



Appeal Decision

Hearing held on 17 July 2025 & 18 July 2025 (online)

Site visits made on 16 & 17 July 2025

by H Nicholls MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 August 2025

Appeal Ref: APP/P1615/W/25/3363981

Land North East of Grove Lane, Lydney

- 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 Lantar Developments Ltd against the decision of the Forest of Dean District Council.
 - The application Ref is P1619/23/OUT.
 - The development proposed is outline application for residential development for up to 80 dwellings, including 50% affordable housing, and all associated works, with all matters reserved for future determination except for access (excluding internal roads).
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Decision

1. The appeal is allowed and planning permission is granted for outline application for residential development for up to 80 dwellings, including 50% affordable housing, and all associated works, with all matters reserved for future determination except for access (excluding internal roads) at Land North East of Grove Lane, Lydney, in accordance with the terms of the application, Ref P1619/23/OUT, subject to the conditions in the attached schedule.

Applications for costs

2. An application for costs was made by the appellant against the Council. This application is subject of a separate decision.

Preliminary Matters

3. The application was made in outline form with scale, layout, appearance and landscaping reserved for future consideration. In this context, I have treated the submitted layout plans as broadly indicative in nature.
4. Following the determination of the appeal application, the revised National Planning Policy Framework (the Framework) was published in December 2024. Following this, and as required by the Framework, the potential future flood risk scenarios have been considered for all areas of development and points of access. Despite the appeal site falling within Flood Zone 1 and at a low risk of flooding, the overlap of a modest number of indicatively placed dwellings on an area of increased future surface water flood risk has raised the flood risk considerations to a main issue in this appeal.
5. An agreed draft S106 planning obligation was submitted prior to and was discussed at the hearing. The final engrossed version, dated 17 July 2025, was received on the 25 July 2025.

6. The parties agreed a Statement of Common Ground (SoCG) which outline key points of agreement on the housing land supply position and affordable housing needs to which I return below.

Main Issues

7. The main issues are as follows:

- whether the development complies with the development plan in respect of its scale, nature and location;
- whether the development would be sustainably located in terms of access to facilities and services and reducing the need to travel; and
- whether the development would be safe and avoid the increased risk of flooding elsewhere.

Context

8. The appeal site is situated at the northern end of Allaston Road, between Grove Lane to the south west and Allaston Grove sawmills to the north, in the Allaston area of Lydney. The eastern boundary of the appeal site to Allaston Road is formed by a hedgerow of approximately 1 metre in height and there is an agricultural access in the vicinity of existing dwellings towards the southern end of the boundary. Public rights of way run along Grove Lane and along the outer western side of the site. There are two, single mature trees within the site and the landcover is currently grass which is used for grazing livestock.
9. The outline proposal seeks permission for up to 80 dwellings, including 50% affordable housing with all associated works. Only the single vehicular access and secondary pedestrian access from Grove Lane into the site are to be considered at this stage with internal roads reserved for future consideration. All other matters, including scale, layout, appearance and landscaping, are also reserved for future consideration. The site extends to around 5 hectares and the indicative plans show around 2.64 hectares of this would be developed, with blue and green infrastructure taking up around 2.4 hectares. On the basis of a scheme for up to the maximum number of 80 dwellings, the gross density would be 16 dwellings per hectare (dph), but the net density would be 30 dph.

Reasons

Location, scale and nature of development

10. The reason for refusal on the decision notices alleges conflict with four policies based on the site's location outside of the settlement boundary for Lydney and the reliance on private vehicles owing to the locational characteristics and limited bus, walking and cycling opportunities. These issues have been separated into two distinct main issues.
11. In respect of the first issue in terms of the principle of development, Policy CSP.5 of the *Forest of Dean District Council Core Strategy* (adopted 2012) (Core Strategy) sets a spatial strategy for the plan area based on housing targets for the period to 2026, of which Lydney was to receive the greatest proportion. CSP.5 also seeks to prohibit the release of greenfield sites unless it can be proven that land is not available from other sources, i.e. brownfield, and is needed to meet the plan's requirements. Policy CSP.4 similarly seeks to reinforce the existing

settlement pattern in a manner which reinforces the importance of the towns, especially Lydney and Cinderford where most change was forecast to take place through the application of the Core Strategy policies. It is these broader objectives of the Core Strategy that the appellant says the appeal scheme accords with.

12. However, the appellant accepts that the site is a greenfield site outside of, albeit adjoining the settlement boundary for Lydney as defined in the policies maps of the Core Strategy and *Lydney Neighbourhood Development Plan 2014 - 2024* (made 2015) (LNDP). There is therefore accepted conflict with Policies ENV1 of the LNDP and Policies CSP.1, CSP.4 and CSP.5 in this regard. Whether reduced weight should be attached to this conflict is a matter considered in the planning balance below.
13. The *Forest of Dean District Council Allocations Plan 2006 – 2026* (adopted 2018) (Allocations Plan) contains the allocations for housing growth and other strategic developments for the plan area for the plan period, including many for Lydney which remain as commitments or are currently under construction. The Allocations Plan also reaffirms the settlement boundary for Lydney. Policy AP1 of the Allocations Plan frames the need to take decisions based on whether a development is sustainable or not, having regard to the overall aim of improving the economic, social and environmental conditions of the area. I return to this below.
14. Policy AP4 of the Allocations Plan is primarily about the design of development which, save for accessibility considerations within and linking out from the site, are best considered at reserved matters stage.

Whether sustainably located

15. Policy CSP.4 of the Core Strategy refers to the need for development to improve the quality of the environment with special regard to the quality of town centres, general rural character of the district and any protected environments such as Conservation Areas. This is relevant because the general rural character of the district is evident as one travels through it and the considerations of accessibility and connectedness via walking, bus and cycling opportunities need to be taken in this context.
16. Paragraph 89 of the Framework indicates that planning decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. In these circumstances it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable (for example by improving the scope for access on foot, by cycling or by public transport).
17. As agreed in the SoCG, Lydney has overtaken Cinderford and Coleford and is now the largest settlement in the District. It is the only settlement with a passenger railway station that connects to Gloucester, Cheltenham, Newport and Cardiff. Also agreed is the point that Lydney is the highest ranking settlement¹ in the District for retail, community facilities and businesses. Consequently, I equate such

¹ Under the Forest of Dean District Council Settlement Hierarchy Assessment (September 2018)

a scale of settlement and its connectivity as being able to limit the need for out-commuting or facilitating such by means other than vehicles as a realistic option.

18. In terms of the facilities in Lydney, it has a town centre with pubs, shops and cafes; a leisure centre; schools, including a secondary school; healthcare provision; supermarkets, and other spaces and buildings for recreational and community uses. It is understandable that growth has been focussed on Lydney to maximise the availability of these facilities and limit the need for residents to travel elsewhere within the rural district.
19. A variable topography is also a notable feature of the district as a whole and this is no different for Lydney. Generally, the southern extent of the settlement is on the lower elevation and it climbs uphill away from the River Severn. The appeal site is situated at the north-easternmost tip of Lydney, in Allaston. This is at the highest point of the settlement, with two main routes connecting back to the town centre; one via Albert Street/Springfield Road/Primrose Hill and Allaston Road and the other via Driffield Road and Highfield Road.
20. In terms of distances and taken in reverse order from furthest by road/footway, the appeal site edge on Grove Lane is around 4km from the train station, 3km from the Tesco store and town centre and around 3km from the secondary school. Paragraph 4.4.1 of the Manual for Streets (MfS) states that walkable neighbourhoods are typically characterised as having a range of facilities within 10 minutes walking distance (around 800m). However, it states that this is not an upper limit, and that walking offers the greatest potential to replace short car trips, particularly those under 2km. Given that the aforementioned range of facilities within the town centre and the train station are over 2km, they may be most likely to be accessed via car, particularly if shopping for bulky items is one of the purposes of the trip being made. However, it is clear that the travel distances are short and despite the incline to the appeal site for the reverse journeys, are capable of being made on foot or cycle if desired.
21. Having reviewed the evidence of the County Council as part of the Community Infrastructure Levy Statement² with reference to the document, *Travel to School for children of Compulsory school age*³, free transport would not be provided as the secondary school is not further than 3 miles (i.e. 4.8km) from anywhere within the appeal site. The 3km distance, or modestly greater if measured to the front door of dwellings further north-east into the appeal site, is walkable by ambulant pupils of secondary school age. I return to the safety and desirability considerations about the route options below.
22. Within around 2 – 2.2km are the Highfield Road bus stops (via route avoiding Driffield Road), the dentist and Lydney Practice Health Centre. Again, these routes would be modestly elongated when taken from a central point in the site rather than the closest connecting point of Grove Lane/Allaston Road. However, again, these are short journeys that whilst preferably made by foot or cycle, would involve journey lengths of a matter of minutes by vehicle.
23. The facilities which are comfortably within the 2km or 20 minute walking radius of the site include the Primrose Hill School (around 1.1km, 13 mins walk), the Butchers (1.1km, 13 minutes walking time), Severn View Inn Pub (1.3km, 15 mins

² Gloucestershire County Council – Planning Obligations (Libraries and Education Infrastructure) Compliance Statement Summary

³ DFE guidance dated January 2024

walk) and the Mesne Park (1.3km, 15 mins walk). Journeys to these facilities have the most probability of being made on foot and would not be arduous given the relatively modest topographical differences. However, notwithstanding its valued role within the community, the Butchers does not operate as a general convenience store and so its ability to limit the need to travel elsewhere for top-up shopping purpose is relatively limited. Within around 260 metres of the site is the Grove Lane Bus Stop but as it only currently offers a single weekly service, it has limited prospects of reducing the need to travel by car.

24. In terms of the nature of the walking routes to town and Highfield Bus Stop, there are footways linking the appeal site along the length of the route, even though crossing over a short section is necessary. I walked these routes as part of my site visits and found them to be suitable and my encounters with many young people moving around the area suggested that they are well used for such purposes without issue. There are also routes which meander through the residential estates that avoid some of the Allaston Road. These footways and linking cut ways are similarly suitable for walking and are alongside less trafficked roads.
25. I did not see many cyclists and cycling infrastructure around Lydney is limited, in fact notably absent at the Allaston end of the settlement. However, the roads are typical two way widths with the sections of parked cars on one side of the carriageway are not uncommon in an urban setting. With due care and attention, such features can be safely navigated by cyclists and vehicles sharing the road.
26. The Driffield Road route has largely been excluded from consideration as a walking or cycling route because it is a steeper, predominantly single width rural road, restricted to 40mph, with limited passing places and lighting. I agree that it is not the simplest route to navigate by vehicles for simultaneous two-way traffic, let alone by foot or cycle.
27. In terms of bus services, the Grove Lane bus stop offers too little a service to be meaningful and I give it little further consideration save to say that an improvement to the bus infrastructure would be beneficial and could be more useful with an enhanced service provision. The Highfield Road bus stop near the petrol filling station, around 2km from the appeal site, offers a far more regular service around hourly to two hourly, 7 days a week to places including Coleford, Chepstow and Gloucester. There is existing bus stop infrastructure in the form of a passenger shelter displaying timetables and I saw that it was used during my site visits. It is clearly a benefit to have services available from this location and the provision of cycle stands could assist with some linked trips being made. Overall, it offers some choice for journeys, or at least parts thereof, being made by public transport.
28. I have also been offered details of the Robin Demand Responsive Transport Service which could help people get around the town and wider locale based on their transport needs. It has some capacity to reduce vehicle trips if the journeys to given destinations are made by a number or group of people. However, the extent to which it can offer a shared transport service when specifically required by its users is, to an extent, unclear. As such, I place limited weight on its ability to offset vehicle trips to and from the appeal site.
29. In terms of what may be able to be improved, through the Walking, Cycling and Horse Riding Report (WCHAR) a number of improvements were proposed that would assist with promoting safe walking from the site which are outlined in the

submitted Technical Note 01: Transport Assessment⁴. These measures, including traffic calming near Grove Lane and areas of tactile paving at new dropped kerb locations, would support the implementation of the Travel Plan, of which one of the main objectives would be to encourage less reliance on the car, wherever practical, particularly for short distance journeys. The Travel Plan would form a requirement of a planning obligation with payments on a per-dwelling basis to ensure its implementation and management.

30. There is a swathe of land off Driffield Road extending down from Allaston towards the centre of Lydney which is currently undeveloped but which has allocations/permissions⁵ for predominately housing with some mixed uses. This swathe of land hosts a number of public rights of way (PROWs) and links, many of which are already well used, which, if incorporated within well-designed schemes, have potential to offer a wider variety of connecting routes for walking to facilities and services in Lydney. The fact that these schemes have not yet commenced on the ground is unfortunate and is also delaying the anticipated delivery of a community building/shop to the area. I attribute limited weight to the prospects of such outcomes being delivered in the short term, but the location and sustainability credentials of the site may be improved to a modest degree in the fullness of time.
31. I have also noted that the parties do not disagree about the vehicle movements that would be generated by the scheme which have been forecast using models reflective of the area's limited accessibility to public transport. The Highways Authority advises that the scheme would not give rise to an unacceptable impact on highway safety or a severe impact on congestion and I find no reason to disagree on this basis.
32. Drawing all of the above together, Lydney town is clearly a sustainable location but the location of the site within it is suboptimal, given the journey lengths and nature of routes to facilities and public transport stops. The site could be said to be reasonably sustainably located, not entirely reducing the need to travel but offering some choice in the way that people may choose to do so and by minimising journey lengths where travel by car is unavoidable. As such, the proposal raises a degree of conflict with, in particular, Policy CSP.4 of the Core Strategy which, amongst other things, seeks to concentrate development at the towns in a manner that relates closely to their respective intended roles and taking advantage of the individual characteristics of each.

Flood risk

33. The originally submitted site-specific Flood Risk Assessment⁶ indicates that the appeal site falls within Flood Zone 1, at low risk of fluvial, tidal and all other forms of flooding.
34. In January and March 2025, the national map showing the risks of flooding from surface water were updated to show a general increase in properties and areas 'at risk' from surface water flooding. The current surface water flood map shows that the chance of surface water flood risk on site has increased in extent since the appeal application was determined with an overall low annual probability of flooding of 1 in 1000 (or a 0.1% chance) but with a small area in the south-west of

⁴ Rappor, Dated February 2024

⁵ Consented development of c. 200 dwellings off Driffield Road, Refs 1284/13/OUT, APP/P1615/W/14/2218921 and P1591/18/APP

⁶ October 2023

the site at a medium risk annual probability of flooding from surface water of 1 in 100 (or 1%) annual probability. The future scenario for 2040-2060 worsens to a greater risk of surface water flooding (medium probability) to an area indicatively shown occupied by plot nos. 21 – 27. The Framework of December 2024 requires that the future flood risks are considered and that the sequential test is applied where any built development and accesses would overlap with areas of flood risk.

Sequential Test

35. The main parties agreed the methodology for undertaking the sequential test and identified⁷ a total of 70 sites. Of the 70 sites, 29 were found to be at a higher level of flood risk than the appeal site but 11 of those were still to be allocated for housing under the emerging Draft Local Plan with a combined predicted capacity of dwellings in the order of 2,180 dwellings. However, the parties have also identified that there are 9 sites and 5 grouped sites (combined from a further 16 total sites) which are sequentially preferable to the appeal site in flood risk terms. The combined capacity from the sequentially preferable sites is in the order of 1,413 dwellings. Thus, the appeal scheme fails the sequential test.
36. The main parties also agree in the SoCG that the Council's unmet housing needs both over the short and long term cannot be fully met by sequentially preferable alternative sites and that sites with a similar or worse flood risk will need to be developed to meet the housing needs of the District.
37. Given the nature of the flood risks, i.e. surface water, it is relevant that a site-specific Drainage Strategy, supported by percolation test results, proposes to manage surface runoff by a SUDS solution utilising infiltration basins and some reprofiling of the land. The geological conditions support this proposal, and subject to conditions, will mean that the areas of increased surface water flood risks can be fully mitigated. Whilst the development could not resolve all surface water drainage issues in the wider locale, it would provide a SUDS system to deal with any impermeable areas created by the development, with an allowance for climate change. It would avoid an increased risk of flooding elsewhere. It is also relevant to note that the submitted plans do not show a fixed layout that necessarily determines that built development shall be placed in the areas of increased future surface water flood risk. These indicative layouts have been consulted upon and represent an otherwise acceptable form of layout and density, and even if it was determined to be the most suitable layout at reserved matters stage having regard to all constraints, the development could proceed in a manner that mitigates against the increased flood risks to ensure that the development is safe throughout its design life whilst also avoiding an increase in flood risks elsewhere. These measures would ensure compliance with Policy CSP.2 of the Core Strategy and with the approach outlined in the exceptions test outlined in the Framework.
38. As such, the proposal fails the sequential test on flood risk grounds based on the future surface water flood risks for a potentially developable area of the site which raises a degree of conflict with Policy CSP.1 of the Core Strategy and the Framework. I return to this in the planning balance below.

⁷ Using sources including the Strategic Housing and Employment Land Availability Assessment (SHELAA) 2024, the adopted Development Plan3 (Allocations Plan, Cinderford Northern Quarter, Area Action Plans and any made Neighbourhood Plans), The Regulation 19 Draft Local Plan, extant planning permissions granted in the three year period between 1st March 2022 and 1st March 2025, excluding minor developments and reserved matters approvals

Other Matters

Emerging Local Plan

39. The Council has produced a Regulation 18 emerging Draft Local Plan in the summer of 2024. Since then, the updated Framework has necessitated a revisitation of the housing needs underpinning the strategy of the plan and the associated Local Development Scheme (LDS). As an illustration of this, for the 20 year period of the emerging Draft Local Plan, the need would be in the order of 12,000 dwellings using the standard method, instead of the 6,600 homes consulted on as part of the Draft Local Plan.
40. The updated LDS indicates that the Draft Local Plan would be submitted for examination by Autumn 2026, though the appellant disputes the prospect of this timeline being achievable. Nonetheless, the parties agree that, despite Lydney forming the focus for growth within the emerging Draft Local Plan, it can only carry limited weight at the present stage. I agree that limited weight should be applied.

Housing Land Supply

41. The SoCG sets out the parties' agreement that the Core Strategy is over five years old and that as a consequence, the local housing need must be calculated in accordance with the standard method, as set out in the Framework and Planning Practice Guidance. Using the standard method, the agreed annual figure rises by an additional 270 dwellings per annum over the previous need of 330 dwellings pa, to a total of 3,150 homes over the five year period with a 5% buffer included.
42. The agreed deliverable supply of housing for the period 2024 to 2029 is 1,146 dwellings as set out in the *Forest of Dean Housing Delivery Note 2023/2024*. Whilst the Council indicated that it intended to provide an updated Housing Delivery Note for 2024/2025, this was not made available to me prior to the hearing. Notwithstanding the Council's anticipation of a modestly improved position on the publication of the updated Housing Delivery Note, the parties agreed that the housing land supply position should be taken as between 1.81 and 1.93 years with related shortfalls of between 2,004 and 1,840 dwellings.
43. It is this magnitude of shortfall which allowed the parties to agree that the provision of housing should attract at least substantial weight in favour of the appeal and I find no reason to reach an alternative view.

Affordable Housing Need

44. The SoCG sets out the undisputed position that there are 1,638 households in need of affordable housing in the District, with 521 of those demonstrating a connection to Lydney – representing the highest area of need. At 50% affordable housing, the scheme would deliver more than the 40% affordable housing required by Core Strategy Policy CSP.5 and the indicative housing mix, incorporating affordable rent, shared ownership and First Homes, is appropriate and agreed with the Council's Housing Strategy and Enabling Officer.

Habitats Regulations - Wye Valley & Forest of Dean Bat Special Area of Conservation (the Bat SAC)

45. The Bat SAC is designated under the *Conservation of Habitats and Species Regulations 2017* (as amended) (the Habitats Regulations) for its Annex II

species, Greater horseshoe bat (*Rhinolophus ferrumequinum* (code S1304) and Lesser horseshoe bat (*Rhinolophus hipposideros*) (code S1303). The conservation objectives include the need to ensure the site contributes to achieving the favourable conservation status of its qualifying features, by maintaining or restoring the extent and distribution, structure and function of the habitats of qualifying species.

46. Through the potential effects on the qualifying features through both the construction and operational phases, the appeal proposal could adversely affect the integrity of the Bat SAC through losses of foraging habitat and connectivity, losses of vegetated commuting / connectivity corridors and through the impacts of external lighting and disturbance on foraging and commuting behaviours.
47. As the scheme is not directly necessary for the management of the Bat SAC and even on its own, it could cause likely significant effects, an appropriate assessment under the Habitats Regulations is necessary.
48. The submitted survey information indicates a significant level of use of the site by the relevant species, particularly around hedgerows and mature trees. These features would be retained, save for a 130 metre section of hedgerow with 15m buffer zones along the western and northern boundary hedgerows which correlate with the majority of recorded bat activity. The proposals also include replacement hedgerow and trees, sensitive lighting scheme, SuDs scheme, pond and additional landscaping for biodiversity. In addition, conditions would be required to secure a construction environmental management plan (CEMP) – biodiversity, landscape and ecological management plan and the lighting strategy with requisite monitoring.
49. Provided the measures outlined above are secured and implemented, the integrity of the Bat SAC would be conserved.

Habitat Regulations - The Severn Estuary Special Area of Conservation (SAC), Special Protection Area (SPA) and Ramsar Site (the Severn Estuary Protected Sites)

50. The SAC is designated under the Habitats Regulations for a range of estuarine and mudflat habitats and wader bird species, including *Atlantic salt meadows* (*Glauco-Puccinellietalia maritimae*) (code 1330), Sea lamprey (*Petromyzon marinus*) (code 1095), River lamprey (*Lampetra fluviatilis*) (1099) and Twaite shad (*Alosa fallax*) (1103).
51. The conservation objectives of the SAC include the need to ensure that the site contributes to achieving the favourable conservation status of its qualifying features and the populations of qualifying species by maintaining or restoring the extent, distribution and structure and function of qualifying natural habitats and habitats of qualifying species.
52. The features for which the SPA is designated under the Habitats Regulations includes a waterbird assemblage, comprising Bewick's Swan (*Cygnus columbianus bewickii*) (Code A307), common shelduck (*Tadorna tadorna*) (code A048, Gadwall (*Anas strepera*) (code A051) Dunlin (*Calidris alpina alpina*) (code A149), Common redshank (*Tringa tetanus*) (Code A162), and greater white-fronted goose (*Anser albifrons albifrons*) (code A394).

53. The conservation objectives of the SPA include the need to maintain the integrity of the site and ensure it contributes to achieving the aims of the Wild Birds Directive by maintaining or restoring the extent, distribution, structure and function of the habitats of the qualifying features, the supporting processes on which they rely, the population of each of the qualifying features and their distribution within the site.
54. The Ramsar listing is for a number of criteria relating to estuarine habitat communities and migratory fish including: Salmon (*Salmo salar*), sea trout (*S. trutta*) and sea lamprey (*Petromyzon marinus*).
55. As the scheme is not directly necessary for the management of the Severn Estuary Protected Sites, even on its own, the proposal could cause likely significant effects through changes to the quantity, quality, timing, treatment or mitigation of emissions or discharges to air, water or soil, and through additional recreational disturbance to the Severn Estuary Protected Sites. As such, an appropriate assessment under the Habitats Regulations is necessary.
56. The appellant has agreed to opt into Forest of Dean District Council's Strategic Solution⁸ to enable planning applicants to mitigate the impacts of their development on the SAC, financial contributions can be made by applicants to help pay for the mitigation measures set out in the Strategy. The Strategy details mitigation measures (on-site e.g. rangers and signage) along with costings for these measures. The cost of the strategic mitigation contribution has been calculated at £286 (July 2023) per unit subject to indexation. This would be secured by planning obligation (S106).
57. The outline design of the proposals includes open space provision and footpath links out of the site; this will assist in reducing potential recreational impacts. However, a site specific on-site scheme including homeowners packs is considered appropriate to further help divert recreational pressures from the Severn Estuary Protected Sites. These could be secured by planning condition.
58. In terms of potential hydrological effects and pollution control measures, surface water quality and flow rates can be appropriately controlled by conditions to secure a surface water strategy (SUDS). A Construction Environmental Management Plan (CEMP) relating to biodiversity would also be required.
59. Provided the measures outlined above are secured and implemented, impacts on the integrity of the Severn Estuary Protected Sites will be maintained.

Habitats Regulations Conclusions

60. On the basis of securing the comprehensive mitigation measures by way of S106 legal agreement and agreed planning conditions, as the competent authority for the purposes of the Habitats Regulations, I conclude that there will not be adverse effects on the integrity of the Bat SAC or Severn Estuary Protected Sites taken either alone or in-combination with other proposals or projects. Though Natural England had previously commented, its updated advice has also been sought at the appeal stage and I have taken its comments into account.

⁸ Lydney Severn Estuary Recreation Strategy (2017)

Heritage Considerations

61. The submitted Built Heritage Statement⁹ outlines that the proposal has the capacity to impact upon two built heritage assets within the vicinity of the site; the Grade II listed Soilwell Manor (List Entry 1186619) and the adjacent, and separately listed at Grade II, Soilwell Farm (List Entry 1121872). These assets are around 230 metres or so from the appeal site.
62. The evidence details that the heritage significance of Soilwell Manor is primarily derived from its architectural and historic special interest as seventeenth century manor house, later farmhouse, though with several alterations, though the cessation of an agricultural role and its previously associated farm buildings has impacted the significance to a small degree, as have some changes to its built fabric. The site is considered to make a minor contribution to the heritage significance of Soilwell Manor insofar as it currently forms part of the wider agricultural landscape and rural context within which the Manor has always sat. However, other edge of settlement features and the intervening industrial estate are features that already detract from the quality of this setting.
63. The evidence details that the heritage significance of Soilwell Farm is primarily defined by its architectural and historic special interest as a former seventeenth or eighteenth century farm building once associated with Soilwell Manor, now in use as a domestic dwelling. Its position as part of the former farm complex and adjacency to Soilwell Manor result in a group value and shared setting, with the wider rural context also contributing to a lesser extent to the significance. As a smaller, yet unaltered part of the site's wider rural context, the appeal site contributes positively to the heritage significance of Soilwell Farm, albeit to a small degree.
64. Given their close proximity, group value and broadly shared setting, the effects of the appeal proposal on their significance would be similar. The introduction of dwellings, disturbance and general urbanising effects would result in the loss of part of the rural contexts to these assets. Some additional landscaping would help to minimise the degree of urbanisation and intervisibility, though not entirely mitigate against such. These effects would amount to less than substantial harm to the significance of two designated heritage assets, although in each case the degree of less than substantial harm would be at the lower end of the scale.
65. Under paragraph 215 of the Framework, less than substantial harm to the significance of a designated heritage asset or assets should be weighed against the public benefits of the proposal. The delivery of up to 80 dwellings in the context of a sizeable housing land supply shortfall, with 50% affordable housing in an area of identified need are public benefits which outweigh the lower level less than substantial harms to the significance of the identified designated heritage assets.

Best and Most Versatile (BMV) agricultural land

66. The appeal site comprises around 5 hectares of agricultural land which the Council's mapping system indicates is Grade 3 quality. The appellant has not put forward any assessment as to the actual grading of the land in terms of whether or not it constitutes BMV as Grade 3a or alternatively, Grade 3b which does not constitute BMV. Though not a matter of dispute between the parties, the loss of

⁹ RPS, Ref JAC29036, dated October 2023

potentially BMV agricultural land of around 5 hectares in area is a matter to weigh in the overall balance. I return to this below.

Character and appearance

67. In terms of overall effects on landscape character and visual amenities, the parties agree in the SoCG that the landscape and visual harm from the scheme would be limited, as would typically arise from the introduction of development on an agricultural field on the undeveloped edge of a settlement. The dwellings would be built at a low density of around 20 dwellings per hectare and compensatory hedgerow planting would be provided to offset the frontage hedgerow loss required to construct the access. Additional landscaping would also play a role in softening the effects of the scheme. The parties agree that the Indicative Masterplan shows that the site could be developed in a manner that would respect the character, scale, form and density of the surrounding area. Nonetheless, the modest landscape and visual harms attract weight against the scheme in the overall planning balance.

Self Build Housing

68. The scheme would provide 4% of the total number of dwellings as self/custom build housing as part of the S106 obligation as required by Core Strategy Policy CSP.5 and the *Council's Self-build and Custom Housebuilding Guidance Note*¹⁰. Though I have limited evidence on the number of register entries, this modest provision would help to meet the demand for this type of housing and has received support from the Council's Housing Enabling Officer.

Representations

69. I have noted the concerns in relation to the capacity of the sewerage network. However, a condition would be added to seek details of a foul drainage scheme, including pumping station details and maintenance regime, prior to commencement of development. Surface water would be treated separately of the foul flows and would be subject of a separate condition. Compliance with this pre-commencement condition would indicate that the dwellings could be served by adequate mains foul drainage infrastructure prior to any first occupation.
70. A number of objectors have highlighted that the semi-rural character of the area and its resident community would be affected by the proposal. As outlined above, the erosion of some of the area's semi-rural character weighs against the scheme.
71. The proposal is at outline stage and details about the layout suggest that a scheme could come forward without resulting in direct or materially harmful overlooking of existing dwellings or garden areas. Though harm to existing residents' wellbeing has been cited as a reason for objection, a new residential development is not incompatible with the area in terms of its character or the noise that would be generated. Light pollution would be avoided through a sensitive lighting scheme, necessary for reasons related to protected species, and construction phase impacts would be temporary in nature with appropriate controls on timing of works, dust and other protection measures. Thus, I do not envisage that the proposal would harm the living conditions of neighbouring occupiers. The

¹⁰ October 2018

extent to which any property values may be affected or views interrupted are not material planning considerations that influence my decision in this case.

72. A number of the submitted representations refer to effects on biodiversity and particular species. The submitted ecological reports cover the effects of the proposal on various species, including bats, reptiles, birds and Great Crested Newts (GCNs). In addition to the mitigation measures required in relation to the Bat SAC and Severn Estuary Protected Sites, other mitigation measures would be required to protect and enhance the biodiversity value of the site and surrounding area.
73. Further evidence suggests that GCNs may be present locally. The location of the ponds in which they have allegedly been identified is separated from the site by metalled roads which are likely to sever their connectivity. However, the recommended condition requiring precautionary working methods will avoid harm.
74. In respect of wider Biodiversity Net Gain (BNG) enhancements, the appeal proposal was submitted prior to these becoming statutorily required. The parties differ on the amount of BNG that can be secured. As ecological enhancements of some amount can be secured by a condition, I can attribute some proportionate positive weight to this aspect in the overall balance.
75. The Council's consultee on air quality indicated that there would not be harmful effects, either from the proposal or on future residents from adjacent business uses. I find no reason to disagree in this regard despite suggestions of the existence of a local pig farm, the odours from which appear to be tolerated by existing residents.
76. In terms of the potential effects on adjacent businesses, the proposal would introduce new dwellings and noise-sensitive receptors in close proximity of these noise sources. The evidence indicates that with appropriate measures, the noise environment can be made suitable for future occupiers without impacting on existing businesses and uses.
77. The lack of infrastructure such as schools, doctors and dentists has been put forward as reasons for objection. The planning obligation would secure planning contributions towards the provision of enhanced school places and healthcare provision where such have been requested by the necessary consultees where capacity and demand figures justify such. The payment of these contributions would help to ensure the necessary infrastructure were provided in a timely way to meet the needs of new residents to avoid exacerbating existing pressures.
78. A number of objectors indicate that the release of greenfield sites should be through the emerging Local Plan and that to allow the scheme would prejudice the outcomes of the plan making process. Whilst I accept that a plan-led system would be preferable, the emerging Local Plan has not yet reached an advanced stage and the scale of the scheme is not such that it would determine all outcomes for growth of Lydney or the wider plan area. Similarly, whilst I appreciate that there are large numbers of houses under development in Lydney already, these existing commitments do not meet the full housing needs of the area going forward.

S106 obligations

79. The completed S106 legal agreement, dated 17 July 2025, secures the following measures and contributions:
- 50% affordable housing with related eligibility clauses, tenure and size mix specifications and accessibility requirements;
 - 4% self and custom build housing plots;
 - The provision of open space including informal areas, community orchard space, local equipped play space, landscaped areas and attenuation features;
 - Details of management company entities and responsibilities for management of open space;
 - Primary education contributions to provide additional school places for primary school age children generated by the scheme at either the Primrose Hill CofE Primary School and/or the Lydney Primary Planning Area;
 - Primary healthcare contributions towards the new healthcare facility in Lydney, proportionate to the new residents generated by the scheme;
 - Severn Estuary Mitigation Contribution to secure environmental and ecological mitigation measures as outlined in the Appropriate Assessment;
 - Library contributions towards improving customer access and stock proportionate to the demand generated by new residents of the scheme at Lydney library; and
 - Travel Plan obligations and associated Travel Plan contributions towards implementation and monitoring responsibilities.
80. Regulation 122 of the *Community Infrastructure Levy Regulations* (2010) (CIL Regulations), as amended, and the Framework (paragraph 58) set out that planning obligations must only be sought where they meet the relevant tests, including where they are necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the same. The Council and County Council have submitted CIL Compliance Statements¹¹ outlining the necessity for the various components of the S106 and the methods of calculation for the various financial contributions and the related links to policies of the development plan. Whilst the affordable housing provision exceeds that outlined in the related policy, it is an aspect which would be attributed weight in the overall balance and as such, is necessary as part of the S106.
81. I am satisfied based on the agreement between the main parties and the wording of the S106 that all of the obligations are necessary, directly related, and fairly and reasonably related in scale and kind to the development and can be taken into consideration.

¹¹ Gloucestershire County Council – Planning Obligations (Libraries and Education Infrastructure) Compliance Statement Summary P1619/23/OUT Land North East of Grove Lane (received 4 July 2025) and Justification Statement of Forest of Dean District Council in relation to proposed S106 contributions required in connection with Land North East of Grove Lane, Lydney

Planning Balance

82. Insofar as the proposal comprises a sizeable greenfield development outside of the settlement boundary for Lydney and in a specific location which does not take advantage of its individual characteristics such as to allow ease of access to facilities by non-car modes, it conflicts with the development plan.
83. Given that the Council is unable to demonstrate a five year housing land supply as required by the Framework, the provisions of paragraph 11 d) are engaged. The inability to demonstrate an adequate housing land supply also limits the weight that I attribute to Policies CSP.4 and CSP.5 of the Core Strategy and Policy ENV1 of the LNDP in relation to their affixation on development occurring only within settlement boundaries and only where it has been proven that brownfield or other non-greenfield opportunities have been first explored.
84. On the other hand, Policies CSP.4 and CSP.5 of the Core Strategy promote development within Lydney given its broader role as the most sustainable settlement within the District. Notwithstanding its locational shortcomings within the town itself, the appeal scheme aligns with this overarching objective.
85. Given that sequentially preferable sites exist, the scheme conflicts with the flood risk objectives of Policy CSP.1 of the Core Strategy. A conflict also arises with the aims of the Framework. However, the total capacity of sites in the District currently known to be available and sequentially preferable is at around 1,568 dwellings which is far short of the 12,000 needed under the standard method over the 20 year period of the Emerging Draft Local Plan and is also short of the at least 1,840 dwelling housing land supply deficit. When taken together with the nature of the flood risk and anticipated resolution of such through adequate design and SUDS measures within the development itself, although this harm attracts modest weight in the overall balance, it does not represent a strong reason for refusal under footnote 7 of the Framework. There are no other strong reasons for refusal based on either the Severn Estuary Protected Sites or Bat SAC either.
86. Though the public benefits outweigh the lower level of less than substantial harm to the significance of designated heritage assets, the fact that harm would occur still attracts some weight in the overall balance.
87. The scheme would also result in harm through the loss of around 5 hectares of potential BMV agricultural land and further harms through the effects on the character and appearance of the area. Each of these harms attracts modest weight against the scheme.
88. Turning to the benefits, the main benefit of the scheme is the delivery of housing in the order of 80 dwellings in the context of a current housing shortfall of at least 1,840 dwellings. Another key benefit is the 50% provision of affordable housing of mixed tenures which would go towards meeting a pressing identified local need for such. Each of these benefits attracts substantial weight in favour of the scheme.
89. The provision of 4% self-build plots is an aspect that attracts modest weight in favour of the scheme, widening the choice of available housing products.
90. There would be economic benefits associated with the scheme, both during the construction phase and during the lifetime of the development with future residents spending money at local shops and services in Lydney and the wider surrounding

area. The submitted extract from the House Builder's Federation (HBF) calculator¹² attempts to quantify the level of economic benefits but too little explanation is given about whether the job creation would be direct through construction, or indirect, or if the spending on leisure etc. would be an annual amount or one-off. In the absence of clearer evidence to the contrary, the economic benefits attract modest weight in favour of the scheme.

91. There would be biodiversity enhancements, though the magnitude of such is not statutorily required as BNG or quantified to an agreed level between the parties. As such, I attribute the prospect of even modest enhancement limited weight as a benefit of the scheme.
92. The provision of highway infrastructure to promote non-car modes of travel is necessary to help mitigate the impacts of the scheme but insofar as they could be used by the public at large, they also attract limited weight in favour of the scheme.
93. Under Framework paragraph 11 d) ii), consideration must be given to whether any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the Framework policies taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination. Having given due regard to these matters, I consider that the adverse impacts of granting permission would not significantly and demonstrably outweigh the totality of the benefits outlined above.
94. As a consequence, the presumption in favour of sustainable development is a consideration of such weight that it indicates that a decision should be made other than in strict accordance with the development plan when taken as a whole.

Conditions

95. I have considered the suggested planning conditions in the context of the Framework and Planning Practice Guidance in relation to the use of such. Where necessary I have made minor changes to ensure the enforceability of the conditions.
96. In the interests of certainty, conditions are required to specify the reserved matters and time limit for implementation of the development. A condition is needed to specify the approved plans.
97. Conditions are also needed to seek details of finished floor levels and sections as well as specify the maximum permissible two storey height of the dwellings in the interests of certainty. For similar reasons, the approved plans are also specified in a separate condition.
98. In the interests of highway safety, conditions are required to ensure all dwellings are provided with the necessary access, turning and parking areas prior to occupation.
99. To protect the character and appearance of the area, conditions are needed in respect of landscaping, including the planting of a replacement hedge inside the access visibility splays.

¹² Appellant Statement appendix 27

100. As a means to ensure the protection of the biodiversity value of the site, the details and implementation of the ecological buffer zone and ecological design strategy are required by conditions. A condition requiring the submission of and adherence to a biodiversity CEMP is also necessary. Similarly, a condition is needed to secure the submission, approval and adherence to a Landscape and Ecological Management Plan in relation to the management of landscaping and ecological enhancement areas. In the interests of maintaining the interests of the Bat SAC, a condition is required to secure a detailed Lighting Strategy.
101. In the interests of maintaining the integrity of the Severn Estuary Protected Sites, a condition is needed to secure a scheme of mitigation for potential recreational disturbance effects.
102. To maintain the character and appearance of the area, a tree and hedgerow protection condition is necessary.
103. Three specific conditions are needed in respect of highway works, one to secure and maintain the necessary visibility at the new point of access, another to secure the offsite highway works and the last to secure the footway provision extending from the new access. These measures will ensure the safety of existing and future highways for all users and promote sustainable modes of travel.
104. To promote the use of more sustainable modes of travel, adherence with the Travel Plan in accordance with the details and timetable therein will be required by condition and monitoring of such will be covered by the S106 obligations.
105. To ensure that the construction phase takes place considerately in relation to highways, a condition is required to secure a construction management plan.
106. To preserve any potentially surviving archaeological features, a condition is needed to secure the implementation of an investigation and recording scheme during the construction phase.
107. In the interests of the living conditions of future occupiers, conditions are needed to ensure that any land contamination is adequately addressed prior to occupation of any dwellings.
108. In the interests of environmental protection and to avoid the increased risk of flooding elsewhere, conditions are needed to secure the implementation of a Sustainable Urban Drainage System, management of the same and raised finished floor levels where any dwellings are shown to be at future risk of surface water flooding.
109. To maintain the capacity of the foul sewerage infrastructure, a condition is needed to prohibit any surface water drainage flows being directed to such. For similar reasons, a condition is necessary seeking details of and implementation of a foul drainage scheme.
110. A condition is needed in respect of waste and recycling storage facilities for all dwellings to ensure that these aspects are an integral and well considered part of the future scheme. In the interests of minimising waste during the construction phase, a condition is necessary seeking details of a site waste management plan.

111. In the interests of the living conditions of future occupiers without detriment to adjacent businesses, conditions are needed to ensure the noise mitigation measures are implemented and effective prior to first occupation.

Conclusion

112. For the foregoing reasons, the appeal is allowed.

H Nicholls

INSPECTOR

Richborough

APPEARANCES

FOR THE APPELLANT

Hashi Mohamed	Counsel for the appellant
Matt Tyas MSc MRTPI	Principal Planner, Zesta Planning
Tim Slater BEng (Hons) MCIHT CMILT	Associate Director, Rappor (transport)
Mr Simon Mirams	Director at Rappor, Rappor (flood risk)

FOR THE LOCAL PLANNING AUTHORITY:

Stephen Colegate BA(Hons), MRTPI	Principal Planning Officer
Lisa-Marie Robson BSc, MRTPI	Forward Planning Manager

INTERESTED PARTIES:

Martin Hillier	Campaign to Protect Rural England
Mark Howard	Local resident and local Councillor Lydney

HEARING DOCUMENTS:

Document 1	Map showing site and Lydney services
Document 2	Lydney emerging Neighbourhood Plan
Document 3	Publica Biodiversity Specification #1
Document 4	Appellant costs app
Document 5	Email from Councillor Howard

DOCUMENTS RECEIVED AFTER THE HEARING:

Document 6	Final engrossed S106
Document 7	Amended suggested conditions
Document 8	Council's costs response
Document 9	Appellant's final costs response

SCHEDULE OF CONDITIONS

- 1)
 - a) The development for which permission is hereby granted shall not be commenced before detailed plans showing details of the access (with the exception of those details approved pursuant to condition 16) layout, scale, appearance and landscaping of the site (referred to as "the reserved matters") have been submitted to and approved by the Local Planning Authority.
 - b) Application for the approval of the reserved matters shall be made not later than the expiration of three years beginning with the date of this permission.
 - c) The development hereby permitted shall be commenced not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.
- 2) The details to be submitted under Condition (1) shall include existing and proposed site and floor levels and sections through the site.
- 3) The development hereby permitted shall be carried out in accordance with the approved plans listed below:
 - Site Location Plan (Drawing No. P23-0514_DE_004_A_01)
 - Proposed Access & Visibility Assessment (Drawing No. SK01 P01)
 - Visibility Assessment (Drawing No. SK02 P01)
- 4) No building on any part of the development hereby permitted shall exceed two storey in height.
- 5) The details submitted under Condition (1) shall include provision for properly consolidated and surfaced car parking and manoeuvring facilities. Such facilities shall be provided prior to the dwellings served by them being occupied and shall be kept permanently available for such use with the car parking spaces retained for parking only and the manoeuvring facilities for manoeuvring.
- 6) The development for which permission is hereby granted shall not be commenced until the landscaping scheme submitted under condition (1) incorporating existing flora and which shall include re-planting of a hedgerow behind the visibility splay required pursuant to condition 16 has been approved by the Local Planning Authority.

Such a scheme shall be carried out in all respects in accordance with the approved scheme as per the landscape implementation phasing plan approved pursuant to condition 7.

If at any time in the five years following planting any tree, shrub or hedge shall for any reason die, be removed or felled, it shall be replaced with another tree, shrub or hedge of the same species during the next planting season to the satisfaction of the Local Planning Authority, unless the Local Planning Authority gives prior written consent to any variation.

- 7) Prior to above ground works a landscape implementation plan shall be submitted to and approved in writing by the Local Planning Authority. The

landscaping details approved pursuant to conditions 1 and 6 shall be carried out in accordance with the approved details and the timetable therein.

- 8) Prior to the commencement of the development hereby permitted, a phasing and implementation plan for the establishment and protection of the ecological buffer zone shall be submitted to and agreed in writing with the Local Planning Authority. The ecological buffer is described and shown on plans in the Lighting Impact Assessment dated June 2024 (Ref: 27676-LIGH-0401 Rev A) and includes the ecology area on the western and northern boundaries which shall extend a minimum of 15m. from the canopy edge of boundary vegetation into the site. The buffer zone hereby identified shall be excluded from all development activity, service runs (apart from works associated with SUDS construction and access paths) and any other works related to the development, apart from that required for the establishment of any buffer fencing and landscaping. The buffer zone shall be protectively fenced prior to any works on site and shall be consistent with any tree protection plan approved pursuant to condition 14 and the Construction Ecological Management Plan – Biodiversity submitted pursuant to condition 09. The buffer zone shall be implemented in accordance with the details approved pursuant to conditions 1, 10 (Ecological Design Strategy) and 11 (Landscape Ecological Management Plan) and shall be carried out in accordance with the landscaping phasing implementation plan submitted pursuant to condition 7 and shall thereafter be similarly maintained.
- 9) The details submitted under Condition (1) shall include a Construction Environmental Management Plan - Biodiversity (CEMP-B). The CEMP-B shall be in accordance with Publica Biodiversity Specification #1 “Precautionary method of working for reptiles, common toads, hedgehogs, badgers and nesting birds” and shall include, but not necessarily be limited to, the following:
 - i. Risk assessment of potentially damaging construction activities, including works related service runs and services, and any other works such as archaeological investigations;
 - ii. Identification of ‘biodiversity protection zones’;
 - iii. Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during pre-construction works, construction including services (may be provided as a set of method statements including for habitats, water environment/pollution prevention, birds, badgers, reptiles, dormice, and amphibians etc);
 - iv. The location and timing of sensitive works to avoid harm to biodiversity features (e.g. daylight working hours only starting one hour after sunrise and ceasing one hour before sunset);
 - v. Use of protective fences, exclusion barriers and warning signs, including advanced installation and maintenance during the construction period;
 - vi. The times during construction when specialist ecologists need to be present on site to oversee works;
 - vii. Responsible persons and lines of communication;
 - viii. The role and responsibilities on site of an Ecological Clerk of Works (ECoW) or similarly competent person(s);

ix. Ongoing monitoring, including compliance checks by a competent person(s) during construction and immediately post-completion of construction works.

No development shall take place (including ground works and vegetation clearance) until the CEMP-B is approved by the Local Planning Authority and it shall thereafter be implemented and adhered to in accordance with the approved details for the duration of the construction period.

- 10) No development shall take place until an ecological design strategy (EDS) addressing the design of the scheme for retained habitat and created habitat, including the SuDs scheme, created hedge and woodland habitat on the eastern boundary for mitigation and enhancement, has been submitted to and approved in writing by the Local Planning Authority.

The EDS shall include the following:

- i. Purpose and conservation objectives for the proposed works;
- ii. Review of site potential and constraints;
- iii. Detailed design(s) and/or working method(s) to achieve stated objectives, including all the road crossing, SuDs, wildlife pond, retained and created habitats;
- iv. Extent and location/area of proposed works on appropriate scale maps and plans;
- v. Type and source of materials to be used where appropriate, e.g. native species of local provenance;
- vi. Timetable for implementation demonstrating that works are aligned with the proposed phasing of development;
- vii. Persons responsible for implementing the works;
- viii. Details of initial aftercare and long-term maintenance (typically the first 5-year period);
- ix. Details for monitoring and remedial measures; and
- x. Details for disposal of any wastes arising from the works.

The EDS shall be implemented in accordance with the approved details and all features shall be retained in that manner thereafter.

- 11) Prior to above ground works, a Landscape and Ecological Management Plan (LEMP) which shall include the proposed SuDs scheme shall be submitted to, and be approved in writing by the Local Planning Authority. The content of the LEMP shall include, but not limited to the following:
- i. Description and evaluation of features to be managed;
 - ii. Landscape and ecological trends and constraints on site that might influence management;
 - iii. Aims and objectives of management (including those related to species);
 - iv. Appropriate management options for achieving aims and objectives, including appropriate enhancement measures;
 - v. Prescriptions for management actions;
 - vi. Preparation of a work schedule (including an annual work plan capable of being rolled forward over a 5-year period);

- vii. Details of the body or organisation responsible for implementation of the plan;
- viii. Legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer;
- ix. Ongoing monitoring and remedial measures, including for lighting monitoring (which shall be consistent with the details submitted pursuant to condition 12);
- x. Timeframe for reviewing the plan; and
- xi. Details of how the aims and objectives of the LEMP will be communicated to the occupiers of the development.
- xii. 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 shall be implemented in accordance with the approved details and similarly maintained unless results from monitoring require revisions.

- 12) Prior to above ground works details of external and internal lighting shall be submitted to and approved in writing by the Local Planning Authority. The details shall be in accordance with ILP Guidance Note 08/18 Bats and Artificial Lighting in the UK and clearly demonstrate that lighting will not cause excessive light pollution or disturb or prevent bats or other species using key corridors, buffer areas, foraging habitat features or accessing roost sites. The details shall include, but not limited to, the following:
- i. A drawing showing sensitive areas and/or dark corridor safeguarding areas and buffer zones (which shall be consistent with the parameters identified by and required to be submitted pursuant to condition 8), including all boundaries and retained and created habitats including the SuDs area and wildlife pond, new woodland and hedgerow habitat to eastern boundary;
 - ii. Technical 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;
 - iv. A drawing(s) showing the location and where appropriate the elevation and height of the light fixings;
 - v. Methods to control lighting control (e.g. timer operation, passive infrared sensor (PIR));
 - vi. Lighting contour plans both horizontal and vertical to demonstrate lighting levels on the identified dark areas (i. above) is below 0.2lux on the horizontal and 0.4lux on the vertical plane.
 - vii. Details of monitoring scheme and timescales and periods for reporting to demonstrate compliance and continued compliance with the agreed lux levels.
 - viii. Outline rectification scheme including potential measures (including the decision making process for reporting and implementation of rectification measures) for the lighting strategy and;
 - x. The legal and funding mechanism(s) by which the long-term monitoring and implementation of the plan will be secured by the developer.

All 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.

- 13) An on-site scheme to avoid, cancel or mitigate recreational disturbance arising from the development on the Severn Estuary shall be submitted to and approved by the Local Planning Authority prior to above ground works. The scheme for on-site recreational disturbance mitigation shall have regard to the Lydney Severn Estuary Visitor Survey and Recreation Strategy (2017) and shall include:

- i. Aims and objectives of scheme, including but not limited to; encouraging on-site use of on-site Green Infrastructure; information on the recreational options off-site locally and; on the sensitive nature of the Severn Estuary SAC and how to avoid impacts;
- ii. Detailed design and information on; the number, locations content and wording of onsite information panels at strategic locations; homeowner information packs and leaflets in order to achieve the stated aims and objectives;
- iii. Prescriptions for actions;
- iv. Timing of actions and works;
- v. Details of the body or organisation responsible for implementation of actions;
- vi. Ongoing monitoring and remedial measures;
- vii. A management plan and identification of responsibility for future management;
- viii. A timetable for implementation;

The scheme shall also identify the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The scheme shall also set out (where the results from monitoring show that conservation aims and objectives of the scheme 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 scheme shall be implemented in accordance with the approved details and timetable therein and shall thereafter be similarly maintained.

- 14) The trees and hedgerows proposed for retention, as shown on the Arboricultural Impact Assessment and Tree Protection Plan (Drawing No: 23157.502, 28-11-23), shall be protected during construction of the approved development in accordance with section 6.2 of BS5937:2012. The alignment of protective barrier fencing as shown on the Arboricultural Impact Assessment and Tree Protection Plan (Drawing No: 23157.502, 28-11-23), shall be installed prior to work commencing and remain in situ until completion of the development.

Storage of materials, landfill, excavation, mixing of concrete/mortar, burning of materials, movement of vehicles or other such harmful activities identified in BS5837:2012 will be strictly prohibited in these areas.

Development thereafter shall be carried out in accordance with the approved details.

- 15) The vehicular access hereby permitted shall not be brought into use until the existing roadside frontage boundaries have been set back to provide visibility splays extending from a point 2.4m back along the centre of the access measured from the public road carriageway edge (the X point) to a point on the nearer carriageway edge of the public road 90.6m to the north and 89.6m to the south (the Y points). The area between those splays and the carriageway shall be reduced in level and thereafter maintained so as to provide clear visibility above 1.05m at the X point and above 0.6m at the Y point above the adjacent carriageway level.
- 16) No works shall commence on site on the development hereby permitted until further design details for the off-site improvements shown on drawing number 220138-RAP-XXXX-DR-TP-6000 in Technical Note 01 dated February 2024 have been submitted to and approved in writing by the Local Planning Authority. The approved works shall be implemented prior to the occupation of the dwellings hereby permitted and shall thereafter be similarly maintained.
- 17) No works shall commence on site on the development hereby permitted until the proposed pedestrian footway provision has been constructed broadly in accordance with drawing numbers SK01 Rev P01 and SK02 Rev P01 both part of the Transport Assessment received 5 December 2023 and no dwellings shall be occupied until the approved works have been completed and are open to the public.
- 18) The approved Travel Plan shall be implemented in accordance with the details and timetable therein, and shall be continued thereafter, unless otherwise agreed in writing by the Local Planning Authority.
- 19) No dwelling on the development shall be occupied until the carriageway(s) (including surface water drainage/disposal, vehicular turning head(s) and street lighting) providing access from the nearest public highway to that dwelling have been completed to at least binder course level and the footway(s) to surface course level.
- 20) No development shall take place, including any demolition works, until a construction management plan or construction method statement has been submitted to and approved in writing by the Local Planning Authority. The approved plan/statement shall be adhered to throughout the demolition/construction period. The plan/statement shall provide for:
 - i. 24 hour emergency contact number;
 - ii. Hours of operation;
 - iii. 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);
 - iv. Routes for construction traffic;

- v. Locations for loading/unloading and storage of plant, waste and construction materials;
 - vi. Method of preventing mud being carried onto the highway;
 - vii. Details of dust suppression methods to be used;
 - viii. Details of how construction noise will be controlled;
 - ix. Measures to protect vulnerable road users (cyclists and pedestrians)
 - x. Any necessary temporary traffic management measures;
 - xi. Arrangements for turning vehicles;
 - xii. Arrangements to receive abnormal loads or unusually large vehicles;
 - xiii. Methods of communicating the Construction Management Plan to staff, visitors and neighbouring residents and businesses.
- 21) No development shall take place within the application site until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the Local Planning Authority.
- 22) No development shall take place until a site investigation of the nature and extent of contamination has been carried out in accordance with a methodology which has previously been submitted to and approved in writing by the Local Planning Authority.
- The results of the site investigation shall be made available to the Local Planning Authority before any development begins. If any significant contamination is found during the site investigation, a Remediation Scheme specifying the measures to be taken to remediate the site to render it suitable for the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority before any development begins.
- 23) Should a Remediation Scheme be required as a consequence of the details approved pursuant to condition 22, the approved scheme shall be fully implemented in accordance with the approved timetable of works and before the development hereby permitted is first occupied. Any variation to the scheme shall be agreed in writing with the Local Planning Authority in advance of works being undertaken. On completion of the works the developer shall submit to the Local Planning Authority a Verification Report with evidence confirming that all works were completed in accordance with the agreed details.
- 24) 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 contamination shall be submitted to and approved in writing by the Local Planning Authority. The remediation of the site shall incorporate the approved additional measures.
- 25) Finished floor levels shall be set a minimum of 500mm above existing ground levels for any dwellings shown to be in areas at risk from surface water flooding both now and in the future within Technical Note – Flood Risk (Rappor, April 2025).

- 26) No development permitted shall be commenced until surface water drainage works have been implemented in accordance with details that have been 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 approved drainage strategy and shall ensure that flood risk is not increased elsewhere. 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; and
 - ii. Provide a full risk assessment for flooding during the groundworks and building phases with mitigation measures specified for identified flood risks.

The approved scheme for the surface water drainage shall be carried out in accordance with the approved details before the first occupation of the development hereby permitted with the exception of the approved scheme of measures for dealing with surface water drainage during construction which shall be implemented upon commencement of development in accordance with the approved details and maintained for the duration of the construction period.

No surface water and/or land drainage shall be allowed to connect directly or indirectly with the public sewerage network.

- 27) No dwelling hereby permitted shall be occupied until a SUDS 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, has been submitted to and approved in writing by the Local Planning Authority. The approved SUDS maintenance plan shall be implemented in full in accordance with the agreed terms and conditions prior to the occupation of the dwellings hereby permitted and thereafter similarly maintained.
- 28) Prior to the commencement of the development hereby permitted, details of a foul drainage scheme, including any necessary pumping station and associated maintenance regimes, shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be carried out prior to the occupation of the dwellings to which they relate and shall thereafter be similarly maintained.
- 29) No below or above ground development shall commence until a detailed site waste management plan or equivalent has been submitted to and approved in writing by the Local Planning Authority. The detailed site waste management plan must identify: - the specific types and amount of waste materials forecast to be generated from the development during site preparation and demolition and construction phases; and the 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 overall amount of waste sent to landfill. In addition, the detailed

site waste management plan must also set out the proposed proportions of recycled content that will be used in construction materials.

The detailed site waste management plan shall thereafter be fully implemented as approved.

- 30) 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. This shall include details of the appropriate and adequate space and infrastructure to allow for the separate storage of recyclable waste materials. The management of waste during occupation must be aligned with the principles of the waste hierarchy and not prejudice the local collection authority's ability to meet its waste management targets. The approved details shall be fully implemented as approved prior to the occupation of the dwellings to which they relate and thereafter similarly maintained.
- 31) The details submitted under Condition (1) shall include noise mitigation measures which shall be based on the noise survey and noise impact assessment of Environmental Noise Assessment Version 2.0 prepared by Acoustic Consultants Ltd received 4 December 2023. The approved noise mitigation measures shall be carried out in accordance with the approved details prior to the occupation of the dwellings to which they relate and shall thereafter be similarly maintained.
- 32) Prior to the occupation of any of the dwellings hereby permitted, a post-construction verification of effective sound insulation and thermal control shall be submitted to and approved in writing by the Local Planning Authority. The residential dwellings shall not be occupied until the submitted report has been approved by the Local Planning Authority.

--- ENDS ---



Costs Decision

Hearing held on 17 July 2025 & 18 July 2025 (online)

Site visits made on 16 & 17 July 2025

by H Nicholls MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 August 2025

Costs application in relation to Appeal Ref: APP/P1615/W/25/3363981

Land North East of Grove Lane, Lydney

- 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 Lantar Developments Ltd for a full award of costs against Forest of Dean District Council.
 - The appeal was against the refusal of planning permission for outline application for residential development for up to 80 dwellings, including 50% affordable housing, and all associated works, with all matters reserved for future determination except for access (excluding internal roads).
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Decision

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

The submissions

2. The costs application was made in writing prior to the close of the hearing. The Council responded in writing following the close of the hearing. Final comments were also received in writing from the appellant by the agreed deadline.

Reasons

3. 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.
4. The appellant seeks an award of costs on the substantive merits of the scheme in light of the refusal of permission being issued by the Council contrary to its officer recommendation of approval. It is alleged that there is insufficient evidence or analysis to justify the refusal on sustainable transport grounds, limited consideration of the provisions of paragraph 11 d) of the National Planning Policy Framework (the Framework), and issues relating to the misinterpretation of policies.
5. Though I have sided with the appellant on the overall outcome of the appeal, it was on the balanced judgement that understood the evidence and position of the Council's Committee in having reached the decision to refuse permission. I shall not duplicate my findings as they are covered in the separate decision, but the Council's position was sufficiently evidenced and understandable. The way in which it reached its view on the balance of considerations under the provisions of paragraph 11 d) of the Framework were sufficiently clear and understandable from the meeting minutes and the decision itself. The subsequent explanation in the

Council's Statement and evidence provided at the hearing assisted further in these regards.

6. The point about the Council's case going beyond the resolution of the Planning Committee is a moot point as the fact that the site is outside of the settlement boundaries would have had to have been conceded anyway. It has not added materially to the appellant's case. Similarly, the Council has not stated that the provisions of 11 d) are not engaged but have left that matter to me as the Inspector. The Council has sought to attribute weight to some policies of the development plan that require consideration as a primary starting point, which is understandable. The defence of the case is proportionate and does not amount to unreasonableness, particularly as an officer recommendation of approval cannot bind the Council's elected members to a specific decision. In my view, the Council has not behaved unreasonably or failed to substantiate its case.

Conclusion

7. In view of the above, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

H Nicholls

INSPECTOR