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## Appeal Decision

Inquiry held on 8-11 July, 15-16 July and 18 July 2025

Site visit made on 16 July 2025

**by Tom Gilbert-Wooldridge BA (Hons) MTP MRTPI IHBC**

an Inspector appointed by the Secretary of State

Decision date: 3<sup>rd</sup> September 2025

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### Appeal Ref: APP/J3720/W/25/3358848

#### Orchard Adjacent to Chutneys, Bordon Hill, Stratford upon Avon

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
  - The appeal is made by Gladman Developments Ltd against the decision of Stratford-on-Avon District Council.
  - The application Ref is 23/00969/OUT.
  - The development proposed is for the erection of up to 130 dwellings (including affordable housing), with public open space, landscaping and sustainable drainage system (SuDS) and vehicular access point, with all matters reserved except for means of access.
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#### Decision

1. The appeal is allowed and planning permission is granted for the erection of up to 130 dwellings (including affordable housing), with public open space, landscaping and sustainable drainage system (SuDS) and vehicular access point, with all matters reserved except for means of access at Orchard Adjacent to Chutneys, Bordon Hill, Stratford upon Avon, in accordance with the terms of the application, Ref 23/00969/OUT, subject to the 39 conditions in the attached schedule.

#### Preliminary Matters

2. The planning application was made in outline with all matters reserved except for access. Approval is only sought at this stage for the vehicular access onto Evesham Road, the details of which are shown on a specific plan (ref P003 Rev E). All other matters relating to access, including internal circulation, would be determined at the reserved matters stage. I have had regard to the development framework plan (ref D9732.020J), but consider that all details shown are indicative only, apart from the access point.
3. The application originally sought 150 dwellings, but this was revised to 130 units following discussions with the Council. These revisions were subject to public consultation. The site address was also amended from "Land North of Evesham Road, Stratford-upon-Avon" to the address shown in the banner heading above.
4. Minor amendments were made to the development framework plan after the appeal was submitted to reflect new Environment Agency data relating to flood risk. The latest plan (Revision J) reduces the potential development area without changing the maximum number of houses sought or amending the description of development. The Lead Local Flood Authority (LLFA) has expressed no concerns with the changes. I am satisfied that the revisions are minor and to an indicative plan, and so no further consultation has been necessary.

5. In addition to the accompanied site visit on 16 July 2025, I viewed the site and surrounding area from public locations before and during the Inquiry. This included viewpoints from Bordon Hill, Milcote Road, the racecourse, and the Avon Way public footpath.
6. A completed and executed Section 106 (S106) agreement dated 30 July 2025 was submitted shortly after the Inquiry closed. This is assessed below.

### **Main Issues**

7. The case management conference on 16 April 2025 set out 8 main issues. While resolution between the appellant and the Council was achieved on highway and flood risk matters before the Inquiry closed, for completeness, and mindful of interested party concerns, the 8 main issues are as follows:
  - (a) whether the proposed development would be in a suitable location having regard to the development plan for Stratford upon Avon;
  - (b) the effect of the proposed development on the character and appearance of the surrounding area;
  - (c) the effect of the proposed development on the setting and significance of Anne Hathaway's Cottage (the Grade I listed building and the Grade II registered park and garden) and Shottery Conservation Area;
  - (d) the effect of the proposed development on highway safety and site access;
  - (e) the effect of the proposed development on flood risk with particular regard to surface water drainage;
  - (f) the extent of the shortfall in the Greater Birmingham and Black Country (GBBC) Housing Market Area, and whether the Council can demonstrate a 5-year housing land supply;
  - (g) whether the proposed development would make adequate provision for affordable housing and other infrastructure requirements; and
  - (h) the overall planning balance, having regard to any relevant material considerations including any proposed benefits.

### **Reasons**

#### ***The suitability of the location***

8. Policy CS.15 of the Stratford on Avon Core Strategy 2011-2031 (CS) sets out the distribution of development across the district via a settlement hierarchy. Stratford upon Avon is identified as the principal settlement in the district and the main focus for housing and business in part A of the policy. Development here is directed towards sites allocated or identified in the CS or Stratford upon Avon Neighbourhood Development Plan 2011-2031 (NDP), and through the redevelopment and re-use of suitable land and property within the Built Up Area Boundary (BUAB). The policy also includes 6 requirements to ensure that all development at existing settlements protects and enhances the character of the relevant settlement and its setting.

9. CS Policy AS.10 on countryside and villages applies to parts of the district outside of BUAB, new settlements and large rural brownfield sites. The policy sets out forms of development and uses in the countryside that are acceptable in principle in parts (a) to (v). The penultimate paragraph states that all other types of development or activity in the countryside, unless covered by a specific CS policy, will need to be fully justified, offer significant benefits to the local area and not be contrary to the overall development strategy for the district. While this paragraph might appear to offer an exception or gateway to any development, case law<sup>1</sup> has found that it refers to the rest of the policy, noting the overall aim of the policy to protect the countryside.
10. NDP Policy H1 states that new housing proposals within the town's BUAB will be supported in principle. All areas outside the BUAB are classified as countryside where new housing will be strictly controlled and limited to specific forms of residential development not including larger scale market housing.
11. The appeal site is a broadly rectangular field on the western edge of Stratford upon Avon to the north of Evesham Road. The site is immediately adjacent to but outside the town's BUAB. It is thus classified as countryside and does not benefit from CS Policy CS.15A. The proposal does not fall within parts (a) to (v) in CS Policy AS.10 or benefit from the penultimate paragraph. Therefore, the proposed development would conflict with these two CS policies. It would also conflict with NDP Policy H1 given its location and the type of housing proposed.
12. Regarding the 6 requirements in CS Policy CS.15, the fifth is not relevant as the development would not undermine any gaps between settlements, while the sixth relating to infrastructure requirements is not disputed. Requirements 2, 3 and 4 involve character and appearance matters that are best addressed in the next main issue. There would be no conflict with the first requirement as the provision of 130 dwellings would be consistent with the overall scale of development identified for Stratford upon Avon in CS Policy CS.16 at around 3,500 homes.
13. CS Policy CS.16 sets out the Council's approach to housing development. It seeks the provision of at least 14,600 additional homes across the plan period via the settlement hierarchy, strategic allocations and neighbourhood plans. Part D of the policy refers to the production of a Site Allocations Plan (SAP) to identify reserve housing sites to meet the district's requirements in full as part of the Coventry and Warwickshire Housing Market Area (CW HMA) and/or to respond to housing need arising outside this HMA. Circumstances where reserve sites will be released include an identified shortfall in the Council's 5 year housing land supply and meeting housing needs outside the CW HMA.
14. While the CS was adopted in 2016, the SAP has not progressed beyond a revised preferred options consultation in June 2022. This version of the SAP sets out how reserve sites will be identified and released, with Policy SAP.4 referring to specific sites to be released to meet the needs of the Greater Birmingham and Black Country Housing Market Area (GBBC HMA). One of sites, STR.A, is identified as North of Evesham Road, which has a very similar boundary to the appeal site. The site proforma refers to a dwelling capacity of 88 and housing being restricted to the northern part of the site as shown by the cross-hatching in the plan on page 108.

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<sup>1</sup> *Stratford on Avon DC v SSHCLG* [2022] EWHC 445 (Admin)

15. The progress of the SAP has stalled and may be overtaken by the emergence of the South Warwickshire Local Plan (SWLP). Therefore, the draft SAP carries little weight. Nevertheless, its evolution and reference in CS Policy CS.16 is relevant to this appeal and so will be returned to later in this decision.
16. In conclusion, although the site adjoins the largest and most sustainable settlement in the district with access to a variety of services and facilities, the proposed development would not be in a suitable location having regard to the development plan and the conflict with CS Policies CS.15 and AS.10 and NDP Policy H1. However, the weight to be given to this conflict is a matter for the planning balance following consideration of other main issues first.

### ***Character and appearance***

#### *Existing context*

17. The existing town of Stratford upon Avon is situated on relatively flat ground either side of the River Avon. The historic core is focused along the river, but the town has grown westwards during the 20<sup>th</sup> century to merge with the village of Shottery. The topography rises beyond the urban edge, including along Evesham Road past the appeal site up to Bordon Hill at 91m above ordnance datum (AOD). The hill forms a distinctive landscape feature looking across the countryside from the urban edge. It also provides a panoramic view of the town approaching along Evesham Road, with the spire of the Holy Trinity Church and the tower of the Royal Shakespeare Theatre clearly visible.
18. New housing development is under construction to the west of Shottery with some properties already occupied. This development is bounded by a link road that will connect the A46 to Evesham Road once operational. Both the housing and the link road are on a similar level to existing housing in Shottery at around 45-50m AOD with cuttings and bunds used to screen the road further. In contrast to the link road, the new housing appears stark and lacking in screening when viewed from Evesham Road and public footpaths.
19. The site comprises grassland that is currently grazed by horses. There is little evidence of any orchard despite the site's name. The site's topography rises from east to west to the lower slopes of Bordon Hill from approximately 45m AOD in the north-east corner to 57m AOD in the south-west corner. The site is bounded by Evesham Road to the south, part of the West Shottery development to the east and a public footpath to the north (known as SB42). To the west is ribbon development of detached properties further up Bordon Hill with long rear gardens that stretch along the entire western boundary of the site.
20. Hedgerows line most of the northern, western and eastern boundaries, with a strip of woodland further to the west of the northern boundary where footpath SB42 continues up Bordon Hill. Nevertheless, the site can be seen in glimpses from Evesham Road depending on planting gaps and seasonal variation, and more expansively from footpath SB42 in the north-east corner<sup>2</sup>. A public footpath from the northern edge of Shottery (SD16b) winds its way via Hansell Farm to the north and west of the site. Views of the site from this footpath are very restricted in summer due to the hedgerows and woodland and are filtered by branches in the

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<sup>2</sup> Viewpoints 1, 5, 6 and 13 in the Landscape and Visual Appraisal (LVA)

winter<sup>3</sup>. The same applies to views from footpaths to the west and north-west along footpaths SD16b and SD16a respectively<sup>4</sup>.

21. Views along a public footpath next to Shottery Brook (SB54) are now screened by the West Shottery development<sup>5</sup>. Longer distance views from the south from Stratford Racecourse, the Avon Way footpath and Milcote Road<sup>6</sup> incorporate Bordon Hill, the ribbon development and the fields to the south of Evesham Road, but the site itself is largely hidden. Views looking west along Evesham Road<sup>7</sup> from the urban edge are dominated by Bordon Hill and the fields to the south, rather than the site.
22. The site is part of a Landscape Sensitivity Study from 2011 which looked at parcels of land around Stratford upon Avon. The site is split between land parcels St21 and St24. The former covers the lower slopes of Bordon Hill up to the urban edge (as it was in 2011). The latter parcel is larger and covers the top of the hill and countryside to the west. The split roughly follows the site's contours although an area of lower ground in the site's south-east corner is excluded from St21.
23. The study considers that St21 is of high/medium sensitivity to housing development, noting the importance of views of the town along Evesham Road and the role of structural planting to screen housing, with any new access off Evesham Road likely to be very disruptive and undesirable. The study finds that St24 is of high sensitivity to housing due to the higher ground and so concludes that such development would not be appropriate here.
24. A proposal for up to 155 dwellings on this site was dismissed at appeal<sup>8</sup> in December 2015. The Inspector noted that the site "has a fair degree of visual containment" by topography, dense woodland, mature boundary vegetation and built form which separates it from part of the wider landscape context, noting that most of the site is below the 50m AOD contour. Nevertheless, the Inspector found the site was less urban fringe and more strongly influenced by its agricultural surroundings. Although the West Shottery development had been granted planning permission in 2012, it had yet to be built and without it the Inspector considered the proposal would be a "prominent isolated peninsula" of housing "incongruously detached" from the town. Overall, he concluded that there would be a substantial erosion of important landscape character and serious harm to character and appearance. He gave little weight to the West Shottery scheme.
25. 10 years later, there have been significant changes to the land between the site and the town with large numbers of houses and a link road under construction. This development can be seen in views which include the site. It has led to urban encroachment into the countryside. The 2015 Inspector observed that such a change could lead to a different balance of conclusions although did not indicate whether it would downgrade the harm he identified. However, the changes over the past decade have reduced the site's isolation and increased urban influences.
26. The parties disagree on landscape value and whether the site is a valued landscape as identified by the 2015 Inspector. The site is not part of any nationally

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<sup>3</sup> LVA Viewpoints 4 and 14

<sup>4</sup> LVA Viewpoints 2 and 3

<sup>5</sup> LVA Viewpoints 7 and 8

<sup>6</sup> LVA Viewpoints 11, 12 and 15

<sup>7</sup> LVA Viewpoints 9 and 10

<sup>8</sup> APP/J3720/W/15/3130036

designated landscape and no longer falls within a Special Landscape Area (SLA) in the CS following a 2012 review. The area around Bordon Hill was removed from the Arden SLA as it was isolated from the main bulk of the SLA rather than being of lower landscape value. However, even if a site does not comprise a valued landscape, it can still be of high landscape value depending on the context.

27. The differences between the parties on value focus on whether the site is ordinary or special in terms of features, associations and perceptions. Although the site forms part of the approach into Shottery associated with Anne Hathaway and Stratford upon Avon is famous for its associations with William Shakespeare, it does not appear to feature in any known writing or images from that era. The view from Bordon Hill has been depicted by artists in 19<sup>th</sup> century paintings, but the panorama has changed markedly over the past 100 years or so, with the urban expansion of Stratford and the conversion of Evesham Road from a track into the well-trafficked B439. The church spire is the only discernible historic feature in the town centre dating from Shakespeare's time, while the historic core of Shottery is largely hidden by dense planting.
28. The site lies within the lower slopes of the distinctive Bordon Hill on the urban-rural fringes with strong boundary planting, an adjoining public footpath and an open and undulating landform and intact pasture. However, it is visually contained as noted by the 2015 Inspector and my own observations. It is only seen fleetingly travelling along Evesham Road and is only particularly noticeable in close views through gaps in planting. It has limited cultural and landscape associations and perceptions and has urbanising influences with the ribbon development and West Shottery.
29. Therefore, I consider the site has no more than medium landscape value and has only medium susceptibility to change given the urbanising influences. The overall landscape sensitivity is medium and so the site makes a moderate contribution to the character and appearance of the area. While I do not consider the site represents a valued landscape, it remains necessary to consider how the development would affect its qualities and features.

*The effect of the proposed development on character and appearance*

30. The proposed development seeks up to 130 dwellings within the site. The development framework plan indicates that built development would not exceed the 50m AOD contour with ridge heights not exceeding 57m AOD which is the same as the highest point of the existing site. A single vehicular access point would be provided approximately halfway along the Evesham Road frontage, although an emergency access is also shown further up the hill. The remainder of the site would be a mix of green space, play facilities and drainage attenuation. An orchard and native woodland are shown on the highest part of the site in the west along a circa 50m wide corridor. There would be a 10m buffer along the northern boundary with footpath SB42 and a 30m buffer along the southern boundary with Evesham Road with additional planting. Existing boundary trees and hedgerows would be retained where possible.
31. Although all details other than the access points have yet to be determined, the proposed development would fundamentally change the character of the site from an open agricultural field to an urban extension of Stratford upon Avon. It would likely have a similar density and layout to the adjoining part of West Shottery with

housing extending at depth across the site. From the north-east corner of the site along footpath SB42, new housing would be readily apparent and the open view up Bordon Hill would be lost. However, planting along the footpath and in the site's north-east corner would alleviate adverse effects over time.

32. The existing boundary planting along Evesham Road would be punctuated by the new access point with a second gap for the emergency access. There is likely to be some further loss of planting for the necessary visibility splays. New housing would also be visible from the access points. This would detract from the approach into town along Evesham Road with a more urban appearance next to the road where signage and street lighting would also be seen. It remains unclear why the access could not be provided off the link road to the north-east which would reduce the effect on Evesham Road. Nevertheless, considerable planting can be provided between the development and the road outside of the visibility splays. Although this would not screen development altogether due to the site's topography, it would nevertheless help to soften the effects. The panoramic views of the town from Bordon Hill and Evesham Road would remain.
33. From viewpoints beyond the site boundary, the effects would be lessened by distance, topography and existing vegetation screens. The viewpoint on footpath SD16b to the west (view 2) is around 5 or 6 metres above the maximum ground level of the housing as shown on the development framework plan, where there could be a substantial tree belt. Further to the north and west, housing could be visible above and through gaps in planting but would not be as stark as the West Shottery development. There might be glimpses of new buildings in longer distance views from the south, but these would not be as prominent as existing ribbon development along Bordon Hill and would be filtered by planting.
34. The Council retains control over the details of the development at the reserved matters stage. If built form is kept below the 50m AOD contour and no more than 57m AOD to ridge height, the development would remain within the generally flatter ground that defines the urban area of Stratford upon Avon and be consistent with existing housing nearby.
35. Adverse effects on short distance views to the north and south would be mitigated through considerable areas of planting. This would help to address the concerns identified in the Landscape Sensitivity Study for parcel St21. There would only be a small encroachment into parcel St24 which can be offset by planting and the siting of housing back from the road. While little weight can be afforded to the SAP, it is worth noting that most of the indicative development area would fall into the cross-hatched area shown in the SAP, and this cross-hatching itself overlaps into St24 where it adjoins Evesham Road.
36. Unlike in 2015, the development would not appear isolated or incongruous, but part of the urban fringes of Stratford upon Avon. It could help to soften the currently stark appearance of the West Shottery development given the scope for extensive planting which can reach maturity by year 15. Noting the advice from the Council's Forestry and Landscape Officer, sufficient mitigation can be provided. Thus, the magnitude of effect would be no greater than moderate with an overall moderate adverse effect on landscape character and views over the long term.
37. Concluding on this main issue, the proposed development would cause moderate harm to the character and appearance of the surrounding area. Therefore, it would

not accord with CS Policies CS.5, CS.9, CS.15 and AS.10. Amongst other things, Policy CS.5 requires development to maintain the landscape character and quality of the district in a manner that minimises and mitigates its impact; Policy CS.9 seeks development that enhances a sense of place and reflects local character and distinctiveness through good design; Policy CS.15 seeks to protect and enhance the character of the settlement involved; and Policy AS.10 requires development in the countryside to minimise impact on local landscape character.

38. The development would also not accord with NDP Policies BE1, BE2 and BE6. Amongst other things, Policy BE1 seeks a high standard of design and layout; Policy BE2 requires development to take local character into account and positively contribute to such character; and Policy BE6 seeks the effective and efficient use of land having regard to matter such as density and ensuring that built-up areas emerge gradually from the surrounding countryside.

### ***Heritage assets***

39. CS Policy CS.8 seeks the protection and enhancement of the district's historic environment with priority given to assets such as listed buildings, conservation areas, registered parks and gardens (RPG), and sites associated with William Shakespeare. Proposals that cause less than substantial harm to the significance of a designated heritage asset must be justified and weighed against the public benefits. NDP Policy BE8 sets out a similar approach with specific reference to Shottery Conservation Area. Both policies are consistent with NPPF paragraphs 213 and 215. In addition, NPPF paragraph 212 requires great weight to be given to the asset's conservation irrespective of the level of harm, with more important assets given greater weight. NPPF paragraph 210 sets out the desirability of sustaining and enhancing the significance of heritage assets.
40. Anne Hathaway's Cottage is a Grade I listed building dating from the 15<sup>th</sup> century or earlier, with 16<sup>th</sup> century alterations and 17<sup>th</sup> century additions. The cottage is a timber framed structure with brick and plaster infill on a limestone plinth and a thatched roof. It was originally used as a farmhouse and contains many historic features both internally and externally. It was the birthplace and family home of Anne Hathaway who was married to William Shakespeare. It is located on Cottage Lane within the historic village of Shottery.
41. The cottage remained in the Hathaway family until 1892 when it was sold to the Shakespeare's Birthplace Trust. The cottage is now managed by the Trust as a museum which is open daily throughout the year. Both the building and its grounds are accessible to the public. Therefore, the cottage has substantial architectural and historic interest due to the survival of significant fabric and the strong association with a key figure in English literature. This in turn greatly informs its significance as listed building of the highest importance.
42. A Grade II RPG also known as Anne Hathaway's Cottage surrounds the listed building. It comprises an early 20<sup>th</sup> century flower garden and orchard developed by Ellen Willmott. There is a cottage garden with various planting beds, pathways and terraces around the cottage, which leads to the orchard to the west. The RPG forms less than 50% of the overall grounds that the public can visit, with a sculpture garden to the north and more orchards and a dense woodland to the south. The woodland is currently not open to the public but has been accessible

previously. Therefore, the RPG has significant heritage interest forming both the foreground to the cottage but also in terms of garden design and landscaping.

43. Both the cottage and the RPG are located on Cottage Lane within Shottery Conservation Area which covers the historic village that is now part of Stratford upon Avon. The conservation area contains farm buildings and dwellings dating back to at least the 15<sup>th</sup> century with several additions into the 18<sup>th</sup> and 19<sup>th</sup> centuries. This includes many listed buildings such as the Grade II listed Burman's Farmhouse dating from the late 18th century and located on the western edge of the conservation area north of the RPG.
44. The village core around the Bell Inn and the road known as Shottery is located at the southern end of the conservation area with a tight knit cluster of buildings. More sporadic linear development extends to the north and north-west along Church Lane and Cottage Lane respectively, interspersed with considerable green space. These various elements make important positive contributions to the character and appearance of the conservation area and inform its significance. The western boundary of the conservation area includes the western boundary of the RPG.
45. The significance of the listed cottage, the RPG and the conservation area is also influenced by their setting. The cottage and the RPG form part of each other's immediate setting, along with the wider cottage grounds and the verdant road frontage along Cottage Lane. The setting for both expands across the conservation area as one travels through Shottery to reach these publicly accessible heritage assets. The conservation area is bounded by 20<sup>th</sup> century housing developments to the north and south which provide a hard urban edge to its setting in these locations. To the east is a large public open space known as Shottery Field which provides a green buffer to the town centre.
46. To the west of the cottage, the RPG and the conservation area is the countryside rising up Bordon Hill. It provides the remaining rural backdrop to Shottery following the expansion of Stratford upon Avon with a patchwork of fields bounded by trees and hedgerows. As noted above, there are footpaths across this countryside and the approach along Evesham Road which afford views over the town. Therefore, the countryside in this location, including the site, forms part of the setting of all three heritage assets as part of the surroundings in which they are experienced.
47. However, the three heritage assets are not readily identifiable in views from this countryside, while views out from them are restricted. This is due to mature planting along the western boundary of the RPG and conservation area and the woodland to the south of the RPG which screen views in both directions even in winter months. Standing on the edge of the RPG and conservation area it is possible to see glimpses of countryside, but it is only beyond the vegetation and the heritage assets themselves that the views are more expansive.
48. It is also relevant that the West Shottery development is now underway to the north-west and south of the three heritage assets which is urbanising the rural edge. The new link road connecting the two parts of the development has been carefully engineered with bunding and excavation to have minimal visual effect from the edge of the RPG, but even this feature has an urbanising effect when traversing the footpaths.

49. The proposed development would further the urbanisation of the rural edge and the approaches to and from Shotton and Stratford upon Avon. It would represent a permanent change to the land use in this location. However, provided the new housing is restricted to lower ground and boundary planting is retained and strengthened, there would be little adverse visual effect on the three heritage assets and no adverse effects in terms of noise, cultural or functional relationships. The countryside and fields would remain immediately to the west albeit bounded by new development to the north and south. Therefore, the proposed development would cause less than substantial harm at the low end of the spectrum for each designated heritage asset taken individually and cumulatively, especially once mitigation planting has matured.
50. In summary, there would be minor adverse effects on the setting and significance of Anne Hathaway's Cottage (the Grade I listed building and the Grade II registered park and garden) and Shotton Conservation Area. The special interest and setting of the listed cottage would not be preserved having regard to Section 66(1) of the Planning (Listed Building and Conservation Areas) Act 1990. Section 72(1) of the same Act is not relevant here as only the setting of the conservation area would be affected in this case. Nevertheless, it is necessary to consider the balance in CS Policy CS.8, NDP Policy BE8, and NPPF paragraph 215 to reach an overall conclusion on this issue. This will be covered in the planning balance.
51. The reason for refusal on heritage assets refers to CS Policies AS.10 and CS.15 and NDP Policy H1, but these are more relevant to other main issues and so have not been addressed here.

### ***Highway safety and access***

52. Prior to the Inquiry opening, the Council confirmed that the concerns raised in the fourth reason for refusal had been resolved relating to trip distribution and safe and suitable access for waste collection vehicles. In addition, two new bus stops on Evesham Road can be provided close to the site entrance to allow easier access to the bus network in and out of Stratford upon Avon. The development can also be required to provide a suitable connection point in the north-east corner for pedestrians and cyclists to access the new link road and non-motorised routes into Shotton. The traffic modelling indicates that the development would not have a significant effect on junction capacities or travel times across the town.
53. Evesham Road currently has a crawler lane heading up Bordon Hill. Despite the speed limit being restricted to 30mph as far as the south-east corner of the site, and only 40mph up the hill, motorists leaving Stratford upon Avon can accelerate at speed to overtake slower moving vehicles near to the location of the proposed site access. However, the crawler lane will be removed as part of planning permission for 9 dwellings on the adjoining site at Chutneys and replaced with a central hatched layout. This would remove overtaking opportunities and provide space for right-hand turns into Chutneys and the proposed development. Sufficient gaps between the new access points and the roundabout can be achieved, and the detailed design can be secured by condition.
54. Concluding on this main issue, the proposed development would have an acceptable effect on highway safety and site access. Therefore, it would accord with CS Policy CS.26 which, amongst other things, only permits development if the necessary mitigation is provided against any transport impacts.

### ***Flood risk and drainage***

55. The site is situated in Flood Zone 1 in terms of river or tidal flooding. Areas at risk of surface water flooding are restricted to the boundaries of the site apart from a triangular parcel of land in the north-east corner and an oval shaped parcel along the eastern edge. These areas have increased since the application was first submitted due to updated Environment Agency mapping. As noted above, the appellant has amended the development framework plan to remove any built development and access routes from those areas at risk of surface water flooding which instead would be used as public open space. Therefore, the proposed development presents no flood risk concerns. The sequential test is not required.
56. The proposed surface water drainage scheme would direct water from a swale along the eastern edge of the site into an attenuation basin and then discharge it at a lower than greenfield rate via pipes into Shottery Brook. There is no technical constraint to this, but prior to the Inquiry opening, the Council, via the LLFA maintained reservations about access to third party land to implement the scheme. However, the LLFA and the Council now accept that this issue can be addressed via a suitably worded condition. I have no reason to disagree and so there are no residual concerns.
57. In conclusion, the proposed development would have an acceptable effect on flood risk with particular regard to surface water drainage. Therefore, it would accord with CS Policies CS.2 and CS.4 which, amongst other things, require proposals to minimise flood risk, provide flood prevention and mitigation measures, and reduce surface water runoff rates.

### ***Housing Land Supply and Housing Market Area***

#### *Overview and the approach to housing requirement*

58. At the end of the Inquiry, the Council contended it could demonstrate a 5 year housing land supply of 5.06 years, a surplus of 41 homes<sup>9</sup>. In contrast, the appellant contended that the supply stands at 2.3 years, a shortfall of 3,148 homes<sup>10</sup>. The difference between the parties relates not just to the deliverability of specific sites, but the overall housing requirement.
59. The parties agree that the base date for assessing whether the Council can demonstrate a 5 year housing land supply is 31 March 2024, with an end date of 31 March 2029. However, they disagree on the housing requirement on three points: firstly, whether the local housing need (LHN) figure should be used for the whole 5 year period or just years 2-5 via a hybrid approach; secondly, whether the December 2024 or May 2025 LHN should be used; and finally, whether the requirement should be reduced by a proportion of the oversupply accrued over the period 2011-2024.
60. On the first point, while the CS was adopted more than 5 years ago, it was reviewed in April 2021 and found not to require updating. The CS housing requirement figure is 730 dwellings per annum (dpa). However, updated LHN figures in December 2024 saw the annual requirement for Stratford on Avon District rise to 1,126dpa. The parties accept that this represents a significant

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<sup>9</sup> Previously the Council contended it had 14.55 years' worth of supply at the time the application was determined, and 24.65 years' worth of supply at the time its statement of case was submitted at the appeal

<sup>10</sup> Prior to the Inquiry the appellant contended the supply was 2.04 years

change in circumstances and that the figures in CS Policy CS.16 need updating via the adoption of the SWLP.

61. The Council argues that because the requirement changed midway through year 1 of the 5 year period, the CS figure should be used for this year and the LHN figure for the remaining years. National policy does not clarify what should happen when circumstances change during the year, with NPPF paragraph 78 only requiring local planning authorities to identify and update annually a supply of specific deliverable sites.
62. The Council's last annual update is from October 2024 and the next update is not due until later in the autumn of 2025. Such publication dates are not unique to this local planning authority given the need to gather and process information from multiple sites. The 18-month time lag from a base date of 31 March 2024 to a new annual statement in autumn 2025 is not unusual in this context either. Again, national policy does not dictate how updates should be done.
63. Moreover, the circumstances only changed more than two-thirds of the way into year 1 and after the October 2024 update. The Council accept that for the next monitoring period, starting from 31 March 2025, LHN would apply throughout. However, for the reasons given above, it is not unreasonable for the Council to rely on the CS figure in year 1 and the LHN figure in years 2-5 for the purposes of this appeal. It is a time limited and hybrid approach but not one that should be rejected.
64. On the second point, the May 2025 LHN figures saw a slight reduction in the annual requirement from 1,126dpa to 1,112dpa. The appellant's figure of 2.3 years' supply uses the May 2025 LHN figures. However, while the slight reduction would boost the Council's 5 year supply to 5.16 years, the May 2025 data falls entirely outside the year 1 period and is not a change of circumstances within that year. Therefore, the December 2024 LHN figures are preferred, and in any case allow a more robust testing of the supply position.
65. On the third point, the Council has had significant success in delivering housing against the CS requirement with nearly 3,000 more dwellings completed over the plan period to date (12,463 dwellings compared to the CS target of 9,490 dwellings by the end of 2023/24). The latest Housing Delivery Test result from 12 December 2024 stood at 254% delivery against requirement over the past 3 years. Oversupply has been factored into the Council's recent 5 year housing land supply calculations including October 2024 to reduce the overall requirement. It is likely that the Council will meet the overall CS target 4 years before the end of the plan period. The Council's position is that 2,124 dwellings should be removed from the 5 year period to reflect the oversupply<sup>11</sup>.
66. National policy, including the Planning Practice Guidance (PPG), does not exclude the use of oversupply to offset future requirements and only refers to it offsetting any shortfalls against requirements from previous years<sup>12</sup>. However, the PPG is clear that under-delivery does not need to be addressed separately when establishing LHN as it forms part of the affordability indicators that inform LHN<sup>13</sup>. It follows that the same approach should be taken to oversupply (over-delivery) as more houses should improve the affordability of properties locally.

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<sup>11</sup> Inquiry Document 12 Updated Table SOCG7

<sup>12</sup> PPG reference ID: 68-032-20190722

<sup>13</sup> PPG reference ID: 68-031-20190722

67. The current LHN approach is not intended to penalise local planning authorities who have delivered above plan targets. Instead, it is intended to achieve a step change in the provision of housing nationally. The Council via the emerging SWLP is seeking to meet its LHN in full. The Council accepts that LHN should be used from year 2 onwards and for the full 5 year period starting in 2025. Therefore, the Council's oversupply should not be used to offset its full 5 year requirement.
68. The appellant has calculated that removing oversupply from the entire 5 year period would result in a supply of 3.04 years on the Council's case (a shortfall of 2,130 dwellings) and around 2.2 years on the appellant's case (a shortfall of 3,051 dwellings)<sup>14</sup>. The Council's oversupply is against a CS requirement that under the hybrid approach only applies to the first year of the 5 year period. Thus, at best (and accepting that the hybrid approach is reasonable), the oversupply should only be factored into housing land supply calculations for year 1. That would mean only one-fifth of the 2,124 dwellings could be removed from the 5 year period even on the Council's own case (around 425 dwellings). With a surplus of just 41 dwellings, this would render the Council incapable of demonstrating a 5 year housing land supply. The figure would stand at around 3.27 years with a shortfall of around 1,700 dwellings<sup>15</sup>.
69. The Council has carried out sensitivity testing by not including a 5% discount for non-implementation, not excluding an allowance for windfall supply, and not excluding specialist older persons' accommodation. The May 2025 LHN figure has also been used in this testing. The Council is clear that the results of these tests do not change its position at the Inquiry despite the improved supply position that would ensue. However, the same approach to oversupply across the 5 year period is utilised by the Council in each sensitivity test and at best, the supply would be 5.81 years or a surplus of 500 dwellings. None of the sensitivity tests would produce a supply over 5 years if oversupply is removed from years 2-5.
70. While I have found that a hybrid approach to the housing requirement and the use of the December 2024 LHN figures are reasonable, it would not be appropriate to remove the oversupply from the requirement across the entire 5 year period. Therefore, the Council is unable to demonstrate a 5 year housing land supply. Nevertheless, it would be prudent for me to consider the Council's position on housing requirement when assessing the delivery of specific sites.

#### *Deliverability of specific sites*

71. *Long Marston Airfield Phases 1a and 1b*. These two sites are part of a strategic allocation in the CS for up to 3,000 dwellings. Phase 1a involves an application for full planning permission for 124 dwellings that was submitted in August 2020 and has not yet been determined. The Council forecasts that 74 dwellings can be delivered in the final two years of the 5 year period, which has been pushed back by one year from the October 2024 statement when the forecast was for 124 dwellings. Phase 1b involves a hybrid application seeking full planning permission for 376 dwellings which was submitted in July 2023 and has also not yet been determined. The Council forecasts 70 dwellings can be delivered in the final two

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<sup>14</sup> Table 7.1 of Mr Pyecroft's proof of evidence (the appellant's figures on supply would be slightly improved following concessions made on one of the disputed sites).

<sup>15</sup> This is based on Table SOCG7 in ID12 and only removing 425 dwellings. The requirement plus 5% buffer would be 5,049 dwellings or 1,010 dwellings per year. Set against the Council's claimed deliverable supply of 3,307 dwellings, the 5 year supply would be 3.27 years.

years of the 5 year period. As with Phase 1a, this has been pushed back by one year from October 2024 when the forecast was for 125 dwellings

72. There are outstanding concerns from the Local Highways Authority (LHA) for Phase 1a and from the LLFA, National Highways and the Council's urban designer. The letter from Cala Homes confirms their commitment to the ongoing delivery of the site and the delivery of the first phase of 400 homes by late 2025 but notes "a number of delivery challenges". Extensions of time until 31 July 2025 for determining the applications were agreed in early April 2025, but there is little clarity on whether concerns can be resolved and a decision issued soon. There is no clear evidence or realistic prospect that dwellings on either site can be delivered within the 5 year period. Therefore, a total of 144 dwellings (70+74) should be removed from the 5 year supply.
73. *Gaydon/Lighthorne Heath Phase 2D*. This is one of several sites that make up a strategic allocation in the CS for around 3,000 dwellings. An outline application for up to 2,000 dwellings including phases 1, 2 and 3 was approved in December 2017. A separate outline application for up to 1,000 dwellings including phase 4 was approved in March 2020. A reserved matters application for 384 dwellings on Phase 2D was submitted in May 2022. Prior to the Inquiry opening, the application was approved in June 2025. Although the base date for the purposes of this appeal is 31 March 2024, the grant of permission is relevant information that can be used to support the site's deliverability.
74. The appellant accepted that site can now be considered under the definition of deliverability in category (a) of the NPPF glossary (i.e. it should be considered deliverable unless there is clear evidence that homes will not be delivered within 5 years). However, they argued that the delivery should be pushed back by one year given that permission has only just been granted. This would mean only 304 dwellings would be delivered by 31 March 2029.
75. The Council's trajectory was based on expected delivery assessed at the base date of 31 March 2024. However, with permission only just granted, it seems very unlikely that 64 dwellings will be delivered by the end of March 2026. Nevertheless, the developers (BDW and Taylor Wimpey) are already active elsewhere on this strategic allocation and other phases are nearing completion. Although the total number of homes to be delivered between now and 31 March 2029 is ambitious, the occupation tracker provided by the housebuilders indicates that at least 120 units can be delivered each year. In the absence of clear evidence that housing will not be delivered, there is a realistic prospect that the total number of dwellings will be achieved within the 5 years. Therefore, the 384 homes can be included in the supply
76. *Gaydon/Lighthorne Heath Phase HE2*. A reserved matters application for 280 dwellings was submitted in June 2023. The Council's position in October 2024 of 256 dwellings within the 5 year period has been reduced by 80 dwellings due to delays caused by design workshops. Objections from the LLFA have been resolved. It is possible that objections from the LHA are capable of being resolved but this has not been confirmed yet with amended plans only received in June 2025. The application might be approved later this year, but this is not yet clear. It is also possible that the developer Vistry Homes can transition from delivering homes already under construction on Phase HE1 to delivering homes on Phase HE2, but there is nothing from Vistry to support the Council's trajectory. There is

no clear evidence or realistic prospect that the projected number of dwellings can be delivered within the 5 year period. Therefore, 176 dwellings should be removed from the 5 year supply.

77. *Gaydon/Lighthorne Heath Phase 2E*. A reserved matters application for 146 dwellings was submitted in March 2024. The Council's position in October 2024 has been reduced by 23 dwellings due to delays caused by design workshops. There are objections from the LLFA and the LHA that have yet to be resolved with amended plans received in July 2025. As noted above, the developers BDW and Taylor Wimpey are active on site and nearing completion elsewhere. However, it is not unreasonable to suppose that they will focus on Phase 2D now that has full planning permission while the application for Phase 2E remains undetermined. The developers have not provided anything to support the Council's trajectory and there is no clear evidence or realistic prospect that the projected number of dwellings can be delivered within the 5 year period. Therefore, 123 dwellings should be removed from the 5 year supply.
78. *Gaydon/Lighthorne Heath Phase 3*. This phase involves the village centre which forms part of the outline permission but has yet to see a reserved matters application for the residential element. 180 dwellings could be delivered in total, of which 131 could be delivered within the 5 year period according to the Council. Pre-application discussions for the housing are underway, but due to their nature it is not possible to know the likely developer or see any potential start dates and build out rates. While this phase is crucial to the success of the overall strategic allocation, and the spine road has reserved matters approval with a Section 38 application submitted to the LHA, there is no clear evidence or realistic prospect that the projected number of dwellings could be delivered in the final two years of the 5 year period. Therefore, 131 dwellings should be removed from the 5 year supply.
79. *Gaydon/Lighthorne Heath Phase 2F*. This phase involves the conversion of an existing historic farmhouse and associated buildings that form part of the strategic allocation. Up to 10 dwellings could be delivered here, but no reserved matters application has been submitted yet, no developer has been identified, and no start dates or built out rates have been confirmed. This is a small and discreet part of a much larger strategic allocation. It is possible that a reserved matters application could be submitted and determined, and housing completed, within the 5 year period. However, there is no clear evidence to support this and no realistic prospect of delivery. Therefore, 10 dwellings should be removed from the 5 year supply.

#### *Housing land supply conclusion*

80. Except for the site at Gaydon/Lighthorne Heath Phase 2D, I have found that none of the disputed sites and figures are deliverable within the 5 year period. This equates to 584 dwellings. Therefore, even if I was to accept the Council's full case on housing requirement, it would not be able to demonstrate a 5 year supply. Rather than a surplus of 41 dwellings, there would be a shortfall of 543 dwellings. The deliverable supply would drop from 3,307 to 2,764 dwellings and the supply would stand at 4.23 years.
81. Based on my conclusions regarding the housing requirement, the supply would be 2.74 years (2,764 supply divided by 1,010 annual requirement) and the shortfall

would be around 2,285 dwellings (2,764 supply minus a 5 year requirement of 5,049 dwellings). In summary, the Council cannot demonstrate a 5 year housing land supply.

#### *The extent of the shortfall in the GBBC HMA*

82. There has been an unmet need in the GBBC HMA for several years, although the extent has fluctuated depending on the planning policy context. In December 2021 the shortfall was around 6,300 dwellings, which dropped to just over 2,000 dwellings in April 2023, and then climbed to over 76,000 in November 2024. Following the changes brought about by the latest NPPF, the relevant local planning authorities have been working on a study to establish the current position, but at the time of the Inquiry this study remained unpublished. It is expected that a shortfall will continue, but agreement on how this will be met by the various authorities is unlikely to be reached imminently. This includes the Council's apportionment of any unmet need. Neither party in this appeal has put forward its position on the extent of the shortfall or how it should be distributed.
83. The plan-making process is the most appropriate route for dealing with this issue as it is a strategic and cross-boundary matter. As noted above, Part D of CS Policy CS.16 contains provisions to help meet any housing needs arising outside the CW HMA via the release of reserve sites identified in the SAP. The stalled production of the SAP, and the unlikely adoption of the SWLP until 2027 has meant that the Council has not yet addressed the GBBC HMA unmet need. However, given the uncertainties regarding the extent and distribution of this need, it is difficult to penalise the Council to any degree. Nevertheless, this is a matter relating to benefits and can be addressed under the planning balance below.

#### **Infrastructure**

84. The S106 agreement sets out several planning obligations. Schedule 1 contains various provisions relating to affordable housing to secure 35% of the total number of dwellings as affordable housing units. It contains requirements for the affordable housing specification, delivery, and occupancy. The parties disagree on the trigger point for the owner to enter into a contract with a qualifying developing body for the construction and sale of all affordable housing units. The Council considers the trigger should be pre-commencement of any development (Option A), whereas the appellant considers the trigger should be pre-construction of any affordable housing (Option B). The options are set out in Schedule 1, Part 3, Paragraph 1.
85. Paragraphs 8 and 9 in Schedule 1, Part 3 restrict the occupancy of open market housing until affordable housing units have been completed and made available. This would ensure that affordable housing would be delivered. However, this is not the same as securing the involvement of a qualifying developing body at the earliest possible opportunity in the process. Entering into a contract before commencing development, which is the Council's standard approach, would allow any potential issues with the affordable housing specification or indeed the layout and detail of specific units to be flagged and resolved sooner. Therefore, I consider that Option A in Paragraph 1 in Part 3 of Schedule 1 should apply and that Option B is given no weight.
86. The parties also disagree on whether Paragraph 7 in Part 3 of Schedule 1 is needed to allow a developer to submit a revised affordable housing specification if affordable housing cannot be disposed of after 6 months' marketing. The definition

of affordable housing specification allows for its amendment or variation and any specification would still be required to meet the parameters in Paragraph 3 of Part 2 in Schedule 1. However, without the disputed paragraph, there would be no mechanism to secure the revision of the specification should this be preventing the disposal of the affordable housing units. Therefore, I consider that Paragraph 7 in Part 3 of Schedule 1 is necessary to provide flexibility and should apply as an operative part of the S106.

87. Subject to my rulings on these two disagreements, Schedule 1 would provide the necessary provision of affordable housing. Therefore, it would accord with CS Policy CS.18 and Part S of the Development Requirements Supplementary Planning Document (DRSPD) which set out the Council's requirements for affordable housing.
88. Schedule 2 addresses the transfer of the public open space within the site to Stratford upon Avon Town Council, the District Council or a Management Company. It also provides a commuted sum for the future maintenance of this space for 20 years if it is transferred to one of the two councils. These obligations are required to ensure that the public open space is properly managed. Thus, they accord with CS Policies CS.25 and CS.27 which seek healthy communities and adequate local infrastructure.
89. Schedule 3 deals with financial contributions to the Council. The NHS Acute Contribution would provide a sum of money for the NHS South Warwickshire University Foundation Trust to spend on acute and planned healthcare services. The NHS Clinical Contribution would provide a separate sum of money for the NHS Coventry and Warwickshire Integrated Care Board to improve and/or extend primary care infrastructure at named GP surgeries in Stratford upon Avon. For both contributions, it has been demonstrated that existing provision is at capacity. Therefore, both contributions would accord with CS Policies CS.25 and CS.27.
90. Schedule 4 deals with financial contributions to the County Council. The Education Contribution would go towards additional early years/pre-school, post-16, primary special educational needs, secondary, and secondary/post 16 special educational needs provision in the local area. The Library Contribution would be spent on the enhancement and extension of local library services or facilities. For these contributions, it has been demonstrated that services are close to capacity or in need of improvement in response to this development. Therefore, both contributions would accord with CS Policies CS.25 and CS.27.
91. Schedule 4 also contains a Public Rights of Way Contribution to maintain and improve public footpaths within a 1.5 mile radius of the site; a Pedestrian/Cycle Link Contribution to construct a link including a Toucan crossing from the northern boundary of the site to the wider network; a Bus Services Contribution to maintain a bus service for the development throughout the week; a Road Safety Initiatives Contribution to support community safety initiatives; a Real Time Information (RTI) Display Maintenance Contribution for RTI displays for two bus shelters; a RTI Commuted Sum to replace the RTI displays after 15 years; and a Bus Stop Maintenance Contribution towards maintaining the two bus shelters. These contributions are all required to improve sustainable transport measures in the local area. Therefore, they would accord with CS Policies CS.25 and CS.27 along with Policies CS.7, CS.9 and CS.26 which seek the promotion of non-vehicular

modes of movement, connected developments, and contributions towards local public transport services.

92. Finally, Clause 26 (paragraphs 26.1 and 26.2) allows for the payment of the Council's and County Council's monitoring costs. This clause accords with Regulation 122(2A) of the Community Infrastructure Levy Regulations 2010 (as amended).
93. Given the policy and legal requirements, I am satisfied that all the above obligations are necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind to the development. For the avoidance of doubt in terms of Part 3 of Schedule 1, this relates only to Option A in Paragraph 1 and includes all of Paragraph 7. The obligations would accord with Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended) and NPPF paragraph 58, as well as the requirements for S106 in Part U of the DRSPD. Therefore, I can take them into account as part of my decision.
94. Concluding on this main issue, the proposed development would make adequate provision for affordable housing and other infrastructure requirements and so would accord with CS Policies CS.7, CS.9, CS.18, CS.25, CS.26 and CS.27 and the DRSPD insofar as they seek to secure necessary infrastructure.

#### ***Other matters***

95. The proposed development is forecast to provide over 45% biodiversity net gain in terms of habitats and 10% in terms of hedgerows, which can be secured by condition. Bat activity is largely confined to existing trees and hedges, most of which can be retained. The sensitive use of lighting can ensure the protection of these animals at night while measures such as bat boxes can provide enhancement opportunities. Other species such as nesting birds and hedgehogs can be safeguarded and enhanced through agreed management plans, while additional badger surveys can be carried out at the appropriate stage.
96. A construction management plan secured by condition can address concerns relating to noise and dust to limit adverse impacts on the occupiers of existing properties. While some interested parties have expressed concerns about the number of houses already being built in Stratford upon Avon, I have not been presented with any evidence that this is having unacceptable effects on local infrastructure or tourism. As a site on the edge of the urban area, there would be reasonable access to various services and facilities by a range of transport modes.

#### ***Planning balance***

97. The lack of a 5 year housing land supply triggers NPPF paragraph 11(d). This states that where there are no relevant development plan policies, or the policies which are most important for determining the application are out of date, planning permission should be granted unless one of two exceptions applies. The most important policies for this case include CS Policies CS.15, CS.16 and AS.10 and NDP Policy H1 since they inform the distribution and amount of development, but also CS Policies CS.5 and CS.9 and NDP Policies BE1, BE2 and BE8 as they seek to protect the character and appearance of the surrounding area.

98. The first exception in NPPF paragraph 11(d)(i) is whether the application of NPPF policies that protect areas or assets of particular importance, including those relating to designated heritage assets, provide a strong reason for refusing the development. The second exception in NPPF paragraph 11(d)(ii) is whether the adverse impact of granting permission would significantly and demonstrably outweigh the benefits when assessed against the NPPF taken as a whole with particular regard to key policies.

#### *Adverse impacts*

99. The proposed development would not be in a suitable location having regard to the development plan and the conflict with CS Policies CS.15 and AS.10 and NDP Policy H1. However, it is agreed that the CS housing requirement figure is out of date due to the introduction of a significantly higher LHN in December 2024. Moreover, the Council cannot demonstrate a 5 year housing land supply. At best, based on my findings on the deliverability of specific sites, the supply stands at 4.23 years, but given my findings on the housing requirement too, it would be more accurate to describe the supply as being at 2.74 years. The site is located on the edge of the largest town in the district and has been contemplated for release via the draft SAP. Therefore, while the Council has been successful in delivering against CS housing targets, I consider that only moderate weight should be given to the adverse impacts and policy conflicts in terms of locational suitability.
100. The proposed development would cause moderate harm to the character and appearance of the surrounding area. There would be conflict with CS Policies CS.5, CS.9, CS.15 and AS.10 and NDP Policies BE1, BE2 and BE6 but given the extent of adverse effects, these conflicts carry no more than moderate weight. The proposed development would also result in minor adverse effects on the setting and significance of Anne Hathaway's Cottage (the Grade I listed building and the Grade II registered park and garden) and Shottery Conservation Area with a low level of less than substantial harm.

#### *Benefits*

101. The delivery of up to 130 houses carries significant weight irrespective of the exact supply shortfall, as it would provide a welcome boost to local housing stock where the 5 year position has declined and is not set to improve until the SWLP has been adopted. The Council has been successful in delivering affordable housing against CS targets, but the affordability indicators have been worsening within the district. Both parties recognise that there is an acute need for more affordable housing. While this is a national issue, it does not diminish the importance of delivering of up to 46 affordable housing units as part of this development, which can be afforded significant weight.
102. The delivery of housing would also contribute to meeting the unmet need for the GBBC HMA. However, given the number of dwellings proposed compared to the potential scale of unmet need, and the uncertainties surrounding how this might be addressed, I only afford minor weight to this contribution as a benefit.
103. The development is not required to meet the statutory 10% biodiversity net gain as the application was submitted before February 2024. Nevertheless, it would provide around a 45% increase in habitat units and a 10% increase in hedgerow units. Therefore, it is reasonable to afford this benefit significant weight overall.

104. There would be economic benefits arising from the construction phase and the boost to the local economy from future occupants. The parties agree this should carry moderate weight and I have no reason to disagree. The development would provide a variety of public open space from orchards to play areas that would benefit more than just future occupants and so should be afforded moderate weight. There would also be minor benefits to the wider public through S106 contributions to local infrastructure improvements including schools, healthcare and transport measures.

#### *The heritage balance*

105. In line with NPPF paragraph 215, CS Policy CS.8 and NDP Policy BE8, it is necessary to weigh the low level of less than substantial harm to the significance of the listed building, RPG and conservation area against the public benefits. All the above benefits can be regarded as public ones. Those relating to housing delivery alone are significant and sufficient to outweigh the harm to significance notwithstanding the considerable importance and weight I have given to that harm. While NPPF paragraph 212 indicates that great weight should be afforded to the conservation of designated heritage assets (and greater weight to the Grade I listed building), there is clear and convincing justification for the harm to these assets as required by NPPF paragraph 213.

106. Therefore, while there would be an adverse effect on the significance and setting of three designated heritage assets, the application of the heritage balance indicates that there would be overall policy compliance with the NPPF, CS Policy CS.8 and NDP Policy BE8. Having regard to NPPF paragraph 11(d)(i), the application of NPPF policies relating to designated heritage assets does not provide a strong reason for refusing the development proposed. While the heritage balance has been passed, it is nevertheless necessary to include the low level of harm to heritage assets in the planning balance. This includes consideration of NPPF paragraph 11(d)(ii).

#### *The overall planning balance*

107. The proposed development would provide benefits that carry significant weight in terms of the delivery of market and affordable housing and biodiversity net gain. There would also be economic and public open space benefits which have moderate weight. Meeting the unmet need of the GBBC HMA and infrastructure improvements carry minor weight. The adverse impacts in terms of locational suitability, character and appearance, and designated heritage assets, and the associated policy conflicts, carry no more than moderate weight.

108. The adverse impacts of the development would not significantly and demonstrably outweigh the benefits when assessed against the NPPF policies taken as whole, including those which promote sustainable locations and the provision of affordable homes. Consequently, the presumption in favour of sustainable development would apply in line with NPPF paragraph 11(d). Therefore, despite the conflict with CS Policies CS.5, CS.9, CS.15 and AS.10 and NDP Policies H1, BE1, BE2 and BE6, there are sufficient material considerations to indicate that planning permission should be granted in this instance.

## Conditions

109. Conditions 1 and 2 are necessary to clarify the reserved matters still to be approved as well as set out the timeframe for applications to be submitted and the development implemented. Condition 3 is necessary to specify the plans to which this decision relates. Although not a formal plan, requiring broad accordance with the development framework plan is necessary because the assessment of effects has been strongly influenced by this layout.
110. Conditions 4 to 10 specify matters to be addressed prior to or at the reserved matters stage. Conditions 4, 5 and 6 are necessary to ensure that adequate open space, landscaping and tree management is provided. Condition 7 is necessary in the interests of climate change mitigation, while Condition 8 is necessary to secure the correct mix of housing. Condition 9 is necessary to ensure the potential future provision of a pedestrian and cycle link off-site, while Condition 10 is necessary to demonstrate that off-site surface water drainage arrangements can be secured.
111. Conditions 11 to 22 are pre-commencement conditions as they concern matters that need to be agreed and/or provided before works begin on site. Condition 11 is necessary to ensure that any contaminated land issues have been identified and addressed. Conditions 12 to 14 are necessary to ensure that the construction process has an acceptable effect on biodiversity, highways, trees and the living conditions of nearby existing residents. Conditions 15 and 16 are necessary to secure sufficient mitigation and enhancement measures for biodiversity purposes including biodiversity net gain.
112. Condition 17 is necessary to finalise surface water management arrangements before works begin. Condition 18 and 19 are necessary to safeguard archaeology and the character and appearance of the area respectively. Condition 20 is necessary to protect the noise environment of future residents. Condition 21 is necessary to ensure that details of internal access and circulation routes are established, as the plans specified in Condition 3 only relate to the access point onto Evesham Road. Finally, Condition 22 is necessary to protect the existing public right of way along the northern boundary of the site.
113. Conditions 23 to 37 concern matters to be addressed before occupation or completion of the development. Condition 23 is necessary should the investigations associated with Condition 11 require remediation work and a verification scheme. Condition 24 is necessary to protect existing trees and hedges. Conditions 25 and 26 are necessary to verify the surface water drainage scheme and ensure its future maintenance. Conditions 27 and 28 are necessary to secure adequate open space including its long term maintenance. Condition 29 is necessary in the interests of appropriate waste management, while Condition 30 is necessary for water efficiency.
114. Condition 31 is necessary to deliver suitable broadband infrastructure, while Condition 32 is necessary in the interests of fire safety. Conditions 33 and 34 are necessary to encourage sustainable travel modes. Condition 35 is necessary to secure off-site highway works in terms of the access points onto Evesham Road along with new pavement links and bus stop infrastructure. Condition 36 is necessary in the interests of character and appearance, biodiversity, and the living conditions of property occupiers. Condition 37 is necessary to ensure that any

remedial works to the public footpath along the site's northern boundary are carried out satisfactorily.

115. Conditions 38 and 39 place restrictions on the development. It is necessary to specify the number of permitted dwellings in Condition 38 for clarity, while Condition 39 is necessary to safeguard the character and appearance of the area.

**Conclusion**

116. For the above reasons, and having had regard to all matters raised, I conclude that the appeal should be allowed.

*Tom Gilbert-Wooldridge*

INSPECTOR

## **Appearances**

### For the Appellant:

Christian Hawley, Counsel, instructed by Helen Ball, Gladman

He called:

Matt Thompson BA (Hons) MSc MIGHT  
Associate Transport Planner, Tetra Tech

Kurt Goodman  
Senior Director, FPCR

Colin Whittingham BSc (Hons) MSc MCIWEM C.WEM PIEMA  
Director, RSK

Gail Stoten BA (Hons) PG Cert (res) MCifA FSA  
Executive Director, Pegasus Planning Group

Ben Pycroft BA (Hons) Dip TP MRTPI  
Director, Emery Planning

Ian Grimshaw BA (Hons) MA (LM) MSc CMLI MRTPI  
Director, The Environment Partnership

Robert Barnes BA (Hons) MA MRTPI  
Director, Planning Prospects

### For the Council:

Gary Grant, Counsel, instructed by Aimee Shipley, Stratford on Avon District Council

He called:

Chris Brammeier MICE  
Senior Flood Risk Management Engineer, Warwickshire County Council

Robert Parker-Gulliford BA (Hons) Dip UDC MRTPI IHBC  
Conservation Officer, Stratford on Avon District Council

Gemma Hawkesford BA (Hons) MSc MRTPI  
Senior Policy Planner, Stratford on Avon District Council

Michael Brown BSc (Hons) MSc MRTPI  
Policy Planner, Stratford on Avon District Council

Anne Priscott BA (Hons) CMLI  
Principal, Anne Priscott Associates Ltd

Joseph Brooke BA (Hons) MSc MRTPI  
Planning Team Leader, Stratford on Avon District Council

John Gordon MRTPI  
Development and Enabling Officer, Stratford on Avon District Council

David Pilcher  
Development Management Engineer, Warwickshire County Council

Interested Parties who spoke during the Inquiry:

Nicholas Butler	CPRE Warwickshire
Margaret Cund	Stratford Society
Cllr Liz Coles	Stratford on Avon District Council
Mrs Fenwick	Local resident
Stephen Turner	Local resident

### **Inquiry Documents:**

- ID1: Appellant's list of appearances
- ID2: Appellant's opening statement
- ID3: Council's opening statement
- ID4: Statement from Nicholas Butler
- ID5: Statement from Margaret Cund
- ID6: Statement from Cllr Liz Coles
- ID7: Written representation from various town, district and county councillors
- ID8: Written representation from David Poole (local resident)
- ID9: Written representation from Paulo de Medeiros (local resident)
- ID10: Written representation from Don Fidler (local resident)
- ID11: Site visit itinerary
- ID12: Updated 5 year housing land supply tables SOCG6 and SOCG7
- ID13: Further statement from the Stratford Society on highway matters
- ID14: Appellant's technical note responding to ID13
- ID15a: Response from statutory consultees on conditions and ID13
- ID15b: Extract from the Warwickshire Design Guide on street design
- ID16: Appellant's technical note on hedgerows
- ID17: Council's technical note on the affordable housing obligation
- ID18: Appellant's summary of the S106 agreement
- ID19: Final draft conditions
- ID20: Final draft S106 agreement
- ID21: Council's closing submissions
- ID22: *Stratford on Avon DC v SSHCLG [2022] EWHC 445 (Admin)*
- ID23: Appellant's closing submissions

### Post Inquiry Document

Completed and executed S106 agreement dated 30 July 2025

## **Schedule of Conditions (39)**

### **Time limits, plans and reserved matters**

- 1) Details of the appearance, landscaping, layout, and scale (“the reserved matters”) shall be submitted to and approved in writing by the Local Planning Authority before any development takes place and the development shall be carried out in accordance with the approved details.
- 2) Application(s) for the approval of the 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 not later than whichever is the latest of the following dates:
  - (i) The expiration of three years from the date of this permission; or
  - (ii) The expiration of two years from the final approval of the reserved matters; or
  - (iii) In the case of approval on different dates, the final approval of the last such matter to be approved.
- 3) Except for any detail(s) required to be submitted in accordance with the requirements of any conditions attached to this grant of permission, and notwithstanding such detail(s) as may be indicated on the submitted drawing(s), in all other respects the development hereby permitted shall be carried out strictly in accordance with the following submitted plans and drawings: D9732.002A (Site Location Plan) and P003 Rev E (Site Access Drawing).

Any submitted reserved matters application shall also be in general accordance with the details shown on the Development Framework Plan (ref D9732.020J).
- 4) Any reserved matters application pertaining to layout and/or landscaping shall contain a minimum of 3.87ha of Public Open Space in compliance with Part L (Open Space) Development Requirements SPD (April 2024) or any subsequent iteration.
- 5) The Landscaping scheme submitted in accordance with Condition 1 of this permission shall include details of a scheme of hard and soft landscaping detailing treatment of all parts of the site not covered by buildings. This will be agreed through an approved timetable. This landscaping scheme shall include:
  - (i) planting plans (to a recognised scale) and schedules indicating the location, number, species, density, form and size of proposed tree, hedge and shrub planting, including soft landscaping to the access road;
  - (ii) the method and specifications for operations associated with planting establishment, protection, management, maintenance and cultivation of all retained and new tree, hedge and shrub planting including tree pit design;
  - (iii) existing landscape features such as trees, hedges, shrubs and ponds which are to be retained and/or removed, shall be

accurately plotted on the landscaping plan and an accompanying Arboricultural Statement provided in respect of any trees/hedges that are proposed to be removed, as well as a plan showing the exact location and dimension of the elements of open space (including associated play equipment, visitor parking and any other areas managed communally or applicable for the open space) and ecological areas;

- (iv) notwithstanding Condition 19, existing and proposed finished levels (to include details of grading and contouring of earthworks and details showing the relationship of proposed mounding to existing vegetation and surrounding landform where appropriate);
- (v) notwithstanding Condition 19, the means of accommodating change in level both within and at the boundary of the site (e.g. retaining walls, steps, railings, walls, gates or other supporting structures, ramps);
- (vi) location, type and materials to be used for hard surfacing, details of manufacturer, type and design, colour and bonding pattern where appropriate;
- (vii) the position, design, materials, means of construction of all site enclosures and boundary treatments (e.g. fences, walls, railings, hedge(banks)), where appropriate, including any temporary boundary treatment required to the access road;
- (viii) minor artefacts and structures (e.g. street furniture, play equipment, refuse areas, substations and other storage units);

There shall be no excavation or raising or lowering of levels within the prescribed root protection areas of retained trees both within the application site and any adjoining trees on/outside the site boundary the root protection area of which could be impacted upon unless previously approved in writing by the Local Planning Authority.

The approved soft and hard landscaping scheme shall be carried out strictly in accordance with the approved timetable of implementation and shall thereafter be protected, maintained and managed in accordance with the approved details.

- 6) Except for any trees, hedges or shrubs that may be identified for removal or retention on the approved landscaping plans and schedule, approved pursuant to Condition 5 of this permission, if any tree, hedge or shrubs are felled, removed, uprooted, destroyed or dies, or becomes, in the opinion of the Local Planning Authority, seriously damaged, diseased or defective, it/they shall be replaced by planting as originally approved, unless the Local Planning Authority gives its written approval to any variation. This replacement planting shall be undertaken before the end of the first available planting season (October to March inclusive for bare root plants), following the removal, uprooting, destruction or death of the original trees or plants.
- 7) The Climate Change Checklist (CCC) at Appendix 1 to Part V of the Development Requirements Supplementary Planning Document shall be completed and submitted to the Local Planning Authority for approval in

writing either prior to or as part of any reserved matters application(s) relating to layout and appearance for the entirety of the site (excluding individual dwelling plots). All mitigation measures indicated in the CCC shall be illustrated on the plans and/or in the documents submitted with that/those application(s) as appropriate.

Mitigation measures relevant to each dwelling are to be implemented prior to the first occupation of that dwelling.

- 8) Notwithstanding the indicative details hereby approved, proposals for the location, size, type (including the number of bedrooms), tenure and range of housing to be developed (including both market and affordable housing if they are both proposed to be provided), shall be submitted to and approved in writing by the Local Planning Authority either prior to or as part of any reserved matters application relating to layout. Development shall thereafter be implemented only in strict accordance with the approved scheme.
- 9) Any reserved matters application shall include within the internal layout, a suitable connection point for pedestrians and cyclists to enable connection to the offsite proposal shown indicatively on submitted drawing number A083613-TTE-00-XX-PL-D-003 P01.
- 10) Alongside the submission of the first reserved matters application, details should be provided to the Local Planning Authority in consultation with the Lead Local Flood Authority confirming the surface water drainage outfall arrangements. Such matters could include:
  - (i) Detailed plans & drawings of the outfall;
  - (ii) Any agreements with third party landowners regarding the laying of new sewers in their land;
  - (iii) Any necessary agreements or permits with other authorities such as the Local Highways Authority and the Environment Agency.

### **Pre-commencement conditions**

- 11) Development shall not commence until clauses (i), (ii) and (iii) of this condition have been complied with:
  - (i) A Phase 1 Desk study and site walkover shall be carried out. The Desk study shall provide results of the site walkover; detail a full history of the site uses; and identify any unacceptable risks to human health and the environment. The Desk study shall be submitted to and approved in writing by the Local Planning Authority.
  - (ii) Where unacceptable risk is identified by the Desk study, a detailed Site Investigation shall be carried out and a Site Investigation Report submitted to and approved in writing by the Local Planning Authority. The Report shall detail all investigative works and sampling on site, together with results of analysis and risk assessment to any receptors.
  - (iii) Where unacceptable risk is identified by the Site Investigation Report, a proposed Remediation Strategy (including a Verification Scheme) shall be submitted to and approved in writing by the Local Planning Authority. The works shall be of such a nature as to render harmless the identified

contamination given the proposed end-use of the site and surrounding environment including any controlled waters.

- 12) Prior to commencement of any part of the development hereby permitted, and prior to any groundworks or demolition works, details of a Construction Management Plan (CMP) shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, throughout the groundworks and/or demolition and/or construction period, the approved details within the CMP shall be adhered to. The CMP shall include details of:
- (i) the management and routing of groundworks, demolition and construction traffic for the development, including temporary highway vehicle and pedestrian routings, means of access, times and days of large vehicle movements (including deliveries) to and from the site, and suitable off-highway parking and manoeuvring for all groundworks, demolition and construction related vehicles;
  - (ii) the parking of vehicles for site operatives and visitors during the groundworks, demolition and construction phase. Any vehicles visiting or attending at the site shall not be parked on any access route(s) serving the site which would cause obstruction to the free passage of pedestrians, cyclists and other vehicular users of said route(s);
  - (iii) a schedule for the delivery, loading and unloading of all plant and materials to the site, including the times of such loading and unloading; details of how deliveries, loading and unloading of plant and materials would not take place during peak traffic hours of the highway network or during school opening/closing periods in the vicinity of the application site; and details of the nature and number of vehicles, temporary warning and advisory signs to be used, and measures to manage crossings across the public highway;
  - (iv) the hours of groundworks, demolition and construction (it is recommended that no works take place outside 08.00 hours to 18.00 hours Mondays to Fridays; 08.00 hours to 13.00 hours on Saturdays or at any time on Sundays or English Bank or Public Holidays);
  - (v) the siting, layout and details of all temporary site compounds including temporary structures/buildings, generators, fencing and storage provision to be used in connection with the construction of the development and including details of compound(s) location selection criteria that avoid siting on existing or future areas of public open space and other sensitive areas (including but not limited to sensitive ecological, heritage, visual, flood risk and residential amenity areas) together with the a land remediation strategy for when the temporary site compounds are removed;
  - (vi) the proposed storage of plant and materials used in groundworks, demolition and construction of the development or stockpiling during development;

- (vii) a scheme for recycling/disposing of waste resulting from groundworks, demolition and construction works;
- (viii) the siting and design of wheel washing facilities and management of any subsequent run-off resulting from their use;
- (ix) measures to control the emission of dust, mud/dirt, noise, vibration and light during groundworks, demolition and/or construction;
- (x) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- (xi) details of any piling together with details of how any associated vibration will be monitored and controlled;
- (xii) the location and noise levels of site electricity generators;
- (xiii) management of surface water run-off;
- (xiv) details of external lighting, including hours of illumination, required during groundworks, demolition and construction; and
- (xv) contact telephone number(s) and email address(es) of the company associated with the management of groundworks, demolition and construction operations at the site.

For the avoidance of doubt, there shall be no burning of materials on site.

- 13) No demolition, site clearance or building operations of any type shall commence or equipment, machinery or materials brought onto site until a scheme for the protection of all existing trees and/or hedges has been submitted to and approved in writing by the Local Planning Authority. The tree/hedge protection measures within the scheme shall include and make reference to:

- (i) the submission of a Tree Protection Plan and appropriate working methods - the Arboricultural Method Statement in accordance BS5837:2012 Trees in relation to design, demolition and construction - Recommendations;
- (ii) details of the erection of stout protective fencing in accordance with British Standard BS5837:2012, Clause 6.2; and
- (iii) fencing shall be shown on the Tree Protection Plan and installed to the extent of the tree Root Protection Area (RPA) as defined in BS5837:2012 and as agreed in writing by the Local Planning Authority.

The approved scheme shall be kept in place until all parts of the development have been completed and all equipment, machinery and surplus materials have been removed from the site.

Furthermore, the following work shall not be carried out within the RPA of any retained tree or hedgerow, except with the prior written approval of the Local Planning Authority:

- No materials, equipment, machinery or structure shall be attached to or supported by a retained tree or hedgerow, nor stored or stacked within said RPA;
  - No mixing of cement or use of other contaminating materials or substances shall take place within, or close to, a RPA that seepage or displacement could cause them to enter a RPA;
  - No fires shall be lit within any RPA or in a position where the flames could extend to within 5 metres of the foliage, branches or trunk of any retained tree or hedgerow within or adjacent to the site as per the requirements of BS5837:2012;
  - Levels shall not be raised or lowered in relation to the existing ground level within the RPA of any retained tree or hedgerow;
  - No roots shall be cut, trenches dug or soil removed within the RPA of any retained tree or hedgerow;
  - No buildings, roads or other engineering operations shall be constructed or carried out within the RPA of any retained tree or hedgerow; and
  - No vehicles shall be driven over the area within the RPA of any retained tree or hedgerow.
- 14) No development shall take place (including demolition, ground works, vegetation clearance) until a construction environmental management plan (CEMP: Biodiversity) has been submitted to and approved in writing by the Local Planning Authority. The CEMP: Biodiversity shall include the following:
- (i) Full details of all protected and notable species mitigation;
  - (ii) Compensation measures, as well as any appropriate safeguards to ensure site clearance and construction works do not adversely impact any habitat being retained of ecological value;
  - (iii) Risk assessment of potentially damaging construction activities;
  - (iv) Identification of “biodiversity protection zones”;
  - (v) 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);
  - (vi) The location and timing of sensitive works to avoid harm to biodiversity features;
  - (vii) The times during construction when specialist ecologists need to be present on-site to oversee works;
  - (viii) Use of protective fences, exclusion barriers and warning signs.
- The approved CEMP: Biodiversity shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority.
- 15) Prior to the commencement of the development hereby permitted, including any works of site clearance, a Biodiversity Enhancement and Management Plan (BEMP), informed by the detailed proposals and supported by an

updated DEFRA metric (Version 3.1), shall be submitted to and approved in writing by the Local Planning Authority. The BEMP shall include details of habitat features to be retained/created/provided and their long-term management. The plan should also include details for species enhancements for bats, nesting birds and access gaps for hedgehogs in suitable new fencing as well as information on the body or organisation responsible for implementation plan. Thereafter, the BEMP shall be implemented and managed/maintained in full accordance with the approved details.

- 16) The development hereby permitted shall be carried out in full accordance with the recommended mitigation measures for protected and notable wildlife species contained in section 4 of the Ecological Appraisal by FPCR, report dated March 2023.
- 17) No development shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and including a timetable for its implementation, has been submitted to and approved in writing by the Local Planning Authority in consultation with the Lead Local Flood Authority (LLFA). The scheme shall subsequently be implemented in accordance with the approved details. The scheme to be submitted shall:
  - (i) Limit the discharge rate generated by all rainfall events up to and including the 1 in 100 year (plus an allowance for climate change) critical rain storm to the QBar Greenfield runoff rate of 7.6l/s for the site in line with the approved surface water drainage strategy (ref: 680722-10-07, revision P2, dated June 24).
  - (ii) Provide drawings / plans illustrating the proposed sustainable surface water drainage scheme. The strategy agreed to date may be treated as a minimum and further source control SuDS should be considered during the detailed design stages as part of a 'SuDS management train' approach to provide additional benefits and resilience within the design.
  - (iii) Provide detailed drawings, including cross sections, of proposed features such as infiltration structures, attenuation features, and outfall structures. These should be feature-specific demonstrating that such the surface water drainage system(s) are designed in accordance with 'The SuDS Manual', CIRIA Report C753.
  - (iv) Provide detailed, network level calculations demonstrating the performance of the proposed system. This should include:
    - a. Suitable representation of the proposed drainage scheme, details of design criteria used (including consideration of a surcharged outfall), and justification of such criteria where relevant;
    - b. Simulation of the network for a range of durations and return periods including the 1 in 2 year, 1 in 30 year and 1 in 100 year plus 40% climate change events;
    - c. Results should demonstrate the performance of the drainage scheme including attenuation storage, flows in line

- with agreed discharge rates, potential flood volumes and network status. Results should be provided as a summary for each return period; and
- d. Evidence should be supported by a suitably labelled plan/schematic (including contributing areas) to allow suitable cross checking of calculations and the proposals.
- (v) Provide plans such as external level plans, supporting the exceedance and overland flow routing provided to date. Such overland flow routing should:
- a. Demonstrate how runoff will be directed through the development without exposing properties to flood risk;
  - b. Consider property finished floor levels and thresholds in relation to exceedance flows. The LLFA recommend Finished Floor Levels are set to a minimum of 150mm above surrounding ground levels; and
  - c. Recognise that exceedance can occur during any storm event due to a number of factors therefore exceedance management should not rely on calculations demonstrating no flooding.
- 18) No development shall take place until a programme of archaeological work has been secured and implemented in accordance with a written scheme of investigation and timetable which has been submitted to and approved in writing by the Local Planning Authority.
- 19) Prior to the commencement of development, a detailed levels strategy shall be submitted to and approved in writing by the Local Planning Authority. The strategy shall include the following:
- (i) Existing site levels across the entire site, shown on a topographical survey with spot heights and contours at a maximum of 5m intervals, including cross-sections that extend to adjoining land and properties to illustrate the full slope gradient;
  - (ii) Proposed site levels, clearly identifying:
    - a. any areas of cut and fill,
    - b. formation of terraces or plateaus,
    - c. proposed slopes or embankments (with gradients),
    - d. interface with existing landforms and vegetation, and
    - e. the means of accommodating change in level (e.g. retaining walls, steps, railings, walls, gates or other supporting structures, ramps);
  - (iii) The finished floor levels of all buildings, showing the vertical relationship between dwellings/buildings, access roads, garages, garden levels, and existing ground levels;
  - (iv) The maximum ridge heights and overall building heights (including chimneys and parapets) of all proposed structures,

measured from finished ground levels and related back to a fixed datum point; and

- (v) Details of retaining structures, boundary treatments (e.g. walls or fences), and any necessary balancing of cut and fill to minimise import/export of material and retain the natural landform as far as reasonably practicable.

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

- 20) Prior to the commencement of the development hereby permitted, details of a scheme for protecting dwellings and external amenity spaces (gardens, patios, larger balconies, roof gardens and terraces) from external traffic noise shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall ensure that, upon completion of the development, good acoustic design will be used to ensure that:
  - (i) external amenity spaces shall not exceed 55 dB LAeq,16hr,
  - (ii) bedrooms shall achieve 8-hour LAeq (23:00 to 07:00) of 30dB(A) and an LAFmax of 45dB, and
  - (iii) living rooms and dining rooms shall achieve a 16-hour LAeq (07:00 to 23:00) of 35dB(A).
- 21) No development shall commence until plans and particulars of the accessibility within the site, including circulation routes and how these fit into the surrounding access network, have been submitted to and approved in writing by the Local Planning Authority. The construction of estate roads serving the development including footways, verges and footpaths shall be in accordance with the specification of the Local Highway Authority. The development shall be carried out in accordance with the approved details.
- 22) Prior to the commencement of any works involving disturbance of the surface of public footpath SB42, any necessary consents and arrangements for the protection of the public footpath and its users shall be obtained.

### **Pre-occupation/completion conditions**

- 23) Prior to occupation of the development, clauses (i), (ii) and (iii) of this condition shall be complied with (where necessary):
  - (i) All remediation work approved under the Remediation Strategy required by Condition 11 above shall be completed as approved and be carried out under the Verification Scheme to demonstrate compliance with the proposed methodology and best practice guidance. If during the works, contamination is encountered which has not previously been identified, the additional contamination shall be fully assessed, and an appropriate remediation scheme and timescales shall be submitted to and approved in writing by the Local Planning Authority.
  - (ii) A Verification Report shall be submitted to and approved in writing by the Local Planning Authority. The Verification Report shall include details of the remediation works and Quality Assurance certificates to verify that the works have been carried out in full in accordance with the approved methodology. Details of any post-remedial sampling and analysis to show the site has reached the required clean-up criteria shall be included

together with the necessary waste transfer documentation detailing the waste materials that have been removed from the site.

(iii) A certificate signed by the developer shall be submitted to the Local Planning Authority confirming that the appropriate works have been undertaken as detailed in the Verification Scheme.

24) Prior to the laying out or provision of any services or construction of services channels serving the development hereby approved, full details of the:

- (i) Location;
- (ii) Routeing;
- (iii) Depth; and
- (iv) Type of service provision; together with
- (v) overlain details of both existing and proposed trees and hedgerows and their associated Root Protection Areas (RPA); and
- (vi) where work associated with the provision of services impinges on any RPA or tree canopy, provision of an Arboricultural Method Statement setting out the methodology for any excavation work within the affected RPA together with details of Tree/Hedge Protection Measures in relation to all such works;

shall have first been submitted to and approved in writing by the Local Planning Authority. Such approved details and measures shall thereafter be implemented.

25) No occupation shall take place until a Verification Report for the installed surface water drainage system for the site based on the approved Flood Risk Assessment (680722-R1(02)-FRA) has been submitted by a suitably qualified independent drainage engineer and approved in writing by the Local Planning Authority. The details shall include:

- (i) Demonstration that any departure from the agreed design is in keeping with the approved principles.
- (ii) Any As-Built Drawings and accompanying photos.
- (iii) Results of any performance testing undertaken as a part of the application process (if required / necessary).
- (iv) Confirmation that the system is free from defects, damage and foreign objects.

26) No occupation and subsequent use of the development shall take place until a detailed, site specific maintenance plan is submitted to and approved in writing by the Local Planning Authority in consultation with the Lead Local Flood Authority. Such maintenance plan should:

- (i) Provide the name of the party responsible, including contact name, address, email address and phone number;
- (ii) Include plans showing the locations of features requiring maintenance and how these should be accessed;

- (iii) Provide details on how surface water each relevant feature shall be maintained and managed for the life time of the development; and
  - (iv) Be of a nature to allow an operator, who has no prior knowledge of the scheme, to conduct the required routine maintenance.
- 27) Prior to the first occupation of any dwellings hereby permitted, an Open Space/Landscape Maintenance scheme for the on-going maintenance by the Local Authority/Management Company/Owner/Parish Council (as appropriate in accordance with the Section 106 agreement for this permission) of the Open Space and Open Space Works shall be submitted to and approved in writing by the Local Planning Authority. The Open Space/Landscape Maintenance scheme shall set out:
  - (i) long term design objectives and British Standards (BS) standard of maintenance and repair to be achieved;
  - (ii) management responsibilities, maintenance schedules, details of the nature and frequency of maintenance for the Open Space Works as described in the Open Space/Landscape Specification; and
  - (iii) measures to repair or replace any equipment (including play equipment), facilities, paths or hardstandings that become damaged, and to replace any trees, shrubs, flowers or turf which may die or become diseased.

The approved scheme shall be implemented and maintained thereafter.

- 28) Prior to occupation of the 40th dwelling on the site, the Public Open Space (including all the incidental open space and all areas outside the plot ownership), footpaths, visitor parking spaces, and the Ecological Mitigation and Enhancement Area works (where applicable) shall be completed in the accordance with the following:
  - (i) An application to be made to the Local Planning Authority inviting them to inspect the incidental Open Space, SuDS, footpaths, visitor parking spaces, and the Ecological Mitigation and Enhancement Areas works and issue a Practical Completion Certificate confirming that the Open Space, SuDS, footpaths, visitor parking spaces, and the Ecological Mitigation and Enhancement Areas works have been completed for the whole site (or phase of the site as previously agreed), to the satisfaction of the Local Planning Authority. The Local Planning Authority shall inspect the open space and issue a decision within 56 days of the application. In the event remedial works are needed, these works shall be completed before a further application is made. If the Local Planning Authority do not issue a decision in writing within 56 days of a request the open space works shall be deemed to be satisfactorily completed.
  - (ii) After a Practical Completion Certificate has been issued or if no Practical Completion Certificate has been issued and the works to have been deemed to be satisfactorily completed pursuant to (a), a maintenance period of no less than 12 months of the Open

Space Works shall apply from the date of the approval or deemed consent.

- (iii) On expiration of the maintenance period, an application shall be made to the Local Planning Authority inviting them to inspect the Open Space Works to confirm that works have been maintained to the satisfaction of the Local Planning Authority. The Local Planning Authority shall inspect the Open Space Works and issue a decision (Final Certificate) within 56 days of the application. If the Local Planning Authority inspect the Open Space Works and identify necessary remedial works, these remedial works shall be completed before a further application is made. If the Local Planning Authority do not issue a decision in writing within 56 days of a request the Final Certificate shall be deemed to be issued.
  - (iv) After a Final Completion Certificate has been issued or if no Final Completion Certificate has been issued and the works to have been deemed to be satisfactorily completed pursuant to (c), the Open Space Works shall be maintained until the Open Space has been transferred to either the Management Company, Parish/Town Council or the Local Planning Authority in accordance with the Section 106 agreement attached to this permission.
  - (v) Free unrestricted use and access from completion of the Open Space Works for the whole site to the general public shall be maintained at all times of the day and night except in the event of emergency such that access and use by the general public should be prevented for reasons of health and safety.
- 29) The dwellings hereby permitted shall not be occupied until details of the bins have been provided for each of the approved dwellings, in accordance with the Council's bin specifications.
- Any siting of domestic refuse bins shall be at the rear of the buildings or within any suitably screened area for bin storage. Details of any proposed bin store to be erected or constructed shall be submitted to and approved in writing by the Local Planning Authority prior to erection or construction.
- 30) No dwelling that has an external downpipe within the development hereby permitted shall be occupied until it has been provided with a minimum 190 litre capacity water butt fitted with a child-proof lid and connected to the downpipe.
- 31) No dwelling shall be occupied until it has been provided with a connection to facilitate superfast Broadband connectivity.
- 32) The development hereby permitted shall not be occupied until a scheme for the provision of adequate water supplies and fire hydrants necessary for firefighting purposes at the site has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented prior to occupation of any phase of development.

- 33) Prior to first occupation of any dwelling, a detailed Residential Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. The approved Travel Plan shall be permanently adhered to thereafter.
- 34) No dwelling shall be occupied until details of Sustainable Welcome Packs (including public transport information) have been submitted to and approved in writing by the Local Planning Authority. The approved packs shall be provided to the occupiers of each dwelling prior to the first occupation of that dwelling.
- 35) The development shall not be occupied until the public highway at Evesham Road has been improved so as to provide for access as shown on submitted drawing A083613-27-C-P003 revision E in accordance with a scheme approved in writing by the Local Planning Authority in consultation with the Local Highway Authority. Such scheme shall include for pedestrian connectivity to the existing recently constructed facility at the junction of Evesham Road/Whittington Way and suitable Bus Stop infrastructure.
- 36) Prior to the first occupation of any dwelling and prior to the erection, installation, fixing, placement and/or operation of any street lighting on the site, details of such street lighting shall be submitted to and approved in writing by the Local Planning Authority. Such details shall include the equipment and supporting structures, positions, sizes, heights, type, luminance/light intensity, direction and cowling of all streetlights together with a timetable for implementation.  

The work shall thereafter be carried out in accordance with the approved details and shall thereafter be retained in that form.
- 37) Any remedial works to make good any damage or address any flooding on the surface of public footpath SB42 caused by the development must be completed to the satisfaction of the Local Highway Authority prior to the first occupation of any dwelling.

#### **Restrictions on the development**

- 38) The number of residential dwellings (Class C3) hereby permitted shall not exceed 130 in number on the site.
- 39) Notwithstanding the provisions of Class A, Article 3, Schedule 2, Part 4 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any Order revoking or re-enacting that Order with or without modification), no buildings, compounds, structures or enclosures which are required temporarily in connection with the development hereby permitted shall be placed or erected on the site or adjacent land until details have been submitted to and approved in writing by the Local Planning Authority under the requirements of Condition 12 of this permission in relation to the submission of a Construction Management Plan. Any matters relating to buildings, compounds, structures or enclosures which are required temporarily (including the timescale for their retention) in connection with the development hereby permitted shall thereafter only be sited in accordance with these details approved in relation to Condition 12 of this permission.