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## Appeal Decision

Inquiry opened on 19 April 2016

Site visit made on 28 April 2016

**by Keith Manning BSc (Hons) BTP MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 22 June 2016**

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**Appeal Ref: APP/R3325/W/15/3131336**

**Land North of Lavers Oak, Stapleton Road, Martock, Somerset**

- 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 Gladman Developments Ltd against the decision of South Somerset District Council.
  - The application Ref 15/00446/OUT, dated 29 January 2015, was refused by notice dated 1 May 2015.
  - The development proposed is residential development of up to 91 dwellings (Use Class C3) with public open space, vehicular access and associated infrastructure.
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### Decision

1. The appeal is dismissed.

### Preliminary and Procedural Matters

2. The Inquiry opened on 19 April 2016 and sat for 6 days closing on 27 April prior to my site visit the following day.
3. A statement of Common Ground (SoCG) was agreed by the parties on the day the inquiry opened.<sup>1</sup>
4. The application is in outline with all matters reserved except for access.
5. The unilateral undertaking put forward by the appellant was only available in draft form at the inquiry and I was informed that there were practical difficulties in achieving completion by the end of the inquiry, owing to the absence from the country of one of the signatories. I therefore specified a timescale after the close of the inquiry for the completed undertaking to be submitted; and that timescale was duly met.
6. The undertaking provides that 35% of the dwellings proposed to be developed shall be affordable and that they should all be available before the final completion of the market dwellings in accordance with a mix and disposition within the site to be ultimately controlled by the Council. Financial contributions are provided for in respect of on-site equipped play space, local youth facilities, off-site but local playing pitches and associated changing rooms, a community hall within Martock and a new facility at the Octagon Theatre in Yeovil together with provision for initial maintenance of open space and transfer of this to a management company. Financial contributions are

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<sup>1</sup> ID2

also provided for in respect of education, transport improvements within Martock and the monitoring of a travel plan. The scope and content of the undertaking was discussed at the inquiry on a "round table" basis and it contains a so-called "blue pencil clause" which would negate any obligation in the deed I expressly state not to be material or of sufficient weight to be determinative or otherwise not in accordance with the Community Infrastructure Levy Regulations 2010 ('the CIL Regulations').

7. The Council refused the application for five reasons, including lack of provision for reasonable planning obligations at the time of its decision and its view that insufficient information in respect of potential impact on protected species, namely bats, had been provided. The latter has since been addressed by the submission of further survey results and the former would be overcome by the unilateral undertaking. On those bases, the Council does not now pursue reasons 04 and 05. I have no reason to take a contrary view in respect of those matters.

### **Main Issues**

8. Having heard the evidence and visited the site and the area, I consider the main issues to be as follows:-
  - Whether the proposed the proposed development would conflict with the development plan for South Somerset in respect of the settlement strategy embodied within it and, if so, whether it would harmfully undermine the strategy;
  - Whether the effect of the proposed development on designated heritage assets would be harmful in the context of relevant legislation and policy;
  - Whether the effect of the proposed development on the character and appearance of the area would conflict harmfully with the intentions of the development plan;
  - Whether the proposed development would be in a location which is sustainable or could be made sustainable in terms of transport choice; and, overall;
  - Whether the development represents sustainable development for the purposes of the National Planning Policy Framework ('the Framework') and the development plan.

### **Reasons**

#### *The proposed development in context*

9. The SocG briefly describes the circa 4.12 hectare appeal site in factual terms. But it is pertinent and helpful for me to describe its geographical characteristics and aspects of the local planning context in some detail, as a prelude to addressing the main issues.
10. The settlement of Martock (with Bower Hinton) is a notably elongated settlement stretching north-south for approximately 3 km along the B3165 across a shallow valley oriented broadly east-west. The settlement runs as a continuous developed area from the vicinity of Ringwell Hill in the south to the southern boundary of the appeal site in the north.

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11. South of the centre defined on the Inset Map 9 of the recently adopted South Somerset Local Plan 2006 -2028 ('the Local Plan'), the original linearity of the settlement is largely retained through Bower Hinton and most of the centre and the settlement to the south is designated as a conservation area, which also extends from the centre along East Street. Northwards of the centre the settlement has been significantly expanded to either side of the B3165 by the accretion of housing developments of varying ages but largely twentieth century, a purpose built small shopping precinct, Moorlands Park, and a significant area of employment premises associated with former railway land to the south of the appeal site and the housing estate known as Lavers Oak.
12. This expanded area of the settlement at Martock is all shown as the defined Development Area for the purposes of the Local Plan but this stops abruptly at the small but well defined watercourse which divides the appeal site from Lavers Oak. That sharp physical distinction between the built-up area and the countryside to the north is continued west across the northern margin of the employment area on Oakland Road and east across the B3165 (here known as Stapleton Road, but becoming North Street down towards the centre of Martock), the housing area at Stapleton Close being similarly bounded by the watercourse. On the east side of Stapleton Road an area of allotments separates Stapleton Close from the dwelling known as Chestnut View, which appears to be associated with a smallholding or similar. A public footpath runs along the south side of the allotments and eastwards along the water course before turning sharply northwards to the outlying hamlet known as Highway.
13. Northwards of the watercourse the land rises gently towards the hamlet of Stapleton, a loose collection of dwellings and farmsteads with associated traditional orchards. The first encounter with this hamlet is at 'Stapleton Cross', literally a crossroads formed by Stapleton Road, Long Load Road (B3165) to the north and the highway running east-west along the higher ground to connect the outlying small villages of Ash and Coat. Stapleton contains a number of listed buildings including a small cluster at the crossroads, 'Stapleton Croft' and two other dwellings.
14. The appeal site to the west side of Stapleton Road fronts Stapleton Road and is separated from the listed buildings by properties known as 'Tredegar' and 'Highridge', together with the house known as 'Orchard View' and the associated remnant of a larger orchard, together with land to the west fronting the road between Stapleton Cross and Coat. This land, together with the remnant orchard and Orchard View, is shown on the application plan 3978\_004\_A as being within the control of the appellant (land edged blue).
15. Within the appeal site itself, an area of 'ridge and furrow' is discernible to the south of the remnant orchard and the eastern margin of the site north of the proposed access is characterised by a line of mature trees subject to a tree preservation order, including chestnut and beech. The indicative drawing 3978\_002\_H illustrates the development concept as retaining not only these trees but also the ridge and furrow. Also indicated is the inclusion of some restored orchard and wildflower meadow within the site to the west of the ridge and furrow. All would be incorporated in an area of open space with integral footpath.
16. The western side of the appeal site follows a hedgerow and beyond that a large single field runs down the slope to the employment area. This upper half of this

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field is field is bounded to the west by what appears to now be a dense woodland running south from Longlands Farm, albeit shown on maps as orchard land. Owing to the rising nature of the land the site is slightly elevated above Lavers Oak across the watercourse which, despite its small size, is notably incised along the southern margin of the appeal site.

17. Beyond the appeal site to the north west and east lies gently rolling countryside within which small settlements including Coat, Stapleton and Ash appear as distinct and separate physical entities, albeit in administrative terms Stapleton is within the parish of Martock. Much useful detail about this overall context is shown on the appellant's map of heritage assets within a kilometre of the site.<sup>2</sup>

#### *Local plan settlement strategy*

18. The Local Plan was adopted in March 2015 following independent examination and a finding of soundness in the context of the Framework. The specific merits of its settlement strategy, which is outlined in policy SS1, are not a matter for me, albeit as a general principle I would observe that a spatial strategy concerning the distribution of development tends to be fundamental to plans of this nature, not least in the context of the plan-led system embedded by statute and promoted through the Framework. The Local Plan in this instance is no exception to that principle.
19. So far as housing is concerned, the principle is manifest in this case in policy SS5 'Delivering New Housing Growth', the overall quantum for the District as a whole being established by policy SS4. This sets out very clearly that at least 15,950 houses are to be delivered in the plan period to 2028. It is equally clear from SS5 that at least 7,441 of these houses should be delivered within the urban framework of Yeovil and through the mechanism of two Sustainable Urban Extensions thereto. These are minima and, pending the adoption of the Site Allocations Development Plan Document a permissive approach was to have been taken at these locations and 'directions of growth' at the identified market towns, albeit the intended site allocations planning is, by way of an alternative means to the end, now to be 'slotted into' an early review of the Local Plan.<sup>3</sup>
20. Policy SS5 states in terms that the overall scale of growth set out (in tabulated form within the body of the policy) and the wider policy framework will be key considerations in taking this approach, with the emphasis being upon maintaining the established settlement hierarchy and ensuring sustainable levels of growth for all settlements. The policy further states that the same considerations should apply when considering housing proposals adjacent to the development area at amongst other locations, the Rural Centres. The policy then introduces the tabulated requirements for individual settlements with the words... "*The distribution of development across the settlement hierarchy will be in line with*" [the numbers in the table]. (The emphasis is mine.)
21. The policy is therefore clear on its face that a minimum delivery aided by a permissive approach in Yeovil and at the market towns will be complemented by a more prescriptive approach to the lower tier settlements of the hierarchy

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<sup>2</sup> Evidence of Mr Clemens – Appendix A

<sup>3</sup> Evidence of Mr Lane – paragraph 3.11

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to be maintained. The term "guideline"<sup>4</sup>, when applied to the figures for the lower tier settlements is not to my mind entirely apposite as it carries, in common parlance, connotations of a loose fit, the dictionary definition being "a general rule, principle or piece of advice"<sup>5</sup>. The dictionary definition of "in line with", on the other hand, is "in alignment or accordance with something"<sup>6</sup> - a rather more precise concept.

22. I therefore have no difficulty in concluding that the policy is intended, in pursuit of maintaining the hierarchy, to be reasonably precise in its requirement for specified housing numbers at the lower order settlements. In the case of Martock<sup>7</sup>, which is classified as a Rural Centre, the housing requirement over the plan period is specified as 230 dwellings.
23. Taking the plan as a whole, I note that the approach to housing growth is closely matched in policy SS3 by a similar approach to employment, with the employment land requirement for Martock/Bower Hinton being specified as 3.19 hectares.
24. Although, as previously noted, I am obliged to take the plan as I find it, it is important to note at this juncture that the approach is not random or arbitrary. Paragraph 5.4 of the Local Plan explains the role of the 2009 *Settlement Role and Function Study* and paragraph 5.8 notes that it recommended, inter alia, that the Rural Centres should meet growth which would cater to more local needs and nearby small settlements. The 'Vision for 2028' set out in the local Plan explains the approach to sustainable growth which underpins it, including the object of greater settlement self-containment in the case of the Rural Centres, and strategic objective 6 aims for a balanced housing market, delivered through a sustainable district settlement strategy and hierarchy. In short, the Local Plan is pro-growth, in a purposeful and balanced fashion, and, subject to being kept up-to-date, I have no reason to consider it to be anything other than in accordance with the core principles set out in paragraph 17 of the Framework. It is a central consideration.
25. In broad terms the housing growth proposed for South Somerset in the Local Plan aims for 79% to be in Yeovil and the Market Towns, 7% within the six Rural Centres, with the balance being widely distributed across the numerous rural settlements of the District.<sup>8</sup>
26. It would of course be absurd to suppose that the planned growth figures will materialise exactly as planned, or to ascribe a spurious precision to the figures for any particular settlement. Nevertheless, the central purpose of the plan led system, within the context of relevant legislation and national policy is to deliver sustainable development in the right places at the right time in accordance with the vision and aspiration of local communities. That much is clear from the Framework, including the detailed policy set out in paragraphs 150 – 185. Hence development which would conflict with and undermine the strategy of a local plan so formulated would, in planning terms, be harmful.

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<sup>4</sup> ID 32 paragraph 19

<sup>5</sup> Compact Oxford English Dictionary (Third Edition)

<sup>6</sup> Ibid

<sup>7</sup> Confirmed to be a reference to Martock/Bower Hinton

<sup>8</sup> See Local Plan paragraph 5.65

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27. The appellant's planning witness queried whether simple failure to accord with policy intentions, as opposed to more tangible or visible harm such as negative impact on valued or designated landscape, would be harmful. However, the concept of harm to policy intentions is long established, most notably and crisply in the case of Green Belts, and I have no difficulty in concluding that development which conflicts with a development plan in a way which could potentially undermine its strategic intentions is of itself harmful unless justified by material considerations. Accordance with the development plan, unless there is a sufficiently good reason to depart from it, is a principle enshrined in statute, and the recent *Hopkins Homes* ruling in the Court of Appeal<sup>9</sup> confirms beyond doubt the approach that must be followed, starting with the "statutory presumption in favour of the development plan".<sup>10</sup>
28. Whether or not a plan is up-to-date is a significant material consideration, but the simple fact of being out-of-date or not fully up-to-date does not negate or render irrelevant a development plan or policy within it; rather it affects the weight to be accorded by the decision maker relative to other material considerations.
29. In this case, it is common ground that the Council cannot currently demonstrate a five year supply of deliverable housing sites, notwithstanding the recent adoption of the Local Plan and therefore it is also common ground, by virtue of paragraph 49 of the Framework, that relevant policies for the supply of housing may not be considered up-to-date and that the presumption in favour of sustainable development set out in paragraph 14 is therefore engaged. This is a material consideration to which due weight must be accorded, a matter to which I return in the planning balance.
30. At this juncture it is more pertinent to consider the implications of the proposal for the strategy, the starting point being that Martock is a Rural Centre and that policy SS5 establishes that housing development over the plan period should be in line with the figure of 230 which the policy anticipates.
31. By virtue of existing commitments, it is uncontroversial that, as at 31<sup>st</sup> March 2015 (the latest date for which monitoring provides a complete picture), 254 dwellings had been built or committed at Martock (77 built and 177 permitted or under construction). To my mind, avoiding spurious precision, this is broadly in line with the strategy. By simplified calculation the temporal dimension of the planned housing requirement for Martock is 10½ houses per annum overall, the actual rate achieved over the first 9 years of the plan period (2006 – 2015) being in the order of 8½ houses per annum. The rate of build to meet the remainder of the planned requirement would equate to around 12 houses per annum maximum (230 - 77 = 153: 153/13yrs = 11.76). Bearing in mind the recessionary conditions from 2008 until relatively recently, and the 177 plots already committed at the settlement, a build rate of that order does not seem at all unrealistic if the presently more buoyant housing market continues to encourage house-building. The apparent popularity of Martock as a settlement seems credible, as the evidence of my own eyes indicated during my visit to the town centre that estate agents appeared to doing a brisk enough trade.

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<sup>9</sup> [2016] EWCA Civ 168

<sup>10</sup> Ibid - paragraph 42

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32. It would seem from my analysis, and no evidence was presented to suggest otherwise, that demand is likely to ensure that house-building in Martock is very likely to be delivered in line with the SS5 strategy. On the contrary, the appellant stressed that a short timescale permission would be in order, if the appeal was allowed, to encourage rapid delivery to address the current acknowledged District-wide shortfall in deliverable sites. This stood, in September 2015, at 618 sites.<sup>11</sup>
33. The implications of this are fairly clear. If the appeal is allowed, approximately 15% of the current District-wide shortfall would be immediately resolved by virtue of the appeal site being made available for development. Of itself, and viewed in isolation, that would undoubtedly be a good thing as it would contribute not only to the District's housing needs, including for Affordable Housing, but would also contribute nationally to the Framework's stated imperative to boost housing supply. But it is not appropriate in the plan-led system to view matters so simply or narrowly and the Framework does not demand that it should. On a proper interpretation, following *Hopkins Homes*, it adds weight to the contention that the housing should be allowed but it does not of itself demand that the intentions of the development plan should necessarily be overridden.
34. The question arises; what harm would the development inflict upon the SS5 spatial strategy for housing? The arithmetic context is that 15% of the current (and possibly short-lived<sup>12</sup>) housing land availability shortfall would be met now by means of allowing up to 91 houses at one of six Rural Centre settlements earmarked for limited growth and which are intended in aggregate to accommodate only 7% of the overall housing requirement (albeit this latter total is a minimum) for the District over the period to 2028, whereas the lion's share (79% at least) of housing development is intended for Yeovil and the Market Towns. Martock itself is intended to accommodate only 1.4% of the District-wide minimum requirement.<sup>13</sup> Undoubtedly supply would be rapidly boosted in the settlement but a more pertinent figure locally is that also put by the Council, namely that the housing land supply at Martock would essentially be boosted to 345 dwellings, or 50% more, available over the next few years, than the strategy contemplates over the period to 2028, 12 years from now.
35. Notwithstanding the apparently permissive approach taken in the officer's report on the Ringwell application in Martock<sup>14</sup> I am clear that, given the proper interpretation of policy SS5, which cites the figures for the higher tier settlements as minima but requires housing development at Rural Centres to be in line with the specified figure in each particular case, exceeding that figure by 50%, moreover at a point in time only 10 years into a 22 year strategy, carries with it the risk of significantly skewing the spatial pattern of housing growth away its intended form. The growth of Martock at such a pace and to such a scale is simply not what the development plan intends.
36. The question then arises as to what harm arises beyond damage to the credibility, intent and stated point of the policy – what would be the real world consequences? I accept that there has been presented no evidence to suggest

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<sup>11</sup> CD 12.11 paragraphs 5.1 and 5.2

<sup>12</sup> See below under 'planning balance'

<sup>13</sup> Evidence of Mr Lane paragraph 4.8

<sup>14</sup> ID 32 paragraph 6a.

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that developers contemplating development in the priority areas in Yeovil or areas in need of regeneration such as Chard would be deterred from making the necessary investment or have objected to this proposal specifically. However, as a matter of logic it must be the case that in any housing market area such as South Somerset, which the Council points out to be relatively homogenous and linked, if people satisfy their housing needs in one area they will not look to satisfy them in another. The appellant's planning witness did accept, moreover, that there was the potential, at least, for such an outcome.

37. Given the strategic objective of achieving a balanced pattern of sustainable growth as between the various settlements in the hierarchy and broadly maintaining it to encourage self-containment and minimise unnecessary commuting, it is pertinent to consider local employment opportunities and who might occupy the proposed housing. In doing so, however, I am conscious that, with the exception of the affordable element, to some degree, there is no way of telling who might occupy the proposed housing, where they might work, or indeed whether they would be economically active at all, given the changing age profile of the population nationally and the apparent attractiveness of rural Somerset to retirees.
38. As noted previously, policy SS3 provides for complementary employment growth to increase the jobs available in Martock in balance with the additional housing planned for and it does appear that there could be more jobs available to Martock residents locally than the Council suggests, owing to the more rural Lower Super Output Areas around the settlement having been excluded by reason of the methodology adopted in the development planning process. However, the appellant's evidence on this was ultimately of limited utility as relevant figures could not actually be compared like with like.
39. As to who might occupy the houses, the appellant's figure were not in the event helpful at all, because it became clear through cross-examination that the statistics deployed revealed only the age categories of people in need of a mortgage, whereas the more mature segments of the population tend not to require finance for house purchase (albeit recent moves reported in the media to make mortgages available to the more elderly suggest that this may become less of a marked tendency).
40. In all the circumstances, I conclude that there is no special reason to depart from the generality of the plan strategy for Martock by reason of particular age or employment characteristics of potential occupiers. There is no reason to suppose that the market houses would necessarily be occupied by local people who might live and work in the village as opposed to those who might choose to live there but work in a larger centre, but there is a logic in the suggestion that a significantly more generous supply than planned for would tend to encourage out-commuting to other destinations by the economically active.
41. Paragraph 55 of the Framework says that to promote sustainable development in rural areas housing should be located where it will enhance or maintain the vitality of rural communities but I am not persuaded, in the context of planned limited growth for the Rural Centre of Martock in line with the 230 additional houses specified (and around 3 hectares of employment land) over the plan period that the principle is being ignored or requires, in this particular case, any reinforcement. It seems to me, having regard to paragraph 5.27 of its explanatory text in the overview of the Rural Settlements of the hierarchy, that

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the principle is of more direct relevance to the circumstances that might be experienced in the wider countryside in which these are situated. Whilst this is clearly not a sealed system in reality or a sealed category of the Local Plan for these purposes,<sup>15</sup> there is, in the context of the Local Plan as a whole, no convincing evidence of stagnation or decline in Martock to suggest that significantly more houses than planned for are required to address concerns about vitality.

42. All in all, taking the above considerations into account, I can only conclude that, on any assessment, exceeding the planned housing figure for Martock by 50% cannot be said to be in line with the policy figure specified, and that to do so at any point in the life of the plan, but particularly in the early-middle years, carries with it a very real risk of distorting the spatial strategy for sustainable development across the district with real and tangibly harmful consequences which are contrary to the Council's intentions as set out in its development plan.
43. Given the fundamental role of the development plan in statutory and national policy terms, this is a harmful conflict with Local Plan policy intentions generally, and policies SS1 and SS5 specifically, to which I accord substantial weight. That said, I accept that by virtue of paragraph 49 of the Framework these policies cannot be considered fully up-to-date, owing to the current absence of a five year deliverable supply of housing sites, and that paragraph 14 is therefore engaged – a matter to which I return in the planning balance.

#### *Heritage considerations*

44. It is common ground that... *"any alleged harm to the setting or significance of the designated heritage assets, at Stapleton Cross and the Church of the Holy Trinity at Ash, could only be considered as less than substantial"*.<sup>16</sup>
45. The Council does not raise heritage issues as a reason for refusal or a cause of conflict with the development plan and offers no evidence specific to the matters helpfully covered by the appellant's specialist witness on the topic.
46. I am required in any event, by virtue of s66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, to have special regard to the desirability of preserving the setting of the listed buildings I have described at Stapleton Cross and the Church of the Holy Trinity at Ash, also a listed building and plainly visible from the site.
47. To deal with the church first, my assessment is that the appeal site is plainly within its wider setting in the sense that the tower is a prominent feature in the landscape visible from many points, as originally intended. The church is significant as a visible place of worship within the rural landscape in which it was first built and which for the most part remains rural, save for the developed area of Martock which has progressed northwards as far as the appeal site and the allotments opposite. Many such listed churches are inter-visible with village development areas and, given the distance and broad scale of the wider setting of the church, the proposed development would represent a relatively small increment within that setting relative to the elongated settlement of Martock. It is a matter of degree, but in that context I do not

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<sup>15</sup> See discussion of accessibility issue below

<sup>16</sup> SoCG paragraph 4.9.1

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consider that the proposed development would materially diminish the significance of the church as a listed building by fundamentally altering its wider setting given that this already includes substantial development which would not come physically closer or encroach eastwards onto the rural land between the church and Stapleton Road.

48. The listed buildings at Stapleton Cross are a more complex matter in my opinion. Stapleton as a whole, although not a conservation area, exhibits a form of development now referred to as a 'shrunken village', being the remnants of an agricultural community indivisible in functional and historic terms from its rural setting. It contains a number of listed buildings and the relevant ones for present purposes are essentially those at the southern end of the settlement, i.e. Stapleton Cross. The two listed houses to the north-west of Stapleton Croft front the highway traversing the ridge of higher ground between Ash and Coat and are for the most part visually separated from the northern environs of the appeal site, part of their intermediate agricultural setting, by the dwellings known as Tredegar, Orchard View and Highridge.
49. Stapleton Croft, on the other hand is comparatively prominent in view on approach to Stapleton Croft up Stapleton Road alongside the appeal site and there is intervisibility through the remnant orchard, which forms a close part of its setting, with the appeal site to the south clearly linked to it as part of its intermediate agricultural setting. Insofar as this would change to an essentially suburban landscape through the addition of a housing estate, I consider that its rural setting would not be preserved and would be changed moreover in a way which would in some small measure harm its significance, albeit the proposed preservation of the ridge and furrow and disposition of open space would materially assist in mitigating that harm.
50. For these reasons, although I do not concur with the finding of "no harm" claimed by the appellant's witness, I have no hesitation in concluding that the harm would be less than substantial and, as suggested, would be "towards the bottom of the less-than-substantial harm spectrum", as he puts it. There would be no substantial conflict with the intentions of policy EQ3 of the Local Plan concerning the historic environment, albeit the less than substantial harm I have identified in respect of Stapleton Croft is required to be balanced against public benefit by virtue of paragraph 134 of the Framework.

#### *Character and appearance of area*

51. Paragraph 13.28 of the Local Plan explains that policy EQ2... *"aims to ensure that development contributes to social, economic and environmental sustainability and makes a positive difference to people's lives to help to provide homes, jobs and better opportunities for everyone. At the same time, it aims to protect and enhance the natural environment, and conserve the countryside and open spaces that are important to everyone"*. Although out-of-date by virtue of paragraph 49 to the extent that it might in any particular set of circumstances constrain housing delivery, there is no suggestion that the policy itself is anything other than broadly consistent with the general intentions of the Framework and, indeed, this explanation seems to me to encapsulate much of the balanced approach that lies at the very heart of the Framework. The policy itself, which concerns general criteria for development management, lists a number of aims against which proposals to develop are to be considered, including; *"creation of quality places"*; *"conserving and*

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*enhancing the landscape character of the area”; “reinforcing local distinctiveness and respect local context”; and “local area character”.*

52. As I have previously noted, Martock/Bower Hinton has historically grown in markedly linear fashion across the floor of a shallow valley. Martock has tended to broaden out but has nevertheless continued its northward progression either side of the B3165 to the point where it is bounded by the watercourse at the foot of a gentle but perceptible increase in slope up towards Stapleton Cross.
53. The watercourse is of no great topographic significance beyond marking that subtle change in the topography and, bearing in mind its small size, most certainly does not present an obvious physical constraint to further development. Nevertheless, I do concur with the Council’s landscape witness, to some degree in this particular matter, in that it appears to mark a legible physical distinction between the distinctly rural area within which Stapleton, Ash and Coat are situated and the built-up confines of the much larger settlement of Martock, here characterised by suburban housing at Stapleton Close and Lavers Oak and the industrial estate west of the latter on Oakland Road.
54. I do not consider the allotments and associated structures, or the single property and associated structures at Chestnut View detract unduly from the rural character which is noticeably encountered at this point. West of Stapleton Road the boundary of the housing areas is rendered somewhat abrupt by the relationship of the watercourse and various domestic treatments of its southern bank in Lavers Oak, whilst the boundary of the industrial estate to the west of the appeal site is very noticeable from within the western part of the site and the field west of Highridge. But this is private land and, excepting the boundary of Lavers Oak from a short section of Stapleton Road, not generally visible in the public domain. The opportunities for viewing this northern margin of Martock from the Coat–Stapleton Cross road are limited by its nature and configuration, whilst to the north the public footpath affords only very limited views of the site as a whole in any event. As the landscape witnesses agree, the topography, vegetation and disposition of other physical features in the area generally serve to contain views of the appeal site from the west and north. Equally, and for similar reasons, I do not consider the case is strong for using development to create a more visually pleasing northern boundary to the village.
55. Along Stapleton Road itself the site is of course clearly apparent but perception of it is dominated by the mature protected trees along the eastern margin with a pleasing impression of open rural land beyond. Again the circumstances reduce negative impressions of the rear of the Lavers Oak development. The main impression is of the pleasant rural aspect created by the trees and the former orchard land to the west and it is unsurprising that this has been singled out as *“Landscape with a low capacity to accommodate built development”* in the *Council’s Peripheral Landscape Study – Martock*.<sup>17</sup>
56. Although not designated for its landscape value or otherwise formally recognised as a “valued landscape” for the purposes of paragraph 109 of the Framework, that thorough and systematic local analysis for development

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<sup>17</sup> CD 11.3

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- planning purposes clearly indicates that it has qualities which are valued and which merit protection, albeit the appellant has taken this unequivocally into account by proposing to exclude the protected trees, the discernible ridge and furrow and an area of orchard land to be restored from the development area within the site.
57. Whilst by no means intended as a token gesture, this does not, however, address the full picture regarding landscape impact and the distinctive character and appearance of the local area.
58. The separate small settlements of Ash, Stapleton and Coat are within a wider rural landscape characterised by gently rolling topography, orchards, hedgerows and woodlands at, approaching and beyond the rim of the shallow valley across which Martock has latterly grown in a northerly direction supplemented by some broadening out as I have noted. Stapleton Cross is the closest manifestation of this pattern of rural development scattered within the landscape and marks the beginning of a traditional agricultural settlement much more loosely configured than Martock which continues northwards for a short distance on the higher ground before the road gently descends towards the linear settlement of Long Load, from which it is well separated by intervening countryside.
59. The linear pattern is a notable local characteristic, and this is essentially a manifestation of the historic geography of the area of the area, intimately related to its agricultural traditions and historic transport routes. Whilst Martock has grown northwards by accretion of estates behind the original road frontage, a pattern that diminishes at Stapleton Close and Lavers Oak, where estate development is more directly related to the B3165, this more recent pattern nevertheless stops sharply and distinctly at the watercourse, beyond which the scene changes markedly to the distinctive rural pattern I have described. Consequently, the very perceptible rural gap between Martock and the physically very distinct and separate settlement of Stapleton does assume an importance as part of the locally distinctive rural landscape belied by its lack of any special protection in the Local Plan, albeit paragraph 5.5 of the Peripheral Landscape Study for Martock specifically refers to the fields which separate the settlements.
60. Protection of local gaps is not a feature of the Local Plan. However, that does not negate the importance of such gaps within the rural scene where they contribute to the local distinctiveness, context and character which its policy EQ2 seeks to protect, inter alia through conservation of local landscape character, which in this instance would be harmfully intruded upon by the insertion of an estate of houses, even though set back behind the protected trees and open space proposed within the appeal site. It seems to me that creation of quality places must necessarily encompass these subtle concepts in addition to protecting the most obvious features and implementing mitigation through landscaping measures, bearing in mind the permanence and irreversibility of built development of the type proposed.
61. For these reasons I consider the existing separation between Martock and Stapleton to be important to the basic intentions and individual aims of policy EQ2 as the Council maintains.

62. Moreover, this separation is not merely something to be experienced by users of Stapleton Road. My site visit took in the viewpoints identified by the landscape witnesses and, whilst from the north and west, there would be little harm owing to the visual containment of the site by topography and other features, the perception from the east and south east would be quite different, notably from the public footpath south of Highway, albeit this is screened by vegetation for much of its length, but more particularly so from around the point where this turns to the west back towards Stapleton Road and the allotments. The view from this latter location and from the approach to it from the east would change from an essentially open and rural landscape to the west to one dominated by an estate of houses extending up the slope almost as far as Stapleton Cross. The masking effect of the protected trees would only serve to hide the small separation proposed to be retained. The perception would be of the large settlement of Martock having extended up the slope into its rural hinterland to form a continuous belt across the gap between it and Stapleton. This effect, being on the public footpath approach and also the allotment land would be very much in the public domain of those enjoying the countryside around the settlements.
63. The differences between the appellant's landscape witness and Council are well documented in their evidence and were clear at the inquiry. Ultimately the systematic analyses they conducted were in many respects concluded by differences in nuance and judgement (which would also seem to account for the differences in substance, such as they are, between the appellant's landscape witness and the author of the Landscape and Visual Impact assessment originally submitted with the application<sup>18</sup>). However, having examined the proposal in detail on my formal site visit and prior to that on my preliminary visit to the site and surrounding area, I prefer, for the reasons given above, the effective conclusion of the Council's witness that, in terms of the objects of Local Plan policy EQ2, and also the more generalised policies of the Framework in relevant respects, the proposed development would be significantly harmful. This is a planning harm to which I accord substantial weight.

#### *Accessibility*

64. The Council's third reason for refusal is uncompromising in stating that the proposed development would be unsustainable by virtue of poor accessibility, with alternatives to the use of the private car being significantly reduced. On the face of it, this does not sit well with the concept of directing some growth to the Rural Centres but it is pertinent that relevant explanatory text in the Local Plan, at paragraph 5.21, recognises that... "growth in smaller but still sizeable settlements [i.e. the Rural Centres –paragraph 5.22] is likely to be less sustainable and so should be geared to meet local needs and address affordable housing issues...".
65. In principle, the plan recognises that some growth is necessary in the Rural Centres but that for accessibility reasons amongst others, this should be relatively limited. Whilst that principle is fundamental to the first issue it has a bearing also on the specifics of the instant proposal, bearing in mind that the proposed housing would be situated on currently undeveloped land adjacent to the northern extremity of the linear settlement of Martock. The Council's

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<sup>18</sup> CD

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proposition is not inherently unreasonable in the circumstances but planning decisions turn on a mixture of principle and practice as the former element must necessarily accommodate real world circumstances on the ground. On that basis, the appellant's proposition that a package of measures (as detailed in the evidence) to improve accessibility and the suggestion that a Travel Plan should assist in this aim is not inevitably hopeless. The Framework specifically endorses the latter instrument at paragraph 36, which should of course be read in the context not only of paragraph 35 but also paragraph 34. This effectively recognises that a degree of flexibility may be needed in rural areas in particular to accommodate other planning objectives. Moreover, it is a core principle of the Framework that significant development should be focussed in... "*locations which are or can be made sustainable*".

66. The Local Plan policy TA5, for its part, requires that new development should be designed to maximise the potential for sustainable transport through, amongst other things..... "*Securing inclusive, safe and convenient access on foot, cycle, and by public and private transport that addresses the needs of all*". Together with the fifth requirement in respect of transport assessments (addressed at the time of application) this second requirement of the policy is the most directly relevant of those listed to the development at issue. Clearly, the 'needs of all' accords with the intentions of paragraphs 32 and 35 of the Framework and embraces the needs of children, the elderly and those with mobility and sight impairments as well as the more able-bodied adult majority. Distance to facilities is relevant to all and quality, safety and ease of route are relatively more important to the less able-bodied and experienced who, amongst other things may not have the ability to use private transport in any event.
67. It is common ground that the site has existing bus stops within walking distance, so as to access locations including Yeovil and Taunton, and that the nearest main centres are... "*well served during the main part of the day allowing for work, shopping and daytime leisure trips.*" The Council's concern, apart from a more general point about public transport, is more specifically to do with local accessibility for day to day needs.
68. The parties' transport witnesses helpfully agreed a list of walking distances from the centre of the site to the range of services and facilities in Martock, the nearest on the list including the allotments opposite (at 200m) and bus stops (250m); the furthest including the local doctors' surgery (1,600m) and Martock Recreation Ground (1,940m).
69. The basic generic measure of local accessibility, to my mind, must be the walk to the local town or village centre which is the focus for most day to day needs, in this case a reasonable proxy being the Moorlands Park Shopping Centre (1,330m), albeit as a consequence of the linearity and historic development of Martock there is a range of shops and services arrayed along the B3165 between the appeal site and the centre, including a convenience store at the petrol filling station.
70. I have no doubt that the desire line between the site and the centre is the Stapleton Road/North Street Route, which is beset with numerous physical inadequacies which could be challenging for the mobility impaired and potentially prohibitive for wheelchair users, albeit during the course of my site visit I did observe mobility scooters using the main highway to circumvent

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certain of these – a perfectly legal if less than ideal practice. Moreover, the accident record for the route does not suggest that it is unduly dangerous – possibly because, as the Parish council representative suggested, the presence of numerous parked cars in the relatively narrow carriageway has a traffic-calming effect.

71. Notwithstanding that desire line, a broadly parallel if somewhat winding route is available to those with a little local knowledge. This runs east of the B3165, essentially via Stapleton Close and Bracey Road and so through to the Moorfields Shopping Centre car park. During the course of my site visit I walked both routes and found this alternative, involving around 15 minutes' walking at a moderately steady pace, to be calm and safe and within normal expectations of a significant suburban walk to a shopping centre. For an able-bodied adult it presents no particular problem and would be capable of use as a safer and less fraught alternative to the B3165 for the less mobile or for cyclists.
72. The primary route along the latter, the obvious desire line, is a different proposition for those categories, as tends to be the case in towns and villages throughout the country which have evolved from linear settlements whose original growth reflected the needs of the horse and cart, with properties fronting narrow highways with narrow pavements at best and little prospect of substantial improvement in the absence of potentially draconian and destructive measures damaging to the essential character legacy.
73. Martock is no exception to that tendency and its marked linearity means that it is a persistent tendency over much of the distance from the site to the centre, albeit the package of measures proposed by the appellant would offer some relief and I have no doubt that, despite the apparent difficulty of finding a location for a southbound bus shelter (given the curious reluctance, reportedly, of the County Council to entertain new shelters on highway land), a solution to that particular impediment could ultimately be agreed.
74. Considering the above context, including the historical development of Martock and the reasonable alternative to the use of the main spine route through it to access the centre, I do not accept the stated conviction of the Council's highways witness that the poor characteristics of that desire line for pedestrians and cyclists should of itself be prohibitive of development, in principle, on the appeal site. As the advocate for the appellant put it, that would be a "counsel of perfection" that would routinely prevent much needed housing development in many such situations, including, possibly, elsewhere in Martock.
75. That said, the location of the site relative to the centre, although within certain of the guideline preferred maximum walking distances cited, would not in my view positively encourage alternatives to the use of the car in the way that eminently 'walkable' urban neighbourhoods do. Realistically, it is unlikely that even the able-bodied, certainly the economically active amongst them with time constraints, would routinely opt for walking as an alternative to private transport, albeit cycling would be a time saving option for those so inclined.
76. However, that tendency to use the car, for speed and convenience, in any event, is not confined to the situation under consideration here and the requirements of national policy are to provide for alternatives, as is clear from

paragraph 29 of the Framework, according to geographic circumstances. As far as the latter point is concerned it is pertinent that whilst clearly not an urban situation, the site is not located in the deep countryside, where expectations of real transport choice could be unrealistic, but rather Martock is a Rural Centre, identified for a modicum of housing growth because, although furnished with a range of services that could be supported and extended by such growth, “*is likely to be less sustainable*”<sup>19</sup> [than the higher tier settlements].

77. The Local Plan policy TA5 requirement, amongst other things, is to maximise the potential for sustainable transport. One of the policy requirements in this context is to secure safe and convenient access for all and whilst the package of measures put forward by the appellant addresses the first aspect of that requirement as best it can, the notably peripheral location of the site at the northern extremity of the village means that, notwithstanding the alternative to the B3165 legacy route down the spine of the settlement, which is convenient enough for the able-bodied, should they be inclined to take the time, many facilities including those such as the doctors’ surgery from the centre southwards cannot be said to be truly ‘convenient’.
78. Sustainability of location is clearly a spectrum and a judgement in the round and it is neither appropriate nor possible to be overly prescriptive as to what is or is not ‘sustainable’ in that sense. Hence walking distance guidelines tend to be expressed as desirable maxima rather than absolutes.
79. In this instance, I find the Council’s approach to be unduly prescriptive and absolute. Insofar as the sustainability of the location represents a point on a spectrum, I would place it towards (but not at) the less sustainable end with mitigation (which would also benefit established residents) moving it a little further to the centre. The disadvantages of the site’s location can be mitigated to a degree, as it would need to be, and is proposed to be, to accord with policy TA5. All other things being equal, therefore, in the context of demonstrable housing need, the location of the site per se would not in my estimation be prohibitive of housing development bearing in mind that Martock is identified as a Rural Centre.
80. For the above reasons, accessibility considerations are not in my view decisive against the proposal as the Council contends. Equally they do not commend the site as a housing location of first choice in an ideal world. Bearing in mind that planning rarely operates in an environment of that nature, I do not consider the site’s accessibility characteristics to be unacceptably harmful, but neither do they weigh in favour of the proposal. Given the less direct alternative route and the appellant’s willingness and firm intention to mitigate the difficulties encountered on the B3165, to the extent that appears to be possible, and the Rural Centre context, I accord little weight either way to this aspect of the proposal because, as a matter of pragmatic judgement in the round, the intentions of policy TA5 could be more or less satisfied.

#### *Other matters and the planning balance*

81. The fact of the land being Best and Most Versatile agricultural land would not of itself justify refusal given the limited land take and the District Context of apparently limited choice of greenfield land not falling within that category, but

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<sup>19</sup> Local Plan paragraph 5.21  
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- nevertheless the loss does not weigh on the positive side of the balance in the way that use of previously developed or lower grade land might.
82. The impact on the social infrastructure of Martock was originally a reason for refusal but would be comprehensively addressed by the unilateral undertaking proposed, to the extent that this provides for what is necessary, reasonable and related to the impact of the proposed development.
83. It is common ground that the presumption in paragraph 14 of the Framework is engaged by reason of the housing land supply being currently inadequate in terms of the requisite five year supply of deliverable sites. I do not agree with the Council<sup>20</sup> that the shortfall is not significant or that the suppression of delivery by recessionary conditions over much of the early plan period in any way mitigates the need to address the matter. Similarly, recent adoption of the Local Plan is not, of itself, significant if, as here, relevant policies for the supply of housing cannot be considered up-to-date and it is a matter of concern that specific allocations are not yet in firm prospect to address the matter; although I acknowledge the Council's aspiration to adopt site allocations in an early review of the Local Plan by early 2018. The mere fact of reviewing the evidence base in anticipation of that does nothing to alter the fact of shortfall now and the national imperative to boost the supply of housing means that the shortfall is a matter which must be accorded significant weight. Exactly how significant that weight should be relative to other considerations in any particular case is a matter for the decision maker.
84. That principle is established beyond doubt by the recent Appeal Court Ruling in *Hopkins Homes* which establishes, moreover, that lack of a five year supply of housing land should not automatically override other planning harms or render out-of-date policies irrelevant or of no real consequence. Rather it is a matter to which appropriate weight must be accorded by the decision maker, influential as appropriate in the circumstances of the case, in the context of the plan-led system that is the statutory basis for decision taking; and central to the overall intentions of the Framework in respect of sustainable development as defined through paragraphs 18 to 219 taken as a whole.
85. The relatively poor universal accessibility of the site is not a matter I accord significant weight to on either side of the balance, for the reasons I have given, albeit it would not otherwise feature on the positive side. The fundamental issues concern the basic intentions of the development plan strategy and the impact of the proposal on the character and appearance of the area.
86. Of course the economic and social benefits of affordable and market housing are to be accorded significant weight and I do so. But I am also very conscious that, notwithstanding the district-wide shortfall in housing land supply, the contribution in terms of commitments anticipated by the spatial strategy of the development plan has already exceeded by around 10% (24 units) the figure that it is intended to be in line with; and I have no evidence to suggest that those existing commitments will not be delivered. If the appeal proposals were to be delivered, as I have no doubt they would be, this would most certainly not be in line with the specified figure but would exceed it by a very substantial margin indeed. The net result would be a serious distortion of the carefully considered spatial strategy of the development plan recently found sound in

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<sup>20</sup> Evidence of Mr Lane – paragraph 4.33  
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the context of the Framework and adopted accordingly. I have no doubt that this could, potentially, lead to harmful consequences elsewhere notwithstanding the lack of specific objection from other house builders with aspirations to develop elsewhere and the lack of objection from those who wish to implement existing commitments in Martock lends weight the proposition that demand for houses in this settlement would cause the strategy to be distorted in real terms and not just on paper. To significantly undermine an adopted development plan strategy balanced for sustainability, as I consider this proposal would, constitutes a seriously adverse consequence, potentially with social, economic and environmental disadvantages, for example through excessive commuting, that strikes at the heart of the plan-led system which is integral to the Framework concept of sustainability. I therefore accord what I consider to be the very significantly harmful conflict with policies SS1 and SS5 of the Local Plan commensurately substantial weight in this particular instance, notwithstanding that for the purposes of paragraph 49 of the Framework they cannot currently be considered up to-to-date and as a general principle merit less weight than might otherwise be the case.

87. I have carefully considered the environmental effects of the proposal and, notwithstanding that there could be some biodiversity enhancement, as can often be the case with well thought through landscaping at detailed design stage, the major impact would be on the broader character and appearance of the area and, for the reasons I have given, I consider the perception of discernible significant separation of the freestanding settlement of Stapleton to be an important aspect of that in the local circumstances which is not in any way changed by the fact that the Local Plan has no specific policies concerning 'gaps'. I consider the local distinctiveness which policy EQ2 seeks to reinforce and respect would be seriously and irreversibly compromised by the appeal proposal, notwithstanding the appellant's best efforts to embed mitigation in the principle of the outline scheme as promoted. This seriously harmful conflict with the intentions of that policy is also a planning harm to which I therefore accord commensurately substantial weight, notwithstanding that this must also be tempered to some by virtue of paragraph 49 of the Framework because it has the potential to restrict housing land supply.
88. The less than substantial harm to the heritage asset of Stapleton Cross, specifically, that is part of the character and distinctiveness of the locality adds to that harm but does not define it. Other buildings visible in the rural landscape as it has evolved, together with the interaction of topography, field patterns and vegetation and the distinctive separateness within that landscape of Stapleton and Martock combine to create those qualities. The harm to local distinctiveness and context would arise if none of the buildings at Stapleton Cross were designated assets.
89. Turning now to paragraph 14 of the Framework, I consider, for the two principal reasons I have given, augmented by the relatively minor disadvantages I have referred to, that on this occasion the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole. (The public benefit to be weighed against the less than substantial harm to Stapleton Croft is effectively subsumed in the overall planning balance.) It follows, therefore, that the proposed development does not represent sustainable development for the purposes of the Framework and that the

presumption in favour of which, as set out in paragraph 14, although relevant and engaged by virtue of paragraph 49, cannot therefore apply in this instance. The proposed development would, moreover, conflict harmfully with the overarching policy SD1 of the Local Plan, which embodies a parallel approach to assessing sustainability.

*Overall conclusion*

90. For all the reasons I have given, I consider the proposed development conflicts harmfully with the development plan and cannot otherwise be considered sustainable notwithstanding an acknowledged housing land shortfall at the present time. I have considered all other matters raised but there is nothing amongst them to alter that fundamental conclusion. I therefore conclude that the appeal should be dismissed.

*Keith Manning*

Inspector

## **APPEARANCES**

### FOR THE LOCAL PLANNING AUTHORITY:

Scott Stemp	Of Counsel
He called	
Robert Archer CMLI	Landscape Architect
Michael Bellamy BA (Hons) MCIHT FIHE	Director, Bellamy Transport Consultancy Ltd
Colin McDonald Master of Housing Studies FCIH	Corporate Housing Strategy Manager
Janet Frost	BSc (Hons) PGDip MRICS, Corporate Property and Estates Advisor, Somerset County Council
Lynda Pincombe	BA (Hons), Community Health and Leisure Manager
Keith Lane BA (Hons) MTP MRTPI	Senior Policy Planner
Alex Skidmore	Senior Planner

### FOR THE APPELLANT:

Jonathan Easton	Of Counsel
He called	
Simon Helme BEng MSc MCIHT	Director, Ashley Helme Associates Ltd
Jason Clemens BA MA MSc MRTPI MIHBC	Director, Head of Historic Buildings, RPS CgMS
Gary Holliday BA (Hons) MPhil CMLI	Director, FPCR Environment and Design Ltd
Robert Hindle BSc (Hons) MRICS	Director, Rural Solutions Ltd
Peter Dutton BA (Hons) MCD MRTPI	Senior Planner, Gladman Developments Ltd

### INTERESTED PERSONS:

Roger Powell	Martock Parish Council
Cllr. Neil Bloomfield	Ward Councillor
Cllr Graham Middleton	Ward Councillor

## **INQUIRY DOCUMENTS**

- ID 1 Appearances list for appellant
- ID 2 Statement of Common Ground
- ID 3 Opening Statement for appellant
- ID 4 Decision notice 14/04723/FUL Ringwell Hill, Martock
- ID 5 Jointly agreed note on site accessibility

- ID 6 Parameters plan (Appeal decision APP/L3245/W/15/3011886) Longden Road, Shrewsbury
- ID 7 Map showing housing proposals in Martock
- ID 8 Weekly Highways Consultant's Comments 2015 September 15 -17
- ID 9 Email chain finishing with message from Access for All to Michael Bellamy on 19 April 2016 @ 09:50
- ID 10 Officer's report on planning application 15/05167/FUL – Stoke Road, Martock
- ID 11 Draft Unilateral Undertaking
- ID 12 Copy of Appendix 2 to Robert Archer's evidence with agreed site limits marked
- ID 13 Summary Judgement *MacTaggart & Mickel Homes Ltd v SSCLG*
- ID 14 Employment levels in settlement in South Somerset ABI 2006 data
- ID 15 Map showing Lower Super Output Areas for Martock and surrounding areas
- ID 16 2011 workplace population statistics (official labour market statistics)
- ID 17 Draft planning conditions
- ID 18 Extract from National Travel Survey for England 2014
- ID 19 Email chain finishing with message from Somerset County Council to Simon Ashley on 11 April 2016 @ 17:36
- ID 20 Extract from former Planning Policy Statement 1
- ID 21 Review of footway widths plotted by Michael Bellamy
- ID 22 Appeal site: Revised Road Safety Audit Stage 1
- ID 23 Text from reverse of cycle routes map
- ID 24 *Housing Requirement for South Somerset and Yeovil* - January 2011  
South Somerset District Council
- ID 25 Parallel schedules of draft conditions highlighting differences between parties
- ID 26 Letter to Gladman Developments from Greenslade Taylor Hunt dated 26 April 2016
- ID 27 CIL compliance statement re sport and recreation facilities
- ID 28 Revised draft unilateral undertaking
- ID 29 Unified list of draft conditions
- ID 30 Closing submissions for Council
- ID 31 Court of Appeal transcript (*Hopkins Homes Ltd*) [2016] EWCA Civ 168
- ID 32 Closing submissions for appellant

## **CORE DOCUMENTS**

### **CD1**

- 1.1 Application Covering Letter, Application Form and Certificates
- 1.2 Location Plan (referenced 3978\_004\_A)
- 1.3 Topographical Survey (referenced S14-486)
- 1.4 Development Framework Plan (referenced 3978\_002\_Rev F)
- 1.5 Planning Statement (dated January 2015)
- 1.6 Housing Land Supply Assessment (dated January 2015)
- 1.7 Design & Access Statement (dated January 2015)
- 1.8 Landscape and Visual Impact Appraisal (dated January 2015)
- 1.9 Transport Assessment (dated January 2015)
- 1.10 Residential Travel Plan (dated January 2105)
- 1.11 Proposed access junction layout plan (referenced 11878-T101-D2)
- 1.12 Proposed access swept path analysis plan (referenced 11878-T102-D1)
- 1.13 Ecological Appraisal Survey Report (dated January 2015)
- 1.14 Arboricultural Assessment (dated January 2015)
- 1.15 Archaeological Assessment (dated January 2015)
- 1.16 Built Heritage Assessment (dated January 2015)

### **CD1**

- 1.17 Flood Risk Assessment (dated 9 January 2105)
- 1.18 Phase 1 Site Investigation Report (dated October 2014)
- 1.19 Noise Assessment (dated 7 January 2015)
- 1.20 Air Quality Assessment (dated 7 November 2014)
- 1.21 Utilities and Infrastructure Statement (dated January 2015)
- 1.22 Foul Drainage Analysis (dated January 2015)
- 1.23 Socio-Economic Impact Report (dated January 2015)
- 1.24 Statement of Community Involvement (dated January 2015)
- 1.25 Soil Resources and Agricultural Use & Quality Report (dated January 2015)

### **CD2**

- 2.1 LVIA Response (dated 12 March 2015)
- 2.2 Foul Drainage Analysis Supplementary Report (dated 9 April 2015)
- 2.3 Revised Framework Plan (referenced 3978\_002\_H)
- 2.4 Geophysical Survey Report (dated April 2015)

### **CD3**

- 3.1 Pre-Application Request Letter (dated 23 November 2014) 1 - 4
- 3.2 EIA Screening Request (dated 9 January 2015) 5 - 10
- 3.3 Application Validation (dated 10 February 2015) 11-12
- 3.4 Landowner Notification (Chain) (dated 26 February 2015) 13-14
- 3.5 GDL Update Letter (dated 31 March 2015) 15-18
- 3.6 GDL Letter - Revised Framework Plan (date 9 April 2015) 19-20
- 3.7 GDL Letter - Ecology (date 9 April 2015) 21-22
- 3.8 GDL Letter - Foul Drainage (date 9 April 2015) 23-24
- 3.9 Supplementary Bat Information (dated 14 April 2015) 25-28
- 3.10 GDL Letter - Archaeology (dated 28 April 2015) 29-30
- 3.11 SSDC EIA Screening Response (dated 30 April 2015) 31-32
- 3.12 GDL Letter - S106 Contributions (dated 30 April 2015) 33-36

### **CD4**

- 4.1 Ash Parish Council (dated 5 February 2015) 1-2
- 4.2 SCC Education (dated 11 February 2015) 3-6

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- 4.3 SSDC Climate Change Officer (dated 12 February 2015) 7-8
- 4.4 Crime Prevention Design Advisor (dated 13 February 2015) 9-10
- 4.5 Somerset Wildlife Trust (dated 17 February 2015) 11-12
- 4.6 Natural England (dated 19 February 2015) 13-14
- 4.7 Public Open Space (dated 24 February 2015) 15-16
- 4.8 Environment Agency (dated 25 February 2015) 17-20
- 4.9 Long Load Parish Council (dated 25 February 2015) 21-22
- 4.10 Somerset Drainage Board (dated 26 February 2015) 23-24
- 4.11 SSDC Ecologist (dated 3 March 2015) 25-26
- 4.12 SSDC POS (dated 3 March 2015) 27-40
- 4.13 SSCD Landscape (dated 4 March 2015) 41-42
- 4.14 SCC Archaeology (dated 10 March 2015) 43-44
- 4.15 Wessex Water (dated 12 March 2015) 45-46
- 4.16 SSDC Policy (dated 13 March 2015) 47-50
- 4.17 SCC Highways (dated 13 March 2015) 51-56
- 4.18 SSDC Housing (dated 17 March 2015) 57-58
- 4.19 SSDC Ecologist (dated 18 March 2015) 59-60
- 4.20 SSDC Ecologist (dated 7 April 2015) 61-62
- 4.21 Long Sutton Parish Council (dated 13 April 2015) 63-64
- 4.22 SCC Archaeology (dated 14 April 2015) 65-66
- 4.23 Somerset Drainage Board (dated 14 Apr 2015) 67-70
- 4.24 SSDC Ecologist (dated 14 April 2015) 71-72
- 4.25 SSDC POS (dated 14 April 2015) 73-86
- 4.26 SSDC Trees & Hedgerows (dated 29 April 2015) 87-88
- 4.27 SSDC Conservation (dated 30 April 2015) 89-90

#### **CD5**

- 5.1 Delegated Officers Report (dated 1 May 2015)
- 5.2 Delegated Decision Notice (dated 1 May 2015)

#### **CD6**

- 6.1 2015-07-30 GDL to PINS Appeal Submission 1-4
- 6.2 2015-07-30 GDL to SSDC Appeal Submission 5-6
- 6.3 2015-09-14 PINS Appeal start letter 7-8
- 6.4 2015-10-15 SSDC to GDL Statement of Common Ground 9-10
- 6.5 2015-11-05 PINS offer of Inquiry Date 11-12
- 6.6 2015-11-06 PINS offer of Inquiry Date 13-14
- 6.7 2015-11-12 PINS fixing Inquiry Date 15-16
- 6.8 2016-02-15 GDL to SSDC - Legal Agreement (Chain) 17-18
- 6.9 2016-03-08 GDL to SSDC - Leisure S106 (Chain) 19-22
- 6.10 2015-03-09 GDL to SSDC on S106 (Chain) 23-32
- 6.11 2016-03-10 GDL to SCC - SoCG Highways (Chain) 33-36
- 6.12 2016-03-15 GDL to SSDC - Legal Agreement (Chain) 37-38
- 6.13 2016-03-16 GDL to SSDC - CIL Compliance (Chain) 39-44
- 6.14 2016-03-16 GDL to SSDC - Heritage SoCG (Chain) 45-46
- 6.15 2016-03-17 GDL to SCC - Education Contribution 47-48

#### **CD7**

- 7.1 South Somerset Local Plan 2006-2028 – adopted March 2015 (extracts)

#### **CD8**

- 8.1 Land off Nantwich Road, Tarporley, Cheshire APP/A0665/A/11/2167430 Dated 29 August 2013
- 8.2 Land at Gaydon Road, Bishop's Itchington, Southam, Warwickshire APP/J3720/A/13/2202961 Dated 29 January 2014
- 8.3 Land opposite Rose Cottages, Holmes Chapel Road, Brereton Heath, Cheshire APP/R0660/A/13/2192192 Dated 12 February 2014
- 8.4 Land North of West End Lane, Henfield APP/Z3825/A/13/2205204 Dated 2 June 2014
- 8.5 Land at Chapel Lane, Wymondham, Norfolk APP/L2630/A/13/2196884 Dated 7 August 2014
- 8.6 Land at Razor's Farm, Chineham, Basingstoke APP/H1705/A/13/2205929 Dated 22 September 2014

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- 8.7 Land south of Cirencester Road Fairford APP/F1610/A/14/2213318 Dated 22 September 2014
- 8.8 Land at Javelin Park, near Haresfield, Gloucestershire APP/T1600/A/13/2200210 Dated 16 January 2015
- 8.9 Land off Banady Lane, Stoke Orchard, near Tewkesbury, Gloucestershire APP/G1630/A/14/2223858 Dated 22 January 2015
- 8.10 Land off Walden Road, Thaxted APP/C1570/A/14/2222958 Dated 1 June 2015
- 8.11 Land South of Wotton Road, Charfield, Gloucestershire APP/P0119/A/14/2220291 Dated 8 June 2015
- 8.12 Land off Worcester Road, Drakes Broughton, Worcestershire APP/H1840/W/15/3008340 Dated 14 January 2016
- 8.13 Land west of Beech Hill Road, Spencers Wood, Berkshire APP/X0360/A/13/2209286 Dated 9 June 2015
- 8.14 Land north of Upper Chapel, Launceston APP/D0840/A/13/2209757 Dated 11 April 2014
- 8.15 Land to The South Of Shutterton Lane, Dawlish, Devon APP/P1133/A/12/2188938 Dated 10 September 2013
- 8.16 Land at Fountain Lane, Davenham, Cheshire APP/A0665/A/14/2226994 Dated 3 September 2015
- 8.17 Money Hill, Land North Of Wood Street, Ashby-De-La-Zouch APP/G2435/A/14/2228806 Dated 15 February 2016

### **CD9**

- 9.1 Bedford Borough Council v SSCLG and NUON UK Ltd [2012] EWHC 4344 (Admin)
- 9.2 East Northamptonshire DC v Barnwell JT [2014] EWCA Civ 137
- 9.3 Mordue v SSCLG [2015] EWHC 539 (Admin)
- 9.4 Jones v Mordue & Anor [2015] EWCA Civ 1243
- 9.5 Freemont v Denbighshire CC [2016] EWHC 482 (Admin)
- 9.6 Forest of Dean DC v SSCLG [2016] EWHC 421 (Admin)
- 9.7 Stroud DC v SSCLG [2015] EWHC 488 (Admin)
- 9.8 CEC v SSCLG [2016] EWHC 571 (Admin)

- 9.9 Colman v North Devon DC - [2013] EWHC 1138LDER

### **CD10**

- 10.1 Conservation Principles, Policies and Guidance (April 2008)
- 10.2 Historic Environment Good Practice Advice in Planning: Note 3: The Setting of Heritage Assets (March 2015)
- 10.3 Historic Environment Good Practice Advice in Planning: Note 2: Managing Significance in Decision-Taking in the Historic Environment (March 2015)

### **CD11**

- 11.1 National Character Area Profile 140 Yeovil Scarplands (Extracts)
- 11.2 The Landscape Assessment of South Somerset, SSDC (October 1993)
- 11.3 SSDC Peripheral Landscape Study – Martock (June 2008)

### **CD12**

- 12.1 DEFRA: Rural Productivity Plan (August 2015)
- 12.2 George Osborne & Elizabeth Truss (Telegraph Article dated 20 August 2015)
- 12.3 South Somerset Community Strategy (2008-2026) (extracts)
- 12.4 ACRE Policy Position Paper: Children and Younger People (2014)
- 12.5 South Somerset Settlement Role and Function Study (April 2009) (extracts)
- 12.6 Gov.uk Official Statistics on Home Working (March 2015)
- 12.7 DEFRA Report on Rural Economy (March 2015)
- 12.8 South Somerset's settlement hierarchy workshop discussion paper March 2011 Rural Service Provision
- 12.9 Rural Service Provision Appendix
- 12.10 ACRE Policy Position Paper: Community Planning (2014)
- 12.11 South Somerset Five Year Housing Land Supply Paper (September 2015)
- 12.12 Taunton and South Somerset Strategic Housing Market Assessments – South Somerset Final Report (February 2009) (Extracts)

### **CD13**

<https://www.gov.uk/government/organisations/planning-inspectorate>

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- 13.1 Supplementary Ecological Report (Dated January 2016)
- 13.2 SSDC Ecologist (dated 15 February 2016) (LPA TO PROVIDE)
- 13.3 SSDC Ecologist (dated 17 February 2016) (LPA TO PROVIDE)

**CD14**

- 14.1 Land off Brinsea Road, Congresbury, North Somerset APP/D0121/W/15/3004788 Dated 30 November 2015
- 14.2 Land East of Mount Hindrance Farm, Mount Hindrance Lane, Chard APP/R3325/A/13/2209680 and Land East of Crimchard, Chard APP/R3325/A/13/2203867 Dated 3 June 2015
- 14.3 Land to the North of Hospital Lane, to the South of Mill Lane and to the East of Bouskell Park, Blaby S62A/2014/0001 Dated 22 July 2014
- 14.4 Land to the south of The Forty, Cricklade APP/Y3940/A/14/2223354 Dated 15 April 2015
- 14.5 Land at Well Meadow, Well Street, Malpas, Cheshire APP/A0665/A/14/2214400 Dated 7 January 2015
- 14.6 East site, Laverton Triangle, Norton St Philip APP/Q3305/A/14/2221776 and West land adjacent to Fortescue Street, Norton St Philip APP/Q3305/A/14/2224073 Dated 28 April 2015
- 14.7 Land off Brinsea Road, Congresbury APP/D0121/W/15/3004788 Dated 30 November 2015

**CD14**

- 14.8 Longden Road, Shrewsbury, Shropshire APP/L3245/W/15/3011886 Dated 19 January 2016
- 14.9 Land East of Holywell, West Coker Road, Yeovil APP/R3325/W/15/3003376 Dated 8 February 2016

**CD15**

- 15.1 Ivan Crane v SSCLG [2015] EWHC 425 (Admin)
- 15.2 Woodcock Holdings V SSCLG [2015] EWHC 1173 (Admin)
- 15.3 Edward Ware Homes Ltd V SSCLG [2016] EWHC 103 (Admin)

**CD16**

- 16.1 Housing Market Areas and Functional Economic Market Areas in Somerset (September 2015)
- 16.2 South Somerset District Council Local Development Scheme (August 2015)
- 16.3 Theatres and Arts Centre Infrastructure Delivery Strategy

**CD17**

- 17.1 Local Transport Note 1/95 – The Assessment of Pedestrian Crossings (1995)
- 17.2 Local Transport Note 2/95 - The Design of Pedestrian Crossings (1995)
- 17.3 DfT Guidance on the Use of Tactile paving (1998)
- 17.4 IHT Guidelines for Planning for Public Transport in Development (1999)
- 17.5 IHT Guidelines for Providing for Journeys on Foot (2000)
- 17.6 DfT Inclusive Mobility (2002)
- 17.7 Accessible bus stop design guidance (Mayor of London 2006 London Transport)
- 17.8 DfT Making Residential Travel Plans Works (2007)
- 17.9 Manual for the Streets (2007)
- 17.10 Manual for Street 2 (2010)
- 17.11 CIHT Planning for Cycling (2014)
- 17.12 CIHT Designing for Walking (2015)
- 17.13 CIHT Planning for Walking (2015)
- 17.14 BS 8300:2009 Design of buildings and their approaches to meet the needs of disabled people – Code of Practice