

p) CD17.29 Appeal Ref: APP/H1840/W/19/3241879 paragraph 31 Corner Mead, Newland Lane, appeal at Droitwich Spa

In the *Corner Mead, Newland Lane*, appeal at Droitwich Spa (Appeal Ref: APP/H1840/W/19/3241879) the Inspector (CD17.29 paragraph 31) concluded that the Council had not granted enough permissions for serviced plots to meet the demand for self-build plots in the first base period and in undertaking the planning balance (CD17.29 paragraph 51) the Inspector while noting there was a 5-year supply nevertheless found the Development Plan out-of-date in respect of self-build housing. The inspector considered that given the importance attached to provision of self-build housing in the NPPF and PPG it should not be treated simply as a component of general market housing. The tilted balance was engaged.

The Inspector (CD17.29 paragraph 52) also attached substantial weight to the benefit the proposed development would make to the supply of sites for self-build housing including the economic benefit during construction and on-going support for local facilities, as well as significant social benefits in terms of the diversity of housing type which would contribute towards meeting the Council's duty under the 2015 Act.



Appeal Decision

Hearing Held on 29 June 2020

Site visit made on 1 July 2020

by David Richards BSocSci DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 23 July 2020

Appeal Ref: APP/H1840/W/19/3241879

Corner Mead, Newland Lane, Droitwich Spa, Worcestershire WR9 7JH

- 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 Build 1 against the decision of Wychavon District Council.
 - The application Ref 19/01679/OUT, dated 22 July 2019, was refused by notice dated 25 September 2019.
 - The development proposed is up to 9 self-build dwellings including new means of access off Newland Lane.
-

Decision

1. The appeal is allowed and planning permission is granted for up to 9 self-build dwellings at Corner Mead, Newland Lane, Droitwich Spa, Worcestershire WR9 7JH in accordance with the terms of the application, Ref 19/01679/OUT, dated 22 July 2019, subject to the conditions set out in the attached Schedule.

Application for costs

2. At the Hearing an application for costs was made by the Appellant against the Council. This application is the subject of a separate Decision.

Main Issues

3. The main issues are the effect on the character and appearance of the surrounding area, and whether the Council has made adequate provision for the delivery of self-build dwellings in accordance with the requirements of the Self Build and Custom Housebuilding Act 2015 (The Act).

Reasons

4. The application was made in outline and included provision of a new access, with matters relating to appearance, landscaping, layout and scale reserved.
5. The development plan includes the South Worcestershire Development Plan (SWDP) which was adopted in February 2016. Policy SWDP2 is concerned with the Development Strategy and Settlement Hierarchy. The development strategy and site allocations are based on a number of principles, including provision for and facilitation of the delivery of objectively assessed needs to 2030, safeguarding of the open countryside, the effective use and reuse of brownfield land. Most development is focussed on urban areas, which include Droitwich Spa. Under criterion C, the open countryside is defined as land

beyond any development boundary, where development will be strictly controlled and limited to a number of defined categories, none of which include the construction of self-build housing. It is common ground that the appeal proposal conflicts with Policy SWDP2 C as it is located outside of the defined development boundary.

6. The SWDP is under review (SWDPR). However, as it is at an early stage of preparation, it carries very little weight.
7. Section 5 of the NPPF sets out the Government's objective of significantly boosting the supply of homes and states that it is important that a sufficient amount and variety 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 unnecessary delay. The size, type and tenure of housing for different groups in the community should be assessed and reflected in planning policies, including people who wish to commission or build their own homes. Footnote 26 sets out the requirements of the Self Build and Custom Housebuilding Act 2015 which are also explained in Planning Practice Guidance (PPG).
8. Paragraph 023 of the PPG provides that relevant authorities must give suitable development permission to enough suitable serviced plots of land to meet the demand for self-build and custom housebuilding in their area. The level of demand is established by reference to the number of entries added to an authority's register during a base period. The first base period begins on the day on which the register is established and ends on 30 October 2016. Each subsequent base period is the period of 12 months beginning immediately after the end of the previous base period. At the end of each base period, relevant local authorities have 3 years in which to permission an equivalent number of plots of land, which are suitable for self-build and custom housebuilding, as there are entries for that base period.

Effect on character and appearance of the area

9. The appeal site lies in the countryside on the outskirts of Droitwich Spa, beyond the development boundary defined in the SWDP and detached from it by a gap of some 110 metres. It is located in the Parish of Salwarpe but is more closely related to the town of Droitwich Spa. The SWDP made provision for a large urban extension (site allocation SWDP49/2) which is currently well under construction and lies 110m from the appeal site
10. The site extends to about 0.68 hectares. It is bounded to the south by Newland Lane and to the west by Newland Road. It is currently occupied by a dwelling and part of the site is garden land, the remainder having last been in agricultural or grazing use. Development in the immediate vicinity is sporadic in nature and the area retains a rural character, albeit one that is now very close to, and influenced by, the urban edge created by the new development. Neither the Council's refusal reason nor statement of case address the impact on the character of the countryside in any detail.
11. The Council refers to the suburban appearance of the indicative layout but notes that layout, scale and appearance are reserved matters, and suggests means by which greater variety might be achieved to reflect the more organic pattern of the area. With regard to effects on the landscape, the committee report recorded no objection on landscape or visual impact grounds, subject to

the attachment of conditions addressing tree and hedgerow retention, new planting and protection during construction. There are established trees and planting which could provide effective screening, particularly on the Newland Road frontage.

12. I accept that the development would lead to an intensification of built development in an urban fringe location. I also agree that the site cannot properly be described as adjacent to the settlement, (given the normal meaning of 'adjacent' as adjoining or next to) as there are other low-density properties and small fields intervening. However, while the area currently has a pleasant semi-rural character, the countryside is very close to the urban edge, and is not covered by any relevant landscape policy designation, nor does it lie within the Green Belt, which lies to the south of Newland Lane. I conclude the actual harm to the countryside setting of the current urban area of Droitwich Spa would be very limited, and could be mitigated by careful design and landscaping.

Whether the council has made adequate provision for self-build dwellings in accordance with the provisions of the Self Build and Custom Housebuilding Act 2015.

13. The Council's position is that the development is in conflict with an up-to date development plan (the SWDP). It considers that the SWDP policies are not 'absent' or 'silent' on the appeal proposal, which in the Council's view entails open market residential development in the open countryside, beyond the development boundary.
14. The Appellant does not dispute that the Council can demonstrate a 5 year Housing Land Supply (5YHLS). Footnote 7 to Paragraph 11 of the NPPF states that policies for the provision of housing should not be considered up-to-date if the local planning authority cannot demonstrate a 5YHLS. On this basis, the Council considers that all SWDP policies concerning the provision of housing are to be afforded full weight, and the appeal should be determined in accordance with the Development Plan.
15. The Appellant accepts that the proposal conflicts with Policy SWDP2 C, but considers this is no more than a technical breach of one criterion of one policy. In the Appellant's submission the proposal accords with the strategic objectives and spirit of Policy SWDP2 and the development plan as a whole, and there are significant material planning considerations which indicate that permission should be granted. The Appellant believes that the provision of self-build and custom housebuilding in what is a location with good accessibility to shops and facilities is a fundamental material planning consideration which is clearly capable of outweighing the technical conflict with the development plan.
16. This is so because the Appellant believes that the Council have not complied with their duty under the 2015 Act to permit sufficient self-build and custom housebuilding plots to meet the need as stipulated on the register.
17. The Council publishes an annual progress report for self-build and custom housebuilding. The first base period for the local planning authority is 1 April 2016 – 31 Oct 2016. Data from the council's Annual Progress Reports¹ gives the number of entries for each base period as follows:

¹ Wychavon District Council Self Build and Custom Housebuilding Progress Reports December 2017, December 2018 and December 2019

Base Period	Part 1 Entries	Part 2 Entries	Total Entries
1 April 2016 – 31 Oct 2016			51
31 Oct 2016 – 31 Oct 2017	35	13	48
31 Oct 2017 – 31 Oct 2018	41	26	67
31 Oct 2018 – 31 Oct 2019	50	37	87

18. The Council’s position is that they have granted sufficient permissions to meet the demand on the self-build register and that there are no exceptional circumstances to justify determining the appeal other than in accordance with the development plan.
19. In support of its position the Council referred to the SWDP Examination, where the Inspector took the view that self-build and custom build should not be specifically identified in housing allocations as they were considered to represent another form of market housing which could come forward on the numerous small sites allocated in villages for under 10 dwellings, or smaller policy compliant sites that were ruled out as too small to meet the allocation threshold of +5 dwellings. The Council cited a number of appeal decisions which supported this approach².
20. In the committee report and at the hearing, the Council referred to an alternative requirement for the first base period of 11 dwellings. This is not taken from the progress reports, which appear to be the only relevant publicly available documents. It was explained at the hearing that the Council had applied eligibility criteria to the gross figure. People who were on the register were contacted and asked to provide details of local eligibility, to avoid a situation where people interested in self-build could put themselves on a number of different registers, thus potentially inflating overall demand for self-build sites. Those who didn’t respond were not taken off the register but retained in Part 2.
21. The Self-build and Custom Housebuilding Act 2015 was amended by the Housing and Planning Act 2016 to enable local authorities to include up to two optional local eligibility tests, only to be applied by local authorities where there is strong justification for doing so. A local connection test should only be applied in response to a recognised local issue. If a local authority chooses to set a local eligibility test it is required to have two parts to the Register. Individuals or Associations of individuals who apply for eligibility criteria must be entered on Part 1. Those who meet all eligibility criteria except for a local connection test must be entered on Part 2 of the Register. Only Part 1 entries count towards the number of suitable serviced plots that they must grant development permission for.
22. The Council’s states that the Register was established on 1 April 2016, but went through an update period during May and June 2017 when the local connection test was introduced. During this period, individuals already on the Register were asked to provide an update to remain on the Register, and were

² APP/H1840/W/17/3185471; APP/H1840/W/16/3151822;

automatically placed on Part 1 if such an update was provided irrespective of whether or not they could meet the local connection test. During the update period, a number of entries were removed from the Register if an update was not provided. There were originally 51 entries on the Register during the first base period, however, this figure dropped to 11 as only 11 of these provided an update.

23. The Appellant says there is no justification for applying the local eligibility criteria retrospectively to the first base period. Authority to split the register into two parts was only introduced in 2016 through the Housing and Planning Act and brought into force through the Self-build and Custom Housebuilding Regulations 2016. The commencement date for these provisions was 31 October 2016 and the relevant Planning Practice Guidance was not updated in 2017 in this respect.
24. In view of the need for transparency in such matters I share the Appellant's concern that the reduction of the numbers on the register from 51 to 11 is lacking in clear justification. There has been no opportunity to scrutinise the further consultation undertaken by the Council, or whether people on the register were aware of the implications of not establishing local eligibility in relation to the Council's duties in respect of granting planning permissions relating to the first base period. No explanation of the need for eligibility criteria to be applied in Wychavon was given or any indication of a recognised local issue to justify it. A further 23 entrants were included in Part 1 of the register in the second base period (01/11/16 – 31/10/17) according to the table in the Council's statement. It seems at least possible that some of these were people included in the first base period who failed initially to respond to the Council's call for further information and so were excluded.
25. With regard to the supply of sites for self-build, the Council provides evidence of planning permissions granted for 11 serviced plots in the period 1 April 2016 to 31 October 2019. All refer to self-build dwellings as part of the description of development and supported by additional evidence in the form of references to self-build in Design and Access or Planning Statements or self-build exemption CIL claim forms. The Council considers that this provides clear evidence for enough serviced plots to meet the demand in the District for the first base period.
26. The Appellant disagrees and submits that a legal mechanism is required to ensure that the permissions would be developed in a manner that accords with the legal definition of self-build and custom housebuilding, as set out in the 2015 Act. The Appellant refers to the 'I'm Your Man' case to support the proposition that the Council cannot rely on the description of development to secure self-build homes. On this basis, it would be necessary for an express condition or a s106 legal obligation to ensure that a permission is restricted to self-build. I agree with the Council that this would be too restrictive and would include situations such as infill plots where there would be no reason to insist on an s106 obligation, for example policy compliant infill plots or developments on small housing allocations which could be considered to satisfy a demand for self-build if developed accordingly. The duties do not require a level of completions to be achieved in a particular time frame.
27. In response to the Appellant's claim that the Councils approach is 'overly optimistic' the Council refers to an additional 27 planning permission which

have been granted in the period between 1 April 2016 to 31 October 2019 for a total of 35 new dwellings where the planning application has been submitted with a signed Community Infrastructure Levy Form Self Build Exemption Claim Form (CIL Exemption Form), as detailed in latest Progress Report (December 2019). The Council contend that each of these can also be counted towards meeting the requirement as the CIL Exemption Form is a legally binding agreement whereby the applicant is required to declare that the project meets the definition of self-build and will occupy the dwelling for at least three years after its completion.

28. The Appellant cites a relevant recent Appeal Decision, dated 25 June 2019 concerning land off Hepworth Road, Woodville DE11 7DW³. The application was for self and custom build residential development consisting of 30 plots with a new access and supporting infrastructure. The site was outside the defined limits to development as defined in the relevant Local Plan. As regards the Council's duties under the 2015 Act the Inspector had this to say:

22. The Council confirms that as at April 2019, there are 54 individuals on the Council's Self-Build and Custom Housebuilding Register and that as of April 2019, it has permitted 4 plots in the period since 31 October 2016. Since 31 October 2016 the Council has permitted an additional 133 single plot dwellings which have been distributed across the District. However, the Council has not provided any information to suggest that there are provisions in place to ensure that any of the 133 single dwelling permissions would be developed in a manner that accords with the legal definition of self-build and custom housebuilding in the Self-Build and Custom Housebuilding 2015 (as amended).

23. To my mind this raises considerable doubts as to whether any of the single dwelling permissions would count towards the number of planning permissions the Council has granted for serviced plots and thus whether these consents would actually contribute towards the delivery of self-build and custom housebuilding in the District. Importantly, the S.106 Agreement submitted with the appeal proposal contains provisions to ensure that the proposed dwellings on the appeal site would meet the definition of self-build and custom housebuilding. There is no evidence before me of a similar mechanism which would secure the delivery of self-build and custom housebuilding on the plots referred to in Appendix 3 of the Council's Statement. I consider it would be unreasonable to include any of the single dwelling permissions within the calculation of self-build and custom housebuilding permissions granted in the District.

29. The Inspector found in that case that only 4 plots identified by the Council appeared to comply with the definition of self-build and custom build housing in the 2015 Act. He discounted sites that were not subject to a planning condition or a planning obligation requiring a self-build or custom build house to be built on the site that accords with the statutory definition. He concluded on the evidence available that there was a shortfall of permissions for at least 5 serviced plots to meet the demand identified from the first base period and found that the ability of the appeal proposal to address the unmet demand for serviced plots that arose in base period 1, base period 2 and part of base period 3 in a comprehensively planned manner is a material consideration that weighs strongly in favour of the appeal proposal, and that the appeal proposal

³ APP/G2435/W/18/3214451

was necessary to enable the Council to meet its statutory obligations with respect to the duty under Section 2A of the 2015 Act (as amended), given that there appeared to be an inadequate supply of serviced plots coming forward for development in the District.

30. Notwithstanding the conclusions of this Inspector, I do not consider that only those permissions subject to an express condition or s.106 obligation should be counted towards meeting the Section 2A requirement, for reasons set out above. To my mind this would be too onerous a requirement, and could lead to the exclusion of self-build sites within development boundaries ever being counted towards meeting Section 2A, which appears to me to conflict with the objective of promoting self-build as a means of meeting identified housing need, and in a wide range of circumstances. Both the Woodville site and the site under consideration in this appeal were promoted as exceptions sites, where such an arrangement would be necessary to justify making the exception to the policies in an otherwise up-to-date development plan.
31. Nevertheless I do not consider that the evidence provided by the Council is sufficiently reliable for me to conclude that the Council has met its duty under Section 2A. To my mind, some further analysis of the raw data is necessary, which as a minimum relates permissions granted to meeting the needs of named individuals or groups identified in part 1 of the Register. It is not sufficient to rely on CIL exemption forms without this type of further analysis, which is lacking in the Council's evidence. I conclude that the Council has not satisfactorily demonstrated that it has granted enough permissions for serviced plots to meet the demand for self-build and custom build plots in the first base period.

Other matters

32. The parties agree that the site has a reasonable degree of accessibility to the facilities and services available in the wider area of Droitwich Spa, and that the site is locationally sustainable in this respect.
33. Local residents raised a number of issues in their representations, and at the hearing. There was concern regarding the traffic impact of the proposal, and the effect of the new access arrangements on road safety. The Appellant argued that there would be a clear safety benefit, as the existing sub-standard access would be replaced by a designed access that met all the relevant visibility standards. A resident considered that this would be outweighed by the significant increase in vehicle movements arising from 9 dwellings as opposed to one. It was also stated that Newland Drive carried a lot of heavy traffic, though it was acknowledged that some of this was temporary, being attributable to the construction of the urban extension.
34. I note that the Highways consultee asked for a deferral of the application for further information. However, a previous application, to which the consultee had no objection, proposed a similar access arrangement⁴. The previous application was for 10 dwellings, while this is for up to 9, with the existing dwelling retained. However the difference is not material.
35. I acknowledge that extra traffic would be unwelcome to existing residents. However, I do not consider that the increased number of trips would be

⁴ 18/00906/OUT - Outline application for up to 10 self-build dwellings including a new means of access off Newland Lane - Refused 7 August 2018.

significant in the context of existing usage of the local road network, and I conclude that the proposed arrangement would be acceptable in terms of traffic safety and effect on the living conditions of neighbours.

36. Residents were also concerned about the effect of development on their living conditions, during the construction period and thereafter. Layout and appearance are reserved matters, so that the detailed design of the new development could ensure reasonable separation distances between the new dwellings and neighbouring properties to protect the living conditions of existing residents. With respect to the construction period, a site management plan is proposed to address such concerns and in my view would be effective in minimising potential noise and other disturbance to residents. In the event of the appeal being allowed, this could be secured by a condition. I accept that further disturbance would be unwelcome, particularly at a time when work on the urban extension may be drawing to a close. However, I do not consider these concerns would be sufficient to stand in the way of allowing the appeal in the absence of other convincing reasons.
37. Another resident raised concerns with local flood risk, particularly on Newland Road at its lowest point, which is reported to flood after heavy rain. The Council's drainage engineer commented at application stage that the site is in flood zone 1 and in an area at low risk of surface water flooding. Surface water drainage is proposed via soakaways and areas of hard standing will make use of permeable materials or, if grounds conditions are unsuitable, an alternative sustainable solution will be required. The principle of sustainable drainage is that surface water is intercepted so that flows are no greater from a site as a result of development than the current situation. Having regard to the drainage engineer's comments, there is no reason to suppose that an acceptable drainage system cannot be achieved.

Conditions

38. A schedule of agreed conditions was included in the Statement of Common Ground (SOCG). The Appellant expressly agreed to the inclusion of the suggested pre-commencement conditions at the hearing. The application was made in outline (except for the access arrangements) so reserved matters conditions are necessary to ensure the development achieves a satisfactory appearance, landscaping, layout and scale (Conditions 1, 2, 3, 5, 18, 20 and 23). Condition 4 is necessary to protect trees to be retained from damage during construction. Condition 6 is necessary to avoid any risk of surface water flooding. Conditions 7 and 11 are necessary to ensure satisfactory visibility in the interests of highway safety. Conditions 8 and 9 are necessary to ensure appropriate provision for cars and cycle parking. Conditions 10 and 12 are necessary to encourage the use of sustainable transport, including provision for the charging of electric vehicles. Condition 13 is necessary to protect the living conditions of neighbours during construction and in the interests of highway safety. Condition 14 is necessary to secure a programme of archaeological work to ensure that any archaeological interest is investigated and appropriately recorded.
39. Condition 15 sets out a requirement for a Construction Environment Management Plan for Biodiversity (CEMP: Biodiversity) and is necessary to ensure that areas of sensitive ecological importance are appropriately managed and protected from damage during construction. Condition 16 requires the

preparation and implementation of a Biodiversity Enhancement Strategy, and is necessary to ensure that biodiversity objectives for the development are met. Condition 17 requires preparation of a Landscape and Ecological Management Plan (LEMP) to identify responsibilities for on-going management of features of landscape and ecological importance. I have amended the parties' wording as it is not within the Appellants' control to secure the agreement of the local planning authority within one month of the commencement of the development. As this condition is concerned with ongoing management, I consider it acceptable that the LEMP should be approved prior to first occupation of the first dwelling. I have made other minor changes to the wording in the interests of clarity.

40. Condition 19 (slab levels) is necessary to ensure that the development sits well within the landscape and surroundings. Condition 21 is necessary to ensure appropriate provision for refuse storage. Condition 22 is necessary to secure a reduction in carbon emissions from the development.
41. Subject to the amendments I have made I consider these conditions to meet the tests set out in the NPPF and PPG.

S106 obligation

42. The Appellants submitted a final signed version of a unilateral undertaking (UU) dated 9 July 2020. The main provisions are: 1. The owners covenant that each residential unit shall be constructed as a self-build dwelling; 2. The first occupation of each unit shall be by a person or persons who had a primary input into design and layout and who intends to live in it for at least 3 years and who is included in Part 1 of the Register. 3. The Council shall be notified of the persons who intend to take up first occupation at least two months prior to first occupation.
43. Schedule 2 of the UU addresses an off-site affordable housing contribution of £143,966.25 to be paid prior to the first occupation of the first dwelling.
44. The Council does not dispute the contribution figure but expressed a preference for an on-site discount market self-build dwelling on site, in accordance with Policy SWDP15, which requires that on sites of 5 – 9 dwellings, 20% of units should be affordable and provided on site.
45. I note that in its appeal statement the Council did not take issue with the Appellant's approach of providing a commuted sum for off-site provision, but introduced the request for on-site provision at a later stage. The policy allows for the acceptance of off-site-contributions where a robust justification exists.
46. While I acknowledge the preference for on-site provision, I consider that the provision of an agreed sum as a contribution to off-site provision would satisfactorily address affordable housing provision in the circumstances of the case. I note the difficulties encountered in reaching an agreed form of wording in the context of a UU where it is not appropriate to place a requirement on the Council to exercise its powers in a particular way, for example in respect of nomination rights or marketing strategies. The site lies close to Droitwich Spa where there are opportunities to address affordable needs arising in the neighbouring parish of Salwarpe, in which the appeal site lies.
47. The 2015 Act and the NPPF/PPG guidance support provision for self-build as a means of diversifying access to the housing market and allowing for self-

builders to contribute their skills and labour to reduce the costs of entry into the market. In the circumstances, where the UU secures an appropriate off-site contribution for affordable housing, I do not consider that the failure to make on-site provision outweighs the benefits that would arise from the grant of permission.

48. With regard to the CIL regulations, I conclude that the final UU is necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related to the development in scale and kind.

Planning balance and conclusion

49. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. It is not disputed that the proposed development would conflict with Policy SWDP2 C as it lies outside the defined development boundary and within an area identified as open countryside.
50. I have found that the harm to the character and appearance of the area would be very limited, and capable of mitigation by careful design and landscaping. Although other matters of concern were raised by residents, these would not be of sufficient weight to stand in the way of granting permission. I consider the effects on highway safety would be broadly neutral when balancing the increase in trip generation against the improvement in visibility and geometry. The parties agreed that, but for the conflict with the development plan, the location is sustainable for the type of development proposed, having good accessibility to a range of facilities.
51. While there is no dispute that the Council can demonstrate a 5-year supply of housing land, I consider that the Development Plan is out-of-date in respect of self-build housing. There is no reference to self-build housing within Policy SWDP2. Policy SWDP14 addresses the mix and type of market housing to ensure that a range of household demand and needs continue to be accommodated, but does not say anything substantive about self-build housing. In view of the importance attached to provision for self-build housing in the NPPF and PPG, I do not accept the Council's view that it should be treated simply as a component of general market housing. The tilted balance is therefore engaged in this case. The forthcoming review of the plan does address self-build housing but is at an early stage and carries very little weight at this time.
52. With regard to meeting the Council's duty under the 2015 Act I have found that the Council has not satisfactorily demonstrated that it has granted enough permissions to meet the need identified in the first base period, for the reasons set out above. The proposed development would make a significant contribution to the supply of sites for self-build housing in Wychavon in accordance with Section 5 of the NPPF and the associated PPG. There would be an economic benefit during construction and from on-going support for local facilities, and significant social benefit in terms of the diversity of housing type which would contribute to meeting the Council's duty under the 2015 Act. I attach substantial weight to this benefit and conclude that the adverse impacts of granting planning permission in this case would not significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole. This is a material consideration of sufficient weight to

indicate that the appeal should be determined otherwise than in accordance with the development plan.

53. I therefore conclude that planning permission should be granted subject to the conditions set out in the attached schedule.

David Richards

INSPECTOR

APPEARANCES

For the Appellant

Neal Pearce	Director, Avon Planning Services
Mark Donald	Director, H2 Land
Chris Hughes	Commercial Director, H2 Land
Jack Smyth	of Counsel

For Wychavon District Council

Emma Worley	Development Manager (North)
Denise Duggan	Senior Planning Officer (Policy)

Interested Person

Mr Chris Everton	Local resident
------------------	----------------

Appeal Ref: APP/H1840/W/19/3241879

Schedule of conditions:

- 1) Application for the approval of reserved matters shall be made to the local planning authority before the expiration of three years from the date of this permission. The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.
- 2) Approval of the details of the appearance, landscaping, layout and scale (hereinafter called "the reserved matters") shall be obtained from the local planning authority in writing before any development is commenced. The development shall be carried out in accordance with approved reserved matter details.
- 3) The following details shall be submitted for approval as part of the landscaping reserved matters:-
 1. Survey information of all existing trees and hedges on the application site, and branches from trees on adjacent land that overhang the site. The survey shall include for each tree/hedge:
 - a) the accurate position, canopy spread and species plotted on a plan;
 - b) an assessment of its general health and stability;
 - c) an indication of any proposals for felling or pruning;
 - d) details of any proposed changes in ground level, or other works to be carried out, within the canopy spread.
 2. A landscape scheme which shall include:
 - a) a plan(s) showing the planting layout of proposed tree, hedge, shrub and grass areas;
 - b) a schedule of proposed planting – indicating species, size at time of planting and numbers/densities of plants;
 - c) a written specification outlining cultivation and others operations associated with plant and grass establishment;
 - d) a schedule of maintenance, including watering and the control of competitive weed growth, for a minimum period of five years from first planting.

The landscaping shall be provided and maintained in accordance with the approved details within the first planting season following completion of the development hereby permitted.
- 4) Temporary fencing for the protection of all retained trees/hedges on site and trees outside the site whose Root Protection Areas fall within the site shall be erected in accordance with BS 5837:2012 (Trees in Relation to Design, Demolition and Construction) before development of any type commences, including site clearance, demolition, materials delivery, vehicular movement and erection of site huts. Any alternative fencing type or position not strictly in accordance with BS 5837 (2012) must be agreed in writing by the local planning authority prior to the commencement of development.

Protective fencing shall remain in place until the completion of development unless otherwise agreed in writing with the local planning authority. Nothing should be stored or placed (including soil), nor shall any ground levels be altered, within the fenced area without the previous written consent of the local planning authority. There shall be no burning of any material within 10 metres of the extent of the canopy of any retained tree/hedge.

- 5) Details of any walls, fences, surface treatments to drives, cycle and footways and an implementation timetable shall be submitted for approval as part of the landscaping reserved matters.
- 6) Prior to the first use/occupation of each plot hereby permitted, the details set out in the submitted Water Management Statement shall be fully implemented and retained thereafter.
- 7) Notwithstanding the approved plans no part of the development shall be occupied until visibility splays have been provided from a point 0.6m above carriageway level at the centre of the footway / cycleway access to the application site and 2.0 metres back from the near side edge of the adjoining carriageway, (measured perpendicularly), for a distance of 25 metres in each direction measured along the nearside edge of the adjoining carriageway and offset a distance of 0.6m from the edge of the carriageway. Nothing shall be planted, erected and/or allowed to grow on the triangular area of land so formed which would obstruct the visibility described above.
- 8) No dwelling shall be occupied until an area has been laid out within the curtilage of that dwelling for the parking of cars in accordance with County standards. The parking area shall thereafter be retained for the purpose of vehicle parking only.
- 9) No dwelling shall be occupied until sheltered and secure cycle parking to comply with the Council's standards has been provided for that dwelling in accordance with details which shall be submitted to and approved in writing by the local planning authority and thereafter the approved cycle parking shall be kept available for the parking of bicycles only.
- 10) Appropriate cabling and an outside electrical socket must be supplied for each property to enable ease of installation of an electric vehicle charging point (houses with dedicated parking). The charging point must comply with BS7671. The socket should comply with BS1363, and must be provided with a locking weatherproof cover if located externally to the building. As a minimum, charge points should comply with Worcestershire County Council Design Guide which requires 7kw charging points for residential developments.
- 11) The development hereby approved shall not commence until drawings of the site access works comprising:
 - The vehicular site access to Newland Lane, and
 - The footway / cycleway access to Newland Road

generally in accordance with, but not limited in detail to, the application drawings have been submitted to and approved in writing by the local planning authority and no part of the development shall be occupied until those works have been constructed in accordance with the approved details.

- 12) Each dwelling hereby approved shall not be occupied until the applicant has submitted in writing to and had approval in writing from the local planning authority a residential welcome pack promoting sustainable forms of access to the development. The approved pack shall be delivered to each dwelling upon its first occupation.
- 13) The development hereby approved shall not commence until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in by the Local Planning Authority. This shall include but not be limited to the following:
- Measures to ensure that vehicles leaving the site do not deposit mud or other detritus on the public highway;
 - Details of site operative parking areas, material storage areas and the location of site operatives facilities (offices, toilets etc);
 - The hours that delivery vehicles will be permitted to arrive and depart, and arrangements for unloading and manoeuvring;
 - Details of any temporary construction accesses and their reinstatement; and
 - Details of any site boundary hoarding / fencing set back clear of visibility splays.

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

- 14) A) No development shall take place until a programme of archaeological work, including a Written Scheme of Investigation, has been submitted to and approved by the local planning authority in writing. The scheme shall include an assessment of significance and research questions; and:
- 1) The programme and methodology of site investigation and recording.
 - 2) The programme for post investigation assessment.
 - 3) Provision to be made for analysis of the site investigation and recording.
 - 4) Provision to be made for publication and dissemination of the analysis and records of the site investigation.
 - 5) Provision to be made for archive deposition of the analysis and records of the site investigation.
 - 6) Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.

(B) The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under clause (A) of this condition and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

- 15) No development shall take place (including any site clearance, ground works or demolition) 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 based on

the findings of the Tree Survey, Preliminary Ecological Appraisal and Reptile Survey submitted with the outline application as well as the findings of an updated Preliminary Ecological Appraisal include the following:

- a. Risk assessment of potentially damaging construction activities;
- b. Identification of "biodiversity protection zones";
- c. Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements and should include details of appropriate protective fencing of retained trees' root protection zone);
- d. The location and timing of sensitive works to avoid harm to biodiversity features;
- e. The times during construction when specialist ecologists need to be present;
- f. Responsible persons and lines of communication;
- g. The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person;
- h. Use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

- 16) No development shall take place until a Biodiversity Enhancement Strategy (BES) has been submitted to and approved in writing by the local planning authority. The strategy shall include the following:
 - a. Purpose and conservation objectives for the proposed works;
 - b. Review of site potential and constraints;
 - c. Detailed designs and working methods to achieve stated objectives (including, where relevant, type and source of materials to be used);
 - d. Extent and location of proposed works shown on appropriate scale maps and plans;
 - e. Timetable for implementation, demonstrating that works are aligned with the proposed phasing of development;
 - f. Persons responsible for implementing the works;
 - g. Initial aftercare;
 - h. Details for disposal of any wastes arising from works.

The BES shall be implemented in accordance with the approved details and all features be retained in that manner thereafter. On completion of the ecological mitigation and enhancement works, a statement of compliance shall be submitted to the local planning authority by the Ecological Clerk of Works (or similarly competent person) confirming that specified and consented measures have been implemented.

- 17) A Landscape and Ecological Management Plan (LEMP) shall be submitted to and be approved in writing by the local planning authority before the first occupation of the first dwelling. The content of the LEMP shall include the following:
 - a. Description and evaluation of the features to be managed;
 - b. Ecological trends and constraints on site that might influence management.
 - c. Aims and objectives of management;

- d. Appropriate management options for achieving aims and objectives;
- e. Prescriptions for management actions;
- f. Preparation of a work schedule, including an annual work plan capable of being rolled forward over a five-year period and longer term thereafter;
- g. Details of the body or organisation responsible for implementation of the plan;
- h. Ongoing monitoring and remedial measures.

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

- 18) Details of any external lighting to be provided in association with the development shall be submitted with each reserved matters application. Only external lighting in accordance with approved details shall be provided on the application site. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting that Order with or without modification) there shall be no other external lighting provided on the application site.
- 19) The construction work on the buildings hereby approved shall not be commenced until the precise floor slab levels of each new building, relative to the existing development on the boundary of the application site have been submitted to and approved in writing by the local planning authority. Thereafter the new buildings shall be constructed at the approved floor slab levels.
- 20) Each reserved matters application relating to appearance shall include details of the materials to be used in the construction of the external surfaces of any building. Development shall be carried out in accordance with the approved details.
- 21) Each reserved matters application relating to the appearance and layout of the development shall include details of the facilities for the storage of refuse for all proposed dwellings. No individual dwelling shall be occupied until refuse storage facilities to serve that dwelling have been constructed in accordance with approved details. The facilities shall thereafter be retained.
- 22) Prior to the first occupation of any dwelling hereby approved, the renewable energy generating facilities set out in the Energy Assessment by Reports4Planning dated July 2019 to be incorporated as part of the development shall be fully implemented. The renewable energy generating facilities shall provide at least 10% of the predicted energy requirements of the development and shall remain operational for the lifetime of the development.
- 23) Each reserved matters application relating to the appearance, scale and layout shall be broadly in accordance with the principles of the Design & Access Statement (dated 11 July 2019) submitted as part of the

application. All reserved matters applications shall include a statement providing an explanation as to how the design of the development responds to the details submitted as part of the outline application.