



North Somerset Council

Statement of Case

Town and Country Planning Act 1990 Section 78

Appeal by Beechcroft Land Ltd against the non-determination of the outline planning application for a residential development of up to 62 dwellings with access for approval and all other matters reserved for subsequent approval.

Land to the east of Church Lane and north of Front Street,

Churchill,

North Somerset

Planning Inspectorate reference:

APP/D0121/W/22/3292961

North Somerset Council reference:

21/P/2049/OUT

1.0 Introduction

- 1.1 This appeal is against the non-determination by North Somerset Council ('the Council') of planning application 21/P/2049/OUT. Had the Council determined the application it would have been refused for the following reason:

The development would harm the distinctive rural character and landscape setting of Churchill; and the setting and significance of the Churchill Conservation Area and the Grade 1 listed St John's Church; adversely affect the amenity of public rights of way; and is contrary to the sustainable development strategy for North Somerset, which requires proposals for more than about 25 dwellings within or adjacent to the settlement boundary of a service village to be allocated in a local or neighbourhood plan. The scheme therefore conflicts with policies CS5 and CS32 of the adopted North Somerset Core Strategy (2017) and policies DM3, DM4, DM10 and DM32 of the adopted North Somerset Sites and Policies Plan (Part 1) (2016) and the development plan for North Somerset read as a whole. That harm would significantly and demonstrably outweigh the benefits of the scheme, when assessed against the policies of the National Planning Policy Framework, taken as a whole.

2.0 Background Information

- 2.1 The description of the appeal site and local surrounding area, and the appeal proposal will be set out in the Statement of Common Ground (SoCG). A list of the documents on which the planning application was set to be determined, will also be agreed through the SoCG.

3.0 Planning Policy

- 3.1 Section 38 (6) of the Planning and Compulsory Act 2004 and section 70 (2) of the Town and Country Planning Act 1990 requires planning applications to be determined in accordance with the development plan unless other material considerations indicate otherwise.
- 3.2 The development plan includes, of relevance to this appeal:
- North Somerset Core Strategy adopted January 2017
 - North Somerset Sites and Policies Plan Part 1 – Development Management Policies adopted July 2016
 - North Somerset Sites and Policies Plan Part 2 – Site Allocations Plan (the 'SAP') adopted April 2018

3.3

The following policies are the main important policies for the determination of the appeal. Those referred to in the reason for refusal are marked with an asterisk.

North Somerset Core Strategy (NSCS) (adopted January 2017)

CS5*	Landscape and the historic environment
CS12	Achieving high quality design and place making
CS32*	Service Villages
CS34	Infrastructure delivery and Development Contributions

The Sites and Policies Plan Part 1: Development Management Policies (adopted July 2016)

DM3*	Conservation Areas
DM4*	Listed Buildings
DM6	Archaeology
DM10*	Landscape
DM11	Mendip Hills Area of Outstanding Natural Beauty Public rights of way, pedestrian and cycle access
DM25*	Public rights of way, pedestrian and cycle access
DM32*	High quality design and place making
DM70	Development infrastructure
DM71	Development contributions, Community Infrastructure Levy and viability

Site and Policies Plan Part 2: The Site Allocations Plan (November 2018)

SA2:	Settlement boundaries.
------	------------------------

- 3.4 Other relevant policies and Supplementary Planning Documents will be referenced where they relate to proposed planning conditions and/or obligations.
- 3.5 Reference will be made to the Churchill Conservation Area Appraisal and Management Plan and the North Somerset Landscape Character Assessment SPD (adopted September 2018).
- 3.6 The Council will show the proposal is contrary to the Development Plan and that harm is not outweighed by other material considerations.
- 3.7 More particularly, the significant adverse impacts of the proposal include its conflict with the spatial strategy of the development plan, harm to the setting and significance of the Conservation Area, harm to the significance of the Grade I Listed St John's Church, harm to the rural character and landscape setting of the village edge through loss of important undeveloped countryside,

adverse effects on the amenity of public rights of way, encroachment into important localised views, and through a form of development that fails to respect and enhance the local character and fails to assimilate into the village. Consequently, the scheme does not constitute sustainable development, and when read in the context of the Secretary of State's policies in the National Planning Policy Framework, these impacts constitute compelling reasons for dismissing the appeal.

Emerging Local Plan

- 3.8 The Council is preparing a new Local Plan for the period 2023-2038. A Regulation 18 'Preferred Options' document has been published for consultation from 14th March until 29th April 2022. The Local Development Scheme indicates that the Regulation 19 Pre-submission document will be approved late 2022, followed by submission for examination in early 2023 and adoption by the end of 2023. Part of the evidence base is a Landscape Sensitivity Assessment (produced for the Council by Wardell Armstrong in 2018), which shows the site and surrounding area as of high sensitivity. This assessment focuses on the potential impact of housing provision around settlements and thus assists in indicating whether the appeal site is suitable for development. It will be referred to as a material consideration.

4.0 Principle of development

- 4.1 The Council is able to demonstrate a 5.2 year supply of deliverable housing sites.
- 4.2 Policy CS32 of the Core Strategy defines Churchill as a Service Village and sets criteria which new development at the edge of service villages is expected to meet to protect the character of the area and prevent unsustainable development. The site sits outside the settlement boundary and is poorly related to the existing form of the village. Consequently, the appeal scheme conflicts with Policy CS32. Reference will be made to relevant appeal decisions in respect of residential development, at or on the edge of Churchill and other service villages within the District, where this policy approach has been supported by the Secretary of State's Inspectors (Annex 1).
- 4.3 The proposal to build up to 62 dwellings on the appeal site substantially exceeds the scale of development that is permitted by policy CS32, which is of "about 25 dwellings". Specifically, a proposal to build up to 62 dwellings on the appeal site exceeds the limit on the scale of speculative development that is permitted by policy CS32. It will be demonstrated that this sustainability threshold is at the heart of the sustainable development strategy for service villages and development at the scale proposed by the appellant is incompatible with the adopted spatial strategy. Development above this

threshold, should instead be brought forward through the plan making process. The proposed scale of development is therefore inappropriate as a matter of principle established within the development plan

5.0 Five-year Supply

- 5.1 The NPPF requires local planning authorities to identify and update annually a supply of specific deliverable sites sufficient to provide five years' worth of housing against their housing requirement or against their local housing need where the strategic policies are more than 5 years old and have not been reviewed.
- 5.2 On the basis of the Government's publication of the Housing Delivery Test: 2021 measurement in January 2022, the result for North Somerset Council shows that 89% of the number of new homes required over the past three years have been delivered. This means that, in accordance with paragraph 74 of the NPPF, a 20% buffer is no longer required to be applied to the five-year land supply calculation as there has not been significant under delivery of housing within the past three years. On 23 March 2022 new 2021 affordability ratios were published by the Office for National Statistics (ONS). As a result of this and by reverting to the requisite 5% buffer, it is now the Council's position that housing land supply stands at 5.2 years. Any concessions previously made that the Council cannot demonstrate the requisite five-year supply are withdrawn.
- 5.3 Notwithstanding this, the Council's housing land supply position has been considered at recent appeals and it reserves the right to update its position on this depending on the outcome of those appeals.

6.0 Heritage

- 6.1 It will be demonstrated that the proposal will result in harm to the character and setting of the Conservation Area, and harm to the significance and understanding of the Grade I Listed St John's Church. Reference will be made to relevant appeal decisions (Annex 2).

Conservation Area

The character and appearance of the Conservation Area

- 6.2 The Council will explain the key factors in the character and setting of Churchill Conservation Area
- 6.3 It will show that the site is partly within Churchill Conservation Area, which derives significance from the historic ambience of the built environment, the

inter-relationship to the surrounding countryside, the areas of open land at Barrowfield and Windmill Hill, and views of and from the Conservation Area which contribute to its rural character. There are three footpaths that connect Front Street to Windmill Hill and St John's Church, demonstrating the importance of the church and Windmill Hill to the village. The Churchill Conservation Area Appraisal and Management Plan explains how the areas of undeveloped countryside around the village are key facets in the rural character of the village and contribute to views of the village.

- 6.4 The Council will describe the pattern of development and setting of the Conservation Area. Churchill is historically a linear form of development which follows Front Street, the main road through the village. This road is characterised by the presence of numerous historical dwellings, ranging from 16th to mid-19th Centuries, many of which are listed. There are no pavements except where the spur of the newer development branches off, and there are no streetlights, giving Front Street the character of a rural country lane.
- 6.5 The setting of the Conservation Area is also influenced by the wider countryside, with Windmill Hill behind Front Street and the Mendip Hills AONB seen from the other side of the village. The core of the village sits within the valley of these two hills and the proposed development site forms part of the rural land at the base of Windmill Hill adding to the wider countryside setting for the conservation area.
- 6.6 The site is located at the western end of Churchill, which has a rural character with the backdrop of Windmill Hill to the north and the Mendip Hills AONB to the south. Churchill Conservation Area comprises the historic heart of the village. The site forms part of the open green land at the base of Windmill Hill with part of the site siting within the Churchill Conservation Area and the remainder within its setting.
- 6.7 The main green spaces in the Conservation Area are provided by Windmill Hill and Barrowfield, both to the north of Front Street. These green areas impart a rural character to the setting of the Conservation Area which is described in the Churchill Conservation Area Appraisal and Management Plan.

Impact on the character and appearance of the Conservation Area

- 6.8 The scale and form of proposed development will cause the loss of the area of important open green space, jar with the historic pattern of development, and harm the rural atmosphere and tranquillity of this part of Churchill Conservation Area.
- 6.9 That will harm the rural character of Front Street, Church Lane and the public rights of way which run through the site and over Windmill Hill.
- 6.10 From Front Street there are views across Barrowfield towards St John's church and Churchill Court, and in turn from St John's church back across

Barrowfield on to the western end Windmill Hill. Development within this area will sever these views, thereby harming the character of the area and the setting of the Grade I listed church.

- 6.11 Overall, the loss of the open countryside and tranquillity within this area will harm the setting and significance of the Conservation Area. Hedgerow screening around the site is insufficient to mitigate the visual changes in character to this area.
- 6.12 As set out in paragraph 189 of the NPPF, heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance. The site is situated within an area of open green space within the Conservation Area which contributes to the character and significance of the area. Great weight must be given to the protection of this heritage asset in accordance with paragraph 199 of the NPPF.
- 6.13 This harm is gauged as less than substantial, and it fails to protect or enhance the Conservation Area or its setting in conflict with Part 2 Section 72 of The Planning (Listed Buildings and Conservation Areas) Act 1990 and Policy DM3 of the North Somerset Sites and Policies Plan Part 1.
- 6.14 It is also contrary to the adopted Churchill Conservation Area Appraisal and Management Plan section 9.1 which seeks to ensure 'new development proposed within the Conservation Area is of high quality and does not cause harm to what defines this area of special historic and architectural value.'

Listed building

- 6.15 The Council will demonstrate that the development detracts from the character, appearance, and special interest of the Grade I listed St. John the Baptist Church and its setting.
- 6.16 The setting of the church is defined by its wider rural landscape and its presence within this landscape as a visually dominant building. The church sits just outside the main village of Churchill, and the surrounding area has remained as mostly open countryside.
- 6.17 This wider setting of the church containing the rural countryside allows for long views of the church and the tower with the more immediate setting being through views from its associated church yard and the listed building, Churchill Court and the Cottages. Views of the tower from the village can be seen through the open area at the end of Front Street. Currently the views of the church and its place in the landscape can be experienced across the appeal site, approaching the village from Front Street and from the public right of way which runs through the appeal site.
- 6.18 These views contribute to the significance of the Church by facilitating the appreciation of its architecture and position within the village which is more unusual as the church site outside of the main village.

- 6.19 The setting of the church and the views towards this nationally important building add to its significance as they enable its architectural significance and its place in relation to the settlement and wider landscape to be appreciated.
- 6.20 The Council will explain the effect of the proposed development on the significance of the Church whereby the proposed development will alter the rural landscape surrounding the approach to the conservation area and listed buildings, and in turn will alter and cause harm to the character of the area.
- 6.21 The proposed development will be highly visible when entering the village from Church Lane. The development will also block certain sightlines towards the Grade I listed Church, causing harm to the wider setting of the listed church through the change of rural landscape to a more urban form of development. Views of this landmark building when travelling along Front Street and Church Lane towards the village and views from the Public Rights of Way and Windmill Hill will be most affected, and in some cases lost.
- 6.22 The proposed development at this location will change and erode the value of the undeveloped area to the southeast of the church, and cut off views toward this building of special architectural and historic interest from the main village, severing the link between the church to its setting.
- 6.23 The Council will demonstrate that there will be harm to the setting of the Grade I listed St. John the Baptist Church. The loss of views across the site to the church cause harm to the significance of the asset and how it is appreciated within the landscape due to the scale and nature of the proposed development and loss of connecting views from the main village at Front Street towards the church.
- 6.24 It will be explained that due to the fundamental change of the rural landscape to urban development, the harm cannot be overcome or adequately mitigated due to the complete alteration from open green land.
- 6.25 As set out in paragraph 189 of the NPPF, heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance. St. John the Baptist Church is a Grade I listed asset, protected at the highest level meaning it is of exceptional interest, and therefore great weight must be given to its protection in terms of paragraph 199 of the NPPF. Local Planning Authorities are expected to have special regard to the desirability of preserving such buildings or their setting in accordance with Part I Section 66 of The Planning (Listed Buildings and Conservation Areas) Act 1990. The development at this location would not result in the preservation of the setting of the Grade I listed church.

Archaeology

- 6.26 A programme of targeted trench evaluation is required to ascertain the nature, extent and level of significance of anomalies identified on the geophysical survey (June 2021) and to implement any necessary mitigation in line with

paragraph 194 of the National Planning Policy Framework and Policy DM6 of the North Somerset Sites and Policies Plan Part 1.

- 6.27 A Written Scheme of Investigation (WSI) has now been approved by the Council's Senior Archaeologist and the evaluation is due to be undertaken in April or May 2022.
- 6.28 The results of this evaluation will determine whether further investigation or mitigation is required. If so this can be secured by condition.

7.0 Landscape and rural character

- 7.1 The Council will explain that the site is outside the Churchill settlement boundary where the main green spaces of Barrowfield, in which the site is situated, and Windmill Hill contribute to the rural setting of the village. This area is enclosed by historic hedgerows, groups and individual veteran trees, and is crossed by a several footpaths that are popular rural walks and offer views of the elevated Windmill Hill which is an important local landmark and from where extensive views over the surrounding pastoral landscape are enjoyed.
- 7.2 The proposed development would encroach into the countryside and significantly reduce the extent of the undeveloped area of landscape in and adjacent to the conservation area and close to the settlement edge which is significant to the rural village setting. By reason of its location, it would substantially alter an area of attractive open countryside to become an urbanised area, appearing as a large and prominent new development in localised views. It will be explained that although in outline form, the scale of the proposed development means that a residential development of up to 62 dwellings would undoubtedly harm the local landscape and its presently rural character.
- 7.3 The site comprises an area of open green space known as Barrowfield. This undeveloped countryside contributes to the rural character through its historic ambience and rural charm, providing views over and beyond the site from Church Lane towards Windmill Hill and the village edge. The importance to the rural character and setting of the Conservation Area of this green open space is documented in the Conservation Area Appraisal and Management Plan.
- 7.4 There is a network of Public Rights of Way connecting from Front Street to Windmill Hill (AX14/31/20), (AX14/38/10) (AX14/31/10), (AX14/31/30), from Front Street to St Johns Church (AX14/29/10), and from St Johns Church to Windmill Hill (AX14/36/30) demonstrating the importance of the relationship and separation of the Church and Windmill Hill to the village. The openness of the pastureland of Barrowfield contributes to the appreciation of this

relationship and perception of the rural character and forms an attractive element of the local landscape.

- 7.5 There would be clear views of the site from public footpaths and from Windmill Hill, with a perceptible change in the site's appearance and local landscape character from these locations. The scale and form of development would significantly reduce the undeveloped countryside adjacent to the settlement. From elevated positions along Windmill Hill the visual appreciation of the site as attractive pastureland and trees in the foreground with the settlement edge beyond would be significantly compromised.
- 7.6 The indicative plans show large landscaped buffer zones that would separate the development from the existing village edge. The scale of development is such that the presence of boundary hedgerows would be insufficient to screen the development from a number of views, and in particular from elevated positions on Windmill Hill. This represents a form of development that fails to respect and enhance local character and distinctiveness, and does not assimilate into the village. Thereby the proposed development would detract from the contribution the site makes to the rural character and result in an unacceptable degree of overall harm to the local landscape.
- 7.7 The two proposed vehicle accesses would fragment and weaken the presence of the traditional hedgerows lining Front Street and Church Lane, opening views into the site and revealing the presence of the new development. Means of access is to be considered as part of this application and visibility splays would need to be created and parts of the hedgerow removed. The proposals refer to some lengths of hedgerow being 'relocated' but there is some doubt about the success of any such operation. Where this occurs it will give the altered boundary a contrived appearance at odds with the hedge lined lanes which add to the rural character. Associated off site highways works required in mitigation of the development are urban features which would change the appearance of the locality and detract from the intimate rural character of Front Street and Church Lane.
- 7.9 Reference will be made to other relevant appeal decisions in the village (Annex 1).

8.0 Planning Obligations and conditions

- 8.1 A Section 106 Legal Agreement is required to secure the proposed 30% affordable housing contribution in accordance with policy CS16, the provision of on-site public open space, financial contributions towards home to school transport, bus stop improvements, a Traffic Regulation Order to secure double yellow lines to control parking in the vicinity of the site, and secure maintenance of any necessary fire hydrants.

- 8.2 It is anticipated that the appellant will submit this in advance of the inquiry however in the absence of a S106 Legal Agreement the LPA will demonstrate that the proposal fails to make policy compliant contributions towards the identified needs.
- 8.3 A list of suggested conditions will be agreed with the appellant through updates to the SoCG.

9.0 Conclusion

- 9.1 The proposal is contrary to the Development Plan. It is substantially in excess of the 25-unit threshold set for small scale, unplanned development adjoining the existing settlement boundary of the village of Churchill and is in clear conflict with the development plan. The Council will demonstrate that the proposal would cause harm to the setting of the listed Church and Conservation Area. The public benefits which would accrue from the development would not outweigh the identified harm to these designated heritage assets.
- 9.2 The Council will also demonstrate that significant harm to the character of the area would also result if the appeal were to be allowed. The Council can demonstrate a 5 year housing land supply and the proposal is in clear conflict with a number of development plan policies. Even in the event the Inspector does not agree that a 5 year land supply can be demonstrated, the harm outlined to the heritage assets provides a clear reason for refusal and in accordance with NPPF paragraph 11d(i) the 'tilted balance' should not be engaged. If the Inspector were to conclude the tilted balance is engaged the Council's position remains that the identified adverse impacts of the proposed development would significantly and demonstrably and outweigh the benefits, when assessed against the policies in the NPPF as a whole. Consequently, the Inspector will be invited to dismiss the appeal

ANNEX 1

Table 1: relevant significant appeal decisions for major applications within North Somerset

Application no	Site	Description	Decision date	Decision
14/P/1901/O Appeal ref: 3004788	Land off Brinsea Road, Congresbury	Development of up to 80 residential dwellings	30 November 2015	Dismissed

15/P/0248/O Appeal ref: 3138816	Land south of Knightcott Road. Banwell	Development of up to 155 dwellings	13 October 2016	Dismissed
15/P/2828/O Appeal ref: 3151600	Land off Wrington Lane, Congresbury	Erection of up to 50 dwellings	14 June 2017	Dismissed
16/P/1291/O Appeal ref: 3166147	Land at Cox's Green, Wrington	Erection of up to 59 dwellings	23 November 2017	Allowed
16/P/1707/O Appeal ref: 3176151	Land to the east of Brinsea Road, Congresbury	Residential development comprising up to 24 dwellings	13 December 2017	Dismissed
15/P/1918/O Appeal ref: 3170103	Land off Stowey Road, Yatton	Development of up to 60 dwellings	2 January 2018	Dismissed
15/P/0315/O Appeal ref: 3153935	Land at Farleigh Fields, Backwell	Residential development of up to 220 new dwellings	28 March 2018	Dismissed
17/P/2111/O Appeal ref:3206914	Western Trade Centre, Banwell	Demolition of existing buildings and redevelopment to provide up to 47 dwellings	3 January 2019	Dismissed
17/P/2344/O Appeal ref: 3207635	Lostwood, Langford Churchill	Erection of up to 25 dwellings	18 March 2019	Dismissed
20/P/2257/OUT Appeal ref: 3279745	Western Trade Centre, Banwell	Erection of 20 units	16 March 2022	Dismissed

Table 2: relevant other appeal decisions within Churchill

Application no	Site	Description	Decision date	Decision
16/P/0798/O	Land off Front Street adjacent to	Outline application for the erection of 8no. dwellings, formation of new	22 August 2017	Dismissed

Appeal ref: 3170939	Oakhill, Churchill	vehicular and pedestrian access, provision of associated highway and drainage infrastructure and landscaping. Improvements to footpaths. All matters reserved except access		
17/P/5546/OUT Appeal ref: 3212455	Land adjacent to Oakhill, Front Street, Churchill	Outline planning permission for the erection of 6 No. dwellings and the formation of new vehicular and pedestrian access with access to be determined .	14 January 2019	Dismissed
19/P/1959/FUL Appeal ref: 3243180	Land north of Oakhill and Kewstoke Lodge, Front Street, Churchill	Construction of single dwelling house and garage with associated access, parking and landscaping	14 September 2020	Dismissed
20/P/0056/FUL Appeal ref: 3259854	Land north of Oakhill and Kewstoke Lodge, Front Street, Churchill	Construction of single dwelling house and garage with associated access, parking and landscaping	4 February 2021	Dismissed
20/P/2553/OUT Appeal ref: 328138	Land adjacent to Barrowfield Cottage, Front Street, Churchill	Outline application for the erection of five dwellings with all matters reserved for subsequent approval	21 December 2021	Dismissed

ANNEX 2

Relevant heritage appeal decisions

Appeal ref	Site	Description	Decision date	Decision
APP/X0415/W/19/ 3229432	Stampwell Farm, Oxford Road,	Multiple restorations, extensions and	13 August 2019	Dismissed

	Gerrards Cross HP9 2XD	alterations to existing buildings and erection of 8 new dwellings		
APP/D0121/W/20/3259854	Land off Front Street, Churchill, Winscombe, Somerset, BS25 5NB	Construction of a single dwelling house and garage	4 February 2021	Dismissed
APP/Y3615/W/21/3276229	Land at Church Street, Effingham, Leatherhead KT24 5NA	Erection of 17 dwellings	20 December 2021	Dismissed
APP/D0121/W/21/3278138	Land west of Barrowfield Cottage, Front Street, Churchill, BS25 5NB	Erection of up to 5 open market dwellings	21 December 2021	Dismissed
APP/Z1510/W/21/3276315	Land to the West of Prayers Hill, Sible Hedingham, Essex	Outline planning application for development of up to 90 dwellings	6 January 2022	Dismissed
APP/A2335/W/21/3282884	Land Southwest of Church Bank, Main Road, Over Kellet, Lancashire	Erection of 9 dwellings	27 January 2022	Dismissed
APP/F0114/W/21/3285251	St Martin's Hospital, Clara Cross Lane, Odd Down, Bath, BA2 5RP	Residential development of 8 apartments	3 March 2022	Dismissed