

TEWKESBURY BOROUGH COUNCIL

**Minutes of a Meeting of the Planning Committee held at the Council Offices,
Gloucester Road, Tewkesbury on Tuesday, 14 February 2017 commencing at
9:00 am**

Present:

Vice Chair in the chair

Councillor R D East

and Councillors:

R E Allen, R A Bird, Mrs G F Blackwell, D M M Davies, M Dean, D T Foyle, Mrs M A Gore,
Mrs J Greening, Mrs A Hollaway, Mrs E J MacTiernan, J R Mason, A S Reece, T A Spencer,
Mrs P E Stokes, P D Surman, R J E Vines and P N Workman

also present:

Councillors P W Awford, D J Waters and M J Williams

PL.69 ANNOUNCEMENTS

- 69.1 The evacuation procedure, as noted on the Agenda, was advised to those present.
- 69.2 Members were reminded that, at its meeting on 17 May 2016, the Council had confirmed the Scheme for Public Speaking at Planning Committee as a permanent arrangement. The Chair gave a brief outline of the scheme and the procedure for Planning Committee meetings.

PL.70 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

- 70.1 Apologies for absence were received from Councillor J H Evetts (Chair). There were no substitutions for the meeting.

PL.71 DECLARATIONS OF INTEREST

- 71.1 The Committee's attention was drawn to the Tewkesbury Borough Council Code of Conduct which was adopted by the Council on 26 June 2012 and took effect from 1 July 2012.

- 71.2 The following declarations were made:

Councillor	Application No./Item	Nature of Interest (where disclosed)	Declared Action in respect of Disclosure
R A Bird	16/00901/OUT Parcel 1441, Cobblers Close, Gotherington.	Along with Councillor Mrs M A Gore, he had attended a formal meeting with representatives from Gotherington Parish Council in relation to the application but had not expressed an opinion. Is a Gloucestershire County Councillor for the area.	Would speak and vote.
M Dean	16/01457/FUL The Old Vicarage, Stanley Pontlarge.	Is the applicant.	Would not speak or vote and would leave the Chamber for consideration of this item.
M Dean	16/01271/FUL 11 Bushcombe Close, Woodmancote.	Is a Borough Councillor for the area.	Would speak and vote.
Mrs M A Gore	16/01075/FUL Red Roofs, Shutter Lane, Gotherington.	The next door neighbour is her employer but she had not discussed the application with him.	Would speak and vote.
Mrs M A Gore	16/00901/OUT Parcel 1441, Cobblers Close, Gotherington.	Along with Councillor R A Bird, she had attended a formal meeting with representatives from Gotherington Parish Council in relation to the application but had not expressed an opinion.	Would speak and vote.
Mrs A Hollaway	16/01271/FUL 11 Bushcombe Close, Woodmancote.	Is a Borough Councillor for the area.	Would speak and vote.
A S Reece	16/01280/FUL Orchard Cottage,	Is known to the	Would not speak or vote

	Aston Carrant Road, Aston-On- Carrant, Tewkesbury.	applicant.	and would leave the Chamber for consideration of this item.
R J E Vines	15/00751/OUT Bentham Country Club, Bentham Lane, Bentham. 16/01211/FUL Rowan Cottage, Dog Lane, Witcombe.	Is a Gloucestershire County Councillor for the area.	Would speak and vote.
P N Workman	16/00324/FUL 1 Swilgate Road, Tewkesbury.	Had been approached by the applicant on a few occasions to talk about the planning process but had not expressed a view on the application.	Would speak and vote.

71.3 There were no further declarations made on this occasion.

PL.72 MINUTES

72.1 The Minutes of the meeting held on 17 January 2017, copies of which had been circulated, were approved as a correct record and signed by the Chair.

PL.73 DEVELOPMENT CONTROL - APPLICATIONS TO THE BOROUGH COUNCIL

Schedule

73.1 The Development Manager submitted a Schedule comprising planning applications and proposals with recommendations thereon. Copies of this had been circulated to Members as Appendix A to the Agenda for the meeting. The objections to, support for, and observations upon the various applications as referred to in Appendix 1 attached to these Minutes were presented to the Committee and duly taken into consideration by Members prior to decisions being made on those applications.

16/01457/FUL – The Old Vicarage, Stanley Pontlarge, Winchcombe

73.2 This application was for a proposed garage/store and increased parking and turning area.

73.3 The Chair indicated that there were no public speakers for this item. The Officer recommendation was to permit the application and he sought a motion from the floor. It was proposed and seconded that the application be deferred for a Committee Site Visit to assess the impact on the character of the area and the adjacent listed buildings. Upon being taken to the vote, it was

RESOLVED That the application be **DEFERRED** to assess the impact of the proposal on the character of the area and the adjacent listed

buildings.

16/01075/FUL – Red Roofs, Shutter Lane, Gotherington

- 73.4 This application was for the construction of two four-bed dwellings. The Committee had visited the application site on Friday 10 February 2017.
- 73.5 The Development Manager explained that Officers now considered that the Council could demonstrate a five year supply of deliverable housing sites, the detail of which was set out in the Additional Representations Sheet, attached at Appendix 1. This had a significant impact on the way that planning applications for housing outside of residential development boundaries were considered. Since the publication of the National Planning Policy Framework, it was clear that the Council had been unable to demonstrate a five year housing supply and, as such, the presumption in favour of sustainable development had applied to all applications for housing. The test for dealing with applications for housing had therefore been whether any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, or where specific policies - e.g. Green Belt or Area of Outstanding Natural Beauty policies - indicated that development should be restricted. With a five year supply the presumption in favour of sustainable development did not apply. Policy HOU4 of the Local Plan, which had been saved by direction from the Secretary of State, provided that residential development outside of those boundaries would only be permitted in limited circumstances i.e. where it was essential for agriculture/forestry; if it involved acceptable conversions; or if it was for affordable housing exception sites. None of these exceptions applied in this case. As the Council could now demonstrate a five year supply, this policy was no longer considered to be out of date and should be given substantial weight. On that basis, the presumption was that applications for housing outside residential development boundaries should be refused unless material planning circumstances indicated otherwise. Having a five year supply also meant that the emerging Gotherington Neighbourhood Development Plan could be given more weight than had been suggested in the Officer report. Notwithstanding that the presumption in favour of sustainable development no longer applied, the other material planning considerations set out in the Officer report still applied with equal force. The National Planning Policy Framework expected local planning authorities to significantly boost the supply of housing and, by their very nature, housing developments provided social and economic benefits which were discussed in the Officer report. A key consideration was that the five year supply was a rolling calculation, therefore, it was important not to become complacent; simply refusing all applications outside of residential development boundaries would be likely to result in a five year supply shortfall once again. In this case, whilst the property itself lay within the residential development boundary, the majority of the garden - where the houses were proposed – was not. Gotherington was identified as a service village in the Joint Core Strategy and, as such, was considered to be a sustainable location for some limited development. The proposal would not give rise to significant environmental harms and was therefore considered to represent sustainable development. Furthermore, it was not considered that there would be a conflict with the policies in the Neighbourhood Development Plan. The application had been reassessed in light of the change in circumstances and, despite the conflict with HOU4, it was felt that this did not change the Officer recommendation to permit the application.
- 73.6 The Chair indicated that there were no public speakers for this item. The Officer recommendation was to permit the application and he sought a motion from the floor. It was proposed and seconded that the application be permitted in accordance with the

Officer recommendation and, upon being put to the vote, it was

RESOLVED That the application be **PERMITTED** in accordance with the Officer recommendation.

16/00901/OUT – Parcel 1441, Cobblers Close, Gotherington

- 73.7 This was an outline planning application, with means of access from Ashmead Drive (all other matters reserved) for the erection of up to 50 dwellings (Class C3); earthworks; drainage works; structural landscaping; formal and informal open space; car parking; site remediation; and all other ancillary and enabling works. The Committee had visited the application site on Friday 10 February 2017.
- 73.8 The Development Manager explained that this case was unlike the previous application as it proposed a different scale of development. As with that application, the presumption was against the grant of permission due to the conflict with the development plan, unless there were material planning considerations which indicated otherwise. Those material considerations were essentially the same in terms of the need to boost the supply of housing and to maintain a deliverable supply of housing which could not be achieved by refusing all applications outside of residential development boundaries. The benefits of the scheme were set out in the Officer report - and Members were familiar with them in any case – however, the scheme also safeguarded the local green space to the south of Lawrence’s Meadow, albeit not in the way that the Neighbourhood Development Plan had anticipated. The proposal would make this a more usable open space as opposed to a private field with public right of way access as it was currently. He acknowledged that this was a finely balanced application. The site was in the Special Landscape Area but, as highlighted by the Landscape Consultant and set out in the Officer report, it did not play a significant part in protecting the setting of the Area of Outstanding Natural Beauty. In addition, it was not considered that there would be undue impact on social cohesion and, given the benefits set out in the report and the limited harms identified, on balance the application was recommended for a delegated permission.
- 73.9 The Chair invited Councillor Sylvia Stokes, representing Gotherington Parish Council, to address the Committee. Councillor Stokes indicated that Gotherington currently had planning permission for 10 houses to the east and 50 to the west, plus 17 houses that were under construction; there was no room for a further 50 houses to the south without losing its identity. There were over 1,000 houses under construction in Bishop’s Cleeve, which was now the largest village in the UK, and Gotherington did not wish to become part of it. There was no urgent need for more houses in this part of the borough and the edge of Homelands would only be two fields south of the proposed development. The landowner of the site also owned a large field to the south and a smaller one to the west, both of which were prime agricultural land in a designated Special Landscape Area and were accessed by farming machinery. Should the field be developed, the Parish Council could foresee further applications for residential development in the other fields as they would become difficult to farm. This would result in creeping coalescence with Bishop’s Cleeve, an urban sprawl visible from local Areas of Outstanding Natural Beauty and a permanent loss of village identity and character. The site was extensively used by residents for walking and appreciation of the distant Cotswold Hills and that visual amenity would be destroyed if the footpaths were hemmed in by houses. The strength of feeling in the community to preserve this open countryside as a buffer between Gotherington and Bishop’s Cleeve could be seen by the large number of objections lodged. It was felt that Tewkesbury Borough Council was failing in its duty to protect valued landscapes and the character of villages as stated in the National Planning Policy Framework. She pointed out that the site was not identified for acceptable development in the emerging Gotherington Neighbourhood Development Plan. The government had encouraged localism and the National Planning Policy Framework stated that decision-takers may give weight to relevant policies in emerging plans. The Gotherington Neighbourhood Development Plan was

nearing adoption, with the referendum stage expected in May this year, and should be given due consideration. The National Planning Policy Statement also set out that the planning system had an important role in facilitating social interaction and creating healthy, inclusive communities. This proposal was essentially a housing estate with a single access point close to a dangerous bend, introducing a scale and form of development that would be at odds with the structure and character of Gotherington. It would not have any real presence within the streetscene of the village and would become an isolated enclave, having an adverse impact on the social cohesion and community spirit much valued by residents. Gotherington Parish Council saw no benefits from this proposed development whatsoever; it would have a detrimental impact on the village in terms of environment, visual amenity, social cohesion and poor design, overloading the local road network and facilities and it should be refused.

73.10 The Chair invited David Crofts, a representative for the objectors, to address the Committee. Mr Crofts advised that he was an independent planning consultant based in Gloucester. In September 2016, he had been invited to address a public meeting in Gotherington Village Hall which had been attended by approximately 100 people and he had subsequently drafted a letter of objection on their behalf. He pointed out that 100 people represented far more than the number of properties adjoining the site which gave a very clear indication of the value placed on the space by the local community. The community had gone to great efforts to draw up a Neighbourhood Development Plan; only the third in the borough to get to the examination stage. The plan made significant provision for housing and it was considered that it should be given more weight in the planning balance. The Ministerial Foreword in the National Planning Policy Framework concluded “we are allowing people and communities back into planning” and that principle should be upheld. He pointed out that Members would have seen from the site visit on Friday how close the Homelands development was to the village and, if this development went ahead, the gap would be reduced to no more than 350m. In addition, it would significantly increase the levels of private car use for travel to work and other purposes. The proposal would do little to alleviate the difficulties in terms of finding enough sites for housing to meet the requirements of the Joint Core Strategy. Members had heard that the Council could now demonstrate a five year supply of housing land in the borough and, as such, the presumption in favour of sustainable development did not apply. The National Planning Policy Framework required a balancing exercise to be undertaken and, in his view, the adverse effects of the development outweighed the benefits. On that basis, he respectfully asked the Committee to refuse the application on behalf of the local residents.

73.11 The Chair invited the applicant’s agent, Alastair Bird, to address the Committee. He pointed out that, as confirmed within the Officer report, there were no objections to the development from statutory consultees and the scheme also provided a number of key benefits, such as the provision of market and affordable housing; economic benefits during the construction phase and through the lifetime of the development; and on site public space which could be used by new and existing residents. The only harm identified by the Planning Officer was in respect of the landscape impact and the social cohesion of Gotherington. With regards to the landscape impact, he was in agreement with the Planning Officer’s view that the harm was minor and limited to the immediate area. In respect of social cohesion, the applicant had sought to take into consideration the advice of Officers and significantly reduced the proposal from 90 to 50 dwellings. This not only ensured the delivery of a well-designed and integrated development, but maintained a level of growth commensurate to the size of Gotherington. As expressed within the Planning Officer’s report, the proposed cumulative growth of Gotherington would be less than had previously been permitted in other service villages such as Maisemore or Norton – both of which were identified as less sustainable locations than Gotherington. As a result, the Planning Officer had concluded that, even though a five year supply of housing could be demonstrated, the social and economic benefits of the scheme outweighed the limited landscape and social harm identified. Although the

Council's five year supply position had not been subject to independent examination, he agreed with the Planning Officer's conclusion that the benefits of the scheme outweighed the limited harm. As Members would be aware, the site had not been formally allocated for development within the emerging Gotherington Neighbourhood Plan; however, draft policy GNDP2 provided the opportunity for additional development to come forward to meet the wider strategic housing requirements of the borough and set out criteria for which additional sites would be assessed. The Council would be aware that there were wider strategic housing needs to be met but, based on the criteria within Policy GNDP2, it was considered that the proposed development accorded with each of the requirements: the site was adjoined along three boundaries by the existing built form of Gotherington; the scheme would maintain the village's linear form; as confirmed by the Council's independent landscape officer, the scheme would not extend inappropriately into the surrounding countryside, nor would it unduly affect the setting of the Area of Outstanding Natural Beauty; a strong landscaped edge would be provided along the southern boundary, maintaining the separation distance with Bishop's Cleeve; and, the development was not in conflict with any other policy within the Neighbourhood Plan – the scheme would deliver an area of public open space along the northern boundary which was significantly in excess of local standards, a key part of the Neighbourhood Plan. Therefore, whilst the Neighbourhood Plan was in a draft stage, the proposed development was generally in accordance with the guidance of Policy GNDP2. There was a pressing need for suitable and sustainable sites to come forward to maintain a robust five year supply of housing; this was a rolling requirement and approval of this application would only strengthen the Council's position moving forward. He therefore respectfully requested that planning permission be granted, as recommended by the Planning Officer, subject to the suggested conditions.

- 73.12 The Chair indicated that the Officer recommendation was to delegate authority to the Development Manager to permit the application, subject to the completion of a Section 106 Agreement, and he invited a motion from the floor. It was proposed and seconded that the application be refused on the basis that it would have a detrimental impact on the sensitive landscape - the site was located outside of the village boundary and within the Special Landscape Area and a highly visible backdrop to the Area of Outstanding Natural Beauty - and would result in urban sprawl and the coalescence of Gotherington and Bishop's Cleeve. A cumulative increase of 28% was disproportionate to the size of the existing village and this development would have a negative effect on its infrastructure and social cohesion. The proposer of the motion pointed out that the Committee would have seen from the site visit on Friday that the proposed site was located on the outside of the residential development boundary of Gotherington in a rural field which was criss-crossed by public footpaths. It was located within the Special Landscape Area and surrounded by a beautiful backdrop of Nottingham Hill, Dixton Hill and Woolstone Hill, all of which were within the Area of Outstanding Natural Beauty, and the site would be highly visible from this higher ground. In the Planning Officer's report, it had been identified that the building of these 50 proposed homes would have an urbanising effect and would cause erosion of the rural landscape. Members would also have seen how close the development at Homelands, Bishop's Cleeve was to the boundaries of Gotherington village. In her view, it was vitally important to prevent the coalescence of Bishop's Cleeve and Gotherington and to maintain the gap between the two communities. Members had been informed that having a five year land supply meant that Policy HOU4 was now relevant and, as detailed in the Additional Representations Sheet, attached at Appendix 1, the application was in conflict with saved Policy HOU4, to which substantial weight should be applied. She believed that the detrimental impact this development would have on the sensitive landscape within the Special Landscape Area, and close to the Area of Outstanding Natural Beauty, was significant. Views down to the site from the surrounding hills would be impacted; the site would look like urban sprawl and would be out of keeping with the rural character of Gotherington and its surrounding countryside.

The impact on social cohesion and infrastructure was also significant; there were already 78 new homes approved for Gotherington, as well as the two which had been permitted in the previous application, and 50 more would represent a cumulative increase of 28% which would be unsustainable. It would have a negative impact on community cohesion and would be of a scale disproportionate to the existing settlement and weighing against this development. There were no material planning circumstances that indicated that the application should be approved; in her opinion there were significant and substantial reasons for the application to be refused which were not outweighed by the need for housing.

73.13 The seconder of the motion felt that it was a finely balanced judgement. With a five year demonstrable supply of housing the focus was now on other planning issues, the most significant and fundamental of which, in his view, was landscape harm. He noted that advice had been sought from an independent landscape consultant who had indicated that there would be little harm; however, Members had clearly seen the potential landscape harm when they had visited the application site. When Bishop's Cleeve was eventually built out and the boundary became clear, the gap with Gotherington would be significantly diminished and, should this application be permitted, there would be coalescence of the two communities. The local planning authority should not be in the business of allowing urban sprawl to develop and submerge villages like Gotherington. The site was in the Special Landscape Area, which should be protected, and outside of the residential development boundary and there were no substantive benefits which outweighed these factors – he was particularly sceptical about the economic benefits which would be provided during the construction phase. He reiterated that landscape harm was the most significant issue and the application should be refused on that basis.

73.14 A Member echoed the views of the proposer and seconder of the motion and indicated that Gotherington was trying very hard to maintain a linear pattern of development which would be ruined by this application. It was a finely balanced decision for Officers but he felt that the negatives outweighed the positives. Another Member supported the motion to refuse the application. He felt that the development would be a blot on the landscape, particularly when viewed from higher ground, and Bishop's Cleeve could already be seen creeping towards Gotherington. Urban sprawl was not acceptable and he could not support it.

73.15 The Development Manager reminded Members that the five year housing supply was a minimum. Furthermore, the economic benefits of house building were well-established and would always be referenced by an Inspector. If Members were minded to refuse the application, he pointed out that it would be necessary to include technical refusal reasons relating to the Section 106 obligations. He sought further explanation from the proposer of the motion as to what harm would be caused in terms of social cohesion and, in response, the proposer of the motion stated that the scale of the proposed development would be disproportionate to the existing settlement and would be disconnected from it due to its location on the edge of the settlement. The additional housing would impact on the services offered by the village, such as schools and clubs, as well as roads and transport. The Development Manager clarified that there was no objection to the proposal from the County Council in terms of education or highways and it would therefore be difficult to produce the necessary evidence to defend refusal reasons on those grounds. The proposer of the motion recognised that the statutory consultees were required to provide their professional views, however, local knowledge could be invaluable and the roads in Gotherington were grinding to a halt. The seconder of the motion felt that it was important to include as many refusal reasons as possible to formulate a defence at appeal and it was for the Inspector to decide upon their relevance. He agreed that people on the ground often had a different view to the statutory consultees and he made particular reference to the impact on the children who would be living in the houses who may be forced to go to another school in a different village. The Development Manager fully understood that Members may have

a different view from Officers and statutory consultees and he was simply reminding the Committee of the potential danger of the Council being liable to pay costs at appeal, particularly on the grounds of highway safety given that the County Highways Authority had not recommended refusal on that basis and as the Committee had permitted other applications for housing in Gotherington, including the previous application on the schedule. A Member pointed out that the County Highways Authority had confirmed that it was not possible for a refuse vehicle and a private motorcar to pass one another at the site access and, whilst it was stated that there was sufficient visibility for approaching vehicles to give way, 50 houses were likely to generate a lot of contact at the site entrance not only in terms of refuse collections but home deliveries as well. Another Member noted that a condition had been recommended by Officers in relation to the submission of a highway improvement scheme for Gotherington Cross junction and she felt that a report should have been provided as part of the application as it suggested that highway safety was an issue. In addition, she supported the seconder of the motion in terms of his comment about the overcapacity of local schools. Whilst he recognised that Members may disagree with statutory advice on the basis that they knew differently what happened “on the ground,” a Member pointed out that it should be borne in mind that an Inspector would take the professional advice as evidential.

73.16 Upon being put to the vote, it was

RESOLVED That the application be **REFUSED** on the basis that it would be contrary to Policy HOU4 of the adopted local plan; would represent a significant encroachment into the surrounding rural landscape which would have an urbanising effect and result in erosion of the rural landscape, contributing towards further coalescence of Gotherington and Bishop’s Cleeve causing harm to the character and appearance of the landscape within a Special Landscape Area which served to protect the foreground setting of the adjacent Area of Outstanding Natural Beauty; in addition to those already permitted in the village, it would result in cumulative development of the village which would be of a scale disproportionate to the existing settlement. As such, the proposed development would fail to maintain or enhance the vitality of Gotherington and would have a harmful impact on the social wellbeing of the local community, risking the erosion of community cohesion; and no signed planning obligations were in place to deliver the necessary affordable housing and social infrastructure.

16/01280/FUL – Orchard Cottage, Aston Carrant Road, Aston-On-Carrant

73.17 This application was for the demolition of an existing detached garage and outbuildings; erection of a two storey detached dwelling; and alterations to, and extension of, the existing driveway and parking area to include provision of vehicular access to the adjacent paddock. It was noted that the application had been deferred at the last meeting of the Planning Committee in order to allow time for soakaway test results and an appropriate Drainage Strategy to be submitted and assessed. The Committee had visited the application site on Friday 10 February 2017.

73.18 The Development Manager advised that the flood risk objection had been overcome and it was accepted that drainage could be resolved via condition. Notwithstanding this, the Officer recommendation was affected, not only by the change in circumstances around the five year supply, but also by the removal of the Ministry of Defence, Ashchurch strategic allocation in the Joint Core Strategy. Unlike the applications at Gotherington, Aston-On-Carrant did not have a residential development boundary and was not designated as a service village. Historically, applications had been refused on the basis of being located outside of a recognised settlement boundary; some limited development had taken place, however, that had generally been on brownfield land or, more recently, for an agricultural workers’ dwelling at Wheelers Farm. It was noted that

a recent application at The Laurels had been permitted on balance, largely due to the existence of the strategic allocation at the Ministry of Defence site; however, that justification had now disappeared and Policy HOU4 was no longer out of date so should be given substantial weight. An additional representation had been submitted by the applicant's agent, as detailed in the Additional Representations Sheet, attached at Appendix 1; however, it was not considered that a single dwelling and its associated benefits would outweigh the conflict with the development plan. This was recommended as one of two additional refusal reasons, the second of which related to accessibility and lack of access to amenities. It was noted that design continued to be a concern and this remained a reason for refusal.

- 73.19 The Chair invited the applicant's agent, Wendy Hopkins, to address the Committee. She indicated that, by attending Planning Committee meetings on a regular basis, she knew that Members supported small-scale growth in villages in certain circumstances to avoid them stagnating. The proposal before the Committee was exactly that – an application for a single dwelling for a local family that represented those particular circumstances where development was acceptable. This application was considered favourably by Planning Officers in respect of issues such as landscape, residential amenity, highways and flood risk; however, concerns were expressed in respect of the impact the proposal would have on the character of the area – not in terms of design but in terms of the position on site in relation to the surrounding urban grain – and the fact that Tewkesbury Borough now considered that it was able to demonstrate a five year housing land supply, a matter that had only been raised yesterday. Given these reasons, and taking into account the benefits, she did not agree that the proposal would constitute a level of harm that would warrant refusal. The site lay wholly within the built-up form of the settlement and would be located significantly closer to the road than the adjacent cul-de-sac. As evident on site, the new dwelling would be detectable from within the streetscene and, whilst the settlement was predominantly single plot depth, there were a number of existing dwellings set back behind those that addressed the road frontage. The site was not within a Conservation Area and there were no listed buildings in close proximity, although she agreed that Orchard Cottage was an undesignated heritage asset and the new dwelling had been designed to respect that. The new dwelling was a storey and a half in height and set back within the site so as not to compete or detract. Orchard Cottage would remain the dominant feature when viewed from the road and, as such, would maintain the immediate and wider character of the area. In respect of the five year housing land supply, whilst this was welcome news to residents of the borough, she reiterated that the figure was a minimum requirement, not a ceiling figure, and the contribution of a single dwelling would not prejudice or distort the planned delivery of housing as set out in the Joint Core Strategy. In her view the development should be seen positively as assisting toward a robust, and ultimately defensible, supply position. In summing up she pointed out that the application was not about constructing a dwelling to sell on, it was about providing a home to a local family to enable their elderly mother to remain living in her home with the benefit of her close family effectively living on site. This was exactly the type of development that would keep small villages and communities alive.
- 73.20 In response to a Member query regarding Policy HOU4, the Development Manager explained that it applied to any areas which were outside of a residential development boundary, where there was a residential development boundary in place in that area e.g. Gotherington and those where there was no recognised settlement boundary. There was a general presumption against granting planning permission outside of a residential development boundary and it was necessary for the applicant to demonstrate the particular circumstances which outweighed the harm in those instances. Another Member drew attention to the Additional Representation Sheet which referenced additional information that had been submitted by the applicant following the update at Paragraph 7 of the Officer's report and she sought clarification as to what that information had set out. The Council's Flood Risk Management

Engineer confirmed that further detail had been submitted via a consultant who had addressed the concerns in respect of run-off rates, storage facilities and discharge points within the surface water system. Although the information had not been provided to Members, he had seen the report and the plans and considered that sustainable development with regard to flood risk was attainable for the site. The Development Manager apologised that the information had not been included in full but he stressed that the Council's Flood Risk Management Engineer was satisfied and he would be concerned about a refusal on that basis.

73.21 The Chair confirmed that the Officer recommendation was to refuse the application and he sought a motion from the floor. It was proposed and seconded that the application be refused in accordance with the Officer recommendation. A Member expressed the view that the proposal was comparable to that at Red Roofs, Gotherington, which had been permitted earlier in the meeting, in that it was backfilling. It would match the existing development line and she did not believe that it would have a negative impact on the streetscene. Given that Officers were satisfied that the drainage concerns had been addressed, and on the basis that the site was not located within a Special Landscape Area or Area of Outstanding Natural Beauty and there would be no significant landscape harm, she felt that it should be permitted. The Development Manager explained that the key difference between this proposal and Red Roofs was the application of Policy HOU4. In that case, there was a presumption that housing development should only be permitted in exceptional circumstances i.e. where essential to the efficient operation of agriculture or forestry or for the provision of affordable housing exception sites. Section 38(6) of the Planning and Compulsory Purchase Act 2004 required that proposals be determined in accordance with the development plan unless material considerations indicated otherwise. As set out in the Gotherington reports, there were also emerging policies for housing there, whereas there was no such emerging policy here. The benefits of this proposal were limited by virtue of it being a single dwelling and he reminded Members of the decisions that had been made on previous applications where that position had been taken.

73.22 During the debate which ensued, a Member pointed out that Aston-On-Carrant was not a service village and there was nothing in the area except for houses and farmland with the nearest facilities located in Ashchurch. Another Member highlighted the fact that this proposal would provide a house for a local resident and he was in favour of a situation where people could take action to keep their families and communities together. He could not see how Policy HOU4, which had been designed for a completely different purpose, could be used to prevent what, in his view, was a very sensible development. The Development Manager explained that, whilst he acknowledged the personal circumstances surrounding the application and the current intentions, once planning permission had been granted there was no way of controlling who occupied the dwelling in the future and a potential precedent would be set. Permitting an application in a settlement where there was no residential development boundary was against policy and could cause problems going forward. Policy HOU4 intended to direct development towards settlements that had been identified as places which should be expanded. He had previously discussed the fact that there were some small settlements which should be given the chance to grow and there was an opportunity to do this through Neighbourhood Development Plans and the Borough Plan. He stressed the importance of exercising control as this was the fundamental purpose of the planning system.

73.23 A Member indicated that he had never been in favour of leaving small villages to stagnate and he felt that an individual house would be of benefit to the community. Another Member pointed out that the fundamental objection in relation to flooding and drainage had been resolved and he did not feel that not being able to control the future occupation of a dwelling was a reason to prevent planning permission from being

granted. In response, a Member pointed out that this was an issue which had been raised many times at Planning Committee and each time it had been made very clear that future occupation was not something which could be controlled. Members had to follow the guidelines and she would be supporting the motion to refuse the application.

- 73.24 Upon being taken to the vote, the motion to refuse the application was lost. It was subsequently proposed and seconded that the application be permitted on the grounds that there would be no adverse impact on the streetscene or significant landscape harm, the proposal would reflect the character of the area and the drainage concerns could be adequately addressed. This motion was put to the vote and it was

RESOLVED That the application be **PERMITTED** on the grounds that there would be no adverse impact on the streetscene or significant landscape harm; the proposal would reflect the character of the area; and the drainage concerns could be adequately addressed, subject to a condition requiring the submission of detailed drainage arrangements and standard conditions in relation to materials, levels, highways, access and parking.

16/00771/FUL – 2 Cherry Gardens, Walton Cardiff, Tewkesbury

- 73.25 This application was to brick up a garage door and install a window for room to be a habitable space.

- 73.26 The Chair indicated that there were no public speakers for this item. The Officer recommendation was to permit the application and he sought a motion from the floor. It was proposed and seconded that the application be permitted in accordance with the Officer recommendation and, upon being taken to the vote, it was

RESOLVED That the application be **PERMITTED** in accordance with the Officer recommendation.

16/01256/FUL – 24 Elmbury Drive, Newtown

- 73.27 This application was for a new dwelling. The application had been deferred at the Planning Committee meeting on 17 January 2017 for a Committee Site Visit to assess the impact upon the residential amenity of neighbouring properties and the Committee had visited the application site on Friday 10 February 2017.

- 73.28 The Chair invited Claire Miers, a neighbour speaking against the proposal, to address the Committee. She indicated that when the first application had been made to build in the garden of 24 Elmbury Drive she had believed that the planning system would prevent a property being built so close to her home that it would compromise her ability to have a good night's sleep in her own bedroom due to the noise of another households' television, radio or conversation. Sadly, despite the potential impact of noise transference being mentioned in planning policy, this did not appear to be of concern to Planning Officers. She was disappointed that Tewkesbury Town Council's objection that this type of garden-grabbing was detrimental had been completely disregarded. She had been brought up to believe that you should not inflict on anybody else something which you were not prepared to tolerate yourself and, as the applicant was clearly not prepared to have the new dwelling built so close to his own property, she questioned why he was allowed to inflict it upon her. Members were about to vote on a decision which could have a significant impact, not only on her life, but on the lives of the other residents of Walton House. Before they voted, she asked the Committee to consider whether they shared the Planning Officer's confidence that she would not be troubled by noise from the proposed new dwelling's kitchen/living room window that was situated only 10.5m from her bedroom window. She also asked them whether a tiny bungalow, no bigger than the average park home - with the average living space in the property for the kitchen, dining room and living room measuring 7.5m by 5.5m - was the type of property which should be granted planning permission. She wondered whether the Members shared the confidence of the Planning and Landscape Officers

that the roots of the Sycamore tree did not pose a threat to the foundations of the new build on the basis of a report compiled by a garden designer that was not a qualified member of the Arboricultural Society. She had been advised by a number of builders and surveyors that to build within 80cm of a boundary line fence would be extremely difficult and she questioned whether Members believed that the bungalow could be built without the fence belonging to Walton House being damaged or knocked down. If Members could not answer these questions positively then she urged them to refuse the application.

- 73.29 The Chair indicated that the Officer recommendation was to permit the application and he sought a motion from the floor. It was proposed and seconded that the application be permitted in accordance with the Officer recommendation. The proposer of the motion explained that the Committee had visited the application site and had looked at the property in question and the neighbour's property at the back of the garden. Given that the proposed dwelling was a single storey bungalow she did not feel that it would have an overbearing impact or result in a loss of privacy or any significant increase in noise and disturbance that would justify a refusal. Upon being taken to the vote, it was

RESOLVED That the application be **PERMITTED** in accordance with the Officer recommendation.

16/01306/FUL – 30 Bramley Road, Mitton

- 73.30 This application was for a two storey side extension and single storey rear extension alterations.

- 73.31 The Chair indicated that there were no public speakers for this item. The Officer recommendation was to permit the application and he sought a motion from the floor. It was proposed and seconded that the application be permitted in accordance with the Officer recommendation and, upon being put to the vote, it was

RESOLVED That the application be **PERMITTED** in accordance with the Officer recommendation.

16/00324/FUL – 1 Swilgate Road, Tewkesbury

- 73.32 This application was for the redevelopment of an existing dwelling and car park to provide nine apartments.

- 73.33 The Development Manager indicated that this was a long running saga on a difficult site and, as set out the Officer report, there were continuing flood risk concerns. The most recent application had been refused on flood risk grounds mainly relating to safe and dry access during times of flood; this was not possible to the front due to the depth and velocity of water, and it was therefore proposed that access be through the rear of the site onto Church Street. The Flood Risk Assessment set out that in times of extreme flooding there would be water at the end of that access route onto Church Street. The water at that point was likely to be between 0.22m and 0.5m deep but it had a very low velocity and reduced in depth over a short distance. The Flood Risk Assessment also pointed out that the existing dwelling itself was at risk of flooding, and that had been noted by the Planning Inspector at the appeal for the application for 12 dwellings on the site that had been dismissed in 2013. It was noted that there would be betterment in terms of flood storage capacity as a result of the proposed development. On balance, the Flood Risk Management Engineer was satisfied that safe access could be created onto Church Street, although it would not necessarily be dry during times of extreme flood. Proposed conditions were set out in the Officer report which would require occupiers to subscribe to the Environment Agency's flood warning advice and be provided with a copy of a flood management plan, including details of evacuation procedures. The key difference between this and the application which had been refused by the Committee in February 2016 was the design. Officers felt that there was a marked improvement from the uninspiring pastiche, which would be of no benefit the area, to a more contemporary approach which respected and took cues from the

surrounding burgage plots to the rear. The Council's Conservation Officer, Heritage England and the Civic Society all welcomed the new approach. The objections in respect of flood risk still existed; whilst there was also some concern about the overbearing impact of the new proposal on the neighbouring property, on balance, Officers felt that the benefits arising from the proposal, particularly the enhancement of the Conservation Area, justified permission. It was noted that the Officer recommendation was for a delegated permission pending the receipt of comments from the County Highways Authority; it was anticipated that there would be no objection, subject to conditions.

- 73.34 The Chair confirmed that the Officer recommendation was to delegate authority to the Development Manager to permit the application, subject to the receipt of comments from the County Highways Authority and additional/amended conditions as appropriate, and he sought a motion from the floor. It was proposed and seconded that authority be delegated to the Development Manager to permit the application in accordance with the Officer recommendation. The proposer of the motion recognised that this site had been an issue for some time and the application was now at a point where the majority of people involved were reasonably happy. In his view the proposals would significantly improve the site and he would be pleased for the matter to be brought to a conclusion.
- 73.35 A Member indicated that she could not support this application. The only thing that had changed since the Committee had refused the application in early 2016 was the design; she pointed out that the sequential test had still not been passed. The Swilgate flooded every year and, given the previous flood events in Tewkesbury, she found it incredible that Officers would recommend an application for permission which included conditions requiring the occupiers to subscribe to a flood warning service and to be provided with a Flood Management Plan. The report set out that residents would be unable to gain access and egress via the Swilgate Road during times of flood and she could not imagine that anyone would want to live in a property with this level of risk. Another Member shared these concerns and was also surprised that the proposals had been considered favourably by Officers. She drew attention to Page No. 668, Paragraph 4.21 of the Officer's report, which set out that the previous appeal Inspector had concluded that anyone requiring emergency medical help and associated evacuation by ambulance during a flood event would be placed at considerable risk. The Council had a duty of care to residents and it would be wrong to increase the number of residents who were potentially at risk by permitting an application for nine additional apartments.
- 73.36 In response to these concerns, the Development Manager advised that the obligations in terms of flood risk were set out within the report. Officers had recommended that planning permission be granted because of the benefits in terms of the enhancement to the Conservation Area; he appreciated that it was a difficult decision to make given the circumstances affecting the town in times of flood but Members would need to take a balanced judgement. The proposer of the motion indicated that he was a local Ward Member and he was very conscious of the flooding aspects which he did not underestimate at any time. The existing house had not flooded in 2007 and the replacement properties would be slightly higher up. It was widely recognised that the Swilgate flooded but safe access and egress could be provided via Church Street. Of course there was still a risk but that had to be balanced against the benefits of the proposal; the site was in need of improvement and the design was far better than in the previous scheme. This view was supported by another Member who pointed out that there had been no objection from the Town Council. Local residents were well aware that Tewkesbury flooded and they reacted accordingly; he had heard the benefits of the proposal and would be supporting the motion. A Member accepted that the existing site was not particularly attractive but she did not feel that should be a reason to permit this application. She felt that it would be irresponsible to permit an application with so many caveats and she was stunned that Officers were recommending it for permission.

This view was shared by another Member who questioned why the Committee would want to allow more properties to be built in an area where there was a known significant risk of flooding and conditions were needed to ensure that people could exit the properties in such events. He appreciated that it was a balanced decision, and he recognised the positive aspects of the proposal, however, it was a risk which could not be calculated and it would be foolish to permit it in his view.

73.37 Upon being put to the vote, it was

RESOLVED That authority be **DELEGATED** to the Development Manager to **PERMIT** the application, subject to the receipt of comments from the County Highways Authority and additional/amended conditions as appropriate.

15/00751/OUT – Bentham Country Club, Bentham Lane, Bentham

73.38 This was an outline application for the redevelopment of Bentham Country Club to include the erection of 39 dwellings, associated parking, public open space, landscaping and associated works.

73.39 The Planning Officer drew attention to the Additional Representations Sheet, attached at Appendix 1, which set out that the applicant had requested that the application be deferred in order to resolve outstanding issues. Although the Council was now able to demonstrate a five year housing land supply, this did not alter the Officer recommendation to refuse the application; Bentham had not been identified as a service village in the Joint Core Strategy, the site was located within the Green Belt and Area of Outstanding Natural Beauty and was in a relatively remote location which was not well served by local facilities. An additional refusal reason was recommended to address the conflict with Policy HOU4.

73.40 The Chair invited the applicant's agent, Giles Brockbank, to address the Committee. He confirmed that the application site was across the road from the Bentham Works site where an application for the demolition of existing buildings and redevelopment to provide 49 dwellings had been permitted in 2014. One key issue with the current proposal was the loss of existing sports facilities; however, the application had been in for over a year and the applicant had been working with the Community Development team and representatives from the netball community to overcome these concerns. Alternative facilities were now proposed to the satisfaction of Sports England. He went on to explain that the application site was within close proximity to two poultry buildings and the Council's Environmental Health Officer had raised concern about the strong potential for complaints from odour and had objected to the proposal on those grounds. The applicant therefore respectfully requested that the application be deferred to allow odour modelling work to be undertaken. The Planning Officer had also stated that the proposal did not demonstrate that any subsequent reserved matters application would achieve the high level of design required in this sensitive location and, should Members resolve to defer the application, it was intended to bring back additional information in respect of design and how the proposal could be assimilated satisfactorily into the surroundings. The benefits associated with the scheme should be a strong material consideration and he reiterated that the five year housing land supply was a minimum. Given the length of time since the application had been submitted, and the willingness of the applicant to seek to address the issues relating to the application, he felt that the request for additional time to resolve the outstanding concerns was reasonable.

73.41 The Chair confirmed that the Officer recommendation was to refuse the application and he sought a motion from the floor. It was proposed and seconded that the application be deferred in order for further odour modelling work to be undertaken. A Member indicated that she did not agree that this was the most appropriate way forward and

she proposed that the application be refused, in accordance with the Officer recommendation, on the basis that the site was located within the Area of Outstanding Natural Beauty and Green Belt where residential development was restricted. This motion was also seconded. In response to a query regarding the alternative site for sports facilities, the Planning Officer clarified that the existing sports facilities must be replaced in another location and they must be equal to, or an improvement upon, existing facilities and serve all existing users. Lengthy discussions had taken place with Sports England with the principal issue being the replacement of the netball facilities. An agreement had now been reached that satisfactory replacement facilities could be provided at the Millbrook Academy in Brockworth; whilst the replacement facilities could potentially be provided, planning permission would be needed and therefore this could currently be given very little weight in the overall planning balance. He pointed out that a planning application for the replacement facilities could have been submitted for determination in parallel with the current application and Sports England had made a similar comment in terms of the fact that there must be a legal mechanism in place to secure the delivery of the replacement facilities before it would withdraw its objection.

73.42 A Member expressed the view that it would be beneficial to visit the application site to assess the impact of the proposal upon the Green Belt and Area of Outstanding Natural Beauty - particularly if Members were minded to defer the application for the odour modelling work to be undertaken - and he also suggested visiting the Millbrook Academy site where it was proposed that the replacement sports facilities would be situated. The Development Manager did not feel that it would be appropriate to visit the site at Millbrook Academy in terms of this particular application; if an application was submitted for the replacement facilities, that would be the right time for a site visit. The proposer and seconder of the motion to refuse the application felt that the impact of 39 houses within the Green Belt was quite clear and they did not consider that a site visit was necessary. The seconder of that motion drew attention to the comments of the Cotswold Conservation Board which noted the previously developed nature of the site but considered that the proposal would essentially result in a new housing estate of 39 dwellings in the nationally protected Area of Outstanding Natural Beauty and Green Belt, in an unsustainable location unrelated to any existing settlement and would result in a negative urbanising change of character.

73.43 The Legal Adviser confirmed that the motion for a deferral would be taken first and the proposer and seconder of that motion indicated that they would be happy to amend the motion to include a Committee Site Visit. Upon being taken to the vote, it was

RESOLVED That the application be **DEFERRED** for a Committee Site Visit to consider the impact of the proposal on the Green Belt and Area of Outstanding Natural Beauty and to allow further odour modelling work to be undertaken.

16/01232/FUL – 36 Farthing Croft, Highnam

73.44 This application was for a rear single storey extension to enlarge the kitchen and provide a garden room; and a front two storey extension to provide a porch and dining room and enlarged bedroom. The Committee had visited the application site on Friday 10 February 2017.

73.45 The Chair indicated that there were no public speakers for this item. The Officer recommendation was to permit the application and he sought a motion from the floor. It was proposed and seconded that the application be permitted in accordance with the Officer recommendation and, upon being put to the vote, it was

RESOLVED That the application be **PERMITTED** in accordance with the Officer

recommendation.

16/00486/OUT – Land South of Oakridge, Highnam

73.46 This was an outline application for the erection of 40 dwellings with all matters reserved except for access. The Committee had visited the application site on Friday 10 February 2017.

73.47 The Development Manager reiterated that, given the Council's ability to demonstrate a five year supply of deliverable housing sites, the starting point was that there was now a presumption against granting permission as the proposal was contrary to Policy HOU4. The issues were very much the same as for the previous applications; it was a question of whether there were any material planning considerations which justified a departure from the development plan – in this instance that included the Highnam Development Plan. The considerations in favour of granting planning permission were the need to significantly boost the supply of deliverable housing sites; the benefits of the proposal in terms of the delivery of affordable and market housing, and the economic benefits associated with this; the fact that Highnam was identified as a service village in the Joint Core Strategy for some limited development; and its relative proximity to Gloucester. The National Planning Policy Framework was considered in the Officer report and no particular conflict had been identified. There was local concern about breaching the boundary of Highnam, set by Oakridge, however, in landscape terms, whilst there would inevitably be harm arising from the agricultural fields being replaced with a development of 40 houses, it was considered that the development could be accommodated on the site without undue harm. The development would not be setting any form of precedent – there may be other sites outside of the boundary of Oakridge where there would be harm – and, in the overall planning balance, Officers considered that the benefits arising from the scheme justified a departure from Policy HOU4 in this case and it had subsequently been recommended for a delegated permission.

73.48 The Chair invited Councillor Michael Welch, representing Highnam Parish Council, to address the Committee. Councillor Welch indicated that Highnam Parish Council had only become aware that the application would be considered by the Planning Committee at this meeting by chance on Thursday which had given insufficient time to analyse the Planning Officer's report in detail. As such, the Parish Council requested that the application be deferred until the following month to provide a chance for all relevant parties to discuss how best the community could evolve and develop over the coming years. The Highnam Neighbourhood Development Plan had been approved by the Borough Council just three weeks earlier and now formed an integral part of its development plan. It was regrettable, therefore, that there had not been an opportunity for the Parish Council to work constructively with Officers to ensure that development was sustainable and integrated. He pointed out that the Joint Core Strategy service village housing provision would be exceeded by this development, providing no scope for future development over the plan period. For the very first time the long established boundary of the village, as defined by Oakridge Road, would be breached thereby creating a quite separate unsustainable intrusion into open countryside, out of keeping with the existing village. Taken together with the recently approved Lassington Lane development in the village, this would significantly increase the already heavy traffic

flow onto the surrounding road infrastructure, especially at peak times. This proposal had generated considerable opposition and concern throughout the village and he urged the Committee to defer it for a short period to enable the proposal to be considered more fully by relevant parties.

- 73.49 The Chair invited Nicolas Cook, speaking on behalf of the interests of the Fenton estate and opposition parties, to address the Committee. Mr Cook explained there had been considerable opposition to the development and, of the 202 representations, 156 were from individual objectors. These individuals, and the community at large, had an expectation that their democratic representatives and appointed Officers would look after their interests. They were understandably concerned when contentious development received approval only because there was inadequate planning policy to prevent it. If the current development was approved, the village of Highnam alone would have been subjected to 128 dwellings through various planning permissions under a regime where there had been no effective planning policy in place. There was a widespread perception that the community had been let down. In these circumstances, where vulnerable communities were being subjected to opportunistic development, the local planning authority surely had an increased responsibility to protect them; notwithstanding this, the various consultations undertaken appeared cursory with an over-reliance on the applicant's own expert submissions and findings. The highway proposals and recommendations were causing real concern locally and the landscape findings were hard to credit for a development which extended beyond the established Oakridge settlement. The site's north eastern boundary was on the brow of a high point in the landscape and, despite being set back from the perimeter, the dwellings would silhouette 6-8m above the profile of the land which was visually intrusive. The overall landscape quality in the area had been detrimentally altered through recent planning approvals. In addition to the development of 88 dwellings on Lassington Lane, two solar farms had been approved in the Highnam area - the Over Farm solar development of 25.7 hectares was just one field away to the east of the site. The accumulated negative impact on the landscape character was significant. There were also indications that the developer and landowner may have ambitions for a larger scheme in the same field to the south east of the site and this development could form a precedent for further unplanned encroachment into the countryside. For these reasons, and all of the other objections raised, the application represented inappropriate development and he asked the Planning Committee to refuse it accordingly.
- 74.50 The Chair invited the applicant's agent, David Jones, to address the Committee. Mr Jones advised that Highnam was defined as a local service village in the emerging Joint Core Strategy and, as such, was capable of supporting, and being supported by, new housing development. This was considered to be a sustainable location for the proposed development as the site was a logical physical extension to the built up area and offered efficient, safe and convenient access to the highway network. Furthermore, the land was not subject to any restrictive land designation i.e. it was not designated Green Belt, Area of Outstanding Natural Beauty or a Special Landscape Area. The recently adopted Neighbourhood Development Plan did not contain any policies which restricted development of this type and, in accordance with Policy H1 of the Neighbourhood Plan, the applicant had agreed to provide an element of self-build plots and affordable bungalows according to identified local need. The applicant endorsed the findings of the Officer report in which it was confirmed that no objections had been made by any of the statutory or technical consultees in respect of such matters as highway impact and safety, drainage and flooding, landscape, ecology or heritage. The development would provide for 40% affordable housing, together with over £230,000 of contributions towards local services. The Planning Officer's report confirmed that the Council could allegedly deliver a five year supply of housing sites; whilst he found this conclusion highly doubtful, notwithstanding the five year housing land supply figure, there remained an obligation to significantly boost housing supply. He had submitted to Officers two recent appeal decisions in which Inspectors had considered the same issue; in both cases it was concluded that a five year housing supply was a minimum provision, not simply a target to be met. Furthermore, there remained an acute need for affordable housing which would be provided by this development. Whilst it was noted that the application had generated significant local

opposition, Members would be well aware that local opposition in itself was not a satisfactory reason for withholding consent. Officers had carefully analysed the relevant planning considerations and rightly recommended the proposal for permission. The application had been validated in May 2016 so he believed that there had been more than sufficient time for the Parish Council and local residents to consider and respond to the proposal. He therefore urged the Committee to support the Officer recommendation and permit the application.

73.51 The Chair invited Councillor Philip Awford, a Ward Member for the area, to address the Committee. Councillor Awford shared the concerns that had been expressed in relation to the application and the disappointment at the lack of engagement that was promised to the Parish Council. The report made no mention of the recent decision for growth in Highnam; growth which was needed but not at the risk of the village being desecrated. This opportunistic proposal would be detrimental to the village setting and set a precedent for a more urban appearance on the approach to Highnam and potentially a more unwelcome urban style of development. 156 letters of objection had been submitted and had made clear the many planning issues associated with this application. He respectfully asked the Committee to consider a deferral in order for the Parish Council's concerns to be considered more fully in a more balanced report. He reiterated that the Council was now able to demonstrate a five year supply of deliverable housing sites and he pointed out that nothing in the proposal accorded with the recent Council resolution to include Highnam Neighbourhood Plan as part of the development plan for Tewkesbury Borough. This application was outside of the residential development boundary and permitting it would undermine that very significant process that had taken hundreds of hours of work. He warned Members against repeating the errors of permitting developments that took away from the unique characteristics of Highnam as a village; a bolt on development that was urban in design would spoil the boundaries of this attractive village. He asked Members to give the Parish Council and residents support by deferring the application for better engagement around the Neighbourhood Development Plan.

73.52 The Chair confirmed that the Officer recommendation was to delegate authority to the Development Manager to permit the application, subject to consideration as to how visibility could be secured at the access to the site and the completion of a Section 106 Agreement, and he sought a motion from the floor. It was proposed and seconded that the application be deferred to enable the proposal to be considered more fully by relevant parties, in accordance with the request made by the Parish Council. A Member questioned why the Officer report did not make any reference to social cohesion, bearing in mind the similarities between this application and the one at Cobbler's Close, Gotherington which had been refused earlier in the meeting and had contained a large section on social cohesion as a material planning consideration. The Development Manager explained that it was not always possible to discuss every material planning consideration within the Officer report and no specific objections had been made in respect of social cohesion in this case. If Members were minded to defer the application then Officers could take a view on that aspect of the proposal in the report which would be brought back to the Committee. The Member indicated that she was of the view that the local community had worked hard to get the Highnam Neighbourhood Development Plan approved and it was only right to ensure that they were fully involved in the process in terms of where properties should be built, therefore she would support the motion for a deferral.

73.53 Upon being put to the vote, it was

RESOLVED That the application be **DEFERRED** to enable the proposal to be considered more fully by relevant parties, in accordance with the request made by the Parish Council.

15/00941/FUL – Part Parcel 7200, Sandhurst Lane, Sandhurst

- 73.54 This application was for the erection of 16 dwellings (eight affordable and eight open market sale) with landscaping, access and associated works.
- 73.55 The Chair invited the applicant's agent, Oliver Rider, to address the Committee. He explained that, as set out in the Officer report, this was a finely balanced case where there were substantial benefits to the delivery of affordable housing which clearly needed to be weighed against any alleged harms. In his view the benefits were so substantial that they far outweighed any negatives and he explained why with reference to six basic facts. Firstly, a Parish Housing Needs Survey carried out by Gloucestershire Rural Community Council (GRCC), and other evidence gathered by the Council's Strategic Housing and Enabling Officer, indicated that there were eight families in Sandhurst Parish in affordable housing need. A financial appraisal, independently verified by the District Valuer, confirmed that a total of 16 dwellings were needed to deliver these eight affordable houses and the National Planning Policy Framework recognised cross-subsidy as a means of delivering affordable housing. The sequential test assessment confirmed that this site was the most sequentially preferable in the village to meet this need. No other site had been found to be available that would deliver all, or even part, of the need. All other sites identified were covered by larger extents of floodplain than this one. National policy permitted housing in Flood Zone 2 where it passed the sequential test and the Officer's report confirmed that the sequential test had been passed in this case, as such, there was no fundamental conflict with policy. Siting a small amount of development in Flood Zone 2 – less than 10% in this case – was necessary to deliver the affordable housing needs of the village. A reduction in the number of dwellings would not only fail to deliver the full need but it would render the whole scheme financially unviable. A reduction in plots would prevent the housing association from recouping enough income to repay their loans, Members therefore needed to be aware that a refusal of this scheme would potentially be a decision to close the door on affordable housing in Sandhurst for the foreseeable future. Finally, he drew attention to the Tewkesbury Borough Council Plan 2016-20 which set out the Council's key priorities, one of which was to deliver affordable homes to meet local need. This was a priority due to the desperate need for affordable homes in Tewkesbury and the historic issues in terms of their delivery; he had read a number of Tewkesbury Borough Council Plans over the years and every version he recalled listed this as a key priority which demonstrated that affordable housing was a long term issue and an ongoing problem in the borough. For these reasons, it was his view that the affordable housing needs of the borough were so great that this outweighed any other subjective harm in the overall balance and affordable housing should be built now while the offer was on the table.
- 73.56 The Chair invited Councillor Williams, a Ward Member for the area, to address the Committee. Councillor Williams indicated that Sandhurst had twice become an island due to flooding in 2007 and 2014. He pointed out that three quarters of the site flooded and one corner, where the affordable houses would be located, was particularly wet. When the village flooded it was impossible for emergency services to gain access and he had serious concerns regarding the proposed drainage. For these reasons, he felt that the application should be refused.
- 73.57 The Chair indicated that the Officer recommendation was to refuse the application and he invited a motion from the floor. It was proposed and seconded that the application be refused in accordance with the Officer recommendation and, upon being taken to the vote, it was
- RESOLVED** That the application be **REFUSED** in accordance with the Officer recommendation.

16/00012/FUL – 6 Alcotts Green, Sandhurst

73.58 This application was for the retention of a 1.8m boundary fence to the property.

73.59 The Chair indicated that there were no public speakers for this item. The Officer recommendation was to permit the application and he sought a motion from the floor. It was proposed and seconded that the application be permitted in accordance with the Officer recommendation and, upon being put to the vote, it was

RESOLVED That the application be **PERMITTED** in accordance with the Officer recommendation.

16/00995/FUL – The Range, The Park, Bishop's Cleeve

73.60 This application was for the proposed raising of an existing bund to a gun club.

73.61 The Chair indicated that there were no public speakers for this application. The Officer recommendation was to permit the application and he invited a motion from the floor. It was proposed and seconded that the application be permitted in accordance with the Officer recommendation and, upon being taken to the vote, it was

RESOLVED That the application be **PERMITTED** in accordance with the Officer recommendation.

16/01211/FUL – Rowan Cottage, Dog Lane, Witcombe

73.62 This application was for the erection of a replacement dwelling, garage and associated works. The Committee had visited the application site on Friday 10 February 2017.

73.63 The Chair indicated that there were no public speakers for this item. The Officer recommendation was to permit the application and he sought a motion from the floor. It was proposed and seconded that the application be permitted in accordance with the Officer recommendation. The proposer of the motion explained that some concern had been expressed on the Committee Site Visit regarding the public right of way being blocked and he queried whether a condition could be included to ensure that it was not affected. The Development Manager advised that Officers were satisfied that the actual built form would not result in the public right of way being blocked; however, an advisory note could be included in the planning permission to make it clear that no works were to be carried out which would prevent the public right of way being accessed. A Member drew attention to Page No. 733/C of the Officer report and noted that the plan showed the elevations for the extensions and alterations submitted in 2014 and not the proposed elevations to be built in relation to this application. The Development Manager apologised for this oversight and indicated that the application elevations were on display in the Chamber. Upon being taken to the vote, it was

RESOLVED That the application be **PERMITTED** in accordance with the Officer recommendation, subject to the inclusion of an advisory note to ensure that the public right of way did not become blocked.

16/01271/FUL – 11 Bushcombe Close, Woodmancote

73.64 This application was for proposed front and rear extensions; a loft conversion incorporating dormers to the front elevation; proposed vehicle access/drive; and a caravan port to the rear.

73.65 The Chair indicated that there were no public speakers for this item. The Officer recommendation was to permit the application and he invited a motion from the floor. It was proposed and seconded that the application be permitted in accordance with the Officer recommendation. Upon being put to the vote, it was

RESOLVED That the application be **PERMITTED** in accordance with the Officer recommendation.

16/01335/FUL – 44 Meadoway, Bishop’s Cleeve

73.66 This application was for a single storey extension to provide a garden room, larger bedroom, garage and utility room.

73.67 The Chair advised that there were no public speakers for this item. The Officer recommendation was to permit the application and he sought a motion from the floor. It was proposed and seconded that the application be permitted in accordance with the Officer recommendation. The seconder of the motion pointed out that this application was only being determined by the Planning Committee due to the objection from the Parish Council and, in response, the Development Manager advised that this was in accordance with the Scheme of Delegation which Members may wish to review at the appropriate time.

73.68 Upon being taken to the vote, it was

RESOLVED That the application be **PERMITTED** in accordance with the Officer recommendation.

16/01348/FUL – Brookelands, Tewkesbury Road, Norton

73.69 This application was for the erection of a detached dwelling.

73.70 The Development Manager advised that this was another application to which Policy HOU4 applied and, given the position with the five year housing supply, was not “out of date”. Again, the starting point was the presumption against development and the weight to be applied to the benefits associated with the provision of a single dwelling was considered to be limited. Nevertheless, Officers felt that this was a reasonably sustainable location; whilst it was not within what would be described as the village of Norton, its accessibility credentials were set out at Page No. 740, Paragraph 5.4 of the Officer report. There was considered to be little discernible harm in terms of landscape impact given that the proposal continued a row of existing dwellings and, on balance, it was felt that there should be no change to the Officer recommendation to permit the application.

73.71 The Chair indicated that there were no public speakers for this item. The Officer recommendation was to permit the application and he invited a motion from the floor. It was proposed and seconded that the application be permitted in accordance with the Officer recommendation and, upon being put to the vote, it was

RESOLVED That the application be **PERMITTED** in accordance with the Officer recommendation.

PL.74 DEVELOPMENT CONTROL - APPLICATIONS TO THE COUNTY COUNCIL

74.1 The following decision of Gloucestershire County Council was **NOTED**:

Site/Development**Decision**

15/01227/CM
Land Adjacent to Pages Lane

Application **REFUSED** for a number of reasons relating to: failure to demonstrate that noise

Twyning

Extraction of sand and gravel and restoration to agriculture, amenity and nature conservation use.

Resubmission following refusal of 13/0017/TWMAJM dated 16.10.14.

from mineral extraction operations could be mitigated to an acceptable level so as not to interfere with local residents' use and enjoyment of their property; unacceptable adverse impact on the environment arising from the impact of dust for those living, visiting and working in the vicinity of the site; insufficient buffer zones being provided to protect sensitive land uses in the vicinity of the application site and adversely affecting the economic wellbeing of local businesses; harm to the setting of the Church End Conservation Area by virtue of the erosion of the rural character through the introduction of mechanised working and processing of sand and gravel in close proximity to heritage assets; and, lack of an acceptable restoration scheme for the eastern part of the site which would restore the best or most versatile agricultural land back to grade for the following summary of reasons:

'The proposal is for the excavation of sand and gravel from a depth of up to 5m in two phases. The extraction with progressive restoration using imported fill material would take place over a period of two and half years, restoring the western part of the site to agricultural land and the eastern part of the site to an amenity/nature conservation area with two ponds and footpath. The applicant considers that the mineral on the site has special qualities which would increase the county's reserves and reduce reliance of the mineral being imported from other areas of the country and make a small contribution to the projected future sand and gravel resource requirements. The site is constrained by roads on its northern and western boundaries and residential development in the hamlet of Church End to the south and east of the site boundary. There are 10 residential properties within 100m of the eastern boundary, some of which are listed buildings and within the Church End Conservation Area. The proximity of other sensitive land uses and small site area means that the proposal involves the construction of noise and dust attenuation bunds which would be 5m in height in some places immediately adjacent to the site boundary and close to the rear gardens of dwellings along the south eastern site boundary. Mitigation in the form of earth bunds has been proposed in order to bring the sound from plant and machinery within acceptable levels; however, this creates an obtrusive feature in the landscape which

adversely affects the visual appearance and attractiveness of an area where tourism makes an important contribution to the local economy.

The applicant considers that the demand for this type of mineral justifies working the site which, if approved, would make a welcome contribution to the landbank of reserve for sand and gravel. The county needs to satisfy government requirements set out in the National Planning Policy Framework by making provision for a steady and adequate supply of minerals. However, insufficient evidence has been presented that supports the applicant's claims that the material from this site is special and unique, nor has it been satisfactorily demonstrated that there is a demand for this material which cannot be potentially met from other sources.

Although it is accepted that, if permitted, the proposal would make a contribution to the county's sand and gravel landbank, the Minerals Planning Authority considers that the applicant has failed to show the overall benefits of the proposed development in terms of the contribution it would make to the landbank outweighing the combined adverse impacts of noise and dust from the proposed development, even with the mitigation measures, on those living, visiting and working in the vicinity of the site contrary to Minerals Local Plan Policies DC1 and E14. The development of the site is considered to harm the setting of Church End Conservation Area. As no justification has been provided to outweigh the harm to historic assets, the proposal would be contrary to the National Planning Policy Framework. The restoration of the site following extraction is not considered to benefit the local community as it does not restore the best and most versatile agricultural land back to grade contrary to Minerals Local Plan Policy R2. For these reasons the application should be refused.'

PL.75 CURRENT APPEALS AND APPEAL DECISIONS UPDATE

- 75.1 Attention was drawn to the current appeals and appeal decisions update, circulated at Pages No. 12-16. Members were asked to consider the current planning and enforcement appeals received and the Department of Communities and Local Government appeal decisions issued.
- 75.2 It was

RESOLVED That the current appeals and appeal decisions update be **NOTED**.

The meeting closed at 11:55 am

Appendix 1

SCHEDULE OF PLANNING APPLICATIONS ADDITIONAL REPRESENTATIONS

Date: 14 February 2017

The following is a list of the additional representations received since the schedule of applications was prepared and includes background papers received up to and including the Monday before the Meeting. A general indication of the content is given but it may be necessary to elaborate at the Meeting.

Page No	Item No	
617	2	<p>16/01075/FUL</p> <p>Red Roofs Shutter Lane, Gothington</p> <p>Officer Update</p> <p>Section 5 – Principle of development</p> <p>Since the production of the Officer report there has been a significant change in material circumstances. On 31 January 2017, the Council approved, for consultation, the latest draft of the Joint Core Strategy (JCS). In doing so the Council approved the Objectively Assessed Need (OAN) for Tewkesbury which stands at 9,899. It is considered that this figure is robust having been arrived at following detailed consideration through the Examination in Public process. Following from the OAN there is an annual requirement to meet Tewkesbury Borough's needs of 495 dwellings.</p> <p>Using this robust figure, taking into account current supply, including planning permissions granted; those which the Planning Committee has determined to grant, subject to finalisation of s106 legal agreements; and a windfall allowance, the Council can demonstrate a 5.3 year supply with a 20% buffer applied.</p> <p>Officers consider that there is a strong argument that a 5% rather than 20% buffer should be applied given the strong delivery of housing in recent years and, in particular, the five years since the start of the plan period when measured against the above annual requirement. Over the period from 2011/12 - 2015/16, 2,496 dwellings have been completed compared to the JCS requirement of 2,475 giving a surplus of 21 dwellings. For the past three monitoring years the JCS annual requirement has been exceeded, with a surplus of 135 dwellings delivered in 2015/16.</p> <p>In light of the fact that the Council is able to demonstrate a five-year supply of deliverable housing sites, saved Policy HOU4 of the Tewkesbury Borough Local Plan should no longer be considered out of date pursuant to Paragraph 49 of the National Planning Policy Framework (NPPF).</p> <p>In these circumstances, aside from approving development proposals that accord with the development plan without delay (unless material considerations indicate otherwise), the presumption in favour of sustainable development set out at Paragraph 14 of the NPPF does not apply.</p> <p>Section 38(6) of the Town and Country Planning Act 1990 provides that the determination must be made in accordance with the development plan unless other material circumstances indicate otherwise. In this case, as reiterated by</p>

		<p>Paragraph 12 of the NPPF, the presumption is against the grant of permission given the conflict with policy HOU4 and, as such, permission should be refused unless material planning circumstances indicate otherwise.</p> <p>Section 5 - Overall Balancing Exercise and conclusions</p> <p>As set out above, the starting point for determination of this application is the conflict with Policy HOU4 to which substantial weight should be applied. Whilst the Council is able to demonstrate a five year supply of deliverable housing sites, it is also, of course, a rolling calculation and the Council must ensure that sufficient sites are granted planning permission to meet the ongoing need for housing in the Borough.</p> <p>Gotherington is identified as a Service Village in the JCS and therefore as a suitable location for some limited residential development, proportionate to its size and function, also reflecting its proximity to, in this case, Cheltenham. Section 5 of the Officer report sets out the benefits of the proposal arising from the delivery of market housing, although it is accepted that those benefits are limited by virtue of the small scale of the development proposed. The Gotherington Neighbourhood Development Plan (NDP) has been submitted for examination following public consultation and can thus be afforded some weight. It is not considered that there is any conflict with the provisions of the Gotherington NDP.</p> <p>As set out above, the starting point for determination of this application is the conflict with Policy HOU4. Nevertheless, as set out in the Officer report, given the benefits of the proposed development (albeit limit by the small scale of the proposals) and lack of significant harms, the proposals were considered to represent sustainable development. This position remains and as such the recommendation is unchanged.</p>
624	3	<p>16/00901/OUT</p> <p>Parcel 1441, Cobblers Close, Gotherington</p> <p>Officer Update</p> <p>Principle of development</p> <p>Since the production of the Officer report there has been a significant change in material circumstances. On 31 January 2017, the Council approved, for consultation, the latest draft of the Joint Core Strategy (JCS). In doing so the Council approved the Objectively Assessed Need (OAN) for Tewkesbury which stands at 9,899. It is considered that this figure is robust having been arrived at following detailed consideration through the Examination in Public process. Following from the OAN there is an annual requirement to meet Tewkesbury Borough's needs of 495 dwellings.</p> <p>Using this robust figure, taking into account current supply, including planning permissions granted; those which the Planning Committee has determined to grant, subject to finalisation of s106 legal agreements; and a windfall allowance, the Council can demonstrate a 5.3 year supply with a 20% buffer applied.</p> <p>Officers consider that there is a strong argument that a 5% rather than 20% buffer should be applied given the strong delivery of housing in recent years and, in particular, the five years since the start of the plan period when measured against the above annual requirement. Over the period from 2011/12 - 2015/16, 2,496 dwellings have been completed compared to the JCS requirement of 2,475 giving a surplus of 21 dwellings. For the past three monitoring years the JCS annual requirement has been exceeded, with a surplus of 135 dwellings delivered in 2015/16.</p> <p>In light of the fact that the Council is able to demonstrate a five-year supply of deliverable housing sites, saved Policy HOU4 of the Tewkesbury Borough Local</p>

		<p>Plan should no longer be considered out of date pursuant to Paragraph 49 of the National Planning Policy Framework (NPPF).</p> <p>In these circumstances, aside from approving development proposals that accord with the development plan without delay (unless material considerations indicate otherwise), the presumption in favour of sustainable development set out at Paragraph 14 of the NPPF does not apply.</p> <p>Section 38(6) of the Town and Country Planning Act 1990 provides that the determination must be made in accordance with the development plan unless other material circumstances indicate otherwise. In this case, as reiterated by Paragraph 12 of the NPPF, the presumption is against the grant of permission given the conflict with policy HOU4 and, as such, permission should be refused unless material planning circumstances indicate otherwise.</p> <p>Neighbourhood Development Plan</p> <p>Paragraph 16.2 of the Officer report sets out that the NDP can be given little weight, given the inability to demonstrate a five year deliverable supply of housing sites. As set out above, this position has now changed given that the Council can now demonstrate a five year supply. On that basis, and given the stage which the NDP has reached, it can be afforded some weight. Notwithstanding this, the conclusions reached in Section 16 of the Officer report, there would be no in principle conflict with the NDP.</p> <p>Overall Balancing Exercise and conclusions</p> <p>As set out above, the starting point for determination of this application is the conflict with Policy HOU4, to which substantial weight should be applied. Whilst the Council is able to demonstrate a five year supply of deliverable housing sites, it should be recognised that this is minimum requirement and the NPPF seeks to boost significantly the supply of housing (Paragraph 47). It is also, of course, a rolling calculation and the Council must ensure that sufficient sites are granted planning permission to meet the ongoing need for housing in the Borough. Whilst it is anticipated that the majority of future need in the Borough will be met through the Borough Plan, this should not prevent sustainable development being permitted now, to meet those needs.</p> <p>Gotherington is identified in the JCS as a suitable location for some limited residential development, proportionate to its size and function, also reflecting its proximity to, in this case, Cheltenham. Paragraph 17.2 of the Officer report sets out clear social and economic benefits arising from the proposal, including the delivery of market and affordable housing and the safeguarding of the Local Green Space identified in the emerging NDP.</p> <p>The consideration of material planning issues on this application is finely balanced. However, on balance, it is considered that the benefits set out above, and the sustainable location of the site - adjacent to a settlement which is identified as a Service Village in the JCS - outweigh the conflict with the development plan in respect of Policy HOU4 and the limited harms identified in the Officer report relating to landscape and social wellbeing.</p> <p>In light of the above, it is therefore recommended that there be no change to the recommendation set out in the Officer report.</p> <p>Letter from Agent</p> <p>The applicant's agent has provided a written response in relation to the Council's current position on five year housing land supply. The letter is attached in full below.</p>
642	4	16/01280/FUL

Orchard Cottage, Aston Carrant Road, Aston-On-Carrant.**Additional Information**

The agent for this application has submitted a "Member Update" as **attached below**.

Officer Update**Principle of Development**

Since the production of the Officer report there has been a significant change in material circumstances. On 31 January 2017, the Council approved, for consultation, the latest draft of the Joint Core Strategy (JCS). In doing so the Council approved the Objectively Assessed Need (OAN) for Tewkesbury which stands at 9,899. It is considered that this figure is robust having been arrived at following detailed consideration through the Examination in Public process. Following from the OAN there is an annual requirement to meet Tewkesbury Borough's needs of 495 dwellings.

Using this robust figure, taking into account current supply, including planning permissions granted; those which the Planning Committee have determined to grant, subject to finalisation of s106 legal agreements; and a windfall allowance, the Council can demonstrate a 5.3 year supply with a 20% buffer applied.

Officers consider that there is a strong argument that a 5% rather than 20% buffer should be applied given the strong delivery of housing in recent years and, in particular, the five years since the start of the plan period when measured against the above annual requirement. Over the period from 2011/12 – 2015/16, 2,496 dwellings have been completed compared to the JCS requirement of 2,475 giving a surplus of 21 dwellings. For the past three monitoring years the JCS annual requirement has been exceeded, with a surplus of 135 dwellings delivered in 2015/16.

In light of the fact that the Council is able to demonstrate a five year supply of deliverable housing sites, saved Policy HOU4 of the Tewkesbury Borough Local Plan should no longer be considered out of date pursuant to Paragraph 49 of the NPPF.

In these circumstances, aside from approving development proposals that accord with the development plan without delay (unless material considerations indicate otherwise), the presumption in favour of sustainable development set out at Paragraph 14 of the NPPF does not apply.

Section 38(6) of the Town and Country Planning Act 1990 provides that the determination must be made in accordance with the development plan unless other material circumstances indicate otherwise. In this case, as reiterated by Paragraph 12 of the NPPF, the presumption is against the grant of permission given the conflict with Policy HOU4 and, as such, permission should be refused unless material planning circumstances indicate otherwise.

The applicant's agent has commented on the issue and considers that the five year housing land supply figure is a minimum requirement, not a ceiling figure, and therefore the contribution of a single dwelling would not prejudice or distort the planned delivery of housing as set out through the JCS. In the agent's view, this development should be viewed as a positive in terms of housing land supply by assisting Tewkesbury Borough Council to provide a robust supply.

Reference is made at Paragraph 5.6 of the Officer report to a previous decision at The Laurels at the opposite end of Aston-On-Carrant. That decision was of made at a time when the Council could not demonstrate a deliverable five year supply of housing sites and furthermore relied partly on the location of the nearby JCS strategic allocation at MOD Ashchurch. That application was also determined in

light of Paragraph 55 of the NPPF which seeks to restrict isolated dwellings in the countryside.

Given its relationship with the existing settlement, the site was not considered isolated and, for the reasons set out above, was considered to be in a reasonably sustainable location. However, in this case, given the above, the presumption is against the grant of permission. Further it is noted of course that the strategic allocation at MOD Ashchurch has been removed from the latest version of the emerging JCS and thus the circumstances that led to the previous conclusion reached (on balance) that Aston-On-Carrant is a sustainable location for development no longer exist. The proposal is therefore considered to conflict with policy TPT1 of the Local Plan and emerging policy INF1 of emerging JCS in respect of accessibility.

Flood Risk

Further information has been submitted on behalf of the applicant following the update at Paragraph 7 of the Officer report. The Council's Flood Risk Management Engineer is satisfied that it has now been demonstrated that the principle of sustainable development with regard to flood risk is attainable for this site. Therefore, in principle the Flood Risk Management Engineer has no objection subject to the following condition:

Condition:

Prior to the commencement of building operations, details of comprehensive evidence based detailed drainage arrangements, including a maintenance and management plan for the lifetime of the development, shall be submitted to and approved in writing by the Local Planning Authority. These details shall fully incorporate the very best principles of sustainable drainage and improvements in water quality, along with a robust assessment of the hydrological influences of the detailed drainage plan, (including up to date allowances for climate change). The scheme shall be implemented in accordance with the approved details before the development hereby permitted is brought into use and maintained in accordance with the approved details thereafter.

Reason:

To ensure that the development is provided with a satisfactory means of drainage, as well as reducing the risk of flooding both on the site itself and the surrounding area, and to minimise the risk of pollution, in accordance with policies EVT5 and EVT9 of the Tewkesbury Borough Local Plan to 2011 (March 2006) and the principles of the National Planning Policy Framework (2012).

Overall Balancing Exercise and conclusions

As set out above, the starting point for determination of this application is the conflict with Policy HOU4, to which substantial weight should be applied. Whilst the Council is able to demonstrate a five year supply of deliverable housing sites, it is also, of course a rolling calculation and the Council must ensure that sufficient sites are granted planning permission to meet the ongoing need for housing in the Borough.

However, Aston-On-Carrant is not identified in the JCS as a Service Village as a suitable location for residential development and the conflict with Policies TPT1 and HOU4 weighs substantially against the development. Given the fact that the proposal is for a single dwelling, the social and economic benefits arising from the proposal are limited and are not considered to outweigh the conflict with the development plan.

Whilst the reason for refusal on flood risk has been addressed, the harm to the character of the area remains. The agent's comments on the five year supply issue are noted, however, it is not considered that the delivery of a single dwelling

		<p>in this location outweighs the identified conflicts with the development plan. It is therefore recommended that there be no change to the recommendation set out in the Officer report, subject to the following additional reasons for refusal, and removal of reason for refusal 2 (flood risk):</p> <p><u>Reasons for Refusal:</u></p> <p>The proposed development conflicts with Policy HOU4 of the Tewkesbury Borough Local Plan to 2011 – March 2006 in that the site lies outside any recognised settlement in a location where new housing is strictly controlled and it is not essential to the efficient operation of agriculture or forestry.</p> <p>The site is located remote from amenities and is not served by adequate footpaths, cycleways, or public transport facilities and the development would be likely therefore to increase reliance on the private car contrary to guidance in the National Planning Policy Framework, Policy TPT1 of the Tewkesbury Borough Local Plan to 2011 - March 2006 and Policy INF1 of the submission version of the Joint Core Strategy.</p>
671	9	<p>15/00751/OUT</p> <p>Bentham Country Club, Bentham Lane, Bentham.</p> <p>The applicant has written to request that the application be Deferred in order for further work can be undertaken on odour modelling to seek to address the Environment Agency and Environmental Health Officer's concerns.</p> <p><i>Additional representations: -</i></p> <p>Support:</p> <p>15 further letters of support have been received from users of the netball facility.</p> <p>Objection:</p> <p>One further letter of objection has been received from the owner of the poultry buildings adjacent to the application site making the following additional comments:</p> <p><i>Two documents have recently been posted online relating to odour. One is an extract from the local farmers licence to keep chickens and pigs and the other is an odour management submission for the planning application to knock down five chicken sheds and replace them with two. The proposed development will be downwind and only 25 meters at its closest to the chicken sheds. All the existing nearby houses are upwind and a lot further away from the sheds. The proposed development will definitely be affected by noise, dust and odour. It would be irresponsible to grant planning permission on this site.</i></p> <p><i>I would like to refer Members of the TBC Planning Committee to Worcestershire Regulatory Services who submitted four consultee reports on the 26th August 2015 having been invited to by the officers of TBC.</i></p> <p>Officer Update</p> <p>Principle of development</p> <p>Since the production of the Officer report there has been a significant change in material circumstances. On 31 January 2017 the Council approved, for consultation, the latest draft of the Joint Core Strategy (JCS). In doing so the Council approved the Objectively Assessed Need (OAN) for Tewkesbury which stands at 9,899. It is considered that this figure is robust having been arrived at following detailed consideration through the Examination in Public process. Following from the OAN there is an annual requirement to meet Tewkesbury Borough's needs of 495 dwellings.</p>

		<p>Using this robust figure, taking into account current supply, including planning permissions granted; those which the Planning Committee have determined to grant, subject to finalisation of s106 legal agreements; and a windfall allowance, the Council can demonstrate a 5.3 year supply with a 20% buffer applied.</p> <p>Officers consider that there is a strong argument that a 5% rather than 20% buffer should be applied given the strong delivery of housing in recent years and, in particular, the five years since the start of the plan period when measured against the above annual requirement. Over the period from 2011/12 – 2015/16, 2,496 dwellings have been completed compared to the JCS requirement of 2,475 giving a surplus of 21 dwellings. For the past three monitoring years the JCS annual requirement has been exceeded, with a surplus of 135 dwellings delivered in 2015/16.</p> <p>In light of the fact that the Council is able to demonstrate a five year supply of deliverable housing sites, saved Policy HOU4 of the Tewkesbury Borough Local Plan should no longer be considered out of date pursuant to Paragraph 49 of the NPPF.</p> <p>In these circumstances, aside from approving development proposals that accord with the development plan without delay (unless material considerations indicate otherwise), the presumption in favour of sustainable development set out at Paragraph 14 of the NPPF does not apply.</p> <p>Section 38(6) of the Town and Country Planning Act 1990 provides that the determination must be made in accordance with the development plan unless other material circumstances indicate otherwise. In this case, as reiterated by Paragraph 12 of the NPPF, the presumption is against the grant of permission given the conflict with Policy HOU4 and, as such, permission should be refused unless material planning circumstances indicate otherwise.</p> <p>Overall Balancing Exercise and conclusions</p> <p>As set out above the starting point for determination of this application is the conflict with Policy HOU4, to which substantial weight should be applied. Whilst the Council is able to demonstrate a five year supply of deliverable housing sites, it is also, of course, a rolling calculation and the Council must ensure that sufficient sites are granted planning permission to meet the ongoing need for housing in the Borough.</p> <p>As set out in the Officer report, the proposals were not considered to comprise sustainable development and the application was recommended for refusal given that the harmful impacts identified, in particular the relationship with the neighbouring poultry unit and design quality.</p> <p>As set out above there is now an additional significant material consideration in that Policy HOU4 should be afforded substantial weight, and the starting point in this case is that permission be refused given the conflict with the development plan. It is therefore recommended that there be no change to the recommendation set out in the Officer report, subject to the following additional reason for refusal:</p> <p><u>Reason for Refusal:</u></p> <p>The proposed development conflicts with Policy HOU4 of the Tewkesbury Borough Local Plan to 2011 – March 2006 in that the site lies outside any recognised settlement in a location where new housing is strictly controlled and it is not essential to the efficient operation of agriculture or forestry.</p>
697	11	<p>16/00486/OUT</p> <p>Land South of Oakridge, Highnam.</p>

Letter from Agent dated 13 February 2017

The applicant's agent has provided a written response in relation to the Councils current position on five year housing land supply. The letter and appeal decisions referred to are **attached in full below**.

Officer Update:

Principle of development

Since the production of the Officer report there has been a significant change in material circumstances. On 31 January 2017, the Council approved, for consultation, the latest draft of the Joint Core Strategy (JCS). In doing so the Council approved the Objectively Assessed Need (OAN) for Tewkesbury which stands at 9,899. It is considered that this figure is robust having been arrived at following detailed consideration through the Examination in Public process. Following from the OAN there is an annual requirement to meet Tewkesbury Borough's needs of 495 dwellings.

Using this robust figure, taking into account current supply, including planning permissions granted; those which the Planning Committee have determined to grant, subject to finalisation of s106 legal agreements; and a windfall allowance, the Council can demonstrate a 5.3 year supply with a 20% buffer applied.

Officers consider that there is a strong argument that a 5% rather than 20% buffer should be applied given the strong delivery of housing in recent years and, in particular, the five years since the start of the plan period when measured against the above annual requirement. Over the period from 2011/12 – 2015/16, 2,496 dwellings have been completed compared to the JCS requirement of 2,475 giving a surplus of 21 dwellings. For the past three monitoring years the JCS annual requirement has been exceeded, with a surplus of 135 dwellings delivered in 2015/16.

In light of the fact that the Council is able to demonstrate a five year supply of deliverable housing sites, saved Policy HOU4 of the Tewkesbury Borough Local Plan should no longer be considered out of date pursuant to Paragraph 49 of the NPPF.

In these circumstances, aside from approving development proposals that accord with the development plan without delay (unless material considerations indicate otherwise), the presumption in favour of sustainable development set out at Paragraph 14 of the NPPF does not apply.

Section 38(6) of the Town and Country Planning Act 1990 provides that the determination must be made in accordance with the development plan unless other material circumstances indicate otherwise. In this case, as reiterated by Paragraph 12 of the NPPF, the presumption is against the grant of permission given the conflict with Policy HOU4 and, as such, permission should be refused unless material planning circumstances indicate otherwise.

Overall Balancing Exercise and conclusions

As set out above the starting point for determination of this application is the conflict with Policy HOU4, to which substantial weight should be applied. Whilst the Council is able to demonstrate a five year supply of deliverable housing sites, it is also, of course, a rolling calculation and the Council must ensure that sufficient sites are granted planning permission to meet the ongoing need for housing in the Borough.

The applicant's agent has commented on the issue (see attached letter). The agent comments that Inspectors at appeal have been clear that achieving a five year supply is simply the starting point and that authorities remain obliged under the Framework to significantly boost housing land supply, and has attached two

		<p>appeal decisions to illustrate the point. Both of these appeals were allowed, notwithstanding that the Councils were able to demonstrate a five year supply of deliverable housing sites. The agent concludes that, in this case, even with the five year supply, the site should be supported given the harms identified are still outweighed by the benefits.</p> <p>Highnam is identified as a Service Village in the JCS and therefore as a suitable location for some limited residential development, proportionate to its size and function, also reflecting its proximity to, in this case, Gloucester.</p> <p>Paragraph 17.2 of the Officer report sets out clear social and economic benefits arising from the proposal, including the delivery of market and affordable housing.</p> <p>On balance, it is considered that these benefits, and the sustainable location of the site adjacent to a settlement which is identified as a Service Village in the JCS, outweigh the conflict with the development plan in respect of Policy HOU4 and the limited harms identified in the Officer report relating to landscape.</p> <p>It is therefore recommended that there be no change to the recommendation set out in the officer report.</p>
739	18	<p>16/01348/FUL</p> <p>Brookelands, Tewkesbury Road, Norton.</p> <p>Principle of development</p> <p>Since the production of the Officer report there has been a significant change in material circumstances. On 31 January 2017, the Council approved, for consultation, the latest draft of the Joint Core Strategy (JCS). In doing so the Council approved the Objectively Assessed Need (OAN) for Tewkesbury which stands at 9,899. It is considered that this figure is robust having been arrived at following detailed consideration through the Examination in Public process. Following from the OAN there is an annual requirement to meet Tewkesbury Borough's needs of 495 dwellings.</p> <p>Using this robust figure, taking into account current supply, including planning permissions granted; those which the Planning Committee have determined to grant subject to finalisation of s106 legal agreements; and a windfall allowance, the Council can demonstrate a 5.3 year supply with a 20% buffer applied.</p> <p>Officers consider that there is a strong argument that a 5% rather than 20% buffer should be applied given the strong delivery of housing in recent years and in particular the five years since the start of the plan period when measured against the above annual requirement. Over the period from 2011/12 – 2015/16, 2,496 dwellings have been completed compared to the JCS requirement of 2,475 giving a surplus of 21 dwellings. For the past three monitoring years the JCS annual requirement has been exceeded, with a surplus of 135 dwellings delivered in 2015/16.</p> <p>In light of the fact that the Council is able to demonstrate a five year supply of deliverable housing sites, saved Policy HOU4 of the Tewkesbury Borough Local Plan should no longer be considered out of date pursuant to Paragraph 49 of the NPPF.</p> <p>In these circumstances, aside from approving development proposals that accord with the development plan without delay (unless material considerations indicate otherwise), the presumption in favour of sustainable development set out at Paragraph 14 of the NPPF does not apply.</p> <p>Section 38(6) of the Town and Country Planning Act 1990 provides that the determination must be made in accordance with the development plan unless other material circumstances indicate otherwise. In this case, as reiterated by</p>

Paragraph 12 of the NPPF, the presumption is against the grant of permission given the conflict with Policy HOU4 and, as such, permission should be refused unless material planning circumstances indicate otherwise.

Section 5 - Overall Balancing Exercise and conclusions

As set out above, the starting point for determination of this application is the conflict with Policy HOU4, to which substantial weight should be applied. Whilst the Council is able to demonstrate a five year supply of deliverable housing sites, it is also, of course, a rolling calculation and the Council must ensure that sufficient sites are granted planning permission to meet the ongoing need for housing in the Borough.

Norton is identified as a Service Village in the JCS and therefore as a suitable location for some limited residential development, proportionate to its size and function, also reflecting its proximity to, in this case, Gloucester. It is noted that this site is not within the village of Norton itself, however, neither is it in an isolated location. It is also material that planning permission has been granted on the neighbouring site on the basis that it was considered to be 'sustainable'.

As set out above, the starting point for determination of this application is the conflict with Policy HOU4. Nevertheless, as set out in the Officer report, given the benefits of the proposed development (albeit limit by the small scale of the proposals) and lack of significant harms the proposals were considered to represent sustainable development. This position remains and it is therefore **recommended that there be no change to the recommendation set out in the Officer report.**

LAND OFF ASHMEAD DRIVE, GOTHERINGTON (REF: 16/00901/OUT)

PLANNING BALANCE UPDATE

The following note has been prepared in relation to an outline planning application for up to 50 dwellings on land off Ashmead Drive, Gotherington (the 'Site') - Ref: 16/00901/OUT. This note responds to the Case Officer's Report to Committee and subsequent Update Report, as well as the publication of the government's Housing White Paper on 7th February 2017.

Housing White Paper

The Housing White Paper (HWP) and supporting documents set out the government's plans to reform the housing market and boost the supply of new homes in England. This includes a forward from the Prime Minister, Theresa May, explaining that the purpose of the HWP is to **"fix this broken market so that housing is more affordable and people have the security they need to plan for their future"**. The starting point for achieving this aim, is through the building of more homes. This will **"slow the rise in housing costs so that more ordinary working families can afford to buy a home"**.

The HWP looks to achieve this aim through four separate steps, the first of which is "Planning for the right homes in the right places". This includes releasing small and medium sized sites and allowing rural communities to grow.

Case Officer's Report to Planning Committee

We generally support the conclusions of the Case Officer, which largely follow our understanding of the Planning Balance which should be attributed to the application – as set out within our note dated 30th January 2017.

The Case Officer highlights that the proposals would produce clear social benefits insofar as it would provide much needed housing and help the Council meet the NPPF's requirements to maintain a five year supply of housing land. The proposal would also provide affordable housing, for which there is a pressing need both locally and nationwide – a point reiterated by the HWP. In addition, the Case Officer identifies the benefits provided by the area of public open space along the northern boundary of the Site as well as the economic benefits throughout the construction phase and lifetime of the development.

The Case Officer considers that each of these benefits should be given **"significant weight in the overall planning balance"**. We would agree with this conclusion. The Case Officer also reiterates that the application has received no objection from statutory consultees.

In terms of the harm caused by the development, the Case Officer highlights that the impact on the landscape would be "relatively minor and limited to the immediate area". As such, the harm attributed to the landscape is considered by the Case Officer to be **"limited"**. As set out in our submitted note on the Planning Balance, this impact is considered to be 'very limited' given that the Local Plan is time expired and that a five year supply of housing cannot be demonstrated.

The Case Officer attributes 'some harm' to the social wellbeing of the community given the proportion of development already permitted or with a resolution to grant planning permission. However, it is noted that no substantive evidence has been provided to support the assertion that the extra population would make it impossible for those residents to be welcomed into the community or for them to be unable to play an integral part within the community. New residents would also doubtless support the continuance of local services. Hence, we cannot accept that the proposals will result in any harm to social cohesion. Indeed, the proposed development will result in a reduced level of growth than the previously refused scheme at Truman's Farm (which is currently subject to an appeal) and the cumulative level of growth is no larger than has taken place within other Service Villages. As such, for the purposes of determining this application, it is considered that 'no harm' should be attributed to social cohesion.

Item 3 – 16/00901/OUT

Notwithstanding the above, we support the Officer's overall conclusion that the proposal would represent a sustainable form of development and that planning permission should be approved.

Case Officer's Update Report to Planning Committee

Following publication of the Case Officer's Report to Committee, it is understood that Tewkesbury Borough Council (TBC) now considers that a five year supply of housing can be demonstrated. At the time of writing, the Council has not published any official guidance on the five year supply position and are instead relying on a Proof of Evidence submitted as part of an unrelated Section 78 Appeal.

For the avoidance of doubt, this evidence has not been independently assessed as part of the Appeal and, as such, cannot be considered to represent a robust position – indeed, the Appellant for the Appeal has submitted evidence which demonstrates a shortfall in housing land supply. We therefore maintain the view that the Council cannot demonstrate a five year supply of housing.

Despite this, we note the Case Officer's conclusion that, even in the event that a five year supply of housing can be demonstrated, the Site forms a suitable and sustainable location for development and that planning permission should be approved.

Indeed, to ensure TBC maintains a five year supply of housing, it is considered critical that planning permission is approved for appropriate sites in the interim period until the Joint Core Strategy and Tewkesbury Borough Plan are formally adopted. As confirmed by the Case Officer, the proposed development has received no technical objection from statutory consultees and would only result in 'limited harm' to the landscape and social cohesion – albeit we maintain our view that the impact on the landscape will result in 'very limited' harm and that there will be 'no harm' to social cohesion.

Notwithstanding which approach is considered appropriate, the Case Officer maintains the view that, against an 'ordinary planning balance', the economic and social benefits arising from the proposed development outweigh the limited landscape and social harm identified. We agree with this overall conclusion and respectfully request that planning permission is granted.

Item 4 - 16/01280/FUL

TBC Planning Committee 14th Feb 2017 - Members Update

16/01280/FUL for the Erection of a new dwelling at land adjacent Orchard Cottage, Aston-on-Carrant, Tewkesbury

BPA ref BM215 | February 2017



FIGURE 1 – EXISTING LAYOUT OF ASTON-ON-CARRANT



RED = existing houses set-back behind others that address the road

YELLOW = the location of the proposed house

Item 4 - 16/01280/FUL

FIGURE 2 –EXISTING SET-BACK HOUSES



Aston Cottage



Berryhay Barn & The Granary

FIGURE 3 – AERIAL PHOTOGRAPH OF THE PROPOSED HOUSE



RED OVAL = location of the proposed house

Item 4 - 16/01280/FUL

FIGURE 4 – APPLICATION SITE FROM THE ROAD



Item 11 - 16/00486/OUT



building surveying
 planning
 project management

Our Ref: 12535
 13 February 2017

Mr Ciaran Power
 Tewkesbury Borough Council
 Council Offices
 Gloucester Road
 Tewkesbury
 Gloucestershire
 GL20 5TT

Dear Mr Ciaran Power

Re: - 16/00486/OUT – Land South Of Oakridge - Higham

I write further to your e-mail of Monday 13th February in which you set out your Authority's change of circumstances in respect to Tewkesbury Borough Council's five year housing land supply.

Whilst it remains Officer's view that applying the planning balance this scheme should be supported, you have kindly reported to me the change in position so that I have an opportunity to respond prior to Planning Committee on 14th February.

You will appreciate that with the limited time available it is not possible for me to undertake a detailed critical analysis of the five year land position, however, in response I offer the following commentary:-

From my experience in other Local Authority areas it is not uncommon for there to be an ebb and flow of conflicting housing supply claims and counter claims in the lead up the adoption of a new Development Plan (in this case the JCS). At the time of writing it is only Tewkesbury Borough Council who have approved the main modifications, leaving Gloucester and Cheltenham currently outstanding.

Furthermore, assuming that Gloucester and Cheltenham Councils approved the main modifications, these will still be subject to further examination before the Appointed Inspector.

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In my view there remains uncertainty over the five year supply calculation and I suspect forthcoming Appeal decisions will assist in clarifying this matter.

Notwithstanding the above however, and mindful that insufficient time exists to fully critically examine the information received today, I submit that notwithstanding your Authority's position in respect to five year supply, Inspectors at Appeal have been clear that achieving a five year supply is simply the starting point and that Authorities remain obliged under the Framework to significantly boost housing land supply.

In this regard I attach a copy of an Appeal Decision under Ref. APP/W1525/W/15/3121603 - Main Road, Great and Little Leighs.

To assist I have highlighted the relevant sections within the Appeal decision. Whilst that Appeal was for a greater number of units (100 dwellings) the Inspector carefully considered the position in respect to five year housing land supply, concluding in that case that Chelmsford City Council could demonstrate a defensible five year supply position, however, notwithstanding that the Inspector at paragraph 29 confirmed that the OAN represented a minimum and not a maximum requirement for an area, and that accepting that an area has a five year supply of housing does not necessarily preclude a scheme from being sustainable development or mean that it would be inherently harmful.

As with the Highnam site, that Appeal decision related to land which had no specific landscape designation or protection in adopted planning policy terms. Likewise in that case the Highway Authority did not object to the proposal, concluding that any additional traffic generated by the development could be satisfactorily accommodated on the local road network.

In applying the planning balance the Inspector at paragraph 55 confirmed that the site lay outside of the designated settlement boundary and whilst the loss of open countryside would cause some harm, albeit very limited, to the character and appearance of the area, at paragraph 53 the Inspector concluded that the provision of 100 units would deliver economic, environmental and social benefits including the creation of jobs, a range of different housing types and tenures (including a contribution towards affordable housing in an area where there is a recognised need) and measures to enhance the biodiversity of the site.

At paragraph 55 the Inspector went on to confirm that the Council can currently demonstrate a five year housing land supply, and so there is no immediate pressure to release further land for housing, the housing figures calculated from the OAN are not a maximum. It is clear from the work being undertaken by Councils in the emerging Local Plan that further sites will be required to maintain a continuing five year supply of housing land. As a consequence the Inspector considered that the housing supply situation alone is not a reason to justify refusal of the scheme.

At paragraph 56 the Inspector concluded that the Framework seeks to boost significantly the supply of housing and advocates that planning should respond positively to wider opportunities for growth. It also refers to the need to promote sustainable housing and other development in rural areas in locations where such development would enhance or maintain the vitality of rural communities, all of which the scheme would deliver.

The proposals at Highnam have close similarities to the aforementioned Appeal. Highnam is identified as a service village where growth is in JCS terms acceptable. This is a sustainable settlement and the approval of this scheme will assist your Authority in boosting significantly housing land supply within the district.

Secondly, I submit a copy of Appeal Decision Ref. APP/C1625/W/15/3133335 - Land Rear of Canonbury Street, Berkeley, Glos.

This proposal sought consent for 197 dwellings outside of the settlement boundary of Berkeley.

The Inspector at paragraph 6 identified as the first of the four main issues; *whether the Council is able to demonstrate a five year supply of housing against OAHN.*

In that case Stroud District Council considered it had 6.59 years against the Appellant's position of 4.1 years.

Following a detailed assessment of each land supply on a site by site basis the Inspector concluded at paragraph 33 that the Local Authority can demonstrate a supply of deliverable housing sites in excess of 5 years. Furthermore, the Inspector considered at paragraph 34 that the provision of 30% affordable housing on the site carries very significant weight in favour of the development.

At paragraph 63 the Inspector confirmed that *"while I have identified that the Council can demonstrate a deliverable 5 year housing land supply, this does not mean that further housing should necessarily be refused as the stated figure is a minimum provision not a target."*

At paragraph 75 the Inspector set out the benefits considered within the planning balance confirming; *"the other benefits include the provision of market housing in accordance with the Governments objective, as set out in paragraph 47 of the Framework, of boosting significantly the supply of housing. The provision of 56 units of affordable housing carries a significant weight in the light of the acknowledged shortage in the district. Economic and social benefits outlined above all weigh in favour of the proposals"*.

Both of the aforementioned Appeals were allowed by the Inspectorate notwithstanding in both cases the Local Authorities having a deliverable 5 year supply of housing land.

Having regard to our discussions elsewhere within the district, it is noted that your Authority have an acute affordable housing shortage, therefore the provision of affordable housing at a rate of 40% in this case is a significant benefit weighing in favour of the proposal.

In conclusion, I thus submit that notwithstanding your Authority's revised statement in connection with the five year land supply, whilst evidently material, in practice and having regard to recent Appeal decisions does not tell against this proposal. I thus concur with your conclusion that in this case even with the five year supply, the site should be supported given the harms identified are still outweighed by the benefits.

Item 11 - 16/00486/OUT



Should you wish to discuss the above then please do not hesitate to give me a call.

Yours sincerely

For and on behalf of Evans Jones Ltd



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Encs: Planning Appeal Ref. APP/W1525/W/15/3121603 and APP/C1625/W/15/3133335



Appeal Decision

Inquiry held on 14, 15, 16 and 17 June 2016

Site visit made on 16 June 2016

by J Dowling BA(Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 26 September 2016

Appeal Ref: APP/W1525/W/15/3121603

Main Road, Great and Little Leighs, Great Leighs CM13 1NP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Mr Steve Latham (Gladman Developments Ltd) against Chelmsford City Council.
 - The application Ref 14/01791/OUT, is dated 30 October 2014.
 - The development proposed is development of up to 100 dwellings with associated infrastructure, open space and landscaping with all matters reserved except for access.
-

Decision

1. This appeal is allowed and outline planning permission is granted for the development of up to 100 dwellings with associated infrastructure, open space and landscaping at Main Road, Great and Little Leighs, Great Leighs CM13 1NP, in accordance with the terms of the application, reference 14/01791/OUT, dated 30 October 2014, subject to the conditions set out in the attached schedule.

Procedural Matters

2. The appeal was made on the grounds of non-determination although subsequent to this the Council resolved that had it been in a position to determine the application, it would have refused it for four reasons. Prior to the start of the Inquiry the Council indicated that it no longer wished to defend its third reason for refusal as following the submission of the appellant's evidence, information pertaining to current travel to school patterns that were not addressed in the original planning application had been included. In light of all that I have read, heard and seen I have no reason to disagree with this position and have revised the main issues to reflect this.
 3. The application was made in outline with all detailed matters other than access reserved for future consideration and I have determined the appeal on this basis.
 4. In discussing the suggested conditions it became clear that although the description of development used by the appellant on the original planning application made reference to a 'phased' development, given the number of units proposed the scheme, if consented, would not be built out in phases. For clarity I have therefore amended the description of development in the banner heading to reflect this.
-

5. The Inquiry sat for four days. I had an accompanied site visit on 16 June 2016 and I also undertook two unaccompanied site visits on the 13 and 16 June 2016.
6. A number of separate topic based Statements of Common Ground were submitted prior to and at the start of the Inquiry which set out the policy context along with matters of agreement and those in dispute.
7. Due to time constraints it was agreed that both parties could submit their closing statements in writing to an agreed timetable. The Council also agreed to publish the closing statements on their website so that they would be available for inspection by any of the interested parties.
8. Following the close of the Inquiry the Council submitted a recent appeal decision¹ which was lodged by the same appellant as for this appeal and which considered similar issues to this appeal. Both parties were provided with an opportunity to comment on that decision and I have taken their comments and that decision into account when considering this appeal.

Main Issues

9. The main issues are:
 - Whether the Council can demonstrate a 5 year housing land supply; and
 - whether the proposal would result in a sustainable form of development which includes consideration of the effect of the proposal on the character and appearance of the area and access to facilities.

The Policy Background

10. The development plan for the area consists of the Chelmsford City Council Core Strategy and Development Control Policies Development Plan Document (2008) (the CS and DCP). Following the publication of the National Planning Policy Framework (the Framework) in 2012, the Council undertook a focused review of the CS and DCP in order to update those policies within the development plan that they considered needed to be amended to ensure consistency with the Framework. Following an examination in public, where it was found sound, the Council adopted the Chelmsford City Council Core Strategy and Development Control Policies Focused Review (2013) (the Focused Review). In addition the Council have an adopted Site Allocation Development Plan Document (2012) (the SA DPD) which was also the subject of a public examination.
11. The Framework² advocates that the closer the policies in a plan are to the policies in the Framework, the greater the weight that they may be given.
12. The policies relevant to the determination of this appeal are CP1, CP2, CP4, CP5 and DC2. Policies CP1, CP5 and DC2 were policies that were subject to the Focused Review.
13. CP1 seeks to promote and secure sustainable development by linking housing and employment needs and directing development to those locations where there is the infrastructure to support it. It also reflects paragraph 14 of the

¹ Appeal Ref: APP/W1525/W/15/3129306

² Paragraph 215 of the National Planning Policy Framework (2012)

Framework in that it advocates that where there are no policies relevant to the application or relevant policies are out of date at the time of making the decision then planning permission will be granted unless material considerations indicate otherwise. As such this policy is compliant with the Framework and can be given full weight.

14. Policy CP2, which was not part of the Focused Review, outlines a spatial strategy which provides a framework for sustainable housing and job growth for the area. It advocates that new development should make the best use of previously developed land and buildings. It also sets out a sequential approach to the location of development whereby Chelmsford and South Woodham Ferrers are to be the main focus for development, supported by appropriate development within the Key Defined Settlements. The latter includes Great Leighs and the North of Chelmsford's Urban Area.
15. Whilst this sequential approach is broadly consistent with the Framework it is based on the housing requirement figures contained within the Draft East of England Plan which was revoked in 2013 and not on any objective assessment of need (OAN) as required by the Framework³. Consequently, policy CP2 is out of date and can only be afforded limited weight.
16. Policy CP5 was amended as part of the Focused Review with the aim of easing restrictions placed on development within the Rural Area beyond the Green Belt⁴. As with CP2 it seeks to focus growth within the Urban Areas of Chelmsford, South Woodham Ferrers and the Key Defined Settlements. In the Rural Areas beyond the Green Belt it advocates that the Council will protect the intrinsic character and beauty of the countryside. This approach is reinforced by policy DC2 which restricts development within the Rural Area beyond the Green Belt generally to sites within the defined settlement boundaries.
17. I am aware that a number of Inspectors⁵ have differed about the weight that can be attached to policies CP5 and DC2. However, I consider that the sequential approach to focusing new housing in existing urban areas and key defined settlement areas is consistent with the aims of sustainable development which the Framework promotes⁶. Whilst I consider the principle of focusing development in sustainable locations accords with the Framework, nonetheless, the housing figures on which CP5 and DC2 are based are not up to date. As a result whilst policies CP5 and DC2 carry some weight as part of the development plan, their weight is reduced.
18. Finally, the Council is in the early stages of drafting a new Local Plan and as part of this process it has highlighted that Great Leighs could possibly accommodate between one and two thousand new homes. However, the plan is still at a very early stage in the process and has not been the subject of any robust testing and as a result I have afforded it very limited weight.
19. Policy CP4 of the CS and DCP requires, through the use of planning contributions, all new development to meet the necessary on and off-site

³ Paragraph 47 of the National Planning Policy Framework (2012)

⁴ Paragraph 3.3 of the Core strategy and Development Control Policies Focused Review (2013)

⁵ Appeal Ref: App/W1525/W/14/3001771, APP/W1525/15/3137020, APP/W1525/W/15/3009062 and APP/W1525/W/15/3129306

⁶ Paragraph 17 of the National Planning Policy Framework (2012)

infrastructure requirements required to support the development or mitigate its impact.

Reasons

Whether the Council can demonstrate a 5 year housing land supply and the implications that this has for this appeal

20. At the Inquiry the disagreement over the robustness of the OAN centred upon the demand side of the calculation focusing upon household formation rates (with the appellant arguing that those used by the Council were suppressed) and the Economic Activity Rates (EARs) used by the Council which were considered by the appellant to be unrealistic and implausible.
21. The Planning Practice Guidance⁷(the PPG) advocates that housing requirement figures should be used as the starting point for calculating the five year supply of housing. Considerable weight should be given to the housing requirement figures in adopted Local Plans. However the PPG acknowledges that evidence that dates back several years, such as that drawn from revoked regional strategies, may not adequately reflect current needs. For the reasons detailed earlier I consider that the figures contained within the CS and DCP which are based on the revoked East of England Plan are out of date.
22. The PPG goes on to state that where evidence in Local Plans has become outdated and policies in emerging plans are not yet capable of carrying sufficient weight, as is the case here, information provided in the latest full assessment of housing needs should be considered. However, it recognises that the weight given to these assessments should take account of the fact that they have not been tested or moderated against relevant constraints.
23. Whilst the OAN for Chelmsford has not been the subject of a formal examination it has, through the appeal process, been the subject of significant testing. With the exception of the Boreham decision⁸ most of the previous Inspectors⁹ concluded that the **Council had a robust OAN and could demonstrate a five year housing land supply**. This conclusion was reached again most recently in the appeal for land east of Main Road, Bicknacre¹⁰.
24. It is not the purpose of this appeal to provide a definitive critique of the Council's OAN as that is the function of the Local Plan examination. However, what is clear from the evidence I heard at this Inquiry is that much of the argument turns on which figures, particularly for household formation and economic activity rates, should be used when calculating OAN.
25. As with the Boreham and Bicknacre appeals the starting point for this appeal is that the Council consider the OAN to be 775 dwellings per annum (dpa), whereas the appellant considers that the OAN should be 1,129 dpa. The Council's approach to household formation or headship rates followed the requirements of the PPG and I consider takes reasonable account of local factors such as affordability. Furthermore, I agree with the Council that the

⁷ Planning Practice Guidance paragraph 03 Reference ID: 3-030-20140306

⁸ Appeal reference: APP/W1525/W/15/3049361

⁹ Appeal references: APP/W/1525/W/14/3001771, APP/W1525/W/15/3137020

¹⁰ Appeal reference: APP/W1525/W/15/3129306

2012 projection rates, which are based on the 2011 census information are an appropriate base for calculating and producing an up to date OAN.

26. With EAR the main difference between the parties was the size of the labour force that would be necessary to meet the projected growth in jobs and whether this could predominantly be met by the existing population (the Council's view) or whether additional workers would be required thus triggering the need to deliver additional housing (the appellant's view). The difference in the figures came down to the use of different forecasting models.
27. The Council used the activity rates from the EEFM¹¹. However, these figures, due to the very high employment rates they predict, were considered unrealistic and implausible by the appellant who felt that the activity rates, would in reality, be much lower and produced a number of alternative EARs based on a different set of projections including OBR, EU and KCC¹².
28. Whilst I agree that the OBR rates are highly regarded, they project forward current patterns of behaviour this would mean that future likely changes to activity, such as people working longer would not be captured. However, on the basis of what I have read and the evidence provided at the Inquiry, whilst I acknowledge that the employment rates used by the Council are high I am satisfied with the explanation provided by the Council as to how they have been calculated. As these have then been used to calculate the OAN I consider that the Council's OAN to be robust. The Council have identified a supply of housing based on the figures generated by the OAN that would deliver in excess of a 5 year supply of housing including an allowance for the previous shortfall and a 20% buffer. As a result I am satisfied that the Council is able to demonstrate a five year housing land supply in accordance with the requirements of the Framework.
29. However, it is also important to recognise that the housing figures that result from an OAN represent a minimum and not a maximum requirement for an area and that accepting that an area has a 5 year supply of housing does not necessarily preclude a scheme from being sustainable development or mean that it would be inherently harmful.

Whether the proposal would result in a sustainable form of development

30. At the heart of the Framework is a presumption in favour of sustainable development¹³. Paragraph 7 states that there are three dimensions to sustainable development: economic, social and environmental which give rise to the need for the planning system to perform a number of roles.
31. It was clear from the evidence given at the Inquiry that Great Leighs benefits from a healthy and vibrant local community which has access to a good range of facilities including a combined shop and post office, two pubs, a village hall and primary school all of which are located within the village. Immediately adjacent and opposite the site entrance are bus stops that provide a direct regular service for village residents to Chelmsford and Colchester. As outlined at the Inquiry, in the short term the proposal would deliver a number of construction jobs and local investment. In the longer term the 100 new

¹¹ East of England Forecasting Model

¹² Office for Budget Responsibility, European Union and Kent County Council

¹³ Paragraph 14 of the National Planning Policy Framework (2012)

dwelling would bring 100 more households utilising these local business and services and providing an increased local workforce which would assist in the availability of local labour. As a consequence the proposal would contribute to building a strong, responsive and competitive economy (the economic role).

32. Great Leighs is a Key Defined Settlement where policy CP2 of the CS and DCP advocates that new development should be directed. Although outside the Defined Settlement Boundary (DSB), due to its fairly central location within the village, I consider that unlike many sites that come forward that are outside of the development boundary the application site physically appears to form part of the village. The scheme would provide a mix of housing of a variety of different types and tenures, including on-site affordable housing for which, from the evidence given at the Inquiry, there is a considerable local need. Consequently, given the Framework's aim to maintain or enhance the vitality of rural communities¹⁴ and boost significantly the supply of housing¹⁵ I consider that the scheme would contribute to meeting the needs of present and future generations (the social role).
33. The Council confirmed at the Inquiry that the site has **no specific landscape designation or protection in adopted planning policy terms**. However, they advocated, and I agree, that a lack of formal designation or protection does not necessarily mean that the site's landscape is without worth or value. Under a Borough/District wide assessment¹⁶ the site is included within the Terling Farmland Plateau Landscape Character Area which is characterised by, amongst other things, rolling arable farmland, remnants of ancient woodland and scattered settlement patterns.
34. From my site visit I observed that, although the site has a pleasant pastoral aspect due to its location within the village, it is bounded by housing to the north, south and west. To a large extent therefore, its value appears to stem from the fact that it is open and undeveloped and allows views from the village towards Sandylay and Moat Woods. From the evidence given at the Inquiry its open and undeveloped nature is clearly appreciated and valued by those who live in and around the area and particularly those who use the public footpaths through and in the vicinity of the site. However, I agree with the appellant that this does not amount to a valued landscape within the meaning of paragraph 109 of the Framework.
35. All parties agreed that the proposal would affect the character and appearance of the area by virtue of introducing housing and its related infrastructure into what is effectively a greenfield site. However, what needs to be assessed is whether harm would result from this change and the effect that this would have on the character and appearance of the area.
36. As outlined earlier although the site is not 'within' the DSB. However, unusually for a site outside a DSB it is located centrally within the village and appears as an uncharacteristic gap in an otherwise built up road frontage with the existing ribbon of development continuing north for about 500m. It is only when one continues to the northern and southern edges of the village that other gaps begin to develop along Main Road and the village takes on a

¹⁴ Paragraph 55 of the National Planning Policy Framework (2012)

¹⁵ Paragraph 47 of the National Planning Policy Framework (2012)

¹⁶ Braintree, Brentwood, Chelmsford, Maldon and Uttlesford Landscape Character Assessments (2006)

more rural character. As a consequence I consider that the site physically forms part of the village and appears to be 'within' Great Leighs.

37. I observed at my site visit that Great Leighs has been the subject of numerous infill developments. This is most evident by the recent developments on the western side of Main Road but there are also a cluster of earlier housing schemes on the western side of Main Road, in particular around Aragon Road. As a consequence I consider that, whilst Great Leighs may have originally been a linear village, over time development has occurred behind the houses which front onto Main Road which is of a tighter urban grain than the original village and the proposal would reflect and replicate this pattern of development.
38. Due to their location within the centre of the village, the topography and the surrounding vegetation and buildings, I consider that the fields do not appear as part of the wider open countryside, but instead look towards and are more strongly associated with the existing village to the north, south and west. Whilst currently open land, the character of the site is derived from its location within the centre of the village.
39. A Landscape and Visual Assessment (LVA) was undertaken by the appellant which found that the visual impacts of the proposal would be mainly limited to users of the public footpaths and views from the surrounding houses. Specific concerns were raised by residents at the Inquiry regarding views from Sandylay and Moat Woods. I acknowledge that the woods are predominantly deciduous and that, as a result, there will be seasonal variations. However, as I observed at my site visit, due to their dense nature views out from the woods towards the site are limited to the edges of the woodland where public access is limited as the main footpaths meander through the centre of the woods.
40. I acknowledge that there would be some long distance glimpsed views from Banters Lane, however observers from these viewpoints would view the site against the backdrop of the existing village and, as a result, I consider that the proposal would not appear out of character.
41. Furthermore, the scheme would not harm any ecological, arboricultural or heritage assets and would, through the use of conditions, include new planting and measures to enhance biodiversity (the environmental role).
42. The appeal site has a unique set of characteristics not least its central location within the village and the fact that it is bounded by development on three sides. As a consequence whilst I recognise that it would be a sizeable scheme, I consider that the proposal would reflect and respect the pattern and density of existing development within the village and would, due to its location appear as part of the village. Furthermore, the site is located in a sustainable location and the delivery of additional housing would help maintain the vitality of the existing community.
43. As a consequence I conclude that the proposal would be outside the DSB and would result in some loss of open countryside, contrary to policies CP5 and DC2 of the Focused Review. However, I consider that the harm that would result from this loss would be limited. Furthermore, for the reasons outlined above I consider the proposal would be sustainable development and as a

result would be in accordance with policy CP1 of the Focused Review and the development plan as a whole.

Section 106 Agreement

44. A signed Section 106 agreement was submitted at the end of the Inquiry¹⁷. In addition to delivering on-site affordable housing and a contribution towards secondary school transport the agreement would also provide a recreational open space including a play area within the development in accordance with a specification and maintenance plan that would be agreed with the Council and provide a residential travel information pack to encourage sustainable travel patterns by future residents.
45. In order to comply with the Framework and the policy DC31 within the CS and DCP, a percentage of the proposed units would need to be affordable. Under the terms of the S106 agreement 35% of the dwellings in the development would be required to be affordable housing units two thirds of which would be rented housing, with the remaining third being intermediate and/or shared ownership. The proposal would therefore comply with the Framework and policy DC31.
46. Although the Council chose not to defend their third reason for refusal, the effect of the proposal on local services, in particular access to places at the local school, remained a concern for local residents. The Council at the Inquiry confirmed that it has an adopted CIL charging regime and as a result the development would deliver a financial contribution to ensure that services, such as education and healthcare provision, could be expanded to accommodate the needs of future residents of the site. Furthermore, the Council confirmed that they were satisfied that the contributions towards secondary school transport provision proposed by the S106 agreement would ensure that secondary school age children would have access to facilities that were not located within the village. As a result the proposal would meet the necessary off-site infrastructure requirements required to support the development and mitigate its impacts in accordance with policy CP4 of the CS and DCP.
47. Policy DC40 of the CS and DCP requires the provision of Open Space for all residential developments and policy DC6 seeks the mitigation of significant increases in vehicle movements on the highways network including through the use of Travel Plans to encourage the use of more sustainable methods of transport
48. The obligations within the Section 106 agreement are necessary to make the development acceptable in planning terms; directly related to the development and fairly and reasonably related in scale and kind to the development. As a consequence they meet the tests within CIL regulation 122 and paragraph 204 of the Framework.

Other matters

49. At the Inquiry it was clear that Local Residents had concerns regarding the volume of traffic, particularly at peak times, which use Main Road and the effect that the additional traffic that would be generated by the development would have on the local road network. At their request I visited the site

¹⁷ Inquiry Document 20

during the morning peak. The Council confirmed that the Highways Authority did not object to the proposal and considered that any additional traffic generated by the development could be satisfactorily accommodated on the local network. Whilst I have noted the traffic survey undertaken by the Parish Council it does not lead me to a different conclusion to the Highways Authority.

50. Local residents were also very concerned about the potential impacts on the Sandylay and Moat Wood nature reserve in particular the potential impacts on flora and fauna during construction and the impact on trees with particular reference to a veteran tree which would be in close proximity to the site boundary. In addition residents advised that the woods were home to badgers and used for foraging by bats. Construction work could be managed through a condition requiring the submission of a Construction Method Statement which amongst other things, would control the hours of working and measures to suppress dust. As a consequence, given that the majority of the woods are some distance from the appeal site and the indicative layout indicates that where the woods are closest to the site boundary construction would be kept to a minimum, I consider that the woods would not be adversely affected by the noise and disturbance from construction works. When I visited the site the location of the veteran tree was pointed out to me and, whilst it is close to the site boundary, the illustrative plans indicate that it would be some distance from any construction work and I am therefore satisfied that subject to a condition requiring protective fencing around trees, the tree would not be damaged or lost as a result of the proposals. Finally, regarding the references to bats and badgers inhabiting the woods I note that the Council is satisfied that the environmental and ecological reports submitted with the application were robust and I heard no evidence at the Inquiry to lead me to a different conclusion.

The Planning Balance

51. Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990 state that determination of a planning application must be carried out in accordance with the development plan unless material considerations indicate otherwise. These other considerations include the Framework, whether the development would be sustainable and whether any other planning harm resulting from the development is of such weight that the appeal should be dismissed.
52. The proposal would result in the development of a site outside the DSB and through the loss of the open countryside there would be some harm, albeit very limited, to the character and appearance of the area. As a result I recognise that the proposal would be contrary to a number of the Council's adopted policies, including CP2, CP5 and DC2, and as such the development would not be in accordance with the development plan in this respect. However, these policies were drafted on the basis of what are now out of date housing figures, and even though an adequate supply currently exists, they nevertheless imply a significantly greater degree of protection for the countryside than is envisaged in the Framework. Bearing in mind the Framework's advice about consistency in paragraph 215, for the reasons outlined at the beginning of this decision, when determining this appeal I have afforded these policies reduced weight.

53. The proposal would result in the provision of 100 units which would deliver economic, environmental and social benefits including the creation of jobs, a range of different housing types and tenures (including a contribution towards affordable housing in an area where there is a recognised need) and measures to enhance the biodiversity of the site. Although, not within the DSB, due to its central location within the settlement, the site physically does form part of the village which has a good supply of easily accessible local services. Furthermore, Great Leighs is recognised in the development plan as a Key Defined Settlement and due to its transport links and access to local services is considered a sustainable location.
54. The proposal reflects the form, density and scale of existing development within the area and as a consequence would not be out of character. Whilst the appeal scheme would encroach to some extent into open countryside, due to its unique and specific location, topography and very limited long distance views I consider that there would be limited harm to the intrinsic character and beauty of the countryside.
55. Whilst I have found that the Council can currently demonstrate a five year housing land supply, and so there is no immediate pressure to release further land for housing, the housing figures calculated from the OAN are not a maximum. It is clear from the work being undertaken by the Council on the emerging Local Plan that further sites will be required to maintain a continuing supply of housing five year supply of housing land, beyond the current five year period, and that all of this need cannot be met through brownfield sites. As a consequence I consider that the housing supply situation alone is not a reason to justify refusal of the scheme.
56. The Framework seeks to boost significantly the supply of housing¹⁸ and advocates that planning should respond positively to wider opportunities for growth¹⁹. It also refers to the need to promote sustainable housing and other development in rural areas in locations where such development would enhance or maintain the vitality of rural communities²⁰, all of which the scheme would deliver.
57. I acknowledge that the Framework strongly supports a plan led system and that the proposal would be in conflict with a number of development plan policies. However when taking into account the Framework and the development plan as a whole, I consider that on balance the benefits that the scheme would deliver outweigh the limited harm that it would cause. Finally, the Framework²¹ advocates that there is a presumption in favour of sustainable development and that for decision making this means approving developments that accord with the development plan without delay. Therefore having concluded that the proposal would accord with the development plan as a whole, this is a material consideration that weighs heavily in favour of granting conditions.

¹⁸ Paragraph 47 of the National Planning Policy Framework (2012)

¹⁹ Paragraph 17 of the National Planning Policy Framework (2012)

²⁰ Paragraph 55 of the National Planning Policy Framework (2012)

²¹ Paragraph 14 of the National planning policy Framework (2012)

Conditions

58. At the end of the inquiry the Council and the Appellant produced an agreed list of conditions²². Paragraph 206 of the Framework sets out a number of tests that conditions need to meet. I have considered the conditions suggested by the Council against paragraph 206, the advice contained within the PPG²³ and the discussions at the Inquiry. Where necessary I have adjusted their wording in the interests of clarity. Conditions relating to the submission of reserved matters and the timing of commencement of development are needed due to the outline nature of the proposal.
59. Having heard the Council's evidence I consider that to help provide clarity for both the Council and the appellant a condition listing the information to be submitted with regards to the reserved matters details would provide precision and aid enforceability. In view of the constraints of the site and the surrounding residential development and having regard to the amount of development which the illustrative plans indicate could be accommodated within the site a condition limiting the number of dwellings to 100 is necessary in order to ensure a satisfactory form of development.
60. To ensure highways safety, conditions requiring the approved access to be constructed prior to the occupation of the units and the surfacing, lighting and signage or roads, footways and cycleways within the development are necessary. However, a condition requiring the provision and retention of onsite car parking could be dealt with as part of the reserved matters and therefore I do not consider the suggested condition as worded would meet the Framework tests.
61. Drainage schemes, including sustainable methods of dealing with surface water and restricting surface water from discharging on to the highway are necessary to ensure that there is no detriment to adjoining areas. Archaeological finds have been found within the area and therefore a condition requiring further investigation and setting out what would need to be done if remains are unearthed would also be reasonable.
62. Given the proximity of the adjoining Sandylay and Moat Woods nature reserve a condition requiring the development to be carried out in accordance with section 4 of the Ecological Appraisal is considered necessary to ensure that the development would not impact upon the surrounding biodiversity or any protected species. Although landscaping is a reserved matter conditions requiring future maintenance and management are considered necessary. Whilst this is a greenfield site and it is therefore unlikely, given the evidence presented by the Council at the Inquiry, it is appropriate to adopt a precautionary approach and have a condition requiring an assessment of contamination in order to ensure the health and safety of future occupiers.
63. In order to protect the trees shown to be retained a condition requiring approval of protective fencing is considered relevant. The need to submit a public art statement reflects the requirements set out in policy DC43 of the CS and DCP and is therefore appropriate.
64. To ensure highway safety, protect the living conditions of neighbouring properties during construction and to minimise the impact on the adjacent

²² Inquiry Document 18

²³ Planning Practice Guidance ID 21a

nature reserve a condition requiring the submission and approval of a Construction Method Statement, which would control amongst other things working hours; delivery times and routes; construction workers parking; dust suppression measures etc. is considered appropriate.

65. In order to encourage sustainable travel patterns a condition requiring the upgrading of the bus stops adjacent to the site, including the stop which would need to be relocated as a result of the proposed site entrance, would be reasonable.
66. At the Inquiry a local resident submitted a request²⁴ that should the development be granted planning permission a condition be attached requiring the public footpath that currently runs through the middle of the site to be located to the southern edge of the site and the land on which the footpath runs be made inalienable to protect it for future use by the community. The relocation of a public footpath is a matter that would be dealt with by a footpath diversion order under the Highways Act 1980 and as a result a condition to move the footpath and make the land inalienable would not meet the tests set out in paragraph 206 of the Framework.

Conclusion

67. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be allowed.

Jo Dowling

INSPECTOR

²⁴ Inquiry Document 15

APPERANCES**FOR THE LOCAL PLANNING AUTHORITY:****Josef Cannon, of Counsel**

He called

Simon Drummond-Hay Director, HDH Planning and Development Ltd**Richard Pestell** Director, Peter Brett Associates**Jeremy Potter** Senior Planning Officer, Chelmsford City Council**Simon Quelch** Solicitor, Chelmsford City Council**Clive Tokley** Independent Planning Consultant**FOR THE APPELLANT:****Giles Cannock, of Counsel**

He called

Ivor Beamon Project Manager, Gladman Developments Ltd**Jonathan Dixon** Associate Director, Savills**James Donagh** Director, Barton Willmore**Gary Holliday** Director, FPCR Environment and Design Ltd**John Londensborough** Assistant Planner, Gladman Developments Ltd**Steve Lucas** Director, Development Economics Ltd**George Venning** Director, Bailey Venning Associates Ltd**INTERESTED PERSONS:****Terri Amory** Local resident**Brian Barnes** Local resident**Dot Creighton** Local resident**James Donnelly** Local resident**Councillor John Galley** City Councillor for Boreham and Leighs ward**Joanne Hawes** Local resident**Alan James** Local resident**Robert McGuigan** Local resident

Councillor Richard Poulter	City Councillor for Bicknacre and East and West Hannigfield ward and Vice Chair of the Planning Committee
Alison Ratcliffe	Local resident
Jeff Therlow	Great Leighs Parish Council
Janet Thomas	Local resident

DOCUMENTS SUBMITTED AT THE INQUIRY

Document 1:	Signed Statement of Common Ground for Education
Document 2:	Signed Statement of Common Ground for Affordable Housing
Document 3:	Draft section 106 Agreement
Document 4:	Opening submission of Appellant
Document 5:	Opening submission of the Council
Document 6:	Tables to accompany Mr Lucas's Proof of Evidence
Document 7:	Signed Statement of Common Ground for Housing Land Supply
Document 8:	Copies of transcripts from the residents of Great Leighs oral evidence
Document 9:	Copy of transcript of Councillor John Galley's oral evidence
Document 10:	Copy of letter from Gladman Developments Ltd to Julie Broere of Chelmsford City Council dated 15 January 2016 referred to by Mr Jeff Thurlow in his oral evidence
Document 11:	Copy of traffic survey conducted by the Parish Council carried out between 3-9 September 2015 referred to by Mr Brian Barnes in his oral evidence
Document 12:	Hard copy of PowerPoint presentation (photo montage) by the residents of Great Leighs
Document 13:	Copy of letter dated 15 June 2016 from Miss Janet Thomas
Document 14:	Copies of internal consultation responses for planning application reference 14/01791/OUT
Document 15:	Written request from Mr James Donally for a suggested condition
Document 16:	Replacement document for Core Document 8.3
Document 17:	Email of 17 June 2016 from Olivia Gibbons
Document 18:	Joint response by the appellant and the Council to queries raised regarding the list of suggested conditions
Document 19:	Written legal justification for planning obligations produced by the Council

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Document 20: Signed and dated copy of the S106 agreement

DOCUMENTS SUBMITTED AFTER THE CLOSE OF THE INQUIRY

Document 1 Closing submissions on behalf of the Local Planning Authority

Document 2 Closing Submission of the Appellant

Document 3 Copy of appeal decision for Land east of Main Road, Bicknacre, appeal ref: APP/W1525/W/15/3129306 and covering email dated 26 July 2016 from Julie Broere on behalf of the Council

Document 4 Email response from Kate Fitzgerald on behalf of the appellant dated 2 August 2016

Schedule of conditions

- 1) An application for the approval of the reserved matters shall be made to the local planning authority no later than three years from the date of this permission. The development hereby permitted shall take place no later than two years from the date of approval of the last of the reserved matters to be approved.
- 2) Details of the appearance, landscaping, layout and scale (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 3) The reserved matters submitted in accordance with condition 2 shall include, but not be limited to, the following details to the extent that they are relevant to the reserved matters application in question:
 - A. Layout
 - i. The layout of routes, buildings and spaces, the block form and organisation of all buildings, the distribution of market and affordable dwellings and full details of the approach to vehicle parking including visitor parking (together with details of the design approach for access points for undercroft parking), full details of the approach to cycle parking including the location, distribution, types of rack, spacing and any secure or non-secure structures associated with the storage of cycles and the location and form of open areas and where appropriate street furniture.
 - ii. The identification of 3% of the dwellings to be wheelchair accessible housing and to be constructed in accordance with Category 2 of the Building regulations – Part M 2015.
 - iii. The access and circulation of modes of travel, the design of roads and paths and junction layout including the retention of existing footpath links and the provision of new footpath and cycleway links between development phases and the existing network.
 - B. Scale and Appearance
 - i. Scale, form and appearance of the architecture and public/private realm definition.
 - ii. Detailed drawings and sections showing the finished levels of all parts of the development illustrated in relation to the levels of the surrounding area and any adjoining buildings.
 - iii. Details of the proposed treatment of all boundaries, including drawings of any gates, fences, walls and railings.
 - iv. Details of proposed materials of the development hereby permitted.
 - v. Details of the location and design of all artificial lighting and lighting furniture to all buildings, amenity areas, roads and parking areas.

C. Estate Roads

Details of the estate roads and footways (including layout, levels, visibility splays, gradients, surfacing and means of surface water drainage) and the surface treatment of the public footpaths across the site.

D. Landscaping

The landscape design and specification of hard and soft landscape works including details of ecological habitat, corridors or foraging grounds, measures to be taken to protect trees to be retained both within and adjacent to the site and a programme for the carrying out of all hard and soft landscaping.

- 4) The residential development hereby approved shall be limited to a maximum of 100 dwellings.
- 5) The development will be constructed in accordance with the approved access drawing number 1387/01 dated May 2014. No dwelling shall be occupied on the site unless and until the access works shown in that drawing have been completed to the satisfaction of the local planning authority.
- 6) There shall be no discharge of surface water from the development onto the highway.
- 7) No development shall take place until a programme of archaeological trial trenching has been secured and undertaken in accordance with a written scheme of investigation which has previously been submitted to and approved in writing by the local planning authority.

A mitigation strategy detailing the excavation/preservation strategy for any archaeological deposits shall be submitted to the local planning authority following the completion of this work.

No development shall commence on those areas containing archaeological deposits until the satisfactory completion of fieldwork, as detailed in the mitigation strategy, previously submitted to and approved in writing by the local planning authority in consultation with its historic environment advisors.

The applicant shall submit to the local planning authority a post-excavation assessment (to be submitted within six months of the completion of fieldwork, unless otherwise agreed in writing in advance with the Planning Authority). This will result in the completion of post-excavation analysis, preparation of a full site archive and report ready for deposition at the local museum, and submission of a publication report.

- 8) No development shall take place until:
 - i. A detailed site wide surface water drainage scheme for the site has been submitted to and approved in writing by the local planning authority. This shall be based on sustainable drainage principles and an assessment of the hydrological and hydro-geological context of the development; the Flood Risk Assessment and Surface Water Drainage Strategy dated October 2014 prepared by Hydrock and the

consultation response dated 4 March 2015 from the Lead Local Flood Authority confirming the 1 in 1 greenfield rate.

- ii. A detailed site wide Sustainable Urban Drainage Management Plan has been submitted to and approved in writing by the local planning authority

The development shall not be carried out other than in accordance with the approved schemes and shall thereafter be maintained in perpetuity in accordance with the approved Sustainable Urban Drainage Management Plan.

- 9) The development shall be carried out in accordance with Section 4 of the Ecological Appraisal produced by FPCR dated October 2014.

If within a period of five years from the date of planting any tree/hedge/plant, that tree/hedge/plant or any tree/hedge/plant planted in replacement for it, is removed, uprooted, destroyed, or becomes, in the opinion of the local planning authority, seriously damaged or defective, another tree/hedge/plant of the same size and species as the original, shall be planted in the same place unless the local planning authority gives its written consent to any variation.

- 10) Prior to the occupation of any dwellings, a site-wide landscape management plan shall be submitted to and approved in writing by the local planning authority. The plan shall cover all landscape areas other than private domestic garden areas and shall include the long term landscape design objectives, management responsibilities (and measures to resist public ingress where appropriate), and a programme of maintenance that will be applied in perpetuity. The development shall not be carried out otherwise than in accordance with the approved landscape management plan.

- 11) No development shall take place until a scheme to assess and deal with any contamination of the site has been submitted to and approved in writing by the local planning authority.

Prior to the first occupation of any dwelling any remediation of the site found necessary, shall be carried out and a validation report to that effect submitted to the local planning authority for written approval.

- 12) Prior to the commencement of development details of the surfacing, lighting, signage and street furniture to be applied to the roads, footways and cycleways within the development shall be submitted to and approved in writing by the local planning authority.

Prior to the occupation of any dwelling served by them the roads, footways and cycleways shall be surfaced and provided with the associated furniture as approved pursuant to this condition and shall thereafter remain as approved for public use.

- 14) Within six months from the commencement of the development, a public art statement shall be submitted to and approved in writing by the local planning authority. The statement shall include the following:

- i. Proposed Public Art and location including details of the chosen theme and medium of the scheme; and
 - ii. Details of the installation and future maintenance.
- 15) No development shall take place including any ground works, until a Construction Method Statement has been submitted to and approved in writing by the local planning authority. The development shall be constructed in accordance with the approved details and shall include but not be limited to:
 - construction site access details;
 - areas for parking of vehicles of site operatives and visitors;
 - areas for loading and unloading of plant and materials;
 - areas for storage of plant and materials used in constructing the development;
 - wheel and underbody washing facilities;
 - measures to suppress dust;
 - measures to prevent the tracking out of mud and debris onto the highway;
 - hours of working and receiving deliveries; and
 - measures to ensure the maintenance of the footpath route during the construction period.
- 16) Trees that are indicated to be retained both within and on the boundaries of the site shall be protected by a barrier erected in accordance with BS 5837: 2012 – trees in relation to design, demolition and construction – Recommendation Figure 2, or as otherwise agreed in writing by the local planning authority. The fence shall be erected before the commencement of any clearing, demolition and building operations. No material shall be stored, no rubbish dumped, no fires lit and no buildings erected inside the fence, nor shall any change in ground level be made within the fenced area unless previously agreed in writing by the local planning authority.
- 17) No occupation of the development shall take place until upgrades to the two nearest bus stops to the site frontage on Main Road (northbound and southbound) to include raised kerbs, passenger shelters, real time passenger information and road markings as appropriate have been completed in accordance with details that shall have been previously been submitted to and approved in writing by the local planning authority.



Appeal Decision

Inquiry opened on 2 August 2016

Site visit made on 16 August 2016

by Clive Hughes BA(Hons) MA DMS MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 21 November 2016

Appeal Ref: APP/C1625/W/15/3133335

Land rear of Canonbury Street, Berkeley, Gloucestershire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Charles Church Developments Ltd against the decision of Stroud District Council.
 - The application Ref S.14/0619/FUL, dated 10 March 2014, was refused by notice dated 11 June 2015.
 - The development proposed, as amended, is erection of 188 dwellings, provision of new access from B4066, landscaping and associated infrastructure.
 - The inquiry sat for 8 days on 2 to 5 and 9 to 12 August 2016.
-

Decision

1. The appeal is allowed and planning permission is granted for the erection of 188 dwellings, provision of new access from B4066, landscaping and associated infrastructure on land at rear of Canonbury Street, Berkeley, Gloucestershire in accordance with the terms of the application, Ref S.14/0619/FUL, dated 10 March 2013 subject to the thirty conditions set out in Annex 1 to this Decision.

Applications for costs

2. At the Inquiry applications for costs were made by Charles Church Developments Ltd against Stroud District Council and by the Council against Charles Church Developments Ltd. These applications are the subject of separate Decisions.

Procedural matters

3. The application as originally submitted was for the erection of 197 dwellings. Prior to the determination of the application by the Council the scheme was amended and the number of dwellings was reduced to 188. I have determined this appeal on the basis of this reduced scheme.
 4. Due to illness, the evidence of Richard Morton, on heritage matters, was presented by Rob Sutton. Mr Sutton, who, in common with Mr Morton is employed by Cotswold Archaeology, produced a new summary statement (Document 5) in which he set out his own opinions.
 5. Draft Agreements under s106 of the Act were submitted during the Inquiry. These were subsequently replaced with draft Unilateral Undertakings (UUs) and then by completed UUs which were submitted after the Inquiry closed in accordance with an agreed timetable.
-

Main Issues

6. The main issues are:
- Whether the Council is able to demonstrate a 5-year supply of housing against a full objective assessment of housing need (OAHN) and the implications of this in terms of national and local policy;
 - The effect of the proposals on the landscape character of the area and in particular on the setting of Berkeley;
 - The effect of the proposals on the setting of Berkeley Castle a Grade I listed building; on the setting of Berkeley Castle Registered Park, a Grade II* Registered Park and Garden known as Home Park; and on the Berkeley Conservation Area, and in particular on the inter-relationship between these designated heritage assets and the town (noting that the town contains other designated heritage assets); and
 - Whether the proposals comprise sustainable development as defined in the Framework and whether the benefits of the development are sufficient to outweigh any identified harm.

Reasons*Background*

7. The appeal site comprises 11.18 ha of agricultural land immediately abutting the eastern settlement boundary of Berkeley together with a further 0.66 ha of highways land. It is divided into three fields separated by mature hedges that run in a west/ east direction. It slopes downhill from west to east with a watercourse, the Longbridge Rhyne, at the bottom of the slope and marking the eastern boundary of the site. The other boundaries are formed by existing housing in Berkeley to the west; the Berkeley Bypass (B4066) to the north; and Canonbury Street with the backs of a few houses to the south. Further east, beyond the Rhyne, is agricultural land and then the arc of the Bypass.
8. A public footpath crosses the site with stiles between the fields. It runs from the Bypass to Canonbury Street with a link through between the housing to the west into Canon Park. This provides a pedestrian link through to the school and the commercial heart of Berkeley. Most of the southern boundary of the site abuts the boundary of the Berkeley Conservation Area although the southern tip of the site, where it adjoins Canonbury Street, lies within the Area.
9. The relevant planning history concerns a planning permission for landfill and reinstatement of agricultural land in 1990. This was a temporary permission and involved inert material to enable the slope to be regraded. This land has now reverted to agricultural use. The site was promoted for residential development through the Local Plan process in 2005 and was put to that Local Plan Inspector as an Omission site. The Inspector recommended that the site should be allocated for approximately 300 dwellings in order to provide a source of housing and funding for public transport improvements to support the standalone employment allocation in Sharpness. This recommendation was not taken up by the Council and the allocation was not progressed in the Plan.
10. The site is identified in the Council's Strategic Housing Land Availability Assessment (SHLAA, 2011) which indicated a potential for the site to deliver

126 dwellings up to 2026 and a further 126 dwellings after 2026. The 2010 SHLAA report concluded that the site is deliverable and immediately available with a potential for 251 dwellings between 2014 and 2026. It was the only strategic site considered in Berkeley.

11. The proposals, as amended, are for the erection of 188 dwellings with a new access from the Berkeley Bypass. The scheme would provide 132 market houses and 56 affordable units, the latter split between affordable rent (27 houses) and shared ownership (29 houses). The number and mix of affordable units has been agreed by the Council's Housing Officer. The public footpath would be retained.
12. The scheme as originally submitted was for 197 dwellings but, following a Committee resolution to defer determining the application, this was reduced to 188. This reduction was to accord with the Committee resolution to substantially reduce the adverse impact of the proposals on key heritage assets and in particular to enable greater separation between the new housing and the castle/ Conservation Area. The amended scheme provides no housing in the southern field and enables the southern hedge across the site to be retained. The southern field would provide an attenuation pond, a wildlife pond, local wildlife areas and public open space.

Five year housing land supply

13. There is disagreement between the parties concerning the Council's five-year housing land supply. The Council considers it to be **6.59 years**; the appellant consider it to be either 4.1yrs using the existing OAHN or 2.9yrs if a revised OAHN is used. A related area of disagreement concerns whether the buffer should be **5% or 20%**. There was no disagreement between the parties that the proposed affordable housing would be a benefit of the scheme.
14. Concerning the OAHN, the parties produced an Inquiry Note (Document 38) in which various areas of agreement and disagreement are set out. In particular the Note says that it is agreed that for the purposes of assessing whether the Council can demonstrate a five-year housing land supply the Local Plan figure of at least 11,400 dwellings for the period 2006 to 2031 remains the appropriate figure. The Council is committed to reviewing its housing policies by December 2019. The appellant considers that the review will conclude that the OAHN figure is greater than 11,400 due to changed circumstances. The Council considers that the figure will be similar to that adopted. However, the parties are in agreement that it is not for this Inquiry to determine what the future OAHN figure should be. While I have taken account of these concerns raised by the appellant I have determined this appeal on the basis of a requirement of at least 11,400 dwellings within the Plan period.
15. The second bullet point of paragraph 47 of the Framework says that local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide 5 years' worth of housing with an additional buffer of 5%. Where there has been a record of persistent under delivery of housing they should increase the buffer to 20%. The Framework does not define the term "persistent under delivery". The delivery has to be tested against the Council's annualised requirement for the relevant years based upon the actual requirement as now calculated and not against any previous figures.

16. In this case, the Local Plan Inspector in his Report (November 2015) concluded that the latest evidence on past housing provision did not suggest that there had been a persistent under-delivery of housing in Stroud that might justify a 20% buffer. However, this was judged against an emerging requirement target (399 dwellings per year) that has later proved to be an under-estimate of the actual requirement. For the period 2006/7 to 2015/16 the (retrospectively applied) adopted target is now 456 dwellings per year and that is the figure I have used.
17. Persistent means the continued or prolonged existence of something. In this case it relates to any under delivery of housing against a defined requirement (456 dwellings per year). It is a judgement that does not need to take into account the extent of any under delivery and it cannot reasonably have regard to any likelihood of an improved performance in the future. In Stroud, the under delivery of housing against the requirement has been intermittent rather than persistent. In the last 10 years there have been four years of surplus and 6 years of deficit. While numerically the years of deficit have exceeded years of surplus, the difference is not significant; the number of years of deficit is not excessive; and the years of deficit are not consecutive. I do not consider that this can reasonably be described as being persistent. In these circumstances I am satisfied that the Council has demonstrated that there has not been a persistent under delivery of housing and so a 5% buffer is appropriate.
18. The Council, based upon a 5% buffer, considers that it can demonstrate a 6.59yrs supply of housing land with a supply of 3,560 dwellings in the next 5 years against a requirement of 2,702. This is disputed by the appellant who provided a requirement figure of 3,092 dwellings and a supply of 2,554 dwellings. This equates to approximately a 4.1yr supply and a shortfall of 538 dwellings. On the basis of a 5% buffer, however, it represents a supply of about 4.75yrs and a shortfall of 148 dwellings.
19. In addition to the disagreement concerning the size of the necessary buffer, the appellant considers that the Council has over-estimated the supply for the period 2016/17 to 2020/21 by 1000 units. The disagreements relate to 11 sites, 2 with planning permission, 3 with outline planning permission and 6 with no planning permission. These sites are therefore considered in turn, in the same order as set out in Table JR12 (Document 24).
20. *Site 11 Colethrop Farm*: [5-year difference between the parties = 256 dwellings]. This site has the biggest difference between the parties. The Council's figures are based upon figures supplied by the developer; the appellant's figures were based upon a national average of completions for major house builders of 40 units per sales outlet. The developers wrote to the Council during the Inquiry to confirm that the sales strategy for the next phase includes the sale of two parcels to a third party developer who would provide a second sales outlet (Documents 41 & 43). This seems to me to be a good indication of a close professional relationship between the Council and the developers.
21. On this basis, two outlets each contributing an average of 48 units per year seems reasonable and I see no reason to dispute the developers' assessment of delivery. The site has delivered 59 units per year with one outlet. This figure is well above the appellant's stated average of 40 units. I give only limited weight to the appellant's figures as they are based on a single outlet

and rely upon the national average. Inevitably some sites will deliver more and some less than a national average.

22. *Site 16 Stanley Mills*: [5-year difference 74 dwellings]. This site has had the benefit of full planning permission since 2011 but no development has yet come forward. There has been a recent change of ownership. The housing is enabling development and the repairs to the Grade I listed building have now commenced. The site has now been taken over by Avant Homes who intend to make a start with 10 dwellings in 2018/9 and 32 per year thereafter. There is inevitably some uncertainty about the delivery of these units given the long time since planning permission was granted. However, as a house builder has now taken over the site it seems reasonable to accept the Company's assertion that development will commence in 2018.
23. *Site 6C Lister Petter, Littlecombe*: [5-year difference 142 dwellings]. St Modwen is currently on site delivering 6A and 6B. They have averaged 57 units per year including 97 in the last year (when a phase was being completed). The major infrastructure for the site has been completed and it is agreed that Table JR12 should include 60 units for 2016/17. Given past completion rates; the agreed figure of 60 for this year; and the stated intentions of the developer, it is not clear what judgement the appellant applied to the developer's questionnaire response to end up with the lower figure of the national average for this site. This is well below the figure the developer has previously achieved. I see no reason not to accept the Council's figures.
24. *Site 17 Land south of Leonard Stanley Primary School*: [5-year difference 10 dwellings]. There have been delays due to a village green application and judicial review. This is a greenfield site and a reserved matters application has recently been submitted. The submitted plans identify Barratt Homes and David Wilson Homes as the developers. Both parties agree on the likely timing of the development, the only difference is the rate of delivery with the Council relying on the figures provided by Gladman Developments Ltd and the appellant relying on national average building rates. The only question is how many units will come forward each year; the difference between the parties is small. I have no reason not to accept the developers' estimates.
25. *Site 51 Land west of Stonehouse*: [5-year difference 200 dwellings]. This is a strategic allocation for 1350 dwellings in the Local Plan; its deliverability and viability was tested at the Examination in Public. The developers, Redrow Homes, averaged almost 60 units per year at another site in the District and they intend to have two outlets initially with possibly 3 outlets in due course. Some 20-40% of each phase would be affordable housing developed by a registered provider. The anticipated delivery of 50 units per year per outlet seems reasonable.
26. However, the site masterplan has yet to be considered by the Council and the first reserved matters application has yet to be submitted (although it is anticipated later this year). There is infrastructure to be provided. While there is little difference between the parties concerning the rate of delivery once development commences, I am not convinced that the site is likely to deliver 50 units in 2016/17; the appellant's contention that delivery would commence in the following year seems more realistic.
27. *Site 42 Land adjacent Fountain Crescent*: [5-year difference 14 dwellings]. The site is owned by the Council. A 2008 planning permission for 14 dwellings has

lapsed and the Council now intends to sell the land, together with an adjacent site, for 21 dwellings. The marketing exercise commenced during the Inquiry with expressions of interest requested by 24 August 2016. Due to the commencement of marketing it seems likely that development will take place within 5 years but the Council's estimate that delivery will commence in 2016/17 is too optimistic. Nonetheless, there seems no reason as to why the site should not be developed within the 5 year period.

28. *Site 44 North East Cam*: [5-year difference 130 dwellings]. This is a strategic allocation in the Local Plan and there is an outline planning application awaiting determination. Both parties agree that delivery will commence during the 5 year period the differences relate to the timescale and rate of delivery. The site promoter is still in talks with developers and the Council's timescale for delivery seems unrealistic. At the Inquiry the Council accepted that one years' slippage would be sufficient but even that would be a very tight timescale. I consider that the appellant's estimate of delivery commencing in 2019/20 is realistic. The rate of delivery must remain unknown at this stage as there is no developer on board but there is relatively little difference between the parties on this.
29. *Sites 45 & 46 Hunts Grove extensions at Hardwicke and Haresfield*: [5-year difference 20 dwellings (10 per site)]. These sites are only split by a Parish boundary. It is part of a large strategic allocation in the Local Plan that will deliver 750 dwellings by 2031. It is part of Colethrop Farm (Site 11) for which 340 out of 1751 dwellings have so far been delivered and for which the Council estimates a further 436 will come forward within 5 years. There is no certainty that the developers will commence this part of the development before the approved scheme is completed. The Council has used the developer's figures but there is no evidence to suggest that it will definitely come forward within the 5 year period.
30. *Site 47 Sharpness*: [5-year difference 110 dwellings]. This is a complex site with no planning permission. The Council is in advanced discussions with the developers but the site has not yet been marketed. The Local Plan Inspector took account of deliverability and the Council considers that delivery will commence in 2018/19 at a modest rate. The appellant does not consider that development will commence within the 5 year period. The response from the developer to the Council's review of its 5-year housing land supply was to keep the numbers unchanged but with the caveat that they were reviewing the phasing of delivery. This site has a number of challenges that will impact on delivery I am not convinced that either the developer or the Council have demonstrated that it will come forward within 5 years.
31. *Site 50 Wimberley Mill*: [5-year difference 44 dwellings]. There is no disagreement concerning delivery, it is the timescale and rate of delivery that is at issue. The site is a strategic allocation in the Local Plan. The Council anticipates delivery to commence in 2017/18; the appellant says the following year. Outline planning permission has only recently been granted and there are pre-commencement conditions to discharge. It seems more likely that delivery will commence in 2018/19 as suggested by the appellant. The site is to be built by a local builder who has carried out other residential developments in the area and I see no reason to dispute the anticipated rate of delivery. This would only have a minor impact on the 5 year delivery.

32. Overall, therefore, I consider that the Council has been unduly optimistic in respect of some sites but generally it has demonstrated that most sites are deliverable within 5 years. Most of the anticipated rates of delivery, which are those supplied by the developers themselves, are reasonable.
33. I have accepted that a 5% buffer is reasonable and so the total five-year housing land supply requirement is 2,702, including 293 brought forward from previous years' shortfall $[(456 \times 5 + 293) \times 1.05]$. Taking account of the downward adjustments I have made arising from reducing the delivery of several of the above sites, the deliverable supply is 3,166 dwellings [3,560 – 394]. This would give a supply of 5.85 years. Even with a 20% buffer there would still be a supply in excess of 5 years (5.15 years). I conclude on the first issue, therefore, that the Council can demonstrate a supply of deliverable housing sites in excess of 5 years.
34. Concerning affordable housing, the Local Plan Inspector identified that the Council's Housing Strategy confirmed that its provision is one of the Council's corporate priorities. He acknowledged that the Council accepted that the 30% target provision would not deliver all the affordable housing needed. At the Inquiry unchallenged evidence showed that the need for affordable housing exceeds 100% of the annual level of overall housing delivery for the remainder of the Plan period. The provision of 30% affordable housing on this site (56 units) therefore carries very significant weight in favour of the development.

The effect of the proposals on the landscape character of the area and in particular on the setting of Berkeley

35. The appeal site lies on an east facing slope abutting the eastern boundary of Berkeley. Immediately to the west of the site are bungalows and houses within the settlement boundary. That row of dwellings runs north/ south along the ridge line with dwellings and roofs clearly visible from the east; they sit above the appeal site for its entire length. The Officers' Report notes that the urban edge follows the top of the locally prominent Sandstone Ridge. This edge is especially noticeable in long views from the east, particularly from the B4066 between Mobley and Berkeley, and from sections of the Berkeley Bypass. The B4066 is the principal road into Berkeley as the River Severn precludes access from the west by anything other than local traffic.
36. The Statement of Common Ground identifies that the site lies within Stroud District Council Landscape Character Area (LCA) Sandstone Ridge. The land at the foot of the slope, outside the appeal site, lies within the Undulating Lowlands LCA. The site and its surroundings display many of the characteristics of the Sandstone Ridge LCA including its arable and pasture use; the hedgerows enclosing medium scale fields; and the landscape being predominantly rural. The landscape has no specific designation or protection but it is locally both prominent and distinctive. It abuts a highly valued heritage landscape to the south which is considered in more detail below.
37. Local Plan Policy ES7 says that the Council's Landscape Assessment will be used when determining applications for development in the rural area. The policy sets out two criteria that have to be met for new development including a requirement that the location is sympathetic to and complements the landscape character and that natural features, such as trees and hedgerows that contribute to the landscape character of the wider area, should be retained and managed.

38. In this case the development is outside the settlement boundary and therefore it is inevitable that there will be some harm to the existing landscape character. One of the key characteristics identified in the LCT is the presence of more recent housing estates on the outskirts of Berkeley. The site also has to be seen in the context of its past. It was a landfill site and so the contours have been artificially changed; it is not an intact landscape. In addition, the housing along the top of the ridge above the site means that the landscape of the site's surroundings is not intact either. The Bypass, in a cutting below the site, also represents a modern landscape feature adjacent to the site.
39. The impact on trees and hedgerows is not a reason for refusal. The hedges between the fields would be retained, although a gap would need to be created in the hedge between the middle field and the northern field to allow access. The hedge adjacent to the Bypass, which is about 30 years old, would need to be removed and largely replanted.
40. Overall, while the landscape has no particular protection, the site itself is in agricultural use and contributes positively to the landscape character of the area. The proposed housing would fail to retain the open character of the site and would not complement the landscape character. This has to be seen in the context that it is not an intact landscape.
41. Concerning the effect on the setting of Berkeley, the site is quite well contained and from outside the site it is really only visible from the east. From public viewpoints to the north, south and west, there would be virtually no impact on the setting of Berkeley. The Council submitted a plan showing existing visibility (Christine Marsh: Plan HDA7) which identified public viewpoints from roads and footpaths. This plan is striking in that, disregarding the public footpath across the site, there are only open views of the site for a few metres around the Alkington Lane/ B4066 junction; for a short section of the Berkeley Bypass just below the site; and from a public footpath to the east (Hamfallow FP51). There are also partial views from around these open views and from Canonbury Street to the south of the site and further glimpses from the B4066, the Bypass and three public footpaths. Considering the fact that it would be on an east facing slope, public views from the east would be highly restricted.
42. In all these views the site is seen against the backdrop of the slope topped by a continuous row of houses and bungalows. From the Bypass, in particular, the two storey houses in Canon Park are highly visible at the top of the slope. This urban backdrop means that the impact on the setting of Berkeley is far more limited than would be the case if the top of the ridge had not already been developed by modern housing. It is from the B4066, around the junction with Alkington Lane, that the proposals would be likely to have their greatest visual impact. This is about 600m from the eastern boundary of the middle field. The southern field is closest to most observers' line of sight and this would remain undeveloped, thereby retaining a green and open foreground for Berkeley. Here the existing views of the field and the roofs of the bungalows on the ridge would remain.
43. I conclude on this issue that there would be some harm to the landscape character of the area and some limited conflict with Policy ES7. That is inevitable for any development outside settlement boundaries. In this instance, however, the development would not be unduly prominent in the landscape due to the limited number of viewpoints from which it could be seen.

Any harm would be local and the retention of hedges and the provision of additional landscaping would mean that, in the longer term, its visual impact would be limited. There would, nonetheless, be some limited conflict with the development plan.

The effect of the proposals on the setting of Berkeley Castle a Grade I listed building; on the setting of Berkeley Castle Registered Park, a Grade II Registered Park and Garden known as Home Park; and on the Berkeley Conservation Area, and in particular on the inter-relationship between these designated heritage assets and the town*

44. I have had regard to my statutory duties under the *Planning (Listed Buildings and Conservation Areas) Act 1990* as amended, and in particular sections 66(1) and 72(1). These require that I have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses and to pay special attention to the desirability of preserving or enhancing the character or appearance of a Conservation Area when considering whether to grant planning permission.
45. The northern boundary of the Berkeley Conservation Area is immediately to the south of the appeal site with a small part of the site falling within the Area. Within this Conservation Area is Berkeley Castle (Grade I) which is itself within the Berkeley Castle Registered Park and Garden (Grade II*). The part of this Garden known as Home Park lies to the south of Canonbury Street and around the castle itself. Part of this, between the castle and Canonbury Street, is wooded and is known as Castle Covert. There are further lines of mature trees either side of Canonbury Street. Adjacent to the castle is the church of St Mary the Virgin with its separate tower. There are many other listed buildings within the Conservation Area and, to the east of the site, is Pike House (Grade II).
46. I have considered the impact of the proposed development on each of the cited designated heritage assets. However, the first reason for refusal relates specifically to the castle, the registered parkland and the Conservation Area. It says that the proposals would lessen the legibility of the inter-relationship of the castle to the park, the town and the wider landscape. I have therefore considered the impact of the proposed development on the individual heritage assets first, before considering the impact on the legibility of the inter-relationship between these heritage assets.
47. I have had regard to the wide range of expert opinions that were before the Inquiry and to their extremely different conclusions on the likely impact of the proposals. I have also had regard to the fact that, before determining the planning application, the Council commissioned an independent Heritage and Landscape Assessment of the amended scheme. I have also considered the written opinions from Heritage England.
48. Concerning the Conservation Area, I fully accept the Council's contention that one of the key components of its setting, when approached from the east, is the element of surprise. I also accept that the views from the east are the key views as far as this appeal is concerned as that is the principal direction from which the appeal site can be seen. I do not accept, however, that when approaching from the east the town remains hidden over the brow of the hill. Indeed, the entire ridge line is topped by a row of bungalow roofs and, further north, by two storey houses. These properties flag up the presence of the town well before one arrives. Nonetheless, from the east, most of the

Conservation Area itself remains hidden and from the road there are only glimpses of the other principal buildings such as the castle and the church tower.

49. The amended scheme keeps the proposed development at arm's length from the Conservation Area. The field closest to the Area would remain open and the mature hedge that forms its northern boundary would be retained. This open space, and hedge, would provide a significant buffer and, as set out by the Council's consultants, would enable the Conservation Area boundary to be identifiable on the approach to Berkeley. The modern dwellings along the ridge line are clearly visible when approaching the town and encroach on the Conservation Area more closely than would the proposed development. Nonetheless, in views from around the B4066/ Alkington Lane junction and when looking north from Canonbury Street there would be some limited harm to the way in which the Conservation Area would be appreciated. This harm would be less than substantial.
50. The castle lies well to the south of the appeal site and there is no real inter-visibility between them. The trees in Castle Covert, as well as the trees and buildings either side of Canonbury Street, ensure that any glimpses of the castle from the appeal site are minimal. The only way in which the appeal site could be considered to form part of the setting of the castle is when viewed from the east, especially from the B4066. While it is possible to see glimpses of the castle, through trees, and the appeal site together from a short distance along the B4066, this view is fleeting and neither the significance of the castle, or its setting, can be readily appreciated from this viewpoint.
51. I agree with the opinion of the Council's consultants, and the appellant's expert witness, that the amended scheme would have no effect on the setting or significance of the castle.
52. Concerning the effect of the proposals on the setting of the Berkeley Castle Registered Park and Garden, this heritage asset is in two distinct parts. From Whitcliff Park, to the south, there would be distant views of the appeal site but due to the distance involved, the trees/ hedge along the southern boundary of the middle field and the existing housing to the west, the impact on the setting of this part of the asset would be negligible.
53. The significance of the Home Park part of the Park and Garden, which lies around the castle, is greater in that it forms the designed setting for the castle. The presence of Castle Covert, immediately to the north of the castle and between it and the appeal site, indicate that views to the north do not form part of any intended outlook or view from the castle or from Home Park. Indeed, from Home Park, the appeal site is completely hidden by trees, hedges and buildings. The appeal site clearly does not form part of any intended view out from this heritage asset. The development would not impact upon its significance. The proximity of the proposed development, and the views of Home Park and the appeal site from the east, would mean that there would be some, albeit limited, harm to its setting.
54. I have also considered the impact on the setting of Pike House which, although not referred to in the reasons for refusal, is a prominent listed building that appears in the foreground of views towards the castle, Home Park and the appeal site from the approaches to Berkeley along the B4066 from the east. This building has a historic link with the castle and replicates some of its

architectural features and it is recorded as a turnpike in 1824. Its location beside the road is an obvious necessity and is one that makes a considerable contribution to its setting. However, its immediate setting has been encroached upon by modern farm buildings. This inter-relationship is particularly noticeable in views from the public footpath across the appeal site.

55. Looking in the other direction, towards the appeal site from the B4066 to the west of Mobley, there would be a high degree of separation between the Pike House and the housing on the appeal site. In part of this gap the roofs of the bungalows above the southern field are visible but do not harm the setting. I agree with the Council's consultants that the proposals would not harm either the significance or the setting of this heritage asset.
56. The proposed housing would be almost completely screened from the castle by trees. There was much discussion at the Inquiry concerning the health and likely lifespan of a selection of these trees. However, these represent only a fraction of the total trees in the Castle Covert and it is evident that young trees are growing up in what is evidently managed woodland. These saplings will doubtless replace the mature trees in due course and there is no evidence that there are plans to clear the woodland. Indeed, it is part of the attraction for visitors to the castle and includes play facilities for children.
57. In considering the effect of the proposals on the legibility of the inter-relationship between these heritage assets, the topography is important but so too is existing development, planting and achievable views. There is no dispute between the parties that the principal views are from the east. That is the only direction from which this inter-relationship can really be appreciated. The trees in Castle Covert provide a highly effective screen such that, when the trees are in leaf, only limited glimpses of the castle and church tower can be achieved from the appeal site. While the slope of the hillside can be seen, much of this has already been regraded by landfill and in any case it is some distance from the castle. The proposals involve keeping the southern field undeveloped, with no housing to the south of an existing mature hedge, which would be retained.
58. The best place to view the town's various heritage assets, and the inter-relationship between them, is from the south/ south west. When viewed from here, this inter-relationship between the castle, Home Park, the town, including, in particular, the church and its detached tower, and the wider landscape is seen in the context of a significant amount of more recent housing in Berkeley. This housing does not unacceptably detract from the setting of the designated heritage assets or the inter-relationship between them. The town nestling around the castle is an important component in Berkeley's history.
59. The proposed houses would be sited a significant distance from the castle and some distance from the Conservation Area. While the appearance of part of the site would change, due to the proposed housing, there would be no change to the inter-relationship of the castle to the park or to the town. The slope of the land would still be able to be appreciated so the relationship of the castle to its landscape setting would remain. In a few, limited, views from the east, glimpses of the castle and views of the new housing would both be visible at the same time. However, visibility does not equate with harm. While I have found some limited, less than substantial harm to the setting of some heritage assets, I do not consider that the proposals would unacceptably lessen the

legibility of the inter-relationships cited in the reason for refusal. The less than substantial harm to the setting of heritage assets, and the resultant limited conflict with Local Plan Policy ES10, needs to be weighed with the public benefits of the proposal in accordance with paragraph 134 of the Framework and paragraph 5 of Policy ES10.

The planning balance

60. When the planning application was first reported to the Council's Development Control Committee in December 2014 it was with an Officer recommendation to approve. However, determination of it was deferred to enable the applicants to make amendments. In particular, to substantially reduce the adverse impacts on key heritage assets and make the application more acceptable in planning terms. There was no objection raised by Members to the principle of the development even though it was acknowledged that the site lies outside the settlement boundary of Berkeley and that the Council considered that it had a 5 year supply of deliverable sites for housing.
61. The application was subsequently amended, the number of dwellings was reduced and all the proposed housing was removed from the southern field, closest to the Conservation Area. Notwithstanding a further Officer recommendation to approve the development, in June 2015 Members resolved to refuse permission. The reasons for refusal related to heritage and landscape issues, not to the principle of development outside the settlement boundary. At that time the Stroud Local Plan had not yet been adopted and the development plan included the Stroud District Local Plan which ran until June 2011 and so was out of date albeit that some policies within it were subject to a Saving Direction (October 2008).
62. The Stroud Local Plan has now been adopted and forms part of the development plan for the area. The determination of this appeal must be made in the light of policies within that Plan. Policy CP1 includes a presumption in favour of sustainable development in line with the presumption as set out in paragraph 14 of the Framework, although as there is a five-year housing land supply the presumption as set out in paragraph 14 does not apply here.
63. The Framework says that the policies within it as a whole constitute the Government's view of what sustainable development in England means in practice. Paragraph 7 identifies that there are three dimensions to sustainable development: economic, social and environmental. In economic terms, the Local Plan says that the District will accommodate at least 11,400 additional dwellings by 2031. While I have identified that the Council can demonstrate a deliverable five-year housing land supply, this does not mean that further housing should necessarily be refused as the stated figure is a minimum provision, not a target. In any case, it is acknowledged that the figure of 11,400 cannot be reached by simply relying on allocations in the Local Plan and other land will need to come forward during the Plan period.
64. There are other economic benefits of the development, including the provision of jobs during the construction phase and the likely support that new residents would provide for shops and other businesses in Berkeley. This was a point raised by Berkeley Town Council, who spoke in support of the proposals at the Inquiry, and who described Berkeley as a town in decline that urgently needs new families to revitalise it and keep the local services.

65. I have had regard to concerns that the proposals may so harm the appearance of the area that there would be an impact on tourism. However, the proposed housing would be some distance from the Conservation Area and there is no unacceptable harm to the setting of the castle or other designated heritage assets. There is only one main public viewpoint from which the castle and the new development would be likely to be seen and, given the distance between them, the impact on the view would not be unacceptable or be likely to adversely affect tourism. The history of the area could still be "read" in the landscape and I do not consider that these proposals would harm tourism such as to have a significant adverse economic impact. Against this, there would undoubtedly be economic benefits arising from the proposals.
66. In terms of the social role, the new housing would be provided in reasonable proximity to the local services. The site immediately abuts the settlement boundary and there is existing housing to the west. There is pedestrian access through this housing that leads to the town centre and local services. The Town Council produced its Town Housing Needs Survey (2010) which, while not fully up to date, demonstrated a need for affordable housing in Berkeley. The provision of affordable housing would be a social benefit of some weight as there is a significant need for additional affordable housing in the District.
67. While the Council argued that the site is not in a sustainable location, this seems at odds with the Officers' reports in respect of the provision of affordable housing at Fishers Road which was described as being in a highly sustainable location in Berkeley. The Officers' report in respect of a planning application for a rural exception scheme of 10 affordable dwellings in Lynch Road, on a site outside but abutting the settlement boundary, commented that the site had easy access to facilities within the town indicating a degree of sustainability. While there could be some reliance on the car in this semi-rural location this was not judged sufficient to warrant refusal.
68. As set out above there would be some less than substantial harm to the setting of the Conservation Area and some limited harm to the landscape. However, the houses would be separated from the Conservation Area by the southern field and it has a mature hedge along its northern boundary that would minimise the impact. In landscape terms there would be some harm arising from the development. This is inevitable for any housing on a greenfield site. The only views of the site are from the east and, in those views, the housing along the ridge is already visible so the harm is localised, limited and contained. In addition, there is ample scope for additional landscaping to supplement the retained hedges and to minimise any harm.
69. On balance, therefore, while there is some environmental harm, this is limited and localised and is significantly outweighed by the economic and social benefits of the development. I conclude that the proposals comprise sustainable development as described in the Framework. While this does not trigger the presumption set out in paragraph 14 of the Framework, this nonetheless weighs in favour of the development.
70. I have also had regard to the provisions of Policies CP2, CP3 and CP15 of the Local Plan. This Plan post-dates the decision on this planning application and, although the (then) emerging Policy CP3 is referred to in the Officers' reports to Committee, conflict with it does not form any part of the reasons for refusal. Indeed, when the application was initially deferred by Members, the reasons for

the deferral do not mention any concern about the site's location outside the settlement boundary or refer to these emerging policies.

71. Nonetheless, the site is not identified in Policy CP2 as a strategic housing site and this policy also says that housing development will take place within settlement development limits. Only limited development will take place outside of these areas and in accordance with other policies in the Plan. Policy CP2 also states that outside the strategic sites, development will take place in accordance with the settlement hierarchy set out in the Plan.
72. This hierarchy is set out in Policy CP3 which identifies Berkeley as a second tier settlement and as a Local Service Centre. The policy says that these Centres have the potential to provide for modest levels of jobs and homes in order to help sustain and, where necessary, enhance their services and facilities. Supporting paragraphs 2.74 and 2.76 of the Local Plan refer to concentrating housing growth in settlements and within defined settlement boundaries. Policy CP15 sets out the principles with which development outside identified settlement development limits need to comply. These proposals do not comply with any of the cited principles.
73. The appeal site lies outside the settlement boundary of Berkeley and so the proposals are in conflict with these policies. Although the Council has not cited this conflict in its reasons for refusal, it nevertheless weighs against the development in the overall planning balance.
74. I have concluded that the Council can demonstrate a deliverable five-year supply of housing land and that the proposals comprise sustainable development as described in the Framework. The identified harm to designated heritage assets is less than substantial and this harm is outweighed by the public benefits as set out above. The harm to the landscape is localised and limited. It principally affects views from the east and views looking out from the public footpath within the site. There is also conflict with the development plan, and in particular with part of Policy CP2 and with Policy CP3.
75. The benefits of the proposals have to be weighed against this harm. These include the stated objective of accommodating at least 11,400 additional dwellings in the District by 2031 as set out in Policy CP2. **The other benefits include the provision of market housing in accordance with the Government's objective, as set out in paragraph 47 of the Framework, of boosting significantly the supply of housing. The provision of 56 units of affordable housing carries significant weight in the light of the acknowledged shortage in the District. The economic and social benefits outlined above all weigh in favour of the proposals.**

Conditions and Undertakings

Conditions

76. The parties set out a list of agreed conditions in the SoCG. These were discussed at the Inquiry and, where appropriate, I have amended them. A condition identifying the approved plans is necessary for the avoidance of doubt. Conditions concerning external materials, boundary treatments, landscaping and tree protection measures are necessary in order to protect the appearance of the area.

77. Details of the proposed pumping station, surface water drainage and foul sewerage and drainage need to be submitted to and approved by the Local Planning Authority in order to reduce the risk of flooding and minimise the risk of pollution and because no such details have been submitted. Details of a scheme to deal with any ground contamination are necessary to protect the health of future residents and due to the landfill that has taken place on the site. Details of the construction of foundations are required to safeguard ground waters.
78. Details of a Construction Environmental Management Plan, a Landscape Ecological Management Plan, a lighting strategy, the proposed pond and access to the Key Wildlife Site are required to safeguard flora and fauna on the site and using the site and its surroundings. A programme of archaeological work is necessary to advance understanding of heritage assets which otherwise may be lost.
79. The carriageways and pedestrian links and improvements need to be provided and constructed in accordance with approved details, including a timescale for their provision, and in accordance with the approved plans to ensure that there is a satisfactory means of access to the dwellings before they are first occupied and that there are safe and suitable pedestrian routes. The details of the proposed bus stop improvements need to be submitted to ensure that these are provided before the dwellings are first occupied. A construction method statement is needed to minimise potential impact on the public highway. Fire hydrants need to be provided to ensure that there is adequate water infrastructure in the event of fire. Noise mitigation measures need to be provided for the identified dwellings close to the Bypass to ensure an adequate level of residential amenity for future residents.

Undertakings

80. The appellant initially submitted two draft Agreements under s106 of the Act but, due to differences of opinion with the two Councils involved (Stroud District Council and Gloucestershire County Council), two UUs in draft form were submitted towards the close of the Inquiry and were the subject of discussion on the final day of the Inquiry. Completed UUs were subsequently submitted in accordance with an agreed timetable. The obligations comprise financial contributions towards pre-school provision; primary school provision; libraries; public transport enhancements; a travel plan and off-site recreation in Berkeley. Provision is also made for 30% of the housing to comprise affordable housing.
81. Concerning the UU to the District Council (Document 56), this is unacceptable to the Council for various reasons. While the Council acknowledges that some of the points it raised at the Inquiry have been acceptably amended, there remain a number of areas where the UU remains unacceptable. However, there is no suggestion that the UU is in any way invalid; it simply does not include all the detailed requirements sought by the Council.
82. With regard to the outstanding issues, the disputed wording is not so unacceptable that it would mean that either the affordable housing or the open space would not be provided. The lack of a requirement to provide a certified copy of the transfer of the affordable housing to the Registered Provider, for example, may make monitoring more difficult but would not prevent or even delay the transfer. With regard to the Council's concerns about the provision of

service systems within the Open Space, as set out in paragraph 3.6 of the UU, I have imposed a condition requiring the Council's approval of any such systems within this part of the site to ensure that the integrity of the Open Space will be maintained. Overall I am satisfied that the main objectives of the UU will be achieved even if some of the details are not in accordance with the Council's preference.

83. Concerning the UU to the County Council (Document 57), the District Council has stated that although many of the points that had been in dispute have been resolved it remains unacceptable to the County Council as there is no agreement concerning the question of bonding. The remainder of the UU, including the education, pre-school, libraries, transport, and travel plan contributions, as well as the residential travel plan, are all acceptable to the County Council.
84. The County Council wants the financial contributions to be paid up front to ensure that they are paid as their powers of enforcement under s106 cannot achieve an instant receipt of monies should the developer breach the obligation. However, the UU ensures that the contributions are phased such that they are triggered by the occupation of various proportions of the dwellings. This ensures that the contributions are due before the development is completed and fully occupied.
85. Of greater concern is the fact that the County Council is not a signatory to the Undertaking and so there is nothing in the UU to ensure that the contributions are used for the purposes specified in the UU. However, I consider that it is a reasonable expectation that a responsible public body would use the monies for the stated purposes.
86. Overall I am satisfied that both the UUs are valid and meet the tests in paragraph 204 of the Framework and accord with the provisions of the Regulation 122 of the Community Infrastructure Levy Regulations. I can therefore take them into account in this Decision.

Conclusions

87. I conclude that there is some conflict with the development plan albeit that the plan pulls in different directions. The other material considerations include the scheme providing much needed market and affordable housing; that it would constitute sustainable development; that the Council raised no policy objections in its reasons for refusal to the housing being sited outside the settlement boundary; and the support for the proposals from the local community in the form of the Town Council. I conclude that the policies that support the proposals, taken together with the other material considerations outlined above, carry the greater weight and outweigh the limited harm that would arise. The other material considerations, therefore, are such that they outweigh the provisions of the development plan and so the appeal is allowed.

Clive Hughes

Inspector

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MTP MRTPI	
Peter Stockall BSc DipTP	Director, Bilfinger GVA
MRTPI	
Paul Moody	Persimmon Homes

FOR THE LOCAL PLANNING AUTHORITY:

Sasha Blackmore	Of Counsel; instructed by Council Solicitor
She called	
Mark Hemming HND(Arb)	Tree Officer, Stroud DC
Christine Marsh BA(Hons)	Associate Landscape Architect, Hankinson
DipLA CMLI	Duckett Associates
Kate Russell BA MSc IHBC	Conservation Officer, Stroud DC
Mark Russell BA(Hons)	Planning Strategy Manager, Stroud DC
DipUP MRTPI	
John Longmuir BA(Hons)	Development Manager, Stroud DC
DipUD MRTPI	
Mike Wallbank	Solicitor, Stroud DC

INTERESTED PERSONS:

Charles Berkeley	Local resident
Ralph Pinnell	Local resident
Prue Vernon	CPRE
Barbara Gibbons	Local resident
John Stanton	Local resident
Cllr Gordon Craig	District Councillor
Liz Ashton	Mayor of Berkeley; Chair, Berkeley Town Council
Jean Stanton	Local resident

DOCUMENTS SUBMITTED DURING THE INQUIRY

- 1 Appellant's opening statement
- 2 Local Planning Authority's opening remarks
- 3 Plan showing positions of trees (Mark Hemming)
- 4 Street elevations (Drawing No SE.01 Rev B)

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- 5 Rob Sutton – Summary of evidence
 - 6 Rob Sutton’s cv
 - 7 Statement by Charles Berkeley
 - 8 Notice of Decision by Stroud District Council’s Standards Panel
 - 9 Figure 5.2.1 of evidence of David Parker
 - 10 Tables JRT11 and JR12 to evidence of Jeff Richards
 - 11 Updated list of application documents and plans
 - 12 Stroud District Council Constitution
 - 13 Statement by Prue Vernon on behalf of CPRE
 - 14 Statement by Barbara Gibbons
 - 15 Bundle of 7 photographs submitted by Barbara Gibbons
 - 16 Statement by John Stanton and 3 accompanying photographs
 - 17 Statement by Cllr Gordon Craig
 - 18 Statement by Jean Stanton
 - 19 Extract from book by Simon Jenkins
 - 20 Council’s neighbour notification letter
 - 21 List of persons notified by Council
 - 22 Comparison between evidence of Mark Hemming and Jeremy Barrell in respect of 11 identified trees
 - 23 Plan showing positions of the 11 identified trees and photographs
 - 24 Document bundle produced by Turley in advance of round table discussion
 - 25 Bleeding canker of the horse chestnut (Forest Research)
 - 26 Appeal decision APP/C1625/A/11/2165671 – Land off Box Road, Cam, Gloucs.
 - 27 Photograph of trees looking towards Canonbury Street
 - 28 Claim Form: Stroud DC vs SoSCLG, Crest Nicholson (South west) Ltd and Kingswood Parish Council (CO/1717/2016)
 - 29 Stroud DC vs SoSCLG [2016] EWHC 1940 (Admin)
 - 30 Examination of the Stroud District Local Plan: Inspector’s initial conclusions on Stage 1 of the Examination (02.06.14)
 - 31 Appeal decision APP/C1625/A/11/2165865 Land at Sellars farm, Hardwicke, Gloucs.
 - 32 Statement and enclosures of Liz Ashton, Berkeley Town Council
 - 33 A Review of Stroud DC’s Five Year Housing Land Supply – Evans Jones (Sept 2013)
 - 34 Annual completions compared against annual requirements
 - 35 Plans for 4 round table sites
 - 36 Case Officer’s Review: Garages, Fishers Road, Berkeley
 - 37 Officer’s Report: Lynch Road, Berkeley
 - 38 OAHN Note
 - 39 Site layout plan, Leonard Stanley, Stonehouse (S16/1398/REM)
 - 40 Site layout plan, Land off Chestnut Park Estate, Kingswood
 - 41 Email from Brinley Owen to Mark Russell re Hunts Grove (11 August 2016)
 - 42 Email from Pippa Stroud re Fountain Crescent, Wootton Under Edge (11 August 2016)
 - 43 Email from Mark Russell to Tony Clements re Hunts Grove (11 August 2016)
 - 44 Stroud DC’s comments on draft UU and copy of draft UU
 - 45 Local Planning Authority’s closing remarks
 - 46 Forest of Dean vs SoSCLG and Gladman [2016] EWHC 421 (Admin)
 - 47 Appellant’s closing submissions
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- 48 Application for costs by appellant
- 49 Application for costs by Local Planning Authority
- 50 Emails from Jamie Cooper to Peter Stockall & PINS concerning adoption of Local Plan (25 November 2015)
- 51 Email from Charles Banner to Sasha Blackmore concerning Council scheme of delegation (12 August 2016)
- 52 Draft UU to Gloucestershire County Council
- 53 Comments by Gloucestershire CC on Draft UU

DOCUMENTS SUBMITTED AFTER THE CLOSE OF THE INQUIRY

- 54 Letter dated 19 August 2016 (with enclosures) from Stroud DC to PINS concerning the submitted Unilateral Undertakings
- 55 Letter dated 24 August 2016 (with enclosures) from Davies and Partners Solicitors to PINS responding to Stroud DC's comments
- 56 Deed of Unilateral Undertaking to Stroud District Council dated 24 August 2016
- 57 Deed of Unilateral Undertaking to Gloucestershire County Council dated 24 August 2016

Annex 1 – List of Conditions (30 conditions)

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the approved plans listed in Annex 2 to this Decision.
- 3) No development shall commence until samples of the materials to be used in the construction of the external surfaces of the buildings hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved samples.
- 4) Prior to the first occupation of any of the dwellings hereby permitted, full plans and construction details including materials of all boundary walling and fencing, in broad accordance with Drawing No PERS130306-SWBP.01 Rev E, shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in accordance with the approved scheme.
- 5) Prior to the commencement of the development hereby permitted, full plans and construction details (including materials) of the proposed pumping station shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in accordance with the approved plans and maintained as such thereafter.
- 6) No development of any form (other than investigative works required in compliance with this condition) shall take place until a scheme of surface water disposal has been submitted to and approved in writing by the Local Planning Authority. Before these details are submitted an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system in accordance with the

principles set out in the Framework and the results of the assessment provided to the Local Planning Authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:

- i. provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
- ii. include a timetable for its implementation; and
- iii. provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

The approved drainage scheme shall then be implemented prior to the first occupation of the dwelling to which it relates.

- 7) No development of any form (other than investigative works required in compliance with this condition) shall take place until a scheme for the drainage of foul sewerage has been submitted to and approved in writing by the Local Planning Authority. The submitted scheme should be supported by the appropriate level of required evidence of ground conditions and modelling of the scheme to demonstrate that they are feasible. The scheme shall then be implemented in accordance with the approved details prior to the occupation of the phase of the development to which it relates.
- 8) No development of any form (other than investigative works required in compliance with this condition) shall take place until a scheme to deal with ground contamination, controlled waters and/or ground gas has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include all of the following measures, unless the Local Planning Authority dispenses with any such requirement specifically in writing:-
 - i. A Phase I site investigation carried out by a competent person to include a desk study, site walkover, the production of a site conceptual model and a human health and environmental risk assessment, undertaken in accordance with BS 10175:2011 Investigation of Potentially Contaminated Sites – Code of Practice.
 - ii. If identified as required by the above approved Phase 1 site investigation report, a Phase II intrusive investigation report detailing all investigative works and sampling on site, together with the results of the analysis, undertaken in accordance with BS 10175:2011 Investigation of Potentially Contaminated Sites – Code of Practice. Where required, the report shall include a detailed quantitative human health and environmental risk assessment including off site receptors.
 - iii. If identified as required by the above approved Phase II intrusive investigation report, a remediation scheme detailing how the remediation will be undertaken, what methods will be used and what is to be achieved. A clear end-point of the remediation should be stated, such as site contaminant levels or a risk management action, as well as how this will be validated. Any ongoing monitoring should also be outlined. No

deviation shall be made from this scheme without prior written approval from the Local Planning Authority.

No part of the development hereby permitted shall be occupied until:-

1. Any previously unidentified contamination encountered during the works has been fully assessed and an appropriate remediation scheme submitted to and approved in writing by the Local Planning Authority.
 2. A verification report detailing the remediation works undertaken and quality assurance certificates to show that the works have been carried out in full accordance with the approved methodology has been submitted to, and approved in writing by, the Local Planning Authority. Details of any post-remedial sampling and analysis to show that the site has reached the required clean-up criteria shall be included, together with the necessary documentation detailing what waste materials have been removed from the site.
- 9) No development of any form (other than investigative works required in compliance with this condition) shall take place, until a comprehensive scheme of foundation construction for all dwellings (on a plot by plot basis) and other buildings hereby permitted has been submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall include full details as to the method of foundation construction and design including any penetrative or piling measures. The development shall be carried out in strict accordance with the approved details.
- 10) No development of any form (other than investigative works required in compliance with this condition) shall take place until a Construction Environmental Management Plan has been submitted to and approved in writing by the Local Planning Authority. The submitted plan shall include comprehensive measures and timetable to safeguard all ecological interests on the site during all stages of construction from site clearance to final occupation. The development shall then be carried out in strict accordance with the approved plan for the duration of all construction related activities.
- 11) The development hereby permitted should not commence until a detailed Landscape Ecological Management Plan has been submitted to and approved in writing by the Local Planning Authority. The submitted plan shall include full details as to how and by whom such areas are to be managed along with the extent of such areas and their maintenance regime. The development shall then be carried out and maintained in accordance with the approved plan.
- 12) Prior to the first occupation of any of the dwellings hereby permitted, a comprehensive lighting strategy, including a timetable for its implementation, shall be submitted to and approved in writing by the Local Planning Authority. The submitted strategy shall include full details as to the extent, nature and location of all external lighting sources for all areas of the development. The development shall then be carried out and maintained in accordance with the approved strategy.
- 13) The development hereby permitted shall not commence until full construction details and plans of the proposed wildlife pond have been submitted to and approved in writing by the Local Planning Authority. The

submitted plan shall include full details as to the size, volume and design of the pond along with a timetable for its implementation and details of a maintenance regime. The development shall then be carried out and maintained in accordance with the approved plan.

- 14) The development hereby permitted should not commence until a scheme (limited to the proposed measures provided in Environmental Statement Addendum October 2014 and MWA Response to Stroud DC 12 August 2014 comprising signage and if deemed necessary and feasible, a dog waste bin) for the management of public access from the development to the Key Wildlife Site of the Berkeley Heath Water Meadows has been submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out and maintained in accordance with the approved scheme.
- 15) No development shall take place within the application site until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved in writing by the Local Planning Authority.
- 16) No development shall commence until details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include:
 - i) a statement setting out the design objectives and how these will be delivered;
 - ii) earthworks showing existing and proposed finished levels or contours;
 - iii) means of enclosure and retaining structures;
 - iv) boundary treatments;
 - v) hard surfacing materials; and
 - vi) an implementation programme, including phasing of work where relevant.

The landscaping works shall be carried out in accordance with the approved details before any part of the development is first occupied in accordance with the agreed implementation programme.

- 17) All planting comprised in the approved details of landscaping should be carried out during the months of October to March inclusive following occupation of the building or completion of the development, whichever is sooner.
- 18) No development of any form (other than works required in compliance with this condition) shall take place until a scheme of tree protection works for the retention of all retained trees and hedges has been submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall be prepared in accordance with the recommendations within BS 5837:2012 and shall include a timetable for the implementation and maintenance of such works. The Tree Protection Works shall then be implemented in accordance with the approved scheme and timetable and maintained as such for the duration of all construction related activities.

- 19) No development of any form (other than works required in compliance with this condition) shall take place until an Arboricultural Constraints Plan has been submitted to and approved in writing by the Local Planning Authority. The submitted documentation shall include full details of all works and engineering operations (includes level changes, services runs and surfacing works) proposed within identified root protection zones (RTZs) and related mitigation works. The development shall then be carried out in accordance with the approved scheme.
- 20) None of the dwellings hereby permitted shall be occupied until the carriageway(s) (including surface water drainage/disposal, vehicular turning head(s) and street lighting) providing access from the nearest public highway to that dwelling have been completed to at least binder course level and the footway(s) to surface course level.
- 21) None of the dwellings hereby permitted shall be occupied until a scheme has been submitted to and approved in writing by the Local Planning Authority for the provision of fire hydrants (served by mains water supply). No individual dwelling shall be occupied until the hydrant serving that property has been provided in accordance with the approved scheme.
- 22) No housing building operations shall commence until the first 20m of the proposed access road, including the junction with the existing public road and associated visibility splays, has been completed to at least binder course level in accordance with plan no P646/10D and shall be retained as such thereafter unless and until adopted as highway maintainable at public expense.
- 23) None of the dwellings hereby permitted shall be occupied until the site access has been completed in all respects in accordance with plan no P646/10D including footways and the pedestrian refuge and this access shall be retained as such thereafter unless and until adopted as highway maintainable at public expense.
- 24) No development shall commence until details of the proposed pedestrian improvements identified on plan P646/27 together with enhancements (limited to dropped kerbs and tactile paving only) to provide further pedestrian crossing points at the junctions of The Leys and Canon Park (across the Leys), and Fieldview and Station Road (northern and eastern arms), have been submitted to and approved in writing by the Local Planning Authority. Unless otherwise agreed in writing with the Local Planning Authority, the approved works shall then be completed in all respects prior to first occupation and shall be retained as such thereafter unless and until adopted as highway maintainable at public expense.
- 25) No development shall commence until details of the works to the proposed pedestrian links to the south (as shown on Plan P646/27 with the further addition of cyclist dismount signage) and west of the site (limited to end of cycleway signage) have been submitted to and agreed in writing by the Local Planning Authority. Unless otherwise agreed in writing with the Authority, the approved works shall then be completed in all respects prior to first occupation and shall be retained as such thereafter unless and until adopted as highway maintainable at public expense.

- 26) Prior to commencement of the residential units hereby approved details of bus stop enhancements (comprising shelters, timetables and raised platforms) at the existing 'Canon Park' bus stops on Station Road and the existing 'Berkeley Castle' bus stops on Canonbury Street shall have been submitted to and approved in writing by the Local Planning Authority. Unless otherwise agreed in writing with the Authority, the approved works shall then be completed in all respects prior to first occupation and shall be retained as such thereafter unless and until adopted as highway maintainable at public expense.
- 27) Prior to the commencement of development details of bollards or similar traffic calming or constraining measures to be provided at the entrances to the existing public footpath (as defined on Plan P646/27 and the connection point onto B4066) across the site (part of Berkeley Footpath 3), together with a timetable for implementation shall be submitted to and approved in writing by the Local Planning Authority. The development will thereafter be completed in accordance with the agreed details unless otherwise agreed in writing with the Authority.
- 28) The development hereby permitted shall not commence until a Construction Method Statement has been submitted to, and approved in writing by the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall include full details and plans of:
- i. areas for the parking of vehicles of site operatives and visitors;
 - ii. areas for the loading and unloading of plant and materials;
 - iii. areas for the storage of plant and materials used in constructing the development;
 - iv. wheel washing facilities;
 - v. measures to control the emission of dust and dirt during construction; and
 - vi. hours of site working / operation.
- 29) The development hereby approved will be carried out in strict accordance with the recommended mitigation measures set out within the submitted Hepworth Acoustics Noise Assessment 31529.1 v3 dated March 2014 and verification provided prior to occupation of the dwellings to which the mitigation relates.
- 30) The development hereby permitted shall not commence until details of the installation and maintenance of any water, gas, electricity or telecommunication service systems to be installed within that part of the site to the south of Plot 131 have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Appeal Decision APP/C1625/W/15/3133335

Annex 2 - List of Plans**FINAL SUBMITTED PLANNING DRAWINGS**

Drawing Description	Doc Number	Size	Amendments																
Location Plan	LP.01	A3			\														
Site Layout	SL.01	A0	F	G	\	B	D	E	F	G	H	I	J	J	K	L			
Coloured Site Layout	SL.01	A0			\									J	K				
Existing Site Layout	ESL.01	A0			\									\					
Site Sections / Street Elevations	SE.01	A1			\									A	B				
Adoptable Coding Layout	ACL.01	A0																	\
Materials Layout	ML.01	A0			\						A	B	C	D	E				
Boundary Plan	BP.01	A0			\						A	B	C	D	E				
Affordable Housing Layout	AHP.01	A0			\						A	B	C	D	E	F			
Landscape Management Plan	LMP.01	A0															\	A	
House Type Alnwick Plans & Elevations	HT.ALN.pe	A3			\									\					
House Type Hanbury Plans & Elevations	HT.HAN	A3			\									\					
House Type Souter Elevations	HT.SOU.e	A3			\									\					
House Type Souter Plans	HT.SOU.p	A3			\									\					
House Type Hatfield Plans & Elevations	HT.HAT	A3			\									\					
House Type Stafford Plans & Elevations	HT.STA.pe	A3			\									\					
House Type Rushbury Plans & Elevations	HT.RUS.pe	A3			\									\					
House Type Lumley Elevations	HT.LUM.e	A3			\									\					
House Type Lumley Plans	HT.LUM.p	A3			\									\					
House Type Chedworth Plans & Elevations	HT.CHE.pe	A3			\									\					
House Type Chedworth A Plans & Elevations	HT.CHE.A.pe	A3			\									\					
House Type Warwick Plans & Elevations	HT.WAR.pe	A3			\									\					
House Type Taunton Plans & Elevations	HT.TAU.pe	A3			\									\					
House Type Marylebone Plans & Elevations	HT.MAR.pe	A3			\									\					
House Type Fenchurch Elevations	HT.FEN.e	A3			\									\					
House Type Fenchurch Plans	HT.FEN.p	A3			\									\					
House Type Bond Elevations	HT.BON.e	A3			\									\					
House Type Bond Plans	HT.BON.p	A3			\									\					
House Type Bond A Elevations	HT.BON.A.e	A3			\									\					
House Type Bond A Plans	HT.BON.A.p	A3			\									\					
House Type Holbum Elevations	HT.HOL.e	A3			\									\					
House Type Holbum Plans	HT.HOL.p	A3			\									\					
House Type Holbum A Elevations	HT.HOL.A.e	A3			\									A					
House Type Holbum A Plans	HT.HOL.A.p	A3			\									A					
House Type 2BH Plans & Elevations	HT.2BH.pe	A3			\									\					
House Type 3BH Plans & Elevations	HT.3BH.pe	A3			\									\					
House Type 4BH Plans & Elevations	HT.4BH.pe	A3			\									\					
Garages Sheet 1	GAR.01.pe	A3			\									\					
Garages Sheet 2	GAR.02.pe	A3			\									\					
Garages Sheet 3	GAR.03.pe	A3			\									\					
Garages Sheet 4	GAR.04.pe	A3			\									\					

Costs Decision

Inquiry opened on 2 August 2016

Site visit made on 16 August 2016

by Clive Hughes BA(Hons) MA DMS MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 21 November 2016

Costs application in relation to Appeal Ref: APP/C1625/W/15/3133335 Land rear of Canonbury Street, Berkeley, Gloucestershire

- The application is made under the Town and Country Planning Act 1990, sections 78, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Charles Church Developments Ltd for a partial award of costs against Stroud District Council.
 - The inquiry was in connection with an appeal against the refusal of planning permission for the erection of 188 dwellings, provision of new access from B4066, landscaping and associated infrastructure.
 - The inquiry sat for 8 days on 2 to 5 and 9 to 12 August 2016.
-

Decision

1. The application for an award of costs is refused.

The submissions for Charles Church Developments Ltd

2. The application was made in writing (Inquiry Document 48) and sought to recover the appellant's costs in respect of two specific matters. These relate to (i) trees and (ii) the Council's new argument that planning permission should be refused for policy reasons even if the cited reasons for refusal are not upheld. In respect of (i) the Council could have saved Inquiry time if the trees the Council considered to be particularly relevant had been identified in advance. Concerning (ii) the Council was, in substance, saying that there is a policy reason for refusal, notwithstanding its absence from the Members' stated reasons for refusing the planning application. This situation is covered by the 6th bullet point of paragraph 16-47-20140306 of Planning Practice Guidance (PPG).

The response by Stroud District Council

3. In response to point (i), the Council's Statement of Case (SoC) made it clear that the Council intended to bring evidence concerning the longevity of the trees. There was no wasted expense. The parties' respective witnesses carried out a site visit together and there was little common ground; they could not even agree on the likely life span of the trees. The SoC makes it clear that the Council intended to give evidence in respect of the health and likely longevity of the trees within the castle grounds.
4. Concerning (ii) this related to Policies CP2, CP3 and CP15 of the Local Plan. The appellant was continuing to misinterpret and misunderstand the Council's case, despite the number of times it had been discussed during the Inquiry. The Statement of Common Ground (SoCG) identifies that these policies would

be discussed at the Inquiry. All parties knew they would be discussed. They form part of the development plan. There were no extra costs related to discussing them. The policies form part of the s38(6) balance.

Reasons

5. Paragraph 16-028-20140306 of PPG advises that parties in planning appeals normally meet their own expenses and that all parties are expected to behave reasonably to support an efficient and timely process. Where a party has behaved unreasonably, and this has directly caused another party to incur unnecessary or wasted expense in the appeal process, they may be subject to an award of costs.
6. With regard to the evidence concerning trees, this was clearly in support of the council's first reason for refusal as it relates specifically to the inter-relationship of the castle to the park, the town and the wider landscape. If the trees were not there, the legibility of that inter-relationship would be clearer. The Council flagged in advance that the health and likely longevity of the trees within the castle grounds was an issue that it would pursue at the Inquiry. That was set out clearly in paragraph 3.12 of its SoC. While it would have been helpful if the Council had set out in advance which trees it had particular concerns with, given the level of disagreement between the parties, and the need for the appellant's witness to refer to other trees within the grounds, I do not consider that this unreasonably extended the Inquiry or resulted in wasted expenditure by the appellant. This is also evidenced by the fact that a joint site meeting between the respective expert witnesses, held before the Inquiry opened, did not resolve the issue.
7. Concerning Local Plan Policies CP2, CP3 and CP15 these policies form part of the development plan and are clearly material considerations. One of the Council's witnesses, under cross examination, implied that these policies on their own would represent ground for dismissing the appeal. However, he also made it clear that these policies were not cited in the reasons for refusal. I acknowledge that the Council was in a difficult position when determining the application of this appeal in that at that time it could not demonstrate a five-year housing land supply and it did not have an up to date Local Plan. Circumstances changed and by the time of the appeal, however, the Council was able to argue that it had both a five-year housing land supply and an up to date Local Plan.
8. The Council repeatedly made it clear that it was not advancing a new reason for refusal. The development plan is the starting point and these policies form part of that and so must be a material consideration of some weight. I accept, however, that the Council was not advancing a new reason for refusal and this appeal has been determined on that understanding. The SoCG, at paragraph 5.4, makes it clear that all three policies would be discussed at the inquiry as they "go to the heart of the overall Plan strategy". The discussion of these policies was essential to a full understanding of the Local Plan. This discussion did not result in any wasted or unnecessary expense for the appellant.
9. Concerning the applications made by both parties for the recovery of their costs in making the applications for costs, I do not consider that such an award is appropriate for either party as neither party has demonstrated that there was unreasonable behaviour by the other party.

10. I therefore conclude that unreasonable behaviour, resulting in unnecessary expense as described in PPG, has not been demonstrated and that an award of costs is not justified.

Clive Hughes

Inspector

Costs Decision

Inquiry opened on 2 August 2016

Site visit made on 16 August 2016

by Clive Hughes BA(Hons) MA DMS MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 21 November 2016

Costs application in relation to Appeal Ref: APP/C1625/W/15/3133335 Land rear of Canonbury Street, Berkeley, Gloucestershire

- The application is made under the Town and Country Planning Act 1990, sections 78, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Stroud District Council for a partial award of costs against Charles Church Developments Ltd.
 - The inquiry was in connection with an appeal against the refusal of planning permission for the erection of 188 dwellings, provision of new access from B4066, landscaping and associated infrastructure.
 - The inquiry sat for 8 days on 2 to 5 and 9 to 12 August 2016.
-

Decision

1. The application for an award of costs is refused.

The submissions for Stroud District Council

2. The application for a partial award of costs was made in writing (Inquiry Document 49). It alleges unreasonable behaviour by the appellant in respect of 4 matters: (i) an alleged new reason for refusal based on Local Plan Policies CP2 and CP3; (ii) the late introduction of a new issue based upon the OAHN; (iii) changes to the Unilateral Undertaking at a late stage; and (iv) changes to the appellant's Statement of Case (SoC) in respect of the five-year housing land supply. The Council also sought costs in respect of making the application for an award of costs.
3. In reply to the appellant's response, the Council added that Policies CP2 and CP3 form part of the overall planning balance. In respect of the OAHN the Council was put in a difficult position as it did not want to incur additional expense arising from an adjournment. The joint position statement (Inquiry Document 38) does not mean that the appellant had acted reasonably. The Inspector had raised concerns about delivery of affordable housing at an early stage. Concerning the appellant's SoC the Council was faced with a moving target. Knowing the case being put against you in advance is important.

The response by Charles Church Developments Ltd

4. The appellant responded to each part of the application in turn. In respect of Policies CP2 and CP3 (i), these policies formed part of the Council's case so cross examination was reasonable and the appellant cannot understand the Council's concerns about wasted time. The appellant had sought clarification from the Council as to whether these policies were part of the reasons for refusal and had sought further clarification as to whether Officers had

delegated powers to add to the reasons for refusal. This clarification had been sought by email as a formal response was required.

5. Concerning the OAHN (ii), this has to be seen in the light of the fact that the appellant's Statement of Case was submitted in August 2015, long before the Local Plan was adopted. The appellant's evidence on this topic relates to events in May to July 2016 so it was not unreasonable to raise them. The SoC predates these changes. A position statement was produced by the parties so no Inquiry time was wasted.
6. The appellant changed the s106 Agreement (iii) to accommodate the requirements of the Council. It was an attempt to respond to the criticisms in the Council's evidence and was part of the normal negotiation process. In the event the appellant chose to withdraw the s106 and submit a Unilateral Undertaking.
7. With regard to the five-year housing land supply (iv) the appellant's Statement of case pre-dated the Local Plan Inspector's Report. It is not possible to freeze this issue at any given point in time. Had the appellant set out the position in August 2015, in the SoC, it would have been a wasted exercise as the figures would have been so far out of date.
8. In response to the application for the recovery in respect of making the application for a partial award of costs, the appellant sought recovery of the costs involved in the appellant's application for costs.

Reasons

9. Paragraph 16-028-20140306 of Planning Practice Guidance (PPG) advises that parties in planning appeals normally meet their own expenses and that all parties are expected to behave reasonably to support an efficient and timely process. Where a party has behaved unreasonably, and this has directly caused another party to incur unnecessary or wasted expense in the appeal process, they may be subject to an award of costs.
10. With regard to Policies CP2 and CP3, I have accepted the Council's position concerning their relevance to the determination of this appeal. Put simply, they form part of the development plan. At one point, during a cross examination, it appeared that the Council may have been trying to introduce them in a third reason for refusal that had not been put forward by Members. It was reasonable for the appellant to seek clarification and to ensure that there was no prejudice to the appellant's position. While the appellant's response may have gone further than was necessary, it would have been helpful if the Council made its position clear at the outset. I do not consider that either party acted unreasonably in this regard, although Inquiry time could have been saved had the parties made their respective positions clear at the outset.
11. The issue of the OAHN was flagged up in advance of the Inquiry. In the event no Inquiry time was spent on this matter as a position statement was put forward by the parties. Given the fact that about a year had passed between writing the SoC and the Inquiry, during which the Local Plan Inspector had reported and the Local Plan had been adopted, I do not consider that it was unreasonable for the appellant to have raised the matter.

12. The changes to the s106, and its eventual conversion to a UU, were part of the normal negotiations that accompany any such Agreement. It was unfortunate that the Agreement was submitted late in the day, but the changes introduced were a direct response to the evidence of the Council. While the changes proved unnecessary, as they were not acceptable to the Council, it was not unreasonable for the appellant to have attempted to overcome the Council's concerns in this way.
13. The situation in respect of the five-year housing land supply is very similar to that surrounding the OAHN. The appellant's SoC says that the Council's position on whether it can demonstrate a five-year housing land supply is unclear due to appeal decisions and the (then) emerging Local Plan. The SoC makes it clear that the onus is on the Council to demonstrate a five-year housing land supply, not for the appellant to demonstrate the absence of one. As the matter was clearly flagged up in advance, and due to the evidence subsequently produced at the Inquiry, I am satisfied that there was no unreasonable behaviour by the appellant.
14. Concerning the applications made by both parties for the recovery of their costs in making the applications for costs, I do not consider that such an award is appropriate for either party as neither party has demonstrated that there was unreasonable behaviour by the other party.
15. I therefore conclude that unreasonable behaviour, resulting in unnecessary expense as described in PPG, has not been demonstrated and that an award of costs is not justified.

Clive Hughes

Inspector