



Appeal Decision

Inquiry held on 19-22 May 2015

Site visits made on 18, 21 and 22 May 2015

by John Felgate BA(Hons) MA MRTPI

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

Decision date: 03 July 2015

Appeal Ref: APP/P1615/A/14/2228466

Land off Chartist Way, Staunton, 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 Gloucester Land Company Limited against the decision of Forest of Dean District Council.
 - The application Ref P0901/14/OUT, dated 29 May 2014, was refused by notice dated 10 September 2014.
 - The development proposed is residential development for 45 dwellings, including infrastructure, ancillary facilities, open space and landscaping, with vehicular access from Chartist Way.
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Decision

1. The appeal is dismissed.

Preliminary matters

2. The application as submitted sought outline planning permission, but with all details included except for appearance. At the inquiry, the appellants asked for this to be amended so that all details were reserved. The Council did not object to this change. I have dealt with the appeal on this basis, and have therefore treated the submitted plans as illustrative.
3. Notwithstanding the above, it was agreed that the intended access location would be from Chartist Way, and that if permission were granted, this could be controlled by condition.
4. Three legal undertakings have been entered into by the appellants, relating to affordable housing, on-site open space, and contributions to off-site recreation and library provision. In the light of these obligations, the Council did not pursue Refusal Reason no. 3 (RR3) at the inquiry. I will comment further on these matters elsewhere in my decision.

Policy background

The development plan

5. For the purposes of the present appeal, the only relevant development plan policies are those of the Forest of Dean Core Strategy (the CS), adopted in February 2012).
6. In the CS, the settlement of Staunton and Corse is defined as a Service Village, which is the fourth tier in the hierarchy. The proposals map defines a

development boundary around the central part of the settlement. The appeal site lies outside that boundary.

7. Policy CSP1 relates to design and environmental protection. In considering new development, account is to be taken of the effects on the landscape, and on historic sites and heritage assets, amongst other things. The supporting text states that: *"The policy is intended to promote local distinctiveness as well as good design and conservation... Much of the strategy depends on the maintenance or enhancement of the quality of the landscape... While recognising that change is inevitable, it seeks to ensure that new development makes a positive contribution..."*
8. Policy CSP4, 'Development at Settlements', requires new development to reinforce the existing settlement pattern, and states that most changes are expected to take place within existing town and village boundaries. Development at villages should be in accord with the settlement's size and function.
9. Policy CSP16 sets out the approach to development in villages. The policy states that, where appropriate, settlement boundaries will be a key determinant. With regard to the Service Villages, the supporting text states that these are likely to see relatively little change; their settlement boundaries will be reviewed in a later DPD, but new major housing allocations are unlikely, and half of the total change expected can be met from existing permissions.
10. In the Statement of Common Ground, the Council accepts that the need to allocate land for housing and employment, in future DPDs, means that the CS settlement boundaries are not up to date. Nevertheless, they are still part of the statutory development plan, to which I must have regard in accordance with Section 38(6) of the 1990 Act.

Emerging policies

11. The initial draft version of the Allocations Plan (the AP) was published for public consultation in July 2014, and the 'publication version' was issued for a further round of pre-submission consultation in March 2015. The period for representations ended on 20 May 2015, just before the close of the present inquiry.
12. At Staunton/Corse, the draft plan proposes to designate an extensive area, as a 'Locally Valued Landscape' (draft Policy AP96). The present appeal site lies within that area. The plan also proposes two changes to the settlement boundary: one adjacent to the appeal site, where a development of 15 affordable dwellings has already been built (Freedom Close), and the other to the east of Gloucester Road, where a new allocation for 20 dwellings is also now proposed (draft Policy AP95).
13. Although the Council apparently intends to submit the AP for examination quite soon, the plan itself states¹ that before then it will be reviewed in the light of representations, and a revised version published, which may include further changes, either minor or major. And whilst full information on the latest consultation responses is not yet available, it is evident that policies AP95 and AP96, and a number of other policies and proposals, are subject to objections.

¹ The AP, p9

Consequently, to my mind, the AP is still at a relatively early stage, and as such it carries only limited weight.

Main issues

14. In the light of all the submissions before me, I find that the main issues in the appeal are:
- the proposed development's effects on the nearby heritage assets, and their settings;
 - and whether the District has an adequate supply of housing land.

Reasons for decision

Effects on heritage assets and their settings

Legal and policy considerations and other relevant guidance

15. Under Section 66(1) of the relevant Act², I must have special regard to the desirability of preserving the settings of any relevant listed buildings. There is no directly equivalent duty in relation to the setting of a CA, but nevertheless, the effects of development on a CA's setting is a material planning consideration.
16. In the National Planning Policy Framework (NPPF), paragraph 17 sets out the core planning principles. One of these is to conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations.
17. In the case of designated assets, paragraph 132 requires that great weight should be given to their conservation. The same paragraph also goes on to say that significance can be harmed or lost through development within the asset's setting.
18. Paragraph 134 states that where a designated asset would suffer what is referred to as 'less than substantial harm' to its significance, that harm should be weighed against any public benefits of the proposal. In the case of non-designated heritage assets, paragraph 135 advises that a balanced judgement will be required, having regard to the scale of any harm, either direct or indirect, and the asset's significance.
19. The NPPF Glossary defines 'setting' as the surroundings in which a heritage asset is experienced. Further guidance is contained in English Heritage's publication 'The Setting of Heritage Assets', which suggests that setting should be understood to embrace all of the surroundings from which the asset can be experienced, or which can be experienced from or with the asset itself. The same document goes on to comment that the way in which an asset is experienced may extend beyond purely visual considerations, to include spatial associations and historic relationships between places.

Historical context

20. The historical and factual background to the heritage assets at the settlement that is now Staunton and Corse is not a matter of dispute. The present day settlement had its origins in the Chartist movement of the mid-19th century.

² The Planning (Listed Buildings and Conservation Areas) Act 1990

The Chartists campaigned for universal suffrage, a bill of rights, and better social conditions. The movement played a significant part in bringing about the political and constitutional reforms that followed in the latter part of the 1800s. As such, Chartism played an important role in Britain's social and political history.

21. One of the ways in which the Chartists sought to promote change was through the establishment of a series of self-contained rural settlements, in which the settlers would escape unemployment and poor housing, and support themselves from the land; and also, by becoming land-owners, gain the right to vote. Five such settlements were established throughout the country. One of these straddled the parishes of Staunton and Corse, and was known as Snigs End. The rarity of the Chartist settlements, and their association with such a notable episode in our national history, gives to what now remains of Snigs End its special historic and architectural interest.
22. The original Snigs End settlement covered a larger area than the present day Staunton and Corse. Within that area, much of the original layout is still clearly recognisable, with its characteristic pattern of smallholdings, in a range of different sizes, with regular, geometric plot boundaries. Likewise, many of the former Chartist cottages remain, with their distinctive single-storey design and repeated standard floor plan. Although many of these have now been heavily altered or extended, most are still readily identifiable as survivors from the original scheme. In this context, I note the Council's evidence, which was not seriously challenged, that Snigs End is in some ways the most typical example, and one of the best preserved, of all the Chartist settlements.

The heritage assets and their significance

23. The designated heritage assets relevant to this appeal comprise the Snigs End Conservation Area (the CA) and certain of the individual Chartist cottages that are listed. The CA covers a very large area, including most of the original Chartist settlement area, but excluding the central part around Prince Crescent, where most of Staunton/Corse's modern development has taken place.
24. In the vicinity of the present appeal site, the CA includes Ledbury Road Crescent, which along its south side comprises a continuous row of 13 original cottages, each with their former smallholding plots to the rear. These were originally numbered 1-13 Ledbury Road Crescent, but some are now known mainly by name rather than numbers. Five of this group, Nos 5-9, back directly onto the appeal site. In the group as a whole, five are Grade II listed buildings, including No 5 and Belle Vue (No 9), which are particularly relevant to the appeal, due to their proximity. In general, the five listed cottages are those which have been least altered, and have particular significance for that reason.
25. The other eight cottages in Ledbury Road Crescent are not listed, and most have been altered or extended more significantly. But despite this, the original scale and form of their front elevations has largely been retained, and the spacing between the buildings has been maintained. This consistency of scale and rhythm gives the group as a whole a sense of unity and cohesion. And equally importantly, the smallholding plots have been left undeveloped, so that the dwellings can still be seen in something like their original context, and their relationship to the land can be appreciated. In this way, this group of cottages

at Ledbury Road Crescent seems to me to exemplify the self-sufficiency ideals and utopian spirit on which the Chartist settlement concept was based. Consequently, all of the 13 cottages in this group, whether listed or not, contribute positively to the special interest of the CA, and to its character and appearance. For this reason, it seems to me that those that are unlisted should be regarded as 'non-designated' heritage assets in their own right. And in any event, the whole group has significance because of its role as an integral part of the CA.

26. Prince Crescent is outside the CA, and has undergone substantial change, with extensive infilling and backland development. However, it is evident that the road itself was a significant element of the original settlement, and a number of the houses on both sides of it are clearly identifiable as Chartist cottages. Three are listed, and one of these, Lyndale, backs onto the appeal site. Of the unlisted Chartist dwellings in this area, the most relevant are Peartree Cottage, which again backs onto the site, plus Willow Bank which faces it, and the two dwellings at Brook Farm, just to the west. Despite the changes that have occurred elsewhere along Prince Crescent, at the western end, where these latter four cottages are grouped, the setting remains predominantly open and agricultural, and although some of the original boundaries have been lost or realigned, for the most part the layout of the Chartist smallholding plots is still legible. In the context of the settlement as a whole, these surviving remnants make an important contribution to aiding our understanding of the area's history. As such, to my mind, both the listed and unlisted Chartist cottages at this western end of Prince Crescent have some significance as heritage assets.
27. Individually, many of the Chartist cottages and other surviving features of the Snigs End settlement may at first sight appear unremarkable. However, it seems to me that this is a case where the collective value of the elements exceeds the sum of the parts. Looked at as a whole, the street pattern, plot layout, buildings and boundaries of the Chartist settlement provide a strong link to an important period in the area's past, and a visible reminder of its role in nationally significant historical events. As such, it seems to me that all of the buildings that I have identified, both designated and undesignated, have considerable significance as heritage assets.

The role of the appeal site

28. The appeal site lies in the gap between Ledbury Road Crescent and Prince Crescent. A considerable part of this gap has been filled in with modern estate development, centred around Chartist Way, and culminating in O'Connor Close and Freedom Close, both relatively recent additions. However, the appeal site extends beyond these, towards the narrowest part of the gap, and towards the more open countryside to the west.
29. The site is divided into two roughly equal parts by a central dividing tree belt. The eastern half, adjacent to Freedom Close, is a flat, featureless field, contained by existing development on two sides, and by substantial hedgerows or tree belts on the other two. Although in winter there are filtered views to and from some of the nearby heritage assets, nevertheless this part of the site is clearly separated from the open countryside, and appears visually more closely related to the Chartist Way estate. Consequently, this eastern area contributes little to any of the heritage assets' settings.

30. The western part of the site, on the other hand, is quite different. This part is far more open, with limited boundary vegetation, and with no existing development adjoining it except for Peartree Cottage in one corner. This western area therefore appears primarily as part of the expanse of open countryside around Brook Farm, extending towards Staunton Court. The land in this part of the site slopes gently down to a small stream, forming an attractive visual composition, with a distinctly rural character.
31. This western field is adjacent to the part of the Snigs End CA that contains Ledbury Road Crescent, with its 13 Chartist cottages, and their former smallholdings. Unlike the eastern field, this western area has a largely open boundary on this side, giving greater intervisibility. In particular, the western field directly abuts the listed Belle Vue and the unlisted No 8, but the intervisibility extends beyond these to some of the other cottages in the row. On its opposite side, the site's western field abuts Peartree Cottage, and is directly in front of Willow Bank and Brook Farm. This part of the site is prominent in views to and from all of these heritage assets, and on the approaches to them. It is therefore an important part of their visual setting.
32. In addition, the western field is crossed by two public footpaths, connecting Ledbury Road Crescent to Prince Crescent. In linking up the disparate parts of the former Chartist settlement in this way, these paths assist in understanding its overall layout, and appreciating the historical relationships between its different areas and their heritage assets. As well as the heritage assets identified in the previous paragraph, this includes some which have no direct intervisibility with this part of the appeal site, such as the listed No 5 Ledbury Road Crescent and Lyndale. Consequently, the footpaths across the appeal site are an important part of the surroundings in which all of the heritage assets in this part of the former Snigs End settlement are experienced.
33. The appellants draw attention to the Council's two reviews of the Snigs End CA boundary, in 2000 and 2014, which both concluded that Prince Crescent had altered so much that it had lost its original character. In so far as the built-up part of Prince Crescent is concerned, I do not disagree. However, I see no basis for suggesting that this comment was meant to apply to the appeal site. In any event, it does not change my view of the appeal site's contribution, as I have set out here.
34. Overall, it seems to me that the openness and rural character of the appeal site's western field contributes to the significance of the nearby heritage assets, by emphasising their association with the land, and illustrating something of the kind of landscape that might have existed at the time of their origin. I appreciate that some elements of the landscape have changed since Chartist times, including some changes to hedgerows and the types of vegetation within them, but generally these are minor; they do not negate the contribution made to the significance of the heritage assets by their setting. Consequently, for the reasons that I have explained, I consider that the western half of the appeal site forms an important part of that setting.

The effects of the proposed development

35. Development on the western part of the site would encroach into a very open landscape, where it would be exposed to medium and close range views from all sides. In this part of the site, such development would be alien and highly intrusive, destroying the openness and the pleasant rural character of this

stretch of countryside. In addition, the separation between the different parts of the former Chartist settlement would become blurred, and the appreciation of the area's history would thus be diminished. In my view, development having these effects would fail to preserve or enhance the settings of the listed buildings, and would adversely affect the setting of the CA and other heritage assets identified above.

36. On the eastern half of the site, whilst any development would still be outside the settlement boundary, and thus contrary to policy, it would not unduly affect the setting of the CA or other heritages assets, due to the clear physical and visual containment of the existing tree belts and adjoining development. However, the present proposal does not seek to confine development to that eastern area. The submitted plans show housing development on both sides of the central tree belt, and there is no evidence to suggest that the whole of the development could be accommodated without breaching that line. Even if it were possible to fit all 45 dwellings into the eastern field, it is clear that any other facilities, such as open space and drainage ponds, would have to extend into the western field. To my mind these would be equally urbanising in their effect, and thus equally damaging to the heritage assets' settings.
37. I accept that increased screening could be achieved through new planting. But the openness and continuity of the landscape would still be lost, and thus the harm would not be mitigated. Neither would it be reduced by providing interpretation boards, valuable though those might be.
38. I also note the appellants' contention that allowing development to extend beyond the existing tree line would in itself create a softer edge. But to my mind, whatever the possible merits of that approach in general terms, in this location any such benefits would not compensate for the harm that would be caused to heritage interests.

Conclusion on heritage impact

39. For these reasons, I conclude that the proposed development would cause conspicuous harm to the settings of the nearby heritage assets, and particularly to those of the Snigs End CA, the listed buildings Belle Vue, No 5 Ledbury Road Crescent, and Lyndale, and the non-designated Nos 6-8 Ledbury Road Crescent, Peartree Cottage, Willow Bank and Brook Farm. Although this harm would be 'less than substantial' in NPPF terms, nonetheless, it would still detract perceptibly from the assets' significance. This impact on heritage assets brings the proposed development into conflict with Policy CSP1, and with NPPF paragraph 17.
40. In accordance with NPPF paragraphs 132-135, the harm to both the designated and non-designated assets must be weighed in the overall planning balance against other relevant considerations. In the case of the designated assets in particular, the harm is to be given great weight. I address this planning balance later in my decision.

The supply of land for housing

Common ground

41. For the purposes of the appeal, the Council and appellants are both agreed that the 5-year supply should be measured against a requirement based on the adopted Core Strategy. On that basis, the basic annual requirement for the

period 2006-26 is 310 dwellings per annum. It is further agreed between the parties that the appropriate buffer to be applied in accordance with NPPF paragraph 47 is 20%, and that the shortfall of 376 units, from the period 2006-14, is to be treated as needing to be made up within the next five years. Taking these additions into account, the overall requirement for the 5-year period 2014-19 is agreed to be 2,236 units.

42. Against this requirement figure, the Council claims a supply of 2,367 dwellings, or around 5.3 years, whereas the appellants contend that the true figure should be 1,786 dwellings, or just under 4 years. The difference between the parties is therefore around 580 units, and it is common ground that I should focus my attention only on these disputed sites.

Disputed sites: 'Category 3' sites

43. Looking first at what was referred to at the inquiry as 'Category 3' of the disputed sites, these are a group of 10 sites, totalling 147 units, which are allocated in the draft AP, and which do not have planning permission. They are not by any means the only sites allocated for housing in that emerging plan, nor are they necessarily the only ones without planning permission, but they are those in that category which are disputed between the parties. I accept that Council officers have included these sites in the supply only where they have a high level of confidence that they are available and deliverable within 5 years. But the fact is that none has either a planning permission nor an allocation in an adopted plan, and the draft plan on which the Council relies is yet to be submitted for examination. It is therefore far from self-evident that these sites can be considered deliverable as of now. In these circumstances, it seems to me that the burden of showing why they should be counted rests very much with the Council.
44. I appreciate that a number of these Category 3 disputed sites are previously developed, and within built-up areas, and thus permission for these sites may not necessarily be dependent on the AP. However, that still leaves the question of whether the sites have a realistic prospect of coming forward within the required 5-year timescale. It is acknowledged by the Council that the local economy in the Forest Of Dean is not strong. The area was hit hard by the post-2008 recession and is only now beginning to recover. Some long-standing permissions and allocations have not been taken up (including some now included in disputed Categories 1 and 2), apparently due to the lack of buoyancy in the local housing market.
45. Of the previously-developed Category 3 sites, four are said to be vacant (Lawnstone House, the Victoria Hotel at Newnham, the George at Mitcheldean, and the Mitcheldean coach depot), and some of these have apparently been so for many years. It does not appear to be the lack of a development plan allocation that has held these sites back. Some of the others, such as the Kings Head, still have active commercial uses. The site at Hill Street, Lydney appears to require further site assembly, including a row of occupied shops in different ownerships. Others, such as the Victoria Hotel, have specific constraints such as listed buildings. All of these issues are likely to have some effect on the content, timing and viability of any development, and hence on its deliverability. In the absence of any of these previously-developed sites reaching the stage of even having a planning application submitted, there is

little evidence that these issues are likely to be overcome within the relevant period.

46. I appreciate that the Council's view has been informed by discussions with landowners, prospective developers, and their agents. But such discussions, by their very nature, can rarely be conclusive. Without any planning applications, the commitment of the relevant parties to developing these relatively difficult brownfield sites has not been demonstrated. At this stage therefore, there is too little evidence to justify the council's confidence in their deliverability.
47. And in any event, none of the arguments advanced for including these brownfield sites can apply to the remainder of the Category 3 disputed sites, which are wholly or mainly greenfield land. These include the proposed sites at Bream, Tutshill, north of Newnham, and the extension to Netherend Dairy, Woolaston. Until these sites have been endorsed through the AP public examination, there is no certainty that they will be allocated for development. Until then they remain in the countryside, and subject to potentially reasonable objections on that basis. These greenfield Category 3 sites can therefore not currently be regarded as available for development.
48. I accept that it is perfectly possible that some of the Category 3 disputed sites may yet achieve planning permission and deliver housing completions within the next five years. But the Council's calculations already include a windfall allowance for that eventuality. The purpose of the 5-year supply exercise is to ensure that sufficient specific sites can be identified. These must also be sites that are deliverable now. For the reasons that I have set out above, I am not persuaded that there is a case for the inclusion of any of the Category 3 disputed sites. This reduces the Council's supply figure to a maximum of 2,220 units. That figure is just below the agreed requirement.

Disputed sites: Categories 1 and 2

49. In the light of this finding, there is no need for me to consider in detail the merits of the disputed sites in Categories 1 and 2. The sites in these categories have either a planning permission or an allocation in an adopted plan. Whilst this does not make it certain that they will come forward, it is reasonable in principle to include them, unless there is specific evidence to the contrary.
50. However, in the case of the site at Foley Road, Newent, I note that the site owner's estimate is some 35 units less than the figure adopted by the Council, which suggests that the Council's figure is likely to be over-optimistic. And with regard to the allocated site for 29 units at Netherend Dairy, the Council accepts that the viability of this scheme depends on the proposed additional land which is one of the greenfield allocations in the AP. These two sites should therefore be excluded or adjusted, bringing the overall supply figure down further, to around 2,156 units, equal to about 4.8 years' worth.

The base date issue

51. In addition, as the appellants point out, there is an inconsistency in the way the Council's calculation is constructed, in that the base date for the purposes of calculating the requirement is 1 April 2014, and yet the supply information includes sites which have only qualified for inclusion after that date. I agree that it is desirable for the supply side information to be as up to date as

- possible. But in order to make the whole exercise internally consistent, it would then be necessary to update it throughout, taking account of the latest completions, and their effect on the other variables. In the event, the 2014-15 completions data was produced on only the final day of the inquiry, and was not accompanied by any other updating.
52. Those figures show that there were 372 net completions during the year. The completion of these dwellings will have reduced the numbers remaining to be built in future years on the sites that are already under construction, but the Council's forecasts have not been adjusted to reflect this. The Council's figures for housing delivery in the next five years are therefore likely to overstate what can be achieved from these sites.
53. Other adjustments may also be needed, to the cumulative shortfall, and the residual requirement, and some of these may go some way to counteract each other. But none of these additional calculations are before me, and any assumptions that I might make as to these matters would be speculative.
54. In the circumstances, it seems to me that the inclusion of any sites which would not have qualified for inclusion at the base date can only serve to make the whole exercise unreliable. I acknowledge that there is nothing in the NPPF or Planning Practice Guidance (PPG) which specifically covers this point, but in the absence of any advice to the contrary, it seems to me that the inclusion of the sites in question further undermines the Council's attempt to show that a 5-year supply exists.
55. For the most part, this issue is possibly somewhat academic, in that the majority of the sites affected are those in the Category 3 list, and for the reasons explained above, I have already concluded that this group of sites should all be excluded on grounds of deliverability or availability. This additional issue regarding base dates therefore merely reinforces the case for their exclusion. However, there is also one additional site, which is the Category 1 site at Southend Lane, Newent, which received planning permission in January 2015. The Council acknowledged that the inclusion of this site was open to question. For the reasons given, I consider that it too should be excluded. This results in a further deduction of 25 units from the supply, reducing it to around 2,131 units, or 4.76 years.

Conclusion on housing land supply

56. The NPPF makes it clear that the onus of demonstrating a 5-year supply falls on the planning authority. In the present case, for the reasons that I have set out, I conclude that the Council has failed to do so. I appreciate that the Council is taking steps actively to redress that situation by bringing forward the AP, but for the time being, there remains a shortfall.
57. Under NPPF paragraph 49, this means that relevant policies for the supply of housing cannot be regarded as up to date, and that the presumption in favour of sustainable development must be looked at in that light. I return to this in considering the overall planning balance.

Other matters

Landscape impact

58. At the inquiry there was some discussion as to whether the Council's RRs were intended to convey an objection on 'pure' landscape grounds, in addition to the effects on heritage assets. However, the Council clarified their position by accepting that their landscape concerns were embraced within their heritage objection. I have adopted the same approach.

Effects on adjoining occupiers

59. A neighbouring resident raised concerns at the inquiry regarding the effects on her enjoyment of her property, in the light of her experience following the construction of another recent development. Particular concerns were cited with regard to noise and visual intrusion. However, the precise effects on individual properties would depend on details such as the layout and siting of buildings, and their heights, and the positioning of doors and windows. All of these are now reserved matters. Provided these details were properly considered at the appropriate stage, I can see no reason in principle why housing on any part of the appeal site should have any unacceptable impacts on neighbouring occupiers.

Scale of development in relation to Staunton/Corse

60. Staunton and Corse is a reasonably large village, and has a range of basic facilities, including a primary school, doctors' surgery, convenience shop, village hall, and bus services. Although Policy CSP16 states that the Service Villages will see relatively little change, other housing developments have been permitted since that policy has been in force, and a further allocation is envisaged in the AP. Even on a cumulative basis, there is no evidence that a further 45 dwellings would overload any existing local services or infrastructure.

61. Given that housing land is in short supply in the District, I do not see any reason in principle why a development of the size now proposed should be regarded as too large to be accommodated here. But this does not outweigh the site-specific considerations that arise in the case of the present appeal site.

Legal undertakings

62. I have considered the three legal undertakings with regard to whether the obligations within them comply with the CIL Regulations³ and NPPF paragraph 204, and also whether their provisions represent a benefit to the public that should weigh in the planning balance. All three undertakings contain provisions that make them unenforceable if I find them non-compliant with those Regulations.

63. The proposed financial contribution to local library services would provide some benefit to the general public. However, it is not clear why such a contribution is necessary to make the development acceptable in planning terms. Any development would add to the demand for library services, but equally it would provide the Council with an increase in income, through Council Tax and the New Homes Bonus. The undertaking states that the contribution is to be used

³ The Community Infrastructure Levy Regulations 2010

for new computers, stock, furniture, increased opening hours, or capital works. In the main, these are items normally covered out of revenue, and there is no reason to think that the Council Tax receipts from this development would not be proportionate to the level of increased usage. It was admitted that there are no proposals for any capital works, nor is there any identified deficiency that would require such works. Consequently, on the evidence presented, I am not convinced that in the absence of this contribution, the development would cause such harm to the provision of library services as to justify withholding planning permission on this ground. I note that such a contribution would accord with the County Council's 'Local Developer Guide', but that is not a DPD or SPD. I therefore find the libraries contribution to be unnecessary, contrary to CIL Regulation 122 and the NPPF's tests for obligations. Accordingly, I give no weight to any benefit arising from this contribution.

64. In the case of the proposed contribution to off-site recreation facilities, it was explained at the inquiry that this would be put towards the Parish Council's scheme for the provision of an outdoor multi-use games area ('MUGA') on the existing recreation ground at Corse village hall. To my mind this is clearly a different situation from that above, in that in this case there is an identified capital works project. The contribution of £33,000 from this development would need to be pooled with other funding, but so far this would be the first development to contribute, and as such the project is allowable under CIL Regulation 123. I also note that there is specific provision for seeking contributions to recreation facilities in the adopted CS, in Policy CSP9. In these circumstances, I am satisfied that the proposed contribution in this case is necessary, and meets all of the other relevant tests, including both Regulations 123 and 122, and the NPPF. As the new MUGA would add to the range of facilities available to existing residents, it would provide a benefit to the local community. This weighs in favour of the development.
65. The on-site open space would include a 'LAP'-sized play area, and other open space, of a size to be determined at the reserved matters stage. The provision of these facilities would again accord with Policy CS9, and also with the Council's supplementary guidance. I am therefore satisfied that their provision would meet the Regulations and NPPF tests. The new facilities would be available to the general public, and the LAP would evidently fill a gap in the existing local provision. To this extent, they would be beneficial. However, there is no suggestion that the overall amount of on-site open space would exceed that required to provide for the development's own needs. Consequently, apart from the play area, the benefit to the wider community would be limited.
66. The affordable housing would be provided on site, and would comprise 18 dwellings, whose sizes, types and tenures have been agreed with the Council, having regard to the District's identified needs. This accords with Policy CSP5, and thus in my view meets the relevant legal and policy tests. Although, on the Council's figures, housing completions in the affordable sector have improved considerably, with an average of 140 p.a. over the last four years, and this is likely to have been enough to keep pace with new demand over that period, the 2014 SHMA Update report makes it clear that there is a sizeable backlog of unmet need from before that time. Consequently, the 18 affordable dwellings now proposed would represent a significant benefit.

Other benefits

67. Irrespective of the affordable element, the provision of 45 units of housing, in a District where there is a shortage of available land, would be a substantial benefit. The development would also generate investment and employment in the construction industry, and its suppliers, and a wide range of related goods and services such as home furnishings. These secondary impacts would support the national economic recovery, as sought by the NPPF. And the addition to the village's population and spending power would help to support the existing local services. I give some weight to all these benefits.
68. Whilst the New Homes Bonus would help to offset the demand on Council services, this is essentially a redistribution of monies already within the public purse, and I therefore give little weight to it as a benefit of this particular development.
69. I accept that there would be some potential for biodiversity gains, but there is no evidence that these would be substantial. I therefore give this little weight.

The planning balance and overall conclusions

70. The proposed development conflicts with Policies CSP 4 and CSP16, in that the appeal site is outside the settlement boundary. In the light of my conclusions above, it also conflicts with Policy CSP1, because of its adverse impact on heritage assets.
71. On the other side of the balance, there are other material considerations. The district has not got a proven 5-year land supply, so any relevant housing supply policies cannot be considered up to date. Arguably these might include CSP 4 and CSP16, although both of these have other purposes as well as providing for housing. In addition, the Council has accepted that the settlement boundary is out of date. In any event, the development would provide housing that would help to meet the shortfall, including affordable housing, and would boost the local and national economy. It would also provide a play area and contribute to bringing forward a new off-site recreation facility.
72. I have weighed up these competing considerations very carefully. Redressing a housing shortfall, and providing economic benefits, in particular, are matters which deserve significant weight. But the harm to the settings of the heritage assets that I have identified, both designated and non-designated, would be serious. The heritage assets in question are rare and their setting is fragile. The development would involve a substantial loss of their historic and architectural significance, and would thus undermine their value as heritage assets. This harm would be permanent in nature. The harm to the designated assets in particular, including the Snigs End CA, Lyndale, Belle Vue, and No 5 Ledbury Road Crescent, demands to be given great weight. Consequently, having regard to the balancing exercise required under NPPF paragraphs 134 and 135, I consider that the harm to heritage interests would outweigh the public benefits.
73. Furthermore, even though the out-of-date development plan policies may carry reduced weight, that does not mean they have no weight at all. The conflict with the settlement boundary, and resulting loss of countryside, still counts against the development, albeit in this case as a secondary consideration.

Overall therefore, in terms of the sustainable development balance in NPPF paragraph 14, it seems to me that the development's benefits are not merely outweighed by its adverse impacts, but are outweighed 'significantly and demonstrably'.

74. In the light of these conclusions, the development now proposed cannot be considered sustainable development, because of the clear environmental harm that it would cause to important heritage assets.
75. I have considered and taken account of all the other matters raised. None outweighs the harm that I have identified, or changes my overall conclusion for any other reason.
76. For the reasons set out in this decision, I conclude that the appeal should be dismissed.

John Felgate

INSPECTOR

Richborough Estates

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr James Corbet-Burcher Instructed by the Principal Solicitor to the Council
(of Counsel)

He called:

Mr David Haigh, JME Conservation
BA MA AA Grad DipCon
FSA Scot MIHBC

Mr Martin Hillier, Principal Planning Officer
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Mr Nigel Gibbons, Forward Plans Manager
BSc MRTPI

Mr Keith Chaplin, Housing Strategy and Enabling Officer
BSc MCIH

Mr Jonathan Medlin Infrastructure Officer, Gloucs County Council

FOR THE APPELLANT:

Mr Anthony Crean, QC Instructed by Pegasus Planning Group

He called:

Dr Nicholas Doggett, Asset Heritage Consulting
BA PhD Cert. Archaeol
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Mr Paul Harris, MHP Chartered Landscape Architects
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Mr Mervyn Dobson, Pegasus Planning Group
MA MPhil MRTPI MRICS

Mr David Hutchison Pegasus Planning Group

Mr Philip Hardwick Robert Hitchins Limited

OTHER INTERESTED PERSONS:

Mr Basil Allen Chairman, Staunton Parish Council
Mrs Julie Milroy Neighbouring resident

DOCUMENTS TABLED AT THE INQUIRY

- 1 Statement of Common Ground – housing land supply, 18 May 2015
- 2 Statement of Common Ground – other matters, 18 May 2015
- 3 Mr Crean’s opening submissions for the appellants
- 4 Mr Corbet-Burcher’s opening submissions for the Council
- 5 PPG – Section 18a: Conserving and enhancing the historic environment
- 6 2012 Proposals Map extract, showing Staunton/Corse settlement boundary
- 7 Plan showing Staunton/Corse settlement and Conservation Area boundaries
- 8 ‘Heritage context’ plan (tabled by the appellants), also showing location of Treona Nursery and Moat Farm appeal sites
- 9 Officers’ report on application P1680/11/FUL, for 15 dwellings off Chartist Way (now Freedom Close).
- 10 St Albans DC v Hunston Properties, Court of Appeal: *[2013] EWCA Civ 1610*
- 11 Gallagher Estates & Lioncourt Homes v Solihull MBC: *[2014] EWHC 1283 (Admin)*
- 12 List of agreed and disputed housing supply sites (tabled by the appellants, 19 May 2015)
- 13 Addendum to Statement of Common Ground on housing supply, 21 May 2015
- 14 Agreed list of disputed sites, categorised according to planning status, tabled 21 May 2015
- 15 Set of plans showing locations of disputed sites, tabled 21 May 2015
- 16 Agreed updated summary tables 1 and 2, tabled 21 May 2015
- 17 Table of affordable housing completions based on DCLG Table 253 (tabled by the appellants, 20 May 2015)
- 18 Table of affordable housing completions based on DCLG Table 1008 (tabled by the Council, 21 May 2015)
- 19 Table of all housing completions for 2014/15, tabled by the Council, 22 May 2015
- 20 Copies of objections to the Allocations Plan pre-publication and publication versions, tabled by the appellants 21 May 2015
- 21 Unilateral undertaking re affordable housing, executed 20 May 2015
- 22 Unilateral undertaking re public open space and off-site recreation, executed 20 May 2015
- 23 Unilateral undertaking re libraries contribution, executed 20 May 2015
- 24 Agreed list of draft conditions, tabled 22 May 2015
- 25 Mr Corbet-Burcher’s closing submissions for the Council
- 26 Mr Crean’s closing submissions for the appellants