



Department for
Communities and
Local Government

Our ref: APP/C1625/W/16/3147240

Mr Philip Staddon
PJS Development Solutions Ltd
26 Lea Crescent
Longlevens
Gloucester
Gloucestershire
GL2 0DU

21 April 2017

Dear Sir

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEAL MADE BY SPRINGFIELD INVESTMENTS LIMITED
LAND NORTH OF ALKERTON ROAD, EASTINGTON, STONEHOUSE, STROUD,
GLOUCESTERSHIRE, GL10 3AQ
APPLICATION REF: S.14/2879/OUT**

1. I am directed by the Secretary of State to say that consideration has been given to the report of Julia Gregory BSc (Hons), BTP, MRTPI, MCMI, who held a hearing on 7 December 2016 into your client's appeal against the failure of Stroud District Council to determine your client's application for planning permission for the erection of a doctor's surgery and up to 36 residential dwellings, in accordance with application ref: S.14/2879/OUT, dated 10 December 2014.
2. On 16 August 2016, this appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990.

Inspector's recommendation and summary of the decision

3. The Inspector recommended that the appeal be dismissed and planning permission be refused.
4. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions and her recommendation. He has decided to dismiss the appeal and refuse planning permission. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

Procedural matters

5. The Secretary of State has noted the Inspector's remarks and actions at IR3-9. He has noted the agreement of the main parties to use the amended illustrative plan to consider the proposal and he has proceeded on the same basis.
6. An application for a full award of costs was made by Springfield Investments Limited against Stroud District Council (IR2). This application is the subject of a separate decision letter, also being issued today.

Policy and statutory considerations

7. In reaching his decision, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.
8. In this case the development plan consists of the Stroud District Local Plan (LP) adopted in 2015 and the Eastington Neighbourhood Development Plan (NDP) made on 27 October 2016. The Secretary of State considers that the development plan policies of most relevance to this case are those set out at IR 22-41.
9. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework ('the Framework') and associated planning guidance ('the Guidance').
10. In accordance with section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the LBCA Act), the Secretary of State has paid special regard to the desirability of preserving those listed buildings potentially affected by the proposals, or their settings or any features of special architectural or historic interest which they may possess.

Main issues

11. The Secretary of State agrees with the Inspector that the main issues are those set out at IR104.

Spatial Strategy

12. Like the main parties, the Secretary of State considers that Stroud District Council has a five year supply of deliverable housing sites (IR109).
13. The Secretary of State notes (IR110-111) that NDP policy EP1 sets the settlement boundary for Alkerton and that the appeal site lies outside that boundary. He also notes that LP Core Policy CP2 identifies that housing development will take place within settlement limits and that limited development will take place outside these designated areas in accordance with other policies of the plan. He notes (IR111) that Core Policy CP15 allows for rural exceptions, but agrees with the Inspector that the exceptions do not apply in this case.
14. The Secretary of State agrees with the Inspector at IR112 that there is no quantified justification for the doctor's surgery to demonstrate that it would involve an essential community facility as required by LP Core Policy CP15. He further agrees that the support from the appellant's surveyor does not contain any firm expression of interest

from any health care practitioner and there is no certainty that it would be provided since there is no obligation to secure its provision.

15. For the reasons set out at IR112-114 the Secretary of State agrees with the Inspector at IR116 that there is no policy justification for the scheme, since it is not justified by any exception contained in any development plan policy. He also agrees with the Inspector at IR117 that the benefits of the development (as set out in paragraph 22) do not outweigh the harm in respect of conflict with the strategic objectives of the development.

Setting of the listed building

16. The Secretary of State has considered the impact of the proposal on the setting of Alkerton Gazebo. For the reasons set out at IR119-122 the Secretary of State agrees with the Inspector at IR121 that screening would be inadequate and that the housing development would constrain the openness of the outlook from the gazebo to the countryside substantially. He agrees that the gazebo would look from its west and south windows onto the development, eroding its significance. For the reasons set out at IR122 the Secretary of State also agrees with the Inspector that the view towards the gazebo, particularly from the public footpath and the entrance to the field from Alkerton Road, would be dominated by built development. He agrees with the Inspector at IR123 that that the gazebo would not be physically harmed and therefore the development would result in less than substantial harm to its significance. He considers that the benefits of the development (as set out in paragraph 22) would not outweigh the less than substantial harm to the setting of the Alkerton gazebo. Like the Inspector at IR124, the Secretary of State concludes that the proposal does not comply with LP Policy ES10 and LP Core Policy CP14.
17. The Secretary of State notes the Inspector's remarks at IR118 and agrees with her conclusion that the setting of none of the other listed buildings in the vicinity of the appeal site would be adversely affected.

Planning conditions

18. The Secretary of State has given consideration to the Inspector's analysis at (IR127-132), the recommended conditions set out at the end of the IR and the reasons for them, and to national policy in paragraph 206 of the Framework and the relevant Guidance. He is satisfied that the conditions recommended by the Inspector comply with the policy test set out at paragraph 206 of the Framework. However, he does not consider that the imposition of these conditions would overcome his reasons for dismissing this appeal and refusing planning permission.

Planning obligations

19. The Secretary of State notes (IR125-126) that no planning obligations were submitted for consideration, including any obligation to secure the doctor's surgery since the provision was speculative. He notes that on appeal the appellant indicated a willingness to contribute £111,231 for schools and £7,056 for local libraries, however he considers that the indicated obligation would not overcome his reasons for dismissing this appeal and refusing planning permission.

Planning balance and overall conclusion

20. For the reasons given above, the Secretary of State considers that the proposal is not in accordance with LP Policies CP2, CP14, CP15 and ES10 or NDP policy EP1, and therefore is not in accordance with the development plan overall. He has gone on to consider whether there are material considerations which indicate that the proposal should be determined other than in accordance with the development plan.
21. The Secretary of State considers that the proposal would not conserve the open landscape setting of the gazebo and that it would cause less than substantial harm to the setting of the gazebo. Paragraph 134 of the Framework identifies that where a development proposal would lead to less than substantial harm to the significance of a designated heritage asset, the harm should be weighed against the public benefits of the proposal. In accordance with the s.66 duty, the Secretary of State attributes significant weight to the harm.
22. The Secretary of State considers that the provision of housing carries significant weight and that the economic benefits from construction carry moderate weight in favour of the proposal.
23. Overall the Secretary of State considers that the benefits of the proposal are not collectively sufficient to outbalance the identified *less than substantial harm* to the setting of the Alkerton gazebo, bearing in mind that such harm should be given considerable importance and weight. He considers that the balancing exercise under paragraph 134 of the Framework is therefore not favourable to the proposal.
24. Overall the Secretary of State does not consider that there are any material considerations which indicate that the proposal should be determined other than in accordance with the development plan. He therefore concludes that the appeal should be dismissed and planning permission refused.

Formal decision

25. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby dismisses your client's appeal and refuses planning permission for the erection of a doctor's surgery and up to 36 residential dwellings.

Right to challenge the decision

26. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged. This must be done by making an application to the High Court within 6 weeks from the day after the date of this letter for leave to bring a statutory review under section 288 of the Town and Country Planning Act 1990.
27. A copy of this letter has been sent to Stroud District Council.

Yours faithfully

Merita Lumley

Authorised by Secretary of State to sign in that behalf

Report to the Secretary of State for Communities and Local Government

by Julia Gregory BSc (Hons), BTP, MRTPI, MCMI

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

Date: 27 January 2017

TOWN AND COUNTRY PLANNING ACT 1990

STROUD DISTRICT COUNCIL

APPEAL BY

SPRINGFIELD INVESTMENTS LIMITED

Richborough Estates

Hearing held on 7 December 2016

Land North of Alkerton Road, Eastington, Stonehouse, Stroud, Gloucestershire GL10 3AQ

File Ref: APP/C1625/W/16/3147240

File Ref: APP/C1625/W/16/3147240

**Land North of Alkerton Road, Eastington, Stonehouse, Stroud,
Gloucestershire GL10 3AQ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
- The appeal is made by Springfield Investments Limited against Stroud District Council.
- The application Ref S.14/2879/OUT is dated 10 December 2014.
- The development proposed is the erection of doctors surgery and residential development of up to 36 dwellings (outline).
- The Hearing sat for 1 day on 7 December 2016. I made an accompanied visit to the site and surrounding area on the same day.

Summary of Recommendation: The appeal be dismissed and planning permission be refused.

Recovery by the Secretary of State

1. The appeal was recovered by the Secretary of State by a Direction dated 16 August 2016. The reason for the Direction was that, at that time, the appeal involved a proposal for residential development of over 25 units in an area where a qualifying body had submitted a neighbourhood plan proposal to the local authority but the relevant plan had not yet been made.
2. Eastington Neighbourhood Development Plan (NDP) was made on 27 October 2016 and now forms part of the development plan for the area.

Procedural Matters

3. The application is in outline with all matters reserved for future determination. An illustrative plan submitted by the appellant was formally amended by plan reference 0498 103 C during the time that the Council was considering the proposal. That plan has been subject to local and statutory consultation. The main parties agreed that this was the plan that should be used to consider the proposal.
4. The Council failed to determine the application within the prescribed time period. The Council has indicated that had it been in a position to do so that they would have refused the application.¹ The putative reasons for refusal concerned the effect of the proposal in relation to the settlement strategy for the District, the effect of the scheme on the setting of the listed summerhouse, also known as the gazebo at Alkerton Grange, and the adequacy of surface water drainage.
5. For the avoidance of doubt, I shall use the term gazebo in respect of the summerhouse at Alkerton Grange throughout this report.
6. The place names Alkerton and Eastington tend to be used interchangeably in representations. Alkerton is a village within Eastington Parish. I have used the name Alkerton for the village and Eastington for the Parish, but there are discrepancies where I refer to the wording in policies.

¹ Draft decision notice dated 10 May 2016

7. The main issues discussed at the Hearing were firstly whether the dwellings and surgery would be appropriately located having regard to the strategic objectives of the development plan; and secondly, the effect of the proposal on the setting of Alkerton Grange gazebo.
8. At the Hearing the Council accepted that the third matter, surface water drainage, was capable of being dealt with as a reserved matter and supplied model conditions for consideration.²
9. An application for costs was made by the appellant against the Council. This application is the subject of a separate Report.

The Site and Surroundings

10. The site comprises some 1.39 hectares of land located some 0.26 kilometres to the west of the centre of Alkerton, close to the M5 motorway cutting which lies a little way to the west.³ The Parish lies to the west of Stroud.
11. The site comprises relatively flat undeveloped agricultural land enclosed by hedgerows to two sides with a copse close to the north of Alkerton Road. It has an existing un-gated agricultural access close to Alkerton Grange and there is no footway on the frontage of the site.
12. The site forms part of a much larger tract of agricultural land within the control of the appellant.⁴ There is no defined boundary within the field on the northern boundary of the site. There is a public footpath within the field on its eastern boundary where it adjoins Alkerton Grange.
13. There are five listed buildings within 200m of the application site boundary.⁵ These are Alkerton Court, Alkerton Court Barn, Alkerton Grange, Alkerton Grange gate piers and the gazebo at Alkerton Grange. All are grade II listed apart from the gazebo which is grade II*. Grade II* buildings are in the top 8% of the country's most significant listed buildings.⁶
14. Directly to the east of the site lies Alkerton Grange which is a substantial detached house which dates from the early 18th century. Within its grounds on its northern boundary lies the gazebo.⁷ The gate piers referred to above form the entrance to Alkerton Grange.
15. The gazebo dates from the early 18th century. The listing description⁸ describes it as a small square structure of basement and raised ground floor in the baroque style with Ionic pilasters on the frontage. There is a decorative parapet with urns on either side. The door case is a half glazed original door and there are two flanking 8-pane sashes. Similar 12 pane sashes are to either side of the gazebo and there is a blocked window at the rear. The interior has very high quality oak panelling with a fireplace to one corner and a shell niche cupboard with original

² Document 3

³ Statement of common ground

⁴ Application plan blue line area

⁵ Ecus Heritage Setting Assessment June 2015

⁶ Council statement para 4.25

⁷ Listing description in questionnaire

⁸ Listing description in questionnaire

painted grotesques to another. There is a flight of 10 splayed moulded stone steps up to the door held by iron clamps and twisted iron handrails.

16. To the east of the gazebo is a tennis court and garden land. Buckingham Close, a modern housing estate backs onto that land but it is screened well by coniferous trees to the extent that the estate cannot be seen in views from the gazebo.
17. To the west of the appeal site lie two modern dwellings on the frontage to Alkerton Road. Then there is Alkerton Court, a Grade II listed building. Further to the west are listed barns and then Smiths Haulage yard. On the south side of Alkerton Road is a Community Centre, set well back from the road.

Site visit

18. On my site visit I visited Alkerton Grange and viewed the site from both inside and adjacent to the gazebo and within the formal grounds more generally. I visited the site itself and walked along the eastern field boundary following the public footpath. I viewed the relationship of the land to dwellings to the east of Alkerton Grange.
19. Furthermore, I walked along Alkerton Road in both directions for a little way and saw that there were points where the gazebo was visible from Alkerton Road, but this was most pronounced at the entrance to the field and public footpath. I also saw the relationship of the site to Alkerton Grange and the listed Gate Piers and Alkerton Court and Alkerton Court Barns to the west.
20. I toured the area generally by car and saw the location of shops and services in Alkerton, several modern developments locally and the character and appearance of the village generally. The overall impression I gained of this part of Alkerton is that of a traditional village in close proximity to worked agricultural land with limited modern development.

Planning Policy

21. Stroud Local Plan 2005 has been superseded by the Stroud District Local Plan (LP) adopted in 2015. At the Hearing the LP policies that were agreed by the main parties to be the most relevant to the consideration of the appeal proposal were as follows:⁹
22. LP Core Policy CP1 contains a presumption in favour of sustainable development that reflects the provisions of the National Planning Policy Framework (the Framework).
23. LP Core Policy CP2 identifies areas for strategic growth and development. At least 11,400 additional dwellings shall be provided in the period 2006 to 2031. West of Stonehouse, within Eastington Parish will provide for 1,350 dwellings. Outside strategic sites development will take place in accordance with the settlement hierarchy set out in the plan. Housing development will take place within settlement limits. Limited development will take place outside of these designated areas and in accordance with other policies of the plan. The Council will consider the need to assist other local planning authorities in the housing

⁹ Development plan policies were provided with the Council's Questionnaire, with the Council's supplementary hearing statement and submitted at the Hearing.

- market area in meeting their unmet objectively assessed development needs including through an early review of the plan.
24. LP Core Policy CP3 provides a hierarchy for growth and development across the District's settlements. Accessible settlements are first tier, local service centres are second tier, and accessible settlements with limited facilities are third tier. Eastington is defined as a third tier settlement. The hierarchy seeks to ensure that development reduces the need to travel and promotes sustainable communities based on available services and facilities.
 25. The policy identifies that tier 3 settlements have the best opportunities outside of Local Service Centres for greater self-containment. They will provide for lesser levels of development in order to safeguard their role and to provide through any Neighbourhood Plans some opportunities for growth and to deliver affordable housing. LP Core Policy CP3 states that settlements in the hierarchy will all have defined settlement limits within which suitable development may be permitted.
 26. The Council accepted that there is variation in the amount of services within settlements in the various tiers and did not seek to disagree that Alkerton was relatively well served.
 27. The appellant accepted at the Hearing that the LP had been examined and the tiers had been adopted by the Council. He did not therefore seek to challenge the designations at this time. That was a matter for the review of the LP.
 28. The site lies outside but immediately adjacent to the settlement boundary for Alkerton as identified in the LP.
 29. LP Core Policy CP4 sets a spatial vision for Stroud District that development proposals shall accord with mini visions and have regard to the guiding principles for the locality.
 30. LP Core Policy CP9 identifies an overall unadjusted need for affordable housing of 446 dwellings per annum. All residential proposals of at least 4 dwellings covering a net area of at least 0.16 ha will be required to provide at least 30% of the net units as affordable dwellings, where viable.
 31. LP Core Policy CP14 supports high quality sustainable development that requires compliance with a set of criteria. These include that development is appropriate in design and appearance which is respectful of its surroundings, including, amongst other matters, heritage.
 32. LP Core Policy CP15 states that development outside identified settlement limits will not be permitted except in certain circumstances. Amongst these it allows for rural exception sites, for replacement dwellings and for enabling development to maintain a heritage asset of acknowledged importance. It also allows for essential community facilities.
 33. LP Delivery Policy ES10 seeks to preserve, protect or enhance the historic environment in accordance with a set of principles. Any harm or loss would require clear and convincing justification as to why the heritage interest should be overridden. Development proposals which could affect the setting of heritage assets should demonstrate how the assets will be protected, conserved or where appropriate enhanced.

34. LP Delivery Policy HC4 Local housing need (exception sites) identifies that planning permission may be granted for affordable housing on sites adjoining identified settlement limits. This has to be based on a clearly evidenced local need that cannot be met elsewhere in the locality for the number and type of housing proposed
35. LP Delivery Policy EI6 seeks to protect local shops, public houses and other community uses.
36. The application site is not within any designated landscape area.
37. The NDP submission draft was examined and a report produced by the examining inspector dated 28 April 2016. The submission draft included a policy, EP3: Designation of Green Spaces. Land including the application site was included as one of three local green spaces. The examining inspector concluded that the assessment of the three sites did not provide convincing evidence justifying their designation as Local Green Space and recommended that the policy be deleted. That duly took place before the plan was made. As a consequence, I have attributed this policy of the submission draft no weight. Nonetheless, the character assessment that accompanies the NDP identifies the site as part of a wider area sensitive to change because of its relationship to the gazebo.
38. NDP Map 1 identifies a settlement boundary around Alkerton village and shows the allocated area west of Stonehouse where major development is proposed. There are no other allocations on the map. The application site lies outside of the settlement boundary.
39. NDP policy EP1 supports sustainable development. Outside the West of Stonehouse allocation, development should take place within the settlement boundary of Alkerton. In Hamlets and in the countryside it should accord with LP Core Policy CP15.
40. NDP policy EP2 seeks to protect and enhance biodiversity and the natural environment.
41. NDP policy EP5 supports small scale affordable housing sites adjoining the settlement of Alkerton so long as LP policy HC4 provisions are met.
42. Paragraph 12 of the Framework identifies that the development plan is the starting point for decision making. Proposed development that accords with an up to date Local Plan should be approved and that which conflicts should be refused unless other material considerations indicate otherwise.
43. Paragraph 183 of the Framework identifies that Neighbourhood Planning gives communities direct power to develop a shared vision for their neighbourhood and to deliver the sustainable development they need. They can set policies to be used to determine decisions on planning applications.
44. In paragraph 47, the Framework seeks to boost significantly the supply of housing. Local planning authorities should identify and update annually a supply of deliverable sites sufficient to provide five years' worth of housing against their housing requirements.
45. The Framework, in paragraph 49, specifies that relevant policies for the supply of housing should not be considered up to date if a five-year supply of deliverable

housing sites cannot be demonstrated. In those circumstances paragraph 14 of the Framework indicates what that means for decision taking.

46. Paragraph 56 of the Framework promotes good design of the built environment. Paragraph 131 requires local authorities to take account of the desirability of sustaining and enhancing the significance of heritage assets. Paragraph 132 identifies that great weight should be given to the asset's conservation. Significance can be harmed through, amongst other things, development within its setting. Paragraph 134 identifies that where a development proposal would lead to less than substantial harm to the significance of a designated heritage asset, the harm should be weighed against the public benefits of the proposal.

Planning History

47. There is no planning history in respect of any previous planning applications.

The Proposals

48. The amended plan, according to the appellant, seeks to demonstrate a satisfactory response to heritage setting recommendations and to incorporate highways/access requirements. There are further location plans which outline in blue the other farm land to the north that the appellant owns.
49. The illustrative plan shows a surgery and car park close to the frontage of the site with one access to serve all of the development. That access alters an existing farm access, bringing it further away from the boundary with Alkerton Grange. Trees and bushes are shown retained close to Alkerton Road.
50. The plan demonstrates how 36 dwellings could be laid out upon the site. According to the appellant although the description says up to 36 dwellings, 36 is the number that the appellant considers appropriate. Nonetheless, this could be amended if the Secretary of State considers it appropriate to do so. The plan shows an attenuation pond to the east of the site, and landscaping, including open space in the north-eastern corner of the site with trees directly adjacent to the estate road in this area.
51. There is no end user for the surgery and it is a commercial decision by the appellant to seek to develop the scheme. The provision is supported by a statement by Peter Chambers of Perry Bishop who identifies that it is a commercially sound and viable proposition and one he considers would be very attractive to potential occupiers.¹⁰ In answer to my question to the appellant at the Hearing, the dwellings are not suggested to be enabling development for the surgery. The appellant would use his best endeavours to secure a developer and end user for a surgery on the site, but the dwellings would proceed independently of that part of the development.
52. The appellant is willing to provide 30% affordable housing in accordance with LP Core Policy CP9 and has agreed a condition that would secure this amount of provision.¹¹ In answer to my question to the appellant, the scheme is not purported to be provided as an exception site since it would provide only that affordable housing required by the LP.

¹⁰ Statement dated 3 November 2016 attachment 2

¹¹ Condition 20 of APP/C1625/A/13/2207324 submitted at the Hearing

53. Whilst the statement that supports the application identifies draft heads of terms for planning obligations in respect of affordable housing, community facilities, highway improvements, education contributions, library contributions and off site recreation facilities, none have been submitted.

Other Agreed Facts

54. There is a statement of common ground.¹² There are a number of matters that are not in dispute between the main parties. These are:
- Design and appearance. These are reserved matters.
 - Residential amenity. The buildings would be sufficiently distant from neighbouring properties that living conditions would not be harmed.
 - There are no noise implications.
 - Highways implications, including in respect of the provision of a crossing point on Alkerton Road could be addressed by planning conditions.
 - Natural landscape. The site has no specific landscape designation and is agricultural land.
55. Affordable housing. The Council agrees that the development would boost the supply of housing and provide some 11 affordable housing units helping to meet a shortage in the District. Even if all the housing built to satisfy the housing requirement in the Local Plan were to be affordable, that would still not satisfy the need for affordable housing within the housing market area.
- Ecology. The land is in agricultural use and there is potential for ecological improvements to be made as part of the development.
 - Archaeology. There are no issues in this regard.
56. There would be a boost to the construction industry, an economic uplift and an improvement to the vitality to the settlement. The doctor's surgery would provide a facility which does not currently exist within Alkerton, reducing the need to travel and improving facilities locally.
57. In respect of drainage, the submitted flood risk assessment did not identify any specific flood risk, subject to the provision of a suitable surface water scheme. Rights over intervening land to connect to the river means that it could be pumped if no other surface water drainage solution were available. A condition could address this concern.¹³
58. At the Hearing the appellant expressed willingness to agree conditions in respect of public open space, education and library provision.
59. Notwithstanding earlier representations made on the matter, by email exchange dated 1 December 2016 between the appellant and the Council, the parties agreed that there is a five year housing land supply. The Council had provided its most recent Housing Land Supply Statement which demonstrated a 6.59 years

¹² Statement of common ground

¹³ Statement of common ground

housing land supply.¹⁴ A recent Inquiry recently considered housing land supply, and the Inspector concluded there was a 5 year supply of deliverable housing land.¹⁵

The Case for the appellant

60. The appellant considers that the proposal would not conflict with the objectives of the LP when read as a whole. This needs to be seen also in the context of the need to review the development plan at an early stage to support the provision of housing across District boundaries. The Framework identifies that there is a need to boost significantly the supply of new homes in sustainable locations with low landscape impact. The housing requirement set out in the LP is a minimum.
61. There is a dire need for new affordable housing with the Council's SHMA identifying a current annual affordable housing need of 492 homes, i.e. more than all housing planned. Any non-conformity with the plan is outweighed by other material considerations, in particular the supply of housing, including 11 affordable units, the boost to the construction industry, the economic uplift and vitality of the settlement, ecological improvements and provision of a doctor's surgery improving service provision in Alkerton and the wider catchment area.
62. The appellant considers the NDP benign in its development plan implications. It does not make any site allocations and defers decisions to the LP Core Policies CP3 and CP15. He relies on two appeals to support his case.¹⁶
63. In the Chestnut Park, Kingswood appeal the Inspector identified that LP Core Policy CP3 does not prohibit development outside settlement boundaries. Greenfield land is required to meet the housing needs of the District. Also the Inspector concluded that whilst the proposal would conflict with the test of LP Core Policy CP15 because it was outside the settlement limits, it would not conflict with its purposes to prevent proliferation of development away from existing settlements and to avoid coalescence. The appellant considers there to be very strong parallels with that case which relates to a tier 3 settlement with 12 services.
64. Land rear of Canonbury Street, Berkeley is a second tier settlement with 14 services. It has no doctor's surgery or secondary school. It is relevant that the Inspector allowed the appeal on the basis that it would not offend the purposes of the plan.
65. Although an appeal at Nailsworth was referred to in the appellant's representations it was accepted that this appeal was now rather dated because that related to development when the Council could not demonstrate a five year housing land supply.¹⁷

¹⁴ Council supplementary hearing statement appendix 1

¹⁵ APP/C1625/W/15/3133335 decision dated 21 November 2016

¹⁶ APP/C1625/W/15/3011370 and 3011372 Land at Chestnut Park Kingswood, Gloucestershire attachment 1 to appellant's November 2016 Hearing statement and APP/C1625/W/15/3133335 Land Rear of Canonbury Street, Berkeley, Gloucestershire submitted prior to the Hearing

¹⁷ APP/C1625/W/15/3053120

66. It is a struggle to accommodate growth required by LP Core Policy CP3 because of the tightly drawn settlement boundaries. Tightly drawn boundaries are not consistent with the Framework. The development would be proportionate with the scale of Alkerton. There is plenty more land within the appellant's control but the appellant has tried to respect the settlement boundaries. The site is not in an isolated location where development should be prevented.
67. Overall the appellant considers that the proposal accords with NDP policy EP1 which promotes sustainable development in accordance with the development plan. It uses the word "should" rather than "must". Previous versions of the NDP have shown development on this area. Other policies in the LP promote growth.
68. A statement from P Chambers FRICS explains that the doctors surgery would be attractive to the market and that it is a viable commercial proposition. There is a statement to the effect that there is a known and tangible demand for surgeries in settlements of all sizes from a variety of parties. New build are much preferred to conversions.
69. At present there is no marketable product to present to practices. Securing planning permission would be a major milestone in securing occupiers. There are various occupiers that might be interested in the site and it does not rely on the NHS model for provision. The appellant disagrees that the surgery is not viable or that it is included to window dress the proposal. LP Core Policy CP15 allows for development outside settlement limits where it would involve essential community facilities.
70. The heritage statement¹⁸ was prepared before the amended plan was submitted. It identified that the appeal site makes a medium contribution to the wider setting of the gazebo. The consultant identified that the concerns of harmful effects could be addressed.
71. The amended plan is a response to the recommendations of the report which were in brief to remove proposed dwellings along the eastern edge, retain a line of sight from the glimpsed view from Alkerton Road, retain a generous greenspace along the eastern boundary pushing development westwards, consider tree screening away from the gazebo, create a new landscape feature such as a tree avenue rather than a hedge at the northern boundary to allow an uninterrupted view from western windows, reduce the scale and massing nearest to the listed building to avoid the built form competing for dominance. If well executed such a proposal could make a positive contribution to preserving those elements of the setting that make a positive contribution to the significance of the heritage asset and it could even provide an opportunity for the heritage significance to be better revealed.
72. The hedge adjacent to the gazebo may not always have been as low as it is currently and the view from the west window would not then have been aligned as a principle view but perhaps was intended to increase the sense of light felt within the building. The consultant confirmed that he had not been inside the building prior to writing his report but he did not wish to change his recommendations once he had carried out the appeal site visit.

¹⁸ Ecus report dated June 2015

73. By removing development along the eastern edge of the site, a degree of separation would be retained and overshadowing of the gazebo would be prevented. The development responds to the setting of the listed building and has negligible impact upon it. There is scope to further amend the layout as it is an outline scheme if this should be deemed necessary. Furthermore, the appellant considers that the public benefits outweigh the less than substantial harm to the listed building.
74. Tree planting set away from the gazebo similar to that which screens the modern development to the east could be provided. A new landscape feature along the northern boundary of the site could create an uninterrupted view from the gazebo's western window. The reduction in the mass and scale of buildings nearest the listed building would avoid built form competing for dominance.
75. The site has no special landscape designation and there would be a very low landscape impact. The dwellings would be close to local services and community facilities. There has been some local support for development in this area in the past.¹⁹

The Case for the Council

76. The Council sought to rely on a recent appeal at Springhill House, Spring Hill, Eastington²⁰ and another at Land at Street Farm, Church Road, Cam²¹ in support of its approach to development outside settlement limits, such as this.
77. The Berkeley and Kingswood schemes referred to by the appellant do not have relevant neighbourhood plans. The Council does not believe that benefits of the scheme should outweigh the provisions of an up to date local plan and at the time of the Hearing was considering its options regarding challenging the Berkeley appeal decision.
78. In the Justice Holgate High Court ruling, the presumption in favour of sustainable development applies only in paragraph 14 circumstances. The Justice Green High Court Decision in respect of East Staffordshire Borough Council and Secretary of State for Communities and Local Government and Barwood Strategic Land II LLP case was also discussed at the Hearing which covers the same points.
79. Whilst greenfield land is required to meet the housing requirement this is because there are greenfield allocations in the LP. This is not an allocated greenfield site. LP Core Policy CP15 needs to be read with LP Core Policy CP2. This is not limited development in accordance with other policies of the plan. These are exceptions. The decisions turned on other material considerations. There are 16 other relevant appeal decisions outside settlement limits where policies were found to operate, although these were not provided. The example of one of these at Cam was given.
80. In its purest form, sites beyond the settlement limits must be dismissed under LP Core Policy CP15. The LP was examined and adopted after the Framework was published and therefore should be deemed to comply with its provisions.

¹⁹ Appellant statement November 2016 paragraph 4.21

²⁰ APP/C1625/W/15/3138313

²¹ APP/C1625/W/15/3139586 appendix 5 to Council's November 2016 statement.

81. Both the Conservation Officer's response and that of Heritage England provide detailed assessments of the impact of the development on the gazebo. There are two components that contribute to the significance of the gazebo. The first is its siting at the termination of a formal designed garden at Alkerton Grange. The second is its commanding position within and capability to look out over the countryside. The gazebo was undoubtedly put in its position for a reason. The gazebo has an impact from a distance because of its unusual ornate roofline which is delightful in the wider area.
82. The development would alter its setting by making it more suburban. It would only back onto agricultural land rather than sitting squarely within the agricultural landscape as it currently does. The landscaped corridor separating the dwellings from the gazebo would not significantly mitigate that fundamental change. The gazebo is a picturesque architectural piece set in naturalistic surroundings. It is a prominent isolated feature standing in substantial open ground positioned so that it could be appreciated from nearby and in long range views.
83. It is designed to be seen but also to be used as a place from which to enjoy the wider landscape. The windows look out over the surrounding countryside and views westwards would be diminished. There is a window in the west elevation as well as windows and a glazed door in the south elevation at a raised level. Its open setting can be seen as a reason for its existence. The loss of the agricultural setting would result in views from the building being harmed. Furthermore, the dominance of the proposed development in the landscape would cause harm to the significance of the listed building.
84. There would be no physical harm to the fabric of the gazebo and therefore the harm would be less than substantial. That it would be less than substantial harm in the terms defined by the Framework does not diminish the statutory duty under Section 66 of the Act.²² The scheme would not conserve the open landscape setting of the gazebo. LP policy ES10(5) requires clear and convincing reasons why the heritage interest should be overridden even where there is less than substantial harm. Framework paragraph 134 requires that where less than substantial harm to the significance of the heritage asset is caused, that should be weighed against the public benefits of the development.
85. The benefits arising predominantly relate to those out of the provision of housing and the economic benefit arising. The scheme would provide 30% affordable housing helping to meet the shortage of affordable housing in Stroud District. There would be economic benefits from the construction with employment in construction also provided. The additional population accommodated in the houses would provide for increased income and vitality for shops and services locally.
86. The Council accepts that landscaping and other measures could improve ecology and biodiversity.
87. Although the provision of a doctor's surgery would be a material benefit as there is no doctor's surgery in Alkerton, the Council was not convinced that this would come forward. There is no LP policy specifically promoting its provision and there

²² Planning (Listed Buildings and Conservation Areas) Act 1990 Section 66(1)

is no evidence of need in respect of LP Core Policy CP15. Housing can be provided elsewhere with the same associated benefits that would not result in harm to the setting of the gazebo.

88. The statutory duty to have special regard to the desirability of preserving the setting of listed buildings weighs heavily against the scheme and is not outweighed by the public benefits arising.

Representation made at the Hearing by others

89. Mr Storey is the owner of Alkerton Grange and the gazebo. He is opposed to the development. The site lies outside of the village boundary and immediately adjacent to his property. He provided an extract from *Follies and Pleasure Pavilions* which describes the gazebo.²³ The appeal site was originally owned with Alkerton Grange and there are covenants applied to the land preventing building on that land and requiring it to be used solely for agricultural purposes.²⁴ The land was probably sold off in the 1950's. It was bought by the appellant with knowledge of the restrictive covenants.

90. Tom Low and Mark Jones spoke for local residents. They were both opposed to the development and their views accorded with those of the Council. West of Stonehouse provides for some 404 affordable homes for a District wide need. There was scepticism as to the demand for a new health centre, given the size of Alkerton, and doubt as to whether it would meet National Health Service stipulations. Concern was expressed about the need for a pedestrian crossing and the lack of street lights locally.

91. Julie Shirley, Clerk to Eastington Parish Council spoke on behalf of the Parish Council. In the Berkeley case, the Parish Council for the area supported the development. The major allocation at Stonehouse was made in the LP and will result in an additional 1350 homes in addition to the existing 650 homes in the Parish. Also substantial amount of housing has been built at Swallowcroft in Alkerton recently.

92. This is why nothing much further is required in the Parish. There was no need for further allocations in Eastington apart from exception sites that would be allowable under LP policy HC4. There are on-going discussions about providing an exception site within 800m of both Alkerton Cross and the Community Centre as identified in paragraph 8.0.6 of the NDP.

Written Representations

93. The representations submitted to the Council as part of consultations on the application are included with the questionnaire. There were 40 letters of objection from local residents to the application. Eastington Parish Council opposed the development.

94. The local highways authority, Wildlife Advisor, Environmental Health Officer, Country Archaeologist, Police Crime Prevention Design Advisor have all raised no objections subject to conditions.

²³ ISBN 1-85145-499-3

²⁴ Letter from David T Storey dated 21 August 2015 to the Council and representations at the hearing from Mr Storey and Land Registry information.

95. Heritage England considers that the development would cut into the rural landscape setting of the gazebo to an unacceptable level causing substantial harm. Although the relationship of the gazebo with Alkerton Grange house is a significant one, windows in the gazebo are placed where they are to take advantage of views over the agricultural landscape beyond and also to gain light. The Ecus report recommends amendments to the scheme. Heritage England recommends that the application be refused.
96. In addition to these objections, there were 17 individual letters received by the Planning Inspectorate subsequent to the appeal opposing the scheme for similar reasons as those given by the Council.
97. Eastington Parish Council made an extensive written representation dated 1 June 2016. This supports the Council's opposition to the development. A recent appeal decision makes clear that speculative development outside the settlement boundary of Alkerton is not required.²⁵ This development would be harmful to the rural setting of the village.²⁶
98. The proposal would have a significant negative impact on the setting of the gazebo and a wider impact on other listed buildings and non-designated heritage assets close to the site. There are concerns about the impacts of the development on pedestrian and vehicular movement. The NDP does not identify a need for a doctor's surgery and there is no technical analysis of need for such a facility. The Parish Council believes that surgeries in Stonehouse and Frampton have capacity for additional patients. The residents of the scheme would remain dependent on the larger settlements for higher order services and employment.

Inspector's Conclusions

99. The numbers in square brackets indicate the source paragraphs in the report from which the conclusions are drawn.
100. Whilst the application is in outline with all matters reserved, and is described as being up to 36 dwellings, and so the number of dwellings is not fixed, there is little doubt in my mind that the appellant wishes to develop the site using the parameters set by the amended plan. [3,50]
101. The plan was relied upon by the appellant throughout representations and discussions about the effects of the development on the setting of the gazebo and in terms of the quantum of benefit in respect of housing provision. [48,50]
102. There was an invitation by the appellant to consider whether to specify a lesser number of dwellings or a reduced extent of development if 36 were not considered to be acceptable. To do that would amount to amending the proposal. That would deprive those who might wish to do so the opportunity to comment, which would result in unfairness to the Council and interested parties. I have therefore considered the proposal on the basis of the amended illustrative layout. [50]

²⁵ APP/C1625/W/15/3138313 Land adjoining Springhill House, Spring Hill, Eastington appendix B to representations

²⁶ The Parish Council refer to appeal decision APP/C1625/W/14/3000677 to support their approach- Land off Bath Road, Eastington

103. I have considered all the written and oral representations, the Council's putative reasons for refusal and the matters on which the Secretary of State particularly wishes to be informed.[1,4,7,8]
104. Having considered these matters, I conclude that as the NDP is now made, that there are two main issues. These are firstly whether the dwellings and surgery would be appropriately located having regard to the strategic objectives of the development plan; and secondly, the effect of the proposal on the setting of Alkerton Grange gazebo.[2,7]
105. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the development plan, unless material considerations indicate otherwise. I consider the policies already referred to in the LP and the NDP to be the most relevant to the consideration of the appeal.[22-41]
106. I consider the Framework to be an up to date expression of Government Policy. [42-46]

Spatial strategy

107. The Framework makes clear that the development plan is the starting point for decision making. Where development is in conflict with the development plan it should be refused unless material considerations indicate otherwise. The development plan includes the LP and the NDP. These have both been recently adopted. The LP and NDP were adopted after the Framework and therefore having been examined to ensure that they accord with the Framework.[21-42]
108. The Framework promotes neighbourhood planning as a method of giving direct power to communities to develop a shared vision for delivering sustainable development.[43]
109. The appellant has conceded that whilst there is a national imperative to boost the supply of housing, the Council has a five year supply of deliverable housing sites. Therefore the provisions of the second sentence of paragraph 49 of the Framework and the second bullet of paragraph 14 of the provisions in relation to decision making do not apply.[44,45,55,59,60,61]
110. The NDP sets the settlement boundary for Alkerton and the site lies outside that boundary. LP Core Policy CP2 identifies that housing development will take place within settlement limits. Limited development will take place outside these designated areas and in accordance with other policies of the plan.[28,33]
111. CP Core Policy CP15 also identifies that proposals will not be permitted outside identified settlement limits. It allows for rural exception sites, replacement dwellings, and for enabling development. The development is not an exception site allowable under LP policy HC4 or NDP policy EP5. Furthermore, NDP policy EP1 does not support the development. The NDP allows for further development in Alkerton but that is within its settlement limits.[32,34,39,41]
112. There is no quantified justification for the doctor's surgery to demonstrate that it would involve an essential community facility as required by LP Core Policy CP15. The support from the appellant's surveyor does not contain any firm expression of interest from any health care practitioner and there is no certainty

that it would be provided since there is no obligation to secure its provision. [32,35,51,68,69,87,90]

113. Nothing within LP Core Policy CP3, which identifies Eastington as an accessible settlement with limited facilities, promotes development outside the settlement limit. Eastington has already accepted a very substantial greenfield allocation west of Stonehouse in comparison to the size of its existing community. A substantial amount of affordable housing will be provided within that allocation and furthermore both the LP and the NDP allow for exception sites. [24,60,79]

114. Outside of the settlement boundary LP Core Policy CP15 and NDP policy EP1 limit development. I acknowledge the Berkeley and the Kingswood cases referred to by the appellant. These Inspectors quite rightly indicate that the housing requirement is a minimum and both conclusions indicate that other material circumstances can outweigh the development plan provisions. I note however that neither decision sits particularly comfortably with recent case law in terms of assessing not needing to assess sustainability when there is a five year housing land supply. There are other decisions which point in an opposite direction. [32,39,63,64,76,78,79,97]

115. Also, the Berkeley case is a higher tier settlement where the site had support from the Parish Council. Although the Kingswood case related to a third tier settlement like here, that site seems to have been more surrounded by development rather unlike the appeal site.

116. However, of high importance is that neither Kingswood nor Berkeley is in Eastington Parish and neither has a recently made NDP. The NDP has only recently been made, and there has been a significant greenfield housing allocation within the Parish. There has also been recent greenfield development in Alkerton. I consider that there is no policy justification for the scheme, since it is not justified by any exception contained in any development plan policy. [77,91,92]

117. For all these reasons, these circumstances readily distinguish the appeal site from the examples given by the appellant, albeit that I note the intentions of the policies and that the site is not isolated. The other matters agreed to be in favour of the development as common ground between the main parties do amount to other material considerations that weigh in the development's favour. Nonetheless, these do not outweigh the harm identified above in respect of conflict with the strategic objectives of the development plan. [55,56,60,61,75,85,86,87]

Setting of the listed building

118. I shall concentrate on the effect on the setting of Alkerton Grange gazebo. This is because I am satisfied from the representations and from my site inspection that the settings of none of the other listed buildings in the vicinity of the appeal site would be adversely affected. [7,13,17-20]

119. The gazebo is a grade II* listed building, the quality of which has not been questioned and to the conservation of which great weight should be given. [13,46]

120. The inside floor level of the gazebo is raised, being at the top of 10 steps. This means that there are extensive views to the surrounding countryside over the

adjacent hedge including to the appeal site. It also means that the building is prominent in views from surrounding countryside which includes public footpaths. Whilst I acknowledge the important relationship to Alkerton Grange and its formal garden, I am satisfied that its significance is also substantially related to its relationship to the countryside.[14,15,81-83]

121. I have considered whether the amended plan would satisfactorily address its setting. Having looked towards the countryside from the gazebo, and from its close quarters, I consider that it would not. This is because, even if the housing development were entirely screened by dense planting, which does not exist at present, and is not shown to be effective on the plan with only one line of trees, it would constrain the openness of the outlook from the gazebo to the countryside substantially. I acknowledge that the development to the east is screened by trees, which the appellant holds as an example of what could be achieved. Nonetheless, this is further towards the village rather than into open farmland and the constriction of views from the gazebo in that direction rather confirms my concerns about its harmful effects. The gazebo would look from its west and south windows onto the development eroding its significance.[16, 70-74,81-83]
122. Furthermore, the context of the gazebo is very much to be seen from the public footpath and the entrance to the field from Allerton Road. That would become an engineered entrance to an estate where the view towards the gazebo would be dominated by built development. That development would distract the eye. The public footpath is dominated by views towards the gazebo for all of its length adjacent to Alkerton Grange. That would instead be dominated by views close by of the development. That there would remain open farmland to the rear of the gazebo and the estate would not be sufficient to prevent harm to the setting of the gazebo.[81-83]
123. Because the gazebo would not be physically harmed, the development would result in less than substantial harm to its significance. The harm should therefore be weighed against the public benefits of the proposal according to the Framework. I acknowledge all the material benefits that the appellant has identified and the Council has agreed could all amount to public benefits. These matters, even combined, would not outweigh the less than substantial harm that I have identified. The development would therefore conflict with the Framework.[55,56,60,61,75,84,85,86,87]
124. I conclude that the arguments put forward do not provide the clear and convincing justification required to comply with LP policy ES10. Furthermore the development would not respect its surroundings as required by LP Core Policy CP14. I conclude that the development would harm the setting of Allerton Grange gazebo.[31,39]

Conditions and Obligations

125. Although the appellant submitted draft heads of terms in his planning statement²⁷ in respect of affordable housing, doctors surgery and financial contributions towards local libraries, primary education and off site open space/recreation, there were no planning obligations submitted for consideration.

²⁷ Submitted with planning application dated November 2014

According to the appellant, this stemmed principally from an inability to obtain the necessary information from the Council to formulate such obligations.

126. On appeal the appellant has indicated a willingness to contribute £111,231 for schools and £7056 for local libraries. Conditions cannot require financial contributions, although schemes might be sought. No specific wording was put forward for conditions in respect of community schemes. In the absence of cogently argued justifications for any scheme in any of those regards, I have not recommended any related conditions. The Community Infrastructure Levy Scheme for the area would be in place shortly in respect of community contributions in any event. No obligation is submitted to secure the doctors surgery since the provision is speculative.
127. Turning now to conditions, all the conditions were agreed between the appellant and the Council.
128. Suggested conditions based on the Council's submitted list are set out in Annexe A to this report in conditions 1 to 12. I have made only small alterations to those conditions. I have replacing the word "maintained" with the word "retained" in conditions 5 and 6 as that more properly reflects the intention of the conditions. I have amended condition 9 to delete reference to demolition since there is nothing to demolish on site. I have added the words "and provide for" at the beginning of condition 9v to give the condition better meaning.
129. Condition 4 is required for the avoidance of doubt and in the interests of the proper planning of the area. Condition 5 is necessary to ensure sustainable modes of transport. Conditions 6, 10 and 11 should be imposed in the interests of highway and pedestrian safety. Landscaping, in conditions 7 and 8, is necessary in the interests of the character and appearance of the area and the setting of the gazebo. Condition 9 is required to control the impacts of construction on both highway safety and the living conditions of occupiers of neighbouring properties. Condition 12 is necessary to prevent unacceptable noise and disturbance to local residents during construction.
130. The Council also suggested 3 drainage conditions at the Hearing submitted as document 3. I consider only the first condition requiring details of the scheme for drainage to be necessary to secure adequate drainage since it would then be within the Council's control whether to approve the scheme or not with regard to compliance with development plan provisions. This is included as condition 13 of the Annexe A list. I have included the two other conditions as Annexe B.
131. The Council was satisfied that in respect of affordable housing that this could be secured by a negatively worded planning condition. I agree with that assessment. The requirement for affordable housing is firmly based in the LP. The Council suggested the wording of condition 14 at the Hearing which was submitted as document 4.
132. I consider that the conditions comply with the tests set out in the Framework paragraph 204 requiring that conditions be necessary to make development acceptable in planning terms; be directly related to the development; and be fairly and reasonably related in scale and kind to the development.

Recommendation

133. It is recommended that the appeal be dismissed and planning permission be refused.
134. If the Secretary of State is minded to disagree with my recommendation, Annex A lists the conditions that I consider should be attached to any permission granted.

Julia Gregory

Inspector

Richborough Estates

APPEARANCES

FOR THE APPELLANT

Philip Staddon, PJS Development Solutions Ltd
Paul White, Ecus Ltd
Derek Sutlow, Director-Springfield Development

FOR THE LOCAL PLANNING AUTHORITY

Jamie Cooper, Principal Planner–Appeals and Enforcement
Kate Russell, Senior Conservation Officer:

INTERESTED PERSONS

Tom Low, local resident
Mark Jones, local resident
David Storey, local resident
Dr Storey, local resident
Julie Shirley, Clerk to Eastington Parish Council

DOCUMENTS SUBMITTED AT THE HEARING

1. Hearing notification letter and circulation list
2. Extract from Follies and Pleasure Pavilions describing Alkerton Grange Gazebo
3. Example drainage conditions
4. Example condition relating to affordable housing
5. High Court case Trustees of Barker Mill Estates and Test Valley Borough Council and Secretary for Communities and Local Government
6. LP Core Policy CP9
7. LP policy HC4
8. LP Delivery policy EI6
9. 1:500 original and amended plans

ANNEXE A – CONDITIONS

- 1) Details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in all respects in strict accordance with the approved plans 0498 101 Location Plan, 0498 102 Land ownership plan, 0498 103C illustrative masterplan, and assessment of the proposed pedestrian crossing by asbritransport, dated July 2015.
- 5) The details to be submitted for the approval of reserved matters shall include secure, covered cycle storage provision for at least 1 cycle per dwelling, and the dwellings hereby permitted shall not be occupied until those cycle storage facilities have been provided in accordance with the approved plans and retained for those purposes thereafter.
- 6) The details to be submitted for the approval of reserved matters shall include vehicle parking and turning facilities within the site, and the buildings hereby permitted shall not be occupied until those facilities have been provided in accordance with the approved plans and shall be retained for those purposes thereafter.
- 7) The landscaping scheme to be submitted for the approval of reserved matters shall include details of ecological improvements and mitigation, all boundary treatments, planting specifications and timings and the scheme shall be implemented in accordance with the approved details.
- 8) 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 to which it relates, whichever is the sooner. Any trees or plants which, within a period of five 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.
- 9) No development shall take place until a Construction Method Statement has been submitted to, and approved in writing by the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall:
 - i. specify the type and number of vehicles;
 - ii. Provide for the parking of vehicles and site operatives and vehicles;
 - iii. provide for the loading and unloading of plant and materials; provide for the storage of plant and materials used in constructing the development;
 - iv. provide for wheel washing facilities; and

- v. provide for measures to control the emission of dust and dirt during construction.
- 10) No dwellings on the development shall be occupied until the pedestrian crossing facilities across Alkerton Road have been constructed in accordance with the asbritransport 'Assessment of the proposed pedestrian crossing' dated July 2015.
- 11) No dwellings on the development shall be occupied until the carriageway(s) (including surface water drainage/disposal, vehicular turning head and street lighting) providing access from the nearest public highway to that dwelling have been completed to at least binder course level and the footway(s) to surface course level.
- 12) No construction site machinery or plant shall be operated, no process carried out and no construction related deliveries taken at or dispatched from the site except between the hours of 08.00 and 18.00 on Mondays to Fridays, between 08.00 and 13.00 on Saturdays and not at any time on Sundays or Public Holidays.
- 13) No development shall take place until details of the scheme for the disposal of surface water and foul sewage, including an assessment into the potential for disposing of any surface water by means of a sustainable drainage system, have been submitted to and approved in writing by the local planning authority. The scheme shall be completed in full accordance with the approved details prior to the first occupation of the dwellings hereby permitted.
- 14) No development shall commence 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 set out in the Glossary to the National Planning Policy Framework. The scheme shall include:
 - i. the numbers, type, tenure and location on the site of the affordable housing provision which shall consist of not less than 30% of the dwellings.
 - ii. the timing of the construction of the affordable housing and its phasing relative to the occupancy of the open-market housing.
 - iii. the arrangements for the transfer of the affordable housing to a Registered Provider or the management of the affordable housing if no Registered Provider is involved.
 - iv. the arrangements to ensure that the affordable housing provision is affordable for both first and subsequent occupiers.
 - v. the occupancy criteria to be used for determining qualifying occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.

Annexe B - Conditions

1. The proposed drainage scheme should include hydraulic calculations with different return periods for pre and post development runoff with climate change. The scheme shall reduce the surface water discharge rate to that existing or as close as practicable to the undeveloped greenfield runoff rate for the site. Any attenuation feature should be designed to attenuate all flows up to and including the 1 in 100 year event plus 30% for climate change. The scheme must be completed in accordance with the approved details prior to the first occupation of the dwellings hereby permitted.
2. No works shall take place until details of any proposed soakaway have been submitted to and approved in writing by the Local Planning Authority. Any soakaway should be located no less than 5m from any building or boundary. Any soakaway must be completed in accordance with the approved details prior to the first occupation of the dwellings hereby permitted.

Richborough Estates



RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

These notes are provided for guidance only and apply only to challenges under the legislation specified. If you require further advice on making any High Court challenge, or making an application for Judicial Review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, Queens Bench Division, Strand, London, WC2 2LL (0207 947 6000).

The attached decision is final unless it is successfully challenged in the Courts. The Secretary of State cannot amend or interpret the decision. It may be redetermined by the Secretary of State only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS

The decision may be challenged by making an application for permission to the High Court under section 288 of the Town and Country Planning Act 1990 (the TCP Act).

Challenges under Section 288 of the TCP Act

With the permission of the High Court under section 288 of the TCP Act, decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application for leave under this section must be made within six weeks from the day after the date of the decision.

SECTION 2: ENFORCEMENT APPEALS

Challenges under Section 289 of the TCP Act

Decisions on recovered enforcement appeals under all grounds can be challenged under section 289 of the TCP Act. To challenge the enforcement decision, permission must first be obtained from the Court. If the Court does not consider that there is an arguable case, it may refuse permission. Application for leave to make a challenge must be received by the Administrative Court within 28 days of the decision, unless the Court extends this period.

SECTION 3: AWARDS OF COSTS

A challenge to the decision on an application for an award of costs which is connected with a decision under section 77 or 78 of the TCP Act can be made under section 288 of the TCP Act if permission of the High Court is granted.

SECTION 4: INSPECTION OF DOCUMENTS

Where an inquiry or hearing has been held any person who is entitled to be notified of the decision has a statutory right to view the documents, photographs and plans listed in the appendix to the Inspector's report of the inquiry or hearing within 6 weeks of the day after the date of the decision. If you are such a person and you wish to view the documents you should get in touch with the office at the address from which the decision was issued, as shown on the letterhead on the decision letter, quoting the reference number and stating the day and time you wish to visit. At least 3 days notice should be given, if possible.