

Appeal Decision

Hearing held on 4 – 5 July 2024 and virtually on 5 September 2024

Site visits made on 4 & 5 July 2024 and 8 October 2024

by H Nicholls MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 January 2025

Appeal Ref: APP/E3335/W/24/3337357

Land West of Fortescue Fields, Norton St Philip

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Lochailort Investments Ltd against Somerset Council.
 - The application Ref is 2023/0640/FUL.
 - The development proposed is full planning permission for 8 dwellings including affordable housing. Formation of a 1.1ha area of open space, linking Church Mead with the Ponds Country Park, a new vehicular access and footpath links. Hard and soft landscaping including significant new planting including improvements to the tree belt along the boundary with Church Mead, ecological and biodiversity enhancements including bat replacement habitat. Car and cycle parking. Associated works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal was submitted against the failure of the Council to determine the application within the prescribed period. Since the appeal was lodged, the Council has indicated that, had it been in a position to determine the application, it would have refused it for three reasons. The third reason for refusal (RfR) has been addressed through the submission of a unilateral undertaking (UU) planning obligation, the draft versions of which were discussed during the hearing. The UU was finalised on 9 September 2024 and was received on the same date. The other putative reasons for refusal have formed the main issues in the appeal.
3. The appeal hearing considered this appeal and two other appeals on a neighbouring site, known as the 'East/South Site'. Those schemes are for 27 dwellings and 30 dwellings respectively. The site subject of this appeal is referred to as the 'West Site'. Whilst the common matters in all three appeals have been considered together, some aspects have been considered separately. I have issued separate decision notices for the two separate sites in the interests of clarity. However, as the separate decisions cover similar issues, there is some duplication between them.

4. In the submitted Statement of Common Ground on Housing Supply, the main parties agreed that the Council could not demonstrate a 5 year housing land supply as required by the National Planning Policy Framework (the Framework). Though the precise extent of the shortfall was not agreed, the parties did not consider it necessary to narrow the position from beyond the range of 2.46 years and 3.09 year supply positions offered by the appellant and Council respectively. Both parties agree either represent a very significant shortfall.
5. A revised version of the Framework was published on the 12 December 2024. The main parties were invited to comment on any relevant changes in writing. Of relevance, the Appellant's evidence indicates that the housing supply position has worsened with the Council's 3.09 year position revising down to 1.94 years and the appellant's position revising down to 1.54 years, or a shortfall of between 3,323 or 3,757 dwellings. The Council offer no evidence to the contrary and thus, a very significant shortfall has become an acute shortfall. I have taken account of the relevant changes of the Framework in reaching my decision.

Main Issues

6. The main issues in this appeal are:
 - the effects of the scheme on biodiversity, protected species and the designated Special Areas of Conservation (SACs);
 - whether the location of the development would accord with the development plan, and whether the scheme would be sustainably located having regard to the accessibility of the settlement and the available range of everyday facilities;
 - the effects of the proposal on the landscape character and visual amenities of the area, including the village setting of Norton St Philip and whether the scheme would constitute good design; and
 - the effects of the proposal on the significance of the designated heritage assets: Norton St Philip Conservation Area, The George Inn (Grade I listed building) and the Church of St Philip and St James (Grade II* listed building).

Context

7. The appeal proposals for the site and East/South Site adjoin 'Fortescue Fields Phase I' which involved the redevelopment of a former chicken factory to a residential development with convenience shop. The existing Fortescue Fields development also connects with a country park (Ponds Country Park) which serves a dual purpose as an area of open space but also as a strategic sustainable urban drainage feature.

Reasons

Biodiversity, protected species and SACs

8. The appeal sites are located around within the impact zones for the *Bath & Bradford-on-Avon Bats Special Area of Conservation* (BBA SAC) and *Mells Valley SAC*. The BBA SAC comprises extensive networks of caves, mines and man-made tunnels which are used by bats for hibernation, mating and as a

staging post prior to dispersal. It also includes areas of calcareous grassland, scrub and woodland which are used as feeding and commuting habitat by the bats. The qualifying species for which the BBA SAC is designated include Bechstein's bat, Greater horseshoe bat (GHB), Lesser horseshoe bat and Barbastelle bat. The impact zone radius varies with the different bat species, but the appeal sites are just within 4km of the Band C impact zone of the BBA SAC for GHBs.

9. The Mells Valley SAC has a similar list of qualifying habitats as the BBA SAC and also has GHB as a qualifying species. The appeal site is within Band C of the impact zone for GHBs from the Mells Valley SAC which extends out from 4 to 8 km from the SAC.
10. The Council's putative RfR refers to insufficient information having been submitted to demonstrate that there would be no significant effects on the Mells Valley SAC. Irrespective, as competent authority, I must ascertain that the schemes would not have an adverse effect on the integrity on any internationally designated site under the Conservation of Habitats and Species Regulations 2017, as amended (the Habitats Regulations), thus including the BBA SAC.
11. The hearing was undertaken across three days; 4 and 5 July (in person) and virtually on 5 September. The appellant submitted additional bat surveys in between the two hearing dates, specifically, on the 4 September. The submitted evidence relating to the effects on bats and biodiversity was discussed during both in-person and virtual events.
12. Following the closure of the hearing, and because likely significant effects on the SACs could not be ruled out, a draft appropriate assessment (AA), as required by Habitats Regulations, was prepared on the basis of my then views, on the evidence I had read and heard. As required by Regulation 63(3) of Habitats Regulations, the Statutory Nature Conservation Body (SNCB), Natural England (NE), was then consulted on the draft AA.
13. NE replied on the draft AA by way of a letter dated 16 October 2024 and referred to the written evidence pertaining to the appeal schemes sourced from the Council's website. It objected to the schemes, finding issue with the AA and evidence underpinning it. It also retracted an earlier consultation response on the schemes dated 24 May 2024 which indicated no objections on the basis of no likely significant effect to designated sites.
14. NE's objection details concerns including the omission of reference to the appeal sites falling within Band C of the BBA SAC in addition to Band C of the Mells Valley SAC; lack of robustness of bat survey effort; lack of clarity around Habitat Enhancement Plan (HEP) calculations; fragmentation of commuting routes and lighting thresholds.
15. The appellant provided a detailed response to the NE objection, which was again provided back to NE. In a subsequent response from NE dated 6 December 2024, it clarified and expanded upon the points made, but the overall position of objection was maintained.
16. The appellant's subsequent submission prepared by SWECO (dated 16 December 2024), including new evidence not invited as part of the process,

concedes that the site is within Band C of the BBA SAC which had not previously been acknowledged in the appellant's evidence. The submission downplays the significance of this factor but acknowledges that this has the effect of upgrading the baseline habitat value (and future enhanced habitat value) as part of the HEP calculations. The appellant had already conceded that the site is functionally linked to the Mells Valley SAC. However, NE's position is that the appeal sites should be considered functionally linked to both. Given the overlap of qualifying features, suitability of habitat, site size and relative proximity, I am of the view that there is a functional link to both SACs.

HEP Calculations

17. The original HEP calculations were not within the draft AA. Whereas I originally believed that the HEP calculations could be reevaluated post-approval, it has been clarified that the intent would be to do this only to account for any changes in the period between the original assessment and point in time prior to commencement of development. I am clear that a robustly established baseline is necessary now, irrespective of any changes that may be detectable through future survey effort.
18. In my view, despite the appellant's assessment through 36 transects by a FISC¹ Level 4 specialist, the value of grassland and hedgerow habitats on the appeal site appears to have been downplayed in the HEP calculations. The changes between iterations C01 and C02 the submitted Ecological Impact Assessments, differences to previous versions of botanical surveys undertaken by others and basic observations of my own about the species diversity appearing to exceed the 'fair' score recorded by the appellant suggests that the site may hold a greater value for SAC bat species than is being accepted. Similarly, there was little clarity about the use of management codes in the HEP calculations and limited evidence could be provided about the regularity and extent of works undertaken to demonstrate such codes were soundly applied.
19. NE indicate that the AA must refer to HEP calculations. The appellant's letter of 16 December 2024 agrees that the calculations may now be beneficially recorded in the AA. However, I am being invited to take into account HEP calculations adjusted and provided in December 2024 in response to an omission conceded by the appellant which had infected the original calculations, the basis of which had not been wholly accepted in the first place.
20. Given the sustained conflicting views of the parties, and despite the appellant's suggestion that the appellant would be obligated to compensate for any changed HEP differences above the confirmed mitigation requirements, I am of the view that the baseline HEP position has not been robustly established and nor can I be sure that adequate adjustments post-approval could be resolvable by way of the proposed conditions or S106 measures.

Bat survey limitations

¹ Field Identification Skills Certificate

21. The issue of bat survey limitations has been a reoccurring theme in the relevant exchanges. NE draw attention to the *Mendip District Bat Special Areas of Conservation (SAC): Guidance on Development: Supplementary Planning Document* (2019) (the Technical Guidance) which states that survey effort in Band C zones should be in accordance with guidelines from the Bat Conservation Trust (BCT). The recent (BCT) guidelines, *Bat Surveys for Professional Ecologists: Good Practice Guidelines* (2023), require that for sites of high and moderate habitat suitability for bats, static detector surveys should comprise of five consecutive nights of data collection every month between April and October. With the appeal sites, there is a commuting structure present and there is suitable habitat within and adjacent that supports prey species hunted by GHBs. In this case, despite the appellant's classification of the sites being of *low* suitability for bats, it undertook static detection over four months (April, June, July and August). Whilst the Technical Guidance suggests that developers also take advice from their consultant ecologist, it does appear that there is limited justification for the low suitability / alleged 'minor' effects on bats to justify a deviation from the BCT Guidelines.
22. Furthermore, there are many instances where the survey effort undertaken has been defended by the appellant for falling short of the expectations, such as in respect of a number of nights of suboptimal temperatures; high amounts of rainfall preceding the survey; the timing of the surveys, particularly in respect of the limited survey effort to represent usage in Autumn proper (and the survey effort which was submitted would not have been undertaken at all were it not for the long adjournment between the hearing sittings); the adequacy of number of recorders relative to the site size; location of static monitors which does not take into account the Mackley Lane and other affected commuting route, and type/duration of survey – static or transect - given the known difficulties of detecting calls from GHBs. Taking the number of criticisms of the surveys collectively, there is sufficient reason to doubt the integrity of the overall findings. Therefore, applying the precautionary principle, I conclude that the survey effort is insufficiently robust to qualify the extent and nature of the use of the site by SAC bat species from which to devise any rely on necessary mitigation measures.

Commuting routes

23. It has been clear that the development would result in some hedgerow loss along Mackley Lane with a smaller hedgerow intervention proposed within the southern boundary of the eastern site. The NE responses have illuminated the insufficiency of survey data to understand the value of these particular features as commuting routes, though the appellant does not deny that they are used in such a way. However, the appellant's response makes some assumptions, particularly in respect of the Mackley Lane commuting route, that despite its inevitable fragmentation, bats will likely be able to use this feature by reliance on the hedgerow on the opposite side of the lane whilst the replanted sections of hedgerow establish. Having further considered this, it seems overly optimistic that the route will prove suitable for ongoing use as a commuting feature until the reestablishment of replacement hedgerow. The reliance on the hedgerow on the other side of the lane will coincide with a temporary, albeit prolonged, period of increased

use and disturbance along Mackley Lane, with comings and goings and additional headlight movements of cars which may not be compatible with an altered pattern of use by bat species.

24. Taking these aspects together, there is a lack of clarity concerning the importance of the Mackley Lane route as a commuting route, and uncertainties surrounding its ability to sustain continued use throughout establishment and beyond, with the sizeable gaps that would remain on a permanent basis for either Appeal A or B schemes. Whilst this scheme on the West Site would not result in effects on Mackley Lane, the integrity of commuting routes has been included for comprehensiveness.

Lighting Strategy

25. The absence of a lighting strategy has also been raised as a concern of NE in relation to the potential that habitat areas would be rendered inaccessible by SAC bat species. Whilst conditions have been proposed by the appellant to secure lux levels of 0.2 lux on the horizontal plane and at, or below 0.4 lux on the vertical plane, there is limited evidence to demonstrate the ability to achieve these low levels of lighting. As a detailed scheme, the positions of houses are known, and whilst internal streetlighting may not be proposed, some lighting of external areas will be necessary for pedestrian safety and the potential for light spill from the interior of dwellings could be calculated through modelling, but has not been.
26. The appellant opines that the use of restrictive conditions to limit light sources and control the types and locations of lighting is a sound approach and that there are a number of other approvals, including underpinning AAs, where such conditions have been used. Some decision notices and related information has been sent to demonstrate relevance to the appeal proposal, however, I am far from clear on the full information that was before the respective competent authorities in those cases to understand that the cases are so similar to the ones before me. As such, I cannot conclude that the evidence on this aspect is suitably robust to adopt the same approach in this instance.
27. Therefore, in engaging the precautionary principle, in the absence of clear information to demonstrate otherwise, it cannot be ascertained beyond reasonable scientific doubt that the lighting would not prevent a barrier to SAC bat species accessing some areas of habitat within the sites.

Conclusions on SAC effects

28. Despite NE not participating in the appeal hearings, the Habitats Regulations compel me to consult with NE as SNCB and have regard to its views. Consequently, I attach significant weight to the detailed comments of NE which draw attention to flaws and with the evidence submitted on bats and related habitat quality.
29. On the basis of what I have seen, read and heard, I am not able to conclude beyond reasonable scientific doubt that the schemes would align with the

conservation objectives or avoid adverse effects on the integrity of the Mells Valley SAC and BBA SAC. Consequently, the schemes are in conflict with the Habitats Regulations and Policies DP5 and DP6 of *Mendip District Local Plan Part 1* (adopted December 2014) (LPP1) which seek to ensure the protection, conservation and, where possible, enhancement of internationally, nationally or locally designated natural habitat areas and species and require compliance with the Habitats Regulations. I have also given consideration under Regulation 64 of the Habitats Regulations to the possibility of alternative solutions and whether there are reasons of overriding public interest to grant permissions despite the negative implications for the SACs. I do not find there to be compelling reasons to grant permission for any schemes based on a lack of alternatives or overriding public interest and there is a lack of evidence to me to suggest otherwise.

Wider biodiversity considerations

30. In respect of the approach to wider biodiversity effects, Policy DP5 of LPP1 requires that proposals that have the potential to cause adverse impacts on species or habitats will be resisted unless in a number of instances, including where offsetting/compensation for the impacts can be secured. Whilst the mandatory Biodiversity Net Gain (BNG) measures (introduced via the Environment Act 2021) do not take effect for the appeal scheme given its date of submission, the preamble to Policy DP5 describes its purpose as effectively requiring no net loss of biodiversity value and both the Policy and preamble refer to the Council's Biodiversity Offsetting methodology.
31. However, given my findings in respect of protected species, I cannot be certain of the development achieving no net loss in any event, therefore, the proposal fails to accord with Policy DP5 of LPP1, irrespective of any suggestion of BNG mitigation and enhancement measures being achievable through either on or offsite sources.

Location of development

32. The current development plan includes LPP1 and the *Local Plan Part 2: Sites and Policies* (adopted December 2021) (LPP2) (Post JR version).
33. Core Policy 1 of the LPP1 sets out that the majority of development is to be directed towards the five principal settlements of Frome, Glastonbury, Shepton Mallet, Street and Wells. The second tier of the Policy seeks to allow for new development in the rural parts of the district that is tailored to meet local needs in the primary villages, which includes the village of Norton St Philip. Part c) of the Policy seeks to strictly control development in the open countryside unless otherwise permitted under Core Policy 4.
34. Core Policy 2 of LPP1 sets out the housing target for the plan period and apportions this across all identified settlements. It also states in b) that the delivery of housing will be secured from a range of areas including, where appropriate, mixed use development, outside of Development Limits through the Site Allocations process in line with, amongst other things, the principle

of the proportionate growth in rural settlements. The site is not within the development limits of Norton St Philip.

35. Core Policy 4 of LPP1 sets out that rural settlements and the wider rural area will be sustained by means such as making planned provision for housing within the primary and secondary villages having regard to identified constraints, at a scale commensurate with the existing housing stock and for the provision of rural affordable housing where there is evidence of local need.
36. The allocation of the site for development in the LPP2 was successfully challenged and, therefore, the site cannot be considered allocated. The proposal does not amount to a planned provision of housing either, given that the scheme would be a windfall development adjoining a primary village. Whilst the provision of housing would help to sustain a rural community and, would not be disproportionate relative to the scale of the existing housing stock, the scheme cannot be considered compliant with the development plan in terms of its location.
37. In terms of the sustainability of Norton St Philip to support new development, the main parties agree that the site is a sustainable location with a range of everyday facilities to meet the needs of future users, including a convenience shop, public house, village hall, open spaces, nursery and first school. Out commuting to work is still likely, but there is a bus service available to locations including Bristol and Bath. Considered in the round, my view is that the range of available facilities make the location a sustainable one for the quantum of development proposed.
38. There was discussion during the hearing about the reduction in the bus service in recent years and the nature of the school which caters for a specific early age band rather than for the full range of primary school year groups. There are other local primary schools which cater for the other range of ages and transport is available to them from the respective villages. Similarly, the secondary schools are available in outlying settlements via bus transport. These aspects, whilst suboptimal, do not change my overall view that the village is sustainable and could support future residents without undue reliance on private vehicles.

Landscape character, visual effects and design

39. The Mendip District Landscape Assessment (2020) places the appeal site and the West Site within Landscape Character Area (LCA) C2: Norton St Phillip, Buckland and Orchardleigh Park Ridge. The essential characteristics of this LCA which relate to the site include elevated ridge landform, settlements nestled into sheltered spots on the ridge, medium sized regular fields and busy main roads. The West Site is a small scale parcels of roughly vegetated land which is enclosed by hedgerows and mature trees that adjoins the existing settlement.
40. The west site's greatest visual effects would be from within and around the Church Mead recreational ground area and Churchyard. Depending on the time of year, views would be available of parts of the houses, particularly the upper parts, through and above the hedge lines and vegetation. The Church Mead space would feel a degree more enclosed, but the siting of the

dwellings, their gently curved arrangement and set back from the boundary of Church Mead would allow some part of the countryside to continue to flow into the space and provide the wider backdrop to the Church and village as a whole. I do not consider that there would be more than limited harm to the village setting as the site is already enclosed by the settlement.

41. There would also be visual effects on the Ponds Country Park, but as a planned open space adjoining an existing modern development, such effects are already present and given the context of recent development in these views, the appeal scheme would not result in more than a limited degree of harm. From the visual material reviewed, including the Assessed Visual Representations (AVRs), I am of the view that existing and proposed landscaping would help to soften the effects of the proposed development over time.
42. Other views and glimpses of the development would be visible from a south-westerly direction on local footpaths, but these too would also include other modern development in the views, and would be at a greater distance. The same would apply from other more distant locations or those elsewhere within the village from where the scheme would form a minor part of the view seen in context with other development. As such, I do not consider that the visual effects from the scheme would amount to more than limited harm.
43. In my view, the low density nature and up to two storey height of the scheme proposed for the west site would limit its wider effects. It would extend from the existing Fortescue Fields development and read as a part of it, at the toe of the slope beneath it and set behind existing mixed trees and vegetation. The house types would have greater resonance with those in the existing Fortescue Fields development than those found elsewhere within the village, but it would appear coherent and of a high quality design. With the incorporation of retained hedges and the implementation of a landscaping scheme, the effects of further urbanisation would be softened.
44. Inevitably, there will be an increase in activity from the proposal, but that would be limited by its modest scale and its context adjacent to well-used public spaces and other residences. In terms of nighttime effects, I visited the village during the hours of darkness. I noted the continuous streetlighting on the approach to the village on the Frome Road (B3110). The existing Fortescue Fields development has ornate lighting columns and a relatively white light in public streets, whereas the historic core of the village has relatively dim light levels, with lights affixed to the buildings at a lower level. Despite the differences, I did not perceive the existing Fortescue Fields development as an anomaly in the village nightscape.
45. From Church Mead, I noted that cars travelling down the Wells Road (A366) have headlights that appear to wind their way down the landscape behind the Church. The area is also therefore interrupted by the effects of intermittent lighting and from the visual effects of vehicle activity. The pub beer garden of The George Inn has night lighting, and some lighting is visible in the rear gardens and dwellings that back onto Church Mead from High Street. Lights also appear in the Fortescue Fields development, albeit, not to any greater degree than other older houses within the village. In my view, whilst there is a balance to be struck, the ability to sense the presence of

human habitation and potential for incidental overlooking helps to make the Church Mead space feel safer in the hours of darkness than if it were completely unlit. Therefore, subject to the use of low levels of lighting for necessary public spaces, there would not be material landscape or visual harm from the proposed development from night lighting.

46. Drawing together all of the above, the scheme would result in limited harms to the landscape character and visual amenities of the area, raising a degree of conflict with Policies DP1, DP4 and DP7 of the LPP1. These policies seek to ensure that development contributes positively to the maintenance and enhancement of local identity and distinctiveness and local landscape and achieve high quality design.

Heritage effects

47. The CA is based on a dispersed plan form with two nuclei, the area in the west surrounding the grade II* listed Church of St Philip and St James and the later school, with the development in the east centred around the George Inn (Grade I) and former market place located on the junction of two routes – the High Street/North Street route and the east-west route.
48. The appeal decisions² for a previous appeal scheme note that the character and appearance of the CA is defined by the interplay between medieval, vernacular Cotswold type and classical architecture, mixed in with some positive Victorian contributions, and its coherent, tightly-knit character when experienced along its through routes. My view is also that the significance of the CA is largely defined by its historic settlement pattern and its many listed and historic buildings. However, it is undeniable that there is a contribution made to the significance of the CA by the more rural and green elements both within the CA and adjoining it, including the Churchyard, Church Mead and its rural landscape setting. The rural setting allows for an appreciation of the settlement's topographical context, modest scale and historic character, with the focal point of the Church visible from many areas in the rural surrounds.
49. The west site offers a rural view out from areas within the CA, including from Church Mead. This allows an appreciation of the historic evolution of Norton St Philip and thus, makes a limited positive contribution to the CA's significance.
50. The proposed 8 dwellings would be built on the site in a gently curved arrangement, tucked at the toe of the slope and with their principal elevations facing towards Church Mead, albeit behind the existing treed boundary and a swathe of public space. The access would be taken from the existing Fortescue Fields development. The dwellings would range in height between 1.5 storeys at the highest point, to 2 storeys on the lower parts of the site and their form and architectural detailing would take reference from the existing adjacent Fortescue Fields development.
51. Whilst the upper parts of the dwellings would be visible from Church Mead, to a greater degree in winter, in my view, the low density scheme of 8 dwellings would not harmfully intrude into the Church Mead space or fully

² APP/Q3305/A/14/2221776 and APP/Q3305/A/14/2224073

enclose it. The scheme would add modestly to the existing development that already surrounds Church Mead, but would not obliterate the link through to the open countryside beyond. In my view, the harm to the significance of the CA from the encroachment of some development into the countryside view would have no more than a low level of less than substantial harm to the CA's significance.

The George Inn

52. The George Inn has a historic core which derives from around C14/C15 with later additions and sits at the high point in the village, in the vicinity of the old market place. Its C16 timber frame upper storeys are jettied out above the coursed rubble Douling stone ground floor. The listing description notes details including its central porch with moulded four-centred archway which provides access to the Inn and rear courtyard, and internal features of note, including fireplaces and open timber roof. The historic, aesthetic, evidential and cultural value of the George Inn are the key contributors to its significance. However, the principal aspect of the George Inn is away from the site, towards The Plain where it is seen as a key part of the historic group of buildings. The presence of those other buildings enhances the significance of the others.
53. The elevated position of the George Inn and its beer garden allows views over Church Mead and the surrounding countryside. The appeal site is also a part of the wider rural surroundings which are visible from the George Inn's rearward aspect and beer garden. The views are particularly pleasant, though I do not regard that they were deliberately designed to contribute to the significance of the building. However, my view is that the appeal site contributes positively, albeit in a minor way, to the significance of the George Inn.
54. The scheme on the west site would introduce some urban form along the mid-lower levels alongside Church Mead. Given the existence of existing development in these views, despite the closer proximity to Church Mead, I do not regard that the visibility of some upper parts of dwellings would harm the significance of the George Inn.

The Church of St Philip and St James (The Church)

55. The Church of St Philip and St James (the Church) (Grade II*) (List Entry number 1345373) also has a C14/C15 core with later restorative works and alterations. It is constructed from coursed rubble Douling stone, with stone slate roofs with coped gables and has a prominent 3 stage tower with parapet. Its listing description describes its architectural style as "unorthodox and somewhat eccentric though generally perpendicular". From this and other details defined in the listing description, I consider that the building has historic, aesthetic, evidential and cultural values which form a large part of its significance.
56. The churchyard is positioned outside of the main aspect of the Church, which faces towards the George Inn across Church Mead. Despite its lower elevation, due to its height and prominence, the Church is a feature in many views of the surrounding parts of the village. In my view, the countryside setting to the Church is a modest contributor to its significance.

57. The scheme would introduce additional modern dwellings, visible in part, above and behind the tree screening enclosing Church Mead. Whilst this is the least developed edge of Church Mead, it would not result in an incursion closer to the Church that would affect the sense of the countryside surrounding it to a harmful degree. Therefore, my view is that whilst the scheme would result in a degree of change to the appreciation of views out from the Church and churchyard, the degree of harm to significance would be at the lower end of less than substantial.
58. As I have found that the scheme would result in harm to the significance of the Norton St Philip Conservation Area and to the significance of The George Inn, it would conflict with Policy DP3 of LPP1 which seeks to support proposals only where they enhance the significance and setting of heritage assets.

Overall heritage balance

59. Under the terms of the Framework, I have found that in both cases, the harms would be of a lower magnitude of less than substantial harm.
60. The scheme would deliver market and affordable housing. In the context of the Council's shortfall in housing land, the provision of even 8 units of housing of mixed tenures is a benefit that attracts great weight. The dwellings would also be in a sustainable location which is also a positive factor in support of the scheme.
61. The development would also deliver an area of public open space. This is a benefit of the scheme that attracts modest weight. There would also be economic benefits from the construction phase and from new residents using local facilities and services. These benefits attract limited weight in favour of the scheme.
62. Taking account of the weight I attract to the identified public benefits taken as a whole, I conclude that they outweigh the less than substantial harms to the significance of the affected heritage assets.

Other Matters

63. A Regulation 14 version of the *Norton St Philip Neighbourhood Plan 2019 – 2029* (eNP) was published and the consultation commenced on 30 August 2024 for 6 weeks. The Regulation 16 eNP was consulted upon until 17 January 2025. Whilst I note that the eNP proposes to allocate a site for a housing redevelopment scheme and identifies the appeal site and part of the East/South Site as important green spaces, I attribute it limited weight at this stage.
64. The planning obligation submitted for the scheme seeks to secure 2 affordable dwellings, a multi use games area and allotment and other area of public open space linking to Ponds Country Park. It also seeks to provide contributions toward education and highway improvements, and to provide the footpath links proposed to outlying areas. As the appeal is being dismissed, it has not been necessary to examine the details of the planning obligation further.

Planning Balance and Conclusion

65. In respect of its conflict with the development plan by reason of scale and location, limited harms to landscape character and visual amenities, heritage effects and inability to ascertain that the scheme will avoid adverse effects on integrity of the SACs, the proposal conflicts with the development plan when taken as a whole.
66. The shortfall in the housing land supply, whether very significant or acute, engages Framework paragraph 11 d), and consequently reduces the weight I afford to the conflict with the development plan on locational issues, landscape and visual effects. The application of the heritage balance has already resulted in a finding of the public benefits outweighing the identified harms.
67. However, the SACs are also areas protected by policies and footnote 7 of the Framework. As I have not been able to conclude that the integrity of the SACs would be maintained through the scheme, this factor provides a strong reason for refusing the development. Therefore, the presumption in favour of sustainable development does not apply.
68. Nevertheless, I have had regard to the Framework's requirement to direct development to sustainable locations, make effective use of land, secure well-designed places and provide affordable homes. The delivery of housing is a public benefit in general, but particularly in the context of an acute shortfall in housing. The number of dwellings proposed would make a small yet valuable contribution to the overall supply. Along with the delivery of affordable housing, these benefits attract significant weight. I have also had regard to the site's sustainable location which is a positive factor of the scheme.
69. The provision of a range of different public open spaces also attracts great weight, and economic benefits attract further modest weight in favour of development. Other factors that achieve compliance with the relevant development plan policies are neutral factors which neither pull for or against the scheme.
70. However, the totality of these benefits does not outweigh the identified conflict with the development plan taken as a whole or indicate that a decision should be taken other than in accordance therewith.
71. For the foregoing reasons, the appeal is dismissed.

H Nicholls

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

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FOR THE LOCAL PLANNING AUTHORITY:

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Ms Jo Milling	Somerset Council, Policy

INTERESTED PARTIES:

Mr Ian Hasell	Chair of Norton St Philip Parish Council
Ms Tessa Hampden	Context Planning
Ms Sasha Berezina	Context Planning
Mr Fletcher Robinson	CPRE Somerset
Mr George Hitchens	Fortescue Fields Management Company Director
Mr Alan Carter	Local resident
Mr Andrew Blumfield	Local resident
Ms Linda Oliver	Local resident
Ms Dawn Denton	Somerset Councillor for NSP
Mrs Milne	Local resident
Ms Barbara Lund	Local resident
Ms Leslie Baker	Local resident
Mr Paul Sheppard	Local resident

DOCUMENTS SUBMITTED DURING THE HEARING:

1. Heritage assessment errata sheet
2. Judgement of Holgate J dated 16.12.22 (in substitute of Order)
3. CPRE Statement
4. Draft conditions V6
5. Norton St Philip Conservation Area Management Plan
6. Email from Mr Trafford
7. Attachment 1 from Mr Trafford – 2011/3015
8. Attachment 2 from Mr Trafford -2012/3082
9. UU – 8 dwellings
- 10.UU – 27 dwellings
- 11.UU- 30 dwellings
- 12.Power of attorney document
- 13.Title document and corresponding register entry
- 14.Title document and corresponding register entry

15.Views from PC for unaccompanied SV
16.Views from PC for unaccompanied SV
17.Norton ST P comments on UU
18.FF Man co comments on UU
19.West site conditions
20.27 unit scheme conditions
21.30 unit scheme conditions
22.West site landscaping plan
23.Cover letter for UUs and conditions
24.UU for 8 dwellings west site
25.UU for 27 dwellings site
26.UU for 30 dwellings site
27.Appellant cover letter dated 16.08.24
28.SWECO Botanical update 16.08.24
29.SWECO Bat Update 16.08.24
30.Appellant NPPF Letter
31.PC comments on NPPF
32.PC Comments on Neighbourhood Plan
33.ManCo comments on UU and conditions
34.Email from Council on HLS / NPPF changes
35.NSP comments on UU
36.Council ecology response
37.PC comments on conditions
38.8 Unit Scheme UU – track changes
39.27 Unit Scheme UU – track changes
40.30 Unit Scheme UU – track changes
41.8 Unit Scheme Conditions – track changes and clean versions
42.27 Unit Scheme Conditions – track changes and clean versions
43.30 Unit Scheme Conditions – track changes and clean versions
44.SWECO Autumn Bat Survey Results and Response to the LPA's submission
45.8 Unit Scheme UU – clean
46.27 Unit Scheme UU – clean
47.30 Unit Scheme UU – clean

DOCUMENT SUBMITTED AFTER THE HEARING:

48.27 unit scheme conditions clean
49.30 unit scheme conditions clean
50.8 unit scheme conditions clean
51.27 unit scheme conditions tracked changes
52.30 unit scheme conditions tracked changes
53.8 unit scheme conditions tracked changes
54.Email from CPRE Somerset
55.Final UU 8 unit scheme
56.Final UU 27 unit scheme
57.Final UU 30 unit scheme

- 58.Final UU 8 unit scheme (amended)
- 59.Final UU 27 unit scheme (amended)
- 60.Final UU 30 unit scheme (amended)
- 61.Natural England objection letter, dated 16 October 2024
- 62.Email from Council re Natural England objection, dated 21 October 2024
- 63.Appellant letter and response to Natural England objection, respectively dated 16 and 18 October 2024
- 64.Letter from David Scarrow, dated 8 November 2024
- 65.Letter from Fortescue Fields Management Company, dated 12 November 2024
- 66.Letter from Norton St Philip Parish Council, dated November 2024
- 67.Natural England letter, dated 6 December 2024
- 68.Appellant final comments in respect of ecology matters, dated 16 December 2024
- 69.Norton St Philip Parish Council letter dated 21 December 2024
- 70.Appellant letter on December 2024 NPPF, dated 6 January 2025
- 71.Norton St Philip Parish Council letter dated 7 January 2025
- 72.Council email re December 2024 NPPF, dated 8 January 2025
- 73.Appellant final comments on Council email, 14 January 2025