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## Appeal Decision

Inquiry Held on 13 to 15 and 20 to 21 December 2023

Site visit made on 20 December 2023

**by M S Wiltshire CEng, MICE**

an Inspector appointed by the Secretary of State

Decision date: 21<sup>st</sup> February 2024

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**Appeal Ref: APP/G1630/W/23/3326538**

**Land at Chestnut Tree Farm, Twigworth, Gloucestershire**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 on grounds of non-determination to grant outline planning permission.
  - The appeal is made by L&Q Estates Limited, Executors of Michael Smith (deceased) Estate, Adrian Wilcox & Julian Smith against Tewkesbury Borough Council.
  - The application Ref 22/01343/OUT, was dated 12 December 2022, the 13-week target date for a decision was 14th March 2023.
  - The development proposed is described as outline application for the erection of up to 85 dwellings with public open space, landscaping and sustainable drainage system (SuDS). All matters reserved except for means of vehicular and pedestrian access from Sandhurst Lane and a pedestrian access on to the A38.
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### Decision

1. The appeal is allowed and outline planning permission is granted for the erection of up to 85 dwellings with public open space, landscaping and sustainable drainage system (SuDS). All matters reserved except for means of vehicular and pedestrian access from Sandhurst Lane and a pedestrian access on to the A38, at Land at Chestnut Tree Farm, Twigworth, Gloucestershire in accordance with the terms of the application, Ref 22/01343/OUT, dated 13 December 2022, subject to the conditions contained within the Schedule at the end of this decision.

### Preliminary Matters

2. The agreed Statement of Common Ground (SoCG) between the parties confirms that the issues which remained in dispute were:
  - Issue 1 - the site's location outside the settlement boundary;
  - Issue 2 - the effect on the character and appearance of the area; and
  - Issue 3 - loss of Best and Most Versatile (BMV) agricultural land.
3. However, because the tilted balance within the National Planning Policy Framework (NPPF) is engaged, the extent of shortfall in 5 year housing land supply (5YHLS) is a material consideration, as well as whether the harm arising from the proposed development significantly and demonstrably outweigh the benefits.

4. The (NPPF) was revised during the course of this Inquiry, on 19 December 2023. The parties agreed that the revised NPPF did not have any material effect on evidence presented at the Inquiry.

### **Main Issues**

5. In light of the foregoing, the main issues are:
  - whether the proposed development would accord or conflict with the existing and emerging development plan policies for the area;
  - the effect the proposed development would have on the character and appearance of the area;
  - loss of Best and Most Versatile agricultural land;
  - extent of shortfall in 5 year housing land supply; and
  - whether any harm arising from the proposed development would significantly and demonstrably outweigh the benefits.

### **Reasons**

#### *5 year housing land supply*

6. It is a matter of common ground between the parties that the shortfall in 5YHLS is significant, as confirmed at paragraph 2.5 of the 5YHLS SoCG Addendum. Acknowledging this significant shortfall, the Appellant argues that the development plan be afforded reduced weight and the benefits of delivering housing afforded substantial weight. I deal with this matter in the sections entitled 'compliance with policies' and 'planning balance and conclusions'.
7. The Council has agreed the shortfall against the five-year agreement is "*significant*" and that the weight to be given to the provision of market and affordable housing is substantial.
8. The Council is content that this decision letter records "*... that the agreed range identifies the "broad magnitude" of the shortfall and that it is significant*".

#### *Character and appearance*

9. The proposed development is defined by an indicative Masterplan. The question is the appropriate weight to afford the extent of the harm on the character and appearance of the area.
10. The development is a greenfield site which will necessarily involve localised adverse impacts.
11. There is significant agreement between the parties as to the effect on the character and appearance of the surrounding area as captured in the SoCG and the Landscape SoCG. The areas of dispute relate to the level of harm attributed from the proposed development's encroachment into the landscape, and possible loss of character and appearance of Twigworth village.
12. The Council submitted that the proposed development would result in an encroachment into the countryside which would not be well-integrated with the existing settlement or the countryside beyond, and therefore contrary to policies.

13. The Council's assessment of the site, as part of a larger land parcel, recorded "*There is a relatively unsympathetic settlement edge that offers some potential for enhancement*". There was much debate during the Inquiry regarding this point and where this observation had been made from. The Council's observation was that as one moves further away from the A38 into the countryside, the landscape becomes more tranquil and rural in character.
14. The Appellant maintained that the unattractive settlement edge in this location offered an opportunity to improve the relationship between the settlement and the countryside beyond, through sensitive landscaping – which would be secured through reserved matters, thus delivering landscape benefits.
15. A significant amount of housing development in Twigworth occurred in the late 20<sup>th</sup> and early 21<sup>st</sup> centuries, virtually all of this to the south of the A38. North of the A38 the housing is of a more linear form.
16. In visual terms, the appeal site is visible in the landscape from surrounding viewpoints, albeit it is accepted that its relatively flat and low-lying topography mean that it is not a prominent feature in long-distance views. The Landscape and Visual Impact Assessment (LVIA) considers the likely visual impact arising from the proposed development from viewpoints grouped together based upon similar geographical locations.
17. The Council attaches the most significance in visual terms to the viewpoints in Group B, Sandhurst Lane, and Group E, the public footpaths to the west and north of the appeal site. The Council considers that the result of development in Sandhurst Lane will be that the appearance of built form will have been noticeably extended further north. With regard to the footpaths, the Council considers that the proposed development's built form and mitigation planting would enclose views through the appeal site that are currently available to walkers, and would make the settlement appear much closer.
18. In the landscape and visual SoCG the only areas of dispute in respect of landscape matters were whether the LVIA had considered the impacts on trees, hedgerows and public footpaths.
19. With regard to trees the arboricultural report and LVIA demonstrate there would be significant additional planting, meaning that there would be a net benefit to trees, despite the need to remove/replant four grade C young fruit/orchard trees to provide the access.
20. The loss of hedgerow for access needs to be considered against the management of the remaining hedgerow. Securing the management of the remaining hedgerow to be retained (through conditions) would offset the loss for the access. Both parties accepted that there would be a net benefit overall, but did not agree on the scale of benefit. In the light of the benefit secured through the management of the remaining hedgerow, I prefer the Appellant's position of a moderate beneficial effect.
21. The impact on the public footpaths is where the two parties departed. The Appellant argued that his assessment was to be preferred because it followed the methodology advocated through GLVIA3<sup>1</sup>, whilst the Council's did not. I prefer the Appellant's assessment because of the methodology used.

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<sup>1</sup> Guidelines of Landscape and Visual Impact Assessment, third edition.

22. In any event, ultimately the Council's view is that absent the footpaths, there would be no more than a moderate impact in respect of landscape character and visual harm, and that generally one will not get below these levels of harms with the development of a greenfield site.
23. To achieve a 5YHLS the Council acknowledged that it will be reliant upon greenfield sites. This will involve granting planning permission on greenfield sites, which will necessarily involve the sort of localised adverse impacts associated with the development of the appeal site being allowed elsewhere.
24. Having regard to the footpath impact I consider that moderate weight should be given to the harm to the character and appearance of the surrounding area.
25. For these reasons, therefore, the adverse effect the proposed development would have on the character and appearance of the area would be moderate, having taken into account the tree and hedgerow benefits. Consequently, in this regard, it would not conflict with Policy H2 of the Down Hatherley, Norton and Twigworth Neighbourhood Development Plan – 2011-2031, Policy SD4 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011-2031 (JCS) (December 2017) and Policies RES3 and RES 4 of the Tewkesbury Borough Plan 2011-2031.

#### *Best and Most Versatile agricultural land*

26. The proposed development would result in the loss of approximately 4.2ha of Best and Most Versatile (BMV) agricultural land. This loss is below the threshold for consultation with Natural England (20ha) and is, therefore, described by Natural England as being 'smaller losses'.
27. Accepting that there will be a loss of agricultural land, the Council argues that the best agricultural land is a finite resource and that smaller losses can be significant, but that this is a matter of judgement.
28. The Appellant argued that there were negligible economic benefits and less than average food production benefits associated with the BMV land in question. Given the extent of the loss and the scale of the associated benefits, I favour the Appellant's position.
29. For these reasons, therefore, although there will be loss of BMV agricultural land, the area concerned is small, and I consider attracts little weight.

#### *Compliance with policies*

30. It is contended that the proposed development conflicts with Policies SP2 and SD10 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy (JCS) 2011 -2031 (December 2017); Policies RES 3 and RES 4 of the adopted Tewkesbury Borough Plan 2011 -2031; and Policy H2 of the Down Hatherley, Norton and Twigworth Neighbourhood Development Plan (NDP).
31. There was debate between the parties as to which policies would be breached, this is summarised by the table in the Planning Addendum SoCG [ID.10].
32. However, accepting that the proposed development conflicts with the development plan as a whole, and that the tilted balance within paragraph 11(d)(ii) of the NPPF is engaged, the question before me is whether the harm arising from the proposed development would significantly and demonstrably

outweigh the benefits. The following paragraphs summarise the evidence presented concerning these policies.

33. The parties accept conflict with the spatial strategy set out in the Council's development plan, in other words the proposed development is outside of the Council's settlement boundary (policies SP2, SD10, RES3 and RES 4).
34. With regard to Policy H2 of the Down Hatherley, Norton and Twigworth NDP 2011-2031 the Council's position is that neither criteria (i) and (ii) are satisfied and therefore the scheme conflicts with Policy H2. Referring to NDP paragraph 50, the Council noted that the NDP's spatial vision for Twigworth should be delivered steadily through a series of modest developments, arguing that the provision of 85 homes cuts across that spatial vision. The Appellant argued that even if there were some conflict with the vision of the NDP, that does not give rise to conflict with the NDP itself.
35. The Appellant disputed that there is any conflict with this policy. In relation to criteria (i) the Appellant argued that the proposal only causes harm at the site level and only negligible impact upon the wider countryside, and thus cannot amount to an unduly harmful encroachment into the countryside. The Appellant contended that criteria (ii) is solely focused on reserved matters.
36. The Council acknowledged that it cannot currently demonstrate a five-year supply of housing land, and as a consequence the policies which are most important for determining the application are deemed out of date. In these circumstances, it was also agreed that the "tilted balance" in paragraph 11(d) of the NPPF applies. The Council also pointed out that the application of the tilted balance is not a mechanical exercise and that it is a matter of planning judgment how much weight should be given to the restrictive policies and to the conflict between them and the proposal.
37. The Appellant submitted that the Council are far short of having a five-year housing land supply and this must reduce the weight afforded to these policies which are restricting the Council from being able to restore this supply.
38. The Council considered that the "most important" policies for determining the application are consistent with the NPPF and therefore should be afforded greater weight. The Appellant maintained that this is not the case because the policies have for a period of 5 years not restored a 5YHLS and are thus contrary to paragraph 60 of the NPPF.
39. The Appellant asserted that the location of the proposed development remains consistent with the overriding principle in the JCS that the focus of growth should be Gloucester or Cheltenham, which Twigworth provides for. In support of this argument the Appellant referenced paragraph 3.2.4 of the JCS [CD 4.01]; SP2 point 1 and supporting text 3.2.5; that Twigworth is 4 km from Gloucester city centre and was required to accommodate a strategic allocation, specifically to contribute to Gloucester's housing supply.
40. The Council maintained that the development plan has not restricted delivery of new housing in Tewkesbury and has achieved a surplus against its cumulative JCS housing requirement and local housing need. The Appellant strongly contested this assertion on the grounds of: not having a 5YHLS for every year for the last 5 years; the JCS requirement is an historical requirement; and the Council are significantly behind in housing performance.

41. The Council also referenced the publication of an Interim Housing Position Statement (IHPS), preparation of a new Strategic Local Plan as evidence that it has faced up to the reality of its housing land supply shortfall. The Appellant argued that it is either the case that the position statement supports the appeal proposal, or the statement does not apply.
42. Finally, the Council referenced recent appeal decisions as examples of the weight afforded to the spatial policies.
43. The Appellant concluded that the weight afforded to these policies should be tempered, given the adherence to them would prevent the Council from restoring a 5YHLS.
44. With regard to the Council's allegation of conflict with Policies SD4, RES5, SD6, LAN2, SD14, and E2; the Appellant dealt with these through evidence in chief and cross examination, and summarised its view on each in detail in closing submissions.
45. In relation to Twigworth's role in the settlement hierarchy. The Council argued that the proposed development conflicts with the spatial strategy of the DP, pointing out that the Council's spatial strategy for the borough, as expressed in the JCS, was drawn up alongside and on the basis of the strategic allocation, which included a deliberate decision to remove Twigworth from the settlement hierarchy and preserve its status as a rural settlement.
46. The Appellant conceded conflict with the spatial strategy, but argued that outside of the settlement boundaries, all land is not considered equal. It pointed out that the appeal site adjoins a sustainable settlement, has access to services, facilities and infrastructure by a range of means of transport, and is just outside the urban fringe of Gloucester city where growth is directed towards. The Appellant's position was that the extent of conflict with the spatial strategy is limited.
47. The Appellant also noted that there is a local affordable housing need in Twigworth specifically for 87 households, arguing that it is only through developing specifically at Twigworth that this need can be addressed.
48. In conclusion, it is accepted that the proposed development conflicts with the existing and emerging development plan policies for the area, namely with SP2, SD10, RES 3, RES 4 and H2. However, it is agreed that the tilted balance within paragraph 11(d)(ii) of the NPPF is engaged. The question of whether the harm arising from the proposed development significantly and demonstrably outweigh the benefits is dealt with in the following section.

#### *Planning balance and conclusions*

49. It is common ground that there are no restrictive policies in the NPPF (per paragraph 11(d)(i)) that provide a clear reason to refuse permission and thus it is common ground that the appeal should be determined in the context of the tilted balance as per paragraph 11(d)(ii), meaning that permission should be granted unless the adverse impacts significantly and demonstrably outweigh the benefits.
50. The main statement of common ground [CD11.09, p.12] lists the agreed benefits as:

- i) provision of market housing, afforded substantial weight;
  - ii) provision of affordable housing, afforded substantial weight;
  - iii) delivery of public open space, afforded moderate/limited benefits;
  - iv) planning obligation in the s106 agreements and financial contributions through the community infrastructure levy, afforded limited weight;
  - v) flood risk alleviation, afforded limited weight;
  - vi) highway enhancements, afforded limited weight.
51. The two disputed benefits relate to environmental benefits through biodiversity net gain (BNG) and economic benefits.
52. With regard to environmental benefits, the Council do not dispute that the proposal could secure on site BNG of 89.84% in habitat units and 57.51 in hedgerow units. The Council's position is that these benefits attract moderate weight, whilst the Appellant contends that they should be afforded significant weight. I note that these are significantly greater than the 10% BNG requirement set out in the Environment Act 2023 (which has yet to come into force).
53. The Council does not dispute the economic benefits, but submits that they should attract no more than moderate weight in the planning balance because there is no evidence that Twigworth has any particular need (compared to other settlements in the borough) for the identified benefits. The Appellant maintains the economic benefits from construction and local spend should be afforded significant weight in accordance with paragraph 85 of the NPPF.
54. The Council submitted that the proposed development does not attract support under the IHPS [CD8.07c] The Appellant argued that either the IHPS is redundant and thus will not assist the Council in restoring a 5YHLS; or the Council's approach to what constitutes a deliverable site in the context of the IHPS is flawed, the proposed development is deliverable, and thus the IHPS weighs in favour of the proposal being granted planning permission.
55. Balanced against these benefits is the conflict with the spatial strategy of the development plan, the loss of BMV and the landscape and visual harm.
56. In this context, given that the proposed development would bring a range of benefits, most notably the delivery of a substantial amount of market and affordable housing in an area which currently has issues with housing delivery, which together carry substantial weight in its favour, the identified harm and development plan conflict carries modest, comparative weight bearing in mind the matters outlined above, and that the harm to the character and appearance of the area would be moderate and that the loss of BMV land carries little weight given the small area of land concerned.
57. Consequently, in the current circumstances the adverse impacts of the appeal development would not significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. Accordingly, it would be sustainable development in the terms of the Framework for which there is a presumption in its favour, such that the site is a suitable location for housing.

## **Other Matters**

58. In the event that planning permission were to be granted and implemented the S106 Agreement with Tewkesbury Borough Council, dated 20 December 2023, would secure the provision of on-site affordable housing at a rate of 40%; payments towards, refuse collection and recycling, the Cotswold Beechwoods Special Area of Conservation Mitigation Contribution Index, the Monitoring Fee; and the provision, maintenance and delivery of on-site public open space.
59. In the event that planning permission were to be granted and implemented the S106 Agreement with Gloucestershire County Council, dated 20 December 2023, would secure payments towards transport to school, libraries, primary and secondary education, and travel plan.
60. The Council has submitted a detailed statement (the CIL Statement), which addresses the application of statutory requirements to the planning obligations within the S106 Agreement and also sets out the relevant planning policy support / justification. I have considered the S106 Agreement in light of Regulation 122 of The Community Infrastructure Levy (CIL) Regulations 2010 (as amended) and government policy and guidance on the use of planning obligations. Having done so, I am satisfied that the obligations therein would be required by and accord with the policies set out in the CIL Statement. Overall, I am satisfied that all of those obligations are directly related to the proposed development, fairly and reasonably related to it and necessary to make it acceptable in planning terms.
61. In addition to the foregoing matters, concern has been expressed locally, including by Twigworth Parish Council, in respect to conflict with policies; landscape and visual impact; loss of BMV land; access to the proposed development; flooding; and ability of existing infrastructure to cope with additional development.
62. These matters are largely identified and considered within the Council officer's report on the appeal development. They were also before the Council when it prepared its evidence and when it submitted its case at the Inquiry and are largely addressed in its evidence and in the various statements of common ground. Other than as set out above, the Council did not conclude that they would amount to reasons to justify withholding planning permission. I have been provided with no substantiated evidence which would prompt me to disagree with the Council's conclusions in these respects subject to the S106 Agreement and the imposition of planning conditions.

## **Conditions and Conclusion**

63. The Council and the Appellant jointly prepared a list of agreed draft conditions, which include the standard time limit / implementation conditions. I have considered these in the light of government guidance on the use of conditions in planning permissions and am content they are necessary and reasonable.
64. With regard to concerns raised during the Inquiry concerning possible flooding, the Appellant revised condition 12 to include the requirement that the public sewerage system has been upgraded before new dwelling are connected.
65. In conclusion, the appeal should be determined in the context of the tilted balance within the NPPF, meaning that permission should be granted unless the adverse impacts significantly and demonstrably outweigh the benefits. The



appeal scheme would bring a range of benefits, most notably the delivery of a substantial amount of market and affordable housing in an area which currently has issues with housing delivery, which together carry substantial weight in its favour. Balanced against these benefits is the conflict with the spatial strategy of the development plan carrying modest comparative weight, the loss of BMV carrying limited weight, and the landscape and visual harm which would be no greater than moderate. Consequently, these adverse impacts would not significantly and demonstrably outweigh the benefits. On that basis, the appeal scheme would represent sustainable development in the terms of the Framework for which there is a presumption in its favour. Accordingly, subject to the identified conditions, the appeal is allowed.

*M S Wiltshire*

INSPECTOR

Richborough

**APPEARANCES**

FOR THE LOCAL PLANNING AUTHORITY:

<b>Name</b>	<b>Letters to be recorded after name</b>	<b>Organisation</b>	<b>Role</b>
Matt Lewin		Cornerstone Barristers	Counsel
Mrs Helen Morris	BSc (Hons), DipTp, MRTPI	RCA Regeneration	Planning Evidence
Ms Claire Bromley	BA (Hons), MSc	Tewkesbury Borough Council	Housing Need Evidence
Mr John-Paul Friend	HND (LGD) BA Hons Dip LA CMLI	LVIA	Landscape Evidence

FOR THE APPELLANT:

<b>Name</b>	<b>Letters to be recorded after name</b>	<b>Organisation</b>	<b>Role</b>
Mr Killian Garvey		Kings Chambers	Counsel
Mr Conor Flanagan	BSC (Hons), MA, MRTPI	Black Box Planning	Planning evidence
Mr Peter Richards	BA (Hons), Dip LA, CMLI, Dip Urban Design	The Richards Partnership	Landscape and visual
Mr Tony Kernon	BSC (Hons), MRICS, FBIAC	Kernon Countryside Consultants	Best and Most Versatile Agricultural Land
Mr Jeff Richards	BA (Hons) MTP MRTPI	Turley	Housing Need Evidence
Mr Luke Challenger	MRTPI, BA (Hons) M Plan.	Black Box Planning	Conditions

INTERESTED PERSONS:

Cllr Graham Bocking	Twigworth Parish Council
George Sharpley	Local Resident
Paul Dover	Local Resident
Helen Dover	Local Resident
Cllr Williams	Twigworth Parish Council
Graham Locke	IP
Andrew Warren	IP
Andrew Bower	Landowner's agent
Max Bower	Public
James Lloyd	Tewkesbury Borough Council

## SCHEDULE OF CONDITIONS FOR APPEAL APP/G1630/W/23/3326538:

### **Defining the Permission**

1. The development for which permission is hereby granted shall not be begun before detailed plans thereof showing the layout, scale, appearance and landscaping (hereinafter referred to as "the reserved matters") have been submitted to and approved by the Local Planning Authority.
2. No reserved matters application shall be for more than 85 dwellings.
3. Application for the approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.
4. The development hereby permitted shall be begun either before: (i) the expiration of three years from the date of this permission, or (ii) before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
5. The development hereby permitted shall be carried out in accordance with the following approved plans: Site Boundary Plan (ref: 22-045-200 Rev C), Proposed Site Access Plan (ref: 3504-SK-05 Rev F) and, Pedestrian accessibility plan by WSP (ref: 3504-SK-12 Rev D).

### **Details required for Reserved Matters**

6. The first Reserved Matters application submitted pursuant to Condition 1 shall include a Market Housing Mix Statement, setting out how an appropriate mix of dwelling sizes, types and tenures will be provided in order to contribute to a mixed and balanced housing market to address the needs of the local area, including the needs of older people, as set out in the local housing evidence base, including the most up-to-date Strategic Housing Market Assessment for the area at the time of the submission of the relevant reserved matters. The development shall be implemented in accordance with the approved Housing Mix Statement.
7. The reserved matters submitted pursuant to condition 1 above shall include details of existing and proposed ground levels and finished floor levels of the buildings relative to Ordnance Datum Newlyn. The development shall be carried out in accordance with the approved details.
8. The details of landscaping to be submitted as part of the Reserved Matters application in accordance with Condition 1 shall include a landscape scheme for the whole site. The submitted scheme shall be accompanied by a written specification clearly describing the species, sizes, densities and planting numbers. The submitted drawings shall also include accurate details of all existing trees and hedgerows with their location, species, size, condition (Arboricultural assessment). The drawings shall provide details of any proposed tree surgery and details of which trees/hedgerows are to be removed and how those to be retained are to be protected during the course of development. The details shall include the tree pit design and location, type and materials to be used for hard landscaping including specifications. Development shall be carried out in accordance with the approved details.
9. As part of the reserved matters submitted pursuant to condition 1 details of how the development will enhance biodiversity (demonstrating a minimum of 10% biodiversity net gain) shall be submitted to and approved in writing by the local planning authority. The details shall include:
  - updated Metric calculations based on the detailed site layout and landscape scheme and calculated using the latest version of the Defra metric and up-to-date baseline habitat and condition assessments and justifications;

- a Biodiversity Gain Plan; and
- A timetable for implementation.

The development shall be carried out in accordance with the approved details.

### **Pre-commencement Conditions**

10. Prior to the commencement of development, a detailed site waste management plan shall be submitted to and approved in writing by the local planning authority. The site waste management plan must identify the type and amount of waste materials expected to be generated from the development during site preparation and construction phases and set out what site specific measures will be employed for dealing with this material so as to; - minimise its creation, maximise the amount of re-use and recycling on-site; maximise the amount of off-site recycling of any wastes that are unusable on-site; and reduce the amount of waste sent to landfill. In addition, the site waste management plan must also clearly set out the proportion of recycled content from all sources that will be used in construction materials. The detailed site waste management plan shall be fully implemented as approved.

11. Prior to the commencement of development a scheme for surface water drainage works shall be submitted to and approved in writing by the local planning authority. The information submitted shall be in accordance with the principles set out in the Flood Risk Assessment / Drainage Strategy prepared by Vectos (dated Nov 2022) that accompanied the application. Before these details are submitted an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system in accordance with the principles set out in The SuDS Manual, CIRIA C753 (or any subsequent version), and the results of the assessment provided to the local planning authority in discharging this condition. Where a sustainable drainage scheme is to be provided, the submitted details shall:

- i) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and / or surface waters;
- ii) include a timetable for its implementation; and
- iii) provide a full risk assessment for flooding during the groundworks and building phases with mitigation measures specified for identified flood risks; and
- iv) provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

The surface water drainage works scheme shall be implemented as approved.

12. Prior to the commencement of development, drainage plans for the disposal of foul water shall be submitted to and approved in writing by the local planning authority. These details will be consistent with the principle that no dwelling is to connect to the public sewer (for foul sewage only) until upgrades have been carried out to the public sewerage system. The submitted details will also ensure that no surface water is to be discharged into the public sewerage system. None of the dwellings hereby approved shall be first occupied until the foul water drainage scheme has been implemented in accordance with the approved details.

13. Prior to commencement of any development a Construction (and demolition) Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority. The CEMP shall include (but is not limited to):

- a. Site ingress/egress;
- b. Staff/contractor facilities and travel arrangements;

- c. Dust mitigation;
- d. Noise and vibration mitigation (Including whether piling or power floating is required and please note white noise sounders will be required for plant operating onsite to minimise noise when in operation/moving/ reversing);
- e. Mitigation of the impacts of lighting proposed for the construction phase;
- f. Measures for controlling leaks and spillages, managing silt and pollutants; and
- g. Plans for the disposal and recycling of waste.

Development shall take place only in accordance with the approved CEMP.

14. Prior to the commencement of development (including demolition, ground works, vegetation clearance) a construction environmental management plan (CEMP: Biodiversity) shall be submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall be written in accordance with BS42020, including mitigation details on bats, birds, great crested newt, reptiles, hedgehog and badger, as well as any pollution prevention measures. The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

15. Prior to the commencement of development a written scheme of investigation (WSI) for a phased programme of archaeological work shall be submitted to and approved in writing by the local planning authority. The WSI shall then be implemented as approved, and its findings reported and agreed with the local planning authority prior to the commencement of any ground works associated with the development hereby approved.

16. Prior to the commencement of development and notwithstanding the submitted plans, the detailed design of the footway improvements on the A38 shall, following prior consultation with the Local Highway Authority, be submitted to and approved in writing by the Local Planning Authority and the development shall not be occupied until those works have been constructed in accordance with the approved details.

17. Prior to the commencement of development and notwithstanding the submitted plans, details of a signalised pedestrian crossing at a point between the A38/Ironbridge Road roundabout and the A38/Sandhurst Lane junction, shall be submitted to and approved in writing by the Local Planning Authority; and the development shall not be occupied until those works have been constructed in accordance with the approved details.

18. The Development hereby approved shall not be occupied until the highway improvements works comprising:

Widening of Sandhurst Lane

have been constructed and completed in accordance with details to be first submitted to and approved in writing by the Local Planning Authority.

19. Prior to commencement of the development hereby permitted details of a construction traffic management plan (CTMP) shall be submitted to and approved in writing by the Local Planning Authority. The approved plan shall be adhered to throughout the demolition/construction period. The plan/statement shall include but not be restricted to:

- i) Parking of vehicle of site operatives and visitors (including measures taken to ensure satisfactory access and movement for existing occupiers of neighbouring properties during construction);
- ii) Advisory routes for construction traffic;
- iii) Any temporary access to the site;
- iv) Locations for loading/unloading and storage of plant, waste and construction materials;
- v) Method of preventing mud and dust being carried onto the highway;
- vi) Arrangements for turning vehicles;

- vii) Arrangements to receive abnormal loads or unusually large vehicles;
- viii) Highway Condition survey;
- ix) Methods of communicating the Construction Management Plan to staff, visitors and neighbouring residents and businesses.

20. Prior to the commencement of development including site clearance, materials delivery or erection of site buildings, measures to protect trees/hedgerows on and adjacent to the site shall be installed in accordance with details that have been submitted to and approved in writing by the local planning authority. These measures shall include:

- i) Temporary fencing for the protection of all retained trees/hedgerows on and adjacent to the site whose Root Protection Areas (RPA) fall within the site to be erected in accordance with BS5837(2012) or subsequent revisions (Trees in Relation to Design, Demolition and Construction). Any alternative fencing type or position not strictly in accordance with BS5837 (2012) shall be agreed in writing by the local planning authority prior to the start of development. The RPA is defined in BS5837(2012).
- ii) Construction Exclusion Zone (CEZ): The area around trees and hedgerows enclosed on site by protective fencing shall be deemed the CEZ. Excavations of any kind, alterations in soil levels, storage of any materials, soil, equipment, fuel, machinery or plant, site compounds, cabins or other temporary buildings, vehicle parking and delivery areas, fires and any other activities liable to be harmful to trees and hedgerows are prohibited within the CEZ, unless agreed in writing with the local planning authority.

The approved tree protection measures shall remain in place until the completion of development.

21. Where excavations or surface treatments are proposed within the root protection areas (RPA) of retained trees and hedgerows, full details shall be submitted to and approved in writing by the local planning authority prior to the commencement of development. The RPA is defined in BS5837:2012. Details shall include the proposed locations of excavations and/or surface treatments, proposed methods & specifications of excavations and/or surface treatments and any post excavation remedial works. All excavations or surface treatments shall be carried out in accordance with the approved details.

22. Prior to commencement of development a noise assessment shall be submitted to and approved in writing by the local planning authority. Where noise mitigation is identified/required through the noise assessment, the assessment shall include details of a scheme for protecting the occupiers of the new dwellings from road traffic noise from the A38, noise associated with Twigworth Court Business Centre and noise associated with any heat pumps (if considered necessary). Where identified/required, the mitigation measures approved shall be completed prior to any dwellings to which they relate being occupied. The development shall be carried out in accordance with the approved details and maintained thereafter.

23. Prior to the commencement of development a certificate from the Delivery Partner (as set out in the District Licence WML-OR112, or a 'Further Licence'), confirming that all necessary measures regarding great crested newt compensation have been appropriately dealt with, shall be submitted to and approved by the planning authority and authorisation for the development to proceed under the district newt licence has been provided by the authority. The delivery partner certificate must be submitted to this planning authority for approval prior to the commencement of the development hereby approved.

### **Conditions requiring submission of details above ground level**

24. No above-ground development shall commence until full details of the provision made for facilitating the management and recycling of waste generated during occupation have been submitted to and approved in writing by the local planning authority. All details shall be fully implemented as approved.

25. No above ground development shall commence until an Ecological Mitigation and Enhancement Strategy report has been submitted to and approved in writing by the Local Planning Authority. The Strategy shall include ecological enhancement features (e.g. bat boxes, bird boxes, reptile hibernacula and hedgehog homes), soft landscaping plan, details of any lighting (and spill into any adjacent habitats), lighting strategy. The report should also include a Risk Avoidance Method Statement (RAMS) for nesting birds, bats, amphibians, reptiles, badgers, and dormice.

### **Prior to occupation**

26. Prior to the occupation of any approved dwelling visibility splays at the site access junction shall be provided from a point 2.4 metres back from the near side edge of the adjoining carriageway, (measured perpendicularly), for a distance of 60 metres to the north, and for a distance of 60 metres to the south measured along the nearside edge of the adjoining carriageway. These splays shall thereafter be permanently kept free of all obstructions to visibility over 0.6m in height above carriageway level.

27. Prior to the occupation of any approved dwelling visibility splays at Sandhurst Junction with A38 Tewkesbury Road shall be provided from a point 2.4 metres back from the near side edge of the adjoining carriageway, (measured perpendicularly), for a distance of 120 metres in each direction measured along the nearside edge of the adjoining carriageway. These splays shall thereafter be permanently kept free of all obstructions to visibility over 0.6m in height above carriageway level.

28. Prior to the installation of any external lighting, details shall first be submitted to and approved in writing by the Local Planning Authority. The details shall clearly demonstrate that lighting will not cause excessive light pollution or disturb or prevent bat species using key corridors, forage habitat features or accessing roost sites (to be informed by results of bat activity surveys). The details shall include, but not limited to, the following:

- i) A drawing showing sensitive areas and/or dark corridor safeguarding areas;
- ii) Description, design or specification of external lighting to be installed including shields, cowls or blinds where appropriate;
- iii) A description of the luminosity of lights and their light colour including a lux contour map;
- iv) A drawing(s) showing the location and where appropriate the elevation of the light fixings; and
- v) Methods to control lighting control (e.g. timer operation, passive infrared sensor (PIR)).

All external lighting shall be installed in accordance with the specifications and locations set out in the approved details. These shall be maintained thereafter in accordance with these details. Under no circumstances shall any other external lighting be installed unless agreed with the local planning authority.

29. Prior to the occupation of any approved dwelling a Landscape and Ecological Management Plan (LEMP) shall be submitted to the local planning authority. The LEMP shall be written in accordance with BS42020. The LEMP shall also include details of 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. Management should be applicable for a minimum period of five years, though in relation to BNG this is to be for 30 years

and include a monitoring regime to ensure habitats are well established and achieving targeted BNG condition criteria. 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. The LEMP must also to include an ecological enhancement plan detailing the location and specification of the ecological enhancements detailed within the Ecological Impact Assessment (GE Consulting, May 2023).

30. Vehicle parking shall be provided prior to first occupation of each dwelling in accordance with details to be contained within the approval of any reserved matters permission. Such details shall include a scheme showing locations of charging points for electric plug-in and other ultra-low emission vehicles. External parking and charging points shall be maintained for these purposes thereafter.

31. Prior to the occupation of any approved dwelling sheltered, secure and accessible bicycle parking shall be provided in accordance with details which shall first be submitted to and approved in writing by the Local Planning Authority and thereafter the approved cycle parking shall be kept available for the parking of bicycles only.

#### **Compliance Conditions**

32. The development shall proceed in strict accordance with the Mitigation Measures provided in the Ecological Impact Assessment (GE Consulting, May 2023) and Shadow Habitat Regulation Assessment (GE Consulting, February 2023).

33. The trees/hedgerows to be removed shall be replaced during the first planting season following removal by trees/hedgerows of a species, size and in locations that have first been submitted to and approved in writing by the Local Planning Authority. Any replacement trees/hedgerows which, within a period of 5 years from the completion of the development, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation. If any plants fail more than once they shall continue to be replaced on an annual basis until the end of the 5 year period.

34. During the construction phase (including demolition and preparatory groundworks), no machinery shall be operated, no process shall be carried out and no deliveries shall be taken at or dispatched from the site outside the following times:

Monday-Friday 8.00 am-6.00pm, Saturday 8.00 am-1.00 pm nor at any time on Sundays, Bank or Public Holidays.

35. If, during the course of development, any contamination is found which has not been identified in the site investigation, additional measures for the remediation of this source of contamination shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved measures.

37. No development hereby permitted shall take place except in accordance with the terms and conditions of the Council's Organisational Licence (WML-OR112, or a 'Further Licence') and with the proposals detailed on plan "Land At Chestnut Tree Farm: Impact Plan for great crested newt District Licensing (Version 1)", dated 9th October 2023.

38. No development hereby permitted shall take place except in accordance with Part 1 of the Great Crested Newt Mitigation Principles, as set out in the District Licence WML-OR112 (or a 'Further Licence') and in addition in compliance with the following:



- Works to existing ponds onsite may only be undertaken during autumn/winter, unless otherwise in accordance with the Great Crested Newt Mitigation Principles.
- Works which will affect likely newt hibernacula may only be undertaken during the active period for amphibians.
- Capture methods must be used at suitable habitat features prior to the commencement of the development (i.e., hand/destructive/night searches), which may include the use of temporary amphibian fencing, to prevent newts moving onto a development site from adjacent suitable habitat, installed for the period of the development (and removed upon completion of the development).
- Amphibian fencing and pitfall trapping must be undertaken at suitable habitats and features, prior to commencement of the development.