The Planning Inspectorate

Appeal Decision

Inquiry opened on 29 July 2014
Site visit made on 6 August 2014

by Sara Morgan LLB (Hons) MA Solicitor (Non-practising)

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

Decision date: 22 September 2014

Appeal Ref: APP/F1610/A/14/2213318
Land south of Cirencester Road Fairford GL7 4BS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Gladman Developments Ltd against the decision of Cotswold District Council.
- The application Ref 13/03097/OUT, dated 16 July 2013, was refused by notice dated 18 November 2013.
- The development proposed is residential development (up to 120 dwellings), access, parking, public open space, landscaping and associated infrastructure (all matters reserved other than means of access).
- The Inquiry sat for 7 days on 29-31 July, 1 August and 4-6 August.

Decision

1. The appeal is allowed and planning permission is granted for residential development (up to 120 dwellings), access, parking, public open space, landscaping and associated infrastructure (all matters reserved other than means of access) on Land south of Cirencester Road Fairford GL7 4BS in accordance with the terms of the application, Ref 13/03097/OUT, dated 16 July 2013, subject to the conditions set out in the Schedule at the end of this decision.

Preliminary

2. The application was in outline, with all matters reserved for future determination other than means of access.

3. The plans before the Council when it reached its decision were a site location plan 2013-006-PT-004, a proposed access plan TPMA 1033 005 Rev B, and a development framework plan 5514-L-03 Rev D. At the Inquiry, the Appellants requested that replacement site location plan 2013-006-PT-004 Rev D and development framework plan 5514-L-03 Rev E should be substituted for the originals. The differences between the original and proposed plans are very minor and address landownership issues. I am satisfied that no injustice would be caused to any party if the appeal were to be considered on the basis of these revised plans.

4. As the application is in outline, with only means of access to be considered at this stage, the proposed development framework plan will be regarded as illustrative.

5. At the Inquiry the appellants submitted a completed unilateral undertaking dated 5 August 2014 and made under section 106 of the 1990 Act. This makes provision for the future maintenance of open space, the provision of affordable housing and the payment of financial contributions to Gloucestershire County Council in respect of education and a travel plan.

Main Issues

6. The main issues are:

(i) whether the Council is able to demonstrate a five-year supply of deliverable housing sites;

(ii) the effect of the proposed development on the setting of the listed building Burdocks, on the setting of the town of Fairford and on the setting of the Fairford Conservation Area;

(iii) the effect of the development on flooding and drainage within the local area;

(iv) the effect of the development on the local highway network;

(v) whether the development would make adequate provision for affordable housing, education, libraries, travel and other local infrastructure;

(vi) whether the proposed development would amount to sustainable development.

Reasons

Housing land supply

7. The Development Plan for the district comprises the saved policies of the Cotswold District Local Plan (LP) adopted in April 2006. That plan covers the period 2001 to 2011, and consequently does not make provision for housing after 2011. The LP was not adopted in accordance with the requirements of the Planning and Compulsory Purchase Act 2004.

8. Paragraph 47 of the National Planning Policy Framework ("the Framework") requires local planning authorities to ensure that their Local Plan meets the full, objectively assessed needs (OAN) for market and affordable housing in the housing market area. They are also required to identify and update annually a supply of deliverable sites sufficient to provide five years' worth of housing against their housing requirements, with an additional buffer of 5%, or in the case of persistent under delivery of housing, 20%.

9. The Council says that it can demonstrate a five year supply of housing sites. There is no dispute between the Council and the appellants that the number of deliverable housing sites which could be provided within the relevant five-year period is 2,680, or 536 annualised. The delivery rate over the past three years has been 439 on average. However, Mrs Wood, the Council's planning policy witness, agreed in cross-examination that the Council did not have an OAN, and did not have a clear understanding of housing needs in their area, as required by paragraph 159 of the Framework. Consequently, it is difficult to see how the Council can demonstrate, as required by paragraph 49 of the Framework, that the number of sites that can be delivered constitutes a five-year supply, in the absence of an understanding of what the OAN is.

10. Up to the start of the Inquiry, the Council was relying in demonstrating its five-year supply on the Secretary of State's proposed changes to the draft Regional Spatial Strategy for the Southwest, that Cotswold should be required to provide 345 dwellings per annum. However, at the Inquiry the Council accepted that this figure was not now specifically relied on, because it was based on a constrained approach to the 2003 Sub National Household Projections (SNHP), as can be seen from the Examination in Public Panel's report.

11. The Council now considers that figure to represent the bottom of the range of what might be the OAN[1]. It suggests the top of the range to be 400 dpa, slightly below the 411 dpa which would be derived from the 2008 household projections alone[2]. But these are not figures which are based on any methodical assessment of the OAN, they are not figures which have been approved by the local planning authority, and they have not been subject to consultation or testing through any local plan examination.

12. The Council accepts that in calculating its annual requirement it needs to add a 20% buffer because of persistent under delivery, and should seek to meet the backlog in housing supply within five years (the Sedgefield approach). Fairford Town Council has argued that only a 5% buffer should be applied. However, the Secretary of State concluded in February 2013 that there had been a record of persistent under delivery in the district by comparison with the annualised structure plan requirement, which itself was below the proposed amended RSS requirement, and that decision survived a High Court challenge.[3] In these circumstances, I see no reason to disagree with the Council's position that it is necessary to apply a 20% buffer. Its suggested range for unadjusted OAN of 345 - 400 would give an adjusted supply of 5.77 years to 5.1 years.

13. According to Mrs Wood, using the 2008 based household projections alone would suggest an annual adjusted five-year requirement of 543 units of housing, indicating that the Council has 4.9 years supply[4]. The 2011 interim household projections, which reflect the 2011 Census results and project for 10 years up to 2021, would suggest an adjusted five-year requirement of 362 dwellings per annum (dpa) and 8.2 years supply.

14. The national Planning Practice Guidance (PPG) advises that household projections published by the Department for Communities and Local Government should provide the starting point estimate of overall housing need. But as they are trend based they may require adjustment to reflect factors affecting local demography and household formation rates which are not captured in past trends, such as the suppression of household formation rates by undersupply and worsening affordability of housing[5]. It is clear from the PPG that the assessment of OAN needs to reflect the consequences of past under delivery of housing, and a view needs to be formed on the extent to which household formation rates may have been constrained by supply.

15. It is likely that the 2011 interim household projections reflect the economic recession, which began in 2008, and the lack of affordability of housing. Both of these factors would be likely to suppress household formation rates. Guidance published by the Cambridge Centre for Housing and Planning

[1] Council's closing submissions
[2] Before adjusting for persistent under delivery and meeting the backlog.
[3] *Cotswold DC v SSCLG and others* [2013] EWHC 3719 (Admin) relating to land at Highfield Farm Tetbury
[4] Applying a 20% buffer for persistent under-delivery and the Sedgefield approach to the backlog.
[5] Paragraph 2a-015-20140306

Research suggests that planning should be on the basis of household formation patterns assumed in the 2008 projections unless there is strong local evidence to the contrary as to the likely long-term trend.

16. Nonetheless, there was agreement between Mrs Wood and Mrs Collins (giving evidence on OAN on behalf of the appellants) that a combination of the two sets of household projections should be used, rather than one or the other. Mrs Collins suggested a range of between 207 and 315 dpa based only on meeting demographic need. I have not been able to reconcile those figures with the Council's.

17. However, the appellants have gone on to consider the effect of long-term employment trends in the district, using the outputs from a recognised model, "POPGROUP", which models future housing demand. The appellants' evidence indicates that there will be a reduction in the working population of the district due to ageing, but a forecast trend based growth in jobs, so that job growth in the district is likely to exceed labour supply. They argue that if this is not taken into account in the assessment of OAN it would give rise either to unsustainable in-commuting or a harmful effect on local businesses in terms of their ability to attract labour.

18. Mrs Collins suggests as a result a requirement of between 500 and 580 dwellings per annum to meet in full demographic and employment needs. As only limited information has been provided as to the assumptions fed into the model, this outcome must be treated with some caution

19. On the other hand, the Council has not provided a figure for OAN which takes account of employment trends. The Council argues that the advice in the PPG[6] does not require local planning authorities to increase their figure for OAN to reflect employment considerations, but only to consider how the location of new housing or infrastructure development could help address the problems arising from such considerations. I disagree. In my view, the PPG requires employment trends to be reflected in the OAN, as they are likely to affect the need for housing. They are not "policy on" considerations but part of the elements that go towards reaching a "policy off" OAN, before the application of policy considerations. There is no evidence that the Council's figures reflect employment considerations.

20. The PPG also advises, at paragraph 2a-019, that the housing need number suggested by household projections should be adjusted to reflect appropriate market signals and other market indicators of the balance between the demand for and supply of dwellings. The Council has not produced a figure which purports to do this.

21. In Cotswold, the affordability ratio of house prices to earnings is one of the worst in the south-west. In addition, the appellants produced evidence derived from Census data of concealed families, overcrowded households and the numbers of young adults living with their parents. Their evidence points to a growing level of affordable housing need in the district. The appellants suggest that in view of these market signals, 150 dpa should be added to the lower end of their suggested range of 500 to 580; that would produce a figure of 650 dpa. The aim of this would be to achieve a modest reduction in house prices. They suggest that a more ambitious approach to tackling affordability would be

[6] At paragraph 2a-018-20120306

to add around 440 dpa to the lower end of the range, producing a total of 940 dpa.

22. The only evidence before the Inquiry which attempts to establish the OAN for the district taking into account economic evidence and market signals is that produced by the appellants. It is not the role of an Inquiry into a section 78 appeal to establish what is the OAN for a district. That is for the examination into the Council's local plan, which would be informed by a great deal more evidence, including the input of those making representations to the local plan, than is even before this Inquiry. It would be wrong for me to seek to establish the OAN on the basis of the limited information before me, and I do not give any particular endorsement to the calculations of OAN produced on behalf of the appellants.

23. However, I do need to consider the extent to which the Council has been able to show a five-year supply of land for housing. That is in order to determine whether the advice in paragraph 49 of the Framework, that the relevant policies for the supply of housing should not be considered up to date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites, should apply here.

24. The appellants' evidence suggests that even on the basis of demographic and employment projections alone, and paying no regard to market signals, the OAN is likely to be higher than the 411 dpa which would have been required if applying only the 2008 household projections. The annualised requirement having taken account of the need to clear the backlog and with a 20% buffer for underperformance would be even higher. On the basis of the 2008 projections alone, there is only 4.9 years of supply[7].

25. The Council has argued that, given the difference between the appellant's demographic-only figures for housing need and the figures the Council is relying on, the Council's figures build in substantially larger assumptions and capacities for growth whether demographic or economic. But that assertion is not supported by any evidence, as the Council has not carried out the assessment exercise. In the absence of a proper assessment exercise to justify the OAN range suggested by the Council, that range could not be described as robust.

26. As the Council has not taken into account economic evidence and market signals in reaching its suggested range of 345 - 400 per annum, it seems likely that the OAN once those matters have been taken into account will be well over 400 per annum. According to Mrs Woods, the tipping point for the Council between being able to show a five-year supply, and not, is 405 per annum. That all points to the Council not having a five-year supply of deliverable housing sites.

27. The Council accepts that it does not have an OAN. The figures it has produced for housing requirement do not represent the OAN for the district, and do not take account of employment considerations or market signals, as required by the PPG. Consequently, in the absence of an OAN I conclude that the Council is unable to demonstrate a five-year supply of deliverable housing sites.

[7] Document 11.

The implications for local plan policies

28. Saved policy 19 of the LP permits development appropriate to a rural area outside defined development boundaries, subject to certain specified criteria. One of these is that it should not result in new build open market housing other than that which would help to meet the social and economic needs of those living in rural areas. The appeal site lies outside the defined development boundaries for Fairford and, as 50% of the housing would be new build open market housing, the development would conflict with policy 19.

29. Paragraph 49 of the Framework requires housing applications to be considered in the context of the presumption in favour of sustainable development contained in paragraph 14. For decision-making, that means, where the development plan is absent, silent or relevant policies are out of date, granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole[8].

30. Policy 19 is part of an adopted plan making provision for housing only up to 2011. The settlement boundaries referred to were consequently drawn up on the basis of the housing requirements contained in that local plan up to 2011. Those settlement boundaries, and the restraint policy contained in policy 19, can no longer be up-to-date or reflect the current OAN (whatever that might be), now that the plan is time expired.

31. In addition, paragraph 49 advises that relevant policies for the supply of housing should not be considered up to date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites. In this case the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.

32. As policy 19 seeks simply to restrict development outside settlement boundaries it is a policy for the supply of housing. So even if the plan was not time expired, to the extent that policy 19 seeks to establish the principle that no open market housing development should take place outside settlement boundaries, it would be out of date. Indeed, in a number of recent appeals relating to proposed housing developments in the district, the Secretary of State and Inspectors have reached the conclusion that the Council could not show a five-year supply of housing sites, and that policy 19 was consequently out of date in that respect[9].

The effect of the development on the setting of the listed building Burdocks

33. The appeal site comprises a large field which at the time of the site visit was in arable use. Adjoining the appeal site are the grounds of Burdocks, a Grade II listed building. Burdocks is described in the list description[10] as a country house in Cotswold Queen Anne style, constructed in 1911. It was designed by Sir E. Guy Dawber, a prominent Arts and Crafts architect.

34. Burdocks is set in extensive grounds, the dwelling itself being 100 metres or more from the appeal site boundary. What is described in the list description

[8] It is not argued by the Council that the second limb of this part of paragraph 14 ("specific policies in this framework indicate development should be restricted") applies in this case.
[9] E.g. APP/F1610/A/11/2165778, APP/F1610/12/2173305, APP/F1610/A/12/2173963, APP/F1610/A/12/2173097
[10] Where it is called Claremont House.

as the main elevation to the garden faces south, away from the appeal site, and is somewhat grander and more elaborately designed than the rear north elevation. This is plainer but nonetheless contains the formal entrance to the dwelling. The formal entrance is approached by a tarmac entrance drive, which sweeps round from the lane to Marston Meysey at the south and into an entrance court delineated by stone walls with gate piers. There is then a large area of open lawn between the tarmac drive and the northern boundary, which adjoins the appeal site.

35. I consider that the significance of Burdocks as a designated heritage asset arises from its architectural interest - it is described in the list description as "a good example of early C20 taste" - and in its historical interest as a building designed as part of the country house tradition.

36. Miss Davis, the Council's Conservation and Design Officer, argued that the building had two main elevations, south and north. The north elevation is the entrance elevation, containing the main door, as noted above. But it is plainer in design than the south elevation, and the central block of windows in the elevation all serve halls or corridors rather than principal rooms. The entrance courtyard outside is functional in appearance and the entrance drive itself leads not only to the entrance courtyard and main entrance of the house, but also to the secondary range of buildings to the east. The principal room that I was able to enter on the ground floor, and the bedroom on the top floor, both extended for the full width of the house, and both had a window looking towards the appeal site and a window facing south over the formal garden.

37. Taking all of these matters into consideration, I consider that architecturally the north elevation is of somewhat lesser importance to the building than its southern elevation, and that the main orientation of the house is towards the south. Despite the previous existence of an avenue of trees to the north, this appears always to have been the case, judging from the historical photographs and illustration produced to the Inquiry.

38. The boundary between the grounds of Burdocks and the appeal site is marked by a belt of mixed deciduous and evergreen trees. My site visit took place in the summer, when the trees were all in leaf. Consequently, it was virtually impossible to see the main part of Burdocks' north elevation from the appeal site, and there were only slight glimpses of the subordinate attached range of buildings to the east of the main building. There were glimpses of the lawn to the north of Burdocks beneath the tree canopies from the appeal site, but these were mainly from points very close to the appeal site boundary. Further away from the boundary, very little could be made out of the grounds of Burdocks.

39. Similarly, from within the main dwelling at Burdocks looking towards the appeal site only glimpses were available of the closest part of the appeal site to Burdocks beneath the boundary tree canopies. Early maps show an avenue of trees extending from the entrance court to the northern boundary, but those trees are not shown on the 1977 Ordnance Survey map. All of the historical maps show trees along the boundary between Burdocks and the appeal site. But there are no photographs or other evidence to indicate the extent of that tree belt at the time when the formal avenue was in place. Consequently, it is unclear whether the original design contemplated a long view along the avenue

and into or across the appeal site, or whether what was contemplated was a view terminating at the appeal site boundary.

40. Whatever the historical situation, there were no extensive views into the appeal site from inside Burdocks at the time of my site visit. Indeed, close to the appeal site boundary immediately to the north of the listed building there is a compound surrounded by a close boarded fence around 2 m high, which prevents any views at all beneath the tree canopies onto the appeal site in this location. There are, however, glimpses beneath the tree canopies of the appeal site beyond the hoarding. From outside the listed building, from various points within the grounds there are glimpses across the appeal site towards Cirencester Road. The development under construction to the north of Cirencester Road as well as traffic on the road could be seen from some viewpoints.

41. The situation is likely to be somewhat different during the winter months. Photographs in the Landscape and Visual Impact Assessment submitted with the appeal application show a somewhat greater level of intervisibility between the appeal site and Burdocks when there are no leaves on the deciduous trees. The evergreen trees on the northern boundary of Burdocks still create something of a screen, but I consider that there would be more extensive views both into and out of Burdocks during the winter months, albeit that they would still only be glimpses. The wooden fence surrounding the compound would be effective to block some views at all times of the year.

42. The Council argues that the openness of the appeal site as an undeveloped field, and views across it from the house and grounds, make an important positive contribution to the setting of Burdocks, both currently and probably historically. I accept that part of the significance of the listed building is its nature as a country house, which carries the implication of a location in the countryside. However, the building has always been located within a reasonable proximity to Fairford, rather than in a completely isolated position.

43. At the time of my site visit, because of the limited intervisibility between Burdocks and the appeal site, there was only a limited perception from within Burdocks of the rural nature of the appeal site. I cannot be certain of the historical relationship between Burdocks and the appeal site. But recent owners of Burdocks appear to have gone to some lengths to prevent public views into the grounds.

44. The Framework defines "setting" of the heritage asset as the surroundings in which the heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. In the case of Burdocks, the presence of the house is barely perceptible from the appeal site when leaves are on the trees. At the time of my site visit it was not possible to see, let alone appreciate the significance of, Burdocks from the appeal site. In my judgment there would only be a very limited perception of it at other times. Similarly, the undeveloped and arable nature of the appeal site is barely perceptible from within the grounds of Burdocks. Consequently, I conclude that the role of the appeal site in the setting of the listed building is limited.

45. The appeal proposal is in outline, and consequently there are no details of siting or design before the Inquiry. Domestic development, and typical domestic boundary treatments, close to the boundary with Burdocks would be likely to be perceived, and significantly detract, from the setting of the building

particularly outside the summer months. But it would be possible to lay out the development so that the domestic curtilages were sufficiently far from the boundary so as not to be particularly visible from within Burdocks. Appropriate planting along the boundary would also assist in screening the development. Given the very limited intervisibility between Burdocks and the appeal site at present, additional planting which would limit further what little can be seen would not of itself harm the building's setting

46. A development on the appeal site would increase the level of activity, both of people and vehicles, on the appeal site, where the only activity at the moment would be agricultural. The Council has also expressed concern about the effect of street and domestic lighting on the setting of the listed building. The absence of activity on the appeal site at the time of my site visit was perceptible, but traffic noise along the Cirencester Road was clearly audible from the grounds of Burdocks. The area was not, therefore, completely tranquil.

47. There would be likely to be some perception of vehicle noise in connection with the proposed development, as well as an increased level of activity by residents. However, housing estates are not especially noisy places in general. Provided the houses and the estate roads on the site were set sufficiently far back from the boundary with Burdocks, the effect on Burdocks' setting would be limited and slight. Similarly, the introduction of appropriately designed lighting would be unlikely to be overly perceptible from Burdocks through the tree screen, given that there is likely already to be some perception of light on Cirencester Road and from the edge of the town.

48. Miss Davis argued that the roofs of the dwellings proposed would be visible above the trees on the boundary. However, she produced no evidence to support this contention. Whether or not the roofs would be visible, and to what extent, would, of course, depend upon the ridge heights and siting of those buildings. Roofs would "give away" the absence of openness and the presence of buildings on the appeal site. But views of the roofs of buildings set well back into the appeal site, particularly if (as seems likely) they were only visible from upper windows of the northern elevation of the building, would only cause slight harm to the setting of the listed building. This is because the buildings would be so far away in the Fairford direction, even taking into account that ground levels on the appeal site rise further away from the Burdocks boundary.

49. Therefore, I conclude that although the character of the appeal site would change radically, from an agricultural field to a residential development, with appropriate design and landscaping that change need only have at the most a slight detrimental effect on the setting of Burdocks, because of the limited role the appeal site plays in that setting at the moment. Similarly, it would only have a slight harmful impact, if any, on the historical significance of the listed building as a country house.

Effect of the development on the setting of the town of Fairford

50. The appeal site lies to the west of the edge of the settlement, and is separated from the existing built edge, and the conservation area boundary, by a small paddock. On the opposite side of Cirencester Road from the appeal site, at the time of my site visit residential development was well underway on the sites being developed by Bloor Homes and Linden Homes. These have effectively extended the edge of the settlement westwards on the northern side of the

road beyond the development boundary to which LP policy 19 refers. However, on the southern side of the road the appeal site and the adjoining fields to the east and south are visually part of the open countryside.

51. One of the core planning principles set out in the Framework requires account to be taken of the different roles and character of different areas and recognition given to the intrinsic character and beauty of the countryside. Paragraph 109 of the Framework requires the planning system to contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes.

52. The appeal site is not subject to any specific landscape quality designation. Nor has it been identified in any pre-existing landscape assessment as being of qualitative value. No doubt the appeal site is valued by local residents as an open field, and Fairford Planning Watch has pointed to the presence of traces of a historic drove road on the footpath to the south of Cirencester Road, which would be cut into by the proposed access road. But the appeal site itself is a fairly flat field bounded by hedgerows, with no particular features of landscape interest. In the absence of any formal designation or identification of particular landscape features worthy of protection, I am not satisfied that the appeal site is a "valued landscape" in the terms intended by paragraph 109.

53. The *Study of Land surrounding Key Settlements in the Cotswold District* by White Consultants (2000) identifies areas considered as important settings to the settlement of Fairford. These do not include the appeal site or the adjoining field to the east. The study does not identify any important views or vistas on the western side of Fairford, either into or out of the town. However, views towards some of the identified important settings from Cirencester Road would involve looking across the appeal site, and views of the appeal site from Horcott Road would involve looking across an identified important setting. There is therefore a connection between the appeal site and the areas identified. The White study notes that extensions of the town into the larger scale agricultural landscape that surrounds the town would be a prominent extension and would not be suitable.

54. To the extent that the appeal site forms part of the approach to the town, and lies on the other side of the road from an area under development, it forms part of the town's setting. On the appeal site side of the road, existing development within the conservation area is low-density, comprising former agricultural buildings, beyond which is the paddock separating the conservation area from the appeal site.

55. The main impact of public views of the proposed development would be likely to be on those walking along the existing public footpath which partly runs along one boundary of the appeal site, and those using Cirencester Road itself. Clearly, the major change to the appeal site that would result from built development would be very apparent from these viewpoints. Built development need not of itself be visually unattractive. However the enjoyment of the public footpath as a countryside path would be largely lost, however carefully the footpath was landscaped, because it would no longer be in the countryside

56. From Cirencester Road immediately adjoining the appeal site, the principal feature at present is the openness of the site, in contrast to the built development taking place on the other side of the road. The development

would be visible above the boundary hedgerow and the feeling of openness would be lost, even with the development being set back from the road. That loss of openness would be somewhat harmful to the appearance of the area, although an attractively designed development could mitigate that harm. In these views, the observer would be conscious of the developments on the land opposite. The current rural character of the site would be lost, however good the design. But it would be possible with good design to avoid creating the "tunnel" effect (in combination with the Bloors and Linden Homes developments) feared by some objectors to the proposal.

57. The effect of the change of view would be likely to be perceived by the occupiers of the houses fronting onto Cirencester Road opposite the site, and the loss of openness would be likely to detract from their views. I consider that the development on the appeal site would also be likely to be visible from the dwellings at The Mere, from where they would have a similar effect on views. The occupiers of the Old Piggery, on the edge of the conservation area, would also probably be able to see the development above the hedge between the paddock and the appeal site, but this hedge, although gappy in places, would provide something of a screen, particularly in the summer.

58. There is a clear change in the character of the area at the junction of Cirencester Road with the lane to Marston Meysey. Trees on either side of the road create an impression of narrowing at this point. To the west, the ground rises and field sizes are far larger, by comparison with the somewhat smaller field sizes between the junction and the edge of the conservation area.

59. When approaching Fairford from west of this point, the appeal site is visible directly ahead and in these views it appears to have no visual connection with any built development. Those views would change, as the buildings on the site would be visible to those driving along the road from some distance away. This would be to a greater extent than the existing substation close to the junction, which although unattractive does not stand out in these views.

60. Development on the appeal site would have no visual connection with the Bloor Homes and Linden Homes developments, which cannot be seen at present from this vantage point. Indeed, when travelling eastwards along the Cirencester Road the Bloor Homes and Linden Homes developments only gradually become visible, because they are set back into their sites. Consequently development on the appeal site would appear somewhat isolated. However, as the Bloor Homes and Linden Homes developments come into view, it becomes clear that one is entering the town. At this point there would be a visual relationship between the town and the proposed development, and it would cease to appear isolated.

61. There are more distant views from Horcott Road. In these views development on the appeal site would be visible across the land identified in the White report as important to the setting of the town. It would appear isolated and unconnected from other built development, and consequently somewhat incongruous. Again, the harm would be capable of mitigation with good design.

62. Turning to more distant viewpoints, from footpath BFA/7/2 views of the Bloor development are very prominent, and little if anything could be seen of the appeal site. If anything could be seen of any development on the appeal site, it would be in this context. Consequently, views from this direction would not

harm the town's setting. From footpath BFA/6/1 the appeal site appears to be part of the countryside, detached from the town. The development would be visible from this viewpoint, and would not appear particularly well related to the town, although there would be some glimpses of the Bloor Homes development in these views. But the views would be over a considerable distance, which would lessen their impact.

63. Mr Overall, the Council's landscape consultant, argued that the development would create an abrupt, non-permeable edge to Fairford which would replace the current permeable relationship between the town and the rural area. The development would intrude into the current countryside setting of the town. But the flow of rural landscape from the west into the town, referred to by Mr Overall, is not an especially visually obvious part of the town's setting. The replacing of part of this setting with a well designed and laid out development reflecting the site's location on the edge of a rural Cotswold town would only have a slight adverse impact on that setting.

64. In conclusion, development on the appeal site would be visible and indeed prominent when viewed from a number of locations. There would be a clear change from open undeveloped farmland to built development. Development on the appeal site would from a number of these viewpoints appear detached from other development in the town, which would give it an isolated and somewhat incongruous appearance. The harm caused would be capable of being mitigated by an appropriate layout and good design and landscaping, but would not be removed completely. This would have a slight to moderately harmful effect on the town's setting. There would be some additional conflict with LP policy 19, in that because of this harm the development would not relate well to existing development.

The effect of the development on the setting of the Fairford Conservation Area

65. The Council has referred in its reason for refusal to the duty relating to conservation areas set out in section 72(1) of the Listed Buildings Act[11]. The section 72 duty only applies to buildings or land in a conservation area, and so does not apply in this case as the site lies outside the conservation area. However, paragraph 132 of the Framework requires great weight to be given to the conservation of a designated heritage asset when considering the impact of the proposed development on the significance of that asset. Paragraph 132 makes it clear that the significance of a designated heritage asset can be harmed by development within its setting. In these circumstances, in line with the approach of the Secretary of State[12], I consider it prudent to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area, in considering the effect of the development on its setting.

66. In addition, Policy 15 of the LP requires development within or affecting a conservation area to preserve or enhance the character or appearance of the area. Annex 1 of the Framework requires due weight to be given to this policy according to its degree of consistency with the Framework. The Council does not argue that the harm it alleges would be substantial. Consequently, paragraph 134 of the Framework requires a balancing exercise to be carried out, in which the harm is weighed against the public benefits of the proposal.

[11] Planning (Listed Buildings and Conservation Areas) Act 1990
[12] In appeal decision APP/Y2430/A/13/2191290 Former Asfordby Mine, Melton.

That balancing exercise does not appear in policy 15; the final sentence of paragraph 1 requires the character or appearance of the area not to be compromised, which is not the same as balancing the harm against the benefits. I conclude that policy 15 is not consistent with the Framework, which limits the weight I can give to it.

67. Fairford Conservation Area takes in much of the historic market town of Fairford and includes some larger areas of open space. It is centred on the marketplace and High Street, which is some distance from the appeal site. The closest part of the conservation area to the appeal site is Milton End, the other side of the River Coln Valley from the main part of town. Along Cirencester Road, the conservation area includes a listed building, a collection of business units in what appears to have been once a farm complex, and on the very edge of the conservation area a dwelling formed out of a converted agricultural building (the Old Piggery). These buildings have a distinct agricultural character and appearance, typical of buildings often found on the edge of rural settlements, reflecting the relationship of this part of the conservation area to the countryside.

68. The Council argues that in this part of the conservation area the market town has maintained its historic relationship to its rural settings, because, on the southern side of the Cirencester Road at any rate, there has not been any 20th-century development beyond these buildings. I agree that, on this side of the road, there is an aesthetically pleasing transition from the Old Piggery to the countryside, via the adjoining paddock with its stone wall and the appeal site. That has been diluted somewhat by the construction of the Linden Homes and Bloor Homes developments on the other side of the road, but those developments because of their set-back do not dominate the character of the road at this point. The relationship with the countryside still exists, and indeed the edge of the conservation area is very strongly rural in character. This reflects the historical role of Fairford as a market town set in the countryside landscape.

69. Due to the trees and the hedgerows which line the appeal site and form a boundary between the appeal site and the paddock, from within the conservation area little of the development would be seen if it were to be set back from the road, whatever the time of year. The development would only be likely to come into view to any great extent on leaving the conservation area. These views would be likely to be clearer in the winter, when the hedge on the boundary of the appeal site with the paddock would provide less of a screen.

70. The viewer travelling westwards would be aware of the Bloor and Linden Homes developments on the north side of Cirencester Road, although they do not stand out overly because of their set-back from the road. But there would be a slight dilution of the relationship between the conservation area and the wider countryside beyond, once the appeal site was reached and modern estate development became visible.

71. When approaching the conservation area from the west, development on the appeal site would be visible before the junction with the lane to Marston Meysey, but at that point the conservation area itself is not visible. In views from before the junction the setting of the conservation area would not be directly affected.

72. Once the bend had been turned, there would be clear views of the development on the appeal site, regardless of how far back into the site it was set. In these views the development would form the foreground and the conservation area would form the background, albeit that the conservation area would be at some distance at first. The Bloor Homes development and then the Linden Homes development only gradually come into view, but the current openness of the appeal site would be lost as would the current feeling of being on the edge of the countryside. Approaching the conservation area from this direction, there would be built development on both sides of the road. The retention of the paddock as an open field, together with the views across the paddock to the countryside beyond to the south, would act as a reminder of the conservation area's relationship with the countryside. But again, the dilution of that relationship would also be apparent.

73. My conclusion is that the development would detract to a slight degree from the conservation area's setting. The harm to the setting of the conservation area could be mitigated to an extent by good design. However, because there would be harm, albeit slight, the development would fail to preserve or enhance the setting, and consequently it would conflict with policy 15 of the LP. I discuss the consequences of that finding and the balancing exercise required by the Framework below.

The effect of the development on flooding and drainage within the local area

74. The appeal site is located within Flood Zone 1. The Council has not raised any objection to the development on the grounds of its effect on flooding and drainage. It considers that matters relating to drainage can be dealt with satisfactorily through the imposition of conditions. However, the Rule 6 Party, Fairford Planning Watch, argues that the development would have a harmful effect on the area because the town's sewerage infrastructure cannot cope with existing pressures. It argues that no more new developments in the town should be approved until the existing infrastructure has been upgraded and modified.

75. It is clear from the evidence that there have been a number of highly distressing flooding events in the town over recent years. According to Fairford Planning Watch, the Environment Agency has implemented a flood alleviation scheme to address river flooding. But that scheme does not address issues arising out of the lack of capacity in the sewerage system. Fairford Planning Watch say that the problem arises because most of the sewers are combined sewage and surface water sewers and that at times when groundwater levels are high surface water over-fills the drains and sewers and causes them to flood.

76. The Environment Agency has not objected to the proposed development, subject to conditions being imposed requiring (amongst other matters) the implementation of an approved scheme to dispose of foul sewage, and subject to surface water run-off not increasing flood risk to the development or to third parties. This, they say, should be done by using sustainable drainage systems[13].

77. Thames Water advised that it had identified an inability of the existing wastewater infrastructure to accommodate the needs of the proposal. It

[13] Appellants' document CD61

requested a "Grampian style" condition to be imposed requiring that no new development should take place until a drainage strategy detailing any on and/or off site drainage works had been approved by the Council in conjunction with the sewerage undertaker. The condition it suggested would also prohibit any discharge of foul or surface water into the public system until those drainage works had been completed. With regard to surface water drainage, Thames Water advised that storm flows should be attenuated or regulated into the public network through on or off-site storage[14]. It has not, however, advised that planning permission should be refused.

78. The PPG advises that in areas with inadequate wastewater infrastructure the timescales for works to be carried out by the sewerage company do not always fit with development needs. In such cases it will be necessary to consider how new development can be phased, for example so that it is not occupied until any necessary improvements to public sewage treatment works have been carried out[15]. Policy 18 of the LP also advises in the case of residential development that the number of dwellings proposed should be commensurate with the level of infrastructure available within the settlement. In sentiment this reflects advice in the PPG.

79. On the basis of the information before me I consider that the problems of flooding that have arisen in recent years have arisen as a result of the existing sewerage system being unable to cope at times of high-intensity rainstorms. The appellants say that the development would increase existing foul flows in Fairford by only around 7%. That suggests that it is unlikely that under normal circumstances the sewerage system would lack capacity. However, Thames Water's concerns are that at local pinch points in the sewerage network new flows from the development could worsen flooding to properties already at risk, and potentially extend the reach of flooding.

80. Under section 106 of the Water Industry Act 1991, the developer has a statutory right to connect new sewers to existing public sewers. The sewerage undertaker can only refuse permission in very limited circumstances. The sewerage undertaker itself (here Thames Water) has a duty under section 94 of the 1991 Act to provide, improve and extend public sewers so as to ensure the area is and continues to be effectually drained. The cost of that is borne by the sewerage undertaker through sewerage and infrastructure charges. It is therefore the responsibility of Thames Water to address and seek to resolve any existing problems with regard to the capacity of the sewers, as well as to make capacity for new development.

81. Thames Water has pointed out[16] that the rights to connect to the public system granted under the 1991 Act can be exercised on 21 days' notice, which is too short a period of time for the sewerage undertaker to ensure sufficient capacity exists. The appellants' estimate of the time scale for the development is that the first occupations may commence during 2017. Consequently, Thames Water would have adequate warning of the need to take action. It is clear from the evidence of Fairford Planning Watch that Thames Water is well aware of the capacity issues, and has been for some time.

[14] Appellants' document CD62
[15] Ref ID: 34-020-20140306
[16] Document 29

82. Having regard to all of these matters, and particularly that the level of foul water produced by the development would not have a material impact on the sewerage network capacity under normal circumstances, I consider that there are no good grounds for refusing planning permission for the development on the grounds of lack of capacity of the sewerage system.

83. However, bearing in mind the advice of the PPG, I consider that it is both reasonable and necessary to impose a condition to require details of the means of disposal of foul sewage to be provided and approved, and for the approved details to be implemented before the development is occupied. That condition ought to require a drainage impact study and drainage strategy, given the risk that at periods of high rainfall the development might exacerbate existing problems. This is because no detailed drainage impact study and drainage strategy has yet been prepared which would allow the risks of flooding from the sewers to be properly assessed, this being an outline application.

84. Without such a condition the developer would be able to exercise the right to connect to the public system, even where there were legitimate reasons relating to lack of capacity for not wishing to increase the load on the public sewers. In such a situation (which may, it is true, result from the statutory undertaker not fulfilling its statutory duties) the outcome could be that properties elsewhere in Fairford would be at greater risk of flooding from overloaded sewers than they would be if the development had not taken place. That outcome would not in my view accord with the advice of the PPG.

85. Concern has been expressed on behalf of the appellants that such a condition would impose an unjustifiable burden on the developer, for example by forcing him effectively to fund any inadequacies in the sewerage because the sewerage undertaker was not prepared to fulfil its statutory obligations in a timely manner. But the original Foul Drainage Strategy submitted by the appellants[17] identified a technical solution if there was any delay in Thames Water implementing any required upgrading works. That suggests such concerns are unfounded. However, any such technical solutions should be subject to approval through the imposition of a condition, which would require a proper assessment of both the effects of the development on the sewerage system and the practicality of any technical solutions.

86. With regard to surface water, the Flood Risk Assessment (FRA) submitted with the application proposes as an outline drainage strategy the use of either infiltration techniques and/or a storage pond as the most appropriate surface water drainage solutions, but with the possibility of the need also for attenuation of any surface water flow that cannot be infiltrated. This has been subject to criticism by Fairford Planning Watch, who notes that it fails to demonstrate how the drainage would operate when groundwater levels are high. Representations from local residents have also drawn attention to seasonal flooding of the boundary ditch between the site and Burdocks.

87. However, on the basis of the information provided, I am not satisfied that there is no technical solution to the disposal of surface water from the development, although I recognise the concerns of local residents. But a condition should require the submission and approval of a drainage impact study and strategy to investigate fully the surface water drainage implications of the development, and the strategy should be implemented before the development is occupied.

[17] Appellants' Document CD 2.6

It is both necessary and reasonable for these implications to be understood and mitigated, in order to ensure that the development does not lead to a worsening of existing surface water flooding issues.

Highways

88. Gloucestershire County Council, the highway authority, has entered into a statement of common ground with the appellants. The County Council raises no objection to the development, subject to conditions and the securing of a payment towards the Transport Plan by way of section 106 undertaking. The County Council has accepted that the appeal site can be accessed safely, and that traffic generated by the development will not give rise to any unacceptable harm.

89. Fairford Planning Watch has criticised the adequacy of the appellants' Transport Assessment. However, this was prepared following discussions with the local highway authority, and has been accepted by that authority. The report states that it is consistent with the Department for Transport's Guidance for Transport Assessment. Under the circumstances, I consider that the Transport Assessment can be relied on.

90. Concerns have been expressed as to the impact of this development, together with other developments already granted permission, on highway conditions on the A417. The A417 is very narrow in places through the town, and at one point, at the junction with High Street, only effectively has a single carriageway width. I saw on my site visit that this, and road narrowing caused by on street parking of cars and delivery vehicles elsewhere on the A417, does cause congestion from time to time.

91. However, the County Council has expressed the view that the additional traffic likely to be generated by both the committed developments and the appeal proposal during peak hours would not cause significant delay at this junction. This view is based on a technical assessment of the number of vehicles currently using the junction, the number of vehicles likely to be generated by committed developments and the appeal development, and the way in which the junction works at present. There is no technical evidence which would lead me to disagree with the highway authority's conclusion on this matter.

92. The access into the site has been designed in accordance with current national and local standards. There is no technical evidence to suggest that the visibility displays that would be provided would be inadequate, or that the relationship of the site access to the bend to the west, the proposed pedestrian island and the accesses to the Bloor Homes and Linden Homes sites would be prejudicial to highway safety. Under those circumstances, I see no reason to disagree with the County Council's assessment of the proposed site access.

93. Fairford Planning Watch has argued that the site is not accessible by sustainable modes of transport. However, the County Council recommended that, subject to the provision of a new footway, pedestrian access to schools, a convenience store, pharmacy, bank and other amenities would be within walking distances recommended by the Chartered Institute of Highways and Transportation (CIHT).

94. Fairford has a good range of facilities and shops, and is a sustainable settlement. There is a dispute over the distances between the appeal site and

various of the facilities in the town, which I am not able to resolve, although I note that the primary and secondary schools are some distance from the site at the north-east edge of the town. They would be very much at the outer edge of acceptable walking distance, although the distance would be reasonably cycleable. I recognise that, in practice, occupiers may prefer to take the car rather than to walk to the facilities in the town centre, which appears to be further than the "preferred maximum" distance for walking to town centres recommended by the CIHT. But that may also be true of the occupiers of the new developments on the north side of Cirencester Road, which are only marginally closer than the appeal site.

95. Bus services are relatively infrequent, although the site would be within easy reach of a bus stop; and according to Fairford Planning Watch journeys to Swindon would involve changing buses. I see no reason, however, to dispute the County Council's assessment that the local bus services could be considered suitable for transport to work where normal working hours apply.

96. A pedestrian refuge is to be provided as part of the Bloor Homes development. With these provisions, I am not satisfied that crossing Cirencester Road would be as much of a deterrent to walking as is argued, even for parents with young children.

97. The appellants have agreed in the unilateral undertaking to make a financial contribution to the County Council towards a travel plan, and that would involve implementation of measures to encourage the use of alternative means of transport to the car.

98. Drawing all these considerations together, I conclude that the access to be provided would accord with relevant standards and would have adequate visibility, and that the additional traffic generated by the development would not have an unacceptably harmful effect on highway safety. Fairford is a sustainable settlement with all the necessary facilities, albeit that the appeal site because of its location on the edge of the town is not particularly close to those facilities. That may lead occupiers of the appeal site to use the private car, but that tendency should be mitigated by the travel plan contribution.

Whether the proposed development would make adequate provision for affordable housing, education, libraries, travel and other local infrastructure

99. The Council's third reason for refusal related to the absence of a legal agreement to secure affordable housing, financial contributions towards education and libraries, and a travel plan. LP policy 49 provides that in order to achieve sustainable development, proposals will only be permitted if the social, economic and environmental impacts of the development are satisfactorily mitigated, or compensated for, and the service and infrastructure needs generated by the development are fully met.

100. At the Inquiry, the appellants submitted a completed unilateral undertaking making provision for 50% of the total number of dwellings constructed on the appeal site to be affordable housing; for the management and maintenance of open space within the site; and for the payment to Gloucestershire County Council of financial contributions towards primary education and a travel plan. The Council has agreed that a contribution towards libraries is no longer required, and that the completed undertaking addresses and overcomes its third reason for refusal.

101. It is clear from the evidence that there are serious problems of housing affordability in Cotswold. The affordable housing that this site would provide would make a valuable contribution towards the district's need for this type of housing. It would also satisfy the requirements of LP policy 21 and the Council's Affordable Housing Supplementary Planning Document which aim to achieve up to 50% of affordable units on developments in areas including Fairford.

102. Gloucestershire County Council, the education authority, has indicated that the appeal proposal would give rise to the need for a number of primary school places, and that there are insufficient spaces at the local primary school, Fairford Church of England primary, to accommodate the numbers of pupils likely to be generated. The contributions secured under the unilateral undertaking would satisfy Gloucestershire County Council's requirements in this regard, and the amount of the contribution would be directly related to the number of primary school places likely to be generated by the development and the cost estimated by the County Council of providing those places.

103. Fairford Planning Watch has expressed concern that the proposed development would present difficulties for the primary school which could not be resolved without the school being extended and more staff being provided. Concerns are also expressed about increased class sizes.

104. However, the County Council, which is the statutory education authority, has not objected to the development on these grounds, provided that the financial contribution towards education is secured. I have also noted the comments made by one of the governors of the school. Taking all of these matters into account, I consider that the education contribution secured by the unilateral undertaking would satisfactorily mitigate the impact of the development of local schools, and would satisfy the requirements in this regard of LP policy 49.

105. The appellants submitted an interim Travel Plan as part of the application submission, which was considered acceptable to Gloucestershire County Council, the highway authority. The County Council has agreed that, subject to the payment of the financial contribution set out in the unilateral undertaking, it would be responsible for implementing the Travel Plan, which sets out measures to promote and encourage sustainable travel. The County Council agrees that this would overcome that part of the third reason for refusal relating to transportation.

106. It is agreed in the statement of common ground between the appellants and the County Council, that the amounts secured towards the residential travel plan would accord with the County Council's transport planning advice on residential travel plans.

107. The proposed development would only be acceptable in principle with a satisfactory appearance, including the provision and long-term maintenance of appropriately laid out open space. Consequently, the provisions in the unilateral undertaking relating to open space and its future management are necessary, proportionate and directly related to the development.

108. Having regard to all these matters, I am satisfied that the planning obligations contained in the unilateral undertaking are necessary to make the development acceptable in planning terms, directly related to it and are fairly and reasonably related in scale and kind to the development. They therefore

satisfy the requirements of Regulation 122 of the Community Infrastructure Levy Regulations 2010.

109. Concerns have been expressed as to the adequacy of the existing water supply to Fairford. But the developer is able to require Thames Water, by requisition, to provide a water main to supply sufficient water to the development for domestic purposes. I am satisfied, therefore, that issues relating to water supply would not represent a constraint to the appeal proposal going ahead.

110. NHS England has confirmed that the Fairford surgery has the capacity to cope with the development of the appeal site. That, also, would not represent a constraint on the appeal development.

111. For these reasons, I conclude that the proposed development would make adequate provision for affordable housing, education, libraries, travel and other local infrastructure. It would not, therefore, conflict with LP policy 49.

Other matters

112. Concerns have been expressed at the limited amount of employment in Fairford itself. However, the assessment of housing need looks at the district as a whole, and (as indicated above) should take into account employment trends, also on a district wide basis. In a largely rural district such as Cotswold where large areas have constraints on development because of their locations within the Area of Outstanding Natural Beauty or within conservation areas, there is unlikely to be an exact match between housing and employment locations, and consequently commuting to work is likely to happen.

113. The Council has approved a significant amount of new housing in Fairford recently. Its emerging distribution strategy indicates an envisaged amount of new housing for the town which would be exceeded if development were to be allowed on the appeal site. But very little weight can be given to work carried out in connection with the emerging local plan, given its early stage. The Council's March 2014 SHLAA[18] assessed the appeal site as unsuitable for development. But its SHLAA review of October 2012 had identified the appeal site as "Suitable longer term", giving a timescale of 16-20 years, after the land to the north had been developed. That land is now being developed. In view of this contradiction little weight can be attached to either SHLAA assessment.

114. Fairford's location within the Cotswold Water Park, as well as its inherent attractiveness, makes it a destination for tourists. But there is no convincing evidence to support suggestions, and indeed no reason to suppose, that tourists would be in any way deterred from visiting either Fairford itself or the Water Park if the development took place.

115. The site lies within a "settlement protection boundary" defined in accordance with policy UT.2 of the LP. The policy relates to activities at the Cotswold Water Park and its objective is to protect residential amenities and landscape settings of settlements from disturbance caused by the more disruptive after uses. It is permissive of amelioration measures such as tree planting and bunding, but does not permit sport, recreation and tourism which would damage residential amenities and the setting of the settlement. It has not

[18] Strategic Housing Land Availability Study

been referred to by the Council in their reasons for refusal, and the proposed development would not conflict with this policy.

Whether the proposed development would amount to sustainable development

116. Paragraph 14 of the Framework contains a presumption in favour of sustainable development. As indicated above (paragraph 29), for decision taking this means that where relevant policies of the development plan are out of date (as they are here), granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. The Framework identifies three dimensions to sustainable development: economic, social and environmental.

117. The development would bring benefits in terms of additional housing, in a district where the Council is unable to demonstrate a five-year housing supply. The development would also deliver a significant amount of affordable housing to meet the needs of present and future generations. Given the overall lack of affordability of housing within Cotswold, this is a substantial benefit of the scheme, with both economic and social dimensions. I attach considerable weight to these benefits, which would also contribute towards the Framework aim of significantly boosting the supply of housing. The development would address the additional demands it would place on the education system through the payment of appropriate contributions to the education authority. There is no convincing evidence that other infrastructure in Fairford would not be able to cater for the demands arising from the development.

118. The highway authority has agreed that the site is accessible to facilities by sustainable modes of travel, and the development would make an appropriate contribution towards the implementation of a travel plan. Miss Tetlow on behalf of the District Council agreed that in terms of proximity to services and facilities the appeal site was in a sustainable location. In my view the development would be accessible to services and facilities by a choice of modes of travel. Notwithstanding its location on the edge of the town, the appeal site is in a sustainable location.

119. All of these elements would make positive contributions to the economic and social dimensions of sustainable development. There would also be an indirect environmental benefit in reducing the need to meet the district's housing need by development in areas designated for the quality of their landscape. There would also be some environmental benefit from the proposed habitat creation/enhancement and management plan. On the other hand, there would be harm to the setting of Fairford and its conservation area, and the possibility of slight harm to the setting of the listed building, Burdocks.

120. Some representations have referred to part of the site at least being grade 2 agricultural land. However, the Agricultural Land Quality Report submitted by the appellants show that, based on current classifications, all of the site falls within either sub grade 3a or sub grade 3b. In my view, the loss of this relatively small area of grade 3 agricultural land would not be significant, having regard to the probable need to build housing on agricultural land in the district in order to meet future housing needs.

121. I am required by section 66 of the Planning (Listed Building and Conservation Areas) Act 1990 to pay special regard to the desirability of

preserving the setting of Burdocks as a listed building. I also give great weight to the conservation of Burdocks as a designated heritage asset, as required by paragraph 132 of the Framework

122. My conclusion is that, provided that the development was appropriately designed so that dwellings and their curtilages were set well back into the appeal site, and with additional planting along the boundary with Burdocks, the development would only have a slight detrimental effect, if any, on the setting of Burdocks and on its historical significance as a country house.

123. Because the harm identified to the setting of Burdocks would be less than substantial, paragraph 134 of the Framework requires it to be weighed against the public benefits of the proposal. In this case, I consider that the public benefits in terms of provision of additional housing, including affordable housing, would be significant. Those benefits clearly outweigh the harm that would be caused to the setting of Burdocks.

124. The change resulting from the development would cause some slight to moderate harm to the countryside setting of Fairford, and there would be a loss of public and private views of the countryside. Those would be replaced by views of the development. From some viewpoints the development would appear somewhat isolated from the remainder of the town, and so incongruous. Good design could mitigate that harm to an extent, but not remove it completely.

125. The development would detract slightly from the setting of Fairford Conservation Area, by diluting its relationship with the countryside. It would consequently conflict with LP policy 15. That policy, however, is out of date, which reduces the weight I attach to that conflict. I do, however, give great weight to the conservation of the conservation area, as required by paragraph 132 of the Framework. The Council has not argued that the harm would be substantial, and so the advice in paragraph 134 of the Framework applies. I consider that the harm the development would cause to the setting of the conservation area would be outweighed by the public benefits identified above.

126. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires proposals to be determined in accordance with the Development Plan unless material considerations indicate otherwise. Plainly, national policy set out in the Framework is capable of being such a material consideration. The development would conflict with LP policies 15 and 19. But material considerations, in the form of advice in the Framework, indicate that in this case, the appeal should not be determined in accordance with the development plan.

127. Turning then to the overall balancing exercise required by paragraph 14 of the Framework, I conclude that the slight and slight to moderate adverse impacts of the development would not significantly and demonstrably outweigh the considerable and substantial benefits of the development, when assessed against the policies in the Framework taken as a whole. The development would therefore amount to sustainable development in the terms of the Framework.

Conditions

128. Conditions are required governing the submission of reserved matters and the timing of commencement of development, and also to limit the number of dwellings to a maximum of 120, in order to define the permission. For the same reason, a condition is necessary to identify, and to require development to be carried out in accordance with, the submitted plans.

129. In order to ensure the satisfactory appearance of the development in relation to its surroundings, a condition is needed requiring the reserved matters submissions to show details of ground levels, slab levels and the slab levels of adjacent buildings.

130. So that the proposed habitat and ecological enhancement is secured, a condition is necessary requiring a habitat creation/enhancement and management plan to be approved and implemented. A condition is also necessary to secure a programme of archaeological work, in view of the archaeological interest of the site.

131. In order to ensure the satisfactory appearance of the development, conditions are necessary to secure the implementation of a landscaping scheme and tree protection measures, and to ensure the replacement of any elements in the scheme which die, are removed or damaged or become diseased within five years of completion.

132. In the interests of highway safety, and in order to ensure a satisfactory layout of the internal road network, conditions are necessary requiring the access road to be installed before any other works commence on site. The occupation of any dwelling should be prevented until the carriageways and associated infrastructure providing access to that dwelling have been provided, and a proposed pedestrian footway along the frontage of the site, including tree protection measures and surfacing details, should be secured, in order to ensure satisfactory vehicular and pedestrian access.

133. A condition is necessary requiring the approval and implementation of a construction method statement, in order to reduce as far as possible disruption to the surrounding area during the construction phase.

134. A condition is necessary requiring a site investigation into any contamination on the site, and the implementation of any necessary remediation measures, in order to avoid any harm to future occupiers arising from contamination issues.

135. A condition is also required, for the reasons set out above, to secure the submission of a drainage impact study, and details of drainage and the disposal of surface water and foul sewage.

136. It is both reasonable and necessary to impose a condition requiring the provision of fire hydrants to be served by a mains water supply, in order to facilitate the emergency services' response in case of fire at the development. However, it is not relevant to planning to require the submission of details of future management and maintenance of the proposed streets within the development.

137. Where appropriate, I have altered the wording of the conditions suggested by the parties, in order to reflect the advice in the PPG.

Sara Morgan

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr George Mackenzie	Of Counsel, instructed by Head of Legal and Property Services, Cotswold District Council

He called

Mr James Overall BA (Hons) CMLI	Director, Ovelier Consultants
Miss Laurie Davis BSc (Hons) MSc IHBC	Conservation and Design Officer, Cotswold District Council
Mrs Georgina Wood BSc (Hons) MA MRTPI	Principal Planning Policy Officer, Cotswold District Council
Miss Catherine Tetlow BSc (Hons) MA MRTPI	Senior Planning Officer, Cotswold District Council

FOR THE APPELLANT:

Mr Peter Goatley	Of Counsel, instructed by Gladman Developments Ltd

He called

Mr David Beardmore MSc MS Dip LD (Dist) Dip Larch (Dist) Dip UD Dip Bldg Cons FRTPI CMLI IHBC	Beardmore Urban
Mr Tim Jackson BA (Hons) MLI PG Dip LA	Director, FPCR Environment and Design Ltd
Mr George Venning MA (Cantab)	Director, Levvel Ltd
Mr Jason Tait BA (Hons) DipTP MRTPI	Planning Prospects

FOR THE RULE 6 PARTY FAIRFORD PLANNING WATCH:

Mr Malcolm Cutler	Local Resident
Ms Sarah Basley	Local Resident
Mrs Margaret Bishop	Local Resident

INTERESTED PERSONS:

Mr Robert Megson MRTPI	Ashburn Planning on behalf of Fairford Town Council
Mr David Crofts MRTPI	Ashburn Planning on behalf of Fairford Town Council

DOCUMENTS HANDED IN AT THE INQUIRY

1 LPA's letters of notification and list of persons notified
2 List of appearances on behalf of the Appellant

3 Opening statement on behalf of the Appellant
4 Opening statement on behalf of the LPA
5 Opening statement on behalf of Fairford Planning Watch
6 Bundle comprising: *Note re plans*
Letter dated 6 February 2014 from Appellants to Planning Inspectorate
Land Registry Office Copy – Title GR 372125
Drawing 2013-006 PT-001
Drawing 2013-006 PT-004
Drawing 2013-006 PT-004 Rev D
Development Framework 5514-L-03 Rev B
Development Framework 5514-L-03 Rev D
Development Framework 5514-L-03 Rev E
7 FPCR Note and Figure 10 – details of heights of TPO trees
8 Extract from *Country Houses of Gloucestershire* (drawing of Burdocks) and two aerial photographs
9 Extract from *Guidelines for Landscape and Visual Assessment*
10 *Strategic Housing Market Assessments Practice Guidance Version 2* (DCLG)
11 Alternative 5 year supply calculation handed in by Mrs Wood
12 Extract from LPA's *Role and Function of Settlements* Study
13 Note and plans from Fairford Planning Watch concerning drove roads in the area
14 Photographs from Fairford Planning Watch demonstrating relative heights of trees, buildings and other features at or near the Appeal Site
15 Photographs from Fairford Planning Watch of traffic conditions in Fairford
16 E-mail exchange between Miss Tetlow and NHS
17 E-mail concerning Fairford C of E Primary School and response of Fairford Planning Watch
18 *Dartford Borough Council v SSCLG and Landhold Capital Ltd* [2014] EWHC 2636
19 Secretary of State decision – APP/Y2430/A/13/2191290 Former Asfordby Mine, Welby Road Melton
20 Appeal decision APP/G1630/A/12/2183317 Land adjoining Gretton Road, Winchcombe 14 May 2013
21 Appeal decision APP/L3815/A/13/2198341 Land north of Long Copse Lane, Westbourne 2 December 2013
22 Appeal decision APP/K2420/A/13/2202261 Land east of Wolvey Road, Three Pots, Burbage, Leics 3 January 2014
23 Appeal decision APP/C1625/A/13/2207324 Land off Bath Road, Leonard Stanley 21 July 2014
24 Appeal decision APP/C1625/A/13/2197307 etc Land at Summer Street, Stroud 22 July 2014
25 Statement, summary and introduction from Ashburn Planning on behalf of Fairford Town Council
26 Unilateral undertaking dated 5 August
27 List of suggested conditions
28 Note concerning drainage and flooding on Bloor Site handed in by Appellants
29 Thames Water response to Appellants relating to drainage
30 Fairford Community Plan

31 Closing statement on behalf of Fairford Town Council
32 Closing statement on behalf of Fairford Planning Watch
33 Closing statement on behalf of the Council
34 Outline closing submissions on behalf of the Appellant
35 Map showing agreed itinerary for site visit

SCHEDULE OF CONDITIONS

1) Application for approval of reserved matters relating to the appearance, landscaping, layout and scale of the development must be made not later than the expiration of three years beginning with the date of this permission and the development must be begun not later than whichever is the latter of the following dates:

   - The expiration of five years from the date of this permission; or
   - the expiration of two years from final approval of the reserved matters, or in the case of approval of different dates, the final approval of the last such matter to be approved.

2) The reserved matters submitted pursuant to Condition 1 shall be limited to a maximum of 120 dwellings.

3) The reserved matters plans shall show the existing and proposed ground levels, the slab level of the proposed buildings and the slab level of adjacent buildings. The development shall only be carried out in accordance with the approved plans.

4) The development hereby permitted shall be implemented in accordance with the details shown on the submitted plans, numbers 2013-006-PT-004 Rev D and TPMA 1033-005 Rev B.

5) Development shall not commence until a drainage impact study, and a drainage strategy detailing a scheme of drainage plans and information for the disposal of surface water and foul sewage, has been submitted to an approved in writing by the local planning authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.

6) Development shall not commence until a habitat creation/enhancement and management plan, together with a programme for its implementation and maintenance, has been submitted to and approved in writing by the local planning authority. The plan shall include (but not be limited to) details of the measures for the maintenance and enhancement of retained hedgerows, and ecological enhancement and habitat creation proposals within the proposed open space. The approved management plan shall be implemented in full in accordance with the approved programme.

7) No development shall take place within the application site until a programme of archaeological work has been implemented in accordance with a written scheme of investigation which has first been submitted to and approved in writing by the local planning authority. The written scheme of investigation shall include provision for the submission of a written report of the results of the investigation on completion of the approved programme of works.

8) Development shall not commence until a comprehensive landscaping scheme has been approved in writing by the local planning authority. The scheme must show the location, size and condition of all existing trees and hedgerows on and adjoining the land and identify those to be retained. It must show details of all planting areas, tree and plant species, numbers and planting sizes. The proposed means of enclosure and screening should also be included, together with details of any mounding, walls and fences and hard surfacing materials to be used throughout the proposed development.

9) No works shall commence on site (including site clearance) until a Tree Protection Plan (TPP) and Arboricultural Method Statement have been submitted to and approved in writing by the local planning authority. The TPP shall detail the methods of tree/hedge protection and clearly detail the positioning and specifications for erection of tree protective fencing. The fencing shall be constructed in accordance with the specifications set out within BS 5837:2012 and shall remain in place until the completion of the construction process. No fires shall be lit within 5 m of the construction exclusion zone and materials that will contaminate the soil such as cement or diesel must not be discharged within 10 m of any tree stem. Existing ground levels shall remain the same within the construction exclusion zone and no building materials or surplus soil shall be stored therein. All service runs shall fall outside the construction exclusion zone unless otherwise approved in writing by the local planning authority.

10) Development shall not commence until a Construction Method Statement has been submitted to, and approved in writing, by the local planning authority. The statement shall include:

(i) the location of parking for vehicles of site operatives and visitors;

(ii) loading and unloading of plant and materials;

(iii) storage of plant and materials used in constructing the development;

(iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing where appropriate;

(v) wheel washing facilities;

(vi) measures to control the emission of dust and dirt during construction;

(vii) a scheme for recycling/disposing of waste resulting from construction works.

The approved details within the statement shall be implemented in full and maintained for the duration of the construction period.

11) No development shall take place until a site investigation of the nature and extent of any contamination has been carried out in accordance with a methodology which has previously been submitted to and approved in writing by the local planning authority. The results of the site investigation shall be made available to the local planning authority before any development begins. If any significant contamination is found during the site investigation, a report specifying the measures to be taken to remediate the site to render it suitable for the development hereby permitted shall be submitted to and approved in writing by the

local planning authority before any development begins. The remediation scheme, as agreed in writing by the local planning authority, shall be fully implemented in accordance with the approved timetable of works and before the development hereby permitted is first occupied. Any variation to the scheme shall be agreed in writing with the local planning authority in advance of works being undertaken. On completion of the works the developer shall submit to the local planning authority written confirmation that all works were completed in accordance with the agreed details. If during the course of development any contamination is found which has not been identified in the site investigation, additional measures for the remediation of this contamination shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures.

12) No development shall commence on site until a scheme has been submitted to, and approved in writing, by the local planning authority for the provision of fire hydrants (served by mains water supply). No dwelling shall be occupied until the hydrant serving that property has been provided in accordance with the approved details.

13) No works shall commence on site (other than those required by this condition) on the development hereby permitted until the first 20 m of the proposed access road as detailed in drawing number TPMA 1033_05 Rev B, including the junction with the existing public road and associated visibility displays, have been completed to at least binder course level.

14) No dwelling on the development hereby permitted 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.

15) No dwelling shall be occupied until the proposed pedestrian footway, to connect to the existing footway on the southern side of Cirencester Road which currently terminates approximately 300 m east of the proposed site and to link up with the proposed new section of footway secured as part of the Bloor Homes development to the west of the site access, has been completed in accordance with full engineering details, which shall include surfacing details and details of measures to protect existing trees, which shall have first been submitted to and approved in writing by the local planning authority.

16) The approved landscaping scheme shall be completed by the end of the planting season immediately following the completion of the development.

17) Any trees or plants shown on the approved landscaping scheme to be planted or retained which die, are removed, are damaged or become diseased, or grassed areas which become eroded or damaged, within five years of the completion of the approved landscaping scheme, shall be replaced by the end of the next planting season. Replacement trees and plants shall be of the same size and species is those lost, unless the local planning authority gives its approval in writing to alternatives.

End of conditions