

---

## Appeal Decision

Inquiry held on 9, 10, 11 and 12 August 2016

Site visit made on 12 August 2016

**by Peter Rose BA MRTPI DMS MCM**

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

**Decision date: 5 October 2016**

---

**Appeal Ref: APP/G1630/W/16/3142559**

**Land off Church Row, Gretton, Gloucestershire**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Spitfire Properties LLP against the decision of Tewkesbury Borough Council.
  - The application Ref: 15/00841/FUL, dated 30 July 2015, was refused by notice dated 24 November 2015.
  - The development proposed is residential development for the erection of 23 no. dwellings (including 9 affordable units) and associated landscaping, a new access, public open space and associated works.
- 

### Decision

1. The appeal is allowed and planning permission is granted for residential development for the erection of 23 no. dwellings (including 9 affordable units) and associated landscaping, a new access, public open space and associated works at Land off Church Row, Gretton, Gloucestershire in accordance with the terms of application Ref: 15/00841/FUL, dated 30 July 2015, and subject to the conditions set out in the attached schedule.

### Procedural Matters

#### *Planning obligations*

2. Three completed planning obligations have been submitted for consideration as part of the appeal. One is a unilateral undertaking dated 16 August 2016 and relates to proposed arrangements for Great Crested Newts. The second is a section 106 agreement dated 16 August 2016 and relates to secondary education. The third is a section 106 agreement dated 18 August 2016 and addresses various matters, including affordable housing and other contributions.

#### *Reasons 3, 6 and 7*

3. The Council's decision notice contains seven reasons for refusal, but Reasons 6 and 7 are not being contested in light of the planning obligations. These reasons concern implications of the development for various community facilities.
  4. The Council has also withdrawn its previous objection set out in Reason 3 of its decision notice. This related to previously alleged deficiencies in public
-

transport, pedestrian and cycling facilities, and the subsequent reliance by future residents upon the use of private vehicles.

5. The application is for full planning permission and I consider the appeal on the above basis.

### **Main Issues**

6. The main issues are:

- (a) the effect of the proposed development upon the character and appearance of the appeal site and its surroundings with particular regard to:

- i. the relationship between the existing settlement pattern and street-scene, and the scheme's proposed form and design;

- ii. the surrounding Special Landscape Area (the SLA), and;

- iii. the setting of the Cotswolds Area of Outstanding Natural Beauty (the AONB);

- (b) the effect of the development upon the setting of Christ Church, a grade II listed building;

- (c) the adequacy of the proposed visitor parking to serve affordable housing within the scheme;

- (d) the implications of the scheme with regard to Great Crested Newts, and;

- (e) the possible implications of the scheme for two Wellingtonia trees adjacent to the site in Maudlays Cottage.

### **Reasons**

*(a) Character and appearance*

*i. Settlement pattern, street-scene, and proposed form and design*

7. The appeal site comprises an open field some 1.3 hectares in area and occupied as grazing land on the north western edge of the village of Gretton. Maudlays Cottage is a detached residential property immediately adjacent to the north. Open countryside is to the north and east, residential properties in Church Row lie to the south and south-west. Christ Church, a grade II listed building, is adjacent to the south, and Gretton Conservation Area is some distance to the south-east beyond a nearby railway bridge which crosses the main connecting road through the village.
8. The site has existing vehicular access from Church Row/Gretton Fields, and the adjacent highway includes pedestrian access. There are no public rights of way within the site. Two Wellingtonia trees and other planting adjoin the access to the north. The Wellingtonia trees are the subject of a Tree Preservation Order (Council Ref: No. 260) and overhang beyond the site access, but are planted within the curtilage of the adjacent Maudlays Cottage. Boundary planting around Maudlays Cottage and roadside hedges beyond provide significant existing screening of the site in views from the north. The site has a limited frontage to Church Row corresponding to the width of its access, and thereby offers relatively constrained views from the highway.

9. In approaching the appeal site along Gretton Fields from the north, the general panorama is predominantly green and open. The site is not readily distinguishable, and the predominant character is fields and hedges interspersed with occasional buildings. The distinctive spire of Christ Church is visible in the background beyond, set within a relatively distant treescape.
10. Public views of the appeal site from the south are significantly constrained by the physical presence of the village, but the site is exposed in glimpses to pedestrians from Winchcombe Way to the north-east. Whilst the appeal site is significantly concealed in many views, the openness of its surroundings enclosed by the rising AONB behind is a very distinctive and attractive feature of the wider landscape.
11. Gretton comprises a ribbon development of dwellings on both sides of the road leading up to the railway bridge from the north, beyond which lies the original centre and main focus of the village. Properties north of the railway bridge are of varied and undistinguished forms and do not comprise part of Gretton Conservation Area. Development to the south of the railway bridge is predominantly residential in character and of various forms and styles. This part of the village displays a more nucleated character than to the north. It is set behind a linear frontage but is also clustered around junctions and includes a number of cul-de-sacs and infill developments. There is therefore some contrast in character and form between development either side of the railway bridge, and Gretton generally displays an eclectic range of architectural styles which do not make for any singularly distinctive character or appearance.
12. Notwithstanding this physical contrast, the Residential Development Boundary of Gretton as defined by Gretton Inset 11 within the Proposals Map of the Tewkesbury Borough Local Plan to 2011, adopted March 2006 (the Local Plan) includes development either side of the railway bridge. Indeed, the boundary extends up to the appeal site, the southern boundary of which forms the northern extent of the settlement.
13. I also note that Gretton is not identified as a 'Service Village' or 'Rural Service Centre' in the emerging Gloucester, Cheltenham, Tewkesbury Joint Core Strategy Submission Version November 2014 (the Core Strategy) for the purposes of Policy SP2 where the principle of limited residential development is considered to be acceptable.
14. The scheme would involve a clustered but well-spaced development of 23 dwellings set in landscaped surroundings and served by the existing site access. Although the Council suggests the aesthetics of the development to be 'good', I find this to be an under-assessment. The Inquiry heard how the scheme has evolved through a very careful and considered design process with the particular aim of creating a high quality scheme bespoke to its context. This has also included changes in response to pre-application consultations with local residents. The appeal scheme reflects a reduction in the originally proposed density of development, and changes to features in critical locations, particularly adjacent to the northern boundary.
15. Whilst the Council has described the scheme as a 'pastiche' development, it is clear to me the design has sought to reflect the aesthetic and landscape qualities of its surroundings and to comply with key design requirements, including use of local materials and building styles as advocated by the Cotswold AONB Landscape Strategy and Guidelines June 2016. Indeed, this

vernacular theme is further accommodated through the considerable variation in individual house styles across the scheme.

16. Similarly, whilst the scheme includes a well-considered landscaping strategy, its effect would be not just to screen built form in an otherwise predominantly rural setting, but rather to contribute to a development which both reflects and integrates with its surroundings. Existing boundary vegetation would be retained and reinforced through further planting and management to provide visual enclosure but sympathetically set within the surrounding landscape.
17. The aesthetics of the built form and accompanying landscaping would all contribute to a sense of place consistent with its surroundings. The Council refers to an inward-looking, estate-style cul-de-sac contrasting with the adjacent linear development of housing. Although characterised by the authority as 'backland' development, the physical disposition of the site means the degree of visual exposure from within the village and elsewhere would inevitably be limited. Nevertheless, views would be of a high quality vernacular development not inconsistent with the nucleated forms of other residential development elsewhere in Gretton and which include cul-de-sacs and of a comparable density. I find the proposal would largely involve a visually enclosed design of a visually enclosed site but one which actively seeks to acknowledge and respect the wider distinctiveness of its surroundings.
18. Connectivity would inevitably be constrained by location, but the site lies adjacent to the village boundary and forms a physical extension of the existing settlement. Visual connectivity would be largely confined to views from the access but, in terms of physical connection, it is common ground that the pedestrian and cycle infrastructure available within the village is appropriate for likely trip generation. A public open space would be created near Christ Church to form a local village green. Although not forming part of the proposal, the appellant acknowledges the possibility for physical connection between the proposed open space and the adjacent churchyard and this potential benefit is also identified by the Parish Council.
19. The Council draws comparison with an appeal decision dated 17 July 2015 and relating to development of Land to the west of Willow Bank Road, Alderton for 53 dwellings and associated works (Appeal Ref: APP/G1630/W/15/3003278). In contrast to this appeal scheme, that proposal related to an outline application with all matters other than access reserved. The scheme involved considerably more dwellings and a materially different access arrangement relative to the indicated location of proposed dwellings. Given the details submitted, I would not similarly characterise the scheme before this appeal as almost separate or self-contained or with very little connection and integration with Gretton.
20. At a broad brush level, and without prejudice to future decisions, I further note the Council has previously identified the site in its Strategic Assessment of Land Availability 2013-14 May 2015 as being suitable for 35 dwellings. The appeal proposal is for considerably less dwellings and the Council's identification would not seem to question either the principle of the development or its inevitably implied 'backland' form.
21. Whilst not forming part of the Council's decision notice, Policy HOU3 of the Local Plan refers to infilling within villages, including Gretton, whilst Policy HOU4 states that new residential development will only be permitted outside

the residential development boundaries of the settlements identified in Policy HOU3 where such dwellings are essential to the efficient operation of agriculture or forestry, involve conversion of an existing building or the provision of affordable housing in accordance with Policy HOU14. Policy HOU14 concerns exceptions schemes for affordable housing.

22. Notwithstanding the location outside the settlement boundary, I find that the proposed development would not be harmful to the existing settlement pattern and street-scene by reason of its form and design, including layout and density, and nor would it be isolated in its location. Accordingly, it would not be contrary to Policy SD5 of the Core Strategy. This seeks, amongst other matters, to ensure that new development proposals clearly demonstrate how context, character, sense of place, and identity, have been incorporated. Given the emerging status of the Core Strategy, it is also agreed common ground that this document is of only limited weight.
23. Further, I consider the scheme would accord with the expectations of the Framework which underlines the importance of good design, and how securing high quality and inclusive outcomes goes beyond aesthetic considerations.
24. The Planning Practice Guidance (the Guidance) similarly advises that development should seek to promote character in townscape and landscape by responding to and reinforcing locally distinctive patterns of development. It states that planning policies and decisions should look to create streets that support the character and use of the area. It also identifies good quality design as an integral part of sustainable development indivisible from good planning.

*ii. Special Landscape Area (the SLA)*

25. The Local Plan Proposals Map identifies the appeal site to be just north of the AONB but within Special Landscape Area LND2.
26. At a strategic level, the site lies within National Character Area (NCA) 106, the Severn and Avon Vales. More locally, the Gloucester Landscape Character Assessment 2006 places the site within the Unwooded Vale Teddington and Greet Vale Landscape Character Area (Ref: VE1A). This is described as an undulating landscape with contrasting land uses. It includes medium to large scale hedged fields with a combination of both regular and irregular field patterns, and a relatively sparsely settled agrarian character with rural villages and scattered farms and dwellings. It notes that the escarpment and outliers to the south create a sense of enclosure, and provide a backdrop to many views across it. The Cotswolds AONB Landscape Character Assessment 2003 places the site close to the Unwooded Vale Character Area 19D, the Vale of Evesham Fringe, and close to Character Area 1B, Langley Hill.
27. The appeal site forms part of a relatively level landscape displaying a mixed character of managed countryside and interspersed built forms. The SLA is generally low lying relative to the surrounding AONB to the south and which is steeper and of a contrasting, more remote character.
28. Viewed from the north the scheme would be seen in the context of the wider Vale landscape, with the spire of Christ Church and surrounding AONB evident behind. From the west, the scheme would be set largely behind existing residential properties. From the south, the scheme would form an element of

the existing settlement adjacent to existing housing. From the east, it would be located on the edge of the Vale adjacent to existing housing and Christ Church behind intervening hedges. Public views would be limited, and would be generally restricted by boundary hedgerows and tree cover accentuated by the low, relatively flat topography of the SLA. These considerations all contribute towards the scheme achieving a significant sense of visual enclosure.

29. Whilst there would be glimpsed views from Winchcombe Way, this path is conceived as a pedestrian route passing through settlements. Walkers on Winchcombe Way are aware, through occasional views of Gretton, that they are approaching a settlement and that would be the general expectation of the route. I do not find the scheme to be harmful in that regard.
30. In key views from Gretton Fields to the north, the site forms part of a wider panorama comprising both open countryside and limited built forms, including dwellings. I find the presence of houses would not appear as an uncommon or incongruous feature at the edge of the settlement. Nevertheless, the proposed development would introduce a significant extent of built form and roofscape into views south from Gretton Fields between Elms Farm and Marlborough Farm, and the scheme would be clearly visible including after 15 years when planting becomes fully established.
31. Although not a visually jarring imposition into the wider panorama, the roofscape views of the development would still appear conspicuous relative to the more limited scale and distribution of other built form in this landscape. The scheme would also create a greater degree of exposure to the otherwise 'hidden village' of Gretton in views from the north and west. Given the openness of the wider panorama and the scale of the scheme, I consider there would be some limited degree of harm arising.
32. In overall terms, however, I am satisfied that views of the scheme from the north would be generally mitigated, in time, by the proposed strengthening of existing boundary planting such that the proposed housing would not constitute an unduly prominent or intrusive feature. Whilst the scheme would increase the size of the existing settlement, the scale and form of the growth would not significantly alter the character of either the settlement itself, or of the countryside which surrounds it, or erode the extent to which the outliers to the south form a backdrop to views across the Vale. The immediate net effect in views from the north would be to replace part of the existing lower level treescape with a roofscape. The scheme would retain the character and appearance of Gretton nestled within an open, low lying and relatively level rural landscape. Views of the church spire projecting above lower level planting to the fore, of the AONB, and of the skyline behind would not be directly impeded. Visual impact, aside from a distant roofscape, would be largely restricted to local sightings, and implications for wider landscape character would be limited.
33. Policy LND2 seeks to protect and enhance the landscape character of the SLA, and proposals must demonstrate they do not adversely affect various specified aspects of the area. The Policy's reasoned justification states that the SLA is defined where the topography is a continuation of the adjacent AONB and/or where the vegetation and associated features are characteristic. The Council's witnesses confirmed, however, that neither criteria applied to the appeal site. I

- have little evidence to the contrary, and particularly note the contrasting definitions of surrounding character areas.
34. Further, the Local Plan examination preceded introduction of the government's, now revoked, Planning Policy Statement 7: Sustainable Development in Rural Areas 2004 (the PPS). At paragraph 25, the PPS advised that planning authorities should rigorously consider the justification for retaining existing local landscape designations and ensure that such designations are based on a formal and robust assessment of the qualities of the landscape concerned. The Council was unable to indicate at the Inquiry that any such assessment had since been undertaken in regard to Policy LND2.
35. The Secretary of State's subsequent Local Plan saving letter dated 25 March 2009 also advises that such extended policies should be read in context and with particular regard to any subsequently emerging new national policy. It further states that the saved status does not indicate that such policies would be endorsed if presented as new policy. Policies would have been saved by the Secretary of State in the expectation of subsequent adoption of a new local plan making adequate provision for housing supply and neither has since occurred.
36. Whilst the construction of the policy pre-dates the Framework and does not expressly accommodate countervailing benefits of a development, I have regard to the advice set out in the High Court judgement in *Bloor Homes East Midlands Ltd and the Secretary of State for Communities and Local Government and Hinkley and Bosworth Borough Council* [2014] EWHC 754 (Admin). I return to countervailing benefits as part of my overall planning balance.
37. For all these reasons, I consider the weight to be attached to Policy LND2 in this decision is limited. Nevertheless, the scale and exposure of proposed development would still be readily evident in views from Gretton Fields to the north to an extent that it would intrude into the immediate low level rural landscape to the front of the village as described. I find the degree of harm to the character and appearance of the immediate low lying Vale landscape north of Gretton to be limited, but this is still an adverse impact that will need to be weighed in the overall planning balance. To that degree, the scheme would conflict with the aims of Policy LND2 but, for the reasons set out, this is a policy to which, in this particular instance, I find I can attach relatively little weight. Whilst there would be some adverse impact in views from the north, I am satisfied that the wider character of the surrounding countryside within the SLA designation would be unaffected.
38. A core principle of the Framework is also for the planning system to recognise the intrinsic character and beauty of the countryside. The Framework further states at paragraph 109 that the planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes. The Council's witnesses accepted at the Inquiry, however, that the site had no specific landscape features of particular significance and, in this regard, the judgement in *Stroud versus the Secretary of State for Communities and Local Government and Gladman Developments Ltd* (2015) EWHC 488 is also relevant. Any value to be attached arising from Policy LND2 is similarly reduced by the policy's shortcomings as described. Even so, the Minister of State for Housing and Planning's letter dated 27 March 2015 still affirms the

importance of the impact of development upon landscapes outside designated areas and which I note post-dated the Stroud decision.

*iii Cotswolds Area of Outstanding Natural Beauty (the AONB)*

39. It is agreed common ground that the development would not adversely affect the special qualities of the AONB as a whole. It is similarly agreed that the visual impact of views from the AONB would not be significant and that, whilst visible, wider overall views of Langley Hill, Oxenton Hill and Dixton Hill would remain.
40. Reference is made by the Council and other parties to the appeal site's location within the setting of the AONB as part of its open foreground. The Council considers that the primary purpose of Policy LND2 is to protect the setting of the AONB but, in this regard, the preceding analysis of the policy's shortcomings remains relevant. Further, the Council acknowledges that Policy LND2 should not preclude residential development in principle.
41. Although the term 'setting' is not expressly defined in the Framework as it may relate to an AONB, the relative proximity is clear and the resulting relationship is a significant consideration for the assessment of any future development of the appeal site. The Guidance further advises that, in exercising any of their functions, relevant authorities have a duty to have regard to the purposes of the AONB. Section 85 of the Countryside and Rights of Way Act 2000 (CROW) places a general duty upon public bodies, in exercising or performing any function in relation to land in an AONB, to have regard to the purpose of conserving and enhancing its natural beauty. I note the Guidance advises that this duty is still relevant in considering development proposals that are situated outside AONB boundaries but which might have an impact on the setting of, and implementation of, the statutory purposes of these protected areas.
42. The site is located on the far side of the settlement relative to the nearest main expanse of the AONB. Further, given the scale of the panorama in views from the north and west, and the limited exposure of the scheme in views from the south and east, I do not find the scheme would incur any significant degree of harm to the overall, wider setting of AONB.
43. This finding is also consistent with the assessment of the Cotswolds Conservation Board which considers, subject to matters of detailed design, that the scheme has the potential to be successfully assimilated into the boundary of the settlement without causing undue harm to the setting of the AONB. Similarly, Natural England is satisfied that the effects from the proposed development can be mitigated to prevent any major effect on the AONB setting. This also appears consistent with the Cotswolds AONB Landscape Strategy and Guidelines which state that the lower slopes are generally less prominent and are often fringed with settlements, thus decreasing their sensitivity to change.
44. Taking all the above factors together, I conclude that the proposed development would not be harmful to the setting of the AONB, and, accordingly, would not be contrary to Policy LND2 of the Local Plan in this particular regard or to Policy SD8 of the Core Strategy. Policy SD8 seeks to ensure that all development proposals in or adjacent to the Cotswolds AONB should conserve and, where appropriate, enhance its landscape, scenic and other special qualities.



45. At the national level, the AONB is a landscape with the highest status of protection in relation to landscape and scenic beauty. Paragraph 115 of the Framework requires great weight to be given to conserving its landscape and scenic beauty and I am satisfied that the scheme responds accordingly.

*(b) The setting of Christ Church, a grade II listed building*

46. The appeal site is an open field which lies adjacent to Christ Church, a grade II listed building. The statutory List Entry identifies the church as dating from the late nineteenth century. It comprises a distinct and impressive building outwardly displaying a range of distinctive architectural and historic features, including squared yellow limestone and a slate roof, and a wealth of internal features consistent with a mid-to-late thirteenth century style. The church's main highly ornate front elevation, including a clock, faces south towards Church Row. A particularly key feature of the building is an imposing spire set on an octagonal base with accompanying detailing. It was agreed common ground at the Inquiry that the historic purpose of the spire was to be visible.

47. The church building is set back from Church Row and is enclosed by a graveyard. The Council considers that the openness of the appeal site contributes towards an open foreground setting to the church building, its graveyard and distinctive tree cover. The scheme would be seen to harm the landscape setting of Christ Church by cutting it off from the open Vale and by removing a sense of isolation from the village.

48. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a duty upon the decision-maker, in considering applications for planning permission, to have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses. The Framework makes clear that the setting of a heritage asset is the surroundings in which it is experienced and that the setting of a designated asset can contribute to its significance. Of relevance to the significance of listed buildings, English Heritage's Conservation Principles Policies and Guidance for the Sustainable Management of the Historic Environment, 2008, identifies various types of heritage value that an asset may hold, including evidential, historical, aesthetic and communal significance.

49. Whilst not exclusive of other approaches, Historic England's Historic Environment Good Practice Advice in Planning: 3 The Setting of Heritage Assets (GPA3), amongst other matters, sets out a recommended step-by-step methodology for assessing implications of setting for the significance of a listed building. GPA3 advises that the contribution of setting to the significance of a heritage asset is often expressed with reference to views, a purely visual impression of an asset, and including views of the surroundings from or through the asset. It states that views which contribute more to understanding the significance of a heritage asset include those where relationships between the asset and places or natural features are particularly relevant. It further advises that setting is not in itself a heritage asset, nor a heritage designation, and its importance lies in what it contributes to the significance of the heritage asset.

50. The existing immediate setting of the church building itself is created by its graveyard bounded to the east and west by residential properties in Church Row, to the north by tree and hedge cover, and to the south by a lower, managed hedge also presenting a more formal entrance with gate and stone

- pillars. The wider setting reflects predominantly twentieth century residential development.
51. Little historic evidence is provided by the Council but a range of submissions is made by the appellant. These include historic maps and explanations of the history of the church, of the development of local roads, and related matters. The evidence confirms that the church was built in the late nineteenth century as a replacement for the original parish church which had been damaged by fire and that the architect was of local significance. The land was donated by a local benefactor and I find that the pre-existing land ownership was likely to have been a significant factor in determining the church's subsequent location. The evidence also shows that the location was not particularly isolated but contained other nearby buildings and that, except for the main south elevation, construction of the church was accompanied by planting along the other boundaries. The appellant's evidence also suggests that much of the existing planting dates from the same period. In effect, the evidence suggests the church was built and designed to turn its back on the appeal site.
52. I thereby find that the church was erected to face south, and that, historically, other views were to be concealed by boundary planting, but that the spire was still to function as a significant reference point. I noted at my visit the inferior quality and concealed settings of the other three elevations relative to the highly exposed and resplendent presence of the main elevation fronting Church Row. This is further highlighted by the presence of a small, modern, utilitarian structure attached to the rear of the building. I also saw at my visit that the density and character of the northern boundary planting afforded negligible immediate views between the appeal site and the church.
53. Hence I find that the significance of Christ Church as a building of special architectural and historic interest relates principally to the quality of its architecture as a traditional historic church. More particularly, it relates to the aesthetic values embodied in its design, construction materials, craftsmanship and architectural detailing, and to historic associative value through the local benefactor and previous owner who donated this particular site and through the architect's local connections. There would also be local communal value through its historic use as a parish church. Beyond exposure of the spire and its accompanying need for visibility, I find the contribution of the church's particular setting to the significance of the listed building to be negligible.
54. Reference has also been made by both the main parties to the settings of other listed churches relative to modern housing. Whatever those particular circumstances may be, my assessment is necessarily based upon the specific merits of the setting of Christ Church as described, but I find no reason to question the principle of housing being located in close proximity to a parish church. Even so, I also note that the proposed dwellings would not be closer to the church building than the existing, neighbouring residential properties.
55. The church is the visually dominant building within its surroundings and views of the spire are of architectural and historic significance. Whilst the spire would not be directly obscured by the development in any views, the context in which it would be seen from the north would change and would be set against a lower foreground of modern built form. Notwithstanding the significant mitigation provided by the planting and the retained context of its historic boundary planting, the spire would still be viewed in a slightly more cluttered, more

- developed setting with extensive rooflines significant in its immediate foreground.
56. I acknowledge that views of the spire would be less historically significant from the north where it faces away from the village and would therefore have less functional relevance. Nonetheless, I consider that some very slight harm would still occur with specific regard to the setting of the spire, and thereby for the significance of the wider designated asset in terms of the visual impression created as referred to in GPA3. I also acknowledge that this impact is further tempered by the vernacular design of the proposed dwellings, including a thatched roof to the relatively prominent Plot No 23 and which is conceived in design terms as a 'focal building'.
57. The Framework makes a distinction between development causing substantial harm to the significance of a designated heritage asset, such as a listed building, and development that would lead to less than substantial harm. The Framework requires less than substantial harm to be weighed against the possible public benefits of the scheme and I find the very slight harm would be out-weighed by the housing benefits of the scheme, aside from any other benefits to be assessed as part of my overall planning balance to follow.
58. In accordance with the High Court's judgement in *Forest of Dean District Council and the Secretary of State for Communities and Local Government and Gladman Developments Ltd [2016] EWHC 421 (Admin)*, this impact will be further assessed, as appropriate, with reference to paragraph 14 of the Framework as part of my overall planning balance.
59. I therefore conclude that the scale and location of the proposed development, by reason of its impact upon the setting of Christ Church in views of the spire from the north, would incur some very slight harm to the significance of the listed building that will need to be weighed in the overall planning balance. Accordingly, to that very slight degree, the proposed development would be contrary to Policy SD9 of the Core Strategy which seeks to ensure that heritage assets, and their settings, will be conserved and enhanced as appropriate to their significance, and for their important contribution to local character, distinctiveness and sense of place.
60. I otherwise find the scheme to be broadly consistent with the heritage expectations of the Framework. It recognises that heritage assets are an irreplaceable resource and requires them to be conserved in a manner appropriate to their significance. The Framework further states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. I am satisfied, in overall heritage terms, that the scheme responds appropriately to these expectations of national policy.
- (c) Visitor parking to serve the affordable housing*
61. Plot Nos 2-10 would comprise affordable dwellings along the southern boundary of the site and would be served by six on-street visitor parking spaces. Three spaces would be provided in a linear bay along the northern boundary between the site entrance and Plot Nos 2-10, two would be provided further to the east in the vicinity of Plot No 21, and one bay would be provided adjacent to Plot No 18.

62. No objection is raised by the highway authority to the proposed parking, but the local planning authority's concern is that the visitor bays would not be sufficiently close to the affordable units.
63. The Council also refers to a risk of 'fly' parking of these spaces, but there would appear to be no obvious source of overflow parking into the site from surrounding uses, and on-street parking is available in Church Row. Indeed, on my two separate visits to the site, one in the afternoon and one in the early morning, I observed little pressure for on-street parking. I also note the general concerns referred to by the Council in the Space to Park 2013 research report. Although similar matters are identified in Gloucestershire County Council's Manual for Gloucestershire Streets 1 April 2016 regarding the implications of unmanaged parking in residential streets, given the arrangements proposed, I would not place the scheme within such a classification.
64. The appellant has explained how the occupancy conditions of the affordable units would seek to retain the availability of the spaces as visitor parking. Whilst noting the Council's concerns regarding the legal effectiveness of such clauses, the development would not be adopted by the highway authority and parking and related arrangements would instead be enforced through a management company acting on behalf of all residents. I have also noted the related representations of support from Fortis Living, the proposed Registered Provider of affordable housing at the site.
65. The appellant's evidence is that 3.2 visitor spaces would be required to serve the nine affordable units and this is not disputed by the Council. I find that the three spaces along the northern boundary of the site would be conveniently located in relation to the site access and would be just a short walk from the associated dwellings.
66. At the Inquiry, the appellant indicated that, should I find the parking to be unacceptable as a determining factor of my decision, it would be prepared to forsake part of the open space in front of the affordable units in order to accommodate two further spaces. The appellant indicated a reluctance in this regard, however, given the implications for the aesthetics of the development. In particular, as part of a high quality environment, the scheme seeks to avoid over-reliance on a frontage parking solution for affordable housing. I concur with the appellant's assessment and, in any case, find additional parking not to be necessary.
67. I therefore find that the proposed development would not be harmful in relation to visitor parking to serve the affordable housing. Accordingly, it would not be contrary to Policy HOU13 of the Local Plan or to Policy SD13 or to Policy INF7 of the Core Strategy. These seek, amongst other matters, to ensure appropriate provision of affordable housing and of associated infrastructure. My finding is also consistent with the Framework which advises that proposed development should only be resisted on transport grounds where the residual cumulative impacts of a scheme are severe.

*(d) Great Crested Newts*

68. There is no dispute that Great Crested Newts have been identified both within the appeal site and on nearby land. Great Crested Newts are a protected species, with particular regard to the Conservation of Habitats and Species Regulations 2010 (the Habitats Regulations). The Habitats Regulations provide for derogations set out in Regulation 53 which allow for activities normally prohibited to be permitted through a licensing scheme operated by Natural England as the relevant licensing body.
69. In order to issue a licence, three tests set out in Regulation 53 must be met. These are: preserving public health or public safety or such other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment (Regulation 53(2)(e)); ensuring there is no satisfactory alternative (Regulation 53(9)(a)); and ensuring that the action authorised will not be detrimental to the maintenance of the population of the species at a favourable conservation status in their natural range (Regulation 53 (9)(b)).
70. The appellant is proposing a mitigation and compensation plan. This would include creation of a receptor site with new aquatic and enhanced terrestrial habitat to the north of the application site (the biodiversity enhancement area), and maintenance and enhancement of habitat connectivity around the site. Measures are also proposed to ensure that individual Great Crested Newts are not harmed during construction and would include arrangements for translocation. The plan would be secured through a unilateral undertaking which would require the mitigation scheme to be approved by the Council in writing prior to the commencement of any development. Further, the development would not commence until the mitigation scheme had been implemented to the Council's satisfaction and not until such time as a licence had been granted. The undertaking also provides for subsequent maintenance of the scheme.
71. The licensing process is separate and distinct from planning permission but the appellant's expert witness indicated at the Inquiry there was no reason why a licence should not be granted. In this regard, I note that the appellant's evidence has also been formally reviewed and approved by one of only some fifty consultants registered by Natural England in relation to relevant aspects of Great Crested Newt licensing. In any event, even if a licence were not to be forthcoming, the terms of the obligation would prevent development from proceeding should the appeal be allowed.
72. Hence I consider the appellant's response to the identified presence of Great Crested Newts to be appropriate and robust and consistent with a core principle of the Framework for the planning system to contribute to conserving and enhancing the natural environment. I also have regard to the duty of care under Regulation 9, and under section 40 of the Natural Environment and Rural Communities Act 2006.
73. I therefore find the scheme would be likely to meet the tests set by Regulations 53(9)(a) and (b) and I shall further review wider interests and benefits required to be considered by Regulation 53(2)(e) in light of my overall planning balance to follow.

*(e) Tree Preservation Orders*

74. The two large Wellingtonia trees are highly imposing and attractive features of the street-scene and of the wider village. It is extremely important that the welfare of these trees would not be harmed by the proposed development and that they may be able to make a continuing, distinctive and substantial contribution to local amenity.
75. Whilst located outside the appeal site, existing branches overhang and roots would inevitably extend beneath the proposed access, and in the possible vicinity of associated drainage works. No formal objection has been raised by the Council in its decision, and a technical assessment has been submitted by the appellant. Nevertheless, whilst not precluding the principle of development, it was agreed between the main parties at the Inquiry that further detailed technical assessment would be required, and that the detailed terms of which can be accommodated by way of a planning condition should the development otherwise be acceptable.
76. It was also agreed common ground at the Inquiry that the access road would, in principle, be adequate in terms of width and height clearance to serve the development, although some slight pruning of branches over the public highway may be required. I also saw at my visit evidence of historic pruning of the Wellingtonia trees, presumably to facilitate similar previous/current access into the site by agricultural vehicles.
77. I am satisfied, subject to the terms of a planning condition, that appropriate provision would be made for the preservation of the trees in accordance with the duty under section 197 of the Town and Country Planning Act, 1990. I also note the highway authority's confirmation that such a condition as proposed would have a reasonable prospect of being satisfied.

**Other Matters**

*Five-year housing land supply*

78. The Framework requires the local planning authority to identify and update annually a supply of specific deliverable housing sites sufficient to provide five years' worth of housing relative to its full objectively assessed needs for market and affordable housing.
79. The Inquiry heard it was agreed common ground that the authority is unable to demonstrate a five-year supply of housing land. In such circumstances, it follows, by virtue of paragraphs 47 and 49 of the Framework, that relevant policies in the development plan for the supply of housing would not be considered up-to-date. Further, by virtue of not being up-to-date, relevant provisions of the presumption in favour of sustainable development under paragraph 14 of the Framework would also be engaged.
80. In accordance with the judgment of the Court of Appeal in *Suffolk Coastal District Council and Hopkins Homes Limited and the Secretary of State for Communities and Local Government, and Richborough Estates Partnership LLP and Cheshire East Borough Council 2016 (EWCA Civ 168)*, I find that Policy HOU3, Policy HOU4, and Policy LND2 of the saved Local Plan, and Policy SP2, Policy SD5 and Policy SD8 of the emerging Core Strategy all, to varying degrees, create or constrain housing supply. Accordingly, they are not to be considered up-to-date, and this is generally acknowledged by the Council. This

finding would also apply to accompanying settlement boundaries whose definitions flow from such policies.

81. Whilst, in the first instance, the extent to which a policy may not be up-to-date would reflect its degree of consistency with the Framework, the Council also acknowledges the age of the Local Plan and refers to an out-of-date context drawing upon a previous structure plan and upon revoked regional guidance.
82. I also note that the Statement of Common Ground identifies an agreed position that greenfield sites will need to be released in the Borough in order to deliver the Council's housing targets.

*Living conditions*

83. Whilst not forming part of the Council's reasons for refusal, considerable reference was made at the Inquiry to the living conditions of future occupiers of dwellings within the north-east corner of the scheme. In particular, concerns were raised about proximity of the dwellings to the northern and eastern boundary planting, the limited size of proposed gardens and to possible pressures arising to reduce an alleged over-bearing outlook from the properties.
84. I do not find that any rooms of the dwellings would be deficient in terms of lighting as a consequence of their siting, and I noted at my visit a not dissimilar size of gardens in existing properties beyond the railway bridge. The proposed boundary planting would lie to the north of the dwellings which would be significant in terms of minimising adverse implications for sunlight. This contrasts with the evidence of a more direct effect of the existing planting on Maudlays Cottage to the west. Unlike the proposed dwellings, Maudlays Cottage is enclosed by substantial boundary planting to its south and yet the planting remains in situ. Further, I consider that the degree of privacy and enclosure which would be created by the proposed configuration of dwellings and associated boundary treatment may well be perceived as a positive feature by occupiers.
85. Should there be future pressure to reduce the extent of boundary planting, the appellant is proposing for all communal planting to be controlled and managed by an appropriate management company arrangement, and hence individual residents would not be afforded any direct opportunity to cut back or remove. Any detailed concerns regarding planting within individual curtilages may be the subject of further discussions in connection with a detailed scheme which would need to be approved should the development otherwise be acceptable.
86. I do not therefore consider the scheme would be harmful to the living conditions of future occupants by reason of the proposed boundary planting and that, in this regard, the dwellings would provide a good standard of amenity for residents in accordance with the expectations of the Framework.

*Neighbourhood Plan*

87. I heard there is no adopted or emerging Neighbourhood Plan for Gretton.

*Planning obligations*

88. Three planning obligations have been submitted containing various mitigation in support of the appeal.

89. The first obligation is the unilateral undertaking relating to Great Crested Newts already discussed.
90. The second obligation is a section 106 agreement dated 16 August 2016 and provides for contributions in relation to secondary education.
91. The third obligation is a section 106 agreement dated 18 August 2016 which provides for contributions in relation to various matters, including affordable housing, open space, and contributions to play and other community facilities.
92. The planning obligations are also accompanied by evidence from the Council of compliance with the relevant provisions set out in Regulations 122 and 123 of the Community Infrastructure Levy (CIL) Regulations 2010 and this is not disputed. I have also had regard to the Framework, and to the relevant advice of both the Guidance, and of the Planning Inspectorate's Procedural Guide Planning Appeals - England, published 5 August 2016.
93. The Council indicated at the Inquiry that it was satisfied with the form and content of the obligations as deeds.
94. I find the obligations to be generally fit-for-purpose. Accordingly, I take into account the commitments and accompanying terms as considerations of my decision.

*Representations from Gretton Parish Council in relation to planning conditions and planning obligations*

95. I have noted the suggestions submitted to the Inquiry, and the subsequent responses of the main parties. A number of the matters raised would already be covered by the planning obligations and planning conditions discussed at the Inquiry, whilst other aspects would go beyond such terms. Nevertheless, the appellant has referred to the mutual benefit of establishing effective lines of communication with the Parish Council should this appeal be allowed in order to ensure successful implementation of the development. Reference was made at the Inquiry to various specific possibilities regarding the proposed open space and the wider community. One possibility mentioned was the opportunity in that vicinity for public access to and from the church. That, and other wider matters of common interest, are beyond the immediate terms of this decision and would remain to be discussed between the relevant parties should the appeal be allowed.

*Other considerations*

96. I have had regard to all other matters raised, both at the Inquiry and in written evidence, and including references made to various other planning and related decisions. In this regard, whilst recognising the importance of consistency for fairness and other considerations in planning decisions, the particular planning circumstances of all cases will be different, as already illustrated. I have set out in this decision the particular matters I find specifically relevant to this case.
97. Given the considerable visual and physical separation between the appeal site and Gretton Conservation Area, I do not consider the proposal would have implications arising from the duty to preserve or enhance the character or appearance of the Conservation Area under section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.



98. Objections have been raised by local residents in relation to other matters. These include implications for flooding, for bats and other wildlife, for the availability of services to support the development, and for traffic. These and other matters are not raised as objections by the Council, and I have considered the relevant evidence submitted by all the parties. I have little reason to conclude that such matters represent grounds to preclude development and note that, should the scheme be allowed, some aspects of these concerns could be mitigated by conditions and by the terms of the planning obligations as proposed. In particular, matters of access, flooding and ecology could be further addressed by planning conditions should the development otherwise be found to be acceptable, and the section 106 agreements would provide for mitigation to address various relevant matters raised, including school places.
99. The appellant's Extended Phase 1 Ecological Survey found the site to offer no or negligible habitat opportunities for protected species and I note the concerns of interested third parties in that regard. This finding has also subsequently proven not to be the case in relation to Great Crested Newts. I consider that further and more detailed consideration would be required in relation to the other general provisional recommendations previously made.
100. In terms of accessibility to services, the Council chose not to maintain its previous objection to the scheme and, in this regard, I further note the evidence submitted of all the parties.
101. I also have regard to the planning history of the site and to the various references made to pre-application and other discussions and consultations, and including the appellant's Statement of Community Involvement.

*Sustainable development*

102. The Framework makes clear that housing applications should be considered in the context of the presumption in favour of sustainable development. The purpose of the planning system is to contribute to the achievement of sustainable development. Sustainable development is defined by the Framework with reference to the policies in paragraphs 18 to 219 taken as a whole. The Framework further identifies economic, social and environmental dimensions to sustainable development.
103. The scheme would undoubtedly provide considerable and much needed housing benefits, in terms of both affordable and market provision, and particularly so given that the authority is unable to demonstrate a five-year housing land supply. Such benefits would be consistent with the social dimension of sustainable development. The nine units of affordable accommodation would make a very significant contribution to the outstanding needs of some 73 households identified by the Council in October 2015 as expressing an interest in renting an affordable dwelling in Gretton. This figure was further qualified by the Council to be 58 applicants as of December 2015. The scheme would represent a very real and tangible contribution towards meeting such local need.
104. The Council accepts future residents would enjoy reasonable access to services, and benefits for local community facilities would arise from the planning obligations. The investment represented by the development would also be consistent with the economic dimension. The economic benefits would

- include investment in construction and related employment for its duration, an increase in local household expenditure and demand for services, and financial contributions to the Council through New Homes Bonus payments.
105. In terms of adverse environmental impacts, however, the scheme would incur loss of a pleasant open field and replacement by predominantly built form. This would give rise to some limited harm for wider views of the local countryside, particularly from the north. The scheme would also have a very slight adverse impact upon the setting of Christ Church, and would lie outside, but adjacent to, the designated settlement boundary.
106. In terms of environmental benefits, the scheme would involve a high quality design with accompanying landscaping sympathetic to its location, and would include significant commitments to ecological enhancement of the site and its surroundings, and provide public open space. In terms of opportunity cost, I am also mindful that the scheme would deliver housing and other benefits without further imposing upon important surrounding environmental assets, including the SLA, the Gretton Conservation Area, and the wider AONB as might occur with development of alternative, more sensitive sites elsewhere.
107. The overall degree of harm would also be moderated by the reduced weighting to be afforded to relevant policies for the supply of housing which are to be considered out-of-date, and by the other shortcomings of Policy LND2 as described.
108. In summation, the scheme would deliver considerable economic and social benefits consistent with the Framework, and overall adverse environmental implications would be no more than limited.
109. I also find that the overall beneficial consequences of the proposed scheme, including the undisputed need for housing, would appear consistent with the expectations set out in Natural England's Guidance Note: European Protected Species and the Planning Process Natural England's Application of the 'Three Tests' to Licence Applications 2010. Accordingly, I find the scheme would be likely to satisfy the terms of Regulation 53(2)(e) of the Habitats Regulations.

### **Overall planning balance**

110. The presumption in favour of sustainable development set out in paragraph 14 of the Framework states that, where the development plan is absent, silent or relevant policies are out-of-date, planning permission should be granted unless 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, and unless specific policies in the Framework indicate development should be restricted.
111. I find the adverse impacts of the scheme, including the very slight harm to the setting of the listed building as identified, do not significantly and demonstrably out-weigh the benefits in accordance with paragraph 14.
112. I therefore conclude that the proposed scheme would constitute sustainable development, and that the weighted planning balance required by paragraph 14, as clarified by the rebuttal presumption set out in Cheshire East Borough Council and the Secretary of State for Communities and Local Government and Renew Land Developments Ltd [2016] EWHC 571 (Admin), is such that planning permission should be granted.

113. Despite conflict with aspects of certain policies, there is an absence of five-year housing land supply, thus engaging paragraphs 49 and 14 of the Framework. Accordingly, I find the scheme to be sustainable development whereby harm would not significantly and demonstrably outweigh the benefits. Hence the presumption in favour of sustainable development warrants a decision in this instance other than in accordance with the development plan.

### **Conditions**

114. I have considered the largely agreed list of conditions put forward by both main parties to the Inquiry, and the written representations made on behalf of Gretton Parish Council. In assessing such matters, I have regard to the advice set out in the Guidance and in the Framework in terms of both relevant tests and of appropriate wording.

115. For the avoidance of doubt and in the interests of proper planning, a condition is imposed to ensure the development is undertaken in accordance with the relevant drawings. Condition 2 reflects the full list of drawings as agreed between the main parties. In the further interests of clarity, details of existing and proposed site levels are also required to be approved.

116. A number of conditions are necessary in order to safeguard the character and appearance of the appeal site and its relationship to its surroundings. These include requirements relating to landscaping details, a Landscape Management Plan, an Arboricultural Method Statement and details of proposed external materials. Particular reference is made to critical treatment of the site boundaries.

117. In view of the significance of views in and around the AONB during the hours of darkness, and to contribute to public safety, a condition requires details of external lighting to be agreed.

118. To safeguard any heritage value of the site, a scheme of archaeological investigation is necessary.

119. To safeguard the ecological value of the site in matters beyond the welfare of Great Crested Newts, a condition requires the further consideration and detailed implementation of other recommendations as set out in the appellant's Ecological Survey.

120. In the interests of the free and safe movement of vehicles and pedestrians, conditions require detailed design of the access from Church Row to be approved and be implemented in advance of the commencement of other works. The main carriageway areas within the site should be available prior to first occupation of dwellings, and future management arrangements of all communal areas need to be clarified. The Council has also expressed concern about the implications for on-street parking following possible conversion of garages and a condition is imposed to preclude such losses.

121. In order to promote pedestrian movement and to ensure associated public safety, a condition requires provision of a pedestrian crossing within Church Row serving the development. Whilst this lies outside the application site, the land would be in the control of the highway authority. Given this requirement would appear to be at the instigation of the highway authority, I find there to be a reasonable prospect of such a condition being implemented.

122. To ensure a satisfactory living environment, conditions require details to be approved relating to surface and foul water drainage, in relation to flood mitigation, and with regard to fire hydrants and refuse. To protect the living conditions of nearby occupiers during the period of works, it is necessary for the development to be undertaken in accordance with a Construction Method Statement, the precise details of which remain to be agreed. This would include arrangements for liaison with residents before and throughout the work, as appropriate, as discussed at the Inquiry.
123. In the case of each of the pre-commencement conditions, I consider that resolution of the matters specified to be of sufficient significance to the achievement of a satisfactory development and in safeguarding the subsequent form of development such that it would be inappropriate to proceed further without the prior clarification and certainty that would arise from their approval.
124. At the Inquiry I sought clarification regarding the proposed treatment of the existing overhead power line which currently crosses the site. The appellant explained that the intention was to re-locate this facility underground, but that no detailed proposal had yet been agreed. This would be a matter for formal agreement between the appellant and the relevant service provider. I note the Council raises no objection to such a proposal, nor raises any other concerns in such regard. On balance, although treatment of the power line remains to be finalised, I do not find it either necessary or reasonable to condition the matter any further. Should eventual treatment of the power line have any implications for the form and layout of the development as detailed in this decision, or any other material implications, it would be a matter for the main parties to consider a variation as appropriate to the terms of any permission which may be granted.
125. The Council has also requested conditions withdrawing Permitted Development rights in relation to Schedule 2 Part 1 Classes A, B and E of the Town and Country Planning (General Permitted Development) (England) Order 2015. The suggestion is that rights should be removed principally due to the high quality of the scheme, its relationship to the surrounding countryside, and due to the authority's perception of a limited extent of amenity space being provided and which might otherwise be lost to any further works. Whilst no objection is raised by the appellant, the Guidance makes clear that conditions restricting the future use of Permitted Development rights will rarely pass the test of necessity and should only be used in exceptional circumstances. I am not satisfied that such circumstances apply in this instance.

### **Conclusion**

126. For the above reasons, the appeal is allowed subject to the conditions set out in the attached schedule.

*Peter Rose*  
INSPECTOR

## **SCHEDULE OF CONDITIONS**

### **Time limit**

1. The development hereby permitted shall begin no later than three years from the date of this decision.

### **Drawings**

2. The development hereby permitted shall be carried out in accordance with the approved drawings Ref: 13182 5000 H; 13182 5001 E; 13182 5002 C; 13182 3600 A; 13182/6020.3; 13182/6020.1A; 13182/6000.1C; 13182/6000.2C; 13182/6001.1C; 13182/6001.2C; 13182/6001.3A; 13182/6001.4A; 13182/6003.1B; 13182/6003.2B; 13182/6004.1B; 13182/6004.2B; 13182/6005.2B; 13182/6006.1B; 13182/6008.1B; 13182/6009.1B; 13182/6010.1A; 13182/6010.2A; 13182/6011.1A; and FMW1553 SK01 Rev C.

### **Pre-commencement**

3. No development shall take place until full details, including samples, of all external materials of all buildings hereby approved, of all means of enclosure of individual curtilages, and of all surfaces of carriageways and footways, have been submitted to and been approved in writing by the local planning authority, and the development shall be implemented in accordance with the details as approved.
4. No development shall take place until a scheme of landscaping has been submitted to and been approved in writing by the local planning authority, and which shall be accompanied by a detailed Landscape Management Plan setting out long term design objectives, management responsibilities and maintenance schedules. The scheme shall include details of soft and hard landscaping, including proposals for tree and hedge retention, planting plans, written specifications (identifying cultivation and other operations associated with tree, shrub and hedge or grass establishment), and schedules of plants noting species, plant sizes and proposed numbers/densities, and shall be set within the terms of the Landscape Management Plan.
5. All soft and hard landscaping work to be approved pursuant to Condition 4 shall be completed in full accordance with the agreed details prior to the first occupation of any dwelling hereby approved or in accordance with such other programme as may be agreed in writing by the local planning authority. Any trees, shrubs or plants provided in accordance with this condition which are removed, die or become damaged or diseased within five years of planting shall be replaced within the next planting season by trees or shrubs of the same size and species.
6. The scheme to be submitted pursuant to Condition 4 shall include full and specific details of all boundary planting and of all associated boundary works in relation to all external boundaries of the application site in accordance with the principles set out in the drawings hereby approved. The scheme

shall include a programme of works and arrangements and responsibilities for their maintenance.

7. No development shall take place until an Arboricultural Method Statement, which shall include details of any works to any existing tree or hedge that would be necessary to implement the proposal and details of all trees and hedges to be retained, has been submitted to and been approved in writing by the local planning authority. The Statement shall include, but not be confined to, full details of specifications for any pruning of any trees and hedges, and of tree and hedge protection arrangements for all trees and hedges to be retained. It shall also incorporate details of existing and proposed finished levels within 15 metres of the trunks of existing trees on neighbouring land, and the location and specification of all temporary protective barriers and ground protection and of all other reasonable and necessary measures in that regard. The Statement shall include cross sectional drawings and materials specifications for the construction of the access road in the vicinity of the adjacent Wellingtonia trees, relevant associated details of service installation routes and methods of installation, implications of drainage, and soil remediation proposals in that proximity. The Statement shall also include arrangements for supervision of all trees and hedges during the course of the works, and a programme for implementation.
8. The approved Arboricultural Method Statement shall be implemented in accordance with the details as approved, and the temporary measures to be approved pursuant to the Statement for protection of existing trees and hedges shall be implemented before any equipment, machinery or materials are brought onto the site and shall be retained until all equipment, machinery and surplus materials have been removed from the site.
9. No development shall take place until full details of existing and proposed site levels have been submitted to and been approved in writing by the local planning authority, and the development shall be implemented in accordance with such details.
10. No development shall take place until full details of a scheme for proposed sustainable surface water drainage have been submitted to and been approved in writing by the local planning authority, and including arrangements for subsequent management, and the development shall be implemented as approved, and in accordance with an agreed programme.
11. The drainage scheme to be approved pursuant to Condition 10 shall include appropriate flood mitigation measures and an exceedance flow routing plan for extreme flood events. The details shall identify exceedance flow routes through the development based on proposed topography with flows being directed to highways and areas of public open space and not through gardens or other areas in private ownership. The approved measures shall be implemented as approved, and in accordance with an agreed programme.
12. No development shall take place until full details of a scheme for foul sewerage disposal have been submitted to and been approved in writing by the local planning authority, and the details shall be implemented as approved, and in accordance with an agreed programme.

- 13.No development shall take place until the proposed site access has been provided in accordance with the principles set out in approved drawing Ref: FMW1553 SK01 Rev C and in accordance with further design details to be submitted to and be approved in writing by the local planning authority. The further details shall include specifications of visibility splays and of surface materials and of all associated works.
- 14.No development shall take place until details of a proposed pedestrian crossing of Church Row have been submitted to and been approved in writing by the local planning authority and this shall be implemented in accordance with the approved details prior to the first occupation of any dwelling.
- 15.No development shall take place until full details of the proposed arrangements for future management and maintenance of all proposed vehicular and pedestrian areas within the development and of all other communal areas, including public open space, have been submitted to and been approved in writing by the local planning authority. The areas shall thereafter be maintained in accordance with the management and maintenance details as approved.
- 16.No development shall take place until an archaeological investigation of the site has been carried out in accordance with a specification to be submitted to and be approved in writing by the local planning authority. The specification shall include arrangements for mitigation of damage to deposits of importance thus identified. The investigation shall be undertaken by an appropriately qualified archaeologist in accordance with an agreed programme, and shall include the recording of findings and subsequent publication of results.
- 17.Aside from matters relating to Great Crested Newts, the development shall be implemented in accordance with a further scheme of other detailed ecological measures to reflect and expand upon the provisional recommendations of the appellant's Extended Phase 1 Ecological Survey dated December 2014. Such further investigations and detailed measures shall be submitted to and be approved in writing by the local planning authority prior to the commencement of any development and be implemented in accordance with an agreed programme.
- 18.No development shall take place until a Construction Method Statement has been submitted to and been approved in writing by the local planning authority. The approved Statement shall be implemented and adhered to throughout the construction period. The Statement shall include details and arrangements for the following matters:
  - (i) parking of vehicles of site operatives and visitors;
  - (ii) loading and unloading of plant and materials;
  - (iii) storage of plant and materials used in constructing the development;
  - (iv) erection and maintenance of security hoardings as appropriate;
  - (v) provision of wheel washing facilities and other measures required to mitigate the physical impact of construction traffic upon the adjacent public highway;

- (vi) measures to control the emission of dust and dirt during construction;
- (vii) proposed hours of operation, and;
- (viii) details of public liaison arrangements with local residents and other occupiers, but particularly with regard to information dissemination, both prior to and during construction works.

### **Pre-occupation**

- 19.No dwelling shall be occupied until all areas of carriageway and all areas of vehicle parking within the development, including footpaths and vehicle turning areas, have been implemented in full accordance with the approved details.
- 20.No dwelling shall be occupied until a scheme of external lighting has been implemented in full accordance with details, including full technical specifications, previously submitted to and approved in writing by the local planning authority.
- 21.No dwelling shall be occupied until a scheme for provision and maintenance of fire hydrants to be served by mains water supply has been implemented in full accordance with details previously submitted to and approved in writing by the local planning authority, and shall be retained thereafter.
- 22.No dwelling shall be occupied until details of satisfactory facilities for the storage of refuse on the site have been submitted to and been approved in writing by the local planning authority and the approved facilities for each dwelling shall be provided before the first occupation of that dwelling and be retained thereafter.

### **Other**

- 23.The garages of the dwellings hereby approved shall be available at all times for the parking of vehicles and shall not be converted or occupied for other purposes.



## **APPEARANCES**

### **For the local planning authority:**

Thomas Graham, Planning Advocate	Instructed by the Borough Solicitor
-------------------------------------	-------------------------------------

He called:

Robert Yates	RGS Arboricultural Consultants
Christopher Partrick	Conservation Officer
Toby Jones	Toby Jones Associates Ltd
Alice Goodall	Urban Design Officer
Paul Smith	Planning consultant

### **For the appellant:**

Jeremy Cahill of Queen's Counsel, and Christian Hawley of Counsel	Instructed by Guy Wakefield of Hunter Page
-------------------------------------------------------------------------	--------------------------------------------

Jeremy Cahill called:

Giles Sutton	GS Ecology Ltd
David Archer	pad Design
Andrew Cook	Pegasus Group
Simon Roper-Pressdee	WYG Environment Planning Transport Ltd
Guy Wakefield	Hunter Page

### **Interested parties:**

Dr John Hurley	Local resident and on behalf of Gretton Parish Council
Geoff Hanson	Local resident and on behalf of Gretton Parish Council

Contributions to the discussion of possible conditions and of the proposed planning obligations were also made by Ciaran Power (Senior Planning Officer) and by Tessa Yates (Solicitor) on behalf of the Council, and by Ben Leather (Land Director) on behalf of the appellant.

Peter Wilkins of RG Consultancy Ltd also represented the appellant at the site visit in relation to arboricultural matters.

## **DOCUMENTS SUBMITTED TO THE INQUIRY**

### **By the Council:**

1. Opening statement by Thomas Graham, Planning Advocate
2. List of proposed representation (witnesses) on behalf of the Council
3. Public Inquiry notification letter dated 7 July 2016
4. Copy of Rebuttal Statement by Peter Wilkins (in connection with reference by Robert Yates to coloured version of plan on page 5) (black and white, and coloured versions submitted)
5. Submitted Tree Protection Plan Ref: TPP1
6. Wording of possible condition relating to management of adjacent trees, drafted by Robert Yates
7. A3 version of Toby Jones' Appendix LA.2
8. Planning Obligations - CIL Compliance Statement
9. House of Lords judgement in South Lakeland District Council v the Secretary of State for the Environment and Another Respondents [1992] 2 W.L.R. 204 and [1992] 2 A.C. 141
10. High Court judgement in R v Rochdale Metropolitan Borough Council (2001) 81 P. & C.R. 27
11. Supreme Court judgement in Tesco Stores Limited (Appellants) v Dundee City Council (Respondents) (Scotland) [2012] UKSC 13
12. Closing submissions by Thomas Graham

### **By the appellant:**

13. Opening statement by Jeremy Cahill of Queen's Counsel
14. List of proposed representation (witnesses) on behalf of the appellant
15. Drawing Ref: 13182/5000 H
16. Drawing Ref: 13182/5006 'Distance from Christ Church'
17. Tree Survey Plan Ref: TSP-01
18. Winchcombe Way The official guide, Robert Talbot, 2014
19. Planning Policy Statement 7: Sustainable Development in Rural Areas 2004
20. Final Report of Landscape and Visual Sensitivity Study, Rural Service Centres and Service Villages prepared by Toby Jones Associates Ltd for Tewkesbury Borough Council, November 2014
21. Internal undated consultation comments by Christopher Partrick
22. Sample Land Registry TP1 forms
23. Draft planning obligation relating to Great Crested Newts, and subsequent alterations

24. Appeal decision Ref: APP/G1630/A/13/2209001 dated 22 May 2014 and relating to development of 47 dwellings and other works at Land to the south of Beckford Road, Alderton, Tewkesbury
25. Illustrative Masterplan and access arrangements for Land to the west of Willow Bank Road, Alderton
26. Letter from Spitfire Properties LLP dated 10 August 2016 relating to parking
27. Letter from Spitfire Properties LLP dated 10 August 2016 relating to affordable housing
28. Letter from Spitfire Properties LLP dated 11 August 2016 relating to existing overhead power line
29. High Court judgement in Bloor Homes East Midlands Ltd and the Secretary of State for Communities and Local Government and Hinkley and Bosworth Borough Council [2014] EWHC 754 (Admin)
30. High Court judgement in Stroud District Council versus the Secretary of State for Communities and Local Government and Gladman Developments Ltd [2015] EWHC 488 Admin
31. Court of Appeal judgement in Aidan Jones and Jane Margaret Mordue and the Secretary of State for Communities and Local Government and South Northamptonshire Council [2015] EWCA Civ 1243
32. High Court judgement in Cheshire East Borough Council and the Secretary of State for Communities and Local Government and Renew Land Developments Ltd [2016] EWHC 571 (Admin)
33. Court of Appeal judgement in Suffolk Coastal District Council and Hopkins Homes Limited and the Secretary of State for Communities and Local Government, and Richborough Estates Partnership LLP and Cheshire East Borough Council 2016 (EWCA Civ 168)
34. Closing submissions by Jeremy Cahill

**Jointly by the main parties:**

35. Agreed compendium of application drawings dated August 2016
36. Jointly signed statement regarding previous draft Condition 5 (agreed list of drawings)
37. Email correspondence dated 10 August 2016 relating to access, and related agreed position statement on arboricultural matters
38. Draft section 106 agreement relating to secondary school provision
39. Draft section 106 agreement relating to affordable housing and other contributions
40. Density calculations for Gretton cul-de-sacs
41. Possible planning conditions regarding a Landscape Management Plan, boundary planting, and additional visitor parking

**By other parties:**

42. Undated representations from Gretton Parish Council in respect of conditions and planning obligations (presented on 12 August 2016)

**Other documents post-Inquiry:**

43. Unilateral undertaking signed and dated 16 August 2016 relating to Great Crested Newts
44. Section 106 agreement relating to secondary school provision signed and dated 16 August 2016
45. Section 106 agreement relating to affordable housing and other community facilities signed and dated 18 August 2016 (preceded by a previous version dated 16 August 2016 and accompanied by a subsequent Deed of Revocation dated 18 August 2016)
46. Appellant's response by email dated 16 August 2016 to undated representations from Gretton Parish Council in respect of conditions and planning obligations
47. Council's response by email dated 19 August 2016 (confirming no comments) to undated representations from Gretton Parish Council in respect of conditions and planning obligations