing are already accommodated within the school system, in arguments relating to whether new provision will be needed in the future. However, what is particularly interesting in this Table (again, provided by NSC) is the child yield being seen by built out developments. To take the individual completed developments, and their impact on the Primary phase:

- Arnolds Way Yatton Phase 1 (15/P/1498/RM): 43 pupils from 150 occupations = 0.287 Primary Pupils per dwelling;
- North of Arnolds Way (15/P/0946/O): 18 pupils from 61 occupations = 0.295 Primary Pupils per dwelling;

- Arnolds Way Yatton Phase 2 (15/P/1488/O): 33 pupils from 111 occupations = 0.297 Primary Pupils per dwelling;
- Mendip Road Yatton (17/P/2377/F): 7 pupils from 37 occupations = 0.189 Primary Pupils per dwelling;
- Former UTAS Site (18/P/3659/FUL): 7 pupils from 57 occupations = 0.123 Primary Pupils per dwelling; and
- Arnolds Way Yatton Phase 3 (19/P/0834/FUL): 5 pupils from 28 occupations = 0.179 Primary Pupils per dwelling.

3.25 What is clear from the above is that actual child yields being seen in Yatton are considerably lower than NSC has forecast against this development. The average Primary School child yield from the occupations detailed above is 0.255 pupils per dwelling, which is almost exactly the national average of England, is much closer to the DfE average shown in Table 2, and is considerably lower than the figures utilised by NSC in Table 1.

3.26 If you apply the Yatton child yield average to the remaining 662 dwellings (which is established by taking the 1,106 dwellings expected to come forward in Yatton, minus the 444 completed and occupied dwellings) that could come forward in the village (which includes this development) you get the following:

- 662 dwellings x 0.255 = 169 Primary School aged pupils (0.8FE).

3.27 This will be discussed further in Section 4 of this Proof of Evidence.

3.28 Turning now to NSC's adopted Policy:

3.29 **Local Authority Policies:**

3.30 NSC has an adopted document entitled Developer Contributions Supplementary Planning Document (CD F8) dated January 2016. This document is now significantly out of date, being written nine years ago, adopted over eight years ago, and having not taken account of the changes to the NPPF over time, nor to the introduction of the DfE's best practice guidance discussed above.

3.31 Education is discussed in Section 5 of the document. This states, on page 46:

A Pupil Projection Tool is used to identify the peak numbers of young people forecast to live within the development, based on housing mix and build rate. Reductions are applied to some affordable units to account for those who move from within the local area and already have school places.

3.32 It is therefore assumed that this "Pupil Projection Tool" was utilised to establish the child yield of 88 Primary School pupils. The Proforma states that this model was produced in 2021, but also alludes to 2011 Census data being utilised, which again is significantly out of date.

3.33 This document also states in bullet point 2 on page 47:

Surplus places: it is generally accepted that schools should not operate at 100% capacity. In accordance with government best practice, in order to support operational flexibility and parental choice, schools operate with a minimum of 5% surplus places. Planning obligations will seek to maintain this buffer.

3.34 This is not generally accepted, and on the contrary, schools should be operationally full to meet the financial audit requirement for best value from public assets. This is demonstrative of a properly functioning school system. School funding is predicated on the number of pupils that are on a school's roll, so it is in the best interest of schools to maximise intake within their capacity. Accordingly, many schools take from a wide catchment area, and some enrol over capacity.

3.35 Furthermore, the latest (August 2023) best practice guidance of the DfE states at page 31:

The department's Basic Need funding calculation includes a 2% operating margin at planning area level to help support parental choice, churn in the pupil population, and the general manageability of the system.

3.36 The issue of whether a 2% operating margin or a 5% operating margin is appropriate was discussed at a Planning Appeal in Birmingham⁴ (CD 17) where the Inspector stated (paragraph 12.15):

Although the DfE has confirmed that the 2% surplus capacity allowance is not a recommended amount to be followed by local authorities, it would be difficult for developers and decision makers to have to apply a range of different ratios in different local authority areas. The 2% figure provides a reasonable and consistent ratio to be applied to such calculations.

3.37 This decision was confirmed by the Secretary of State, who concurred with this assertion. On that basis, 5% surplus capacity is excessive, not useful for the budgets of the existing schools, and should be rejected. Due to the fact that this document is considerably out of date, it should be afforded minimal weight. For example, the sixth bullet point on page 46 states:

- *At the time of writing (2015), most schools across North Somerset are at or close to capacity. This will increase the obligations expected from developers as existing provision may not be able to absorb new students.*

3.38 As will be discussed below, this is absolutely not the case any longer, with spare capacity growing as birth numbers continue to fall (see Graph 1).

3.39 To now discuss the existing Primary Education landscape:

⁴ APP/P4605/W/18/3192918

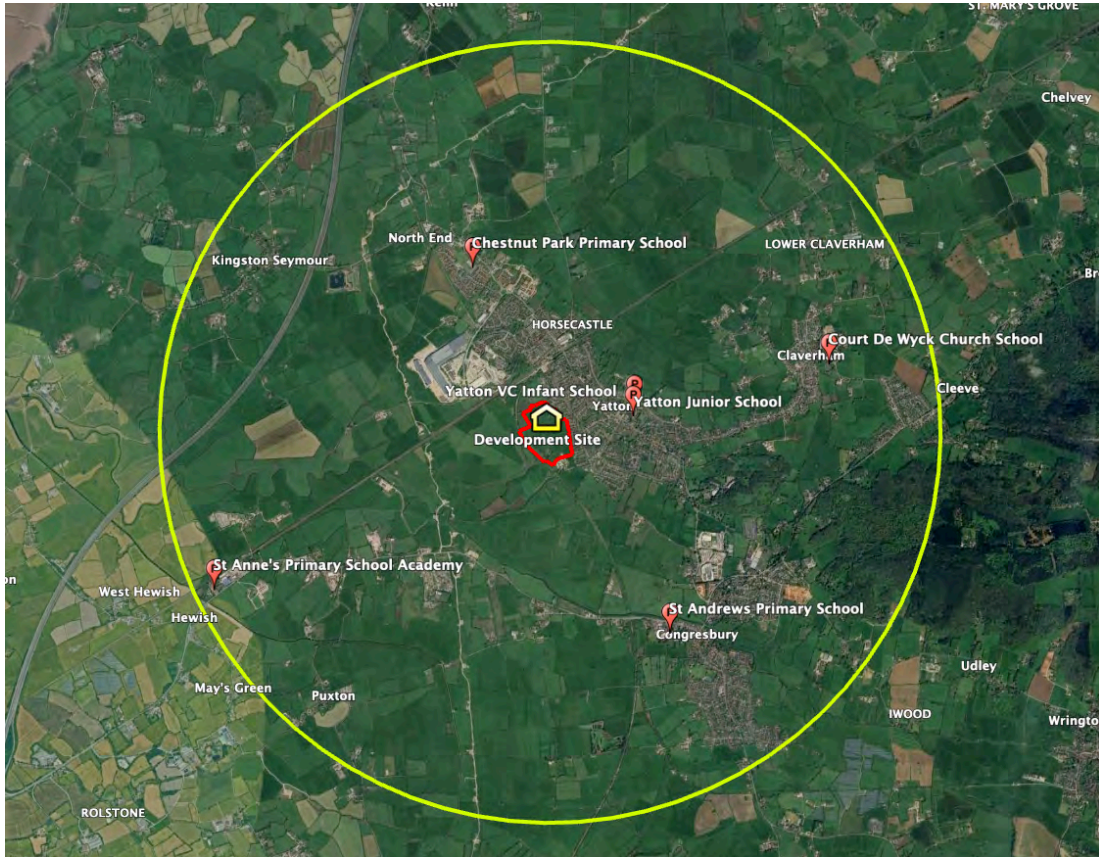


4 Primary Education

- 4.1 In our assessment, we consider all Primary Schools⁵ within a two-mile walking distance, and all Secondary Schools that lie within a three-mile walking distance of the development (as Secondary Education is not in dispute, this has not been included in this Proof of Evidence). The two and three-mile criteria are the distances prescribed in the Education Act beyond which local authorities are required to provide/fund transport where the nearest available school is further away.
- 4.2 There are six state funded schools accommodating Primary School aged children within a two-mile radius of the proposed new houses. Of these schools, four are within a two-mile statutory walking distance of the development site, with three directly serving Yatton children. All of the schools are within the NSC administrative area, and are organised in three separate Primary Planning Areas. This Proof of Evidence will focus on the schools with a statutory safe walking distance of the proposed new houses.
- 4.3 The schools, in relation to the development site, can be seen below in Map 2:

⁵ Distances have been calculated based upon coordinates near to the development (51°23'08.5"N 2°49'41.9"W). Once the development is built out, some parts of the site will be further/closer than shown.

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Map 2: Schools within a two-mile radius of the development site

4.4 The latest school roll data (2023/24 academic year) in the public domain for the schools can be seen below in Table 4:

Primary School Name	Postcode	LA Name	Distance (miles)	Capacity	PAN	NoR	Yr R	Yr 1	Yr 2	Yr 3	Yr 4	Yr 5	Yr 6
Yatton Inf/Jnr Schools	BS49 4HJ	North Somerset	0.8	630	90	508	59	60	57	78	89	76	89
Chestnut Park Primary School	BS49 4FW	North Somerset	1.3	210	30	67	25	20	22	0	0	0	0
TOTAL				840	120	575	84	80	79	78	89	76	89
Surplus							6	10	11	12	1	14	1
Available Surplus %							5%	8%	9%	10%	1%	12%	1%

Table 4: School Roll Data (January 2024)
PAN = Planned Admission Number; NoR = Number on Roll

4.5 The closest schools to the development site, at 0.8-miles walking distance from a mid-point of the proposed new houses, are Yatton Infant and Junior Schools. These schools were built with the capacity to accommodate 90 pupils per Year Group (3FE); however, Yatton Infant School is currently operating as a 2FE in Years Reception to

Year Two. This means that the Infant School has a full 1FE's worth of capacity not being utilised. This development is only forecast to generate a maximum 0.36FE's worth of Primary School pupils (when using NSC's previously discussed high child yields). This means that the school has significantly more capacity for the pupils from this development than the site is expected to accommodate when fully built out.

4.6 If Yatton Infant School was to increase its capacity to the previously utilised 90 pupils per Year Group, this would add in an extra 90 places to the area, without the need for land acquisition. As it is, the Junior School, who are fed by the Infant School, will also have to reduce their admission number as lower numbers of pupils work through the Infant phase, meaning that in four academic years, the school will be a 2FE on a 3FE site. This means it will have space on site for an additional 210 pupils, but will only be operating as a 2FE.

4.7 As discussed in Section 2 of this Proof, the NSC Statement of Case states:

Yatton Infant and Junior Schools, which currently serve the southern part of Yatton, are on a constrained site and do not have the capacity for expansion.

4.8 The school boundaries are shown in Appendix A. What this demonstrates is that Yatton Infant and Junior School, that share a site, are collectively located on land that measures approximately 2.3ha, or 23,000sqm. According to Building Bulletin 103 ("BB103") (CD M8) this site is large enough to accommodate 630 pupil places, as shown below in Table 5. This means that while it is not large enough to accommodate an expansion to 4FE, this would be very unlikely to occur anyway, as there are no 4FE Primary, Infant, or Junior Schools in North Somerset, and they are rare.

4.9 However, the school is large enough to accommodate 3FE's worth of children, which at present it is not, as it is only open as a 2FE in the Infant School, but has a core of 3FE, and is thus not utilising its entire available published capacity.

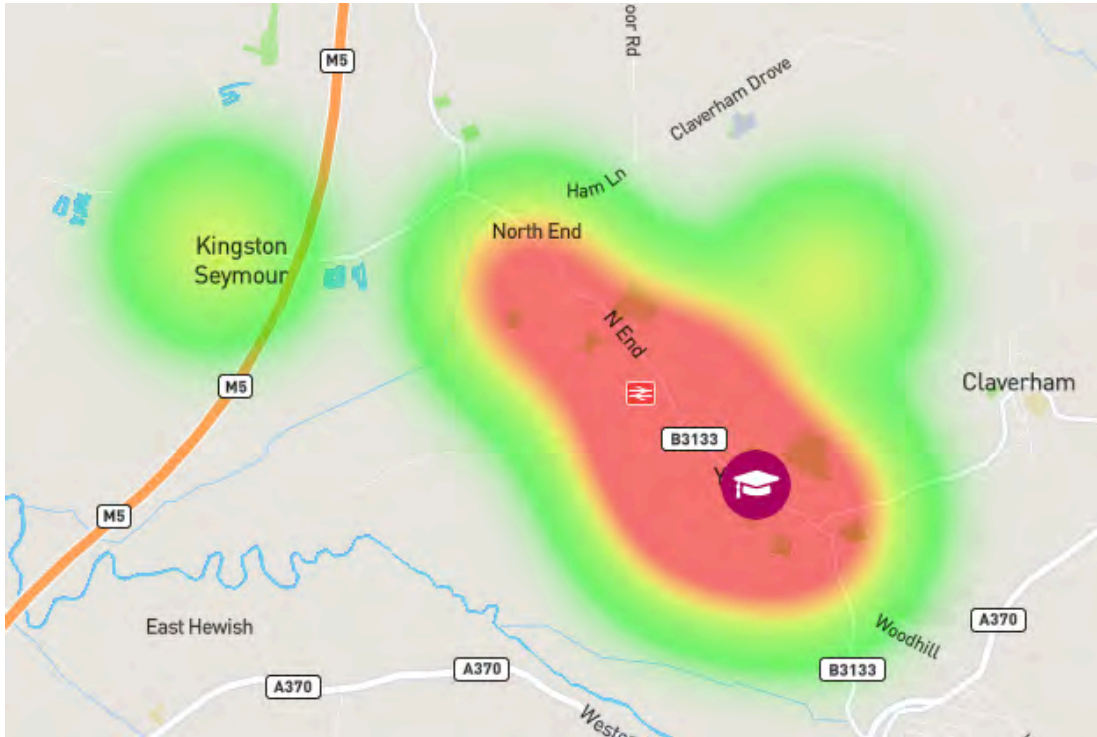
Recommended minimum site areas for all schools	Base area for any:		Area per pupil place for:			
	primary school	secondary or middle school	Nursery	Reception and Key Stage 1	Key Stage 2 - 4 & post-16	5 to 11 primary
1. Soft outdoor PE	-	6000	-	-	35	20
2. Hard outdoor PE	400	400	-	1.5	1.5	1.5
3. Soft informal and social area	600	600	2	2	2	2
4. Hard informal and social area	200	200	1	1	1	1
5. Habitat	0	0	0	0.5	0.5	0.5
Float	600	800	2	5	5	5
Minimum net site area	1800	8000	5	10	45	30
Non-net	200	1000	1	1	5	3.3
Minimum total site area	2000	9000	6	11	50	33.3
Recommended maximum site areas for new schools (minimum for existing schools where available)						
Maximum net site area	2000	9000	6	11	50	33.3
Maximum total site area	2400	11000	7.5	14	63	42

Recommended site areas for all types of mainstream schools

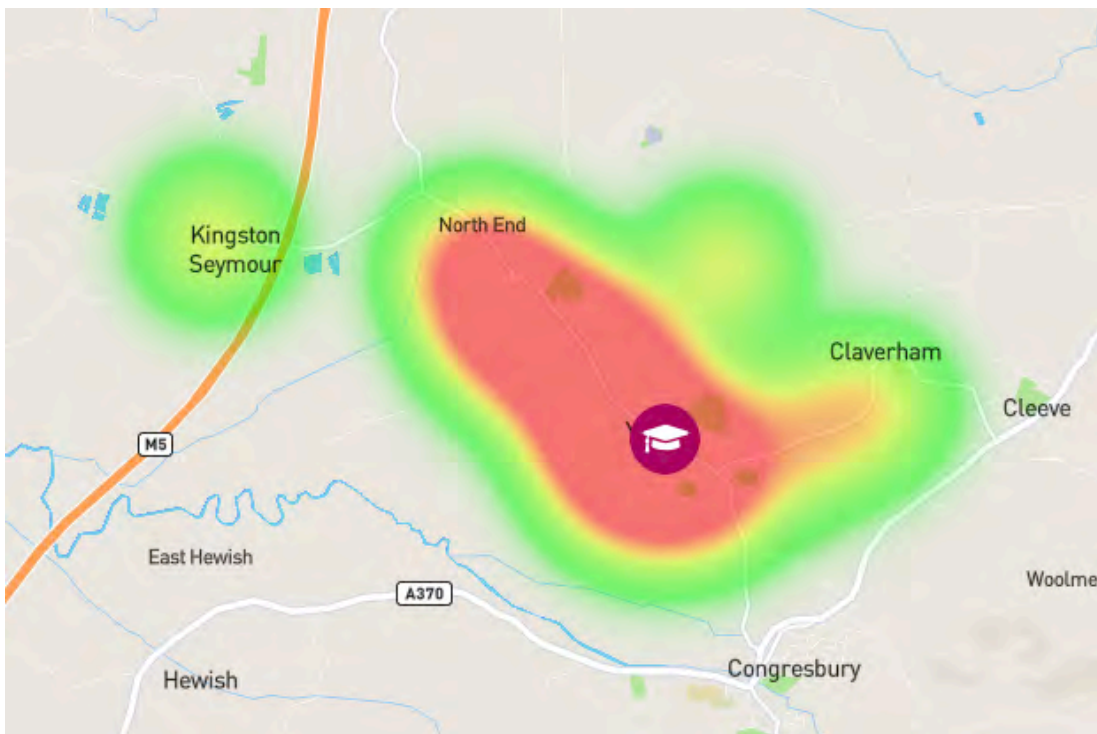
Table 5: BB103 School Site Areas Calculation

4.10 When looking at the area that the schools draw pupils from, they are accommodating children from Yatton, and small numbers from the neighbouring settlement of Kingston Seymour, as shown in the Maps below:

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Map 3: Yatton Infant School Catchment Area Heat Map (via schoolguide.co.uk)



Map 4: Yatton Junior School Catchment Area Heat Map

- 4.11 With regards to Yatton Infant and Junior School, NSC has stated the following in their Statement of Case:

The schools also rely on temporary buildings that are coming to the end of their life.

- 4.12 What is evident is that NSC has CIL funds to draw from to either a) replace the temporary buildings, or b) build new permanent provision on the site to allow the schools to operate as 3FE schools. The site is large enough to accommodate this, which is evident as it already has been operating at this level previously.

- 4.13 The third closest school to the development site is a new school that opened in the 2021/22 academic year for 1FE's worth of pupils – Chestnut Park Primary School. The school, as of the current academic year, was operating at 74% of its capacity in the three years that the school is open, with 23 spare places. It is well within a safe statutory walking distance of the proposed new houses, at a distance of 1.3 miles.

- 4.14 Chestnut Park Primary School is located on a large square site of 1.9ha (see Appendix B), which is large enough to comfortably accommodate 2FE's worth of provision (see Table 5). This was confirmed by NSC who stated:

The appellant has argued that a replacement primary school has already been constructed in Yatton, which has capacity to expand to 2 forms of entry. Therefore, there is no longer any need to safeguard additional land in Yatton for this purpose. The Council will demonstrate that the Chestnut Park Primary School, which is located at the northern extremity of Yatton, is intended to absorb demand from new development at the end of the village and is insufficient to cater for prospective future demand throughout Yatton.

- 4.15 To summarise the above: there are currently 55 spare places in the three schools that directly serve Yatton children based on their admission numbers. However, when looking at their actual physical capacities, the schools have 145 spare places, which is 0.7FE. This is significantly more capacity than the expected child yield of this development. Furthermore, when you add in a potential 210 additional places at Chestnut Park Primary School, this equates to 345 surplus places, or 1.6FE.

4.16 However, this is not the entire story. NSC produced projections for the four schools that form the Backwell Group B Primary Planning Area. This is the three schools discussed above, and the neighbouring small school known as Court-De-Wyck Church School. The four schools have a physical capacity of 980 pupil places:

Primary Planning Area	School Name	Time Period	Primary Capacity	Secondary Capacity
8020019	Court-De-Wyck Church School	202122	140	0
8020019	Yatton Church of England Junior School	202122	360	0
8020019	Chestnut Park Primary	202122	210	0
8020019	Yatton Infant School	202122	270	0

Table 6: Backwell Group B Primary Planning Area Schools (via the DfE)

4.17 NSC is forecasting that the roll at these schools will fall in the coming years, so that by the 2027/28 academic year, they will have a combined roll of 631 pupils, which is 349 spare places (1.7FE). The projections include the child yield of all approved developments in the Planning Area up to the point that the projections were produced (the midpoint of 2023, which therefore includes most, if not all, of the approved developments discussed in Table 3):

LA name	Year	Planning Area Code	Planning Area Name	Planning Area Phase	nc Year Group	Pupil Forecast ...
North Somerset	202223	8020019	Backwell Group B Primary	Primary	Primary total	699
North Somerset	202324	8020019	Backwell Group B Primary	Primary	Primary total	682
North Somerset	202425	8020019	Backwell Group B Primary	Primary	Primary total	665
North Somerset	202526	8020019	Backwell Group B Primary	Primary	Primary total	650
North Somerset	202627	8020019	Backwell Group B Primary	Primary	Primary total	642
North Somerset	202728	8020019	Backwell Group B Primary	Primary	Primary total	631

Table 7: NSC SCAP 2023 Projections (via the DfE)

4.18 What Table 7 demonstrates is that in spite of development coming forward in Yatton, which as Table 3 demonstrates includes 444 recent occupations out of a total of 770 approvals (with 336 dwellings pending approval), numbers in the Primary phase are still forecast to fall, and the planning area is expected to have 36% surplus capacity, which far exceeds the 5% target discussed in Section 3 of this Proof of Evidence (which itself is excessive). This is prior to any future expansion of Chestnut Park Primary School.

4.19 The fall in roll numbers is, again, not surprising. Firstly, it is reflection of the falling birth numbers across North Somerset, as per Graph 1. Second, it is also reflective of

a much lower child yield from new developments in Yatton than has been previously anticipated.

4.20 However, even if the figure of 0.461 pupils per dwelling is to be relied upon (which this Proof calls in to question, but to utilise it as a worst-case scenario example) then this is the outcome:

- As per Table 3, there are a potential 662 unoccupied dwellings in developments that have approval, and are pending approval, including this development (1,106 total minus 444 occupied = 662 remaining dwellings);
- 662 dwellings x 0.461 = 305 Primary School aged pupils (1.45FE);
- There are expected to be 349 spare places (1.7FE) in the Backwell Group B Planning Area by 2027/28;
- This spare capacity could be increased to 559 spare places (2.7FE) if Chestnut Park Primary School is to grow to 2FE;
- The headroom is substantial and considerably beyond any margin of error, and therefore the Inspector can have a very high confidence in this conclusion.

4.21 If you apply the average child yield seen in the Yatton (as discussed in Section 3 of this Proof of Evidence) to the remaining number of dwellings expected to be constructed you get the following:

- 662 dwellings x 0.255 = 169 Primary School aged pupils (0.8FE).

4.22 A total of 169 pupils could be accommodated within the existing school landscape without the need for any expansion of Chestnut Park Primary School, based on the current spare capacity and falling rolls. In which case, not only is a school site not required on this development, but neither is any expansion to Chestnut Park Primary School.

4.23 What the above has demonstrated is that there is no evidential basis to reserve a Primary School on this development, which is in direct contrast to the statement made in RfR 4 (and explains why it was rescinded). However, there are two more pertinent points to discuss in relation to this Appeal: the first is the CIL Regulation 122 (2) compliance of Primary School land reserved on site; and the second is the impact that a fourth school in Yatton would have on the existing school landscape.

4.24 To first discuss the CIL Reg 122 compliance of the requirement for Primary School land to be located on this development: a development of 190 dwellings is expected to generate a maximum of 88 Primary School aged pupils (according to NSC, but not backed up by evidence). This number of pupils is 12-13 per Year Group, which is not enough to trigger the need for a Primary School. This is discussed in the DfE's best practice guidance document (CD M7) (paragraph 60 on page 24) which states:

Many local authorities find the best approach is to open a school at the stage in the development where there is expected to be a viable number of pupils to admit into Reception (which varies but can be around 20 pupils), adding one new year group each academic year until all seven year groups are in place.

4.25 On the basis of the above, this development never reaches the trigger point of sufficient Reception aged children to open a new school. This means that a school site on the development provided gratis is not fairly and reasonably related in scale and kind to the development.

4.26 Furthermore, due to the spare capacity, which is growing, it is evidently not necessary to make the development acceptable in planning terms. It therefore clearly fails two of the three tests of CIL Regulation 122 (2).

4.27 To now discuss the impact of new schools on a Planning Area. Paragraph 64 of the DfE's best practice guidance states:

When a new onsite school is proposed to be built early in the development of an urban extension or new settlement, you will naturally consider the effect this might have on parental demand and the viability of existing schools. To minimise detrimental impacts on existing schools while supporting local planning authorities to

plan new communities, you should work with school providers and the relevant Regional Director to promote opening strategies that will maintain equilibrium in school populations across your area.

- 4.28 What the DfE recognises here is that parents are attracted to new provision, which means that opening a new school can draw applicants away from established schools. This impacts their funding, and their ability to operate effectively. This looks like it has occurred in Yatton already, with Yatton Infant School's admission number being reduced from 90 to 60 at the same time that 30 places have been added at Chestnut Park Primary School.
- 4.29 State funded schools are funded on a per pupil basis. At a time of long-term falling pupil numbers, school roll numbers are critical to a school's financial stability. Whereas adding in new schools, and thus additional capacity, to an Education landscape/Planning Area has not been an issue in the past, it is now, and for the foreseeable future, a very important issue. Education Authorities should always look to grow existing schools rather than building new ones, as it helps aid the viability of a school if it can grow. From NSC's perspective, as CIL funding pays for new provision, expanding existing provision is better value for money, undoubtedly at a time when NSC's demands on the CIL budget are various and significant.
- 4.30 The combination of all of the evidence outlined above serves to demonstrate that there is no reason for a fourth school to open in Yatton, and thus the reservation of a school site on this development is clearly excessive. NSC's RfR 4 should therefore be disregarded.

5 Education Summary and Conclusion

5.1 NSC has previously stated as a Reason for Refusal against this application the following:

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.

5.2 This Proof of Evidence has demonstrated that this is not an appropriate reason for this development not to progress, and also explains why the RfR was rescinded. This is for a number of reasons, specifically:

- Birth numbers are falling across North Somerset;
- There is capacity in the schools in Yatton, including a full 1FE's worth of space in Yatton Infant School;
- The number of spare places at schools in Yatton is forecast to grow, in spite of development coming forward in the village;
- The child yield of developments in Yatton has been lower than anticipated; and
- There is expansion potential at a school in Yatton that directly serves this development.

5.3 When taking all of these elements in to account, it is evident that a Primary School site on this development cannot be considered to be necessary to make the development acceptable in planning terms, and should therefore not be afforded any weight in the planning balance.



Signed:

A handwritten signature in black ink, appearing to read 'Ben Hunter', written in a cursive style.

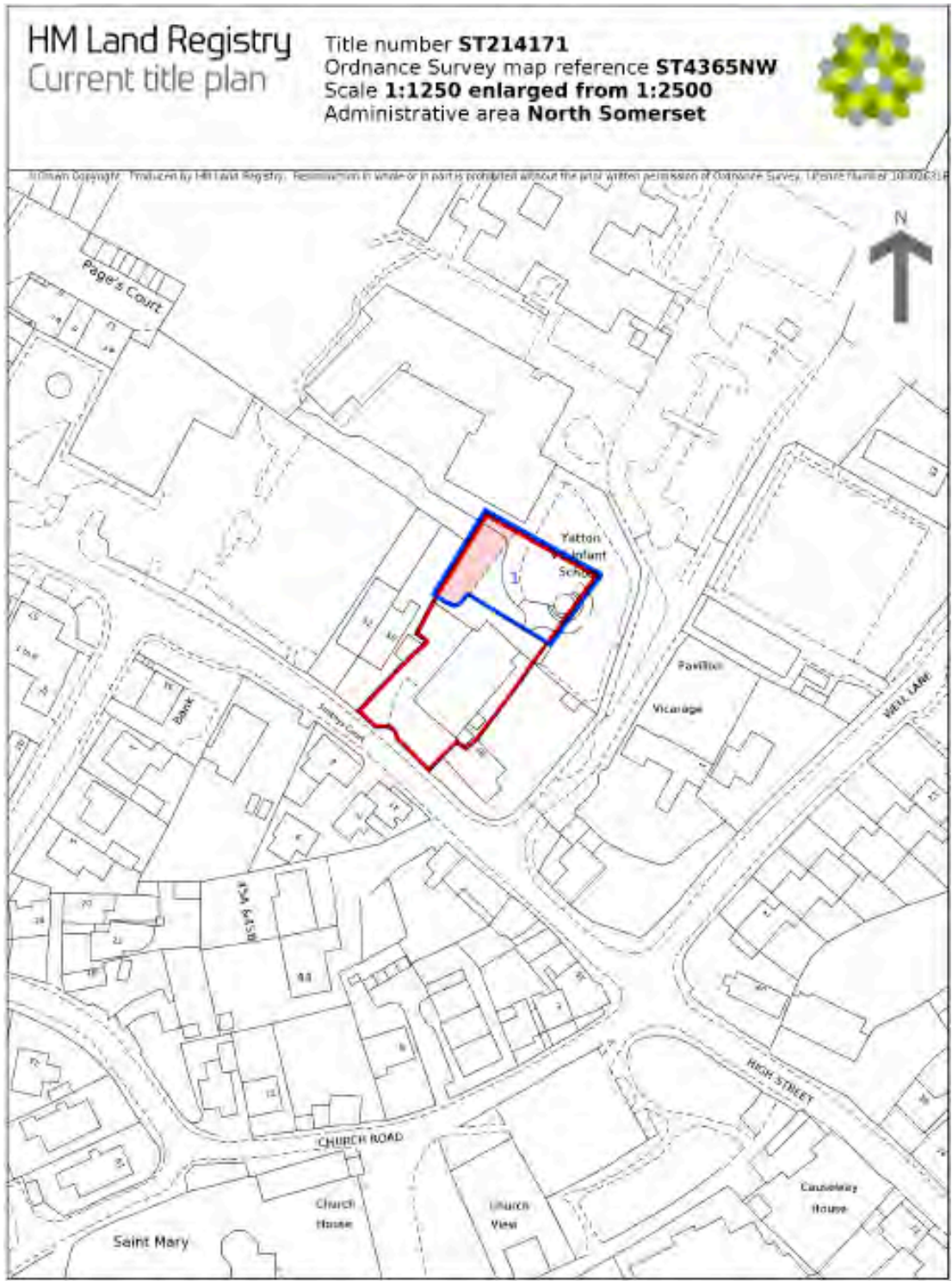
Ben Hunter

Associate Director – Education and Social Infrastructure

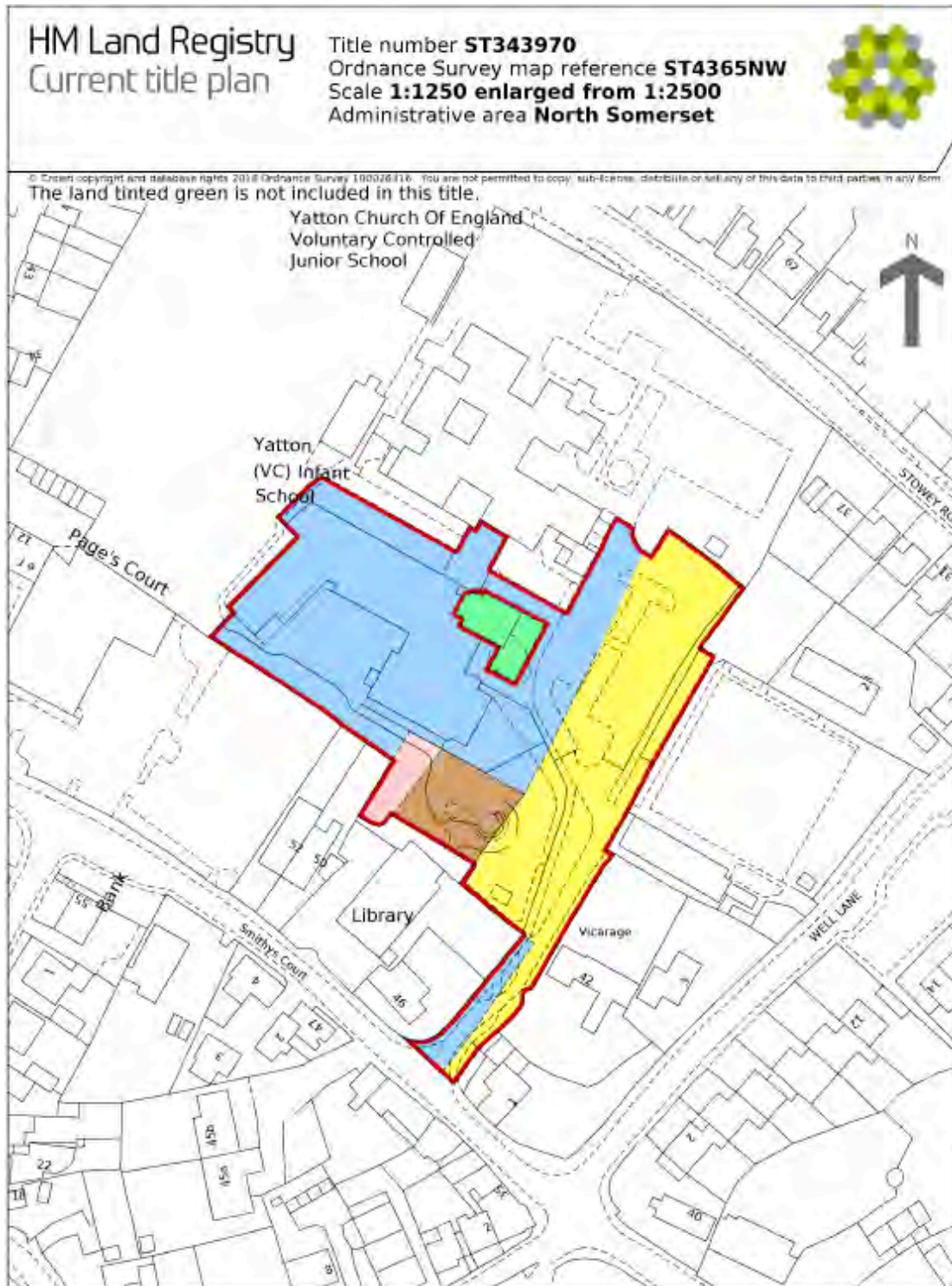
EFM

23rd August 2024

6 Appendix A: Yatton Infant and Junior School Site Boundaries (via the Land Register)



YATTON, NORTH SOMERSET
EDUCATION S106 REQUIREMENT
PROOF OF EVIDENCE



YATTON, NORTH SOMERSET
EDUCATION S106 REQUIREMENT
PROOF OF EVIDENCE



APPENDIX 13

SUMMARY OF THIRD PARTY COMMENTS AND RESPONSES

Land at Rectory Farm – Appeal Reference XXX

Category	Issues	Response
<u>Lack of Infrastructure</u>	Too much housing is being built in Yatton for the amount of infrastructure in the village	Whilst the reason for refusal relates to the overall quantum of development in Yatton, the Officer Report identifies no actual harm that will result from additional housing growth in the village.
	The GP surgery is already struggling and has no capacity for new patients	No request for GP contributions has been received during the course of the planning application. The application was originally proposing to include a new medical centre on the site however concerns were raised at the pre-application stage in respect of its deliverability.
	Current services are already overloaded or non-existent.	Whilst the reason for refusal relates to the overall quantum of development in Yatton, the Officer Report identifies no actual harm that will result from additional housing growth in the village.
	There is currently no regular bus service [to WsM], only a temporary minibus service. There is no guarantee that the bus service will be reinstated.	The highway authority has requested £180 / per person towards bus / train taster tickets and £160,000 towards public transport upgrades. Increased patronage should improve long term sustainability.
	The train and bus destinations are extremely limited.	The highway authority has requested £180 / per person towards bus / train taster tickets and £160,000 towards public transport

		upgrades. Increased patronage should improve long term sustainability.
	The scheme brings no new facilities to Yatton.	The Appeal Scheme is proposing to deliver land for a Class E use – which could include, for example, a café or shop/
	There is provision in the plan for an additional medical centre but no commitment to actually deliver it.	The medical centre is no longer expressly proposed as part of the application as feedback at the pre-application stage raised questions on its deliverability.
<u>Highways</u>	<p>The main high street is very narrow in places, the expected number of lorries will cause a danger.</p> <p>There has been a huge increase in vehicles travelling through the High Street since building in North End Yatton.</p> <p>The village backs up when there is an accident on the M5.</p> <p>Additional vehicle movements will contribute to an already inadequate and congested road system.</p> <p>Routes from the site would be Grassmere Road, Heathgate and Mendip Road. All are residential streets with parked cars and an inadequate capacity to absorb further traffic.</p> <p>Mendip Road serves as an alternative route instead of the High Street and traffic will increase once traffic calming measures are implemented in the High Street.</p> <p>Grace Close has a blind bend and increased traffic will increase the accident risk.</p> <p>There is a blind bend on exiting Grassmere Road onto the High Street.</p>	<p>Whilst the comments in respect of concerns about highway matters are noted, there is no objection from the Council on highway grounds.</p> <p>The Appellants submitted a comprehensive Transport Assessment with the planning application which can be found at Core Document A22 along with an updated Travel Plan at Core Document B11.</p>

	<p>Traffic frequently builds up from the traffic lights at Congresbury back to the hotel and gym</p> <p>There are issues with on street parking, traffic volume, and visibility.</p> <p>Will there be traffic calming measures on Mendip road?</p> <p>Grassmere Road is particularly hazardous, due to the 'S' bend just before it joins the High Street B3133. Motorists cannot see oncoming traffic until it is too late. This results in cars reversing or mounting the pavement</p> <p>Emergency vehicles are at risk of not having access via any of these restricted routes.</p> <p>Large volumes of construction traffic will undoubtedly cause congestion and hazards.</p> <p>Incorporating access from the South development (Rectory farm) will result in traffic from both developments using either Shiners Elms or Chescombe Road. Both of which are inadequate access roads for the volume of traffic.</p> <p>There would also be the additional traffic to the proposed 'Class E' buildings.</p> <p>Side roads are overused for parking.</p> <p>Access to the site from Shiners Elm is wholly insufficient for a development of this size.</p> <p>Shiners Elm is not a suitable access for construction traffic and additional traffic from the dwellings.</p> <p>Proposals are contrary to Policies CS10, DM24 and the NPPF.</p> <p>Impact on the local community of pollution by dust, noise and emissions generated by construction vehicle movements will cause a</p>	
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	<p>significant detrimental impact on the living conditions and health of residents</p> <p>Councillors expressed concern that if approved, the level of construction vehicles may jeopardise the re-instatement of the X5 bus service after the completion of the High Street Safety Improvements Scheme.</p> <p>A bypass is needed</p>	
<u>Affordable Homes</u>	<p>It is a sign of the inherent weakness of the scheme that 50% affordable housing is put forward</p> <p>50% affordable housing is a cynical attempt to add positive weight to the tilted balance and outweigh policy conflicts</p> <p>Questioning the affordability of affordable housing</p> <p>Dispute over provision of shared ownership properties and if these are actually affordable, desired, or required</p>	<p>The Council have a minimum benchmark provision of 30% affordable housing however there is no upper limit. The Affordable Housing report submitted with the application (Core Document B8) showed the acute need for affordable housing in Yatton.</p> <p>The composition of affordable housing has been agreed with the Council.</p>
<u>Housing Requirement</u>	<p>The abolition of housing targets in the current legislation will allow local authorities to stop inappropriate housing applications and I hope that the Bill, which is currently in the House of Lords, will pass into law as soon as possible.</p> <p>It would appear that Yatton's housing expansion has, in part, met a demand for second homes and buy-to-let purchases</p> <p>North Somerset Council's housing target should be redistributed between other adjacent local authorities with low or no flood risk areas</p> <p>Conflicting instructions from Government. On the one hand the National Planning Framework instructed councils not to build on</p>	<p>The new Labour Government has made it clear that provision of new sufficient housing is a top priority for them. Consultation is currently taking place in respect of potential changes to the planning system to allow more housing to be delivered. For North Somerset, this could mean an increase in its housing requirement.</p> <p>Based on current planning policy, it is agreed with the Council that there is a shortfall in their housing land supply position such that the need more houses to be delivered within the next 5 years.</p>

	flood plain, and on the other they were instructed to meet housing targets	
	Yatton has had its fair share of new housing already	
<u>Flood Risk</u>	<p>The current plans to build on Yatton Batch are completely inappropriate and the Government currently has legislation passing through Parliament which will make clear its opposition to building on flood plains.</p> <p>Flooding is an extreme worry in the context of climate change</p> <p>Insufficient evidence to demonstrate that drainage can be satisfactorily managed without increasing flood risk to existing properties</p> <p>If the drainage scheme fails, there will be no redress for victims</p> <p>The risk is too great and householders will become uninsurable</p> <p>If the water table is affected this could destabilise the underlying clay and undermine the foundations of existing properties leading to subsidence or heave</p> <p>Land currently prevents the existing houses on the boundary from flooding</p> <p>Impact of the proposed development on surrounding properties in terms of drainage and ground stability</p> <p>Gardens already become waterlogged after heavy rain and require the rhyme network to help disperse water</p> <p>The site becomes extremely waterlogged after heavy rain</p>	<p>Flood Risk matters are dealt with comprehensively in the evidence of Mr Mirams and in Section 9 of Mrs Ventham's evidence in relation to the application of the sequential and exception tests.</p>

	<p>Site operates as a floodplain and is in Flood Zone 3</p> <p>Not an appropriate location for the building of new residential properties</p> <p>Submitted Flood Risk Assessment is inadequate in providing justification for development on the Site</p> <p>The Flood Risk Sequential and Exception Test Document assesses the suitability of the site against other potential development land across North Somerset. It concluded that this site could accommodate this size of development within the sequential flood risk test process. The designation of being the 'least bad' site does not make it a good site for development.</p> <p>Concern regarding the impact on the existing watercourses in terms of erosion and harm resulting from vast quantities of hardcore required to raise the land and the resulting runoff from this into the rhynes over the construction period.</p> <p>If an emergency evacuation plan is required then the site shouldn't be considered</p> <p>Suggest a 100 year moratorium be placed on the developers to compensate residents if they are that confident about alleviating flooding.</p>	
<p><u>Design</u></p>	<p>The height of 2.5 & 3 storey buildings will be out of character and would be overbearing for the existing residents.</p> <p>This DAS statement does not consider the health and wellbeing of the existing residents, who currently enjoy the landscape and nearby amenities, and observe the natural world</p>	<p>The DAS sets out how the Appeal Site has the potential to deliver a high quality development which will actually enhance this edge of Yatton. The Officer Report produced by the Council is in agreement in this regard.</p>

<p><u>Attenuation Lakes</u></p>	<p>Danger of drowning for young children</p>	<p>The provision of attenuation ponds is common place on developments. A management and maintenance regime will be put in place for them.</p>
	<p>The lakes require regular maintenance to prevent them from becoming overgrown and clogged.</p>	
	<p>The water can become stagnant and smell. It can breed mosquitos, which can carry disease.</p>	
<p><u>3m raise</u></p>	<p>If our fields and the Batch which flood badly now after heavy rain, are raised by the expected 3 metres, or any amount as intended, then our homes will be subject to flooding also. This is a real concern to us all.</p>	<p>These matters are dealt with in the evidence of Mr Mirams.</p>
	<p>The 3m raise will result in new properties being out of scale with surrounding development and would be overbearing and would dominate adjacent dwellings</p>	
	<p>Construction work on this scale will undoubtedly cause pollution to the rhyne network and the nearby SSSI</p>	
	<p>This engineering work will prevent the site from playing its current role as a floodplain and will thus displace flood waters elsewhere</p>	
	<p>If the displacement falls to the east it will affect current residents of Yatton. If to the North it will harm the mainline railway, and if to the south and west harm land designated as an SSSI or sites with permission for residential development.</p>	
	<p>Appeal decision APP/D0121/W/21/3286677 is of relevance – the provision of residential development on Flood zones 2 and 3 was considered wholly inappropriate such that a condition was imposed to restrict the development of that site to ensure residential elements feature only in Flood Zone 1.</p>	

	<p>Given the layout of the site here, this would not be possible and thus the proposal is in conflict with Policy CS3 and DM1</p> <p>How would the raised level be accommodated for in access roads?</p> <p>The land has been previously raised by the farmer and failed</p>	
<u>Grassed and Planted area</u>	<p>There is no indication as to who will be responsible for its maintenance.</p> <p>Without a management plan the area will soon degenerate into a boggy eyesore and wasteland.</p>	A maintenance regime will be put in place in agreement with the Council – likely via a 3 rd party management company,
<u>Site location</u>	The proposed site which is ‘Green fields’ is particularly isolated and has very limited access, for such a large development	The appeal site is located on the western edge of Yatton which is higher order settlement in the adopted Local Plan.
<u>Compliance with Policy</u>	<p>The site is not in the local development plan.</p> <p>The site is outside an adopted settlement boundary</p> <p>The council has failed to use the development plan to appropriately meet the needs of the local area. Shown in the council’s failure to plan to deliver sufficient housing to meet the Objectively Assessed Need for new housing over a 5-year period</p> <p>The application is an example of a speculative planning application in an inappropriate location due to the lack of 5YHLS rendering the local plan out of date</p> <p>Due to the government legislating to remove the 5YHLS target at the time of the response (May 2023), limited weight should be given to the lack of a 5YHLS in North Somerset</p>	<p>It is agreed with the Council that there is no conflict with the Yatton Neighbourhood Plan and the Council have removed their objection in this regard.</p> <p>With regard to the overall spatial strategy, this is deal with in Section 8 of Mrs Ventham’s evidence. However, it is correct that the Council cannot demonstrate a 5 year supply of housing land.</p> <p>There is no longer any proposal to remove reference to the need to demonstrate a 5 year supply of housing land. Indeed the new Labour Government are seeking to accelerate housing delivery.</p>

	Application should be refused in conflict with policy CS32 of the Yatton Neighbourhood Plan	
	Application is in conflict of Policy CS14	
	In conflict with NSC Biodiversity Action Plans and policies	The Appellant has submitted a number of ecology reports which can be found at Core Documents A9, B1 – B4 and B14 and B15.
<u>Ecology and environment</u>	Developing on this site will have an adverse effect on the residents' health and the biodiversity.	<p>The site is not Green Belt.</p> <p>With regard to ecological matters, there is no objection from either the Council or Natural England on ecological grounds and the Appellant has submitted a number of ecology reports which can be found at Core Documents A9, B1 – B4 and B14 and B15.</p>
	Loss of biodiversity and habitats	
	Flood mitigation will have an impact on the SSSI	
	Site is located in an area identified as a key locality for bats, raising the site 3m would also impact this	
	<p>The mitigation scheme to offset the impact on bats is insufficient</p> <ul style="list-style-type: none"> - It does not provide for this land to come out of commercial farming - It does not recognize that this land will be subject to additional significant flood risk - There does not appear to be any suitable mechanism for checks, controls or monitoring of this mitigation 	
	The mitigation field is already used by bats	
	The application is in conflict with policy CS4 and paragraph 175 of the NPPF and should be refused	
	Negative impact on the Strawberry Line Nature Reserve, the Biddle Street SSSI and Bats SAC	

	<p>Councillors cannot conceive why an Environmental Impact Assessment was not required for this green field site located alongside these crucially important areas of nature preservation</p> <p>The cumulative impact on the ecology and biodiversity of this site and the approved Rectory Farm site should be considered when assessing the impact of developing this large swathe of land running alongside these critical areas of nature.</p> <p>Proximity to the strawberry line</p> <p>CO2 emissions from construction</p> <p>Great crested newts live in the fields</p> <p>Increased wildlife on fields since the sheep stopped grazing there</p> <p>Potential for contamination</p> <p>The land is green belt</p> <p>The BNG will take years to be felt or seen</p> <p>Light spill will be a significant source of harm to bats</p> <p>There will be no way to ever make this development carbon neutral</p> <p>Complaints about the choice to use a management company</p>	
<p><u>Planning History and strategy</u></p>	<p>The below aren't included in the Planning Statement's history search</p> <p>NSC planning map lists application 1497/81 – Land at the rear of Shiners Elms, Residential development – Refused in 1981.</p> <p>NSC planning map lists application 2684/76 – Land adjoining Shiners Elms Ashleigh</p>	<p>Given the age of these applications (both over 40 years ago), they are not relevant to the assessment of the Appeal Scheme as planning policy has changed significantly in the intervening years.</p>

	<p>Gardens estate, Residential development – Refused in 1977.</p> <p>It is not acceptable to reserve some matters. Outline planning should not be granted unless key requirements are met, even if described in summary. The applicant has not provided this.</p>	<p>Outline planning applications are a valid and acceptable form of planning application. Despite the application being submitted in outline, the Appellant included a comprehensive Design and Access Statement setting out the development principles and parameters for the site. This can be found at Core Document A8.</p>
	<p>Developers are in cahoots with ministers</p>	-
<u>Public consultation</u>	<p>Issues with leaflet distribution.</p> <p>The public had very little time to ask questions during the consultation.</p> <p>The technical consultants had very little knowledge of the area.</p>	<p>An on-line webinar was held – all questions which put forward by residents were answered and the event was not brought to an early or abrupt end. Residents were asked on several occasions if there were any further questions prior to the end of the webinar.</p>
<u>Existing community/residential amenity</u>	<p>Shiners Elms consists of only 13no. houses with very little traffic or noise pollution. The residents have fostered a community spirit that would be lost if the road was open to traffic</p> <p>We have an environment where we all know each other, and we have an effective Neighbourhood Watch. This would be lost as soon as construction traffic arrived.</p> <p>The proposal would demonstrably harm the amenities enjoyed, in particular, valuable ‘green space’, privacy and the right to enjoy a quiet and safe residential environment.</p>	<p>Whilst this comment is acknowledged, there is no highway objection in this regard and it is good practice to link existing and proposed developments to foster community cohesion.</p> <p>Construction traffic would not hinder Neighbourhood Watch activities.</p> <p>The land in question is currently private land with no public access. Whilst this comment is noted, there is also a need to provide homes for those who need them.</p>

	<p>Disharmony between proposed multi-storey apartments on elevated plateau vs existing residential – overlooking issues</p> <p>In conflict with Policy CM32</p> <p>Negative impact on village character</p> <p>Does not accord with the linear form of the village</p> <p>The minister dismissed a recent appeal ruling that the development would result in “<i>loss of daylight for neighbouring properties and result in “harm” to their living conditions</i>”. The same would apply here</p>	<p>The Design and Access Statement can be found at Core Document A8 and sets out how the development responds to the existing character of the area and will improve the western edge of the village – the Council are in agreement in this regard.</p> <p>The Council have not raised any objection in respect of the potential impact on residential amenity and given the location / scale of houses are a reserved matter – this can be dealt with at a later stage.</p>
	<p>Reduction in existing property value</p>	<p>Property value is not a planning matter.</p>
	<p>Impact of construction on ability to use gardens/have windows open etc</p> <p>Effect on physical and mental health of existing residents</p>	<p>A Construction and Environmental Management Plan will be required to be prepared to minimise impacts on existing residents.</p>
<p><u>School land</u></p>	<p>The application does not make any reference to the land on the site that is currently designated for a school within North Somerset Council’s Core Strategy and the Draft Local Plan 2038.</p>	<p>This is covered in Section 11 of Mrs Ventham’s evidence.</p>
<p><u>Class E buildings</u></p>	<p>Regarded as areas which attract anti-social behaviour and vandalism</p>	<p>Class E is a flexible use class which could incorporate a number of different options including for example a shop or a café. It is unclear as to why a facility for the benefit of the community would attract anti-social behaviour.</p>