

**Item No 09:-**

**15/01412/OUT (CD.3390/T)**

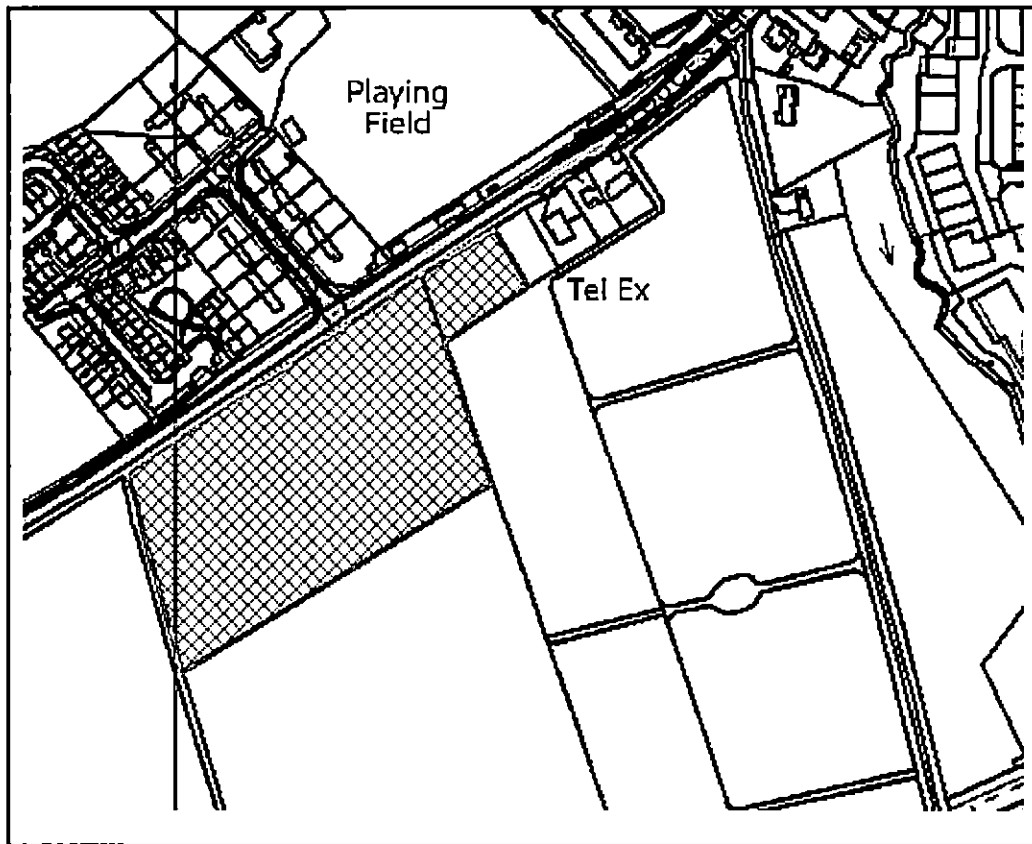
**Land South Of  
Gloucester Road  
Andoversford  
Gloucestershire**

Item No 09:-

**Outline planning application for the erection of up to 30 residential units and associated infrastructure (all matters reserved except access) at Land South Of Gloucester Road Andoversford Gloucestershire**

<b>Outline Application 15/01412/OUT (CD.3390/T)</b>	
Applicant:	Dr Charles Levinson
Agent:	Rural Solutions Ltd
Case Officer:	Katherine Brommage
Ward Member(s):	Councillor Robin Hughes
Committee Date:	19th August 2015

**Site Plan**



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**RECOMMENDATION: REFUSE**

**Main Issues:**

- (a) Residential Development Outside a Development Boundary
- (b) Sustainability of Location
- (c) Impact on Character and Appearance of Cotswolds Area of Outstanding Natural Beauty and#  
Setting of Andoversford
- (d) Major Development within the Cotswolds AONB
- (e) Affordable Housing
- (f) Access, Highway Safety and Traffic Generation
- (g) Loss of Agricultural Land
- (h) Impact on Biodiversity
- (i) Flooding and Drainage
- (j) Impact on Heritage Assets
- (k) Arboricultural Issues
- (l) Other Matters

**Reasons for Referral:**

This application has been referred to Committee by Officers due to the size and nature of the proposal and its location within the Cotswolds Area of Outstanding Natural Beauty and adjacent to the village of Andoversford.

**1. Site Description:**

This application relates to a greenfield site measuring approximately 1.9 hectares in size. The land is currently used for pasture and forms part of a larger field. The site is located immediately to the south of Gloucester Road and to the south west of the centre of the village of Andoversford. The existing residential housing estate of Templefields and Crossfields is located opposite, to the north of Gloucester Road. Andoversford Village Hall, Andoversford Primary School and playing fields are also located to the north.

The application site is located outside a Development Boundary as designated in the Cotswold District Local Plan 2001-2011 and is located within the Cotswolds Area of Outstanding Natural Beauty (AONB).

The application site is bounded to the north and west by a mature hedge and tree belt. To the south the site boundary is open. To the east a well-managed low hedgerow forms the field boundary (which will be breached to provide access onto Gloucester Road).

There are no Public Rights of Way (PROW) located immediately adjacent or that cross the application site. The nearest PROW is located approx. 130m to the east of the site. This PROW runs along the tree-lined driveway to the Grade II Listed Owdeswell Manor and associated Barn, located approximately 400 metres to the south-east of the application site. The closest listed building however, is The Mount which is also Grade II listed. The principal vehicular access to the application site is via a farm track to the far south of field which is accessed from the Owdeswell Estate.

**2. Relevant Planning History:**

None

**3. Planning Policies:**

- LPR05 Pollution and Safety
- LPR09 Biodiversity, Geology and Geomorphology
- LPR10 Trees, Woodlands and Hedgerows
- LPR19 Develop outside Development Boundaries

LPR21 Affordable Housing  
 LPR34 Open Spaces & Play Areas in Res Deve  
 LPR38 Accessibility to & within New Develop  
 LPR39 Parking Provision  
 LPR42 Cotswold Design Code  
 LPR45 Landscaping in New Development  
 LPR46 Privacy & Gardens in Residential Deve  
 LPR47 Community Safety & Crime Prevention  
 LPR49 Planning Obligations & Conditions  
 NPPF National Planning Policy Framework

#### **4. Observations of Consultees:**

Gloucestershire County Council Highways: Awaiting final response.

Gloucestershire County Council Community Infrastructure: Financial contributions requested towards primary education, secondary education and library provision.

Gloucestershire County Council Archaeology: No objection.

Conservation Officer: Objection. Comments included in 'Officers Assessment'.

Landscape: Objection. Comments included in 'Officers Assessment'.

Lead Local Flood Authority: No objections, subject to conditions requiring the approval of drainage details and surface water attenuation.

Thames Water: The existing water supply infrastructure is considered to have insufficient capacity to meet the additional demands for the proposed development. An impact study of the existing water supply infrastructure should therefore be submitted to the local authority prior to the commencement of development. No objections to the proposals on water infrastructure capacity.

Biodiversity Officer: No objection. Comments included in 'Officers Assessment'.

Crime Prevention Design Advisor: General comments relating to the detailed design stage.

Tree Officer: No objection. Comments included in 'Officers Assessment'.

Forward Plans: Proposed development is not in accordance with the adopted Local Plan and is not a site that is proposed for allocation in the Local Plan Reg 18 Consultation Document : Development Strategy and Site Allocations. A representation to the Local Plan has been received from the owner of application site proposing it for inclusion as a housing site in the next stage of the Local Plan. The merits of the site however, have yet to be assessed.

Contamination Officer: No objection subject to ground investigation condition in accordance with Local Plan Policy 05 and Section 11 of the National Planning Policy Framework.

Housing Enabling Officer: No objection subject to the provision of a satisfactory level of affordable housing on site.

Environmental Health Officer: No objection however, a noise assessment will be required if Environmental Health are to advise on the detailed design.

## 5. View of Town/Parish Council:

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Andoversford Parish Council have objected to the planning application as follows:

'Andoversford Parish Council met with residents to discuss this application and the following comments were made by the public and council and when the votes were cast two thirds of people present objected to the application: 1) concern over number of new houses in the village. (please note another application for 57 houses is on-going) 2) various discussions regarding speed and number of cars coming down Gloucester Road and the fact that this development will exacerbate the situation (actually highlighted by the speed reports) 3) concern that the planned exit is too close to the primary school. (other ideas were given for access) 4) the school could not currently cope with the additional pupils from both developments. 5) concern that the area is a 'green field site' and would open the gate to future development of the site. 6) area is designated as AONB therefore should be refused on those grounds. 7) there is inadequate parking for the number of housing - we realise that this is outline and consequently this type of detail is covered at the 'full' application stage. 8) paths are not good particularly on that side of the road. (actually there are no paths on that side of the road unless you include the 3m path that is used as a bus stop. 9) incorrect 'sustainability' information - this was after we explained about the doctors surgery and local plan info on employment opportunities and the fact that the sewerage farm is designed for up to 811 persons (this number needs checking). CDC SHLAA and Local Plan report has a number of in-correct statements for the village, which we have challenged. 10) senior school availability was raised - ie Bourton (Cotswold) school may not be available due to additional building elsewhere in the Cotswolds'

Other observations made by the Parish Council include:

- i. Do the proposals intend to have safe crossing points?
- ii. It is presumed that buses will not enter the site.
- iii. Details of the comprehensive village gateway need to be provided. It is believed that 'gates' will not adequately slow traffic. A solid roundabout here such as the one in Cheltenham at the Norwood Arms may be appropriate.
- iv. At least 2.0 car spaces will need to be provided per house
- v. There is no good healthcare in the village. There is no doctor's surgery in use at present.
- vi. There is a lack of bungalows and 1/2 bed dwellings. Will the proposals in these?
- vii. The application site is not in the catchment area for Balcarras school. The children are only in the Cotswold School catchment area.
- viii. There is no possible way that the area has 1200 jobs i.e. 4% of District. The figures are misleading.
- ix. A S106 agreement should be in place for a bus shelter on the side of the application site. Other community infrastructure also required as identified by the PC.
- x. Concerns over the pumping station and sewer farm to cope with all the extra houses.

## 6. Other Representations:

Letters of Objection

Letters of objection from 4 properties have been received, including from The Governors of The Cotswold School. Main grounds of objection are:

- i. There are currently houses being built in Andoversford and a proposal for around 60 more which would be disastrous for the village.
- ii. The infrastructure of the village cannot cope with the proposed level and speed of building.
- iii. The Governors of The Cotswold School have grave concerns regarding the quantity of development that has received planning permission within the catchment of The Cotswold School, much of which has not provided Section 106 funding. Over 820 dwellings have been given planning permission to proceed. The Cotswold School is the only secondary education provider in the catchment area is already heavily oversubscribed.

- iv. Major concerns about the speed and flow of traffic along the Old Gloucester Road which is heavily used as a cut through by cars, vans and small lorries for the trading estate and the Stow Road.
- v. The footpath from Crossfields to the Dowdeswell junction is not as wide as it should be.
- vi. It would be a lot safer if the speed limit was reduced to 30mph from just past the Kilkenny Inn to deter traffic from a quick cut through.
- vii. More traffic calming methods would be very useful i.e. traffic light crossing by the school.
- viii. Impact on Area of Outstanding Natural Beauty.

Dowdeswell Parish Council: Object -

'The two recent residential developments in Andoversford have/will considerably expand the population of the village. Local health, education, shopping and public transport facilities are already inadequate or non-existent. The proposed access to the development will detrimentally affect and further endanger the safety of residents. The development would represent a very significant intrusion into the Cotswold Area of Outstanding Natural Beauty.'

Cotswolds Conservation Board: Object -

The Cotswolds Conservation Board wish to raise an objection to this development for the following reasons:

'Andoversford historically grew up centred around the A40 to the north east of the site. Despite the railway coming and then going, it wasn't until the 1970's that the village grew westward along the north of Gloucester Road.

However, this proposal is to now develop a greenfield site to the south of the Gloucester Road. Although there is development to the north, the site simply sits in a field with no development to the south, east or west of it. It therefore cannot be considered to be either "rounding off" or a natural urban extension and is outside the physical limits of the village. Therefore, there will be a clear urban intrusion into the countryside from this development, which will have a negative impact on the character and special qualities of the nationally protected AONB.

The Council will need to assess whether Paragraph 116 of the NPPF is relevant in this case. However as the NPPG advises in any case "great weight" should be applied to conserving landscape and scenic beauty in AONBs that have the highest status of protection in relation to landscape and scenic beauty (Paragraph 115 of the NPPF). Attached is an appeal decision in respect of a modest 9 house development that has recently been dismissed with impact on the Cotswolds AONB being a significant factor. It is noted that the CDC Development Strategy and Site Allocations Document (consultation version 2015) promotes A\_2 Land to rear of Templefields and Crossfields and A\_3A Land to west of Station Road. In terms of how the settlement has expanded in recent times and in terms of reduction of landscape impact these options form a more natural extension to the village. Therefore, although the Board continues to question the level of growth to Andoversford from the Council's own proposed allocations at Templefields and Crossfields (separate comments submitted in respect of application 14.05629.OUT) and Station Road, overall this location for housing development will result in a less significant impact, for the reasons given above, compared to land south of Gloucester Road.'

Campaign to Protect Rural England: Object -

'We believe that the Cotswold District Council has now demonstrated that it has completed an objective assessment of housing need and the OAN shows that the council has now a robust 5 year supply of building land particularly when the potential for windfalls is taken into account. (The evidence for this was included in the attachments to the CDC consultation on Development Strategy and Site Allocation). This means the saved policies from the Local Plan 2001-2011 are still relevant as are the provisions of the NPPF.'

Our grounds for objecting are two:

a) The proposal is not sustainable.

The need for housing at Andoversford over the period up to 2031 will be met by the housing recently built and the planning application for 57 dwellings at land to the rear of Templefields and Crossfields. This site has been identified through the SHLA process as being the most suitable for residential development and we believe it is a preferable location to the site being proposed south of Gloucester Road. There are landscape reasons for this preference (see below) but also the capacity of the 'rear of Templefields' site is rather greater and can therefore cope with the total foreseeable needs of the settlement. Should the site south of Gloucester Road be developed as well then the additional housing would be serving an almost exclusively commuter need. This is unsustainable. The applicant has argued that because more people are working from home there will not be commuting from the site. Evidence does not support this argument; the latest ONS publications show that home working had increased but to just 13.9% of the workforce. Of these only 5% actually work at home; the remaining 8.9% used their home as a base but actually worked at other locations (for instance a self employed decorator). This shows that the effects of home working on commuting pattern is marginal. The applicant also argues that the housing will meet a social need by allowing old people to move out of their homes and releasing housing for younger people. This a desirable aim but it would need to be substantiated by detailed surveys of the existing Andoversford residents and it would have to be demonstrated that the Templefields development would not already meet this need for people with a connection to Andoversford.

In general it would in any event be necessary for local needs survey to be carried out to ensure that any affordable housing being proposed in either development met the needs in terms of type and outturn cost. ( saved Policy 21 of the CDC Local Plan 2001-2011 refers).

b) The proposed development would be damaging to the natural beauty of the AONB .

The area to the south of the Gloucester Road is characterised by unspoiled grass fields with hedging and occasional groups of trees against the background of the tree belt lining the Gloucester Road. It forms part of the much larger landscape area stretching down the Coln Valley towards Withington. There are few buildings in this area. The fields being proposed for development form a part of this whole and are separated by low hedges from the adjacent fields. The applicant has greatly underestimated the impact the proposed development will have. The fields can be seen from some distance from the Gloucestershire Way around and above Foxcote and the paths to Thorndale off the Withington Road and the track which connects Thorndale to Foxcote. From these view points (which the applicant does not consider in their assessment of visual impact) Andoversford can not be seen because the major part of the village is set in a hollow and the trees on Gloucester Road screen the remaining housing. The effect is an open totally rural view stretching up into the hills towards Brockhampton. The proposed housing will be a significant built block in this landscape clearly and prominently visible above any hedging. This would be an alien element in the landscape and contrary to the guidelines produced by the Cotswold Conservation Board for the High Wold Valleys.

These effects are greater for a walker using the bridleway from the Frogmill to Andoversford. This way passes Owdeswell Manor and at this point the view forward is of a charming path overhung by mature deciduous trees between which one sees clearly and uninterrupted west across the fields proposed for this development. The backdrop is the trees lining Gloucester Road which total screen the built area behind. This is a totally rural view with just the house on the corner to signal entrance to the village. The proposed development would totally dominate this area and change the area to one of an urban extension. This would also be most damaging to the natural beauty of the AONB.

Both the above are contrary to the provisions of the NPPF paragraph 115 and to the whole thrust of the Cotswold Conservation Boards Management Plan.

This is in stark contrast to the area to the north of Gloucester Road which is dominated by the built extension to Andoversford. The proposed development to the rear of Templefields and Crossfields is within the AONB but is only experienced with a backdrop of the existing build area and will be seen as a natural extension to the village.

In addition Gloucester Road has so far acted as an informal boundary to the village. Except in the centre major development has been to the north with just a few scattered buildings to the south. We suggest it would be damaging and bring about a feel of ribbon development for this informal boundary to be breached.

For these reasons we believe that the proposed development south of Gloucester road will be damaging to the landscape and the established settlement pattern of the village in contrast the proposed development to the rear of Templefields.

For these reasons we would urge the Cotswold District Council to refuse planning permission for this application.'

#### Letters of Support

1 letter of support has been received. Comments made as follows:

'The proposed development is not visible from the surrounding hills except for the hills to the north east between Syreford and Whittington. It is far less visible than Templefields and Crossfields from this location. Development to the South side of Old Gloucester Road alleviates any increased flooding risk to the Village of Andoversford which is important. The proposed development is on land which has been mainly associated with race horses and stud over the last 60 years and not agriculture. The proposed entrance onto Old Gloucester Road gives clear visibility in both directions. In my opinion this is the preferred location for future development of Andoversford and should meet the requirements of the Cotswold District Forward Plan. Please Note. The reference, Land to the south of Gloucester Road should read Old Gloucester Road. This road has always been named Old Gloucester Road and the street signs reflect this.'

#### General Comments

1 letter making general comments have been received. Comments made set out as follows:

'Another 30 houses in Andoversford but no planned increase in sustainable transport link to Cheltenham, Cirencester etc. Over 70% of commuting to work for the new residents will be by car, and there will be additional journeys for the families into and out of Cheltenham, via the A40 and through Charlton Kings, or to Gloucester and the M5 via Seven Springs and the infamous Air Balloon roundabout. There needs to be a safe walking and cycle path between Andoversford and Cheltenham, and additional bus services between Andoversford, Cheltenham and Gloucester. The developers should be asked to contribute to the development if better and sustainable transport links.'

### **7. Applicant's Supporting Information:**

Illustrative Plans  
 Planning Statement  
 Sustainability Appraisal  
 Design and Access Statement  
 Ecological Appraisal  
 Arboricultural Baseline Assessment  
 Flood Risk and Drainage Strategy  
 Transport Statement and Access Technical Note  
 Archaeological and Heritage Statement  
 Magnetometer Survey Report  
 Statement Addressing Conservation Comments



## **8. Officers Assessment:**

### **Proposed Development**

This application is seeking to establish the principle of development on the site and is submitted in Outline with means of access to be determined only. Other matters relating to Landscaping, Layout, Scale and Appearance have been reserved. The current layout, as shown on the submitted Indicative Site Layout Plan, is purely indicative and intended to demonstrate how the site could accommodate the proposed level of development.

The applicant is seeking permission of up to 30 dwellings. Vehicular access is proposed via a new access from Gloucester Road.

#### **(a) Residential Development Outside a Development Boundary:**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that 'If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.' The starting point for the determination of this application is therefore the adopted development plan for the District which is the Cotswold District Local Plan 2001-2011.

The application site is located outside a development boundary as designated in the aforementioned Local Plan. Development on the site is therefore primarily subject to Local Plan Policy 19: Development Outside Development Boundaries. Criterion (a) of Local Plan Policy 19 has a general presumption against the erection of new build open market housing (other than those which would help to meet the social and economic needs of those living in rural areas) in locations outside designated Development Boundaries. The provision of the open market dwellings proposed in this instance would therefore contravene Local Plan Policy 19 criterion (a). Notwithstanding this, the Council must also have regard to other material considerations when reaching its decision. In particular, it is necessary to have regard to the guidance and policies contained in the National Planning Policy Framework (NPPF). Paragraph 2 of the NPPF states that the Framework 'is a material consideration in planning decisions.'

The NPPF has at its heart a 'presumption in favour of sustainable development'. It states that 'there are three dimensions to sustainable development: economic, social and environmental. These dimensions give rise to the need for the planning system to perform a number of roles'. These are an economic role whereby it supports growth and innovation and contributes to a strong, responsive and competitive economy. The second role is a social one where it supports 'strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations'. The third role is an environmental one where it contributes to protecting and enhancing the natural, built and historic environment.

Paragraph 8 of the NPPF states that the three 'roles should not be undertaken in isolation, because they are mutually dependent'. It goes on to state that the 'planning system should play an active role in guiding development to sustainable solutions.'

Paragraph 47 of the NPPF states that Councils should identify a supply of deliverable sites sufficient to provide five years worth of housing. It also advises that an additional buffer of 5% or 20% should be added to the five year supply 'to ensure choice and competition in the market for land'. In instances when the Council cannot demonstrate a five year supply of deliverable housing sites Paragraph 49 states that the 'relevant policies for the supply of housing should not be considered up-to-date'.

In such instances the Council has to have regard to Paragraph 14 of the NPPF which states that where the development plan is absent, silent or relevant policies are out-of-date permission should be granted unless;

- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
- specific policies in the Framework indicate development should be restricted.'

The Council's land supply position has been subject to scrutiny in recent months. In September 2014 the Planning Inspectorate issued a decision in relation to the erection of up to 120 dwellings on land to the south of Cirencester Road, Fairford (APP/F1610/A/14/2213318, CDC Ref 13/03097/OUT). In the decision the Planning Inspector stated 'I conclude that the Council is unable to demonstrate a five-year supply of deliverable housing sites.' He also considered that the Council had not undertaken a calculation of Objectively Assessed Needs (OAN) for the District. The Council could not therefore demonstrate that it had the requisite land supply. Paragraph 47 of the NPPF states 'that local plans are required to meet the full, objectively assessed needs for market and affordable housing for that area, so far as is consistent with other policies of the NPPF'.

In October 2014 an OAN Report was finalised. The figures contained therein have since been utilised to provide an up to date assessment of the District's five year housing land supply. The most recent five year housing land supply figures, endorsed by the Council's Cabinet at their meeting on the 11th June 2015, indicate that the Council has a 7.74 year supply of housing land. This figure is inclusive of the 20% buffer. Therefore, the up to date position is that the Council can now demonstrate the requisite 5 year (plus 20%) supply of deliverable housing land. As such, the Local Plan Policies that cover the supply of housing, such as Local Plan Policy 19, are no longer considered to be out of date having regard to Paragraph 49 of the NPPF.

Notwithstanding the above, it must be noted that even if the Council can demonstrate the requisite minimum supply of housing land it does not in itself mean that proposals for residential development outside existing Development Boundaries should automatically be refused. The 5 year (plus 20%) figure is a minimum and, as such, the Council should continually be seeking to ensure that housing land supply stays above this minimum in the future. As a result there will continue to be a need to release suitable sites outside Development Boundaries identified in the current Local Plan for residential development. If such sites are not released the Council's housing land supply will soon fall back into deficit. At a recent appeal for up to 15 dwellings in Honeybourne in Worcestershire (APP/H1840/A/13/2205247) the Planning Inspector stated 'the fact that the Council do currently have a 5-year supply is not in itself a reason to prevent other housing sites being approved, particularly in light of the Framework's attempt to boost significantly the supply of housing.' In relation to an appeal relating to a proposal for 100 dwellings in Launceston in Cornwall dating from the 8th April 2014 (APP/D0840/A/13/2209757) the Inspector stated (Para 51) ' Nevertheless, irrespective of whether the five-year housing land supply figure is met or not, NPPF does not suggest that this has to be regarded as a ceiling or upper limit on permissions. On the basis that there would be no harm from a scheme, or that the benefits would demonstrably outweigh the harm, then the view that satisfying a 5 year housing land supply figure should represent some kind of limit or bar to further permissions is considerably diminished, if not rendered irrelevant. An excess of permissions in a situation where supply may already meet the estimated level of need does not represent harm, having regard to the objectives of the NPPF.'

It is also evident that the continuing supply of housing land will only be achieved, prior to the adoption of the new Local Plan, through the planning application process. Allocated sites in the current adopted Local Plan have essentially been exhausted. In order to meet its requirement to provide an ongoing supply of housing land there will therefore remain a continuing need to release suitable sites outside Development Boundaries for residential development. If the Council does not continue to release such sites the land supply will be in deficit and the criteria set out in Paragraph 14 of the NPPF will apply. It is considered that the need to release suitable sites for

residential development represents a material consideration that must be taken fully into account during the decision making process.

The 'in principle' objection to new open market housing outside existing Development Boundaries set out in Local Plan Policy 19 must also be weighed against the guidance in Paragraph 215 of the NPPF which states that 'due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the framework, the greater the weight they can be given)'. There will be instances where new open market housing outside existing Development Boundaries can constitute sustainable development as required by the NPPF. The blanket ban on new open market housing outside such boundaries is therefore considered not to carry full weight when assessed against Paragraph 215. Notwithstanding this, other criteria in Local Plan Policy 19, such as preventing development that causes significant harm to existing patterns of development, leads to a material increase in car-borne commuting, adversely affects the vitality and viability of settlements and results in development that significantly compromises the principles of sustainable development are considered too broadly accord with the objectives of the NPPF. They are therefore considered to carry more weight when assessed against the guidance in Paragraph 215 than criterion (a).

Notwithstanding the current land supply figures and the wording of Local Plan Policy 19 it is necessary to have full regard to the economic, social and environmental roles set out in the NPPF when assessing this application. Of particular relevance in this case is the requirement to balance the social need to provide new housing against the potential environmental impact of the proposed scheme. These issues will be looked at in more detail in the following sections.

#### **(b) Sustainability of Location**

Andoversford is a modest size settlement, but has an above average level of services and facilities for a village of its size and ranks 11th in the District in terms of its social and economic sustainability. Andoversford's level of self-containment however, is low at 38% which could be explained by its relatively close proximity to the major urban area that is Cheltenham. Andoversford benefits from good bus links to Cheltenham, Northleach, Burford and beyond for both employment and leisure. In terms of the strategy for Andoversford, the Council's emerging Local Plan document states that 'Andoversford's role as a local service and employment centre should be enhanced to help enable it to service a number of villages within a few miles' radius, and reduce reliance on car travel to Cheltenham/Charlton Kings to the west' (Source: 'Local Plan Reg 18 Consultation: Development Strategy and Site Allocations').

Paragraph 55 of the NPPF states that 'where there are groups of smaller settlements, development in one village may support services in a village nearby.' This is reinforced in the Government's Planning Practice Guidance (NPPG). Given Andoversford above average level of services and facilities, as well as its connectivity, it is accepted by the Council that Andoversford is a sustainable location in principle for new development. It is one of 17 settlements that has sufficient facilities and services to accommodate new residential development in the period up until 2031 as identified in the emerging Local Plan document 'Local Plan Reg 18 Consultation: Development Strategy and Site Allocations'. However, in the context of the current adopted Local Plan Andoversford is not identified as a Principal Settlement.

The Government's Planning Practice Guidance states;

'It is important to recognise the particular issues facing rural areas in terms of housing supply and affordability, and the role of housing in supporting the broader sustainability of villages and smaller settlements. This is clearly set out in the National Planning Policy Framework, in the core planning principles, the section on supporting a prosperous rural economy and the section on housing.

A thriving rural community in a living, working countryside depends, in part, on retaining local services and community facilities such as schools, local shops, cultural venues, public houses and places of worship. Rural housing is essential to ensure viable use of these local facilities.'

It goes on to say; 'all settlements can play a role in delivering sustainable development in rural areas and so blanket policies restricting housing development in some settlements and preventing other settlements from expanding should be avoided unless their use can be supported by robust evidence.'

Strategic Policy 5: Distribution of Housing and Employment Development in Local Plan Regulation 18 Consultation Paper allocates a total of 108 dwellings to the settlement for the period between April 2011 and April 2031. The 108 dwelling total represents a 33.8% increase in the village's existing housing stock which currently stands at 319 dwellings (source: Local Plan Consultation Paper May 2013). The Regulation 18 Consultation Paper states that 'This represents a reasonable level of house building, despite Andoversford's modest size. The consequent growth in the community's population will - in association with its continuing employment role - help to sustain existing facilities. Importantly, it will also help to enhance Andoversford's potential role as a local service centre in an otherwise poorly-served part of the District. Additional housing will also address the relatively modest need for affordable housing in the Andoversford area'.

The application site was not submitted for consideration as part of the Strategic Housing Land Availability Assessment (SHLAA), undertaken in 2014. Accordingly, it is not a site that has been considered for potential residential development until now.

The SHLAA 2014 (Page 4) makes clear that the inclusion of a site within the SHLAA does not determine whether a site will be allocated for development. It therefore, has no policy status. In addition, the SHLAA only identifies potential constraints and suggested actions that may be taken to overcome constraints. The list of identified constraints however, is not absolute and it may be that further issues are identified when further survey work is undertaken i.e. at the planning application stage. Accordingly, the inclusion of a site in the SHLAA does not mean that planning permission will be granted. All planning applications fall to be determined in accordance with Section 38(6).

The Local Plan Regulation 18 Consultation Paper identifies A\_2 and A\_3A as favoured sites for residential development (as a result of the findings of the SHLAA 2014). Notwithstanding this endorsement however, it must be noted that the emerging Local Plan is still at a stage where it carries limited weight. It is only once it has been submitted for Examination in Public that it carries significant weight. Whilst the latest Local Plan documents indicate a direction of travel they are not final versions and allocation within them are therefore not cast in stone and could be subject to change or deletion.

Nonetheless, it is evident that the ability of Andoversford to accommodate new residential development has been assessed as part of the emerging Local Plan process. The Regulation 18: Development Strategy and Site Allocations paper recognises that the village is able to offer a range of services and amenities which can meet many of the day to day needs of the community. Moreover, it also supports a reasonable growth in the settlement's population to help address local affordable housing needs and sustain existing facilities. Andoversford is therefore recognised as a potentially sustainable location for new residential development in terms of accessibility to services, facilities and amenities.

### **(c) Impact on Character and Appearance of Cotswolds Area of Outstanding Natural Beauty and Setting of Andoversford**

The site is located within the Cotswolds Area of Outstanding Natural Beauty (AONB) wherein the Council is statutorily required to conserve or enhance the natural beauty of the area.

Paragraph 17 of the NPPF states that planning should recognise 'the intrinsic character and beauty of the countryside'.

Paragraph 109 states that the planning system should contribute to and enhance the natural and local environment by 'protecting and enhancing valued landscapes'.

Paragraph 115 states that 'great weight should be given to conserving landscape and scenic beauty in ... Areas of Outstanding Natural Beauty.'

Paragraph 115 also states that 'The conservation of wildlife and cultural heritage are important considerations in all these areas'.

Local Plan Policy 42 advises that 'Development should be environmentally sustainable and designed in a manner that respects the character, appearance and local distinctiveness of Cotswold District with regard to style, setting, harmony, street scene, proportion, simplicity, materials and craftsmanship'

The application site and its surroundings are classified in the Cotswolds Conservation Board's Landscape Character Assessment as falling within Landscape Character Area 7 'High Wold'. The High Wold landscape area comprises the plateau landscape to the east of the escarpment. The principal area of the High Wold extends from the north of Stroud and then sweeps north-eastwards to Chipping Campden and to the west of Bourton-on-the-Hill. However, there are a number of smaller and physically separate sections of the High Wold where the plateau has been dissected by valleys.

Andoversford falls within Landscape Character Type 'Cotswolds High Wold Plateau'. The Landscape Character Assessment states that arable farming predominates although improved pastures grazed by cattle and sheep are also in evidence. The Landscape Character Assessment states, inter alia, that the 'High Wold plateau is generally an expansive, large scale, windswept landscape. Its elevated position allows long distance views over wide areas, and in areas of limited woodland cover a sense of exposure persists. Locally, however, tree cover provides some seclusion and limits views across the plateau and beyond to neighbouring landscape types. Despite being fragmented by the deeply incised valleys that have been cut into it, long views over them give the impression of a cohesive plateau.' The Landscape Strategy and Guidelines for the Cotswolds AONB identifies that, despite its predominantly agricultural character, the wide, elevated, gently undulating plateau landscape retains a strong sense of remoteness contributing to its high sensitivity. Wide panoramic views, a high degree of inter-visibility and limited woodland cover also add to the sensitivity of the High Wold landscape, particularly to tall vertical elements.

The Landscape Strategy and Guidelines for the Cotswolds AONB identifies the 'expansion of settlements' amongst its list of 'Local Forces for Change'. 'Potential Landscape Implications' of such development are identified as the;

- Erosion of distinctive radial and linear settlement patterns.
- Intrusion of expanded settlement fringes into the landscape.
- Potential loss of archaeological remains and historic features.
- Proliferation of suburban building styles/ materials and the introduction of ornamental garden plants and boundary features.

In such areas the 'Outline Landscape Strategies and Guidelines' advises it should be ensured that:

- new development does not adversely affect settlement character and form
- new built development to be visually integrated with the rural landscape setting so it does not interrupt the setting of existing villages or views

As part of the emerging Local Plan process the Council has commissioned an update to the detailed landscape report entitled 'Landscape Assessment of Land around Cotswold Settlements' produced by White Consultants dated June 2000. The updated report 'Study of land surrounding

Key Settlements in Cotswold District: Update' dated October 2014 provides a fresh analysis of landscapes around the District's key settlements. However, no consideration was given to the application site as part of this study given that it was not submitted for considerations as part of the SHLAA process.

The applicant's Landscape and Visual Impact Assessment (LVIA) maintains that, whilst located within the High Wold Plateau character type, the application site is characteristic of the lower valley sides and is not therefore 'representative' of the more sensitive elements of the identified character. The LVIA goes on to say that the application site does not occupy an elevated position, has a reduced sense of scale where field boundary vegetation is more frequent than those found higher up the plateau and would not therefore alter the plateau skyline. The submitted LVIA essentially suggests that the application site is less valuable in its contribution to the High Wold plateau character area since it is not 'representative' and is more characteristic of the valley side, where mature trees and frequent hedgerows create a smaller scale landscape. In respect of the value of the application site in landscape terms the LVIA identifies that the application site and local context is influenced by its location adjacent to the existing Templefields/Crossfields development which, along with the existing industrial estate, are referred to as 'landscape detractors'. The LVIA finds that, on balance, and taking into account the site's limited representativeness of the Cotswold High Wold Plateau, its location within a valley, rather than on the exposed plateau and the proximity to, and influence of, the existing settlement, the value of the local landscape is 'medium'.

In absence of the Council's (former) Landscape Officer, advice has been sought from an external consultant in respect of this site. In the first instance, it is pertinent to recognise that the published landscape character assessment provides a useful contextual understanding of the landscape and its inherent sensitivities. However, it, in itself, is a broad assessment. Also, that lack of 'representativeness' does not infer that the landscape is therefore less valuable. The application site and its surroundings remain part of the Cotswolds AONB and accordingly, great weight should be accorded to its conservation.

The Council's consultant has described the application site as being located on an elevated field to the south west of the village of Andoversford. The land slopes to the east forming part of the western valley slope, of the south to north valley, in which the historic core of Andoversford and some new build residential properties and industrial estate are located. To the north the modern estate of Templefields and Crossfields, together with the Village Hall and playing fields, forms an incongruous and disruptive feature, detracting from the character of the setting of Andoversford and the wider countryside. To the west and south the agricultural valley side landscape dominates. To the east there is a single field before the residential edge of the village is reached.

The site comprises a pasture field. To the north there is a strong tree belt and Gloucester Road, which separate the site from Crossfields. To the west there is a strong hedge and tree belt which forms a rural backdrop to the proposed development area. To the south the site boundary is open. To the east a well-managed low hedgerow forms the field boundary, which will be breached to provide access onto Gloucester Road.

The submitted LVIA sets out a 'Zone of Theoretical Visibility (ZTV) which the applicant's consultants suggest is more limited following further assessment of views from the ground. A 'Zone of Primary Visibility' (ZPV) is therefore also put forward. The LVIA identifies that the nearest public view of the site is from Gloucester Road, from which 'oblique views can be obtained of the application site, and the PROW that extends along the tree-lined driveway to Owdeswell Manor, located to the south-east.

The Council's landscape consultant has advised that, from his own site visit, the visual envelope of the proposed development appears to have been grossly underestimated. As such, the landscape and visual impacts appear not to have been adequately or thoroughly assessed in the submitted LVIA. Of particular note were concerns that:

There has been no consideration of the tree removal required to create visibility screens

- The hedgerow on the eastern boundary will be breached and the dwellings will be seen breaking the skyline, in a view south west along Gloucester Road.
- There will be numerous long views of the site along the road from Whittington to Shipton and in an arc from the north east to the south along the elevated ground surrounding the village.
- The change of character from open field to urban will be significant.
- By accurately plotting the visual envelope and assessing the viewpoints it can be seen that the site is elevated above the core of the village and does not relate well to the existing development patterns.
- Too much emphasis has been placed on the results of a relatively broad-brush LCA undertaken by White Consultants in 2000, rather than considering the more intimate landscape details and effects of the proposed development on, in particular, the setting of Andoversford, the valley in which it is located, and the surrounding valley slopes and hills.
- Apart from the Crossfields development, Andoversford, including the industrial complex, is well contained on the valley floor. The fact that the Crossfields development is poorly located in both landscape and visual terms and is remote from the main part of the village, does not mean that development above the valley floor should be replicated on the southern side of Gloucester Road, where the fields form an important component of the village setting.
- The scenic quality of the site and its relationship to the pastoral land south of Crossfields and south west of the village core has not been adequately assessed, particularly in the light of the proposed urbanisation.
- The exposure of the site indicates that there is potential for light spill and point light sources to become an issue in an otherwise dark location. This will be particularly pertinent in the winter months, but has not been assessed.

Thus, leading to the conclusion that the proposed development would have a detrimental impact on the character of the landscape and appearance of the AONB and the setting of Andoversford.

In response to these initial concerns an addendum to the LVIA has been submitted by the applicant.

The Council's landscape consultant has confirmed that having reviewed the addendum and rebuttal comments contained therein that there would appear to be no reason to change the original recommendation, in light of the further information submitted. The fact that the LCA is a broad brushed document is reiterated in his further response. It is also considered that the site's 'limited representiveness' does not mean that it is not of local importance to the character and setting of the village. There is no development to the south of Gloucester Road. The site is agricultural and not of 'eroded agricultural character'. It is not therefore correct to infer that the importance of the AONB should be downgraded. The AONB designation, along with National Parks, is the highest level of landscape and it is not therefore clear what further designation the applicant's consultants would expect to see on the land that would not override the AONB.

Furthermore, the fact that the Templefields/Crossfields development is poorly located in landscape and visual terms and remote from the main part of the village, does not mean that development above the valley floor should therefore be extended. The Templefields/Crossfields development is considered to be somewhat of an anomaly in the context of the village. Officers therefore consider that caution should be expressed in relying too heavily upon such a development to justify further encroachment into the open countryside, particularly given that the development was constructed in the immediate post-war period and would not therefore have been subject to the more stringent policies applied today.

In terms of the site's value, the site clearly forms part of an important countryside feature beyond the built edge of the settlement which makes a significant positive contribution to the rural setting of the village. The harm experienced locally, as a result of the urbanisation of the application site and introduction of a new access on this side of Gloucester Road, will significantly alter the relationship of the predominantly rural south with the wider landscape. It is considered by the Council's landscape consultant and officers, that the application proposals would give rise to a permanent change of character that will have a detrimental impact in landscape terms and would culminate in a clear and undesirable breach of a defensible boundary, to the detriment of the setting of the village. While the associated impacts may not be significant on a wider scale, in the local context this impact will be significant and falls to be balanced against the public benefits that might be attributed to such a scheme.

In conclusion it is considered that the proposals will result in a development that neither conserves nor enhances the character of the AONB or the qualities for which it has been designated. Whilst it is noted that there are opportunities to provide mitigation as part of the proposals, as shown by the illustrative material submitted with the application, on balance, this is not considered sufficient to overcome the fundamental concerns regarding the landscape and visual harm considered likely to be caused by the development of the application site.

Therefore, notwithstanding the proposed allocation of residential dwellings in the emerging Local Plan (which can be accorded only little weight), it is considered that the proposals would neither conserve nor enhance the AONB and as such it would conflict with S85 of the Countryside and Rights of Way Act 2000, Local Plan Policies 19 and 42 and guidance contained in the NPPF, in particular Paragraphs 17, 109 and 115.

#### **(d) Major development within the Cotswolds AONB**

Paragraph 116 of the NPPF states that 'planning permission should be refused for major developments in these designated areas except in exceptional circumstances and where it can be demonstrated they are in the public interest. Consideration of such applications should include an assessment of;

- i) the need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy;
- ii) the cost of, and scope for, developing elsewhere outside the designated area, or meeting the need for it in some other way; and
- iii) any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that can be moderated'.

No definition of major development is provided within the NPPF or in either of its forerunners - namely PPS7: Sustainable Development in Rural Areas and PPG7: The Countryside which also made similar references to major development within designated landscapes such as AONBs. However, in the recent High Court judgement in 'Aston and another v Secretary of State for Communities and Local Government and others' the judge determined that the phrase 'major development' did not have a uniform meaning and to define it as such would not be appropriate in the context of national planning policy. The Government's Planning Practice Guide also states 'whether a proposed development in these designated areas should be treated as a major development, to which the policy in Paragraph 116 of the Framework applies, will be a matter for the relevant decision taker, taking into account the proposal in question and the local context.'

In this particular case the proposal would result in the loss of approximately 1.9 hectares of agricultural/greenfield land within the Cotswolds AONB. The proposal would result in an encroachment of built development into the countryside which would therefore have a discernible impact on the character and appearance of the existing land and its context within the AONB. The level of development proportionate to the size of the settlement as a whole (approximately 9.4%) is also considered to represent a major development proposal in the context of Paragraph 116.



As a result planning permission should be refused unless there are exceptional circumstances and where it can be demonstrated the proposal is in the public interest.

At the present time the Council is able to demonstrate that it can provide the requisite 5 year supply of housing land. Moreover, the most recent housing land figures indicate a land supply well in excess of the minimum requirement. As such the need to release land for housing does not carry the level of weight that it would if the land supply was in deficit. A shortfall in the requisite land supply has previously been considered by Planning Inspectors to constitute an exceptional circumstance that could justify allowing a major development scheme in the AONB. However, now that the Council's land supply is in surplus it is considered that such an exceptional circumstance cannot be justified in this particular case.

It is noted that the scheme will also provide an element of affordable housing which will be a benefit. Whilst the provision of 15 affordable units is noteworthy it is considered not to be of a level that would represent an exceptional circumstance in the context of Paragraph 116 in this case. With regard to economic benefits it is noted that the construction phase will create employment and associated spending. However, this will be temporary in nature and therefore limited in its benefit. The proposal also has the potential to increase spending on facilities and services. Whilst this is a potential benefit it is considered not to be at such a level that its loss would have a significant adverse impact on the local economy should the scheme not proceed.

With regard to bullet point ii) of Paragraph 116 it is noted that the village and its environs lie entirely within the Cotswolds AONB. There is no scope to provide housing elsewhere around the settlement that does not fall within the designated landscape. It is therefore acknowledged that the future housing needs of the settlement will need to be addressed within or adjacent to the existing village and accordingly, the AONB. However, it is of note that planning permission has recently been granted for a 17 dwelling development at the Former Cattle Market (13/03775/FUL) which makes a notable contribution to the delivery of homes identified as being required in the emerging plan period up to 2031. Against the context of the NPPF there is therefore no immediate need to release further land for housing at this time.

With regard to bullet point iii) it has already been identified that the proposed scheme is likely to have an adverse impact on the character and appearance of the AONB. Whilst the scheme has been designed in a manner that seeks to minimise landscape impact it is considered that the scale of development is still one that would fail to conserve or enhance the scenic beauty of the landscape.

In respect of this matter, the agent for the application has provided additional comments. Please see letter attached dated 22nd July 2015. In particular, attention is drawn to a recent appeal in Willend, Worcestershire (Appeal reference APP/J1860/A/14/2217413) for the erection of 24 dwellings within the AONB that was allowed. It is suggested by the agent, on the basis of this appeal decision, that the application site can and should be considered as not being 'major development' in the context of the Cotswolds AONB.

As Members will be aware, applications for planning permission fall to be determined on their own merits. Having considered the Willend case in more detail it is clear to officers that the specific circumstances of this appeal are very different to those for this application. Willend has a clear radial layout which the appeal site effectively sought to 'round-off'. Accordingly, it was recognised as being a 'logical extension of the existing built up area'. While the appeal scheme was located to the west of the B4208 it was noted by the Inspector that two significant residential schemes had already been approved to the east of the B4208, outside of the AONB. The appeals proposals would therefore be seen in that context. In addition Malvern Hills Council had a serious shortfall in housing amounting to 3.36 years. The application was also put forward as a 'rural exception site'. These circumstances are materially different to the considerations in the case of the current application. This appeal decision is consequently accorded little weight.

Therefore, while there are some broad similarities, for the reasons above, officers are not persuaded that, on the basis of this appeal decision, the proposals would not constitute major

development in the AONB. What constitutes 'major' development is both a matter of context and a matter of fact and degree: what is deemed to be 'major' in one area may not be deemed to be so in another. There may in fact be variations within a settlement. Whether or not a proposal constitutes major development can therefore only be assessed on a site by site basis and is a matter for the decision maker. In conclusion, it therefore remains necessary for the applicant to demonstrate that exceptional circumstances exist in accordance with paragraph 116 of the NPPF.

Whilst it is acknowledged that evidence has been submitted with the application seeking to provide justification that the proposals will have a limited impact on the AONB, for the reasons discussed above, this is not agreed by officers. On balance therefore it is considered that there are no exceptional circumstances that justify a departure from the presumption against major development in AONBs as set out in Paragraph 116 of the NPPF.

It is acknowledged that the agent's letter states that the application site is the most sustainable site currently being considered by the Council for housing at Andoversford. This is however, is a strategic matter for the Local Plan to consider.

### **(e) Affordable Housing**

The applicant is proposing to provide 50% affordable housing on site. This would equate to 15 units. The 50% provision accords with Local Plan Policy 21: Affordable Housing. The Council's Housing Enabling Officer advises that different sources of information is considered when assessing need. A recent search of Gloucestershire Homeseeker, the housing register, has shown that 82 households with a connection to Cotswold district are registered for rented affordable housing in Andoversford. At least 14 of these households also have an identified relevant local connection with the parish of Andoversford or the immediately surrounding parishes of Dowdeswell, Shipton, Withington and Whittington. However, it is important to remember that the Housing Register provides a snapshot view of the current need for rented accommodation only and will slightly underestimate the number of people with connections.

The district wide Housing Needs Assessment (HNA November 2009) found an annual requirement for 535 additional affordable housing units in Cotswold District however the updated Strategic Housing Market Assessment (March 2014) states the annual requirement has now risen to 574 additional affordable housing units. The parish of Andoversford is in the Bourton on the Water sub-area of the HNA and was assessed as having a gross annual need for 63 affordable homes.

It is recognised that the Cattle Market site was recently granted consent in Andoversford and will deliver a combined total of 8 affordable dwellings (mix of rented and low cost home ownership). Considering the current need of identified households requiring housing in Andoversford there would still be a need for additional affordable housing within Andoversford when the Cattle Market site is delivered. There is also a current need for larger units in Andoversford and/or the surrounding parishes which will not be met by this application which is a public benefit.

Having regard to the above and existing stock which is predominantly 1, 2 and 3 bedroom family housing we request the following mix for this development (out of 57 units total):

#### Rent:

- 4 x 1 bed 2 person house/flat of not less than 45 m<sup>2</sup>
- 4 x 2 bed 4 person houses of not less than 75 m<sup>2</sup>
- 1 x 3 bed 6 person houses of not less than 95 m<sup>2</sup>
- 1 x 4 bed 7 person houses (social rented) of not less than 108 m<sup>2</sup>

#### Low cost home ownership:

- 3 x 2 bed 4 person houses of not less than 75 m<sup>2</sup>
- 2 x 3 bed 5 person houses of not less than 85 m<sup>2</sup>

The details of tenure, number of bedrooms and size of units should be included in the negotiated S106 agreement. The Council's Affordable Housing Supplementary Planning Document contains a template for this document which includes the following standards:

- one bedroom 2 persons flats of not less than 45 sq metres;
- two bedroom 3 persons flats of not less than 55 sq metres;
- two bedroom 3 persons bungalows of not less than 65 sq metres;
- two bedroom 4 persons houses of not less than 75 sq metres;
- three bedroom 5 persons houses of not less than 85 sq metres;
- four bedroom 6 persons houses of not less than 95 sq metres;

The affordable housing should be designed and constructed to comply with the Housing Corporation Design and Quality standards and will need to be tenure blind and should comply with all of the other requirements of the affordable Housing Supplementary Planning Document (SPD) and provisions of Local Plan Policy 21. However, the detail will be dealt with at reserved matters. The local connection cascade as set out in the S106 template within the SPD would apply.

Overall, it is considered that there is an identified need for affordable housing in Andoversford. The current proposal would help to address this need and would accord with guidance in Local Plan Policy 21 and the Council's Housing SPD.

#### **(f) Access, Highway Safety and Traffic Generation**

The application site is greenfield. Therefore, all trips generated by the proposal will be considered as being new to the highway network. The proposed development is to be accessed via a new access from Gloucester Road. The current emerging visibility splays from the proposed site access have been determined using national guidance based on the 85th percentile recorded speed of the road and the measured topography. Prior to the submission of the application, an Automated Traffic Count (ATC) was set up to record the speed of the road. The 85th percentile recorded speeds were 48mph west bound (out of Andoversford) and 39mph eastbound (into Andoversford). However, it is noted that the ATC was located to the west of the site and in the vicinity of the change in speed limit as opposed to the point of proposed access.

The Highway Authority has confirmed that the parameters used in the Sight Stopping Distance (SSD) formula are determined by the actual speeds of the road for significant periods of the day. Where speeds are greater than 40mph for significant periods (average recorded speeds) then the parameters of the Design Manual for Bridges and Roads (DMBR) applies. The Highway Authority has advised that the visibility splays will therefore need to be recalculated and re-illustrated on the site access plan so that they accord with the DMBR.

In terms of the site's accessibility, it is noted that there are bus stops located adjacent to and immediately opposite the application site, serving routes to Moreton in Marsh, Bourton on the Water, Oxford and Cheltenham. These services would be suitable for a journey to work, assuming normal working hours. Therefore, the opportunities for sustainable transport have been taken up in accordance with paragraph 32 of the NPPF. While additional services run to other locations they would not be suitable for a daily commute. Rail services are available at Moreton in Marsh and Cheltenham to link with London Paddington.

The primary school, village hall, sports club and playing fields are located on the opposite side of Gloucester Road. Notwithstanding, while pedestrian access points are shown on the illustrative layout, the proposed pedestrian accesses do not link into existing pedestrian facilities and would therefore result in pedestrians entering the carriageway of Gloucester Road. This is not acceptable. It is a requirement to demonstrate safe and suitable access for all and this has not been demonstrated. The proposals do not therefore currently comply with paragraph 32 of the NPPF. The Highway Authority recommends that additional facilities are required to enable pedestrians from the site to link with the existing pedestrian facilities to access the village amenities.

It is noted that the Technical Note submitted refers to the proposed access to the west of Templefields being an emergency access only. However, no details have been submitted to demonstrate that this access is suitable for use as an emergency access. In addition, the Technical Note refers to the removal of the existing traffic calming features on Gloucester Road and their replacement with a gateway feature (although the existing traffic calming feature is still shown retained on both the Site Layout Plan and the CTC Site Access Plan).

The existing traffic calming feature is considered to have a beneficial impact on the eastbound traffic to Andoversford. Speeds are slowed prior to the bend in the road before the primary school which is accessed from Gloucester Road. Concerns have been raised regarding safety concerns over the proximity of the proposed junction to the traffic calming feature. Further information is awaited to allay these concerns.

At the time of writing a Swept Path Analysis has not been submitted. This may address concerns regarding the proximity of the proposed junction and the speed calming feature however, the intervisibility and priority of approaching traffic may cause confusion between drivers. The Highway Authority have confirmed that they are unable to support the removal of the existing traffic calming feature without an appropriate replacement of at least equal value on safety grounds. Any proposed traffic calming scheme will also need to be subject to a Road Safety Audit.

Having regard to the above, the Highways Authority are currently unable to support the proposals. However, at the time of writing, officers are awaiting the submission of additional information, including a Stage 1 Road Safety Audit (RSA), designer's response and exception report (if required) for junctions onto the existing highway. Should this information prove to be unsatisfactory then an appropriate reason for refusal will be presented to Members ahead of Planning Committee.

#### **(g) Loss of Agricultural Land**

The application site comprises approximately 2 hectares of agricultural land. Paragraph 112 of the NPPF states that 'Local planning authorities should take into account the economic and other benefits of the best and most versatile agricultural land. Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use poorer quality land in preference to that of a higher quality.' The best and most versatile (BMV) land is classed as that falling within Grade 1, 2 and 3a.

Natural England Agricultural Land Classification (ALC) maps based on 1960s/1970s data identify the site as predominantly Grade 3. However, the maps do not distinguish whether the Grade 3 land is Grade 3a or Grade 3b. The land around Andoversford as a whole is identified on the maps as being Grade 3. However, Natural England advises that 'These maps are not sufficiently accurate for use in assessment of individual fields or sites and any enlargement could be misleading.' The applicant has not submitted an Agricultural Land Classification report with the application. It is not therefore possible, at this time, to conclude if any of the application site is in fact Grade 3b and therefore not BMV. Accordingly, as a precaution, it is considered appropriate to have regard to Paragraph 112 of the NPPF.

Paragraph 112 of the NPPF does not provide a definition of what is meant by 'significant development' and as such this element of the aforementioned Paragraph is open to a degree of interpretation. However, it is of note that the threshold for consulting Natural England in relation to proposals for the loss of BMV land is 20 hectares. The application site is under this figure. The land around Andoversford is recognised as being of equal quality. It is not therefore the case that what is to be lost as a result of the development is an isolated area of higher quality agricultural land in an area that is of generally lower quality. It is understood that the application site is not currently under any agricultural tenancy.

On balance, it is considered that the proposal would not constitute the significant development of agricultural land and as such the proposal could be undertaken without conflicting with guidance in Paragraph 112 of the NPPF.

#### **(h) Impact on Biodiversity**

Paragraph 109, Chapter 11, of the NPPF states that 'The planning system should contribute to and enhance the natural and local environment by: '..minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity'.

Paragraph 118 states that when determining planning application, local planning authorities should aim to conserve and enhance biodiversity by applying three principles. The first principle states that:

'..if significant harm resulting from development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated or, as a last resort, compensated for, the planning permission should be refused.'

The development plan position in respect of biodiversity matters is set out in saved Local Plan Policy 9. Local Plan Policy 9 states that the Council will not permit development that harms, either directly or indirectly, a site supporting any legally protected species or its habitat unless safeguarding measures can be provided. Where development is permitted, the Council will require the retention and management of any significant species, their habitats and features and opportunities, where possible, should be taken to enhance, or create, habitats and populations of species identified as priorities. Local Plan Policy 9 is therefore considered to be consistent with the aforementioned aims of the NPPF.

An Ecological Appraisal (EDP March 2015) has been submitted with the application. In summary, the appraisal identifies the grassland on site as being improved and the species list confirms this. The appraisal report notes that the site is heavily grazed by horses, which limits any vegetative cover to the base of the hedgerows on the northern, eastern and western boundaries. The report states that there are two ponds, both of which are over 400m away from the site, and concludes that the likelihood of amphibians using the site is very low having looked at the habitats on site.

Both ponds were subject to a HSI and that only one of the ponds was thought to be suitable for amphibians such as great crested newts. The ecological appraisal also states that due to the position of the site and the lack of vegetative cover both reptiles and amphibians are unlikely to use the site and that a precautionary approach is reasonable to avoid any potential harm and this appears to be the case.

A disused/historic badger outlier sett was identified as being on site and the precautionary approach suggested is reasonable as the sett has been established as not currently in use and pre-commencement checks will be carried out before any works begin.

The landscape master plan EDP5 shows that a new native hedgerow with trees, new native trees, wildflower margins as well as a permanently wet feature will be incorporated into the proposed scheme as well as retaining all the existing hedgerows on site with only two short sections removed for pedestrian access onto the site. Accordingly, the Biodiversity Officer has confirmed that if all the recommended mitigation & enhancements are implemented, then the development will not cause any harm to any protected species and therefore the policy and guidance requirements of Local Plan Policy 9 of the Cotswold Local Plan, the NPPF (including paragraphs 109 and 118) and the NPPG would be met.

### **(i) Flooding and Drainage**

The application site is located in Flood Zone 1 as demonstrated by the Environment Agency's (EA) interactive web based mapping service. Flood Zone 1 is the lowest designation of Flood Zone with an annual risk of flooding of less than 1 in 1000 (<0.1%). As the application site is in excess of 1 hectare in size the applicant has submitted a Flood Risk Assessment (FRA) with the application. The FRA has been examined by the Lead Local Flood Authority (LLFA) who has confirmed that the drainage proposals demonstrate that appropriate consideration has been given to the sustainable drainage (SUDS) hierarchy. While the LLFA will require further information this can be controlled by condition, as per those recommended by the LLFA. Accordingly, the proposals are considered to accord with the provisions of Section 10 of the NPPF.

In terms of the disposal of foul and surface water Thames Water has identified an inability of the existing waste water infrastructure to accommodate the needs of this application. In the event that planning permission is granted Thames Water have recommended that a planning condition is imposed requiring details of a drainage strategy detailing any on and/or off site drainage works, prior to commencement of the development and in consultation with the sewerage undertaker.

Thames Water is also responsible for water supply in the area. Thames Water has also identified that the existing water supply infrastructure has insufficient capacity to meet the additional demands for the proposed development. Accordingly, a planning condition is recommended requiring water impact studies of existing supply capacity to be undertaken prior to commencement of the development.

### **(j) Impact on Heritage Assets**

The application site lies to the north-west of Owdeswell Manor, and its associated barn, and to the south-west of The Mount, on the opposite side of Gloucester Road. All of which are grade II listed. The Local Planning Authority is statutorily required to have regard to the desirability of preserving features of special architectural or historic interest in accordance with Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Section 7 of the NPPF requires good design. Paragraph 58 states that decisions should ensure that developments: function well in the long term and add to the overall quality of an area; establish a strong sense of place, creating attractive and comfortable places; and respond to local character and history, reflecting the identity of the surroundings and materials, whilst not stifling innovation. Paragraph 60 states that local distinctiveness should be promoted or reinforced and Paragraph 61 that connections between people and places, with the integration of new development into the built and historic environment.

Section 12 of the NPPF asks that Local Planning Authorities should take account of the desirability of sustaining or enhancing the significance of heritage assets. Paragraph 132 states that when considering the impact of the proposed works on the significance of a designated heritage asset, great weight should be given to the asset's conservation. It also states that significance can be harmed through alteration or development within the setting. Paragraph 134 states that where proposals will cause harm to the significance of a designated heritage asset that is less than substantial harm, that harm should be weighed against the public benefits of those works. The NPPF describes setting as: 'The surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.'

Paragraph 13 of the Historic Environment section of the National Planning Practice Guidance (NPPG) states that: 'Setting is the surroundings in which an asset is experienced, and may therefore be more extensive than its curtilage. All heritage assets have a setting, irrespective of the form in which they survive and whether they are designated or not. The extent and importance of setting is often expressed by reference to visual considerations. Although views of or from an asset will play an important part, the way in which we experience an asset in its setting

is also influenced by other environmental factors such as noise, dust and vibration from other land uses in the vicinity, and by our understanding of the historic relationship between places.'

Historic England's Historic Environment Good Practice Advice in Planning: Note 3, the Setting of Heritage Assets, states that: 'Setting is separate from the concepts of curtilage ... Curtilage is a legal terms describing an area around a building and, with listed structures, the extent of the curtilage is defined by consideration of ownership, both past and present, functional association and layout. The setting of a historic asset will include, but generally be more extensive that its curtilage'.

The Mount comprises an eighteenth-century house. The property fronts onto Gloucester Road and is located adjacent to Andoversford Primary School, which is located immediately east. Given that the property is a typical village house (located within the village) and not an historic farmstead, and fronts onto Gloucester Road, it is considered that the proposed residential development will not impact on its setting.

With regard to Owdeswell Manor, the approach to an historic building is undoubtedly part of the way in which the asset 'is experienced'. The historic nature of both northern and southern drives, as proved by map regression, demonstrates a clear 'historic interrelationship' between them and Owdeswell Manor. Consequently, it is considered by officers that the drive constitutes part of the setting of these designated heritage assets.

It is considered by the Conservation Officer that drives are not constrained corridors that 'fix the extent' of the setting, as they could do for the curtilage, and allow views out. Consequently both the drive, and the open views that are dynamically visible as one progresses up and down the drive, contribute to 'the surroundings in which [Owdeswell Manor and barn] are experienced'. Accordingly, they comprise an integral and not insignificant part of the setting of the designated heritage assets.

As mentioned above, Owdeswell Manor and its associated barn are grade II listed. The Council's Conservation Officer has advised that the older list descriptions (such as that for these assets) are intended purely for identification purposes, and are not an indication of where the significance of the building actually lies. There are a number of criteria by which the significance of buildings is judged. Nevertheless, the fact that the significance of many listed buildings rests primarily in their architectural or historic interest does not mean that other factors do not contribute, either positively or negatively, to that significance. This is acknowledged by the very concept of 'setting' as opposed to independently designated contexts (i.e. registered parks and gardens, and conservation areas).

Owdeswell Manor historically comprised the principal building of a working farmstead, as is demonstrated by the presence of a number of formerly agricultural outbuildings, including the separately designated barn (also grade II). Map regression shows that the historic character of the Owdeswell farmstead, as is characteristic of many such farmsteads, was rural, and that it was distinct from Andoversford to the north. This rural character was a result of the agricultural land use, the openness, and the experience of tranquillity and remoteness; and to the west of the northern drive, this was emphasised by the lay of the topography. Whilst this rural character has been harmfully eroded in the course of the 20th century, predominantly by the aforementioned industrial development and the houses by the gateway to the drive, both the heritage assets, and their historic approaches, retain a fundamentally and characteristically open, tranquil and rural setting, and this makes a positive contribution to their character and significance.

The proposed development site lies to the north-west of Owdeswell Manor and barn, directly to the west of the northern half of the drive, from which it would be separated by the width of a single field. The topography of the site is such that from the River Coln to the east the ground rises gently, but continuously to west. Consequently the development site lies at a higher level than the designated heritage assets or the drive (which approximately follows the contours or the topography). The designated heritage assets themselves are therefore effectively screened from the site by their orientation, by modern agricultural buildings, and by intervening vegetation.

However, the northern drive runs past the site, and is consequently both far closer and far more exposed to it.

The northern drive, despite the regrettably industrial development further down the slope of the land to the east, nevertheless retains a fundamentally rural, open character. This is in no small part a result of the open, pastoral aspect to the west. This aspect has also been compromised, but to a far lesser degree, by the two houses immediately west of the gate and to a lesser degree by the more distant glimpses of the post-war Templefields and Crossfields development. Clock House Square (pre-1959) is only distantly visible on the horizon, and makes little impact upon the open character of the area. It is considered existing development along and on the far side of the Gloucester Road, does not extend far south, and therefore has a limited impact upon the open, pastoral character of the site.

The proposed development, by contrast, would comprise the first substantial block of development on the south side of Gloucester Road, and would project markedly into this rural open space. Being higher than the drive, it would be highly visible from it, and would give a sense of built development starting to encircle the northern end of the drive.

Paragraphs 133 and 134 of the NPPF states that in cases of harm (both substantial and less than substantial) the potential harm should be weighed against any potential public benefits that may accrue from the proposal. The PPG states that: 'significance derives not only from a heritage asset's physical presence, but also from its setting ... in determining whether works to a listed building constitute substantial harm, an important consideration would be whether the adverse impact seriously affects a key element of its special architectural or historic interest' (Conserving and enhancing the historic environment, paragraph 017).

It has to be borne in mind that: 'substantial harm is a high test, so it may not arise in many cases' (paragraph 017), but this does not imply that harm does not exist, or that the level of harm is justified. The extent of the harm that would accrue from the current proposal may not impact upon a 'key element' of the heritage asset's significance, and therefore may not constitute 'substantial harm' but it is considered by officers that harm would nevertheless result.

Whilst case law states that the provision of affordable housing does constitute a public benefit, this does not override other issues, but should be balanced against the level of resultant harm. Paragraph 28 of Historic England's Historic Environment Good Practice Advice in Planning: Note 3, the Setting of Heritage Assets states that: 'Options for reducing the harm arising for development may include the relocation of a development ... For some developments affecting setting, the design of a development may not be capable of sufficient adjustment to avoid or significantly reduce the harm, for example where impacts are caused by fundamental issues such as the proximity, location, scale, prominence or noisiness of a development.' Consequently it is also reasonable to consider whether any alternative sites could produce a comparable level of benefit without the resultant harm.

The preservation of the historic environment is, in itself, another form of public benefit, and is one of the Core Principles outlined in Paragraph 17 of the NPPF i.e. to 'conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations'.

Consequently, it is considered by officers that the proposal would harmfully erode the setting of the identified designated heritage assets, thereby failing to sustain their significance. Any mitigating public benefit has not been adequately justified in terms of seeking alternative, less harmful sites, and is not proportionate to the harm that would accrue. Accordingly, there remains a fundamental conservation objection to the proposals. The proposal therefore conflicts with Government Guidance as laid out in Section 12 of the NPPF and the associated Planning Practice Guide.

It is therefore recommended by the Conservation Officer that the application is refused on the basis that the proposed development, by virtue of its scale and location, would harmfully erode



the rural setting of Owdeswell Manor and barn, both of which are listed grade II, and will thereby fail to sustain their significance as designated heritage assets. While the harm identified is less than substantial, paragraph 132 of the NPPF provides that great weight should be accorded to an asset's conservation. Whilst public benefit would accrue from the provision of housing, they would not be proportionate to, or outweigh the resultant level of harm identified, particularly given that the Council is able to demonstrate the requisite 5 year supply of deliverable housing land. As such, there is no exceptional need to release the land for housing. The proposals are therefore contrary to Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and the guidance contained in Section 12 of the NPPF and associated Planning Practice Guidance.

#### **(k) Arboricultural Issues**

An Arboricultural Baseline Assessment has been submitted with the planning application. The Council's Tree Officer has confirmed that there are a number of ash, sycamore, thorn, hazel and field maple trees growing in a hedge/thicket along the roadside boundary and in the hedges to the east and west of the application site. However, most are multi-stemmed and relatively small, forming part of a hedge rather than individual trees. None are therefore identified as being of particular individual merit and it is apparent from the illustrative masterplan that it is intended to retain the majority of the hedgerow trees. However, some will need to be removed to provide sight lines.

The Tree Officer has confirmed that from an arboricultural perspective there is no objection. However, a condition that requires the submission of a detailed arboricultural method statement and tree and hedge protection plan prior to any site clearance or buildings works is recommended. This is considered to be both reasonable and necessary in accordance with Local Plan Policy 10 and 45.

#### **(l) Other Matters**

The proposed development will be subject to the New Homes Bonus. The New Homes Bonus is a grant paid by central government to local councils for increasing the number of homes in their area. The New Homes Bonus is paid each year for 6 years. It is based on the amount of extra Council Tax revenue raised for new-build homes, conversions and long-term empty homes brought back into use. There is also an extra payment for providing affordable homes.

With regard to financial contributions Gloucestershire County Council has examined pre-school, primary and secondary education provision and projections. They have advised that the existing education provision within the application's catchment area is forecast to be at capacity in coming years, with the exception of pre-school provision. They have therefore recommended contributions of £92,693 (7.5 pupils x £12,359) towards primary education at Andoversford Primary School and £84,816 (4.5 pupils x £18,848) towards secondary education at The Cotswold School. The contributions would be used towards capital works to extend, remodel, upgrade and improve the capacity and suitability of the respective schools to accommodate the new pupils and children arising from the proposed development.

A contribution of £5,880 (30 x £196) towards library services has also been requested.

The above contributions are considered to be directly, fairly and reasonably related in scale and kind to the development proposed and necessary to make the development acceptable in planning terms. They are therefore considered to accord with the requirements of Paragraph 204 of the NPPF and Paragraph 122 of the Community Infrastructure Levy Regulations 2010.

Members should note that the Parish Council have provided a list of potential community infrastructure items that could be funded through S106 which is in the process of being considered by officers and the applicant. A separate update will be provided to Members in this regard.

## **9. Conclusion:**

Overall, the proposed scheme will result in the development of a greenfield site located within the Cotswolds Area of Outstanding Natural Beauty. The site is also located outside a development boundary as designated in the Cotswold District Local Plan 2001-2011 where such development would normally be restricted. In addition, the Council can also demonstrate a 7.74 year supply of deliverable housing land and is therefore able to meet its housing land supply requirements. The application must therefore to be determined in accordance with the Development Plan unless material considerations indicate otherwise.

The proposed scheme will result in a very discernible encroachment of development into the open countryside. By virtue of the size (proportionate to the size of the existing settlement), location and extent of the proposed development it is considered that the proposal will fail to conserve and enhance the natural beauty of the AONB. In addition, the level of proposed development is considered to constitute major development in the context of Paragraph 116 of the NPPF. The aforementioned Paragraph advises that planning permission should be refused for major development in AONBs except in exceptional circumstances and where it can be demonstrated they are in the public interest. It is noted that the proposal will contribute to the Council's ongoing need to provide a continuing supply of housing land and will provide new affordable homes. However, in light of the Council's supply of deliverable housing land being well in excess of the requisite 5 year minimum requirement it is considered that there is no exceptional need to release an area of greenfield land of the size proposed within the AONB for residential development at the current time. Moreover, there are currently extant planning permissions for residential development within Andoversford which addresses the village's housing needs in the short term.

Furthermore, the proposals will fail to sustain the significance of the designated heritage assets proximate to the application site [Owdeswell Manor and Barn]. While the harm identified is less than substantial, the benefits of the proposals are not sufficient to outweigh the harm identified and paragraph 132 of the NPPF provides that great weight should be accorded to the asset's conservation.

It is considered that the development could be undertaken without having a significant adverse drainage, ecological or arboricultural impact. The Highway Authority is yet to advise in respect of highway impact(s). However, these are also considered not to be exceptional circumstances that justify the release of the land having regard to Paragraph 116.

It is considered that the impact of the proposal on the character and appearance of this part of the AONB outweighs other benefits arising from the proposed development. The proposal would cause significant harm to existing patterns of development through a significant encroachment of development into the AONB landscape. It would therefore conflict with criterion b) of Policy 19. The landscape and other environmental impact of the proposal, would also result in a development that significantly compromised the principles of sustainable development thereby conflicting with criterion e) of Policy 19. The introduction of a development of the size proposed would also fail to respect the setting of the village and local distinctiveness and would therefore conflict with Local Plan Policy 42.

It is considered that the proposal would conflict with the Local Plan Policies 19 and 42 and guidance in the NPPF, in particular Paragraphs 17, 109, 115, 116, 132 and 134. There are no exceptional circumstances or other material considerations that outweigh the identified harms and as such it is recommended that the application is refused.

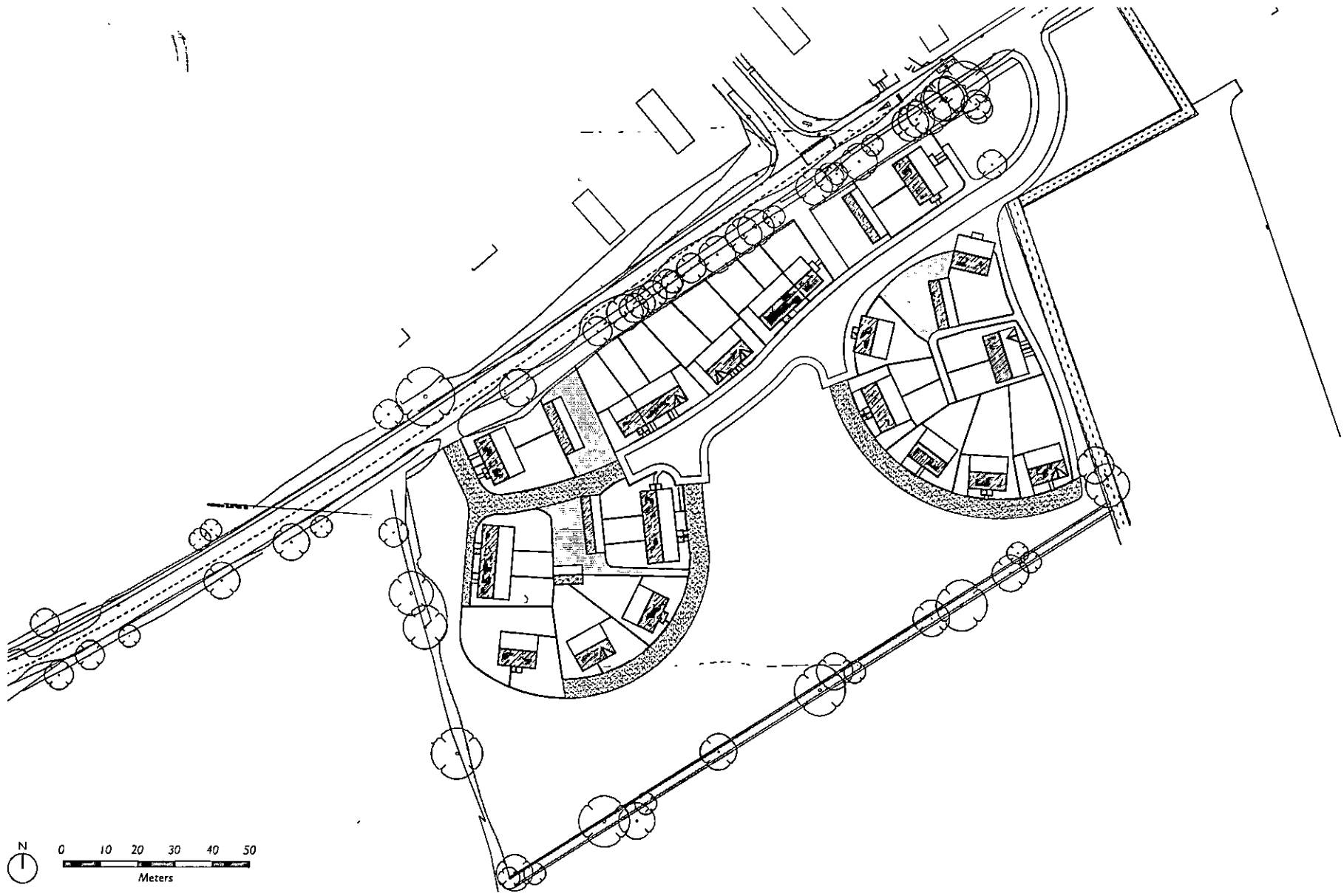
## **10. Refusal Reasons:**

1. The application site is located within the Cotswolds Area of Outstanding Natural Beauty (AONB) wherein the Local Planning Authority is statutorily required to have regard to the purpose of conserving and enhancing the natural beauty of the landscape. The proposed development by virtue of its size, proportionate to the size of the existing settlement, poor relationship to the existing development of Andoversford and location on an elevated greenfield site would represent

a significant and unacceptable encroachment of development into the AONB landscape and would result in the loss of a greenfield site that currently makes a positive contribution to the setting of the settlement to the detriment of its intrinsic character and appearance. Furthermore, the application site is considered to constitute major development in the context of Paragraph 116 of the National Planning Policy Framework (NPPF). Paragraph 116 advises that planning permission should be refused for major developments in AONBs except in exceptional circumstances and where it can be demonstrated that they are in the public interest. At the present time the Council is able to demonstrate that it can provide the requisite 5 year supply of deliverable housing land and as such there is no exceptional need to release the land for housing. The benefits arising from the scheme are considered to be limited and not to constitute exceptional circumstances as required by Paragraph 116. There is no over-riding need for the site to be developed which will outweigh the fundamental harm to the character and visual qualities of the AONB and setting of Andoversford. No exceptional justification has been advanced and it has not been demonstrated that the development is in the public interest, sufficient to outweigh the environmental harm outlined. The proposals are therefore considered to be contrary to Cotswold District Local Plan Policies 19 and 42 and guidance in the NPPF, in particular Paragraphs 17, 109, 115 and 116.

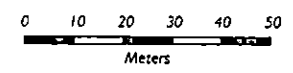
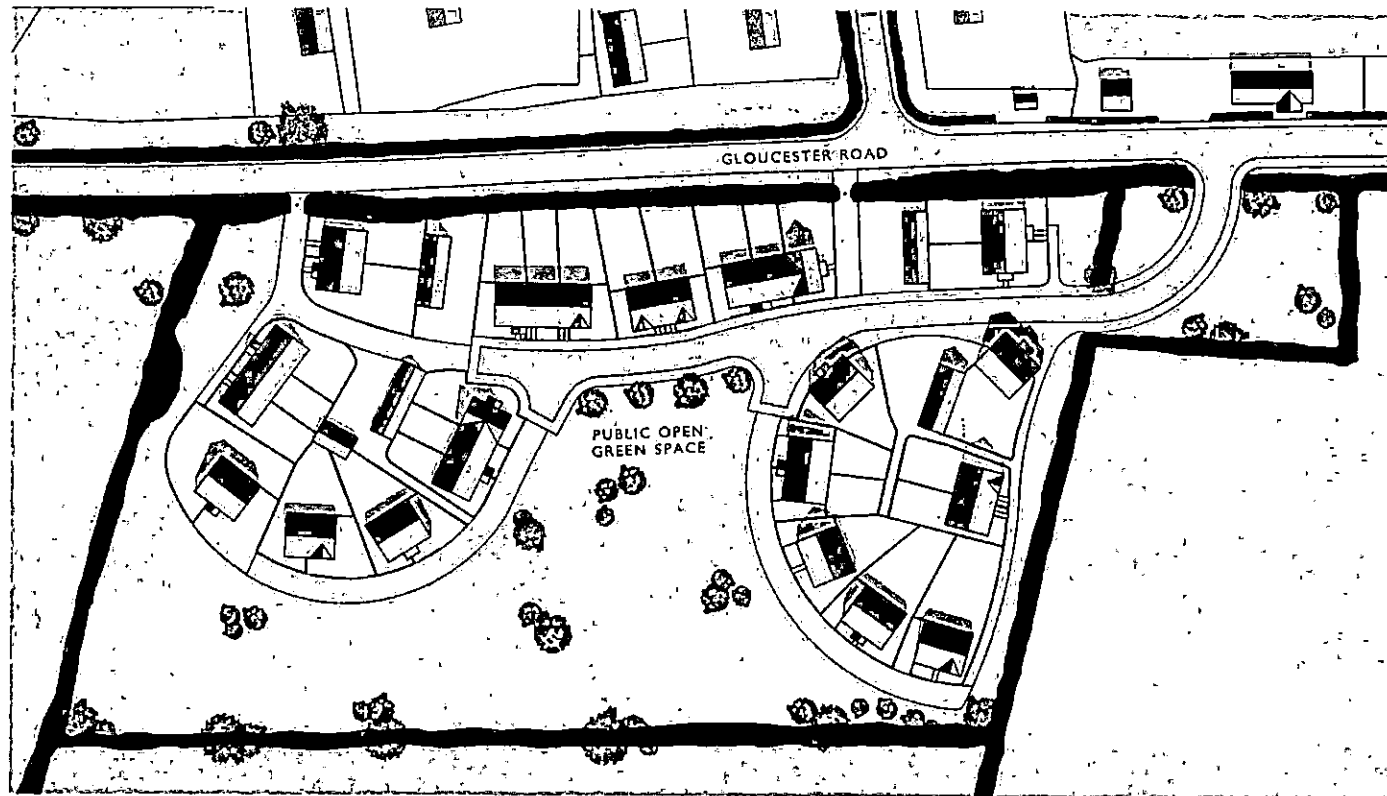
2. The proposed development, by virtue of its scale and location, would harmfully further erode the rural setting of Owdeswell Manor and barn, both of which are listed grade II, and will thereby fail to sustain their significance as designated heritage assets. While the harm identified is less than substantial, the benefits of the proposals are not sufficient to outweigh the harm identified, particularly given that, at the present time, the Council is able to demonstrate that it can provide the requisite 5 year supply of deliverable housing land and as such there is no exceptional need to release the land for housing. Paragraph 132 of the National Planning Policy Framework (NPPF) provides that great weight should be accorded to the asset's conservation. As such the proposals are considered to be contrary to Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and the guidance contained in the NPPF, in particular Paragraphs 17, 132 and 134 and associated Planning Practice Guidance.

3. The absence of a Section 106 Legal Agreement means that the contributions to improve community services in terms of education and library services cannot be guaranteed and no mechanism is in place to secure the provision of affordable housing. Without these contributions and commitments the proposal would not be acceptable in planning terms and would therefore be contrary to Cotswold District Local Plan Policy 49 and Paragraphs 203, 204 and 206 of the National Planning Policy Framework (NPPF). [TBC]



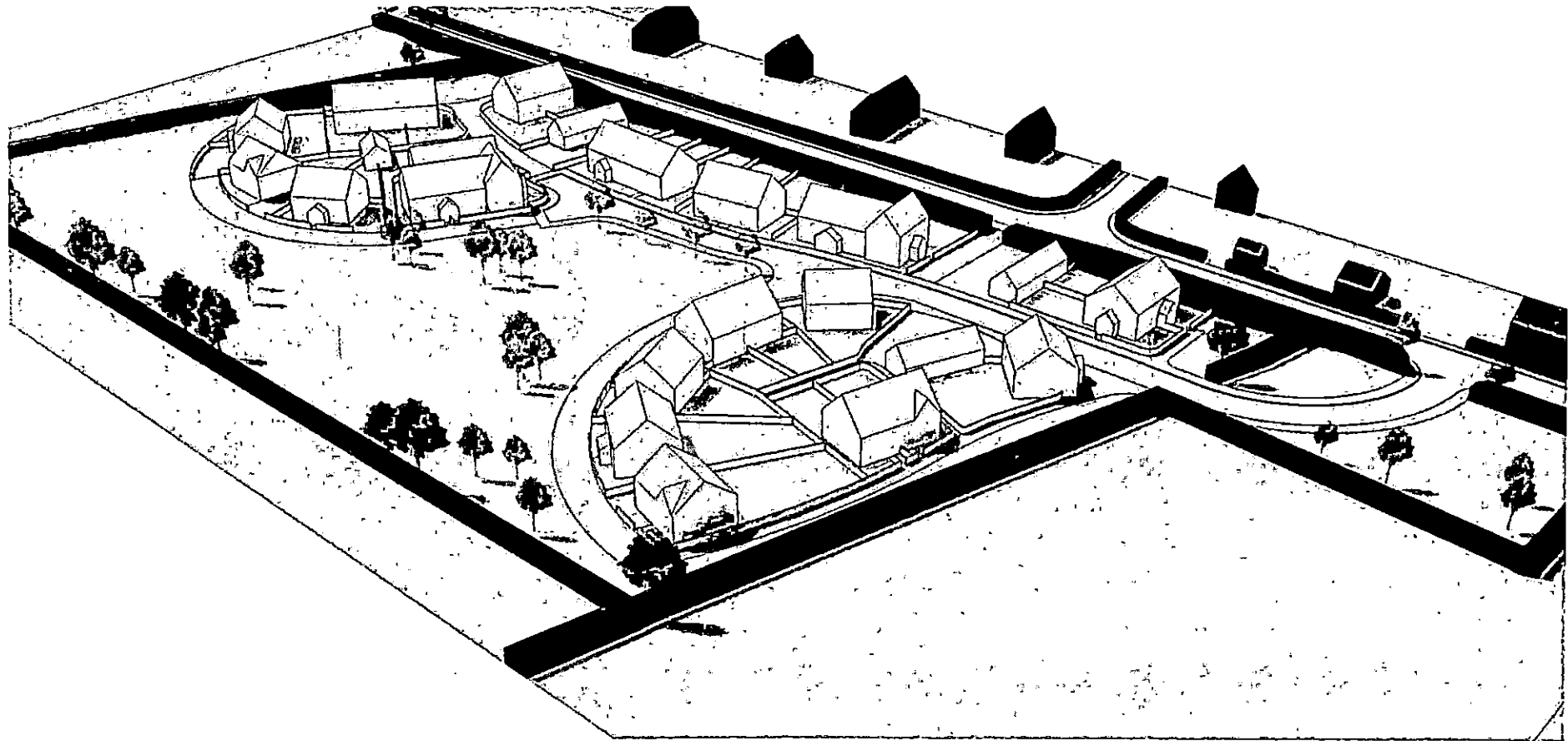
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INDICATIVE SITE LAYOUT PLAN - AERIAL VIEW I



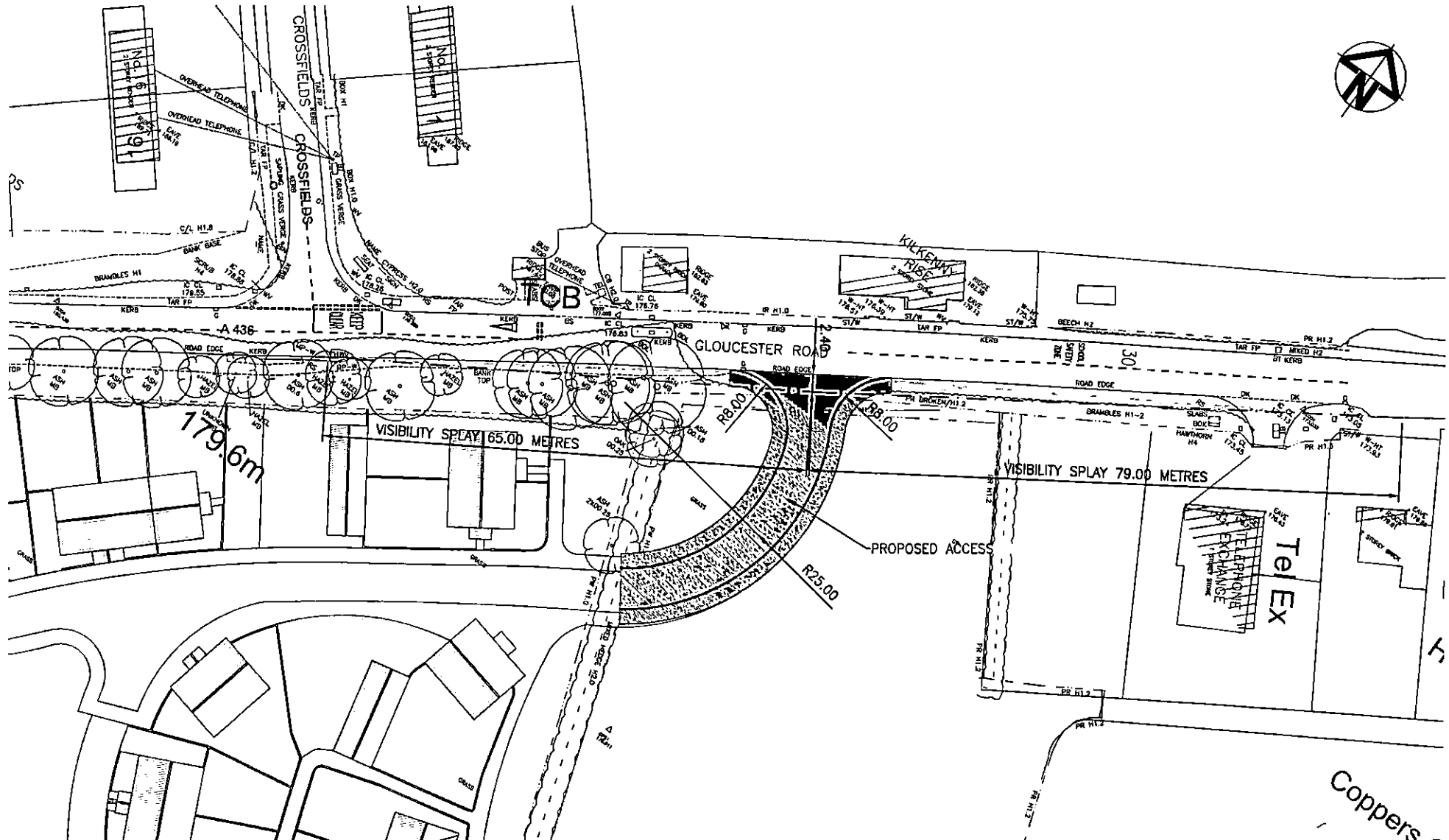
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Dr C. Levinson: *Land to the South of Gloucester Road, Templefields and Crossfields, Andoversford*

INDICATIVE SKETCH PERSPECTIVE A



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<p>NOTES</p> <ul style="list-style-type: none"> <li> PROPOSED KERB</li> <li> PROPOSED EDGING KERB</li> <li> PROPOSED AREA OF NEW FOOTWAY CONSTRUCTION</li> <li> PROPOSED ACCESS ROAD</li> </ul> <p>Ordnance Survey, (c) Crown Copyright 2014. All rights reserved. Licence number: 100022432</p>	<p>RURAL SOLUTIONS LTD</p>	<p>SITE ACCESS ARRANGEMENT</p>		<p><b>ctc</b>          carl TONKS consulting          523 Horizon, Broad Wier, Bristol BS1 3DJ          T - 0117 382 0507 M - 07866 543939          www.tonks-consulting.co.uk</p>
	<p>GLoucester ROAD,          ANDOVERSFORD</p>	<p>FIG 3.1 1:500 @A3</p>	<p>2015-F-01</p>	



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# Rural Solutions

The Nationwide Planning and Development Specialists

22<sup>nd</sup> July 2015

Katherine Brommage  
Senior Case Officer  
Development Management  
Cotswold District Council  
Trinity Road  
Cirencester  
Gloucestershire  
GL7 1PX

Dear Katherine,

**Application Reference I5/01412/OUT – land south of Gloucester Road, Andoversford  
Outline planning application for the erection of up to 30 residential units**

I am writing as a follow up to our meeting to review consultation responses received. You now have our responses on two key material considerations : landscape impact and heritage impact. These responses have been tested and the conclusions in brief on each from the applicant's specialist advisors EDP are detailed below.

**Planning Balance**

This letter is both a follow up response on our recent meeting concerning the consultation responses and to provide for further analysis on how the Planning balance should be addressed and where that balance should fall in the light of the extensive supporting evidence to the submitted application. I consider each of the key material considerations in turn below.

**Landscape Impact**

In summary, the addendum to the Landscape and Visual Impact Assessment (LVIA) finds that:

- The site comprises part of a field which strongly represents an urban fringe character, influenced by immediate proximity to existing modern settlement expansion, a main access road into the village and, association with equine landscape management;
- The site is unremarkable compared to several allocated areas in the setting of the village, which feature some or all elements that contribute more greatly to local value;
- Development of the site will not result in loss of the distinctive characteristics that define the setting to Andoversford;
- Visual effects arising from changes experienced by road users along Gloucester Road are not considered harmful, given the urban fringe character and that there are currently no long-distance views that contribute towards a wider appreciation of the AONB.

It is regrettable that the application site (land south of Gloucester Road) had not been considered as part of the Council's SHLAA process. The current application site at land north of the Templefields and Crossfields housing estates (for residential development) has been put forward at Development the draft Strategy & Site Allocations 2014 DPD, but on a reduced number of dwellings due to concerns over landscape impact. The application site for land south of Gloucester Road, as the submitted LVIA extract above states, is unremarkable compared to other allocated sites in the setting of the village. The subject site (land south of Gloucester Road) is the most sustainable site currently being considered by the Council for housing at Andoversford.

### **Significant New Appeal for Essential Notice – Issue of Need**

Appeal reference APP/J1860/A/14/2217413 (see attached) concerns an allowed appeal for the erection of 24 dwellings within an AONB. This appeal decision provides for relevant reference on a number of key matters: whether or not a proposal is 'major development'; commentary on benefits versus harm. We have not engaged with you subsequently to our receipt of this appeal decision; we now consider that the application site can and should be considered as not being 'major development'. The application site at Andoversford lies on the edge of the village boundary, facing significant housing development. Having regard to the existing size of Andoversford and the scale and character of the proposed development, as well as its location within the village, it is now concluded therefore that the application site does not constitute major development. It is not therefore necessary for the appellant to demonstrate exceptional circumstances and public interest (see paragraph 116 to the NPPF).

In allowing the above appeal the Inspector concluded at paragraph 59 that :

*"The overall benefits of the proposed development in terms of the provision of both affordable housing and market housing in the face of a district wide need and a series shortfall in housing decisively outweigh the conflict with development plan policies and all other material considerations, including the limited harm that would be caused to the AONB, the introduction of new dwellings in the open countryside and the reduced contributions to existing facilities and services. It follows that the appeal should be allowed."*

We consider that the same conclusion should be arrived at in the context of the application scheme for land south of Gloucester Road, Andoversford. There is limited harm to the AONB and whether or not there is a shortfall in housing land supply is considered at the Tutbury and Honeybourne appeal decisions (see pages 29-30 to the Planning Statement and below).

Should the Council resolve that the proposal is 'major development', a matter we now would contest in the light of new evidence, we reference here the exceptional circumstances that apply to enable approval of the application under the terms of paragraph 116 to the NPPF.

#### **Exceptional Circumstances - Social and Economic Benefits**

A detailed sustainability assessment report has been submitted with the application. That report sets out the strong economic and social benefits arising from the proposal for housing at Andoversford.

- Attracting new economically active residents to underpin the above average level of economic activity;
- Providing additional population to support local businesses through increased patronage and footfall;



- Providing much needed affordable housing and contributing to meeting affordable housing needs;
- Enhancing the social capacity of Andoversford by attracting new people and enhancing overall levels of engagement in the community and local governance; and
- Providing support for local services and schools in the longer term.

## Need for development?

We have previously addressed need at the Planning Statement (see above) and reiterate in brief that assessment here. Need of the proposed development is set in the context of NPPF policy of substantially boosting housing supply and supporting the delivery of a range of housing that essentially helps to meet the requirements of all sections of the community and helping to create a sustainable and mixed community at Andoversford.

We have already addressed key appeal decisions for Tetbury (APP/F1610/A/11/2165778), Honeybourne, Worcs (App/H18401/N/1312205247) and Launceston, Cornwall (APP/D08401413122099757) at the Planning Statement where the key issues raised were:

- Even allowing for a held 5 plus year housing land supply there is still clearly a pressing need for additional housing. Holding a five year land supply is therefore not a reason to preclude new housing sites in sustainable locations such as the one now proposed at land south of Gloucester Road; and
- Irrespective of whether a five year housing land supply is met or not, NPPF does not suggest that this has to be regarded as an upper limit or permissions.

The need for housing, particularly affordable housing, is clearly demonstrated at the Sustainability Statement and further underlined by the response (email dated 11 June 2015) of the Council's Housing Enabler Officer: *"Considering the current need of identified households requiring housing in Andoversford there would still be a need for additional affordable housing within Andoversford when the Cattle Market site is delivered."* The Housing Enabler also qualifies a current need for larger residential units in Andoversford.

New housing, and affordable housing in particular, will bring substantial social benefits to the communities at Andoversford. These benefits are only likely to be found from private sector housing development.

In terms of the two other criterion applied by para 116 to the NPPF we responded as follows at the Planning Statement:

- Developing Elsewhere: there is very limited scope to for developing elsewhere within the District that is outside the AONB, and no scope in Andoversford;
- Effect on the Environment : the submitted LVIA and additional supporting evidence now submitted maintains that the proposed development does not cause harm to the character of the Cotswold High Wold Plateau or the Cotswold AONB in which it is situated.

Should the Council resolve that the application scheme is major development then the above assessment (provided in detail at the Planning Statement) qualifies that the requirements of paragraph 116 to the NPPF are met.



## Heritage Impact

Our Heritage advisor has provided a full written response on the Conservation Officer's comments concerning the impact of the development on the northern approach to Owdeswell Manor. It remains the applicant's specialist Heritage advisor's position that the contribution the northern approach makes to the significance of the listed buildings would not be harmed. As such, the scheme causes no harm to either of the Grade II listed buildings at Owdeswell Manor.

## Other Material Considerations

### Highways

Gloucester County Highways had rather belatedly forwarded comments to the local planning authority concerning a road safety audit, the access proposed and implications of the scheme for the existing traffic calming.

The applicant's expert highways advisor, CTC, has liaised directly with the County Council's Highways Officer and met on site and confirmed agreement on all safety and highway matters raised. CTC are currently preparing a report which qualifies the amendments to the scheme; that document will be submitted to both yourself and the Highway Authority this week to assist in a timely fashion the decision making process.

### Archaeology

The County Archaeologist has received a report on the results of the archaeological field evaluation and has no further observations to make on this scheme. This is in effect a 'no objection' statement from the County's archaeologist.

### Ecology

The Council's Ecologist has raised no objections to the application subject to the application of relevant conditions.

### Housing

I have previously referred to the comments of the Council's Housing Enabling Officer. I have previously recorded with you the applicant's agreement to the Council's terms of the existing affordable housing policy. In so doing this will provide essential housing to seek to meet the existing affordable need identified at Andoversford.

### Parish Councils' Comments

Both Andoversford and Dowdeswell Parish Council's commented on to the application and raised the following important material issues on which we now comment:

- Number of new houses  
**Comment:** the 2014 Development Strategy & Site Allocations identified Andoversford as a sustainable location for new housing development. The appeal evidence presented qualifies that there is no limit to sustainable development even if there is a five year housing land supply. The application site is the most sustainable site currently under consideration (SHLAA and application) by the Council.



- Road safety (calming, footways, parking)  
**Comment:** See above. CTC, the applicant's advisors on highways matters, has met with the County Highway Officer and a report will be submitted this week confirming agreement to the requirements made.
- School capacity:  
**Comment:** no objections have been received from the education authority. No consultation has been received to date from the Community Infrastructure Contributions Officer for any contribution required concerning education. We await an opportunity to review any response made. Currently there is no substantive evidence to qualify that the proposed scheme will have an unacceptable adverse impact on existing infrastructure.
- AONB impact  
**Comment:** see above

### **Planning Balance : Benefits vs Adverse Impacts**

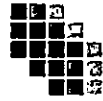
We have explored in detail the matter of whether the proposed development is categorised as 'major development' in the light of the Welland appeal decision. This assessment has a significant bearing on the policy application made with respect to paragraph 116 to the NPPF. However, should the Council not agree with this assessment clear evidence has been submitted which qualifies: the essential need for the development (significantly boosting housing supply and the provision of affordable housing; proven social and economic benefits); clear evidence that the development cannot take place outside the designated area; and that the proposal's potential visual effects will be localised to containment created by existing vegetation and settlement and mitigation measures are in place to further localise views from public rights of way.

In weighing the balance I refer you again to the detailed Sustainability Assessment concerning Andoversford and the identified benefits arising from the scheme is meeting adopted and emerging policy, with specific reference to promoting sustainable development in this rural area by enhancing or maintaining the vitality of Andoversford.

The overall benefits of the proposed development outweigh the conflict with relevant adopted development plan policies and all other material considerations, including the limited harm to the AONB. It follows that there are no reasons for the Council to withhold planning permission.

I would be most grateful for acknowledgement of receipt of this letter and formal indication that the application is to be considered at the August Planning Committee

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# Rural Solutions

The Nationwide Planning and Development Specialists

Please do not hesitate to contact me should you have any questions concerning the content of this letter.

Yours sincerely

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**Duncan Hartley, BSc (Hons), MA, DipTRP, MRTPI**  
Director



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## Appeal Decision

Site visit made on 4 February 2015

by **Karen L Ridge LLB (Hons) MTPL**

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

Decision date: 12 June 2015

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**Appeal Ref: APP/J1860/A/14/2217413**

**Land off Marlbank Road, Welland, Worcestershire**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mrs Debbie Brooks against the decision of Malvern Hills District Council.
  - The application Ref. 13/01388/FUL, dated 25 October 2013, was refused by notice dated 9 April 2014.
  - The development proposed is the erection of 24 dwellings, including 12 market and 12 affordable homes on land off Marlbank Road, Welland, Worcestershire.
- 

### Decision

1. The appeal is allowed and planning permission is granted for the erection of 24 dwellings, including 12 market and 12 affordable homes on land off Marlbank Road, Welland, Worcestershire in accordance with the planning application Ref. 13/01388/FUL, dated 25 October 2013 and subject to the conditions in the schedule at the end of this decision.

### Preliminary matters

2. A unilateral undertaking made pursuant to section 106 of the Town and Country Planning Act 1990 (as amended) has been submitted with the appeal (hereafter referred to as the Unilateral Undertaking). The Unilateral Undertaking secures the on-site provision of 12 affordable homes and the provision of open space on-site. In addition it contains a mechanism for payments in relation to the Worcester Transport Strategy, an education contribution and a recreation contribution.
3. Following the site visit I requested that further representations be sought from the parties in relation to the implications of regulation 123 of the Community Infrastructure Levy (CIL) Regulations 2010. I have received those representations and have had regard to them in my determination.

### Main issues

4. The appeal site is located within the Malvern Hills Area of Outstanding Natural Beauty (AONB) and the main issues are as follows:
  - (i) whether or not the proposed housing would be in an acceptable location having regard to development plan and national policies and other material considerations; and

- (ii) whether or not provision is required in relation to education facilities, open space, sport and recreation provision, sustainable transport and management and maintenance of the open space.

## Reasons

### The first main issue: the location of development

5. The appeal site is located in the open countryside but adjacent to the settlement boundary of Welland and in the AONB. The appeal scheme is a mixed one, in that it comprises 12 affordable homes and 12 open market homes. The proposal has been put forward on the basis that the market housing will subsidise the affordable housing on the site and therefore the scheme falls to be considered as a Rural Exceptions Site. As such there are a number of policy tests which are relevant to the proposal.
6. The development plan for the area containing the appeal site includes saved policies from the Malvern Hills District Local Plan (LP). In addition there is an emerging South Worcestershire Development Plan (SWDP) which has been considered at Stage 1 of an examination process. The National Planning Policy Framework (the Framework) is, of course, a material consideration of significant weight.

#### *Five year housing land supply*

7. The Framework seeks to boost significantly the supply of housing and states that local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide five years supply of housing against their housing requirements (the 5-year HLS). Paragraph 49 of the Framework provides that housing proposals should be considered in the context of the presumption in favour of sustainable development.
8. The Framework further states that relevant policies for the supply of housing should not be considered up-to-date if the Council cannot demonstrate a five-year supply of deliverable housing sites. It is accepted by the Council that it does not have a 5-year HLS. The Council have previously indicated that the current supply of housing land stands at around 3.36 years but the appellants believe that the position is worse than this. It is sufficient to note that the Council does not have a 5-year HLS and this weighs in favour of the proposal. It also follows that relevant development plan policies for the supply of housing should not be considered up-to-date.
9. In rural settlements LP policy DS11 seeks to direct new development to meet local needs to category 1 and then category 2 settlements. LP policy DS12 restricts new housing within category 1 settlements to certain categories which include affordable housing (in accordance with policy CN3) either within or adjacent to the settlement boundary. LP policy DS14 seeks to limit housing in the open countryside other than in specified circumstances, which includes affordable housing on an exception site. LP saved policy CN3 specifically deals with housing on rural exception sites.
10. Given the lack of a 5-year HLS, to the extent that the above LP plan policies are concerned with the supply of housing, they fall within the scope of paragraph 49 of the Framework and should be treated as being out of date.



*Rural exception sites*

11. The proposal will be in conformity with LP policies DS12 and DS14 if it can be shown to fall within the terms set out for rural exception sites in policy CN3.
12. Policy CN3 provides that, in exceptional cases, affordable housing development may come forward on sites which would not otherwise be released provided that a local need is proven, the site is within or adjacent to a category 1-3 settlement and that arrangements are in place to secure the affordable housing elements. The second and third requirements are not at issue between the parties. The question of whether or not there is a current unmet local need for affordable housing is a live issue between the parties.
13. Policy SWDP16 of the emerging plan deals with rural exception sites and sets out a number of criteria to be applied. It provides that in exceptional circumstances affordable housing development will be permitted on small sites, beyond, but adjacent to, development boundaries to meet identified needs. If viability is affected then the policy is permissive of cross-subsidy from market housing. In all cases the following will need to be proven; a local unmet need; the lack of suitable, available other sites within the settlement boundary; the site will need to be 'reasonably sustainable' and arrangements will need to be in place to secure the affordable housing provision. In view of its progression I attach moderate weight to this policy.
14. Paragraph 54 of the Framework also concerns rural exception sites and states that consideration should be given to the question of allowing some market housing which would facilitate affordable housing provision. To the extent that policy CN3 is at variance with this more recent national policy in terms of the issue of cross-subsidy, I attach more weight to the provisions of the Framework which allows affordable housing to be subsidised by market housing. I further note that the Council accept the appellant's evidence that the market housing is required in this scheme to subsidise the affordable housing element.

*Policy CN3: is there a local need?*

15. A local survey of housing needs was carried out for the appellant. This indicated a need for 12 affordable units within Welland and the appellant has produced the Unilateral Undertaking which would secure the affordable housing provision. Whilst the Parish Council and others have questioned the findings of the survey, it was carried out a reputable organisation and the Council's Housing Outcomes Manager was content that it provided evidence of the local housing need at the time the Council determined the application.
16. The survey is consistent with the overall borough wide requirement for affordable housing and I have no reason to doubt its findings. The Worcestershire SHMA of February 2012 identified a requirement for an additional 127 units of social rented housing and 4 intermediate housing units on an annual basis for 5 years.
17. In the meantime however there have been other developments which have come forward in Welland. In particular reserved matters approval has now been secured in relation to an outline planning permission for 30 dwellings on land at Drake Street. This proposal will result in the provision of 12 affordable homes, of which 80% will be social rented properties and 20% will be shared ownership properties. The appellant contends that the mix and type of the properties does not match the requirements outlined in the needs survey. In

any event they point out that the Council's Housing Officer has previously stated that the local need was likely to be greater than the 12 dwellings identified in the survey.

18. In addition there is also a planning permission for up to 50 homes on land at Lawn Farm, Drake Street which was granted on appeal<sup>1</sup>. This scheme appears to include provision for 40% of the houses to be affordable homes. If both of the above schemes are built out, then affordable housing in the order of 32 additional homes would result. Given that both applications have been progressed by the respective developers there appears to be nothing to indicate that these developments will not come forward. As such it would appear that the local need for affordable housing, as evidenced by the appellant's survey, would be more than met. Therefore the requirements of policy CN3 and the LP policies referencing CN3, as well as emerging policy SWDP 16, have not been met.
19. That is not the end of the story however. I have found that policies CN3, DS12 and DS14 are policies which are concerned with the supply of housing and pursuant to paragraph 49 of the Framework they should not be considered up-to-date. Therefore the harm in relation to policy objectives designed to restrict development in the open countryside is reduced by virtue of this factor.

*The AONB*

20. In terms of the AONB classification, the site is some 200 metres within the eastern boundary of the AONB. The Framework requires that great weight is given to conserving landscape and scenic beauty in AONBs and that permission for 'major developments' in these areas should be refused other than in exceptional circumstances and where it can be demonstrated that they are in the public interest. There is a dispute between the parties as to whether or not the proposal constitutes 'major development' which I shall first resolve before going on to consider the effect of the scheme on the landscape and scenic beauty of the AONB.

*'Major Development'*

21. I am assisted in this regard by Counsels Opinions provided by both parties and by another appeal decision relating to land at Highfield Farm, Tetbury<sup>2</sup>. There is no definition of 'major development' within the Framework. It is established legal principle that the question of whether a development constitutes 'major development' in the AONB is a matter of planning judgment for the decision maker. I must therefore make my own assessment, on the basis of the particular facts and circumstances of this case.
22. The proposal would result in the introduction of 24 new houses on the edge of the village boundary. The site is nestled between existing development and it is close to the crossroads in the village, in the foothills of the AONB. Having regard to the existing size of the village and the scale of the proposed development, as well as its location within the village and its location in the AONB, I conclude that this would not constitute major development when looked at either in the context of the village or in the context of the wider AONB. It is not therefore necessary for the appellant to demonstrate exceptional circumstances and public interest.

<sup>1</sup> Appeal decision reference APP/J1860/A/13/2197037 dated 20 January 2014.

<sup>2</sup> Appeal reference: APP/F1640/A/11/2165778

23. However, it remains important to assess the effect of the housing on the landscape and scenic beauty of the AONB and to give great weight to its conservation in accordance with paragraph 115 of the Framework. In addition, emerging policy SWDP 23 seeks to protect the natural beauty of the AONB. It confirms that development within or affecting the setting of the AONB which would adversely affect its natural beauty will not be permitted and that development must complement and enhance the special qualities of the landscape.
24. Emerging policy SWDP 25 is a more general policy directed at ensuring that development proposals take full account of landscape character and seeks to ensure that development integrates into the landscape setting. Similarly, saved LP policies DS2, DS3 and QL1 all confirm that development should relate well to its setting.
25. The Malvern Hills AONB Management Plan also seeks to conserve and enhance the natural landscape, including distinctive landscape elements and features and the historic and cultural environment. It confirms that the site is in an area referred to as the Enclosed Commons landscape type which is characterised by gently rolling land, with structured fields patterns and an open landscape, with views through scattered hedgerow trees.
26. As a settlement straddling the AONB boundary, the village of Welland makes a contribution to the historic character of the AONB and provides local distinctiveness. Whilst the site is located outside the settlement boundary, it is bounded by development on its western boundary and it sits adjacent to the road on its short southern boundary. It is framed on its eastern boundary by an established hedgerow and development beyond, including Welland Pavillion and a playing field. Some of the surrounding development is distinctly modern and the built development within Welland comprises a mix of older and newer building styles.
27. The site is low lying with a gentle slope up from the highway into the site. It is an agricultural green field forming an integral part of the foothills of the Malvern Hills. As such it makes a contribution to the setting and natural beauty of the AONB. In its wider context the site sits on the eastern side of the Malvern Hills at the edge of the flatter lands as they transition into the steeper slopes of the hills. It is close to the junction of a main road running north to south and its junction with the A4104 which runs past the site towards the hills.
28. Landscape effects: Whilst the houses would be modern with red multi brick and grey tiles, the layout is such that the houses would form a loose arrangement within the site. The development would result in the loss of a greenfield site but it would not cause material disruption to the geometric field patterns. Its position on lower land and the loose arrangement of dwellings would also result in the development mimicking the open character of the area. Overall I conclude that there would be limited harm to landscape character in this part of the AONB.
29. In terms of its effect upon the character of the settlement, it would extend the built development. However, I consider that the houses, in terms of their form and location, would not be out of kilter with the prevailing form of development in the village. The new houses would be assimilated to a reasonable degree within the village and would read as a logical extension of the existing built up

area. The development would have a limited effect upon the character of the village.

30. The two developments on Drake Street have already been approved and as I have already said, there is no reason to suppose that they will not proceed. These developments are outside the AONB boundary and to the east of the B4208. They will result in the loss of agricultural land and an extension of the village to the east. Whilst development of the appeal site would add to the built development in the village, it would not generally be seen in the context of the other two sites. The village would retain its character as that of a scattered village within and on the outskirts of the AONB.
31. Visual effects: the site is low lying in terms of its position relative to the two roads. This location of the site and the existing and proposed hedgerow planting would serve to limit the visual effects of the development. I note that some of the existing planting may be outside the site and some may even be at the end of its lifespan. However an appropriate landscaping scheme would do much to supplement existing planting and to soften the effect of built development.
32. The houses would be visible from the area immediately surrounding the site and from the A 4104 highway. It would also be visible from the green adjacent to the A 4104 spur and from a short section of the B4208. Local residents would have limited views of the development which would be assimilated into the existing village.
33. Tourists and others passing through the settlement would be conscious of the houses for a limited amount of time and the houses would be viewed in the context of the wider settlement and adjoining development. In longer distance views, the site may be seen as part of the wider landscape from higher vantage points further inside the AONB but it would be seen as a modest extension to the existing built development. In addition suitable landscaping and boundary treatments would further soften the development. For these reasons I conclude that the development would have a limited visual effect.
34. Overall I conclude that the effect of the proposal on the landscape and scenic beauty of the AONB would be limited. As such it would be contrary to policy objectives which seek to conserve the natural landscape and beauty of the AONB and to which I must attribute great weight.

*Other material considerations relating to the location of development*

35. The appellant relies on a number of factors in support of the contention that there are reasons to justify the proposal. One of the factors is the lack of a 5-year HLS. Reliance is also placed on the general need for affordable housing and on the presumption in favour of sustainable development.
36. At this point I further note that LP policies CN3, DS 11 and DS12 are all concerned with the supply of housing. I have already found that greater weight should be given to the national policy in relation to the issue of cross-subsidy but I also record that the lack of a 5-year HLS means that these policies should be treated as out of date. To the extent that the proposal is not in conformity with certain aspects of these particular policies, this factor further reduces the harm to be afforded to this lack of conformity.
37. General requirement for affordable housing: LP policy CN2 requires an affordable housing component of up to 50% of the dwellings on housing sites in

rural areas comprising five dwellings or more. Based upon more recent viability evidence, this requirement has been adjusted to 40% requirement in the emerging SWDP policy SWDP 15. In any event the proposal makes a 50% level of provision of affordable housing in conformity with local policy. Whilst I have found that the local needs would appear to have been satisfied, the borough wide need remains and this site would make a valuable contribution to that need.

38. The presumption in favour of sustainable development: The Framework seeks to promote sustainable development in rural areas and states that housing should be located where it will enhance or maintain the vitality of local communities. It goes on to confirm that there are three dimensions to sustainable development: economic, social and environmental.
39. In terms of economic considerations, the proposal would result in the provision of construction work and would bring additional occupants to the rural area to support services in the local villages. There would also be social benefits with the provision of affordable housing in a district which is in need of such provision. It would also contribute market housing in a district where there is a serious shortfall. In addition the housing would contribute towards the vitality and viability of services in the settlement.
40. The Council confirms that Welland is considered to be a sustainable settlement, having relatively good public transport links and a reasonable level of public services. The site is located close to amenities and within a short distance of the village centre. The proposal would also result in the provision of market housing, as well as affordable housing, in an accessible location, adjacent to a settlement.
41. In terms of environmental factors, the proposal would result in the loss of a greenfield site, in the open countryside in an area designated as AONB. I have set out the limited harm to landscape character and to the AONB. I shall return to all of these matters in my overall conclusions.

**The second main issue: education and recreation contributions and other contributions**

42. The Framework sets out policy tests for planning obligations; obligations must be 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. The same tests are enshrined in the statutory tests set out in the regulation 122 of the CIL regulations.
43. Saved LP policy DS18 entitled 'Planning Obligations' confirms that development proposals will only be permitted where, in the absence of services and infrastructure to meet the needs of the development, provision is secured. The requirement for affordable housing is detailed in LP policy CN2 set out above. LP policy CN12 sets out detailed requirements for the provision of public open space. A series of Supplementary Planning Guidance and Documents<sup>3</sup> provide further detailed guidance on requirements for education, open space and recreation provision.

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<sup>3</sup> Open Space Supplementary Planning Document (SPD) August 2008  
Affordable Housing in Malvern Hills Supplementary Planning Guidance June 2004 (SPG)  
Malvern Hills District Council Education Contributions Supplementary Planning Document

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44. In its committee report the Council confirm that an open book assessment had been undertaken to ascertain the level of financial contributions which the development could make before viability was affected. The report confirmed that in light of the viability appraisal, officers had accepted that a reduced level of contributions was appropriate. The report records that the level was reduced from £378,032 to £118,484.
45. The Unilateral Undertaking secures the on-site provision of 12 affordable homes and on-site open space. In addition it contains a mechanism for the payment of £9,935.21 towards the Worcester Transport Strategy Contribution; an education contribution of £41,624 and a recreation contribution of £66,916.00. The education and recreation contributions are fixed at those sums if the development is completed within 24 months of the date of permission. If not completed within this time there is a mechanism for the submission of a viability assessment and recalculation of the figures.
46. The Council's appeal statement states that the proposal would be unacceptable in the absence of a unilateral or bilateral agreement to secure the infrastructure measures. It further confirms that reduced sums in relation to open space and education contributions were deemed to be acceptable by officers on the basis of the submitted viability evidence. However the Council contend that the deficit in terms of the open space and education contributions was only justified on the basis that the affordable housing component could not be delivered by any other means. Given the recent planning permissions granted in relation to the Drake Street case, the Council argues that this is not the case any longer.
47. In its committee report the point was made that this proposal must be determined on its own merits and that it is not a case of seeing if there are any other more suitable sites to meet the affordable housing need. This appeal is not a comparative exercise but rather an assessment as to whether or not the proposal is acceptable having regard to development plan policies and all other material considerations. Given that the Council have already accepted the viability evidence and accepted that the development could not sustain higher levels of contributions I shall accept this position. I do however have to bear in mind that the proposal would not meet the full costs of its effects upon education and open space facilities in the area and this weighs in the balance against it.
48. One final issue between the parties relates to a restriction on the Trustees liability within the Unilateral Undertaking. In this case the clause was inserted because the trustees are professional trustees and it was done at the request of the owner of the land in order to limit the personal exposure of the trustees. I note that this situation is analogous to the director of a company which had entered into such an agreement would not be personally liable. In any event I note that the financial payments are to be made on or before the occupation of the eighth dwelling which should provide a sufficient safeguard in terms of payment of the monies. The affordable housing and public open space is on-site. I agree that the clause is reasonable in this instance.
49. I shall now turn to examine whether the contributions meet the policy and statutory tests. The affordable housing requirement and on-site open space requirements are set out in the Council's LP policies and the proposal is in conformity with these. As such I am satisfied that these elements pass the tests set out in the Framework.
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50. On the information available and having regard to the Worcester Transport Strategy (WTS) contribution I am satisfied that the contribution is 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. As such it passes the tests set out in the Framework as well as regulation 122 of the CIL regulations. However, in its most recent representation the Council confirms that the WTS is an umbrella strategy and that there have been more than 5 obligations securing funding for the WTS since 6 April 2010. Whilst the Council endeavours to particularise the contribution in this appeal to refer to improvements to a particular section of the Worcester Southern Link Road, the request was for contributions to the WTS and that is what is specified in the Unilateral Undertaking.
51. Given that more than 5 obligations have been entered into since the operative date, regulation 123 of the CIL Regulations provides that such a contribution can no longer constitute a reason for granting planning permission. I cannot therefore give it any weight in my decision making.
52. The education contribution relates to Welland Primary School and Hanley Castle High School. Again, having regard to the evidence and the Council's SPD on Education Contributions I am satisfied that the contribution meets the Framework and statutory tests. However, the Council confirms that there have been only two pooled contributions in relation to the primary school but: 7 pooled contributions in relation to the High School. Therefore, in accordance with regulation 123, I can only give weight to that element of the education contribution which relates to the Primary School and must disregard the element in relation to the High School.
53. The recreation contribution was requested towards supporting indoor and outdoor sports facilities at The Hill Centre given that it was considered that the development would place additional pressures on these facilities. Again: given the evidence at application stage and the Council's SPD on Open space I am satisfied that the contribution meets the tests in the Framework and regulation 122. The Council has confirmed that only two agreements are in place regarding The Hill Centre, although I note they have been requested in other consultation responses. As such I am satisfied that it would be acceptable to take the recreation contribution into account in my decision making.
54. Having regard to the question of viability I am satisfied that the proposal makes sufficient provision in relation to affordable housing, open space and recreation matters. I cannot take the WTS contribution into account and must also disregard that part of the education contribution which relates to the High School. Due to the reduced contributions I bear in mind that the contributions made would only address part of the effects of development on local infrastructure and facilities in terms of education and open space.

### **Other matters**

55. The Parish Council has objected to the proposal citing a number of concerns, some of which I have already addressed. A further concern related to the risk of flooding on the site and the capacity of the foul drainage system. A Flood Risk Assessment and Drainage Strategy accompanied the application and set out measures to address such concerns. It is proposed that a sustainable drainage system is used together with tanked storage to accept surface water runoff from the site access roads. There have been no objections from the

relevant statutory consultees and, subject to conditions to secure appropriate measures, I conclude that these matters could be acceptably addressed.

56. In terms of the proposed access to the site, there is clear visibility on either side of the access. A Transport Statement was submitted with the application, setting out the trip rate of the development. I have no reason to believe that the likely vehicular movements associated with the development could not be safely accommodated on the local road network. There is no objection from the Highways Authority and no other substantive evidence before me to suggest that the access is unacceptable.
57. Concerns about noise and disturbance during the construction period could be addressed by the imposition of a condition controlling the hours of working. I have also seen concerns from adjoining residents about the effect of the proposed houses on their living conditions in terms of overlooking and privacy. I am satisfied that there would be sufficient separation distance between the houses and existing properties so as to not to materially harm the living conditions of current occupiers.

### **Overall conclusions**

58. Taking all of the above matters into account I conclude that, on balance, the proposal would represent sustainable development. As such the presumption in favour of sustainable development set out in paragraph 14 of the Framework comes into play. This provides that where relevant policies are out of date planning permission should be granted unless any adverse effects of doing so would significantly and demonstrably outweigh the benefits when assessed against the Framework policies as a whole OR where specific policies (such as AONB policies) indicate that development should be restricted.
59. The overall benefits of the proposed development in terms of the provision of both affordable housing and market housing in the face of a district wide need and a series shortfall in housing decisively outweigh the conflict with development plan policies and all other material considerations, including the limited harm that would be caused to the AONB, the introduction of new dwellings in the open countryside and the reduced contributions to existing facilities and services. It follows that the appeal should be allowed.

### **Conditions**

60. The Council has suggested conditions which I have considered in light of the National Planning Practice Guidance. I have revised some of the conditions in the interests of clarity and enforceability. (The numbers in brackets refer to the conditions as numbered on the Council's committee report.)
61. In the interests of good planning it is necessary to impose conditions setting out time limits for development (1) and to relate development to the submitted plans (2). It is necessary to control matters during the construction and demolition periods and the hours of operation (3 and 22). I have reduced the hours of construction to protect the living conditions of adjoining residents.
62. It is necessary to control the finished floor levels (4) and the external materials of the houses (5) as well as landscaping of the site (6) and protection of trees on the site during construction works and for a period of 5 years (7, 12 and 13). I have removed the reference in condition (6) to tree branches on adjacent land since this will be outside the control of the appellant. Due to the



location within the AONB it is important to control boundary treatment both within and on the edge of the site (8) as well as hard surfacing (11).

63. I shall also impose conditions relating to remediation and requiring a drainage scheme to be approved in the interests of a satisfactory development (9 and 10). I agree that it is necessary to seek measures to improve biodiversity (14). In the interests of highway safety it is necessary to secure visibility splays at the access to the site and to make sure that parking areas are available (15 and 16) and to secure internal highway and drainage works (19 and 20). Given that these are individual houses, many of which have integral garages I do not consider it necessary to require secure cycle parking facilities to be provided (17).
64. A grampian condition needs to be imposed to secure off-site highway works which are necessary to improve pedestrian and highway safety (18). To promote sustainable travel it is necessary to require a travel plan (21). To promote home working I shall impose a condition relating to the provision of broadband facilities and to improve air quality I shall require details of sustainability measures (23 and 24).

*Karen L Ridge*

INSPECTOR

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**SCHEDULE OF CONDITIONS ATTACHED TO PLANNING PERMISSION**

- 1) The development hereby approved shall commence within three years from the date of this decision.
- 2) The development hereby approved shall be carried out in total accordance with the following plans:
  - Site layout plan- D01 revision W
  - Elevations, section and floor plans- House Type A- plan D03 revision D
  - Elevations and floor plans- House Type G- plan D05 revision F
  - Elevations and floor plans- House Type H- plan D06 revision E
  - Elevations and floor plans- House Type K- plan D10 revision E
  - Elevations and floor plans- House Type L and L1- plan D11 revision D
  - Elevations and floor plans- House Type N- plan D12 revision C
  - Elevations and floor plans- House Type N1- plan D13 revision C
  - Topographical survey- plan D50
  - Preliminary drainage scheme- plan C01 revision B
  - Street elevations and site plan – D20
- 3) No construction/demolition or ground works or deliveries associated with the development shall take place outside the following hours: 0730 to 1800 hours on Mondays to Fridays and 0900 to 1400 hours on Saturdays. There shall be no such work on Sundays or Public or Bank Holidays.
- 4) Prior to the commencement of the development hereby approved, a detailed plan showing the levels of the existing site and the precise floor slab levels of each new dwelling, relative to existing development outside the site, shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.
- 5) Notwithstanding details shown on the approved plans, prior to the commencement of development samples and trade descriptions of the external materials to be used in the construction of the development shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.
- 6) No development shall commence until full details of soft landscaping works have been submitted to and approved in writing by the Local Planning Authority. The landscaping scheme shall include details of the following:
  - all existing trees and hedgerows on site (including details of location, canopy spread, species and proposed pruning/felling and changes in ground levels);
  - a plan showing the layout of proposed tree, hedge, shrub planting as well as grassed areas;

- a proposed planting schedule including details of species, sizes, numbers and densities
- a written specification setting out cultivation and other operations associated with plant and grass establishment and a schedule of maintenance for a period of 5 years from the date of 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 the development, whichever is the sooner.

If within a period of 5 years from the date of the planting of any tree or plant planted pursuant to the landscaping scheme, that tree or plant is removed, uprooted, or destroyed or dies or becomes seriously damaged or defective, another tree or plant of the same species and size as that originally planted shall be planted at the same place, unless the Local Planning Authority gives its written approval to any variation.

- 7) All existing trees and hedges on site (other than those indicated on the approved plan as to be removed) shall be retained and shall not be felled or pruned or otherwise removed within a period of five years from the completion of development without the prior written consent of the Local Planning Authority.

Prior to any works of construction or demolition or the brining on site of materials temporary fencing shall be erected for the protection of all retained trees and hedgerows and such fencing shall be retained throughout the period of construction. It shall be erected to a minimum height of 1.2 metres, below the outermost limit of the branch spread or at a distance equal to half the height of the protected tree, whichever is further from the tree. Nothing shall be stored within the area protected by the fencing and ground levels within this area shall not be altered. There shall be no burning of materials within 10 metres of the extent of the canopy of any retained tree/hedge. All works shall be carried out in accordance with BS 5837:2005 *Trees in Relation to Construction- Recommendations*.

If any retained tree or hedge is removed, uprooted or destroyed or dies, replacement planting shall be carried out in the first available planting season of such species, sizes and numbers and in positions on site to replace that which has been lost.

- 8) Prior to the commencement of development details of all boundary treatments within the site shall be submitted to and approved in writing by the Local Planning Authority. Details shall include a plan (minimum scale 1:500) detailing the position of all proposed boundary treatments throughout the site. The approved boundary treatment shall be erected/planted before the development is first brought into use and permanently retained thereafter.

Notwithstanding the provisions of Schedule 2, Part 2 of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that order with or without modification no boundary treatments shall be erected other than those already approved in writing by the Local Planning Authority in accordance with this condition.

9) No development shall be commenced until a drainage scheme for foul and surface water drainage of the site has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be based upon sustainable drainage principles and an assessment of the hydrological and hydrogeological conditions of the site and shall include timescales for the scheme's implementation, completion and future maintenance. The approved scheme shall thereafter be implemented in full and completed prior to any dwelling being first occupied. The completed approved foul and surface water drainage scheme shall thereafter be retained at all times in the future and managed and maintained in accordance with the approved scheme.

10) No development shall take place until the site has been subject to a preliminary risk assessment as to possible contamination in the form of a Phase 1 desk study. The risk assessment must be approved in writing by the Local Planning Authority before development commences.

In the event that an unacceptable risk is identified a detailed scheme for the investigation and recording of contamination of the land and risks to the development, its future uses and surrounding environment. A detailed written report on the findings, including proposals and a programme for the remediation of any contaminated shall be submitted to and approved in writing by the Local Planning Authority.

Prior to the commencement of development any necessary remediation works shall be carried out and a validation report shall be submitted to and approved in writing by the Local Planning Authority in accordance with the approved proposals and programme. The remediation scheme must ensure that the site not qualify as contaminated land under Part 2A Environmental Protection Act 1990 in relation to its intended use.

If, during the course of development, further evidence of any type relating to other contamination is revealed, work at the location will cease until such contamination is investigated and remediation measures approved in writing by the Local Planning Authority have been carried out. Any further contamination will be reported to the Local Planning Authority in writing within 48 hours.

- 11) Prior to the commencement of development details of the materials to be used for all hard surfaced and turning areas within the development shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
- 12) Prior to the commencement of development a specification (including methodology and programme for implementation) for the enhancement of biodiversity within the development shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
- 13) Prior to the commencement of construction or other works, visibility splays shall be provided at the junction of the site entrance and the A4104 from a point 0.6 metres above ground level at the centre of the access to the application site and 2.4 metres back from the nearside edge of the adjoining carriageway, measured perpendicularly for a distance of 49 metres in a westerly direction and 41 metres in an easterly direction. Nothing shall be planted, erected and/or allowed to grow on the triangular splay so formed.

- 14) Prior to first occupation of any dwelling hereby approved, space shall be laid out within the curtilage of that dwelling for car parking and vehicular turning facilities to accord with the Council's standards to enable vehicles to park and turn so that they may enter and leave the development site in a forward gear. The parking and turning areas shall be properly consolidated, surfaced and drained in accordance with details which have been submitted to and approved in writing by the Local Planning Authority. These areas shall not be used for any purpose other than the parking of vehicles.
- 15) No development shall take place until a scheme (including a timescale for implementation) for works required to widen the footway to the east of the site entrance and other associated works have been submitted to and approved in writing by the Local Planning Authority. The development shall not be occupied until the improvement works have been completed in accordance with the approved details.
- 16) Development shall not commence until engineering details and specifications relating to the internal roads and highway drains and the roadworks to provide access from the nearest publicly maintained highway have been submitted to and approved in writing by the Local Planning Authority. The development shall not be occupied until the works have been completed in accordance with the approved details.
- 17) The development hereby permitted shall not be occupied until Travel Plan documents have been submitted to, and approved in writing by, the Local Planning Authority. The Travel Plan shall promote sustainable forms of access to the site and will be implemented and updated in agreement with Worcestershire County Council's Travel Plan Co-ordinator. The Travel Plan will include provision for a Welcome Pack to all residents upon occupation together with a local walk and cycle map showing links to key services as well as the location of bus stops and bus timetables.
- 18) Prior to the commencement of any development, a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority. Such a plan shall include details of the following:-
  - construction vehicle parking and workers parking
  - off-street parking provision for the delivery of plant and materials
  - wheel washing facilities
  - signage arrangements
  - compound locations including the location of site operative facilities
  - means to prevent mud being deposited on the highway

Development shall thereafter only be carried out in accordance with the approved CEMP, unless any variation to it is otherwise first agreed in writing by the Local Planning Authority.

- 19) Prior to the commencement of development hereby permitted, details of the proposed utilities connections to the dwellings to facilitate super-fast broadband connectivity shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
- 20) Prior to the commencement of development hereby permitted, details of sustainability measures (energy, waste, recycling and water management)

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to be incorporated into the units shall be submitted to and approved in writing by the Local Planning Authority. The details shall include specification for Ultra-Low NO<sub>x</sub> boilers in each dwelling and electric vehicle charging points in 10% of the allocated parking spaces. Development shall be carried out in accordance with the approved details.

END OF CONDITIONS