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## 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**

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**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.
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### 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.
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## **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 that 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



## APPEARANCES

### FOR THE APPELLANT:

Charles Banner	Of Counsel; instructed by Bilfinger GVA
He called	
Jeremy Barrell BSc	Managing Director, Barrell Tree Consultancy
FARborA DipArb CBiol	
FICFor FRICS	
Rob Sutton BSc(Hons)	Head of Heritage Consultancy, Cotswold
MCifA	Archaeology
Catherine Mitchell	Technical Director, SLR Consulting
BA(Hons) MPhilLD CMLI	
David Parker MSc	Chairman, Pioneer Property Services Ltd
BA(Hons) DMS FCIH	
Jeff Richards BA(Hons)	Office Director, Turley
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)

- 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

- 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.



