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**Permission in Principle Planning Application  
for the Development of Four Dwellings  
Land West Side of Abenhall Road  
Mitcheldean  
For  
Mr Steven Batt**

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## **1.0 Introduction**

Alan S Wood has been instructed by Mr Steven Batt (“the Applicant”) to submit an application for Permission in Principle (PIP) for up to four dwellings and alteration to an existing vehicular access on to land off Abenhall Road Mitcheldean

- 1.1 The application site comprises of 0.198 hectares of open pasture land with an existing access off Abenhall Road, to the rear of the Lamb Inn.
- 1.2 The application has been formulated with the Council’s current shortfall in five-year deliverable housing land supply in mind and the sustainable location of the site at a Major village. In light of these factors, whilst the application site is not situated within a defined settlement boundary where the development plan steers new housing, this application is advanced under the provisions of Paragraph 11 of the National Planning Framework (NPPF 2024) directing that permission should be granted where policies which are most important for determining the application are out-of-date, unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.
- 1.3 The application site is located in close proximity to the main area of Mitcheldean Village, which is identified by the Development Plan as a major village and in a sustainable location with access to a good range of services, facilities as well as having local employment opportunities. The application site is therefore considered to be in a suitable location for small-scale new housing which accords with the planning settlement hierarchy and also reflects national planning policy support for some growth in rural areas to help sustain local facilities and services.
- 1.4 The sustainable location of the proposed development, together with the district’s lack of a sufficient housing land supply, most certainly warrants the granting of a PIP in this case.
- 1.5 The Planning Statement describes the site, its context and the development proposal. It then sets out the relevant development plan policies and assesses the proposed development against the limited range of Permission in Principle matters concerning the location, land use and amount of development. In this regard, the application is accompanied by an illustrative layout plan to show how such a development could be accommodated on the site in a manner that respects the prevailing character of the area in which it is located.
- 1.6 This Planning Statement also considers the influence of other considerations such as national policy, especially with regard to housing land supply and sustainable development. It makes the clear case why the proposed development in principle should be permitted.



## The 'Permission in Principle' process

- 1.7 The Permission in Principle (PIP) route to obtaining permission was introduced by the Town and Country Planning (Permission in Principle) Order 2017 (as amended), with the express purpose of the fast-tracking proposals for residential development in order speed up the delivery of housing. It is also intended to be a similar process for establishing the principle of the residential development on a particular site.
- 1.8 PIP applications are restricted to the minor developments of less than 10 houses only. The legislation limits the scope of matters to be decided at the permission in principle stage and the Councils consideration is therefore limited to the following matters only.

## **2.0 Location**

- 2.1 The site is just located just outside of the settlement boundary to Mitcheldean. The boundary runs along the adjacent property boundary of the Lamb Inn The site forms a natural infill between the properties located to the West (Silver Street) and Abenhall Road). It is therefore, considered to be open countryside (as CSP4)
- 2.2 Mitcheldean is classed as a 'Major Village' with larger villages more likely suited for further modest development and can serve as local centre for their immediate area.
- 2.3 The Mitcheldean Neighbourhood Development Plan sets out in para 6.1.7 That any development should be within the settlement boundary, but the topography of Mitcheldean, has been unable to identify any sites within the settlement boundary or exceptional sites. The NDP would appear to acknowledge that there is insufficient land available within the settlement boundary.
- 2.4 The site is defined as being within 'open countryside'. However, the site cannot be described as isolated or inaccessible, due to its close proximity to the settlement boundary.
- 2.5 The services and facilities of Mitcheldean include Doctors, convenience stores, petrol stations, library, public houses, primary school, cafes, pharmacy, community centre and Dene Magna school.
- 2.6 The emerging Local plan 2021 to 2041 – Issues and options sets out that Mitcheldean' *is regarded as a sustainable location with services and employment*'.
- 2.7 The site is easily accessible to the village by way of a footpath and its services and regular bus service to Ross on Wye, Gloucester and Cinderford. The site can therefore, regarded sustainable in terms of transport provision.

There are also job opportunities at Vantage Point and within and local adjacent settlements, which are accessible and within easy reach.

### **3.0 Land Use**

- 3.1 The existing land use is agricultural and the proposal seeks to include this site to residential. Despite the site being outside the defined settlement boundary the site is within close proximity of existing residential development and shops.

### **4.0 Proposed Development**

- 4.1 It proposed to build 4no dwellings with garages, carparking and alterations to an existing access from Abenhall Road. The site is located within a 30mph speed limit of the road and some modifications will be required to obtain the relevant visibility splays required.
- 4.2 The second stage of the technical details consents allows for examination of the details of the development, at which it is open to the council to refuse permission if harm in relation to other planning issues is identified that cannot be acceptably mitigated and, in balanced judgement, is to outweigh the housing and the other benefits of the scheme.
- 4.3 The Planning Practice Guidance (PPG) suggest additional information may be voluntarily submitted with PIP, particularly to give more certainty about how many dwellings a site is capable of supporting. In this regard, an illustrative layout drawing this has been submitted with the application which illustrates the capacity of the site to accommodate four dwellings in a manner that will respect the prevailing character and pattern of the built form in the vicinity of the site.
- 4.4 PPG states that a decision on whether to grant planning permission in principle must be made in accordance with relevant policies in the development plan unless there are material considerations, such the NPPF and national guidance, which indicate otherwise.

### **5.0 The Application Site and Planning History**

#### The Application Site

- 5.1. The application site relates to open undeveloped land located between properties in Silver Street and Abenhall Road. To the North of the site is the main core of Mitcheldean which incorporates fairly modern housing, shops, doctors, library, car parks and access to Vantage Point industrial site. to the East there is linear development along the A4136 consisting of housing and commercial premisses. To the West there is a pocket of housing and linear development. Mitcheldean evolved during the 1960's / 1970's when housing was provided for the employees of the then Rank Xerox site. Mitcheldean has evolved from linear settlement, with access from the A4136. settlement is now characterised by a main village centre encompassing old and modern housing estate developments, as well as original linear housing / shops etc. The site lies adjacent to the village, just outside of the defined settlement development boundary that has been tightly drawn.



- 5.2 The site is 0.22 hectares of open pasture land comprising approximately the rear of a large agricultural field. The field is enclosed and well screened along its road frontages by mature hedgerow and properties. An existing field gateway provides access to the site off Abenhall Road.
- 5.3 A bus stop is located nearby on the A4136. The site is close to and with easy walking distance the main centre of Mitcheldean town offering a range of services, facilities and employment opportunities, including Dene Magna school, shops, primary school, doctor, post office, public houses, church, village hall and playing fields.
- 5.4 Furthermore, good bus connections seven days per week provide access to wider range of shops, facilities and employment in nearby Gloucester, Ross on Wye and Cinderford. Bus stops are located close to the site and on the immediately opposite side of the A4136 providing readily accessible bus services in both directions.
- 5.5 It is also noted that an industrial estate opened in 60's and 70's in Mitcheldean which provides the village with further local employment opportunities, increasing its sustainability as a location for new development befitting its status as a major village.
- 5.6 The site is located within the Flood Zone 1 at lowest risk of flooding as defined on the Environment Agency Flood Maps. There are no land-use designations or constraints applying to the site which would restrict its development for the housing.

#### Site Planning History

- 5.7 There is no previous planning site history.

### **6.00 The Proposed Development**

- 6.0 This application seeks Permission in Principle for a residential development of up to four detached dwellings on the site. A double garage and generous gardens to serve each dwelling are also indicated indicatively on the plans. The dwellings will be accessed via a single access point off Abenhall Road utilising an existing field access and linked by a shared driveway.
- 6.2 Illustrative plans accompany the application for the purpose of demonstrating that the quantum of development proposed can be accommodated on the site in an in-keeping arrangement that respects the street scene and character of the area. However, beyond the principle of the amount of development appropriate to the site, detailed considerations are not matters for this application but for the next technical details stage of consent and therefore are not determinative of the current application.

## **7.0 Use**

- 7.1 The proposed development is for up to four detached residential dwellings (Use Class C3) on the site. This is considered to be an appropriate use of land in the location which lies immediately adjacent other residential development in a similar linear layout.
- 7.2 Residential land on the site would be set aside for access, parking, gardens and landscaping. The properties would integrate satisfactorily with the established linear and low-density character of this part of the village

## **8.0 Amount**

- 8.1 The illustrative plans show four dwellings and associated garages to the rear of the Lamb Inn car park.
- 8.2 The dwellings would benefit from generous gardens and parking, with a shared driveway providing turning and manoeuvring space. The plans show that the amount of development proposed can evidently be comfortably accommodated with the site, as demonstrated by the illustrative site layout plan.

## **9.0 Planning Policy Context**

- 9.1 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 sets out that applications should be determined in accordance with the Development Plan, unless other material considerations indicate otherwise.
- 9.2 The Development Plan in this case comprises of the Forest of Dean Core Strategy (2012) and the Forest of Dean Allocations Plan 2006-2026 (2018).
- 9.3 Forest of Dean District council are at the early stages of preparing a new local plan for the period 2021-2041. A draft plan is not expected to be published until in 2024 and is in preparation, it does not carry any weight at the present time
- 9.4 Other relevant material considerations include the Government's National Planning Policy Framework 2024 and Planning Practice Guidance.
- 9.5 As a result, the following planning policy documents are considered relevant:
- Forest of Dean Core Strategy (2012)
  - Forest of Dean Allocations Plan 2006-2026 (2018)
  - The National Planning Policy Framework 2021
  - Planning Practice Guidance
  - Forest of Dean Core Strategy
  - Mitcheldean Neighbourhood development Plan (NDP)



- 9.6 The Core Strategy sets out the strategic objectives for the district as well as how these objectives will be delivered, including setting out a settlement hierarchy and future role for each settlement. The Core Strategy was adopted in 2012
- 9.7 The following policies of the Core Strategy are relevant to this application:
- 9.8 Policy CSP1: Design, Environmental Protection and Enhancement sets out that new development must consider important characteristics of the environment and conserve, reserve or otherwise respect them in a manner that maintains or enhances their contribution to the environment.
- 9.9 Policy CSP4: Development Principles, development at settlements, of relevance, sets out that most growth in towns and villages will be expected to take place within the existing settlement boundaries. Areas outside settlement boundaries will be treated as open countryside where new housing is restricted unless exceptions such as affordable housing.
- 9.10 Policy CSP5: Housing sets out the levels and distribution of housing expected to be provided within the district. Villages and rural areas where around 608 dwellings are to be provided by 2026 to meet local community needs, with 60% at defined settlements, on sites yet to be allocated and future permissions on other unidentified (windfall) sites, with priority to previously developed land.
- 9.11 The council's current housing supply shortfall is a circumstance justifying the grant of permission for housing on windfall sites, both previously developed and greenfield, in order to meet the plan's housing delivery requirements.
- 9.12 The policy sets out that the new housing will need to achieve a density that is appropriate to their surroundings, with small sites and more rural locations requiring lower densities.
- 9.13 Policy CSP16 and paragraph 7.65 establish a settlement hierarchy, in which Mitcheldean is identified as Major village.
- 9.14 The policy goes on to say that in villages, about 283 dwellings will be provided over the period of 2026. Outside villages which have a defined settlement boundary, Policy CSP16 expects a further about 236 additional dwellings to be provided over the period to 2026.
- 9.15 Policy CSP16 also states that "where appropriate, the defined settlement boundary will be a key determinant in judging the acceptability of proposals" but importantly it does not stipulate no development outside the settlement boundary and does not preclude other factors from being taken into account, provided new development is proportionate to the function of the settlement.



- 9.16 The Allocations Plan provides policies which identify specific areas of land for protection or for development. The Allocations Plan was adopted in 2018 and together with Core Strategy (2012) comprises the Local Plan for the Forest of Dean. It is intended to be read in conjunction with made Neighbourhood Plans and national policy guidance.
- 9.17 General Policy AP1: Sustainable Development sets out that on assessing planning applications, the primary consideration will be whether or not the development proposed is sustainable.
- 9.18 The plan enables this modest allocation, and other small-scale development and retains a tightly drawn settlement boundary around the main built-up area of the village.

#### The National Planning Policy Framework 2024

- 9.19 The National Planning Policy Framework 2024 (NPPF) sets out the Governments overarching planning policies and now it intends them to be applied at the local level. The NPPF provides guidance for the local planning authorities in determining applications. As national guidance it is a material consideration capable of outweighing the provisions of the development plan.
- 9.20 NPPF paragraph 11 sets out the presumption in favour of sustainable development. It goes on to assert that the balance between the benefits and adverse impacts of a proposed development should be considered alongside specific policies. For decision taking this means
- C) Approving development proposals that accord with the development plan without delay; or
  - D) Where there are no relevant development plan policies, or the policies which are most important for determining the application are out of date, granting permission unless:
    - i) the application of the policies in this Framework that protect areas of assets of particular importance provide a clear reason for refusing the development proposed; or
    - ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the framework taken as a whole.
- 9.21 Footnote 8 clarifies that for the purpose of 11d), policies most important for determining applications including housing will be 'out of date' in situations where the local planning authority cannot demonstrate a five-year supply of deliverable housing sites. The application of the 'tilted' planning balance therefore applies in the determination of this application because the Council cannot demonstrate a five-year housing land supply shortfall, as discussed in further detail later within this Statement.

- 9.22 Paragraph 60 sets out the Government's objective of significantly boosting the supply of new housing, and to achieve this it is important that a sufficient amount of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without delay.
- 9.23 Paragraph 70 states that small sites can make an important contribution to meeting the housing requirement of an area and local planning authorities should support the development of the windfall sites through their policies and decisions.
- 9.24 Paragraph 83 states that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Further, the paragraph sets out the development in one village may support services in a village.
- 9.25 Paragraph 108 aims for the transport system to be balanced in favour of sustainable modes of travel, which will in turn offer people a genuine choice over how they will travel. The government do, however, recognise that opportunities for the sustainable transport may vary from urban areas to rural areas.

#### Planning Practice Guidance

- 9.26 The NPPF is supplemented by the Government's Planning Practice guidance. Of relevance in this case the section on 'Rural Housing' which states that people living in rural areas can face particular challenges in terms of housing supply and affordability.
- 9.27 The PPG also highlights that rural housing is essential to the retention of local authorities, and that all rural settlements can play a role in the delivery of sustainable development. This is clear recognition from the Government that rural areas do need to be allowed to provide some organic growth, to support communities and people from rural backgrounds. Small-scale housing can also assist in building community cohesion.
- 9.28 PPG also provides relevant guidance on the Permission in Principle regime, as follows:

A decision on whether to grant permission in principle must be made in accordance with relevant policies in the development plan unless there are material considerations, such as those in the NPPF, which indicate otherwise .

The scope of permission in principle is limited to location, land use and amount of development. Other matters should be considered at technical details consent stage.

Additional information can be volunteered to give more certainty about how many dwellings the site is capable of supporting and whether mitigation of likely impacts that may result from development is possible.



## **10.0 The principle of housing on the application site**

- 10.1 An application for permission in principle may only be decided on the basis of matters of location, land use and the amount of development proposed, in accordance with legalisation and national practice guidance governing this route to the planning permission.
- 10.2 In this section it is demonstrated that the four dwellings proposed would be acceptable in terms of the location, land use and amount of development; meeting all requirements necessary to merit a grant of permission in principle, with regard also being had to other material considerations relevant to the principle of development, notably the District Councils five- year housing land supply shortfall.

### Location – Development Plan

- 10.3 The starting point for establishing the principle of the new housing is the Development Plan. Mitcheldean is identified as a major village in the Core Strategy where small-scale growth is expected. Although the site falls outside the tightly drawn settlement boundary of the village defined in the Development Plan, this is established for planning policy purposes only and the site is nonetheless clearly identifiable as a part of the wider village, to which it is well related both in terms of surrounding development and accessibility.
- 10.4 The proposal site is neither within an allocation or settlement boundary and accordingly Core Strategy Policy CSP.4 seeking to restrict new dwellings in open countryside outside settlement boundaries applies. Notwithstanding this, Policy CSP.5 does appear to allow for some windfall development to come forward outside defined settlements, including on greenfield sites, to meet plan housing requirements. Policy CSP16 also states that “Where appropriate, the defined settlement boundary will be a key determinant in judging the acceptability of proposals” does not stipulate no development outside the settlement boundary and does not preclude other factors from being taken into account, provided new development is proportionate to the function of the settlement.
- 10.3 The Council concedes that it cannot demonstrate a five-year supply of deliverable housing land after a 2020. Currently undersupply would represent a valid reason for the release of new greenfield sites to meet the plan’s housing delivery requirements, given the current trajectory is not meeting the housing needs of the district.
- 10.4 As a result, the provision of new housing outside settlement boundaries at an appropriate density and number proportionate to the function of the settlement, is not considered to be against the general thrust of the spatial policies within the development of four dwellings would undoubtedly be proportionate scale of development on a suitable windfall site.



10.5. Notwithstanding this, the Council cannot currently demonstrate a robust five-year deliverable housing land supply. As a result, the policies of the Core Strategy relating to the supply of housing are out of date in terms of maintaining a five-year supply of housing as required by the NPPF. Therefore, it is not possible to rely on settlement boundaries as set out in the Core Strategy and Allocations Plan to deliver required numbers of houses, with only limited weight able to be afforded to these housing policies. In addition, in such circumstances, paragraph 11 d) of the NPPF sets out that planning permission should be granted, unless the application of Framework policies that protect areas or assets of particular importance provide clear reason for refusing the development proposed. This is returned to in the overall planning balance.

#### Location – sustainable and accessible

- 10.6. Although it is accepted that the application site is situated outside the settlement boundary and therefore in the open countryside for policy purposes, the site cannot reasonably be described as remote or isolated, being located immediately adjacent residential to the East.
- 10.6 In term of accessibility, a wide pavement footpath runs without interruption from the appeal site into Mitcheldean on the same north side of the road with a pedestrian crossing, putting the site within a safe and reasonable walking distance of village services and facilities and to wider public transport links to higher order centres.
- 10.6 Furthermore, in the NPPF, there is an understanding that opportunities for sustainable transport will vary from urban areas to rural areas, and therefore, more reliance on travel via private vehicles should be expected within rural areas. Paragraph 83 states also that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Additional housing will assist in supporting existing services within the village and nearby settlements.
- 10.11 In conclusion, whilst not within a settlement boundary, the site is within a reasonable walking and cycling distance of the amenities and facilities at Mitcheldean to the extent that the development would be in an accessible location and not isolated. It would be a small-scale development within a residential area with good public transport links. Therefore, with regards the location of the development outside the settlement boundaries, the dwellings proposed would still be in broad accordance with Policies CSP.5 and CSP.16 of the Core Strategy and also Policy AP.1 of the Allocations Plan. These policies requires that development be sustainable, demonstrate an efficient use of resources, and sets out required housing numbers across the district, including some within rural areas.



## **11.0 Location – area character**

- 11.1 The application site does not fall within a specific landscape designation and therefor subject to general landscape policy. The application site is part of a field which is fairly typical of its location within the Landscape Character Area type 'Unwooded Vale' within 'The Severn Vale' identified in 'Landscape Character Assessment: Gloucester and Forest of Dean, November 2002', an area characterised by open mainly arable farmland. The landscape is not a designated or a valued landscape.
- 11.2 The field as a whole has reasonably high level of visual self-containment because of the mature boundary features.
- 11.3 The scale of the development proposed would be modest, with the remainder of the field, being retained as such behind the site. While the exact design and layout would be established at the technical details stage, the illustrative layout shows how four dwellings can be laid out on the site in a low-density scheme with generously sized gardens and landscaped areas retaining mature hedgerows boundaries and scope for further landscaping.
- 11.4 As a consequence, the scheme would not visually extend built development into the countryside or result in loss of rural character.
- 11.5 The topography of the land, the self-containment and the limited wider of the site, as well as its close relationship to the adjacent housing and the influence of other urbanising features such as the main road, bus shelters and the highway signage, all combine to limit any visual effect of the proposed development on the character and the appearance of the area. Four dwellings in this location would not conflict with Policy CPS.1.
- 11.6. The submitted indicative plan shows mature hedgerow boundaries retained. Additional planting could be added to the site.
- 11.7 In terms of access, the proposal utilises an existing field access off Abenhall Road. The access road is typical country lane, however, based on a scheme of the four moderate sized dwelling, the number of associated trips would be minor and would not have an adverse impact on the highway network and safety. Furthermore, the access would benefit from acceptable visibility in both directions. The exact details would be assessed at the technical details stage.
- 11.8 The site is also located within Flood Zone 1 and therefore at low risk from flooding. Drainage details would be secured at the technical details stage.

## **12.0 Amount of housing proposed**

- 12.1 The proposal is a small-scale scheme of up to four dwellings, which represents an organic level of growth in- keeping with the overall size of the settlement. The application site is 0.19 ha and the four dwellings proposed would result in a low density.



12.2 Therefore, the scale of development proposed is considered proportionate to the major village settlement, in accordance with Policy CSP16 which identifies Mitcheldean as a major village.

Other Material Considerations: (1) Housing land supply shortfall and the tilted balance of NPPF paragraph 11 (d)

12.3 NPPF paragraph 11 sets out a presumption in favour of sustainable development whereby, if a local planning authority cannot demonstrate a 5-year housing supply, planning permission should be granted for new housing development unless their adverse impacts of doing so which would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework as a whole. This is otherwise known as the 'tilted balance' in favour of development.

12.4 The Forest of Dean District Council concedes that it cannot demonstrate a 5-year housing land supply after a 2020 appeal decisions refer to (Appendix A) and 2019 (Appendix B) of similar approved Outline Planning Appeals. In light of the Council's currently housing land supply situation, the 'tilted balance' is engaged, and relevant Development Plan policies for the supply of housing are to be considered out of date and reduced weight in decision making. The Mitcheldean village settlement boundary is accordingly out of date and has little weight in a decision on this application.

12.5. Paragraph 11 sets out that the tilted balance is engaged unless a clear reason exists for refusal of planning with regard to impact on protected areas or assets of particular importance. These areas include habitat sites and/or designated as Sites of Special Interest, land designated as Green Belt, Local Authority Green Space, An Area of Outstanding Natural, Beauty, a National Park or defined as Heritage Coast, irreplaceable habitats, designated heritage assets and areas at risk of flooding or coastal change. None of the NPPF protected areas or assets designations apply to the application site, neither is it within the setting of any protected areas or assets, therefore the tilted balance is not disengaged in this case.

12.6 In such circumstances, planning applications for housing should only be refused where the level of harm, would be significant and demonstrable that an overwhelming refusal is justified, and irrespective of whether or not the proposal complies with the development plan. This is a very high-level test, thus setting out an expectation that permission should normally be granted when applying the tilted balance.

Overall planning balance and conclusion on the principle of development

12.7 The appellant advances the case that when considered in the overall tilted planning balance and the presumption in favour of sustainable development, the application must be considered acceptable, with the valuable contribution to boosting housing supply which this readily built pout proposal would make towards to helping meet the substantial undersupply of housing in Forest of Dean District offering a significant benefit which attracts significant weight.



- 12.8 In addition, the dwellings would be in a sustainable location close to a major village and where there would be social benefits from providing such housing in a rural settlement in accordance with NPPF Paragraph 79, for boosting the supply of rural housing and enhancing the vitality of a rural community.
- 12.9 Some economic benefits would also arise from the construction and the occupation of the proposed houses, with future occupiers using local services and facilities.
- 12.10 On the other side of the balance are adverse effects. The NPPF does not sanction any form of blanket restriction on housing outside of defined settlement boundaries, although safeguarding landscape value is of course important policy. In this regard, as set out above there would be no undue adverse impacts in landscape terms.
- 12.11 The site is in a low flood risk area and on moderate value agricultural land and overall, there would be no undue adverse environmental impacts to set against the benefit of two dwelling houses in this location.
- 12.12 Therefore, in line with the Framework, planning permission should be granted as there are no adverse effects of doing so that would significantly and demonstrably outweigh the housing and other benefits of the proposal.
- 12.13 In conclusion, although it is considered the development would comply with the general spatial strategy of the Development Plan, which indicates some windfall housing would be acceptable outside settlement boundaries when a valid is highlighted, such as not meeting the housing needs in the district, the proposal in the overall planning balance, would represent a sustainable development in the context of paragraph 11 for which permission in principle should be granted without delay.

### **13.0 Summary and Conclusions**

- 13.1 In conclusion, it is the applicants firmly held view that in the overall planning balance, the proposal would represent sustainable development in the context of paragraph 11 (d), given the Forest of Dean District Councils acknowledged shortfall in deliverable 5-year housing land supply.
- 13.2 It has been demonstrated that as a result of the 5-year housing land supply position, the Councils policies for housing are out of date and can therefore only be given limited weight in the overall balance. There is also a clear recognition for the Government that rural areas do need to be allowed to provide some organic growth, to support communities and the people from rural backgrounds and that small-scale housing can also assist in building community cohesion and support services and facilities.
- 13.3 The benefit of up to four dwellings located on a site with good walking and cycling access to major village settlement presents a good opportunity to boost housing in a sustainable location, which ought to weigh heavily in favour of the application. Indeed, in applying the tilted balance of national policy in favour of development, the weight of the range of benefits when measured

against limited adverse impacts, provides clear justification for granting permission.

- 13.4 The Statement sets out that the proposal would deliver a proportionate level of growth relative to Mitcheldean major village, as well as providing a well-related low-density development with minimal urbanising effects and without encroaching on open countryside or impacting on the surrounding landscape, in accordance with Development Plan policies CSP1, CSP5, CSP16 and AP1
- 13.5 In conclusion, the proposal provides a suitable form of development which accords with the general principles of the Framework, representing sustainable development in the overall balance, for which there is tilted balance in favour of, and therefore should be granted permission in principle.



**Appendix A**  
**Planning Appeal App/P165/W 20/3261818**



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## Appeal Decision

Site visit made on 19 January 2021

by **H Porter BA(Hons) MSc Dip IHBC**

an Inspector appointed by the Secretary of State

Decision date: 08 February 2021

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### Appeal Ref: **APP/P1615/W/20/3261818**

#### Land adjoining Longhope Road, Huntley

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Mr Gerald Akerman against the decision of Forest of Dean District Council.
  - The application Ref P1206/19/OUT, dated 19 July 2019, was refused by notice dated 23 April 2020.
  - The development proposed is erection of no. 2 residential dwellings and associated development all matters reserved.
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#### Decision

1. The appeal is allowed and planning permission is granted for erection of no. 2 residential dwellings and associated development all matters reserved at Land adjoining Longhope Road, Huntley in accordance with the terms of the application, Ref P1206/19/OUT, dated 19 July 2019, subject to the conditions set out in the Schedule at the end of this decision letter.

#### Preliminary matters

2. The application was made in outline with all matters reserved for future consideration. I have treated the appeal on this basis and considered the proposed site layout plan and the internal/access plan as being indicative.

#### Main Issue

3. The main issue in this appeal is the effect of the proposed development on the character and appearance of the area.

#### Reasons

4. The appeal site fronts Longhope Road and comprises part of a gently sloping field laid to grass. As Longhope Road extends from the A40 and the more built-up area of Huntley, the area becomes increasingly defined by an open, rural context of rolling arable fields that partly characterises The Severn Vale Landscape Character Area<sup>1</sup>. That said, while the wider green field in which the appeal site sits certainly blends with the wider verdant landscape, the character and appearance of the appeal site is greatly influenced by the detached dwellings and domestic curtilages neighbouring it, as well as by the complex of industrial units opposite. The proximity of nearby development, along with bus stops, laybys and pedestrian footways together give the impression that the

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<sup>1</sup> Landscape Character Assessment: Gloucester and Forest of Dean, November 2002



appeal site is located in transitional area that is at the semi-urban, semi-rural settlement edge.

5. Notwithstanding the reserved matters, the appeal scheme proposes the construction of two dwellings that would make use of an existing access track off Longhope Road. The indicative layout shows the proposed dwellings would be set behind the site's mature hedgerow frontage boundary and stand detached in good-sized gardens. In terms of plot size and building line, the indicative layout shows the proposal would effectively infill the line of development as it extends on the south side of Longhope Road away from the settlement.
6. To a small extent, the proposal would diminish the soft, verdant qualities of the existing field and increase the instances of development along Longhope Road. Taking into consideration the site's developed context, I do not consider that two additional dwellings would be either visually intrusive or harmful to the character and appearance of the site or its immediate environs. As the degree of change would principally affect the Longhope Road frontage, the appeal site's wider, rolling verdant context and Severn Vale landscape would be preserved.
7. Drawing the above together, I do not consider that the proposed development would have an adverse impact on the character and appearance of the area, which would maintain the site's wider context and preserve the local landscape. There would be no conflict with Policy CSP.1 of the Forest of Dean District Council Core Strategy, 2012 (CS).

*Other considerations and planning balance*

8. For planning policy purposes, the appeal site is located beyond the settlement boundary of Huntley and within the open countryside. CS Policy CSP.4 expects most changes in towns and villages to take place within existing settlement boundaries. The appeal scheme does not meet any of the exceptions for development in the open countryside listed under CSP.4 and thereby runs contrary to the development plan's settlement strategy and Policy CSP.16.
9. A footway runs from the appeal site into Huntley, and, in my opinion, the site is within easy walking distance to the services and facilities therein and to wider public transport links. Even if bus services stop opposite the appeal site every two hours or so, future occupiers of the proposed development would be offered an accessible and feasible alternative to wholesale reliance on journeys by private car. The location of the appeal site would therefore not be remote from services and facilities to satisfy day-to-day needs and the proposal would not represent the development of isolated homes in the countryside.
10. Taking into account intervening distances and the orientation of existing dwellings in relation to the appeal site, I am satisfied that no harmful overlooking or loss of privacy would occur. There would inevitably be some increase in the use of the access track, however, there is no reason to expect existing residents would be subject to unacceptable disturbance, nor is there convincing evidence that noise associated with the nearby industrial units would harm future occupiers' living conditions. Matters of scale, design, sewerage or refuse provision would be dealt with under the reserved matters or by condition and there is nothing to demonstrably indicate any harm in respect of biodiversity or ecology.



11. The proposal would offer a very small contribution to the supply of housing. There would be economic and social benefits associated with the construction phase, feeding the local economy and increasing the choice of homes. The proposed dwellings would be within reasonable walking or cycling distance to the services and facilities of Huntley, would not be harmful in respect of living conditions or in respect of character and appearance. All things considered, the proposal would conform with the presumption in favour of sustainable development. There would consequently be no conflict with the principles of sustainable development set out in Policy AP 1 of the Forest of Dean District Council Allocations Plan 2006 – 2026, 2018 (AP) and the Framework<sup>2</sup>.
12. Since issuing its decision notice, the Council concedes it is no longer able to demonstrate a 5-year supply of housing land indicating the policies that relate to the provision of housing are out of date and the 'tilted balance' under paragraph 11d) of the Framework is engaged. The application of policies in the Framework that protect areas or assets of particular importance do not provide a clear reason for refusing the development proposed. The very minor adverse impacts associated with a development of a greenfield site in the open countryside that is not in accordance with the District's settlement strategy would not significantly and demonstrably outweigh the benefits of granting planning permission when assessed against the policies in the Framework taken as a whole. This is a material consideration that carries very significant weight in favour of granting planning permission.

#### *Conditions*

13. I have considered the various planning conditions suggested by the Council and have made some revisions to ensure clarity and consistency as well as compliance with the Framework and Planning Practice Guidance. Conditions requiring details of reserved matters and setting out of timescales are necessary to provide certainty and enforceability. Conditions controlling means of access, surfacing, visibility splays and space for parking and turning are necessary in the interests of highway safety. A condition requiring details of foul and surface water drainage and infiltration testing is necessary in the interests of securing satisfactory drainage of the site and avoiding flood risk and local pollution. I have imposed a condition for the provision of fire hydrants, electric vehicle charging points and cycle storage required by the Council in the interests of public safety, clean energy and sustainable transport. I have included a condition requiring details of refuse and recycling to ensure adequate provision for waste management. I have removed rights for works permitted to take place without the need for express planning permission on a selective basis, referring to classes of the GPDO<sup>3</sup> concerned with the addition of built volume in the interest of reducing the future effect of the proposal on the character and appearance of the area.

#### **Conclusion**

14. For the reasons given, and having considered all other matters raised, I conclude that the appeal should be allowed.

*H Porter*

INSPECTOR

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<sup>2</sup> The National Planning Policy Framework, revised February 2019 (the Framework)

<sup>3</sup> The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)



## SCHEDULE

- 1) Details of the access, appearance, landscaping, layout, and scale (hereinafter called "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 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The details to be submitted in compliance with Condition 1 shall include:
  - i) Details of the location and specification of electric vehicle charging points for each dwelling hereby approved
  - ii) Details of secure and covered cycle storage facilities for a minimum of two bicycles per dwelling
  - iii) Details of refuse and recycling storage for each dwelling hereby approved
  - iv) Details of fire hydrants (served by mains water supply) for each dwelling hereby approved

The dwellings hereby permitted shall not be occupied until the development has been implemented in accordance with the approved details and maintained thereafter, unless otherwise agreed by the local planning authority.

- 5) Prior to the commencement of development, a detailed foul and surface water drainage scheme shall have been submitted to and approved in writing by the local planning authority. The submitted scheme shall include the design, size, position and construction of a drainage scheme that has been informed by infiltration tests carried out in accordance with BRE Digest 365, or such other guidance as may be agreed in writing by the local planning authority. The drainage scheme shall be carried out as approved and implemented in full prior to the first occupation of the development hereby permitted and maintained thereafter, unless otherwise agreed by the local planning authority.
- 6) Development shall not take place until details of the vehicular access including visibility splays at the access point to the development, roadside frontage boundaries, footway levels, and surfacing materials (that shall be in bound material for at least the first 5.0 metres from the highway boundary), have been submitted to and approved in writing by the local planning authority. The development shall not be occupied until that vehicular access has been constructed in accordance with the approved details and maintained thereafter.
- 7) Prior to the occupation of either dwelling hereby permitted, the areas for the parking and turning of vehicles shall be laid out, surfaced and drained in accordance with the details to be first submitted to and approved in writing by the local planning authority. Those areas shall then be retained and for use only as vehicle access, parking or turning thereafter.

- 8) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development shall take place under Classes A, B, D or E of Schedule 2 Part 1, unless expressly authorised by this or subsequent planning permission.



**Appendix B**  
**Planning Appeal App/P165/W/19/3236737**



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## Appeal Decision

Hearing Held on 23 September 2020

Site visits made on 19 December 2019 and 28 September 2020

**by M Bale BA (Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 9<sup>th</sup> October 2020**

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**Appeal Ref: APP/P1615/W/19/3236737**

**Land off Bradfords Lane, Newent**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Kodiak Land against the decision of Forest of Dean District Council.
  - The application Ref P1990/18/OUT, dated 19 December 2018, was refused by notice dated 11 April 2019.
  - The development proposed is up to 50 dwellings, new planting and landscaping, informal open space, car parking, vehicular access point from Bradfords Lane and associated ancillary works.
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### Decision

1. The appeal is allowed and planning permission is granted for up to 50 dwellings, new planting and landscaping, informal open space, car parking, vehicular access point from Bradfords Lane and associated ancillary works at Land off Bradfords Lane, Newent in accordance with the terms of the application, Ref P1990/18/OUT, dated 19 December 2018, and the plans submitted with it, subject to the conditions in the attached schedule.

### Procedural matter

2. The appeal relates to an application for outline planning permission. All matters are reserved except access. Indicative drawings have been provided which give an indication as to how the site could be developed. Other than the site access plan, I have treated these as illustrative.

### Main Issues

3. The main issues are:
  - (i) The effect of the development on the character and appearance of the area;
  - (ii) the effect on heritage assets, with particular regard to the setting of Mantley House Farm;
  - (iii) Whether the site is in a suitable location for the development, with regard to development plan policy;
  - (iv) Whether there are any material considerations that may indicate a decision otherwise than in accordance with the development plan, with particular regard to housing land supply.



## Reasons

### *Character and appearance*

4. The site is field at the edge of Newent. It is bordered by existing development on Bradfords Lane, which is a clear part of the existing developed area. There are other buildings close to the site which mean that it would not stand isolated from the built form. Nevertheless, on approach from outside the settlement, the field is seen as part a wider pattern of irregular interlocking fields in a rolling landscape that contribute to the area's character and appearance, and the setting of Newent.
5. From Ross Road, the rising landform of the site makes it visible, particularly in winter months. However, existing housing already breaks the ridgeline in these views and the settlement is not hidden. Whilst, the topography is such that new dwellings at the site may be more visible than existing ones, the visibility of existing development and keeping housing away from the Ross Road and countryside boundaries as suggested, significantly reduces the level of harm that would be caused by further development in this location. Over time, this visual harm would be further reduced by any additional planting.
6. There would be greater harm from the loss of mature trees, protected by Tree Preservation Orders, required to form the site access. These trees are clearly visible in views along Ross Road on leaving Newent. New planting would take time to establish and the position of the vehicular access would mean that replacement planting would not fully mitigate the tree loss. There would also be some, smaller-scale loss of vegetation around the proposed pedestrian access point. However, the views are dominated by the mature hedge-lined Ross Road and further trees beyond the site, so the most significant effects would be localised and overall, Newent would continue to be grounded in its landscape setting.
7. With regard to the above, I find that the effect on the character and appearance of the area would be to slightly extend the settlement into the countryside. As it would be seen in the context of existing development, there would be little harm to distant views or the approach to and setting of Newent. The Council's Landscape Officer has indicated that the overall effects on landscape character are unlikely to be substantive in their magnitude. For the above reasons, I share this view.
8. Nevertheless, the localised impacts, particularly surrounding the formation of the access and effect on protected trees would result in some limited conflict with Policy CSP.1 of the Forest of Dean Core Strategy 2012 (LP) and Policy AP4 of the Forest of Dean Allocations Plan 2018 (AP) that seek to ensure that new development takes into account important characteristics of the environment and contributes to environmental enhancement.

### *Heritage*

9. Mantley House Farm, a grade II listed complex with three separately listed elements of house and farm buildings is on the opposite side of Ross Road to the appeal site. They have been described by another Inspector<sup>1</sup> as a high quality group, indicative of a prosperous historic farmstead. That Inspector found that the significance of the heritage asset is derived first and foremost

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<sup>1</sup> APP/P1615/A/14/2228822



from the age and architectural interest in the individual buildings and their grouping. The surrounding fields, including the appeal, site make an important contribution to the setting by enabling the farmstead to be understood and read in the landscape. I have no reason to disagree with that assessment.

10. Following that appeal, recent housing development, partly currently under construction, at Valegro Avenue<sup>2</sup> has eroded part of the setting of Mantley House Farm. The proposed development would further erode the setting and its historical association with the surrounding countryside. Tree removal at the access would open up the site and make the development visible alongside the heritage assets as viewed from Ross Road when leaving Newent.
11. Nevertheless, in these views, Mantley House Farm is already seen alongside existing development and the rolling landscape behind the buildings would still be visible alongside the former farm buildings. I, therefore, conclude that the site has a smaller part to play in understanding the origins of the heritage asset and its significance than the land that is contiguous with it.
12. Accounting for the cumulative effect of recent development around Mantley House Farm, the proposal would result in less than substantial harm to the setting of the listed building and thereby its significance. Given the contribution of the site to the setting, the harm would be towards the lower end of the 'less than substantial' category.

#### *Location of development*

13. The site is outside the development boundary for Newent. It is high quality agricultural land and the Framework indicates that decisions should recognise the economic and other benefits of the best and most versatile agricultural land.
14. CS Policy CSP.4 sets out that most change will take place within existing settlement boundaries, with new development concentrated at the towns in a manner that relates closely to the intended role of each. The Policy indicates that in the north forest, development will be centred around Newent, but nevertheless areas outside settlement boundaries will be treated as part of the open countryside. In support of this, CS Policy CSP.15, relating to Newent, indicates that additional housing beyond the target set in CSP.5, allocated in the AP, will only be permitted on small unidentified sites and suitable previously developed land within the town. Therefore, the proposal conflicts with these policies.

#### *Housing land supply*

15. There is no dispute that, based upon the Forest of Dean Allocations Plan 2018 (AP) and accounting for an existing shortfall, the 5 year housing requirement for the years 2020-2025 is 2260 dwellings (the five year period). There is dispute over whether a 5% (translating to 2372 dwellings) or 20% (2712 dwellings) buffer should be applied to this. The appellant advocates 5% based on Housing Delivery Test results whereas the Council suggests 20% being in accordance with the approach set out in the AP.
16. Against this requirement, the Council has produced a Housing Trajectory that indicates a deliverable supply of 3135 dwellings within the five year period. The

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<sup>2</sup> Referred to by its developer as Picklenash Grove



Glossary to the Framework clarifies that sites which do not involve major development and have planning permission, and all sites with detailed planning permission, should be considered deliverable unless there is clear evidence that homes will not be delivered within 5 years. Where a site has outline planning permission for major development or has been allocated in a development plan it should only be considered deliverable where there is clear evidence that housing completions will begin on site within five years.

17. The Council's trajectory includes a number of allocated sites<sup>3</sup> that do not have planning permission. Another site<sup>4</sup> is included that has previously had outline permission, but has no extant permission. Whilst these sites may have been subject to pre-application discussions, the Council has not referred to any clear evidence, such as a written agreement to delivery intentions or site assessment work to demonstrate firm progress being made to the submission of an application or commencement of development.
18. I appreciate that the Council may have recently experienced difficulties contacting developers due to the Covid-19 pandemic, but detailed evidence was not available in the original submissions that pre-dated such restrictions. I also understand that the Council considers much content of its pre-application discussions to be confidential. However, in the absence of detailed supporting evidence, the Council's claims regarding pre-application discussions amount to unsubstantiated assertions that development may be forthcoming. That is not the clear evidence required by the Framework and, so, I cannot account for these sites in the supply.
19. In addition, there are a number of other allocated sites<sup>5</sup> that are simply said to have no application and, at the Hearing, the Council could provide no further evidence about them. Along with the allocated sites where some pre-application discussions have taken place, these sites account for 395 dwellings within the five year period that must be removed from the supply.
20. The trajectory includes a number of sites in Cinderford that have had previous planning permissions<sup>6</sup>. However, it was confirmed at the Hearing that there were no current permissions and the Council was unable to provide any clear evidence of intent to submit any.
21. Elsewhere in Cinderford is a site<sup>7</sup> with outline permission for a new college and residential development. However, while the permission is extant, there is no clear evidence of intent to develop the residential part of the site for housing and the Council indicated at the Hearing that there is currently a condition preventing access to the residential area from the existing road. Although the Council's representatives saw no reason that the condition could not be varied, there is no particular evidence of an intention to do so.
22. The Council confirmed at the Hearing that Cinderford presents a challenging market for developer-led housing. I was told that recent housing delivery at the settlement has been secured by other means, including subsidies and grants.

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<sup>3</sup> Land off Sneyd Wood Road; Land at Poolway Farm, Coleford; Coleford Milkwall Ellwood Road; Coleford Kings Meade; Drybrook High Street

<sup>4</sup> Drybrook Farm

<sup>5</sup> Mitcheldean Former Coach Depot, St Michaels Close; Cleeve Mill Lane, Newent; former Victoria Hotel, High Street, Newnham; adjacent to Miners Arms, Sling; Netherend, Ash Way, Woolaston

<sup>6</sup> Cinderford Station Street, former Cannop Foundry; Cinderford Station Street, Turley Ct and Wilce land; Cinderford Station Street, Former Listers

<sup>7</sup> Cinderford Northern Quarter



Although discussions about similar arrangements to bring other sites forward may have occurred, there is no clear evidence before me that delivery of the above Cinderford sites is likely within the five year period.

23. A final site in Cinderford<sup>8</sup> has permission for residential development which is partially built, but the developer left the site some time ago. Despite having been marketed for 3 years, I was told that there is currently no developer interest. Given the challenging market conditions referred to above, this amounts to clear evidence that the site will not deliver more housing within the next 5 years. There is similarly no clear evidence to support additional housing at this site, beyond that in the extant permission.
24. For the reasons given, these sites in Cinderford cannot be included in the housing trajectory for delivery within the five year period. Collectively, they amount to 205 dwellings.
25. There are a number of outline planning applications<sup>9</sup> for major development currently under consideration by the Council. The Council has been working with the relevant applicants to resolve various issues to enable the grant of permission. However, although some are anticipated to be granted within the next few months, I could not be given any firm commitment at the Hearing as to the likely dates for their determination. Moreover, there is no clear evidence of when reserved matters may be submitted that may indicate deliverability within the five year period. In the absence of such clear evidence these sites, which together account for 133 dwellings must be removed from the 5 year supply.
26. A reserved matters application has been submitted in relation to an outline planning permission at Lydbrook, Former Rothdean tinplate works. It would deliver 26 dwellings. However, the reserved matters application was made in 2017 and progress to resolve outstanding issues has been slow. The Council was unable to confirm when outstanding matters might be resolved. Given the length of time since the application was made, there appears to be no urgency to move matters forward. Moreover, there is no clear evidence of a commitment to commence the development. Therefore, I find that these dwellings should also be removed from the 5 year supply.
27. A large component of the Council's housing supply is focussed on allocated sites at Lydney. I was told that the AP47 allocation is split into various parcels and multiple developers are active on parts of the site. However, one parcel, known as Lydney East phase A, does not yet have outline planning permission. The Council confirmed that the outline application, currently under consideration, is complex and includes mixed uses. There is no clear evidence of when permission may be given or of any discussions on future reserved matters applications that may allow the site to deliver housing quickly.
28. A similar situation exists at Holms Farm where an outline application (with one dwelling detailed in full) has been undetermined since its submission at the end of 2015. The Council confirmed that it was delayed due to the need to complete a planning obligation, but whilst this was said to be at an advanced stage, there is no clear evidence to support this, the preparation of reserved matters

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<sup>8</sup> Cinderford – St Whites Farm, Sneyd Wood Road

<sup>9</sup> Coleford North Road, Worcester Walk, Broadwell; Huntley – adjacent The Poplars, Tibberton Lane; Whitecroft Scovill Lydney Road, Whitecroft; Woolaston/Netherend Farm



(notwithstanding that much detail is already agreed), or commencement within 5 years.

29. It may well be that Lydney East Phase A is a logical extension to development activity within the AP47 allocation and that development will progress to it next. However, without clear evidence of when the outline planning permission may be granted, I can only give limited weight to this scenario.
30. I note the Council's contention that failure to deliver at the Lydney East Phase A site may be compensated by increased activity on the other parts of the allocation which are otherwise predicted to continue delivering houses beyond the five year period. However, if I were to remove this site, and the Holms Farm site from the supply, the trajectory indicates that the other sites in Lydney would deliver an average of 157 dwellings per year over the three years that those two sites were expected to make a contribution. As the Council believe that the Lydney Sites could collectively achieve an annual delivery of between 150 and 160 dwellings, there is little prospect of any failure being accommodated elsewhere.
31. Therefore, dwellings indicated for Lydney East Phase A and Holms Farm should be removed from the 5 year supply. Collectively this represents 88 dwellings.
32. Based on the foregoing, I conclude that 847 dwellings should be removed from the 5 year supply. This leaves a total of 2288 dwellings. If I were to apply a 5% buffer, which would give the lowest requirement of 2372 dwellings, the supply would be in the region 4.8 years. Applying a 20% buffer as suggested by the Council would result in a lower supply.
33. The appellant has suggested that a number of other sites may not deliver as anticipated by the Council, and also suggested further discounts should be made based upon rates of delivery or anticipated start dates, as well as for windfall sites. Detailed analysis of these factors may result in further reductions, but not an increase. Therefore, a supply of 4.8 years is a best-case scenario.

#### **Other matters**

34. Access to the site would be onto a sloping section of Bradford's Lane, close to its junction with Ross Road. Whilst I understand that this section of highway can flood after heavy rainfall and be challenging to navigate in icy conditions, the Highway Authority are satisfied that the access arrangements would be safe.
35. Opposite the site, the dwelling Glenwood has a pedestrian gate, onto the carriageway which I understand is utilised when accessing the school. Although the development may place more traffic onto this stretch of road, there would be good visibility of any pedestrians on the highway from vehicles leaving the site.
36. Heading away from Ross Road, Bradford's Lane provides access to a pre-school, pedestrian access to Picklenash Junior School and other existing residential development including on West View. Beyond this the road narrows to a single vehicle width and has no footways. I understand that this route is used by some pedestrians accessing the junior school from Vauxhall. Although there could be some increase in traffic along this route, traffic speeds are low due to the restricted width and forward visibility and there is no substantive



evidence that any existing safety concerns would be exacerbated by the proposed development.

37. During my site visit, I witnessed parking along Bradfords Lane associated with the end of the school day. This effectively limits the road to a single lane width, and I observed some congestion whilst vehicles manoeuvred around the parked cars. However, the access is some distance from the pinch point and given the proximity of the development to the school, it is unlikely to have a significant effect on these school-related traffic flows, or short-term parking patterns. Mindful that the Highway Authority has raised no objection to the proposal in principle, I, therefore, find that there would be no adverse effect on highway safety.
38. In order to facilitate safe access to public transport, new footways are required to bus stops on Ross Road. At the Hearing, the Highway Authority confirmed that such routes would be achievable within highway limits and could be secured by planning conditions. The Highway Authority recommended a further condition to secure upgrades to a public footpath to West View. This footpath would provide a more direct route on foot to town-centre facilities than walking via the road network. There is dispute between the parties as to whether a planning condition or planning obligation would be the most appropriate way to secure the upgrade.
39. Nevertheless, planning obligations and conditions should only be used where they are necessary to make the development acceptable in planning terms or where it would otherwise have been necessary to refuse planning permission. In this case, use of the footpath would make the walk to town centre facilities slightly shorter, but the route via the highway network is not significantly longer as a proportion of the whole journey. Although Framework Paragraph 108 indicates that appropriate opportunities to promote sustainable transport modes should be taken up, I therefore find that improvements to the footpath are not necessary to make the development acceptable or promote walking.
40. That said, the route would be a desire line representing the shortest available route and would be available in any case to those choosing to use it. Given the existing condition, it may not be suitable for all users, particularly those with reduced mobility. I have, therefore, given due regard to the Public Sector Equality Duty contained in the Equality Act 2010 that requires, amongst other things, decisions to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it. However, given that the acceptability of the proposal is not reliant upon upgrading the route, I conclude that no inequality of opportunity would arise in connection with my decision.
41. Vehicles exiting the site would face towards the existing dwelling, Glenwood. After dark, headlights would shine towards the dwelling and could affect bedroom windows. However, Glenwood is raised up from Bradfords Lane, so vehicles approaching the junction would be at a lower level than the windows. As such, any disturbance would not be so great as to result in a significant harm to living conditions. I, therefore, attribute limited weight to this matter.
42. There is some concern amongst local residents about the amount of development that has occurred in Newent and the effect on local services and facilities. However, there is no substantive evidence that the planning



obligations that I discuss below would not adequately address any shortcomings in infrastructure.

43. Whilst noting local concerns about potential increases in flood risk, the Council is satisfied that the development would adequately deal with surface water drainage so as to avoid increasing flood risk elsewhere. I note that additional information provided to the Council during consideration of the application resulted in the Lead Local Flood Authority confirming that it had no objection. There is no substantive evidence to lead me away from that conclusion.

### **Planning obligations**

44. A unilateral undertaking would provide a number of planning obligations. Those relating to the provision of affordable housing are required by planning policy and represent a benefit that would arise from the development. There are other obligations intended to secure maintenance of on-site features such as open space and surface water drainage facilities, or as mitigation for the effect of the development on infrastructure. These are neutral in the planning balance.
45. The Council has indicated that some of the contributions, including those relating to the Newent Initiative Trust, Scout hut and upgrades to the Watery Lane recreation ground, are not necessary to make the development acceptable in planning terms. I heard nothing at the Hearing to lead me away from that position.
46. With regard to this and my earlier reasons, I, therefore, conclude that the obligations defined as the Footpath Contribution, the Initiative Trust Contribution, the Open Space Contribution, and the Scout Hut Contribution, can be given no weight in determining the appeal. The other obligations are justified and proportionate to the development proposed.

### **Appropriate assessment**

47. The site is close to the Wye Valley & Forest of Deane Bat Special Area of Conservation (the Bat SAC). Development of the site could result in loss of foraging habitat and connectivity for bats, loss of vegetated commuting/connectivity corridors via increased public activity, or external lighting from the development negatively affecting foraging and commuting behaviours. Therefore, Appropriate Assessment (AA) under the Conservation of Habitats and Species Regulations 2017 (The Habitats Regulations), is required. This I have undertaken on a proportionate basis.
48. The Council carried out an AA in respect of the development. It notes that there is a low level use of the site by horseshoe bats, mainly on the south-western site boundary. The Council's AA also concluded that the provision of a bat foraging buffer zone, Landscaping and Ecological Management Plans including during construction, and an external lighting strategy would be sufficient to avoid adverse effects on the integrity of the Bat SAC.
49. Natural England, as Statutory Nature Conservation Body under the Habitats Regulations has reviewed the Council's AA and proposed mitigation and advises that it concurs with the conclusions. There is no particular evidence to lead me away from these findings. Therefore, following AA, I also conclude that there would be no adverse effects on the integrity of the Bat SAC.



## **Planning balance**

50. I have found that harm would arise in respect of the effect on the character and appearance of the area, location of the development outside the defined settlement boundary and effect on the setting of Mantley House Farm and its significance.
51. Framework Paragraph 196 indicates that the less than substantial harm to the heritage assets should be weighed against the public benefits of the proposal. In accordance with Framework Paragraph 193, I give great weight to the assets' conservation. Public benefits would arise in terms of the delivery of market and affordable housing. Given that there is less than 5 years supply of housing within the Forest of Dean District, I give these benefits very substantial weight. Whilst giving great weight to the harm to the significance of the heritage assets, given the low level of harm that would result and the substantial public benefit, I conclude that the public benefits would outweigh the harm.
52. Although there would be harm to the character and appearance of the area, this would be localised and limited. Therefore, whilst recognising the intrinsic character and beauty of the countryside and the benefits of the best and most versatile agricultural land as required by Framework Paragraph 170, I give only moderate weight to the harm and consequential conflict with CS Policy CSP.1 and AP Policy AP4 that would result.
53. CS Policy CSP.5 indicates that new greenfield sites will not be released unless it can be proven that land is not available from other sources and is needed to meet the plan's requirements. The shortfall in housing supply means that sufficient land is not available to meet the plan's requirements and, therefore, there is no particular conflict with Policy CSP.5.
54. The site's location outside the settlement boundary means that there is conflict with CS Policy CSP.4. However, given the shortfall in supply, close relationship of the site to the existing settlement and that Policy CSP.4 indicates that new development in the north forest will be centred around Newent, I find little harm would arise to the overall strategy set out in the development plan.
55. Other Inspectors have previously accepted that a 5 year housing land supply exists and found the development plan to be consistent with the Framework. However, under Framework Paragraph 11(d), the shortfall in housing land supply now indicates that permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusing the development proposed; or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
56. Policies that protect heritage assets are policies that protect assets of particular importance. However, I have already found that the public benefits of the proposal outweigh the harm to the significance of the heritage assets and, therefore, Framework Paragraph 196 does not provide a clear reason for refusing the development.
57. A key objective of the Framework is to boost significantly the supply of homes. In light of the weight that I have attached to the various identified harms, and



as the public benefits would outweigh the harm to heritage assets, I find that the adverse impacts of granting permission would not significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework taken as a whole. Therefore, the proposal benefits from the presumption in favour of sustainable development, outlined at Framework Paragraph 11.

58. Conflict with the development plan, read as a whole, remains. However, I have ascribed only little to moderate weight to the conflict with the aims of its various policies. The benefits associated with the delivery of housing, compliance with the Framework and the presumption in favour of sustainable development are material considerations to which I attach very substantial weight.
59. While I understand that the site was not supported as an allocation by an Inspector in 2003, with other sites being preferred, I must determine this appeal on the basis of prevailing planning policy and material considerations now. I, therefore, conclude that material considerations indicate a decision otherwise than in accordance with the development plan.

### **Conditions**

60. To ensure that adequate facilities are available for the traffic likely to be attracted to the site, full details of vehicle parking facilities and their subsequent maintenance are required, and the access and visibility splays and estate roads should be provided. To ensure no harm to the operation of the public highway a construction method statement should be prepared.
61. To ensure that there is no increase in off-site flood risk, conditions are necessary to secure details of surface and foul drainage proposals and their future maintenance. To promote non-car and low-carbon transport opportunities, details are required to secure electric vehicle charging points, cycle parking facilities, pedestrian links to the Ross Road bus stops and implementation of the submitted travel plan. To minimise waste, a waste minimisation statement should be submitted.
62. To ensure that ecological interests and biodiversity are safeguarded and enhanced, a Construction and Ecological Management Plan, Landscape and Ecological Management Plan, and biodiversity enhancement scheme must be secured. As the schemes would be assessed in accordance with current guidelines, a separate condition requiring adherence to the Council's methods of working for reptiles is not necessary. Although covered by the reserved matters, a specific condition requiring a buffer zone where peak bat foraging activity occurs is necessary to give certainty as I have relied upon it in conducting my appropriate assessment. For the same reason, a condition requiring a lighting design to safeguard bat activity is required.
63. To ensure that any archaeological interests are properly recorded and investigated, a condition is necessary to secure a programme of archaeological works. To minimise risks from contamination to future users of the land, a condition is necessary requiring investigation and remediation of any unexpected contamination found at the site.
64. The Council has recommended a condition that full details of levels are provided with a reserved matters application, but this detail relates to the

reserved matters and a condition on the outline planning permission is not necessary. Similarly, details of tree protection and site landscaping relate to the reserved matters. The provision of fire hydrants is covered by other legislation. I have made some revisions to the Council's suggested conditions in the interests of clarity and consistency and to ensure compliance with the Framework and Planning Practice Guidance.

**Conclusion**

65. For the reasons given, I conclude that the appeal should be allowed.

*M Bale*

INSPECTOR