



Appeal Decision

Inquiry Held on 14 and 15 November 2023

Site visit made on 15 November 2023

by Patrick Hanna MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th December 2023

Appeal Ref: APP/G1630/W/22/3312539

Land north and south of Newent Road, Highnam, Gloucester

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by M7 Planning Ltd against Tewkesbury Borough Council.
 - The application Ref 21/01392/OUT is dated 12 November 2021.
 - The development proposed is erection of up to 95 dwellings and up to 3ha of commercial space associated with the expansion of Highnam Business Centre as well as associated infrastructure with all matters reserved except for access. A new access to serve the residential component will be provided onto Newent Road. Access to the expanded business centre will be via the existing access arrangements.
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Decision

1. The appeal is allowed and outline planning permission is granted for erection of up to 95 dwellings, commercial space associated with the expansion of Highnam Business Centre, and associated infrastructure at land north and south of Newent Road, Highnam in accordance with the terms of the application Ref 21/01392/OUT, dated 12 November 2021, subject to the conditions in the attached schedule.

Procedural matters

2. The application seeks outline planning permission on two parcels of land; residential development within the northern parcel and commercial within the southern. The principal means of access is to be determined at this stage. Appearance, landscaping, layout and scale are reserved for future consideration. Some parameters plans have been provided, and the appellant has proposed that the detailed applications be conditioned to be in general accordance with these. I have determined the appeal on that basis.
3. The description of development in the heading above has been taken from the application form. At the inquiry, the appellant proposed removing wording specifying the size of the parcel of commercial development (3 hectares) and attaching a condition limiting its size to a smaller area of 1.9 hectares. The appeal has been determined on that basis and, in allowing the appeal, I have also omitted superfluous description wording in the above decision.
4. The application was originally referred to the Tewkesbury Borough Council (TBC) planning committee in June 2022 with a recommendation to approve. The planning committee instead resolved that a split decision be issued, that being refusal of the 95 dwellings and approval of the 3 hectares of commercial space, subject to completion of a planning obligation. The obligation was not

progressed and, instead, the appellant submitted the current appeal on grounds of non-determination of the application.

5. At the time of that resolution, TBC could not demonstrate a five year housing supply. TBC then revised its position, and when the proposal was again reported to committee in February 2023, TBC claimed to have 6.16 years supply. The committee resolved that, had it remained the determining authority, it would have refused the application on eight putative grounds relating to, in summary; (1) the location and design of the new residential development, and lack of connectivity to the village and facilities; (2) the character and appearance of the scheme; and, provision of (3) affordable housing; (4) community, recreation and sports facilities; (5) travel plan; (6) school transportation; (7) library contribution; and (8) education places. In addition to these putative reasons for refusal, the appellant had indicated its intention to challenge the Council's five year housing land supply position.
6. Subsequently, three appeal decisions concluded that TBC did not have a five year supply, with the most recent at Gotherington¹ concluding that the supply was, at best, 3.39 years. On 6 October 2023, TBC confirmed that, in light of this significant change in material considerations, it had undertaken a revised planning balance, concluding that the adverse impacts of the development would not significantly and demonstrably outweigh the benefits. TBC now no longer contests the appeal, subject to conditions and obligations.
7. Rule 6 status was granted to two parties, Highnam Parish Council (HPC) and Gloucestershire County Council (GCC) as Local Education Authority. Following TBC's change in position, GCC reached agreement with the appellant and did not participate in the inquiry, other than in respect of s106 matters.
8. As a result of the above change in position, the main parties submitted revised statements of common ground and proofs of evidence in mid-October, following which I issued a final Pre-Inquiry Note dated 25 October 2023,² setting out the revised likely main issues.
9. Two planning obligations pursuant to s106 of the Town and Country Planning Act 1990 were discussed at the inquiry. Both obligations were signed and submitted shortly afterwards. I return to this below.
10. In exercise of the powers conferred on the Secretary of State by Regulations 14(1) and 7(5) of the Town And Country Planning (Environmental Impact Assessment)(EIA) Regulations 2017, the Secretary of State directed on 22 February 2023 that the proposed appeal development is not EIA development. The Levelling-up and Regeneration Act 2023 received Royal Assent on 26 October 2023. The parties agreed that there are no provisions in force in that Act that are relevant to the determination of this appeal.

Main Issues

11. Although TBC are no longer defending the appeal, there remain objections to the proposal from the Rule 6 party Highnam Parish Council and other interested

¹ Appeal Ref APP/G1630/W/23/3314936 at Truman's Farm, Manor Lane, Gotherington, Gloucestershire GL52 9QX dated 11 September 2023.

² The inquiry had originally been due to open on 18 April 2023 with a different Inspector and a CMC Summary was issued on 7 March 2023, but this was postponed. A subsequently appointed inspector issued a Pre-Inquiry Note on 15 September 2023, but was not able to conduct the rearranged inquiry. I was appointed in October 2023.

parties. Those objections cover a range of concerns, but particularly focus on location, character and appearance, and highways matters. On that basis, the main issues in the appeal are:

- whether the proposal is in a suitable location with regard to local and national policies for housing, commercial development, and accessibility;
- the effect of the proposal on the character and appearance of the area; and
- the effect of use of the existing and proposed accesses on the safety of pedestrians, cyclists and drivers using Newent Road.

Reasons

12. The application site includes two parcels of land north and south of the B4215 Newent Road. The northern parcel lies to the west of Highnam, adjacent to the recently completed Lassington Reach residential development. Currently in agricultural use, the northern and western boundaries of the site are undefined. The land rises beyond the west of the site to Rodway Hill. The southern parcel to the east of Highnam Business Centre forms part of a larger agricultural field. It is accessed from Two Mile Lane to the west, and has undefined boundaries to the east and south, beyond which lies the Highnam Court Registered Park and Garden (RPG) and several listed buildings. A public right of way traverses the southern parcel, as part of a wider network in the surrounding area.
13. The proposal for the 4.44 hectare northern parcel would provide 95 dwellings (57 market and 38 affordable homes) up to two storeys in height, some 2.07 hectares of green infrastructure, provision of a local equipped area for play, and proposed tree planting along the north, south and west boundaries. Access to the site would be from its south east corner. The parameters plans indicate pedestrian and cycle linkages connecting to the network at Lassington Reach. At the southern parcel, the proposal is for commercial buildings of up to two storeys in height, accessed from the existing business centre road network, of not more than 1.9 hectares including infrastructure. An attenuation basin is proposed to the south of the parcel, with landscaped boundaries.
14. The development plan includes the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy (2017)(JCS), the Tewkesbury Borough Plan (2022)(BP), and the Highnam Neighbourhood Development Plan (2017)(NP).

Location

Commercial development

15. The JCS seeks to deliver a thriving economy for the region, and policy SD1 (Employment) states that employment related development in the countryside will be supported where, amongst other things, it is located adjacent to an existing employment area and is of an appropriate scale and character. Policy EMP2 (Rural Business Centres) of the BP also allocates 1.9 hectares of land to the south east of the existing Highnam Business Centre for an extension, subject to general development management criteria. Policy B1 (Business and Enterprise) of the NP supports extension of the business park up to around twice its current size of 1.43 hectares. The National Planning Policy Framework (the Framework) seeks to build a strong economy by ensuring that land of the right type is available in the right places to support growth.
16. It will be seen below that I find the proposal would not be unacceptably harmful in terms of its impact on the character and appearance of the area;

that the heritage harm is outweighed by the public benefits; and that the south parcel can be suitably accessed and serviced. Whilst HPC question the need for new office space, the existing business centre has been operating at 95% occupancy for the past five years, with a waiting list for new businesses, and the general need has been clearly identified through the BP & NP allocations.

Residential development

17. Policies SP1 (Need for New Development) and SP2 (Distribution of New Development) of the JCS provide the residential development strategy for the Borough. The settlement hierarchy identifies Highnam as a service village. The appeal site is outside of the defined settlement boundary and, accordingly, there is no dispute that the proposal is contrary to policy SD10 (Residential Development) which sets out appropriate locations for residential development.
18. However, the JCS policies were predicated on a lower housing requirement, as well as an acknowledged shortfall in supply on the basis that an immediate review be undertaken, which was not done. In the absence of a five year housing land supply, the Council accepted in the Alderton appeal decision³ that there is no foreseeable prospect of addressing the shortfall through the plan led system. Accordingly, the JCS locational housing policies attract reduced weight. I return to this in the planning balance below.

Accessibility

19. Given its status as a service village, the settlement of Highnam is a sustainable and accessible location for residential development. It has a primary school, shop and post office, surgery, nursery, and community centre. There are bus stops close to the site access operating a suitably frequent hourly service to Gloucester and Newent, thereby offering a choice of modes to major employment areas. There is also an existing cycle route from the village to Gloucester, predominantly on traffic-free routes. HPC and interested parties are concerned about two key related issues; the adequacy of the existing footpath, and the lack of connection to the Lassington Reach development.
20. Firstly, the proposal would link with an existing footway along Newent Road which, after a relatively short distance, joins Lassington Lane. This footway is comfortably wide with open grass verges, however a short pinch point exists between Highnam Green and Lassington Lane. The path here is some 0.9-1.2 metres wide, which with maintenance would extend up to 1.2-1.5 metres in width. Whilst this would remain too narrow to allow buggys or scooters to pass, in the worst-case scenario, one would be likely to wait the few seconds that would be needed to allow the other to pass. Furthermore, as will be seen below, I do not find Newent Road to be unsafe for pedestrians or cyclists and this footway is therefore far from being an "*intimidating*" environment. The overall character of this route should not be defined solely by this pinch point.
21. Secondly, the plans indicate that this section of footway could be avoided altogether. A pedestrian and cycle path is proposed to extend to the Lassington Reach development, where there is an existing path connecting to the village just beyond the mutual boundary. There is dispute over whether this is achievable. On one hand, the Lassington Reach management company have

³ Appeal decision APP/G1630/W/22/3310117 Land East of St Margaret's Drive, Alderton, Tewkesbury GL20 8NY dated 26 June 2023.

declared that they will not permit access from the proposed development to their side of the path. On the other, the decision and plans for Lassington Reach strongly suggest that permission was granted on the basis that there would be footpath provision up to the boundary. Whilst joining these paths would indeed improve connectivity, the fallback position of relying on the existing network would remain adequate.

Conclusion on location

22. The appeal site is a suitable location for siting of the proposed commercial development, in accordance with the above policies, and for accessibility, in compliance with policies SD4 of the JCS and RES5 of the BP which together require new development to be well integrated with the movement network. However, the site would not be a suitable location with regard to local and national policies for housing, due to the conflict with policies SD2 and SD10 of the JCS and the Framework.

Character and appearance

Landscape and visual

23. Both parcels of the appeal site are characterised as open agricultural land heavily influenced by residential development to the east of the northern parcel and commercial development to the west of the southern parcel. Although the appeal site as a whole is valued by local residents, it is not a designated or valued landscape in the development plan or as described in the Framework.
24. The JCS Landscape Characterisation Assessment identifies both parcels of land as being of medium-low sensitivity and having potential for housing and commercial development. The Landscape and Visual Sensitivity Study (2014) identifies both parcels as being of medium sensitivity; the character of the southern parcel being reduced by the influence of the existing settlement, and the northern parcel being diminished by the strong visual influence of the residential development, even before the more recent Lassington Reach development. Accordingly, whilst there would be an adverse landscape effect on the site and its immediate surroundings, the wider landscape has general capacity to accommodate the proposal.
25. The visual envelope of the site is well contained, extending to Lassington and the River Leadon tree belt to the north, to the RPG to the south, to the golf course to the west, and the edge of the settlement to the east. From viewpoints VP1 (Newent Road Golf Club) and VP2 (Newent Road south of Lassington Reach), which are adjacent to the site, the existing views of the open countryside would be noticeably changed by the development. A degree of harm arising from the commercial development has already been largely allowed for through the allocation of the southern parcel in the BP and NP and there is nothing to suggest at this outline stage that the proposal would be unacceptably harmful in this respect.
26. However, views of open countryside to the north would be starkly replaced by views of the residential development. The effect of this would be lessened by the influence of the existing settlement, business park, and golf club house. The viewing experience for road users would be only fleeting and glimpsed. Whilst the effect on walkers would be of longer duration, even this would be limited given the localised extent of the footways here. The existing hedgerows

and landscaping already provide some screening, and additional proposed landscaping and boundary treatments would soften the effect over time. From longer views elsewhere, the proposal would read as a modest extension to the existing settlement, particularly once boundary planting has established.

27. Whilst public right of way EHM13 runs directly through the proposed southern parcel, and EHM14 runs near the eastern boundary, again, the harm arising here has been substantially factored in by the allocation. Residential properties adjacent and near to both parcels would also experience changes in views, however it is well established that the private view from a window is not of itself a planning matter.
28. HPC raise concern that the proposal would fail to replicate the existing network of interlinking closes, streets and small green spaces, and that the proposed boundary landscaping is inadequate. However, the appeal proposal is in outline only, and these matters can be addressed at the detailed permission stage. Objections from the community also contend that approval could result in potential for further creeping development into open farmland, but I am required to determine this appeal on its merits and in light of the current circumstances, as would be any future applications.

Heritage

29. The Council's putative reasons for refusal do not identify a heritage objection. The Council and the appellant also agree that less than substantial harm would be caused by the proposal, which would be outweighed by its public benefits. The dispute instead lies in the identification of any harm, or in the degree of less than substantial harm to be afforded, to the significance of the following five designated heritage assets, by way of impact upon their settings.

Highnam Court RPG (list entry 1000140)

30. A Grade II* heritage asset comprising a mid-nineteenth century garden, water garden and landscaped park associated with the mid-seventeenth century Highnam Court. It contains a collection of listed buildings and parkland structures and monuments, set amidst a designed garden layout. These elements, through design and orientation, encouraged occupiers and visitors to the estate to experience the designed views to the south. The significance of the RPG is derived from its historical associations with these buildings, and the architectural and artistic quality of the buildings and garden. Whilst the land north of the RPG historically comprised associated parkland, this did not extend as far as the southern parcel. Although the settlement edge would be brought closer to the RPG, substantial separation would be retained, and glimpsed views out from the RPG would not be significantly altered, such that the development would not harm the asset's significance by impact upon setting.

Church of the Holy Innocents (list entry 1340330)

31. A Grade I listed building located within the north east of the RPG, the church was completed in 1851 in decorated gothic style with a three-stage buttressed tower and octagonal broach spire. Its significance is derived from its historic interest as one of the best national examples of a Victorian parish church, and from its architectural and artistic interest from its high-quality built form and design. The setting of the church contributes to its significance primarily through its immediate ecclesiastical surrounds and the RPG, but also as a result

of mid-range views from where the parish church spire is seen in an associated rural setting. Development of the proposed southern parcel would potentially restrict or encroach upon views of the church spire from public rights of way here. This would diminish the experience of seeing the listed building in its rural setting and, consequently, harm significance by way of impact upon setting. The harm would be at the lower end of less than substantial.

Former Stable Block About 70 Metres North of Highnam Court (list entry 1171402)

32. This Grade II listed building is a U-plan building that is identified as forming a group with Highnam Court and the church. This association, and the grouping, contribute to historical significance, along with the architectural value of its physical fabric as an early nineteenth century stable block, now occupied as a dwelling. The listed building is principally orientated towards the Court to the south, such that the appeal site, some 490 metres distant to the north, makes no significant contribution towards the setting of the listed building. Although there is some intervisibility, this is heavily filtered by intervening landscape screening, and there is no evidence of a direct functional link between the two, as the southern parcel was more likely to have been part of the farm holding than grazing land for the stables. The proposal would not affect appreciation of this asset, either individually or as a group, from the appeal site or footpaths EHM13 and EHM14, such that no harm would be caused to its significance.

Rodwayhill Lodge (list entry 1340328)

33. This Grade II listed building is located on the Newent Road to the north west of the appeal site. It is a good example of a late nineteenth century lodge, with half-timber work, decorative brickwork and polychromy, which provides architectural and artistic value. The lodge is associated with the owner of Highnam Court, thereby contributing to the building's historic significance. Elements of the setting that contribute to significance include its position at the north east edge of the wider Highnam Court estate and its historic associations with the Court. The development of the northern parcel would bring the settlement edge closer, but sufficient separation would remain here to protect the asset's rural setting. However, the proposal's potential to restrict glimpsed views between the lodge and the church spire, and hence the Court, would be harmful to its associations, albeit at the lowermost end of less than substantial harm given the longer distance and existing intervening buildings.

Barn and Shelter Sheds, Highnam Farm (list entry 1171419)

34. A Grade II listed building comprising a collection of mid-nineteenth century agricultural buildings, now in office use and forming part of the Highnam Business Centre. The significance of the building derives from its historic associations with the Court, and architecturally from the fabric of its vernacular construction. The visual relationship with the Court, church and RPG, which contributed to the setting of the listed building, has already been very substantially diminished due to the development of the Highnam Business Centre. Consequently, extending the business centre on the southern development parcel would cause no additional harm to this baseline.

Heritage balance

35. I have had special regard to the desirability of preserving the above heritage assets or their settings or any features of special architectural or historic interest which they possess, as required by section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, and I give great weight to the conservation of the assets. Although the harm caused to these assets would be less than substantial, I nonetheless give that harm considerable importance and weight.
36. Mitigation to the identified harms are proposed to be incorporated into the detailed design, layout and landscaping scheme at a later stage, including provision of opportunities for views to the assets from the locations identified. Furthermore, in terms of the southern parcel of the appeal site, a degree of harm has already been accounted for through the allocation of this parcel of land for commercial development.
37. Paragraph 202 of the Framework sets out that where a proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, which are set out in detail below. I conclude that, when taken together, these public benefits would decisively outweigh the less than substantial harm identified. Accordingly, the proposal would not have a significant adverse effect on the significance of the heritage assets by way of impact upon their settings.

Conclusion on character and appearance

38. Overall, the proposal would have a significant adverse effect on the character and appearance of the area. The proposal would conflict with policies SD6 of the JCS, LAN2 of the BP, H2 of the NP, and the Framework, which together require proposals to have regard to the local distinctiveness of different landscapes. I return to the weight to give to this in the planning balance.

Highway safety

39. The proposed new access to the northern parcel is located on the outermost bend of Newent Road, allowing for visibility splays to be provided to east and west. HPC and interested parties expressed concern at the inadequacy of these given high traffic speeds along this section of road, where the speed limit is 30mph. However, the proposed splays have been calculated using 85th percentile recorded speeds at this location of 33 mph travelling west and 37 mph travelling east, thereby including an allowance for these higher speeds.
40. The proposed access to the southern parcel would be taken from the existing access on Two Mile Lane. The access would not be altered, but Two Mile Lane between the access and Newent Road would be widened to 6 metres within the existing road verge. This would allow large rigid lorries to pass, which cannot currently do so. The existing junction at Two Mile Lane and Newent Road would also remain unaltered. Although visibility to the east from this junction experiences a blind spot in the curve on oncoming traffic, the blind spot is located beyond the visibility splay and consequently would not affect safety.
41. The width of the existing footways between the proposed northern parcel access and Lassington Lane is narrow in places. However, this does not mean the road and footway are intrinsically unsafe for vehicles, pedestrians or cyclists. Indeed, the accident record in this vicinity indicates just one vehicle

only accident in the vicinity over the past five years. A pedestrian crossing would be provided between the north and south parcels, significantly improving pedestrian access from the village to the business centre, and potentially reducing traffic speeds in this area. Furthermore, the proposed access arrangements for both parcels of land have been subject to road safety audits and have been agreed by the highways authority to be acceptable. The suggestion by HPC that a roundabout is necessary would represent an over provision of infrastructure.

42. The use of the existing and proposed accesses would not have a significant adverse effect on the safety of pedestrians, cyclists and drivers using the Newent Road. The proposal would accord with INF1 of the JCS and the Framework, which require safe and efficient access to the highway network.

Other considerations

43. The Council considers that it has a deliverable supply of 1,892 homes, equating to 3.24 years, a shortfall of 1,032 homes. The appellant contends that the position is worse than this, calculating supply to be 1,406 homes, with a shortfall of 1,518 homes, indicating a supply of 2.40 years. Therefore, the range in housing land supply is between 2.40 and 3.24 years and, whichever figure is taken, it is not disputed that the shortfall is significant.
44. The appeal site is within the zones of influence of sites afforded protection under the Conservation of Habitats and Species Regulations 2017, including the Cotswold Beechwood SAC, its qualifying feature being beech forest habitat. A shadow habitats regulations assessment and shadow appropriate assessment have been submitted, which applies visitor travel survey data to conclude that the proposal would not result in likely impacts. However, given uncertainties in the survey data, precautionary mitigation measures are proposed in the form of homeowner information packs and a circular walking route within the appeal site. TBC's ecological adviser and Natural England have raised no objection. No further ecological evidence or changes to the scheme have emerged since then. As competent authority, I conclude that the proposed mitigation would avoid adverse effects on the integrity of the protected sites.
45. Any impact on wildlife and habitats at the appeal site itself is addressed through conditions and biodiversity net gain. The proposal would result in the loss of some 7.6 hectares of best and most versatile agricultural land, which weighs against the proposal. HPC has suggested a developer contribution of £300,000 towards various facilities in the parish, however, as will be seen below, the planning obligations secure contribution levels that are policy compliant. The proposal would result in some additional use of the local surgery but there is an expectation that the health service should provide the necessary facilities to meet the needs of the local population. Although the extent of public consultation has been challenged, the application and appeal processes have provided opportunity for views to be heard.

Planning obligations

46. There are two planning obligations, signed 22 November 2023 (GCC) and 23 November 2023 (TBC). The obligations would secure a policy compliant provision of 38 (40%) affordable housing units, with a range of house sizes and a 60/40 split of social rented and shared ownership tenure. The provision of public open space and a local equipped area for play, and maintenance or

appropriate alternative contribution, would meet the recreational needs of future residents. Contributions towards the community centre, refuse and recycling, improvement of the recreational ground, libraries, education, and travel plan are all directly related to the increase in population from the development. Monitoring fees are secured to cover the Council's estimated costs. I am satisfied that the obligations are necessary, directly related to the development, and fairly related in scale and kind, and comply with Regulation 122 of the Community Infrastructure Levy Regulations 2010 as amended and paragraph 57 of the Framework.

Conditions

47. A list of suggested conditions was submitted and discussed at the inquiry. Amendments have been made to the wording of some conditions for clarity, brevity, or to avoid duplication, and to ensure accordance with the tests set out in paragraph 55 of the Framework. Pre-commencement conditions have been agreed by the appellant.
48. In the interests of providing certainty, conditions specifying approved plans, restricting the number of dwellings and extent of commercial development, and securing phasing and housing mix are necessary (Conditions 4, 5, 12, 13). Given the constraints of the site, conditions restricting the height of buildings, requiring accordance with parameters plans, and controlling use of the commercial development are justified (Conditions 6, 7, 8). To protect biodiversity interests, conditions are attached relating to biodiversity net gain, great crested newt licensing, external lighting, tree protection, environmental and ecological management plans, and homeowner packs (Conditions 9-11, 19, 20, 25-28, 34). Conditions requiring ground and floor levels, external materials, and landscaping are necessary to protect the character and appearance of the site and surrounding area (Conditions 14, 15, 16).
49. To ensure that living conditions are not adversely affected, conditions requiring noise surveys, details of extraction units, and construction management plans are required (Conditions 17, 18, 29, 30). Conditions for surface and foul drainage strategies will ensure that the site is suitably serviced with adequate infrastructure (Conditions 21, 22, 33). To ensure that waste from the site is appropriately managed during construction and operational phases, waste management plans are justified (Conditions 23, 24). A minerals resources assessment plan is required as the site is located in a safeguarded area (Condition 31). To protect potential archaeology at the site, a scheme of investigation is appropriate (Condition 32). Timely provision of highways works would ensure highway safety (Conditions 35-37). Suggested conditions for electric vehicle charging are not necessary because Building Regulations now set out requirements for residential and non-residential buildings.

Planning balance

50. The proposal would come with a number of public benefits. The delivery of both market housing and affordable housing would contribute towards the need for housing in the borough and this attracts significant weight. The appellant and TBC agree that significant weight should also be afforded to the economic benefits arising from the provision of commercial development and its associated job creation and growth opportunities. I see no reason to disagree. Moderate weight is attached to the economic benefits during construction of the development and from additional residents' spending in local facilities. The

provision of a locally equipped area of play, green infrastructure and highways improvements will benefit residents and business occupiers beyond the appeal site, and this attracts limited weight. Biodiversity net gain is necessary to comply with local policy and is therefore neutral in the planning balance.

51. Turning to harm, the conflict with the locational policies of the development plan is afforded significant weight in respect of the residential element of the scheme, even though these policies attract reduced weight. The harm to the character and appearance of the site and surrounding area is attributed moderate weight, whilst the loss of best and most versatile agricultural land is of limited weight. In reaching my heritage balance, I have already given considerable weight to the harm to designated heritage assets.
52. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. For the above reasons, the proposed development is in conflict with development plan policies and with the development plan as a whole.
53. The Framework is a material consideration, and this states that decisions should apply a presumption in favour of sustainable development. The Council is unable to demonstrate that it has a five year housing supply. Therefore, paragraph 11(d) of the Framework is triggered. My above findings indicate that, in terms of footnote 7 of paragraph 11(d)(i), there are no policies in the Framework of relevance to this appeal that protect areas or assets of particular importance that provide a clear reason for refusal. Accordingly, the so called 'tilted' balance of paragraph 11(d)(ii) is engaged.
54. Drawing together the above harms and benefits, the adverse effects of the proposed development would not significantly and demonstrably outweigh the benefits of the proposal, when assessed against the policies in the Framework taken as a whole. The proposal therefore benefits from the presumption in favour of sustainable development. Although the proposal would conflict with the development plan as a whole, material considerations indicate a decision other than in accordance with it.

Conclusion

55. I conclude that planning permission should be granted subject to the conditions in the attached schedule.

Patrick Hanna

INSPECTOR

APPEARANCES

FOR THE APPELLANT

Giles Cannock KC, instructed by Caroline Reeve

He called

Caroline Reeve BA(Hons) DipTP MRTPI	AECOM
Gary Holliday BA(Hons) MPhil FLI	FPCR
Hannah Armstrong	Pegasus
Nigel Weeks BSc	Stirling Maynard
Thomas Ewings	Ashfords

FOR THE LOCAL PLANNING AUTHORITY

Robin Green of Counsel, instructed by Jeremy Patterson

He called

Paul Instone BSc(Hons) DipTP MRTPI	Applied Town Planning
David Hickie BSc(Hons)	David Hickie Associates
MA PhD CMLi ASLA CEnv MIEMA IHBC	
Ian Hunt	GCC Highways

FOR THE RULE 6 PARTY HIGHNAM PARISH COUNCIL

Cllr Charles Coats	Local resident
Patrick Moss BSc(Hons) DipTP MRTPI	Moss Naylor Young

FOR THE RULE 6 PARTY GLOUCESTERSHIRE COUNTY COUNCIL

Bridgette Boucher	Legal Services
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INTERESTED PARTIES

Sam Allin CMAPS	Local resident
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DOCUMENTS SUBMITTED DURING THE INQUIRY

1. Appellant opening submission.
2. TBC opening submission.
3. HPC opening submission.
4. Updated Crash Map data (1/1/2018-31/12/2022).
5. Photos of pedestrian footway east of Highnam Green.
6. Catesby Estates Ltd and SSCLG v Steer [2018] EWCA Civ 1697.
7. Manual for Gloucestershire Streets (July 2020).
8. Gloucestershire Waste Core Strategy (November 2012).
9. Minerals Local Plan for Gloucestershire (March 2020).
10. Waste Minimisation in Development Projects (September 2006).
11. Note on the Levelling Up and Regeneration Act 2023, Robin Green 15/11/2023.
12. Email dated 15 November 2023 on revised highways conditions.
13. TBC closing submission.
14. Appellant closing submission.

SCHEDULE OF CONDITIONS

1. Details of the appearance, landscaping, layout and scale (herein called “the reserved matters”) shall be submitted to and approved in writing by the local planning authority before any development is commenced and the development shall be carried out as approved.
2. Application for approval of the reserved matters for all phases of the development shall be made to the local planning authority not later than three years from the date of this permission.
3. The development hereby permitted shall take place not later than two years from the date of approval of the last of the reserved matters to be approved.
4. Access to the residential development shall be carried out in full accordance with the details shown on the Proposed Junction Off B4215 (drawing no. P17032-21-05A) before the occupation of the first dwelling on the site.
5. The development hereby permitted shall be for no more than 95 dwellings and no more than 1.9 hectares of commercial built form and associated infrastructure which shall include all areas of hard landscaping and parking area.
6. The height of the buildings hereby permitted shall not exceed two storeys for any dwelling or two storeys for any commercial building.
7. Any reserved matters applications submitted pursuant to condition 1 shall be in general accordance with the principles and parameters set out on drawing numbers MR50030 prepared by M7 Planning Limited and entitled Highnam Parameter Access Plan, Highnam Parameter Building Heights Plan, Highnam Parameter Density Plan, Highnam Parameter Extent of Development Plan, Highnam Parameter Open Space Plan and the Landscape Concept Plan prepared by fpcr (drawing no. 09978-FPCR-XX-XX-DR-L-003 Issue P02 dated 14 March 2023).
8. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and/or re-enacting that order with or without modification) any building and associated curtilage constructed within the commercial land shall only be used for uses under Class E(g)(i), (ii), and (iii) of the Town and Country Planning (Use Classes) Order 1987 as amended.
9. Any application for approval of reserved matters submitted pursuant to condition 1 shall accord with the principles established through the Biodiversity Net Gain assessment prepared by EAD Ecology (Ref: 230223_P1115_BNG_Technical Note) dated February 2023.
10. No development hereby permitted shall take place except in accordance with the terms and conditions of the Council’s Organisational Licence (WML-OR112, or a ‘Further Licence’) and with the proposals detailed on plan Land off Newent Road, Highnam: Impact Plan for great crested newt District Licensing (Version 1), dated 30th March 2023.
11. No development hereby permitted shall take place unless and until a certificate from the Delivery Partner (as set out in the District Licence WML-OR112 , or a ‘Further Licence’), confirming that all necessary measures regarding great

crested newt compensation have been appropriately dealt with, has been submitted to and approved by the planning authority and the authority has provided authorisation for the development to proceed under the district newt licence. The delivery partner certificate must be submitted to the local planning authority for approval prior to the commencement of the development hereby approved.

12. The first reserved matters application submitted pursuant to condition 1 shall include a phasing plan for each area including details of the quantum of development in each phase, the number of market and affordable dwellings or the number of commercial units, and locations and phasing of key infrastructure, including surface water drainage, green infrastructure, public open space, children's play area, and access for pedestrians, cyclists and vehicles. The development shall be carried out in accordance with the approved details.
13. Any reserved matters applications submitted pursuant to condition 1 for the residential development shall include the submission of a market housing mix statement setting out an appropriate mix of dwelling sizes, types and tenures. The development shall be carried out in accordance with the approved details.
14. Any application for approval of reserved matters submitted pursuant to condition 1 shall include existing and proposed ground levels and finished floor levels of all buildings relative to Ordnance Datum Newlyn related to that specific phase of development. The development shall be carried out in accordance with the approved details.
15. Any application for approval of reserved matters submitted pursuant to condition 1 relating to appearance shall include details of the materials to be used in the construction of the external surfaces of any building related to that specific phase of development. The development shall be carried out in accordance with the approved details.
16. Any application for approval of reserved matters submitted pursuant to condition 1 shall provide full details of both hard and soft landscape proposals related to that specific phase of development. The landscape scheme shall include the following details:
 - (a) positions, design, materials and type of boundary treatments to be erected;
 - (b) hard landscaping materials;
 - (c) a plan showing details of all existing trees and hedges on the site. The plan should include, for each tree/hedge, the accurate position, canopy spread and species, together with an indication of any proposals for felling/pruning and any proposed changes in ground level, or other works to be carried out, within the canopy spread;
 - (d) a plan showing the layout of proposed tree, hedge, shrub, ornamental planting and grassland/wildflower areas;
 - (e) a schedule of proposed planting, noting species, planting sizes and proposed numbers/densities;
 - (f) a written specification outlining cultivation and other operations associated with plant and green grass establishment; and
 - (g) a schedule of maintenance, including watering and the control of competitive weed growth, for a minimum period of five years from first planting.

All planting and seeding/turfing shall be carried out in accordance with the approved details in the first planting and seeding/turfing seasons following the completion or first occupation of any dwelling/commercial building. The planting shall be maintained in accordance with the approved schedule of maintenance. Any trees or plants which, within a period of five years from the completion of the planting, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

No dwelling or commercial building within that specific phase of development hereby permitted shall be brought into use or occupied until all the landscaping and boundary treatment for that phase of the site has been completed in accordance with the approved details.

17. Any application for approval of reserved matters submitted pursuant to condition 1 for the commercial development shall include details of any extraction, ventilation, cooling and refrigeration equipment to be installed on or in any building. The method of assessment shall be carried out in accordance with BS4142:2014: Rating industrial noise affecting mixed residential and industrial areas (or other document which may replace or modify the methods of assessment). All approved equipment shall be installed in accordance with the approved details on or in the building prior to occupation and shall thereafter be operated and maintained in accordance with the manufacturer's instructions.
18. Any application for approval of reserved matters submitted pursuant to condition 1 for the residential development shall include details of the mitigation measures to achieve compliance with BS8233:2014 recommended internal and external noise levels for the occupiers of the new dwellings. The mitigation measures approved shall be completed in accordance with the approved details prior to any dwellings to which they relate being first occupied.
19. Any application for approval of reserved matters submitted pursuant to condition 1 shall be accompanied by details of external lighting for the specific development. The development shall be carried out in accordance with the approved details and maintained thereafter for the lifetime of the development.
20. No development shall commence on any phase, including any preparatory work and vegetation clearance, until a scheme for the protection of the retained trees, in accordance with BS 5837:2012, and including a tree protection plan (TPP) and an arboricultural method statement (AMS), for that specific phase of development shall have been submitted to and approved in writing by the local planning authority. The TPP and AMS should include details of:
 - (a) location and installation of services, utilities and drainage;
 - (b) details of construction within the root protection area or that may impact on the retained trees;
 - (c) a full specification for the installation of boundary treatment works;
 - (d) a specification for protective fencing to safeguard trees during construction phases and a plan indicating the alignment of the protective fencing;
 - (e) a specification for scaffolding and ground protection within tree protection zones;
 - (f) tree protection during construction indicated on a TPP and construction plan and construction activities clearly identified as prohibited in this area; and

(g) details of site access, temporary parking, on site welfare facilities, loading, unloading and storage of equipment, materials, fuels and waste as well as concrete mixing and use of fires.

All works shall be carried out in accordance with the approved details.

21. No development shall commence on any phase until a detailed sustainable drainage scheme strategy document for that specific phase shall have been submitted to and approved in writing by the local planning authority. The detailed strategy must be in accordance with the surface water drainage strategy plan forming part of the submitted site-specific flood risk assessment (Drawing No: 6557-01-01-A) and include a detailed design, a timetable for implementation, and details of management and maintenance of the surface water drainage for the lifetime of the development. The strategy must also demonstrate the technical feasibility/viability of the drainage system through the use of the scheme to manage the flood risk to the site and elsewhere and the measures taken to manage the water quality for the lifetime of the development. The approved scheme for the surface water drainage shall be implemented in accordance with the approved details before the development is first used or occupied.
22. No development shall commence on any phase of development until a detailed drainage plan for the disposal of foul water for that specific phase has been submitted to and approved in writing by the local planning authority. No building shall be brought into use or occupied until the foul water drainage works have been implemented for that specific phase in accordance with the approved details and thereafter retained for the lifetime of the development.
23. No below or above ground development shall commence on any phase of development until a detailed site waste management plan shall have been submitted to and approved in writing by the local planning authority. The said plan shall identify the specific types and amount of waste materials forecast to be generated from the development during site preparation & demolition and construction phases, and the specific measures that will be employed for dealing with this material so as to: -
 - (a) minimise its creation, maximise the amount of re-use and recycling on-site;
 - (b) maximise the amount of off-site recycling of any wastes that are unusable on-site;
 - (c) reduce the overall amount of waste sent to landfill; and
 - (d) set out the proposed proportions of recycled content that will be used in construction materials.The development shall be carried out in accordance with the approved details.
24. No above ground development shall commence on any phase of development until full details of the provision made for facilitating the management and recycling of waste generated during occupation for that specific phase shall have been submitted to and approved in writing by the local planning authority. This shall include details of the appropriate and adequate space and infrastructure to allow for the separate storage of recyclable waste materials. The management of waste during occupation must be aligned with the principles of the waste hierarchy and not prejudice the local collection authority's ability to meet its waste management targets. The development shall be carried out in accordance with the approved details.

25. No development or site clearance shall take place on the northern parcel of land hereby permitted for residential development until a construction ecological management plan (CEMP) for this part of the site shall have been submitted to and approved in writing by the local planning authority. The CEMP shall be in accordance with the recommendations set out in the Ecological Impact Assessment, prepared by EAD Ecology, dated January 2022. The development shall be carried out in accordance with the approved details.
26. No development or site clearance shall take place on the southern parcel of land hereby permitted for commercial development until a construction ecological management plan (CEMP) for this part of the site shall have been submitted to and approved in writing by the local planning authority. The CEMP shall be in accordance with the recommendations set out in the Ecological Impact Assessment, prepared by EAD Ecology, dated January 2022, and the Ecological Impact Assessment Addendum: Two Mile Lane Highway Improvement Works, prepared by EAD Ecology, dated May 2022. The development shall be carried out in accordance with the approved details.
27. No development or site clearance shall take place on the northern parcel of land hereby permitted for residential development until a landscape ecological management plan (LEMP) detailing planting lists and showing retained and created habitats on a landscape plan for this part of the site shall have been submitted to and approved in writing by the local planning authority. The LEMP shall be in accordance with the recommendations set out in the Ecological Impact Assessment, prepared by EAD Ecology, dated January 2022. The development shall be carried out in accordance with the approved details.
28. No development or site clearance shall take place on the southern parcel of land hereby permitted for commercial development until a landscape ecological management plan (LEMP) detailing planting lists and showing retained and created habitats on a landscape plan for this part of the site shall have been submitted to and approved in writing by the local planning authority. The LEMP shall be in accordance with the recommendations set out in the Ecological Impact Assessment, prepared by EAD Ecology, dated January 2022, and the Ecological Impact Assessment Addendum: Two Mile Lane Highway Improvement Works, prepared by EAD Ecology, dated May 2022.
29. No development shall take place on the northern parcel of land hereby permitted for residential development until details of a construction management plan shall have been submitted to and approved in writing by the local planning authority. The plan shall include but not be restricted to:
 - (a) parking of vehicles of site operatives and visitors (including measures taken to ensure satisfactory access and movement for existing occupiers of neighbouring properties during construction);
 - (b) advisory routes for construction traffic;
 - (c) any temporary access to the site;
 - (d) locations for loading/unloading and storage of plant, waste and construction materials;
 - (e) method of preventing mud and dust being carried onto the highway;
 - (f) arrangements for turning vehicles;
 - (g) arrangements to receive abnormal loads or unusually large vehicles;
 - (h) highway condition survey;
 - (i) methods of communicating the construction management plan to staff, visitors and neighbouring residents and businesses.

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

30. No development shall take place on the southern parcel of land hereby permitted for commercial development until details of a construction management plan shall have been submitted to and approved in writing by the local planning authority. The plan shall include but not be restricted to:
- (a) parking of vehicles of site operatives and visitors (including measures taken to ensure satisfactory access and movement for existing occupiers of neighbouring properties during construction);
 - (b) advisory routes for construction traffic;
 - (c) any temporary access to the site;
 - (d) locations for loading/unloading and storage of plant, waste and construction materials;
 - (e) method of preventing mud and dust being carried onto the highway;
 - (f) arrangements for turning vehicles;
 - (g) arrangements to receive abnormal loads or unusually large vehicles;
 - (h) highway condition survey;
 - (i) methods of communicating the construction management plan to staff, visitors and neighbouring residents and businesses.

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

31. The development hereby permitted shall not commence until a mineral resource assessment plan (MRAP) shall have been submitted to and approved in writing by the local planning authority. The MRAP shall set out details of the method of investigation proposed for assessing the amount, type, quality and extent of the mineral resource, including the location, depth and number of any boreholes. The undertaking of the mineral resource investigation shall be carried out in strict accordance with the approved MRAP. The results of the mineral resource investigation shall be presented in a mineral resource assessment (MRA) which shall have been submitted to and reviewed by the local planning authority before the development can take place. If the local planning authority advises that prior extraction is necessary, a detailed mineral recovery plan (MRP) for extracting the mineral resource identified in the MRA, shall have been submitted to and agreed in writing by the local planning authority before the development can take place. The MRP must set out:
- (a) the amount, type and quality of the mineral to be extracted;
 - (b) the amount of mineral to be retained and used on-site;
 - (c) the amount of mineral to be exported; and
 - (d) the proposed timescale for completing mineral extraction, including any phasing of mineral extraction.

All activities associated with mineral extraction must be carried out in accordance with the approved details and the approved construction method statement for the development hereby permitted.

32. The development hereby permitted shall not commence until a written scheme of investigation (WSI) shall have been submitted to and approved in writing by the local planning authority. The said scheme shall include an assessment of significance and research questions, and:
- (a) the programme and methodology of site investigation and recording including trail trenching;
 - (b) the programme for post investigation assessment;
 - (c) provision to be made for analysis of the site investigation and recording;
 - (d) provision to be made for publication and dissemination of the analysis and records of the site investigation;

- (e) provision to be made for archive deposition of the analysis and site investigation;
- (f) nomination of a competent person or persons/organisation to undertake the works set out within the WSI.
- The development shall be carried out in accordance with the approved details and shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the approved WSI, and the provision made for analysis, publication and dissemination of the results, and archive deposition has been secured.
33. No building shall be brought into use or occupied until a sustainable drainage scheme management and maintenance plan for the lifetime of the development for each phase shall have been submitted to and approved in writing by the local planning authority. The plan shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime. The approved plan shall be implemented in full in accordance with the agreed terms and conditions.
34. Prior to the first occupation of any dwelling, a sample homeowner information pack (HIP) shall have been submitted to and approved in writing by the local planning authority. The HIP shall include; information about public open space and the walking routes within and in the vicinity of the proposed development; promotion of appropriate local sites suitable for walking and recreation; information of the further afield designated SPA, SAC and Ramsar sites in order to promote environmental awareness such as the importance of walking on designated footpaths, not trampling across habitats, picking up dog waste and keeping dogs on leads; and the benefits to the environment, health and cost of living from walking from your home or using local buses rather than driving for recreation. Two copies of the approved HIP shall be provided to all future residents prior to the occupation of each dwelling.
35. The commercial development hereby permitted shall not be brought into use until the following highway improvements works shall have been constructed in accordance with the approved plans, completed, and made available for use:
- (a) the widening of Two Mile Lane between the junction of Two Mile Lane/B4215 and the access to Highnam Business Centre as shown on drawing 0300-P01 dated 12th April 2022; and
- (b) the uncontrolled pedestrian crossing of B4215 as shown on drawing P17032-21- 05A dated March 2022.
36. Vehicle and cycle parking shall be provided prior to first occupation of each dwelling in accordance with details approved as part of any reserved matters permission and thereafter retained for the lifetime of the development.
37. Vehicle and cycle parking shall be provided prior to first occupation of each commercial unit in accordance with details approved as part of any reserved matters permission and thereafter retained for the lifetime of the development.

End of Schedule