



Department for
Communities and
Local Government

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Hunter Page Planning
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Gloucestershire
GL50 1DZ

Our Ref: APP/P1615/A/14/2218921

Your Ref: 3698

21 December 2015

Dear Sir,

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEAL BY ALLASTON DEVELOPMENTS LTD – LAND OFF DRIFFIELD ROAD,
ALLASTON ROAD AND COURT ROAD, LYDNEY, GLOUCESTERSHIRE
APPLICATION REF: P1284/13/OUT**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, Neil Pope BA (Hons) MRTPI, who held a public local inquiry on 19, 20, 25, 26 November 2014 and 4, 5, 6 and 10 February 2015 into your client's appeal against a decision of Forest of Dean District Council (the Council) to refuse outline planning permission for the delivery of up to 200 dwellings, including up to 20 serviced self-build plots and up to 37 retirement apartments, community building (up to 2,000 sq ft) comprising flexible A1/D2 ancillary space and new public open space in accordance with application P1284/13/OUT, dated 22 August 2013.
2. On 18 November 2014, the appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990, because the appeal involves a proposal for residential development of over 10 units in an area where a qualifying body has submitted a neighbourhood plan proposal to the local planning authority or where a neighbourhood plan has been made.

Inspector's recommendation and summary of the decision

3. The Inspector recommended that the appeal be allowed and planning permission granted. For the reasons given below, the Secretary of State disagrees with the Inspector's recommendation. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

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Procedural matters

4. The Council issued a position statement during the Inquiry stating that, as a robust five year housing land supply (5 yr HLS) could not be demonstrated, they would not be supporting their reasons for refusal of permission. Consequently, the Council did not call any witnesses to give evidence at the Inquiry (IR14).
5. An application for costs was submitted by Rule 6 party, Stop Allston Developments (SAD), at the Inquiry (IR17). This application is the subject of a separate decision letter.
6. For the reasons given at IR16 and IR158, the Secretary of State agrees with the Inspector that there were no grounds for adjourning proceedings to consider allegations regarding the Council's decision not to contest the appeal. He agrees this is a separate matter beyond the remit of this appeal decision.
7. For the reasons given at IR 9-11 and IR 157 the Secretary of State agrees with the Inspector that the adjournment of the inquiry towards the end of November 2014 allowed for adequate consultation/notification to be undertaken in respect of the access details shown on masterplan Rev B and the amended description of the development set out in footnote 2 to the IR. He agrees with the Inspector that no party is therefore likely to be prejudiced if the appeal is determined on the basis of the revised details (IR 157).

Events following the Close of the Inquiry

8. On 30 April 2015, the Secretary of State wrote to the Council and Gloucestershire County Council (GCC) to clarify that the proposed planning obligations conform with the Community Infrastructure Levy (CIL) Regulations 2010, Regulation 123(3) as amended, concerning limitations on the use of planning obligations in the determination of planning applications and appeals. On 22 June 2015 the Secretary of State wrote again to parties to seek comments on the Woodcock Holdings¹ judgment, and any other material matters that may have implications for his decision in this appeal. The representations received in response to requests, as well as other post Inquiry correspondence not seen by the Inspector, are listed at Annex A. In reaching his decision on this appeal, the Secretary of State has taken account of all this correspondence, copies of which may be obtained on request to the address at the foot of the first page of this letter.

Policy considerations

9. In deciding this appeal, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. In this case the development plan is comprised of the Core Strategy (CS) adopted in February 2012 and those 'saved' policies of the Forest of Dean Local Plan Review 2005 (LP) which were not replaced by the CS. Like the Inspector, the Secretary of State has had regard to the development plan documents and policies identified at IR26.
10. On 28 August 2015 the Council submitted the Allocations Plan Submission Draft August 2015 (AP), supported by a revised objectively assessed need (OAN), to the

¹ Woodcock Holdings Limited v. Secretary of State CLG [2015] EWHC 1173 (Admin).

Secretary of State for independent examination. The Secretary of State considers that the emerging AP has progressed since the inquiry. However, as the AP is at examination and may still be subject to change, the Secretary of State gives it moderate weight.

11. On 23 September 2015, the Independent Examiner's report into the Lydney Neighbourhood Development Plan (LNDP) was published, recommending to the Council that the LNDP should proceed to referendum, subject to the modifications set out in that report. However, as it has not yet been subject to a referendum, the Secretary of State gives it moderate weight.
12. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework (the Framework) and associated planning practice guidance; and the CIL Regulations 2010 as amended. He has also considered the other documents referred to by the Inspector at IR28-29 and IR32-35.

Main Issues

13. The Secretary of State takes the view that, as well as the main issue identified at IR160, the emerging LNDP and emerging AP and any potential conflict with them should also be regarded as significant issues for consideration.

5 Year Housing Land Supply (5yr HLS)

14. Though the AP has been progressed since the close of this appeal inquiry, supported by a revised OAN, the Secretary of State is unable to conclude for the purposes of this appeal and on the basis of the information before him, that the Council have a robust 5yr HLS. He therefore agrees with the Inspector that the relevant development plan policies for the supply of housing are out of date (IR 162). This includes the relevant policies for the supply of housing in the emerging LNDP (IR167). Therefore, the Secretary of State considers that the presumption at paragraph 14 of the Framework applies to this appeal and he gives limited weight to the HLS figure in the AP.
15. Within this context, the Secretary of State has carefully considered the Inspector's analysis of the planning policy and other documents at IR161-168. In considering the Inspector's assessment at IR162 with regard to the proposal's compliance with CS policy CSP.4 ('Development at Settlements'), he has noted that the Council has already granted permission for housing development beyond the settlement boundary and that the Inspector concludes that this shows some flexibility in its approach. However, while acknowledging the Inspector's position, the Secretary of State considers each case needs to be considered on its own merits. He considers that the appeal proposal conflicts with CS Policy CSP.4, in that the appeal site is outside the settlement boundary. However, he considers that CS Policy CSP.4 is a relevant policy for the supply of housing which, in the absence of a 5 year HLS, is out-of-date. Therefore, he gives the proposal's conflict with policy CSP.4 limited weight.
16. The Secretary of State agrees with the Inspector that, for the reasons given at IR162, the proposal also conflicts with CS policies CSP.5 (housing) and CSP.12 (development on land east of Lydney for the supply of housing). However, he also agrees with the Inspector that, in the absence of a 5 yr HLS, these policies are out-

of-date (IR 162) and so he gives only limited weight to the proposal's conflict with these policies.

17. The Secretary of State has carefully considered the Inspector's analysis of the emerging AP at IR163 and, for the reasons given in paragraph 10 above and noting that the appeal site does not lie within the settlement boundary, he gives it moderate weight.
18. The Secretary of State agrees with the Inspector that, for the reasons given at IR164, moderate weight can be given to the 2010 SPD and to the 2007 landscape SPD. He also agrees with the Inspector for the reasons given that the SPG referred to at IR165 is of limited weight in determining this appeal.

Neighbourhood Plan

19. The Secretary of State has carefully considered the Inspector's analysis of the LNDP at IR 167-168. He has also taken account of the fact that the LNDP has progressed since the inquiry as explained in paragraph 11 above. The Secretary of State therefore gives moderate weight to the LNDP as a whole.
20. However, the Secretary of State agrees with the Inspector that, for the purposes of this appeal and on the basis of the information before him, the lack of a 5 year HLS, renders the relevant policies for the supply of housing in the emerging LNDP out-of date (IR167) and that, as LYD HOUS1 is a policy for the supply for housing, it therefore attracts limited weight (IR167) whilst policies LYD ENV 2, LYD TRAN 1, and LYD TRAN 3 are broadly consistent with the Framework and can be given moderate weight. As to the proposal's conflict with LYD ENV1, he notes that the Independent Examiner recommended modifications which would bring the appeal proposal into conflict with it, and he considers that this weighs against the proposal. However, as he considers that policy LYD ENV 1 is a relevant policy for the supply of housing which, in the absence of a 5 year HLS, is out of date, he gives the proposal's conflict with policy LYD ENV 1 limited weight.

Benefits

21. The Secretary of State agrees with the overall benefits of the scheme identified by the Inspector at IR 169-171 but, as some of them are not site specific, he gives them less weight than the Inspector (IR172) in the context of this appeal.

Character and Appearance

22. The Secretary of State has carefully considered the Inspector's assessment of the impact of the proposal on the character and appearance of the area at IR173-181 and, for the reasons given therein, he agrees that the proposed loss of countryside, diminution of views from some sections of well used public footpaths through the site, and the erosion of the pleasing unspoilt qualities of the site would detract from the character and appearance of the area (IR181). He also agrees with the Inspector that these elements of the scheme would result in conflict with aspects of policy CSP.1 and that there would also be conflict with LNDP LYD ENV 2 and LNDP LYD TRAN 3, all of which weighs against the scheme. However, against that, he agrees with the Inspector (IR181) that some harm is an almost inevitable consequence of accommodating housing in the district and that the

adverse impact upon the qualities of the area should therefore be given only moderate weight in the overall planning balance.

Traffic Conditions and highway issues

23. The Secretary of State has carefully considered the Inspector's analysis of traffic issues at IR182-193 and the parties' submissions on these matters. He agrees with the Inspector that the proposal is consistent with the broad thrust of the growth/sustainability objectives for Lydney (IR182) and that the scheme accords with LNDP policy LYD TRAN 1 (IR183). He also agrees (IR184-185) that there would be a choice of transport modes available to incoming residents, who would not be unduly reliant on travel by car.
24. The Secretary of State agrees with the Inspector that the proposed development would increase the volume of traffic on the local network. He has carefully considered the concerns of interested parties (IR100-110), but notes that the Highways Agency are satisfied that there is no existing highway safety problem. He has carefully considered the Inspector's reasoning at IR186-193 and agrees with the Inspector's conclusion at IR190 that limited weight should be attached to the impact of the appeal scheme on junction capacity and congestion.

Other matters

25. The Secretary of State has carefully considered the Inspector's analysis at IR 194 and his statutory duties with regard to ecology and biodiversity issues but, given his decision to dismiss the appeal and refuse planning permission, he considers that there are no likely impacts on the integrity of any site designated for nature conservation purposes, habitat of ecological importance, or protected species. ..
26. With regard to drainage issues, (IR195) the Secretary of State notes that the Environment Agency did not object to the scheme, and he agrees with the Inspector that surface and foul water drainage could be satisfactorily addressed by way of appropriate planning conditions and that the scheme accords with the land drainage provisions of CS policy CSP.1. With regard to air quality issues (IR196), the Secretary of State agrees that, while the increase in town centre congestion would add to the motor vehicle emissions within the Lydney AQMA, only limited weight should be attached to this. He also agrees that, for the reasons given at IR197, archaeological interests could be adequately safeguarded by way of an appropriate planning condition; and similarly, with regard to residential amenity (IR198), he considers that, as the layout has yet to be finalised, there would seem to be no reason why, at the reserved matters stage, the proposed buildings could not be sited and designed so as not to result in any overbearing impact upon neighbouring properties or any serious loss of outlook or privacy for existing residents. He gives moderate weight to these considerations.
27. With regard to the loss of agricultural land (IR199), while the Secretary of State agrees with the Inspector's conclusion that the scheme would not result in the loss of a significant area of the best and most versatile agricultural land and that the proposals would be consistent with the agricultural provisions of the Framework (IR199), he nevertheless gives moderate weight to the fact that there would be some loss.. He also agrees with the Inspector's reasoning with regard to healthcare access (IR200); access to the site from Windsor Drive (IR201); the

setting of the Church of St Mary (IR202); and representations made to the appeal (IR203).

S106 Planning Obligations

28. The Secretary of State has carefully considered the s.106 planning obligations, the Inspector's analysis at IR205-209, national policy set out at paragraphs 204-205 of the Framework; the relevant planning guidance; the CIL Regulations 2010 as amended, and the post inquiry correspondence referred to in paragraph 8 above. He is satisfied that the agreements with GCC and the Council both accord with the provisions of paragraph 204 of the Framework and CIL Regulation 122. He also agrees with the Inspector (IR208) that the infrastructure provisions within these agreements would be consistent with the requirements of CS policy CSP.1.
29. The Secretary of State has also considered the Appellant's unilateral undertaking (IR209) and agrees with the Inspector for the reasons given that, as it would not be necessary to make the proposed development acceptable in planning terms, it does not meet the tests for a planning obligation set out in paragraph 204 of the Framework and CIL Regulation 122. He has not, therefore, taken the unilateral undertaking into account in his decision.

Planning Conditions

30. The Secretary of State has considered the Inspector's assessment of the proposed planning conditions at IR147-152. He is satisfied that the conditions proposed by the Inspector and set out at pages 47-51 of the IR meet the tests of Paragraph 206 in the Framework and comply with the planning practice guidance. However, he does not consider that they would overcome his reasons for dismissing this appeal.

Planning Balance/ Overall Conclusions

31. In deciding this appeal, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.
32. For the reasons given above, the Secretary of State considers that the proposal is not in accordance with the development plan as a whole and so has gone on to consider whether there are material considerations that indicate the proposal should be determined other than in accordance with the development plan.
33. As set out in preceding paragraphs, the Secretary of State considers that the lack of a 5 yr HLS and the contributions that the appeal proposal would make to increasing the supply of market and affordable housing weigh substantively in favour of the appeal. Also weighing in favour of the appeal are the social, economic and environmental benefits identified by the Inspector at IR169-172. However, weighing against the appeal, as set out above, is the conflict with the emerging AP and emerging LNDP, to which he gives moderate weight; and the adverse impact on landscape and character to which he also gives moderate weight. He also gives limited weight to traffic impacts and the adverse effect upon air quality in Lydney AQMA. Overall, and for the reasons given above, he considers that the adverse impacts of the appeal proposal would significantly and demonstrably outweigh the benefits when assessed against the policies in the

Framework taken as a whole. He therefore concludes that that there are no material considerations that indicate that the proposal should be determined other than in accordance with the development plan.

Public Sector Equality Duty

34. In making this decision, the Secretary of State has had due regard to the requirements of Section 149 of the Public Sector Equality Act 2010, which introduced a public sector equality duty that public bodies must, in the exercise of their functions, have due regard to the need to (a) eliminate discrimination, harassment, victimisation; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it. Protected characteristics are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
35. In this regard, and in coming to his decision, the Secretary of State considers that the refusal of the appeal may have a detrimental effect or a disproportionate impact on persons who share a relevant protected characteristic in terms of the non-provision of the proposed retirement apartments, and affordable housing. Having considered the impacts, the Secretary of State is of the view that, in the circumstances of this case, it would be appropriate to dismiss the appeal for the reasons outlined in this decision letter.

Formal Decision

36. Accordingly, for the reasons given above, the Secretary of State disagrees with the Inspector's recommendation and hereby dismisses your client's appeal and refuses outline planning permission for the application as revised for up to 200 dwellings, including 40 self build plots and 37 retirement apartments, affordable housing, community building comprising flexible A1/D2 ancillary space, new public open space and new access roads.

Right to challenge the decision

37. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged. From 26 October 2015, this must be done by making an application to the High Court within six weeks from the date of this letter for leave to bring a statutory review under section 288 of the Town and Country Planning Act 1990.
38. Copies of this letter have been sent to Forest of Dean District Council, Gloucestershire County Council and representatives of Stop Allaston Development; and notification has been sent to all other parties who asked to be informed.

Yours faithfully,

Jean Nowak

Jean Nowak

Authorised by the Secretary of State to sign in that behalf

Annex A: Correspondence received after the Inquiry

Name	Date
Laura Edmonds	13/08/14
Mr K French	19/01/15
Mrs H Edmonds	26/03/15
Joseph Edmonds	19/05/15
Jamie Mattock, Gloucestershire County Council	03/06/15
Jonathan Medlin, Gloucestershire County Council	18/06/15
Derek Morrison	05/07/15
Mr A Waddington	28/06/15; 30/06/15; 01/07/15; 13/07/15
Mrs C Stickler	14/03/15; 20/07/15
Martin Hillier, Forest of Dean District Council	11/05/15; 03/07/15; 21/07/15
Ben Read, Hunter Page	23/06/15; 08/07/15; 21/07/15

Richborough Estates

Report to the Secretary of State for Communities and Local Government

by Neil Pope BA (Hons) MRTPI

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

Date: 13 April 2015

TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)

FOREST OF DEAN DISTRICT COUNCIL

APPEAL BY ALLASTON DEVELOPMENTS LTD

Inquiry held on 19, 20, 25, 26 November 2014 and 4, 5, 6 and 10 February 2015
Site visits undertaken on 18 November 2014 and 3 and 9 February 2015

Land off Driffield Road, Allaston Road and Court Road, Lydney, Gloucestershire.

File Ref: APP/P1615/A/14/2218921

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File Ref: APP/P1615/A/14/2218921

**Land off Driffield Road, Allaston Road and Court Road, Lydney,
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 Allaston Developments Ltd against the decision of Forest of Dean District Council (LPA).
- The application Ref. P1284/13/OUT, dated 22 August 2013, was refused by notice dated 22 January 2014.
- The development proposed is the delivery of up to 200 dwellings, including up to 20 serviced self-build plots and up to 37 retirement apartments, community building (up to 2,000 sq ft) comprising flexible A1/D2 ancillary space and new public open space.

Summary of Recommendation: the appeal be allowed

Preliminary Matters

1. Other than the means of access, all other matters of detail have been reserved for subsequent consideration.
2. On 18 November 2014, the Secretary of State issued a Direction recovering the appeal for his own determination. The reason for the Direction was because the appeal involves residential development of over 10 units in areas where a qualifying body has submitted a neighbourhood plan proposal to the local planning authority: or where a neighbourhood plan has been made.
3. Having considered the proposal in accordance with Regulation 12(1) of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (SI 2011/1824), on 23 July 2014, another Direction was issued on behalf of the Secretary of State stating that the proposal was not EIA development.
4. Stop Allaston Development (SAD) was a Rule 6 party to the appeal.
5. The following Statements of Common Ground (SoCG) have been submitted: i) SoCG dated August 2014, setting out matters of agreement between the appellant and the LPA (*Core Document [CD] CD1/5*); ii) SoCG dated October 2014, between the appellant and Gloucestershire County Council (GCC) as Highway Authority (HA) (*CD1/6*); iii) 'addendum' SoCG dated November 2014, agreed by the appellant and the LPA in respect of the Lydney Neighbourhood Development Plan 2014-2024 Examiner's Version (LNDP) (*Document 12*); iv) SoCG dated November 2014, between the appellant and SAD (*Document 2*); v) supplementary SoCG dated January 2015, agreed by the appellant and the HA (*flagged on the file*) and; vi) SoCG dated February 2015, relating to transport issues, between the appellant and SAD (*Document 37*).
6. Prior to the LPA's determination of the application the appellant submitted a revised masterplan for the development of the site (Fig 02 – Illustrative Masterplan Rev A) (*Appendix 1 Tab 2 to Mr Davies's proof of evidence [PoE]*). This is the illustrative masterplan to which the LPA's decision relates.
7. During the appeal a further amended masterplan (Revised Illustrative Masterplan Rev B) was included as part of the appellant's evidence. (*Appendix 1, Tab 3 to Mr Davies's PoE.*) Amongst other things, this revision shows alterations to the internal access roads and green spaces within the site, as well as the relocation and reconfiguration of some of the proposed dwellings.

8. At the beginning of the Inquiry SAD requested that I make a ruling regarding the admissibility of Revised Illustrative Masterplan Rev B. Having heard from the appellant and the LPA, and mindful of the judgement in Bernard Wheatcroft Ltd v SSE [JPL, 1982, P37], as well as the Interpretation of "access" in Part 1, 2 of the Town and Country Planning (Development Management Procedure) (England) Order 2010 (SI 2010 No. 2184), I ruled that the submission of this amended plan at a late stage in the proceedings could prejudice the delivery of a fair planning system and could result in an adjournment to the proceedings which would be at odds with the delivery of a more efficient planning system. (*Document 19 is the full text of my Ruling.*)
9. On day 4 of the Inquiry and having heard evidence from a number of interested parties, the witnesses appearing on behalf of SAD, as well as the appellant's landscape witness, the appellant requested a ruling in respect of an adjournment. This was sought to allow consultation to be undertaken in respect of Revision B to the masterplan. This was not opposed, in principle, by the other main parties. I therefore ruled that the Inquiry should be adjourned to afford interested parties and SAD an adequate opportunity to consider and comment upon this latest version of the masterplan. (*Document 33 is the full text of my Ruling.*) The Inquiry was adjourned until February 2015.
10. On 28 November 2014, the appellant undertook a process of consultation in respect of Revised Illustrative Masterplan B. Interested parties were given until 29 December 2014¹ to make comments in respect of these revisions. SAD was given until 14 January 2015 to make their representations.
11. On 15 January 2015, the appellant submitted drawings showing the longitudinal sections of the proposed highways (refs. CMR/2, CMR/3 and CMR/4) and swept path assessments (CMR/5 and CMR/6) for large refuse vehicles that would use the proposed highways. On the same day, PINS sent copies of these drawings onto the LPA and SAD. As set out in the supplementary SoCG on transportation issues agreed by the HA and the appellant, the HA has considered these drawings. It has not raised any concerns regarding the proposed development. The LPA and SAD informed me that no party would be likely to be prejudiced if these plans were taken into account in determining the appeal.
12. During the appeal and following a request by the LPA, the appellant agreed to make a financial contribution towards the cost of providing 15 affordable sheltered units of accommodation off-site and in lieu of on-site provision. (This would reduce the number of on-site affordable dwellings to 65.) In addition, the appellant proposed that the number of self-build plots be increased to 40. SAD and the LPA agreed that these changes would be unlikely to cause any prejudice. This was reflected in the amended description of the proposed development² during the consultation exercise that commenced in November 2014.
13. The appellant has submitted several planning obligations under the provisions of section 106 of the above Act. These comprise: an agreement with GCC relating to highways (including a residential Travel Plan [TP]), education (pre-school) and

¹ Following a request from Lydney Town Council (LTC), an extension of time for LTC's comments was given until 16/1/15, to allow for consideration of this matter by LTC's Planning and Highway Committee on 12/1/15.

² Proposed residential development of up to 200 dwellings including 40 self-build plots and 37 retirement apartments, affordable housing, community building (186 square metres) comprising flexible A1/D2 ancillary space, new public open space and new access roads.

library contributions (*Document 5*); an agreement with the LPA relating to affordable housing, adult recreation and air quality management (*Document 6*) and; a unilateral undertaking for the delivery of the appeal scheme by developers with a registered office in the administrative area of the Forest of Dean District (*Document 7*).

14. On 8 October 2014, the LPA stated that having reviewed its 5 year housing land supply (HLS) it would not be supporting its reasons for refusal. On 20 October 2014, it issued a Position Statement (*CD1/8*). Amongst other things, this Statement refers to a previous planning appeal within the District (Ref. APP/P1615/A/14/2220590)³. The LPA has commented that a robust 5 year HLS cannot be demonstrated in accordance with the National Planning Policy Framework ('the Framework'). Furthermore, it has stated that paragraph 49 of 'the Framework' applies and that Core Strategy (CS) policies CSP.4, CSP.5 and CSP.12 cannot be considered up-to-date. As a consequence, the LPA did not call any witnesses to give evidence at the Inquiry.
15. As neither the LPA nor SAD contested HLS or the need for affordable housing, it was agreed that the appellant's experts⁴ who had each prepared detailed PoE on these matters did not need to be called to present their evidence to the Inquiry. This evidence was taken as read and was uncontested.
16. An interested party has drawn attention to The Local Authorities (Functions and Responsibilities) (England) Regulations 2000⁵ and requested that the proceedings be adjourned so that allegations concerning the LPA's handling of the application and decision to not defend its reasons for refusal be investigated (*Document 1*). This matter has been passed onto the local constabulary.
17. At the Inquiry and application for an award of costs was made by SAD against the appellant. This application is the subject of a separate Report.
18. Following the submission of Document 59 and with the agreement of the main parties, I closed the Inquiry in writing on 13 February 2015.

The Site and Surroundings

19. The appeal site comprises 14.16 ha of permanent grassland (approximately 11.6 ha is grade 3a agricultural land and the remainder is grade 3b). It is situated on the north eastern edge of the town of Lydney and is approximately 1.7 km north of the town centre⁶. The site comprises six fields of various sizes with established trees and hedgerows. Generally, the land rises from south to north before the northernmost field slopes downwards towards Windsor Drive. The highest part of the site is about 120m Above Ordnance Datum (AOD) and the lowest part is about 80m AOD.
20. The site forms part of the countryside around Lydney. It is adjacent to existing housing and Primrose Hill Church of England Primary School. There is variation in the mix and design of this housing. Windsor Drive and Allaston Road lie to the

³ This appeal for up to 110 homes on a site in Sedbury was allowed on 30 October 2014.

⁴ Messrs Donagh, Stacey and Read.

⁵ SI 2000 No. 2853

⁶ Part of the High Street, Hill Street and Newerne Street, as well as sections of Bream Road and Forest Road through the town have been declared an Air Quality Management Area (AQMA) for nitrogen dioxide.

north, Driffield Road is to the east, Oak Meadow and Court Road are situated to the west and Augustus Way and Highfield Lane lie to the south of the site.

21. Five public footpaths cross the site (*Appendix 1 Tab 7 to Mr Davies's PoE and CD5/5*). These run between the urban area of Lydney and the surrounding countryside. From sections of some of these public rights of way there are views across the site towards the town, as well as views of the countryside and distant views of the Severn Estuary (*PRV 14-20, and PRV 23-24 in Appendix 3 Tab 1 of Mr Davies's PoE*). The spire of the Church of St. Mary⁷ features in some of these views. Parts of the site can be seen from the town and the surrounding countryside (*PRV 1-12 & 25 in Mr Davies's PoE*).
22. Various overhead lines also bisect the site. These include power lines which cross the two northern fields. These are supported by a tall pylon which is immediately alongside the hedgerow that divides these fields.
23. Windsor Drive, which serves about 16 properties, terminates at the northern edge of the appeal site. There are gated accesses from other parts of the site onto Oak Meadow, Court Road, Augustus Way and Highfield Lane.
24. The village of Yorkley is approximately 2km to the north of the site. This settlement occupies higher ground and sits on top of a ridge of land. As I saw during my site visits, views of the Severn Estuary and the Cotswolds can also be experienced from sections of the public rights of way that lead to/from this village. (*PRV 01 in Appendix 3 Tab 1 of Mr Davies's PoE is taken from a section of the footpath that runs to the north of the appeal site and south of Yorkley.*)
25. Photographs of the appeal site and surrounding area comprise Tabs 1 and 2 of Appendix 3 to Mr Davies's PoE and Appendix 6 to Mr Stuart's PoE. These include distant views from the south. Figure CMR/1 to Mr Rawlinson's PoE shows the site in relation to various local services and amenities including bus routes.

Planning Policy and Other Documents

26. The development plan includes the CS (*CD3/1*) which was adopted in February 2012 and those 'saved' policies within the Forest of Dean Local Plan Review 2005 (LP) which were not replaced by the CS. Attention has been drawn to CS policies CSP.1 (design and environmental protection), CSP.4 (development at settlements), CSP.5 (housing), CSP.9 (recreational and amenity land) and CSP.12 (development on land east of Lydney). Pages 76-80 in Section 7 of the CS comprise the objectives and policies for Lydney. In paragraph 3.6 it is accepted that the basic infrastructure is typical of many rural areas. (*Copies of these policies are included within the Appeal Questionnaire and at CD3/1.*)
27. The Allocations Plan Draft (APD) was published by the LPA in mid 2014 (*CD3/4*). This is intended to identify specific areas of land for development within the district up to 2026. One of the proposed allocations (about 25 dwellings) included part of the appeal site (0.85 ha of land off Augustus Way) (*Document 25*). However, at the end of February 2015⁸ the LPA resolved to delete this

⁷ This is a Grade I listed building which dates from the 13th century. The church spire was rebuilt in the 19th century.

⁸ Although this occurred after the Inquiry had closed, the Inquiry was informed of the likelihood of this 0.85 ha site being deleted from the Plan.

- allocation and to undertake public consultation prior to the Plan being submitted for Examination. The APD does not currently form part of the development plan.
28. In 2010 the LPA adopted its Affordable Housing Supplementary Planning Document (SPD) (CD3/6). Amongst other things, this SPD states that the LPA attaches high priority to the provision of affordable housing in balancing its planning objectives. Affordable housing underpins one of the key priorities in the LPA's Corporate Plan and Housing Strategy Statement. This SPD is based on the 2009 Strategic Housing Market Assessment (SHMA) which revealed a net need for 289 new affordable homes per annum.
 29. The Forest of Dean Residential Design Guide was adopted by the LPA as supplementary planning guidance (SPG) in 1998. It includes guidance in respect of movement, access and development on sloping ground (CD5/6).
 30. In April 2014, the LNDP was given to the LPA prior to submission to an Examiner (CD3/5). This Plan has been prepared by LTC and a number of local community groups. The Development Strategy is based on the CS. The appeal site is outside the settlement boundary for the town.
 31. Attention has been drawn to LNDP policies LYD ENV 1 (preservation of open space), LYD ENV 2 (protecting the natural environment), LYD HOUS 1 (housing for elderly people), LYD TRAN 1 (improvements to highway infrastructure) and LYD TRAN 3 (public rights of way and wildlife corridors). The LPA has raised concerns with the LTC regarding the adequacy of the Environmental Assessments that have been undertaken during the preparation of this Plan. The LNDP does not currently form part of the development plan.
 32. Although not planning policy, attention has also been drawn to the document 'A Landscape Character Assessment for the Forest of Dean' (LCA) that was undertaken in 2002. Amongst other things, this identifies key environmental features of the landscape. The appeal site lies within the 'Ridges and Valleys' landscape character type (LCT) which is subdivided into four character areas. The site forms part of the 'Allaston Ridge' character area. (CD5/1)
 33. In 2004 the 'Forest of Dean District Landscape Strategy' (LS) was produced by Landscape Design Associates. Amongst other things, it identifies the wooded ridgelines of the above noted LCT as being more visually sensitive than the valleys and lower ridge slopes. The landscape strategy for the expansion of existing valley floor settlements includes avoiding siting new built development on visually prominent ridge lines. (CD5/3)
 34. In 2007 the LPA adopted its 'Landscape Supplementary Planning Document'. This SPD is intended to ensure that the profile and importance of environmental and landscape issues are given due consideration in planning decisions. This SPD also recognises that compromises will be required in balancing environmental, social and economic objectives in the planning process. (CD5/2)
 35. In addition to 'the Framework' the main parties have drawn attention to some other documents. These include various Written Ministerial Statements (WMS), the Government's Planning Practice Guidance and Manual for Streets (MfS) which was published in 2007.

Planning History

36. In February 2013, an appeal relating to the provision of a gate to provide field access into part of the appeal site off Windsor Drive was dismissed (Ref. APP/P1615/A/12/2184499) (*Appendix 3 to Mr Stuart's PoE*).

The Proposals

37. The scheme considered by the LPA in January 2014 is the one described in the last bullet point under the heading on page 2 of this report. Vehicular access into the site would be off Windsor Drive, Court Road and Oak Meadow. The means of accessibility within the site was also shown on masterplan Rev A. This included a road linking two separate areas of development in the northern part of the site and pedestrian and cycle access onto Highfield Lane and Augustus Way. The existing public rights of way through the site would be retained.
38. 40% of the total number of dwellings would be provided as affordable homes and approximately 5.72 ha of public open space/green infrastructure would be provided within the site. No buildings would exceed 2 storeys in height and the proposed community building would be single storey. The gross density of development would be about 14 dwellings per ha (dph). The density net of public open space and road infrastructure would, on average, be about 24.5dph.
39. Further details are contained within the various documents that were submitted in support of the application. This includes the Planning Design & Access Statement (DAS) (CD2/7) and the Landscape and Visual Assessment (LVA) (CD2/10). As all the appellant's PoE relate to the revisions that were made after the application was determined it is the DAS and LVA which, in essence, set out the justification for the scheme design advanced under masterplan Rev A. (*Other documents, including a detailed Transport Assessment [TA], Flood Risk Assessment [FRA] and an Air Quality Assessment [AQA] were also submitted in support of the application. These can also be found in CD2. Following the determination of the application the appellant submitted an Archaeological Evaluation [AE], a copy of which can be found at CD2/14.*)
40. As noted above, the appellant wishes the appeal to be determined on the basis of the revised proposal/masterplan Rev B. The quantum of proposed housing remains the same, as do the access points into/out of the site⁹. 65 affordable homes would be provided on site with a financial contribution for off-site sheltered affordable housing. The number of self-build homes would increase to 40 and there would be alterations to the means of accessibility within the site. The amount of public open space/green infrastructure would increase to 6.6ha and the average density would be about 27.5dph. (*A summary of the proposed changes is set out in paragraph 4.1.7 of Mr Davies's PoE.*)

Agreed Matters

41. The above noted SoCG's set out matters of agreement between the main parties, as well as the HA. With the exception of paragraph 12 (weight to be given to the LNDP), SAD agree with the 'addendum' SoCG that was signed by the appellant and the LPA. Amongst other things, this 'addendum' states that the CS policies

⁹ Pedestrian access is still proposed onto Highfield Lane but the tarmac 'link' between the proposed estate road in the lower field and Highfield Lane no longer appears on masterplan Rev B.

in respect of housing land supply (CSP.4 and CSP.5) are not up-to-date, in the absence of a 5 year HLS. It is also agreed that should additional land be required in Lydney it may be necessary to reappraise and redraw the LNDP settlement boundary to accommodate the town's future growth requirement.

The Case for the Appellant (Allaston Developments Ltd) (Below is a summary of the appellant's case. The text in italics identifies relevant parts of the written evidence or comprises matters dealt with in cross-examination or are matters upon which I sought clarification.)

42. The proposed development would be truly unique. It is a genuine local development by local people for local people¹⁰. The proposals would provide: deliverable housing by a small local building firm who have been unable to build any houses for the last 5 years and in an area where the main housing allocation in the town and district has stalled; 40 serviced self-build plots for which there is a demand; a significant number of affordable housing units at no cost to the public purse for the benefit of local people in need of housing; 37 modern retirement apartments which would accord with the age profile of the area and could free-up family housing for others; 6.6ha of new public open space for the benefit of all the people of Lydney; a modern, local community building built entirely at the developers expense and offered to LTC; a local builders clause to provide encouragement to small house builders; a local labour force clause requiring 50% of the workforce to be resident in the district and; a local procurement clause.

Housing Supply Matters

43. Statements made by Government Ministers, the Bank of England and reports from some other organisations acknowledge that there is a housing crisis in the country. This causes misery to millions of citizens and is a lost opportunity to create jobs and investment in the UK. There is a clear and pressing requirement to build more homes to meet the significant level of unmet need. Failure to do so presents a risk to the future economic stability of the UK. (*Appendices 2-11 of Mr Stacey's PoE and part of Document 57.*) Evidence to support such concerns also exists in national and regional reports on housing issues¹¹.

44. 'The Framework' represents a radical change in planning policy with a pro-growth agenda and a requirement for local planning authorities to approach decision-taking in a positive way, including a responsibility to boost significantly the supply of housing. There is a presumption in favour of sustainable development. If a development plan is not up-to-date there is an onerous test on local planning authorities. Permission should be granted unless any adverse impacts of so doing would significantly and demonstrably outweigh the benefits.

45. The starting point for the determination of the appeal is the development plan. Lydney is one of the main towns within the Forest of Dean. The CS was adopted prior to 'the Framework' but identifies Lydney as the most accessible town with the most potential for change. It offers a range of services, including access to the rail network. However, very few of the 1,900 homes on land to the east of the town, provided for under CS policy CSP.12, have been built. There are major

¹⁰ This is set out in more detail in 'The Local Approach' document which was submitted shortly before the Inquiry opened (*flagged on the file*).

¹¹ (CD4/2-CD4/7)

- viability issues with this strategic housing provision for Lydney. The developer for the land to the east of Lydney has sought¹² to reduce the affordable housing provision to zero and has informed the LPA that there is no interest from a national builder in delivering houses on this land (*Document 23*).
46. The town is not growing as rapidly as intended by the development plan and the LPA does not have 5 years HLS. The housing policies in the CS are therefore out-of-date. The appellant's uncontested assessment of housing provision is that, having regard to 'the Framework', the Planning Practice Guidance and the ruling in Hunston Properties Ltd v Secretary of State for Communities and Local Government [2014] EWHC 2678 (admin), the full objectively assessed housing need (OAN) must therefore be determined. For the Forest of Dean this amounts to 440 dwellings per annum¹³. This quantum of housing would be sufficient to meet projected labour demand and to exert some downward pressure on prices.
 47. There has been a persistent undersupply of housing within the district. This requires a 20% buffer to be applied to the supply of housing. The accumulated shortfall of housing within the Forest of Dean equates to 376 dwellings against a constrained CS requirement or 766 dwellings against the OAN. There is no dispute that the 'Sedgefield' approach should be applied in making good this shortfall over the next five years. As a consequence, the five year housing requirement for the district amounts to 3,091 dwellings against the OAN¹⁴ and 2,311 dwellings against the constrained CS figures¹⁵.
 48. The extensive and uncontested evidence of Mr Read reveals that there are pervasive problems and disproportionately slow lead in times for housing delivery within the Forest of Dean, including the LPA's flagship strategic site on land to the east of Lydney. The deliverable supply of housing within the district amounts to only 1344 dwellings. This is a shortfall of nearly 1,000 homes against the constrained CS figure, or 2.9 years HLS. Against the OAN, the shortfall is 1,747 homes or 2.2 years HLS. In both instances, there is a very significant shortfall. The size of the shortfall must be significant and has been highlighted in appeals elsewhere, including those determined by the Secretary of State¹⁶.
 49. The proposed development would meet an identified need for open market housing in a town where major growth is planned. It would be deliverable within five years and would add to the mix and choice of housing within the area. The scheme would also deliver a significant number of serviced self-build plots. This has been proposed in response to local demand for this type of housing and the Government's policy drive¹⁷ to deliver self-build sites and support small scale developers, custom and self-builders. 'The Framework' is also supportive of people wishing to build their own homes. The appellant is not required to demonstrate viability and no tangible documentary evidence was presented by any party to show that the self-build element of the scheme would be unviable.
 50. (*In response to my questions, the appellant's planning witness informed me that he was not anticipating any delays in delivering the scheme and the first dwelling*

¹² APP/P1615/Q/14/2215840 (Appendix 12 to Mr Stacey's PoE)

¹³ The CS annual requirement is 310 dwellings/annum.

¹⁴ As set out in the fifth column of Table 3.6 on page 16 of Mr Read's PoE.

¹⁵ As set out in the fourth column of Table 3.6 on page 16 of Mr Read's PoE.

¹⁶ APP/H1705/A/13/2205929. (CD6/14)

¹⁷ 'Right to Build: Supporting Custom Self Build' DCLG October 2014.

to be built on the site would be expected about 18 months after any outline permission was granted. The build-out period for the development would be 3-5 years. I was also informed that as the development would be undertaken by a small group of local builders who were familiar with the local housing market and there was a pent up demand for housing the dwellings would be provided in a short period of time.)

51. The appellant's uncontested affordable housing evidence reveals that since 2008/09 there has been a very significant shortfall of 2,652 affordable dwellings within the district. The affordable housing needs of the district are acute and continue to increase. The 2014 Gloucestershire and Districts SHMA identified an annual net need for 814 new affordable homes in the Forest of Dean between 2011 and 2016. The LPA's attempt to reduce this to 67 net affordable dwellings per annum is an unrealistic requirement and would not even come close to reducing the shortfall of need. Over the past 15 years applicants on the Housing Register have increased dramatically from 1,106 in 1999 to 2,377 in 2014. In excess of 400 households have a need for housing in the Parish of Lydney. This is the highest level of need of the 40 settlements on the Housing Register.
52. It is vital that there is a step change in the delivery of affordable housing within the district. Based on the 2014 SHMA, the LPA is only able to demonstrate 0.2 year affordable HLS. It is failing to meet the demonstrated affordable needs across the district. This was recognised in the above noted appeal decision at Sedbury, where considerable weight was given to the chronic crisis in the poor delivery of new affordable homes within the district. Elsewhere¹⁸, another Inspector found that affordability was at crisis point where the need for affordable dwellings was much lower than that identified in the Forest of Dean.
53. The CS and the 2010 SPD acknowledge that there is a shortage of affordable homes in the district and the provision of such housing is a priority. The proposal would deliver the equivalent of 80 affordable housing units (65 of which would be on-site). This would be 113% of the average annual delivery achieved by the LPA since the adoption of the CS. This would result in significant social benefits in an area where key sites are failing to deliver such housing. A locally based active Registered Provider has already expressed an interest in acquiring the proposed affordable homes (*Appendix 21 to Mr Stacey's PoE*).
54. The proposal would assist in creating inclusive and mixed communities as required by 'the Framework'. The social need for affordable housing is a material planning consideration and making social progress in tackling such needs is an important element of the golden thread of sustainable development running through 'the Framework'. In delivering the optimum affordable housing contribution of 40% the proposal would accord with the provisions of CSP.5 and the 2010 SPD. This element of the scheme can be given very substantial weight. It was not properly evaluated within the LPA's committee report and those who oppose the development have given it little consideration. In reconsideration, the LPA concluded that it could no longer support its refusal of permission.
55. In recognition of the lack of a 5 year HLS within the district, the LPA has recently granted outline permission for up to 110 residential units with associated

¹⁸ Para 8.125 on page 111 of the Inspector's Report – APP/H1840/A/13/2199085 and 2199426 – Land at Pulley Lane, Droitwich Spa (*Appendix 19 to Mr Stacey's PoE*).

infrastructure on another site in Lydney¹⁹. This also lies outside the settlement boundary as defined in the CS and LNDP. Additional sites, such as the one that is the subject of this appeal, will have to be released for housing if Lydney is to accommodate necessary growth and to ensure that the housing needs and requirements of the local community are met. The LNDP does not allocate housing sites or engage with the present problems with the CS strategic sites. This Plan has a long way to travel and has only limited weight at this stage.

56. *(In response to my questions the appellant's planning witness informed me that the appeal scheme would conflict with LNDP policy LYD ENV1. This witness also informed me that as the housing provisions of the CS had already been found wanting the appeal scheme would not undermine the development plan. Whilst the appellant was sympathetic to the Government's localism agenda there was a silent majority of people who were desperate for a house or affordable home. Housing problems were becoming more severe in the district. It was argued that the Inquiry had heard clear evidence of the need for additional housing and elsewhere this had been accepted by the Secretary of State as sufficient grounds for granting permission.)*

Landscape and Visual Matters

57. The appeal site represents about 0.16% of the Ridges and Valleys LCT and about 0.7% of the Allaston Ridge character area. It is not strongly representative of either the LCT or the character area, which include the whole of north east Lydney. The site is also contained by existing development on three sides. It is not deeply rural or tranquil and is degraded by overhead lines, tall pylons, fly tipping and discordant fences which are typical of urban fringe sites.
58. This 14.16 ha site lacks the scenic quality, cultural, physical and sensory characteristics that would warrant additional designation and protection. It cannot be deemed a valued landscape in terms of 'the Framework'. The LS supports the appellant's case that larger scale development could be successfully integrated into this part of the landscape. *(In cross-examination the appellant's landscape witness informed me that: there are extensive views from the appeal site; the site was a local asset; the site was not highly valuable but would have some value to the local community and; visual amenity was gained from the site. In response to my questions this witness informed me that: although the site was pleasant it was unremarkable and; certain parts made a positive contribution to the character and appearance of the area but it was typical of the urban fringe.)*
59. There are long views from sections of the public rights of way that traverse the site. The most panoramic and sensitive lie in the east upper field. It is not unique in this regard and long panoramic views looking over Lydney and the Severn Estuary occur across extensive parts of the LCT and the character area. These include circular walks identified by the local Ramblers Association and forming part of the Lydney Walks booklet. The most panoramic and open views lie in the more prominent and elevated parts of the ridge around Yorkley. *(Extracts from this booklet are flagged in the blue folder attached to the file and marked "Comments on Masterplan etc.." I was informed that this booklet was produced by the Lydney Area in Partnership.)*

¹⁹ Land at Highfield Road, Lydney (Ref.P1829/13/OUT).

60. The scheme has been landscape led. The appellant's landscape architect has been instrumental in shaping the illustrative layout to ensure that the proposal would be assimilated into the landscape and landscape and visual harm would be minimised. A key design principle involves taking advantage of the sloping topography and establishing clusters of development separated by strategic open space corridors. In effect, the whole development would not be seen from any one single viewpoint and each development parcel would have its own character. The SPG recognises that development on slopes is a feature of the area. It is a major feature of Lydney.
61. The LVA established that the most elevated and visually conspicuous part of the east upper field would be the most sensitive to change. The illustrative layout was refined to keep much of this area free from development. Another key open space would be established in the lower field. This would act as the heart of the proposal around a criss-cross of existing paths. It would provide for a community facility to facilitate social interaction and building a community.
62. Masterplan Rev A was updated prior to the appeal following the submission of the LNDP and in response to policy LYD TRAN 3. This policy seeks to prevent existing public rights of way being integrated with highway infrastructure. Whilst only illustrative, it was felt important to show how the paths could be accommodated in green corridors separate from the highway corridor. This would be achieved on all but the short stretch of path that would run from the site entrance off Court road past Allaston Court, where it would be unfeasible to accommodate the full width of 6m green corridor once the existing highway had been upgraded. The conflict with LYD TRAN3 would be kept to a minimum.
63. The key benefits of masterplan Rev B compared with Rev A would be: an increase in open space from 5.72 to 6.62 ha and a reduction in the overall development area from 8.26 to 7.6 ha; increased width of green corridor to the southeast of the lower field; increased public open space and the removal of all houses from the east upper field; reduced amount of road and new link from Windsor Drive to Oak Meadow resulting in a reduced landscape impact on existing hedgerows and; increased habitats including a small copse and orchard in the west upper field. *(The appellant's landscape witness informed me that 44 linear metres of existing hedgerow would be lost and 725 linear metres of new hedgerow would be planted.)*
64. The proposal would significantly change the landscape character of the site. However, adverse impacts would be minimised by the proposed comprehensive landscape strategy. Added to which, the proposal would be development on the edge of a main town. The housing crisis is unlikely to be successfully addressed if landscape and visual impact objections win out when greenfield sites are promoted. The presumption in favour of sustainable development means that approach is no longer correct. In other decisions elsewhere, significant landscape harm to an Area of Outstanding Natural Beauty and seriously degrading harm have been outweighed by substantial shortfalls in the 5 year HLS.
65. The proposal would not involve the diversion of any public right of way. The existing paths are not of district value as a resource for walking. If the scheme was permitted the paths would meet the built edge of the town earlier than they do at present. However, by the time the middle field is reached, users would already be well within the influence of suburban development.

66. Some existing views from the middle and lower fields would be permanently lost. However, the degree of harm would be reduced and managed by: developing small blocks of development separated by open spaces and hedgerows; preserving key panoramas from the east upper field and retaining views of the estuary, the Severn Bridge, St. Marys church spire, wooded ridges and the Cotswold hills; providing reduced panoramas towards the estuary and the Cotswolds from the proposed green corridors and looking over the tops of buildings; keeping building heights between 7.5 and 8.3m; reducing building density in the most prominent parts of the site; increasing pedestrian access and permeability offering up new views from proposed open spaces and; creating visual interest within the development by observing the design principles of the SPG and creating a strong sense of place.
67. *(In cross-examination the appellant's landscape witness informed me that framed views would exist from some the footpaths through the site. In response to my questions this witness informed me that the scheme would result in the following impacts: Viewpoint 1 in the LVIA – a sliver of the appeal scheme would be seen by the pylon, there would not be much existing vegetation to filter the view and the viewer would look down on elements of the scheme however, these views would be filtered in time and the scheme would not be intrusive; Viewpoint 3 in the LVIA – there would be no harmful change of view as the development would be over 2km away and the scheme would not be a huge change, there would be a massive change to this view if the development on the land to the east of Lydney came forward; Viewpoint 4 – there would be no harm to an appreciation or understanding of the ridges that form part of the back-drop to the town as the site and the proposal lie below the green crest, the development would not be conspicuous; Viewpoint 15 – under cross-examination it was accepted that there would be a major permanent adverse impact on views from this public footpath and the change would be major, including some loss of view of the river, however there would be no significant harm as views would remain over the top of the buildings and to the sides, a gap between the buildings would afford a view of St. Mary's church spire; Viewpoint 16 – in response to my questions, this witness informed me that the view of the church spire would change but it may be possible to see over the top of the buildings.)*
68. The harm would be limited to the immediate environs and not the wider character area. The scheme would not conflict with CS policy CSP.9 and was not refused on that basis. None of the site is designated as an 'important open area' or any other specified category of open space/recreation land. It is not of considerable visual importance and the proposals would not cause a severe loss of amenity. The Inspector at the LP review commented that development in the lower and middle fields ...*"could be adequately mitigated and would not in itself warrant the exclusion of this site"* (Appendix 1 of Mr Stuart's PoE comprises an extract from the LP Inspector's Report.) *(In response to my questions, the appellant's planning witness informed me that the harm to the character and appearance of the area should be given moderate weight [3 out of 10] in the overall planning balance.)*
69. The proposed cut and fill would not cause material harm and would accord with LNDP policy LYD ENV2. The SPG states that positive outcomes can be achieved through small scale cut and fill to create local distinctiveness and a varied roofscape. Unlike the appellant's detailed wireline drawings, the ones produced by SAD are inaccurate, misleading and unrepresentative. *(SAD's wireline*

drawings are attached to Mr Stuart's supplementary PoE dated January 2015 and at a larger scale in Document 59. Document 41 is Mr Davies's wireline drawings. Documents 45, 47, 48, 50, 51 and 63 set out the methodology used, details of possible floor heights and ridge heights, as well as comparisons/criticisms of the different approaches.) (Under cross-examination the appellant's landscape witness accepted that: it was necessary to know that an acceptable design could be achieved at outline stage; in assessing visual impact topography was critical and cross-section drawings could be important; whilst floor levels and cross-sections were crucial the appellant had never been asked to produce these; the topography was not that steep and; it was possible to assess visual impact. In response to my questions this witness informed me that: the proposal would be based on good urban design principles and; whilst there would be a loss of grazed fields on the edge of the town there would be no harm to the setting of Lydney.)

Highway Matters

70. Lydney is agreed with the HA to be the most accessible of the four towns in the district. It has a wide range of services and facilities. These include schools, shops, a major foodstore, employment and industrial areas, a bus station and the only main line railway station in the district. This is a major advantage and is very significant in the context of this rural district. Rail use is growing and the train station is subject to forthcoming investment. This includes reopening an underpass, extending the car park and a cycle link to the town centre.
71. Lydney could encourage some short car journeys as part of a wider journey by bus or rail. Cycling to the station is eminently possible and driving to the station is very beneficial as most of the journey would be made on public transport. The trains from Lydney take passengers to major employment centres including Gloucester, Cheltenham, Newport and Cardiff. Grammar schools at Gloucester, Cheltenham and Stroud can also be accessed by train.
72. The pedestrian routes between the town centre and the site are reasonable. They can be walked. Those who rely on their car a lot, especially more elderly people may not find it attractive. But that is not everyone, especially those without constant access to a car. Even as a car journey, it is a short distance to travel. People do walk and the local footway gradients are not a significant deterrent for existing residents and school children in the adjacent residential areas. Even some elderly people cycle. There is no reason why this should be any different for the new residents. *(Table 3.1 in the TA sets out the distances/walking times between the site and various services/facilities.)*
73. There is a range of traditional bus services in the town. Some of these pass along Highfield Road which is accessible from the site. These may be more than 400m away but this is not unrealistic for those looking for a good regular commuter service, such as that which exists on Highfield Road. These are supplemented by an extensive (15 buses) and successful dial-a-ride service. These can be booked the day before and deliver residents to their door-steps. *(Figure 2.1 in the TA shows the location of bus stops. Appendix CMR E to Mr Rawlinson's PoE is an extract from the Lydney Dial-A-Ride & Forest Community Transport website. Table 3.2 in the TA is a summary of the local bus services.)*
74. The north east side of Lydney is on an escarpment. People in the town expect to traverse gradients. There is a 100 m level difference between the town centre

- and the site. However, this is not a deterrent. The proportions of modes of travel are not much different from typical TRICS sites and which are flat.
75. The town centre is about 1.6km from the site and is within reasonable walking distance. Cycling from the train station uphill to the site would take about 20 minutes. The proposals include the provision of a robust TP. This would encourage sustainable travel and would be bonded to ensure performance. Travel vouchers would be provided and could be used towards the part-purchase of electric bikes or for rail or bus discounts.
76. The trip impact of the scheme has been critically assessed and agreed as acceptable with the HA. The trip generation would be reflective of a mixed scheme of open market, affordable and retirement homes. As requested by the HA, the appellant has looked at donor sites. The ones selected were agreed with the HA. A sensitivity test was also undertaken. Reliance on TRICS data would not reflect local circumstances. Using the trip rates for the scheme approved at Highfield Road would also be inappropriate. That site is not as well integrated and is not near a primary school. *(The TA identifies that the proposed residential development could generate approximately 63 and 88 two-way vehicular movements in both the AM and PM peak hours. The trip generation from the proposed community building would be 1 additional vehicle in the AM peak and 3 in the PM peak hour.)*
77. The HA is bringing forward various local improvement schemes in the town as part of the Lydney Highway Strategy (LHS). Such works will enhance highway safety and accessibility, as well as reducing congestion. The appeal scheme would benefit from them and the appellant has agreed to provide a commensurate level of contributions. It would be wholly unreasonable to refuse permission until all these works have been undertaken. The contributions are based on all the committed development. The trip assignment shows dispersal on the network and no material impact on the wider highway network. The appellant would have been asked to assess wider junctions when the scoping was agreed if it was concern. This is a matter of professional judgment. The response from the HA states that the development on its own would not affect junctions on High Street. Trip impact in the town centre would be de minimus if the scheme was to come forward by itself, particularly on junctions in the western end of the High Street. *(In response to my questions the appellant's highways witness informed me that the proposals would not result in any perceptible increase in congestion around Primrose Hill Church of England Primary School.)*
78. About 20 vehicles per hour (one every 3 minutes) could be accommodated with no material effect on Driffield Road. This road is subject to a 30mph speed limit and weight restriction. Drivers are aware of the characteristics of this road and give-way. Comparing this road with guidance for the design of new roads would be inappropriate. Local accident records show only one accident. This was in 2009 and is outside of the recognised five year period for assessing accident data. The HA has not sought improvements to this lane but would have done so if necessary. The Highfield Road junction with the A48 does not have a highway safety problem. There have been only two accidents in five years. A construction management plan could suitably control vehicle sizes and times of arrival. The letter from Monmouthshire County Council is not from the highway department. The impact from development in Lydney would be much lower than development

in Sedbury, which is effectively part of Chepstow. (*Appendix B to the TA contains the accident data in respect of the local road network.*)

79. (*Under cross-examination the appellant's highways witness informed me that the proposals would have a low impact on junction capacity and a small cumulative impact on traffic conditions in the town. The scheme would make a fair share of the overall contribution towards addressing traffic issues in Lydney. The HA had never asked the appellant to provide information on many of the matters raised by SAD. The HA was content with the proposals and there would be no severe residual cumulative impact. The appellant believed the HA to be a competent authority.*)
80. The proposed Traffic Regulation Order (TRO) on Springfield Road could be to enhance safety, but may not be necessarily rectifying an existing problem. In all likelihood, this TRO will be confirmed. The HA did not request double yellow lines as part of the appeal scheme.
81. It is not necessary to look in detail (e.g visibility splays, widths etc..) at the internal access arrangements at this stage. The HA has agreed that the information that has been provided would be safe and appropriate. Gradients on the internal layout would all be within typical maximums. There are many existing properties in and around the town on sloping ground. Fixing accesses within the site at this stage would be unnecessary. The level of highway detail sought by SAD is unjustified as layout is a reserved matter.
82. The appellant and the HA have agreed that the increase in trip movements would not be so severe as to prejudice the amenity of the occupiers of existing residents adjacent to the highway on the surrounding road network (*CD1/6*). The appellant has obtained counsel's opinion which confirms the deliverability of the proposed access onto Windsor Drive (*Appendix 11 to Mr Fong's PoE*).

Other Matters

83. The proposed development would involve the loss of some grade 3a and 3b agricultural land. However, as set out in the appellant's agricultural evidence (*Appendix 6 to Mr Fong's PoE*) it would not involve a significant area of the best and most versatile land and would not offend any development plan policy. Moreover, land to the east of Lydney which forms part of the CS strategic requirement is higher quality agricultural land. The appeal site represents the poorest quality land available for residential development.
84. The AQA that was submitted in support of the application makes it clear that a scheme for 250 homes would have a minimal impact upon air quality in the town. The appeal scheme is for a lower quantum of housing. (*CD2/24*) Permission was not refused on air quality grounds and there was no objection from any statutory consultee. No such concerns were set out in the Statement of Case by SAD. (*Under cross-examination the appellant's highways witness informed me that he was not an air quality specialist but accepted that mitigation would be needed to avoid exacerbating existing impacts in the town. Such mitigation had been agreed with the HA as part of the appeal scheme.*)
85. The FRA demonstrates that the proposal would not increase the risk of flooding and could improve local drainage conditions. (*CD2/20*)
86. The proposal would not obtrude on its neighbours nor cause a loss of privacy.

87. The site does not have a significant conservation interest. The scheme would include new planting with native species and hedgerows, drainage ponds, as well as the provision of bat and bird boxes. It would enhance biodiversity. (CD2/17)

Conclusion

88. The nature of the development is precisely in line with what Government Ministers have been seeking to encourage. This is a local housing solution to a local housing problem. The proposal would deliver a number of important benefits and it would be extraordinary if the Secretary of State refused permission. The appeal should be allowed. (*Under cross-examination the appellant's planning witness informed me that whilst the loss of some greenfield land weighed against an approval this was outweighed by the package of benefits that would be provided. I was also informed that this was a very difficult balancing exercise.*)

The Case for the LPA (*Position Statement flagged on file, Document 15 and e-mail message dated 22/12/14 also flagged on the file. The text in italics below are matters upon which I sought clarification.*)

89. In summary, owing to the onerous requirements of 'the Framework' in relation to HLS and the limited weight that could be attached to the APD and LNDP the LPA, having taken advice from its barrister and officers, has reluctantly decided that it cannot support its refusal of permission. This decision was not taken lightly and it is acknowledged that there is significant local opposition to the scheme.

90. In the context of SI 2000 No. 2853, the decision not to defend the appeal does not constitute a planning decision nor does it stand in place of the original decision of refusal. The LPA has in no way acted illegally.

91. The access details on the revised Masterplan Rev B lack technical specification, level details, gradients, cross sections, detailed surface finishes, street lighting and drainage details. The layout appears over-engineered in places and is not very economical to build. There is no footpath link onto Highfield Lane. There are some reservations over certain aspects of the layout but the details are illustrative at this stage and could be addressed through reserved matters.

92. *The LPA's comments in respect of Masterplan Rev B were made without feedback from the HA. The LPA informed me that: it had not changed its stance and was maintaining its position of not contesting the appeal; there had been no changes regarding the status of the APD or the LNDP during the adjournment of the Inquiry (I have noted above the latest position regarding the APD) and; it had notified and consulted all relevant parties of the planning application.*

The Case for the Rule 6 Party (SAD) (Below is a summary of the Rule 6 party's case. The text in italics identifies relevant parts of the written evidence or comprises matters dealt with in cross-examination or are matters upon which I sought clarification.)

93. SAD represent a large group of local residents. The LPA decided not to defend its reasons for refusal at a late stage and is still considering how to meet its 5 year HLS. Whilst the 5 year HLS position is not disputed the proposal would result in significant harms and is not sustainable development. The need for additional housing should not be met at all costs. The proposal would result in development taking place in the wrong place at the wrong time. (*The Rule 6*

party's landscape/planning witness informed me that SAD represented about 200 people/households.)

94. In assessing whether the proposals are sustainable it is necessary to consider the benefits and dis-benefits having regard to the three dimensions of sustainable development. The Courts²⁰ have been consistent that it would be contrary to the fundamental principles of 'the Framework' if the presumption in favour of development applied equally to sustainable and non-sustainable development.

Landscape and Visual Matters

95. The appeal site is of very considerable visual importance and recreational value. It is an enclave of farmland that helps to define the urban fringe and maintains continuity with the surrounding countryside. This ridge top location and the extensive views are representative of two key characteristics of the Allaston Ridge landscape character area. The site is of medium to high sensitivity due to its height and differing levels. It is challenging in terms of constraints. Although the site may well contain urbanising influences this does not render it unrepresentative of the landscape character area. The proposals would result in permanent, major, adverse and significant harm to landscape character. This was also the view of the LPA's landscape officer. There would be clear conflict with CS policy CSP.1. *(The Rule 6 party's landscape/planning witness informed me that the appeal scheme would: harm the 1st, 2nd and 6th bullet points/key landscape qualities of the Allaston Ridge character area as set out in paragraph 3.3.9 on page 19 of the LVA and; have no material impact upon long distance views towards the site.)*
96. The wireline drawings that have been produced reveal that the scheme would result in major to moderate change on sensitive receptors. There would be significant adverse impacts from some footpaths and a loss of amenity for recreational users. This would not be addressed by mitigation. *(The Rule 6 party's landscape/planning witness informed me that the most harmful landscape and visual impact would be experiences from viewpoint 15 in the LVA. New buildings would appear in front of the viewer blocking out views of the river and the estuary. There would be glimpsed views but the panoramic view would be lost. In cross-examination this witness accepted that those walking the existing footpaths across the site would be aware of urban influences, including the existing housing and pylons.)*
97. The design of the proposed development would be highly related to its visual impact. However, there was no assessment of site levels and sufficient information was needed at this stage to demonstrate that landscape impacts would be acceptable. The appellant's finished floor heights plan provides information for only part of the site. The information available is woefully inadequate. The limited information reveals that ground levels would need to be filled in by 1.67 m to achieve acceptable road levels and there is no explanation of the extent of cut-and-fill. This is a serious omission.
98. There is a mismatch between the information provided by the appellant in respect of road levels and the finished floor level plan. *(Document 47)* The finished floor level assumed by the appellant would be 2.8m lower than the

²⁰ Lang J in *William Davis v SoS for DCLG* [2013] EWHC 3058 (Admin) *(Part of Document 57)*

height of the existing access road. There is nothing to show whether this would be achievable or satisfactory. These assumptions undermine the appellant's assessment of the visual impact of the scheme. This has been grossly underestimated. The ridge heights would be substantially higher than shown on the appellant's wireline drawings. The impact on key visual receptors would be greater than predicted by the appellant and would result in a significant landscape impact.

99. Details should have been provided regarding likely level changes within the site. These would be necessary to assess landscape impact. The proposal would involve substantial level changes across the site with existing levels having to be lowered to accommodate the buildings and achieve the required road gradients. As a consequence of these changes the scheme would offend LNDP policy LYD ENV2. Landscape harm would be significant and unacceptable. The proposal would be at odds with the environmental dimension of sustainable development. This weighs heavily in the planning balance. *(The Rule 6 party's landscape/planning witness informed me that in meeting the housing needs and requirements of the district it was inevitable that some greenfield land would need to be released and that this would result in some harm.)*

Highway Matters

100. The LP Inspector's comments regarding the accessibility of the site remain true. *(Appendix 1 to Mr Stuart's PoE)* The site is not well served by facilities. Most services, facilities and employment are in the centre or to the south of the town. Unlike the appeal site these are not 80-100m above sea level. A return journey on foot or bicycle to these services and facilities from the site would entail a stiff climb. This would be a disincentive.
101. Survey data of Windsor Drive *(Table 2 page 11 of Mr Rayers's PoE)* reveals very high car usage by existing residents. There is a pervasive use of cars which is supported in the representations from local residents. The site is poorly served by public transport and no improvements are proposed. Whilst some residents may use the bus, they would have to traverse steep inclines. This would act as a disincentive. The dial-a-ride service would do little to address this. Modal shift would not be achieved and future residents would be heavily reliant on the use of the private motor car. The site is in the wrong place to make best use of sustainable transport modes. The proposals are contrary to paragraph 34 of 'the Framework'.
102. *In cross-examination the Rule 6 party's highways witness accepted that: the appeal site was closer to the town centre supermarkets than housing in villages in the Forest of Dean; the appeal site was exceedingly well located to a primary school and that most settlements in the Forest of Dean do not have a secondary school; some children living at the site would cycle to the secondary school; there was no community building in this part of the town at present; the proposed pedestrian accesses would be closer to the town centre than the vehicular accesses; it would be appropriate to have a TP; Gloucester provided a main source of jobs and there were good high frequency bus services from Lydney; there was an increase in use of train services in Lydney and it was a quick journey to Gloucester; there were also regular services to Newport and Cardiff; the site was highly permeable with footpath links and people could walk through the development to access bus stops. In response to my questions this*

witness informed me that in transport terms Windsor Drive was not in a sustainable location.

103. The appeal scheme would increase emissions of nitrogen dioxide in the Lydney AQMA, as well as congestion on the B4231. The LPA's Environmental Health Officer has referred to congestion on this road and the proforma for the Lydney Transport Strategy refers to excessive traffic at peak times which results in elevated levels of nitrogen dioxide concentrations. There is no prospect of effective mitigation over the next five years. The proposal would make a poor environmental situation worse. This would be contrary to the principles of sustainable development.
104. The appellant has not assessed the impact of the scheme upon junctions that are already congested in Lydney town centre, including those along Highfield Road, Newerne Street, Hill Street and High Street. This is a serious omission. With or without committed development the appeal scheme would increase traffic movements at key junctions which are already at capacity. This increase could have a serious effect. *(In cross-examination the Rule 6 party's highways witness informed me that traffic using the junction of the A48 Lydney bypass and Highfield Road would be unacceptable. The appeal scheme would make queuing at this junction slightly worse. This witness also informed me that the Driffield Road junction was a concern and that in highway terms the proposal would not breach any CS or LP policies.)*
105. The appellant has considerably underestimated the proposed number of trips that would be generated by the development. As a consequence, the impact on junction capacity has been underestimated as well as the highway safety implications along Primrose Hill/Springfield Road and Driffield Road. The TRO proposed by the HA for Springfield Road indicates that the operation of this road is a safety concern at the present time. The proposal would increase traffic along this street and there is no certainty the TRO would take effect. Local residents who frequently use this road have identified their road safety concerns.
106. *(In cross-examination the Rule 6 party's highways witness acknowledged that; the HA had accepted the appellant's traffic generation figures; sensitivity testing had been undertaken by the appellant's highways witness; there would probably be lower trip rates for the retirement flats than private housing but this would be higher than the trip rates for affordable housing; the appellant had used a larger data set than those who just relied upon Windsor Drive for predicting trip rates.)*
107. The appellant has not used the traffic data from Windsor Drive in calculating trip rates. Some of the data that has been used is unfeasibly low. This has reduced the average trip rate. The appellant has also applied very low trip rates for the proposed 'retirement flats'. Those living in the flats may not have retired and are just as likely to drive. They are more likely to rely on cars due to the gradient and the distance from services and facilities. There is no sound basis for the low trip rates applied by the appellant. In contrast, SAD's evidence does not rely on the worst case scenario. Without a full assessment of the local highway network it is not possible to fully understand the likely impacts of the proposals.
108. The impact upon Driffield Road would be unacceptable due to the deficiencies in this road, including its sub-standard geometry. The proposal would have a significant and severe impact upon highway safety. *(In cross-examination the Rule 6 party's highways witness informed me that he did not know how many*

residents would use Driffield Road. In response to my question this witness informed me that Driffield Road had not got a poor record for road safety injuries.)

109. Access is not reserved and care must therefore be taken to ensure that the details being considered are sufficient. The proposal must provide suitable and safe for vehicles, cycles and pedestrians. Given the definition of 'access' in SI 2010 No. 2184, the absence of necessary information cannot be left to reserved matters. There can be overlap between the issues of layout and access. It was open to the appellant to reserve only part of access and it is common practice for descriptions of development to limit approval to main access points only. This has not been done in this case. Significant information, such as gradients of internal roads, road safety audits, visibility splays for internal roads, remain unspecified. There is material risk that should permission be granted an approval would exist for a detailed scheme which has not been properly examined.
110. *In cross-examination the Rule 6 party's highways witness informed me that: the HA had not been as robust in their assessment of the scheme as they should have been; the position of routes within the scheme was a reserved matter and layout includes routes; no road safety audit had been requested by the HA. In response to my questions, this witness informed me that he could not say that the HA were not a competent authority.*

Planning Policy/Balance

111. The appellant has argued that the landscape and highways harm are not significant and do not outweigh the benefits. However, there would be a breach of CS policies CSP.1 and CSP.9. These are not policies for the supply of housing and they should be given full weight. The site has amenity value and should be protected. The quality of views from the site would be lost if permission was granted. The loss of the site to the local community would be a harm in the context of the social dimension to sustainable development. This has significant weight. The proposals also conflict with LNDP policies LYD TRAN3, LYD ENV1 and LYD ENV2. This adds further weight to the case for withholding permission. Whilst CS policies CSP.4 and LYD ENV1 are policies for the supply of housing the scheme would be in conflict with them. This can also be afforded weight. The recent decision at Malmesbury (Ref. APP/Y3940/A/13/2200503) and the WMS of 10/7/14 underline the importance the SoS attaches to neighbourhood planning.
112. *In cross-examination the Rule 6 party's landscape/planning witness accepted that: none of the constraints to which footnote 9 of 'the Framework' related applied; his evidence did not set out the benefits of the scheme or undertake the overall planning balance; the shortfall in HLS could be given substantial weight; increasing housing supply was a benefit to be weighed in the balance; substantial weight could be given to the affordable housing benefits of the scheme; a substantial area of green space and hedgerows would remain and would be a benefit as green infrastructure; if delivery of the community building could be guaranteed it should be given substantial weight; the proposed retirement flats were a benefit; the proposals would deliver economic benefits; it was not disputed that the infrastructure could be provided; the LPA had not questioned the deliverability of the scheme; in principle the self-build element of the scheme was innovative and sensible; the proposal was a novel and innovative scheme; the delivery of housing in the LNDP was heavily reliant on the CS strategic*

allocations; permission had been granted for another housing scheme on land not allocated for housing in the LNDP and SAD had not objected to this.

113. *The Rule 6 party's landscape/planning witness also informed me that: the lack of a five year HLS was a material consideration that overrides development plan policies for the supply of housing; the proposal would not conflict with CS policy CSP.5; the ADP could be given limited weight; having regard to Ministerial Statements and recent appeal decisions the LNDP could be given considerable weight; a referendum on the LNDP was likely towards the end of 2015.*
114. For the claimed benefits to be given significant weight they must be delivered. The appellant's evidence on this is limited. No viability information has been provided. A layout without dwellings on one side of the roads is commercially suspect and is unlikely to be viable. The Local Approach document relied on by the appellant is aspirational and can only be afforded limited weight. There are no agreements in place to deliver the housing within the next five years. The reserved matters would be complex and it is unrealistic to expect these matters to be resolved within 18 months.
115. The housing market in Lydney is depressed. There is no reason why local builders would offer higher prices than national house builders. The proposal is also for a scheme for up to 200 dwellings. There is no certainty this would be the final number or that all of the self-build units would be delivered. If the numbers of dwellings reduces it would reduce the weight that can be afforded to both the self-build and affordable housing elements. This would change the planning balance. No material weight should be given to the self-build units coming forward within five years.
116. If the market and affordable housing come forward within five years this would be in accordance with the social and economic dimension of sustainability. However, this would not outweigh the conflict with the development plan, the loss of the site to the local community and the significant landscape and traffic related harm. The scheme would not amount to sustainable development. Permission should not be granted.

The Case for Lydney Town Council (*Documents 9 and 35 and letter dated 18 July 2014 in the red folder attached to the file*)

117. In summary, the development would be outside the defined settlement boundary and would be contrary to the CS, the APD and the LDNP. Access to the site is wholly inappropriate and there is insufficient capacity on the local highway network. The proposed access off Windsor Drive was considered in a previous appeal and is now the subject of enforcement action. The appellant does not hold the title to a ransom strip off Windsor Drive.
118. The development would increase surface water discharge from the site and this would need to be controlled to avoid any adverse impact on neighbouring areas.
119. Adequate housing has already been allocated for Lydney. The housing figures for the town indicate a 26.2% increase above the CS. If the appeal scheme were permitted this would increase to 38.3% above the base figure. Whilst the TC is pro-growth this must be balanced with local investment in social and environmental infrastructure. The proposal is purely speculative and would not

benefit the local community. The appellant has no prior history of bringing forward developments of this type

120. The Secretary of State (SoS) has recently stated that the 5 year land supply should not be the overriding factor when making planning decisions. The proposal flies in the face of legislation, policy and common sense. Much time and effort has been spent in producing the LNDP. The SoS has advised that such plans should be considered as part of the planning process even before adoption.
121. LTC's concerns have previously been conveyed to the SoS and The Hon. Ms Justice Lang QC. (*A copy of the letter dated 5 November 2014 to The Hon. Ms Justice Lang QC is attached to Cllr Preest's Statement.*)
122. LTC maintains its stance in respect of the revised Masterplan Revision B. It reserves its right to comment further when the final number of dwellings is known. The LNDP was pro-growth for the right kind of development. LTC is willing to negotiate with the appellant if the appeal is allowed.
123. *In cross-examination LTC's witness accepted that the appellant comprised local people who had built houses in Lydney and the Forest of Dean. In addition, the proposed affordable housing would be welcomed and in principle, was a benefit of the scheme, although not in this location. It was accepted that the LPA was not able to demonstrate a five year HLS and there were problems in releasing housing sites in the CS. The appeal site had development around it and was suitable for housing but fell outside the development boundary. The self-build plots were welcomed and the scheme would provide some local employment. These were relevant considerations. The proposed community building, public rights of way and open space provision were broadly in accordance with the LNDP. Lydney was an appropriate location for growth.*
124. *LTC's witness also informed me that if the LPA did not have a 5 year HLS brownfield sites could be used, although no specific site could be identified. I was informed that the LPA had not addressed the LNDP in a timely manner.*

The Case for Councillor A Preest (Document 8)

125. In summary, although the LPA's decision was lawful it appeared to be worthless. A vast number of people who represent Lydney were deeply unhappy about the development. The Localism Bill 2011 appeared to make the planning system more democratic and effective by placing more influence in the hands of local people and reducing red tape. Communities would also be able to set policies for the development and use of land in their neighbourhoods. However, this appears to have been frustrated by 'the Framework'.
126. In 2012, the Prime Minister pledged to protect the countryside from large housing estates by allowing local communities to decide where building should go. In addition, the local MP has stated that the appeal site should not be developed. The LNDP was submitted in good faith to the LPA but had yet to be ratified. This delay had denied a stronger democracy. On highway issues GCC appeared to work on a tick box exercise. However, GCC was prepared to work with the LNDP as it stands.
127. Rural Britain does not hold the key to housing policy but is an easy means of profit for developers. It is not selfish or nimbyism to defend rural Britain and our heritage, identity, landscape and amenity. There are countless existing

opportunities in the district to develop brownfield sites. Only when all these have been developed should future development be considered on greenfields.

128. *In response to my questions Cllr Preest informed me that the appeal scheme would not provide any benefits.*

The Case for Mr Timbrell (Document 1)

129. In summary, the LPA's decision-making process was illegal and in conflict with the provisions of The Local Authorities (Functions and Responsibilities) (England) Regulations 2000. The rug had been pulled from under the local community and the proceedings should be halted whilst the matter was passed to the police for investigation. It was alleged that the LPA was run in a corrupt manner.

The Case for Mr Bevan (Documents 36 and 38)

130. In summary, the development would exacerbate traffic problems along the local road network. There was very limited visibility at the access junctions, including those on Highfield Lane and Driffield Road. Accidents occur every day along Driffield Road which is a very sub-standard highway. The proposals would increase pedestrian and cycle traffic along Highfield Lane and Driffield Road.
131. Due to the gradient of the highways children do not cycle to school along Allaston Road or Primrose Hill. Only one person is known to regularly cycle along these roads. Negotiating these highways is like a slalom course with parked vehicles effectively making them single track roads. There is no space to pass pedestrians or cyclists. The journey to the bottom of the hill is stressful. There is limited public transport and people mainly use the car not the bus. People would use Driffield Road as an alternative means of accessing the A48.
132. At present, stormwater from the site is absorbed into the ground. During excessive rainfall water runs off the site into a gully in Centurion Road. This is only a small drain and the development could increase the risk of flooding.
133. It was argued there would be an adverse impact on Mr Bevan's living conditions.
134. *In cross-examination it was accepted that neither the LPA nor the Environment Agency had objected on land drainage grounds and there was no objection from the HA. The LPA was considering deleting the proposed housing allocation off Augustus Way in the ADP but this had first to be considered by a meeting of the LPA's Cabinet and then the Full Council. These meetings were due to be held on 26/2/15.*

The Case for Mr Williamson

135. In summary, the proposal would result in an increase in on-street car parking and exacerbate traffic problems along the local highway network.

The Case for Mrs Parry (Document 20)

136. In summary, Driffield Road is just a lane. It is very narrow with a gradient. There have been numerous accidents along this road, some of which have resulted in emergency vehicles being called to the road traffic incidents. The proposal would increase traffic along this road with drivers making their way to Gloucester. There is a risk of a fatality. The road has also suffered a partial

collapse in the past. When cars park along the highways they obstruct traffic flows. Driffield Road is extremely dangerous and incoming residents would not be aware of the problems.

The Case for Mr Lewis

137. In summary, Highfield Lane is already dangerous. It is a single track road with a blind corner. The walls either side of the lane are frequently damaged by traffic and the proposed increased use of this lane would be likely to result in a serious accident. Service vehicles already have difficulty negotiating the lane and the proposal would exacerbate existing problems. There are very many objectors to the scheme including LTC, the local MP and the CPRE. There should be democracy for local people.

The Case for Mr W L Owen

138. In summary, the site is outside the settlement and housing allocation boundary. The only way to guarantee a 5 year housing supply is for the LPA to use its compulsory purchase powers. There is no necessity to change the boundary. The benefits put forward by the appellant amount to utopia. It is an attempt to please all people and will not work. Common sense has to be applied. Drainage in the area is also inadequate. The scheme does not amount to sustainable development. There would be harmful consequences of the scheme and there are already sites with planning permission for housing, including affordable housing. The scheme is not a viable commercial venture. Common sense had to be used in considering and interpreting the evidence of experts.

The Case for Mr Kear *(See also Documents 22, 28 and 29)*

139. In summary, sections of the local road network are hazardous, including Primrose Hill, Springfield Road and Albert Street. The traffic implications of the scheme have not considered the recreation area along Primrose Hill or the community rooms which are used by children and the elderly. The development would result in a loss of open space, good agricultural land and Green Belt. Glimpsed views over the roofs of the proposed buildings would be inadequate. The CPRE were concerned over the loss of green land. There are many homes for sale and rent in Lydney but there are few jobs and there is a severe shortage of employment. Young people commute to Gloucester or Bristol and additional housing should be provided near these areas to reduce carbon footprints. The local community and its elected representatives at all levels had opposed the scheme. Votes seem to count for nothing and democracy was being eroded.

The Case for Cllr Davis *(Document 34)*

140. In summary, whilst it is important to support local industry and enterprise, having considered the views of the majority of the electorate, officers and LTC permission should be withheld. The proposals do not accord with the CS, LNDP or the ADP and would have a detrimental impact on the community and infrastructure. It is completely unsustainable. It would increase traffic problems and air quality issues in the town. There would also be flooding issues. There are already an agreed number of housing developments in Lydney and any more schemes would be a disaster for the town. There is strong local opposition.

The Case for Mrs Stickler (*Written representations are included amongst the bundle of interested party representations on the file. Below is a summary of Mrs Stickler's oral evidence.*)

141. On 23/1/15, a lorry negotiating the junction of Primrose Hill and Court Road hit overhead power lines causing live cables to fall onto the highway. The police were called. If the appeal scheme was permitted it would be a disaster. The appellant had objected to a planning application for a dwelling on land owned by me and adjacent to the appeal site.
142. *In cross-examination, it was accepted that the DAS (Document 39) submitted in support of Mrs Stickler's planning application described that site as being in a sustainable location.*

The Case for Mr S Edwards (*Document 42*)

143. In summary, the proposal would continue to allow many walks and fields to be enjoyed. It would also provide self-build plots in Lydney, including family-sized plots. The scheme would afford an opportunity for Mr Edwards to reside near his family. (*In response to my question, Mr Edwards informed me that it took him between 8-9 months to complete a self-build dwelling on a site at Chepstow.*)

The Case for M F Freeman

144. In summary, this building company employs approximately 100 people and provides work for a number of sub-contractors. It has worked with the appellant over a number of years and is excited by the plans for developing the appeal site and providing housing in Lydney. It would be a major project for the company and would involve employment for local people. The development would also have spin-offs for the local economy by increasing buying power within the town.

Written Representations (*Those contained in the red folder in the file were in response to the LPA's notification of the appeal. The representations in the separate blue folder, marked by the PINS case officer as "Comments on Masterplan etc..." are in response to the notification that was undertaken between November 2014 and December 2014 in respect of the masterplan rev B. The Appeal Questionnaire includes the representations that were made at application stage - the HA comments are flagged.*)

145. Many representations and a petition objecting to the proposals were made when the LPA considered the application. (Pages 86-87 of the officer's report to committee, which is included as part of the Appeal Questionnaire, states that 452 individual letters of representation were received at that time and a petition with 1124 signatures. The officer's report also summarises the representations made.) Over 90 representations were made following the LPA's notification of the appeal and a larger number, including a petition objecting to the scheme, were made following the notification that took place in November 2014. The majority of representations are made in opposition to the proposals. However, there are some letters of support.
146. This report would be extremely lengthy if the individual written representations that were made at appeal stage were summarised here. The following are additional matters to those set out in pages 86-87 of the officer's report to committee: i) the LPA ignored the England and Wales cross-border protocol and Ministerial agreement in respect of local healthcare services and failed to consult

the appropriate Health Authority, as a consequence, its decision is flawed; ii) the proposal could increase congestion and have an adverse effect on the Chepstow AQMA (*Document 44*); iii) there would be a loss of agricultural land; iv) the proposals would be contrary to the Government's localism agenda; v) there would be a loss of important community open space; vi) water mains traverse the site; vii) there is a demand for self-build housing.

Suggested Planning Conditions

147. Section 6 of the SoCG agreed by the appellant and the LPA (*CD1/5*) includes a number of suggested planning conditions in the event of the appeal being allowed. These and other conditions, including one relating to a sustainable urban drainage scheme (SUDS) (*Document 55*) and the highway conditions suggested by SAD (*Document 54*) were all discussed at the Inquiry.
148. The appellant informed me that a condition requiring an application for the approval of the reserved matters within one year of outline permission being granted would be necessary to ensure the expeditious delivery of the development for the purpose of addressing the exceptional shortfall in the 5 year HLS and the need for affordable housing.
149. The LPA and the appellant agreed that it would be necessary to modify suggested condition 2 to require details of site levels/sections at a scale of not less than 1:500. It was also agreed that conditions specifying the maximum heights of the buildings and the inclusion of the condition set out in Document 55 (drainage) as part of/in lieu of suggested condition 4 would also be necessary.
150. There was agreement amongst the main parties that a condition would be necessary specifying the approved plans. The LPA and appellant consider that it would not be necessary to include the longitudinal sections of the highways that were submitted in January 2015 but neither party had an objection to these plans being specified if this was deemed necessary.
151. The LPA and the appellant agreed that the conditions suggested in respect of play areas and open spaces within the site (Nos. 14 and 15) duplicated the provisions of the section 106 Agreement with the LPA and would therefore be unnecessary. These main parties also agreed that the figure specified in condition 17 (low carbon energy) should be 15%. All three main parties agreed that as separate legislation exists to address any obstructions to the public rights of way within the site suggested condition 21 would be unnecessary.
152. The appellant and the LPA agreed that a condition requiring the provision of the proposed access onto Windsor Drive would be unnecessary. Those representing SAD pointed out that access was not a reserved matter and commented that there could be safety issues if all construction traffic to this part of the site had to use the proposed road link between the self-build plots and Oak Meadow. The LPA and SAD argued that a condition would be necessary specifying the width of this road link.

Planning Obligations

153. The LPA and the appellant agreed that the above noted planning obligations were in accordance with paragraph 204 of 'the Framework' and Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010.

154. The Note prepared by the LPA (Document 53) identifies the supporting evidence in respect of the various financial contributions sought by the LPA and GCC. The LPA and the appellant agreed that there was a shortfall in the supply of affordable housing within the district and that a TP would be necessary to help secure a modal shift in travel by occupiers of the proposed housing.
155. The LPA and appellant informed me that the air quality contribution was calculated on the basis of £100/dwelling or £44/bedspace. I was also informed that the off-site contribution for affordable sheltered housing was sought by the LPA as it would be more effective to provide this type of accommodation on another site elsewhere within the district.
156. Although the LPA queried whether the unilateral undertaking would be enforceable or necessary it did not argue against the provisions of this undertaking. The appellant informed me that a search of Companies House would reveal where a house builder had its registered office and it was argued that such an undertaking would ensure local builders benefitted from the scheme.

Richborough Estates

Inspector's Conclusions

The numbers in brackets [] below refer to preceding paragraphs in this report.

Preliminary Matters

157. The adjournment of the Inquiry towards the end of November 2014 allowed for adequate consultation/notification to be undertaken in respect of the access details shown on masterplan Rev B and the amended description of the development set out in footnote 2 above. No party is therefore likely to be prejudiced if the appeal was to be determined on the basis of the revised details. However, if the Secretary of State was to disagree and consider that the appeal should be determined on the basis of the drawings to which the LPA's decision notice relates (masterplan Rev A) the text in *italics* below comprise my conclusions in respect of masterplan Rev A where these differ from those in respect of masterplan Rev B. [8, 9, 10, 11]
158. Having heard from the LPA, the appellant and SAD, I concurred with the main parties that on the basis of the information before the Inquiry there were no grounds for adjourning the proceedings to consider allegations regarding the LPA's decision to not contest the appeal. Any unlawful conduct or maladministration by the LPA would be separate matters for others. [16, 90, 129]
159. The appellant is not required to demonstrate the viability of the scheme. The LPA and the appellant agree that the development could be deliverable within five years. There is no cogent evidence to refute this. [5(i), 42, 49, 50, 112, 114, 119, 138]

Main Issue

160. Given all of the above, I consider the main issue is whether, in the absence of a five year HLS within the district, any adverse impacts of the proposed development, having particular regard to the effect upon: the character and appearance of the area and; traffic conditions (including any undue reliance on travel by car) and highway safety along the local road network, would significantly and demonstrably outweigh the benefits of the scheme.

Planning Policy and Other Documents

161. The development plan is the starting point for the determination of the appeal. However, in this instance, there are no provisions within the LP that are determinative to the outcome of this appeal. [26, 45, 145]
162. The site lies outside the settlement boundary defined in the development plan. As a consequence, the proposals would be at odds with that part of CS policy CSP.4 which expects most changes to take place within existing settlement boundaries. However, in recognition of the lack of 5 years HLS within the district, the LPA has already granted permission for housing development beyond the settlement boundary. This demonstrates that the LPA has shown some flexibility in its approach to the settlement boundary for Lydney. I have approached this appeal in the same manner. The proposals would also conflict with CS policies CSP.5 and CSP.12 for the supply of housing. Given the HLS position within the district, these policies cannot be considered up-to-date. The

provisions of paragraph 49 of 'the Framework' are therefore engaged. Although adopted prior to the publication of 'the Framework', CS policies CSP.1, CSP.4 and CSP.9 are broadly consistent with sections 11, 1 and 8 respectively of 'the Framework'. [5, 14, 26, 41, 46, 48, 55, 89, 93, 111, 117, 138, 140]

163. The APD has not reached an advanced stage towards adoption. Much could change as a result of the public consultation exercise. It is very far from certain that this Plan would provide 5 years HLS and be found sound following its Examination. The Plan is not relied upon by the LPA and can only be given very limited weight in the determination of this appeal. [5(i), 27, 48, 51, 52, 92, 113]
164. The district continues to experience a shortfall in the provision of affordable housing and 'the Framework' recognises the importance of delivering affordable housing and inclusive and mixed communities. Nevertheless, the 2010 SPD is based on an earlier SHMA and is somewhat dated. As a consequence, it can only be given moderate weight. The 2007 landscape SPD is broadly consistent with 'the Framework' and can also be given moderate weight. [28, 34, 52, 53]
165. The SPG pre-dates 'the Framework', MfS and the development plan. Although it contains some helpful advice regarding the design of new residential development it is of limited weight in determining this appeal. [29, 60]
166. The Government attaches great importance to neighbourhood plans and the extent to which they reflect the needs and priorities of local communities. However, responsibility comes in putting power back in the hands of communities: a responsibility to meet their needs for development and growth and to deal quickly and effectively with proposals that will deliver homes, jobs and facilities. Whilst much local effort and resources have already been put into preparing the LNDP it is evident that more work needs to be undertaken before it can progress towards a referendum. [5(iii), 30, 31, 55, 120]
167. The LNDP is based upon the housing provisions of the CS. As with the CS, the lack of 5 years HLS within the district also renders those policies for the supply of housing within the LNDP out-of-date. This includes LYD HOUS 1, which has limited weight. Policies LYD ENV 2, LYD TRAN 1 and LYD TRAN 3 are broadly consistent with sections 11, 4 and 8 of 'the Framework' and can be given moderate weight in determining the appeal. [5, 41, 55, 89, 112, 113, 123]
168. The settlement boundary in the LNDP is the same as the one defined in the CS. It is based upon the housing provisions of the development plan and does not reflect the scheme permitted on land off Highfield Road. It would be surprising therefore if this boundary was not reappraised/redrawn as part of the LNDP to meet the housing needs of the local community. The proposal would conflict with LNDP policy LYD ENV 1. This weighs against an approval. However, if permission was withheld because of this conflict it would frustrate necessary growth. [41, 55, 56, 112, 117, 126, 138, 145]

Benefits

169. The proposed development would assist in addressing the considerable shortfall in HLS within the Forest of Dean and in a part of the district where major growth is envisaged but has stalled. It would also make an important and valuable contribution towards meeting the needs of those who are unable to access the local housing market. There is an acute shortage of affordable

housing within Lydney and the developer of the main strategic housing site is unable to deliver the quantum of affordable housing originally envisaged. The proposals would not undermine the provisions of CS policy CSP.12 and would add to the mix and choice of housing within the town, including the provision of a sizeable number of self-build plots in an area where there is a demand for such housing. This would be consistent with the Government's efforts to stimulate this sector of the house building industry. The development would also emphasise the role and importance of Lydney as required by CS policy CSP.4 and accord with the provisions of 'the Framework' that are aimed at creating inclusive and mixed communities, as well as boosting significantly the supply of housing. It would be consistent with the affordable housing provisions of CS policy CSP.5 and the 2010 SPD. The proposed retirement apartments would also accord with the thrust of LNDP policy LYD HOUS 1. A new community building would also be provided which would allow for interaction between the residents. The proposals would satisfy the social dimension to sustainable development. These matters weigh substantially in favour of an approval. [5(ii) and (iii), 14, 15, 40, 43-45, 48, 49, 51-54, 56, 89, 94, 113, 114, 116, 117, 124, 143, 146]

170. The development would create employment during the construction phase and incoming residents would provide some support for local services and facilities. The proposals would help strengthen the local economy. The scheme would satisfy the economic dimension to sustainable development. This can be given moderate weight in the overall planning balance. [39, 42, 43, 114, 144, 145]

171. The proposed 3.81 ha of public open space and the opportunities for footpath and cycle links would benefit existing residents and occupiers of the proposed dwellings. In addition, there would be a net increase in the length of hedgerow provision within the site. New landscape planting would be undertaken, including restocking and increasing the depth of hedgerows, planting with indigenous trees and a range of connected SUDS features. These areas would also be managed. This would provide environmental benefits and enhance biodiversity interests in and around the site. These aspects of the scheme would contribute to the environmental dimension to sustainable development. They can be given moderate-high weight in the overall planning balance. *Fewer environmental benefits would be derived under the scheme that was advanced under masterplan Rev A. They could be given moderate weight.* [38-40, 42, 63, 88, 112]

172. The range of social, economic and environmental benefits that would be derived from the appeal scheme can be given very considerable weight. *This would be considerable weight for the scheme advanced under masterplan Rev A.*

Character and Appearance

173. The appeal site adjoins the built-up edge of Lydney and its character, in part, is influenced by the neighbouring residential development. Notwithstanding this and the pylons/overhead lines, the largely unspoilt open qualities of this 14.16 ha of countryside, including the hedgerows within and around the site, make a pleasing contribution to the character and appearance of this part of Lydney. [19, 20, 22, 23, 57, 58, 96, 145]

174. From some sections of the footpaths that cross the site there are attractive views to the south west across the town. These include views of the spire of the Church of St. Mary, the Severn Estuary and the Cotswolds. There are also other

- views across the countryside to the north and east. Whilst not a ridge top location, the gradient of the site, the pattern of hedgerows and the above noted extensive views reflect some key characteristics of the Ridges and Valleys LCT. [21, 24, 25, 32, 57, 59, 95]
175. From the evidence and what I saw during my site visits, the footpaths that cross the site are well used. A local booklet of walks extols the scenic qualities that are available from some sections of these public rights of way. When viewed from the wider surroundings, including land to the south of the town, the appeal site appears as part of the settlement with development around the edges and against the back-drop of a green ridge. [21, 25, 57, 59, 145]
176. The appeal site does not form part of any designated landscape but its countryside qualities and the views afforded from the footpaths across the site are of value to some residents. However, all landscapes have value and very many public rights of way offer opportunities for recreation and/or an appreciation of visual amenity. I concur with the appellant that the site does not form part of a "valued landscape" to which the first bullet point of paragraph 109 of 'the Framework' applies or "open space" to which paragraph 74 of 'the Framework' applies. No such claims were made by the LPA. Moreover, the LNDP is 'silent' on the landscape qualities of the site as well as the Allaston Ridge character area. Any walkers deviating from the footpaths across the site are not authorised to do so by the landowner. LNDP policy ENV 1 treats all land outside the settlement boundary as 'Open Space'. If this was synonymous with the definition in 'the Framework' it would have the unintentional effect of conveying recreational and/or amenity value on all of the countryside around Lydney, including the land off Highfield Road. The appeal site is not identified as being of recreational or amenity value under CS policy CSP.9. It is of medium sensitivity to residential development. [30, 31, 33, 58, 68, 95, 111, 145, 146]
177. The scheme has been landscape-led. The illustrative layout indicates that the proposed residential development could comprise small, low density blocks of dwellings separated by landscape corridors. These could be designed to reflect local distinctiveness. The majority of the uppermost field would be retained and made available for use as public open space. There would also be considerable new landscape and hedgerow planting. The density of the proposed development would strike an appropriate balance between securing the most efficient use of land and the need to safeguard the quality of the environment. [38, 40, 60, 63]
178. Some neighbouring properties have been built on sloping ground. Whilst noting the arguments regarding the likely change in levels to accommodate the appeal scheme and the adequacy of the information submitted in support of the proposals, including the accuracy of the wireline drawings, layout has been reserved. Moreover, details regarding levels were not requested by the LPA and the wireline drawings are only a tool to aid decision-making. Although my recommendation does not turn on this matter, given the resources available to the appellant and having studied the wirelines on site, those prepared on behalf of the appellant are a more accurate indication of the potential impact of the scheme. [1, 69, 70, 97-99]
179. The proposal would avoid housing development in the most visually sensitive upper field. From this part of the site pleasing views would be retained across the Severn Estuary. From some other sections of the footpaths there would be

glimpsed views between and around the new buildings in the lower fields. These buildings would be limited in height and would be set into the slope of the land to reflect the advice in the SPG. When looking back at the site from the south and west of the town, the proposed buildings would not be unduly prominent or project above the top of the ridgeline. The development would not harm the setting of Lydney and would accord with the 2004 LS. It would be designed to take into account the most important characteristics of the site as required by CS policy CSP.1. [26, 29, 33, 60, 61, 66, 67, 96]

180. Notwithstanding the above, the proposals would entail the loss of several fields and the removal of some hedgerows. The new buildings, roads and other infrastructure would considerably change the character and appearance of the site. Some cut-and-fill would be undertaken and, in places, there would be a marked change in levels, including the access onto Windsor Drive. These changes would be readily apparent from the existing properties alongside as well as the public footpaths through the site. The proposals would detract from the pleasing attributes of the site and would erode the quality of views from the footpaths, including the loss of some views of the church spire, Severn Estuary and the Cotswolds. This would diminish the amenity of these public rights of way. In addition, a section of one of the footpaths across the site would be integrated into one of the proposed internal roads further detracting from the attractiveness of this path. [19, 39, 62, 64, 66, 67, 96, 139, 140, 146] (*The scheme advanced under masterplan Rev A would involve the loss of more greenfield land, and more footpaths would be included as part of the proposed internal roads.*)

181. The proposed loss of countryside, diminution of views from some sections of footpaths through the site and the erosion of the pleasing unspoilt qualities of the site would detract from the character and appearance of the area. These elements of the scheme would result in some conflict with aspects of CS policy CSP.1. There would also be conflict with LNDP policies LYD ENV 2 and LYD TRAN 3. This weighs against an approval. However, the loss of some greenfield land/countryside and the ensuing harm is an almost inevitable consequence of accommodating necessary housing in the district and where 5 years HLS cannot be demonstrated. Moreover, panoramic views across Lydney towards the Severn Estuary and Cotswolds would remain from some sections of the network of local footpaths. The proposal would also be located away from the wooded ridgeline and would be clearly separated from neighbouring settlements. It would be unlikely to cause any significant harm to the key landscape qualities of the 'Ridges and Valleys' LCT or the 'Allaston Ridge' character area. In the circumstances, the adverse impact upon the qualities of the area should be given moderate weight in the overall planning balance. *This would be moderate-high weight in respect of masterplan Rev A.* [26, 31, 41, 62, 64, 67, 68, 96, 99, 111]

Traffic Conditions

182. The proposed development would enlarge the sustainable settlement of Lydney. This is identified in the development plan as the most accessible town in the district and with the greatest opportunity for change. The proposals would be accessible to a range of services, including some employment facilities, a bus station and the railway network. The CS recognises that these services can be supported and improved by new housing. The appeal scheme would be

consistent with the broad thrust of the growth/sustainability objectives for Lydney. [5, 26, 41, 45, 70]

183. The proposed access arrangements would ensure that the scheme was permeable and the new housing would relate well to the existing network of roads and footpaths, including bus stops. Although there are infrequent bus services along Primrose Hill/Allaston Road and an hourly service along Highfield Road, an established and extensive dial-a-ride service also operates in the area. These bus services are likely to be used by some occupiers of the proposed scheme and for some people would be an alternative to the car. Adequate car parking could be provided and congestion along the estate roads is unlikely. The scheme would accord with LNDP policy LYD TRAN 1. [5, 31, 41, 72-74, 102]
184. A combination of distance from the town centre and gradient would undoubtedly deter some incoming residents from walking or cycling. Nevertheless, pedestrians and cyclists living in Lydney expect to traverse footways and carriageways with gradients. In this regard, the HA recognises that gradients are not a significant deterrent for local residents who walk to and from existing shops. Whilst many incoming residents, especially those undertaking bulky shopping trips, would be likely to travel by car, others could choose to walk or cycle, including those intending to take advantage of the good rail links/services and the planned improvements to the footpath/cycle route near the train station. A choice of transport modes would be available to incoming residents. [5(ii), 72, 75, 76, 100, 101, 131]
185. Although mindful of the LP Inspector's findings in 2005 in respect of 'Omission Sites' in this part of Lydney, there is no cogent evidence to demonstrate that any other housing site is deliverable or would be any less dependent on travel by car. Moreover, the CS which post-dates the LP, states in paragraph 3.6 that the CS must be realistic in accepting the basic infrastructure as typical of many rural areas. In addition, the proposed TP would include measures to encourage a modal shift away from the private car. The section 106 agreement with GCC incorporates a substantial financial deposit to achieve this objective. The proposed development would accord with established national and local policies that are aimed at focusing development in locations which are or can be made sustainable. The HA is content with the sustainability credentials of the scheme and the LPA did not identify any such concerns when it refused permission. Occupiers of the scheme would not be unduly reliant on travel by car. [13, 26, 76, 101, 125, 143]
186. The proposed development would increase the volume of traffic on the local highway network. I have given careful consideration to the concerns of interested parties (many of whom are very familiar with local traffic conditions) in respect of the perceived impact upon the safety and free-flow of traffic in and around Lydney. During my visits I walked and drove along various sections of the highway network, including Allaston Road, Primrose Hill Road, Springfield Road, Driffield Road, Oak Meadow, Court Road and Highfield Road. I noted the width and alignment of these highways and experienced traffic negotiating parked vehicles along some sections of the roads. I would expect there to be a greater incidence of on-street parking during the late evening and early morning when residents are more likely to be at home. From what I saw, in many instances, the on-street parking had the effect of reducing traffic speeds. [5(ii), 39, 117, 130-131, 136-138, 140-142, 145-146]

187. The TA was prepared following discussions with the HA. It includes a forecast of trip generation derived from bespoke surveys of cul-de-sacs adjacent to the site but does not include the survey data from Windsor Drive. Whilst the Trip Rate Information Computer System (TRICS) national database for developments is widely used in assessing the highway impact of schemes, in all probability, the survey data from Lydney is likely to be more representative of trip rates that could reasonably be expected from the appeal scheme. This approach and the decision not to use the data from Windsor Drive was agreed with the HA. No criticisms were raised by the LPA and there is nothing of substance to support the inferences of some interested parties that the HA is not a competent authority. No two schemes are exactly the same and it would be surprising if there was not some variation between the survey data and the actual trip generation from the appeal scheme. However, the appellant's sensitivity test indicates that the local data provides a sound basis against which to consider the proposals. [39, 76, 101, 106-107, 110, 126, 135, 145-146]
188. With consideration to traffic growth factors and committed development elsewhere within Lydney, the TA reveals that the appeal scheme would have a small impact on the local highway network and the Allaston Road/Windsor Drive junction would operate within capacity. The appellant was not required by the HA to assess the capacities of other junctions. The HA and its officers are familiar with the operation of the local highway network. It is therefore reasonable to assume that if the proposals would be likely to have a significant effect upon other junctions the HA would have required the appellant to undertake further analysis/assessment. [5(ii), 77, 79, 104-106, 145-146]
189. In Lydney access is generally good although the main road through the centre of the town is often congested at peak times. To alleviate this new highway works and environmental improvements form part of the LHS. New development is expected to contribute to the LHS with the key elements intended to be delivered as part of the strategic housing and employment development to the east of the town. [26, 70-71, 78, 146]
190. The appeal scheme would contribute to queuing at some junctions in Lydney, including the A48/Highfield Road, and would add to the existing peak hour congestion in the town centre. This weighs against granting planning permission. However, the limited additional traffic generated by the proposals would be likely to have only a very small effect on overall traffic flows through the town. The HA has estimated increases of between 1-9% at some junctions. The section 106 agreement with GCC includes financial contributions aimed at addressing this. Whilst the delivery of the strategic development to the east of the town has stalled, the appeal scheme includes a proportionate contribution towards the cost of undertaking identified highway improvement works in Lydney. If the HA had considered the scheme would result in a more significant impact there is no doubt in my mind that it would either have recommended refusal or sought a greater contribution from the appellant. I attach limited weight to the impact upon junction capacity and congestion. [5(i), 5(ii), 13, 78, 105, 106, 146]
191. The HA has confirmed that safe and suitable access would be provided to serve the proposed development from the accesses off Windsor Drive, Court Road and Oak Meadow. The existing highway infrastructure including road junctions are appropriate to accommodate existing trips and the forecast trips by all modes of travel associated with the development. The HA has also confirmed that: the

longitudinal sections of the proposed highways and the swept path assessments for a large refuse vehicle would be suitable; the masterplan is appropriate for assessing the highway implications of the scheme and; it is satisfied that Road Safety Audits are not required at this stage. The appellant and SAD agree that the access strategy for the appeal scheme would be appropriate in terms of safety and operation. [5(ii), 5(v), 5(vi), 145]

192. Whilst access is not a reserved matter, the HA, which is very familiar with assessing development proposals, having considered the concerns expressed by SAD, remains content with the scheme. When considering the application the LPA also felt no need to require the submission of further access details. There is some scope for overlap between access and layout and, as a consequence, when considering the reserved matters the LPA and HA would be able to request details regarding gradients of the internal roads, visibility splays for internal roads, as well as any road safety audits if these were not provided at that time. Requiring the submission of such details at this stage would be unnecessary and could pre-determine the eventual layout. [1, 5(v), 81, 145]

193. Some existing residents have witnessed road traffic accidents and/or near misses along sections of the local road network. I also understand that some others have experienced other traffic hazards with drivers having to negotiate on-street parking along Primrose Hill. Whilst these are genuine concerns no development or highway is free from risk. Moreover, the recorded personal injury accidents do not indicate that there is a poor road safety record along the local highway network. The HA has examined these records and has satisfied itself that there is no existing highway safety problem. Within its consultation response, the HA advised that the cumulative impact of the residual additional vehicle movements generated by the proposed development would not be severe and the impact would not justify a recommendation of refusal. Furthermore, if implemented, the proposed TPO along Primrose Hill could alleviate parking issues on a bend in this section of the road. Whilst the drivers of some vehicles could choose to travel along Driffield Road, there is no cogent evidence to demonstrate that this would pose a serious risk to highway safety interests. There is greater force in the appellant's arguments on these matters. [5(ii), 78-80, 105, 108, 131, 135-141, 145-146]

Other Matters

194. The appellant's Ecological Assessment (including the Appendix in respect of badgers) and Addendum reveal that the proposed development would not harm the integrity of any site designated for nature conservation purposes or habitat of ecological importance. Moreover, protected species are unlikely to be harmed and the proposed planting and mitigation measures would enhance the biodiversity of the site. Following the submission of the Addendum, Natural England withdrew its objection. The LPA's Biodiversity and Countryside Officer did not object to the proposals and permission was not withheld on ecological grounds. The LPA, appellant and SAD agree that ecological matters could be dealt with by way of appropriate planning conditions. The scheme would accord with the provisions of CS policy CSP.1 that are aimed at avoiding harm to protected sites and the Government's objective of providing net gains in biodiversity. [5(i), 5(iv), 26, 39, 87, 145]

195. Whilst noting the concerns of some interested parties regarding drainage, there is no technical or cogent evidence to refute the contents of the FRA that was submitted in support of the scheme. This Assessment concluded that the proposed development, which would include a sustainable drainage scheme and the foul water connection to the existing public sewer, would not increase the risk of flooding within the locality. The Environment Agency did not object to the scheme and the LPA and the appellant agree that surface and foul water drainage could be satisfactorily addressed by way of appropriate planning conditions. The scheme would accord with the land drainage provisions of CS policy CSP.1. [5(i), 26, 39, 118, 132, 138, 140, 145, 149]
196. The increase in town centre congestion during the peak hours would add to the motor vehicle emissions within the AQMA. At its highest, and for a development of around 250 dwellings, this has been assessed as likely to result in a 'slight adverse' or 'minor adverse' effect upon air quality. This weighs against granting planning permission. However, having reviewed the appellant's AQA the LPA's Environmental Protection Officer recommended mitigation, including financial contributions towards the maintenance of the air quality monitoring network and the implementation of Air Quality Action Plan measures. The LPA did not withhold permission on air quality grounds and, as noted above, the section 106 agreement with the LPA includes some mitigation as required by CSP policy CSP.1. I attach limited weight to the impact upon the Lydney AQMA. There is no cogent evidence to demonstrate that the proposal would have any significant effect upon the Chepstow AQMA. [13, 19, 39, 84, 103, 140, 145-146]
197. The appellant's AE reveals that the proposed development would be unlikely to disturb any important archaeological remains. No evidence of the putative former Roman Road ('Dean Road') was found within the site and following the submission of this Evaluation the LPA chose not to defend its second reason for refusal. I concur with the appellant, the LPA and SAD that archaeological interests could be adequately safeguarded by way of an appropriate planning condition. [5(i), 5(ii), 39, 145, 147]
198. The proposed development would change the outlook from some neighbouring properties. In some instances this could obstruct private views across the town and towards the Severn Estuary. However, layout has yet to be determined and the illustrative masterplan and the proposed restriction on building heights strongly suggests that the proposed buildings could be sited and designed so as not to result in any overbearing impact upon neighbouring properties or any serious loss of outlook or privacy for existing residents. The additional vehicular traffic that would pass alongside some adjacent properties would result in some noise and disturbance for neighbouring residents, especially during the construction phase. Whilst I note the findings of the Inspector who withheld permission for a field access off Windsor Drive in 2013, the scheme that I have been asked to report upon would result in residential traffic rather than "large and noisy farm vehicles" using this residential street. I concur with the appellant and the HA that the impact would not prejudice the amenity of neighbouring residents. I note that the LPA did not withhold permission on the basis of any harm to the living conditions of those already living alongside. [1, 5(ii), 38, 86, 98, 117, 133, 145, 149]
199. I note the concerns of some interested parties over the loss of agricultural land. However, there is no cogent evidence to refute the findings of the

appellant's agricultural expert that the scheme would not result in the loss of a significant area of the best and most versatile agricultural land. Moreover, given the generally high quality agricultural land around Lydney the appeal site represents the poorest quality land available for development. The proposals would be consistent with the agricultural provisions of 'the Framework'. Having reviewed its case the LPA decided not to defend its previously identified concerns relating to the loss of grade 3a agricultural land. [14, 19, 83, 139, 145-146]

200. Whilst I understand that an England and Wales cross border protocol/Ministerial agreement exists in respect of healthcare, the LPA has informed me that all necessary consultations were undertaken when it processed the application. Lydney is considerably further from the Welsh border than Tutshill and there is no cogent evidence to demonstrate that the appeal scheme would place undue pressure on existing healthcare services. The planning agreements submitted in support of the appeal include adequate provision for other necessary infrastructure and Severn Trent Water did not express any concerns. [13, 92, 119, 140, 145-146]
201. I note the comments of some interested parties regarding the ability to access the site from Windsor Drive. However, counsel's opinion, obtained on behalf of the appellant, indicates that accessing the site from this road would be deliverable. There is no contrary legal opinion or cogent evidence to support the remarks that access via Windsor Drive could not be achieved. [82, 117, 145]
202. There is no evidence to demonstrate that the appeal site is of significance to the setting of the Church of St. Mary or any other listed building. There is also no evidence to show that the proposals would harm the setting of any heritage asset. Views of the church spire were a matter that I raised with the main parties following my unaccompanied site inspection on 18/11/14. [21, 145]
203. There is much public interest in the proposals and representations have been made by some elected representatives, including the local MP. I have given this very careful consideration. Amongst other things, 'the Framework' aims to allow people and communities back into planning but it is also about positive growth. The Inquiry was held in the local area and during the 8 sitting days there was plenty of opportunity for interested parties to present their cases. Nevertheless, public opposition or support is not by itself sufficient grounds for refusing or granting planning permission. Furthermore, many of the representations do not reveal that all matters have been properly weighed and the necessary planning balance undertaken. Having reviewed its position, the LPA chose not to contest the appeal. The proposals have also been promoted as a 'local development by local people for local people'. With the evidence now tested, if the scheme was found to be sustainable development it would not undermine the Government's reforms to the planning system. [14, 42, 88, 92-146]
204. The CD include some appeal decisions from elsewhere. I note the findings made by Inspectors and the SoS. However, each case must be determined on its own planning merits. The circumstances of these other schemes are different to the one proposed in Lydney and do not set a precedent which must be followed.

S106 Planning Obligations

205. I am not a lawyer and am unable to report on the legality of the obligations. As the transition period under which CIL Regulation 123(3) (as amended) ended

on 6 April 2015 and after the Inquiry had closed, if the Secretary of State is minded to grant permission he may need to clarify with the LPA whether or not the 'five-obligation limit' has been exhausted.

206. The agreement with GCC would be necessary to ensure that the proposals, in combination with other housing schemes, would include reasonable contributions towards the cost of necessary mitigation along the local highway network. In particular, the implementation of the LHS and the Lydney Transport Strategy. The proposed TP would also be necessary to secure a modal shift in transport by occupiers of the proposed dwellings. The separate financial contributions towards education and libraries would be necessary to avoid undue pressure on scarce educational and library resources. In all instances, the level of contributions would be reasonably related in scale and kind to the proposals. This agreement accords with the provisions of paragraph 204 of 'the Framework' and the CIL Regulations. I have therefore taken it into account in making my recommendation. [5, 13, 76, 78, 155, 156]
207. The agreement with the LPA would be necessary to secure the provision of affordable housing, including an off-site contribution, in an area where there is an acute shortage of such accommodation. The amount of affordable housing to be provided (including the financial contribution) accords with the provisions of CS policy CSP.5 and the SPD. It would also be necessary to secure financial contributions towards the cost of meeting the increased pressure on adult recreational facilities and to mitigate the impact on air quality in the town. This agreement accords with the provisions of paragraph 204 of 'the Framework' and the CIL Regulations. I have also taken it into account. [5, 13, 26, 28, 51, 53, 54, 85, 156]
208. The infrastructure provisions contained within the above agreements would be consistent with the requirements of CS policy CSP.1.
209. The unilateral undertaking completed by the appellant would be helpful in assisting local builders address the housing shortfall in the Forest of Dean. It supports the appellant's argument that the appeal scheme would be a 'local approach' to housing supply problems in the district. However, it would not be necessary to make the proposed development acceptable in planning terms. It therefore fails one of the tests for a planning obligation as set out in paragraph 204 of 'the Framework'. I have not therefore taken it into account in making my recommendation. [13, 42, 49, 157]

Planning Conditions

210. The Schedule below sets out those conditions that would be necessary if the appeal was allowed and planning permission was to be granted.
211. Having regard to the provisions of section 92 of the above Act and the appellant's argument for the expeditious delivery of the proposals, conditions would be necessary requiring the commencement of development and the submission of reserved matters within one year of an outline permission. [148]
212. For the avoidance of doubt and in the interests of proper planning a condition would be necessary specifying the approved plans. This would require the development to be carried out in accordance with the approved details. As the submitted plans include access onto Windsor Drive and the masterplan is scaled,

it would be unnecessary to attach conditions regarding the provision of the access works or the width of the carriageways. As the technical highway drawings are at a level of detail not normally required for securing outline planning permission it would be unnecessary to include them. [150, 152]

213. Other conditions in the Schedule below would be necessary for those reasons set out in the list that was agreed by the appellant and LPA. [147, 149, 151]

Planning Balance/Overall Conclusion

214. The proposed development would result in some adverse impact upon the character and appearance of the area, including the loss of some views from public footpaths across the site which would erode the amenity for users of these paths. There would also be a small adverse effect on existing peak hour congestion in the town centre and a minor adverse effect upon air quality in the Lydney AQMA. When these matters are considered with the proposed public open space provision, new tree and hedgerow planting and enhancements to biodiversity I find, on balance, that the scheme would satisfy the environmental dimension to sustainable development. Given also my findings in respect of the economic and social benefits of the scheme, the proposal would, in the context of 'the Framework' comprise sustainable development. The presumption in favour of such development therefore applies. *(If the appeal was determined on the basis of masterplan Rev A, the environmental dimension would not be achieved and the presumption would not apply.)*
215. The harmful impacts and the conflict with aspects of the development plan, including elements of CS policy CSP.1, the settlement boundary for Lydney and the out-of-date policies for the supply of housing, as well as the conflict with some policies in the LNDP, carry medium weight. *(This weight would be high if the appeal was determined on the basis of masterplan Rev A.)*
216. I have also found that the scheme would accord with other provisions of the development plan, including elements of CS policy CSP.1. Furthermore, given the very real and pressing need to deliver the market and affordable housing that is required to meet the needs of the residents of the district and when weighed with the other social, economic and environmental matters that I have identified above, the totality of harm falls short of the requirement to significantly and demonstrably outweigh the benefits of the scheme. *(For the scheme advanced under masterplan Rev A, the benefits of the scheme would, on balance, outweigh the harm.)* The proposals would accord with the provisions of 'the Framework'. This is an important material consideration that outweighs the conflict with the development plan. There is also merit in the appellant's contention that the proposal would be a local housing solution to a local housing problem. Given all of the above, there is greater weight in the arguments for granting permission.
217. Whilst I recognise that my findings will disappoint many residents, the evidence has not revealed the existence of other more suitable sites which are capable of delivering housing (and urgently needed affordable housing) within the next five years. As recognised in the 2007 SPD, when balancing environmental, social and economic objectives compromises will be required.

Inspector's Recommendation

218. The appeal be allowed and outline planning permission be granted for residential development of up to 200 dwellings including 40 self-build plots and 37 retirement apartments, affordable housing, community building (186 square metres) comprising flexible A1/D2 ancillary space, new public open space and new access roads. The permission should be subject to the planning conditions set out in the Schedule below.

Neil Pope
Inspector

Richborough Estates

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr M Hillier DipTP, MRTPI, Principal Planning Officer
CMS, MCMJ
Mrs L Weaver (attended part of the Inquiry) Solicitor

RULE 6 PARTY (SAD)

Miss A Ogle of Counsel Instructed by Mr R I Stuart, Director, Avoca
Planning, Landscape and Development Ltd
She called

Mr R Rayers Director, BSP Consulting Ltd

Mr R I Stuart MRTPI, DipTP, Avoca Planning, Landscape and Development Ltd
DipLA, FRSA

FOR THE APPELLANT:

Mr C Young of Counsel Instructed by Mr B G Read, Associate Planner,
Hunter Page Planning
He called

Mr M J Davies BA (Hons), Managing Director, Davies Landscape Architects
DipLA, CMLI Ltd

Mr C Rawlinson Eur.Eng. Managing Director, Transport Planning Associates
B.Eng (Hons), C.Eng, MCIHT,
MIod

Mr P J Fong BA (Hons), MRTPI Managing Director, Hunter Page Planning

*Mr B G Read BSc, MA, MRTPI Associate Planner, Hunter Page Planning
(Spoke during the discussions in respect of the S106 planning obligations and the suggested planning conditions)*

INTERESTED PERSONS:

Mr J Timbrell Local Resident
Cllr A Preest Lydney Division GCC and member of LTC
Cllr B Pearman LTC
Mr Bevan (*member of LTC and the LPA, but appeared as a resident*) Local Resident
Mr Williamson Local Resident

Mrs C Parry	Local Resident
Mr Lewis	Local Resident
Mr W L Owen	Local Resident
Mr Kear	Local Resident
Cllr Judy Davis (<i>unwilling to be cross-examined</i>)	Member of the LPA (Lydney North Ward)
Mrs C Stickler	Local Resident
Mr S Edwards	Local Resident
Mr T Bluff	Senior Planning and Land Manager, M F Freeman

DOCUMENTS SUBMITTED AT THE INQUIRY:

Document 1	Mr Timbrell's Statement
Document 2	SoCG agreed by the appellant and SAD
Document 3	The appellant's Opening Submissions
Document 4	SAD's Opening Submissions
Document 5	S106 Planning Agreement with GCC
Document 6	S106 Planning Agreement with the LPA
Document 7	S106 Unilateral Undertaking
Document 8	Cllr Preest's Statement and copy of letter from LTC to The Hon. Ms Justice Lang QC
Document 9	Cllr Pearman's Statement
Document 10	E-mail exchange between appellant and the HA
Document 11	Gloucestershire Local Transport Body: Major Scheme Suggestion Proforma and Scheme Assessment Proforma
Document 12	SoCG agreed by the appellant and LPA in respect of the LNDP
Document 13	E-mail exchange between the appellant and the LPA (air quality)
Document 14	WMS by Nick Boles MP 10 July 2014 – Neighbourhood Planning
Document 15	Further Position Statement from the LPA
Document 16	Letter from Mark Harper MP dated 14 November 2014 to Ms Cheryl Stickler
Document 17	Extract from PINS Procedure Guide – 'Called-in planning applications – England'
Document 18	Photograph of Stagecoach bus/coach in Allaston Road
Document 19	Inspector's Ruling – revised masterplan
Document 20	Note from Mrs Parry
Document 21	Letter from Carol Gorf
Document 22	Letter from Mr B Kear
Document 23	E-mail exchange between the LPA and Robert Hitchins
Document 24	Letter from Mr Mudway, The Byre, Allaston Court Farm
Document 25	Plan showing appeal site/area allocated for housing in the APD
Document 26	Appellant's request for a ruling/adjournment of the Inquiry
Document 27	Policy LYDNDP2/1 from the draft LNDP
Document 28	Statement/Notes from Mr Kear
Document 29	Letters from Mr and Mrs Kear
Document 30	Letter from Mark Harper MP to Mr Gorf
Document 31	E-mail from Tina Watkins
Document 32	Note from the LPA in respect of highway contributions/issues
Document 33	Inspector's Ruling – request for an adjournment of the Inquiry
Document 34	Cllr Davis's Statement
Document 35	Additional Statement from Cllr Pearman
Document 36	Additional Statement from Mr Bevan
Document 37	SoCG (Transportation Issues) agreed by the appellant and SAD

Document 38	Mr Bevan's photographs
Document 39	DAS submitted in support of a planning application for a single dwelling on behalf of Mrs Stickler
Document 40	Extract from TRO on GCC website
Document 41	Wireline drawings submitted by Mr Davies
Document 42	Mr Edwards's Statement
Document 43	Letter from TPA to the LPA in respect of a housing scheme off Highfield Road, Lydney
Document 44	Letter from Monmouthshire CC to the LPA in respect of the APD
Document 45	Methodology for SAD's wirelines
Document 46	Letter from C L Johnson in respect of Mr Stickler's planning application
Document 47	Appellant's finished floor heights and ridge levels plan
Document 48	Appellant's methodology for wirelines and Note of differences between SAD's wirelines and the appellant's wirelines
Document 49	Note from Mr Channon in respect of Lydney employers
Document 50	Comparison of slab heights produced by Mr Stuart
Document 51	Appellant's response to comparison slab heights
Document 52	Plan showing location of the Highfield Road planning permission
Document 53	LPA's Note in respect of S106 contributions
Document 54	SAD's suggested highway conditions
Document 55	Inspector's suggested condition in respect of SUDS
Document 56	Closing Submissions on behalf of SAD
Document 57	Closing Submissions on behalf of the appellant, including various judgements and the debate in Westminster Hall on Planning and Housing Supply on 24/10/13
Document 58	Costs application on behalf of SAD
Document 59	Mr Stuart's larger scale wireline drawings
Document 60	The appellant's response to the costs application
Document 61	SAD's response to the appellant's costs response
Document 62	Extract from SNH publication in respect of image sizes
Document 63	Mr Davies's response to SAD's larger scale wireline drawings

Core Documents List

DOC NO	DESCRIPTION
APPEAL DOCUMENTS	
Planning Appeal Documents	
CD1/1	Appeal Forms
CD1/2	Appellant Statement of Case
CD1/3	LPA Statement of Case
CD1/4	Third Party Rule 6 Statement of Case
CD1/5	Statement of Common Ground
CD1/6	Highways and Transportation Statement of Common Ground
CD1/7	LPA Email, dated 8 th October 2014
CD1/8	LPA Position Statement
CD1/9	Revised Illustrative Layout (Rev C)

APPLICATION DOCUMENTS	
CD2/1	Application Forms
CD2/2	Decision Notice
CD2/3	Site Location Plan
CD2/4	Illustrative Site Layout (Rev B)
CD2/5	Illustrative Street Scenes
CD2/6	Existing Site Plan
CD2/7	Planning, Design and Access Statement
CD2/8	Heads of Terms
CD2/9	Screening Opinion
CD2/10	Landscape Visual Impact Assessment Rev A
CD2/11	Framework Travel Plan
CD2/12	Heritage Assessment
CD2/13	Geophysical Survey
CD2/14	Archaeological Field Investigation (June 2014) – post determination
CD2/15	Transport Assessment
CD2/16	Framework Travel Plan
CD2/17	Ecological Assessment
CD2/18	Confidential Badger Appendix
CD2/19	Ecological Assessment Addendum
CD2/20	Flood Risk Assessment
CD2/21	Flood Risk Assessment Appendices
CD2/22	Tree Survey
CD2/23	Statement of Community Involvement
CD2/24	Air Quality Assessment
CD2/25	Committee Report, January 2014
CD2/26	Late Pages to Committee
NATIONAL AND LOCAL PLANNING POLICY DOCUMENTS	
CD3/1	Forest of Dean Core Strategy (Feb 2012)
CD3/2	National Planning Policy Framework
CD3/3	National Planning Practice Guidance
CD3/4	Draft Site Allocations DPD
CD3/5	Lydney Neighbourhood Plan – Examiner's Version (March 2014)
CD3/6	Affordable Housing SPD (2010)
CD3/7	District (Local) Plan Review Play Area Provision SPG (July 2000)
CD3/8	Draft Allocations Cabinet Report (April 2013)
PLANNING DOCUMENTS AND EVIDENCE BASE	
CD4/1	Laying the Foundations – A Housing Strategy for England (2011)
CD4/2	Building the Homes We Need, KPMG and Shelter (2014)
CD4/3	Housing Britain: Building New Homes for Growth (2014)
CD4/4	Home Truths South West (2013/14)
CD4/5	CBRE Regional Development Land Report (2014)
CD4/6	The Clipped Wing Generation: Analysis of Adults Living at Home with their Parents (2014)
CD4/7	Home Truths 2014/15: Broken Market Broken Dreams (2014)
CD4/8	Sustainable Communities Plan 2008-2020
CD4/9	Forest of Dean Homelessness Prevention Strategy 2012-2017
CD4/10	Forest of Dean Corporate Plan 2013-2017
CD4/11	Gloucestershire and Districts Affordable Housing Site Viability Study (2008)
CD4/12	Gloucestershire and Districts Strategic Housing Market Assessment (2009)
CD4/13	Estimating Housing Need and Demand in Gloucestershire (2009)

CD4/14	Finalising the Gloucestershire and Districts Strategic Housing Market Assessment Management Summary (2009)
CD4/15	Gloucestershire and Districts Strategic Housing Market Assessment Update (2010)
CD4/16	Strategic Housing Market Assessment Update (2014)
CD4/17	The Forest of Dean Story (2006)
CD4/18	Inspector's Report on the Examination into the Forest of Dean Core Strategy Development Plan Document (December 2011)
CD4/19	Housing Implementation and Delivery Strategy and Trajectory 2013
CD4/20	Home Truths South West 2014/15
	LANDSCAPE DOCUMENTS
CD5/1	Forest of Dean Landscape Character Assessment (November 2002)
CD5/2	Forest of Dean Landscape SPD 2007
CD5/3	Forest of Dean Landscape Strategy, Final Report (June 2004)
CD5/4	Photography and Photomontage in Landscape Visual Impact Assessment _ Landscape Institute Advice Note 01/11
CD5/5	PROW extract from Gloucestershire County Council
CD5/6	Forest of Dean Residential Design Guide
	APPEAL AND SECRETARY OF STATE DECISIONS, AND COURT JUDGEMENTS
CD6/1	The Stratford Judgement [2013] EWHC 20174 (Admin)
CD6/2	Hunston Court of Appeal Judgement [2013] EWCA Civ 1610
CD6/3	Land between Leasowes Road and Laurels Road, Offenham (APP/H1840/A/2203924)
CD6/4	SoS Decision, Droitwich Spa (APP/H1840/A/13/2199085 and 426)
CD6/5	Fairford Appeal Decision (APP/F160/A/14/2213318)
CD6/6	Solihull High Court Judgement [2014] EWHC 1283 (Admin)
CD6/7	Manchester Road/Crossings Road, Chapel-en-le-Frith, High Peak (APP/H1033/A/11/2159038)
CD6/8	Former Pontin's Holiday Centre, Wall Road, Brixham (APP/X1165/A/11/2145178)
CD6/9	Land at Hassall Road, Alsagar, Stoke on Trent (APP/R0660/A/12/2188001)
CD6/10	Land at Hind Heath Road, Sandbach (APP/R0660/A/14/2212922)
CD6/11	Foley Road, Newent Appeal (ref: APP/P1615/A/12/2177029)
CD6/12	Reddings Lane, Staunton (Ref: APP/P1615/A/13/2204158)
CD6/13	Land east of Butts Road, Higher Ridgeway, Ottery St. Mary, Devon (APP/U1105/A/12/2180060)
CD6/14	SoS Decision: Land at Razors Farm, Chineham, Basingstoke (Ref: APP/H1705/A/13/2205929)
CD6/15	SoS Decision: Land at Highfield Farm, Tetbury (ref: APP/F1610/11/2165778)
CD6/16	Land North of Upper Chapel, Launceston (ref: APP/D0840/A/13/2209757)
CD6/17	Land at Green Hedges, Claphill Lane, Rushwick (ref: APP/J1860/A/12/2187934)
CD6/18	Land off Elmwood Avenue, Essington (ref: APP/C3430/A/12/2189442)
CD6/19	Land east of Springwell Lane, Whetstone, Leicestershire (ref: APP/T2405/A/13/2193758)
CD6/20	SoS Decision, Homelands Farm and Deans Farm, Bishop's Cleeve (refs: APP/G1630/A/11/2146206 and APP/G1630/A/11/2148635)
CD6/21	Land at Gaydons Road, Bishops Itchington, Southam (ref: APP/J3720/A/13/2202961)

SCHEDULE OF PLANNING CONDITIONS

1. The development hereby permitted shall not be commenced until detailed plans showing the layout, scale, appearance and landscaping of the site (referred to as "the reserved matters") have been submitted to and approved in writing by the Local Planning Authority.
2. Application for the approval of the reserved matters shall be made not later than the expiration of one year beginning with the date of this permission.
3. The development hereby permitted shall be begun before the expiration of two years from the date of the approval of the last of the reserved matters.
4. The development hereby permitted shall be carried out in accordance with the following approved plans: 1:2,500 scale site location plan (Ref. P001 A); revised illustrative masterplan Rev B, dated October 2014 and; 1:500 scale proposed accesses (ref. SK09); but only in respect of those matters not reserved for later approval. *(If the Secretary of State considers that the appeal should be determined on the basis of the plans upon which the LPA's decision notice relates the relevant masterplan would be Rev A dated December 2013, rather than Rev B above.)*
5. No development shall commence until details of the existing and proposed site and floor levels and sections through the site at a scale not less than 1:500 have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
6. No development shall commence until foul water drainage details for the site and a programme of implementation has been submitted to and agreed in writing by the Local Planning Authority. The development shall be undertaken in accordance with the approved details programme. Unless otherwise agreed in writing, surface water shall be drained separately from foul water.
7. No development shall commence until details of surface water drainage for the site, including a sustainable drainage scheme (SUDS) and details for the implementation, maintenance and management of the SUDS have been submitted to and approved in writing by the Local Planning Authority. The details/scheme shall be implemented and thereafter managed and maintained in accordance with the approved details. These details shall include: i) a timetable for its implementation, and; ii) a management and maintenance plan for the lifetime of the development which shall include arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the SUDS throughout its lifetime.
8. No dwelling/apartment/flat on the site shall exceed 8.3 metres above slab level and the community building shall be no higher than 6.2m above slab level.
9. No development shall commence until details of properly consolidated and surfaced vehicle parking and manoeuvring facilities (including provision for the disabled) within the site have been submitted to and approved in writing by the Local Planning Authority. Such facilities shall be provided in accordance with the approved details and prior to the dwellings and community/retail building served

by them being occupied/brought into use and shall be kept permanently available for such purposes with the vehicle parking spaces retained for parking only and the manoeuvring facilities for manoeuvring of vehicles.

10. No works shall commence on site (other than those required by this condition) on the development hereby permitted until the first 20m of one of the approved access roads, including the junction with the existing public road and associated visibility splays, has been completed to at least binder course level.
11. No dwelling or retail/community building on the site shall be occupied/brought into use, until the carriageway (including surface water drainage/disposal, vehicular turning heads and street lighting) providing access from the nearest public highway to that dwelling and /or retail/community building, have been completed to at least binder course level and the footways to surface course level.
12. No works shall commence on the development hereby permitted until details of the shared footways/cycleways have been submitted to and approved in writing by the Local Planning Authority. The approved shared footways/cycleways shall be provided prior to the occupation of any of the buildings.
13. No development shall commence on site until details of the proposed arrangements for future management and maintenance of the proposed streets within the site have been submitted to and approved in writing by the Local Planning Authority. The development shall be undertaken in accordance with the approved details and the streets shall thereafter be maintained in accordance with the approved management and maintenance details until such time as either a dedication agreement has been entered into or a private management and maintenance company has been established.
14. No building shall be constructed on site until a scheme has been submitted to and agreed in writing by the Local Planning Authority for the provision of fire hydrants (served by mains water supply) and no building shall be occupied until the hydrant serving that property has been provided.
15. No development shall take place on site, until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period and shall:
 - i. specify the type and number of vehicles;
 - ii. provide for the parking of vehicles of site operatives and visitors;
 - iii. provide for the loading and unloading of plant and materials;
 - iv. provide for the storage of plant and materials used in constructing the development;
 - v. provide for wheel washing facilities;
 - vi. specify the intended hours of construction operations;
 - vii. specify measures to control the emission of dust and dirt during construction.
16. The landscaping details required by condition 1 above shall include: measures for protecting existing trees and hedgerows within the site during the construction phase; a timetable for planting trees, hedgerows and shrubs; details for undertaking replacement planting in the event of any trees, shrubs or

hedges being removed, damaged or dying within five years of planting; those measures set out in section 5.5 (Landscape Strategy) of the Landscape & Visual Assessment dated January 2014 by Davies Landscape Architects and submitted in support of the application; the reinforcement of existing boundary hedges with indigenous species and; details for maintaining those hedgerows that are to be retained.

17. No development shall commence until a Waste Minimisation Statement (WMS) has been submitted to and approved in writing by the Local Planning authority. The WMS shall include:
- i) details of the types and volumes of construction waste likely to be generated including measures to minimise re-use and recycle that waste and minimise the use of raw materials;
 - ii) measures for re-using construction waste on site unless it can be demonstrated that this is not the most sustainable option;
 - iii) measures for the disposal of any waste that cannot be re-used on site;
 - iv) provision of 'on-site' storage receptacles for recycling a range of materials;
 - v) access arrangements for recycling/waste collection vehicles.
- The development shall be undertaken in accordance with the approved WMS.
18. Prior to the commencement of the development, a scheme for generating low carbon energy (as defined in the technologies outlined in the Local Planning Authority's [LPA] Good Practice Guide) or thermal improvement of the building fabric, equivalent to 15% of the carbon dioxide emissions arising from the use of each dwelling unit on site, shall be submitted to and approved in writing by the LPA. The scheme as approved shall be implemented and commissioned within three months of occupation or use of the development and thereafter retained for a period of not less than 10 years.
19. All services required to be connected to the development hereby approved shall be laid underground and each property shall be provided with an electric vehicle charging point and isolation switch prior to first occupation.
20. No development shall take place within the site until the appellant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved in writing by the Local Planning Authority.
21. No development shall take place, including ground works and site clearance, until a method statement (MS) for badgers has been submitted to and approved in writing by the Local Planning Authority. The MS shall be based on the measures outlined in Badger Appendix 1.5 -1.11 by Ecological Solutions dated August 2013 and submitted in support of the application. The MS shall also include:
- i) requirements for additional survey work;
 - ii) risk assessment of potentially damaging construction activities;
 - iii) identification of and "biodiversity protection zones";
 - iv) practical measures (both physical and sensitive working practices) to avoid or reduce impacts during construction;
 - v) extent and location of proposed works shown on scaled maps and plans;
 - vi) timetable for implementation, demonstrating that works are aligned with the proposed phasing of construction;
 - vii) persons responsible for implementing the works;

viii) initial aftercare and long-term maintenance (where relevant).

The works shall be carried out in accordance with the approved MS and shall be retained in that manner thereafter.

22. No development shall take place, including ground works and site clearance, until a conservation and enhancement plan for bats has been submitted to and approved in writing by the Local Planning Authority. The plan shall be based on the measures outlined in the Ecological Addendum report, Section 4 dated November 2013 by Ecological Solutions and submitted in support of the application. It shall include:

- i) the retention of flight lines, foraging areas and dark corridors;
- ii) re-assessment of trees with identified bat potential including any necessary survey work;
- iii) compensation for the loss of hedgerows;
- iv) enhancement of hedgerows to secure foraging opportunities and connectivity to off-site habitats;
- v) bat boxes in trees and in suitable locations within some of the new buildings;
- vi) a risk assessment of potentially damaging construction activities;
- vii) identification of 'biodiversity protection zones' (such as hedgerows);
- viii) practical measures (both physical and sensitive working practices) to avoid or reduce impacts during construction;
- ix) the extent and location of proposed works shown on scaled maps and plans;
- x) a timetable for implementation, demonstrating that works are aligned with the proposed phasing of construction;
- xi) identifying persons responsible for implementing the works, and;
- xii) initial aftercare and long-term maintenance (where relevant).

The works shall be carried out in accordance with the approved plan and shall be retained in that manner thereafter.

23. No development shall take place until a lighting design strategy for biodiversity covering bat flight lines, new and retained hedgerows and open space areas, and other foraging areas have been submitted to and approved in writing by the Local Planning Authority (LPA). The strategy shall:

- i) identify those areas/features on site that are particularly sensitive for bats and badgers and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory, for example, for foraging, and;
- ii) show how and where external lighting would be installed (through the provision of lighting contour plans and technical specifications) so that it could be demonstrated that areas to be lit would not disturb or prevent the above species using their territory or having access to their breeding sites and resting places.

All external lighting shall be installed in accordance with the approved strategy, and these shall be retained thereafter in accordance with the strategy. No other external lighting shall be installed without prior consent of the LPA.

24. No development shall take place until a Landscape and Ecological Management Plan (LEMP) has been submitted to, and approved in writing by, the Local Planning Authority. The LEMP should draw together all aspects of management including the bat conservation plan, barn owl mitigation and hydrology (SUDS scheme) and the mitigation/enhancement measures outlined in Section 5 of the Ecological Assessment by Ecological Solutions dated August 2013. The content

of the LEMP shall include the following:

- i) a description and evaluation of features to be managed;
- ii) ecological trends and constraints on site that might influence management;
- iii) aims and objectives of the management;
- iv) appropriate management options for achieving aims and objectives;
- v) prescriptions for management actions;
- vi) preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period);
- vii) details of the body or organization responsible for implementation of the LEMP;
- viii) on-going monitoring and remedial measures;
- ix) details of the legal and funding mechanism(s) by which the long-term implementation of the LEMP would be secured with the management body (ies) responsible for its delivery;
- x) contingencies and/or remedial action for addressing the results from monitoring where these reveal that the conservation aims and objectives of the LEMP are not being met.

The LEMP shall be implemented in accordance with the approved details.

25. No vegetation on the site (including ivy) shall be removed between 1 March and 31 August inclusive, unless a suitably qualified ecologist has undertaken a detailed check of vegetation for active birds' nests immediately before the vegetation is removed and has provided written confirmation that no birds would be harmed and/or that there are appropriate measures in place to protect nesting bird interest on the site. Any such written confirmation shall be submitted to the Local Planning Authority for approval and then implemented as approved.
26. Throughout the duration of works, including site clearance and construction, the following shall be undertaken:
- i) construction materials will be stored only on existing hard-standing areas or other areas permitted for storage and will be raised off the ground on pallets or similar;
 - ii) any loose materials (e.g. stone or soil) stored on site will be within sacks, bags or will be compressed to avoid gaps being accessible to newts;
 - iii) excavations will be covered overnight to prevent newts or badgers becoming trapped, or will be provided with ramps to allow newts and badgers to escape.

Should Great Crested Newts be found within the construction area, all works to that area shall cease until advice from Natural England has been sought and followed.

LIST OF ABBREVIATIONS USED IN THIS REPORT

AE – Archaeological Evaluation

AOD – Above Ordnance Datum

APD – Allocations Plan Draft

AQA – Air Quality Assessment

AQMA – Air Quality Management Area

CD – Core Document

CIL – Community Infrastructure Levy

CS – Core Strategy

DAS – Design & Access Statement

DPH – Dwellings Per Hectare

FRA – Flood Risk Assessment

GCC – Gloucestershire County Council

HA - Highway Authority

HLS – Housing Land Supply

LCT – Landscape Character Type

LHS – Lydney Highway Strategy

LNDP – Lydney Neighbourhood Development Plan

LP – Local Plan

LPA – Local Planning Authority

LS – Landscape Strategy

LTC – Lydney Town Council

LVA – Landscape and Visual Assessment

MfS – Manual for Streets

OAN – Objectively Assessed Need

PINS – The Planning Inspectorate

PoE – Proof of Evidence

SAD – Stop Allaston Development

SHMA – Strategic Housing Market Assessment

SoCG – Statement of Common Ground

SoS – Secretary of State

SPD – Supplementary Planning Document

SPG – Supplementary Planning Guidance

TA – Transport Assessment

The Framework – The National Planning Policy Framework

TP – Travel Plan

TRO – Traffic Regulation Order

WMS – Written Ministerial Statement

Richborough Estates



RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

These notes are provided for guidance only and apply only to challenges under the legislation specified. If you require further advice on making any High Court challenge, or making an application for Judicial Review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, Queens Bench Division, Strand, London, WC2 2LL (0207 947 6000).

The attached decision is final unless it is successfully challenged in the Courts. The Secretary of State cannot amend or interpret the decision. It may be redetermined by the Secretary of State only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS

The decision may be challenged by making an application for permission to the High Court under section 288 of the Town and Country Planning Act 1990 (the TCP Act). This new requirement for permission to bring a challenge applies to decisions made on or after 26 October 2015.

Challenges under Section 288 of the TCP Act

With the permission of the High Court under section 288 of the TCP Act, decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application for leave under this section must be made within six weeks from the date of the decision.

SECTION 2: ENFORCEMENT APPEALS

Challenges under Section 289 of the TCP Act

Decisions on recovered enforcement appeals under all grounds can be challenged under section 289 of the TCP Act. To challenge the enforcement decision, permission must first be obtained from the Court. If the Court does not consider that there is an arguable case, it may refuse permission. Application for leave to make a challenge must be received by the Administrative Court within 28 days of the decision, unless the Court extends this period.

SECTION 3: AWARDS OF COSTS

A challenge to the decision on an application for an award of costs which is connected with a decision under section 77 or 78 of the TCP Act can be made under section 288 of the TCP Act if permission of the High Court is granted.

SECTION 4: INSPECTION OF DOCUMENTS

Where an inquiry or hearing has been held any person who is entitled to be notified of the decision has a statutory right to view the documents, photographs and plans listed in the appendix to the Inspector's report of the inquiry or hearing within 6 weeks of the date of the decision. If you are such a person and you wish to view the documents you should get in touch with the office at the address from which the decision was issued, as shown on the letterhead on the decision letter, quoting the reference number and stating the day and time you wish to visit. At least 3 days notice should be given, if possible.

Richborough Estates