



Appeal Decision

Site visit made on 4 September 2024

by **G Sibley MPLAN MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 28 February 2025

Appeal Ref: APP/H1840/W/23/3335894

Land to the rear of Churchill Road, Sedgeberrow WR11 7UQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Wolverley Developments Ltd & Citizen Housing Association against the decision of Wychavon District Council.
 - The application Ref is 21/02833/OUT.
 - The development proposed is outline application for the erection of 10 affordable dwellings cross subsidised by 6 market dwellings, for provision of new open space for Sedgeberrow Church of England First School and new open space for community use and associated works with site access to be taken from Cheltenham Road. All matters reserved apart from access.
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Decision

1. The appeal is allowed and planning permission is granted for outline application for the erection of 10 affordable dwellings cross subsidised by 6 market dwellings, for provision of new open space for Sedgeberrow Church of England First School and new open space for community use and associated works with site access to be taken from Cheltenham Road. All matters reserved apart from access at land to the rear of Churchill Road, Sedgeberrow WR11 7UQ in accordance with the terms of the application, Ref 21/02833/OUT subject to the conditions in the attached schedule.

Application for costs

2. An application for an award of costs was made by Wolverley Developments Ltd & Citizen Housing Association against Wychavon District Council and is the subject of a separate decision.

Preliminary and Procedural Matters

3. The description of the development proposed on the application form was 'Rural Exception Site for the delivery of local affordable homes, cross subsidised by market dwellings, the provision of new open space for Sedgeberrow Church of England First School and, additionally, new open space for community use and associated works. All matters reserved apart from access.' However, during the determination of the application a new description of development was agreed between the parties which I have used in the banner header above and in my formal decision.
4. The application was made in outline with all matters reserved except access. Indicative plans have been submitted with the appeal. I have had regard to them but acknowledge that they are not definitive and the scheme at the reserved matters stage could change.

5. A Section 106 Agreement was submitted alongside the appeal, and I consider this matter in detail later in this decision.
6. Near to the appeal site is Hall Farmhouse which is a Grade II listed building. As a result, I have had special regard to my statutory duty under Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Whilst this did not form a reason for refusal, I have elevated this matter to a main issue to ensure special regard has been taken. The main parties were given the opportunity to comment on this matter and where received these comments have been taken into consideration. As such, the main parties have not been prejudiced by this approach.
7. The Council determined that the loss of best and most versatile agricultural land would be outweighed by the benefits of the scheme and thus did not refuse the application based on this matter. However, given that this scheme would affect land that is identified as best and most versatile agricultural land, I have dealt this matter as a main issue.
8. The National Planning Policy Framework (the Framework) was updated in December 2024, during the consideration of this appeal. The main parties were given the opportunity to comment on the updates to the Framework and where they have been received these comments have been taken into consideration. As such, the main parties have not been prejudiced by this approach.

Main Issues

9. The main issues relevant to this appeal are:
 - whether the appeal site is an appropriate location for the proposed development having regard to local and national planning policies in respect of affordable housing with particular regard to local housing need and the best and most versatile agricultural land;
 - the effect of the proposal upon the landscape character and appearance of the area;
 - whether the Section 106 agreement (s106) and the obligations therein are necessary to make the development acceptable in planning terms, directly related to the development and are fairly related in scale and kind; and
 - whether the proposal would preserve the setting of the Grade II listed building known as 'Hall Farmhouse'.

Reasons

Location

10. The appeal site comprises a parcel of a large arable field located to the east of Churchill Road and the proposed access road would be taken from Cheltenham Road to the north of the site. It is located relatively centrally to Sedgeberrow with houses to the east, west and south of the site. However, for the purposes of Policy SWDP2 of the South Worcestershire Development Plan (SWDP), adopted 2016, the site is outside of Sedgeberrow's development boundary. The policy sets out the development strategy and settlement hierarchy for the South Worcestershire Area. It also indicates that in the countryside

- development will be strictly controlled and limited to several development types including rural exception sites, in accordance with Policy SWDP16.
11. The starting point of Policy SWDP16 is that affordable housing development will be permitted on small sites beyond, but reasonably adjacent to, the development boundaries of villages, and then other criteria should be satisfied.
 12. Paragraph 3.38 of the Affordable Housing Supplementary Planning Document (SPD) acknowledges that an exact definition of 'small site' is not given as this will, in part, depend on the size of the settlement it is associated with, and the amount of market housing (if any) that may be required to make the development viable.
 13. The Sedgeberrow Neighbourhood Plan (NP) was made in 2023, so is the more recently adopted development plan document than the SWDP. While not containing any policies for rural exception sites, it states that there are approximately 387 houses in the village. On this basis, 16 dwellings would represent a minor increase in the total number of houses in the village. Furthermore, despite its unusual shape, to incorporate the access road, the overall size of the site is small in comparison to the settlement. Additionally, if the scheme proceeds as shown on the indicative plans, then a large proportion of the site would be used as public open space, thus limiting the amount of new built form.
 14. Whilst I note that residential development is proposed in the village via an allocation in the NP, as far as I have been made aware, that proposal does not yet have planning permission. The allocated scheme may never be built, and the SPD does not state that the cumulative increase from other potential developments should be taken into account in determining whether a site is a 'small site'. It is also not disputed by the parties that the site is reasonably adjacent to the development boundary of Sedgeberrow and, based on the location of the site and the evidence before me, I find no reason to come to a different conclusion. Consequently, the proposal would satisfy these policy requirements.
 15. Policy SWDP16 then requires demonstration of a proven and as yet unmet local need. Paragraph 4 of its supporting text clarifies that 'local need' means local need in the parish and adjoining parishes. A Statement of Common Ground between the main parties identified the adjoining parishes include Ashton Under Hill, Elmley Castle, Hinton on the Green and Aston Somerville. There is also agreement that, as of February 2023 there were around 2,504 households registered in need of affordable housing across the District and a shortfall of around 117 affordable dwellings each year over the next five years across the District.
 16. The parties have also agreed there are 24 households registered in need of affordable housing, with a local connection to the Parish of Sedgeberrow and the adjoining parishes. This figure is based on 'Housing for You' data, which is a Choice-Based Lettings Scheme. Whilst those with a local connection may acquire property elsewhere, the data identifies those with a local connection who have purposely registered an interest for a dwelling in the area. In any event, the Wychavon and Malvern District Council's Rural Housing Enabler identifies that these figures likely under-represent the housing need. Given that Policy SWDP16 identifies that the Choice-Based Lettings Scheme can be used

to demonstrate the unmet need, I find no substantive reasoning to disregard the data.

17. Planning permission has been granted for 14 dwellings, including 3 affordable units in the village¹. Furthermore, the allocated site within the NP is for 24 dwellings, including 9 affordable units. This appears to be based on the requirements of Policy SWDP15 for sites of 15 or more dwellings on greenfield land, requiring 40% of dwellings to be affordable. There is no substantive evidence before me that a greater number of affordable dwellings could be delivered by that scheme. As such, between the two schemes, 12 affordable homes would be delivered in the village. This would only meet half of the proven and as yet unmet need, but the remainder could be partly met by the proposal.
18. Policy SWDP16 also requires demonstration that no other suitable and available sites exist within the development boundary of the settlement; and secure arrangements need to exist to ensure the housing will remain affordable and available to meet the continuing needs of local people.
19. In this case the development boundary for Sedgeberrow has been drawn tightly around the existing development in the village. I have not been referred to any suitable and available sites within the development boundary that could reasonably deliver the affordable units to meet the as yet unmet local need. The Council did not dispute the need for such cross-market subsidy houses and indeed Policy SWDP16 supports such schemes, where necessary. Furthermore, the s106 agreement, which will be considered in detail later in this decision, would ensure the housing would remain affordable and available to meet the continuing needs of local people. Consequently, the development would comply with Policy SWDP16.
20. The appeal site is situated on agricultural land. The Framework states that the best and most versatile agricultural land (BMVAL) is defined at Grade 1, 2 and 3a of the Agricultural Land Classification. SWDP Policy SWDP13 states that windfall development proposals which would result in the loss of more than two hectares of BMVAL will be required to demonstrate that (1) the proposed development cannot be reasonably accommodated on non-BMV agricultural land; and (2) the benefits of the development significantly outweigh the loss of BMVAL.
21. The Council considered the agricultural land to be either Grade 3a (good) or 3b (moderate) quality. However, the evidence before me does not provide certainty that the land within the appeal site would be BMVAL. Nonetheless, even if it did, as identified earlier in this decision there are no suitable and available sites within the development boundary that could reasonably deliver the proposed scheme. As such, based on the information before me, the proposed development could not be reasonably accommodated on non-BMV agricultural land. The benefits of the development, including the delivery of affordable housing will be considered in greater detail later in this decision but for the purposes of this matter the benefits of the development significantly outweigh the loss of BMVAL. Consequently, the development would comply with Policy SWDP13.

¹ Application Reference: 23/01390/FUL

22. Therefore, the appeal site is an appropriate location for the proposed development, having regard to local and national planning policies in respect of affordable housing with particular regard to local housing need and the best and most versatile agricultural land. The development would accord with Policies SWDP2, SWDP13 and SWDP16 of the SWDP for the reasons given above.

Landscape Character and Appearance

23. The appeal site forms part of a larger open arable field bound by trees and hedgerows, which rises in ground level from Sedgeberrow towards Cheltenham Road to the north. The site is generally rectangular, other than the land required for the access road, and is situated at the lowest point of the field, closest to the village. It forms part of the transition from the development within Sedgeberrow and the countryside beyond. Overall, the landscape setting, including that of the site, has a semi-rural character and appearance. This is consistent with the wider identification of the area as 'Principal Village Farmlands' Landscape Type within the County Landscape Character Assessment.
24. Moreover, this is described as an open, rolling landscape characterised by a nucleated pattern of expanded rural villages, surrounded by large arable fields, often subdivided into a series of smaller plots...this is a landscape of contrasts, the intensely functional, yet often very open and empty character of the farmland and the focussed, communal density of the villages. The primary key characteristics are the nucleated pattern of expanded rural villages and arable/cropping land use-cereals and field vegetables on fertile, free-draining soils.
25. There is a PRow which is located where the access road is proposed and another along the site's southern boundary which both lead into Sedgeberrow. There are also other PRows in the area and along Cheltenham Road is the National Cycle Route 41. Hence the site is prominent within its surroundings.
26. The appeal scheme would extend the built form of the village into the wider arable field. This would fundamentally alter the existing characteristics of the field, including how it positively softens the built edge of the village. However, most of the field would remain undeveloped.
27. The homes in Sedgeberrow are also generally focussed along Main Street, Winchcombe Road, and the cul-de-sac developments that spur from them. The presence of the proposal within views from Main Street would therefore not be unusual within its context and it would be read alongside existing built form in elevated views of the village. The location of the development would also retain the nucleated pattern of the village, which forms one of the primary key characteristics of this Landscape Type. Furthermore, a condition could be used to secure the details of the precise slab floor levels of the proposed dwellings. This would ensure the floor levels and thus the height of the houses would be consistent with others nearby.
28. The field is not a formulaic shape, and its clear boundaries are those with the roads and houses around it. Therefore, although the layout and landscaping of the scheme would be secured at the reserved matters stage, it should be possible to ensure it would share similarities with the existing built edge of the village. Moreover, in the key views identified in the Landscape and Visual

Appraisal from other areas, a new school playing field and community orchard would be visible in the foreground of the proposal and the new field boundary. Furthermore, the indicative scheme of landscaping would supplement existing hedgerows and introduce new areas of planting. These could soften the urban edge of the scheme and play a similar role to the existing boundary and built edge of Sedgeberrow in providing a transition to the countryside beyond.

29. Whilst this would take time to be established, the proposed schedule of landscape maintenance for a period of 20 years would provide a long-term commitment to ensuring it is delivered and maintained. This would positively contribute towards enhancing this secondary key characteristic of the Landscape Type and can be secured by condition. The proposal would therefore preserve the important landscape feature provided by tree and hedgerow planting at the existing boundary between the homes in Main Street and the field.
30. Many of the key views along the PRowS nearby are part of a much larger PRow route, including the Wychavon Way that passes through countryside and villages beyond Sedgeberrow. Accordingly, views of built form along the route are commonplace, so any changes to views along it around the site would not necessarily be harmful to how the landscape character is appreciated along the route as a whole.
31. In particular, the access road proposed to serve the site would extend some way from Cheltenham Road and bring about the removal of some avenue trees and hedges. The existing hedges along Cheltenham Road would have to be removed either side of the proposed junction and this, alongside the surfacing of the PRowS that pass through the appeal site would urbanise the semi-rural appearance of the PRowS.
32. While this would introduce a more urban appearance to the views experienced from the road and nearby PRowS, there are other similarly designed junctions on the road within this wider landscape context, so the junction would not appear out of character. The access road, public parking area and the surfaced PRowS would also be seen in connection with the wider proposal and existing built form in the village. This would limit the urbanising effect this element of the scheme would have upon the wider landscape.
33. The land for the proposed school field would not necessarily have to be levelled to deliver a school field. Furthermore, given that landscaping is a reserved matter, the final design of that field would be determined at a later date. The submitted plans are only indicative of what could be delivered on that land and in light of this, there is no substantive evidence that a school field or another use for that land if not taken up by the school, would cause substantial harm to the landscape character.
34. Based on the evidence before me the appeal site was initially part of a Local Green Space designation in the NP (Policy SB2 of the NP). However, the designation for this site was not included in the referendum version of the plan and thus the site is not designated as such. While the scheme is located next to a Local Green Space designation (GS9), development is not proposed within it and thus it would continue to serve its function as set out in Policy SB2 of the NP.

35. For the reasons given above, I conclude that the proposal would have an acceptable effect upon the landscape character and appearance of the area. Consequently, the scheme would accord with Policies SWDP16 and SWDP25 of the SWDP which requires development to be appropriate to, and integrate with, the character of the landscape setting, amongst other matters.

Section 106 Agreement

36. The parties agree that the s106 agreement would ensure that 10 of the proposed houses would remain affordable and available to meet the continuing needs of local people. In this respect the s106 agreement would satisfy part Aiii) of Policy SWDP16.
37. The s106 agreement also secures the provision of on-site open space, a school field drop-off area and school playing fields and their future management and maintenance. The provision of open space is supported by SWDP Policy SWDP5 which requires housing development proposals to provide 40% green infrastructure on greenfield sites exceeding 1 hectare. While the location of the open space would be determined at the reserved matters stage, the indicative plans demonstrate that there would appear to be sufficient space to meet this requirement. It is also supported by SWDP Policy SWDP21 which seeks accessible, well designed open spaces appropriately detailed and maintained.
38. The financial contributions include public open space, off-site sports facilities, and off-site formal pitches. This also includes provision to provide off-site public open space contributions if the on-site public space cannot be provided.
39. I have considered the agreement in light of the statutory tests contained in Regulation 122 of the Community Infrastructure Levy Regulations and the Framework. I am satisfied that the s106 agreement and the obligations are necessary to make the development acceptable in planning terms, directly related to the development and are fairly related in scale and kind. As such, it would accord with the statutory tests.

Whether the proposal would preserve the setting of the Grade II listed building known as 'Hall Farmhouse'

Significance

40. The Grade II listed Hall Farmhouse² is a building with important external architectural features that positively contribute to the significance of the listed building.
41. The setting of Hall Farmhouse includes the nearby residential development as well as the agricultural fields to the north and thus it has a semi-rural setting. The building has a substantially sized access track that is bound by avenue trees either side of it which is accessed via Cheltenham Road. This creates an attractive entrance to the listed building and this feature positively contributes towards the setting of the heritage asset and highlights its importance within the local landscape. The setting around this access road is of the open fields around it and this positively contributes to the semi-rural character of the listed building's setting. This setting makes a positive contribution towards the heritage asset's significance.

² List Entry Number: 1168019

42. The undeveloped appearance of the wider field that the appeal site is part of positively contributes towards the semi-rural setting of the heritage asset.

The effect of the proposal upon the listed building

43. Hall Farmhouse is located a considerable distance from where the houses are proposed and the intervening buildings would screen much of the proposed development from the listed building itself.
44. However, the proposed access road would be located close to the vehicular access for the listed building. This access road for the development would involve creating a significantly sized metalled road that would urbanise the setting of the access to the listed building. The urbanisation of the semi-rural setting would erode the positive contribution this avenue tree lined entrance makes towards the setting of the heritage asset, and this would detract from the building's importance within the local landscape. The development would consequently fail to preserve the setting of the listed building and thus harm a feature that positively contributes towards its significance.

Heritage Balance

45. Paragraph 212 of the Framework advises that, when considering the impact of development on the significance of designated heritage assets, great weight should be given to their conservation. Paragraph 213 goes on to say that any harm to, or loss of, the significance of a designated heritage asset from development should require clear and convincing justification.
46. In this case, the harm would be less than substantial but nevertheless of considerable importance and weight. In coming to this view, I have paid special regard to the desirability of preserving the setting of the listed building. In these circumstances, paragraph 215 of the Framework advises that this harm should be weighed against the public benefits of the proposal.
47. The scheme would deliver 16 new dwellings of which 10 would be affordable and these would be secured via the s106 agreement. The development would positively contribute towards the Council's 5-year housing land supply and the Council has identified that it can only demonstrate a 1.1-year supply of housing land. Consequently, the delivery of 16 houses would make a modest contribution towards meeting the Council's housing need. Additionally, there is an identified shortfall in the delivery of affordable housing across the District and this scheme would make a modest contribution towards addressing this shortfall.
48. Furthermore, there would be short term and long-term economic benefits to the area during construction of the wider development as well as from the new residents that would be living in the area. The occupiers of the proposed development would also contribute towards the local community, and this would be a social benefit of the development. In light of the scale of the proposal I attribute modest weight to these benefits in favour of it.
49. The scheme proposes a school playing field and community orchard, alongside ecological and landscape enhancements and these would provide social and environmental benefits to the local area. Whilst these may not necessarily be delivered in the form shown on the submitted plans, they are proposed and would currently be a benefit of the development to which I attach moderate weight in favour of the proposal.

50. In light of the considerable shortfall in both market and affordable housing delivery in the area, I attribute significant weight to the benefits of the development.

51. Even taking into consideration the great weight that should be given to the heritage asset's conservation, the public benefits do outweigh the less than substantial harm that would be caused to the significance of the heritage asset. Accordingly, there would be clear and convincing justification for the harm to the designated heritage asset. Consequently, the proposal would accord with SWDP Policy SWDP24 insofar as it states that proposals affecting heritage assets will be considered in accordance with the Framework, relevant legislation and published national and local guidance.

Other Matters

52. Within Sedgeberrow there are several other listed buildings and thus I have been mindful of my statutory duty under Section 66(1) of the Act to have special regard to the desirability of preserving the setting of those heritage assets.

53. The Grade II* listed Church House (List Entry Number: 1168046) and the Grade II listed Orchard Dene and Outbuilding (1081592) and Red House (1350004) are located to the south of the appeal site. The significance of these buildings comes from their architectural interest and in the case of the church its historic interest related to local figure Thomas of Evesham. The setting of these buildings includes the surrounding dwellings and other buildings within the village. Given the siting of these buildings and the openness of the street scene, they are prominent in the area and thus this open setting makes a positive contribution towards the heritage assets significance.

54. The appeal site is located a considerable distance to the north of these listed buildings and there are buildings and trees blocking views between them. As a result, the appeal site is not seen as part of the setting for these heritage assets and thus does not contribute towards the significance of these buildings. Consequently, given the intervening buildings and trees as well as the modest scale of the development, it would not harm the setting of these listed buildings and thus they would be preserved.

55. The Grade II* listed Church of St Mary (1168041) as well as the Grade II listed war memorial (1433987) are located to the east of the appeal site. The significance of the church comes from its architectural interest as well as its historic interest in terms of its age and its links with local and national figures such as Thomas of Evesham and William Butterfield. The significance of the war memorial comes from its architectural interest. Given the close siting and interrelated relationship the two heritage assets have a group value and positively contribute to each other's setting. The wider setting includes the church graveyard and the surrounding dwellings and other buildings within the village. This graveyard setting and the prominence of the church in the immediate area given its greater scale than the development around it makes a positive contribution towards the setting and thus the significance of the heritage assets.

56. Between the appeal site and these heritage assets are intervening buildings and trees that blocks most views of them, although given the height of the church spire there are views of it from the appeal site. However, given its

- distance from the church and war memorial and because most of the building is not visible from the appeal site, it does not contribute towards its significance.
57. The spire is visible from a considerable distance from a great many locations and as such, this view of the spire is not particular to this appeal site. Furthermore, given the limited scale of the development it would not hinder views of the spire which would remain a landmark within the local landscape. Additionally, the spire is already seen within the village context around it and thus the proposed development would be consistent within this context. Consequently, given the distance between the appeal site and these heritage assets and the residential context within which they are already viewed, the proposed development would not harm the setting of these heritage assets and thus they would be preserved.
58. Given that the NP does not include a policy for rural exception schemes it is effectively silent on this matter. The NP forms part of the development plan for the area and the policies within the SWDP, as part of this development plan, remain relevant to proposals in the area.
59. The NP has three policies, the first relates to the allocated site referred to earlier in this decision and the proposal would not affect the deliverability of that scheme given that they are located on different sites. The second relates to Open Green Space and the site is not allocated as one. The final policy relates to flood prevention and water management and the Council's drainage engineers determined that drainage details can be suitably designed. They did not object to the application, subject to a suitably worded condition and based on the information before me I find no reason to come to a different conclusion. Whilst much of the detail would need to be approved as part of the reserved matters application(s), overall, this outline scheme does generally accord with the NP.
60. Concerns were raised regarding the drainage discharge into existing overgrown and small drainage ditches. However, the drainage strategy within the Flood Risk Assessment included Sustainable Urban Drainage Systems and identified measures to manage drainage. These included, collecting surface water runoff into two small drainage networks, as well as providing a traditional pipe and gully system. This system is proposed to discharge into a swale located on the eastern side of the internal road. An attenuation basin would be provided on site to assist in managing surface water runoff from critical events. Discharge from the site is proposed to be restricted to greenfield runoff rates using a flow control device and would discharge to an unnamed ordinary watercourse near to the site.
61. Furthermore, a suggested condition could require the proposed roads, and highway drains are approved. The layout of the development would be determined at the reserved matters stage at which point the final details of the drainage layout would be approved. The measures and drainage strategy within the Flood Risk Assessment, alongside the proposed condition would seek to ensure that surface water runoff and drainage on the site would not increase the risk of flooding elsewhere. The Council also came to a similar conclusion and based on the information before me I find no reason to conclude otherwise.
62. The Council does not dispute the conclusions of the viability appraisal and the financial contributions to be provided were agreed between the Council and the

appellant within the s106 agreement. Taking into consideration the submitted information there is no substantive evidence to lead me to come to a different conclusion on the financial viability of the scheme.

63. Whilst public car parking is proposed within the residential allocation in the NP, this would not preclude other sites coming forward to also provide parking. In light of the comments regarding concerns with the limited availability of off-street parking locally, especially around the school, the delivery of such public parking areas, as proposed as part of this scheme, would lead to a benefit to highway safety locally.
64. Based on the information before me the proposed access road would appear to be wide enough to allow emergency vehicle access to the site and the additional engineering works secured via conditions could also seek to address matters of highway safety. In light of the evidence before me and the comments from the County Highway Authority there is no substantive evidence that the scheme would have an unacceptable impact on highway safety.
65. The footway to the east of the proposed access road does not currently extend all the way to Winchombe Road but a condition has been suggested to provide tactile paving to cross Cheltenham Road and Winchombe Road and this would provide a safe route for pedestrians to access the services and facilities within the settlement.
66. The Council's Natural Heritage Officer identified that the main habitats to be lost are of limited ecological value and the habitats of greater value around the boundary of the site would generally be retained. Whilst reference has been made to Great Crested Newts and other wildlife, I do not have substantive evidence that they are active on the appeal site nor that the scheme would harmfully affect a protected species' habitat. The suggested condition to secure an Ecological Design Strategy and a Landscape and Ecological Management Plan could secure ecological enhancements around the site. Further to this a suggested condition to approve the details of external lighting to control light spill is necessary in the interest of protecting protected species given that parts of the site could be part of a bat flight corridor through the village.
67. Lights and noise from vehicles using the proposed internal road would not cause significant harm to nearby occupiers given the distance between the road and nearby development and the intervening trees and hedges.
68. Disruption that may be caused during construction as well as from construction traffic could be managed through the Construction Environment Management Plan secured via a condition and any disruption during construction would only be for a limited period of time.
69. Given that the scheme is made in outline, matters such as the location and design of the houses and the possible effect this may have upon the living conditions of the neighbouring occupiers would be addressed at the reserved matters stage.
70. If the Sedgeberrow Church of England First School determine that the proposed school playing field would not be required there are mechanisms within the s106 agreement to allow it to not take it up. Additionally, the future management of the on-site public open space would be secured through the s106 agreement. If this is not taken up, landscaping is a Reserved Matter and

alternative landscaping and open space could be delivered to soften the impact of the development, similar to that shown on the indicative plans.

71. I do not have substantive evidence that the school intends to expand but if it did and it took up the offer of the school playing field there would be space within the existing school field to extend the associated buildings.
72. Concerns were raised regarding the proposed school playing field due to a footpath running alongside it and the position of the access to it. However, a PRow already passes along the boundary of the existing school field and as such the situation would be similar to the existing layout. No objections were received from the Crime Safety Officer on this matter and given that the final design of the landscaping, including the playing fields would be determined at the reserved matters stage I find no reason to come to a different conclusion on this matter.
73. Sedgeberrow is identified as a Category 2 village in the SWDP, and these are villages that have a more limited level of services. These would provide some of the services to meet the day-to-day needs of the future occupiers.
74. I have not been provided with robust evidence that the existing energy infrastructure locally would be unable to accommodate the proposed development.
75. Given that the scheme is made in outline the changes to the PRow's could be addressed at the reserved matters stage as well as through approval under separate legislation.

Conditions

76. Conditions were agreed between the parties in the Statement of Common Ground, including pre-commencement conditions. Having had regard to the requirements of the Framework and the Planning Practice Guidance I have imposed those conditions I consider meet the six tests, subject to minor amendments to ensure precision and brevity without changing their overall intent.
77. In addition to the standard time limit and reserved matters conditions for outline approvals, I have imposed a condition listing the approved drawings in the interest of certainty [1, 2 and 3].
78. Condition 4 was originally suggested to state that no reserved matters application shall be submitted until a programme of archaeological work is submitted. This suggested wording would prevent the reserved matters being submitted until the Written Scheme of Investigation is approved which would cause unnecessary delay. Requiring that no development shall take place until a programme of archaeological work is submitted and approved would ensure that work that could affect archaeological remains is not undertaken before a programme of works is approved. It is necessary for this condition to be pre-commencement for this reason as well.
79. Condition 5 is necessary in order to safeguard the historic environment.
80. Conditions 6, 7, 8, 9, 21, 23 and 24 are necessary to ensure the new access is constructed correctly and in the interest of highway safety.

81. Conditions 10 and 20 are necessary in the interests of the living conditions of the surrounding occupiers as well as those within the development site and in the interests of highway safety. It is necessary for Condition 10 to be pre-commencement to ensure a plan is agreed before construction works which may affect the living conditions of the neighbouring occupiers begins.
82. Conditions 11, 13, 16, 17, 18, 19 and 25 are necessary in the interest of ensuring the development is appropriately landscaped and in the interest of the character and appearance of the area as well as the living conditions of nearby residents.
83. Conditions 12 and 27 are necessary in the interest of conserving and enhancing biodiversity within the site and the wider area.
84. Condition 14 is necessary in order to ensure that the site is adequately drained and to ensure the potential for it to cause drainage problems elsewhere are mitigated and the approved measures are implemented in the interest of flood prevention.
85. The site is located within 250 metres of an area of infilled land with the potential to generate ground gasses through degradation processes. As such, a condition to incorporate gas protection measures within the foundations or to undertake a gas risk assessment to ascertain gas protection measures is necessary in the interests of health and safety [15].
86. The Framework refers to the need to ensure adequate provision for the charging of plug-in and other ultra-low emission vehicles. As a result, Condition 22 is necessary to ensure that provision is made within the development for the charging of electric vehicles.
87. Furthermore, a condition is necessary in order to comply with the provisions of Policy SWDP27 of the SWDP and to ensure that emissions from the development are reduced in order to help mitigate climate change through the use of low carbon generating facilities [26].
88. Further to Conditions 4 and 10, Conditions 6, 7, 8, 9, 11, 12, 13, 14 and 15 are pre-commencement conditions as it is fundamental to have these matters agreed prior to any works commencing on site which could affect the implementation of the works that shall be approved, secured, or provided through these conditions.
89. Conditions were recommended by Worcestershire County Councils Mapping Officer requiring an application be made to divert the PRowS as shown in the submitted PRow Analysis plan and agree the materials. However, these were not included by the Council and given that it is an offence to obstruct a PRow without a formal closure order, approval granted under different legislation would still be required. As such, it is not reasonable or enforceable to require these matters to be secured via conditions.

Conclusion

90. Therefore, the proposed development would accord with the development plan and the material considerations do not indicate that a decision should be made other than in accordance with it. Consequently, for the reasons given above, I conclude that the appeal should be allowed.

G Sibley

INSPECTOR

Schedule of Conditions

- 1) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission. The development hereby permitted shall take place not later than two years from the date of approval of the last of the reserved matters to be approved.
- 2) Details of the appearance, landscaping, layout, and scale, "the reserved matters" shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 3) Unless where required or allowed by other conditions attached to this permission, the development hereby permitted shall be carried out in accordance with drawing nos: 6584-F-001-Rev E and J32-6138-PS-002.
- 4) No development shall take place until a programme of archaeological work, including a Written Scheme of Investigation, has been submitted to and approved in writing by the local planning authority. The scheme shall include an assessment of significance and research questions; and
 - i. The programme and methodology of site investigation and recording
 - ii. The programme for post investigation assessment
 - iii. Provision to be made for analysis of the site investigation and recording
 - iv. Provision to be made for publication and dissemination of the analysis and records of the site investigation
 - v. Provision to be made for archive deposition of the analysis and records of the site investigation; and
 - vi. Nomination of a competent person or persons/organisation to undertake the works set out in the written scheme of investigation.
- 5) None of the dwellings within the development hereby permitted shall be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under Condition 4 and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.
- 6) No development shall take place until details of the proposed junction works to Cheltenham Road has been provided as shown on drawing no J32-6138-PS-002 and approved in writing by the local planning authority, and no dwelling shall be occupied until the junction scheme has been constructed in accordance with the approved details and retained as such thereafter.
- 7) No development shall take place until the engineering details and specification of the proposed roads and highway drains have been first submitted to and approved in writing by the local planning authority. The

development shall be implemented in accordance with the approved details and retained as such thereafter.

- 8) No development shall take place until drawings of the highway improvements for offsite works comprising two pairs of tactile crossing points at Bridge Meadow Close junction with Cheltenham Road, two pairs of dropped kerbs and tactile crossing points to cross Cheltenham Road and Winchombe Road to access local services, have been submitted to and approved in writing by the local planning authority. No dwelling shall be occupied until those junctions' pedestrian crossings have been constructed in full in accordance with the approved details and these shall be retained as such thereafter.
- 9) No development shall take place until visibility splays have been provided from a point 0.6 metres above carriageway level at the centre of the access to the application site and 2.4 metres back from the nearside edge of the adjoining carriageway, (measured perpendicularly), for a distance of 120 metres in each direction along the nearside edge of the adjoining carriageway and offset a distance of 0.6 metres from the edge of the carriageway. Nothing shall be planted, erected and/or allowed to grow on the triangular area of land so formed which would obstruct the visibility described above.
- 10) No development shall take place until a Construction Environment Management Plan (CEMP) has been submitted to and approved in writing by the local planning authority. The approved CEMP shall be adhered to throughout the construction period. The statement shall provide for:
 - i. The parking of vehicles of site operatives and visitors within the application site
 - ii. Loading and unloading of plant and materials within the application site
 - iii. Storage of plant and materials within the application site
 - iv. Measures to ensure that vehicles leaving the site do not deposit mud or other detritus on the public highway
 - v. Measures to control the emission of dust and dirt during construction
 - vi. Responsible persons and lines of communication; and
 - vii. Details of the routing of Heavy Goods Vehicles and delivery lorries on the highway network associated with the proposed development to and from the site together with agreed traffic management measures.
- 11) No development shall take place, including site clearance, demolition, materials delivery, vehicular movement and erection of site huts until temporary fencing for the protection of all retained trees/hedges on site and trees outside the site whose Root Protection Areas fall within the site has been erected in accordance with BS 5837:2012 (Trees in Relation to Design, Demolition and Construction) (or equivalent documents which may update or supersede this Standard).

Any alternative fencing type or position not strictly in accordance with BS 5837:2012 (or equivalent documents which may update or supersede this Standard) must be agreed in writing by the local planning authority prior to the commencement of development.

This protective fencing shall remain in place until the completion of development. Nothing shall be stored or placed (including soil), nor shall any

ground levels be altered, within the fenced areas. There shall be no burning of any materials within 10 metres of the extent of the canopy of any retained tree/hedge.

In this condition "retained tree/hedge" means any existing tree or hedge which is to be retained in accordance with the approved plans and particulars.

- 12) No development shall take place until an Ecological Design Strategy and Ecological Mitigation and Enhancement Scheme has been submitted to and approved in writing by the local planning authority. The scheme shall be based on the recommendations contained within the Ecological Assessment Report by Ecological Solutions dated March 2022 and shall include an implementation timetable. The works shall thereafter be carried out in accordance with the approved details and timetable and retained as such thereafter.
- 13) No development shall take place until a Landscape and Ecological Management Plan (LEMP) has been submitted to and be approved in writing by the local planning authority. The content of the LEMP shall include the following:
- i. Description and evaluation of the features to be managed
 - ii. Ecological trends and constraints on site that might influence management
 - iii. Aims and objectives of management
 - iv. Appropriate management options for achieving aims and objectives
 - v. Prescriptions for management actions
 - vi. Preparation of a work schedule, including an annual work plan capable of being rolled forward over a five-year period and longer term thereafter
 - vii. Details of the body or organisation responsible for implementation of the plan; and
 - viii. Ongoing monitoring and remedial measures.

A report describing the results of monitoring shall be submitted to the local planning authority at intervals identified in the LEMP strategy. The plan and monitoring report shall also set out where the results of the 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 shall be implemented in accordance with the approved details and retained as such thereafter.

- 14) No development shall take place until full details of all foul and surface water drainage systems to serve the development have been submitted to and approved in writing by the local planning authority. The approved drainage works shall be implemented in accordance with the approved details before the first occupation of the development hereby permitted and shall be retained as such thereafter.

- 15) a) Gas protection measures complying with Characteristic Situation 2 as set out in BS 8485: 2015 and CIRIA C665 (or equivalent documents which may update or supersede the Standards) as a minimum requirement must be incorporated within the foundations of the proposed structure(s). Following installation of these measures, and prior to the first occupation of any dwelling within the development hereby permitted, a verification report shall be submitted to and approved in writing by the local planning authority. Verification of the installation of gas protection measures must be carried out in accordance with current UK guidance and best practice. The gas protection measures shall be retained as such thereafter.
- Or
- b) A risk assessment should be undertaken to establish whether the proposed development is likely to be affected by landfill or ground gas or vapours. The risk assessment must be submitted to and approved in writing by the local planning authority, prior to the commencement of development. The assessment shall be carried out in accordance with current UK guidance and best practice.
- c) Where the approved risk assessment (required by part b) above) identified ground gasses or vapours posing unacceptable risks, no development shall commence until a detailed remediation scheme to protect the development from the effects of such ground gasses or vapours has been submitted to and approved in writing by the local planning authority. Following approval, the remediation scheme shall be implemented on site in accordance with the approved details.
- d) Following the implementation and completion of the approved remediation scheme (required by part c) above) and prior to the first occupation of any dwelling within the development hereby permitted, a verification report shall be submitted to and approved in writing by the local planning authority to confirm completion of the remediation scheme in accordance with the approved details. Verification of the installation of gas protection measures must be carried out in accordance with current UK guidance and best practice. The gas protection measures shall be retained as such thereafter.
- 16) The following details shall be submitted for approval as part of the landscaping reserved matter:
1. Survey information of all existing trees and hedges on the application site, and branches from trees on adjacent land that overhang the site. The survey shall include for each tree/hedge:
 - i. The accurate position, canopy spread and species plotted on a plan
 - ii. An assessment of its general health and stability
 - iii. An indication of any proposals for felling or pruning; and
 - iv. Details of any proposed changes in ground level, or other works to be carried out within the canopy spread.
 2. A landscaping scheme which shall include:
 - i. A plan(s) showing the planting layout of proposed tree, hedge, shrub and grass areas

- ii. A schedule of proposed planting – indicating species, size at time of planting and numbers/densities of plants
- iii. A writing specification outlining cultivation and other operations associated with plant and grass establishment; and
- iv. A schedule of maintenance, including watering and the control of competitive weed growth, for a minimum period of five years from first planting.

The landscaping shall be provided and maintained in accordance with the approved details.

- 17) Details of the levels of the existing site and the precise floor slab levels of the approved dwellings, relative to the existing development on the boundary of the site, shall be submitted for approval in writing by the local planning authority as part of the 'scale' and 'layout' reserved matters. The development shall be implemented in strict accordance with the approved slab details.
- 18) Details of the materials to be used in the construction of the external surfaces of any building shall be submitted to and agreed in writing with the local planning authority before development commences above slab level. The development shall be carried out in accordance with the approved details and retained as such thereafter.
- 19) As part of any reserved matters application relating to layout, a plan shall be submitted indicating the positions, design, materials, and type of boundary treatment to be erected. The development shall be carried out in accordance with the approved details and be implemented prior to the first occupation of any dwelling within the development hereby permitted and retained as such thereafter.
- 20) Any reserved matters application relating to the appearance and layout of the development shall include details of the facilities for the storage of refuse for all proposed dwellings. No individual dwelling shall be occupied until refuse storage facilities to serve that dwelling have been constructed in accordance with the approved details. The facilities shall thereafter be retained as such.
- 21) Prior to the first occupation of any dwelling within the development hereby permitted, space shall be laid out within the application site for the parking and turning of vehicles to comply with the Worcestershire County Council Streetscapes Design Guide (or equivalent documents which may update or supersede this Guide). The parking and turning areas shall be properly consolidated, surfaced and drained in accordance with the details to be submitted to and approved in writing by the local planning authority and these areas shall not thereafter be used for any other purpose than the parking and turning of vehicles.
- 22) Prior to the first occupation of each dwelling within the development hereby permitted an electric vehicle charging point shall be fitted to the approved dwelling in question. The charging points shall comply with BS EN 62196 Mode 3 or 4 charging and BS EN 61851 and the Worcestershire County Council Streetscapes Design Guide (or equivalent documents which may update or supersede these Standards and Guide). The electric vehicle charging points shall be retained for the lifetime of the development unless they need to be replaced in which case the replacement charging point(s)

shall be of the same specification or a higher specification in terms of charging performance.

- 23) Prior to the first occupation of any dwelling within the development hereby permitted details for the sheltered and secure parking for cycles to comply with the Worcestershire County Council Streetscapes Design Guide (or equivalent documents which may update or supersede this Guide) shall be submitted to and approved in writing by the local planning authority. The sheltered and secure parking for cycles shall be provided prior to the first occupation of each dwelling hereby permitted in accordance with the approved details and these facilities shall thereafter be retained for the parking of cycles only.
- 24) Prior to the first occupation of any dwelling within the development hereby permitted a residential Travel Welcome Pack promoting sustainable forms of access to the development shall be submitted to and approved in writing by the local planning authority. The approved pack shall be provided to each household at the point of occupation.
- 25) Prior to the first occupation of any dwelling within the development hereby permitted a schedule of landscape maintenance for a minimum period of 20 years or for the lifetime of the development shall be first submitted to and approved in writing by the local planning authority. The schedule shall include details of the arrangements for its implementation, long-term design objectives, management responsibilities and maintenance schedules for all landscape areas (excluding domestic gardens). The approved landscape maintenance schedule shall be fully implemented and retained as such thereafter.
- 26) Prior to the first occupation of any dwelling within the development hereby permitted details of renewable or low carbon energy generating facilities to be incorporated as part of each dwelling shall be submitted to and approved in writing by the local planning authority. The details shall demonstrate that at least 10 percent of the predicted energy requirements of the development will be met through the use of renewable/low carbon energy generating facilities. The approved facilities shall be provided prior to any part of the development hereby permitted being first occupied or in accordance with a timetable submitted to and approved in writing by the local planning authority as part of the details required by this condition.
- 27) Prior to the first occupation of any dwelling within the development hereby permitted, details of any external lighting to be provided in association with the development shall be first submitted to and approved in writing by the local planning authority. Only external lighting in accordance with the approved details shall be provided on the application site. No other external lighting shall be installed without prior grant of planning permission pursuant to an application made to the local planning authority in that regard.

End of Schedule



Costs Decision

Site visit made on 4 September 2024

by **G Sibley MPLAN MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 28 February 2025

Costs application in relation to Appeal Ref: APP/H1840/W/23/3335894 Land to the rear of Churchill Road, Sedgeberrow WR11 7UQ

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Wolverley Developments Ltd & Citizen Housing Association for a full award of costs against Wychavon District Council.
 - The appeal was against the refusal of planning permission for outline application for the erection of 10 affordable dwellings cross subsidised by 6 market dwellings, for provision of new open space for Sedgeberrow Church of England First School and new open space for community use and associated works with site access to be taken from Cheltenham Road. All matters reserved apart from access.
-

Decision

1. The application for an award of costs is refused.

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The PPG advises that all parties are expected to behave reasonably throughout the planning process. Although costs can only be awarded in relation to unnecessary or wasted expense at the appeal or other proceedings, behaviour, and actions at the time of the planning application can be taken into account in the Inspector's consideration of whether or not costs should be awarded.
4. Whilst the decision was made contrary to the Officer's recommendation at planning committee, this in and of itself is not unreasonable behaviour, so long as the reasons for refusal were clearly set out in the decision notice.
5. The Council's Statement of Case provided detailed reasoning to support the decision and whilst this may have conflicted with its own Officer's recommendations and the conclusions of other professionals, so long as this is supported by objective analysis it is not unreasonable for the decision maker to do so.
6. The Affordable Housing Supplementary Planning Document acknowledges that whether a site is a 'small site' will, in part, depend on the size of the settlement it is associated with, and the amount of market housing (if any) that may be required to make the development viable. In this case the Council took into consideration the size of the settlement and the scale of the proposed development and determined that the site was not a 'small site' for the purposes of Policy SWDP16. While other decisions are a material consideration,

each case must be determined on its own merits. There should be consistency in decision making but there may be circumstances which means that the definition used in one case may be unsuitable for others. Whilst I disagreed with the Council on this matter, I am satisfied that it did provide objective analysis.

7. The Council provided what it considered to be objective analysis concerning the reliability of the data that identified the level of affordable housing need in Sedgeberrow and the surrounding parishes and whether other sites could meet the local need. Whilst I disagreed with the Council's conclusions on this matter, it was not unreasonable to question the robustness of the evidence that was before it.
8. On balance, the committee members carried out an objective analysis of these elements of the proposal, as well as the effect of it upon the landscape, character and appearance of the area. The refusal reasons were substantiated with reference to relevant local and national policies and material considerations.
9. For the reasons set out in my Appeal Decision I disagreed with the Council on the planning merits of the scheme on both matters. However, the weight that is attributed to the material considerations is a matter of planning judgement by the decision maker, which was the planning committee in this instance. The Council did not act unreasonably in making its own judgement on the weight to be given to these matters, including the evidence provided by the appellant and other interested parties, and it did not prevent development which should clearly have been permitted.
10. Whilst the applicant has concerns about the handling of the application, vague, generalised, or inaccurate assertions about the proposal's impact were not made in the reasons for refusal.
11. The applicant was disappointed with the Council's handling of the application, procedures, and outcome. However, its submissions were, on balance, sufficient to substantiate its case and its behaviours and actions at the time of the planning application and this appeal have not resulted in unreasonable behaviour or unnecessary or wasted expense at the appeal stage.

G Sibley

INSPECTOR