

Appeal Decision

Hearing held on 6 and 7 May 2026

Site visit made on 7 May 2026

by **Samuel Watson BA (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 23 June 2026

Appeal Ref: APP/H1840/W/25/3373051

Land North of B4082, Upton Snodsbury (394607, 254133)

- 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 Kingacre Estates Limited against the decision of Wychavon District Council.
- The application Ref is W/24/01103/OUT.
- The development proposed is described as development comprising up to 63 dwellings with open space, green infrastructure and surface water drainage system. All matters of layout, scale, appearance and landscape will be reserved for future determination.

Decision

1. The appeal is allowed and planning permission is granted for development comprising up to 63 dwellings with open space, green infrastructure and surface water drainage system. All matters of layout, scale, appearance and landscape will be reserved for future determination at Land North of B4082, Upton Snodsbury (394607, 254133) in accordance with the terms of the application, Ref W/24/01103/OUT, subject to the conditions in the attached schedule.

Applications for costs

2. An application for costs was made by Kingacre Estates Limited against Wychavon District Council. This application is the subject of a separate decision.

Preliminary Matters

3. During the appeal procedure the Council adopted the South Worcestershire Development Plan Review (March 2026, the PR) which superseded the South Worcestershire Development Plan under which the planning application had been determined. Opportunity was granted to both parties to comment on whether, and if so how, this adoption affected the proposal. I have considered this appeal against the relevant policies of the PR.
4. The proposal before me has been made in outline with only the matter of access being considered at this stage. All other matters, namely appearance, landscaping, layout and scale, have been reserved for a subsequent application. It was confirmed with the appellant that drawing numbers 23.399 03 P9, 23.399 04 P1 and P22-3195_EN_022_D are illustrative.
5. During the hearing a plan (No 12110/2101 P7) was provided showing the most up to date version of the proposed access. It was against this plan that the planning application had been decided and so was accepted. During the discussions on conditions, the main parties agreed that some changes were required to the wording, these were provided following the event.

6. During the hearing, photos were provided by an interested party. Whilst mindful of the guidance on late evidence, I accepted these and neither the Council nor appellant objected to this. A plan showing nighttime light pollution levels was put forward by the Council for consideration during the hearing. I did not accept this document as, following discussions on light characteristics in the area, it was clear that this document would not have materially affected my decision.
7. During the appeal process the main parties were in discussions over a legal agreement. Prior to the hearing a draft unilateral undertaking was provided, and this was followed by a signed version following the event. During the event the parties agreed that this legal agreement satisfied concerns raised in the Council's refusal.
8. During discussions on whether a five-year housing land supply could be demonstrated, the Council sought to submit four planning permissions for residential development. I heard oral statements from both parties as to whether I should accept these permissions as late evidence. Following these, I decided it would be necessary to seek additional written statements, and the hearing was adjourned to allow for this.
9. However, the Council's written statement instead discussed an alternative document rather than the four permissions. I understand this document more broadly responds to the discussions had during the hearing on the five-year housing land supply, rather than containing the four planning permissions referred to above.
10. Although the Council had not reviewed some of the appellant's documents, they were available to the Council prior to the hearing. Moreover, given the Council's housing position prior to the adoption of the PR, any comments on its adoption would, it seems to me, have necessitated commentary on housing land supply as well. Consequently, it has not been suitably demonstrated that this late evidence could not have been provided within the time limits of the procedure.
11. The Council have also not demonstrated that the submission of these late documents would be compliant with the relevant tests, including natural justice, and that they should be accepted. As set out below, I have found the proposal to comply with the development plan. As such, this appeal does not turn upon the Council's housing land supply position or any implications that may have regarding the presumption in favour of sustainable development. In light of this, it would have made no material difference to my determination of this appeal if I had accepted this late evidence.

Main Issues

12. The main issues are the effect of the proposal on character and appearance, with particular regard to the historic environment; and, Upton Snodsbury's settlement pattern and the surrounding landscape.

Reasons

Historic Environment

13. Upton Snodsbury is an historic settlement that contains the Upton Snodsbury Conservation Area (the CA) and a number of designated and non-designated

heritage assets. Those relevant to this appeal are Croft Cottage¹, Church Cottage², the Forge³ and the Church of St Kenelm⁴.

14. The village had originally comprised two villages, Upton and Snodsbury, and the current settlement primarily focuses upon the former. The historic core of Snodsbury has been largely abandoned. The CA primarily covers the historic core of Upton which includes the Church of St Kenelm. The CA is small but covers a large area of the village. Primarily this comprises the nucleated core of the village set amongst former orchards and adjoining open fields, made up of mostly 17th and 19th century buildings. The area has a strongly verdant character with buildings largely seen amongst or through mature vegetation. I consider that, insofar as it is relevant to this appeal, the significance of this conservation area stems in part from the extent to which the historic pattern of development and its functional connection to the agricultural landscape is still legible.
15. St Kenelm, a 13th Century exception to the primarily later development within the conservation area is the CA's most prominent feature and is visible from some distance in the surrounding landscape. I am mindful that churches were an incredibly important part of mediaeval life and that their height and visibility is symbolic of that. I consider that the building's age, its intactness and that the tower is still a prominent feature within a mostly rural landscape, are important contributing factors to the building's significance.
16. Croft Cottage is the closest listed building to the appeal site followed by Church Cottage and the Forge, all three are outside of the conservation area. These all stem from the 17th century and are timber framed buildings that are infilled with, for the Forge and Croft Cottage, brick or, for Church Cottage, plaster. All were dwellings and have retained that use, although I recognise that Croft Cottage was once two dwellings but is now only one. The dwellings present as traditional cottages typical of rural settlements. While they therefore have a physical proximity to the open countryside, there is no definitive evidence to suggest a functional relationship. Nevertheless, I find that the significance of these three buildings is at least in part a result of their being within a rural village that is still strongly connected to an agricultural landscape.
17. From the information before me and my observations on site it was clear that Church Cottage and the Forge are both physically and visually detached from the edge of the village, including the fields and former orchards present there. While the proposal would increase this to some degree, I am content that the relationship between the appeal site and these properties is such that it would not adversely affect their interpretation and appreciation. This is especially so given that they are already read as being within a fairly central position of the village.
18. Croft Cottage is much more closely connected to the appeal field, being separated from it only by a relatively narrow strip of land that I understand to be a former orchard. This land as well as the garden to the front of Croft Cottage contains mature trees and is bounded by hedgerows. Views through Croft Cottage's plot, either from the appeal site to the village or vice versa, are therefore restricted. Given this and that the proposed dwellings are to be set back from the shared

¹ Grade II (List entry number 1273350)

² Grade II (List entry number 1258650)

³ Grade II (List entry number 1258649)

⁴ Grade II* (List entry number 1258793)

boundary with Croft Cottage by an additional strip of landscaping, I find it very unlikely that there would be any adverse effect on the appreciation of this listed building. Moreover, as noted above there is no functional connection between Croft Cottage and the agricultural surroundings. Croft Cottage would be preserved as a dwelling within the village and would continue to contribute to its green and rural character by way of the mature garden and the dwelling itself.

19. To the south and east, the conservation area is similarly detached from the countryside and the appeal site. This is primarily as a result of more recent, post-war, development. The CA is therefore primarily experienced in relation to its connection with the fields and orchards to the north and west. Although the proposal would increase the size of the village and change its shape, the form, age and pattern of development within the CA would still be readily legible irrespective of the proposal before me. Given the site's position, and mindful of the Council's reference to the appeal at Luton Road⁵, there would consequently be no erosion of the CA's connection to the rural landscape.
20. Although within the CA and therefore more distant from the appeal site, the Church of St Kenelm, particularly its tower, is visible from the appeal site and its immediate surroundings. A walking route was agreed between the main parties and provided to me prior to the hearing. While walking this route it was clear that the tower is visible from outside the village in all directions. Particularly, I could see the church while looking across the appeal site from various points in the surrounding area. However, the tower was not visible from a notable portion of the appeal site itself given the development along Pershore Road and the trees bounding the site.
21. From a distance the church is primarily viewed through, or around, vegetation and in the context of buildings within the village. As such the church tower is seen above the trees and buildings characteristic of Upton Snodsbury. Although the proposed development would be visible rising up the slope towards the church tower, dwellings are not an incongruous feature within the church's surroundings. Moreover, the proposed dwellings would not block any of these more distant views.
22. Nevertheless, the proposal will result in the loss of some views of the church from within, as well as from close to, the appeal site. This includes on the approach to Upton Snodsbury along the B4082. It was raised during the hearing that the church tower provides a guide home to the village and I consider that, along with its religious importance, the tower does provide a guiding role. However, blocking views from within and close to the development would not be detrimental to this purpose. Travellers in these locations would already be so close to, or indeed already be within, the village so as to no longer require guiding. Moreover, within the village buildings already block some views of the church and so it would not be harmful where the proposal replicates this. As such, the proposal would not, by way of its location or nature, be detrimental to the appreciation of St Kenelm or its setting.
23. In light of the above the proposal would not result in any harm to nearby listed buildings and the conservation area. The proposal therefore conserves the special architectural and historic interest of these designated heritage assets and complies with PR Policies SWDPR 09, SWDPR 28, SWDPR 33. These collectively, and

⁵ Appeal reference: APP/X1925/W/17/3187286

amongst other matters, require proposals to conserve and, where possible, enhance heritage assets and their quality.

Settlement Pattern and Landscape

24. Whilst originating as a nucleated village, as can still be seen within the CA, Upton Snodsbury has since expanded significantly. This organic and piecemeal growth has resulted in varied elements, including some limited linearity as a result of ribbon development along Pershore Road. When taken as a whole the village is irregular and fairly sprawling, especially with regard to the development along the A422. As a result, outside of the CA the settlement pattern is not particularly distinctive. Around the village is a primarily agricultural landscape of fields and former orchards. Of particular relevance to this appeal are the former orchards to the north and west of the site.
25. The appeal site is, in relation to the wider countryside, relatively small. Therefore, while it contributes to the agricultural character of the surrounding landscape this contribution is modest. Nevertheless, the creation of a new access, roadways, 63 dwellings and any associated engineering works would expand the village eroding the character of this field and its contribution to the wider area. Although this is only the outline stage, with landscaping and layout reserved, it is clear that a sizeable area to the east of the site is shown to be retained for landscaping. I am content that this space would have a realistic prospect, at the reserved matters stage, of providing a soft transition between the village and countryside.
26. Therefore, given the relative size of the site, the modest contribution it makes to the wider area, and the scale of the landscaping, the proposal does not unacceptably affect the character and appearance of the wider rural landscape.
27. Turning to the settlement, I am mindful that there are no outcrops of development of a size comparable to the appeal site on the eastern side of Upton Snodsbury. However, Flax Piece, Croft Road and the dwellings accessed off the A422 extend away from the Pershore Road. Moreover, on the western side of the village Chapel Lane extends development out significantly from Pershore Road and visually connects with a cluster of farm buildings some distance from the main body of the village. Therefore, whilst the proposal forms a significant addition, this projection is not an alien or inappropriate addition to the settlement detrimental to its pattern.
28. I cannot be certain of the proposed pattern of development within the site as this is covered by a matter reserved for later consideration. Nevertheless, and as with the landscaping, it is clear from the plans that there is sufficient space to accommodate development arranged sympathetically to the pattern found within the CA and wider settlement. Therefore, rather than being an incongruous and harmful extension of the village, the proposal would instead provide another organic extension that reflects the spacious and green pattern of development characteristic of the historic nucleated core of Upton Snodsbury.
29. For the above reasons I conclude that the proposal would not adversely affect the pattern of development within the settlement or the character and appearance of the surrounding landscape. It therefore complies with PR Policies SWDPR 03, SWDPR 09, SWDPR 28 and SWDPR 34. These collectively require proposals to provide high quality design that integrates with and reinforces the sense of place and local distinctiveness, with particular regard to landscape.

Other Matters

30. A signed and dated unilateral undertaking (the UU) has been provided as part of the appeal. Across four schedules the UU sets out how the owner of the land shall, as part of the scheme, provide and contribute to affordable housing, sports, healthcare, public open spaces, education and transport. Having regard to the statutory tests in Regulation 122 of the Community Infrastructure Regulations 2010, I am content that these obligations are necessary to make the development acceptable in planning terms, and are directly related, and commensurate in scale and kind, to the development.
31. The proposal would increase the population of Upton Snodsbury. However, I am content that this increase would not be so significant as to unacceptably affect the village. In considering this I have been mindful of concerns regarding water treatment, the provision of electricity, and access to health provisions. Moreover, although there are concerns that the proposal would exceed the number of dwellings, including affordable houses, allocated in the PR and through identified local needs, this is not a harm in itself.
32. While it has been suggested that the proposed open spaces would not benefit the general public, no substantive evidence has been provided to demonstrate this. I am also content that the appeal site is within a walkable distance of the services provided within the village. While there may be some reliance upon private motor vehicles to reach other services beyond the village, there is appropriate access to sustainable transport in the form of bus routes.
33. The proposal includes the provision of a new footpath from the appeal site to the village and the lowering of speeds on the approach to the village. Collectively these would provide a safe route for pedestrians, including more vulnerable users, to reach the existing park and the village as a whole. I am also content that the pavements within the village are sufficient to accommodate pedestrians associated with the proposal. While vehicles parking on the pavement may block the safe passage of pedestrians, requiring them to walk in the carriageway, this would be a breach of the Highway Code. I cannot assume that motorists would not follow the code.
34. Although I recognise concerns over how renewable energy will be secured at the appeal site, I am content that this could be dealt with via a condition. Similarly, while there may be some impact on green infrastructure as a result of the proposal, landscaping is a reserved matter and so any required minimisation, or mitigation, of harm would be considered at that point.
35. No evidence has been provided to demonstrate that the field is of particular importance regarding food security. The field affected is only modestly sized and, in relation to the UK's provision of food, is likely to make a negligible contribution. I am therefore content that the proposal would not unacceptably affect food security.
36. The Planning Practice Guidance makes it clear that private interests such as the alleged impact of a development on the value of a neighbouring property is not a material consideration. Similarly, although there may be some impact on the private views of neighbouring occupiers, private views are not in themselves regarded as a planning matter.

37. The Planning system is a plan led approach. Therefore, whilst there may be some opposition to the proposal from residents in the village, this does not preclude me from finding the scheme acceptable in line with the development plan.
38. My attention has been drawn to two appeals referred to as the Cowsden Appeal⁶ and the Martley Appeal⁷. I have not been provided with the full details and facts of these applications and decisions. Whilst other appeal decisions are capable of being material considerations, all decisions turn on their own particular circumstances based on the facts and evidence before those decision-makers at the time. Therefore, I cannot make any meaningful comparisons to the appeal scheme before me, which I must consider on its own merits.
39. Due to the provisions of Schedule 7 of the 1990 Act and as none of the statutory exemptions apply in this case, the development may not be begun unless a biodiversity gain plan has been submitted to and approved by the local planning authority.

Conditions

40. I have had regard to the conditions suggested by the Council and the advice on planning conditions set out by the Framework and the Planning Practice Guidance. In the interests of clarity and enforceability, I have made some changes to the wording.
41. For certainty, I have set out the reserved matters as well as the timescale for their submission and the commencement of works. A condition is also necessary, for certainty and enforceability, requiring that the development is carried out in accordance with the approved plans.
42. In order to ensure an appropriate level of detail is provided at the reserved matters stage, conditions are required securing statements on sustainability, energy generation and heritage. Management plans are also required, given the scale of the works, to prevent any unacceptable impacts on the environment and habitats. A further management plan, along with restrictions as to the hours between which development work can be carried out is necessary for the safety and well-being of residents and nearby road users.
43. Although scale and layout are reserved matters, I am content that at this stage a condition is necessary in the interests of Upton Snodsbury's appearance and character to define and secure the density of the development and the height of the dwellings.
44. In the interests of protecting the habitats, biodiversity and trees on and around the appeal site, conditions are required seeking additional information and assessments, along with securing the provision of habitats, controlling external lighting and the protection of trees. A condition securing the biodiversity net gain plan in accordance with the Habitat Management and Monitoring Plan is needed for the purposes of protecting the environment and securing gains from the development.
45. Given the potential for archaeology to be present at the appeal site, conditions are required to secure appropriate investigations are carried out and assessed. In the

⁶ Appeal Reference: APP/H1840/W23/3349462

⁷ Appeal Reference: APP/J1860/W25/3365478

interests of preventing surface water flooding and run-off, conditions are required securing appropriate drainage details and measures.

46. Conditions are required in the interests of highway safety to ensure the provision of the proposed access improvements and the new footpath. A travel plan is needed along with a welcome pack, secure cycle parking and electric vehicle chargers to promote access to more sustainable transport options. Similarly, in the interest of sustainability and combating climate change, a condition is required seeking the installation of low-NOx boilers.
47. A condition has been attached in the event that contamination is found at the appeal site. Given the information before me I am content that this condition is necessary and not overly onerous in ensuring the health and safety of future occupiers and environment.
48. Conditions are not required to secure the submission of details of external materials, boundary treatments and a design and access statement. These are all matters directly covered by the reserved matters. Similarly, a landscaping scheme and management plan are not required at this stage as landscaping is a matter reserved for later consideration. I have therefore not imposed these conditions.

Conclusion

49. There are no material considerations that indicate the appeal should be determined other than in accordance with the development plan. For the reasons given above, I therefore conclude that the appeal is allowed.

Samuel Watson

INSPECTOR

SCHEDULE Conditions

- 1) 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.
- 2) 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.
- 3) 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.
- 4) The development hereby permitted shall be carried out in accordance with drawing Nos 23.399 01 Rev P2, 23.399 02 Rev P06, and 12110/2101 Rev P7.
- 5) The proposed scheme shall have a housing density approximate to, and not exceeding, 30 dwellings per hectare, and buildings no greater than 2 storeys in height.
- 6) As part of the Reserved Matters a revised Sustainability Statement shall be submitted to, and approved in writing by, the local planning authority to meet the criteria in the South Worcestershire Development Plan Review. The

development shall be carried out in accordance with the recommendations set out in the approved statement.

- 7) The Reserved Matters submission shall include a revised Energy Statement to demonstrate how the development will incorporate facilities to enable at least 20% of predicted energy requirements to be achieved via renewable or low carbon sources.
- 8) The Reserved Matters submission shall include a Statement of Heritage Significance which evidences how the final scheme will account for, respond to and respect the nearby Listed Buildings and the views of the Church from the surrounding landscape.
- 9) The Reserved Matters Submission shall include details (type and location) of wildlife boxes and hibernacula to be approved, based upon the recommendations made in sections 6.3 and 6.4 of the Ecological Appraisal by Udall-Martin Associates Ltd dated May 2024.
- 10) The relevant conclusions, recommendations and approach contained in the Ecological Assessment (including the additional a Badger Sett check, Bat roosting Survey, Dormouse check and a nesting bird check) shall be agreed in writing with the LPA prior to the commencement of development. The agreed details shall be implemented and thereafter retained as approved.
- 11) No development shall take place (including any ground works, demolition or clearance) until a construction environmental management plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority. The CEMP shall be based on the recommendations made in section 6.2. and 6.5 of the Ecological Appraisal by Udall-Martin Associates Ltd dated May 2024 and updated surveys, as appropriate. The CEMP (Biodiversity) shall include the following:
 - a. Risk assessment of potentially damaging construction activities;
 - b. Identification of "biodiversity protection zones";
 - c. Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements);
 - d. The location and timing of sensitive works to avoid harm to biodiversity features;
 - e. The times during construction when specialist ecologists need to be present;
 - f. Responsible persons and lines of communication;
 - g. The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person;
 - h. Use of protective fences, exclusion barriers and warning signs.

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

- 12) The development shall not commence until a Habitat Management and Monitoring Plan (the HMMP), has been prepared in accordance with the approved Biodiversity Gain Plan and the approved landscape scheme, submitted to and approved in writing by the local planning authority. It shall

be based on the recommendations made in the updated BNG Design Stage Report by Udall-Martin Associates Ltd, dated May 2024, and shall include:

- a. a non-technical summary;
- b. the roles and responsibilities of the people or organisation(s) delivering the HMMP;
- c. the planned habitat creation and enhancement works to create or improve habitat to achieve the biodiversity net gain in accordance with the approved Biodiversity Gain Plan;
- d. the management measures to maintain habitat in accordance with the approved Biodiversity Gain Plan for a period of 30 years from the completion of development; and
- e. the monitoring methodology and frequency in respect of the created or enhanced habitat to be submitted to the local planning authority. Notice in writing shall be given to the Council when the habitat creation and enhancement works as set out in the HMMP have been completed.

The created and enhanced habitat specified in the approved HMMP shall thereafter be managed and maintained in accordance with the approved HMMP.

Monitoring reports shall be submitted to the local planning authority in writing in accordance with the methodology and frequency specified in the approved HMMP.

The plan shall also set out where the results of the monitoring show that conservation aims and objectives of the HMMP are not being met, how contingencies and/or remedial action are identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme.

- 13) The Development hereby approved shall not commence until a Construction Environmental Management Plan has been submitted to and approved in writing by the Local Planning Authority. This shall include, but not be limited to, the following:
- a. Measures to ensure that vehicles leaving the site do not deposit mud or other detritus on the public highway;
 - b. Details of site operative parking areas, material storage areas and the location of site operatives facilities (offices, toilets etc);
 - c. The hours that delivery vehicles will be permitted to arrive and depart, and arrangements for unloading and manoeuvring;
 - d. Details of any temporary construction accesses and their reinstatement; and
 - e. A highway condition survey, timescale for re-inspections, and details of any reinstatement.

The measures set out in the approved Plan shall be carried out and complied with in full during the construction of the development hereby approved. Site operatives' parking, material storage and the positioning of operatives' facilities shall only take place on the site in locations approved by in writing by the local planning authority.

- 14) 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:
 - a. The programme and methodology of site investigation and recording.
 - b. The programme for post investigation assessment.
 - c. Provision to be made for analysis of the site investigation and recording.
 - d. Provision to be made for publication and dissemination of the analysis and records of the site investigation.
 - e. Provision to be made for archive deposition of the analysis and records of the site investigation.
 - f. Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.
- 15) The development shall not be commenced 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 (No 14) and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.
- 16) No works or development shall take place until a construction surface water management plan has been submitted to and approved in writing by the local planning authority. The plan shall include how surface water will be managed during the construction phase, including site clearance, soil stripping and pond amendments. The plan shall include drawings of any temporary drainage systems, a timeline of construction and measures to mitigate the risk of pollution (including silt) of the water environment and offsite flood risk. The plan shall detail how the approved permanent surface water drainage system shall be remediated during the construction phase. The approved construction surface water management plan shall be implemented as soon as works start on site thereafter maintained during the full duration of the construction phase.
- 17) No works in connection with site drainage shall commence until a surface water drainage strategy for the proposed development has been submitted to, and approved in writing by, the local planning authority. The strategy shall include details of surface water drainage measures, including for hardstanding areas, and shall conform with the non-statutory technical standards for SuDS (Defra 2015) and the flood risk assessment (680907-R1(3)-FRA) May 2024. If possible, infiltration techniques are to be used, and the plan shall include the details and results of field percolation tests. The scheme shall provide detailed design drawings for all drainage assets. Exceedance flows shall not be directed to property or private land. Where the scheme includes communal surface water drainage assets proposals for dealing with the future maintenance of these assets shall be included. The scheme shall include proposals for informing future homeowners or occupiers of the arrangements for maintenance of communal surface water drainage assets. The approved surface water drainage scheme shall be implemented prior to the first use of the development and thereafter maintained in accordance with the agreed scheme.

- 18) The development hereby permitted shall not commence until drainage plans for the disposal of foul and surface water flows have been submitted to and approved in writing by the local planning authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.
- 19) A "lighting design strategy for biodiversity" shall be submitted to and approved in writing by the local planning authority prior to the commencement of development. The strategy shall be based on based on Guidance Note 08/23 by the Bat Conservation Trust and ILP, and shall include the following:
 - a. Identification of the areas/features on site that are particularly sensitive for bats and that are likely to cause disturbance in or around their breeding sites and resting places, or along important routes used to access key areas of their territory, for example, for foraging; and
 - b. Show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory or having access to their breeding sites and resting places.

All external lighting shall be installed in accordance with the specifications and locations set out in the strategy, and these shall be maintained thereafter in accordance with the strategy. Under no circumstances shall any other external lighting be installed without prior consent from the local planning authority.
- 20) Before development commences, a lighting assessment undertaken in accordance with Worcestershire County Council's Street Lighting Design Guide shall be submitted to the local planning authority (and Worcestershire County Council Highways). The development shall not be occupied until the submitted assessment has been agreed in writing by the local planning authority, in consultation with Worcestershire County Council Highways, and has been implemented in full.
- 21) The Development hereby approved shall not be occupied until the site access, as shown in the GTA drawing Ref: 12110/2101 Rev P7, dated Feb 2024 and titled 'Proposed Priority Access' has been implemented to the satisfaction of the local planning authority and approved in writing, and open for use by pedestrians / traffic and to accord with policy SWDP04.
- 22) The Development hereby approved shall not be occupied until the improvement works along the B4082 Pershore Road (subject to Section 278 refinement) and Church Lane, as shown in the GTA drawing Ref: 12110/2300 Rev P2, dated Nov 2024 and titled 'Footway Improvement Feasibility Plan' and GTA drawing Ref: 12110/2101 Rev P7, dated Feb 2024 and titled 'Proposed Priority Access' have been implemented to the satisfaction of the local planning authority and approved in writing, and open for use by pedestrians. These include:
 - a. Relocated and enhanced gateway feature on B4082
 - b. Dropped kerbs and tactile paving on Church Lane
 - c. Dropped kerbs and tactile paving on B4082 Pershore Road to the north of Church Lane

- d. Dropped kerbs and tactile paving on Cowsden Lane, to the south of its junction with the B4082 Pershore Road
 - e. Footways to the north and south of the B4082 Pershore Road fronting the site, complete with dropped kerbs and tactile paving. This footway will connect up to the Upton Snodsbury children's park.
 - f. An improved and relocated pedestrian ramp connection from the B4082 Pershore Road to College Road.
- 23) The Development hereby approved shall not be occupied until the improvement works along public footpath 534, as shown in the GTA drawing Ref: 12110/2301 Rev P1, dated Jan 2025 and titled 'Footway Improvement Feasibility' has been implemented to the satisfaction of the local planning authority and approved in writing, and open for use by pedestrians. These include; (a) the provision of a flat bound surface and, (b) vegetation clearance.
- 24) The Development hereby approved shall not be occupied until the Applicant has submitted a Travel Plan in accordance with the County Council guidelines in writing to the local planning authority that promotes sustainable forms of access to the development site and has been approved in writing by the local planning authority. This plan will thereafter be implemented, monitored for a minimum of 5 years and shall be updated in agreement with Worcestershire County Council's Travel Plan Officer and thereafter implemented as updated.
- 25) The Development hereby approved shall not be occupied until the Applicant has submitted to and had approval in writing from the local planning authority a residential Travel Welcome Pack promoting sustainable forms of access to the development. The pack shall be provided to each resident at the point of occupation.
- 26) Secure cycle parking facilities must be provided at the development as determined by Worcestershire County Council Design Guidance. Full details of the location, type of rack, spacing, numbers, method of installation and access to cycle parking shall be submitted to and approved by the local planning authority prior to the first occupation of the development.
- 27) The development hereby permitted shall not be first occupied until the proposed dwellings have been fitted with an electric vehicle charging point. The charging points shall comply with BS EN 62196 Mode 3 or 4 charging and BS EN 61851 and the Worcestershire County Council Streetscape Design Guide. For developments with unallocated parking i.e. flats or apartments 1 EV charging point per 10 spaces (as a minimum) shall be provided by the developer to be operational at commencement of development. 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.
- 28) Prior to the first occupation of the development, details for the installation of Ultra-Low NOx boilers with maximum NOx Emissions less than 40 mg/kWh shall be submitted to and approved in writing by the local planning authority. The details as approved shall be implemented prior to the first occupation of the development.

- 29) In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported immediately to the local planning authority. The applicant is advised to immediately seek the advice of an independent geo-environmental consultant experienced in contaminated land risk assessment, including intrusive investigations and remediation.

No further works shall be undertaken in the areas of suspected contamination, other than that work required to be carried out as part of an approved remediation scheme, unless otherwise agreed by the local planning authority, until requirements 1 to 4 below have been complied with:

- a. Detailed site investigation and risk assessment must be undertaken by competent persons in accordance with the Environment Agency's 'Land Contamination: Risk Management' guidance and a written report of the findings produced. The risk assessment must be designed to assess the nature and extent of suspected contamination and approved by the local planning authority prior to any further development taking place.
 - b. Where identified as necessary, a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to identified receptors must be prepared and is subject to the approval of the local planning authority in advance of undertaking. The remediation scheme must ensure that the site will not qualify as Contaminated Land under Part 2A Environmental Protection Act 1990 in relation to the intended use of the land after remediation.
 - c. The approved remediation scheme must be carried out in accordance with its terms prior to the re-commencement of any site works in the areas of suspected contamination, other than that work required to carry out remediation, unless otherwise agreed in writing by the local planning authority.
 - d. Following completion of measures identified in the approved remediation scheme a verification report that demonstrates the effectiveness of the remediation carried out must be produced and is subject to the approval of the local planning authority prior to the occupation of any buildings on site.
- 30) Demolition, clearance or construction work and deliveries to and from the site in connection with the development hereby approved shall only take place between the hours of 08.00 and 18.00 hrs Monday to Friday and 08.00 and 13.00 hrs on a Saturday. There shall be no demolition, clearance or construction work or deliveries to and from the site on Sundays or Bank Holidays.
- 31) The approved Biodiversity Net Gain Plan shall be implemented in accordance with the details and timescale agreed within the Plan and maintained thereafter in accordance with the approved Habitat Management and Monitoring Plan (HMMP).
- 32) The development hereby permitted shall be carried out in accordance with the approved Arboricultural Implications Assessment CBA11737 v1A (May 2024).

Unless indicated on the approved Arboricultural Implications Assessment to be removed, all existing trees and hedges on the application site, or

branches from trees on adjacent land that overhang the application site, shall be retained and shall not be felled or pruned or otherwise removed.

If any retained tree/hedge is removed, uprooted or destroyed or dies, replacement planting shall be carried out in the first available planting season, in accordance with details to be approved in writing by the local planning authority.

- 33) 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 shall be erected in accordance with BS 5837:2012 (Trees in Relation to Design, Demolition and Construction) before development of any type commences, including site clearance, demolition, materials delivery, vehicular movement and erection of site huts.

Any alternative fencing type or position not strictly in accordance with BS 5837 (2012) 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 or unless otherwise agreed in writing with the local planning authority. Nothing shall be stored or placed (including soil), nor shall any ground levels be altered, within the fenced area without the previous written consent of the local planning authority. There shall be no burning of any material within 10 metres of the extent of the canopy of any retained tree/hedge.

APPENDIX 1 Appearances

For the Appellant

Lord Charles Banner	Kings Counsel (Keating Chambers)
Hywel James MRTPI	Director (Nexus Planning)
Clare Brockhurst FLI, BSc (Hons), Dip LA	Director (Leyton Place Ltd)
Dr Chris Miele IHBC MRTPI	Senior and Owning Partner (Montagu Evans LLP)
Fiona Bruce MA	Principal Analyst (Nexus Analytics and Research)

For the Local Planning Authority

Julie Morgan	Principal Planning Officer
Matt Tyas	Principal Planning Officer
John-Paul Friend	Policy
Karl Hanson	Heritage Consultant (East Anglian Heritage)

Isabel Roberts

Head of Planning Policy (Wychavon and
Malvern Hills District Councils)

Interested Parties

Cllr Linda Robinson

Ward Member for Upton Snodsbury

Natasha Dent

Village resident

Alastair Finley

Village resident

Judith Tarver

Landowner

APPENDIX 2 Documents provided at/following the hearing

By the Appellant

Proposed Priority Access Plan (No 12110/2101 P7)

Unilateral Undertaking

By the Local Planning Authority

Updated List of Conditions

Appeal and Hearing Notifications

By Interested Parties

Four Photographs

Costs Decision

Hearing held on 6 and 7 May 2026

Site visit made on 7 May 2026

by Samuel Watson BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 June 2026

Costs application in relation to Appeal Ref: APP/H1840/W/25/3373051 Land North of B4082, Upton Snodsbury (394607, 254133)

- 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 Kingacre Estates Limited for a partial award of costs against Wychavon District Council.
 - The appeal was against the refusal of planning permission for up to 63 dwellings with open space, green infrastructure and surface water drainage system. All matters of layout, scale, appearance and landscape will be reserved for future determination.
-

Decision

1. The application for an award of costs is allowed in the terms set out below.

The submissions

2. The costs application was submitted in writing by Kingacre Estates Limited. Wychavon District Council's response was also made in writing.

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 applicant submits that the Council, by submitting evidence outside of the agreed timeline has acted unreasonably and that this has led to wasted expense for the applicant in their consideration of the request and evidence.
5. During the associated appeal the Council adopted the South Worcestershire Development Plan Review (the SWDPR). In response to this the main parties were given the opportunity to comment on whether the adoption affected their case and, if so, how. The main parties were then also asked to provide an amended statement of common ground. I am content that prior to the hearing both parties had access to all submissions stemming from this. I also find that the Council had sufficient time to consider the applicant's submissions for the purposes of agreeing the statement of common ground and for the hearing itself. No concerns were raised by the Council at this point.
6. However, during the hearing it became clear that the Council were not fully abreast of the applicant's response to the adoption of the SWDPR, particularly regarding the appendices. During the hearing, the Council also requested to submit four

planning permissions in support of their housing supply position. When asked to justify this submission in writing, the Council instead provided a significantly larger set of evidence and associated justification for its submission.

7. As a result of the Council's requests to make these submissions the applicant was twice required to consider the late evidence and then respond with whether they considered it should be accepted. I recognise that the question as to whether a five-year housing land supply could be demonstrated was a central point of disagreement between the parties. I also appreciate the Council desired to provide me with the most up-to-date information available to them. However, opportunities were given for the Council to submit this information in response to the SWDPR and to further discuss this through the statement of common ground. The Council have not sufficiently justified why this information could not have been provided within the agreed timeline.
8. As a result of the above, the applicant would have not only had to consider the submissions made in response to the adoption of the SWDPR and discuss the statement of common ground, which was to be expected and was necessary, but also then consider and respond to the request to submit two different sets of late evidence. I find this would have created additional work above and beyond that which would have occurred had the Council submitted its evidence within the agreed timelines. This would have been compounded by the Council's change in tack in the late stages of the hearing. The Council have submitted that, in all other respects, they followed the procedure and timelines of the appeal process. While this may be so, it does not preclude me from finding unreasonable behaviour resulting in unnecessary or wasted expense.
9. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred in respect of the professional fees associated with the work in consideration of, and response to, the Council's late submission of substantial documents and a partial award of costs is therefore warranted.

Costs Order

10. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Wychavon District Council shall pay to Kingacre Estates Limited, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in relation to the consideration of, and response to, the noted late submissions; such costs to be assessed in the Senior Courts Costs Office if not agreed.

The applicant is now invited to submit to Wychavon District Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Samuel Watson

INSPECTOR