



**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 - SUMMARY**  
**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 27<sup>th</sup> March 2023 and validated on the 6<sup>th</sup> 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 4<sup>th</sup> April 2024 and following the submission of amended documents as detailed below, the following amended description of development was agreed between the Appellant and the Council (to respond to matters raised in recent case law<sup>1</sup>, 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***

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<sup>1</sup> 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 24<sup>th</sup> 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 27<sup>th</sup> June 2024 and the reasons for refusal then confirmed in their Statement of Case on the 2<sup>nd</sup> 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 29<sup>th</sup> July 2024, the Council advised that they would no longer be advancing a case in respect of conflict with the Yatton Neighbourhood Plan. 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 16<sup>th</sup> 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.

## 3 The Appeal Case

### 3.1 Main Issues / Evidence Structure

3.1.1 Following the Case Management Conference (CMC) on the 18<sup>th</sup> 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 compliance 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, drawing also on the evidence of others.

## **4 The Development Plan**

### **4.1 The Development Plan**

4.1.1 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.

4.1.2 The Development Plan comprises the following:

- Core Strategy (2006-2026) (adopted (in full) 10th January 2017);
- Sites and Policies Plan part 1: Development Management Policies (2006-2026) (adopted 19th July 2016);
- Sites and Policies Plan Part 2: Site Allocations Plan (2006-2026) (adopted 10th April 2018);
- Yatton Neighbourhood Plan (2017-2026) ('made' July 2019).

### **4.2 Summary**

4.2.1 I draw a conclusion of compliance with the Development Plan read as a whole.

## 5 OTHER MATERIAL CONSIDERATIONS

### 5.1 National Planning Policy Framework (NPPF)

5.1.1 I conclude that the policies contained within the NPPF weigh in favour of the grant of planning permission for this site.

### 5.2 Emerging Local Plan 2039

5.2.1 With regard to the plan review, on the 2<sup>nd</sup> 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”*

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

### 5.3 Housing Land Supply

5.3.1 The Council cannot demonstrate a 4 or 5 year supply of housing land.

### 5.4 Affordable Housing

5.4.1 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.

5.4.2 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.

## 6 Main Issue 1 / Reason for Refusal 1

### 6.1 Spatial Strategy

6.1.1 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.*

### 6.2 Summary

6.2.1 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.

## 7 Main Issues 2 / Reason for Refusal 2

### 7.1 Reason for Refusal 2 – Sequential Test

7.1.1 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.*

### 7.2 Agreed position between the Appellant and the Council

7.2.1 Following the comprehensive identification and review of sites by the Appellant, there is now dispute in respect of 36 sites.

### 7.3 Sequential Test Conclusion

7.3.1 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. 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.

7.3.2 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.

### 7.4 Exception Test conclusion

7.4.1 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”.

- 7.4.2 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.

## 8 Main Issue 3 / Reason for Refusal 3

### 8.1 Flood Risk

8.1.1 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.***

8.1.2 At the time of preparing my evidence, the position on drainage is unclear given that the Appellant was advised at a meeting on the 21<sup>st</sup> 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.



## 9 Main Issue 4 / Reason for Refusal 4

### 9.1 Land for Primary School

9.1.1 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*

### 9.2 Summary

9.2.1 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.

## 10 Planning Assessment

### 10.1 The Development Plan

10.1.1 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”.*

### 10.2 Conclusion

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

## 11 Main Issue 5 / Planning Balance

### 11.1 Application of the Planning Balance

11.1.1 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 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.

11.1.2 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”.***

### 11.2 Planning Balance

11.2.1 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 <sup>2</sup>
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.  (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)

### 11.3 Flat Balance

11.3.1 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

<sup>2</sup> To be completed upon the finalisation of the evidence of Mr Paterson Neild.

permission under the flat balancing exercise. There is no “clear reason for refusal” under NPPF para. 11(d)(i) in relation to flood risk.

## **11.4 The Tilted Balance**

11.4.1 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.

## 12 Conclusion

- 12.1.1 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.
- 12.1.2 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.
- 12.1.3 This would remain so even if the Inspector was to take a different view and identify adverse impacts or policy conflict associated with the Proposal.
- 12.1.4 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.
- 12.1.5 I conclude that this Appeal should be allowed and planning permission should be granted, subject to planning conditions and a Section 106 Agreement.

