

Appeal Decision

Inquiry held on 15 – 18 November 2022

Site visit made on 17 November 2022

by Andrew McGlone BSc MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 January 2023

Appeal Ref: APP/P0119/W/22/3303905

Land south of Badminton Road, Old Sodbury, South Gloucestershire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Redcliffe Homes against the decision of South Gloucestershire Council.
 - The application Ref P21/03344/F, dated 13 May 2021, was refused by notice dated 28 January 2022.
 - The development proposed is the erection of 35 dwellings and provision of associated infrastructure.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 35 dwellings and provision of associated infrastructure at land south of Badminton Road, Old Sodbury, South Gloucestershire in accordance with the terms of the application, Ref P21/03344/F, dated 13 May 2021, subject to the conditions in the attached schedule.

Procedural Matters

2. The address that I have used above is from the appeal form as it better reflects the site's relationship with Old Sodbury.
3. A signed and complete s106 planning agreement (s106 agreement) was submitted by the appellant shortly after the Inquiry closed. This includes contributions towards affordable housing, traffic calming / speed reduction, public open space, education, and the library service. The main parties agree that the s106 agreement addresses reasons for refusal 3, 4, 5, 6 and 7 found on the decision notice. I will consider the s106 agreement later in my decision.

Main Issues

4. In light of evidence given at the Inquiry, the main issues are: a) whether the proposed development would accord with local planning policies in respect of the location of the site; b) whether occupants of the proposed development would have reasonable access to facilities and services; and c) whether the proposal would make adequate provision for affordable housing, traffic calming/speed reduction, public open space, education, and the library service.

Reasons

Location of the site

5. The appeal site lies outside of the settlement boundary for Old Sodbury and is therefore, within the open countryside. The appellant accepts that the proposal is not one of the exceptions listed in Policy PSP40 of the Policies, Sites and

Places Plan (PSPP) which is concerned with development proposals for residential development in the open countryside. In turn, due to the Strategy for Development set out in Policies CS5 and CS34 of the South Gloucestershire Local Plan: Core Strategy 2006 – 2027 (Core Strategy), the proposal also conflicts with parts of these policies, especially as Core Strategy Policy CS5 confirms that in the open countryside, new development will be strictly limited.

6. That said, the conflict with Core Strategy Policy CS34 is partial given that the appeal scheme accords with the other relevant parts of this policy and its approach for development in rural areas in terms of character and appearance, landscape, agricultural land, biodiversity, protection of the Green Belt, home working, public open space and drainage.
7. There is also a resultant conflict with Core Strategy Policy CS15 which outlines how housing will be distributed in accordance with the location of development set out in Core Strategy Policy CS5. Both policies seek to principally direct new housing to the north and east fringes of the Bristol urban area, to a new neighbourhood in Yate, in Thornbury and to potential infill sites, with a smaller allowance for small windfall sites. This is for various reasons, such as to make the best use of existing and new infrastructure, to protect environmental assets and make effective use of developed land and buildings. The overriding point is to achieve sustainable communities which on a high-level comply with paragraph 7 of National Planning Policy Framework (the Framework).
8. However, taking a step back, the Core Strategy was submitted before the 2012 version of the National Planning Policy Framework was published including its duty to cooperate. As the Core Strategy's housing requirement did not take account of the wider Bristol housing market area, the Examining Inspector set out the need for a review of the Core Strategy, and for the review and new plan to be in place by 2018. No review has taken place, and two attempts at sub-regional planning have not progressed. The Council is now preparing the South Gloucestershire Local Plan (emerging plan) which will consider the wider housing market area under the premises of the Framework's duty to cooperate. Whether agreement will be reached is a matter for the local plan process, but the emerging plan will update and replace the Core Strategy and PSPP.
9. The emerging plan will detail spatial objectives, the locational strategy, and planning policies, including allocations for new homes, employment sites and other land uses, together with the associated key social and physical infrastructure needed to support sustainable communities in South Gloucestershire. It is in its early stages, and the evidence base is being prepared with the adoption of strategic policies to be in 2025 at the earliest. As such, the Council does not currently have a plan-led approach to housing development that accounts for the wider housing market area.
10. Noting this context, Core Strategy Policy CS5 (b) says that defined settlement boundaries will be maintained around rural settlements and reviewed in the Policies, Sites and Places DPD or a replacement Core Strategy/Local Plan or Neighbourhood Plan. It continues to explain that a review of the approach to the distribution of housing in the rural areas will be undertaken which will include engagement with the local community and other stakeholders/parties.
11. The settlement boundary for Old Sodbury is tightly drawn, but all the settlement boundaries in South Gloucestershire are now some 30 years old, and they have not been reviewed as intended by Core Strategy Policy CS5 (b) to deliver the up-to-date requirement for housing in rural areas. Given the

timescale and approach being taken in the emerging plan there will be no allocations or boundary reviews to plan for future growth in rural areas in the short or medium term.

12. The Council's witness accepted in cross-examination that the failure to review the settlement boundaries indicates that they are out-of-date and in conflict with Framework paragraphs 33, 61 and 79. In terms of paragraphs 33 and 61, the Core Strategy has not been reviewed and it is not based on the wider housing market area. The Council has been and continues to be committed to taking its share of Bristol's unmet need as the evidence indicates that Bristol alone will not be able to. Furthermore, having regard to Framework paragraph 79, the Council's direction of travel clearly considers rural growth to be an important aspect of the expected forward strategy for the future local plan.
13. Regardless, the Council has granted various planning permissions for housing development outside of the settlement boundaries in rural areas. Not every case was determined when the Council could demonstrate a five-year supply of deliverable housing sites, yet these permissions have helped boost the supply of housing and the Council relies upon them as part of its case in terms of demonstrating a five-year supply of housing sites. Without them, even on the Council's own case, a shortfall below five years would exist despite those permissions forming part of the latest Housing Delivery Test (HDT) result.
14. The Council's housing land supply case is, however, based on the standard method. It is correct to apply the standard method given the lack of any review of the Core Strategy based on Framework paragraph 74, but in doing so it does not consider Bristol's housing delivery and needs. Thus, it creates a somewhat artificial position until the emerging plan is examined and adopted.
15. Collectively, these matters lead me to consider that the settlement boundaries are not capable of delivering the requisite growth according to the Core Strategy's housing requirements. In short, they are not capable of meeting development needs and must therefore be considered out-of-date. The Council accepts this position; it was also accepted in the Council's closing submissions at an ongoing appeal at Thornbury¹. It would also be highly likely that the current settlement boundaries, which will not be reviewed in the short or medium term, will not be able to accommodate the accepted share of Bristol's housing need, whatever that may be, as any future plan-led housing requirement would more than likely be upwards of either the Core Strategy or the current single authority standard method figure being used by the Council.
16. Given that Core Strategy Policies CS5, CS15 and CS34 and PSPP Policy PSP40 rely on the settlement boundaries, they are deemed to be out-of-date and carry limited weight. Nonetheless, I conclude, in respect of this issue, that the proposed development would not accord with local planning policies in respect of the location of the site, and the material harm arising from that conflict would be minor. These policies jointly seek, among other things, to deliver residential development in accordance with the Strategy for Development, unless for specific exceptions.

Access to facilities and services

17. PSPP Policy PSP11 is the Council's measure by which development proposal's sustainability credentials are assessed. It is the local expression of documents, such as the Framework, Manual for Streets and the Chartered Institution of

¹ Inquiry Document 12

Highways and Transportation guidance. Framework paragraph 105 says that sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making.

18. Part 3i of the policy seeks residential development proposals to be located on safe, useable walking and, or cycling routes, that are an appropriate distance to key services and facilities. A table found within the supporting text to the policy outlines the starting point for assessing whether key services and facilities are an appropriate distance away. However, these do need to be applied flexibly based on the situation on the ground.
19. The appeal site is within the appropriate distance for six out of the eleven key facilities and services listed when the Hatters Lane employment facility and the village hall in Old Sodbury are taken into account. The latter may not be a dedicated community centre according to the Council, but the village hall does offer a community-based function.
20. There is footpath provision on Badminton Road on one or both sides between the site and Old Sodbury or Chipping Sodbury. The paths vary in width, but they are at least a metre wide. Except for a section between the site and Chipping Sodbury, the paths are lit, but at times the lighting is only on the other side of the road. The gradient is suitable for journeys on foot, but parts of the paths are affected by tree roots, sunken sections and trip hazards; maintenance issues that the Highway Authority are responsible for. Journeys to and from Chipping Sodbury would become less appealing during the hours of darkness or inclement weather, when the distance is also factored in. Also, persons who are mobility impaired may find the route unattractive due to the width of the footway and/or lack of lighting, which would mean that they would be close to passing traffic. Nonetheless, in the round, the walking route along Badminton Road to Chipping Sodbury and Old Sodbury is safe and usable.
21. People are generally able to and are more prepared to cycle further than they walk. Badminton Road is relatively straight and affords good forward visibility. Vehicle speeds are also not excessive. The appellant points to recorded trips on Strava which users use to record their physical exercise. Data from Strava indicates a high and consistent level of cycling use on Badminton Road, even though Strava will not record every cycle trip as it is typically used by the fittest and keenest cyclists. Despite the implication of this evidence that there is a significant use of the road by cyclists, there has only been a single recorded cyclist collision on the road. Overall, therefore, I consider that the route along Badminton Road is safe and usable for cyclists, and I note an alternate, quieter route using Commonmead Lane exists should people wish to reach Chipping Sodbury by avoiding Badminton Road.
22. Although some key services and facilities are still not accessible by walking and cycling, bus stops on Badminton Road are a short, safe and accessible walk from the appeal site. Services operating from these bus stops go to and from Chipping Sodbury, Yate, Malmesbury and Bath.
23. The supporting text to PSPP Policy PSP11 in paragraph 5.24 outlines what is meant by 'appropriate public transport service(s)' as a minimum. Based on current evidence, journey times on services near to the appeal site to Chipping Sodbury and Yate are 10 minutes or under. The 620 service between Old Sodbury and Bath passes through Yate and Chipping Sodbury. The frequency of this service means that the scheme accords with the minimum expectation for

weekday services, but the four daily services to Malmesbury add to that provision. The number of services on Saturdays also exceeds the minimum of three services required at weekends. Furthermore, there are services arriving at their destination before 09:00 and leaving after 17:00. As such, the proposal accords with part 3ii of PSPP Policy PSP11 and given the site's location, future occupants would have a choice of being able to use a bus service to access key facilities and services.

24. I note the Council's concerns relating to the future of the bus routes in light of an ongoing review, but there is no indication of what, if any, services might be affected. In any event, my assessment is based on current circumstances.
25. The proposed houses have been designed with home working in mind and fibreoptic broadband would be available. Many people worked from home due to the pandemic, and this has continued for some, but not for all. Home working can reduce individual car journeys or shift them to other times of the day when the roads can be less congested, but there can be no guarantees that this will happen. Electric vehicle charging points are also likely to encourage future occupants to shift to ultra-low and zero emission vehicles, but there is no certainty that they will. Yet, regardless of the type of private vehicle, journeys to and from Chipping Sodbury to access key services and facilities would be short, and this is better than longer journeys to access the same sort of facilities and services. Journeys to a superstore or supermarket are highly likely to be by car, due to the volume and weight of products involved, regardless of whether the site lies within or outside of the appropriate walking and cycling distance.
26. In summary, whilst there are some practical limitations with the Badminton Road footpaths, future occupants would be able to reach the majority of key services and facilities on foot or bicycle. For those who cannot, there are bus services available to them in excess of the minimum requirement for an appropriate public transport service and car journeys would be short. As such, I conclude, on this issue, that future occupants of the proposed development would have reasonable access to facilities and services. The proposal, therefore, accords with Core Strategy Policy CS1 and PSPP Policy PSP11. Among other things, these policies seek development proposals that are located an appropriate distance to key services and facilities on safe, useable walking and, or cycling routes or public transport.

Planning contributions

Affordable housing

27. Core Strategy Policy CS18 sets out that the proposal should provide 35% on-site affordable housing to meet an agreed identified need in this area of the district and to ensure that these homes are genuinely affordable to those who need it, now and in the future. Of the 35 units proposed, 12 no. would be affordable homes with 9 no. of these dwellings for social rent, and 3 no. dwellings for shared ownership. The proposal would help contribute to a mix of dwellings to meet an identified affordable housing need. The affordable housing contribution would satisfy the tests in CIL Regulation 122, and Framework paragraph 57 and comply with Core Strategy Policies CS6 and CS18.

Education and library service

28. The education and library service contributions would mitigate the effects of the proposed development and the additional demand that future occupants

would place on both. The library service monies would be put towards additional furniture, stock, and IT resources to enhance the existing facility so that it continues to provide a gateway to knowledge and culture for all. The education contribution would mitigate additional demand across nursery, primary and secondary schools by providing new and additional places in each school or nursery as the existing places are not expected to meet the demand arising from the development. Due to the site's location, the location of school or nursery and the demand arising from other residential development, different, but specific geographic limitations would apply to the early years, primary and secondary contributions. The education and library service contributions would accord with Core Strategy Policies CS6 and CS23.

Open space

29. A combination of informal recreational open space, natural and semi-natural open space, outdoor sports facilities, provision for children and young people and allotments are necessary based on Core Strategy Policy CS24. This is because existing provision is inadequate in terms of providing for the quantity, quality and accessibility to meet the projected needs arising from the future occupiers of new development. The informal recreation open space, and part of the natural and semi-natural open space requirement would be delivered on site. A contribution would be made for the remaining part of this type of open space and its future maintenance at Old Sodbury Community Woodland and Orchard and/or Frome Valley river. Contributions would also be made to enhance outdoor sports facilities at Old Sodbury Playing Fields and provision for children and young people at Old Sodbury Playing Fields play area and the allotments at Old Sodbury Community Woodland and Orchard. These would all accord with Core Strategy Policies CS6 and CS24.
30. The ancillary open space is designed to secure tree protection measures and suitable planting on the site perimeter, helping screen the site and secure adequate drainage for the development in accordance with Core Strategy Policies CS1, CS2 and CS9 and PSPP Policies PSP2 and PSP20. These policies seek to ensure existing and new green infrastructure is planned, delivered and managed as an integral part of the development, as well as the creation of high quality multi-functional spaces, including blue infrastructure that reduces and manages the impact of flood risk.

Highways

31. The s106 agreement would provide for a new controlled pedestrian crossing of the Badminton Road near to the village centre, a pedestrian crossing with a central island on the road immediately to the west of the proposed access, and a new gateway feature on the road to mark the entry into Old Sodbury with the aim of calming traffic speeds. All three measures are necessary, directly related to the development and of scale and kind relative to it to ensure the safety of all road users in accordance with Core Strategy Policy CS8 and Policy PSP11.

Conclusion on this main issue

32. The contributions that would be secured through the s106 agreement would meet the statutory tests in Regulation 122 of the CIL Regulations. As such, they are material considerations in this appeal.

Other matters

Heritage

33. Although not a refusal for refusal, I nonetheless have a statutory duty to

consider the effect on heritage assets. Spring Grove House is a Grade II listed building dating from the late 18th century. The dwelling is set back and on the northern side of Badminton Road. Its significance relates to its architectural character and detailing, which comprise rendered and painted brick with stone quoins under a tile valley roof over two storeys. Sash windows at ground and first floors are pleasing parts of the extended dwelling, which remains modest and well-screened by planting. A later extension to the building has now seen the formation of a separate dwelling, Spring Grove Cottage.

34. Hartley House is a painted brick former toll house built in the mid-19th Century. Although the Grade II listed building's setting has changed, the relationship remains so the original purpose of the building, built in order to levy tolls from users of the road, can be understood. The building's significance is historic and architectural, whilst its setting is limited to the area next to the road.
35. A non-designated heritage asset known as the Old Post Office, now in residential use is to the east of the site. The building reflects the prevailing traditional vernacular with rubble limestone elevations embellished in this instance with dressed stone quoins and stepped triangular stone that decorate the verges to the gable. The roof is slate with raised coped verges. The projecting gable roofed front wing retains the proportions of the ground floor openings which allow its functional commercial use to be understood. The post box remains in active use. The building makes a positive contribution to the character and identity of the area.
36. I agree with the main parties' assessment that the proposal would urbanise the area around the listed buildings. This would harm their settings and cause less than substantial harm to the listed buildings, with the harm towards the lower end of the spectrum. On this basis, the proposal would not conserve nor enhance the significance of the designated heritage assets which would be contrary to Core Strategy Policy CS9, PSPP Policy PSP17 and section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.
37. Whilst the same effect would be caused in respect of the Old Post Office, the position of the building, its setting and the proposal mean that the scale of the harm and its effect on the heritage asset's significance would be limited. Even so, conflict with Core Strategy Policy CS9 and PSPP Policy PSP17 would occur.

Planning Balance

The Development Plan

38. I have found minor harm in respect of the proposal's conflict with Core Strategy Policies CS5, CS15 and CS34 and PSPP Policy PSP40. There would also be conflict with Core Strategy Policy CS9 and PSPP Policy PSP17 in respect of the listed buildings and the non-designated heritage asset. The heritage related policies carry full weight as they are broadly consistent with the Framework.
39. The proposal would not conflict with Core Strategy Policy CS1 and PSPP Policy PSP11 whilst the s106 agreement secures contributions collectively required by Core Strategy Policies CS1, CS2, CS6, CS8, CS9, CS18, CS23 and CS24 and PSPP Policies PSP2, PSP11 and PSP20. These contributions would chiefly mitigate the effect of the development, so they do not weigh in favour or against the proposal. However, the highways measures would provide the local community with safety and accessibility benefits due to reduced traffic speeds and two new safe pedestrian crossing points.

40. Considering these issues in the round, I find that the appeal scheme would be contrary to the development plan when taken as a whole. This is the starting point for decision-making, but I will now consider whether there are material considerations that would indicate that my decision should be made otherwise than in accordance with the development plan.

The benefits of the appeal scheme

41. The proposal would help boost the Council's supply of deliverable housing sites through a mix of market and affordable units. Of these, 35% would be affordable. They would help address a serious and significant shortfall in South Gloucestershire, even if the Council's anticipated future delivery of affordable homes transpires in the next five years, due to the backlog that has built up over many years before now. Most of the 12 affordable units would be social rented which is the best type of provision for those in greatest need.
42. In terms of the weight that these matters carry, I am mindful of the dispute around on the Council's ability to demonstrate a five-year supply of deliverable housing sites. The appellant says that there is a 4.64 year supply of such sites. The Council says that there is a 5.64 year supply². However, regardless of which figure is taken, I consider the affordable housing carries significant positive weight despite its modest number due to the serious and significant shortfall that has not been addressed in previous plan period years. The weight to be given to the provision of market housing varies depending on which of the party's figure is preferred. So, in this case, the proposal would have significant or moderate positive weight due to its scale, the need to significantly boost the supply of housing and accepting that the required five-year supply represents a minimum and not a maximum number.
43. Moderate benefits would stem from jobs and spending associated with the construction of the dwellings, and from future occupants spending in the local economy. Some limited weight can be given to safety and accessibility benefits that would arise to the local community from reduced traffic speeds and two new pedestrian crossing points. There would be a modest benefit from the change in surface to the public right of way through the site which would aid its use all year round. The other contributions do not weigh in favour of the scheme as they mitigate the scheme's effect. Also, the use of lower quality agricultural land carries neutral weight given Core Strategy Policy CS34 (2). The weight that I have afforded these matters would remain regardless of the housing land supply position.

Heritage balance

44. I have found the harm to the significance of Spring Grove House and Hartley House would be less than substantial, with the harm at the lowest end of that spectrum. I give great weight and importance to the buildings' conservation as they are irreplaceable resources, but the public benefits set out above, on either of the party's housing land supply positions, would together outweigh the harm that would be caused to it.
45. A limited degree of harm would be caused to the Old Post Office. This is a low degree of harm. When the scale of this harm is considered against the benefits set out above, again on either housing land supply position, I consider that the balance is firmly in favour of the proposal.

² Inquiry Document 13b

Conclusion on the Planning Balance

46. I agree with the main parties that the most important policies for determining this appeal, namely Core Strategy Policies CS5 and CS34, and PSPP Policies PSP40, and PSP11, are deemed out-of-date for the reasons set out in my first main issue, though I have found the proposal to accord with PSPP Policy PSP11. There is also no conflict insofar as the various policies relating to the obligations found in the s106 agreement.
47. Given this and as a consequence of my heritage balance conclusion, it is common ground that the tilted balance as set out in Framework paragraph 11d)ii) is to be applied. The tilted balance can be engaged for reasons other than a lack of a five-year housing supply or a failure to meet the HDT requirements, so the housing land supply dispute does not change this, and I have set out the weight that the scheme's benefits carry in either scenario. I have also set out the other social, economic, and environmental benefits that weigh in favour of the appeal scheme.
48. The proposal would result in benefits, but also cause harm. However, the minor harm arising from the site's location means that the adverse impacts of granting planning permission would not significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. Consequently, the material considerations in this case indicate that this decision should be made otherwise than in accordance with the development plan. Accordingly, I conclude that the appeal should be allowed subject to the conditions set out below.

Conditions

49. In imposing planning conditions, I am mindful of the six tests for doing so set out in Framework paragraph 55. I have imposed a plans condition in the interests of certainty. In the interest of archaeology, a condition is needed for archaeological investigation and recording. To ensure that the construction of the development does not bring about adverse impacts in terms of ecology, highway safety and the amenities of the area, a construction environmental management plan is necessary. Conditions to secure a landscape and ecological management plan, a reptile mitigation strategy and a site check before works starts are necessary in the interests of biodiversity.
50. So that the development contributes to mitigating and adapting to climate change and to meeting targets to reduce carbon dioxide emissions a condition to secure a revised energy statement is necessary. To ensure the reduction in residual emissions anticipated are delivered, condition is necessary to show the reduction in energy demand and CO₂ emissions for the development, due to the specification of energy efficiency and renewable energy generation measures. In the interests of flood prevention, pollution control and environmental protection, a condition is necessary to secure surface water and foul sewage drainage details. It is necessary to impose a condition so that the protective fencing measures are carried out in the interests of the health and visual amenity of trees. Conditions are necessary to secure hard and soft landscaping in the interests of the character and appearance of the area.
51. So that the development can support the transition to electric vehicles, a condition is necessary for electric vehicle charge points. In the interests of the character and appearance of the area, a condition about materials is necessary. To encourage means of transportation other than the private car, a travel plan

condition is necessary. To ensure that there are dark corridors for bats, a condition to secure details of external lighting suitable for biodiversity, for the boundary features and any native planting is necessary. So that mitigation measures and reasonable avoidance measures are carried out, a condition is necessary in the interests of wildlife and the ecology of the site. To secure satisfactory living conditions for future occupants, a condition is necessary in respect of noise attenuation measures.

52. The appellant has provided their written agreement to the pre-commencement planning conditions which are necessary due to: the need to carry out investigative work; to put in place management measures in the interest of biodiversity; to check the site for biodiversity before commencing works; and to enable energy, sustainable drainage and landscaping measures to be fully incorporated into the build out of the proposed development.

Conclusion

53. Given my findings above, I consider that the appeal should be allowed.

Andrew McGlone

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Thea Osmund-Smith	Of Counsel, instructed by Matthew Kendrick, Director of Grass Roots Planning
She called	
Matthew Kendrick BA (Hons), MSc, MRTPI	Director (Planning), Grass Roots Planning
David Tingay BEng (Hons) MCHIT	Director, Key Transport Consultants Limited
Coral Curtis MPlan, MRTPI	Associate, Grass Roots Planning

FOR THE LOCAL PLANNING AUTHORITY:

George Mackenzie	Of Counsel, instructed by legal services, South Gloucestershire Council
He called	
David Stockdale BA BA(Hons) MRTPI	Principal Planning Officer, South Gloucestershire Council
Myles Kidd	Transport Development Control, South Gloucestershire Council

Council Officers who participated in the housing land supply roundtable session:

Eileen Paterson BA (Hons), PG Dip Law, PG Dip Legal Practice, MRTPI	Strategic Major Sites Manager
Jonathan Ryan MA, MRTPI	Principal Planner
Daniel Jones BA (Hons), PG Dip Urban and Regional Planning, PG Urban Design, MRPTI	Principal Planner, Urban Design
Laura Blakemore BA (Hons)	Planning Officer
Kerry Cox HNC Housing Studies, HNC Architecture and Building Studies	Enabling Programme Manager

INQUIRY DOCUMENTS

- 1 Mr Tingay and Miss Curtis Proof of Evidence hyperlink evidence
- 2 Palmer and Herefordshire Council [2016] EWCA Civ 1061
- 3 Gladman Developments Ltd v Daventry DC [2016] EWCA Civ 1146
- 4 Bloor Homes v SSCLG [2017] PTSR 1283
- 5 Paul Newman Homes Ltd v SSHCLG & Aylesbury Vale District Council [2021] EWCA Civ 15.
- 6 Gladman Developments Ltd v SSHCLG [2019] EWHC 127 (Admin)
- 7 Wavendon Properties Ltd v SSHCLG and Milton Keynes Council [2019] EWHC 1524 (Admin)
- 8 Peel Investment Ltd v SSHCLG [2019] EWHC 2143 (Admin)
- 9 Appellant Opening Statement
- 10 Council Opening Statement
- 11 Updated table 2.2 – Bus Services – Appeal Site, Mr Tingay’s Proof
- 12 Council Closing Statement - Land to the west of Park Farm, Butt Lane, Thornbury
- 13 Updated housing land supply positions parts a) and b)
- 14 Excel spreadsheet on HGV usage
- 15 Appellant Closing Statement

CORE DOCUMENTS

Listed in Core Document List Final Version, submitted 18 October 2022

SCHEDULE OF CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby approved shall be carried out in accordance with the following plans: 13351_1000 Rev A Red Line Boundary Plan; 13351_6000 Rev C Axminster-2B.4P.843; 13351_6001.1 Rev B Sherston-3B.5P.1034_V1; 13351_6001.2 Rev A Sherston-3B.5P.1034_V2; 13351_6002 Rev A Dyrham-3B.5P.1167; 13351_6003.1 Rev B Foxham-3B.5P.1183_V1; 13351_6003.2 Rev A Foxham-3B.5P.1183_V2; 13351_6004 Rev B York-4B.6P.1306; 13351_6005.1 Rev B Banbury-4B.7P.1530_V1; 13351_6005.2 Rev A Banbury-4B.7P.1530_V2; 13351_6006 Rev A Berkeley-2B.4P.867; 13351_6011.1 Rev B HA-2B.4P.864_V1; 13351_6013 Rev B HA-3B.5P.1038; 13351_6014 Rev B M4(3) HA-4B.6P.1169; 13351_6015 HA APT-1B.2P.601_741; 13351_6201 Rev A Single Garage V1 & V2; 13351_6202 Rev A Single Plus Garage; 13351_6203 Rev A Double_Twin Garage; 13351_6204 Rev B Single & Single Plus Garage; 13351_6206 Rev A Substation; 13351_3600 Rev G Street Elevations AA & BB; 13351_5010 Rev H Materials, Hard Surface & Boundary Strategy; 13351_5011 Rev E Affordable Strategy; 13351_5012 Rev E Storey Heights Strategy; 13351_5013 Rev F Parking Cycle Strategy; 13351_5014 Rev E Refuse Strategy; 13351_5015 Rev I Landscape Strategy; 13351_6011.2 Rev D HA-2B.4P.864_V2 (Plot 29); 13351_6012.1 HA-3B.5P.1018_V1 (Plot 22); 13351_6012.2 Rev A HA-3B.5P.1018_V2 (Plot 31); 0956-007A Site Access and Visibility Splays Plan; and 13351_5000 Rev Q Planning Layout.

Pre-commencement

3. Prior to the commencement of development, a Written Scheme of Investigation comprising a programme of archaeological investigation, post investigation assessment and recording for the site (trial trench evaluation and provision for further mitigation) shall be submitted to and approved by the Local Planning Authority. The development shall not be occupied until (i) the results of the programme of archaeological investigation and post investigation assessment has been completed in accordance with the approved Written Scheme of Investigation and (ii) that (where necessary) the provision for analysis, publication and dissemination of results, and archive deposition, has been confirmed in writing to, and approved by, the Local Planning Authority.
4. No development shall take place (including demolition, ground works, vegetation clearance) until a construction environmental management plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority. The CEMP: Biodiversity shall be written in accordance with BS42020, including mitigation details on birds, great crested newt, reptiles, dormice and badger, as well as any pollution prevention measures. The approved CEMP shall be adhered to and implemented throughout the construction period in accordance with the approved details.
5. Prior to the commencement of development, a landscape and ecological management plan (LEMP) shall be submitted to, and be approved in writing by, the local planning authority. The LEMP shall be written in accordance with BS42020 and cover enabling works/construction period and a subsequent 20 Year management period following completion of the development. The LEMP shall identify existing and proposed landscape and ecology related site assets, associated management

objectives, schedules of the scope and frequency of annual maintenance work together with longer term management operations. The LEMP 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 LEMP and any subsequent revision shall be implemented in accordance with the approved details.

6. A pre-commencement check is to be undertaken to confirm absence of badgers, one working day prior to works starting. If badger setts are recorded and could be impacted by the development, details of mitigation commensurate with the level of harm are to be submitted to and approved by the local authority prior to works commencing. The development shall then be carried out in accordance with the approved mitigation scheme.
7. Due to local records of slow worms and the age of the reptile survey, a reptile mitigation strategy to include avoidance measures to protect reptiles during site clearance, and programme of works is to be submitted and approved by the local planning authority prior to commencement of works. These measures will include:
 - Strimming of any suitable areas identified by suitably qualified ecologist down to 15mm during suitable weather conditions with all arisings removed;
 - Remaining cutting to ground level to be performed the following day, again only during suitable weather conditions;
 - Any refuge habitat (such as brash/log piles) would be searched by hand; and
 - All such works to be undertaken within the active period (i.e. April-October) and under the supervision of a suitably qualified ecologist.

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

8. Prior to commencement of the development the Energy Statement (dated 11th November 2021) shall be revised and submitted to the local planning authority for approval. The revised energy statement shall set out:
 - Full details of the air source heat pumps to be installed in each dwelling including the specification, output capacity (kW), and details of the heat distribution system (emitters), domestic hot water storage and heating controls.
 - A thermal analysis showing that the development will not be liable to overheating. The analysis shall use the methodology set out in Section 2: Dynamic thermal modelling of Approved Document O, 2021 edition, Building Regulations 2010. Where the analysis shows that one or more dwellings are liable to overheating suitable mitigation measures shall be incorporated into the design and a revised Energy Statement describing these provided to the local planning authority for approval.

Thereafter the development shall be constructed in accordance with the revised Energy Statement.

9. Prior to the commencement of development calculations shall be submitted to and approved by the local planning authority showing the reduction in energy demand

and CO₂ emissions for the development, as a result of the specification of energy efficiency and renewable energy generation measures. The calculations shall be presented using Energy Table 1 in the South Gloucestershire Guidance Note "Energy in New Development" 2021 and demonstrate that the development achieves a reduction in residual emissions of at least 20% against pre-June 2022 building regulations in accordance with the methodology set out in the above guidance note. The development shall be carried out in accordance with the approved calculations.

10. No development shall commence until surface water and foul sewage drainage details including SUDS (Sustainable Drainage Systems e.g., soakaways if ground conditions are satisfactory), for flood prevention; pollution control and environmental protection have been submitted and approved by the Local Planning Authority. The detailed design for the attenuation basin shall demonstrate how its profile/appearance will be sympathetically integrated into the open space. The development shall be carried out in accordance with the approved details.
11. Prior to the commencement of the development, the tree protection fencing measures outlined in the submitted Arboricultural Assessment prepared by Tim Pursey (dated April 2021) shall be implemented in accordance with BS:5837 (2012). All tree protection measures must be left in place for the duration of the construction of the development and should not be moved without prior written authorisation from the Local Planning Authority.
12. Prior to the commencement of development, a detailed planting plan specifying the location, species, stock size, planting centres and quantities of all proposed tree and structure/hedge/shrub and marginal planting, which shall be supported by an implementation specification Including tree pit details) shall be submitted to and approved in writing by the Local Planning Authority. All planting, seeding or turfing comprised in the soft landscaping details hereby approved, shall be carried out no later than the first planting and seeding season following the substantive completion of the development hereby approved, and any trees or plants (excluding private garden curtilages) which die, are removed or become seriously damaged or diseased within a period of 5 years from the completion of the development shall be replaced in the next planting seasons with others of a size and species as shall reasonably be specified by the Local Planning Authority.
13. Prior to the commencement of development full details of hard landscaping works shall have been submitted to and approved in writing to the Local Planning Authority. The hard landscaping details shall include proposed finished levels or contours including any soil retention/retaining walls that may be required; means of enclosure; car parking layouts; other vehicle and pedestrian access and circulation areas; hard surfacing materials; minor artefacts and structures (e.g., furniture, play equipment, refuse or other storage units, signs, lighting); with a supporting schedule of proposed manufacturer hard landscape materials and site furniture products. The development shall be carried out in accordance with the approved details.

Before slab level

14. Prior to construction above slab level details of charging provision for electric vehicles shall be submitted to and approved in writing by the local planning authority. These shall include drawings showing the exact location of charge points, and the specification of the cabling/charge points. The development shall be carried out in accordance with the approved details.

15. Prior to the commencement of above ground works (slab level) samples of the roofing and external facing materials proposed to be used in the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

Before first occupation

16. Prior to the installation of external lighting a "lighting design strategy for biodiversity" for the boundary features and any native planting shall be submitted to and approved in writing by the local planning authority. The strategy shall:
- Identify those 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
 - 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 the above species using their territory or having access to their breeding sites and resting places.

The approved external lighting scheme shall be installed prior to the occupation of each dwelling in accordance with the specifications and locations set out in the strategy, and these shall be retained as such thereafter.

17. Prior to first occupation of any dwelling hereby permitted, a Travel Plan comprising immediate, continuing and long-term measures to promote and encourage alternatives to single-occupancy car use has been prepared, submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall include:
- i. The predicted opening date for the residential development;
 - ii. The predicted date for appointment of Travel Plan Co-ordinator;
 - iii. The predicted Travel Plan Implementation Period;
 - iv. The timing of other relevant facilities to be delivered and estimated completion dates (e.g. pedestrian island, controlled crossing); and
 - v. Details of a travel plan monitoring scheme for a 5 year period to check the effectiveness of the travel plan in achieving the aim of reducing the level of single occupancy travel by 10% from the first annual residents survey.

The approved Travel Plan shall be implemented, monitored and reviewed in accordance with the agreed Travel Plan Targets to the satisfaction of the Council.

Other

18. The development shall be carried out in accordance with the Mitigation Measures provided in the Ecological Impact Assessment (Grass Roots Ecology, May 2021) and the Reasonable Avoidance Measures (RAMs) (Grass Roots Ecology, January 2022).
19. The development shall be carried out in accordance with the attenuation measures outlined in the Environmental Noise Assessment prepared by Acoustic Consultants Ltd (Ref: 8866/RD) dated April 2021.

END OF SCHEDULE