



Appeal Decision

Hearing Held on 18 and 19 May 2021

Site Visit made on 19 May 2021

by S Harley BSc(Hons) M.Phil MRTPI ARICS

an Inspector appointed by the Secretary of State

Decision date: 16th July 2021

Appeal Ref: APP/D1265/W/20/3259557

**Land at E381099 N102326 Catherines Well, Milton Abbas, Dorset
DT11 0AZ**

- 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 Gleeson Strategic Land Limited against the decision of Dorset Council.
 - The amended application Ref 2/2019/0824/OUT, as shown on the amended application form dated 7 February 2020, was refused by notice dated 8 August 2020.
 - The amended development proposed is demolition of barns, and residential development of up to 30 dwellings, including the creation of new vehicular and pedestrian access, public open space, landscape planting, pumping station, electricity substation, surface water attenuation, and associated infrastructure (landscape and appearance reserved for future consideration).
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. In view of the ongoing Covid-19 pandemic, the hearing was carried out on a 'virtual' basis. I carried out my unaccompanied site visit initially in full daylight and returned as darkness was falling.
3. The proposal as originally submitted to the Council was for outline permission to construct up to 58 dwellings and associated infrastructure, with all matters reserved except for the location and access. It was amended during the course of the application and a revised application form was submitted for up to 30 dwellings and the Council determined the application on this basis. The proposal is in outline. The Parties agree that, as access, scale and layout are included for consideration now, the words "up to" should be excluded from the description and I have considered the appeal accordingly.
4. The co-ordinates of the site location are described differently in some documents but all fall within the site. The road that runs alongside the site is unnamed (although it is part of North Dorset cycleway 253) and it is agreed that I can refer to it as the Blandford Road for the purposes of this appeal.
5. On 1 April 2019, North Dorset District Council ceased to exist and became part of the Dorset Council Unitary Authority. The development plans for the merged Councils remain in place until such time as they are revoked or replaced. The Milton Abbas Neighbourhood Plan (the NP) was the subject of a successful Referendum on 6 May 2021 and was made on 23 June 2021. Its Policies carry full weight as part of the development plan in the context of this appeal.

6. A Dorset Local Plan is being prepared (the draft LP). However, this is at an early stage so little weight should be given to the draft options although weight can be attached to the emerging evidence base that underpins it. A Part 2 LP allocating sites has not been made for North Dorset. I have therefore determined the appeal having regard to the policies set out in the NP, the North Dorset Local Plan Part 1 2016 (LP), the 'saved' policies of the North Dorset District Wide Local Plan 2003 (the 2003 LP) and other material planning considerations. The Parties agree that Policies MA4 Building Design and MA6 Local Green Spaces of the NP, as cited on the decision notice, are not relevant for the purposes of this appeal as appearance of the buildings is for reserved matters stage and as the appeal site is not identified as such a space.
7. A completed Unilateral Undertaking (UU) was put forward by the appellant prior to the Hearing. It includes: the provision of 40% affordable housing; financial contributions to allotments, libraries, and education; the provision of open space and play areas; financial contributions for mitigation of nitrogen in Poole Harbour Catchment and grassland restoration; and a restriction on development in retained paddock(s).

Main Issue

8. Taking into account the evidence discussed at the Hearing and the submitted UU, I consider the main issue is whether the appeal site is a suitable location for housing taking into account the spatial strategy; the character and appearance of the Dorset Area of Outstanding Natural Beauty (the AONB); and the effect on heritage assets.

Reasons

9. The whole of Milton Abbas and the appeal site lies within the AONB. Milton Abbas Parish has a particular significance historically since, apart from its many listed buildings, the Lord of the Manor in the 18th Century retained Capability Brown to demolish the original village and create a new landscape, with two rows of almost identical model village-type cottages for the estate workers being built, in what is now known as 'The Street'. The village of today has two distinct elements: the curved, gently-rising linear form of The Street, which occupies a wooded valley, and the more diverse modern development of Catherines Well set on higher ground to the north.

Spatial Strategy

10. The spatial strategy in this part of Dorset seeks, through the LP, to focus development towards the four main towns of Blandford (Forum and St Mary), Gillingham, Shaftsbury and Sturminster. Beyond the main towns, Policies 2 and 20 envisage that in Stalbridge and the eighteen larger villages (for brevity I will refer to this middle tier of the spatial strategy as "the Villages") the focus will be on meeting local rather than strategic needs. These policies steer most new development to places that offer the best access to services and facilities, with development outside the settlement boundaries being strictly controlled. This helps reduce the need to travel so is consistent with Paragraph 103 of the National Planning Policy Framework (the Framework). Policy MA1 of the NP allows for infill and conversions within the settlement boundary and adds that the release of unallocated greenfield sites outside the settlement boundary for open market housing should be resisted.

11. Settlement boundaries were brought forward into the LP from the 2003 LP and have now been reviewed and updated through the NP. The NP shows a settlement boundary to the west of the Blandford Road, tightly drawn around the Catherines Well housing part of the Parish. Land allocations are included, at Sites 5 and 6 to the north of the 2003 settlement boundary, as are the community allotments. The appeal site is separated by the Blandford Road from the settlement boundary of Milton Abbas as defined in both in the 2003 Plan and in the NP. It is therefore in a countryside location for planning policy purposes although it is not an isolated site.
12. Policy 2 of the LP strictly controls development in the countryside unless it is to enable essential rural needs to be met. LP Policy 20 states that development in the countryside outside defined settlement boundaries will only be permitted if it is of a type appropriate in the countryside or if it can be demonstrated that there is an overriding need for it to be located in the countryside. For an overriding need to be proven the local plan requires that development proposals are measured against other relevant policies in the development plan, including those relating to sustainability and the protection of the environment.
13. The wider village contains some facilities including a surgery, a church, a public house, various recreation/leisure facilities, some local employment opportunities, including the private Milton Abbey School, superfast broadband a post office/shop and a farm shop both of which sell a limited range of food and essentials. At present the only available public transport is buses limited to taking children to school. Blandford Forum is some 7-8 miles away along narrow country roads with no footpaths along most of the routes.
14. The Framework recognises that meeting local community needs in rural areas may require sites in locations not well served by public transport, subject to, amongst other things, exploiting opportunities to make a location more sustainable. In this case the proposed new public right of way along the eastern boundary would be a recreational resource as it would not facilitate alternative access to day to day goods and services so carries little weight in this context. A Travel Plan has been put forward with measures such as promotion of public transport and cycle and walking routes but, whilst welcome, given the limitations indicated above I consider the package proposed would be unlikely to significantly alter modal choice of travel.
15. The Milton Abbas Housing Needs Assessment 2020, seeks to achieve at least 20 additional homes in the NP area between 2019 and 2031. Taking this into account Policy MA1 of the NP allocates sites for housing development in recognition of the facilities that are available and in terms of a calculated 'fair share' up lifted to 17 dwellings of the overall housing requirements in "the Villages". The appellant considers that the 'fair share' should be 41. However, it appears that this calculation may have been made under older policy guidance and I give precedence to the data supporting the recently made NP.
16. The appeal site was carefully considered as a potential housing site, Site 7, during the preparation of the NP but has not become an allocation. Three sites are specifically allocated for housing development (one of these for a single dwelling is outside the settlement boundary). These allocations, together with an existing permission and a conservative allowance for conversions, allow for approximately 27 dwellings. As reflected in the newly adopted NP, this would

mainly be to meet local needs and does not justify an additional 30 dwellings on the appeal site 60% of which would be market housing, on an unallocated site with relatively limited access to facilities and little alternative to the use of the private vehicle.

17. The appellant is concerned that the allocated sites may not come forward and that the NP Examining Inspector recommended a 'reserve' site against this eventuality. However, as a matter of judgment by the Parish Council and the District Council, this was not taken forward to the final NP, and it is not necessarily the case that the appeal site would have been such a reserve site even had one been taken forward. I note that, whilst recognising that the site might be suitable in principle for an appropriate scale and character of development all other things being equal, the Examining Inspector also found no sign that the NP Working Group *"have adopted a less-than positive approach to the provision of sustainable development"* and that *"this site should only be considered for release if evidence exists that, without it, the Plan would not be able to meet the identified need for housing."*
18. The NP Examining Inspector also said, *"the validity of the points made in Gleeson's objections can only properly be determined when any planning applications for the development of the three sites are considered by Dorset Council"*. The appellant points out that a planning application was withdrawn because of access difficulties for the allocation at Site 8, land to the east of Hill House Bungalows and that the deliverability of sites is not as rigorously scrutinised through the NP process as through a LP process. However, I give these matters limited weight as the Site 8 allocation is for one dwelling only whereas overall provision is made for well in excess of local needs; access may well be resolved in the future; the NP was very recently adopted, and applications have yet to come forward on the other allocated sites.
19. The appellant also considers the other allocated sites could have a greater effect on the AONB than the appeal scheme and have not demonstrated how the landscape effects of them could be mitigated/moderated. However, it is not for me to re-examine the NP, or its procedures, in this s78 appeal. Moreover it is clear from the supporting evidence to the NP that the appeal site does not conform in shape or size to the area that was considered as potentially suitable for development as defined in the AECOM Site Assessment Report for the NP. Accordingly, even had a reserve site been promoted, there is considerable doubt in my mind that it would correspond to the appeal site.
20. Policy 6 of the LP makes provision for at least 5,700 new homes in North Dorset between 2011 and 2031, delivered at a rate of about 285 per annum. Of this at least 825 dwellings are expected in "the Villages" and countryside, to meet identified local and essential rural needs over the same period. These are identified in the supporting text as needs identified through a neighbourhood plan, rural exception sites and the functional need for dwellings for rural workers. The proposal is not a type of development identified in the LP as appropriate in the countryside and as such does not meet the first criterion of LP Policy 20. As a result, this does not justify allowing the appeal scheme.
21. The SCG agreed by the Parties says that, in light of the Council's housing land supply position (see below), LP Policies 2, 6, and 20 are out of date because they all deal with the supply of housing. My interpretation is more nuanced in that the Policies make clear that development will be permitted in accordance

with policies which guide development in the countryside and in this respect accords with the Framework. Moreover, the settlement boundaries, particularly as the Milton Abbas settlement boundary has been recently revised through the NP, serve a sound planning purpose by defining settlements versus open countryside and carry significant weight in terms of ensuring appropriate development in the countryside. This reflects Paragraph 170 of the Framework which recognises the intrinsic character and beauty of the countryside.

22. As a development for primarily open market housing in the countryside, the spatial strategy is therefore clear that development would not be expected on the appeal site, due to its location in the countryside beyond the newly established settlement boundary. I give this great weight in the context of the requirement to determine planning applications in accordance with the development plan unless material considerations indicate otherwise. The Framework, which is a material consideration, at Paragraph 12 reiterates that the development plan is the starting point for decision making.
23. I therefore conclude that, due to its location beyond the settlement boundary for Milton Abbas, the proposal conflicts with the overall spatial strategy for the area and conflicts with Policies 2, 6, and 20 of the LP, Policy MA1 of the NP and the aims of Paragraph 9 of the Framework in guiding development towards sustainable solutions. These policies seek, amongst other things to concentrate development in sustainable locations, directing development to the main settlements in order to minimise the need to travel; protect the countryside; or, deliver affordable housing on rural exceptions sites where it would meet local rather than strategic need.

The AONB

24. In the AONB contrasting and complex geology gives rise to the chalk downland, limestone country, greensand ridges and clay vales; they are often closely juxtaposed to create striking sequences of beautiful countryside that are unique in Britain and contain a rich biodiversity. In addition to its outstanding scenic qualities, the AONB retains a sense of tranquillity and remoteness and sweeping panoramic views that are an integral part of these landscapes. It retains dark night skies and an undeveloped rural character and has inspired landscape work by writers, artists, and musicians.
25. The appeal site is mainly within the Upper North Winterbourne Valley landscape character area with a small part to the south west corner of the site in the Upper Milborne Valley. The landscape type is a Chalk Valley and Downland as described in the North Dorset Landscape Character Assessment (as amended) 2008.
26. The Dorset AONB Management Plan supports development that conserves and enhances the AONB, with sensitive siting and design that respects local character. Development that does not conserve and enhance the AONB will only be supported if it is necessary and in the public interest. Major development decisions need to include detailed consideration of relevant exceptional circumstances. The conservation and enhancement of appropriate landscape features and positive contributions to green infrastructure and ecological networks are regarded favourably.
27. The overall character of Milton Abbas village is semi-rural, with an historic village centre. The historic centre of The Street is well to the south-west of the

appeal site and has a very distinct character. Here attractive and quintessentially English village homes, built as a replacement estate village for the former village conform to a strict code in a linear arrangement along The Street. The church, post office/shop, tearoom and public house are located here. Closer to the appeal site and on the other side of the Blandford Road is the Catherines Well area of generally post war housing developed in phases. There is a significant amount of open space including informal village green, a park/play space and community gardens. Overall the area has a distinctive relatively undeveloped rural character with high levels of tranquillity, dark night skies, remoteness and sweeping views and a rich historic and built heritage.

28. The appeal site is a field of about 3.85 hectares classed as Grade 3 agricultural land with two agricultural storage buildings which are to be demolished. At present it is used for grazing. The northern and southern boundaries are flanked with trees and several dwelling houses. The Eastern boundary is formed by an access track with woodland beyond. A mature hedgerow forms the Western boundary. The site slopes such that levels vary from about +186m in the North West corner to +170m in the South East corner. The appeal site is relatively well contained and the proposed development would avoid the 190m Above Ordnance Datum contour so would not impinge on the skyline.
29. The Parties do not agree as to how the visibility of the site should be assessed. From my observations I consider the woodland blocks and rolling topography in the landscape mean that views of the site are generally restricted although it is visible from parts of the Blandford Road despite the hedgerow, and from higher points along Bridleway E15/1 to the north of Catherines Well.
30. The proposed houses would have a single vehicle access from the Blandford Road towards the northern end of the site. They would be arranged as a block edging the northern boundary and in a pair of mirrored crescents below that with back gardens adjoining other back gardens. I discern no particular logic in terms of the placing of the houses in relation to the existing built development, much of which is the other side of the Blandford Road, and almost all of which has a linear layout without buildings behind each other. Nor does the geometric layout appear to relate well to the topography of the site other than being sited below the 190m contour and with the attenuation basin at a lower level than the dwellings. Whilst this helps reduce the prominence of the proposed buildings it is not sufficient to justify the layout proposed.
31. As with other existing houses some of those proposed would be set back from the Blandford Road behind greenspace and retained hedges supplemented by further planting. Neither this in itself, nor the open spaces along two of the other boundaries or the retained paddocks, are sufficient to demonstrate that the houses themselves are arranged in other than a suburban estate like layout, somewhat randomly placed in a field, with properties clustered and backing onto one another albeit it at a relatively low density commensurate with that within the settlement boundary. In my judgement it does not reflect the historic character of properties nestled within the landscape within or adjacent to woodlands or the unique rural quality of the more recent developments with few gardens backing other residential properties. Moreover much of the open space and planting mitigation proposed would only be required to address the effects of the proposal itself.

32. There is no doubt that careful attention could be given to the design and materials of individual buildings in accordance with NP Policy MA4 but this does not overcome the inappropriate layout. Accordingly I find the proposal would be contrary to Policies 2, 4, 20 and 24 of the LP and Policy MA3 of the NP and those principles of the Framework that together seek to manage development in a way that conserves, enhances and respects the natural beauty of the area and the rural character of Milton Abbas and the AONB.
33. It is apparent that the Catherines Well part of Milton Abbas has been developed in phases. It has been put to me that the proposal would be another such phase. However, to my mind this is not sufficient to justify an estate on the other side of the Blandford Road which forms a strong edge to the settlement.
34. There is no street lighting in Milton Abbas and night skies can be very dark. The few security lights at individual properties are mostly relatively low down but nevertheless are very prominent; lights on further slopes as viewed from the higher parts of the Blandford Road are also very obtrusive. Notwithstanding possible conditions to restrict lighting it seems likely to me that the extending of development into an area where there is no artificial light at present would result in some disruption to the dark skies locally because of vehicle head lights and the desire of some homeowners for security lights. There would be some conflict with NP Policy MA8 which seeks to retain dark skies, although some of the harm could be ameliorated through the imposition of planning conditions.
35. Taking the above into account, also bearing in mind the number of houses and size of the site in relation to the settlement boundary/wider village, and noting that smaller settlements are generally more sensitive to levels of growth, I conclude that the proposal amounts to major development for the purposes of Paragraph 172 of the Framework. This gives great weight to conserving and enhancing landscape and scenic beauty in areas which have the highest status of protection, such as AONBs, where development should be refused other than in exceptional circumstances and where it can be demonstrated that the development is in the public interest.
36. Because of the relatively restricted longer views of the site, the proposed planting, and the proposed benefit of placing an overhead HV power line underground, the harm that I have identified to the character of the AONB, would be relatively localised and would not overtly threaten its integrity as a whole. However, the harm to the AONB would be real and I am required to give great weight to conserving the AONB.
37. The key public interest in this context would be boosting the supply of housing; including exceeding the identified affordable housing requirements for Milton Abbas, and the benefits which flow from this (see below). However, the need for this can be met in other ways given the NP allocations. Taking into account that the Parish Council and Sovereign Housing Association own the largest allocated site, with an intention to deliver a larger than policy-compliant level of affordable housing, I consider it too soon to dismiss these alternatives at this early stage of the implementation of the NP. I conclude that the public interest of maintaining confidence in the plan led process outweighs the contribution that would be made to the housing supply in the circumstances of the appeal before me. Accordingly, having regard to Paragraph 11(d)(i) of the Framework, I consider the operation of footnote 6 is such as to provide a clear reason for refusing the development proposed.

Heritage assets

38. No designated heritage assets have been identified within the appeal site. However, due to proximity and potential intervisibility, the appeal site is within the setting of a number of designated heritage assets, which overlap and/or are closely linked historically. As set out in the Framework, the surroundings in which a heritage asset is experienced are not fixed, and may change as the asset and its surroundings evolve. Elements of its setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.
39. The Grade II Listed Milton Abbey registered park and garden extends some 535 hectares to either side of the house, along the Delcombe valley to the north, with wooded plantations across the tops, and along the road to Hilton and south to South Lodge. The principal focus is the house and abbey church, which are seen in isolation in an open setting with little or no visible other development. The park designation excludes the estate village though that is noted as being an essential part of its setting. Due to the intervening distance the Parties state that there would be no effect on the significance of the registered park and garden and I agree.
40. The core focus of the CA, when originally designated, covered the abbey church and school buildings, the core of the park, the model village and some of the woodland plantations. It was extended after an appraisal in 2014 in the west of the park to include the walled garden; to the north to take in part of King Edward's Drive to Stone Lodge; and specifically to the east of the Blandford Road to include Milton Manor and its designed setting where it extends as far as Milton Park Wood. The CA boundary crosses the Blandford Road at the Bridleway E15/3/Catherines Well junction and protrudes along the Bridleway to the south of Hill House Bungalows. The character of this part of the CA, closest to the appeal site, is that of historic connections to the abbey, the 18th century house, and its surrounding agricultural estate, and routes along Catherines Well and across the Blandford Road along the Bridleway to the medieval deer park at Milton Park Wood.
41. The Grade II Listed mid-19th century Hill Lodge (formerly New Lodge) is sited in the CA at this junction. It is of historic and evidential value in relation to its position on the perimeter of the park and the route to the medieval deer park as with this part of the CA.
42. The appeal site is to the north of the CA boundary and there is some intervisibility between the site and the CA and Hill Lodge in the vicinity of the junction particularly when the hedges are not in leaf. A strong division is created by the Blandford Road itself, the trees on the boundaries and along the bridleway, and the distinct character of this route and its extension into the woods of the former abbey deer park are of value to the extended CA designation and the value of Hill Lodge.
43. I acknowledge there is some linear development to the east of the Blandford Road but, being set back, these do not significantly intrude upon the main outlook from the edge of the CA or Hill Lodge towards the site. The closest proposed houses would be over 100m away from the junction across a strip of land that would be retained as paddock. However, in my judgement, the proposed suburban style housing estate at the higher part of the site, would erode the rural undeveloped character of the outlook from the junction and

thus detract from its perimeter location and the value of the medieval deer route particularly at times vegetation is not in leaf and until the proposed new planting becomes well established. This harm would be less than substantial but would nevertheless be real.

44. Further along the medieval deer route is Milton Manor, a Grade II Listed mid-19th cottage, which has been enlarged in Arts and Crafts style. The Manor's chimneys and roofs are particularly striking and can be seen in some distant views in several directions albeit its main elevation, and its architectural significance is mainly experienced from the south. It is not directly affected by the proposal but its chimneys can be seen from the higher part of the appeal site and the Blandford Road as well as in longer views. It is separated from the appeal site by the bridleway E15/3 and Hill House Bungalows and the retained paddocks would provide further separation from the proposed houses.
45. The proposed roofs are likely to be visible in front of Milton Manor in longer views from the north and the closer views of its chimneys from the Blandford Road and the appeal site would be impeded by the proposed dwellings. I consider this localised interruption of views would lead to less than substantial harm to the historic appreciation of the Manor arising from its relatively isolated setting and its location on the margins of the Milton Abbey Estate and village.
46. The Milton Park Boundary Bank Scheduled Monument, 1002417, also known as the park pale, demarcates the medieval deer park of the abbey, and survives as an earthwork within the woodland to the east. The proposal would reduce some of the openness between the park pale and the abbey but the appeal site is a significant distance from the park pale and I saw no obvious intervisibility between the two. Accordingly I conclude there would be a neutral effect on the appreciation of the significance of the asset.
47. Nos 1-4 New Close Cottages are non-designated heritage assets with significance as estate dwellings from the late 19th and early 20th centuries. They have group value arising from their architectural and historic relationship with other Milton Abbey estate dwellings and Hill Lodge and their location on a road laid out in the 18th century to bypass the original road, now Public Right of Way E15/1. They are also part of the estate-wide programme of improvements associated with the new ownership. Their isolation and uniform orientation and style would have marked them out as outlying estate dwellings. However, they have been significantly altered; development has subsequently encroached on their setting; and they are separated from the appeal site by another dwelling to the extent that, in my view, their sense of historical outlying position has been lost. Even taking account of cumulative impact I conclude there would be a neutral effect on them as a result of the proposal.
48. The Framework advises that great weight should be given to conserving the significance of designated heritage assets. However, where less than substantial harm to the significance of a heritage asset is found, this harm should be weighed against the public benefits of the scheme. In this case there would be notable benefits arising from the supply of housing, and especially affordable housing in an area where housing land is in under supply. There would be a boost to the local economy both from temporary employment during construction and increased spending of additional residents. More residents would also support existing communities and facilities and there

would be increased Council Tax and New Homes Bonus. There would be a new Public Right of Way and some additional open space above that needed to meet the needs of the development. The overhead HV power line would be moved underground and there would be a net gain to biodiversity.

49. I conclude that taken together these public benefits out-weigh the less than substantial harm to heritage assets that I have identified above. Accordingly, although I find some conflict with LP Policy 5, having regard to Paragraph 11(d)(i) of the Framework, I consider the operation of footnote 6 would not provide a clear reason for refusing the development proposed in terms of effect on heritage assets.

Housing Land supply

50. As set out in the Housing Delivery Test 2020 results the delivery of housing at 59% is substantially below that expected. No Action Plan has yet been prepared. The LP is now more than 5 years old. Using the standard method set out in national planning guidance the Parties identify an annual housing requirement of 399 dwellings per annum. The Council calculates a likely housing delivery supply over the next five years against this requirement of about 4.70 years whereas the appellant considers it would be about 3.73 years.
51. Taking the appellant's view that, as the LP was not more than 5 years old at the time of the last annual update, the annual requirement taking account of the deficit to date and a 20% buffer, would be 534 dwellings. The Council calculates a likely housing delivery supply over the next five years against this requirement of about 3.55 years whereas the appellant considers it to be about 2.79 years. The greatest concern relates to the deliverability of the larger more strategic sites.
52. The Glossary to the Framework explains that, to be considered deliverable, sites must be available now, offer a suitable location for development now and be achievable with a realistic prospect that housing will be delivered on site within five years. Whilst I acknowledge the Council's views about a number of large sites that may be granted planning permission in the near future, they do not have permission at present, and therefore do not meet the Framework tests of deliverability. Accordingly, even though the trajectory of expected completions is not a precise science, I consider the appellant's view of the available housing delivery supply to be more probable than the Council's.
53. The Council is not able to demonstrate a five year supply of deliverable housing sites in relation to either method of calculating the housing land requirement. However, I have found that the operation of footnote 6 to Paragraph 11(d)(i) of the Framework is such as to provide a clear reason for refusing the development proposed and the presumption in favour of sustainable development does not apply. I conclude that the adverse impact of allowing this proposal, which conflicts with the NP would significantly outweigh the benefits even given the recent poor record of housing delivery.

Conclusion in relation to Main Issue

54. Planning Policies can pull in different directions. In this case I have found conflict with the spatial strategy in the context of a recently adopted NP and I have found harm to the character and appearance of the AONB, which albeit localised, is not justifiable in the public interest. Accordingly I find conflict with

Policies 2, 4, 20 and 24 of the LP and Policies MA1, MA3 and MA8 of the NP. I have found less than substantial harm to the setting in which three heritage assets are experienced and consequently I have found some conflict with Policy 5 of the LP. Although the harm to heritage assets is offset by the public benefits of the proposal, taking all the above into account I conclude that the appeal site is not a suitable location for housing taking into account the spatial strategy and the location in the AONB.

Other Matters

55. The appellant has drawn my attention to a number of other instances¹ where planning permission was granted by the Council in "the Villages" locations as it was considered the need for a supply of housing land and other benefits outweighed the conflict with the development plan. However, it appears from the evidence that in none of these cases was there an up to date NP and none of these sites were in an AONB. Moreover in three cases the Council advises that the identified local need was not exceeded; in one case this was unclear and two cases related to Stalbridge the largest and most sustainable location in "the Villages" tier of the spatial strategy. I am also aware that planning permission was granted outside Shaftesbury (2/2015/0598/OUT) but this is in an area identified in the LP as a general direction for growth where as yet no LP or NP has identified site allocations. Accordingly these cases do not lead me to any different conclusions in relation to the appeal before me.
56. The appellant has also drawn attention to appeal decision APP/Z2830/W/20/3261483. However the cases are different in that in South Northamptonshire the housing requirement had been formally reviewed whereas the work on the local plan review for North Dorset indicates that the Local Housing Need figure is appropriate for assessing future housing requirements and North Dorset is not required to provide for unmet need from other areas. Accordingly that decision does not lead me to any different conclusion.
57. The appellant considers there will have to be development on greenfield sites within the AONB. That, to my mind, is insufficient justification for allowing the proposed development on an unallocated site in the countryside where there is an up to date settlement boundary established in a very recent NP.
58. The appeal site lies within the catchment of the Bere Stream and so the proposal would result in additional residents within the Poole Harbour catchment. Poole Harbour is designated as a Site of Special Scientific Interest for wetland birds, wetland, intertidal and subtidal habitats, and invertebrate communities and as a Special Protection Area and Ramsar site. Natural England have no objections subject to the securing of mitigation measures to offset nitrogen. Measures have been put forward in the UU and in a draft Grampian condition but, in the light of my other conclusions, there is no need for me to consider this matter further at this time.
59. The scope and content of the UU, which has been reached in agreement with the Council, was discussed at the Hearing. Many of its provisions are required to address the needs of or mitigation for the proposed development including the undertaking not to build on retained paddocks. Given my findings on the

¹ 2/2017/0741/OUT; 2/2017/1095/OUT; 2/2017/1716/OUT; 2/2017/1952/OUT; 2/2018/1808/OUT; 2/2019/0318/OUT

main issue there is no reason for me to consider it in any more detail as it would not be determinative in relation to the outcome of the appeal.

60. I acknowledge that the appellant has scaled back the proposals in order to try to overcome objections to the larger scheme. However, this, in itself, does not mean the proposal before me is acceptable. The appellant has expressed dissatisfaction with the way in which Historic England responded to consultation on the planning application. I have reached my own judgement based on all the evidence before me.
61. The appellant considers the site would be attractive to small and medium sized house builders. Whilst this might be the case there is no certainty that such a building company would obtain the site so this matter does not alter my overall conclusions.

Planning Balance and Conclusion

62. Paragraph 11(d)(i) of the Framework states that the presumption in favour of sustainable development should be engaged unless the application of policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusing the development; or, any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework when taken as a whole. Importantly, footnote 6 includes policies relating to the protection of AONBs, a factor applicable in this appeal. Given this conflict the presumption in favour of sustainable development does not apply.
63. The starting point for any planning decision is Section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires decisions to be made in accordance with the development plan unless material considerations indicate otherwise. The proposal conflicts with a very recent NP. Development which would conflict with and undermine the strategy of an approved development plan and the Framework when read as a whole would, in planning terms, be harmful.
64. For the reasons given above the appeal scheme would conflict with the spatial strategy for the area, would result in unsustainable travel patterns and a reliance on the use of the private car, would cause harm to the AONB and less than substantial harm to the settings of three heritage assets. Whilst the scheme would provide notable public benefits as set out above, including the provision of much needed market and affordable housing, the other material considerations in this case do not justify taking a decision other than in accordance with the development plan. The appeal is dismissed.

S Harley

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mary Cook Partner at Town Legal
Martin Miller Director Terence O'Rourke
Richard Burton Director Terence O'Rourke
John Trehay Technical Director Terence O'Rourke
Simon Ible Associate Director Terence O'Rourke
Rachel Scott Development Director Gleeson
James Smith Principal & Director at James Smith (Planning Law Services) Limited

FOR THE LOCAL PLANNING AUTHORITY:

Simon McFarlane, Major Projects Officer
James Weir, Senior Conservation Officer
Philip Reese, Senior Planning Policy Officer
Richard Brown, AONB Landscape Officer
Philip Crowther Legal Business Partner/Senior Solicitor – Regulatory Legal Services
Robert Lennis Area Lead (Major Projects) Eastern Planning

INTERESTED PARTIES: resident

Mr Nigel Hodder Parish Council
Mrs Freddy Robinson resident of Milton Abbas
Mrs Susan Woodhouse led on preparation of Neighbourhood Plan

DOCUMENTS submitted during/after the Hearing

Council email dated 18 May forwarding Historic England email dated 24 February 2021
Council email dated 18 May forwarding Natural England letter dated 11 May 2021
Council email dated 18 May with extracts of the Planning and compulsory Purchase Act 2004 Section 38
Council email dated 18 May relating to the SHLAA
Council email dated 18 May concerning recreation in AONBs
Council email dated 19 May draft wording for a condition relating to nitrates issue
Two Council emails dated 19 May and Council email dated 21 May with attachments relating to odour issue at Elm Close Sturminster Newton
Appellant email dated 19 May with a plan showing measurements of the distances to heritage assets
Appellant email dated 19 May attaching copies of Design and Access Statement
Parish Council email dated 19 May providing information relating to affordable housing
Appellant email dated 20 May relating to New Homes Bonus with attachments of revised agreed draft conditions
Appellant email dated 24 May relating to odour issue at Elm Close Sturminster Newton
Appellant email dated 25 May Attaching supplementary note regarding bare earth zones of theoretical visibility
Council email dated 25 May regarding bed spaces at Gillingham Extra Care Facility
Council email dated 26 May concerning Housing Land Supply