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## Appeal Decision

Inquiry held on 18 and 19 November 2014

Site visit made on 17 November 2014

**by Chris Preston BA (Hons) BPI MRTPI**

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

**Decision date: 22 January 2015**

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**Appeal Ref: APP/G1630/A/14/2223858**

**Land Off Banady Lane, Stoke Orchard, near Tewkesbury, Gloucestershire.**

- 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 Knarsboro Homes Limited against the decision of Tewkesbury Borough Council.
  - The application Ref 14/00074/OUT, dated 23 December 2013, was refused by notice dated 03 June 2014.
  - The development proposed is: Outline application for the erection of 45 dwellings (open market and affordable homes), construction of new vehicular access from Banady Lane, provision of road and drainage infrastructure and public open space (all matters reserved except access).
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### Decision

1. The appeal is allowed and planning permission is granted for the erection of 45 dwellings (open market and affordable homes), construction of new vehicular access from Banady Lane, provision of road and drainage infrastructure and public open space at land off Banady Lane, Stoke Orchard, near Tewkesbury, Gloucestershire in accordance with the terms of the application, Ref 14/00074/OUT, dated 23 December 2013, subject to the conditions set out in the schedule appended to my decision.

### Procedural Matter

2. The Inquiry ran for two days on 18 and 19 November. A completed, signed and executed Unilateral Undertaking (UU) was submitted by the appellant after the close of the Inquiry. A draft version of the UU had been submitted prior to the Inquiry and was discussed during a round table session at the event. The completed version is identical to that draft version, with the exception of minor changes to sub-paragraph 1.2 of the third schedule (relating to the proposed swimming pool contribution) and paragraph 1 of the fourth schedule (relating to the community facilities contribution). These minor changes were discussed at the event and I am satisfied that no party will be prejudiced by my decision to consider the proposal on the basis of the completed UU.

### Background to Main Issues

3. The Council refused the application for five reasons, as set out within the decision notice. Reasons 2, 3, 4, and 5 related to the failure to make adequate provision for affordable housing; playing pitches, changing facilities and sports facilities; primary and secondary education; libraries; and sustainable modes of

transport. Subject to the provisions of the UU the Council are satisfied that reasons 2 to 5 have been addressed, as set out at paragraph 3.3 of the Statement of Common Ground (SoCG).

4. Notwithstanding their acceptance of the terms of the UU with regard to the financial contribution towards sustainable transport measures the Council maintain that the site would not be well served by public transport and that the location of the site is such that any occupants would be heavily reliant upon the private car. In their view, this would result in unsustainable travel patterns. The Parish Council share this view and are of the opinion that the measures within the UU would not be sufficient to offer an appropriate alternative to the private car.
5. In view of the above, the main issues are:
  - i) Whether the proposal would represent a sustainable form of development, taking account of the three-stranded definition based on economic, social and environmental factors, as set out within the National Planning Policy Framework, including an assessment of:
    - a) The contribution that the proposal would make to meeting the housing needs of the area, including social housing;
    - b) The accessibility of the site and likely travel patterns associated with the proposal;
    - c) The effect on the character and appearance of the area; and
    - d) The effect of the proposal on social cohesion within the village of Stoke Orchard.
  - ii) In view of the absence of a five year supply of deliverable housing sites, and the requirements of paragraph 14 of the Framework, whether any adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework, taken as a whole.

## **Reasons**

### **Sustainable Development**

#### *Local Housing Need*

6. It is common ground that the Council cannot demonstrate a five-year supply of deliverable housing land, as required by paragraph 47 of the Framework. The exact quantum of the shortfall is not agreed between the parties. The appellant considers that the five-year supply should be calculated against the housing requirement for the area as defined in the now revoked Regional Spatial Strategy for the South-West (the RSS).
7. I have been referred to an appeal decision in relation to a housing proposal in Alderton, dated 22 May 2014<sup>1</sup>. In reaching her decision on that case, the Inspector considered that the housing requirement within the RSS remained the most appropriate basis on which to assess the five-year housing supply on the basis that the data underpinning the RSS figures had been independently

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<sup>1</sup> APP/G1630/A/13/2209001

- tested through Examination in Public. Despite the fact that the evidence was 'somewhat dated' the Inspector considered it to form the most appropriate figure to assess the housing requirement, noting that the evidence base relating to the emerging Gloucester, Cheltenham and Tewkesbury Joint Core Strategy (the JCS) had yet to be subject to examination.
8. The Council considers that it can demonstrate a supply of 2.7 years, based on the RSS figure, or 3.9 years based upon the assessment of objectively assessed needs that underpins the JCS. In either case, the Council accepts that there is not a five-year supply and that this represents a material consideration in favour of the proposal. Due to its acceptance of a shortfall the Council did not submit detailed evidence with regard to housing need or supply. In response, whilst re-affirming their view that the most appropriate figure is 2.7 years, the appellant was content to note that the supply was somewhere between a range of 2.7 years and 3.9 years.
  9. Therefore, on the evidence presented, it is difficult to conclude on the precise shortfall with any certainty. The full picture will not become clear until the JCS has been examined. For the purposes of this appeal it is sufficient to conclude that the supply is between a range of 2.7 and 3.9 years. In either case, this represents a significant shortfall. This should also be viewed in the context of the persistent under-delivery of housing within the Borough, a point acknowledged within the Statement of Common Ground. In July 2012, when determining two appeals in Bishops Cleeve, the Secretary of State noted that there was a pressing need for additional housing within the Borough<sup>2</sup>. That situation remains.
  10. Furthermore, there is no immediate prospect of an adopted development plan, with housing allocations, being in place. No date is fixed for the JCS examination and, given the substantial number of representations regarding the pre-submission version, the examination is likely to be lengthy. Adoption prior to 2016 would seem unlikely. Non-strategic housing allocations will be provided through the Tewkesbury Borough Plan. Pre-submission consultation on this Plan is likely to commence following the publication of the Inspector's report regarding the JCS. The appellant considers it unlikely that adoption prior to 2017 is likely, a point accepted by Mrs Farrington, for the Council, under cross-examination.
  11. The Framework seeks to boost significantly the supply of housing. It also aims to deliver a wide choice of high quality homes based upon the size, type, tenure and range of housing required in particular locations. The proposal would contribute 45 dwellings to the local supply, including 16 affordable homes, the pressing need for which is identified within the Strategic Housing Market Assessment Update (March 2014)<sup>3</sup>. In the context of the serious and persistent under-provision of housing, as described above, I attach significant weight to the benefit of the proposal in terms of its contribution to housing supply.

#### *Accessibility and Modes of Travel*

12. The appeal site is located at the eastern edge of the village, bound by Stoke Road to the south, Banady Lane to the north, and The Distribution Centre to

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<sup>2</sup> Appeal Refs: APP/G1630/A/11/2146205 and 2148635

<sup>3</sup> Core Document 14

- the east. In the wider context, Bishops Cleeve is approximately 3.5km to the east, Tewkesbury 6.5km to the north-west, and Cheltenham 7km to the north. As such, journeys from the site to these larger settlements would be relatively short, whatever mode of travel was used.
13. In essence, the Council and the Parish Council contend that the village is not a suitable location for further growth as a result of the limited range of services available within it and the likely travel choices that will be made by future occupants. All parties have referred to the Joint Core Strategy Rural Settlement Audit (RSA), as revised in August 2013 and corrected in September 2014. This audit provides a profile of the 75 towns and villages within the Borough, each receiving a score based on the number of primary and secondary services on offer in each settlement and the relative accessibility to railway stations, bus provision and major employment sites.
  14. The results of the audit informed which settlements were classified as 'Service Villages' within policy SP2 of the pre-submission JCS. Although the JCS has now been submitted to the Secretary of State there remain a significant number of unresolved objections to policy SP2. I cannot be certain that the quantum of development identified for service villages will be found appropriate, or even if the proposed distribution of development will remain as currently proposed. Given this position, and taking account of the requirements of paragraph 216 of the Framework, the Council accept that little weight can be attached to policy SP2. I concur with that view.
  15. Notwithstanding this point, the RSA provides a useful barometer of how local settlements compare in terms of accessibility to the services required to meet everyday needs. In line with the view of the Inspector in the Brereton Heath appeal<sup>4</sup> I consider that the RSA should not be used as a 'tick-box' exercise to determine the suitability of a village for further development. Nonetheless, the data provides useful and relevant evidence and I have taken it into account in reaching my decision.
  16. The corrected version of the audit, dated September 2014, gave Stoke Orchard a score of 8 points. However, that assessment did not take account of the facilities that are required to be provided within the CRE development, under the terms of the s.106 agreement associated with that consent<sup>5</sup>. Although not yet fully open to the public, the community hall is largely complete and had an official opening on 11 November 2014<sup>6</sup>. The village shop within the community hall building has been erected, a children's play area is situated to the front of the hall and a Multi-Use Games Area (MUGA) is required to be provided. From the information before me it is intended that the MUGA will include sports facilities in the form of tennis courts. Thus, the facilities within the new development will add to those already on offer within the village, including the church, employment opportunities, the primary school and the high speed broadband connection.
  17. The Council accepted that the village would achieve a score of 21 if these facilities were taken into account, in line with the scoring system used in the RSA. There was some debate about the future of the mobile library, without which the score would reduce to 20. Of the 12 Service Villages identified within

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<sup>4</sup> Appendix 13 to Mr Winstone's proof: APP/R0660/A/13/2192192 paragraph 27

<sup>5</sup> Document 5

<sup>6</sup> Document 2: Press article relating to official opening

policy SP2 of the JCS only 3 achieved a greater score; Highham, Shurdington, and Woodmancote. Twynning also scored 21 points. For reasons set out, I can attach little weight to emerging policy SP2. Equally, the achievement of a particular score within the RSA is not intended to indicate that a particular location is suitable for residential development.

18. However, in terms of the range of services on offer, the RSA demonstrates that Stoke Orchard will compare favourably with most villages in the district, once the facilities associated with the CRE development are operational. Historically, the village was comprised of a small number of dwellings, relatively few facilities, and was dominated by the large industrial CRE complex. The development permitted on the CRE site will alter the character of the village substantially. The Parish Council supported that development, noting that the proposals would contribute towards a more self-contained and sustainable community<sup>7</sup>. I concur with that view and consider that the shop, community hall and recreational facilities will offer a good range of services, in addition to those already present. To my mind, this range of services would be sufficient to meet the day to day needs of a village community and residents would not be reliant upon travel to other settlements for basic amenities.
19. The Council have questioned the likelihood that the shop will be successful in the long term. The store was initially conceived as a community enterprise but Mr Chatham, the chairman of the Parish Council, noted that the Parish are currently talking to local shops to gauge interest in operating from the premises due to a lack of volunteers in the community. Two businesses have responded to the Parish Council, expressing an interest.
20. The terms of the s.106 agreement, require the shop to be constructed and transferred to the Parish Council for the nominal sum of £1. In addition, a 'Community Shop Contribution' of £50,000 is required to be paid to the Parish Council and, for a period of 5 years from opening, a 'Community Shop Shortfall Fund' of £5,000 per annum is available to support the shop, in the event of a loss being made, subject to provision of accounts. The Parish Council are not permitted to use the part of the building containing the shop for any other purpose for a period of 5 years. These provisions undoubtedly provide a substantial measure of financial support, in addition to the provision of a brand new building within a facility that will be transferred to the Parish Council. Any rent charged on the operators would be at their discretion.
21. Given these attractive provisions, and the fact that two operators have responded to the Parish Council, I consider there is a strong likelihood that the shop will be opened within the completed Community Hall. The future success of any rural store cannot be guaranteed but the proposal is central within the village and well located to attract passing custom on Stoke Road. The funding on offer would provide a sound financial footing in the early years of operation and the building itself is under the control of the Parish Council who are well placed to take account of the needs of the community. Therefore, whilst there is no guarantee that the shop will be brought into use, or that it would be successful in the long term, the evidence before me suggests that its provision is highly likely.
22. The CRE site is located centrally within the village. It is a short and level walk from the appeal site through the residential developments at Banady Lane and

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<sup>7</sup> As summarised in the committee report for application 09/00612/OUT at Appendix 1 of Mrs Farrington's proof

Dean Lane and then on the Stoke Road. All of the route can be made on pavements, with the exception of the small stretch at the end of Dean Lane, linking to Stoke Road. This part of the carriageway is effectively a cul-de-sac serving two dwellings and, as such, is not heavily trafficked. A short length of pavement on Stoke Road, immediately to the north-west of Dean Lane, is narrower than the pavements on the remainder of the route. However, it is of sufficient width to accommodate push-chairs or wheelchairs and would not be an impediment to use by a full range of people. Most of the route benefits from street lighting.

23. Consequently, there is little evidence to support the Council's assertion that access to the facilities on the CRE site would be poor or unattractive to pedestrians from the proposed development. On the contrary, those facilities would be readily accessible. The Planning Practice Guidance recognises that rural housing is essential to ensure the viable use of local services<sup>8</sup>. The additional population associated with the appeal proposals would be likely to increase custom for the shop and patronage of the services on offer in the village hall, thus enhancing the prospect of the future retention of those services.
24. Notwithstanding the service and employment facilities on offer in the village it is likely that the majority of residents of the proposed scheme would be reliant upon the larger settlements of Bishops Cleeve, Tewkesbury and Cheltenham for a full range of service and employment opportunities. A school bus provides a service from the village to the secondary school at Bishops Cleeve but the only public bus service running through the village is presently the No 43 which operates Monday to Saturday. This provides access to Bishops Cleeve and Tewkesbury. The first bus to Bishops Cleeve leaves at 1010hrs and the last returns at 1317hrs, giving a maximum time in the town of just over 3 hours. A similar arrangement exists to Tewkesbury, with the first bus departing at 1031hrs and the last returning at 1253hrs; just over 2 hours.
25. Thus, the timetable dictates that the existing service would not provide a viable option for travel to work purposes and use is likely to be limited to short trips to local shops and services. Those living within the village are therefore likely to be reliant upon the private car for most journeys. The likely reliance upon the car is depicted by the forecast trip generation within the Transport Statement (TS) which was based upon the TRICS database and verified using census travel to work data based on the Oxenton Hill Ward within Tewkesbury Borough<sup>9</sup>. The Local Highway Authority (LHA) were satisfied that the assessment formed a sound basis upon which to consider the impact of the scheme.
26. The Parish Council suggest that the likely dependence on car ownership would be even greater than predicted in the TS, based on their own survey of traffic from the CRE development. However, that survey was undertaken whilst work was still being undertaken on the construction of the development and it is not clear how those counting traffic could distinguish between construction workers and residents of the development. Therefore, the results cannot be considered as robust as those within the TA.

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<sup>8</sup> Paragraph: 001Reference ID: 50-001-20140306

<sup>9</sup> Transport Statement Issue 5: October 2013

27. The forecasts within the TA were generated without any allowance for the proposed AM/PM bus service that has been put forward by the appellant and agreed with the LHA. That service would be expected to run between the village and Cheltenham, passing through Bishops Cleeve, with the aim of providing an alternative to the car for trips to employment and leisure opportunities, subsidised for a period of 3 years. Mr Glaze of the LHA attended the informal inquiry session relating to conditions and the planning obligation and confirmed that he had spoken to local bus operators regarding the proposed AM/PM service. On the basis of these conversations he was satisfied that an operator could be found to take on the service and no contrary evidence was submitted to lead me to doubt this view.
28. The LHA provided a comprehensive and balanced response to the application, noting the aims of the Framework with regards to sustainable modes of travel. In particular, their response referred to paragraph 30, which recognises that different opportunities will exist in urban and rural situations and paragraph 32 which notes that decisions should take account of whether opportunities for sustainable transport modes have been taken up, depending on the nature and location of the site. The LHA are clearly of the view that the proposed bus service would represent a reasonable solution for the site, considering the size of the proposed development and the rural context of the area.
29. In this case, there is an existing bus service, albeit of a limited scale. This would be supplemented by the AM/PM service which would be of benefit not only to residents of the proposed scheme but those of the village and other stops on the route to Cheltenham. This would provide an alternative to the car for those working within Cheltenham or Bishops Cleeve or those seeking longer trips for shopping, leisure or other services.
30. A subsidised community bus service also forms part of the provisions for the CRE development although details of the exact nature in which this will operate were not clearly presented at the Inquiry. The Parish Council, who are responsible for administering the bus subsidy, envisage that this will take the form of a dial-a-ride service as opposed to regular timetabled provision. Whilst the benefits are somewhat unclear as a result of this uncertainty, the service will provide an additional, non-car, travel option. This would add a further travel choice on top of the existing No 43 bus and the proposed AM/PM peak service. Taken together, the three services would represent a reasonable level of provision and give residents a choice in the mode of travel.
31. That is not to say that car use would not be the predominant form of travel for residents of the proposed scheme. Whilst the proposed offer provides a reasonable choice, the rural nature of the site and complex travel patterns associated with every day life are such that the car will remain the most popular choice for most. As recognised by the Council, the village is in relative close proximity to Bishops Cleeve, Tewkesbury and Cheltenham. Accordingly, it is likely that most car journeys would be short. This is a matter that weighs in favour of the proposal. Furthermore, section 4 of the Framework is clear in its intention to promote sustainable modes of travel. However, that guidance and the associated Practice Guidance are equally clear that transport solutions will vary between urban and rural situations. In that sense, the Framework does not seek to prevent car use but requires a balanced approach, depending on the context and scale of development proposed.

32. In its response on the application, the LHA concluded that the sustainable modes of transport on offer were suitable for the nature of the site. For the reasons given, I concur with that view. Taken in the round, with the services and facilities that will be available in the village, the enhanced public transport offer, and the relative proximity of larger conurbations, I am satisfied that residents of the appeal site would have good levels of access to the range of services to meet their day to day needs, with a reasonable choice of transport modes commensurate with the location of the site. In view of this, the proposal would conform to the principles set out within section 4 of the Framework and guidance on the provision of rural housing within the Practice Guidance. It would also comply with the requirements of saved policy TPT1 of the Local Plan which, amongst other things, requires that an appropriate level of public transport service is available or can be made available to serve new development.

#### *Character and Appearance*

33. The *Landscape Appraisal Baseline Report* (the Landscape Appraisal) submitted with the application notes that the site sits on the cusp between the arable landscape to the south of Stoke Road, which is dominated by large open fields, and the more enclosed, and predominantly pastoral, landscape to the north. The character of the site is more akin to the enclosed landscape to the north due to the presence of native hedgerows which run across the central spine of the site and along the north and north-east boundary. A number of pear and apple trees remain from the former use as an orchard.
34. The Landscape Appraisal identified the hedgerows and orchard as the most important features within the site and concludes that the landscape is of moderate importance at a local level. In terms of visual sensitivity, views would be largely restricted to the local level, with transitory views from vehicles travelling along Stoke Road and static views from the dwellings on Banady Lane. From longer range, the Landscape Appraisal concludes that the development would be seen against the backdrop of existing built development, including the existing dwellings and Distribution Centre at the eastern edge of the village. The Council's Landscape Officer concurred with this assessment and the Council did not seek to diverge from this view in evidence presented to the Inquiry.
35. The indicative layout plan identifies that the dwellings would be located within the north-eastern section of the site, to the east of the mature hedgerow that runs across the site on roughly a north-south axis. An area of public open space would provide a buffer around the southern and south-western edge, adjacent to Stoke Road. The remaining apple and pear trees would be retained within the scheme.
36. The proposed layout and retention of existing hedgerows would provide a significant degree of mitigation for the proposed development. When viewed from Stoke Road the proposed open space and the retained hedgerows would partially screen the dwellings and any views would be fleeting and transitory for passing traffic. Furthermore, in retaining existing hedgerows, the layout would respect the pattern of enclosed fields to the north of Stoke Road. From longer range to the south, the vegetation would provide a significant screen and the dwellings would be seen in the context of the existing development at Banady Lane and the Distribution Centre to the east. To my mind, the close



- relationship with existing built development is such that the scheme would not appear isolated but would integrate with the village in a visual sense.
37. The visual impact would be most noticeable from the footpath crossing the site and the dwellings at Banady Lane. The footpath is proposed to be realigned to pass through the area of open space and I am satisfied that this would provide a pleasant route, mitigating the impact for those using it. The outlook from dwellings on Banady Lane would alter significantly with built development replacing the open aspect, albeit that those views would be softened through retention of existing vegetation and additional planting along the boundary.
38. However, the planning system does not exist to protect private views. The fact that a development will be visible from existing dwellings is not an indication of harm to either the landscape or the character and appearance of the area. As set out, the proposal would be well related in terms of its form and location to existing built development and the retention of existing landscape features will substantially mitigate any impact in the wider landscape.
39. Given the acute shortage of housing land within the Borough, it is likely that further development on greenfield sites will be required to meet local housing needs. Saved policy LND4 of the Local Plan relates to development proposals in rural areas outside of areas of designated landscape importance. The policy does not seek to preclude development but states that, in considering proposals, regard should be given to the need to protect the character and appearance of the area. The supporting text notes that development proposals should be designed to harmonise with the character of the area. The thrust of policy LND4 conforms to the balanced approach set out within the Framework which seeks to boost housing supply but also states that planning should recognise the intrinsic value and beauty of the countryside, this being one of the core principles at paragraph 17.
40. Similarly, policy SD7 of the emerging JCS seeks to protect landscape character for its own intrinsic beauty and its benefit to economic, environmental and social well-being. The policy, amongst other things, requires proposals to have regard to local distinctiveness and the historic character of the landscape. I concur with the Council that the thrust of this policy is in accordance with the approach of the Framework with regard to landscape character. Only three representations were submitted in relation to consultation on the pre-submission version of the policy, none of which suggested that the proposed wording was out of kilter with the intentions of the Framework<sup>10</sup>. The lack of any substantive unresolved objections is such that increased weight can be afforded to the emerging policy, taking account of paragraph 216 of the Framework.
41. For the reasons given I consider that the proposal would take account of the landscape character of the site, as defined in the Landscape Appraisal and would relate well in terms of form and scale to the existing settlement pattern at the eastern edge of the village. In these respects, the scheme has been sensitively planned to take account of the character and appearance of the area and would be in accordance with the aims of saved policy LND4 of the Local Plan, policy SD7 of the emerging JCS, and the aims of paragraph 17 of the Framework, as described above.

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<sup>10</sup> Document 6

### *Social Cohesion*

42. The development of the CRE site has significantly changed the character of the village and will result in a large increase in the population. I do not doubt that this change has the potential to create a feeling of unease for some residents. The effect of a proposal on social well-being is a matter that is capable of being a material consideration and the social needs of communities form part of the social role of sustainable development identified at paragraph 7 of the Framework.
43. The Council has referred me to appeal decisions relating to proposals in Feniton and Alderton in which the issue of community cohesion was considered<sup>11</sup>. In the Feniton case, the Inspector noted that an increase in the number of residences in a settlement without proportionate increases in shops, infrastructure, employment opportunities and other local services risks eroding community cohesion. She also noted that it may take the existing community some time to adapt to the growth but concluded that the effect on social cohesion was not a consideration that would outweigh the identified and pressing housing need.
44. The proportionate increase in the number of dwellings in that case was much less than that which has occurred in Stoke Orchard. However, on the evidence presented, the circumstances of Stoke Orchard are not directly comparable. The presence of the CRE facility created an environment and set of circumstances that were unique to the village. The redevelopment of that facility removed an unsightly 'blot on the landscape' and replaced it with a residential scheme, supported by a range of facilities, including a community hall, shop, play facilities and community bus provision. Thus, that was not an example of residential development taking place without associated facilities.
45. The facilities within the CRE development have the potential to provide a meeting point and focus for village activities, particularly within the community hall. Such facilities were absent prior to that development. Consequently, whilst I acknowledge that there will be uncertainty about the level of growth, concerns in that regard should be balanced against the tangible benefits of additional services. As noted within the committee report associated with the CRE development there was no substantial public outcry regarding the level of growth and the Parish Council considered that the facilities would help the village to be more self-sustaining.
46. Residents of dwellings within the appeal proposals would increase the population but would also provide additional custom for the proposed shop and patronage of other village facilities. I find no evidence to support the Council's assertion that the new residents would be unlikely to use these facilities. This is compatible with advice on rural housing within the Practice Guidance which notes the link between new development and the retention of existing services.
47. When set against the benefits of recent growth, the harm alleged by the Council and Parish Council is somewhat less tangible. The Council acknowledge that the impacts are hard to quantify. The Parish Council have referred to a tipping point in the scale of development in the village. However, no evidence of strain in local services has been presented that would lead me to conclude that the addition of 45 dwellings would have significant social implications.

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<sup>11</sup> Appendix 4 and 5 of Mrs Farrington's Proof: APP/U1105/A/13/2191905 and APP/G1630/A/13/2209001

Reference has been made to increased crime levels within the village but there is no evidence to suggest that this is linked to the new development and I can attach no weight to assertions in this regard. Therefore, whilst noting that existing residents may feel uneasy about the level of growth, that growth has been accompanied by a commensurate growth in facilities. This balance is such that no clear social harm has been identified.

### *The Three Strands of Sustainable Development*

48. Paragraph 7 of the Framework identifies three, mutually dependent, dimensions of sustainable development; economic, social and environmental. In economic terms new housing would bring benefits during the construction phase and through the additional spending power in the local economy as a result of the increased population. This would benefit services within the village and further afield.
49. The Council consider that the economic benefits will be limited as a result of the location of the site and the absence of a range of local shops and services that are capable of being reached by non-car modes of travel. However, this stance runs contrary to advice at paragraph 55 of the Framework which notes that development in one village may support services in a village nearby, as would be the case with Bishops Cleeve, which would be likely to benefit from spending associated with the proposal. I have also concluded that there would be a range of travel options from the site for employment and shopping purposes. Regardless of this, the mode of travel used does not necessarily lessen the economic benefit of a development; a shopkeeper in Tewkesbury is unlikely to be concerned whether a customer has arrived by private car or public transport.
50. In social terms, there is a pressing need for additional housing within the district. The provision of 45 dwellings, including 16 affordable units, would therefore represent a significant benefit in favour of the proposal. Those dwellings would be well connected to the facilities on offer in the village and would have good access to Bishops Cleeve, Tewkesbury and Cheltenham, all of which are within close proximity. The indicative layout indicates that the scheme will respond to the landscape and that a high quality built environment can be created, with good access to the proposed play area and public open space. Whilst I acknowledge unease amongst existing residents about the level of growth within the village, there is no firm evidence that the proposal would harm social cohesion. Therefore, in social terms, the benefits of the proposal significantly outweigh any disadvantages.
51. In environmental terms, the scheme would retain established hedgerows and trees and has been designed to take account of local landscape character. Despite the provision of an appropriate level of public transport it is likely that a majority of trips for work, shopping and leisure purposes would be made by private car. Given the proximity of nearby towns the majority of these trips are likely to be short in duration but, nonetheless, the reliance on car travel would not facilitate the move to a low carbon economy.
52. However, the likely usage of private cars does not, of itself, render the development unsustainable. The Framework and the Practice Guidance acknowledge a need for rural housing and accept that transport solutions will vary between urban and rural areas. Taken in the round, the economic and social benefits would outweigh any environmental harm resulting from the use

of the private car. Therefore, based upon the three-stranded definition within the Framework, I conclude that the proposal would represent a sustainable form of development.

### **Other Matters**

53. The site is within Flood Zone 1, as identified by the Environment Agency flood plain data, an area defined by a low risk of river or sea flooding. The Flood Risk Assessment (FRA) submitted with the application does identify that the site is at risk from surface water flooding, a point consistent with a number of responses from local residents. The FRA proposes a number of mitigation measures, including finished floor levels of 150mm above existing ground level and a sustainable drainage strategy to deal with surface water based on a system of swales, ponds and porous paving. The precise details of the drainage strategy could be secured by condition and, subject to this, I concur with the assessment of the Council that the proposal would be at low risk from flooding and would not exacerbate flood risk off-site.

### **The Planning Balance**

54. I acknowledge local concerns about the level of expansion within the village. The distribution of growth within the Borough and the level of that growth is a matter that will be determined through the emerging development plan. The prospect of an adopted development plan remains some way off. In the absence of up-to-date housing policies I am required to determine the proposal in line with the presumption in favour of sustainable development as set out at paragraph 14 of the Framework.
55. As set out above, I have concluded that the proposal would constitute sustainable development. The contribution to the local supply of housing represents a significant benefit in favour of the proposal. The development would also have economic and social benefits in supporting local shops and services. I am satisfied that it would not result in harm to the character and appearance of the area.
56. No adverse impacts have been identified that would significantly and demonstrably outweigh these benefits. The environmental impact relating to car usage would be limited by the proximity of the site to larger towns and settlements and the improved bus service that would stem from the proposals. The alleged impacts in terms of social cohesion are intangible and concern relating to the level of growth within the village has not been supported by any firm evidence relating to social impacts or pressure on local services. Consequently, when assessed against the policies of the Framework as a whole, no adverse impacts have been identified that would significantly and demonstrably outweigh the benefits of granting planning permission.

### **Conditions**

57. Fifteen suggested conditions have been put forward within the SoCG. I have considered these conditions and have attached those that meet the tests set out at paragraph 206 of the Framework, with alterations to the wording, where necessary, in the interests of clarity and to ensure consistency with the national model conditions, as recommended by the Practice Guidance<sup>12</sup>.

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<sup>12</sup> Paragraph: 022 Reference ID: 21a-022-20140306

58. The suggested timescale for the submission of reserved matters and the commencement of development is shorter than the standard timescale set out within the Town and Country Planning Act 1990. No reasons were set out for any of the suggested conditions within the SoCG but the Council and the appellant confirmed at the Inquiry that the intention was to secure a prompt start, in view of the pressing need for housing within the Borough.
59. The Practice Guidance suggests that shorter period may be appropriate where it could encourage commencement *and* (my emphasis) non-commencement had previously had negative impacts. That is not the case here. Whilst I note the intention of the appellant, and have no wish to encourage a delay in commencement, I am not satisfied that the shortage in the supply of housing land is sufficient grounds to impose a more onerous condition on an individual scheme. That lack of supply has arisen through no fault of the appellant and there is no evidence to suggest that application of the standard time limits would lead to delay in bringing the scheme forward. Consequently, I find the shorter timescale to be unnecessary.
60. Conditions are required to ensure compliance with the mitigation strategy within the FRA, including details of finished floor levels of the proposed dwellings and a surface water drainage scheme, incorporating sustainable drainage principles. Details of the drainage of foul sewerage are also required in the interests of preventing pollution of the water environment. A protection plan is required, in order to protect existing trees and hedgerows during the course of development, given the importance of retaining these features in mitigating the impact upon the character and appearance of the area. The archaeological investigation identified the presence of archaeological features of local interest and I am satisfied that a condition is necessary to secure a scheme of archaeological investigation and recording of any features.
61. The site access arrangements, including footways and pedestrian crossing points, were shown on plan number KHL/001/2013/A. The representative of the LHA requested at the Inquiry that these measures were implemented at the outset of development so that adequate visibility is in place for construction traffic throughout the course of development. Given the proximity of neighbouring dwellings and the rural nature of Banady Lane I am satisfied that this is necessary in the interests of highway safety. Details of all internal roads, footpaths, turning facilities and street lighting are also required, and, once agreed, the measures should be implemented in accordance with an agreed timetable, also in the interests of highway safety. Details of parking provision are not before me and the exact level of parking will be determined through the reserved matters submission. Consequently, any conditions relating to the provision and subsequent retention of parking spaces are best considered at that stage.
62. The proposal to divert part of the route of the public footpath was subject to pre-application discussions with the LHA who recommended and supported the idea. I am satisfied that this would provide an attractive, convenient and safe route through the site. The formal process for such a diversion falls outside the scope of my decision and I cannot pre-empt the outcome of that process. However, in planning terms, full details of the alternative route, including crossing points, should be secured by condition in the interests of pedestrian safety.

63. The Parish Council requested a condition to secure a travel plan for the development, a suggestion that the appellant was supportive of. However, the Practice Guidance states that Travel Plans should be required for developments that would generate significant amounts of transport movements. The response of the LHA noted that the scheme is anticipated to generate an increase of 4.5% in traffic using Stoke Road, with approximately 40 vehicles movements in the AM peak and 34 in the PM peak. I consider this to be modest and not sufficient to warrant the need for a travel plan. No travel plan was required in relation to the larger CRE development and I can see no reason why a different approach should be taken in this case.
64. I am satisfied that the suggested condition requiring the submission, approval and implementation of a Construction Method Statement is necessary in the interests of highway safety and to protect the living conditions of adjacent residents. Limited written detail has been provided regarding fire hydrants. However, the parties have agreed that the condition is necessary and, based on comments from the LHA at the Inquiry I am satisfied that their provision is necessary to secure a satisfactory layout, with suitable provision for emergency services.

### **Unilateral Undertaking**

65. In line with regulation 122 of the Community Infrastructure Levy Regulations (2010) I have considered whether the proposed contributions are necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind. As identified above, contributions towards sustainable transport measures are required in order to facilitate the use of sustainable modes of transport. In this respect I am satisfied that the measures within the UU are proportionate to the scale of development proposed.
66. Affordable housing would be provided at a level of 37% with a 75:25 split in favour of rented accommodation. There would also be a range of house types, including bungalows, to reflect local need. The level of provision is in excess of 30% requirement stipulated within the Council's *Affordable Housing Supplementary Planning Guidance (2005)*. However, that guidance is somewhat dated and the Council's request is reflective of requirements from the more recent Housing Needs Assessment (2009). Consequently, the provision is proportionate to local needs and reasonable in scale to the development proposed.
67. The contributions towards primary and secondary education are necessary, based on the projections of capacity at local schools provided by GCC. The level of contribution has been calculated on a proportionate basis, reflective of the likely number of children generated by the proposed scheme. Similarly, the contribution towards library services would be reflective and proportionate to the need generated by the proposal.
68. The on-site open space would reflect the scale of development and provide a recreational area for residents, including an equipped play area for young children, with provision for future maintenance. Off-site financial contributions to sport and playing pitch facilities have been calculated in accordance with the Sport England facilities toolkit, an approach endorsed by the Practice Guidance. These include contributions towards swimming facilities in Tewkesbury, the Astro turf pitch at Bishops Cleeve and an upgrade to the MUGA in the CRE site,

which is anticipated to be used for an additional tennis court. Should that upgrade not take place, provision is made for the contribution to be spent on upgrades to playing pitches and/or changing facilities in Bishops Cleeve or Tewkesbury. I am satisfied that the obligations are necessary as a result of the additional demand for facilities resulting from the development and the way in which they have been calculated is proportionate to the scale of development.

69. A further contribution towards the furnishing of the community hall in the CRE development has been calculated based on the Sport England toolkit for indoor sports halls. Whilst the hall is multi-functional, it is designed to accommodate indoor sport, including badminton and I am satisfied that the contribution reflects the need for additional indoor facilities that would be generated by the development. Dog waste bins and signs are necessary disposal facilities within the on-site open space. To my mind such facilities are an essential component to ensure the reasonable enjoyment of the space and the cost is modest and directly related to the likely need generated by those, and their dogs, residing in the development.
70. Little information has been provided about the recycling contribution but the Council suggest that the money would be used to provide recycling boxes and bins for each dwelling. In my experience residents would be expected to be provided with such facilities to enable the proper collection of waste, this being a normal function of the local authority. I have been provided with no planning policy basis to suggest that this basic requirement should be seen as a cost to the developer. Consequently, I have taken no account of this element of the UU in reaching my decision.

### **Overall Conclusion**

71. I am conscious of local concerns regarding the level of growth within the village. However, there is a significant shortfall in the supply of housing land within the local authority area. In that context, I am required to consider the proposal against the presumption in favour of sustainable development, as set out at paragraph 14 of the Framework. The proposal would boost the supply of housing, including affordable housing, and I have attached significant weight to this benefit, in line with the thrust of national policy. I have also concluded that the proposal would represent a sustainable form of development.
72. No adverse impacts have been identified that would significantly or demonstrably outweigh the benefits of the proposal, when assessed against the policies of the Framework taken as a whole. The impacts of the development can be adequately mitigated by conditions and through the obligations of the unilateral undertaking. Therefore, for the reasons set out, and taking all other matters into account, I conclude that the appeal should be allowed.

*Chris Preston*

INSPECTOR

**SCHEDULE OF CONDITIONS:**

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) The submission of reserved matters, pursuant to condition 1 shall include details of the existing and proposed ground levels and proposed ground floor slab levels of the buildings, relative to ordnance datum. Thereafter, the development shall be carried out in accordance with the details, as approved.
- 5) None of the dwellings shall be occupied until works for the disposal of sewage have been provided on the site to serve the development hereby permitted, in accordance with details to be submitted to and approved in writing by the local planning authority.
- 6) No development shall take place until a detailed scheme for the disposal of surface water, incorporating sustainable drainage principles, has been submitted to and approved in writing by the local planning authority. The submitted details shall also include a timetable for implementation. Thereafter, the development shall be completed in accordance with the approved details and timetable.
- 7) Trees and hedgerows on the site shall be retained during the course of development in accordance with details within the Arboricultural Survey, Impact Assessment and Method Statement prepared by Tree King Consulting, dated August 2013, and as shown on the illustrative site layout plan numbered KHL/004/2014, rev B. Prior to the commencement of development details showing how the retained trees and hedgerows will be protected during the course of construction shall be submitted to and approved in writing by the Local Planning Authority. The protection measures shall accord with BS 5837: Trees in relation to construction. All approved protection measures shall be in place prior to the commencement of construction and shall be retained until construction has been completed.
- 8) No development shall take place until a programme of archaeological work has been implemented in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority.
- 9) No development shall take place until details of the proposed re-alignment of public footpath ASO 17/1 and associated pedestrian crossing locations, in accordance with details shown on plan number KHL/004/2014 rev B, have been submitted to and approved in writing by the Local Planning Authority. The approved works shall be completed prior to the occupation of any of the dwellings.



- 10) No development shall take place until details of the site access arrangements (which shall be in accordance with the layout and alignment shown on Access Plan Detail drawing numbered KHL/001/2013 rev A) and internal roadways have been submitted to and approved in writing by the Local Planning Authority. Details shall include, means of drainage, proposed surface materials; means of construction; pedestrian and vehicular visibility splays at the site access; turning heads; street lighting; footways; and a timetable for their provision. The timetable shall ensure that the first 20 metres of the site access road, including footways, pedestrian crossing points and associated visibility splays is provided in the initial stage of development, in advance of construction on any of the dwellings. Once approved, the access arrangements shall be completed in accordance with the approved details and timetable.
- 11) No development shall take place, including any works of demolition, 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 of 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) wheel washing facilities
  - v) measures to control the emission of dust and dirt during construction
- 12) No development shall take place until details for the provision of fire hydrants served by mains water supply, including a timetable for their provision, have been submitted to and approved in writing by the local planning authority. Thereafter, the fire hydrants shall be provided in accordance with the approved details and timetable.

Richborough Estates

## APPEARANCES

### FOR THE APPELLANT:

Mr Jeremy Cahill	Of Queen's Counsel; instructed by P.E. Duncliffe Limited
He called	
Mr Andrew Winstone Dip TP MRTPI	Principal Associate, RPS Group

### FOR THE LOCAL PLANNING AUTHORITY:

Miss Sarah Reid	Of Counsel; instructed by the Borough Solicitor, Tewkesbury Borough Council
She called	
Mrs Debbie Farrington Dip TP MRTPI	Principal Planner, Cedra Planning

### FOR STOKE ORCHARD PARISH COUNCIL:

Mr Jon Harris	Of Harris Ethical Ltd; instructed by Stoke Orchard Parish Council
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### INTERESTED PARTIES

Mr Richard Chatham	Chairman, Stoke Orchard Parish Council
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### ROUND TABLE DISCUSSION ON CONDITIONS AND PLANNING OBLIGATIONS

Mr Michael Glaze Eng TECH MIHE	Development Co-ordinator, Gloucestershire County Council
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## DOCUMENTS

- 1 Photographs depicting the route from the site to the community hall and shop within the 'CRE' development
- 2 Newspaper article, dated 11 November 2014, relating to the official opening of the community hall
- 3 Extracts from the Stoke Orchard and Tredington Community website relating to high speed broadband and bus services
- 4 Secretary of State decision relating to appeal ref: APP/B3410/A/13/2193657 – Forest Road, Branston, Burton-upon-Trent
- 5 Copy of s.106 agreement, dated 23 April 2012, relating to the outline planning permission for the CRE site (LPA reference 09/00612/OUT)
- 6 Copy of representation regarding emerging policy SD7 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy, following consultation on the pre-submission draft.
- 7 Letter from BPE Solicitors LLP, dated 17 November 2014, regarding the Unilateral Undertaking
- 8 E-mail correspondence between Stoke Orchard Parish Council and Michael Glaze, of Gloucestershire County Council (the Local Highway Authority), regarding the Local Highway Authority's response to the application.