



Appeal Decision

Inquiry held on 30 & 31 October 2012

Site visits made on 29 October & 1 November 2012

by C A Newmarch BA(Hons) MRICS MRTPI

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

Decision date: 31 December 2012

Appeal Ref: APP/P1615/A/12/2177029

Land off Foley Way, Newent

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by the Gloucester Land Company Limited against the decision of Forest of Dean District Council.
 - The application Ref P0181/12/OUT, dated 6 February 2012, was refused by notice dated 9 May 2012.
 - The development proposed is residential development (up to 120 dwellings) including infrastructure, ancillary facilities, open space and landscaping, the construction of a new vehicular access from Foley Road, and a connection to the proposed vehicular access through the adjacent residential development.
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Decision

1. The appeal is allowed and planning permission is granted for residential development (up to 120 dwellings) including infrastructure, ancillary facilities, open space and landscaping, the construction of a new vehicular access from Foley Road, and a connection to the proposed vehicular access through the adjacent residential development at Land off Foley Way, Newent in accordance with the terms of the application, Ref P0181/12/OUT, dated 6 February 2012, subject to the conditions set out in the attached schedule.

Procedural matters

2. The application was submitted in outline with all matters reserved other than the access, which would be from Foley Road and from the adjacent residential development which is under construction to the north of the site. However, the submissions include an indicative masterplan. I have taken account of the masterplan insofar as it demonstrates whether the quantum of development proposed could be accommodated on the site, but not in relation to the matters which have been reserved for future determination.
3. I carried out an unaccompanied site inspection, viewing the site and the surrounding area from the public domain. The parties agreed at the inquiry that, in view of the issues raised, an accompanied site visit was not necessary.
4. The Council refused the application for 4 reasons, but subsequently withdrew reason 01. Reasons 03 and 04 are addressed by the 2 deeds containing unilateral undertakings and by an agreement under S106 of the Town & Country Planning Act 1990, which have been completed by the appellant. These matters are discussed further below.

Main Issue

5. The main issue is whether the Council can demonstrate an adequate supply of deliverable housing land, and, if not, whether the adverse impacts of allowing the proposed development would significantly and clearly outweigh the benefits.

Reasons

Common ground

6. Policy CSP.5 of the Forest of Dean Core Strategy (CS), 2012, the Statement of Common Ground, and the Supplementary Statement of Common Ground (SSOCG) together establish that land for the development of at least 6,200 dwellings is required for the period 2006-2026. This is equivalent to 310 dwellings per year. In addition, there has been an agreed shortfall of 329 dwellings during the period 2006-2011, which needs to be taken into account. In accordance with paragraph 47 of the National Planning Policy Framework (Framework) an additional buffer is required to ensure choice and competition in the market for land. The parties agree that, due to the shortfall and the longstanding failure of allocated sites to come forward for development within the District, a buffer of an additional 20% is appropriate in the Forest of Dean. Accordingly, the parties agree that the overall 5 year housing land requirement for the District is 2189 dwellings.
7. It is further agreed that allocated sites with planning permission will provide 463 units, and that non-allocated large sites with planning permission will contribute 391 units. This amounts to 854 units on large sites. The Council defines large sites as those providing 6 or more residential units.

Matters not agreed

8. The parties disagree on the contribution to the 5 year deliverable housing land supply from 23 identified sites, which are detailed in the SSOCG, and on the likely extent to which windfalls will be a reliable source of supply within this period.

Identified sites

9. The Council contends that all the 23 SSOCG sites are available and could supply up to 839 units within 5 years. By contrast, the appellant submits that only 20 units, on just 1 of the SSOCG sites, would be deliverable within 5 years.
10. At the inquiry considerable time was devoted to the meaning of footnote 11 to the Framework, to whether the disputed sites meet its criteria for deliverable sites, and to the relationship between footnotes 11 and 12. To be deliverable, sites should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within 5 years and, in particular, that development of the site is viable. The Framework explains that sites with planning permission should be considered deliverable until permission expires unless there is clear evidence that schemes will not be implemented within 5 years.
11. The parties disagree as to the current availability of many of the sites. Availability is a matter of judgement, to be made in the circumstances of each case. The Council's witness, Mr Gibbons, partially conceded under cross

examination, that 'available now' means that construction could begin immediately, and agreed that several of the SSOCG sites are not 'available now' on that basis. However, while footnote 11 requires a rigorous assessment of housing sites, this test does not appear in the Framework, and I have given it limited weight.

12. There is further disagreement between the parties concerning whether the SSOCG sites are deliverable. This arises, in part, from the discrepancy between the explanation of what 'deliverable' means in footnote 11 of the Framework and the information which the Council sought from landowners in April 2012 for its Strategic Housing Land Availability Study (SHLAA). Footnote 11 requires the development of the site to be viable, whereas the Council's letter takes a broader approach, specifying that sites must be economically viable or likely to be so within 5 years. This approach differs from the recommendation to use current costs and values in the report 'Viability Testing Local Plans' (Document 12). However, as no detailed valuations or future viability assessments for the SSOCG sites have been submitted, this is not a pivotal point.
13. I have considered the extent to which the SSOCG sites could contribute towards the 5 year deliverable supply of housing sites on the basis of the written and oral submissions made, the Framework and footnote 11. I have also taken into consideration my unaccompanied inspections of some of the larger sites, which had been requested by the parties. The site numbering refers to the SSOCG.
14. Site 1: Land at Ross Road, Newent: This is allocated for housing, but is not within a single ownership. At the time of my visit it appeared mostly to be in active use by several occupiers. Taking these considerations together, I agree with the Council's concession that this site is not available now for residential development. It should not be included in the deliverable 5 year housing supply figures.
15. Site 2: Valley Road North, Cinderford: This site is in temporary employment use and does not have the benefit of planning permission for housing. The Council concedes that development is more likely once a retail store is built on adjoining land, but considers that it will start to deliver units within 5 years. However, as no timetable for the retail development is before me, this site is not available now for 10 units of residential development.
16. Site 3: Nailbridge, Cinderford: The limited suggested contribution of 30 units reflects that it could be developed in 2 sections. It is a cleared site which has been the subject of pre-application discussions. However, it has not been demonstrated that it could be connected to the highway, and, as such, there is not a realistic prospect that housing could be delivered within 5 years.
17. Site 4: Cinderford Steam Mills, Northern Quarter: There are legal challenges to the Cinderford Action Area Plan and the CS relating to this land. No timetable for resolving these matters has been put before me, and it has not been demonstrated that there is a realistic prospect of delivering the 70 dwellings within 5 years which are included in the SSOCG. At the inquiry, the Council submitted that perhaps 30-40 units could be delivered within 5 years. However, although reference was made to the possibility of funding from the Housing & Communities Agency, no evidence has been provided. It has not,

therefore, been demonstrated that there is a realistic prospect of the units being delivered within 5 years.

18. Site 5: This land at Owen Farm, Coleford, is allocated for housing. A planning application (Ref P1251/12/FUL) for 156 dwellings has been submitted and is due to be considered by the Council in December 2012. The number of dwellings proposed exceeds the CS allocation for the site. However, Welsh Water confirms that drainage capacity exists for the 120 dwellings included in the Core Strategy, and it has not been demonstrated that the Town Council's access objection would be a determinative matter. The land is available now, and in the light of the reply by David Wilson Homes to the SHLAA letter, the Council's submission that the site will deliver 120 rather than 156 units within 5 years is realistic.
19. Site 6: Poolway Farm is an allocated housing site without planning permission. Pre-application discussions have taken place. Drainage issues have been resolved. It has not been demonstrated that it fails to meet the tests in footnote 11, and therefore, I consider it to be a deliverable site for 50 units.
20. Site 7: Station Street, Cinderford: This allocated brownfield site has been cleared. A planning permission for 30 units has lapsed without conditions being discharged. However, although the applicant company no longer exists, the site owners wish to sell the land for development. As such, there is a realistic prospect that it will deliver 30 units of accommodation within 5 years.
21. Site 8: Land adjoining the Miners Arms, Sling: While planning permission has previously been refused for residential development on this allocated site, the Council accepts that negotiations regarding affordable housing would now be approached differently, in accordance with Government advice. The site is within a single ownership and has been advertised for sale during 2012. In my judgement it is therefore available, with a realistic prospect of delivering 23 units within 5 years.
22. Site 9: Bream (Woodside): Although access to this site is through a social housing site, this does not, in itself, mean that it is not available now. An earlier planning permission lapsed, but pre-application discussions with the Council are in progress for a new scheme. I accept, therefore, that there is a reasonable prospect that 13 units could be provided on the site within 5 years.
23. Site 10: Holms Farm, Lydney: This site has been allocated since 2005 without being developed. The applicant for a lapsed planning permission is no longer in business. However, the landowners have held recent discussions with the Council, indicating an intention to develop it within 5 years. Consequently, I accept that it is available, and contributes 20 units to the 5 year deliverable housing land supply.
24. Site 11: Railway Tavern, Station Street, Cinderford: Notwithstanding a general downturn in the demand for flats, there is no reason to doubt the Council's submissions that there is a modest, but steady, local demand for small schemes in this area. Although the site adjoins vacant employment sites, there is pleasant housing, including flats, nearby. The vacant building is available now, and a planning permission has been granted as recently as August 2012. There is, therefore, a realistic prospect of the site delivering 10 units within 5 years.

25. Site 12: Lydney East: The Council concedes that the developer does not wish to make the site available due to the section 106 obligation and construction costs associated with the planning permission for 130 dwellings. The Council submits that public funding could become available, but there is no supporting information before me. I accept that the Council would now be willing to re-negotiate the planning obligations, which have previously made residential development unviable, but these uncertainties materially detract from a realistic prospect of delivering 130 units within 5 years.
26. Site 13: Station Street (Listers), Cinderford: A planning permission for 100 dwellings has legally commenced to keep the permission alive. Some conditions have been discharged but the discharge of the contaminated land condition has been pending since 2010. Employment uses continue in the existing buildings. Following the refusal of planning permission for a supermarket on the site in February 2012, it is to be sold. Despite the agent's contention that it could be developed for housing within 5 years, this prospect has not been shown to be realistic.
27. Site 14: Lydney East MMC: The existing planning permission (1336/04/OUT) for 590 units cannot be implemented due to a condition which can no longer be met as a result of residential construction on land formerly identified for employment use. The Council submits that part of the site could provide 170 dwellings. The land is contiguous to housing which is under construction and access is available. However, an application to remove the condition which prevents its development, or a fresh planning application, would be necessary. While the Council considers the land to be available, and expects that residential development will follow on from the adjacent construction site, no such application has been made. The need to obtain planning permission does not, in itself, indicate that a site is not available. However, in this instance, taken together with the complexity of the site and its planning history, and the period which has lapsed since outline permission was obtained, there is no clear evidence to show a realistic prospect of the land being developed within 5 years.
28. Site 15: Blakeney Former Goods Yard: Planning permission for 17 dwellings was renewed in January 2012. There is no reason to doubt the appellant's submission that the site owner does not intend to build the permitted scheme for 17 units, but will sell the site at some future date. However, this does not amount to clear evidence that the scheme will not be implemented within 5 years. As such, it is available and contributes to the deliverable housing land supply.
29. Site 16: Netherend Dairy, Wollaston: There is no dispute between the parties that the land with planning permission for 20 units is available now, and that there is a realistic prospect that these could be provided within 5 years. The Council contends that a further 10 dwellings could be developed on this working dairy site within 5 years, but there is no evidence that this is a realistic prospect.
30. Site 17: Westbury: Although this is an allocated site, an application for the renewal of planning permission was withdrawn. The site remains in use as a coal yard and is not available now, and there does not appear to be a reasonable prospect of the site providing 9 units of housing within 5 years.

31. Site 18: Commercial Street, Cinderford: Although planning permission for an additional 8 units is extant, the landowners have no immediate plans to carry out the development, but rather to renew the planning permission in due course. While it is available for development now, there is not a realistic prospect that it will be delivered for housing within 5 years.
32. Site 19: Central Engineering Works, Lynbrook: Planning permission (0158/08) was granted for mixed development in December 2011. The site is currently in active employment use, but I give some weight to the indication from the owner's agent that it could be developed for 11 dwellings within 5 years.
33. Site 20: Corse Grange, Corse: Planning permission was granted for 7 flats in June 2010. The complicated site history does not, in itself, indicate that the site will not come forward for development. Some work has taken place on site, and while access issues remain to be resolved, this does not amount to clear evidence that 7 units will not be implemented within 5 years.
34. Site 21: Former Rothdean Site, Lydbrook: Although planning permission exists for 40 units, this cannot be implemented in full without costly excavations at the rear of the site. However, much of the site is reasonably flat, and has been cleared. Furthermore, the Council considers that development may have commenced. While the reduced usable site area may not accommodate 40 units, there is a realistic prospect that, subject to planning permission for a revised layout, the site could deliver 30 units within 5 years.
35. Site 22: Culver Street, Newent: There is a recent renewal of a planning permission for 6 two bedroom flats. The owner indicates that he may seek planning permission for a small housing scheme, rather than the permitted scheme. However, the site is available, and this statement does not amount to clear evidence that the development will not take place within 5 years.
36. Site 23: Newland Street (former WCs), Coleford: There is planning permission for 6 flats on this cleared site. It is available, and has been sold to a developer by the Council. There is a realistic prospect that it will be developed within 5 years.
37. Taking my findings on these 23 SSOCG sites together, I consider that they would contribute some 363 units to the 5 year supply figures. It has not been shown that there is a realistic prospect of the remaining sites within the SSOCG being developed within this period.
38. In addition to the agreed supply of 854 deliverable sites referred to above, the 5 year supply on large allocated sites and large unallocated sites with planning permission therefore amounts to 1217 units (854 + 363).

Windfalls

39. In addition to these large sites, Paragraph 48 of the Framework provides that an allowance for windfalls may be included within the 5 year housing supply where there is compelling evidence that such sites have consistently become available in the local area and will continue to provide a reliable source of supply. The Framework identifies matters to be taken into account in making this assessment, but does not specify whether sites with planning permission or historic windfall rates should be given greater weight.

40. The existing unallocated larger sites with planning permission have already been considered within the context of the SSOCG, and cannot be double counted as windfalls.
41. The construction of dwellings on small sites, for up to and including 5 dwellings, has contributed 449 units over the last 5 years, which is equivalent to 90 dwellings per year. There is no dispute that at least this number could be delivered within the next 5 years, given the stock of extant planning permissions on small sites. This would increase the deliverable 5 year supply to 1667 units ($1217 + (5 \times 90)$), which equates to a 3.8 year supply of deliverable housing sites.
42. The Council considers that a larger windfall from small sites, of some 112 units per year, should be considered deliverable, based on delivery of 60% of the permitted dwellings which are not started and 100% of those which have been started on small sites. Even though this is a higher number than has been delivered over the last 5 years, there is some merit in this approach since it is directly related to existing planning permissions, and includes a significant discount to allow for permissions which may not be implemented. This approach provides a windfall of 560 dwellings over the 5 year period, increasing the 5 year deliverable housing supply to 1777 units. On this basis there is a 4.06 year supply of deliverable sites. Nevertheless, either way, the windfalls would not be sufficient to increase the 5 year supply to the agreed requirement for 2189 dwellings.

Conclusions on the supply of housing land

43. The supply of 3.8 years – 4.06 years deliverable housing sites in the Forest of Dean District falls short of the total number required within 5 years by the Framework. Under such circumstances, the relevant policies for the supply of housing cannot be considered up to date, and restorative action is necessary.
44. On the other hand, the proposed development of up to 120 dwellings would increase the housing supply to 1787 – 1897, depending on the windfall assumptions discussed above. This would provide 4.08 years' – 4.33 years' supply. While a shortfall would remain, the development would add significantly to the supply of housing in the District. It would additionally assist with the area's affordable housing needs. These are clear benefits which must be considered against the likely adverse impacts of a development which would be located in the countryside, and the other considerations raised in the evidence.

Other material considerations

45. *The deliverability of the CS:* The Council's refusal reason 02 contends that the development would be prejudicial to the deliverability of the CS, including housing locations within the District. However, due to the identified housing shortfall and Paragraph 49 of the Framework, it follows that CS policies CSP.5 and CSP.15, which address the provision and the locations of housing land within the District, are both out of date. This does not necessarily point to shortcomings in other policy areas of the CS or undermine the Council's ability to apply those policies. Concern about the deliverability of the CS is not, therefore, a sufficiently weighty matter to override the benefits described above. In any case, the Council concedes that the appeal should be allowed in the event of finding against it in relation to the 5 year supply of housing land.

46. *Character and appearance of the area:* The site adjoins the built up area of Newent, but is in the countryside. However, the Council has reviewed its position in relation to the effect on the character and appearance of the countryside, and has withdrawn refusal reason 01. Having regard to the submitted Landscape Appraisal, the indicative masterplan, and subject to conditions which would be necessary to control the appearance and landscaping of the development, I accept that the effect on the character and appearance of the countryside would be limited and not be materially harmful. I have reached this view as it would be seen against the backdrop of existing housing in Foley Road, and would be largely assimilated into the landscape alongside the adjoining residential development and the planned recreational land to the east. Existing trees can be retained by a condition, and the proposed open space and landscaping along the western and southern boundaries of the site would soften its impact in longer views.
47. *Employment and commuting:* Objectors refer to a need for additional jobs in the area, but the proposal would not result in the loss of any land allocated or used for employment purposes. The housing would increase the extent of out-commuting from Newent, but the Council accepts that any harm would be outweighed by the benefit of meeting the housing needs of the District as a whole. On the basis of a lack of up to date information on commuting, I have no reason to disagree.
48. *Traffic:* Local people object on the basis of additional traffic, but there is no objection from the Highway Authority, and no evidence to demonstrate that the additional movements could not be safely accommodated on the road network. The effect of construction traffic has also been raised by local objectors, but I am satisfied that this could be controlled satisfactorily by a Construction Method condition, and this is discussed later in this decision.
49. *Biodiversity:* The appellant's Ecological Assessment report shows that the areas of greatest ecological value are the mature trees and hedgerows. These could be retained by conditions. While there is local concern about the effect on the demand for medical services and school places, there is no objection from the Council, the Primary Care Trust or the Education Authority, nor any quantitative evidence regarding closed waiting lists or a lack of local school places.
50. *Local housing market:* While local objectors contend that recently constructed houses in Newent are not selling at present, there is an identified need for additional housing, as discussed above. The affordable housing would contribute towards meeting identified social housing needs.
51. *Effect on open space:* The site is agricultural land. The development would not affect the planning permission for, or the provision of, the neighbouring recreation ground.
52. *Drainage:* The site slopes markedly downhill away from Foley Road. My attention has been drawn to land drainage issues affecting neighbouring land, which allegedly arise from the ongoing adjoining residential development. This has given rise to strong feelings, but it is a private matter. Having regard to the appellant's submitted Flood Risk Assessment & Foul and Surface Water Drainage Strategy, Severn Trent Water raises no objection to this proposal, subject to the agreement of drainage plans. These can be required by a condition. The question of any licence or other agreement to discharge water

from the site into private watercourses is a separate matter, which is not before me and is not, therefore, determinative.

53. *Access*: Representations have been made concerning access across private land at Nelfields Lane. This too is a private matter between the respective land owners, and it is not for me in determining the appeal.
54. *Localism*: The Government recognises the importance of local decision making, but this does not outweigh the responsibility to supply specific deliverable sites sufficient to meet the housing requirements of the area.
55. *Sustainability*: The development would contribute to building the economy by increasing the available supply of the right type of land available to support growth. There is no suggestion that it would fail to provide a high quality built environment, and, subject to the obligations discussed below, would contribute to the needs of the community. Planning conditions could require it to contribute to protecting and enhancing biodiversity, minimise waste and mitigate climate change through the use of low carbon technologies. As such, I accept that it would accord with economic, social and environmental dimensions of sustainable development.

Obligations and undertakings

56. The appellant has submitted 2 unilateral undertaking deeds relating, firstly, to the provision of Public Open Space and Play Areas, and, secondly, to the provision of 40% Affordable Housing, both within the site. A further S106 agreement with Gloucestershire County Council relating to the provision of a Community Transport Contribution, a libraries contribution, and the provision of a monitored Transport Plan has also been completed. The Council accepts that these are acceptable and fully address refusal reasons 03 and 04, which relate to the effect on local services and infrastructure, and to the provision of affordable housing, respectively.
57. I have, however, considered the obligations made in these deeds in the context of the development plan and the Community Infrastructure Levy Regulation 122.
58. *Public Open Space and Play Areas*: The appellant undertakes to provide Local Areas of Play (LAPS) within the site, according to a timetable which relates to the first occupation of the dwellings. A financial contribution of £25k would be made towards the future maintenance of the LAPS when they are transferred to the Council. The appellant further undertakes to include other open space for the benefit of the community as a whole within the application for approval of the reserved matters. The details are to be sufficient for calculating a commuted sum towards its future maintenance, which will be payable upon transfer to the Council. The LAPS and the Open Space are necessary for, and directly related to, the proposed development. The financial contribution and the commuted sums are fairly related to the scale of the development. They accord with policy RE.2 of the Gloucestershire Structure Plan Second Review, 1999, which requires a high standard of open space provision in new residential development, and CS policy CSP.4, which deals with the management of resources.
59. *Affordable Housing*: The appellant undertakes to provide 40% of the total residential units on the site as affordable housing. The affordable units will comprise 70% affordable rented and 30% intermediate housing. This

undertaking, together with the obligations regarding the distribution within the layout and the delivery of the affordable units, accords with CS policy CSP.5 and the Council's Affordable Housing Supplementary Planning Document. There is an identified and undisputed need for affordable housing in the District. The obligation is directly, fairly and reasonably related to, the scale of the development.

60. Community Transport: The community transport contribution of £40,000 would be used towards the community transport facilities operating in Newent. These increase the choice of sustainable transport modes, reduce social isolation and reduce the need for major transport infrastructure. The need for the contribution arises directly from the development. The contribution has been calculated in relation to the total cost of community transport in Newent. It is fairly related to the scale of the development.
61. Libraries: The contribution of £23,520 towards improving library facilities would be used at Newent Library for capital works, extending opening hours, increasing stock computer resources and furniture. It would, therefore, be directly related to the proposal. The contribution is considered necessary to serve the additional library users arising from the development. It is calculated on the basis of £196 per dwelling, and is, therefore, fairly related to the scale of the development.
62. Travel Plan: A Travel Plan, as recommended by the Framework, and required by the Gloucestershire Local Transport Plan 3, 2001, would be directly related to the proposed scheme. It is required due to the number of dwellings proposed. The contribution of £49,680 would be used towards the implementation of the Travel Plan and the employment of a person or organisation to co-ordinate and monitor the Travel Plan. This contribution accords with the County Council's policy and published Transport Planning Advice 7. It is therefore necessary, directly related to the proposal, and fairly and reasonably related in scale to the development.
63. For the reasons given above, I have no reason to disagree that any of the obligations or contributions discussed above would conflict with Regulation 122 of the Community Infrastructure Levy Regulations. I have taken them into account, and agree that together they fully address the harm identified in the Council's refusal reasons 03 and 04.
64. Newent Town Council contends that the local community has experienced difficulties in the discharge of planning obligations in the past, but that is a matter for the Council. In any event, the Framework continues to recognise that planning obligations can be used to make otherwise unacceptable development acceptable.

Conditions

65. I have considered the conditions suggested by the Council. In addition to the usual time limiting and submission of details conditions, I agree that conditions are necessary to deal with the following matters:
66. Conditions requiring the agreement and implementation of a landscaping scheme are necessary in the interests of the character and appearance of the area. A reference to the existing flora would not be reasonable as this could include microscopic plants, and could not be reasonably implemented or enforced. However, a condition requiring the identification of the trees and

hedgerows which are to be retained, together with means for their protection during construction work, is necessary in the interests of visual amenity and biodiversity. The suggestion to include a condition to prevent fires being lit in the tree protection areas is not necessary, as the condition would preclude materials being placed within those areas.

67. A condition requiring the agreement of the details of the foul and surface water drainage, and the implementation and management of the scheme is necessary to prevent flooding and in the interests of providing satisfactory drainage. A condition to ensure the provision of measures for protecting birds, bats and Stag Beetles is necessary in the interests of biodiversity. A condition requiring the provision of decentralised energy technologies is necessary to reduce carbon emissions from the development. Parts of the suggested waste minimisation statement condition lack precision, and the condition would not be enforceable. However, a condition requiring the provision of recycling facilities is necessary to reduce waste.
68. Conditions requiring details of the proposed vehicular accesses and the details of the estate roads, footways, street lighting, turning facilities and provision for refuse and recycling collection vehicles to be agreed and provided are necessary in the interests of highway safety and the living conditions of future occupiers. Similarly, a condition requiring the provision of car parking is necessary for the same reasons. A condition requiring a construction method statement is necessary in the interests of highway safety, the living conditions of neighbouring occupiers, and the disposal of construction waste. A condition requiring the provision of fire hydrants is not necessary as the matter is covered by other legislation.
69. Otherwise than as set out in this decision and conditions, it is necessary that the development be carried out in accordance with the approved plans, insofar as they relate to the identification of the site and the means of access, for the avoidance of doubt and in the interests of proper planning.

Overall Conclusions

70. Having established that there is a deficit in housing land supply in the District, CS policies CSP.5 and CSP.15 are not up to date. By contrast, the proposal would bring with it the benefits of boosting the housing supply, and the provision of affordable housing, within the area. Given these circumstances, the other considerations raised in the evidence are not sufficient, either individually or collectively, to outweigh clearly the identified benefits of the proposed development.
71. I have considered all other matters raised, but they do not alter my decision.

CA Newmarch

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Anthony Crean QC of Counsel
He called
Mervyn Eric Dobson MA, Director, Pegasus Planning Group Ltd
MPhil, MRTPI, MRICS

FOR THE APPELLANT:

Hugh Richards of Counsel
He called
Martin Hillier DipTP, Principal Planning Officer
MRTPI, MCSI, CMS
Nigel Gibbons BSc, Forward Plan Manager
MRTPI

INTERESTED PERSONS:

G & R Goulding Neighbouring landowners
Keith Urch Local resident

DOCUMENTS

- 1 Supplementary Statement of Common Ground, 18 October 2012
- 2 Draft schedule of conditions
- 3 Copy of Unilateral Undertaking to Forest of Dean District Council with obligations regarding Local Areas of Play and Other Open Space, dated 24 July 2012
- 4 Copy of Unilateral Undertaking to Forest of Dean District Council in respect of affordable housing, dated 24 July 2012
- 5 S106 Agreement between the Gloucester Land Company Limited and Lloyds TSB Bank PLC and Gloucestershire County Council relating to transport and libraries, dated 25 June 2012
- 6 National Planning Policy Framework Frequently asked questions
- 7 APP/J3720/A/11/2163206 Secretary of State's decision letter and extract from the Inspector's report
- 8 Tesco Stores Ltd v Dundee City Council Judgement, 21 March 2012
- 9 Statement of Common Ground on Highways' Traffic and Transport related matters
- 10 Council's Notification letter, 5 October 2012, of inquiry arrangements and distribution list
- 11 Rebuttal proof of evidence from Mervyn Dobson
- 12 Viability Testing Local Plan – Advice for Practitioners
- 13 Land Available for Housing Developments –response to Council's letter dated 4 September 2012
- 14 Certified copy of local play area specification to be inserted into the Public Open Space Unilateral Undertaking (document 3), with covering letters

PLANS

- A Core Strategy – Major Sites, Lydney
- B Map of housing sites to visit in the Forest of Dean
- C Plans of housing sites (17 A4 pages)

APP/P1615/A/12/2177029: 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 begins 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) No development shall take place until there has been submitted to and approved in writing by the local planning authority a scheme of landscaping, which shall include the identification of the existing trees and the hedgerows which are to be retained, together with measures for their protection in the course of development.
- 4) In this condition 'retained tree' means an existing tree which is to be retained in accordance with the approved plans and particulars; and paragraphs (i) and (ii) below shall have effect until the expiration of 5 years from the date of the first occupation of the dwellings hereby permitted.
 - i) No retained tree shall be cut down, uprooted or destroyed, nor shall any retained tree be topped or lopped other than in accordance with the approved plans and particulars, without the written approval of the local planning authority. Any topping or lopping approved shall be carried out in accordance with British Standard 3998 (Tree Work).
 - ii) If any retained tree is removed, uprooted or destroyed or dies, another tree shall be planted at the same place and that tree shall be of such size and species, and shall be planted at such time, as may be specified in writing by the local planning authority.
 - iii) The erection of 1.2m high fencing for the protection of any retained tree shall be undertaken in accordance with the approved plans and particulars before any equipment, machinery or materials are brought on to the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the written approval of the local planning authority.
- 5) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the

next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.

- 6) No development shall take place until details of foul and sustainable drainage, in accordance with the Flood Risk Assessment & Foul and Surface Water Drainage Strategy, Ref JBR1595, dated January 2012, have been submitted to and approved in writing by the local planning authority. The details shall include a scheme for the management and maintenance of the sustainable drainage system. Development shall be carried out in accordance with the approved details before the occupation of the dwellings hereby permitted, and shall be retained as such thereafter.
- 7) No development shall take place until details and locations of roosting boxes for birds and bats, and wood piles and loggeries for Stag Beetles in the site margins, have been submitted to and approved in writing by the local planning authority. The details shall include the timing of the provision of the mitigation measures in relation to the development of the dwellings, and shall accord with the recommendations of the Ecological Assessment, dated January 2012. Development shall be carried out in accordance with the approved details and retained as such thereafter.
- 8) No development shall begin until a scheme to secure at least 10% of the energy supply of the development from decentralised and renewable or low carbon energy sources shall be submitted to and approved in writing by the Local Planning Authority as part of the reserved matters submissions required by condition 1. The approved scheme shall be implemented within 3 months of the first occupation of each dwelling, and retained as operational thereafter.
- 9) No development shall take place until details of on-site storage receptacles for recycling materials have been submitted to and agreed in writing by the local planning authority. Development shall be carried out in accordance with the agreed details and timetable, and retained as such thereafter.
- 10) No development shall take place until details of the vehicular accesses to the site, shown on drawing Ref H404.2C, have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details. No dwelling shall be occupied until the accesses have been constructed to at least base course level.
- 11) The layout details required by condition 1 shall include roads to be laid out in accordance with details to be submitted to and approved in writing by the local planning authority. The details shall include street lighting, bus stops, drainage in accordance with condition 6, provision for refuse and recycle collection vehicles, provision for vehicles to turn, and footways. No dwelling shall be occupied until that part of the service road, street lighting and footway, where applicable, which provides access to it from Foley Road and/or Meek Road has been constructed in accordance with the approved plans to at least base course level, and shall be completed in accordance with the approved details no later than 5 years after the first occupation of any dwelling.
- 12) No dwelling shall be occupied until space has been laid out within the site in accordance with details to be submitted to and approved in writing by the local planning authority for cars to be parked and for vehicles to turn so that they may enter and leave the site in a forward gear. The spaces shall be retained as such thereafter.

- 13) 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 provide for:
- i) the routing of construction traffic
 - ii) the parking of vehicles of site operatives and visitors
 - iii) loading and unloading of plant and materials
 - iv) storage of plant and materials used in constructing the development
 - v) the erection and maintenance of security hoarding including decorative displays
 - vi) wheel washing facilities
 - vii) measures to control the emission of dust and dirt during construction
 - viii) a scheme for recycling/disposing of waste resulting from demolition and construction works
 - ix) hours of working.
- 14) The development hereby permitted shall be carried out in accordance with the following approved plans insofar as they relate to the identification of the site and the means of access, but not insofar as they relate to indicative matters which have been reserved for determination at the detailed stage: NMP-03-02, NMP-3-01 Rev G, NW3/FWDC/01 Rev A, H404/2 Rev C.

Richborough States

Richborough Estates