



Appeal Decision

Inquiry held on 6-8 August 2013

Site visit made on 8 August 2013

by John Felgate BA (Hons), MA, MRTPI

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

Decision date: 15 January 2014

Appeal Ref: APP/F1610/A/13/2196383

Land off Station Road, Bourton-on-the-Water, 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 Robert Hitchins Limited against the decision of Cotswold District Council.
 - The application Ref 12/03616/OUT, dated 15 August 2012, was refused by notice dated 31 October 2012.
 - The development proposed is: "Residential development (up to 100 dwellings) including infrastructure, ancillary facilities, open space and landscaping; demolition of existing buildings, and construction of a new vehicular access off Station Road".
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Decision

1. The appeal is allowed and planning permission is granted for the development described above, on land off Station Road, Bourton-on-the-Water, Gloucestershire, in accordance with the terms of the application, Ref 12/03616/OUT, dated 15 August 2012, subject to the conditions set out in the attached schedule.

Preliminary matters

Clarification

2. In many of the submissions from local residents, Bourton-on-the-Water is referred to simply as Bourton. In this decision, I have used these two forms interchangeably.

The appeal site

3. For the avoidance of doubt, the appeal site lies to the southwest of Station Road at its junction with the Fosse Way (the A429), and extends southwards as far as the grounds of the Cotswold School. However, it excludes the existing properties at Essex Place, and the adjoining riding stables, and the small paddock to the rear of 'The Lawns' and 'Elmfield'.

The reserved matters

4. The appeal seeks outline planning permission, with all details reserved except for access. In so far as the submitted plans include any other details, I have treated these as illustrative.

Amended plan

5. At the inquiry, the appellants tabled an amended plan of the proposed access, Drawing No H371/4, Rev.A. The changes from the previously submitted plan

were minor in nature, and the Council confirmed that it had no objection to the substitution of the amended plan. I agree that no prejudice would be caused to any party by the acceptance of this plan, and I have therefore considered it as part of the appeal proposals.

Withdrawal of refusal reasons

6. Prior to the inquiry, the Council agreed that its objection in Refusal Reason No.2 (RR2), about the protection of wildlife habitats, could be overcome by conditions; and that RRs 3-6, relating to affordable housing, pedestrian infrastructure and transport matters, education and libraries, and public open space, could all be withdrawn upon the completion of appropriate planning obligations.
7. An executed agreement with Gloucestershire County Council providing for a transport contribution, and unilateral undertakings relating to the other matters specified, were tabled during the inquiry. The Council confirmed its withdrawal of RRs 3-6 in the light of these obligations.

Request for postponement

8. Prior to the inquiry, the Council requested a postponement, pending the outcome of a legal challenge made by the Council against two appeal decisions, relating to proposed housing developments at Tetbury. At the inquiry, the Council confirmed that it no longer sought to pursue this request.
9. Subsequently, on 27 November 2013, the Council's challenge to the Tetbury decisions was dismissed. This restored the position to that which existed at the close of the inquiry.

Environmental Impact Assessment

10. The application to Cotswold District Council in August 2012 was accompanied by a request from the applicants for a screening opinion under the Town and Country Planning (Environmental Impact Assessment) Regulations 2011. The Council determined that, although the development fell within Schedule 2 of the Regulations and was within a 'sensitive area', it would not have significant environmental effects within the meaning of the relevant legislation, and therefore an impact assessment was not required. In June 2013, following the submission of the appeal, a further screening opinion was issued, by the Secretary of State, which agreed with the Council's opinion, for the same reasons.
11. The application is also accompanied by assessments of the impacts on the landscape and visual character, ecology, transport, flood risk and drainage, heritage and other matters. I have taken account of these reports, and I am satisfied that this information is sufficient to enable me to fully consider the proposed development's impacts on the environment, so far as is necessary for the purposes of the appeal.

Procedural issue relating to validity

12. At the inquiry, through the submissions made by Mr Hickman, Bourton Against Development (BAD) queried the validity of the application (and thus of the appeal), on the grounds of alleged errors, inaccuracies and untruths in the application itself and supporting information. I agree that it is important that, as far as possible, the details contained in planning applications should be

correct. However, in this case I am satisfied that any errors were not deliberately intended to deceive. And in the present case, many of the matters raised by BAD would be more properly described as points of disagreement rather than errors. The purpose of the inquiry is to examine such matters through the evidence. I can see nothing in the submissions before me to suggest that the application should have been ruled invalid.

Planning context

The Cotswolds Area of Outstanding Natural Beauty (AONB)

13. The whole settlement of Bourton-on-the-Water, and the whole of the surrounding countryside, are washed over by the Cotswolds AONB. Within that area, Section 85 of the Countryside and Rights of Way Act 2000 requires decisions on development proposals to have regard to the purpose of conserving and enhancing the area's natural beauty.

The adopted Local Plan

14. Following the revocation of the South West Regional Strategy (the RS) and the Gloucestershire Structure Plan (the SP), in May 2013, the development plan for the area now consists solely of the saved policies of the Cotswold District Local Plan (the LP), adopted in April 2006.
15. The development strategy seeks to concentrate 63% of the District's planned growth at the urban area of Cirencester, with the remainder going to the 9 principal settlements. Bourton is one of these, and is defined as one of the three most sustainable.
16. Bourton's settlement boundary is defined on the Proposals Map. The appeal site is partly adjacent to the boundary, but is outside it. Saved Policy 19 states that, outside settlement boundaries, development appropriate to a rural area will be permitted, provided it relates well to the existing settlement and meets various specified criteria. One of these is that the development should not be for open-market housing, except to meet the social and economic needs of the rural area. Another is that any development should not cause significant harm to the existing development pattern or key open spaces within settlements.

Interim Housing Guidance

17. In 2011 the Council published an Interim Guidance Note relating to housing. The document sets out a list of criteria against which to consider proposals for housing developments which depart from the saved policies of the Local Plan, including sites outside settlement boundaries.
18. However, the Guidance Note is not a supplementary planning document, and there is no indication that it has been subject to any formal consultation or adoption procedures. Consequently, although the Note is a material consideration, it carries very little weight.

Emerging replacement local plan

19. In May 2013, the Council published a draft Preferred Development Strategy, for public consultation. The consultation period closed on 19 July 2013. The Council's stated intention is to publish a full draft replacement local plan, for further consultation, in the Spring of 2014, with a view to submission in early 2015 and adoption before the end of that year.

20. The housing distribution strategy proposes that Bourton's share of the District's housing requirement should be 300 dwellings (including 59 already committed) over 20 years. This would be the 5th largest allocation between the district's settlements.
21. Although the draft plan is a material consideration, given its early stage, I give it limited weight at this stage.

The National Planning Policy Framework (NPPF)

22. The NPPF is a material consideration but does not have the statutory weight of the development plan.
23. The NPPF seeks to encourage and facilitate sustainable development, and advocates a presumption in favour of such development. Paragraph 14 advises that where the development plan is absent, silent or out-of-date, permission for development should be granted, unless the adverse impacts would significantly and demonstrably outweigh the benefits; or unless specific policies in the NPPF indicate that development should be restricted. The latter include those that relate to AONBs.
24. Paragraph 47 seeks to boost the supply of housing significantly. Paragraph 49 goes on to state that, where there is not a 5-year supply of deliverable housing sites, development plan policies for the supply of land should not be considered up to date. Paragraph 50 seeks to deliver a wide choice of homes, widen opportunities for home ownership, and create sustainable, inclusive and mixed communities.
25. Paragraphs 109 and 115 confirm the importance of protecting and enhancing valued landscapes, and that in AONBs this aim should be given great weight. Paragraph 116 goes on to say that, in such areas, permission for major developments should be refused, except in exceptional circumstances and where development is in the public interest. In considering applications, account should be taken of the need for the development, the availability of alternatives, and the effects on the environment and landscape.
26. Paragraph 215 advises that due weight should be given to relevant development plan policies, according to their degree of consistency with the NPPF.

Undisputed matters

27. It is not disputed that the development would be located within the AONB, and would be visible from both the built-up area and the surrounding countryside.
28. It is also not disputed that the scheme does not accord with LP Policy 19, in that the site is outside the settlement boundary, and the development would not be for purposes appropriate to the rural area, and would include market housing.
29. However, the Council accepted at the inquiry that the deliverable housing land supply is less than 5 years, and that as a result, the Local Plan's housing supply policies are out-of-date. The Council agrees that these include Policy 19, in so far as that policy acts to restrict the supply of housing.
30. To meet the shortfall, the Council also accepted at the inquiry that some greenfield sites will be needed.

31. In principle, the Council agrees that Bourton-on-the-Water is a sustainable location for development. Although often referred to as a village, in size Bourton is akin to a small market town. It is not disputed that the appeal site is reasonably well located for access to the main shops, schools and employment areas.
32. Although matters relating to highways, traffic, drainage and flooding are contested by the Parish Council and local residents, the Council has no objections on these grounds. The Council also accepts that the development would not have any significant adverse impact on the local Conservation Area, or its setting.

Main issues

33. In the light of the above, and all the submissions made, both at the inquiry and in writing, it seems to me that the main issues are:
- The extent of the housing land shortfall in the District, and its implications for other planning policies;
 - The proposed development's effects on the area's character and appearance, including its effects on the landscape of the Cotswolds AONB, and on the setting of Bourton-on-the-Water.

Housing land supply

The Tetbury decisions

34. In February 2013, the Secretary of State allowed two appeals relating to sites in Tetbury, comprising up to 250 dwellings at Highfield Farm (APP/F1610/A/11/2165778), and 39 dwellings on land to the south of Berrells Road and west of Bath Road (APP/F1610/A/12/2173305).
35. The Inspector in these appeals found that the SP figures were out of date, and that having regard for more recent evidence, the requirement figure of 307.5 dwellings per annum for Cotswold District was too low. Instead, she preferred the Draft RS Revision figures, which were based on more recent information, and had been tested through an examination in public. In the case of Cotswold District, this meant a requirement of 345 pa.
36. Before the addition of any buffer, this was said to give rise to a residual requirement of 2,022 dwellings for the period 2012-17. This RS-based figure was described by the Inspector as the lowest credible option. By way of comparison, the corresponding figure based on the DCLG national household projections would have been 3,199 dwellings.
37. With regard to the required buffer, the Inspector chose to assess past delivery on the basis of the average over the last 5 years, 2007-12. On that basis, she found that the average completions of 291 dwellings fell short of the annualised SP requirement. Bearing in mind that she considered the SP figure itself to be artificially low, the Inspector held that this amounted to persistent under-delivery. Accordingly, a 20% buffer was added, giving an overall 5-year requirement of 2,426 dwellings.
38. On the other side of the calculation, the Inspector found the supply to be 1,828 dwellings in the Bath Road appeal, and 1,711 in the Highfield Farm case. The variation between these two figures resulted from differences in the extent to

which the respective appellants had challenged the Council's evidence. The resulting shortfall was therefore 598 units in one case and 715 in the other, and the land supply was 3.8 years and 3.5 years respectively. In both cases, the Inspector described this as a very serious shortfall.

39. The Inspector's findings and conclusions were accepted by the Secretary of State. The Council's legal challenge was dismissed, and the decisions therefore stand.

The parties' positions at the present inquiry

40. In the present appeal, the Council concedes the lack of a 5-year supply, but contends that since the Tetbury decisions, the shortfall has now reduced, and that the weight to be given to housing need should be reduced accordingly.
41. In support of this proposition, the Council argues, firstly, that the District's record is not now one of persistent under-delivery, and it should therefore not be subject to a 20% buffer. Secondly it is argued that the supply side of the calculation has improved, due to recent permissions and resolutions. Thirdly, the Council suggests that account should be taken of the possibility of other, non-specific sites coming forward. I consider these arguments below.
42. The appellants rely principally on the Secretary of State's conclusions in the Tetbury cases, and the Inspector's reasoning behind them.
43. The only 5-year supply calculation that is before me in any quantified form, from either side, is the Council's land supply report published in June 2012. That report, which has a base date of 1 April 2012, claims a supply of 5.3 years, based on the requirement from the former Structure Plan. This evidence is the same as that which was put to the Inspector in the Tetbury inquiries.

Under-delivery and size of buffer

44. Since the Tetbury decisions, the completions figure for 2012-13 has now become available. That figure is 393 dwellings. This is significantly above the average completion rate achieved since at least 2006, and exceeds the annual requirement, based on either the SP or Draft RS Revision. Of these two, the Council now accepts that the latter is the most relevant for the purposes of determining the requirement¹.
45. Looking at the last 5 years, 2008-13, the total completions were 1,641 dwellings, against a requirement of 1,725, leaving a shortfall of 84 units. The Council argues that this is a relatively small shortfall, especially taking account of the poor housing market conditions over most of that time. However, the NPPF advice regarding the 5% or 20% buffer does not depend on the size of the deficit. Rather, it depends on whether there has been under-delivery, and whether that situation has been persistent.
46. In this case, even if it is accepted that 84 dwellings is a relatively small number, the fact remains that it does represent an overall shortfall of completions against the cumulative target. As a matter of fact therefore, there has been a record of under-delivery over the period 2008-13.

¹ Mr Eaton's proof, paragraph 11.6

47. Furthermore, over that 5-year period, it is evident that the cumulative total of completions has always remained below the cumulative target². In the last two years, the size of the cumulative shortfall has diminished somewhat, but has not gone away. On this basis, it seems to me that the overall under-delivery has continued, and thus it is fair to describe it as persistent.
48. I acknowledge that there may also be other ways of carrying out this assessment, based on longer or shorter historic periods. Certainly an assessment based only on the last two years might lead to a different conclusion, but in my view, that is too short a perspective from which to judge the question of persistence. Any period longer than 5 years would bring into play the year 2007/08, which was a particularly poor one for completions, and this would therefore not improve either the average or the cumulative position.
49. On the evidence available therefore, I find that Cotswold District still appears to have a record of persistent under-delivery of housing. This is consistent with the view of the Secretary of State in the Tetbury cases, which was upheld by the Court. On this basis, it seems to me that the higher buffer of 20%, rather than 5%, is the more appropriate.

Additional supply due to recent permissions

50. The Council argues that the Tetbury decisions, and an earlier appeal decision for 50 dwellings at Top Farm, Kemble (APP/F1610/A/12/2173097), have together resulted in permissions totalling 339 dwellings, which are not counted in the 2012-based supply figures. It also points to the Planning Committee decision in June 2013 to grant outline permission for up to 148 dwellings on land off Roman Way.
51. In the case of the Roman Way site, the Council's resolution was to grant permission on completion of a legal agreement, but up to the date of the present inquiry, the permission had not yet been granted. Some doubt therefore remains as to the deliverability and timing of any development on that site.
52. In any event, even if all of these sites were now regarded as deliverable within the period of the Council's 5-year supply calculation, they would not be enough in total to make up the shortfall found by the Secretary of State in either of the Tetbury cases. This is already acknowledged by the Council.

Other unidentified sites

53. The Council's third argument is that other sites are also likely to come forward in the 5-year period, including sites identified in the Strategic Housing Land Availability Assessment (SHLAA), and that it is not necessary to identify each of these sites individually. However, the Council's land supply already includes a large number of SHLAA sites without planning permission, plus a windfall allowance over and above these. I can see no justification for adding any further allowance for sites that are not specifically identified.

Effects on the land supply calculation

54. A number of salient points arise from the above. Firstly, even if all of the Council's arguments on these matters were accepted, that would not alter the supply calculation that is before me, because the base date for those figures is

² Mr Eaton's proof, paragraph 11.7

April 2012. The increase in completions and the new permissions granted have all occurred since that date, and cannot be retrospectively applied to a calculation based on a fixed point in time. The 2012-based report has been found unsound, and nothing has been drawn to my attention which would suggest that anything has happened since, such as to alter the status of that assessment.

55. Secondly, despite the evidence advanced by the Council on the above matters, no updated 5-year supply calculation has been submitted in evidence. Such a calculation would need to take account of changes not only in the forward supply, but also in the residual requirement. I accept that it is possible that an updated exercise might show some improvement in the position compared to a year ago, but without any proper evidence, that is still largely a matter of speculation. And in any event, for the purposes of the NPPF, the test is not whether there is an improvement, but whether the result is a positive 5-year supply. Here, the Council accepts that there is not.
56. Thirdly, notwithstanding all the arguments put forward at the inquiry, the Council accepted³ that even if the buffer were reduced to 5%, and all other points were accepted, the 5-year supply would still be in deficit.
57. Overall therefore, it has not been demonstrated that the supply position has changed in any significant way from that found in the previous appeals. This means that the deliverable supply that has been demonstrated is still no more than about 4 years.

Weight to be attributed to the shortfall

58. The Council argues that the shortfall now is a relatively marginal one, and no longer warrants being described as serious. However, for the reasons explained above, the evidence does not support that contention.
59. In any event, the NPPF makes no distinction between a marginal shortfall and any other kind. What is clear from the NPPF is that the Secretary of State attaches great importance to increasing the supply of housing, and that maintaining a 5-year forward land supply is seen as the key to securing this aim.
60. On the evidence available, it seems to me that the lack of a full 5-year supply in Cotswold District is a serious situation, and that this is a consideration deserving of substantial weight.

Implications for other policies

61. The Council accepts that Policy 19 is a 'policy for the supply of housing' in terms of NPPF paragraph 49, and that because of the lack of a 5-year supply, it must therefore be regarded as out-of-date. I see no reason to disagree.
62. I agree with the Council that this does not mean that Policy 19 is of no account at all, especially as the policy has other purposes as well as controlling housing development. However, where the conflict with Policy 19 relates to the principle of development outside a settlement boundary, it seems to me that the effect of paragraph 49 is that such a conflict is outweighed by the housing need that results from the lack of a 5-year supply.

³ As stated in Mr Eaton's written and oral evidence and in Miss Busch's closing submissions

Conclusions on housing supply

63. I conclude that, for the purposes of this appeal, Cotswold District has a continuing shortage of housing land, such that there no more than around 4 years' supply. There is therefore a pressing need to identify additional sites, in order to ensure that a supply of housing can be delivered to meet the expected scale of local needs. Substantial weight should be given to the benefits of releasing new land for housing to narrow this gap between need and supply.

Effects on the character and appearance of the area

General approach to development in the AONB

64. The designation of the Cotswolds as an AONB gives formal recognition to what is obvious to every resident and every visitor – that the area is one of great natural beauty. For the most part, the landscape is not especially dramatic, as for example in the more upland parts of Britain. But nevertheless, its more subtle attributes give the Cotswold landscape a special charm and fascination, which make this part of the country a much-loved and highly valued resource, not merely in terms of planning policies, but also in terms of popular support. The importance of protecting the AONB's special qualities is therefore beyond question.
65. An important part of the area's attraction is also its settlements, not only for their own inherent qualities, but also for their relationship to the landscape; frequently, the way a small town or village sits, in juxtaposition to the surrounding landform and features enhances both the built and the natural components of the overall composition. Bourton-on-the-Water is a case in point. The town is widely regarded as one of the area's gems, particularly for its picturesque centre, with stone buildings and streets set around the River Windrush. These elements, are complemented by the outward views to the surrounding hills, and there are also reverse views from higher ground, which display the settlement in its setting. The central part is also a Conservation Area (CA), whose special character and appearance are protected, both by planning policies and by law⁴. Just to the west, is the Fosse Way, which is an ancient Roman road. For all these reasons, I fully agree that Bourton is a settlement where special care is required in the location of new development.
66. But nonetheless, I must judge the appeal in the context of the relevant policies and all other material planning considerations. Elsewhere in this decision, I have identified that the relevant policies include NPPF paragraphs 109, 115 and 116. Although those policies are protective in nature, paragraph 116 makes it clear that development within the AONB may still be permitted, including development of a substantial nature, where exceptional circumstances exist and where such development is found to be in the public interest. In the present case, one of the material considerations is the urgent need for more housing land. In principle, it seems to me that such a need is capable of satisfying paragraph 116's requirements in these respects. I note that this is the approach taken by the SOS in the two Tetbury appeals, which were in the same AONB.
67. Another important consideration is the purpose of AONB designation. That purpose as stated in the Act is to conserve and enhance the area's natural beauty. However, nothing in the relevant legislation suggests that that aim is

⁴ Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990

to be seen as incompatible with any development. In the case of the Cotswolds, the designated area is very extensive and washes over buildings and entire settlements, as at Bourton. Not every site within such a broad-brush area, either developed or undeveloped, can have equal importance to the AONB's purpose. Furthermore, in Cotswold District itself, the designated area covers the great majority of the local authority area. To confine development to those few settlements which are outside the AONB would be likely to unbalance the area's growth and put a considerable strain on those communities. In this context, it is worth re-stating that Bourton has been identified as a village for some growth.

68. In judging the issues relating to the AONB and the village setting, I have had regard to these material considerations alongside the relevant policies.

The effects of the appeal proposals on the AONB's landscape

69. The appeal site lies adjacent to Bourton-on-the-Water's existing built-up area. To the east and northeast are substantial areas of modern and post-war housing, and an industrial estate. To the south is the Cotswold School and Leisure Centre, beyond which is the village centre. To the southwest of the site is the school playing field, which is an urban land use and has an urban appearance, and beyond is more housing. The appeal site is therefore enclosed by the town on three sides. And in addition, the site is well related to the built-up area as a whole, being close to the centre, and significantly more so than some of the other peripheral development areas.
70. On the site's fourth side, to the northwest, there is open countryside. But the site does not directly adjoin that area, because it is separated from it by the Fosse Way. The latter is a dominant element in the landscape, not only because it is a busy main road, with fast-moving traffic, but also due to the substantial tree belts and hedging along much of its length. On the 'town' side, urban development extends right up to the road at numerous points, including Station Road and Essex Place, adjacent to the appeal site, but on the other side there are few buildings of any kind. There is also an abrupt topographical change, from the flat land of the settlement, to the steeply rising ground beyond the road.
71. I can understand the Council's reluctance to see the Fosse Way recognised as a boundary to development in any formal policy sense. But in the case of the appeal site, it seems to me that for all practical purposes the road acts as a clear visual and physical divide. The site, notwithstanding its current quasi-agricultural land use, is disconnected from the wider countryside. Whereas, its physical and visual association with the settlement is far stronger.
72. The appeal site comprises three smallish fields, used for horse grazing. The land is generally low-lying and flat or gently sloping. There are some field boundary trees, hedges and ditches, but the great majority of these could be retained. The land surface has some ridge-and-furrow undulations, but these are not particularly noticeable from outside the site, and in archaeological terms the County Archaeologist considers them to be of low significance. In all other respects, the site lacks any distinguishing features and has no particular visual interest. If it were developed as now proposed, it would lose its openness. But given the physical context that I have described above, this loss would not be unduly harmful.

73. The site can be seen in close views from the Fosse Way and Station Road, and in medium-distance elevated views, from the Monarch's Way and Heart of England Way footpaths. But, for the reasons that I have already explained, in all of these the site is viewed in a mainly urban context. Its development would not affect the character or appearance of the surrounding countryside in any significant way, or the recreational enjoyment of these footpaths within the AONB. There are longer elevated views from the high ground near Butchers Barn, to the south of the town. But at this distance, of about 1.5 km, development would have little impact.
74. From the junction of the Fosse Way and Station Road, there is a partial view across the appeal site towards Clapton Hill. But from this direction, the latter appears as little more than a low ridge, which is partly obscured by the boundary vegetation. And it is seen only from the immediate vicinity of the road junction, which is a point at which few passers-by are likely to wish to linger. Compared to the attractive scenery which is seen elsewhere throughout the AONB, it seems to me that this view is likely to attract little attention, if any, and is therefore of little significance to the conservation or enhancement of the area's natural beauty. But in any event, the reservation of an open space buffer zone, as proposed in the submitted master plan, would be sufficient to ensure that a partial view was retained.
75. I note that the landscape study carried out by White Consultants in 2000⁵ identified this view to Clapton Hill as a significant one, and for this reason recommended that the majority of the present appeal site be kept undeveloped. But whilst the consultants' report is said to have formed part of the background work for the adopted Local Plan, it has no policy status in its own right, and there is no policy in the LP itself relating to this recommendation. For the reasons set out above, my opinion on this matter is different from that of the report's authors, and that of the Council's landscape witness at the inquiry. I do not dismiss lightly the opinions of two well qualified experts, but nonetheless, no matter what methodology is used, a judgement is required at some stage in the process. Mine is that the loss or partial loss of the view to Clapton Hill would have no more than a slight impact, and thus would not detract in any material way from the appreciation of the surrounding landscape.
76. I have also taken note of the contents of the Cotswolds AONB Landscape Character Assessment and the National Character Map. I have no doubt that these documents accurately describe the area's existing landscape typology. But they are not policy documents, and as far as I can see, they do not assist in decisions as to where necessary development should be located.
77. For the reasons explained above, I conclude that the development would not cause any significant harm to the aim of conserving and enhancing the AONB's landscape or natural beauty.

Effects on the setting of Bourton-on-the-Water

78. The appeal site lies at one of Bourton's main road entry points. However, it is stretching a point somewhat to describe this as a gateway, because there is no real sense here of arrival at a historic settlement. The existing development in and around Station Road is 20th century housing of pleasant but unexceptional

⁵ Study of Land Surrounding Key Settlements in Cotswold District – Final Report, June 2000

quality. The dominant feature is the traffic-light controlled junction. The village's historic core and Conservation Area are about 1km away, and there is very little inter-visibility to or from that area. Providing it was reasonably well designed and landscaped, there is no reason why new development at this point, as now proposed, should adversely affect perceptions of the town's setting.

79. With regard to inter-visibility, I accept that the spire of St Lawrence's Church is discernible in the views from the traffic lights, but it is only just so. The view is a distant and fleeting one, with trees and buildings in between, and the site boundary trees in the foreground. Like the view to Clapton Hill, it is one that I doubt whether many passers-by would notice; or, having done so, whether many would regard it as significant. Consequently, this particular view does not seem to me to make a very important contribution to the town's setting.
80. I note the Council's arguments with regard to the town's historic development pattern. At one time, Bourton would have been separated from the Fosse Way by a belt of open country. The appeal site is within that area. However, the town's development pattern has changed greatly as a result of its expansion over the last half-century, especially to the north and northwest, where the appeal site is located. Housing now runs alongside or close to the Roman road, throughout most of the section from Station Road to Meadow Way, as well as at Essex Place and Lansdowne. Although there is some screening and some grassed buffer areas, the development in these areas fills most of the available land, and is clearly visible from the Fosse Way. As a matter of fact therefore, the town is now connected to the Fosse Way by a broad swathe of intermittent development, adjacent to the appeal site and beyond.
81. It is not for me to judge these previous developments. Rather, I must decide the present appeal on its own merits, and in the light of the relevant policies. The area in question is not identified for protection in any adopted policy or proposals map. Policy 19 seeks to protect existing patterns of development and key open spaces from significant harm. But here, in the light of the development that now exists, it seems to me that the town's development pattern would not be significantly altered by further development at the appeal site. Indeed, it seems to me that development here would in fact now merely reflect and consolidate that pattern. The draft local plan refers to a need to protect sensitive views from the Fosse Way, but the location of such views is not specified. For the reasons that I have given, I do not find the views across or into the appeal site particularly sensitive.
82. I note the Council's view that a modern estate development would be alien to the town's character. But the existing development in this northern part of the town is generally suburban in character, and includes other estates, such as at Barnsley Way. In this context, a well laid out new development would not be out of place. The details of design, layout and landscaping can all be adequately controlled through the submission of reserved matters. Although the Design and Access Statement refers to heights of up to 12m, it was agreed at the inquiry that a limit of 9m could be imposed by condition. The illustrative plans suggest providing a linear open space alongside the main road, with scope for some new planting, and in my view this would be sufficient to soften the edge of the development and avoid any undue visual impact on external views. Again, this could be secured by a condition.

83. As far as the Fosse Way is concerned, this section of the road is not a scheduled monument, and the Council accepts that the setting of the road itself is not an issue. I see no reason to disagree.
84. In the light of all these considerations, I conclude that the proposed scheme would not adversely affect the setting of Bourton-on-the-Water, nor would it conflict with Policy 19 in this respect.

Alternative sites

85. The Council suggests that the sites identified in the White Consultants' report as BW4 and BW5, to the southeast of Bourton, would be less damaging to the AONB and village setting. Development on these sites would avoid the gap between the town and the Fosse Way. However, neither site has planning permission, or is allocated for development. Notwithstanding the White report therefore, their acceptability for development has not been established.
86. As well as being within the AONB and outside the settlement boundary, the sites in question are on sloping land which rises away from the town, towards Clapton Hill. These sites also either adjoin, or are close to, the CA boundary. In these respects, BW4 and BW5 seem to me to have a significantly greater visual sensitivity than the appeal site, with potential adverse effects on both the AONB and the setting of the CA. As such, it is not clear to me why the Council should see these sites as preferable to the appeal site.
87. Furthermore, neither site BW4 or BW5 at present has any existing road access for development. The only potential access points would appear to be from Clapton Row and Gasworks Lane, which are narrow streets serving existing development, and the Council was not able to point to any technical studies regarding highway impacts or other infrastructure requirements. At the inquiry, it was accepted that neither of these sites could realistically be expected to be delivered within at least 5 years. And even if both were developed, they amount to only about 2.8 ha, compared to the appeal site's 4.3 ha. As alternatives to the appeal site therefore, it seems to me that sites BW4 and BW5 carry little weight.
88. The Parish Council has also put forward a list of alternative sites, within the built-up area of Bourton. I have looked at these carefully, but a number are already included in the Council's 5-year supply figures, and thus are not actually alternatives. And in the other cases, there is insufficient evidence as to their availability or deliverability.
89. No non-AONB sites have been identified as alternatives, either by the Council or by other parties.
90. I therefore conclude that there is no convincing evidence of any realistic alternatives to the appeal proposal which would have less impact on the AONB, or on the village setting.

Comparison with Local Plan Inspector's report

91. I appreciate that the Inspector who reported on the LP, in 2004, came to a different view on some of the above matters. But his consideration was in the context of a need to choose between the present site and another, referred to then as BOU2, which has since been developed. Whereas, in the present appeal, although there is an established housing need, no other alternative

sites are before me, and indeed no other realistic options have been identified at all.

92. In 2004, the inspector saw the playing fields to the south as more akin to agricultural land. But since then, things have changed significantly, with the all-weather pitch, the floodlighting columns, a new building under construction, and the backdrop of the leisure centre building. The Inspector acknowledged that the playing fields were functionally related to the urban area; my view is that they now also appear visually as part of that area. But even if this were not so, the appeal site would still be well related to the town, for the reasons that I have given earlier.
93. Although the development now proposed would increase the length of the town's frontage to the Fosse Way, it would no longer double it, as the Inspector found in 2004. Now that the BOU2 site has been developed, and taking account of the existing development at Essex Place, it seems to me that the built frontage would in fact increase by less than 50 per cent. That is not an insignificant amount, but nevertheless, in the absence of any clearly identified harm, it does not make the development unacceptable.
94. Although the Inspector considered the present appeal site less preferable than the BOU2 site, nothing in his comments seems to me to rule the site out of consideration for development in circumstances where a need is proved, as is the case now.

Overall effects on character and appearance

95. In the light of all the above matters, I conclude that any harm that the development might cause to the landscape of the AONB would be no more than slight. There would also be no significant harm to the setting of Bourton-on-the-Water, and no conflict with Policy 19 in this respect. The development's overall effects on the effects on the area's character and appearance would therefore be very limited.

Other matters

Traffic and highway safety

96. Station Road is one of Bourton's main local roads. Although the inquiry took place during the school holidays, I am well aware that traffic conditions in term time will be different. From the submissions of local residents, I have no doubts that the traffic can be heavy in the peak periods, and that queuing often occurs at the Fosse Way traffic signals. These observations are further confirmed by the survey information in the Transport Assessment report. In addition, Station Road is also an important route for pedestrians, particularly for children attending both the Cotswold School and Bourton Primary School. There is no footway on the western side, until further down, beyond the Park Farm development. The proposed development would add to the existing traffic, both vehicular and pedestrian. The Parish Council and local residents raise a number of concerns, principally relating to safety and congestion.
97. I appreciate these concerns, and I agree that safety in particular is of great importance. However, the proposed new access to the site would meet the Highway Authority's requirements with regard to road width, kerb radii, visibility splays, and other relevant details. The position of the new access would also achieve the required distance of 90m from the Fosse Way junction. It would still be very close to the minor junction with Springvale, with only a

- 10.5m stagger between. But alterations to the Springvale junction are proposed, including tightening the existing radius, which would have the effect of reducing the speed of turning traffic, and narrowing the crossing point for pedestrians. With the benefit of these off-site improvements, I consider the proposed new access to the appeal site would provide an acceptable level of safety.
98. In addition, the proposed off-site works would include the provision of a new footway along the western side of Station Road. This would extend from the site access, northwards to connect with Fosse Way, and southwards to the existing bus stop. A new 'informal' crossing point would be provided adjacent to the bus stop, defined by dropped kerbs and tactile paving, and a financial contribution would also be made to the County Council's scheme for a pelican crossing further down the road. These facilities would be significant benefits, providing enhanced safety for existing users, as well as serving the new development.
99. It is true that there would still be a length of Station Road without a footway on its western side, but an alternative exists via the eastern side. The new informal crossing close to the site entrance would not have traffic controls, but it would be clearly recognisable as a crossing point, and as such it would provide an element of enhanced protection for children and others. Station Road may be well used, but not so much so that the traffic has no gaps. The road is subject to a 30 mph limit, has lighting throughout, and is not unduly wide. It is therefore not an inherently hostile or dangerous environment. I also note that around Cotswold School itself, a School Safety Zone scheme is in operation, with an advisory 20mph limit at school times. Certainly, younger children would require supervision crossing or using the road, but that is not unusual in an urban location. Consequently, with the new facilities now proposed, it seems to me that pedestrians of all ages would be able to access the proposed development in reasonable safety.
100. With regard to the congestion at the Fosse Way signals, I accept that this causes great inconvenience at present. However, the proposed works include the widening of the approach along Station Road, and the provision of a left-turning lane. Whilst some of those who spoke at the inquiry expressed scepticism, I see no reason to doubt the statistical evidence that this measure would substantially increase the junction's capacity, more than offsetting the extra traffic generated by the development itself, and providing a significant net benefit.
101. A Travel Plan is proposed by the appellants, which is aimed at promoting the use of alternatives to the car. The likely effectiveness of those measures in achieving a reduction in car usage was not questioned at the inquiry.
102. I note that Gloucestershire County Council, as Highway Authority, does not object to the proposed development, subject to relevant conditions. This reinforces my view that from the point of view of traffic impacts and highway safety, the development would be acceptable.

Drainage and flooding

103. Bourton has existing problems with both its surface and foul water drainage systems. In heavy rainfall, the network gets overloaded, and surface water cannot drain away. Run-off from the appeal site and other land causes flooding

on the Cotswold School site and the back gardens of properties in Park Farm, and elsewhere. Standing water cannot drain away from the school because of the size of the drainage pipes under the railway embankment and beyond. Even if it were able to drain more rapidly, that would only increase the vulnerability of the village centre, where there was severe flooding in the storms of July 2007. Surface water also infiltrates into the foul sewer network, causing raw sewage to overflow on some occasions. The Parish Council and residents are concerned that development on the appeal site would exacerbate these existing problems and increase the risk of flooding to neighbouring properties and the village as a whole.

104. I fully understand these concerns and the circumstances behind them. However, from the technical evidence submitted, it is clear that Bourton's surface water drainage and flooding problems have been taken into account in the appeal proposals. The proposed solution is to provide an attenuation pond or basin, with a vortex mechanism, so that in heavy rainfall, the run-off from the site would be restricted and the surplus held on site. In this way, the rate at which water was discharged to the downstream network would be reduced to significantly less than the existing greenfield rate. The system would also be able to divert run-off water from reaching the adjoining gardens. Consequently, the proposed development would relieve some of the existing pressure on the town's surface water infrastructure, and would substantially reduce the existing flood risks in the surrounding area.
105. The technology involved is well established, and the appellants' proposed solution is not objected to by the Council, or any of the other statutory bodies with responsibilities relating to flooding. I am therefore satisfied that the solution is feasible and deliverable. Many of the details remain to be worked out, including the future management arrangements, but these will need to be considered in the context of the overall layout and design which are reserved matters. These matters can be dealt with by conditions.
106. With regard to foul drainage, in the light of Thames Water's amended advice, it appears that some improvements may be needed to the existing sewerage network. Such off-site works would fall within the requisition procedure under the Water Industry Act 1991, which includes provision for funding by developer contributions. Although the precise nature of the necessary works has not yet been identified, there seems no reason to doubt that they can be carried out, and that the site will then be capable of being drained satisfactorily, without any adverse impacts. The Council accepts that this can be dealt with by way of a condition, and I agree.

Ecology

107. The appeal site's south-eastern most field is identified as species-rich semi-improved grassland. RR2 was that insufficient information had been submitted to demonstrate that the development would not have an unacceptable impact on habitats and species of principal importance.
108. However, in the Statement of Common Ground, the Council accepted that this concern could be overcome by the definition of an 'Ecology Zone', based on Plan No EC04, within which there would be no development other than that required for surface water drainage. And in a subsequent joint statement, the Council and the appellants agreed that this could be dealt with by a condition.

109. For the proposed surface water drainage system to be effective, it would be necessary for the attenuation pond and pumping station, and the associated access tracks sewers, to be located in, or partly in, this southeastern corner, being the lowest point of the site. These facilities would take up part of the proposed Ecology Zone. However, there is no realistic alternative location for them. And although the existing habitat is of some significance, it has no formal designation as such in policy terms. A similar habitat could also be recreated within the proposed new open space area on site.
110. In the circumstances, I agree that the interests of nature conservation and biodiversity could be adequately protected by a condition, to protect the Ecology Zone from any development other than that required for surface water drainage infrastructure.

Social and economic benefits

111. In the light of the admitted shortfall in the supply of housing land, the provision of 100 new dwellings would be a significant benefit.
112. In addition, the Council agrees that there is a particular need for affordable housing. That need is expressed in LP Policy 21, which seeks the inclusion of affordable housing in all residential developments in the main settlements. The appeal proposals include a legal obligation which ensures that 50 of the units would be provided as affordable rented or intermediate housing, as defined in the relevant national policies. Given the shortage of such housing in the area, and the high level of house prices relative to local incomes, this would be a substantial benefit.
113. The proposed development would also have economic benefits. As a large-scale project, it would generate a significant amount of investment and economic activity, contributing to the national economic recovery. During the construction phase it would create jobs and a demand for local services. After completion, the new residents would bring additional spending power to the town. Paragraphs 18 and 19 of the NPPF gives significant weight to the need to support economic growth, and Section 143 of the Localism Act 2011 requires that regard is paid to local financial considerations. These matters count in favour of the development.

Planning obligations

114. Three unilateral legal undertakings and one bilateral agreement have been entered into by the appellants. In order to satisfy Regulation 122 of the CIL Regulations⁶, and paragraph 204 of the NPPF, the obligations within them must be necessary to make the development acceptable in planning terms; and be directly related to the development; and be fairly and reasonably related in scale and kind. Each of the four deeds also contains a clause expressly stating that its effect is conditional upon the appointed Inspector not finding the obligations to be either irrelevant or unnecessary, or to be non-compliant with the CIL Regulations.
115. The first undertaking requires the provision of 50% of the proposed dwellings as affordable housing, with further provisions as to the breakdown of these units into different types, sizes and tenures. The second undertaking provides for financial contributions totalling £285,850 to education facilities at

⁶ The Community Infrastructure Levy Regulations 2010

Bourton Primary School, and £19,600 to local library services. The third requires the provision of on-site public open space, and the setting up of a management company with responsibility for the maintenance thereof. The agreement provides for contributions of £22,000 towards footpaths and related works, including a new crossing at Station Road, and £47,000 for the implementation of the travel plan.

116. Although there was some discussion at the inquiry about a small number of issues relating to detailed wording, I am satisfied that all of the obligations are robust and would meet their aims.

117. I note the criticisms of Cotswold School, regarding the lack of any contribution to secondary education, and I am aware that initially such a contribution was sought. But at the inquiry, the District Council confirmed that it was content with the obligations, and accepted that they overcame the concerns that had given rise to the original refusal reasons. The Education Authority has not commented directly on the appeal, and did not take part in the inquiry.

118. The need for the development to provide for affordable housing, pedestrian facilities, a travel plan, and open space is explained elsewhere in this decision. The need for the contributions to primary education and libraries is adequately justified in the County Council's submission at the application stage. None of these obligations are disputed in any way. The development plan provides a basis for such obligations, in Policies 21, 34, 38 and 49. Having regard to all of the evidence before me, I am satisfied that all of the obligations in this case are necessary, directly related, and reasonable in scale and kind, thus meeting the relevant legal and policy tests.

Conditions

119. I have considered the suggested conditions in the light of Circular 11/95, that conditions should be necessary, relevant, precise, enforceable, and reasonable. Those that I consider should be imposed here are set out in the attached schedule. In some cases, I have edited the proposed wording to better meet the Circular's tests.

Conditions to be imposed

120. Conditions Nos 1-3 deal with the standard requirements relating to outline permissions and reserved matters.

121. Conditions 4-6 deal with highway matters. Nos 4 and 5 secure the provision of the new site access and off-site highway improvements, as proposed in the submitted plans. These works are necessary in the interests of highway safety. However, there is no need for either of these conditions to require the submission of full engineering details, because the details already submitted are sufficient for planning purposes. And in any event, detailed matters relating to works within the highway, or a road proposed for adoption, can be adequately controlled under other legislation. Condition 6 requires the provision of the estate roads within the development, subject to further details, for reasons of safety and to ensure a satisfactory residential environment. Both conditions 4 and 6 allow for the required works to be limited initially to base course level, to allow for subsequent use by construction traffic, but provision is made for full completion in accordance with an agreed timetable.

122. Conditions 7 and 8 relating to surface and foul water drainage are needed to ensure satisfactory provision for the development, and to reduce the risk of flooding, both on the site and in the surrounding area.
123. Condition 9 requires the provision of an area of open space adjacent to the Fosse Way, as proposed in the indicative master plan. The condition is necessary because although some matters relating to open space are dealt with in one of the legal undertakings, those matters do not include the location. For the reasons explained elsewhere in this decision, it is important that there should be a substantial area of open space on this western boundary, to ensure an attractive edge to the urban area.
124. Conditions 10 and 11 deal with matters relating to ecology. Condition 10 secures the ecological mitigation measures proposed in the submitted report, and Condition 11 secures the provision of the proposed Ecology Zone, in the south-eastern corner of the site. These are needed to offset the development's impacts on wildlife and habitats of nature conservation interest.
125. Conditions 12 and 13 relate to landscaping. Condition 12 clarifies the nature of the details required, secures the implementation of the landscaping works, and provides for replacement planting if any of the landscaping fails. Condition 13 secures the retention and protection of the existing trees and hedgerows. These conditions are needed in the interests of ensuring a satisfactory appearance and softening the development's impact.
126. Condition 14 sets out requirements as to the maximum noise levels within the dwellings and rear gardens, as agreed between the Council and the appellants following the inquiry. These limits are necessary in order to ensure acceptable living conditions for future residents, given the potential for traffic noise from the Fosse Way. Condition 15 sets a height limit of 9m on new buildings, as agreed at the inquiry, to limit the development's visual impact. Condition 16 requires the provision of fire hydrants, in the interests of public safety.
127. Condition 17 requires a construction management plan to be adopted and adhered to, in order to protect the living conditions of neighbours during construction. However, I have amended the list of matters to be included, so as to include only those that are likely to have any significant effects. Condition 18 requires the implementation of the Travel Plan as submitted, in the interests of promoting sustainable transport.

Other conditions not imposed

128. I note the Council's request for a condition requiring the reserved matters to accord with the principles and parameters set out in the Design and Access Statement. However, these are somewhat conceptual in nature, and consequently such a condition would lack clarity as to what was required. And in any event, other approaches might be equally acceptable.
129. I can see no particular need for the proposed condition relating to phasing. A phased approach to the development might well be appropriate from a practical point of view, but that is a matter for the developer. Nothing in the conditions that I intend to impose would prevent phasing. The proposed condition requiring a phasing plan is therefore unnecessary.

130. Matters relating to floor levels and parking provision for cars and cycles can all be adequately controlled through the approval of reserved matters. Additional conditions relating to these are not necessary.
131. The submitted plans show that the required visibility splays can be easily accommodated, within land to be laid out as roads and footways within the public highway. The provision of these highway works is already secured, by other conditions. An additional condition relating to the splays is therefore unnecessary.
132. I note the Council's desire for conditions relating to possible contamination. However, it was accepted at the inquiry that the site's known history gives no reason to suspect any such problems. I accept that residential development is a sensitive use, but that does not justify imposing a potentially onerous requirement where there is no apparent need.
133. I also note the Council's request for a condition relating to the minimisation of construction waste. But in the absence of any relevant policies in the development plan, the condition's relevance to planning has not been sufficiently established.

Overall planning balance and conclusions

Planning balance

134. On the one hand, the proposed residential development would cause a loss of openness on the edge of this part of Bourton-on-the-Water, within the AONB. This would extend the town's existing developed frontage to the Fosse Way, and partly obscure views to the south. However, the site has little intrinsic quality, and is seen mainly in the context of the built-up area. And furthermore, none of the views of either the town or the countryside are particularly significant, especially in the context of the AONB as a whole. Consequently, any actual harm to the AONB and its scenic beauty would be very limited.
135. On the other hand, the development would provide housing to meet an acknowledged local need, including a very high proportion which would be for affordable housing. It would also help to relieve the existing flood risk to surrounding properties, and to ease traffic congestion at the Fosse Way junction, and the off-site highway works would add to pedestrian safety. In addition, the development would provide investment and jobs to benefit the local and national economy. Weighed in the balance, it seems to me that these are substantial advantages, which together clearly outweigh the limited harm.
136. Given the obligations that have been entered into, and appropriate conditions, all other impacts including the effects on the foul drainage network, and on wildlife habitats, could be adequately mitigated.

Conclusions in relation to the development plan

137. The development would conflict with LP Policy 19, by being outside the settlement boundary. But that policy is now out of date, as a result of the lack of a 5-year housing supply. In the circumstances, it seems to me that the conflict is outweighed by the benefits that I have identified. The scheme would not conflict to any material extent with Policy 19's other aims, including those

relating to the preservation of existing development patterns and open spaces. No conflicts have been identified with any other development plan policies.

Conclusions in relation to NPPF policies for development in the AONB

138. The lack of a 5-year supply of housing land is an exceptional circumstance, and the urgent need to rectify that situation is very much a matter of public interest. Given also the development's positive economic effect, the lack of alternatives, and the lack of environmental harm, the conditions for major development in the AONB are therefore met. Although the protection of the AONB's beauty is a matter to which I give great weight, in the present case the proposed scheme could be carried out without significant harm. The development would therefore not conflict with the relevant NPPF policies relating to AONBs.

Overall conclusion

139. I conclude that although the proposed development would cause some harm to the Cotswolds AONB, this would be limited, and would be outweighed by the scheme's benefits in meeting local housing needs, reducing flood risks and traffic congestion, improving safety, and supporting economic growth. All together, these benefits are compelling, and there is no evidence of any other alternative that would achieve similar benefits with so little environmental harm. The scheme would therefore represent sustainable development.

140. I have taken into account all the other matters raised, but none alters this conclusion. The appeal is therefore allowed.

John Felgate

INSPECTOR

SCHEDULE OF CONDITIONS

The planning permission to which this decision relates is granted subject to the following conditions.

- 1) Details of the appearance, landscaping, layout, and scale of the development, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins. The development shall thereafter be carried out in accordance with these approved details.
- 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 shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) The access to the site shall be laid out as shown on the approved plan, Drawing No H371/4 (Revision A). No other development shall be carried out until the first 20m of the proposed access road and footways have been constructed to at least base course level, and a timetable for the full completion of these works has been submitted to the local planning authority and approved in writing. These works shall thereafter be completed in accordance with the timetable thus approved.
- 5) No dwelling shall be occupied until the off-site road works shown on plan No H371/4 (Revision A), have been completed in accordance with the approved plan, including the widening of Station Road to form a left-turn lane, the provision of a footway on the western side of Station Road, alterations to the Springvale junction, and the provision of an informal crossing point adjacent to the existing bus stop.
- 6) The layout details to be submitted under condition 1 above shall include details of all necessary on-site highway infrastructure, including access roads, turning areas, footways, street lighting and highway drainage, together with a timetable for the implementation of these works. No dwelling shall be occupied until the highway infrastructure serving that unit has been provided, in accordance with the approved details, and the relevant roads and footways finished to at least base course level. These works shall thereafter be fully completed in accordance with the approved timetable.
- 7) No development shall take place until a detailed scheme of surface water drainage has been approved in writing by the local planning authority. The scheme shall provide for the attenuation of surface water run-off from the site to the existing network, at less than the existing greenfield rate, in accordance with the outline proposals contained in the submitted 'Flood Risk Assessment and Drainage Strategy' (dated July 2012). The scheme shall also include details of the system's on-going management and maintenance requirements, and a management plan setting out how those requirements will be provided for. The surface water drainage scheme shall be implemented as approved. No dwelling shall be occupied until the necessary infrastructure to serve that unit has been installed and made operative. Thereafter, the surface water drainage system shall be maintained and managed in accordance with the approved details.
- 8) No development shall take place until a foul water drainage scheme has been approved in writing by the local planning authority. The scheme shall include all of the works needed to enable foul sewage from the development to be

discharged to the public sewer network. No dwelling shall be occupied until the necessary works have been completed in accordance with the approved scheme.

- 9) The details of layout and landscaping to be submitted under Condition 1 shall include provision for an area of public open space fronting onto the Fosse Way, broadly as shown on the indicative master plan, Drawing No BW-01 (Revision C), together with a timetable for the implementation of the said open space. The open space shall be laid out and made available for use by the public, in accordance with the approved details and timetable.
- 10) No development shall take place until a detailed scheme of ecological mitigation and enhancement measures has been submitted to the local planning authority and approved in writing. The scheme shall include fully detailed proposals following from the recommendations in section 5 of the submitted Ecological Assessment report (dated July 2012), together with a timetable for their implementation. The required measures shall be implemented in accordance with the scheme and timetable thus approved.
- 11) The area defined on Plan No. EC04 shall be identified as an Ecology Zone. Within this Zone, no development shall take place except as may be needed in connection with the surface water drainage scheme required under Condition 7. The remaining land within the Zone shall be managed for the conservation of the existing grassland, in accordance with an Ecology Zone Management Plan, to be submitted to and approved in writing by the local planning authority prior to the commencement of development anywhere on the site.
- 12) The landscaping works to be approved under Condition 1 shall include details of all planting and seeding, the surfacing of all hard surfaced areas, all boundary treatments, any earth mounding or re-contouring of the land, and any signage and street furniture. The landscaping works thus approved shall be carried out in accordance with the approved details, and in accordance with a programme to be submitted to and approved in writing by the local planning authority. Any tree or plant forming part of the approved landscaping scheme which dies, or becomes seriously damaged or diseased, or is removed for any reason, within a period of 5 years after planting, shall be replaced during the next planting season with others of similar size and species.
- 13) No development shall take place until a tree and hedgerow protection scheme has been submitted to and approved in writing by the local planning authority. The scheme should show all existing trees and hedgerows on or adjacent to the site, and should identify whether each is to be retained or removed, together with details of measures for the protection of the retained trees and hedgerows before and during the course of development. These measures shall include protective fencing, and such fencing shall be erected in accordance with the approved plans and particulars before any equipment, machinery or materials are brought on to the site, and shall remain in place until the latter have been removed from the site and the development has been completed. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made. No retained tree or hedgerow shall be cut down, uprooted or destroyed, nor be topped, lopped or pruned other than in accordance with the approved details. Any works which may be thus approved shall be carried out in accordance with BS 5837. If any retained tree or hedgerow is removed, uprooted or destroyed or dies, within a

period of 5 years from the date of completion of the development, replacement planting shall be carried out in accordance with details to be approved in writing by the local planning authority.

- 14) No development shall take place until a noise mitigation scheme has been submitted to the local planning authority and approved in writing. The scheme shall provide for all new dwellings to achieve internal noise levels not exceeding 35 dB LAeq 16-hour (daytime) and 30 dB LAeq 8-hour (night time) within habitable rooms, with windows closed. Where necessary, alternative means of passive ventilation shall also be provided. The scheme shall also provide for maximum external noise levels not exceeding 55 dB LAeq 16-hour (daytime) within all rear gardens. The development shall be carried out in accordance with the noise mitigation scheme thus approved.
- 15) Notwithstanding the details given in the submitted Design and Access Statement, no dwelling shall exceed a maximum height of 9m from existing ground level
- 16) The layout details to be submitted under Condition 1 shall include details of fire hydrants to be provided within the development. None of the proposed dwellings shall be occupied until the said fire hydrants have been installed in accordance with these approved details.
- 17) No development shall take place until a construction management scheme has been submitted to the local planning authority and approved in writing. The scheme shall include details of working hours, areas for the parking of vehicles and storage of building materials during construction, and measures for wheel cleaning and for the suppression of dust. The details thus agreed shall be adhered to throughout the construction period, including during all landscaping works.
- 18) The Residential Travel Plan dated May 2012, which is appended to the Transport Assessment submitted with the application, shall be implemented and adhered to.

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Miss Lisa Busch, of Counsel

Instructed by the Head of Legal Services

She called:

Mr Robert Eaton,
BA(Hons) MTPL MRTPI

RJE Planning

Mr James Overall,
BA(Hons) CMLI

Ovelier Consultants

FOR THE APPELLANT:

Mr Anthony Crean, QC

Instructed by Mr Dobson

He called:

Mr Mervyn Dobson, MA
MPhil MRTPI MRICS

Pegasus Group

Mr Paul Harris, BA DipLA
CMLI

MHP Design Ltd

Mr Peter Finlayson, BSc
CEng MICE MIHT
MCIWEM

PFA Consulting

Mr Peter Amies, BSc
(Civil Engineering)

Phoenix Design Partnership

OTHER INTERESTED PERSONS WHO SPOKE AT THE INQUIRY:

Cllr Alan Palmer

Parish Councillor - Bourton Parish Council

Mr Will Morgan

Principal, Cotswold School

Mr James Hickman

Bourton Against Development (BAD)

Cllr Sheila Jeffery

District Councillor for Bourton

Mrs Sue Cretney

Parish Clerk - Bourton Parish Council

DOCUMENTS TABLED AT THE INQUIRY

GENERAL DOCUMENTS

- Set of Core Documents (5 volumes)
- GEN-1 List of Core Documents
- GEN-2 Local Plan Proposals Map – Sheet 1
- GEN-3 Local Plan Proposals Map – Sheet 2
- GEN-4 Agreed map of sites to view and viewpoints
- GEN-5 Joint list of comments on proposed conditions (version 4, 8 August 2012)
- GEN-6 Joint statement re proposed ecology zone (tabled after the close of the inquiry, at Inspector's request)
- GEN-7 Agreed condition re noise limits (tabled after the close of the inquiry, at Inspector's request)

DOCUMENTS TABLED BY THE COUNCIL

- COU-1 Opening submissions by Miss Busch
- COU-2 Closing submissions by Miss Busch

DOCUMENTS TABLED BY THE APPELLANTS

- APP-1 Opening submissions by Mr Crean
- APP-2 Wainhomes case - judgement
- APP-3 Derbyshire Dales case - summary
- APP-4 Smith v East Relloe RDC case – judgement
- APP-5 Appeal decision – land at Honeybourne, Worcs
- APP-6 Cotswold District SHLAA Review 2012 (extract)
- APP-7 Robert Hitchins Ltd submissions to Local Plan Inquiry, 2004
- APP-8 Robert Hitchins Ltd comments on draft Local Plan, July 2013
- APP-9 Layout plan of proposed access and junction alterations – Drawing No H371/4, Rev.A
- APP-10 Section 106 agreement with Gloucs County Council, dated 7 August 2012
- APP-11 Section 106 undertaking, relating to affordable housing, dated 8 August 2012
- APP-12 Section 106 undertaking, relating to education and libraries, dated 8 August 2012
- APP-13 Section 106 undertaking, relating to public open space, dated 8 August 2012
- APP-14 Edward Poole v Cannock Chase - judgement
- APP-15 Closing submissions by Mr Crean

DOCUMENTS TABLED BY OTHER INTERESTED PERSONS

- INT-1 Statement by Mr Morgan
- INT-2 Statement by Mr Hickman
- INT-3 Cotswolds Conservation Board - comments on Draft Local Plan (tabled by Mr Hickman)
- INT-4 Statement by Cllr Palmer
- INT-5 Diagram of Fosse way/Station Road junction by Cllr Palmer
- INT-6 Written submissions by County Councillor Paul Hodgkinson
- INT-7 Submission on behalf of the Parish Council, tabled by Cllr Palmer and Mrs Cretny
- INT-8 Parish Council's list of alternative sites - tabled by Cllr Palmer and Mrs Cretny