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## Appeal Decision

Inquiry held on 31 January, 1, 2, 3 and 7 February 2017

Accompanied site visit made on 7 February 2017

**by Karen L Ridge LLB (Hons) MTPL Solicitor**

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

**Decision date: 10 April 2017**

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**Appeal Ref: APP/P1615/A/14/2228822**

**Land north of Ross Road, Newent GL18 1BE**

- The appeal is made under section 78 of the Town Country Planning Act 1990 against the failure of the local planning authority to give notice within the prescribed period of a decision on an application for outline planning permission.
  - The appeal is made by Gladman Developments Limited against Forest of Dean District Council.
  - The application Ref. P0969/14/OUT is dated 12 June 2014.
  - The development proposed is the erection of up to 85 dwellings, access, parking, public open space, landscaping and associated infrastructure (all matters reserved other than means of access to the site).
  - **This decision supersedes that issued on 25 August 2015. That decision on the appeal was quashed by order of the High Court.**
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### Decision

1. The appeal is allowed and outline planning permission is granted for the erection of up to 85 dwellings, access, parking, public open space, landscaping and associated infrastructure on land north of Ross Road, Newent GL18 1BE, in accordance with the terms of the application reference P0969/14/OUT dated 12 June 2014, and subject to the conditions set out in the schedule annexed hereto.

### Preliminary Matters

2. The planning application which led to this appeal was made in outline form with all matters, with the exception of access, reserved for future consideration. The proposed access<sup>1</sup> for vehicles and pedestrians would be via the existing access point on Ross Road, with additional pedestrian access points on Ross Road and Horsefair Lane to facilitate footpath links. I shall consider these arrangements as part of my determination. Apart from the site location plan, development framework plan and access plan, all other plans are to be treated as illustrative only.
3. This appeal was first determined at a Public Inquiry which was heard in June and July 2015. The Appeal Decision dated 25 August 2015 was later quashed by order of the High Court<sup>2</sup> on 4 March 2016. The current Inquiry is a redetermination of the appeal which was heard de novo.

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<sup>1</sup> As depicted on drawing reference C14375-001-D.

<sup>2</sup> Forest of Dean District Council v SSCLG and Gladman Developments Limited [2016] EWHC 421 (Admin).

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4. The appeal was submitted following the failure of the Council to make a determination within the prescribed period. The Council's Planning Committee<sup>3</sup> resolved that, had it had the opportunity to do so, it would have refused the application citing 5 putative reasons for refusal. These reasons relate to the loss of best and most versatile agricultural land and the harmful effect upon the landscape; the effect upon heritage assets; concerns about ecological interests; failure to make sufficient provision to ameliorate the effects of development, and the effects on archaeological remains.
5. Following the submission of further information the Council expressed itself satisfied that ecological interests would not be harmed. An Ecology Statement of Common Ground has been submitted which explains that a derogation license from Natural England would be required if planning permission is granted. I am satisfied that the information provided is sufficient to establish that a development licence is likely to be granted. This is on the basis that, if permission is granted, there would be an overriding public interest in doing so, there is likely to be no satisfactory alternative and the action authorised would not be detrimental to the maintenance of the population of Great Crested Newt at a favourable conservation status in their natural range.
6. A second Statement of Common Ground in relation to archaeology matters was submitted which confirmed that the contents of the desk based assessment and Archaeological Evaluation Report are accepted by the Council. As such it is agreed that the archaeological significance of the appeal site is minimal and that there are no requirements for any further work. I am similarly satisfied on this matter.
7. A deed of variation and planning obligation made pursuant to section 106 of the Town and Country Planning Act 1990 (as amended) has been submitted<sup>4</sup>. This agreement varies the terms of the original Unilateral Undertaking<sup>5</sup> and contains supplemental provisions. In combination, the two documents secure the provision, management, and transfer of open space, and the payment of financial contributions in relation to; air quality, libraries, and a travel plan. In addition the Council has indicated that it is willing to accept a condition securing the provision of affordable housing. Together these matters have overcome the penultimate putative reason for refusal.
8. A general Statement of Common Ground (SCG) was also submitted setting out areas of agreement and disagreement in relation to general planning matters. In particular I note that it is agreed that the Council could not demonstrate a 5 year supply of housing land as at April 2016.
9. I carried out a site visit accompanied by the main parties at the end of the Inquiry. However I also carried out three separate unaccompanied site visits at various points, these included one specifically aimed at observing the operation of the lay-by outside the appeal site at school closing time.
10. The Government published its Housing White Paper 'Fixing our broken housing market on 7 February 2017'. I afforded both parties the opportunity to comment on this document. I have had regard to the comments of the parties.

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<sup>3</sup> Committee report of 10 February 2015.

<sup>4</sup> Executed on 3 February 2017.

<sup>5</sup> Dated 1 July 2015.

The Housing White Paper is a consultation document and as such I ascribe limited weight to it.

### **Main Issues**

11. Having regard to the Council's putative reasons for refusal and the subsequent agreements between the main parties, the principal issues remaining in dispute between the Council and Appellant are as follows:
  - whether the proposed housing would be in an acceptable location having regard to development plan and national policies;
  - the effect of the proposed development on the character and appearance of the landscape; and
  - the effect of the proposal on the setting of heritage assets.
12. In addition there are a series of other material considerations to be taken into account. The National Planning Policy Framework (the Framework) is a material consideration of significant weight. It seeks to boost significantly the supply of housing and requires local authorities to identify, and update annually, a supply of specific deliverable sites sufficient to provide five years' worth of housing (the 5YHLS). Paragraph 49 confirms that housing applications should be considered in the context of the presumption in favour of sustainable development. The Council concedes that it does not currently have a 5YHLS which means that relevant policies for the supply of housing will not be considered up-to-date.

### **Reasons**

#### ***The development plan***

13. Section 70(2) of the Town and Country Planning Act 1990 provides that, in dealing with proposals for planning permission, regard must be had to the provisions of the development plan, so far as material to the application, and to any other material considerations. Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that, if regard is to be had to the development plan for any determination, then that determination must be made in accordance with the plan, unless material considerations indicate otherwise.
14. For the purposes of this appeal the most relevant development plan policies are those contained within the Core Strategy (CS) which was adopted in 2012 and the saved policies from the Forest of Dean Local Plan (LP) adopted in 2005.
15. In terms of emerging policy, the Council prepared an Allocations Plan which was submitted for examination. Hearings were held in January 2016 after which the Examination Inspector published his Interim Findings in June 2016. In response to those findings the Council is undertaking further work, including proposed main modifications to address the Inspector's concerns.
16. I propose to deal firstly with the disputes surrounding the 5 YHLS since my findings in relation to these matters have implications for other issues.

***The five year housing land supply***

17. Certain matters in relation to housing land supply are agreed between the parties for the purposes of this Inquiry only. It is agreed that the 5 YHLS is currently somewhere between 3.65 years and 4.15 years. The housing requirement is agreed to be 330 dwellings per annum (dpa) between 2006 and 2026<sup>6</sup>. As at April 2016 there had been 2779 completions, resulting in a shortfall at that date of 521 dwellings. Both parties are agreed that the application of a 20% buffer is appropriate but disagree as to whether the shortfall should be met over the next 5 years or over the remaining plan period of 10 years<sup>7</sup>.
18. If the shortfall is met over the next 5 years, in accordance with the Sedgefield Method, then the 5 year requirement is for some 2605 dwellings or 521 dpa. If the Liverpool method is applied, distributing the shortfall over the remaining plan period, the 5 year requirement is 2292 dwellings or 458 dpa. The supply is agreed at 1903. This takes into account the Interim Findings of the AP Inspector but excludes those sites in the AP without planning permission. The Council's best case is the application of the Liverpool method resulting in a 5 YHLS of 4.15 years or a shortfall of 389 dwellings. The Appellant contends that the Sedgefield method is more appropriate and, on current figures, would point to a supply of 3.65 years based on a shortfall of 702 dwellings.
19. The difference between the parties is half a year's supply of housing. Even on the Council's best case, a supply of 4.15 years is materially below the 5 year requirement. I would attribute substantial weight to a shortfall in supply anywhere between the two values put forward. Even if I were to conclude that the shortfall is at the lower end of the range (3.65 years) that weight would remain substantial. Given this conclusion I do not consider it productive to examine the issue of the appropriate distribution of the shortfall. That is a matter which will come before the AP Inspector.
20. I now turn to consider the contextual information in relation to the shortfall. On any analysis the shortfall in housing has been accruing since 2006/07, with the exception of a couple of years when completions exceeded requirements<sup>8</sup>. The Council has accepted that there has been a persistent under-delivery which gives an indication as to the longstanding nature of the undersupply. The figures in relation to the need for affordable housing are striking; the need for affordable dwellings for the district between 2011 and 2016 was assessed at 814 per annum<sup>9</sup>, with an affordable housing backlog of some 2650 units since 2008/09. These are significant features, illustrating a substantial and ongoing level of unmet need for affordable housing across the district.
21. The Council has responded to the shortfall by releasing additional land and granting permissions at various sites<sup>10</sup>. In addition the emerging AP now identifies additional sites in response to the Examination Inspector's Interim Findings. The appeal site was previously considered as an omission site at the earlier hearings and the AP Inspector concluded that, at that point in time, he did not consider there was sufficient reason to include larger sites (including the appeal site) in preference to other sites already identified in the AP. Since

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<sup>6</sup> In accordance with the AP Inspector's comments in his Interim Findings.

<sup>7</sup> The Liverpool or Sedgefield methods of calculation.

<sup>8</sup> Jason Tait proof of evidence appendix 1.

<sup>9</sup> Gloucestershire SHMA Update (March 2014) §5.24 Proof of evidence of Jason Tait.

<sup>10</sup> Nigel Gibbons proof of evidence §26.

those conclusions, the Council has undertaken further work and the emerging AP contains draft changes which allocate two new housing sites just outside the Newent settlement boundary. The modifications include additional allocations in the form of sites previously suggested to the Examination Inspector in September 2016 and a second group of additional sites put forward by the Council in December 2016 to further increase the supply if it is deemed necessary. It also includes a new trajectory for delivery, adoption of the Liverpool method of dealing with the backlog and various supporting pieces of work<sup>11</sup>.

22. The Council contend that, due to its advanced stage, the plan should be given substantial weight given that the allocated sites, including those in the proposed modifications, would meet the established housing need. If the AP Inspector accepts all of the proposed modifications then the Council point out that these additional sites (and others) would result in the Council being able to demonstrate a 5 YHLS on either the Sedgefield or Liverpool basis.
23. The additional sites and proposed modifications have undergone public consultation which ended in mid-February and the September sites have already been reviewed by the AP Inspector as to their availability. At the date of the Inquiry into this appeal Mr Gibbons gave evidence as to the position in relation to the consultation exercise. At that point there had been a number of objections to the proposed changes, including objections from the Appellant regarding the suitability and deliverability of some of the proposed additional sites. Following the conclusion of the consultation exercise the responses will need to be reviewed. It is possible that the Examination Inspector may require further examination hearings to test the objections before the plan could proceed to adoption.
24. If matters progress smoothly it is possible that the AP could be adopted in a matter of months. The AP has moved on since the date of the last Inquiry and is now well advanced and as such it would be expected that the weight attributed to it is increased. However the progression thus far has not been straightforward and there are remaining obstacles which the plan will have to overcome before final adoption. In addition I bear in mind that this is a plan which has been subject to a number of fairly major changes and it is inevitable that those changes have to be fully ventilated before, and examined by, the AP Inspector. This creates a degree of uncertainty with regard to the likely timing of any adoption. A fair assessment is that it is possible that the Council may be in a position to claim a deliverable 5 YHLS in the near to medium future. For all of the above reasons I attribute moderate weight to the emerging AP at this point.
25. As the Council cannot demonstrate a 5 YHLS, paragraph 49 of the Framework confirms that relevant policies for the supply of housing should not be considered up to date.

### ***The location of development***

26. The CS contains a broad settlement hierarchy with an expectation that most new development will be provided for in the towns such as Newent. Policy CSP.4 confirms that most changes in towns and villages will be expected to

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<sup>11</sup> Two addendums to the Strategic Environmental Assessment, updates to the Habitats Regulations Assessment and new keynotes on flood risk and heritage.

take place within the existing settlement boundaries unless or until they are replaced by other LDF documents.

27. The parties are agreed that the site is in an accessible location, close to the settlement and with easy access to local amenities. At the Inquiry it was conceded that it will be necessary to identify and release greenfield sites on the periphery of the main towns to facilitate allocations within the emerging AP. Any comparative assessment of the relative merits of proposed sites is for the AP process. Within the context of this appeal it is sufficient to note that the proposal, involving development outside the settlement boundary and in the open countryside, is contrary to policy CSP.4
28. The strategic aims of policy CSP.4 are consistent with the Framework's focus on achieving sustainable development. I have noted that there are no intentions to revise the settlement boundary in this location. However the policy is one which directs and controls the location of housing and it is therefore a policy for the supply of housing, falling within the ambit of paragraph 49. In these circumstances I conclude that the weight to the policy should be reduced such that it attracts more than moderate weight but less than substantial weight.

***Effect upon the character and appearance of the landscape***

29. The appeal site is located within National Character Area 104: South Herefordshire and Over Severn-Lower Wyre which covers quite a large geographical area. It is also within Landscape Character Type 6: Unwooded Vale, as defined in the Forest of Dean District Landscape Character Assessment. More particularly it is within Landscape Character Area 6b: Severn Vale but on the periphery of this character area, with different character areas lying on the western boundary of the site and a short distance to the north of the site. The Ell Brook valley is a distinctive landscape feature in the wider area. The Council's Landscape Strategy<sup>12</sup> records the unwooded vale as a rural landscape, visually sensitive to change and it identifies key features as the network of hedgerows, mature field and hedgerow oaks.
30. The site comprises two fields of agricultural land separated by a loosely defined and 'gappy' hedge, located to the north of Newent. It is contained on its southern boundary by Ross Road and on its northern boundary by Horsefair Lane. The site is located on the north-eastern periphery of the town of Newent, with both the appeal site and the town sitting on the undulating north-facing slopes of the Ell Brook Valley. Ross Road is one of the main routes into Newent and the roadside location of the appeal site results in the site assisting in framing the town and contributing to the sense of a market town within a wider rural area.
31. Urban influences are apparent in the two electricity lines which cross the site and by virtue of the domestic properties which bound the site on its eastern and south-western boundaries and the presence of other properties visible along Ross Road and Horsefair Lane. A listed building complex at Mantley House sits adjacent to the site's south-western corner, along the Ross Road frontage. A main feature of the site is its undulating topography. The eastern field descends from Ross Road into a shallow valley before gently rising to

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<sup>12</sup> Gloucestershire and the Forest of Dean, Forest of Dean District Landscape Strategy, Final Report, June 2004.

Horsefair Lane. The western field is composed of a rounded spur which extends from the western boundary into the site.

32. The two fields are mainly visible from the adjoining road network. They can be partially seen along much of the Ross Road frontage and there are open views into the north-eastern quadrant of the site from Horsefair Lane. Further along the site's northern boundary Horsefair Lane descends into a dip enclosed by mature hedgerows set upon the higher land of the north-western part of the appeal site. There are limited views of the site along the valley on a west to east axis. Other medium distance views are largely interrupted by the rolling terrain and intervening vegetation. Longer distance and more sporadic views are obtained from the north and north-east when the two fields are seen in glimpses across the valley and as part of larger landscape composition.

*Valued landscape*

33. The Council assert that the site forms part of a valued landscape in terms of paragraph 109 of the Framework. Mr Radmall has properly reminded me that the lack of a local or national landscape designation does not preclude the site from being a valued landscape<sup>13</sup>. I find some difficulty in ascribing the term landscape to an appeal site comprising two agricultural fields. To my mind the term 'landscape' denotes a somewhat wider area than the appeal site. When assessing what constitutes a valued landscape I consider it more important to examine the bigger picture in terms of the value of the wider setting and the contribution which the appeal site makes to that wider setting. The criteria in Box 5.1 of GLVIA 3<sup>14</sup> are accepted as a useful tool for assessing value.
34. Whilst the site has no rarity value and limited ecological value, its undulating form and prominence on this western approach into Newent contribute to an attractive setting for the settlement. The landscape fabric of the site in terms of the boundary hedgerows would, largely, be retained and supplemented. The site also makes a contribution to the setting of the listed building which helps to enable the listed farm complex to be read and understood in the landscape. However I accept that the farm complex is inward looking, on a roadside location and there are other fields on its western boundary. The soft rolling landscape is a key characteristic of the Ell Brook Valley and landscape character type 6. Whilst the topography of the site is representative of the character area it is but one feature. The majority of the land in the surrounding area comprises rolling landforms and I do not consider this feature on its own is sufficient to qualify the site as part of a valued landscape.
35. The appeal site sits at the confluence of three landscape character areas. The surrounding landscape is dramatic, varied and appealing and may well lead to a conclusion that parts of this wider landscape fall into the valued landscape category. However the appeal site makes only a limited contribution to the wider landscape by virtue of the limited inter-visibility between it and the wider Ell Brook Valley. Also, due to its proximity to the settlement and the consequential urban influences, as well as the lack of any particularly striking physical features, I conclude that the appeal site does not form an integral part of any wider valued landscape such that it should benefit from the objectives in paragraph 109. As a site in the open countryside the Framework advises that the intrinsic beauty of the countryside is recognised in any assessment.

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<sup>13</sup> Stroud District Council v SSCLG [2015] EWHC 488 (Admin).

<sup>14</sup> Guidelines for Landscape and Visual Impact Assessment.

*An assessment of the effects of the proposal*

36. An illustrative masterplan and design and access statement accompanied the planning application and set parameters including limiting dwellings to between 2 and 2.5 storeys with a maximum height of 10.5 metres. The proposal would result in housing set back from the Ross Road frontage on the lower lying land, with housing running back to Horsefair Lane. The upper reaches of the elevated spur to the west would be left largely undeveloped. Existing boundary hedgerows and other features would be retained and supplemented and areas of public open space would be introduced on the western boundary and along the Ross Road frontage. However the development would result in the loss of two green fields and the incursion of housing into this part of the agricultural landscape. To that end it would effect a permanent change to this part of the landscape character area to which it belongs. I conclude that it would cause some localised harm to landscape character contrary to policy CSP.1 of the CS.
37. I now turn to consider the visual effects of the proposal. The appeal scheme would have a limited visual envelope. The greatest impact would be seen along Horsefair Lane especially that part of the lane adjoining the north-eastern quadrant of the site. In views from Horsefair Lane and other middle distance views Picklenash Court is readily discernible and provides an interesting backdrop to the rural foreground. From this part of the lane the houses would be visible in the immediate foreground and would completely remove the open views of the appeal site with Mantley House Farm and Picklenash Court beyond.
38. Housing would dominate the foreground and the skyline. The appeal site currently marks the end of the domestic development along the southern side of Horsefair Lane when travelling in a westerly direction. It effectively signals the entry into the rural area beyond the development clustering around the junction. At this point Horsefair Lane takes on the appearance of a quiet rural lane into the countryside and, with development in place, this transition would be delayed.
39. At close quarters along the Ross Road frontage there would be limited views along the access road and pedestrian footpath into the site. The housing would be set back on the lower lying land and beyond public open space and planting such that, to passing vehicles and more casual observers, it would be apparent but not overly intrusive. Pedestrians walking along the northern footway on Ross Road and bus passengers alighting at the bus stop would be more aware of the housing, with views of the roofs clustering against the skyline. Maturation of the planting both along the road frontage and around the housing would assist in softening these views over time. The open area at the front of the site would assist somewhat in continuing to frame the settlement but the sense of this as an agricultural field on the edge of the settlement would be lost.
40. The housing would also be seen as a sliver of development rising up the western hill in views from the entrance to Mantley Farm. From this view the housing would be seen as a minor incursion into the open countryside. At the last appeal the Inspector imposed a condition limiting the ridge height of the houses to 8.5 metres to mitigate the effect upon the surrounding area<sup>15</sup>. Restriction of the ridge height in this manner would assist in reducing the

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<sup>15</sup> §51 Appeal decision.



effects of those houses on the western side of the site which would encroach upon the higher land. Such a condition would also reduce the extent to which the development punctured the skyline in various views.

41. The houses would be glimpsed intermittently in middle and longer distance views. A canal walk links Horsefair Lane to Oxenhall Church to the north. The topography is such that for much of that walk views of the appeal site are obscured until the higher land surrounding the church is reached. From within the church precincts the appeal site is visible on the opposite side of the valley with the settlement discernible in the distance. From here the housing would be seen in partial views rising up the valley side but it would be at a distance and in the context of the adjacent settlement. As landscaping became established it would assist in blending the development in.
42. The site is seen in some other longer distance and partial views to the north and north-west as a small part of a much larger composition. These views tend to be partial and interrupted by intervening terrain and vegetation and also seen in the context of the adjoining settlement which forms a backdrop to many of the views. Once planting became established the housing would be viewed in conjunction with the existing settlement and would cause only limited visual harm. However, the planting itself, as well as the housing, would compromise the sense of openness which the appeal site contributes to in near distance, and some middle distance and longer distance, views.
43. The appeal scheme would introduce green spaces along the road frontage and on the western side of the site, with a smaller green area for the balancing pond. The housing would not represent a neat rounding of the settlement in that its configuration on the site is largely inward looking and it would not visually integrate with existing housing. However the green spaces on the road frontage and the western edge and, to a lesser degree, the balancing pond would provide breathing spaces in what would essentially be a more suburban environment than that which currently exists. The introduction of these green spaces would result in a looser form of development on the edge of the settlement.

#### *Conclusions on Landscape Issues*

44. There would be harm to landscape character by the loss of a small part of the land of the character type identified. Having regard to the amount and type of views which would be gained of the development, as a generality, I conclude that it would not be visually prominent. However it would be visible from limited views at close quarters and from occasional and sporadic longer distance views. Other views of the development would be partial or glimpsed. As a consequence there would be some visual harm to the landscape contrary to CSP.1 which sets out design and environmental protection objectives for all proposals. This policy requires, amongst other things, that proposals take into account important characteristics of the environment and conserves, preserves or otherwise respects them. Finally I conclude that this is not a policy for the supply of housing.

#### **Heritage assets**

45. The Planning (Listed Buildings and Conservation Areas) Act 1990 places a statutory duty on decision makers to have special regard to the desirability of preserving a listed building or its setting or any features of special architectural

or historic interest when considering whether to grant planning permission for development which affects the setting of a listed building. Policy CSP.1 also requires important characteristics of the environment, including heritage assets, to be taken into account and to be conserved, preserved or otherwise respected in a manner which maintains or enhances their contribution to the environment.

46. The Framework also requires the significance of a designated heritage asset to be assessed, including any contribution made to the setting of an asset. It goes on to categorise any harm to the significance of a designated heritage asset as either '*substantial harm to or total loss of significance of an asset*' or '*less than substantial harm to the significance of an asset*'. It is well-established that where any harm is caused to the setting of a listed building, considerable importance and weight must be given to the desirability of preserving the setting of listed buildings<sup>16</sup>.
47. The parties are agreed that the heritage assets most likely to be affected are the Mantley Farm complex on Ross Road and the non-designated Picklenash Court. The Newent Conservation Area and the grade II listed St Anne's Church are too far removed from the appeal site for their respective settings to be materially affected.
48. The Framework clearly defines the setting of a heritage asset as the surroundings in which such an asset is experienced. 'Significance' has a particular meaning in heritage policy terms and is defined as the value of a heritage asset because of its heritage interest which may be archaeological, architectural, artistic or historic. The glossary confirms that significance can be derived from a setting as well as the asset's physical presence. Heritage England's Good Practice Advice Notes 2 and 3 also offer guidance on these matters<sup>17</sup>.
49. The Appellant's expert, Mr Clemons, applied the guidance in the Conservation Principles document produced by Historic England. This document predates the Framework and uses different terminology and a slightly different approach. The Good Practice Advice Notes post-date the Framework, are more recent and are provided by the relevant statutory consultee. As such I place more weight upon this guidance and I shall use it in making my own assessment. In any event, it is the substance of the evidence tendered by the respective experts that I shall pay regard to, rather than issues of terminology.

#### *Mantley Farm*

50. The Mantley House Farm complex is grade II listed and comprises three separately listed elements: a farmhouse; 16<sup>th</sup> century barn; and an 18<sup>th</sup> century cowshed and stable. Records of Mantley Farm date back to 1615. The main farmhouse forms an L-plan comprised of two distinct wings. The grouping is high quality and indicative of a prosperous historic farmstead. It is described as '*an unusually complete group*' in the listing description. Whilst the buildings have been converted to residential use they retain much of their historic fabric and interest. The complex is accessed by a long drive off Ross Road which travels along the western boundary of the curtilage and into the old farmyard which is now used for parking. The handsome and obviously historic buildings,

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<sup>16</sup> Barnwell Manor Wind Energy Ltd v East Northants District Council [2014] EWCA Div 137

<sup>17</sup> 'The Setting of Heritage Assets' and 'Managing Significance in Decision-Taking in the Historic Environment'.

the grouping as a whole, the immediate grounds in which the buildings sit, the long drive and the mature planting all contribute to create the impression of a prosperous, historic farmstead in this roadside location.

51. The significance of this heritage asset is derived first and foremost from the age and architectural interest in the individual buildings themselves and their grouping. The farm buildings had a historic and functional relationship with the surrounding fields. Evidence regarding the previous relationship between the farmstead and surrounding land, and the ownership of the two, clearly indicates this. The lack of any designed views over the appeal site or vistas from the farmstead does not detract from this. Many farm buildings were arranged in clusters to facilitate surveillance over the farm yard and ready access to ancillary buildings.
52. To that end the fields on the western boundary of Mantley Farm and the fields of the appeal site, together, make a contribution to the setting by enabling the farmstead to be understood and read in the landscape. Put simply, one would expect a farmstead such as this to be found in a rural landscape and to have a close association with the agricultural land around it. In this way the fields of the appeal site contribute to the significance of the heritage asset.
53. I now turn to examine the impact of the proposed development on the significance of the asset. Both parties are agreed that the harm to the setting of this complex is less than substantial. The illustrative masterplan depicts the housing set back from the road and a belt of woodland planting wrapping around the housing closest to the boundary with Mantley Farm. This set back would retain a green space to the immediate east of the asset on the Ross Road frontage. It would also materially reduce the extent to which the modern housing would be seen as a distraction from the asset. However the green space would be dissected by the access road and footpath and would be associated with the housing estate. It would not be seen as a green field forming part of the agricultural land around a historic farmstead.
54. The loss of the rolling green fields would be more significant if the appeal site represented the last remaining fields adjoining the farm buildings. However Mantley Farm would still be seen in the context of the fields on its western boundary and, to a lesser extent, the fields on the opposite side of the road. In essence the sense of a farmstead sitting alone at the side of the road within a semi-rural landscape would remain but would be somewhat eroded. In coming to this view I have taken into account the views from the farm entrance where a sliver of housing would be seen creeping up the hill intruding into the current backdrop of rolling hills.
55. From Horsefair Lane views of Mantley Farm sitting within a rural landscape would be lost. Mantley Farm cannot really be distinguished in more distant views and the loss of glimpses of the farm within a wider landscape from these viewpoints would not be materially harmful in my opinion. From some upper windows of some of the residential units which now make up the farm complex there would be partial views of housing in the middle distance replacing the views of rolling hills.
56. I have also considered the effect of the development during evening and night-time hours. The appeal site contributes to a relatively dark sky behind the farmstead. Even with low level lighting, in the evening hours, the housing and estate would be apparent from the Ross Road frontage. As planting matured

this would reduce and shield some of the lighting but there would be a permanent change and some loss of rural tranquillity.

57. In conclusion, the introduction of housing onto the green fields would cause some harm to the setting of Mantley Farm which makes a contribution to the significance of the asset. The housing would not necessarily visually compete with the asset given the buffer zone but it would remove part of the rural backdrop which forms part of the setting. For all of the above reasons I conclude that the harm is less than substantial and around the mid-point of this less than substantial range.

*Picklenash Court*

58. Picklenash School is now known as Picklenash Court since its residential conversion. It dates back to 1848 and is a handsome and prominent building on the Ross Road frontage. Its roadside location on higher land and its north-westerly orientation, as well as the scale of the building, ensures that it is a dominant presence. The position of the building in the rural landscape would have signalled its importance to the community. The significance of the asset is principally derived from its handsome proportions and the detailing on its imposing front elevation.
59. Good Practice Advice in Planning Note 3 confirms that settings of heritage assets change over time. In the case of Picklenash Court there appears to have been an erosion of the setting given the encroachment of more recent developments including residential development on Bradfords Lane which has intruded into the immediate setting. In particular two sheds within the domestic curtilage of the end properties are seen directly in front of the imposing Victorian building on the approach from the west and detract from the significance of Picklenash Court.
60. The appeal site is located directly opposite Picklenash Court. There is no functional link between the asset and the wider landscape, including the appeal site. However the appeal site does make a limited contribution to the setting of this building by contributing to the impression of a historic community building in a rural environment. It also allows longer range views of the building from Horsefair Lane.
61. The development would be set back from the Ross Road frontage and would prevent views of this asset from Horsefair Lane. The set-back would create a green space immediately in front of this attractive building but it would erode further, and to a limited extent, the sense of the building sitting in a rural landscape. Given the more limited contribution to the already compromised setting, I conclude that the development would cause limited harm to this non-designated heritage asset.
62. Paragraph 135 of the Framework confirms that the effect of a proposal on the significance of a non-designated heritage asset should be taken into account in determining any application.

*Public benefits*

63. I now turn to consider the public benefits of the proposal. Development would result in the provision of 51 market homes in the context of an undersupply in housing. These homes would be located in an accessible location with ready access to a main town and good transport links. Whilst I have noted the

progress of the emerging AP I place moderate weight upon this document and its ability to address the undersupply of housing for the reasons previously set out.

64. The supply of affordable housing in the district is parlous and the proposal would result in the provision of 25 social rented units and 9 intermediate units making a total of 34 affordable housing units. It may be argued that this is a policy compliant figure which all housing developments would be expected to deliver against. However, in some cases sites are more difficult to develop, there are viability issues and affordable housing is not necessarily delivered at policy compliant figures. In this case the appeal site is green field and on the edge of a settlement. There is no suggestion that the site would not come forward promptly or that there are viability considerations which may compromise the quantum of affordable units. In the face of a significant unmet need for affordable housing I attribute substantial weight to this matter.
65. The Appellant has provided details of the anticipated economic benefits of the development which include an estimated £10million spend on construction and the creation of some 95 full time construction jobs over a 2 year build period<sup>18</sup>. There would be an increase in the local population likely to deliver some benefits to the local economy. The new homes would also assist in diversifying the housing stock and population mix in the village. I attach some weight to all of these matters. The development would trigger payment of a New Homes Bonus but there is no evidence of a connection between the payments and the development to enable it to be taken into account in accordance with the advice in the national Planning Policy Guidance.
66. The Appellant submitted an Ecological Appraisal which sets out the effects of development upon protected species. The main existing ecological value in the site rests in the hedgerows given that the majority of the site comprises two species-poor semi-improved grassland fields. The existing hedgerows which are also classified as species-poor<sup>19</sup> would be largely retained and supplemented improving the diversity of species. The appraisal suggests that the balancing pond area could be seeded with a species rich mix to improve diversity. In addition the buffer zones between the houses and boundaries would provide enhanced foraging habitats, native species woodland planting and species rich grassland and wetland features. Having regard to these matters I am satisfied that the proposal would provide some biodiversity benefits.
67. Finally, the Appellant asserts that the proposal would control surface water run-off which could assist with the anecdotal issues of localised flooding. Given the lack of substantive evidence and the acknowledgement that this is only a possibility, I accord it limited, if any, weight.

*Paragraph 134 balance*

68. I have found that there would be less than substantial harm to the significance of a designated heritage asset, namely the Mantley Farm complex. It is accepted and well-established that any harm to the significance of a heritage asset should be given considerable importance and weight and any harm or loss must be clearly and convincingly justified.

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<sup>18</sup> Core Document 1.18 Socio Economic Report May 2014.

<sup>19</sup> Appraisal §4.7

69. I now turn to consider the planning balance required by paragraph 134 of the Framework. Against this harm I must consider the public benefits of the proposal. In this case I conclude that the provision of market housing in the absence of a 5 YHLS and the provision of 41 affordable homes would represent very significant benefits to which I attach substantial weight. Along with the other benefits listed I conclude that these benefits, when taken together, outweigh the less than substantial harm caused to heritage assets.
70. On behalf of the Council, Mr Wadsley, advocates that the harms to the heritage assets (Mantley House and Picklenash Court) must be taken together as footnote 9 makes no distinction between paragraphs 133, 134 and 135 of the Framework<sup>20</sup>. The balancing exercise I have undertaken above is the one dictated by paragraph 134 and relates only to the Mantley House Farm complex as a designated heritage asset. Footnote 9 sets out a number of examples of protective policies and refers to 'designated heritage assets' rather than heritage assets so to that extent there is a distinction between designated and non-designated assets. However I do accept that footnote 9 is not intended to be an exhaustive list.
71. I consider that the correct approach is to conduct the paragraph 134 balance and then factor the harm to non-designated heritage assets into any final balance. If I am wrong on that matter and the harm to all heritage assets (designated or otherwise) should be taken together, then I am satisfied that the same conclusion would be reached. The benefits which I have identified in combination would still outweigh the harm to the Mantley Farm complex, to which I attribute considerable weight, and the limited harm to Picklenash Court to which I attribute limited weight.

**Other material considerations**

*Best and most versatile agricultural land (BMV land)*

72. The 1997 Agricultural Land Classification Map depicts the majority of the appeal site as being grade 2 agricultural land<sup>21</sup>. In addition the Land Research Associates' Report<sup>22</sup> confirms that the appeal site comprises grade 2, sub-grade 3a and some sub-grade 3b land. This is typical of much of the land surrounding Newent which also includes some pockets of grade 1 land. In addition a local resident, Mr Gardiner, gave evidence that the BMV land on the appeal site was important not only because of its soil quality but also because of the depth of the quality soil which, he said, was unusual. Mr Gardiner confirmed the importance of good quality soils to support agriculture thus facilitating the local production of food in a sustainable manner.
73. Paragraph 112 of the Framework confirms that the economic and other benefits of BMV land must be taken into account and that where significant development of agricultural land is demonstrated to be necessary, decision makers should seek to use areas of poorer quality land in preference to that of a higher quality. In this instance the development would involve the permanent loss of about 5 hectares of BMV land in an area where much of the land is of comparable quality. The inclusion of land of similar quality as part of the land put forward in the Allocations Plan is indicative of this. Whilst the loss of BMV land is to be regretted it must be viewed in light of the relatively small

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<sup>20</sup> Closing submissions §30.

<sup>21</sup> Mr Colegate appendix 15

<sup>22</sup> Report 1092/1-Agricultural quality of land off Ross Road, Newent.

amount of land which would be lost and the amount of BMV land in the surrounding area. I attach limited weight to this dis-benefit.

#### *Access*

74. On behalf of Newent Town Council, Mrs Duncan expressed concerns about a number of matters one of which includes the proposed access to the site. She explained that Ross Road is a major trunk route used by heavy goods vehicles as a more convenient route to the motorway network. The proposal utilises the existing access point on Ross Road which would be upgraded to provide a new priority controlled junction. The re-designed junction accords with both national and local policy in terms of recommended design standards. The traffic impact assessment confirms that the junction would operate within acceptable capacity limits with development in place. The assessment was made on the basis of 140 dwellings rather than 85 dwellings and I am satisfied that it represents a robust assessment.
75. The bus lay-by on the Ross Road frontage would be reduced in size to accommodate the new junction alignment. It is used by parents dropping off and collecting their children from a local primary school on the opposite side of the road. As requested I observed the operation of this lay-by during school closing time. Increased activity around the lay-by occurred for around half an hour on each side of the closing time. During the busiest period the lay-by was effectively full with some 9 vehicles parked up. Whilst the proposal would reduce the amount of casual parking for parents in the lay-by, I observed other on-street parking opportunities being used by parents further along Ross Road and in adjoining streets. I am satisfied that the revised arrangements would not have a detrimental effect on highway safety in relation to this matter.

#### *Drainage and flooding*

76. Some local residents and others raised concerns about the effect of the development on flood risk off-site. There was anecdotal evidence about occasions in the past when flooding has occurred along Horsefair Lane causing the traveller site to be evacuated. The Appellant submitted a Flood Risk Assessment and Surface Water Drainage Strategy<sup>23</sup> which confirmed that the site was at low risk from surface water, sewer or groundwater flooding. The strategy proposes mimicking greenfield storm water flow rates to the adjacent water courses which means that there would be no material change to the existing situation and no residual flood risk from the development site to the surrounding environment. Subject to the imposition of conditions securing the provision of a sustainable urban drainage system I am satisfied that there would be no material increase in flood risk elsewhere.

#### *Infrastructure*

77. Local residents have expressed concerns that the local infrastructure and facilities such as schools could not cope with the increased population. The council and county council raise no objections in relation to this matter. The site is on the edge of the town and close to facilities and services and I have no reason to believe that the proposal would be unacceptable in relation to these matters.

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<sup>23</sup> CD 1.11

*Section 106 matters*

78. The executed deed of variation and original unilateral undertaking (UU)<sup>24</sup> made in accordance with section 106 of the Town and Country Planning Act 1990 secures: the provision of on-site public open space and its transfer; financial contributions towards air quality measures, libraries and a travel plan. Inquiry Documents 18 and 19 sets out the District and County Councils' justification for each of the contributions sought in accordance with the policy tests set out in the Framework and the statutory test in regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010. The Appellants raise no objections to any of the contributions sought.
79. Contributions towards air quality measures, the travel plan and libraries are in accordance with Core Strategy policies CSP.1 and SCP.4. Requirements in relation to public open space are supported by LP policies CSP.1, CSP.2, CSP.4 and CSP.9 as well as AP policy AP.2. The above financial contributions and on-site provision is required to mitigate the impacts of development and related in scale and kind. Overall I am satisfied that the obligations in the s106 agreement meet the tests in CIL regulation 122 and paragraph 204 of the Framework.
80. The Council also gave evidence to the Inquiry as to the number of pooled contributions in relation to the above contributions. The number of contributions do not exceed three in any of the instances and I am satisfied that none of the financial contributions fall foul of the pooling restrictions in regulation 123 CIL regulations. As such those contributions which meet the statutory and policy tests can be taken into account.

**Overall Conclusions**

*Paragraph 14 of the Framework*

81. The duty in section 38(6) of The Planning and Compulsory Purchase Act 2004 enshrines in statute the primacy of the development plan. As an essential component of the 'plan-led' system, it is also reiterated in the Framework<sup>25</sup>. The Framework is of course a material consideration to which substantial weight should be attached.
82. Paragraph 14 recites the presumption in favour of sustainable development and sets out what it means for decision-taking. Paragraph 49 advises that housing applications should be considered in the context of the presumption in favour of sustainable development but that relevant policies for the supply of housing should not be considered up-to-date if the Council cannot demonstrate a 5 YHLS. I have concluded that relevant policies of the development are out-of-date by virtue of the lack of a 5 YHLS and the weight to be given to such policy conflict is reduced.
83. Paragraph 14 contains two alternative limbs in relation to decision-taking. The first limb requires a balance to be undertaken whereby permission should be granted unless the adverse impacts significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole. The second limb indicates that the presumption should not be applied if specific policies indicate development should be restricted. Whilst policies in relation to

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<sup>24</sup> Inquiry document 20.

<sup>25</sup> §§11, 12, 196



heritage assets fall within the ambit of footnote 9, in this case the policies do not indicate that development should be restricted. It is necessary therefore to conduct the balance in the first limb.

84. The proposal would be contrary to policy CSP.4 by virtue of it being located outside a settlement boundary. There would be less than substantial harm to heritage assets as identified, harm to landscape character and the visual amenity of the landscape as well as the limited loss of best and most versatile agricultural land contrary to policy CSP.1. As a consequence of these matters I conclude that the proposal is contrary to the development plan when viewed as a whole. However relevant policies for the supply of housing are out of date and the weight which I attribute to the contravention of policy CSP.4 is reduced. The other policies which I have identified as housing supply policies are more broadly consistent with Framework objectives and therefore I conclude that they should continue to attract moderate weight.
85. There is a serious and significant shortfall in the housing supply and more particularly a substantial need for affordable homes in the district. The homes would be located in an accessible location and would bring economic activity and other benefits. In this appeal all of the harms and benefits which I have identified cover the three dimensions of sustainability<sup>26</sup> and have been considered in the overall balance. When all things are considered I conclude that the adverse impacts of the proposal do not significantly and demonstrably outweigh the benefits. It follows that planning permission should be granted.

#### **Conditions**

86. The Council and Appellant agreed a set of conditions which were discussed at the Inquiry. I have considered all of the conditions in light of the advice within the National Planning Policy Guidance. I have revised some of the wording, either as discussed at the Inquiry or in the interests of clarity and enforceability. The numbers in brackets relate to the conditions in the parties agreed conditions.
87. In the interests of good planning it is necessary to impose conditions setting out the limits for development and to relate development to the submitted plans, as well as time limits for development and for the submission of reserved matters (1, 2, 3 and 4). Whilst I appreciate that connection of any foul drainage system to the main sewer is controlled by other legislation there may be other planning related issues such as the location of pipework which need to be controlled. I have therefore imposed suggested condition (5).
88. A scheme to secure on-site surface water drainage works is required to ensure a satisfactory development (6). It is necessary to ensure that accesses, parking spaces and internal roads have been laid out prior to occupation and that the visibility splays at the entrance are in place prior to construction works (7, 8 and 9). It is also necessary to control activities during the construction and demolition period and to restrict the hours of working (10). As discussed at the Inquiry I have imposed a separate condition in relation to hours of working. It is necessary to secure replacement planting in relation to any landscaping scheme and to secure the open space provision (11 and 12).

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<sup>26</sup> The economic role, the social role and the environmental role.

89. I have carefully considered the condition seeking to restrict the heights of houses within the site (13). I am satisfied that it is reasonable and necessary to impose such a condition in order to control the effects of development and in particular to restrict the effects on the skyline. In line with policy objectives to encourage sustainable development I have imposed a condition requiring waste minimisation (14). It is necessary to ensure the relocation of school safety signs and marking prior to occupation (15). I am satisfied that condition requiring a noise assessment for sensitive dwellings needs to be imposed (16).
90. Agreed conditions (17, 18 and 19) are all necessary to secure ecological interests and improvements on the site. I also suggested an additional condition relating to internal boundary treatments which was accepted by both parties. Finally the parties agreed that a condition requiring the provision of affordable housing is necessary (20).

*Karen L Ridge*

INSPECTOR

Richborough Estates

## APPEARANCES

### FOR THE LOCAL PLANNING AUTHORITY:

Mr Peter Wadsley of Counsel

He called

Mr Peter Radmall                      Landscape Consultant  
MA BPhil CMLI

Mr David Haigh                      Conservation Consultant  
BA MA AA Grad Dipl Cons  
FSA IHBC

Mr Nigel Gibbons                      Forward Plan Manager, FoD Council  
BSc MRTPI

Mr Stephen Colegate                      Principal Planning Officer, FoD Council  
BA(Hons) MPlan MRTPI

### FOR THE APPELLANT:

Mr Peter Goatley of Counsel

He called

Mr Jason Clemons                      Director, WYG Consultants  
BA(Hons) MA MSc  
MRTPI IHBC

Mr Phil Rech                      Director, fpcr  
BA BPhil LD CMLI

Mr Jason Tait                      Director, Planning Prospects Consultants  
BA(Hons) Dip TP MRTPI

### INTERESTED PERSONS:

Mrs Mary Duncan                      Newent Town Council

Mr George Eden                      Local resident

Mr Gardiner                      Local resident

## DOCUMENTS SUBMITTED DURING THE COURSE OF THE INQUIRY

- 1 Appearances on behalf of the Appellant.
- 2 Email Severn Trent to the Council dated 26 January 2017, submitted by the Council.
- 3 Email Andrew Gardiner to the Council dated 30 January 2017, submitted by the Council.
- 4 Outline Opening Submissions on Behalf of the Appellant.
- 5 Opening Submissions by Forest of Dean Council.
- 6 Further Supplementary Statement of Common Ground on Housing Land Supply, submitted on behalf of the Council and Appellant.
- 7 Extract from Planning Practice Guidance ID 3-035-20140306, submitted by the Appellant.
- 8 Bloor Homes East Midlands Limited v SSCLG [2014] EWHC 754 Admin.
- 9 Planning Statutory Review Claim Form case reference CO/457/2017 issued 30 January 2017, submitted by the Appellant.
- 10 Forest of Dean Allocations Plan Further Changes Consultation January 2017, submitted by the Appellant.
- 11 Statement of Mrs Davidsen.
- 12 Statement of George and Freda Eden.
- 13 Annual Report for 1939-40 Association, submitted by Mr Gardiner.
- 14 Draft Deed of Variation and Planning Obligation, submitted by the Council and Appellant.
- 15 Ecological Technical Note submitted by the Appellant.
- 16 Further Supplementary Statement of Comment.
- 17 Forest of Dean District Council Allocations Plan Further Changes December 2016 Consultation Documents, submitted by the Council.
- 18 Justification Statement for s106 contributions, submitted by the Council.
- 19 Proposed Measures to Mitigate Against Vehicle Emissions, submitted by the Council.
- 20 Executed Deed of Variation and Planning Obligation, submitted by the Council and Appellant.
- 21 Office copy entries of register of title, submitted by the Appellant.
- 22 Email from Mr Andrew Gardiner dated 3 February 2017.
- 23 Signed Statement of Common Ground.
- 24 Closing Submissions by Forest of Dean District Council.
- 25 Barnwell Manor Wind Energy Ltd v East Northamptonshire District Council and others [2014] EWCA Civ 137.
- 26 Suffolk Coastal District Council v Hopkins Homes Ltd and others [2016] EWCA Civ 168.
- 27 Forge Field Society v Sevenoaks District Council and others [2014] EWHC 1895 (Admin).
- 28 Stroud District Council v SSCLG [2015] EWHC 488 (Admin).
- 29 Derbyshire Dales District Council and Peak District National Park Authority v SSCLG and Carsington Wind Energy Ltd [2009] EWHC 1729 (Admin).
- 30 Outline Closing Submissions on Behalf of the Appellant.
- 31 East Staffordshire Borough Council v SSCLG and another [2016] EWHC 2973 (Admin).

## PLANS SUBMITTED DURING THE INQUIRY

- A Structural landscape planting plan 5739-L-14 Revision A.
- B Analysis of Viewpoint 1 of Peter Radmall's Evidence 5739-L-13.

## CONDITIONS ATTACHED TO THE PLANNING PERMISSION

- 1) The development hereby permitted is for up to 85 dwellings. Save as varied by other conditions the development hereby permitted shall accord generally with the parameters of the development as set out on the Development Framework Plan 5739-L-02 Rev F.
- 2) Details of the appearance, landscaping, layout and scale and which (hereinafter called 'the reserved matters') shall be submitted to and approved in writing by the Local Planning Authority before any development commences and the development shall be carried out as approved. The layout submission shall include details of the internal access roads within the site and shall include street scenes, existing site levels and sections and proposed site and slab levels and sections through the site at a scale of not less than 1:500.
- 3) Application for the approval of the reserved matters shall be made not later than the expiration of two years beginning with the date of this permission.
- 4) The development hereby permitted shall be commenced before the expiration of three years from the date of this permission or before the expiry of two years from the date of the approval of the last of the reserved matters to be approved, whichever is the later.
- 5) No development shall commence until foul water drainage proposals have been submitted to, and approved in writing by, the local planning authority. The approved details shall be implemented in full prior to any of the dwellings hereby approved being occupied. Any surface water shall be drained separately from foul water.
- 6) No development shall commence until surface water drainage details, including a SUDS/drainage management plan have been submitted to, and approved in writing by, the local planning authority. These details should fully incorporate the principles of biodiversity enhancement, sustainable drainage and improvement in water quality, along with a robust assessment of the hydrological influences of the detailed drainage plan, including allowances for climate change. The approved scheme shall subsequently be implemented prior to first occupation of the dwellings hereby permitted. The system shall be subsequently maintained in accordance with the approved details.
- 7) No dwelling shall be occupied until vehicle parking and manoeuvring facilities for that dwelling (including provision for the disabled) have been implemented in accordance with a scheme approved by the local planning authority. The submitted scheme shall include details of construction and surfacing. The approved facilities shall be kept permanently available for such use with the vehicle parking spaces retained for parking only and the manoeuvring facilities for manoeuvring.
- 8) No works shall commence on site (other than those required by this condition) on the development hereby permitted until the approved site

access as shown on drawing A083614-P002 Rev D and associated visibility splays, has been completed in accordance with the approved details and with the carriageway and footways constructed to at least binder course level.

- 9) No dwelling on the site shall be occupied, until the carriageways (including surface water drainage/disposal, vehicular turning heads and street lighting) providing access from the nearest public highway to that dwelling, have been completed to at least binder course level and the footways to surface course level in accordance with details which have previously been submitted to, and approved in writing by the local planning authority.
- 10) No development shall take place, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall:
  - i. specify the type and number of construction vehicles;
  - ii. provide for the parking of vehicles of site operatives and visitors;
  - iii. provide for the loading and unloading of plant and materials;
  - iv. provide for the storage of plant and materials used in constructing the development;
  - v. provide for wheel washing facilities;
  - vi. include measures to control the emission of dust and dirt during construction;
  - vii. include measures to observe the School Safety Zone during construction;
  - viii. provide details of the erection and maintenance of security hoarding including decorative displays;
  - ix. include publicity arrangements and a permanent contact/traffic manager once construction commences to deal with all queries and authorised by the developer/contractors to act on their behalf;
  - x. provide for the routing of construction vehicles and deliveries to the site and the timing of their arrival.
- 11) No demolition, ground works or construction works shall take place outside the following hours: 0800 to 1800 hours on Mondays to Fridays and 0900 to 1300 hours on Saturdays. There shall be no such work on Sundays or Public or Bank Holidays.
- 12) No works shall commence on site until the landscaping scheme submitted as part of the reserved matters (and incorporating existing flora) has been approved in writing by the local planning authority. Such a scheme shall be carried out in accordance with a planting programme which shall be submitted to and approved in writing by the local planning authority. If at any time during the five years following planting, any tree, shrub or hedge forming part of the scheme shall for any reason die, be removed or felled it shall be replaced with another tree or shrub of the same species during the next planting season to the satisfaction of the local planning authority.

- 13) A Landscape and Open Space Works Specification and Management Plan including precise details of the Open Space, its long term design objectives, management responsibilities and maintenance schedules for all landscaped areas, public open space and Play Area (to include a Locally Equipped Area for Play), other than privately owned domestic gardens, shall be submitted to and approved in writing by the local planning authority prior to the first occupation of the development. The Play Area/Open Space shall be laid out to the written satisfaction of the local planning authority in accordance with the approved details and in accordance with an approved timetable. All other works shall be carried out in accordance with a timetable which has been approved in writing by the local planning authority. Once completed thereafter the approved scheme shall be retained and used for no other purpose than that specified in the approved scheme.
- 14) No building on any part of the development hereby permitted shall exceed 8.5 metres in height to the ridgeline when measured from approved slab level.
- 15) No development shall take place until a Waste Minimisation Statement has been submitted to, and approved in writing by, the local planning authority. It shall include:
- Details of the types and volumes of construction waste likely to be generated including measures to minimise re-use and recycle that waste and minimise the use of raw materials;
  - All construction waste to be re-used on site unless it can be demonstrated to the satisfaction of the Local Planning Authority that this is not the most sustainable, suitable or safe option;
  - Where waste is generated that cannot be re-used/recycled either on or off site the Waste Minimisation Statement must set out proposed measures for the disposal of this waste in an environmentally acceptable manner;
  - Provision within the residential development of 'on-site' storage receptacles for recycling a range of materials as specified by the Local Planning Authority, at identified locations;
  - Suitable accessing arrangements for recycling/waste collection vehicles.

Thereafter all of these provisions shall be implemented in accordance with the approved Waste Minimisation Statement.

- 16) Notwithstanding the approved plans and prior to development commencing, details of the relocation of the existing School Safety Zone signs, lining and markings shall be submitted to and approved in writing by the local planning authority and shall be implemented in accordance with the approved details prior to first occupation of the development.
- 17) Prior to development commencing a noise assessment shall be submitted to, and approved in writing by, the local planning authority. The assessment shall include details to ensure internal noise levels can be achieved in bedrooms and living rooms in the proposed dwellings, post construction, of 30 dBLA<sub>eqT</sub> (where T is 23:00 and 07:00) and

35 dBLAeqT (where T is 07:00-23:00). Noise from individual external events typical to the area shall not exceed 45 dBLAmax when measured in bedrooms and living rooms internally between 23:00 and 07:00 hours post construction. Noise levels in gardens, outdoor living areas and public open spaces to not exceed 55 dBLAeq 1 hour when measured at any period, unless otherwise agreed in writing by the local planning authority.

- 18) No development shall commence, including ground works and site clearance, until an Ecological Conservation and Enhancement Plan (the Plan) has been submitted to and approved in writing by the local planning authority. The Plan should include bird, reptile, bat foraging, bat flyways, amphibian and dormice habitat management and mitigation meeting the requirements of section 11.1 of BS 42020:2013; the retention of flight lines, foraging areas, dark corridors; re-assessment of trees with identified bat potential including any necessary survey work; compensation of the loss of hedgerows; enhancement of hedgerows as well as to foraging opportunities and connectivity to off-site habitats; enhancement measures for bats and birds such as bat and bird boxes in trees and in suitable locations within or attached to the new dwellings.

The submitted Plan shall also include the following details:

- a risk assessment of potentially damaging construction activities;
- identification of "biodiversity protection zones" (such as hedgerows);
- practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction;
- the extent and location of proposed works shown on appropriate scale maps and plans;
- timetable for implementation, demonstrating that works are aligned with the proposed phasing of construction;
- persons responsible for implementing the works;
- initial aftercare and long-term maintenance (where relevant);

Development shall be carried out in accordance with the approved Plan in accordance with a timetable approved in writing by the local planning authority.

- 19) Prior to the installation of any external lighting on the site, a lighting strategy for the whole site, shall be submitted to the local planning authority for approval. The lighting strategy shall include measures to reduce impacts on existing and proposed features for bat foraging and flight corridors and measures for maintaining light levels below 1 lux at any point when measured on the entire length of the south side of the hedgerow boarding Horsefair Lane. The external lighting shall be implemented in accordance with the approved scheme. No other external lighting shall be permitted on the public areas of the site without the prior written authority of the local planning authority.
- 20) No removal of any vegetation (including ivy) shall take place between 1st March and 31st August inclusive, unless a suitably qualified ecologist has undertaken a detailed check of vegetation for active birds' nests



immediately before the vegetation is cleared and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interests on site. Any such written confirmation should be submitted to the local planning authority prior to removal of vegetation for approval in writing and then works shall be carried out as approved.

- 21) The reserved matters submission in relation to appearance shall include details of all boundary treatments to be carried out on the perimeter boundaries of the site and details of any boundary enclosures to be erected or grown within the site. The perimeter boundary treatments shall be carried out in accordance with the approved details and completed prior to any dwelling being first occupied and the boundary treatments in relation to individual plots shall be carried out and completed on each respective plot prior to its first occupation.
- 22) The development shall not begin until a scheme for the provision of affordable housing as part of the development has been submitted to, and approved in writing by, the local planning authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex 2 of the National Planning Policy Framework or any future guidance that replaces it. The scheme shall include:
- a) the numbers, type, tenure and location on the site of the affordable housing provision to be made which shall consist of not less than 40% of housing units;
  - b) the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;
  - c) the arrangements for the transfer of the affordable housing to an affordable housing provider or the management of the affordable housing if no registered social landlord is involved ;
  - d) the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
  - e) the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.

END OF CONDITIONS