



Appeal Decision

Inquiry opened on 28 January 2025

Site visit made on 6 February 2025

by Tom Gilbert-Wooldridge BA (Hons) MTP MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 14th March 2025

Appeal Ref: APP/F0114/W/24/3349501

Parcel 4234, Combe Hay Lane, Bath

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission on a hybrid application for full and outline planning permission.
 - The appeal is made by The Hignett Family Trust against the decision of Bath and North East Somerset Council.
 - The application Ref is 22/02169/EOUT.
 - The development proposed is (i) Outline application for Phases 3 and 4 for up to 290 dwellings; landscaping; drainage; open space; allotments; footpaths and emergency access; all matters reserved, except access from Combe Hay Lane via the approved Phase 1 spine road (details of internal roads and footpaths reserved); (ii) Detailed application for the continuation of the spine road (from Phase 1), to and through Sulis Manor and associated works comprising: the demolition of existing dilapidated buildings and tree removal; drainage; landscaping; lighting; boundary treatment; and, the erection of 4 x Bat Night Roosts; to enable construction of the spine road; with the ecologic mitigation on Derrymans and the field known as 30 Acres (edged blue on the Location Plan).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Inquiry sat for a total of 7 days (28-31 January and 4, 5 and 11 February 2025). Along with the accompanied site visit on 6 February 2025, I had an initial visit in the afternoon of 27 January and visited several long distance viewpoints in the afternoon and evening of 3 February (including some locations after dark). I also observed traffic conditions along the A367 and adjoining roads between 8am and 9am on 4 February and noted traffic conditions during my other visits.
3. The site address on the application form referred to "Sulis Down, Land Adjacent to Odd Down, Bath", but I have used the address on the Council's decision notice as the parties agreed this was more appropriate.
4. The original application was submitted in hybrid form. Outline planning permission was sought for up to 300 dwellings and associated works, with all matters reserved apart from site access. Amendments were subsequently made to reduce the maximum number of dwellings sought under the outline application to 290. Detailed permission was sought for a spine road through Sulis Manor and works to the field known as Derrymans including allotments. The detailed application was also amended to reposition the allotments from Derrymans to the land comprising Phase 3. The above description is taken from the decision notice and appeal form.
5. Parameter plans address the outline parts of the proposal and technical drawings of the spine road address the detailed elements. Amended red line boundary plans

have also been submitted along with many supporting documents. Public consultation on various amendments took place before the Council's decision.

6. Combe Hay and South Stoke Parish Councils were awarded Rule 6 status early in the appeal process and took an active role at the Inquiry (hereafter referred to as the Rule 6 party).
7. A completed and executed Section 106 agreement (S106) dated 20 February 2025 was submitted shortly after the Inquiry closed. This agreement is referenced in my decision as needed.
8. Also following the close of the Inquiry, the Secretary of State for Culture, Media and Sport granted scheduled monument consent (SMC) for crossing works to Wansdyke Scheduled Monument which lies on the northern edge of the site. The details were confirmed in the decision letter from Historic England dated 26 February 2025. The implications of this decision are considered below.

Main Issues

9. The application was refused for 4 reasons. Prior to the opening of the Inquiry, the Council confirmed it would not be defending the second and fourth reasons for refusal relating to heritage and trees respectively and would only be defending part of the third reason for refusal relating to mixed development. The Rule 6 party maintained its objections to the reasons for refusal and raised additional concerns relating to traffic and masterplanning. Therefore, the main issues are as follows:
 - (a) the effect of the proposed development on the Cotswolds National Landscape¹;
 - (b) the effect of the proposed development on the significance and setting of the City of Bath and the Great Spa Towns of Europe World Heritage Site, Wansdyke Scheduled Monument, South Stoke Conservation Area, the Grade II listed building known as Cross Keys Inn, and the non-designated heritage asset known as Sulis Manor;
 - (c) the effect of the proposed development on placemaking principles with specific regard to pedestrian/cycle links, mixed-use development, and the comprehensive masterplan;
 - (d) the effect of the proposed development on trees;
 - (e) the effect of the proposed development on traffic; and
 - (f) the overall planning balance, having regard to the development plan and any proposed benefits.

Reasons

Policy and Site Overview

10. The appeal site falls within the boundaries of a site allocation in the Bath Core Strategy 2014 (CS) known as Land Adjoining Odd Down, Bath Strategic Site Allocation. CS Policy B3a, which is agreed by all three main parties to be the most important policy for determining this appeal, removed land from the Green Belt on

¹ Rebranded from its statutory name (the Cotswolds Area of Outstanding Natural Beauty)

the southern edge of Bath and allocated it for residential development and associated infrastructure during the plan period to 2029. The policy sets out the development requirements that need to be met via various placemaking principles (PP) and refers to a concept diagram. The diagram shows the extent of the allocation in light brown with several parcels of land between the Odd Down Park and Ride site in the west, and the village of South Stoke to the east. Most parcels at the time of the allocation were agricultural fields but the boundary includes Odd Down Football Club, the Manor Farm business village, and the house and gardens at Sulis Manor that have been used for language schools in recent years.

11. PP1 refers to residential led mixed use development (to include 40% affordable housing) of around 300 dwellings in the plan period, with an average density of 35-40 dwellings per hectare. PP1 also states that the figure of 300 dwellings is not a cap on development if all the PP can be met. PP2 to PP11 cover a range of matters including masterplanning, green infrastructure, public rights of way, landscape, ecology, heritage assets, Manor Farm, and the football club.
12. The two field parcels within the allocation to the west of Sulis Manor received planning permission in August 2019 for 171 dwellings and associated infrastructure. This development is now largely built and occupied. It is referred to as Phase 1 in various documents including the comprehensive masterplan drawing number A-110 Rev H. Phase 2 is identified on the masterplan as development within Sulis Manor and for the purposes of this appeal proposal includes the continuation of the Phase 1 spine road from west to east.
13. Phases 3 and 4 are shown in the masterplan as occupying two field parcels to the east of Sulis Manor. The red line boundary for this appeal proposal encompasses both phases along with the access through Phase 1 and Sulis Manor, along with the proposed route of an emergency access onto South Stoke Lane, and a proposed footpath through a field to the north that would connect with public footpath BA22/1. This field is known as Great Broad Close. Both the concept diagram and the masterplan indicate that no built development is permitted on this field which is to be retained in agricultural use.

Cotswolds National Landscape

The existing policy and legal context

14. Paragraph 189 of the National Planning Policy Framework (NPPF) states that great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and National Landscapes. They have the highest status of protection in relation to these issues and the scale and extent of development within these areas should be limited.
15. NPPF paragraph 190 sets out that permission should be refused for major development in these designated areas other than in exceptional circumstances and where it can be demonstrated that the development is in the public interest. The paragraph then sets out three matters to consider in this context. Matters (a) and (b) relate to need and alternative locations, while matter (c) refers to any detrimental effect on the environment, the landscape and recreational opportunities and the extent to which that could be moderated.
16. PP5 of CS Policy B3a requires a landscape and ecological mitigation strategy and management plan to ensure satisfactory mitigation and protection. The policy sets

out several landscape requirements including the retention, protection and enhancement of trees and planting, and avoiding or minimising detrimental impacts on (and providing enhancement to important landscape features and significant views) the Cotswolds National Landscape (CNL) and local character as well as heritage assets and medium and long distance views.

17. Paragraph 143 of the Inspector's report on the CS (dated June 2014) acknowledged there would be harm to the CNL from the site allocation. He noted the assessment work carried out by the Council to identify less sensitive parts of the plateau for built development. He also noted the harm that would arise from the loss of the existing farmed landscape and that this harm would be contained largely within the plateau. He concluded that the Council's assessment of harm to the CNL was reasonable, with the Council finding a moderate adverse impact.
18. At paragraph 163 of the Inspector's report, he noted that the capacity of around 300 dwellings reflected the Council's view that substantial parts of the allocated area are not suitable for built development and that his assessment largely endorsed that approach, but that the figure was not a cap.
19. Since the CS was adopted, two further development plans have been examined and adopted. The Council's Placemaking Plan (PMP) 2017 complements the CS, while the Local Plan Partial Update (LPPU) 2023 makes changes to various parts of the CS and the PMP. The Inspector's report for the PMP noted at paragraph 124 that some site allocations had a conservative estimate of supply, with the capacity for the Odd Down allocation to increase by 100-150 dwellings based on pre-application discussions. At the LPPU examination, the appellant sought to increase the allocation's capacity to 450 dwellings. However, the figure of around 300 dwellings has not changed and remains part of the development plan along with the reference to it not being a cap if all placemaking principles are met. There is also no clear indication that more dwellings are likely beyond the plan period.
20. PMP Policy NE2 seeks to conserve or enhance landscape character including important views, through appropriate landscaping and green space, and states that development should seek to avoid or adequately mitigate any adverse impact. The LPPU introduced additional text to this policy to say that great weight will be afforded to conserving and enhancing landscape and scenic beauty of National Landscapes, with particular reference to their special qualities. Additional supporting text was also added by the LPPU to refer to the CNL Management Plan and the statutory duty under Section 85 of the Countryside and Rights of Way (CROW) Act 2000.
21. Section 85 was recently amended by the Levelling-up and Regeneration Act 2023 in terms of the general duty of public bodies in England. Such bodies must now seek to further the purpose of conserving and enhancing the natural beauty of National Landscapes when exercising or performing any functions related to such areas. Previously these bodies were only required to have regard to that purpose. The current CNL Management Plan contains relevant policies including CE1 on safeguarding landscape character and views, CE3 on local distinctiveness, CE4 on tranquillity, and CE5 on dark skies.
22. The Government published guidance on the amended duty in December 2024 (the Defra guidance). This states that the duty is an active one and, as far as is

reasonably practical, relevant authorities should seek to avoid harm and contribute to the conservation and enhancement of protected landscapes.

23. The Planning Practice Guidance (PPG) sets out advice on how development within protected landscapes should be approached, noting that it may not be possible to meet objectively assessed needs for development in full through the plan-making process and that all development will need to be located and designed in a way that reflects their status as landscapes of the highest quality².
24. The Bathscape Landscape Character Assessment (LCA) 2017 refers to Sulis Plateau as a narrow fragment of undeveloped plateau on the southern edge of Bath. Within this plateau, land to the east of Combe Hay Lane is described as a partially enclosed agricultural landscape which is largely open and relatively featureless apart from the woodland around Sulis Manor and some relatively young tree belts. The LCA goes on to say that this land is heavily influenced by the urban edge of the city in terms of a 1980s housing estate and a tall communications mast. It also notes that despite the enclosure by trees and housing, the land offers some wide and expansive views to the south including from the public footpath (BA22/3) along the southern edge of the plateau.
25. The Bath Building Heights Strategy (BBHS) 2010 has not been adopted as a supplementary planning document but is used for decision-making purposes and so carries some weight. The BBHS defines plateau areas along the southern edge of Bath, noting that due to topography and tree covered edges, any development on the plateau is not usually visible, helping to reinforce the character of a contained city hidden in a valley. It also notes that built form is generally two storeys and development above the tree line or too close the plateau edge could be harmful in terms of views. The BBHS is focused on and defined by the World Heritage Site (WHS) boundary, of which only part is within the site, but it is relevant to land beyond it, especially when it refers to views from the surrounding landscape.
26. At the Inquiry, there was some debate on the difference between 'limit(ed)' and 'minimise'. They are similar words, although the former can mean restricting something to a defined amount, whereas the latter means making something as small or insignificant as possible. The words are often used interchangeably, including in the evidence before me at this appeal. Nevertheless, I will adopt the ordinary meaning of these words as they appear in relevant policies.

The existing site context

27. The site forms part of the Sulis Plateau on the city edge. It is wholly located within the CNL which borders the urban area of Bath to the north, south and east. The CNL continues south from the site across the steep valleys of the Cam and Wellow Brooks as far as the villages of Wellow and Hinton Charterhouse.
28. The land in Phases 3 and 4 is broadly flat and arable, although the topography falls gradually to the south and east. A mature tree belt defines the southern boundary of Phases 3 and 4 which continues east to South Stoke Lane and west past Sulis Manor and Phase 1 to Combe Hay Lane. A narrower tree belt encloses the northern boundary of Phases 3 and 4, while the western boundary of Phase 3 is buffered by dense planting at Sulis Manor. A public footpath (BA22/2) traverses

² Reference ID: 8-041-20190721

the eastern boundary of Phase 4 and continues north between Great Broad Close and a field known as 30 Acres. There is some planting along this eastern boundary along with the remnants of a drystone wall.

29. The proposed footpath route across Great Broad Close is similarly flat and arable, but with no defined boundaries at present. The route of the proposed spine road through Sulis Manor is enclosed by dense tree planting, while the existing spine road through to Combe Hay Lane forms part of the Phase 1 residential development. The 1980s Sulis Meadows housing estate lies adjacent to Phase 3. To the north of Great Broad Close and the Wansdyke Scheduled Monument is more 20th century development in the form of housing, schools, a hospital and a supermarket. The village of South Stoke borders the south-east corner of the site and is clearly detached from the urban edge of Bath.
30. While the site is less dramatic and distinctive than the landscape to the south, it contributes to the special qualities of the CNL in several ways. It forms part of the Cotswold escarpment and high wolds landscape, with attractive panoramic views across the hills and valleys to the south. The site and plateau are visible in several public locations from within the CNL including roads and footpaths along Middle Twinhoe³ and to the north and west of Hinton Charterhouse⁴. There are also views of the plateau further south at Baggridge Hill⁵. This location is outside of the CNL, but nevertheless looks across the CNL to the site.
31. In these long distance views from the south, the new housing at Phase 1 is visible above the southern tree belt with its prominent red tile roofs, along with the woodland and house at Sulis Manor. The southern tree belt and the communications mast are visible at Phases 3 and 4, but no existing built development can be seen. Buildings at South Stoke and on the south-eastern edge of Bath are visible to the east in these views, but the absence of an urban skyline at Phases 3 and 4 makes a positive contribution to the CNL. In contrast, the housing at Phase 1 is very conspicuous on the skyline which previously would have been largely undeveloped.
32. The site is also visible in short distance views within the CNL, most notably from the three public footpaths⁶ (BA22/1 to the north, BA22/2 to the east and BA22/3 to the south) and from various permissive paths across Phases 3 and 4. These views allow one to appreciate the open and rural nature of the plateau, its tree belts, and the house and woodland at Sulis Manor, notwithstanding the proximity of the existing urban edge with roofs of suburban houses visible. The permissive paths agreement has expired, but they currently remain open for use by all until the landowner decides otherwise.
33. Within and adjoining the site, the survival of drystone walls and ancient woodland make a positive contribution to the CNL's special qualities. Phases 3 and 4 currently provide access into the CNL for residents and visitors via public footpaths and permissive paths. Despite the proximity of the urban edge, Phases 3 and 4 are relatively tranquil locations at present. From my evening site observations, they are also relatively dark sky areas, notwithstanding light pollution from nearby buildings. Outside the site area, South Stoke is a distinctive and historic Cotswolds

³ Views 21 to 24 in the appellant's evidence (similar to Views 5 to 8 in the Council's evidence)

⁴ Views 18 and 19 in the appellant's evidence (View 2 in the Council's evidence is similar to View 19 and there is no equivalent to View 18)

⁵ View 20 in the appellant's evidence (Views 1, 3 and 4 in the Council's evidence are in a similar location)

⁶ Views 1, 2, 3, 5, 6 and 7 in the appellant's evidence

settlement which relies on a sufficient countryside buffer to maintain its separation from Bath.

The effect of the proposed development

34. The proposed development seeks up to 290 dwellings across Phases 3 and 4 along with allotments, landscaping and open space. The general location and nature of development, including housing, is shown on various parameter plans and the comprehensive masterplan. Housing would be set back from the southern boundary of each phase by the existing southern tree belt and an additional buffer area of landscape and open space measuring a minimum of 14m. There would also be landscaping along the other boundaries and between the two phases.
35. Building heights in Phases 3 and 4 would generally be up to 2 or 2.5 storeys, apart from along the northern edge of each phase which would be restricted to 2 storeys, and the central part of Phase 3 and the south-western portion of Phase 4 which could be up to 3 storeys. Lighting would be strictly controlled to a maximum permitted level within the residential areas and along the spine road, with no artificial lighting proposed for the southern tree belt, the additional buffer area, and communal spaces. The existing tree belts to the north, south and east would be strengthened and enlarged.
36. In combination with Phase 1, the proposed development would result in up to 461 dwellings across the allocated area. The main parties agree that this is not “around 300 dwellings” as envisaged by CS Policy B3a but disagree whether all the placemaking principles can be met such that the figure of 300 would not be a cap on development. This includes the effect on the CNL. Much of the disagreement relates to the quantum of housing, their heights, and their proximity to the edge of the plateau.
37. The verified viewpoints to the south show the outline of built development based on the parameter plans. The dashed line extends above the top of the southern tree belt in Views 18, 19, 20, 21, 22 and 24. While this line denotes the maximum building heights in each location, it is reasonable to deduce that the roofs of new housing would be clearly visible from within the context of the CNL even with a subtler colour than Phase 1. At my evening site visit, it was possible to see street lighting within Phase 1. Even though the lux levels are limited in Phase 1, and would be similarly limited for the proposed development, it is probable that Phases 3 and 4 would be illuminated in long distance views from the CNL.
38. While parts of the southern tree belt were only planted in the past two decades or so, it is already a significant line of tall mature planting. The belt contains several trees suffering from ash dieback, but these can be replaced and the overall line strengthened as part of the proposed development. Nevertheless, it is unlikely that any amount of suitable planting would be sufficient to visually screen the housing during the day or night. Therefore, there would be an adverse effect on the special qualities of the CNL in terms of views of the escarpment and high wolds landscape as well as dark skies.
39. In short distance views from the southern public footpath (BA22/3) such as Views 6 and 7, housing would be visible through the tree belt but filtered by trunks and branches as well as by foliage in warmer months. From the eastern footpath (BA22/2), there would be more open views of housing within Phase 4 once north of the southern tree belt and View 5, even with additional landscaping along this

phase's eastern and northern edges. From the northern footpath (BA22/1) on the edge of the CNL, housing would be apparent across the other side of Great Broad Close and 30 Acres even with a reinforced northern tree belt. Thus, there would also be an adverse effect on the special qualities of the CNL in terms of the open and rural nature of the plateau. Related to this, the experience of using the permissive paths, including the sense of tranquillity, would diminish due to housing taking the place of undeveloped fields. Development within Phase 4 would also come close to the edge of South Stoke.

40. There would be mitigation in the form of retained and additional tree planting, while the proximity of the existing urban edge would also lessen the overall effect. Appropriate roof materials would assist in making the proposed houses less prominent than those at Phase 1. An effective lighting strategy would also reduce negative effects at night. Public and recreational access to the CNL would be maintained and improved through additional footpaths despite the changed character and appearance of existing fields. The retention and enhancement of the southern and eastern tree belts and the extensive grounds surrounding the property of Brantwood would prevent coalescence with South Stoke. There would also be benefits to the CNL through the formalisation of permissive paths and works to drystone walls. However, despite the various mitigation and enhancement measures, the overall adverse effects of the proposed development on the CNL would still be significant. It would not avoid a detrimental impact on the CNL.
41. The question remains whether the proposed development would minimise the detrimental impacts as required by CS Policy B3a and ensure visual screening of the site from views to the south. The appellant has not assessed a different number of units other than the slight reduction from 300 to 290 units early in the application process. This does not raise a legal compliance issue in terms of Environmental Impact Assessment as the site is already allocated and there is no need to consider alternative locations. However, it would have been very helpful to see the potential effects of different scales, layouts, and amounts of housing.
42. The Council's landscape witness analysed the effects of an alternative scheme for 130-150 dwellings on the premise that this would constitute around 300 dwellings in conjunction with Phase 1. She also considered the effect of increasing the buffer to the south to around 50m from the northern edge of the southern tree belt compared to the approximate 14m proposed. This was informed by assessment work carried out by the Council as part of the CS examination which aimed to identify a boundary between high and medium negative effects on the CNL (and the World Heritage Site). The first assessment dated from September 2013 drew a broadly east-west line across Phases 3 and 4 level with the house at Sulis Manor and a 173m contour. The assessment was updated in November 2013 to move this line southwards by around 40m to the 171m contour. The proposed development extends south of this updated line by around 20 to 80m and below the 170m contour.
43. The CS assessment work updated in November 2013 acknowledged that the line showing the limit of built development was "an indicative best guess" and that more detailed assessment would be required at the development management stage. No methodological flaws have been identified in the appellant's landscape and visual impact assessment and the matter essentially boils down to whether the adverse effects of the proposed development on the CNL are acceptable.

44. Increasing the landscape buffer and moving the line of built development further away from the plateau edge would have little or no effect on views from the eastern and northern footpaths. However, it would lessen the effect on short distance views from the southern public footpath when glimpsed through gaps in the tree belt. The effect of increasing the landscape buffer or limiting building heights on long distance views is likely to be modest. There is no requirement to make any development invisible. However, it is likely that an alternative scheme involving fewer dwellings would provide greater visual screening from the south and would reduce detrimental effects. Restricting the building heights to 2 or 2.5 storeys would on its own lower the dashed line in the current verified views. It also seems likely that this line would reduce further if the layout was altered and the number of dwellings was closer to around 300.
45. There are no verified views or revised parameter plans to demonstrate the effects of an alternative scheme. However, it cannot be said with any confidence that the proposed development would avoid or minimise detrimental impacts as required by local and national policy. Neither would it ensure visual screening of the site from views to the south given that the roofs of housing would be clearly visible. While Phase 1 is now part of the baseline, it should have complied with the same landscape requirements. Given its prominent and conspicuous location on the skyline, it is debatable whether it does. Nevertheless, it should not be used to justify the proposed development which has been assessed on its own merits.
46. A draft condition was discussed during the Inquiry to restrict the height of buildings to 11m or 2 storeys, notwithstanding the building heights parameter plans. However, in the absence of any verified views and other assessment work, it is unclear what effect this would have based on the layout fixed in the parameter plans, although it is plausible that houses would still be seen above the tree line. Consideration was also given to a condition limiting the housing numbers. However, this could require amendments to the parameter plans which would open up consultation issues. Moreover, the appellant and Council agree that the appeal must be determined based on the proposed quantum and the submitted plans, including the parameter plans. Therefore, it would not be possible to address the negative effects I have identified through additional conditions.

Conclusion on the Cotswolds National Landscape

47. The proposed development would retain, protect and enhance vegetation as set out in the first landscape requirement and the first part of the second requirement in PP5 of CS Policy B3a. However, it would not ensure visual screening from views to the south as set out in the second part of the second requirement. It would also not avoid or minimise detrimental impacts on the CNL as set out in the third requirement. By association, it would not avoid or minimise detrimental impacts on the character of the Cam Brook valley and the Sulis Manor Plateau or on medium and long distance views. Therefore, the proposed development would conflict with PP5 of CS Policy B3a. It would also conflict with PMP Policy NE2 as it would not avoid or adequately mitigate adverse effects on landscape character. There would also be conflict with NPPF paragraph 189 as the scale and extent of development would not be limited.
48. In terms of the exceptional circumstances required by NPPF paragraph 190, there is a local and national need for the development in terms of housing delivery (see the planning balance below). There is also little scope for developing outside of the

CNL given the scale of the development and the limited number of strategic sites in the adopted development plan. The emerging Local Plan has not progressed past an options consultation and is subject to a reset. Thus, the proposed development would not conflict with NPPF paragraph 190 in terms of considerations (a) and (b).

49. However, there would be detrimental effects on the environment and the landscape, and this could be moderated to a greater degree than the proposed development would achieve. Consequently, there would be conflict with NPPF paragraph 190 in terms of consideration (c) and so exceptional circumstances for major development in the CNL have not been demonstrated.
50. Although there would be some enhancements to the CNL, these are outweighed by the adverse effects and the conflict with local and national policy. Therefore, the statutory duty in Section 85 of the CROW Act 2000 would not be met as the proposed development would not further the purpose of conserving and enhancing the CNL. It would not accord with the Defra guidance or the PPG as mentioned above. It would also not adhere to the policies in the CNL Management Plan particularly CE1 which requires proposals to have regard to and be compatible with landscape character and ensure that views are conserved and enhanced, or have adequate regard to the requirements of the BBHS set out above.

Heritage Assets

The City of Bath and The Great Spa Towns of Europe World Heritage Site

51. The City of Bath WHS was first inscribed in 1987 for the global significance of its Roman archaeology and 18th century architecture and town planning. It was inscribed a second time in 2021 as part of The Great Spa Towns of Europe. Both inscriptions follow the same boundary and cover most of the urban area including some undeveloped field parcels. The setting of the WHS encompasses the wider landscape around the city, with valleys, woodland and high plateaus or downs. The built-up area is contained by its hills which create dramatic views across the city but also screen it from the surrounding countryside.
52. The house and gardens at Sulis Manor lie within the southernmost extent of the WHS. The house was built in 1930 for a prominent local businessman in an Arts and Crafts style and comprises a two-storey property with limestone walls and roof tiles. The gardens are heavily treed to the north of the house and along three boundaries to the north, east and west. A terrace and large lawn to the south of the house provide extensive views into the Cam Valley. Due to its architectural, historic and landscape interest, Sulis Manor makes a positive contribution to the significance of the WHS. Thus, the area of the site that crosses Sulis Manor to the north of the house can be regarded as contributing positively to the WHS too.
53. The fields to the east of Sulis Manor for Phases 3 and 4 are within the setting of the WHS with some views of the house from the permissive paths. However, the remainder of the nearby WHS comprises late 20th century suburban development with little in the way of views into the city centre. Thus, the site to the east of Sulis Manor only makes a modest contribution to the significance of the WHS.
54. The proposed extension of the Phase 1 spine road through the grounds of Sulis Manor would result in the removal of several trees including one Category A specimen. However, the northern tree boundary would remain with the opportunity

for strengthening. Some mature specimens and groups of smaller trees would be retained to the south of the new road. The lighting along the road is intended to limit spill for ecology and landscape reasons and this would also reduce the impact on heritage matters. The lawn and panoramic views to the south of the house would not be affected by the road. Therefore, the proposed development in terms of direct effects would cause no more than a moderate level of less than substantial harm to the significance of the WHS.

55. The construction of houses on Phase 3 would enclose Sulis Manor and the WHS to the east in a similar way to the Phase 1 element to the west. However, existing vegetation along the eastern boundary of Sulis Manor would remain and the plans indicate additional buffer planting along this boundary which would lessen any negative effects on this part of the WHS. Views across Phases 3 and 4 into the WHS to the north of Sulis Manor would be greatly reduced by new buildings, but given the limited value of this suburban edge, there would be little adverse effect on that part of the WHS. As required by CS Policy B3a PP6 under the World Heritage Site heading, the southern boundary of the site would remain undeveloped, the easterly extent of development would be established at Phase 4, and the lighting strategy would help to control light pollution. Overall, the proposed development in terms of indirect effects via setting would cause no more than a low level of less than substantial harm to the significance of the WHS.

Wansdyke Scheduled Monument

56. The scheduled monument known as the Wansdyke is part of a linear boundary stretching across Somerset and Wiltshire. The exact purpose of the overall Wansdyke is unclear, but the sections of banks and ditches may have been used during the late Roman and Saxon period to denote territorial boundaries or provide defensive barriers. It has considerable significance in terms of its archaeological and historic interest. The section of scheduled monument here between the A367 and Midford Road is very straight. It is used as a public footpath with several formal and informal crossing points into the suburban development to the north.
57. The western part of the monument is hemmed in by late 20th century suburban development to the north and south. In contrast, the eastern part only has housing to the north, with extensive views across the fields to the south. The fields at Phases 3 and 4 are located within these views. While trees and stone walls along the boundaries with Great Broad Close and 30 Acres provide some screening from the scheduled monument, this part of the existing site nevertheless makes a positive contribution as part of the undeveloped setting.
58. The small part of the site across Great Broad Close goes up onto the scheduled monument where an informal crossing heads down the north bank towards Cranmore Place. The bank of the monument has eroded at this point from repeated crossings. While it is only a small section of the scheduled monument, this part of the site forms an important part of this linear feature. Therefore, it makes an important contribution to its significance. The scheduled monument is on the Heritage at Risk Register due to the proximity of residential development.
59. The development of housing within Phases 3 and 4 would be visible from the eastern half of the scheduled monument by users of the public footpath. The reinforcement of the tree belt to the north of these houses would help to soften the effect along with the retention of Great Broad Close as a field buffer. The building

heights parameter plan indicate no more than two storeys along the northern edges of both phases. The lighting strategy indicates a limited amount of lighting columns in terms of height and intensity. Such measures would meet the requirements in CS Policy B3a at PP6 (bullet points 1, 3 and 4 under the Wansdyke heading). Nevertheless, the currently undeveloped views south from this part of the monument would be eroded by a significant amount of housing. Therefore, there would be a moderate level of less than substantial harm to the significance of this heritage asset from change within its setting.

60. The proposed footpath through Great Broad Close would continue over the scheduled monument at the current informal crossing point. Instead of the current unbound surface which causes erosion, the footpath would use self-binding crushed limestone and a suitable gradient to enable a greater range of users to cross the monument heading to and from the proposed development. SMC has been obtained for the proposed new crossing of the scheduled monument, with two separate SMCs granted for footpath improvements along the scheduled monument to the west of the crossing point, and for the proposed path through the scheduled part of Great Broad Close to the south.
61. These works would address an existing problem in terms of monument erosion for a heritage asset at risk. There would be some loss of material from the monument to construct the footpath, and some masking of the earthwork from the proposed ramp, but subject to that being kept to a minimum and mitigated sensitively, it should be possible for any adverse effects to be outweighed by the benefits of preventing further damage. The conditions attached to the SMC for the crossing also require the details of any archaeological works to be approved by the Secretary of State (advised by Historic England). The S106 contains provisions for the monument's management as required by CS Policy B3a PP6 (bullet point 2 under the Wansdyke heading). Thus, the proposed development would have an acceptable overall effect on the scheduled monument in terms of direct impacts.

South Stoke Conservation Area

62. South Stoke Conservation Area incorporates the historic core of the village around Old School Hill but also outlying properties along South Stoke Lane and Packhorse Lane. There are many historic limestone buildings, several of which are listed including the Grade II* Church of St James. In addition to its architectural and historic interest, the conservation area occupies an attractive rural and hillside location on the north side of the Cam Valley within the CNL, and with a buffer of fields between it and Bath. All these elements contribute greatly to its significance.
63. The site shares a boundary with the conservation area to the north of Brantwood, an Arts and Crafts property with extensive grounds. Public footpath BA22/2 along the western edge of 30 Acres crosses into the conservation area and onto South Stoke Lane. The undeveloped nature of the site in this location makes a positive contribution to the conservation area from this footpath. Despite the dramatic hillside setting of the conservation area when viewed from the south of the village, the site is not obvious from that location due to the plateau and intervening vegetation/buildings.
64. Heading into or out of the conservation area at Brantwood on the footpath, one would be aware of new housing at Phase 4 to the side of the path. However, the existing southern tree belt would be maintained and enhanced, with landscaping

around the south-east corner and along the eastern boundary. Similar effects would be observed from within the grounds of Brantwood looking north. Building heights would be limited to 2.5 storeys in this location as required by CS Policy B3a PP6 (under the South Stoke Conservation Area heading). There would be no effect on views across the conservation area from the south.

65. Therefore, the proposed development would cause no more than a low level of less than substantial harm to the significance of the conservation area through change within its setting. The conservation area's character and appearance would be preserved in line with Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (LBCA Act 1990).

Cross Keys listed building

66. The Cross Keys public house on the junction of Midford Road and South Stoke Lane is listed Grade II (as Cross Keys Inn). It dates from the early 18th century but was modified in the mid to late 19th century. It is a two storey limestone building with red pantile roof and has both architectural and historic interest. It occupies a prominent position on the edge of Bath and while its setting is rather suburban, there are views south across 30 Acres towards South Stoke.
67. In such views, the existing site is located behind 30 Acres and largely screened by roadside vegetation along Midford Road and South Stoke Lane and vegetation along the northern and eastern boundary of Phase 4. Given the retention and strengthening of the boundaries around Phase 4, the proposed development would not be obvious from the listed building and so would not cause harm to its significance. The special interest and setting of the listed building would be preserved in line with Section 66(1) of the LBCA Act 1990.

Sulis Manor and Gardens non-designated heritage asset

68. Sulis Manor and its gardens have been identified as a non-designated heritage asset (NDHA). Their features have been described above. While the house was rejected for listing in 2017, both it and the gardens have considerable local interest and significance due to their association with a prominent local family and business, the quality of some of the architectural details, and the panoramic setting on the edge of Bath. Given that the site crosses through Sulis Manor to the north of the house, and then continues to the east with the area earmarked for Phase 3, the site in its existing form makes a positive contribution to the significance of the NDHA due to its green and undeveloped state.
69. The effects of the proposed development on the NDHA would be very similar to those described above for the WHS. There would be a direct harmful effect to the gardens from the extended spine road, and an indirect harmful effect to the house from the road and the Phase 3 housing. However, the overall framework of trees would be retained and the house and garden to the south would be incorporated into the development sensitively as required by the Sulis Manor bullet point in CS Policy B3a at PP6. Thus, the adverse effect of the proposed development on the significance of the NDHA would be no greater than moderate.

Conclusion on heritage assets

70. The proposed development would cause less than substantial harm to the significance of the WHS, the Wansdyke Scheduled Monument, and South Stoke

Conservation Area, as well as having an adverse effect on the NDHA at Sulis Manor. There would be compliance with CS Policy B3a at PP6. However, CS Policy B4 on the WHS and its setting and PMP Policy HE1 on the historic environment require any harm to the significance of heritage assets to be weighed against the public benefits of the proposal. This is consistent with NPPF paragraph 215 as it relates to less than substantial harm. This heritage balance, and any conclusion on policy compliance, is carried out later.

Placemaking Principles

Pedestrian and cycle links

71. Bullet point 5 under PP7 of CS Policy B3a requires the provision of a sensitively designed and improved pedestrian/cycle link, following the desire line to Cranmore Place/Frome Road to allow access to Threeways School and the supermarket. As noted above, this desire line crosses the Wansdyke and currently causes damage to the scheduled monument.
72. The three main parties agreed that this part of PP7 would be met if SMC is granted for the crossing works. As noted above, SMC has now been granted and so there is no impediment to the provision of an improved link. The remaining disagreement between the parties regarding whether SMC should be obtained before commencement or occupation has fallen away. Likewise, the provision in the S106 for an alternative route if SMC was not obtained is now unnecessary and so I have not taken that provision into account.
73. I am satisfied that an improved link can be provided between the site and Cranmore Place following the existing desire line. On that basis, the proposed development would have a positive effect on the placemaking principle relating to pedestrian and cycle links as required by CS Policy B3a at PP7. It would also accord with PP4 which seeks new public rights of way and enhanced public access within the site and to surrounding areas. The proposed development would also accord with PMP Policy ST7 which, amongst other things, seeks the provision and enhancement of safe and convenient access to and within the site for pedestrians and cyclists.

Mixed-use development

74. PP1 in CS Policy B3a refers to the provision of residential led mixed use development. The CS Glossary defines mixed use developments as those that include a mixture of more than one of the following: housing, employment, leisure, shopping and community facilities. Amongst other things, PMP Policies D1 and D3 seek mixed use places and mixed use development particularly at public transport nodes and at local, district, city and town centres. NPPF paragraphs 96 and 98 promote social interaction through mixed use developments and an integrated approach to the location of housing, economic uses and community facilities and services.
75. Like the Phase 1 development, the proposed development involves the provision of a significant number of dwellings. Both developments can be described as residential led. While the description of each development varies, they both also refer to the provision of various other elements such as open space, green infrastructure and allotments that can all be regarded as facilities for outdoor use. These elements are required by policy for new developments of this size.

76. The proposed development would make an overprovision of outdoor space with a central heart to include civic space, community facilities and play/recreation space. There would be no conflict with the green infrastructure requirements in PP3 of CS Policy B3a. However, while these facilities could be used by existing residents, they are primarily ancillary features for the new housing and commonplace in many larger residential schemes. To consider them as standalone uses would render any major housing development as mixed use and potentially limit the ability to require the provision of facilities for work, retail, education and so on. The same applies to the reliance on such facilities in the nearby area. The proximity of schools, a supermarket and a hospital, amongst other things, a short distance to the north, would not make the proposed development mixed use, even with improved pedestrian and cycle links. The same points could be made for Phase 1.
77. However, CS Policy B3a applies to the allocation as a whole and not just the appeal site. The main parties agreed that the placemaking principles need to be considered on that basis. Not every application within the allocation needs to be mixed use but rather the whole allocation should be mixed use. The football club and Manor Farm business village are existing community and employment uses, and even Sulis Manor has been used as a language school. CS Policy B3a makes specific provision for all three sites to ensure their retention and enhancement. Since the CS was adopted, planning permission has been granted for an increased employment use at Manor Farm. Thus, the allocated area can be regarded as mixed use, and the proposed development would not inhibit this.
78. Moreover, there is little evidence to demonstrate a specific local need or deficiency in retail, employment, community or other facilities. The capacity of facilities in South Stoke appear to be limited to the existing village, but future residents of the development would be more likely to look towards Bath for facilities given its much greater size and offer. Access to such facilities would be possible via footpath links and public transport access, even if some of the routes would be unlit for landscape and ecology reasons and have rougher surfacing.
79. The proposed development creates some conflict with PMP Policies D1 and D3 and NPPF paragraphs 96 and 98 due to its lack of mixed uses. The provision of a mixed-use development is often a benefit in planning terms. However, given the specific nature of the allocation and the policy wording, and no decisive evidence to the contrary regarding the need for mixed uses, there would be no conflict with CS Policy B3a and the requirement for residential led mixed use development.

Comprehensive masterplan

80. PP2 in CS Policy B3a requires the preparation of a comprehensive masterplan, through public consultation, and to be agreed by the Council, reflecting best practice as embodied in "By Design" (or successor guidance), ensuring that it is well integrated with neighbouring areas. The policy and supporting text contain no further details on how the masterplanning process should be carried out, but the CS Glossary defines a masterplan as "a document... to provide detailed guidance for subsequent planning applications", while the supporting text to PMP Policy D1 advocates the use of masterplans for more complex sites or those in multiple ownerships.
81. No specific public consultation process was carried out by the appellant on its comprehensive masterplan, or agreement reached with the Council on its content,

prior to the submission of the application. Nevertheless, there was pre-application public consultation in early 2022 that included a version of the masterplan. There was more than one round of public consultation at the application stage before the Council made its decision, with several versions of the masterplan in the public domain⁷. The Council as part of its decision on the proposed development concluded that the comprehensive masterplan (A-100 Rev H) was acceptable with no reason for refusal on that basis. Therefore, while specific public consultation and agreement on the masterplan before the application may have been helpful, there are no procedural flaws in terms of the policy requirements.

82. The latest version of the masterplan (Rev H) covers the entire allocated area and adjoining land like Derrymans and 30 Acres. It provides a framework for Phases 1 to 4 including the location of built fabric, allotments, green infrastructure and vegetation, access routes, and connections to the neighbouring area. Odd Down Football Club and the Manor Farm business village are to be retained in their current locations, consistent with policy.
83. The masterplan notes that the residential layout for Phase 2 at Sulis Manor is to be brought forward by the Sulis Manor landowner. This could involve up to 50 units, but there are no plans in the public domain yet. However, there is no requirement to bring forward such development in Sulis Manor. The only requirement for this location is for the spine road which is part of the proposed development. Although the owner of Sulis Manor is not the appellant, they are a signatory to the S106 agreement and are not opposed to the proposed development.
84. The undetermined application for allotments at Derrymans is a consequence of insufficient provision for Phase 1 and the lengthy process in determining the proposed development. However, while this is unfortunate, the masterplan contains sufficient provision for supporting facilities across the allocation including allotments which would be located within the Phase 3 area. The Council had several concerns with the illustrative masterplan submitted with the Phase 1 application and so it was not agreed at that stage. However, the Council now considers that the masterplan is sufficiently comprehensive in both its spatial extent and level of detail that it complies with PP2.
85. While there is some uncertainty relating to potential housing at Sulis Manor, I concur that the masterplan is comprehensive and would ensure good integration with neighbouring areas. Along with the parameter plans, it provides the basis for guiding the reserved matters process and any further planning applications. Therefore, it complies with the requirements in PP2.

Conclusion on placemaking principles

86. For the reasons set out above, the proposed development would have an acceptable effect on the placemaking principles set out in CS Policy B3a with specific regard to pedestrian/cycle links, mixed-use development, and the comprehensive masterplan. Therefore, while there is some conflict with PMP Policies D1 and D3 and NPPF paragraphs 96 and 98 in terms of mixed use schemes, the proposed development would accord with CS Policy B3a and PMP Policy ST7.

⁷ Core Documents A11 (Rev C), C1 (Rev D), G25 (Rev E), J8 (Rev F), N24 (Rev G) and R10 (Rev H)

Trees

87. The fourth reason for refusal refers to the loss of a significant number of valuable trees not being justified. However, in its statement of case, the Council confirmed it was not defending this reason because the appellant has agreed to increase the amount of replacement tree planting by 10%. These trees are to be secured by the S106 agreement.
88. 328 trees are due to be removed at Sulis Manor for the extension of the spine road which would connect Phase 1 to Phase 3. The plans show an area of replacement tree planting along the southern and eastern boundary of 30 Acres as mitigation for this loss, with a total of 361 trees to be planted. I concur that this would provide sufficient mitigation and would also help to screen the development in views from the northern side of South Stoke.
89. The Rule 6 and interested parties have highlighted that the Design and Access Statement for Phase 1 showed different route options for the spine road through Sulis Manor⁸. They advocate a route option via Burnt House Road to the north to avoid Sulis Manor. However, the Phase 1 development has now been largely implemented, including the spine road. It would be very difficult to avoid affecting the north-western corner of Sulis Manor, which would mean a similar loss of trees would occur in this location to the proposed development. Likewise, due to the arrangement of existing housing at the junction of Burnt House Road and Alder Way, it would be very difficult to avoid affecting the north-eastern corner of Sulis Manor with a similar loss of trees.
90. The space within Sulis Manor between these two corners, where the existing outbuildings are located, contains fewer and lower value trees compared to the boundaries. Avoiding this part of the grounds would thus have little effect on the overall tree loss. Furthermore, a route via Burnt House Road would result in loss of some trees along the northern boundary with Sulis Manor and at the access points to Phases 1 and 3, including some trees of high value. This would likely cause a greater loss of trees overall and have negative landscape and visual effects too.
91. The southern tree belt along Phases 3 and 4 is proposed to be retained for ecological and landscape reasons. There have been several losses of trees due to ash dieback, with several affected specimens still present in the southern tree belt, but additional planting is proposed. The tree belt along the northern boundary of Phases 3 and 4 has been subjected to some recent felling with a licence secured from the Forestry Commission. However, the plans and the S106 seek the retention of any remaining trees and the strengthening of this belt.
92. Concluding on this main issue, the proposed development would have an acceptable effect on trees. Therefore, it would accord with CS Policy B3a in terms of the landscape requirements under the first one and a half bullets in PP5 and the requirements for Sulis Manor under PP6. These requirements seek the retention and protection of existing trees including the southern tree belt. The development would also accord with PMP Policy NE6 which seeks to avoid any adverse impacts on valued trees, with compensation provided if adverse impacts are unavoidable, and requires the appropriate retention and planting of trees.

⁸ Core Document AE6 Part 1 Page 14

Traffic

Policy context

93. CS Policy B3a contains several transport requirements in PP7 but these relate to the provision of access and pedestrian/cycle links rather than the management of traffic elsewhere. Nevertheless, PMP Policy ST1, amongst other things, seeks to promote sustainable travel and reduce the growth and overall level of traffic congestion and pollution. PMP Policy ST7, amongst other things, permits development where there is no prejudice to highway safety, no introduction of traffic of excessive volume onto an unsuitable road system, and provision is made for any required improvements to the transport system. This policy also requires the submission of transport assessments (TA) or statements in accordance with the NPPF and PPG.
94. NPPF paragraph 115 has four requirements including (d) that any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree through a vision-led approach. NPPF paragraph 116 states that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or residential cumulative impacts on the road network, following mitigation, would be severe, taking into account all reasonable future scenarios. NPPF paragraph 118 requires the submission of a TA (or statement) for all developments that will generate significant amounts of movement so that the likely impacts of the proposal can be assessed and monitored.

Existing local road network

95. The site is near to the A367 which forms one of the main routes into Bath from the south. The first junction on the city edge is known as the Odd Down roundabout and serves the park and ride site of the same name. This roundabout also has a junction for local access onto Sulis Manor Road, which leads to the 1980s housing estate and provides vehicular access into the site via Combe Hay Lane and a junction into the Phase 1 development.
96. The A367 continues north-eastwards from Odd Down. It passes a T-junction with Old Fosse Road and a pedestrian crossing both a short way from the roundabout, and then travels a greater distance past residential side streets to the Red Lion roundabout which forms a junction with the A3062 and Frome Road. On the A3062, there is a roundabout providing access into the supermarket and then a double mini-roundabout junction with the B3110 Midford Road. The B3110 meets the A367 at a T-junction to the north-east of the Red Lion roundabout, and there is a junction into St Martin's Hospital on the B3110 between the A367 and the A3062.

Current traffic conditions

97. The Rule 6 party and many interested parties have expressed concerns about the levels of traffic congestion along the A367 in this location. The focus of concerns as expressed through local accounts, photographs and drone footage, refer to particular problems in the AM peak at the Odd Down roundabout heading into Bath, and in the PM peak at the Red Lion roundabout heading out. The two junctions are approximately 800m apart.

98. Traffic approaching the Odd Down roundabout builds from around 07:30 on a typical weekday morning during school term-time. The A367 becomes two lanes approximately 700m from the roundabout. The lefthand lane is for the A367 into Bath, while the righthand lane is for buses, the park and ride, and local traffic via Sulis Manor Road only. By 08:00, there is slow moving traffic in the lefthand lane all the way back to the two-lane divide. It can take several minutes to get past the roundabout from the point the A367 splits into two lanes. It is evident that numerous vehicles use the righthand lane to bypass the lefthand lane and then use the roundabout, often as a slingshot, to cut back into the traffic heading into Bath. Vehicles approaching the roundabout have to give way to the right, and so these slingshot manoeuvres (which do not appear to be illegal) exacerbate the congestion.
99. The traffic continues to be slow moving north-east of the Odd Down roundabout, but this appears to be a combination of traffic attempting to turn right out of Old Fosse Road, and the pedestrian crossing. St Gregory's secondary school is located at this junction, and I observed numerous vehicles dropping off pupils on Sulis Manor Road and then rejoining the A367 into Bath, as well as multiple pupils using the crossing. After the crossing, the traffic appears to be generally free flowing along to the Red Lion roundabout. Not long after 09:00, the slow moving traffic and queues approaching Odd Down and the pedestrian crossing have largely dissipated.
100. Traffic approaching the Red Lion roundabout increases towards 17:00 on a typical weekday afternoon/evening during school term-time. There is slow moving traffic stretching back to before the B3110 junction on the A367. Traffic crossing the roundabout on the A3062 and Frome Road is also slow moving. It appears to be a combination of these arms with the A367 arms, which all have the same priority, that causes problems. These traffic conditions seem to ease by around 18:00. In comparison to the AM peak at Odd Down, the lines of traffic do not appear as long or slow moving with more variation in traffic flows.
101. Some debate was had at the Inquiry over the definition of a queue. To my mind, it is not just stationary traffic but can include slow moving vehicles depending on the specific road and factors such as speed limits and usual travel times. Guidance⁹ indicates that a speed for 5km/h would constitute a queue. The evidence indicates that the traffic movements in the AM peak towards Odd Down fits with such speeds and so it is reasonable to refer to this as a queue as well as congestion. Even if the speeds at Red Lion are above 5km/h, the evidence indicates that there is certainly congestion in the PM peak.

Modelling of impacts

102. The dispute between the appellant and the Rule 6 party focuses on the adequacy of the modelling work carried out by the appellant. Part of this dispute relates to whether a network model should have been used instead of standalone models for each junction. The former is often used when junctions interact with each other, such as within urban centres, whereas the latter tends to be used when junctions are independent. The local highway authority (LHA) initially required a network model for the proposed development but, following further information from the appellant, then confirmed it was content with a standalone model.

⁹ Inquiry Document 19

103. There are several junctions within the local area as noted above. The two most significant junctions are Odd Down and Red Lion roundabouts. The evidence before me does not demonstrate that traffic congestion at each junction is linked given the distance and the apparent free flowing nature of vehicles between them even at busier peak periods. This lack of interaction does not support the use of a network model here.
104. The Odd Down roundabout and the Old Frome Road are much closer junctions on the A367. In the AM peak, the slow moving traffic heading into Bath continues to move slowly after the roundabout, with drivers seemingly giving way to vehicles emerging out of Old Frome Road. However, the A367 is the priority road and there is no obligation to give way. Moreover, the proximity of the pedestrian crossing just beyond Old Frome Road appears to have an important influence as it forces vehicles to slow down (and give way) throughout the AM peak. There is some relationship between the two junctions, but it has not been demonstrated that they interact to the extent that a network model is required.
105. While some other junctions in the local area appear to be congested at times, such as the double mini-roundabout junction on the A3062/B3110, there is no obvious interaction between any of them. There are bus routes and stops throughout the area including a bus lane to and from the park and ride, but again no compelling evidence that they materially influence traffic flows. The use of priority controlled junctions compared to signalised junctions does not, on its own, dictate the model, but it is the lack of interaction between junctions that appears key. Therefore, a network model is not required anywhere for the proposed development.
106. The other part of the dispute between the two parties relates to the calibration of modelling work. Standalone models do not include demand flow (queue) data unless calibrated to do so. Guidance¹⁰ advises that modelled effects should be compared (calibrated) against observed data. The appellant commissioned traffic survey data in April 2022 and then updated this data in January 2024 following the Council's request at the November 2023 planning committee. The 2024 data was not significantly different to 2022. These datasets were then used to conduct a modelling validation review.
107. The appellant reviewed CCTV footage as part of the validation process. The LHA also reviewed this footage alongside the 2022 and 2024 datasets. The LHA's consultation response dated 26 March 2024 confirmed that it was satisfied with the comparison of the datasets. This response also reviewed the drone footage carried out by Alan Bailes Consultancy Limited (ABCL) in February 2024 on behalf South Stoke Parish Council. The LHA's overall conclusion was that, having regard to all additional information, it continued to have no objection to the proposed development and that no severe impacts had been demonstrated.
108. The 2022 and 2024 datasets were contained in the original TA and the second TA Addendum. Although the CCTV footage has not been made publicly available, it was referred to in application documents and could have been requested by the Rule 6 party and others. The LHA is a statutory consultee in the planning process. To suggest that its views are unreliable on the basis that the CCTV footage has not been shared is not a particularly robust argument. Therefore, I am satisfied

¹⁰ WebTAG

that the modelling work has been sufficiently calibrated with little evidence to suggest otherwise.

109. The appellant's modelling work compares the 2022 baseline year with a 2029 forecast year in various scenarios starting from a 2029 baseline, then adds committed development, then adds the proposed development, and then the potential development of 50 units at Sulis Manor. The modelling then sensitivity tests that with scenarios where the Council's climate change initiatives are not met by 2029. Modelling work has also been carried out by ABCL informed by the drone footage which looked at similar scenarios. Both parties' models indicate increased delays at the Odd Down roundabout by 2029 with the proposed development in place. ABCL estimates around a 2 minute increase in delay approaching on the southern arm.
110. However, as noted above, the delays at Odd Down roundabout are focused on a 90 minute period in the AM peak, and influenced by the Old Frome Road junction, the pedestrian crossing, the proximity of the secondary school, and driver behaviour. There are no capacity issues with the roundabout itself and no inherent safety issues. The Council is prioritising sustainable transport solutions to address existing traffic problems. The proposed development would contribute financially to two major schemes and provide easy access to the park and ride and other bus stops, plus improve pedestrian and cycle links, such that future occupants would have a range of travel options other than just the private car.

Conclusion on traffic

111. It is apparent that the local road network suffers from queues and congestion in the AM and PM peak and that this is frustrating to people travelling through this area at those times. However, the use of standalone modelling is appropriate in this context and the model has been sufficiently calibrated and reviewed. The TA work carried out by the appellant has not been demonstrated to be flawed. The proposed development would also facilitate various sustainable transport modes.
112. In conclusion, the proposed development would not have a significant or severe impact following mitigation taking into account all reasonable future scenarios. Therefore, it would have an acceptable effect on traffic and so accord with PMP Policies ST1 and ST7 and NPPF paragraphs 115(d), 116 and 118.

Planning Balance

Adverse effects

113. The proposed development would have detrimental effects on the CNL and conflict with CS Policy B3a in terms of not meeting PP5, as well as conflict with PMP Policy NE2 and NPPF paragraphs 189 and 190. It would also fail to meet the statutory duty set out in Section 85 of the NERC Act 2000. Therefore, I afford substantial weight to the adverse effects on the CNL and the policy conflict, mindful of the great weight that should be given to conserving and enhancing designated landscapes.
114. As a consequence of not meeting PP5, the provision of up to 290 dwellings, when added to the already permitted 171 dwellings for Phase 1, would mean that the proposed development would also conflict with CS Policy B3a at PP1 by not representing around 300 dwellings in the plan period. This figure is a cap unless all

the placemaking principles can be met. CS Policy B3a is agreed to be the most important for this appeal proposal, and so I afford substantial weight to the policy conflict.

115. There would also be less than substantial harm to three designated heritage assets, with a moderate level of direct harm and a low level of indirect harm to the significance of the WHS, a moderate level of indirect harm to the significance of the Wansdyke Scheduled Monument, and a low level of indirect harm to the significance of South Stoke Conservation Area. This carries considerable importance and weight. There would also be moderate adverse effect on the significance of Sulis Manor house and gardens as a NDHA which carries moderate weight against the proposed development. There would be no harm to the significance of the Cross Keys listed building.
116. Finally, there would be some conflict with PMP Policies D1 and D3 and NPPF paragraphs 96 and 98 due to the lack of mixed uses within the proposed development, but given the overarching requirements of CS Policy B3a, I afford this conflict limited weight. Due to these adverse effects, it is necessary to consider the benefits of the proposed development.

Benefits

117. The Council can currently demonstrate a 5 year housing land supply with a 5% buffer against their housing requirements set out in adopted strategic policies in the development plan that are not out of date. The most recent housing delivery test results show that the Council delivered 110% of its housing requirement over the past 3 years. Therefore, it is common ground that NPPF paragraph 11(d) is not engaged for the purposes of this appeal.
118. Notwithstanding the Council's supply and delivery positions, it is agreed that there is an acute national housing crisis as highlighted by Government ministers. It is also recognised that under the revised standard method for assessing housing needs, the Council's annual housing requirement would increase from 717 to 1,471 dwellings per annum (dpa). The Council has recently published a document confirming that it is re-setting the emerging Local Plan to take account of this significant uplift. The weight to be given to this document is limited, but in the context of increasing housing need, substantial weight can be afforded to contribution of up to 290 dwellings to housing supply.
119. The proposed development would also secure 40% affordable housing provision via the S106 agreement. The Council has exceeded the CS target of 183dpa for affordable housing delivery since the start of the plan period with an average of 192dpa. However, various indicators such as the housing register, homelessness and the value of private rents and house prices show that accessing affordable housing is increasingly difficult for some. The 2024 Local Housing Needs Assessment, which is part of the evidence base for the emerging Local Plan, shows a need for 831dpa over a 20 year period to 2042.
120. The appellant and the Council disagree on the relevance of this assessment given the status of the emerging Local Plan. However, they agree that there is an ongoing and acute need for affordable housing within Bath and North East Somerset. The overall increase in housing need will inevitably increase the affordable housing need. Notwithstanding that this proposal is apparently only one of three schemes delivering a policy compliant level of affordable housing in the

Council's area, the Council is currently meeting set targets in the development plan for housing generally. Therefore, I consider the affordable housing delivery should be given substantial, rather than very substantial, weight.

121. NPPF paragraph 130(c) states that local planning authorities should refuse applications which they consider fail to make efficient use of land, taking into account the policies in the NPPF. The proposed development would utilise much of the land within the broad areas deemed suitable in the concept diagram that accompanies CS Policy B3a. However, having regard to the adverse effects on the CNL and the conflict with local and national policies relating to National Landscapes, the extent of built development has not been justified. Therefore, I give little weight to this matter in favour of the proposal.
122. There is little disagreement between the parties over the remaining benefits and so I have adopted the appellant's weighting in their closing submissions. Economic benefits from the construction and occupation phases, the creation of new and enhanced pedestrian and cycle links, and a biodiversity net gain increase of just over 10% for habitats and hedgerows, all carry moderate weight. Limited weight can be afforded to the financial contributions towards primary health care and sustainable transport measures on and off site. The provision of a formal crossing of the Wansdyke would address both heritage and safety concerns. SMC has now been granted and so I afford this benefit moderate weight rather than the limited weight given by the appellant in the absence of SMC.

The heritage balance

123. In line with NPPF paragraph 215, it is necessary to weigh the moderate and low levels of less than substantial harm to the significance of the WHS, the Wansdyke Scheduled Monument and the South Stoke Conservation Area against the public benefits. All the above benefits can be regarded as public ones. Those relating to housing delivery alone are substantial and sufficient to outweigh the harm to significance notwithstanding the considerable importance and weight I have given to that harm. While NPPF paragraph 212 indicates that great weight should be afforded to the conservation of the conservation area and even greater weight to the conservation of the WHS and the scheduled monument, there is clear and convincing justification for the harm to these designated heritage assets as required by NPPF paragraph 213.
124. Therefore, the proposed development would have an acceptable effect on the significance and setting of several designated heritage assets and so would accord with the relevant parts of CS Policy B3a along with CS Policy B4 and PMP Policy HE1. It would also accord with NPPF paragraphs 212, 213 and 215.
125. Regarding the moderate adverse effects on the significance of Sulis Manor house and gardens as a NDHA, this would be significantly outweighed by the benefits of the proposal and so there would be no conflict with CS Policy B3a, PMP Policy HE1, and NPPF paragraph 216.
126. While the heritage balance has been passed, it is nevertheless necessary to include the moderate and low level harms to heritage assets in the overall planning balance.

The overall planning balance

127. The proposed development would provide benefits that carry substantial weight in terms of the delivery of housing, including affordable housing. There would also be a range of other benefits that carry moderate and limited weight. Conversely, I have afforded substantial weight to the adverse effects on the CNL and the conflict with CS Policy B3a and other local and national policies relating to National Landscapes. The harm to heritage assets carries moderate weight and the conflict with policies relating to mixed use development carries limited weight.
128. On balance, given that CS Policy B3a limits development within the site allocation to around 300 dwellings unless all the placemaking principles can be met, which is not the case here, my conclusion is that the adverse effects outweigh the benefits. The proposed development would be contrary to the development plan taken as a whole, and there are no material considerations to indicate that planning permission should otherwise be granted.

Other Matters

129. The site is near to the Combe Down and Bathampton Down Mines Site of Special Scientific Interest, which forms part of the Bath and Bradford on Avon Bats Special Area of Conservation (SAC). The SAC contains a network of significant underground sites that support bat species including the greater and lesser horseshoe bats and the Bechstein's bat. These species use the surrounding landscape for roosting, breeding and feeding. New development in this location has the potential, either alone or in combination with other projects, to have a likely significant effect on the integrity of the SAC through the loss and damage to roost sites, foraging habitats and flight lines, and other disturbance to bats.
130. Therefore, it would be necessary to carry out an appropriate assessment (AA) as part of my decision were I minded to allow this appeal. However, given my findings on the main issues and the overall balance, there is no need for me to carry out an AA as there is no prospect of planning permission being granted. Therefore, it is not necessary for me to consider this matter any further.
131. Interested parties have noted concerns on various other matters including ecology, flood risk, drainage, ground stability, and effects on local services. However, given my overall conclusion, it is not necessary to consider these matters in any detail.

Conclusion

132. For the reasons set out above, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

Tom Gilbert-Wooldridge

INSPECTOR

Appearances

For the Appellants:

Paul Tucker, King's Counsel, and Arevik Jackson, Counsel, instructed by Framptons.

They called:

Antonio Pinto BA (Hons) MSc CILT CIHT
Director, Tetra Tech Limited

Simon Kale BA (Hons) CMLI
Managing Director, Nicholas Pearson Associates Ltd

Peter Frampton BSc (Hons) TP MRICS MRTPI
Director, Frampton Town Planning Ltd

Dr Laurent Duvergé PhD BSc (Hons) CEnv CIEEM
Kestrel Wildlife Consultants Ltd

A Lyn Jenkins BSc (Hons) MSc CEcol
Kestrel Wildlife Consultants Ltd

Bonnie Bee MSc CEng MSLL MCIBSE MILP
Chartered Electrical Engineer, Lighting Bee Limited

Francesca Hurt BSc (Hons) MSc CIWEM
Associate Director, Tetra Tech Limited

Richard Smalley BA (Hons) MCIfA FSA AssocIHBC
Deputy Operations Director Heritage, RPS Consulting Services

Jonathan Smith BA (Hons) MA PGDip MCIfA IHBC
Senior Director Heritage, RPS Consulting Services

Ben Rose BSc (Hons) MSc DipArb (RFS) MICFor RCarborA AARC
Managing Director and Principal Arboricultural Consultant, Boksy Trees Ltd

Megan Forbes
Dentons UK

For the Local Planning Authority:

Stephen Morgan, Counsel, instructed by Simon Elias, Senior Lawyer, Bath and North East Somerset Council.

He called:

Anne Priscott BA (Hons) CMLI
Director, Anne Priscott Associates Ltd

Mark Reynolds BSc (Hons) MSc MRTPI
Managing Director, Context Planning

Jayne Boldy BA (Hons) MSc ConsHistBuild
Senior Conservation Officer, Bath and North East Somerset Council

Christopher Griggs-Trevarthen
Team Manager Development Management, Bath and North East Somerset Council

Nigel Hewitson
Solicitor

For the Rule 6 Party (Combe Hay and South Stoke Parish Councils):

James Neill, Counsel, instructed by Malcom Austwick, Combe Hay Parish Council.

He called:

John Russell CMILT MCIHT
Director, Motion Limited

Tim Waters MRTPI
Director, Renew Planning Limited

Interested Parties who spoke during the Inquiry

Councillor Lucy Hodge ¹¹	Bath and North East Somerset Council
Councillor Joel Hirst	Bath and North East Somerset Council
Councillor Fiona Gourley	Bath and North East Somerset Council
Councillor Dr Eleanor Jackson ¹²	Bath and North East Somerset Council
Councillor Mike Clarkson	Wellow Parish Council
Simon Joyce	Cotswolds National Landscape Board
Dr Ned Garnett	South of Bath Alliance
Alex Sherman	Bath Preservation Trust
Robert Hellard	Local resident
Jacky Sloane	Local resident
Jennifer John	Local resident

¹¹ On behalf of Councillor Matt McCabe

¹² Instead of Councillor Ian Halsall

Documents submitted during the Inquiry

ID 1	Extract from TRL Software Guide
ID 2	Motion Technical Note dated 23 January 2025
ID 3	Submission from Jennifer John
ID 4	Appellant's Opening Statement
ID 5	Council's Opening Statement
ID 6	Rule 6 Party's Opening Statement
ID 7	Cllr Joel Hirst's statement
ID 8	Cllr Fiona Gourley's statement
ID 9	Cllr Matt McCabe's statement (read by Cllr Hodge)
ID 10	Simon Joyce's statement
ID 11	Robert Hellard's statement
ID 12	Technical Lighting Note in Respect of Dark Skies
ID 13	Annotated Tynings Land Map
ID 14	Sites of Nature Conservation Interest Map
ID 15	Natural England supplementary advice on Bath and Bradford on Avon Bats Special Area of Conservation
ID 16	Sulis Manor Listing Decision from Historic England
ID 17	Jacky Sloane's statement
ID 18	Extract from Junctions 9 User Guide
ID 19	Extract from TRL PPR224
ID 21	Appeal Decision APP/F0114/W/21/3267412
ID 22	Errata page for Landscape Rebuttal Proof of Evidence of Simon Kale
ID 23	Appendix 4 correction to Peter Frampton's Proof of Evidence
ID 24	Dr Ned Garnett's statement
ID 25	Bath Preservation Trust statement
ID 26	Inspector's Report into Placemaking Plan June 2017
ID 27	Drone Footage 0700-1000
ID 28	Drone Footage 1500-1800
ID 29	Still images from drone footage
ID 30	Technical Note 6 – Burnt House Road Access

ID 31	Draft S106 agreement dated 7 February 2025
ID 32	S106 Title Interests
ID 33	Title Bundle
ID 34	Bath and North East Somerset Local Plan Reset and Spatial Strategy Document
ID 35	Response by the Rule 6 Party to Technical Note 6 (ID30)
ID 36	Written submission by Robert James
ID 37	Updated Schedule of Draft Conditions
ID 38	Appellant's comments on ID 34
ID 39	<i>Phides Estates v SSCLG</i> [2015] EWHC 827 (Admin)
ID 40	Council's comments on ID34
ID 41	Draft Building Heights Condition
ID 42	Rule 6 Party's Closing Submissions
ID 43	Council's Closing Submissions
ID 44	Appellant's Closing Submissions
ID 45	Post-Inquiry Schedule of Draft Conditions
ID 46	Email from Appellant regarding pre-commencement conditions
ID 47	Transcript of final Inquiry sitting day on 11 February 2025

Documents submitted after the Inquiry

1. Note on changes to Part 4c of the S106 agreement dated 11 February 2025
2. Completed and executed S106 agreement dated 20 February 2025
3. Decision letter from Historic England dated 26 February 2025 granting scheduled monument consent for crossing works to the Wansdyke Scheduled Monument
4. Comments from the appellant, the Council, and the Rule 6 party regarding the Wansdyke decision letter