

LAND NORTH OF CROWN ROAD, MARNHULL, DORSET

Appellant's Opening & Appearances

Appearances

1. **Zack Simons**, of Counsel, instructed by **Adam Bennett**, will call:
 - (i) **Duncan Coe** HND, BA (Hons), MCIFA, FSA, Principal Heritage Consultant at Cotswold Archaeology (heritage).
 - (ii) **Andrew Cook** BA (HONS), MLD, CMLI, MIEMA, CENV, Executive Director at the Pegasus Group (landscape).
 - (iii) **Neil Tiley** Assoc RTPI, Director at the Pegasus Group (housing land supply).
 - (iv) **Adam Bennett** BA (Hons) MRTPI, Consultant at Ken Parke Planning Consultants ltd. (planning).

Opening

2. For all the many documents before you, sir, the question is simple:

Do the scheme's harms **significantly** and **demonstrably** outweigh its benefits?

That is the test posed by §11(d)(ii) NPPF. And as we will explain, it is the determinative test in national policy for this appeal.

3. In answering that question, the starting point is to appreciate the importance and urgency of delivering many, many more market and affordable homes in North Dorset.
4. There has been substantial under-delivery of homes in North Dorset for several years now. That is not a matter of opinion. It is a fact.¹ And absent an up-to-date plan (which is still, even on the Council's case, years away) under-delivery will continue into the future.
5. Part of the reason for this under-delivery is that this Council failed to carry out the early review of its plan promised to and anticipated by the plan inspector – Inspector David Hogger – and are still in the foothills of consulting on its next Dorset-wide plan.
6. And the numbers tell their own story. From 2013 – 2020, the Council delivered 349 affordable homes against a need of over 1,000. In 2019, there were almost 1,000 people on North Dorset's housing waiting list. Homes in Dorset are considerably less affordable both than the national average and also that in the South West. In 2019/20 alone, North Dorset delivered only 96 homes – across the entire district – against a *minimum* target of 261 homes. As Mr Tiley explains, it will fall short against minimum need figures by over 300 homes in the next 5 years. But measured either against the adopted housing requirement, or the

¹ See the 2021 HDT score of 69% for North Dorset, and NPPF footnote 8 which makes clear that sub-75% scores indicate delivery “substantially below” requirements.

objectively assessed figure for North Dorset's need the shortfalls in delivery over the next 5 years are not in the hundreds but the thousands.

7. The position is serious. And it is chronic. The Government's long-standing objective is that LPAs demonstrate a **minimum** of 5 years supply of deliverable housing sites and that these deliver to meet housing needs. That is a floor, not a ceiling, to delivery. And this Council is significantly failing to meet that minimum requirement of national policy to maintain a sufficient supply such that a substantial of households have not been provided the housing they need as a minimum. The consequence of either of these failures, namely the absence of a sufficient supply or the record of substantial under delivery, is that the most important policies in the development plan are **deemed** out of date by FN8 and §11(d) NPPF.
8. This position is bleak. The local planning system is failing in its most basic task here. And those failures are having dire social, economic and environmental consequences: families unable to afford somewhere to live, unsustainable solutions with people being forced to find a home further away from where they work, shop and socialise. Economic growth which simply is not and cannot happen without sensible population growth. When it comes to this scale of failure to deliver housing, justice delayed is justice denied.
9. This poor record of housing delivery is a symptom of the Council's basic failure to plan. But another part of the reason for its poor housing delivery is that swathes of this area are subject to tight policy constraints. Around 40% of what was the North Dorset district falls within one of its two AONBs – landscapes of the very highest quality where local and national policy gives the greatest level of protection to scenic quality and beauty. All of which puts a premium on making best use of sustainably located sites when they emerge **outside** those designated areas.

10. That takes us to Marnhull: a large village recognised in the adopted plan as a “*focus for growth*”² and carried through as a Tier 3 settlement in the draft plan because of its population size and level of facilities.³ Outside the 4 main towns and Stalbridge, Marnhull is the most sustainable settlement in North Dorset (and of course Sturminster Newton and Gillingham are close by with a wide range of services, facilities and job opportunities).
11. The village has two Conservation Areas, but our site is outside either of them. It is adjacent to the settlement boundary and is bounded to the west by significant modern suburban residential development. Our scheme is not subject to any objection from any statutory consultees (e.g. Natural England, Historic England, Highways England etc.). Now that the ecological objection has been resolved, there are no technical constraints to delivery.
12. Because the most important policies in the development plan are – the parties agree – “*out of date*” and because – as we explain – there are no reasons to refuse the appeal under §11(d)(i), the appeal should be allowed and planning permission granted following the balance in §11(d)(ii) unless any adverse impacts both **significantly** and **demonstrably** outweigh those substantial benefits.
13. What are those adverse effects said to be?
14. First, it is said that our site is visible from a number of local listed buildings, and that the appeal scheme would cause “*less than substantial harm*” to the settings of these buildings. However, as Mr Coe will explain, the Council’s position on the historic environment is riddled with basic misunderstandings of and failures properly to apply national policy and guidance. In reality, the appeal scheme would only cause low level less than substantial harm to the significance of a single asset – the Grade II listed Laburnum Cottage immediately to

² CD7.1, p.36, Policy 2.

³ CD7.4, p.24, §2.3.13.

the north-east. But, as Mr Bennett explains, those impacts are readily outweighed by the scheme's considerable public benefits – most important among which are the delivery of much-needed market and affordable homes in a sustainable location.

15. Second, it is now said – for the first time – that the appeal site is part of a “*valued landscape*” which must be protected. We will examine this issue with Mr Cook and Mr Williamson. You will, sir, have to form your own view. But in the end, the appeal site comprises some pleasant but unremarkable fields next to significant modern, suburban residential development on the edge of an important settlement. It has no national, local or regional landscape designations. It is generally very well contained by hedgerows and trees along its boundary. Its character would obviously change as a result of the appeal scheme. But (i) those impacts will be localised, (ii) the site's character is already subject to urbanising influences, (iii) the scheme includes very substantial new green infrastructure which will enhance its character, and (iv) the scheme will deliver a biodiversity net gain.
16. In the end, our case is straightforward: these localised impacts do not outweigh – let alone significantly or demonstrably outweigh – the substantial benefits this scheme will deliver. Our scheme is readily deliverable within 5 years. Its benefits are profound, the imperative to bring them forward is compelling, and they clearly outweigh what will only be a localised impact to this appeal site and its immediate surroundings. So permission should be granted applying the balance at §11(d)(ii) NPPF.
17. For those reasons, which we will develop in our evidence and in closing, we will ask you to allow the appeal.

ZACK SIMONS

Landmark Chambers

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5th APRIL 2022