

## Appeal Decision

Inquiry held on 28 February, 1 & 2 March 2017

Site visit made on 2 March 2017

**by Siân Worden BA MCD DipLH MRTPI**

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

**Decision date: 13 June 2017**

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**Appeal Ref: APP/F1610/16/W/3151754**

**Land South of Love Lane, Cirencester, GL7 6HL**

- 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 Great Gable Ltd against Cotswold District Council.
  - The application Ref 15/05165/OUT, is dated 23 November 2015.
  - The development proposed is the erection of up to 88 dwellings, to include vehicular access off Park Way; new pedestrian and cycle links to the wider area; improvements to Siddington School, including improved access facilities and the erection of a new purpose built school hall; a solar park; ecological enhancements; strategic landscaping; and associated infrastructure.
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### Procedural matter

1. The application was in outline with all matters apart from access reserved for future determination.

### Decision

2. The appeal is allowed and planning permission is granted for the erection of up to 88 dwellings, to include vehicular access off Park Way; new pedestrian and cycle links to the wider area; improvements to Siddington School, including improved access facilities and the erection of a new purpose built school hall; a solar park; ecological enhancements; strategic landscaping; and associated infrastructure at Land South of Love Lane, Cirencester, GL7 6HL in accordance with the terms of the application, Ref 15/05165/OUT, dated 23 November 2015, subject to the conditions set out in the schedule at the end of this document.

### Background and Main Issue

3. The appeal was made on the grounds that the Council did not make a decision on the proposed scheme within the prescribed period. Following submission of the appeal the Council considered the application fully and decided that it would have been refused. Putative reasons for refusal were put forward in respect of the effect on the countryside; the effect on the setting of a listed building; and the absence of a section 106 agreement. Agreement has now been reached on the latter two.

4. I therefore consider that the main issue in this case is the effect of the proposed development on the character and appearance of the countryside, particularly with regard to its effect on the landscape and to its design.

## **Reasons**

### *Policy considerations*

5. The Cotswold District Local Plan (LP), which was adopted in 2006, covers the period from 2001 to 2011. Although beyond its end date it remains the development plan; an emerging local plan has not yet been subject to examination and it will be some time before that is adopted. The National Planning Policy Framework (the Framework) states that for the purposes of decision-taking, the policies in the LP should not be considered out-of-date simply because they were adopted prior to the publication of the Framework<sup>1</sup>. Due weight should be given to relevant policies in existing plans according to their degree of consistency with the Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)<sup>2</sup>.
6. LP Policy 19 restricts development outside the development boundaries drawn around some of the district's settlements. The Council considers that this policy is out-of-date, is inconsistent with the Framework and thus that it carries 'very limited' weight; it is not cited in the putative reasons for refusal. I agree with this assessment. The LP development boundaries were drawn at a time of housing constraint and when there appears to have been a comparatively small housing requirement<sup>3</sup>. The Framework maintains a distinction between rural and urban areas as locations for new residential development but, with the current emphasis on increasing the provision of new housing, recognises that housing can help with the vitality of rural communities and that market housing can facilitate the provision of affordable housing<sup>4</sup>. Policy 19 is less flexible in its approach and is thus not fully consistent with the Framework.
7. LP Policy 42 concerns the District's design code. The policy requires that development should be environmentally sustainable and designed to respect the character, appearance and local distinctiveness of Cotswold District, including in respect of its style, setting, harmony, street scene and proportion. The Cotswold Design Code itself is published separately as supplementary planning guidance. LP Policy 45 is in respect of landscaping in new development. Of particular relevance to this case is that it requires the retention of attractive, existing landscape features. Both policies are consistent with the Framework and can be given full weight.

### *Five year land supply*

8. The Framework states that relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a 5-year supply of deliverable housing sites<sup>5</sup>. Regardless of this, and as explained above, the Council recognises that Policy 19, its relevant housing

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<sup>1</sup> The Framework, paragraph 211

<sup>2</sup> The Framework, paragraph 215

<sup>3</sup> LP, paragraph 3.3.19

<sup>4</sup> The Framework, paragraphs 54 & 55

<sup>5</sup> The Framework, paragraph 49

supply policy here, is out-of-date by reason of its age and inconsistency with the Framework.

9. The Framework is predicated upon a presumption in favour of sustainable development. For decision-taking, and where relevant policies are out-of-date, this means granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework<sup>6</sup>. The extent of the land supply in this case is thus of relevance only in so far as it influences the weight which can be afforded to the benefit of providing new market housing in the district.
10. In that light, neither party wished inquiry time to be devoted to scrutiny of the housing land supply. The Council's view was that 'it would not assist the inquiry to hear lengthy evidence in relation to land supply'<sup>7</sup>; the appellant agreed with that proposed approach and considered it was not appropriate to treat the inquiry as a dry run for the Local Plan Examination<sup>8</sup>. Nonetheless, both parties provided evidence and counter evidence on the matter.
11. The Council considers that it has a housing land supply of 7.54 years based on a requirement of 420 dwellings per annum and 5% buffer. The appellant points out that the Objectively Assessed Need (OAN) used by the Council to set its housing requirement, and the sites allocated to meet it, have not been tested at examination or appeal. The appellant contests the Council's land supply particularly on the grounds of the changes which would arise from the most recent household projections; the lack of uplift for affordable housing; and the treatment of the economic growth forecasts. In terms of the housing supply part of the calculation the appellant considers that some local markets, for example Tetbury, could not support the necessary level of provision and also questions the inclusion of some C2 development.
12. The appellant notes that the Council does not refer to the most recent household projections, published in July 2016, in its housing land supply proof of evidence (PoE)<sup>9</sup>. The National Planning Policy Guidance (PPG) advises that, wherever possible, local needs assessments should be informed by the latest available information. It adds, however, that this does not automatically mean that housing assessments are rendered outdated every time new projections are issued<sup>10</sup>. In addition the population projections provide the starting point estimate of overall housing need<sup>11</sup>. The OAN has several other components and, beyond that starting point, relies on assumptions appropriate to the area and period for which it is calculated. It is thus overly simplistic to assume that higher population projections would automatically produce a higher OAN. A lower OAN of 410 dpa is not, therefore, necessarily inconsistent with the most recent population projections.
13. The appellant considers that a higher requirement for affordable housing is demonstrated by the number of re-lets to existing affordable housing tenants. It also notes that Cotswold District is the only district in Gloucestershire where the ratio of house price to median earnings is above 10:1.

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<sup>6</sup> The Framework, paragraph 14

<sup>7</sup> Michael Muston PoE paragraph 7.3

<sup>8</sup> INQ2 paragraph 4.2

<sup>9</sup> INQ2 paragraph 4.6 & 4.7

<sup>10</sup> PPG, paragraph: 016 reference ID: 2a-016-20150227

<sup>11</sup> PPG, paragraph: 015 Reference ID: 2a-015-20140306

14. As I understand it, re-lets to existing tenants are frequently made to meet the tenants' newly arising needs which are themselves included in the overall estimate of newly arising need. It is not methodologically sound, therefore, to exclude such re-lets from the estimate of future affordable housing supply and then to match that supply against all new need; some of that need would rightly be met by re-letting. Such an approach would lead to an incorrectly high estimate of affordable housing need.
15. The Council refers to the PPG which advises that total affordable housing should be considered in the context of its likely delivery as a proportion of mixed market and affordable housing developments. An increase in the total housing figures included in the local plan should be considered where it could help deliver the required number of affordable homes<sup>12</sup>. The Council has considered an uplift but concluded that it was not necessary. The evidence provided by the appellant in this case does not convince me otherwise.
16. The 30% affordable housing uplift proposed by the appellant appears, therefore, to be based on flawed evidence. The appellant notes that 30% is proposed as a main modification to two Local Plans at Cambridge City and South Cambridgeshire. In my view, the Council's comparison with uplifts suggested by inspectors in other districts in Gloucestershire is more pertinent; less than 2% in Stroud, 10% in Forest of Dean, and 5% in the Joint Core Strategy. The Council also notes that the inspectors' recommendations in those cases do not question the OAN methodology used, which was consistent across the six Gloucestershire districts including Cotswold. Where the inspectors examining the Local Plans differed from the councils concerned was in the assumptions made in respect of job growth and affordable housing.
17. Estimates of the number of homes needed to support jobs forecasts are based on data from two sources, namely Oxford Economics and Cambridge Econometrics. There is no reason to believe that one forecast is any more accurate than the other and no credible basis for suggesting, as the appellant does, that the OAN should use the number at the top of the economic growth range. The Council's response is that this would not take into account the very high population growth implied by one set of forecasts; that both forecasts may have over-estimated the likely increase in jobs; and that increased self-employment might depress the number of people moving into the district for work reasons.
18. The use of two forecasts, which are adjusted and thus brought closer together<sup>13</sup>, is intended to correct implausible elements in both projections. In my view, and market signals notwithstanding, it is not a proportionate or logical approach to use the figure at the top of the unadjusted range, thus taking no account of the lower estimates arising from the Cambridge forecasts.
19. In addressing the appellant's criticism that, if sites are considered in the context of their local market, predicted completions are unrealistic, the Council draws attention to the Framework's definition of 'deliverable'. In particular it states that sites with planning permission should be considered deliverable until permission expires, unless there is clear evidence that schemes will not be implemented within five years, including, for example, that there is no longer a

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<sup>12</sup> PPG paragraph: 029 reference ID: 2a-029-20140306

<sup>13</sup> Neil McDonald PoE, paragraphs 15-17

demand for the type of units<sup>14</sup>. The Council considers that the appellant's consideration of the sales of new homes in towns such as Tetbury wrongly equates deliverability with saleability. There is undoubtedly a link between the two; it is not in a house builder's interests to construct dwellings where there is no prospect of them being sold. Nonetheless, I do not consider that the appellant's house sales' data and analysis<sup>15</sup>, in which the basis for assumptions is not always apparent, amounts to clear evidence that schemes will not be implemented.

20. The appellant queries the inclusion of some C2, residential institutions, development. The Council's response is that it only includes those C2 units which meet the Government's definition of a dwelling, namely a self-contained unit of accommodation with all its rooms behind a single door used solely by the household living there. It also points to the PPG which states that such dwellings should count against the housing requirement<sup>16</sup>. It is therefore reasonable for the Council to include the Siddington Park Farm development, provided there is a need for such accommodation; I have no evidence to the contrary. It would provide 152 self-contained units, 135 of which are considered to be deliverable within five years.
21. The Council's housing land supply report for May 2016<sup>17</sup> calculates that, with a buffer of 5%, there would be a housing land supply of 7.54 years. Having regard to the parties' agreed position that they would not overly scrutinise the housing land supply position in this Inquiry, no evidence has been put that causes me to conclude that the supply would be significantly lower than as calculated. My overall conclusion on the matter is that the Council does have a 5 year housing land supply.
22. Since the inquiry took place the Supreme Court's judgement has been issued in respect of *Suffolk Coastal District Council v Hopkins Homes Ltd and SSCLG, Richborough Estates Partnership LLP and SSCLG v Cheshire East Borough Council*. The parties have been consulted on this but neither considers that the judgement has significant implications for the case here.

*Character and appearance of the countryside*

23. The appeal site is a large, irregularly shaped plot to the south of Cirencester where it is in a countryside location. Formerly in agricultural use, much of it is now open grassland with wooded boundaries and a belt of semi-mature trees across its northern tip. Much of the woodland and some individual trees are covered by a tree preservation order (TPO).
24. The scheme, which is in outline, proposes 88 dwellings which would be set well back in the site and approached via a long access lane. Much of the land to the east of this would be outside of the application site; to its west public open space would be created and an orchard, woodland and meadowland planted. To the north of the proposed housing, in the apex of the site, would be a small area of solar panels.
25. It is agreed between the parties in the Statement of Common Ground for Landscape and Visual Matters (SoCGLV) that the appeal site contributes to the

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<sup>14</sup> The Framework, paragraph 47, footnote 11

<sup>15</sup> Christopher James Lewis PoE, App 8

<sup>16</sup> PPG paragraph: 037 reference ID: 3-037-20150320

<sup>17</sup> Christopher James Lewis PoE, App 6 page 13

wider arable landscape and that the nearby village of Siddington, including Upper Siddington, has a rural setting. The small area around Siddington Primary School and the Old Rectory is part of Upper Siddington which is a dispersed rural settlement<sup>18</sup>. The SoCGLV also notes that the Local Plan describes the band of countryside separating Siddington from Cirencester as very important in helping to maintain the village's separate identity.

26. As to the site itself, the parties agree that it does not contain features of recognised historic landscape value, and is not part of or adjoining the Area of Outstanding Natural Beauty (AONB) or other designated landscape. There is no public access across the site and it is not used for recreational purposes<sup>19</sup>. In terms of its visibility the parties both consider that the site is mainly screened from the west by the extensive woodland belt and vegetation along the disused railway. The woodland edges at the west and north of the site screen views of the southern edge of the Cirencester including the Love Lane industrial estate<sup>20</sup>.
27. A study<sup>21</sup> carried out to inform the allocation of sites in the emerging Local Plan found that the appeal site had high/medium sensitivity. This resulted from its function of keeping separate Siddington from the southern edge of Cirencester, and its value as a setting for one of the older parts of that village with its rural character. A further report<sup>22</sup> concentrating on the northern part of the site confirmed these findings and added that the planting belt provided a valuable buffer and resource.
28. The Council's assessment for this appeal<sup>23</sup> concluded that the value of the site was medium and its susceptibility to housing development high/medium. Therefore, in year 1 the significance of the effect on landscape character would be major, and major/moderate in year 10. By year 20 the southern part of the site could result in a net benefit to landscape character but the Council's conclusion was that, overall, the development would cause significant and demonstrable harm to landscape character. In terms of visual effects, in the winter of year 1 these would be major/moderate from most viewpoints; by year 10 they would be major/moderate from two locations in Park Way only and of lesser significance from the remainder. In the long term the Council's assessment is that the visual effects would be likely to be reduced to not significant due to screening.
29. Although I do not agree with their every conclusion I find the White Reports to be thorough and robust assessments of the landscape and otherwise as described by the Berry Hill<sup>24</sup> and Willersey<sup>25</sup> inspectors.
30. Although the curving line of the disused railway is uncharacteristic in the area, the vegetation along it ensures that it blends into the landscape and is not perceived as an urban or industrial feature. A line of pylons crosses the top of the site and is visible in views of it. Being a common feature of many rural landscapes it is not particularly noteworthy and only a moderate detractor. The units at the Love Lane industrial estate are not clearly visible from most of

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<sup>18</sup> SoCGLV, paragraphs 4.1.1, 4.1.5, 3.1.3, and 3.1.5.

<sup>19</sup> SoCGLV, paragraphs 2.1.3, 2.1.5, 2.1.6, and 2.1.4.

<sup>20</sup> SoCGLV, paragraphs 4.1.4

<sup>21</sup> Study of Land surrounding Key Settlements in Cotswold District: Update – Additional Sites. (October 2014)

<sup>22</sup> Study of Land surrounding Key Settlements in Cotswold District: Update – Additional Sites 2015

<sup>23</sup> Simon White PoE, Volume 1

<sup>24</sup> APP/F1610/W/16/3144113, paragraph 23

<sup>25</sup> APP/F1610/W/15/3121622, paragraph 58

the site and there was little or no noise or evidence of activity from them at the time of the site visit. The large commercial unit closest to the site is currently vacant and conditions might alter when it is re-occupied. Nevertheless, noise and activity there are unlikely to reach significant levels.

31. Within the appeal site the underground gas main pipes and surrounding exclusion zones would influence the extent and form of development. At the moment, however, there are few visible signs to betray their existence. The historic field pattern has been lost but the amalgamation of fields has not resulted in the featureless expanses sometimes seen in other arable areas. The tree belt, planted about 20 years ago, is not a historic feature but, despite the regularly-spaced planting pattern, it is attractive and does not stand out as modern or out-of-place. It also screens from view the buildings at the Love Lane industrial estate.
32. To my mind, therefore, the appellant's assessment of the landscape character of the site in the Landscape and Visual Appraisal (LVA)<sup>26</sup> somewhat overstates the negative influences. The appellant's baseline analysis summarises the site as an unremarkable field in an undesignated landscape<sup>27</sup>. Whilst that is indeed the case, this statement does not reflect that it is also attractive for its pleasant, pastoral appearance and peaceful nature.
33. The Council's main concerns, as referenced in the putative reasons for refusal, are, firstly, that the proposal would be an isolated and incongruous residential enclave in the countryside; and secondly, that it would result in the encroachment of built development into the countryside.
34. The appeal site adjoins the southern edge of Cirencester and, to the east, Upper Siddington, a dispersed rural settlement. The closest residential development would be the couple of dozen dwellings a few minutes' walk away in Pound Close, Upper Siddington. Whilst vehicular access to the site would be only from Park Way on its southern boundary, pedestrian paths would exit to the west, onto Spratsgate Lane, and east by the primary school. From the latter one can be in the industrial estate within a few minutes, journeying from there on to the centre of Cirencester or the facilities available in its southern outskirts. Although there is no direct connection to a radial route running into Cirencester, the vehicular route west along Park Way and then north along Spratsgate Lane is not particularly circuitous, even taking into account the distance of the proposed residential area from the highway. Neither would this route result in additional traffic travelling through Upper Siddington or Siddington.
35. The Statement of Common Ground for Transport (SoCGT) includes a table of local facilities<sup>28</sup>. This indicates that, as well as Siddington Primary School on the door step, there are three shops (Lidl, a post office/convenience store and a farm shop/coffee house), a vet and bus stops within a 12 minute walk of the site. The majority of other services, including those in Cirencester town centre, are within a 30 minute walk. It is not part of the Council's case that the development is unacceptable through being unsustainably distant from everyday facilities and services. I agree with that position and do not consider that the site is otherwise particularly poorly connected. Neither is it isolated by

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<sup>26</sup> CD1.14, paragraph 4.3.1

<sup>27</sup> CD1.14, LVA paragraph 4.5.1

<sup>28</sup> SoCGT, page 5, Table 1

way of being lonely or remote. In respect of the Framework I consider that the proposed development would at least maintain the vitality of rural communities; the benefits to the primary school, for example, are explained later. It would therefore be consistent with paragraph 55 and not amount to new isolated homes in the countryside in those terms.

36. This is not a Green Belt site where development may harm openness and otherwise be inappropriate even if it is not visible in the wider area. The perception of the proposed housing development being isolated and incongruous; contrary to the existing development pattern; or an encroachment into the important gap between Cirencester and Siddington depends to a large extent upon it being clearly visible.
37. The site is already well-screened by established planting along its western and northern boundaries. The proposed housing would be set well back within the site, separated from Park Way by the large area of recreational open space and green infrastructure proposed, and by existing fields where there is already immature planting along the site boundary. To the east the school playing field and adjoining paddock buffer the site from Coach Road. The scheme would provide new planting around the proposed housing development in order to mitigate its visual effect on the countryside. The Council considered that it would take some twenty years for this to completely screen the proposed housing from public view. There are existing hedges along Park Way and at field boundaries, however, which together with the set-back of the built area, would help to ensure that the development was not unduly conspicuous even before the new planting was fully mature.
38. The access point onto Park Way would be hard surfaced, have road markings and, with its visibility splays, be wider than the existing field entrance. It seems to me, however, that it would look much like a minor junction, especially with the access road to the proposed housing configured and planted to resemble a rural lane. To either side of the access lane would be considerable areas of undeveloped open land, as there are now; the frontage along Park Way would not be developed. A significant part of the area between Cirencester and Siddington, including that which is most visible, would remain undeveloped and the gap would therefore be largely retained. Over the years as the housing became less visible the integrity of that gap would be consolidated. I do not consider, therefore, that the proposed development would reduce Siddington's separate identity to a harmful degree or contribute significantly to the coalescence of settlements.
39. For the first years of the development, the view from Park Way of dwellings, albeit increasingly filtered as time passed, would indicate the proximity of a residential area. The access lane, particularly the vehicles using it, and the more managed appearance of the open space alongside might confirm that observation. Dwellings would also be visible from Coach Road which is closer to the boundary of the proposed housing area. Generally, the appeal site would have a more urban appearance than currently but on the whole the setting of the village of Siddington would be preserved.
40. I am aware that the line of the pylons has marked the outer edge of Cirencester for many years. The Siddington Road appeal decision<sup>29</sup> respected this barrier and it does not appear that it would be breached by the Chesterton

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<sup>29</sup> APP/F1610/W/16/3151754



development either. The proposed development would be immediately adjacent to the developed outer edge of Cirencester, and extend under and beyond the power line. However, because of its proximity to the village, the links towards the school, and the position of the vehicular access, I consider that the scheme would be perceived as mainly related to Upper Siddington. In my view, therefore, the fact that it would mostly be outside of the pylon line is not a significant consideration and one to which I give little weight.

41. The proposed development would change the character of the site. The introduction of a significant number of dwellings, infrastructure, vehicles, and people would greatly reduce its tranquillity; in becoming a housing area its rural nature would be diminished. Many people, possibly the recreational walkers on the passing Thames Severn Way who are classed as having a high sensitivity to change, would prefer to see a field and trees to a housing estate. These changes to character would be permanent.
42. The concentration of the housing proposed in the central part of the site would result in a fairly high density development. The single route in and out for vehicles would be more characteristic of suburban residential estates whilst the enclosing vegetation would be atypical of the area. No matter how well-designed, with attention paid to the style, details and materials of the dwellings, the scheme would not be characteristic of existing development in the near vicinity.
43. Overall on this matter, therefore, my conclusion is that there would be some harm in terms of the character, appearance and local distinctiveness of Cotswold District, with regard particularly to setting and street scene, contrary to LP Policy 42. Taking into account the undesignated nature of the site and its medium landscape value; the limited area to be developed with housing and its set-back, less-visible position; the extensive landscaping and planting proposed; and the eventual screening of the development from view, I consider that harm to be minor.
44. Much of the tree belt across the site, which is protected by a TPO and an attractive feature with amenity value, would be removed to accommodate the solar park. Trees around the boundary and a narrow band north of the proposed housing would be preserved. The tree belt as a feature would therefore be retained although in a much less substantial form than at present. In addition, the new planting proposed around the boundaries and elsewhere on site would redress the loss so that the net reduction in trees would not be significant. In that light, the proposed development would be inconsistent with Policy 45 but to a minor extent. Other relevant provisions of the policy could be addressed and met through a reserved matters application.
45. One of the core planning principles of the Framework includes that the intrinsic character and beauty of the countryside should be recognised<sup>30</sup>. This cannot, however, amount to a blanket ban on development in the countryside. The landscape enhancements proposed would be a response to the site's countryside location such that the proposed development would be consistent with that principle.
46. The emerging Local Plan allocates a 120ha area to the south of Cirencester, known as South of Chesterton, as a strategic site including over 2,000

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<sup>30</sup> The Framework, paragraph 17, 5<sup>th</sup> bullet point.

dwelling and about 9ha of employment land<sup>31</sup>. Having reached this stage my view is that it is sufficiently likely to go ahead as to have some bearing on my decision. The proposed employment area, which could have buildings as high as 16m to their ridges<sup>32</sup>, would be adjacent to the appeal site. Those buildings could be visible from it, and if so, would reduce its tranquil, pastoral character. In addition, the housing development proposed at the allocation would be likely to have the suburban characteristics of the development proposed here. Although I appreciate that intervisibility and links between the appeal and allocated sites would not be strong, the argument that the proposed development is uncharacteristic in the surrounding area is undermined by the probable allocation of the strategic site.

### *Benefits of the Scheme*

47. The proposal would provide 44 affordable dwellings. That is a significant benefit to which considerable weight is attached. Despite the existence of a five year supply of housing land, the provision of market housing also attracts weight.
48. In February of this year the Secretary of State reversed an inspector's recommendation on an appeal for up to 750 dwellings in Lichfield, despite the Council being able to demonstrate a five year supply<sup>33</sup>. It was noted in this that the Secretary of State attached very substantial weight to the benefits of the provision of affordable and market housing. It is possible that the case will be challenged but unless and until it is quashed the decision must be taken as lawful. The Berry Hill decision<sup>34</sup>, where the inspector viewed the provision of market housing in the context of an existing five year supply, was made prior to the Lichfield decision.
49. The White Paper, *Fixing our broken housing market* (White Paper), published in February 2017, is unequivocal that there is a severe housing problem in the country which has been caused by not having built enough homes over too long a period<sup>35</sup>. Nonetheless, it is a consultation document and cannot carry any weight.
50. Financial contributions would be made for primary and secondary education which would go to Siddington Primary School and identified secondary schools. The purpose of such contributions is to make capacity at the schools for the number and age of pupils likely to be generated from the new dwellings but there is no stipulation in the s106 agreement as to what the money should be spent on. It is not certain, therefore, that a new hall, which would have benefits for the wider community as well as the school, would be built at Siddington Primary School. The education contribution would not, therefore, be any more than necessary mitigation for the proposed development.
51. Although there are now 83 on the roll the primary school has struggled to attract sufficient numbers in the recent past; two years ago there were only 53 children attending. Aside from the financial contribution, therefore, the proposed dwellings would provide an advantage to the school by way of a source of new pupils. Future occupiers would not be obliged to send their

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<sup>31</sup> Local Plan Reg. 18 Consultation: Development Strategy and Site Allocations, Jan 2015

<sup>32</sup> Inquiry document 9, Parameter Plan Building Heights, Land South of Chesterton, Cirencester

<sup>33</sup> APP/K3415/A/14/2224354

<sup>34</sup> APP/F1610/W/16/3144113

<sup>35</sup> White The White Paper, page 9.

children to the nearest schools but I consider it likely that the majority would. The future of the primary school, which is an essential element of a sustainable community, would therefore be put on a firmer footing.

52. The information on numbers at the primary school is in a letter from the Head Teacher<sup>36</sup> who also confirms the benefits of a new drop-off point proposed within the application site, adjacent to the primary school. This would reduce the need for traffic to use Coach Road, a single-width carriageway, and also improve the safety of children when walking from cars into the school premises. All in all, I can give the benefits of additional pupils for the primary school and the new drop-off point moderate weight. Whilst the educational opportunities arising from access to the new open spaces and solar park would be welcome they would not be essential to the curriculum and attract little weight.
53. The existing sewage and flooding problem in the area is a matter of concern for many residents. It arises mainly from insufficient capacity in the infrastructure and could be alleviated by the provision of a relief sewer to take the flows, not only from the 88 dwellings proposed, but also from a further existing 800 dwellings. The minute of a meeting between the appellant and Thames Water<sup>37</sup> indicates that this would be beneficial in as much as it would enable existing properties in Siddington to be removed from the Thames Water flood risk register at an economic cost and within a short time period.
54. The problem is already being addressed by Thames Water, as is its duty. I can, however, give limited weight to the fact that the proposed development could result in an improvement in the situation more quickly.
55. The scheme also proposes a small area of solar panels in the northern part of the site. The Council was doubtful as to the value of these in practice but the appellant, having researched the matter, considered that they could provide sufficient electricity for the number of dwellings proposed and possibly the school. The panels would not be clearly visible in the surrounding area and would be a particularly beneficial use on difficult and less attractive land under the pylons. I therefore consider the solar panels to be a moderate benefit of the scheme. Their delivery could be assured through conditions.
56. A network of public rights of way exists around the site and is usable on foot at least. The upgrading of these paths would be an advantage but only attracts limited weight. Other benefits put forward by the appellant, including the New Homes Bonus, an increased proportion of younger people living in the area and ecological enhancements carry limited or no weight.

#### *Other matters*

57. The stone farmhouse at Barton Farm is listed Grade II, as is the nearby School House which is built in a similar style and, apparently, at a similar time. To my mind their significance is as estate buildings connected with the village of Upper Siddington. A significant buffer of agricultural land would be retained between the listed buildings and the proposed development such that any harm to their settings would not only be less than substantial but, within that

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<sup>36</sup> Letter from Mrs Carol Dougill to the Planning Inspectorate, dated 3 February 2017, appended to appellant's rebuttal proof on planning matters.

<sup>37</sup> Minute of meeting between Thames Water, Great Gable Ltd and Infrastructure Design Studio, dated Thursday 21 April, appended to appellant's rebuttal proof on planning matters.

category, at the lower end. When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation<sup>38</sup>. Even so, in this case I consider that the public benefits resulting from the proposal would be sufficient to outweigh any harm caused to the setting of the listed buildings.

58. The access point to the proposed development would be in a new position on Park Way, further from the sharp bend and with better visibility than at the existing field access. The Chesterton site is in the early stages of allocation. If and when detailed proposals are drawn up, including in relation to highways matters, consideration would be given to the traffic impact on the surrounding area and to measures necessary to ensure safety on the highway network. The hedgerow around the bend would not be realigned, as was originally proposed, in order to discourage speeding on this part of Park Way. The provision of the footpath links, particularly to Coach Road, and the school drop-off point, would significantly reduce the need for future residents to walk along that part of Park Way which has no footway.
59. The Highways Authority, having given full consideration to traffic matters including those which have roused the concerns of residents, concluded that the traffic generated by the proposed development would not have a significant impact on the local highway network. Subject to conditions the Highways Authority did not object to the scheme on highway grounds. Several of the suggested conditions are mainly concerned with layout and more appropriately dealt with at the reserved matters stage. Where relevant I have attached the remainder to this decision.
60. The implementation of on and off-site drainage works and attention to levels, which are required by conditions, will ensure that the proposed development does not worsen existing flooding on Park Way or elsewhere.
61. In my view, that the site is outside of the AONB is accounted for when assessing its suitability or otherwise for development plan allocation. It will also have been a consideration in the LVAs carried out for this appeal. I do not, therefore, consider that additional benefit should be attached to this characteristic.
62. Once the existing field access is filled with a native species hedge to match the existing there would be a limited net loss of hedgerow along Park Way. Within the site an area of woodland covered by a TPO would be reduced in extent. Considerable areas of tree-planting are proposed which would more than compensate for this loss.
63. The Framework encourages the provision of up-to-date plans as these are the starting point for decision-taking<sup>39</sup>. It also sets out considerations for those circumstances, such as in this case, where the development plan is time-expired<sup>40</sup>. I have had full regard to those considerations in reaching my decision.

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<sup>38</sup> The Framework, paragraph 132

<sup>39</sup> The Framework, paragraph 12

<sup>40</sup> The Framework, Annex 1

*Conditions and planning obligations*

64. In the light of the tests set out in the Framework<sup>41</sup> I am imposing the conditions listed below. The majority of these were discussed at the Inquiry and agreed by the parties. As the site is adjacent to a former railway the possibility of any contamination arising from this must be explored and, if such proves to be the case, for it to be remediated prior to development taking place. These measures are necessary to protect health and safety during construction and of future residents. The provision of a drainage strategy will ensure adequate provision is made for the new development in the interests of the health of occupiers and the wider environment. Noise protection and sound insulation is required to protect the living conditions of future occupiers.
65. Conditions regarding the construction environmental plan, landscape and ecological management plan, and tree protection will safeguard biodiversity and trees. Early works to the access way, its construction as specified including to each dwelling prior to occupation, and the construction method statement are all required to protect highway safety. The specification and completion of footways and cycleways, and the implementation of the approved travel plan will ensure more trips are undertaken by sustainable transport modes. The conditions regarding levels and surface water treatment will protect against flooding from water runoff. That in respect of landscaping will protect the appearance of the site and surrounding area.
66. The provision of a school drop-off point and solar park are benefits of the proposed development to which weight has been attached in reaching the decision. I have therefore imposed conditions for the submission of detailed schemes for their provision and, since they are essential elements of the scheme, those details should be approved prior to the commencement of the development. In addition the condition requiring reserved matters submissions to accord with the masterplan is necessary to ensure that other decisive elements of the scheme, which are not covered by other agreements and conditions, are delivered. The condition requiring the obsolete solar panels to be removed will protect the appearance of the site and surrounding area.
67. I received a copy of an endorsed planning obligation at the Inquiry. This provides for affordable housing; the laying out and management of open space in accordance with an approved scheme; financial contributions per dwelling towards the provision of additional places at both primary – Siddington- and secondary – Kingshill or Deer Park – schools; a contribution towards library provision.
68. In addition a unilateral undertaking has been made covering an area of land adjacent to the site boundary but outside of the application site. This will require the approval of a landscape management plan and, through that, the provision of reinforcement and replacement planting and its management. This is necessary as part of the screening for the proposed development. I am satisfied that both are consistent with regulations 122 and 123 of The Community Infrastructure Levy Regulations 2010 and can therefore give them significant weight in reaching my decision.

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<sup>41</sup> The Framework, paragraph 206

## **Planning Balance and Conclusions**

69. The LP is time-expired and pre-dates the Framework. In these circumstances policies carry weight only to the extent with which they are consistent with the Framework. The most relevant LP policy in this case is Policy 19 which, outside of development boundaries as the appeal site is, only permits development appropriate to a rural area; new-build open market housing, such as that proposed in this case, would not be allowed. LP Policy 19 is not fully consistent with the Framework, is out-of-date and attracts little weight. Its lack of currency is not over-ruled or lessened by reason of the District having a five year supply of housing land.
70. LP Policies 42 and 45 are consistent with the Framework and carry full weight. As explained above I have identified some harm in respect of both of these policies but to a minor extent only.
71. The proposed scheme would provide several weight-carrying benefits including a source of renewable energy and support for the local primary school. The most important, however, would be the provision of a considerable number of new houses, particularly affordable dwellings. Overall, I can attach significant weight to the benefits of the scheme.
72. The adverse impacts of the proposed development would therefore be significantly and demonstrably outweighed by the benefits; in the terms of paragraph 14 of the Framework it would amount to sustainable development.
73. For the reasons given above I conclude that the appeal should be allowed.

*Síán Worden*

Inspector

### **Schedule of Conditions**

- 1) 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.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development shall be started either by five years from the date of this decision notice or before the end of 2 years from the date that the last of the reserved matters is approved, whichever is the later.
- 4) The reserved matters submission with regard to landscaping and layout must be substantially in accordance with the illustrative landscape masterplan, drawing reference 15024.105 Rev H, particularly in respect of the footpath and cycleway links; and the retained and proposed structural vegetation/planting.
- 5) The development hereby approved shall be implemented in accordance with the following drawing number(s): 15024.106 Rev A & 151675/A/02 Rev F.
- 6) No development shall commence until an assessment of the risks posed by any contamination shall have been submitted to and approved in writing by the local planning authority. This assessment must be undertaken by a suitably qualified contaminated land practitioner, in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), and shall assess any contamination on the site, whether or not it originates on the site. The assessment shall include:
  - i) a survey of the extent, scale and nature of contamination;
  - ii) the potential risks to:
    - human health;
    - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes;
    - adjoining land;
    - ground waters and surface waters;
    - ecological systems; and
    - archaeological sites and ancient monuments.
- 7) No development shall take place where (following the risk assessment) land affected by contamination is found which poses risks identified as unacceptable in the risk assessment, until a detailed remediation scheme shall have been submitted to and approved in writing by the local planning authority. The scheme shall include an appraisal of remediation options, identification of the preferred option(s), the proposed remediation objectives and remediation criteria, and a description and programme of the works to be undertaken including the verification plan. The remediation scheme shall be sufficiently detailed and thorough to ensure that upon completion the site will not qualify as contaminated land under Part IIA of the Environmental Protection Act 1990 in relation

- to its intended use. The approved remediation scheme shall be carried out before the development is occupied.
- 8) The development shall not be commenced until details of a scheme of noise protection and sound insulation has been submitted to and agreed in writing with the Local Planning Authority. The residential units hereby approved shall not be occupied until the noise protection and sound insulation measures have been provided in accordance with the agreed acoustic design statement/scheme. The acoustic design statement shall provide details of layout, orientation, spatial design, ventilation and non-building envelope mitigation. The acoustic design statement shall accord with the planning and design criteria (internal ambient noise levels) of BS 8233:2014 'Guidance on sound insulation and noise reduction for buildings'.
  - 9) Development shall not commence until a detailed drainage strategy detailing on and off site drainage works, has been submitted to and approved in writing by the local planning authority. The drainage strategy shall be in general accordance with the principles shown on drawing number 1240/C001/Rev. D (Off Site Sewer Options). No discharge of foul or surface water from the site shall be accepted into the public system until the drainage works referred to in the strategy have been completed.
  - 10) No development or site preparation shall commence until a Construction Environmental Plan and a 10 year Landscape and Ecological Management Plan, based on the recommendations within the Extended Phase One Habitat Survey & Assessment and Great Crested Newts, Bat Reptile and Dormouse Surveys (version 16:11:2015) by Wildservice and the Great Crested Newt Ecological Mitigation Strategy by Wildwood Ecology dated 19.11.15, has been submitted to and approved in writing by the Local Planning Authority. The Strategy thereby approved shall be implemented in full and thereafter maintained in accordance with the approved Plans.
  - 11) No development shall take place until a full Tree Protection Strategy (in accordance with BS5837:2012 'Trees in relation to design, demolition and construction - recommendations') has been submitted to and approved in writing by the Local Planning Authority.
  - 12) No works shall commence on site (other than those required by this condition) on the development hereby permitted 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.
  - 13) No works shall commence on site on the development hereby permitted until engineering details of the proposed footway/cycleway improvement works as outlined by drawing number 151675/A/07 have been submitted to and approved in writing by the local planning authority and no occupation of the dwellings shall occur until the approved works have been completed and are open to the public.
  - 14) The vehicular access hereby permitted shall not be brought into use until the existing roadside frontage boundaries have been set back to provide visibility splays extending from a point 2.4m back along the centre of the access measured from the public road carriageway edge (the X point) to a point on the nearer carriageway edge of the public road 38m distant to the left and 43m to the right (the Y points). The area between those



- splays and the carriageway shall be reduced in level and thereafter maintained so as to provide clear visibility between 1.05m and 2.0m at the X point and between 0.26m and 2.0m at the Y point above the adjacent carriageway level.
- 15) No development shall take place 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:
    - i. specify the type and number of vehicles;
    - ii. provide for the parking of vehicles of site operatives and visitors;
    - iii. provide for the loading and unloading of plant and materials;
    - iv. provide for the storage of plant and materials used in constructing the development;
    - v. provide for wheel washing facilities;
    - vi. specify the intended hours of construction operations;
    - vii. specify measures to control the emission of dust and dirt during construction.
  - 16) No dwelling on the development shall be occupied until the carriageways (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 footways to surface course level.
  - 17) The approved Travel Plan shall be implemented in accordance with the details and timetable therein, and shall be continued thereafter, unless otherwise agreed in writing by the Local Planning Authority.
  - 18) Landscaping on the boundary of the site shall be completed by the end of the first planting season following the start of construction and the remainder by the end of the planting season immediately following the development being brought into use or occupied.
  - 19) The reserved matters plans shall show the existing and proposed ground levels, the slab level of the proposed building(s) and the slab level of adjacent buildings. The development shall only be carried out in accordance with the plans so approved, unless otherwise agreed in writing with the Local Planning Authority.
  - 20) Prior to the development being brought into use, surface water attenuation/storage works for the each dwelling hereby permitted shall be provided by the installation of a functioning water butt (minimum capacity 200 litres) in the position agreed on the approved plans/in a position to be agreed. The water butt shall thereafter be permanently maintained in working order in the agreed position unless an alternative siting is approved in writing by the Local Planning Authority.
  - 21) No development shall commence until a scheme for the layout and provision of the school drop off point has been submitted to and approved in writing by the local planning authority. The scheme shall include a timetable for the provision of the drop-off point. The development hereby permitted shall be carried out in accordance with the approved scheme and the drop-off point shall be retained thereafter.
  - 22) No development shall commence until a scheme for the layout and provision of the solar park has been submitted to and approved in writing

by the local planning authority. The scheme shall include a timetable for the provision of the solar park. The development hereby permitted shall be carried out in accordance with the approved scheme.

- 23) Within six months of the cessation of their use for electricity generating purposes the solar panels hereby permitted together with any supporting apparatus, mountings and other associated equipment shall be permanently removed from the land.

## **APPEARANCES**

### **FOR THE LOCAL PLANNING AUTHORITY:**

George Mackenzie of Counsel

He called

Simon White DipLA

Director, White Consultants

DipUD(Dist) MA CMLI

Mike Muston BA MPhil

Director, Muston Planning

MRTPI

### **FOR THE APPELLANT:**

Anthony Crean QC

He called

Paul Harris BA DipLA

MHP Design Ltd

CMLI

Adam White MA MRTPI

Hunter Page Planning

### **INTERESTED PERSONS:**

Mervyn Dobson

On behalf of Mrs Nieman and Mr Haywood,  
residents of Upper Siddington

### **DOCUMENTS**

INQ1 Supplementary Proof of Evidence, James Brain

INQ2 Rebuttal Proof of Evidence, 5 yr land supply, Christopher Lewis

INQ3 Rebuttal Proof of Evidence, planning matters, Adam White

INQ4 Opening submissions on behalf of the Council

INQ5 Opening submissions on behalf of the Appellant

INQ6 Statement of Mervyn Dobson

INQ7 Draft conditions

INQ8 Response to proposal by Cirencester Town Council

INQ9 Parameter Plan Building Heights, Land South of Chesterton,  
Cirencester

INQ10 Court of Appeal judgement [2016] EWCA Civ 168 (Suffolk  
Coastal DC/Richborough Estates)

INQ11 Endorsed planning obligation

INQ12 Closing submissions on behalf of the Council

INQ13 Closing submissions on behalf of the Appellant