

**TOWN & COUNTRY PLANNING APPEALS
(DETERMINATION BY INSPECTORS)
(INQUIRIES PROCEDURE) (ENGLAND) RULES 2000**

APPEAL BY

PAUL CROCKER

Against the decision by Dorset Council to refuse a hybrid planning application consisting of:

A full planning application for a mixed-use development comprising a food store, office space, café, and mixed-use space for E class uses and 2 x 2-bed flats plus a new parking area with 30 parking spaces for St Gregory's Church and St Gregory's Primary School, landscaping and associated engineering operations, access arrangements, on land west of Church Hill, Marnhull.

Outline planning application with all matters reserved except for access for up to 120 dwellings on land off Butts Close and Schoolhouse Lane, Marnhull.

PINS reference: APP/D1265/W/24/3353912

**APPELLANT
OPENING STATEMENT**



Birmingham · Bristol · London

Introduction.

The appeal scheme is for a hybrid development proposal for Marnhull. It is important to emphasise from the outset that whilst hybrid (part full and part outline) its component elements are intended to ensure delivery of the ensuing benefits in an integrated manner. It is essentially a combined package and should be considered as such. This opening statement will briefly address the main issues for this inquiry as identified following the CMC on 6 February 2025.

1. Main Issue 1: The effect of the development on the character and appearance of Marnhull and on the setting (and significance) of its heritage assets.

- 1.1 The Appellant will be calling two experts to address this issue during the scheduled round table discussion, namely Mr Kevin Morris and Mr Jonathan Taylor. Mr Morris is an expert in both heritage impacts, and urban design and Mr Taylor is from the architects behind the scheme design (formerly Brightspace but now Corstorphine & Wright).
- 1.2 The concerns identified by the Council in RfR (no.4) are now encompassed within main issue no.1. These were in respect of the impact upon the setting of three designated heritage assets, namely the Grade 1 listed Church of St Gegory, the Grade II* listed Senior's Farmhouse and attached barn and the Marnhull Conservation Area. All parties agree that the level of any harm would be less than substantial. It is the extent of that harm that is in issue along with the Appellant's contention that the degree of harm is significantly outweighed by the considerable benefits that would flow from the proposed development.
- 1.3 Mr Morris will explain that the significance of the identified heritage assets is largely agreed. He will explain, with the assistance of verified views, why he considers the impacts to be limited and towards the lower end of less than substantial harm. The approach taken by the Council and the MPC is simple. They contend that there is simply no opportunity to mitigate against the harm to the significance of the identified heritage assets. The Appellant disagrees and will explain how any impacts have been mitigated through the application of adopted design principles including landscaping, view corridors, materials and form.

- 1.4 In addressing the impacts from the Tess Square component of the appeal scheme Mr Morris notes the change to the immediate agricultural landscape (there is no landscape RfR) but considers there will be no competition with the heritage values of the Church (and its tower) which will maintain its visual and cultural primacy within the wider landscape. There will also be benefits to its setting and that of Seniors Farm through the removal of some large adjacent chicken barns which will open up views to both assets.
- 1.5 The Marnhull Conservation Area ('CA') is drawn tightly around existing built development and is in two parts. Whilst recognising that the CA itself seeks to protect the historic linear pattern, Mr Morris will explain that the application site is not within it (nor proposed to be). The Tess Square development site forms only a small part of the existing agricultural land between the northern and southern parts of the CA – there would not be any significant infilling of that gap (as you will see).
- 1.6 Similarly, the impact of the proposed residential development element at Butts Close is recognised but must be put into its proper context. It does not meaningfully contribute to the setting of Seniors Farm. As Mr Morris will clarify, the setting to the Church has both inward urban and outward agrarian elements and its prominence and status within the village will be maintained. Moreover, the proposed development has planned views through, to mitigate the impact of the limited loss of views from within the site or to its southwest. The impact upon the setting to the CA is again limited. This is because of the extensive nature of the overall setting and relatively small amount of the CA boundary adjacent to the site.
- 1.7 Mr Morris will also address the various references by the Council and MPC to Marnhull and its connections to Hardy's novels. In particular, the lack of any tangible link between his novels and the managed farmland comprising the appeal sites (perhaps best illustrated by their absence from the proposed revisions to the CA).
- 1.8 Design is not a RfR, although MPC have referenced NDLP Policy 24 in the context of the Butts Close (outline) element of the scheme. Mr Taylor will demonstrate how the design principles recognised the potential impact upon the settings of the identified

designated assets, and this has been at the forefront of the design concept from the outset. The site analysis and design strategy incorporated four key view corridors towards the Church and these also provided a framework to where the POS would be sited and kept generally clear from development. Although some views cannot be preserved in their entirety, there are planned views through the proposed Butts Close.

- 1.9 Mr Taylor will also demonstrate how the key design principles set out in NDLP Policy 24 were addressed. These include Character and the need to respond to locally distinctive patterns of development, landscape and culture; Continuity and Enclosure; Ease of Movement; Quality of the Public Realm Legibility; Diversity of Uses; Scale (in terms of height and massing); and Appearance (Details and Materials). All of these design elements were satisfactorily addressed insofar as the Council were concerned because no design policies have been referenced in the RfRs.

2. Main Issue 2: The effect of the scheme on highway safety (including pedestrian safety) and congestion in Marnhull.

- 2.1 Kim Hammonds, of Paul Basham Associates Ltd, will explain how the Transport Statement [CD1.046 to CD1.046d] detailed the proposals associated with the full commercial application of the Tess Square site and the outline residential proposals for Butts Close. This includes access arrangements, parking provisions, servicing arrangements and traffic impacts of the development proposals. The reason for refusal focused on insufficient details which have since been overcome through the submission of the Highway Response. This has satisfactorily resolved the Council's highway objection, and reason for refusal no.3 has been overcome with the draft planning conditions suggested.
- 2.2 In response to the Parish Council, Ms Hammonds will explain the character of the local highway network and the opportunities that have been taken to promote non-motorised users as far as possible. Although MPC take issue with the proposed PROW improvements, these are supported by the Council's Highways teams who find them to be appropriate for the scale and uses of the development. A s.106 contribution has also been agreed towards the bus service enhancement, albeit that the MPC do not consider

it to be sufficient. In addition, Ms Hammonds will confirm that the proposed commercial development would support an increase in sustainable travel opportunities that can be accommodated within the local highway network (subject to a conditioned Delivery and Servicing Plan).

3. Issue 3: Whether Marnhull is an appropriate location for housing, retail, and commercial development of this scale.

- 3.1 The Appellant will call Mrs Clare Spiller to address the planning considerations as encompassed within main Issue 3. The Appellant's case is that Policies 11 and 12 of the NDLP do not directly bear upon the retail and commercial elements of the proposal before this inquiry, not least because they apply to only town centre development proposals. As agreed in the SoCG, there is no policy requirement for the submission of a Retail Impact Assessment (RIA) by the Appellant because the proposal is below the 'threshold' set in the NDLP Policy 12 (i) & (ii) and the NPPF para. 94 (which is in Chapter 7 of the NPPF entitled 'Ensuring the vitality of town centres'). Notwithstanding, the Appellant has provided a Retail Needs Assessment and Retail Impact Assessment as appendices to the evidence of Clare Spiller¹.
- 3.2 The appeal proposal is principally a housing scheme but with accessible services and community facilities in a sustainable village location. Following the Supplemental SoCG it is now a matter of agreement between the Appellant and the Council that the most important policies for determining the appeal can be considered out-of-date within the meaning of paragraphs 11, 232 and fn.8 of the FW and the 'tilted balance' is engaged. Mrs Spiller will explain why the 'tilted balance' applies in this case due to the failure of the adopted development plan policies to deliver the required housing when assessed against the most up-to-date LHN figure. She will speak to the evidence of Jeff Richards on this issue as appended to her proof.
- 3.3 Furthermore, Mrs Spiller will explain the persistent under delivery of housing by Dorset over the years (as referenced in the Housing Delivery and HLS Topic Paper²) and that

¹ In accordance with para 9 the CMC Note and consistent with the outstanding issues as identified in the SoCG [CD 4.019]

² CD4.015

from the 1st November an approximate 88% increase in the HLS over the next five years will be needed simply to meet the minimum housing requirement. Unsurprisingly, the Council has yet to determine (or consult upon) its proposed spatial distribution strategy to accommodate the increased housing requirement, along with the consequential services and facilities within its area (including Marnhull)³.

- 3.4 Mrs Spiller will also explain that against this Marnhull has already been recognised as a sustainable location for growth. This is in the context of both the development plan and previous Inspectors.
- 3.5 The human consequences of this failure to deliver sufficient housing with the concomitant impact upon the provision of affordable housing will be addressed by Annie Gingell. She will explain, inter alia, that there has been a shortfall of approx. 1500 affordable dwellings, per annum, across Dorset since 2021/22⁴ and the appeal scheme contribution towards this deficit weighs substantially in the overall planning balance.

4. Other matters and the planning balance.

- 4.1 Ms Spiller will explain that Marnhull is a sustainable location for growth and the existing settlement boundary will have to flex to accommodate much needed housing. Furthermore, the growth of local services and community facilities as represented in the Tess Square component of the scheme finds support in national policy⁵ which encourages the development of accessible local services and community facilities including local shops and meeting places.
- 4.2 Ms Spiller will demonstrate that the social, economic and environmental benefits associated with the appeal scheme are legion. From the social perspective these include the delivery of important market and affordable homes in the midst of an acute housing crisis; the delivery the public open space, cafes, and enhanced local services.

³ See Supplementary SoCG.

⁴ CD11.03, paragraph 9.3

⁵ NPPF paragraphs 88 and 89.

- 4.3 The economic benefits will include local jobs (through retail and commercial schemes) and a local centre to encourage local spending and linked trips. There will also be short-term employment opportunities during the construction phase and office space for local businesses in a sustainable location.
- 4.4 There is also a suite of **environmental** benefits, which will be delivered through providing services within the village and by providing more sustainable transport options, car charging ports, landscaping and biodiversity enhancements, and contributions towards the bus.
- 4.5 In short, Mrs Spiller will demonstrate that the appeal scheme represents an excellent example of sustainable development and brings with it a host of planning benefits which are plainly not significantly and demonstrably outweighed by any adverse impacts

8th April 2025

**Paul Cairnes KC
Sioned Davies**

No5 Chambers