



---

## Appeal Decision

Inquiry held on 30 September – 3 October 2014

Site visit made on 3 October 2014

**by Mike Fox BA (Hons) DipTP MRTPI**

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

**Decision date: 30 October 2014**

---

### **Appeal Ref: APP/P1615/A/14/2220590**

#### **Land at Beachley Road, Sedbury, Gloucestershire, NP16 7AA**

- 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 Barrett Homes against the decision of Forest of Dean District Council.
  - The application Ref P1792/13/OUT, dated 6 December 2013, was refused by notice dated 16 May 2014.
  - The development proposed is an outline application with all matters reserved except for access for up to 110 homes, public open space, landscaping, highway improvements and associated engineering works.
- 

### **Decision**

1. The appeal is allowed and an outline planning permission is granted with all matters reserved except for access for up to 110 homes, public open space, landscaping, highway improvements and associated engineering works at land at Beachley Road, Sedbury, Gloucestershire, NP16 7AA in accordance with the terms of the application Ref P1792/13/OUT, dated 6 December 2013, and the plans submitted with it, subject to the conditions set out in the Schedule below.

### **Application for costs**

2. At the Inquiry an application for costs was made by Barratt Homes Ltd against Forest of Dean District Council. This application is the subject of a separate Decision.

### **Procedural matters**

3. All matters of detail except access have been reserved for future approval. In addition to a site location plan, and a plan showing the location and details of the proposed vehicular access, an illustrative masterplan<sup>1</sup> was submitted, which together with the Design and Access Statement and a Landscape and Visual Appraisal, give a likely indication of the character of the proposed development and its impact.
4. Two Section 106 Agreements were signed between the landowners, one dated 12 September 2014 with Forest of Dean District Council<sup>2</sup> and one dated 11

---

<sup>1</sup> Drawing 9700 Revision G, entitled Illustrative Masterplan; dated 22 October 2013.

<sup>2</sup> Inquiry Document CD E-16.

September 2014 with Gloucestershire County Council<sup>3</sup>. The first was to secure the provision of affordable housing and open space; and the second was to secure a sustainable Travel Plan. I return to these Section 106 Agreements later in my decision.

5. A Statement of Common Ground (SCG)<sup>4</sup> sets out the issues that are in dispute between the main parties, which are summarised as relating principally to landscape and visual impact. Two SCG Addendums were also submitted; the first on housing land availability<sup>5</sup>, helpfully sets out the housing land supply sites where there was agreement between the main parties and those sites where the potential housing supply within five years was disputed; the second SCG Addendum, on landscape<sup>6</sup>, established that the Appellant's Landscape and Visual Assessment (LVA) was technically adequate and that the selected viewpoints in the LVA provided an adequate representative record of the site and study area.
6. A group of local residents, called Democratic Planning, who were opposed to the proposed development sought, and was granted, Rule 6 status and was duly represented at the Inquiry.
7. A significant number of planning appeal decisions was brought to my attention, both in written evidence and during the Inquiry. In the interests of conciseness, I have been selective in those that I have specifically referred to in my decision, although I have taken all of them into account.

### **Main Issues**

8. The main issues are the effect of the proposed development on the character and appearance of the surrounding area; and whether the proposal is necessary to meet the requirements of the District for market and affordable housing.

### **Reasons**

9. The 4.83ha appeal site is roughly crescent-shaped. It comprises two agricultural fields within an open area which lies between the settlements of Tutshill to the north and Sedbury to the south. Its north-western and western boundaries are effectively screened from the adjacent main roads by mature trees and high hedgerows, forming a strong element of enclosure. To the south-west and south, the site adjoins the Wydean School playing fields. The only visual exposure from public land is from a short stretch of Sedbury Lane to the north-east, where it borders open countryside. There is a gentle slope down from the school playing fields northwards towards the A48 main road, but the differences in levels between the site and the surrounding area are slight. One public footpath crosses the site.

---

<sup>3</sup> Inquiry Document CD E-17.

<sup>4</sup> Statement of Common Ground (SCG) between Barratt Homes and Forest of Dean District Council; dated 12 August 2014 [Inquiry Document CD-E5]

<sup>5</sup> Inquiry Document CD-E14.

<sup>6</sup> Inquiry Document CD-E15.

***Issue 1: The effect of the proposal on the character and appearance of the surrounding area***

*Introduction*

10. The concerns of the Council, and many others, were that the proposal would result in the loss of a section of locally valued open countryside, on a prominent and an important part of the 'green wedge' which separates the communities of Tutshill and Sedbury. This "significantly urbanising effect"<sup>7</sup> was considered to result in "significant and demonstrable harm to the appearance, character and amenity of the area"<sup>8</sup>.
11. The appeal site sits in Natural England's National Character Area (NCA) 106 'Severn and Avon Vales', almost on the boundary with NCA 105 'Forest of Dean and Lower Wye'. At a more detailed level, the site is classified as within Landscape Character Area Type 6 'Unwooded Vale' in the Council's Landscape Character Assessment<sup>9</sup>, which describes this character type in the following terms: "*The deeply rural landscapes of the Unwooded Vale landscape type border the Severn for almost the entire length of the District and their overall character is distinctly small scale, intimate and domestic*".
12. The site also lies within the more detailed Landscape Character Area 6a: 'Stroat and Sedbury', described as gently undulating, arable land with hedgerows and field trees. The appeal site is considered to be typical of this type of landscape.
13. In relation to Core Strategy (CS)<sup>10</sup> policy CSP.1, which requires environmental protection and enhancement to be incorporated into the design and construction of new development, the Council accepted that the proposal would provide high quality green infrastructure and has to a degree responded to the sensitivities of the site. The Council, however, considered that this 'apparent compliance' would be outweighed by the significant harm that the development would cause to the important landscape characteristics of the area,
14. The Council also stated that the proposed development would be contrary to CS policy CSP.4, which expects most new development in towns and villages to take place within existing settlement boundaries, whereas the appeal site is located outside the settlement boundary of Tutshill/Sedbury. The Appellant accepted that the proposed development would be contrary to this policy, and it is clear that this is the case.

*Impact of the proposed development on the landscape*

15. The appeal site, whilst being classified as part of the 'Unwooded Vale' landscape character area, is in arable use situated on the fringe of the urban areas of Tutshill and Sedbury. Any rural tranquillity that the site may have experienced in the past is diminished by the traffic noise from two main roads which border the site; the A48 immediately to the north and the Sedbury Link Road (SLR) which is equally close to the site from the west. Beachley Road (B4228), which runs to the south-west and the adjacent playing fields to the south also have a noise impact on the site, leaving the relatively narrow, north-eastern edge of the site facing the more tranquil, open countryside.

---

<sup>7</sup> Proof of Evidence of Peter Radmall on Landscape and Visual matters; page 17, paragraph 8.7; September 2014.

<sup>8</sup> Proof of Evidence of Peter Radmall on Landscape and visual Matters; page 26, paragraph 14.9; September 2014.

<sup>9</sup> Forest of Dean DC: Landscape Character Assessment: Gloucestershire and Forest of Dean; 2002.

<sup>10</sup> Forest of Dean District Council: Core Strategy; Adopted 23 February 2012 [Inquiry Document CD-B1].

16. In areas such as the appeal site, the advice in *the Framework* (paragraph 17[5]) is to recognise the intrinsic character and beauty of the countryside. This is a shift from the earlier national policy stance to protect the countryside for its own sake, which in my view is linked to the increasing recognition that there needs to be a concerted response to the serious national need to boost significantly the supply of housing, as set out in *the Framework* (paragraph 47). The loss of countryside per se therefore does not amount to serious harm. Moreover, the Council's witness accepted, in cross-examination (xx), that the extent of the nation's housing need would require some settlement boundaries to be breached.
17. In national policy terms, the site has no statutory landscape designation, so development proposals are not subject to the test of having to demonstrate 'exceptional circumstances' as required in paragraph 116 of *the Framework*. Furthermore, there is no local landscape protection policy in the development plan covering the site. In the absence of any countryside policies at national or local level which provide protection specifically for the appeal site, it is necessary to come to a view on how important the appeal site is in landscape terms and in particular whether it merits protection as a valued landscape in relation to *the Framework* (paragraph 109).
18. I am aware that CS policy CSP.4 aims to protect, for the most part, all areas outside settlement boundaries. The recent South Northamptonshire High Court Judgment<sup>11</sup>, however, has made it clear that policies which I would term 'blanket ban policies' to protect all rural areas outside settlement boundaries, are the very sort of policies that paragraph 49 of *the Framework* has to deem to be out-of-date if it is to achieve the aim of significantly boosting housing supply.
19. In xx the Council's landscape witness accepted that the appeal site was less prominent than one of the two draft allocations in the neighbourhood (High Ridge, Tutshill), currently being put forward in the Council's emerging Allocations Plan<sup>12</sup> (eAP) for new housing. He also accepted that the other draft housing allocation in close proximity to the appeal site included in the eAP in Sedbury, at The Elms, is very rural<sup>13</sup>. From my own observations, I also consider that the appeal site is less prominent than High Ridge and less rural than The Elms.
20. The appeal site was also identified as the most suitable allocation for housing development in the initial officer draft version of the emerging Allocations Plan (eAP), but it was quickly deleted in favour of these alternative allocations. It is unclear to me, however, which material conditions have changed in such a short space of time to bring about such a radical change in the Council's policy stance at the time of the submission of the appeal application.
21. I therefore conclude that firstly, the landscape quality of the site, whilst not unattractive, is unremarkable in its character and appearance. It is not 'deeply' rural or tranquil, and there are urban influences already very much in

---

<sup>11</sup> High Court Judgment between South Northamptonshire Council (claimant) and Secretary of State for Communities and Local Government and Barwood Land and Estates Ltd (defendants) – in particular paragraphs 43-47; 10 March 2014.

<sup>12</sup> Forest of Dean District Council: Allocations Plan Pre-Publication Draft (eAP); 21 July 2014 [Inquiry Document CD-B4].

<sup>13</sup> The locations of the Higher Ridge and The Elms proposed allocations in relation to the appeal site are shown in the plans submitted as Inquiry Documents 4 and 5.

evidence. The site is not prominent in the landscape; this was confirmed at the site visit, but the Council's landscape witness' proof also showed the appeal site sandwiched between two areas of rising ground<sup>14</sup>. Moreover, the site has a very high degree of visual containment (except to the north-east) by mature trees and hedgerows. It is therefore not, in my opinion, a significant tract of open countryside.

22. The proposed development would impact to a limited degree on the continuity of the existing effective enclosure, principally by the provision of the vehicular access through the tree screen at the roundabout, to the south-west of the appeal site. This could be mitigated, however, by additional planting secured through landscaping conditions at the reserved matters stage. Nearly all the site, following the completion of the proposed development, would remain secluded from outside views, whilst the impact on the only open, rural direction of view would be mitigated both by the provision of the proposed open space/playing fields at the north-eastern end of the site, i.e. beyond the proposed houses, and through careful design and landscaping, to be secured through condition at the reserved matters stage.
23. In my view, the proposed development would not be fighting with the landscape; rather, it would be sitting within it and would be contained comfortably by its natural boundaries.

*Impact on local amenities*

24. The two principal amenity concerns raised by the Council and others were the appearance of the site as a pleasant green space between the two communities of Tutshill and Sedbury, and the use made of it by the local community, which in the absence of public open space, is limited to a public right of way (PROW) which crosses the site. The visual separation between the two communities would remain intact as a result of the mature boundary planting, which I explain in more detail below. The route of the PROW across the appeal site would be safeguarded at the reserved matters stage, although clearly, the views of pedestrians using it would change from its current urban fringe setting to views of residential areas, albeit with landscaping.
25. On the other hand, the Appellant has stated that there would be improvements to footpaths in the vicinity of the appeal site<sup>15</sup>. The Appellant's Design and Access Statement<sup>16</sup> also states that the public open space provision on 1.65ha in the eastern part of the site would include an integrated and multi-functional open space network incorporating pedestrian routes and play areas, which would be for the use of the community as a whole as well as providing the necessary recreational facilities for new occupiers. I therefore conclude that, on balance, the impact of the proposed development on the amenities of the area would not be harmful.

*Impact on the green wedge*

26. The Council expressed its concern that the appeal site's role as a green wedge would be lost if the appeal were to be allowed and that this would harm the separate identities of the villages of Tutshill and Sedbury and increase the

---

<sup>14</sup> Proof of Evidence of Peter Radmall on Landscape and Visual Matters; Figure 3 – Visual Context; September 2014.

<sup>15</sup> Proof of Evidence of Simon Prescott on Planning Matters; paragraph 7.99 [bullet point 8]; September 2014.

<sup>16</sup> Inquiry Document CD-A5.

perception of coalescence. The Council's landscape witness stated<sup>17</sup> that the separation provided by the green wedge is important for two reasons: firstly, in avoiding perceptions of urban sprawl; and secondly, in maintaining glimpses of countryside in local views.

27. In considering whether the appeal site is a green wedge in physical terms, I note that it sits between the communities of Tutshill to the north and Sedbury to the south. The two communities, however, are regarded as parts of one overall settlement in both the existing and emerging development plan, i.e. both within the CS and in the eAP. The two urban areas merge to the south-west of the appeal site, so that the extent of their separation is limited. Moreover, the perception of increased coalescence is affected primarily by the mature tree screens along the edge of the appeal site, as the site itself is largely concealed behind them.
28. In terms of the effectiveness of the green wedge in separating the two communities, the continuing physical and perceived visual separation of Tutshill from Sedbury are ensured by firstly, the main roads and secondly, by the mature boundary vegetation, which runs along both sides of the SLR. The existing trees to the west of the SLR, i.e. opposite the appeal site, demonstrate how effectively they visually contain the residential areas in Tutshill immediately to the west, on the other side of the boundary planting. I can therefore see no reason why the tree line on the eastern side of the SLR would not provide an equally effective enclosure for the proposed development.
29. Regarding the Council's two observations on why the protection of the green wedge is critical, any perception of urban sprawl would be very limited due to the effectiveness of the existing vegetation along the boundaries of the site in cutting out the impact of the proposed development on receptors elsewhere in the vicinity. In terms of maintaining glimpses of countryside in local views, this would only happen to a limited extent from Sedbury Lane, to the north-east of the site. However, even from this public viewpoint, the impact would be softened by the proposed open space and peripheral landscaping, and some development is already visible on the skyline as the photomontages submitted by the Council<sup>18</sup> show.
30. I therefore conclude that the green wedge is only partial, and that its main functions of separating existing urban areas would not be significantly harmed, so long as the existing mature boundary planting remains. Moreover, there is no green wedge policy in the development plan, and the proposal would not result in a significantly increased perception of urban sprawl or coalescence. Finally, the loss of any glimpses of the open countryside would be limited.

*Secretary of State's decision in 1991*

31. The Council pointed me to a previous appeal decision, dismissing an application for proposed residential development on the appeal site, which was determined by the Secretary of State on 31 January 1991<sup>19</sup>. This decision stated (paragraph 5) that: "*The Secretary of State takes the view that the development on this prominent site on high ground, outside the recognised confines of the settlement, would represent a substantial extension of the built-*

---

<sup>17</sup> Proof of Evidence of Peter Radmall on Landscape and Visual Matters; page 20, paragraph 9.6; September 2014.

<sup>18</sup> Proof of Evidence of Peter Radmall; September 2014; Viewpoint Photomontages, after Fig 5.

<sup>19</sup> Appeal Decision Ref APP/P1615/A/90/163235; Secretary of State dismissed erection of 110 houses, etc at land adjoining Wydean School, Tutshill, Gloucestershire; 31 January 1991.

*up area, and a significant visual intrusion into the open countryside, severely diminishing its value as a green wedge, separating the two parts of the settlement. The proposal would be contrary to the aims of the Structure Plan policies for the control of rural development and to the aims of national policies for the protection of the countryside for its own sake, and therefore constitute harm to an interest of acknowledged importance”.*

32. The Secretary of State’s decision is a material consideration in this appeal, but there have been changes since 1991, both to the policy background and to the character of the landscape, which necessarily influence the weight I can give to that decision.
33. Firstly, the policy context has significantly changed and national policy is no longer to protect the countryside for its own sake, whilst *the Framework* has introduced greater urgency into addressing the national housing crisis, which I address under Issue 2. Secondly, although its topography has not changed, the landscape certainly has. In the 23 years since the Secretary of State’s decision, the site’s openness has been replaced through the significant tree planting along its boundary, associated with the construction of the SLR.
34. This evidence was graphically portrayed in an aerial photograph submitted by the Appellant, which showed how little tree cover there was at the appeal site in 1991<sup>20</sup>. I consider that the lack of trees – and hence the openness of the site – would have been critical in assessing its value as a green wedge in 1990/91. As already explained, tree growth on both sides of the SLR and the A48 since 1990 has ensured effective visual separation between Tutshill and Sedbury.
35. The Secretary of State, however, also referred to the appeal site being situated on high ground, which does not square with my observation, or the evidence of the Council’s landscape witness<sup>21</sup>. The Secretary of State based his consideration on the Inspector’s report, dated 15 November 1990<sup>22</sup>, which stated (paragraph 3): “*The appeal site is located on high ground on the eastern edge of the built-up area of Tutshill/Sedbury on the eastern bank of the River Wye opposite the town of Chepstow*”. If the Inspector was referring to the height of the appeal site above the River Wye, the apparent contradiction is satisfactorily explained.
36. I conclude that the 1991 decision has been overtaken by both changed national policy and the now enclosed landscape of the appeal site, to the extent that it can be afforded only limited weight in the determination of this appeal.

#### *Proposed mitigation*

37. The Council’s landscape witness accepted that the landscaping proposals associated with the development would be beneficial in terms of reinforcing landscape fabric and screening views, although the final effect would be subject to future detailed design<sup>23</sup>. The Appellant’s landscape witness, in his EIC, stated that the proposed landscaping facing the north-east when viewed from Sedbury Lane would be significant, with several layers of trees, which would

---

<sup>20</sup> Aerial photograph: Inquiry Document 6; and certificate of authenticity: Inquiry Document 36.

<sup>21</sup> Proof of Evidence of Richard McWilliam on Landscape and Visual Matters; paragraphs 3.9 – 3.13; September 2014.

<sup>22</sup> Report of Inspector JI McPherson to Secretary of State in relation to the erection of 110 houses, etc at land adjoining Wydean School, Tutshill, Gloucestershire; 15 November 1990.

<sup>23</sup> Proof of Evidence of Peter Radmall; September 2014; page 18, paragraphs 8.11 and 8.12.

have the effect, in visual terms, of becoming “a wall”. Furthermore, the Appellant’s illustrative drawings are sufficient to persuade me to conclude that the detailed landscaping of the proposed development, subject to appropriate conditions, would capitalise on the natural physical attributes of the site and ensure that the impact on the character and appearance of the area and its role as a green wedge between the communities of Tutshill and Sedbury would not be unduly harmful.

38. The point was made that much of the peripheral tree cover was outside the ownership of the Appellant and that there was therefore nothing to stop these trees from being felled; and that in the winter, the leaf fall would enable views into the proposed development. I consider that it is highly unlikely that the highway authority would wish to fell the trees which it planted in order to mitigate the effects of the SLR on the living conditions of nearby residential areas in Tutshill. I also consider that the depth of the trees and the reinforcement of the peripheral screen by the hedgerows would limit views of the development in winter months to an acceptable level.

#### *Conclusion*

39. The Appellant’s landscape witness concluded that the proposal “*will not harm the character and appearance of the surrounding area*”<sup>24</sup>, and I largely agree with this. In the light of all the above considerations, I conclude that the impact of the proposed development on the landscape of the site and its role as a green wedge from the proposal would not be unduly harmful; it would therefore not be contrary to national policy, including the environmental dimension of sustainable development as set out in paragraph 7 of *the Framework*. The conflict with policy CSP.4, which operates as a blanket countryside protection policy would have limited weight for the reasons I have stated. The principles of policy CSP.1 are generally complied with, whilst the scale of the proposed development, at 110 dwellings, would approximate to the proposed provision of 111 dwellings in the Tutshill/ Sedbury, as set out in policy CSP.5.

### ***Issue 2: Whether the proposal is necessary to meet the requirements of the District for market and affordable housing***

#### *Introduction and policy context*

40. The Government aims to boost significantly the supply of housing, as expressed in *the Framework* (paragraph 47 [1] and [2]), which requires local planning authorities to identify and update annually specific, deliverable sites sufficient to provide 5 years’ supply of housing against their objectively assessed housing requirements.
41. The Council’s starting point was the development plan, in accordance with the requirement of *the Framework* (paragraphs 2 and 12) and the Act<sup>25</sup>. Its Core Strategy (CS), adopted in February 2012, based its housing requirement for the District on the Draft South West Regional Plan provision of 6,200 dwellings over the period 2006-2026, or 310 dwellings per annum (dpa). The Council maintained that this level of housing provision was still appropriate for the Forest of Dean, especially as the more recent, 2011 based CLG household

---

<sup>24</sup> Proof of Evidence of Richard McWilliam on Landscape and Visual Matters; page 24, paragraph 5.27; September 2014.

<sup>25</sup> Planning and Compulsory Purchase Act 2004; sub-section 38(6).



projections showed a reduced rate of household formation. The Council explained that, although the CS predated *the Framework*, it was prepared in the light of the emerging draft version, which was based on the same principles as the final *Framework*. The Council therefore stated that its objectively assessed housing need (OAHN) of 310 dpa was justified.

42. The Council's housing and planning witness accepted in xx that the poor delivery rate of housing in the District over recent years meant that an additional 20% (moved forward from later in the plan period) needed to be included in the Council's OAHN. This complies with the requirement in *the Framework* (paragraph 47[2]), which states that where there has been persistent under delivery of housing, a 20% buffer needs to be included. He qualified this, however, by stating that the low levels of take up reflected the depressed state of the national economy.
43. The Appellant challenged the Council's figure of 310 dpa as the basis for calculating the 5 year housing land supply for the District. It argued for an increased OAHN of 440 dpa over the period 2011-2031. This was based on advice in the national Planning Practice Guidance (PPG)<sup>26</sup> which states that the methodology of the OAHN should reflect a number of factors, including (i) using the latest demographic evidence; (ii) building in an estimate for housing numbers to match projected job growth; and (iii) taking account of market signals, particularly in relation to housing affordability.
44. Whilst the PPG factors which are mentioned above are clearly relevant, the Appellant's suggested figure of 440 dpa has yet to be tested at a development plan Examination. Moreover, both the main parties signed up to the SCG which stated (paragraph 9.1): "*It is agreed that the LPA's Housing Land Requirement for the plan period 2006-2026, as set out in the adopted Core Strategy is 6,200 dwellings...*" It is also clear that the figure of 310 dpa, which is derived from the 6,200 dwellings total, was used by both parties as the yardstick for the 5 year housing land supply (HLS) throughout the Inquiry. I therefore consider that it is appropriate to use the CS housing requirement as the basis for this appeal.

#### *Housing land supply*

45. The Council's submission at the Inquiry was that it had 4.98 years' supply, based on sites which either have planning permission or are included in an adopted Plan. The Council argued that this would rise to 5.73 years' supply if a draft allocation for 331 on a large site in the eAP were considered to be available. However, the Council's housing and planning witness stated in xx that the eAP was unlikely to be submitted for Examination until January 2015 "at the earliest", and the fact that this plan has not been examined means that I can give it little weight, in accordance with the guidance in paragraph 216 of *the Framework*. Therefore the Council's figure of 4.98 years' supply was tested at the Inquiry.
46. The SCG Addendum<sup>27</sup> set out the differences in HLS estimates between the main parties; Table 3 set out the HLS calculations for both the Council and the Appellant, showing 5.73 years for the Council, reduced to 4.98 years for the

---

<sup>26</sup> Planning Practice Guidance (PPG); 6 March 2014 – the methodology is set out in paragraphs ID: 2a-014-20140306 – 2a-020-20140306.

<sup>27</sup> Statement of Common Ground (SCG) Addendum on Housing Land Supply: land at Beachley Road, Sedbury, prepared by Barratt Homes and Forest of Dean District Council; 9 September 2014 [Inquiry Document E14].

reasons explained above, and 3.2 years for the Appellant. Table 1 listed the relevant sites, showing 2,143 dwellings on 85 sites which the Council considered were part of the 5 year HLS and 1,031 dwellings from 53 of these sites, which the Appellant agreed were part of the 5 year HLS. Both main parties agreed an additional estimate of small sites (370) and a large windfall (48 units). (Both parties used the CS requirement with the shortfall added, plus a 20% buffer, to be added at the outset to cover the first five years.)

47. In essence, the Inquiry focused on the 32 sites in Table 1 where agreement had not been reached between the main parties as to whether these sites were available in terms of footnote 11 to paragraph 47 of *the Framework*. This states that: "*to be considered deliverable, sites should be available now... with a realistic prospect that housing will be delivered on the site within five years, and in particular that the site is viable. Sites with planning permission should be considered deliverable until permission expires*". Whilst the footnote does not rule out sites which do not have planning permission there is, in my view, an onus on the Council to demonstrate that these sites have a realistic prospect of delivery within the next five years.
48. The difference between the Council's and the Appellant's 5 year HLS calculations amounted to 1,112 dwellings on the 32 contested sites. This quantum is significant in the context of the District, especially as the Council's position at the start of the Inquiry was that it was already marginally short of the minimum 5 year national policy requirement.
49. During the Inquiry, it emerged that a significant number of these sites were associated with issues that shed doubt over their availability for development over the next five years. These included sites where the existing users, for example a football ground at Cinderford and a factory, also at Cinderford, currently had no alternative locations available to them.
50. Several potential housing schemes were beset by infrastructure and/or viability issues, including sites in Lydney inside the bypass and in the Northern Quarter at Cinderford. A recently submitted e-mail from a local land agent stated that no interest had been shown in the above mentioned sites at Lydney from major house builders<sup>28</sup>. These five sites alone<sup>29</sup> accounted for about 520 dwellings, or half the difference between the main parties, and would reduce the Council's housing land supply to around 3.5 years. It was clear that a sizeable proportion of the contested sites without planning permission were not supported by robust evidence that demonstrated that they were likely to be available within the terms of paragraph 47 of *the Framework* and footnote 11.
51. There are other considerations which further call into question the Council's assertion that it could demonstrate a 4.98 year housing supply. Firstly, the Council's track record shows that it has under-delivered in five out of the last eight years with one year exactly on track, from 2006/07 to 2013/14, with a cumulative under provision, based on the CS requirement, of 376 dwellings over this period<sup>30</sup>. This is compounded by relatively low percentages of affordable housing completions, averaging 21.6% from 2004/05 to 2012/13<sup>31</sup>, compared to the CS target of 40%.

---

<sup>28</sup> E-mails between Phil Hardwick (Robert Hitchens) and Nigel Gibbons (Forest of Dean DC), regarding housing sites at Lydney, submitted by the Appellant [Inquiry Document 8].

<sup>29</sup> Sites 3; 7; 15; 17 and 61 in Table 1, SCG Addendum.

<sup>30</sup> Proof of Evidence of Simon Prescott on Planning Matters; page 52, Table 8.1; September 2014.

<sup>31</sup> Proof of Evidence of James Stacey on Planning and Affordable Housing; page 47, Figure 4.20; September 2014.

52. The Appellant, however, accepted that the proposal was contrary to policy CSP.4, with which I also concur, although I have already afforded it little weight for the reasons I explained in Issue 1. However, it is also material that this would be a breach in the boundary of the District's fifth largest settlement, which has no up-to-date allocations, which also leads me to give little weight to this consideration. Moreover, there is provision in policy CSP.5 for 111 dwellings at Tutshill/Sedbury, and the eAP proposes the allocation of two greenfield sites, both of which would breach the settlement boundary, which seems to confirm the view that any development intended to meet the needs of the settlement would have a similar impact to the proposed development.
53. After the close of the Inquiry, it was brought to my attention by both main parties that the Council now accepts that a robust 5 year housing land supply cannot be demonstrated. This is the conclusion I have reached based on the above considerations.

*Affordable housing*

54. The need for affordable housing in the Forest of Dean was underlined by a number of statistics which were submitted in both written evidence and at the Inquiry. Firstly, the SHMA<sup>32</sup> identified the need for 814 net affordable dpa for Forest of Dean between 2011 and 2016, i.e. nearly twice the rate of the overall OAHN put forward by the Appellant. It is also significantly higher than the average gross affordable housing completion rate of 71 dpa since 2004/05 (which does not represent a true picture of the level of affordable housing delivery, as 203 homes were lost through Right to Buy Sales between 2003 and 2014).
55. Secondly, the number of applicants on the District's Housing Register has doubled from 1,106 in 1999 to 2,377 in 2014. Thirdly, there is a significant affordable housing backlog since 2008/09 of 2,650 affordable dwellings. Finally, there has been an increase in the relative unaffordability of housing in the Forest of Dean, compared to both the regional and national picture, when the ratios of lower quartile house prices to lower quartile incomes were analysed - the change from 2011 to 2013 of 5.5% is greater than the South West average (5%), and significantly greater than the English average (1%)<sup>33</sup>.
56. In response to the above statistics, which show that housing need in the District is acute and increasing, the proposal would deliver 40% affordable homes (44 actual units), in accordance with the requirements of policy CSP.5, at a time when recent evidence points to increasing difficulty in securing the level of affordable housing within the District as sought by this policy. Part of the reason for this appears to be significant viability issues affecting several major schemes in the District. A case in point, which was discussed at the Inquiry, is the development at Lydney East (Phases A and B), for a combined scheme of over 1,000 dwellings, where the affordable housing component was reduced from 20% at Phase A and 30% at Phase B to 14.1% overall, in a recent appeal decision<sup>34</sup>, based primarily on viability considerations.

---

<sup>32</sup> Local Authorities of Gloucestershire: Strategic Housing Market Assessment (SHMA) Update-Final March 2014 [Inquiry Document CD-D7].

<sup>33</sup> Proof of Evidence of James Stacey on Planning and Affordable Housing; page 44, Figure 4.18; September 2014.

<sup>34</sup> Appeal Decision Ref APP/P1615/Q/14/2215840; modifications to Planning Obligations in respect of mixed housing and a range of other uses on two schemes, Lydney A and Lydney B, on land between the Lydney Bypass and Highfield Road, Lydney, Gloucestershire; allowed on 3 September 2014.

57. In contrast to the viability difficulties elsewhere in the District, the Appellant is willing to enter into a Section 106 Agreement to deliver affordable housing in accordance with policy CSP.5. This response to the urgent need for this type of accommodation is an important material consideration in favour of the proposal.

#### *Conclusion*

58. Taking into account the above considerations, it is my view that the Council's case, that it has a 4.98 year HLS, is unconvincing, even setting to one side the Appellant's contention that its OAHN needs to be assessed in the light of the PPG factors which I addressed above. The Council's case is undermined by: (i) over-optimistic assumptions regarding some of the sites referred to above; (ii) the Council's poor track record of delivery of housing in relation to its development plan over the recent past; (iii) the significant viability issues which affect a number of key sites in some of the largest settlements in the District; and (iv) the evidence of current market signals in relation to housing under provision and unaffordability.
59. Although the proposal is contrary to CS policy CSP.4, this has little weight for the reasons stated and it is significantly outweighed by the Council's inability to robustly demonstrate a 5 year HLS for the District. Moreover, the proposal would accord with the aims of *the Framework* to boost the supply of housing, whilst the provision of 40% affordable housing is another material consideration in support of the appeal.
60. I therefore conclude that the Council has failed to demonstrate that it has a 5 year HLS. The CS policies therefore cannot be considered up-to-date, and as such paragraph 49 of *the Framework* requires that the proposed development should be considered in the context of the presumption in favour of sustainable development. Paragraph 14 is engaged, which states that where the presumption applies, and where the development plan is silent, or relevant policies are out-of-date, permission should be granted unless any adverse impacts of so doing would significantly and demonstrably outweigh the benefits when assessed against the policies in *the Framework* taken as a whole. I address this balance in the final section of my decision.

#### **Other considerations**

##### *Sustainability*

61. In this section I deal with the social and economic aspects of sustainability, as set out in paragraph 7 of *the Framework*. The environmental dimension of sustainable development has already been covered in relation to Issue 1. Concern was expressed that the proposed development would put unacceptable pressure on local services and facilities, such as schools and health provision. Whilst I understand the concerns of local people, neither the local education authority (LEA) nor any of the local health services objected to the proposal. Moreover, the LEA did not seek a Section 106 contribution towards additional school places and/or other improvements.
62. Whilst I do not agree with the Appellant that Tutshill/Sedbury is a suburb of Chepstow, the shops and other facilities in that town, including the rail station, are within convenient walking distance of the appeal site. The Appellant's claim, that it took just 12 minutes to walk, with a young family, from the

appeal site to Chepstow town centre, was not disputed. Furthermore, Democratic Planning accepted that Tutshill/Sedbury “*does very much function as part of Chepstow*”<sup>35</sup>. A list of services in Chepstow<sup>36</sup> was submitted by the Appellant, and there was general agreement that Chepstow had a greater range and choice of shops and other services than Coleford.

63. Concerns were expressed over lack of jobs in the area and the likelihood that the proposal would lead to increased long distance car commuting and an increased, unsustainable dormitory role for Tutshill/Sedbury. There are, however, job opportunities in Chepstow and in other nearby towns, some of which are accessible by bus. Whilst I note the submission by Democratic Planning that some of the bus services would appear to discourage commuting, improvements to such services are more likely to come in response to demand from an increased population. I also understand that rail services from Chepstow to Newport, Cardiff and Gloucester have recently been improved, to the extent that increased demand for parking at the station has become an issue.
64. There are also other economic benefits arising from the proposal. These include construction jobs, and a growth in the economically active population, with increased household expenditure, some of which is likely to be spent on local services.
65. Another indicator of the sustainability of Tutshill/Sedbury is the provision in policy CSP.5 for around 111 dwellings in the settlement, the fifth largest urban area within the District. Housing provision in policy CSP.5 is listed under the heading of ‘*Housing – strategic objectives: to promote thriving sustainable communities – provide affordable homes*’. The Forest of Dean Settlement Hierarchy<sup>37</sup> identifies Tutshill/Sedbury as the only settlement in the District (after the four main towns) that contains all eight of the criteria used in the methodology to assess sustainability. Moreover, if a development of the magnitude of the appeal proposal were considered to be unsustainable at Tutshill/Sedbury, then policy CSP.5 would not be making provision for around 111 dwellings at this location, and the Council’s Core Strategy would not be including Tutshill/Sedbury as a sustainable community.
66. I therefore conclude that the proposed development would not be harmful to the existing community infrastructure of the village; that the proposal would be sustainable in relation to its economic and social impact; and that Tutshill/Sedbury is a sustainable location for a scheme of the size of the appeal proposal. The economic and social sustainability of the scheme is therefore an additional material consideration in support of the proposal.

#### *Prematurity*

67. I have already concluded that the eAP can only be given limited weight. Prematurity requires a high threshold to be passed. In the light of this consideration, I conclude that the scale of the proposal, at 110 dwellings, is insufficient to prejudice the strategic thrust of the eAP. It will, of course, be up to the Council to consider whether the inclusion of one or both of the draft housing allocations in Tutshill/Sedbury in the eAP would still be required to

---

<sup>35</sup> Democratic Planning: Proof of Evidence; Response to paragraph 7.67 Settlement Policies.

<sup>36</sup> Inquiry Document 7.

<sup>37</sup> Inquiry Document CD-D6.

meet the housing needs of the District as a whole and the local area in particular, following the Examination of the eAP.

*Highway congestion and safety*

68. The highway authority has not objected to the design of the scheme, subject to appropriate conditions and the provision for a Travel Plan in the Section 106 Agreement with Gloucestershire County Council, and I see no reason to come to a different view. It is not unusual in my experience for housing developments of the size proposed to depend on a single vehicular access. I also consider that the access visibility at the roundabout, subject to its completion in accordance with the drawing already submitted, which can be secured by condition, would be acceptable in highway safety and traffic circulation terms.
69. Turning to the impact on the surrounding highways network, the queue length surveys provided by the Appellant<sup>38</sup> which were carried out on for a 7-day continuous period between Friday 6 December and Thursday 12 December 2013, indicated that there was a degree of queuing at peak times on the A48 as far as the Sedbury Link Road (SLR) junction, but this lasted for a relatively short amount of time. The surveys also indicated that there was some queuing on the SLR, but no queues were observed to reach as far as the Beachley Road/Wyebank roundabout, which is the location of the proposed access. The Transport Assessment also concluded that the proposed development would only add around 3% to existing traffic at the A48/SLR junction, which cannot be described as a material increase. The highway authority has not challenged these findings and neither do I.
70. Whilst the pedestrian route from Sedbury to Chepstow on the A48 road bridge across the River Wye was considered by some, including Chepstow Town Council, not to be desirable in terms of its footway width, there was nevertheless general agreement that it was well used by pedestrians for a variety of purposes, including by school students, for trips to shops and other services, and by business commuters. The decision by both the Gloucestershire and Gwent Police not to lower the vehicle speed on the A48 bridge from 50 mph indicates to me that these authorities consider that the pedestrian facilities between Sedbury and Chepstow are not unsafe.
71. I therefore conclude on the basis of the evidence submitted to and discussed at the Inquiry, that there are no pedestrian/highway safety or traffic congestion concerns that would justify dismissing the appeal.

*Ecology*

72. The Appellant submitted an ecological appraisal<sup>39</sup> with the planning application, which confirmed the presence of bat activity, Dormice and slow worms, but also concluded (paragraph 4.60) that overall, the site was of limited ecological value. It advised that, subject to the appropriate conditions to secure the necessary protective and enhancement measures, impacts would be mitigated and avoided and net benefits would be likely in the long term. This approach was supported by the Council's Biodiversity and Countryside Officer.

---

<sup>38</sup> FMW Consultancy: Residential Development at Beachley Road, Sedbury: Queue Length Survey Report; January 2014 [Inquiry Document CD-A21].

<sup>39</sup> EDP: Land at Beachley Road, Sedbury, Gloucestershire: Ecological Appraisal; October 2013 [Inquiry Document CD-A8].

73. In response to concerns relating to the conservation of Dormice, a European Protected Species, and to doubts whether the tests in the Regulations<sup>40</sup> had been met, the Appellant explained<sup>41</sup> that all three tests had been met satisfactorily, and could be summarised thus:
- (i) Overriding public interest - this test can be met primarily on the basis of the social and economic benefits of the scheme;
  - (ii) No satisfactory alternative – reasons were given why there is no satisfactory alternative; and
  - (iii) Favourable conservation status – the Council’s Sustainability Team Leader, in his letter, states that the third test can be met because the development, with mitigation, would not be detrimental to the favourable conservation status of the species within their natural range.
74. In conclusion, I am satisfied that the three tests in the Regulations can be met, and that the biodiversity impacts of the proposed development can be satisfactorily mitigated by way of appropriate conditions which would secure, amongst other things, an Ecological Management Statement; bat surveys; control of light spillage; a detailed Ecological Management Plan; a biodiversity enhancement scheme; and the establishment of Dormice nest boxes in appropriate sections of hedgerow.

*Air quality*

75. Concern was raised, principally by Monmouthshire County Council (MCC), that the proposed development would generate sufficient vehicular traffic to exacerbate the cumulative deterioration in air quality within the Chepstow Air Quality Management Area (AQMA). However, the air quality study carried out by the Appellant<sup>42</sup>, based on receptors located in the vicinity of the appeal site, demonstrated that annual mean nitrogen dioxide (NO<sub>2</sub>) and PM<sub>10</sub> were predicted to increase by less than 0.4<sub>ug</sub>/m<sup>3</sup>, which was deemed to be at a negligible level, i.e. below a ‘slight adverse effect’. MCC’s concerns were considered by the Appellant, based on the air quality study, to be a worst case scenario, as much of the traffic generated from the proposed development travelling towards Chepstow is likely to go to the railway station, Tesco supermarket or the town centre, i.e. not through the AQMA.
76. Furthermore, the Travel Plan, which would be secured through the Section 106 Agreement with the County Council, seeks to deliver a modal shift away from the use of the private car, which would improve air quality, whilst it is likely that automotive engine technology will continue to improve, resulting in environmentally cleaner cars. Finally the SCG indicates that the Council has no objection to the proposed development on air quality grounds, and based on the evidence before me, I see no reason to come to a different view.

*Other concerns*

77. In response to concerns that a precedent would be set for similar developments, I have determined the appeal on its own merits, bearing in

---

<sup>40</sup> Regulation 53 of the Conservation of Habitats and Species Regulations 2010.

<sup>41</sup> EDP Response to Democratic Planning; dated 4 September 2014 [Appendix 26 to Proof of Evidence of Simon Prescott].

<sup>42</sup> Hydrock Consultants Ltd: Results of detailed Air Quality Assessment at land at Beachley Road, Sedbury; 5 September 2014 [Appendix 32 to Proof of Evidence of Simon Prescott].

mind the specific context of the appeal site and its surroundings. Any further applications would be determined by the Council in the normal way. Sustainable drainage from the development would be secured by condition; the site is within an area of low flood risk and no objection was raised by Welsh Water in relation either to the proposed surface water drainage or foul water disposal, and I have no evidence to lead me to a different conclusion.

78. Detailed concerns, such as loss of privacy, can be addressed at the reserved matters stage. Other concerns were made, but none were sufficient to outweigh the reasons that have led me to allow the appeal. Finally, concerns over property devaluation and loss of views are outside the remit of the appeal.

### ***Planning conditions***

79. I have considered the list of suggested conditions put forward by the main parties in the light of the discussion session at the Inquiry and the advice set out in Circular 11/95 *The Use of Conditions in Planning Permissions*. This has resulted in a few changes to the suggested wording of some of the conditions. In particular, suggested conditions (4) and (17) - (19) are more appropriately engaged at the reserved matters stage, and I have therefore not included them as part of this decision. I have also combined some of the biodiversity conditions to reduce duplication.
80. Condition (4) is to secure on-site renewable energy in accordance with CS policy CSP.3. Conditions (5) - (8) are in the interests of highway safety in accordance with CS policy CSP.1. Condition (9) is to ensure that the development conforms to waste minimisation requirements in accordance with policy 36 of the Gloucestershire Waste Local Plan and the Gloucestershire Waste Minimisation Supplementary Planning Document and CS policy CSP.2. Conditions (10) - (12) are to protect biodiversity in accordance with section 11 of the Framework, PPG (Natural Environment Section) and CS policy CSP.1.

### ***Section 106 Planning Agreements***

81. The Appellant has signed two Section 106 Planning Agreements; one with Forest of Dean District Council to secure 40% affordable housing and public open space provision; and the other with Gloucestershire County Council to secure the Travel Plan. There is an undisputed need for affordable housing and public open space is necessary to support the proposed development. The Travel Plan is necessary to promote sustainable modes of travel. I am therefore satisfied that the proposed obligations meet the statutory requirements of Regulation 122 of the Community Infrastructure Levy (CIL) and can be taken into account.

### ***Overall conclusions and planning balance***

82. I have concluded that although the proposal would result in the loss of countryside which is not unattractive, the landscape enjoys no statutory protection, either at national level or in any site specific policies in the development plan. I consider that this part of the urban fringe is not 'deeply' rural or tranquil as the Council has suggested. Its role as a green wedge would still be effective through its boundaries of mature trees and hedgerows, whilst I consider that the site is not prominent. On balance, there would be no harmful effect on local amenities. I therefore conclude on the first main issue that the



proposal would not have an unduly harmful impact on the character and appearance of the landscape.

83. Turning to the second main issue, the lack of a 5 year supply of available housing is a material consideration to which I attach considerable weight. In the absence of a 5 year HLS for Forest of Dean, the presumption in favour of sustainable development, as set out in paragraph 49 of *the Framework*, comes into play, and it is therefore necessary to apply the tests in paragraph 14. This means that where the relevant policy of the development plan, which I consider to be policy SCP.4, is out-of-date and can therefore be given little weight, as I have already concluded, I have to determine the planning balance, i.e. whether the adverse impacts of allowing the appeal would significantly and demonstrably outweigh the benefits when assessed against the policies in *the Framework* taken as a whole.
84. I also consider that the provision of 40% affordable homes through a Section 106 Agreement is an important material consideration in favour of the proposed development. This is especially important in a District which has a serious housing need, which has become increasingly unaffordable and where there is evidence of significant and widespread viability issues, which have reduced the level of affordable housing to well below the Core Strategy policy requirements on a number of key sites in the District.
85. The Council drew my attention to a recent appeal decision<sup>43</sup> where the Inspector stated that the absence of a 5 year HLS should not be interpreted as a housing 'free-for-all', a view I completely agree with. This is not, however, the situation in this appeal, where I have found, in applying the balance set out in paragraph 14 of *the Framework*, that any impact to the character and appearance of the area, which I consider would not be unduly harmful, would fail by a considerable distance to significantly and demonstrably outweigh the compelling material considerations in favour of the proposal, which I have summarised above.
86. I have also found that the proposal would be sustainably located in relation to facilities and services, and would not be unacceptable in terms of concerns raised by other parties, including ecological and traffic impact and air quality issues. There would also be economic benefits, in terms of employment and increased income, and positive environmental benefits in terms of energy efficiency, including the provision of sufficient on-site renewable energy to reduce CO<sub>2</sub> emissions by 10%, in accordance with policy CSP.3.
87. The proposed development, therefore, subject to the Section 106 Agreements and the conditions set out in the Schedule, would be in accordance with national planning policy and would largely accord with the Core Strategy. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be allowed.

*Mike Fox*

INSPECTOR

---

<sup>43</sup> Appeal decision Ref APP/U1105/A/23/2191905,2197001,2197002 and 2200204- 4 applications for residential dwellings, one of which was allowed, on sites at Feniton, Ottery St Mary; 7 April 2014.

## Schedule of Conditions

- 1 a) The development for which permission is hereby granted shall not be commenced before detailed plans showing the layout, scale, appearance and landscaping of the site (referred to as the 'reserved matters') have been submitted to and approved in writing by the local planning authority.  
b) Application for the approval of the reserved matters shall be made not later than the expiration of one year beginning with the date of this permission.  
c) The development hereby permitted shall be commenced not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.
- 2 The details submitted under Condition (1) shall include full surface and foul water drainage proposals, including connection to any existing facility. This should fully incorporate the principles of sustainable drainage and associated management and maintenance where appropriate to ensure improvement to water quality and such proposals as agreed shall be implemented shall be implemented before the dwellings are occupied.
- 3 The development hereby permitted shall be carried out in accordance with the details shown on the following submitted plans:
  - (i) *Location Plan*; drawing no. 17109, at scale 1:2500@A3; dated 28 October 2013; and
  - (ii) *Roundabout details*; drawing no. SK02 (Figure 4.1) Rev D, at scale 1:1,250; dated 12 March 2013.
- 4 The details submitted under condition (1) which shall include a scheme for generating low carbon energy or thermal improvement of the building fabric, equivalent to 10% of the carbon dioxide emissions arising from the use of each dwelling unit on site, shall be submitted to and approved in writing by the local planning authority. The scheme as approved shall be implemented and commissioned within three months of full occupation or use of the development and thereafter maintained for a period of not less than 10 years.  

The scheme as submitted must set the baseline for the calculation of the proportion of on-site generation of electricity or thermal improvement; and describe the measures that are being undertaken and the predicted levels of efficiency. A nationally recognised evaluation of energy requirements, such as the Targeted Emission Rates (TER) as set out in the Building Regulations, should be used for assessments.
- 5 The details submitted under condition (1) shall include provision for properly consolidated and surfaced car parking and manoeuvring facilities (including provision for the disabled). Such facilities shall be provided prior to the dwellings served by them being occupied and shall be kept permanently available for such uses at all times.
- 6 No dwelling in the development hereby permitted shall be occupied until the carriageway(s) (including surface water drainage/disposal, vehicular turning

head(s), street lighting and footways where proposed) 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. The carriageway(s) shall then be completed (including surface water drainage/disposal) no later than 6 months after the occupation of the last dwelling served and shall be similarly maintained thereafter until and unless adopted highway maintainable at public expense.

- 7 Prior to any development commencing on site, other than that required by this condition, the junction onto the roundabout shall be completed in accordance with the details shown on drawing no. SK02 (Figure 4) Rev D.
- 8 No development shall take place until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
  - (i) the parking and turning 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; and
  - (iv) wheel washing facilities.
- 9 The development hereby permitted shall be undertaken in accordance with the approved waste minimisation statement dated November 2013. The areas for recycling and/or compostable storage shall only be used for that purpose.
- 10 Prior to commencement of works, site clearance or any works to trees or hedges on the site, an ecological Construction Method Statement (ECMS) shall be submitted to and approved in writing by the local planning authority. Thereafter the development shall be implemented in accordance with the approved ECMS. This will include timing of works and protection measures for species including Dormice, bats, reptiles, badgers, nesting birds and areas of habitat in accordance with the 'Principles of Ecological Mitigation Plan' May 2014 (EDP 771/08d); Appendix EDP1 of the Addendum 'Outline Method Statement for Dormouse EPS Licence' EDP, December 2013; and, with Section 4 Discussion and Recommendations of the Ecological Appraisal, EDP, October 2013. All site preparation, clearance and construction works shall be undertaken in accordance with the ECMS.
- 11 No development shall take place until a detailed Ecological Management Plan (EMP) has been submitted to and approved in writing by the local planning authority. Thereafter the development shall be implemented in accordance with the approved EMP and the 'Principles of Ecological Mitigation Plan', May 2014 (EDP 77/08d). This will provide details of management of specific habitat areas and measures for protection of ecological features over a minimum of 10 years.
- 12 No development shall take place until a biodiversity enhancement scheme has been submitted to and approved in writing by the local planning authority. The scheme shall include measures such as new bat or bird boxes or access into suitable areas on/within buildings, providing access through

the site for wildlife including hedgehogs where appropriate. Thereafter the development shall be implemented in accordance with the approved biodiversity enhancement scheme and maintained thereafter for biodiversity interest.

Richborough Estates

## **APPEARANCES**

### FOR THE LOCAL PLANNING AUTHORITY:

Mr Paul Cairnes of Counsel	Instructed by the Council
He called:	
Mr Peter Radmall	Chartered landscape Architect
Mr Nigel Gibbons	Forward Plan Manager, Forest of Dean District Council
Mr Martin Hillier	Principal Planning Officer, Forest of Dean District Council

### FOR THE APPELLANT:

Mr Christopher Young of Counsel	Instructed by Barratt Homes Ltd
He called:	
Mr Richard McWilliam	Director, Barton Willmore
Mr James Stacey	Director, Tetlow King Planning Ltd
Mr Simon Prescott	Senior Planning Partner, Barton Willmore
Mr James Donagh	Associate, Barton Willmore

### FOR DEMOCRATIC PLANNING RULE 6 PARTY:

Ms Karin Harris	Local resident
Mr Peter Broadribb	Local resident

### OTHER INTERESTED PERSONS

Cllr Gabriella Kirkpatrick	Forest of Dean District Council
----------------------------	---------------------------------

## **DOCUMENTS**

1. Opening Statement from Democratic Planning.
2. Note of Appearances and Time Estimates for the Council.
3. Plan showing viewpoints of Appeal Site and Alternative Sites in Allocations Plan, submitted by the Council.
4. Plan showing viewpoints of Appeal Site and Alternative Sites in Allocations Plan, submitted by the Appellant.
5. Images of Proposed Development – Viewpoints 1 and 4, submitted by the Appellant.
6. Aerial photograph of Appeal Site and surrounding area, dated 1991, submitted by Appellant.

7. Chepstow Town Centre: List of Services, dated 28 September, 2014, submitted by the Appellant.
8. E-mails between Phil Hardwick (Robert Hitchins) and Nigel Gibbons (Forest of Dean DC), regarding housing sites at Lydney, submitted by the Appellant.
9. E-mails between Warren Jones (Lyndon Homes) and Ben Stephenson regarding Netherend Farm, Woolaston, submitted by the Appellant.
10. Forest of Dean DC: Returns from Site Owners and Agents, submitted by the Council.
11. Forest of Dean DC: Further Information in support of sites not agreed in five year land supply calculations, dated 26 September 2014, submitted by the Council.
12. Appeal Decision 2211933, Market Harborough, submitted by the Appellant.
13. Appeal Decision and Secretary of Stated Decision 2183653, Broughton Astley, submitted by the Appellant.
14. Appeal decision 2213318, Fairford, submitted by the Appellant.
15. Opening Submissions on behalf of the Appellant: Barratt Homes.
16. Opening Statement on behalf of the Council.
17. Draft Allocations Plan – Representations in response to: Tutshill and Sedbury Section 40, 1 October 2014, submitted by the Council.
18. PAS: Objectively Assessed Need and Housing Targets Technical Advice Note, June 2014, submitted by the Appellant.
19. Extract from Planning Practice Guidance, on Housing and economic land availability assessment, submitted by the Appellant.
20. Draft Allocations Plan: Tutshill and Sedbury – Full Representation, 1 October 2014, submitted by the Council.
21. Inquiry Record of Attendance – Day 1: 30 September 2014.
22. Inquiry Record of Attendance – Day 2: 1 October 2014
23. Statement from Cllr Gabriella Kirkpatrick.
24. Bus routes information, submitted by Democratic Planning.
25. Press release from Barrett Homes on changes to Council's Plans at Tutshill and Sedbury, submitted by Democratic Planning.
26. Errata evidence of James Stacey, submitted by Appellant.
27. Summary of Disputed Sites by Category, submitted by Appellant.
28. E-mail from Gloucester County Council Legal Services regarding S106 land at Beachley Road, Sedbury, 2 October 2014.
29. Draft Allocations Plan: Comments Summary, 2 October 2014, submitted by Appellant.

30. Inquiry Record of Attendance – Day 3: 2 October 2014.
31. Site Visit Plan, submitted by the Council.
32. Inquiry Record of Attendance – Day 4: 3 October 2014.
33. Closing Statement by Democratic Planning.
34. Closing Statement on behalf of the Council.
35. Closing Submissions on behalf of the Appellant: Barratt Homes.
36. Certificate of Authenticity for Aerial Photograph (Document 6).
37. Cost Application made against the Council on behalf of the Appellant.
38. Forest of Dean District Council Response to Costs Application.

Richborough Estates