



Appeal Decision

Inquiry held on 19 August 2015

Site visit made on 24 August 2015

by **S R G Baird BA (Hons) MRTPI**

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

Decision date: 14 January 2016

Appeal Ref: APP/P1615/W/15/3003662

**Land north of Gloucester Road, Tutshill, Chepstow, Gloucestershire
NP16 7DA**

- 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 Gladman Developments against the decision of Forest of Dean District Council.
 - The application Ref P1530/14/OUT, dated 18 September 2014, was refused by notice dated 10 December 2014.
 - The development proposed is residential development (up to 126 dwellings), access, parking, public open space, landscaping and associated infrastructure.
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Preliminary Matters

1. The application was submitted in outline with all matters other than access reserved.
2. The application was refused for 5 reasons (RfR). RfR 1 and 3 relate to the impact on biodiversity and trees. The appellant submitted further information on these matters to the local planning authority (lpa) who confirmed that it would not pursue these RfR. The remaining 3 RfR relate to the impact on a Listed Building (LB), the loss of agricultural land/effect on the character and appearance of the area and the absence of a S106 Agreement relating to affordable housing, open space management, air quality, education and libraries.
3. At the inquiry, the appellant submitted a signed S106 Unilateral Undertaking (UU) providing for library, highways and education contributions; the submission of a Travel Plan and a scheme for the transfer and management of the proposed open space.
4. At the opening of the inquiry, the appellant requested that the appeal be determined on the basis of an amended scheme for up to 95 dwellings. In coming to a conclusion on this request, I have been guided by the written submissions provided by the parties, the judgement of Forbes J in the case *Bernard Wheatcroft Ltd. V Secretary of State for the Environment and Another* (1982) 43 P. & C.R. 233 and Annex M of the PINS Procedural Guidance¹.
5. The judgement of Forbes J set out the test that the decision maker needs to apply. This is *"is the effect of the conditional planning permission to allow development that is in substance not that which was applied for? The main, but not the only, criterion on which that judgment should be exercised is*

¹ The Planning Inspectorate Procedural Guidance: Planning Appeals – England 31 July 2015.

whether the development is so changed that to grant it would be to deprive those who should have been consulted on the changed development of the opportunity of such consultation.... There may, of course, be, in addition, purely planning reasons for concluding that a change makes a substantial difference...."

6. In addition to a reduction in the number of dwellings, the scheme reduces the number vehicular accesses to one. The Gloucester Road access remains the same and the Elm Road access has been replaced by a pedestrian/cycle access. This change results in a marginally smaller red-edged area.
7. A thorough consultation exercise has been carried out by the appellant and whilst there continues to be local opposition, no new or additional material issues have been raised. The lpa has considered the revised scheme and the parties have had adequate time to produce evidence relating to the amended scheme. In my view, the very minor reduction in the red edged area does not result in prejudice to any party. I conclude that the nature of the scheme has not been so changed that to consider it would deprive those who should have been consulted on the changed development of the opportunity of such a consultation. Similarly, I find there are no other planning reasons why the proposed change would make a substantial difference. Following my ruling, the Tutshill and Tidenham Action Group (TTAG) confirmed that it would not pursue its request that the inquiry should be adjourned for further public consultation and to allow it to seek expert advice.
8. This appeal will be determined on the basis of the refusal of outline planning permission for residential development (up to 95 dwellings), access, parking, public open space, landscaping and associated infrastructure as shown on Drawing Nos. 5978-L-01 Rev A (Location Plan), 004 Rev D (Proposed Access Arrangement) and 5978-L-02 Rev N – illustrative Framework Plan.

Decision

9. The appeal is allowed and outline planning permission is granted for residential development (up to 95 dwellings), access, parking, public open space, landscaping and associated infrastructure on land north of Gloucester Road, Tutshill, Chepstow, Gloucestershire NP16 7DA in accordance with the terms of the application, Ref P1530/14/OUT, dated 18 September 2014, subject to the conditions set out in Annex A to this decision.

Main Issues

10. These are: (1) the effect on the character and appearance of the area; (2) the effect on the setting of heritage assets (HA); (3) whether the lpa can demonstrate a 5-year supply of housing land; (4) the effect on agricultural land and (5) whether adequate provision would be made for affordable housing and the infrastructure needs of the development, with particular reference to open space, education, libraries and air quality management.

Reasons

Development Plan and Emerging Development Plan Policy

11. The development plan comprises the Core Strategy Adopted Version-February 2012 (CS) and saved policies of the Forest of Dean Local Plan 2005 (LP). CS settlement strategy is to concentrate development in the District's 4 main

towns. Beyond the towns, larger villages are expected to continue to provide services and employment. New development will be supported where it is compatible with the role and function of the village. Most changes are expected to take place within existing settlement boundaries, areas outside these boundaries are to be treated as part of the open countryside.

Tutshill/Sedbury is identified as the fifth largest settlement in the District and is identified as a Major Village. The CS indicates that there are only limited opportunities for expansion and the strategy is one of locally based growth and a relatively modest amount of new development. The 2005 LP Proposals Map shows the appeal site abutting but outside the settlement boundary for Tutshill/Sedbury.

12. The lpa published an Allocations Plan (AP) for consultation in March 2015. As well as allocating sites, the emerging AP seeks to update the housing requirement. The settlement boundary for Tutshill/Sedbury has been redrawn to include additional land within the settlement. The emerging AP is the subject of objections, particularly on the level of the housing requirement. Accordingly, only limited weight can be attached to the emerging AP as a material consideration.

Issue 1 - Character & Appearance

13. CS Policy CSP. 1 seeks to ensure that new development takes into account important characteristics of the environment and conserves, preserves and otherwise respects them in a manner that maintains or enhances their contribution to the environment. This policy is broadly consistent with the objectives of the Framework which seek to ensure that planning decisions take account of and recognise the intrinsic character and beauty of the countryside (paragraph 17).
14. The Forest of Dean Landscape Character Assessment – November 2002 locates the site within Landscape Character Type (LCT) 6 – Unwooded Vale and more specifically within Landscape Character Area (LCA) 6a – Severn Vale – Stroat and Sedbury. The Unwooded Vale LCT is an extensive area whose overall character type is that of a soft rolling landscape that is distinctly small scale, intimate and domestic. LCA 6a is noted as being typical of the wider vale landscape with a gently undulating landform, a patchwork of fields defined by hedgerows, scattered farmhouses. A feature of this LCA is the urbanising influence of Tutshill/Sedbury.
15. Before and during the inquiry I had the opportunity to experience the nature of the surrounding and wider landscape as part of my accompanied and unaccompanied visits to the site and the wider area. Whilst the appeal site shares similar characteristics to the wider LCT, there are no particular landscape features, characteristics or elements that demonstrate that the appeal site is in GLVIA² terms representative of the wider landscape i.e. a particularly important example which takes this site beyond representing anything more than countryside in general. I have no reason to disagree with the lpa's and appellant's assessments that the landscape value and sensitivity of the area to change are medium.
16. The lpa refers to Framework paragraph 109, which refers to "*protecting and enhancing valued landscapes*". Given that all landscapes are valued by

² Guidelines for Landscape and Visual Assessment.

someone at some time, the words “*valued landscape*” must mean a landscape that is considered to be of value because of particular attributes that have been designated through the adoption of a local planning policy document. The landscape around Tutshill/Sedbury is not the subject of any statutory landscape designation or emerging AP designation. The Framework has to be read as a whole and paragraph 17 refers to recognising the intrinsic character and beauty of the countryside. Paragraph 109 starts by reiterating the wider objective of enhancing the natural environment, which I take to mean the countryside in general and then it goes on to refer to valued landscapes, which must mean something more than just countryside in general. Thus, in this case, I consider that the reference in Framework paragraph 109 adds nothing to the exercise I need to undertake or the weight to be attached to the landscape and visual impact of the scheme.

17. Given the distinctly small scale, intimate and domestic nature of the landscape and the existing mature screening on the southern and eastern margins of the site, which would be retained and reinforced by new planting, the landscape and visual impact of this scheme would be highly localised. The loss of the fields where built development would occur would result in harm to and impact on landscape character. However, given the localised nature of this impact, the effect would be Minor/Moderate Adverse.
18. In terms of visual impact, the greatest effect would be on views from Elm Road looking east, where, in time, the effect would be softened by landscaping, I consider the effect would be Major Adverse reducing to Minor Adverse. There are no public rights away across the site and the main viewpoints from these routes are from some distance to the south-east, east, north-east and north of the site. However, on substantial lengths of these footpaths views towards the site are obscured by existing mature planting. Elsewhere there would be glimpses of the development, seen largely against the backdrop of the existing urban edge. In these views, the effect of the scheme would be mitigated by existing and proposed planting, reducing its visual impact. Overall, the visual impact of the development would largely be mitigated by existing and proposed planting and as such it would not appear intrusive or obtrusive. In this context, the visual impact would be highly localised and Minor/Moderate Adverse. This harm would not extend to materially harming views from elevated public vantage points of the Severn Estuary and land beyond.
19. On this issue, I conclude that there would be highly localised harmful landscape and visual impacts that would conflict with the objectives of CS Policy CSP.1.

Issue 2 – Heritage Assets

20. CS Policy CSP. 1 requires a consideration of the impact of a development on HAs and the potential for avoiding and/or mitigating any impacts. Framework paragraph 132 indicates that when considering the impact on the significance of a HA great weight should be given to its conservation. It notes that the significance of a HA can be harmed through alteration or development within its setting. Setting is defined as the surroundings in which a HA is experienced. Framework paragraph 134 says that where a development would lead to less than substantial harm to significance, the harm should be weighed against the public benefits of the proposal.

21. Historic England (HE) has published guidance³, which indicates that setting, whilst a key element of many HAs, is not itself a HA or a heritage designation. Rather the importance of setting lies in what it contributes to the significance of the HA. Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the decision maker to have "*special regard to the desirability of preserving a listed building (LB) or its setting or any features of special architectural or historic interest which it possesses*".
22. LBs within the vicinity of the site include; Wirewoods Green Manor (the Manor); an adjacent barn now a separate dwelling (Elmwood House); the Powder House; Bishton Farm; Meads Farm; St Lukes Church; Church Cottage and Pen Moel. The lpa acknowledges that other than in relation to the Manor and Elmwood House, given the degree of separation and/or the degree of screening afforded to these HAs any effect on their setting/significance would be negligible or non-existent. I have no reason to disagree with that conclusion. The lpa's and TTAG's concern relates to the effect of the development on the Manor and Elmwood House, both Grade II LBs.
23. Both the lpa and the appellants acknowledge that the potential for harm to these HAs falls within the Framework category of less than substantial. What is at issue is the degree of harm. In terms of the Manor, the lpa submits that the degree of harm to its significance would be significant and irreversible. In terms of Elmwood House, the lpa's position is less clear, given that it does feature in the lpa's RfR, the apparent acceptance of the lpa's heritage consultant that the degree of harm would be minor and an absence of any reference to harm to Elmwood House in the lpa's closing submissions. The appellant's position is that the degree of harm to the significance of Manor would be minor and that there would be no harm to Elmwood House.
24. The difference between the lpa and the appellant on the degree of harm to the Manor depends on whether the views to and from it, particularly to the south and south-east and from Gloucester Road along the former drive were designed views. A significant amount of inquiry time was spent, including a forensic examination of historic ordnance survey and tithe maps, debating this point. Whilst, for the most part this discussion was interesting, ultimately I found it inconclusive on the issue of whether the views were designed and their relevance to the significance of the Manor and Elmwood House.
25. The Manor, although substantially remodelled in the 18th and 20th century, is a substantial and prominent building sitting on a raised terrace above the adjoining fields. Elmwood House, a former barn, is listed separately and said to date from the 19th century. The Manor and Elmwood House would have had a functional relationship with the surrounding agricultural land and buildings and as such have architectural and historic significance. Forming part of that agricultural landscape the fields that make up the appeal site contribute to the significance of this pair of LBs.
26. The reduction in the number of dwellings and the use of the land below and to the south-east of the terrace and along the eastern edge of Elm Road as open space, along with existing and proposed screening, would significantly reduce the impact of the development on these LBs. That said the siting of dwellings on the rising ground towards the central portion of the site would not provide a setting of the same quality and characteristics that exist now. In this

³ Historic Environment Good Practice Advice in Planning Note 3 March 2015

context, I consider that the development would have a Minor Adverse impact on the significance of the former barn and a Moderate Adverse impact on the significance of the Manor albeit falling within the category of less than substantial harm.

27. On this issue, I conclude that the proposed development would fail to preserve the setting of Wirewoods Green Manor and Elmwood House and as such would conflict with the objectives of CS Policy CSP.1.

Issue 3 – Housing Supply

28. Framework paragraph 47 identifies that one of its key objectives is to boost significantly the supply of housing. Accordingly, lpa's should ensure that the development plan meets the Full Objectively Assessed Needs (FOAN) for market and affordable housing in the housing market area (HMA) and identify a supply of specific deliverable sites to provide 5-years' worth of housing against their housing requirements with an additional buffer of 5% to ensure choice an completion in the market for land.
29. For the purposes of a S78 inquiry, the determination as to whether there is a 5-year supply is necessarily a snapshot based on the best evidence available at that time. On the supply side, to be considered deliverable, sites should be available now, offer a suitable location for development now and be achievable with a reasonable prospect that housing will be delivered on the site within 5 years and, in particular, that development of the site is viable. In July and August of 2015, 2 appeal decisions were issued, which, in relation to housing proposals at Staunton and Newent, considered the question of housing need/supply. In both cases, it was concluded that the lpa could not demonstrate a 5-year supply of deliverable housing. In terms of supply, there were concerns in both cases about an overly optimistic approach to the deliverability of sites by the lpa and its reliance on sites in the emerging AP. The SoS December 2015 decision was issued in the context of the lpa indicating that it could not demonstrate a robust 5-year housing land supply⁴
30. The discussion on housing land supply considered a list of disputed sites. This list included sites within the adopted plan, sites not allocated but with planning permission or committed and sites allocated in the emerging AP. This latter category includes 16 disputed sites. Whilst the lpa may have confidence that these sites will be available and deliverable in 5 years, the position is that most do not have planning permission, they are not allocated in the development plan and the AP has yet to be publically examined and there are substantial objections to some of these sites. Moreover, several of these sites are the subject of physical or policy constraints that could delay or prevent their use. Examples of these are the former Micheldean Coach Depot and Lawnstone House, Coleford, both of which appear to have been vacant for several years and have remained undeveloped. Other sites are still in active use that may require relocation. These include Cinderford Football Club; Valley Road, Cinderford and Staunton Corse. A site at Newnham has possible access and appearance constraints; The George Hotel, Micheldean is located with a Conservation Area and there are possible adverse planning conditions and The Victoria Hotel, Newham is a Grade II LB. In this context, I agree with the conclusion of my colleague in the Staunton case that, at this stage, there

⁴ APP/P1615/A/14/22188921 Inspector's Report Paragraph 14.

is little evidence to justify the lpa's confidence in their delivery. The Inspector in the Newent case expressed similar concerns.

31. The lpa accepts that there has been no change to the status of the emerging AP sites since the Newent inquiry and conceded that it could not reasonably assert that they should be counted in the 5-year supply. In the other categories, whilst some sites have a planning permission, they are long standing schemes where no progress has been made. These include housing schemes at Principality House and Netherend Farm, Lydney or are sites where there are concerns regarding viability such as Highfield Road, Lydney. On others there is, in my view, reasonable doubt as to the number of dwellings that would be delivered in 5 years. These include sites such as The Northern Quarter, Cinderford and Poolway Farm, Coleford.
32. Further to the concession by the lpa and the conclusions of my colleagues in the Staunton and Newent cases, I consider the lpa's lower figure for housing land supply is overly optimistic. In these circumstances, I consider it reasonable to exclude the disputed sites from the land supply calculation. As such the supply of housing land would be reduced to some 1,425 dwellings.
33. Turning to housing need and the FOAN for the district, which is the other side of the equation that determines whether there is a 5-year housing land supply. However, it is not the role of a S78 inquiry to undertake an exercise to determine the FOAN for the HMA. Not only do I not have all the information to undertake this exercise, but also only 2 of the main parties in this debate were present to put forward evidence. The calculation of the FOAN is a matter for the public examination of the AP where the assumptions and divergent views of the various stakeholders can be thoroughly tested.
34. As both parties acknowledge and Planning Practice Guidance (PPG) confirms⁵, the calculation of the FOAN is not an exact science and requires the exercise of judgement. Subsequent paragraphs in the PPG⁶ identify a broad methodology and range of factors used to assess housing need. These factors include demographic change, household formation, migration, economic activity, employment, market signals and affordability. Assumptions on the nature/scale of these inputs can have a significant impact on the final level of the FOAN. Therefore, what is important is that the decision maker has confidence that the evidence and assumptions used to arrive at the FOAN are robust.
35. The CS adopted in February 2012 contained a dwelling requirement of 310 per annum. However, it is common ground that this figure is not Framework/PPG compliant and does not represent a FOAN for the district/HMA. The FOAN is generally accepted to be; the objectively assessed need for market and affordable housing in an area leaving aside planning policy considerations, i.e. the Policy Off position. The FOAN in the emerging AP is set at 320 dwellings per annum. However, the Inspector in the Newent case concluded that this was a constrained figure, i.e. the Policy On position and did not reflect the FOAN for the district. Having regard to the guidance in the PPG and the extensive and detailed evidence before me, I too have significant concerns about the level and robustness of the lpa's calculation of the FOAN.

⁵ ID: 2a-014.

⁶ ID: 2a-015 to 019.

36. Previously, an independent study commissioned by the Ipa along with those of Stroud and Cotswolds districts which took into account the needs of the wider HMA concluded that the FOAN should be 365 dwellings per annum. This figure was not accepted by the Ipa and it appears that this decision was based on taking into account policy considerations i.e. reducing out-commuting so as to reduce the need for further housing. This is, in my view, a Policy On approach and inconsistent with the approach to be adopted in identifying the FOAN. A further study by the Ipa's independent consultant based on the district and not the HMA produced a FOAN of 310 dwellings per annum. Leaving aside concerns regarding assumptions on demographic change, household formation, migration, economic activity, employment, market signals and affordability input into the calculation, the conflict with the guidance in the Framework paragraph 47 regarding the area of the study i.e. the HMA, raises significant and fundamental concerns regarding the robustness of the Ipa's FOAN.
37. Whilst these 2 issues indicate to me that at 320 dwellings per annum the FOAN being applied by the Ipa lacks robustness, it was also clear from the detailed evidence on matters such as demographic change, household formation, migration, economic activity, employment, market signals and affordability that the input of reasonable variations on any of these matters would increase rather than decrease the FOAN for this HMA. This adds weight to my conclusion that a FOAN of 320 dwellings per annum lacks robustness. Like the Inspector in the Newent case, I conclude that the FOAN for this district/HMA would not be less than the 365 dwellings per annum based on the study based on the wider HMA.
38. Taking my conclusions on the extent of the housing land supply, it is clear that taking either of the 320 or 365 dwellings per annum figures, the Ipa cannot demonstrate a 5-year supply of deliverable housing land. Accordingly, the guidance in Framework paragraph 49 is engaged which indicates that in the absence of a 5-year supply of housing, the relevant policies for the supply of housing, Policies CSP.4, CSP.5 and 16, are not to be considered up-to-date. Similarly, given the fundamental concerns regarding the assessment of the FOAN in the AP, matters which were not tested before the SoS in his assessment of the Lydney case, I consider that only limited weight can be attached to the emerging AP.

Issue 4 -Agricultural Land

39. The appeal site is a mix of Grade 2 (43%), Grade 3A (3%) and Grade 3B (54%) agricultural land. Grades 1, 2 and 3A fall within the definition of the best and most versatile land⁷ (B&MV). Based on the above this development would involve the loss of some 2.8ha of B&MV agricultural land. The Framework does not place a bar on the development of B&MV agricultural land. Paragraph 112 identifies that where development would involve the use of B&MV land, the economic and other benefits of that land should be taken into account and where significant development of agricultural land is necessary poorer quality land should be used in preference to that of a higher quality. Given that several housing allocations in the AP include land within this category that is a recognition that B&MV agricultural land will be needed to meet the housing needs of the district.

⁷ Annex 2, National Planning Policy Framework.

40. Some 54% of the appeal site falls outside the category of B&MV agricultural land, i.e. poorer quality land and the agricultural land classification map shows that the majority of the land to the east of Tutshill is B&MV land. In this context, the release of the appeal site would not result in a significant loss of land. Accordingly, in this case, the loss of B&MV agricultural land does not weigh heavily against the development.

Issue 5 - Affordable Housing & Infrastructure.

41. The UU provides for financial contributions towards highways, library and education facilities. The UU also provides for a Travel Plan and the creation of a management company to manage and maintain the open space. The provisions of the UU accord with guidance contained at paragraph 204 of the Framework and CIL R122. I consider the obligations are necessary, directly related to the development and fairly and reasonably related in scale and kind to the development. Accordingly, I have taken it into account in coming to my decision. Some 40% of the dwellings proposed would be affordable homes. Their provision, allocation and retention are the subject of a suggested planning condition. The lpa is content with the proposed arrangements, which address its concerns in the fifth RFR.

Other Considerations

42. An up-to-date air quality assessment produced by the appellant, concludes that there would be a negligible or no impact on concentrations of NO₂ and PM10s at the various sensitive receptors. The UU provides for a contribution towards mitigating the limited impact on air quality. The lpa does not dispute the accuracy or adequacy of the appellant's study and the environmental health officer has no objection to the development. Whilst I understand residents' concern there is no evidence other than assertion that would challenge the appellant's/lpa's conclusions. I see no reason to come to a different view.
43. Gloucester County Council as the education authority, subject to the provision of a contribution towards early year's education, has no objection to the development on the basis that it would result in unacceptable pressure on local education infrastructure. I have taken careful note of the submissions made and concerns raised by various residents. Whilst it is clear that local primary schools are popular, there is no objective evidence to lead me to a conclusion that this factor should weigh against the development.
44. Although Tutshill is located within England, health care is provided under the England/Wales Cross-Border Protocol by the Aneurin Bevan University Health Board (ABUHB). As such primary health care is the responsibility of the National Health Service Wales, which is under the control of the Welsh Government. Primary care facilities are either located within Chepstow or as local branch surgeries to these Wales based practices. I have noted the submissions made regarding time required to obtain appointments and access care. However, these do not strike me as being unusual within the national health care sector. Moreover, whilst the evidence shows a service under pressure, it does not show that there is a lack of capacity within the practices that serve the area.
45. Whilst the ABUHB has made representations on the potential for development on the English side of the border to increase pressure on its budget it has not

objected to the proposed development nor has it sought a financial contribution to mitigate its concerns. I recognise that the cross-border healthcare arrangements have been the subject of parliamentary scrutiny and the problems and tensions are recognised. However, whilst I do not seek to downplay the obvious and deeply felt concerns of local residents, this is a matter for national Governments to resolve and does not weigh against the proposal.

46. The effect of the development on the local highway network has been the subject of a robust transport assessment. Whilst TTAG does not dispute the appellants' traffic flows or the technical validity of the traffic models used, there is local concern regarding the impact of the development on the capacity of the local highway network and the highway safety implications of the proposed access onto Gloucester Road. Notwithstanding its geographical location close to the England/Wales border, neither Monmouthshire County Council or the Welsh Government considered it necessary to comment on or object to the proposal. The highway authority, Gloucestershire County Council, has confirmed that the additional cumulative impact on the highway network and the proposed access onto Gloucester Road are acceptable.
47. In terms of the impact on the capacity of the Gloucester Road/A48 junction, the transport assessment indicates that this junction would continue to operate within capacity with significant reserve capacity. Similarly, it is estimated that the single access onto Gloucester Road has more than adequate capacity with significant reserve capacity. In terms of the impact of the capacity of the network, the level of impact would be less than 3%. In my experience, impacts of up to 5% are generally considered to be acceptable.
48. Whilst I have noted the objectors' comments about traffic conditions and particularly traffic speeds on Gloucester Road, a review of personal injury collisions over the last 5 years does not suggest that there is a problem on this stretch of the road. The review indicates that there have been no collisions at the existing Elm Road junction and only one slight injury collision on the stretch of road near where the access is proposed. Appropriate visibility splays at the junction of the site and Gloucester Road are achievable. In this situation, I have no reason to conclude that the provision of an access onto Gloucester Road to serve up to 95 dwellings would unacceptably affect highway safety. Paragraph 32 of the Framework indicates that development should only be refused on transport grounds where there the residual cumulative impacts of the development are severe. In light of the findings of the transport assessment and the conclusion of the highway authority, I conclude that the impact of the proposed development of 95 dwellings would not have a severe impact on the surrounding highway network.
49. Whether the development and/or its location are sustainable is a matter that has to be considered in the round and the test is not whether the location has sufficient services and facilities to be self-sufficient. Manual for Streets (MfS) published in 2007 highlights that walkable neighbourhoods are typically characterised by having a range of facilities within 10 minutes' (up to about 800m) walking distance of residential areas which residents may access comfortably on foot. However, this is not an upper limit and MfS states that walking offers the greatest potential to replace short car trips, particularly those under 2km.

50. The question as to whether Tutshill is a sustainable location has been addressed by the CS and the emerging AP where Tutshill and Sedbury are treated as one and identified as the fifth largest settlement in the District. Within Tutshill there are schools, a public house, a butchers and a surgery all within 700m of the site. I recognise that this list of facilities is not extensive. However, as the CS recognises Tutshill/Sedbury functions very much as part of Chepstow and suggests that it is for this reason it does not have the level of services and facilities expected in a settlement of its size. Chepstow has a wide range of facilities and services between 1.65 and 2.14km walking distance. I acknowledge that some of these routes involve steps and inclines that would deter the infirmed and the disabled. However, for the majority of the population there are a range of facilities and services within walking distance and there is the availability of a bus service.
51. In addition, the sustainability of Tutshill/Sedbury was addressed in a recent appeal for a development of up to 100 dwellings on land at Beachley Road, Sedbury⁸. There the Inspector concluded that the provisions of CS Policy CSP. 5 were another indicator of sustainability. He concluded, *"...the provision in policy CSP.5 for around 111 dwellings in the settlement, the fifth largest urban area within the District. Housing provision in policy CSP.5 is listed under the heading of 'Housing – strategic objectives: to promote thriving sustainable communities – provide affordable homes'. The Forest of Dean Settlement Hierarchy identifies Tutshill/Sedbury as the only settlement in the District (after the four main towns) that contains all eight of the criteria used in the methodology to assess sustainability. Moreover, if a development of the magnitude of the appeal proposal were considered to be unsustainable at Tutshill/Sedbury, then policy CSP.5 would not be making provision for around 111 dwellings at this location, and the Council's Core Strategy would not be including Tutshill/Sedbury as a sustainable community."* In addition, both the Planning Officer in the report to the Planning Committee and the lpa's planning witness at the inquiry acknowledge that Tutshill/Sedbury is a sustainable community. Therefore, looking at the issue of sustainability in the round, I consider that the appeal site is located in a sustainable community/location.

The Planning Balance and Conclusion

52. I have concluded that the proposal would not result in an unacceptable loss of B&MV agricultural land, there would be no unacceptable impacts on the safety and free flow of traffic, that the impact on air quality would be negligible and would be mitigated by the contribution provided by way of a UU and that there are no reasons in terms of primary health and education provision to resist this development.
53. The proposal would result in a moderate degree of harm to the setting and significance of Wirewoods Green Manor and a minor degree of harm to the setting and significance of Elmwood House albeit the degree of harm would fall, in Framework terms, in the category of less than substantial harm. As such the scheme would conflict with the objectives of CS Policy CSP.1. That said, Framework paragraph 134 indicates that in such circumstances the harm is to be weighed against the public benefits. Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that I have

⁸ APP/P1615/A/14/2220590

“special regard to the desirability of preserving a LB or its setting or any features of special architectural or historic interest which it possesses”.

54. In this case, given the absence of a 5-year housing land supply, the provision of 95 dwellings is a significant and material contribution to the housing needs of the district. The contribution that this development would make to address the acute shortage of housing is a benefit that attracts very substantial weight in the planning balance. This is particularly so given the lpa’s acknowledgement that there is an acute need for affordable housing in the district. Economic benefits that would flow from the application include those arising from employment during the development phase; a New Homes Bonus payment and increased Council Tax revenues. In my view, the combination of these benefits would outweigh the minor/moderate harm to the settings and significance of the HAs. In light of the economic and social benefits of this development and my conclusion that the application site is located in a sustainable community/location, I consider this proposal, when taken in the round, would be sustainable development and that the requirements of Framework paragraph 14 are fully engaged. Framework paragraph 14 indicates that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against policies in the Framework, taken as a whole.
55. There would be a change in the character of the area from open agricultural pasture to built development and an impact on visual amenity resulting in localised and limited harm and less than substantial harm to the setting and significance of nearby HAs contrary to the objectives of CS Policy CSP.1. However, with careful attention to detailed design, layout and landscaping I consider the above harm would be acceptably mitigated. Therefore, taken in the round, I consider the adverse impacts of this proposal would not significantly and demonstrably outweigh the benefits of this housing scheme, when assessed against policies in the Framework as a whole. Accordingly, and having taken all other matters into consideration, I consider there are compelling reasons to allow this appeal subject to appropriate planning conditions.

Conditions

56. I have reviewed the list of suggested conditions in accordance with guidance contained in PPG. Where necessary and in the interests of precision and enforceability I have reworded the suggested conditions. I have not imposed the lpa’s suggested condition (15) relating to a construction environmental noise management plan. I consider this condition duplicates the matters dealt with by condition 11 relating to the agreement of a construction method statement
57. Conditions 1, 2 and 3 relate to the submission of reserved matters and given the number of conditions that require discharge before construction commences, I see no reason to depart from the standard time limits. I have imposed a condition specifying development in accordance with the approved plans to accord with the guidance on greater flexibility for planning permissions (4). In the interest of the appearance of the area and the protection of neighbours’ living conditions, conditions relating to the submission of details for approval relating to: the Framework Plan (5), foul and surface water drainage (6 & 7), the preparation of a construction method

statement (11), landscaping and landscape management (12 & 13), building heights (14), internal and external noise levels (16); the undergrounding of services (17) and the provision and management of the open spaces (10) are necessary. Within this latter condition, I have omitted specific reference to a community orchard. Should this be considered appropriate, it is something that could be dealt with generally under the reserved matters submission and through this condition.

58. In the interests of highway safety, conditions relating to parking and access (8 & 10) and the implementation of the vehicular and pedestrian accesses (9 & 25) are necessary. In the interest of encouraging sustainable travel patterns, the submission of a Travel Plan (26); the provision of electric charging points (17) and works to the existing bus stops (24) are necessary. In the interests of biodiversity, approval of details relating to lighting (21); construction, landscape and ecological environmental management plans (22 & 23), hedgerows and services access (19 & 20) are necessary. In the interests of providing for the protection of archaeology, a condition requiring the approval of investigations is necessary (18). To provide for the provision and implementation of the affordable housing a condition is necessary. The condition imposed is the Planning Inspectorate's model condition, which covers all relevant matters and is less prescriptive than that suggested by the lpa.

George Baird

Inspector

Richborough Estates

ANNEX A

SCHEDULE OF CONDITIONS

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 2 years from the date of this permission.
- 3) The development hereby permitted shall begin not later than 3 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with Drawing Nos. 5978-L-01 Rev A and 0004 Rev D.
- 5) The details to be submitted under Condition (1) shall accord generally with the parameters of the development as set out on the Development Framework Plan reference 5978-L-02 Rev N and shall include street scenes, existing site levels and sections and proposed site and slab levels and sections through the site at a scale of not less than 1:500.
- 6) No development shall commence until full foul water drainage proposals have been submitted and approved by the local planning authority. The approved scheme shall be implemented before any of the dwellings hereby approved are occupied. Any surface water shall be drained separately from foul water.
- 7) No development shall commence until surface water drainage details, including a SUDS/drainage management plan have been submitted and approved in writing by the local planning authority. These details should fully incorporate the principles of biodiversity enhancement, sustainable drainage and improvement in water quality, along with a robust assessment of the hydrological influences of the detailed drainage plan, including allowances for climate change. The scheme shall be implemented in accordance with the approved details before the development is completed and the dwellings served by such a scheme are occupied and shall be subsequently maintained in accordance with the approved details.
- 8) No development shall commence until details of properly consolidated and surfaced vehicle parking and manoeuvring facilities (including provision for the disabled) have been submitted to and approved in writing by the local planning authority. Such facilities shall be provided in accordance with the approved plans and prior to the dwelling(s) served by them being occupied and shall be kept permanently available for such use with the vehicle parking spaces retained for parking only and the manoeuvring facilities for manoeuvring.
- 9) No works shall commence on site, other than those required by this condition, until the approved site access as shown on Drawing No. 004 Rev D and associated visibility splays, have been completed in accordance with the approved details and with the carriageway and footways constructed to at least binder course level.

- 10) No dwelling shall be occupied, until the carriageway(s) (including surface water drainage/disposal, vehicular turning head(s) and street lighting) providing access from the nearest public highway to that dwelling, have been completed to at least binder course level and the footway(s) to surface course level.
- 11) No development shall take place, until a Construction Method Statement (CMS) has been submitted to and approved in writing by the local planning authority. The approved CMS shall be adhered to throughout the construction period. The CMS shall:
 - i. specify the type and number of construction 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. include measures to control the emission of dust and dirt during construction; and
 - viii. mitigation measures as defined in BS 5528: Parts 1 and 2:2009 Noise and Vibration Control on Construction and Open Sites shall be used to minimise noise disturbance from construction works.
- 12) No works shall commence on site until the landscaping scheme submitted under condition 1 and incorporating existing flora and trees unless indicated for removal as shown on plan 5978-A-04 A has been approved in writing by the local planning authority. The approved scheme shall be carried out in accordance with a phasing plan which shall be submitted to and approved in writing by the local planning authority. If at any time during the subsequent 5 years any tree, shrub or hedge forming part of the scheme shall for any reason die, be removed or felled it shall be replaced with another tree or shrub of the same species during the next planting.
- 13) Prior to the first occupation of the development, a Landscape and Open Space Works Specification and Management Plan including precise details of the Open Space, its long term design objectives, management responsibilities and maintenance schedules for all landscaped areas, public open space and Play Area (to include a Locally Equipped Area for Play), other than privately owned domestic gardens, shall be submitted to and approved in writing by the local planning authority. The Play Area/Open Space shall be laid out in accordance with the approved details and thereafter be retained and used for no other purpose.
- 14) No building on any part of the development hereby permitted shall exceed 10m in height to the ridgeline when measured from approved slab level.
- 15) No development shall take place until a Waste Minimisation Statement has been submitted to and approved by the Local Planning Authority. It 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. all construction waste to be re-used on site unless it can be demonstrated to the satisfaction of the Local Planning Authority that this is not the most sustainable option, suitable or safe option;
- iii. where waste is generated that cannot be re-used/recycled either on or off site the Waste Minimisation Statement must set out proposed measures for the disposal of this waste in an environmentally acceptable manner;
- iv. provision within the residential development of 'on-site' storage receptacles for recycling a range of materials as specified by the Local planning Authority, at identified locations;
- v. suitable accessing arrangements for recycle/waste collection vehicles.

Thereafter all of these provisions shall be implemented in accordance with the agreed Waste Minimisation Statement.

- 16) No development shall commence until a scheme is submitted to and approved in writing by the local planning authority which shall include details to ensure internal noise levels can be achieved in bedrooms and living rooms in the proposed dwellings post construction of 30dBLAeqT (where T is 23:00 and 07:00) and 35 dBLAeqT (where T is 07:00-23:00). Noise from individual external events typical to the area shall not exceed 45 dBLAmax when measured in bedrooms and living rooms internally between 23:00 and 07:00, post construction. Noise levels in gardens, outdoor living areas and public open spaces to not exceed 55 dBLAeq 1 hour when measured at any period.
- 17) All services required to be connected to the development hereby permitted shall be laid underground and each property shall be provided with an electric vehicle charging point.
- 18) No development shall take place until the applicant, 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.
- 19) All service connection locations for water, electricity, gas, sewage and telecommunications should be undertaken in accordance with the details as set out in the agreed Arboricultural statement of common ground in relation to the Gloucester Road Access (July 2015).
- 20) No development (including ground works and vegetation clearance) shall take place until a detailed scheme for tree and hedgerow works including protection in accordance with BS 5837:2012, has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 21) A lighting strategy to demonstrate measures to reduce impacts to 1lux or below on existing and proposed features for bat foraging and flight corridors shall be submitted to the local planning authority for approval with the first reserved matters application and shall thereafter be implemented and retained in accordance with the approved scheme.
- 22) No development shall take place (including, ground works and vegetation clearance) until a Construction Environmental Management Plan -

Biodiversity (CEMP - Biodiversity) has been submitted to and approved in writing by the local planning authority. The CEMP -Biodiversity shall include the following:

- i. risk assessment of potentially damaging construction activities including those in relation to Dormice and Bats;
- ii. identification of "biodiversity protection zones";
- iii. practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements);
- iv. the location and timing of sensitive works to avoid harm to biodiversity features;
- v. the times during construction when specialist ecologists need to be present on site to oversee works;
- vi. responsible persons and lines of communication;
- vii. the role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person;
- viii. use of protective fences, exclusion barriers and warning signs.

The approved CEMP - Biodiversity shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

- 23) A landscape and ecological management plan (LEMP) shall be submitted to, and be approved in writing by, the local planning authority prior to the commencement of the development [or specified phase of development]. The content of the LEMP shall include the following;

- i. description and evaluation of features to be managed;
- ii. ecological trends and constraints on site that might influence management;
- iii. aims and objectives of management including those in relation to dormice and bats;
- iv. appropriate management options for achieving aims and objectives including appropriate enhancement measures;
- 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 plan;
- viii. ongoing monitoring and remedial measures.

The LEMP shall also identify the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details.

- 24) Prior to commencement of development details of Bus Shelters to include seating and lighting on the Gloucester Road stops shall be submitted to and approved in writing by the local planning authority and implemented in

accordance with the approved details prior to first occupation of the development

- 25) Details of the footway link on Elm Road including pedestrian crossing facilities on Gloucester Road and a footway link from the Gloucester Road site access to the existing facilities shall be submitted to and agreed in writing by the local planning authority and implemented in accordance with the approved details prior to first occupation of the site
- 26) Prior to first occupation of the development hereby permitted, a Travel Plan shall be submitted to the local planning authority for its written approval. The approved Plan shall be implemented in accordance with the details and timetable therein unless otherwise agreed in writing by the local planning authority
- 27) No development shall take place until a scheme for the provision of affordable housing as part of the development has been submitted to and approved in writing by the local planning authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex 2 of the National Planning Policy Framework or any future guidance that replaces it. The scheme shall include:
 - i. the numbers, type, tenure and location on the site of the affordable housing provision to be made, which shall consist of not less than 40% of housing units;
 - ii. the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;
 - iii. the arrangements for the transfer of the affordable housing to an affordable housing provider or the management of the affordable housing if no Registered Social Landlord involved;
 - iv. the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
 - v. the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.

The affordable housing shall be retained in accordance with the approved scheme.

ANNEX B - APPEARANCES & DOCUMENTS

FOR THE APPELLANT

Miss Sarah Reid of Counsel, instructed by Ms. Lucy Wilson MRTPI, Planning Manager, Gladman Development Ltd.

She Called:

Mrs. J Evans BSc Hons, MRTPI, IHBC.
Associate Director, CgMs Consulting.

Mr. G Holliday B.A (Hons), MPhil, CMLI.
Director, FPCR Environment and Design Limited.

Mr. J Donagh BA (Hons), MCD, MIED.
Director, Barton Willmore.

Mr. S Lucas BSc, MSc.
Principal, Development Economics Limited.

Mr. Dodds.
Planning Prospects Ltd.

FOR THE LOCAL PLANNING AUTHORITY

Peter Wadsley of Counsel instructed by the Solicitor to the Council, Forest of Dean District Council.

He Called:

Mr P Radmall MA, B.PHIL. CMLI.
Peter Radmall Associates.

Mr D Haigh BA, MA, AA, Grad. Dipl. Cons. FSA. Scot. IHBC.
Conservation Consultant.

Mr N Gibbons BSc. MRTPI.
Forward Plan Manager Forest of Dean District Council

Mr N McDonald BA.
NM Strategic Solutions Limited.

Mr M Hillier Dip TP. MRTPI, MCMI, CMS.
Principal Planning Officer, Forest of Dean District Council.

FOR THE TUTSHILL AND TIDENHAM ACTION GROUP

Phillip Robson of Counsel, instructed by the Tutshill and Tidenham Action Group.

He called:

Mr Purcell.

Mr Roberts.
Mr Evans.
Mr Harris.

INTERESTED PERSONS

Mr Blandford.
Mrs Kirkpatrick.
Ms Rymer.
Mr Braund.
Mrs Ford.
Mr Hewitt.
Cllr Davies.

DOCUMENTS SUBMITTED AT THE INQUIRY

- Doc 1 - Appellant's submission to amend to the description of the proposal.
Doc 2 - Lpa response to the appellant's submission to amend the description of the proposal.
Doc 3 - TTAG response to the appellant's submission to amend the description of the proposal.
Doc 4 - Submissions by Mr K J Rodwell.
Doc 5 - Submissions by Mr B Howells.
Doc 6 - Submissions by Cllr. G J Davies.
Doc 7 - Submissions by Mrs N Ford.
Doc 8 - Submissions by Mrs M Golding-Evans & Mr JMJ Hewitt.
Doc 9 - Submission by Ms J Rymer.
Doc 10 - Submission by Mr A Braund.
Doc 11 - Submission by Mrs G Kirkpatrick.
Doc 12 - Submission by Mr T Blandford.
Doc 13 - Enlargement of 1881 OS Map Wireswood Green Manor.
Doc 14 - Suggested planning conditions submitted by the lpa.
Doc 15 - Housing Land Supply Sites August 2015 - Agreed consolidated list of disputed sites.
Doc 16 - TTAG letter to PINs dated 10 August 2015.
Doc 17 - Traffic Report Gloucester Road 1/7/2015 to 10/7/2015.
Doc 18 - Google Average Traffic Estimates for A48 Chepstow.
Doc 19 - Copy of letter from Rt Hon. Mark Harper MP to Mr N Evans.
Doc 20 - Copy of letter from David T C Davies MP to SoS DCLG.
Doc 21 - TTAG Profile.
Doc 22 - Comparison of tree heights.
Doc 23 - Apple Root Stock Information.
Doc 24 - TTAG - Pedestrian routes to Chepstow.
Doc 25 - Rebuttal Proof, Mr S Lucas.
Doc 26 - Rebuttal Proof, Mr Chau.
Doc 27 - Hydrock Technical Note on TTAG Pedestrian Routes.
Doc 28 - Air Quality Assessment August 2015.
Doc 29 - Air Quality Supplementary Note 26 August 2015.
Doc 30 - Lpa response to Air Quality Supplementary Note.
Doc 31 - Replacement Table. Housing Supply 31 March 2015. Paragraph 5.55 of Mr Tait's Proof.
Doc 32 - Replacement Table. Forest of Dean 5-Year Supply Requirement. Paragraph 5.57 of Mr Tait's Proof.

- Doc 33 - Copy pf Persimmon Homes Email, dated 24 June 2015.
- Doc 34 - Minutes of Planning Committee Meeting, 11 August 2015.
- Doc 35 - PPG –Housing & Economic Development Needs Assessments.
- Doc 36 - Page 76, Extract from The Tithe Surveys of England & Wales.
- Doc 37 - An Introduction to Historic Mapping.
- Doc 38 - Ordnance Survey Maps, 25 Inch England & wales 1841-1952.
- Doc 39 - Appeal Decision APP/P1615/A/14/2228822.
- Doc 40 - APP/Z2260/A/2213265 SoS Decision & Inspector’s Report.
- Doc 41 - APP/D2510/A/11/2161066, Inspector’s Report.
- Doc 42 - Planning Obligation dated 28 August 2015.
- Doc 43 - List of Planning Conditions suggested by the appellant.
- Doc 44 - Submitted Plans Location Plan 5978-L-01 Rev A & Access Plan 004 Rev D. Framework Plan 5978-L-02 Rev N.

Richborough Estates