

# **Town and Country Planning Act 1990**

**Appeal by Gladman Developments Ltd.**

**Site at Land off Langaller Lane, Creech St. Michael  
Somerset TA4 2UE**

**Outline Planning Application with all Matters Reserved, except for Access, for the Erection of up to 200 No. dwellings with Public Open Space, Landscaping and Sustainable Drainage System (SuDS) with Vehicular Access Point off Langaller Lane, Creech St. Michael.**

**Taunton Deane Borough Council**

**Rule 6 Statement**

Appeal reference: APP/D3315/W/18/3205705

LPA reference: 49/17/0033

## 1. Background

1.1 This statement relates to a planning appeal lodged by Gladman Developments Ltd. in respect of land off Langaller Lane, Creech St. Michael, Somerset TA4 2UE.

1.2 The appeal follows the refusal of planning permission on 17 April 2018 by Taunton Deane Borough Council for the following reasons:

1. *"The proposed development site lies outside the defined settlement limits of Creech St. Michael. It would result in a large scale unplanned extension of the village, preventing a full assessment of the most sustainable options for future growth that would consider a range of factors such as available and planned infrastructure, walking distances to key facilities and provision of services in order to achieve sustainable development.*

*The Council recognises the aim to boost significantly the supply of housing, but it considers that delivery rates in Taunton Deane remain healthy and there is a substantial pipeline of future sites to meet five year supply requirements across the Borough. Policies for the supply of housing are therefore not out-of-date and the tilted balance is not invoked. A further 200 dwellings being apportioned to the village would not accord with the role and function set for it by the Core Strategy and would actually see it accommodating more new homes than either of the two Major Rural Centres outlined by the Plan thus undermining spatial policy to a serious extent.*

*Added to this the development will put pressure on local services which are limited in their ability to be able to cope with such an unplanned large expansion of the village. It is, therefore considered to be contrary to Policies SD1, CP1, CP4, CP6, CP8 SP4, DM1, & DM2 of the Taunton Deane Core Strategy 2012. There are no material considerations that would outweigh these significant and demonstrable harms or the*

*fundamental conflict with the development plan. The proposal it is considered does not fulfil the requirements for Sustainable Development as set out in policy SD1 and the National Planning Policy Framework (2012).*

- 2. Insufficient information has been provided to demonstrate that the proposed development is not contrary to Section 4 of the National Planning Policy Framework (2012) and Policy DM1 of the Taunton Deane Borough Core Strategy (Adopted 2011 – 2028) since the proposed development is likely to result in a severe transport impact that could be prejudicial to the safety, amenity and convenience of highway users.*
- 3. The development of this large open unallocated greenfield area outside the settlement boundary of Creech St. Michael it is considered would be contrary to Policies CP8, DM1, DM2, and SP4 of the Taunton Deane Core Strategy 2012, and Policies ENV1, and SB1 of the Taunton Deane Site Allocations and Development Management Plan 2016. The proposed development if allowed would create a significant visual intrusion into this area of countryside changing the character and appearance of the environment surrounding Creech St. Michael, and would lead to a direct loss of the important gap separating Taunton and this outlying village settlement. The coalescence of the village with the greater Monkton Heathfield development planned for the eastern side of the M5 motorway is considered unacceptable in visual terms notwithstanding any proposed open space buffer set out with this application and the Green Wedge buffer which partially separates the Monkton Heathfield development from the Motorway. The site is valued for its own intrinsic sake as part of the countryside surrounding the village and should therefore be protected from sporadic unplanned development.*
- 4. There is no mechanism in place to secure appropriate affordable housing provision, surface water attenuation and management, children's play facilities and any other wider recreational contributions,*

*a public art contribution or an acceptable travel plan as part of the development. The proposal is, therefore, contrary to Policy CP4 of the Taunton Deane Core Strategy and Policies A2, D13 and C2 of the Taunton Deane Site Allocations and Development Management Plan.”*

- 1.3 These reasons for refusal were formulated before the publication of the Revised National Planning Policy Framework (“the Framework”) on 24 July 2018. Some of their wording reflects the previous Framework and not that of the Revised Framework. Nevertheless, the Council will demonstrate that these reasons remain legitimate objections to the appeal proposal reflecting the import of the Revised Framework. Further, the Council will demonstrate that the development plan policies accord with those of the Framework and therefore under paragraph 213 of the Framework, would attract substantial weight in the decision-taking process.
- 1.4 The appellant’s planning application was considered and determined under Council officers’ delegated powers and refused planning permission in accordance with the planning officer’s recommendation and report. The Council’s decision to refuse permission was issued on 17 April 2018.
- 1.5 The Council will provide to the Inquiry submissions and evidence on the following matters in support of its reasons for refusal unless otherwise agreed in a Statement of Common ground between the appeal parties:
  - a description of the appeal site, its surroundings including the village of Creech St. Michael;
  - the planning history relevant to the appeal proposal;
  - the relevant development plan policy and proposals;

- other material considerations including policies of the Revised Framework, Planning Policy Guidance and Council documents;
- the Council's case for refusal planning permission of the appeal proposal;
- a response to the appellant's Statement of Case; and
- without prejudice to its case, a list of suggested planning conditions
- and Planning Obligations that the Council considers should be imposed upon the planning permission in the event that this appeal succeeds.

## **2.0 Site Description**

2.1 A detailed description of the appeal site and its surroundings will be provided. This will include any relevant designations and the location and distances of the Site from key community facilities and services and employment opportunities.

## **3.0 Relevant Planning History**

3.1 There is no planning history on the appeal site.

3.2 However, reference will be made to the grant of four planning permissions since 2012 for the erection of a total of 210 dwellings on three different sites at Creech St. Michael.

3.3 The Council will provide evidence relating to spatial strategy of the development plan in Taunton Borough and specifically that relating to Creech St. Michael and the locality.

## **4.0 Planning Policy**

4.1 The development plan comprises the following documents:

- Taunton Deane Core Strategy (2012) (TDCS);
- Taunton Deane Site Allocations and Development Management Plan (2016) (SADMP);
- Taunton Town Centre Area Action Plan (2008);
- Somerset Minerals Local Plan (2015); and
- Somerset Waste Core Strategy (2013)

4.2 Only policies contained in the Core Strategy 2012 (TDCS) and the Site Allocations and Development Management Plan 2016 (SADMP) are relevant to this appeal.

## **5.0 Statement of Case**

5.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 places a statutory duty on decision takers to determine proposals in accordance with the development plan unless material considerations indicate otherwise.

5.2 Paragraph 12 of the Framework reaffirms the statutory status of the development plan as the starting point for decision making. Paragraph 12 also states:

*"Where a planning application conflicts with an up-to-date development plan (including any neighbourhood development plans that form part of the development plan), permission should not usually be granted."*

5.3 Paragraph 15 of the Framework states:

*"The planning system should be genuinely plan-led. Succinct and up-to-date plans should provide a positive vision for the future of each area; a framework for addressing housing needs and other economic, social and environmental priorities; and a platform for local people to shape their surroundings."*

5.4 The Council will demonstrate that its development plan is up to date and that it sets out a positive vision and provides an appropriate framework within which decisions on planning applications can be made effectively including those relating to Creech St. Michael.

5.5 The TDCS (2012) made a total allocation of at least 250 new net additional dwellings amongst all of the 'Minor Rural Centres' of which Creech St. Michael is one. Subsequently, three housing allocations at Creech St. Michael were made in the SADMP (2016) for a total of around 139 dwellings. These allocations were at Hyde Lane (Spatial Policy MIN2), North of School (Spatial Policy MIN3) and Land off Hyde Lane (Spatial Policy MIN4). These allocated sites have been implemented.

5.6 Paragraph 33 of the Inspector's Report on the draft SADMP amongst other things stated:

*"The allocations in the Plan closely follow the approach to strategic sites and broad locations set out in the Core Strategy. In terms of smaller sites, the SA is very clear about how and why the final site-selections have been arrived at. There is nothing unsound about the allocations."*

5.7 The Inspector's report went on to state in paragraph 39:

*"All in all, I am content that the Plan distributes its housing allocations appropriately, in a manner that accords with that set out in Core Strategy Policy SP 1, and the SA. I find no unsoundness on this issue."*

5.8 The adoption of the TDCS and SADMP pre-dated the recent publication of the Revised National Planning Policy Framework. In this regard, Paragraph 213 of the Framework states:

*"...existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)"*

5.9 The Council will demonstrate that the policies of the TDCS and SADMP most relevant to the determination of this appeal accord with policies of the Revised National Planning Policy Framework to a high degree. Therefore, the Council will demonstrate that considerable weight should be given to those development plan policies most relevant to the determination of this appeal.

5.10 Housing Land Supply - The Council will identify relevant national planning policy addressing the change introduced in the Revised Framework and Planning Policy Guidance.

5.11 The Council will set out the housing requirement against which the supply of sites should be tested acknowledging that due to the age of

the TDCS, the Standard Method for assessing housing need is applicable.

5.12 The Council will draw upon its Strategic Housing Land Availability Assessment (SHLAA) of March 2018 to identify the deliverable housing sites.

5.13 The Council will bring together these analyses to demonstrate its land supply position. This would draw upon the housing requirement set out in the Revised Framework and Planning Policy Guidance. The Council will also identify the land supply position if the supply were to be set against the TDCS.

5.14 The Council is mindful of paragraph 11 d) of the Framework which states that policies most important for determining a proposal are 'out of date' if, amongst other things, it cannot demonstrate a five year supply of deliverable housing sites with the appropriate buffer (see Footnote 7). The Council will adduce evidence to demonstrate a five year supply of deliverable housing land plus the required five per cent buffer against both its adopted Core Strategy Policy CP4 target and against the Government's standard methodology.

5.15 Further, the Council will demonstrate that the Housing Delivery Test indicates the delivery of housing was not substantially below (that is: below 75% of) the housing requirement over the past three years. As such, the Council's development plan policies most important to the determination of this appeal are not 'out of date' as defined under Footnote 7 of the Framework.

## **6.0 Reasons for Refusal**

### 6.1 Reason for Refusal 1 (Unplanned village extension beyond the settlement boundary)

The Council will demonstrate that the spatial strategy of the development plan, amongst other things, is to direct housing development to specific areas to achieve sustainable development objectives and that an important part of this strategy is the identification of settlement boundaries.

6.2 The Council will demonstrate that the appeal site lies wholly beyond the defined settlement boundary of Creech St. Michael and that it should be considered as lying entirely within open countryside for the purposes of planning policy. As a result, the appeal proposal conflicts fundamentally with the objectives, strategy and policies of the adopted development plan and those of the Revised Framework which, amongst other things, requires the planning system to be genuinely plan-led that the development plan is the 'starting point' for decision-making.

6.3 The Council will demonstrate that the proposed development would constitute a substantial extension of the village. The proposed piecemeal release of the application site to up to 200 dwellings in an unplanned way beyond the plan-making process does not allow for any assessment to be made of its merit as an application site compared to other sites. This is a material consideration against the acceptance of the appeal proposal.

6.4 The Council will demonstrate that the cumulative effect of the proposed development and the allocation in the SADMP of three areas of land at the village for residential purposes is a significant

material consideration with regard to the role and function of the village in the spatial strategy of the development plan and the capability of its local services, facilities and amenities to meet the needs of this large expansion of the village.

6.5 By virtue of this, the Council will demonstrate that that the site would be contrary to TDCS (2012) Policies SD1, CP1, CP4, CP6, CP8, SP4, DM1 and DM2.

6.6 Reason for Refusal 2 (Insufficient information provided on traffic impacts)

The appellant has been unable to satisfy the Local Highway Authority of Somerset County Council, acting as a statutory consultee, that the development will not have a severe impact upon the local highway network. In the absence of evidence to the contrary, the Highway Authority maintains that the traffic impact of the scheme will prejudice the safety, amenity and convenience of highway users contrary to Section 9 of the Revised Framework and TDCS Policy DM1.

6.7 In support of its evidence, the Highway Authority on behalf of the Council will rely upon the following documents:

- Revised National Planning Policy Framework (2018)
- Taunton Deane District Core Strategy (adopted 2011-2028)
- Taunton Deane Adopted Site Allocations and Development Management Plan (2016)
- Travel Plan Guidance (adopted November 2011) and
- Guidance for Transport Assessments (adopted by Somerset County Council December 2014)

- Background Papers associated with the Somerset County Council adopted documents.

6.8 On behalf of the Council's case at this Inquiry, the Highway Authority will provide evidence in support of Reason for Refusal 2. The Highway Authority will comment on the detailed proposal relating to the Framework Travel Plan and Transport Assessment and illustrative layout proposals and access.

6.9 Reason for Refusal 3 (Visual intrusion into countryside)

The proposal entails the development of a large, open unallocated greenfield area beyond the settlement boundary of Creech St. Michael. It would create a significant visual intrusion into this area of countryside changing the character and appearance of the environment surrounding Creech St. Michael. It would lead to a loss of the important gap separating Taunton and this outlying village. It would lead to the coalescence of the village with the Monkton Heathfield development planned for the eastern side of the M5 motorway corridor notwithstanding the proposed open space buffer incorporated in this proposal and the Green Wedge buffer which partially intervenes.

6.10 The Council will demonstrate that the development will be visually intrusive and harmful to the existing character and appearance of the area. By virtue of this, the Council will demonstrate that the development would fail to protect, conserve or enhance the landscape character of the area and would be contrary to TDCS (2012) Policies CP8, DM1, DM2 and SP4 and SADMP (2016) Policies ENV1 and SB1. The development would also fail to accord with associated policies of the Revised Framework which, amongst other things, requires planning decisions to contribute to and enhance the

natural and local environment by recognising the intrinsic character and beauty of the countryside.

6.11 Reason for Refusal 4 (lack of provision of affordable housing, surface water and play facilities, public art and Travel Plan)

The Council will demonstrate that the proposed development generates a need for affordable housing, childrens' play facilities, recreational facilities, public art and a Travel Plan.

6.12 The Council will identify the planning policy requirements for these matters. In the absence of an appropriate mechanism to secure affordable housing, these community facilities or an acceptable Travel Plan, the Council will demonstrate that the proposed development would be contrary to TDCS (2012) Policy CP4 and SADMP (2016) Policies A2, D13 and C2.

6.13 If a completed and appropriate Section 106 legal agreement or unilateral undertaking is not presented to the Inquiry, the Council will submit evidence to demonstrate why these Council's policy requirements in these matters have not been met by the appellant.

6.14 In the event that a completed and appropriate Section 106 agreement or unilateral undertaking is submitted to the Inquiry, the Council will reconsider its position in relation to Reason for Refusal 4.

## **7.0 The Planning Balance**

7.1 The Council will demonstrate that the adverse planning and landscape harm expressed in its Reasons for Refusal 1 and 3 that would be caused by the proposed development would be contrary to the development plan and national planning policy and that there

exist no material considerations that outweigh this harm. Therefore, the proposed development would not constitute sustainable development.

7.2 The highway harm and lack of provision for affordable housing, play facilities, public art and an acceptable Travel Plan expressed in Reasons for Refusal 2 and 4 add weight to the Council's objections to the proposed development.

7.3 By virtue of this, the presumption in favour of sustainable development under paragraph 11 c) of the Framework is not engaged because the appeal proposal would not accord with an up-to-date development plan.

7.4 Nor would paragraph 11 d) of the Framework be engaged because there exist development plan policies relevant to the proposal and the most important development plan policies for determining the appeal proposal are not 'out-of-date'.

7.5 Even if it were concluded that there are no relevant development plan policies or that the most important policies are 'out of date', the presumption in favour of sustainable development would not be engaged. Whilst, no policies of the Framework protecting areas or assets of particular importance apply to the proposal, its adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.

7.6 Consequently, the Council will demonstrate that the presumption in favour of sustainable development as explained in paragraph 11 c) and d) of the Revised National Planning Policy Framework is not

engaged in the determination of this appeal under any circumstances.

## **8.0 Comments on the appellant's grounds of appeal and Third Party representations**

8.1 The Council will respond to the detailed arguments advanced in the appellant's evidence and may introduce further rebuttal evidence.

8.2 The Council reserves the right to respond to any points made by Third Parties in the event that clarity is required.

## **9.0 List of Documents**

9.1 A list of documents that will be referred to during the Inquiry will be appended to the agreed Statement of Common Ground. Copies of relevant documents or extracts will be provided to the Inquiry either as Core Documents or as appendices to the Council's Proofs of Evidence.

## **10.0 Planning Conditions**

10.1 Without prejudice to its appeal case, the Council will seek to agree with the appellants a list of reasonable and necessary planning conditions that could be imposed in the event of this appeal succeeding. This list of conditions will be incorporated with the agreed Statement of Common Ground.