

Appeal Decision

Site visit made on 27 September 2016

by Jacqueline Wilkinson Reg. Architect IHBC

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

Decision date: 17 November 2016

Appeal Ref: APP/P1615/W/16/3153161

Land off Clanna Road, Alvington GL15 6BD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr H Bendall against the decision of Forest of Dean District Council.
 - The application Ref P1494/15/OUT, dated 7 October 2015, was refused by notice dated 9 March 2016.
 - The development proposed is 11 dwellings with a new access created onto Clanna Road.
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Decision

1. The appeal is allowed and planning permission is granted for 11 dwellings with a new access created onto Clanna Road at Land off Clanna Road, Alvington GL15 6BD in accordance with the terms of the application, Ref P1494/15/OUT, dated 7 October 2015, subject to the conditions set out in the attached schedule.

Procedural matters

2. The application was in outline and approval for access, layout and scale is sought at this stage. Appearance and landscaping are to be reserved matters. Whilst plan J44-SK01 "Indicative concept street scene" was listed on the Council's decision notice, as appearance is a reserved matter I have taken this plan to be indicative only of one possible design approach and have assessed the appeal on that basis.

Main Issues

3. The main issues are: (i) the effect on the character and appearance of the area, (ii) whether identified local surface water flooding issues would be able to be resolved without causing flooding elsewhere, (iii) whether the effect on local infrastructure would be adequately mitigated, (iv) the effect on heritage assets and archaeological remains and (v) having regard to housing supply in the district, whether any adverse effects of the proposal would significantly and demonstrably outweigh the benefits when assessed against the policies in the National Planning Policy Framework (the Framework) taken as a whole.
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Reasons

Policy framework

4. The Council does not dispute that at present it cannot demonstrate a 5 year supply of housing land and I note that this has been the finding of a number of relatively recent appeal decisions referred to by the appellant. Paragraph 49 of the Framework states that where the local planning authority cannot demonstrate a five-year supply of deliverable housing sites, relevant policies for the supply of housing should not be considered up-to-date.
5. The development plan is the Adopted Core Strategy 2012 (Core Strategy). Policy CSP.1 *Design and environmental protection* accords with the similar environmental aims set out in the National Planning Policy Framework (the Framework). However, the effect of policy CSP4 *Development at settlements* is to restrict the location of housing, so is out of date for the purposes of assessing this appeal. Policy CSP.5 *Housing* (which sets out a strategy for the distribution of housing) and policy CSP.16 *Settlement policies* both have the effect of restricting housing development in certain locations, so are also out of date for the purpose of this appeal.
6. The Council's Allocations Plan was submitted for examination in August 2015 and the Inspector issued interim findings in a letter dated 24 June 2016. In response to these findings the Council has recalculated its housing requirement and concluded that revisions to the Main Modifications, including proposals for additional allocated sites, are necessary in order to identify more sites for housing development.
7. These revised Main Modifications have now been approved for public consultation, subject to the Inspector's agreement. Whilst due to its advanced stage, the Allocations Plan is a material consideration, the outcome is still uncertain as the results of the public consultation will not be known for some time. However, I note the Inspector's comments with regard to the validity of the overall settlement strategy in the Core Strategy as not being inconsistent with the Framework paragraph 55. I also note that in order to achieve the revised housing requirement the appeal site has now been included as a suggested allocated site, but I have given little weight to this proposed modification as it has not been the subject of public consultation.
8. Policy AP.1 *Sustainable development* requires that the primary consideration is whether or not the proposed development is sustainable and it sets out aspects of sustainability. This an overarching policy which reflects the principles set out in the Framework. Policies AP.4 and AP.5 are proposed to be modified into one new policy AP.4 *Design of development*, which seeks high quality design. This reflects the similar requirement set out in Section 7 *Requiring good design* of the Framework. Both these policies therefore can attract full weight at this point in time.

Character and appearance

9. Clanna Road or Clanna Lane, as it is also known locally, is on the north-west rural edge of Alvington. The development of the village has up until the 20th century been focussed on the main A48 route, with a distinctly separate cluster of historic buildings around the church, which is set well to the east away from

the A48. However, significant pre-and post-war development has reached out into the rural area on the south-west side of the village, to the south of Clanna Road.

10. Clanna Road itself retains a rural character, with an open aspect to the north and hills beyond over the appeal site. To the east of the appeal site there are the remnants of former farm buildings and cottages mixed with modern infill housing and towards the west there are pre-war Council houses fronted by wide verges with mature trees. The appeal site is an arable field with a mixed deciduous hedge hard on the edge of the road, which is a notable landscape feature. A modern detached house, set well back, and a small cottage set at right angles to the road define the edge of the village to the east of the appeal site, whilst there is a former farm complex (Nuppend House) and The Meadows to the west. These two properties are informally set at an angle and do not read as part of the village. A short distance beyond the appeal site, the road narrows and is enclosed by tall natural hedges and trees and takes on the distinct character of a narrow rural lane.
11. The wider setting to the village is within a landscape character type identified in the *Forest of Dean Landscape Character Assessment* 2002 as wooded scarp and lower scarp. The attractive views to the wooded hills to north over the appeal site and open farmland are typical of this area. The appellant has submitted a *Landscape and Visual Appraisal* (October 2015) which sets out key viewpoints, which I saw at the site visit, along with other views.
12. Whilst the proposed development would have an impact on the open character of Clanna Road, I am satisfied that when viewed from the wider area, the proposed dwellings would be reasonably well subsumed within the profile of the village. Although there would be a loss of open farmland, I conclude that there would be no significant impact on the wider landscape character of the area or the setting of the village when seen from its hinterland.
13. The proposal includes the rebuilding and extension of a section of low stone rubble wall but the loss of the hedgerow and the loss of the views out towards open farmland from Clanna Road would adversely affect the pleasant rural character of Clanna Road itself and this part of the village. The proposed development would therefore be contrary to the aims of Core Strategy Policy CSP 1, which in part aims to maintain the local distinctiveness of areas.

Local flooding

14. Local concerns have been expressed about flooding and a report¹ commissioned by the Gloucestershire County Council (the Lead Local Flooding Authority) acknowledges that there is a serious flooding problem in Clanna Road due to surface water run-off. The report outlines the source of the run-off through two catchment areas, one of which is partly within the appeal site and adjacent land higher up in the appellant's ownership. The recommendations were broadly that the run-off should be dealt with by controlling the field run-off at source.
15. The appellant has demonstrated that a scheme of surface water control over land in his control can be achieved and the County Council, although it initially objected, has now indicated that it supports the proposed surface water drainage scheme. I am satisfied that this matter can be covered a planning

¹ The Amey Report February 2016

condition. The requirements of Core Strategy policy CSP.1 in that respect would be satisfied. However, it should be noted that although this will reduce the intensity of the local flooding, it will not completely resolve local flooding caused by surface water run-off outside the land owned by the appellant.

Local infrastructure

16. A revised Unilateral Undertaking dated 6 September 2016 has been submitted by the appellant. This undertakes to make contributions towards affordable housing, primary and adult education and recreational open space. An undertaking not to occupy or permit to occupy the approved dwellings until an approved flood mitigation strategy is implemented is also included.
17. Contributions towards affordable housing are required in order to support a mixed and balanced community as required by the Council's Affordable Housing Supplementary Planning Guidance. These contributions are necessary, directly related to the development, fairly and reasonably related in scale and kind to the development. They satisfy the tests set out in the Framework and the Community Infrastructure Levy (CIL) Regulations 2010.
18. Whilst the submitted Unilateral Undertaking includes contributions towards education infrastructure, the Council has not stated that these are necessary in order to make the development acceptable. I cannot therefore conclude that the contributions are necessary and the tests set out in the Framework and the CIL Regulations would not be satisfied. I have not therefore taken these contributions into account.
19. Having seen the local recreation ground, I conclude that contributions sought by the Parish Council for improvements to the facilities here are necessary in order to make the development acceptable. The submitted Unilateral Undertaking includes a contribution of £32,571 towards youth and adult recreational provision, as required by the Council's Play Area Supplementary Planning Guidance 2000. The Parish Council has three infrastructure projects as well as the aspiration to build a new pavilion. I am satisfied that the contribution would not fall foul of the requirement, under the CIL Regulations Regulation 123, to have no more than 5 or more contributions from obligations funding a project. I am also satisfied that this contribution would be necessary to make development acceptable, directly related to the development and fairly and reasonably related in scale and kind to the development. It would therefore satisfy the tests of paragraph 204 of the Framework and Regulation 122 of the CIL Regulations.

Heritage assets

20. The Alvington Conservation Area is focussed on the A48, where historically development grew up along the roadside to service travellers and on the earlier cluster around the church, which is well to east of the A48. Views of the appeal site from the nearby A48 and the main part of the conservation area would be limited, as the proposed dwellings would be set back from the road in a courtyard setting, with a landscaped frontage. The Grade 2 listed Globe public house faces the main road at an imposing angle and this setting would be preserved.
21. The Alvington Character Appraisal (2007) identifies the extensive views over the appeal site as "creating a pleasant aspect". The setting of the parts of the conservation area adjacent to the site would be changed, but this would not in

my assessment amount to an unacceptable change to the character and appearance of the conservation area given the mixed character of the buildings closest to the site and which are peripheral to the main core of the designated conservation area.

22. I therefore conclude that the character and appearance of the conservation area would be preserved, as required by Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and Section 12 of the Framework.
23. The appellant's archaeological assessment identified that the site may contain evidence of post medieval iron working and the County Council's archaeological advisor recommends that a programme of archaeological work is carried out. This can be required by a standard form of planning condition.

Sustainability in terms of access to services

24. Alvington is designated as a service village, where limited growth is acceptable, on the basis of the limited services in the village. There are some facilities but the A48 is a recognised barrier which, due to speeding and the amount of traffic, separates the residents living on the west side of the A48 from the church and the playing fields and southbound bus towards Chepstow and equally it separates those on the east side from the two pubs in the village, the garage shop and the north bound bus to Lydney and beyond.
25. Typically for a rural area, bus services are limited and reduced on weekends. Cycling or walking to the primary school in the next village to the south, although just feasible in terms of distance, would be risky with small children and unpleasant due to the narrowness of the footpath and the need to cross this busy road twice. That said, overall the village including the appeal site can be described as being in a moderately sustainable location, with good services available in the next towns to the north and south.

Other matters

26. The Parish Council and local people are concerned about the impact on the capacity of Clanna Road which, they point out, is used as a shortcut route. However, the Highway Authority, using accepted methodology for calculating the number of trips generated by the dwellings, has not raised concerns and states that there would not be a significant impact either on the road or the junction with the A48. I saw that the road narrows to effectively a single track, but the driver actions required to pull over etc. to allow safe passing would, although an inconvenience, not amount to a threat to safety and they are typical of many rural lanes and roads. The junction with the A48 has good visibility in both directions. I therefore conclude that the proposal would not lead to an adverse impact on the safety of highway users, including pedestrians.
27. There would be a loss of good agricultural land, but this was not given as reason for refusal by the Council. The Framework does not require me to give weight to the retention of agricultural land and in any event, the loss in this case would be small in terms of the wider rural area.

Planning balance

28. I have concluded that the setting of the conservation area and the nearby listed public house would be preserved and that a planning condition would

ensure that the recording and treatment of any archaeological assets would be covered by an approved programme of work.

29. I have concluded that there would be no significant harm to the wider landscape character of the area or the setting of the village when seen from the rural hinterland but I have found that there would be material harm to the pleasant open rural character of Clanna Road in the vicinity of the appeal site. In this respect the proposal would fail the requirements of policy CSP1. However, the appeal site is located adjacent to an area of 20th century village expansion, suburban in character and I have found that the core of the village would not lose its distinctive open rural character.
30. The harmful impact on the character and appearance of the area would therefore be localised to this part of the village and at the reserved matters stage, the Council would be able mitigate this harm to a degree by requiring the part relocation of the hedge or a suitable replacement native hedge along the frontage, located so that it would not conflict with the required visibility lines and by requiring high quality building design and landscaping. The new landscaping and ecological measures would be subject to an approved management plan, so that they would be retained in the longer term.
31. I have concluded that in terms of access to services and the availability of local services, the appeal site would be moderately sustainable.
32. As I have explained above in setting out the policy framework for this appeal, given the lack of an identified five-year supply of deliverable housing land, the relevant Core Strategy policies are out of date. That said, I still give some weight to the sustainability of the overall strategy for development, as recognised by the Allocations Plan Inspector. This strategy acknowledges that whilst some villages will not be fully sustainable in terms of access to transport modes, employment, and other daily essential services, they could still sustain a modest amount of new dwellings.
33. I note local concerns that this proposal would be a disproportionate increase in population for this smaller service settlement, especially when taken with other new dwellings recently built within the settlement boundary at Duncastle Farm. However, I have no evidence before me that the proposed 11 dwellings, 4 of which would be affordable rented dwellings, would have an unacceptable impact on this local community or its existing services. On the contrary, the occupants of the new dwellings would be likely to support the two pubs and the garage shop and other community activities and the contributions towards improving the recreation grounds and the creation of a new crossing over the A48, although necessary to make the development acceptable, would also benefit existing residents. I therefore conclude that the proposed development would not be at odds with the overall strategy for sustainable housing development in the district.
34. The revised surface water drainage scheme would alleviate the flooding problems caused by run off from the appeal site. However, I do not give this weight as a public benefit as the appellant would have to deal with run-off in any event in order to build the houses.
35. The provision of open market housing and the social rented affordable housing would be a benefit to the wider area and the district as a whole, as it would contribute to the reduction of the overall shortage of housing.

36. I have had regard to other appeal decisions² put before me by the Council. As I have outlined above I accept that the lack of a five year supply of housing does not mean a blanket approval for development in locations where it would not have been approved, or that the policies in the Core Strategy attract no weight at all. However, the requirements of the Framework are an important material consideration.

Conclusions

37. I have concluded that the harm caused by the proposed development would be localised to a part of the village where modern development has already taken place and which is outside the historic heart of the village. The adverse visual impact of the scheme could be mitigated in part by high quality design and careful attention to landscaping and boundary treatments, both of which the Council would be fully justified in requiring under the terms of policy CSP.1 and the emerging policy AP.4.
38. I therefore conclude that the adverse impacts of the proposed development would not significantly or demonstrably outweigh the benefits when assessed against the policies of the Framework as a whole.
39. For the reasons given above I conclude that the appeal should be allowed.

Conditions

40. I have assessed the conditions proposed by both the Council and the appellant against the tests set out in paragraph 206 of the Framework and the guidance set out in the Planning Practice Guidance.
41. The Council has suggested a one year time limit for the submission of the reserved matters in order to ensure the expeditious delivery of the housing benefits. I consider that two, as suggested by the appellant, would be reasonable given the need to resolve the full details of the surface water drainage and the pedestrian crossing.
42. I have attached the standard condition that requires the development to comply with the submitted plans. This is in order to provide certainty.
43. I have attached a condition (5) requiring the details submitted under condition 1 to include site sections and street scenes. This is because the site is sloping and the Council needs to be satisfied that the changes in levels are satisfactorily taken into account in the appearance of the development. I have additionally required that the reserved landscape submission includes a local play space and crucially its access (by whom, when and how) and maintenance. Whilst landscaping is a reserved matter, this element of the landscaping is strategically essential to provide adequate play space for the future occupiers of the dwellings. I have also specified that notwithstanding the plans which show a timber fence along the road frontage, full details of a replacement hedgerow be submitted, including provision for its maintenance and retention over the long term. This is in order to mitigate the harm to local character which I have identified above due to the loss of the existing hedgerow. This is all the more critical to be resolved at an early stage as the

² APP/P1615/W/15/3136129 (Huntley), APP/U1105/A/13/2191905, 2197001, 2197002, 2200204 (Feniton, Devon), APP/P3420/A/14/2219380, 2219712, (Keele), APP/P1615/W/15/3009016 (Coleford), APP/P1615/W/15/3005903 (Tutshill), APP/U1105/A/13/2191905.

- plot curtilages to the side gardens of units 1 and 10/11 may have to be reviewed in order to reconcile the stone walls and hedgerow with the necessary visibility splays. Careful thought also needs to be given as to how the privacy of these rear gardens would be protected whilst allowing for a hedge to grow.
44. It is not necessary to impose conditions relating to the provision and management of landscaping, apart from the hedgerow as I have explained above, including the ecological management plan, at this stage as suggested by both parties, as these conditions can be attached at the reserved matters stage.
45. In order to ensure that foul and surface water drainage is satisfactory, I have attached conditions requiring full details of these before any work commences. Given the identified surface water flooding problems on this site, I have required that the approved drainage schemes are carried out in full before the first occupation of the dwellings and maintained as such thereafter.
46. In the interests of clarity and good design I have combined a number of the suggested conditions relating to the design of the streetscape (both for those areas to be adopted and those to be retained privately). I have required the street design scheme to be provided before any dwellings are occupied. This is because the scheme is small and is unlikely to be phased.
47. As the dwellings would have no garages, in the interests of sustainability and the reduction of carbon emissions, I have imposed a condition requiring secure cycle storage, and for it to be retained as such thereafter.
48. As a pedestrian crossing over the A48 is essential in order to deliver the sustainability of the proposed dwellings and safer access to the recreational facilities, I have required that full details of the crossing are submitted before development commences and that no dwelling is occupied until it is provided.
49. I have imposed a construction method statement in order to protect the safety of road users and the amenity of adjacent occupiers, and a waste minimisation strategy in order to reduce waste and CO2 emissions both at the construction stage and in the longer term.
50. Given the archaeological potential of the site, I have required a written scheme of archaeological investigation to be approved before works commence and that the development is carried out in accordance with the approved scheme. This is so the Council can be satisfied as to the effects of the scheme on archaeological heritage assets which may be discovered, their recording and publishing.
51. I have shortened the Council's suggested condition 23 (land contamination) and required that an assessment and remedial strategy is submitted and that the development is carried out in accordance with that strategy. The Council can specify the full details required separately.
52. After further correspondence with the Council, I have not applied the Council's suggested condition 7 which specifies visibility splays as these appear to differ to those shown on the approved plans and may conflict with the objective of retaining the existing stone walls. The Council has not suggested that the access details as shown on the submitted plans are unacceptable on highway safety grounds. However, I note that the Highway Authority require certain visibility clearances. Given the proximity of the site to the junction with the

A48, where all vehicles are likely to come to a stop, I consider that speeds will be low in the proximity of the appeal site, so that flexibility in applying the required splays and clearances may be justifiable, supported by further evidence if necessary as to the speeds reached in this stretch of road. I have therefore adopted the appellant's suggested approach and included the details of the visibility splays, which should include the vertical clear visibility, in condition 8. In addition, in the interests of highway safety, I have specified that visibility splays are to be provided in accordance with the approved street design scheme before any dwelling is occupied and that they are maintained as such thereafter.

53. I have not applied the Council's suggested condition 17 (building heights) as these are already specified on the submitted documents. Suggested condition 9 (services underground) is not necessary given such details are to be approved under the street design scheme. Suggested condition 22 (refuse bins) is not necessary as this would be covered under the waste management scheme.

Jacqueline Wilkinson

INSPECTOR

Schedule of Conditions

- 1) Details of the appearance and landscaping, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 2 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: Topographical survey, J44 01 (location plan), J44 11(F) (site layout and access plan), J44 Sk01-A (indicative concept street scene), 01-21293 rev01 (access arrangements), 02 - 21293 rev 01(refuse vehicle swept path) and house details schedule ref J44.
- 5) The details to be submitted under Condition (1) shall include street scenes, existing site levels and sections and proposed site and slab levels and sections through the site at a scale of not less than 1:500. The landscaping details shall include provision for an equipped local play area of an area not less than 100 square metres and a scheme for access to it and the management and maintenance of it. Notwithstanding the approved plans, the landscaping details shall include provision for a hedge along the street frontage (to include a hedge on the street side of the rear gardens of units 1 and 10/11, taking into account the requirement to maintain visibility splays as approved under condition 8) and full details of all plot and open space boundary treatments, retained walls and new walls and security fencing/gates.
- 6) No development shall commence until full details of a scheme for the provision of foul water drainage, including a timetable for its implementation, have been submitted to and approved by the local planning authority in writing. The foul water drainage shall be implemented in accordance with the approved details and the approved timetable and shall be retained as such thereafter. Any surface water shall be drained separately from foul water.
- 7) No development shall commence until comprehensive evidence based surface water drainage details, including a SUDS/drainage management plan and timetable for its implementation, have been submitted and approved by the local planning authority. These details should fully incorporate the principles of biodiversity enhancement, sustainable drainage and improvement in water quality, along with an assessment of the hydrological influences of the detailed drainage plan, including allowances for climate change. The scheme shall be implemented in accordance with the approved details and in accordance with the approved timetable and shall be subsequently managed and maintained thereafter in accordance with the approved management plan.

- 8) No development shall commence until full details of a street design scheme, to include carriageways, footways, visibility splays, vehicle parking areas and manoeuvring areas have been submitted to and approved in writing by the local planning authority. The details shall also include provision for the vehicles of disabled drivers, electric vehicle charging points for each dwelling where practical or available on a communal basis, external lighting, fire hydrants, pedestrian paths, specifications for the surface materials and a scheme for maintenance and management. The development shall be carried in accordance with the approved details and retained as such thereafter.
- 9) No development shall commence until full details of secure cycle storage for each dwelling hereby approved are submitted to and approved in writing by the local planning authority.
- 10) No development shall commence until details of a pedestrian crossing over the A48 has been submitted to and agreed in writing by the local planning authority.
- 11) No development shall commence until a construction method statement has been submitted to and approved in writing by the local planning authority. The approved statement shall be adhered to throughout the construction period. The statement shall:
 - i. Specify the type and number of construction vehicles;
 - ii. Provide for the parking of vehicles of site operatives and visitors;
 - iii. Provide for the loading and unloading of plant and materials;
 - iv. Provide for the storage of plant and materials used in constructing the development;
 - v. Provide for wheel washing facilities;
 - vi. Specify the intended hours of construction operations;
 - vii. Include measures to control the emission of dust and dirt during construction.
- 12) No development shall commence until a waste minimisation statement has been submitted to and approved by the local planning authority in writing. The statement shall include: i) details of the types and volumes of construction waste likely to be generated including measures to re-use and recycle that waste and to minimise the use of raw materials, ii) how construction waste is be re-used on site (unless it can be demonstrated that this is not the most sustainable option), and proposed measures for the disposal of this waste if it cannot be re-used on site, iv) provision within the residential development for storage receptacles for recycling and waste and the timing for their provision. The development shall be implemented in accordance with the approved statement and the residential recycling/waste storage facilities shall be retained as such thereafter.
- 13) No development shall commence until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation has been submitted to and approved in writing by the local planning authority.

- 14) No development shall commence until details of a land contamination assessment and associated remedial strategy, together with a timetable of any remedial works and action to be taken as a result of unexpected contamination, shall be submitted to and approved in writing by the local planning authority. The development shall take place in accordance with the approved details and strategy.
- 15) No dwelling shall be occupied until the street design scheme is provided in full in accordance with the approved details.
- 16) No dwelling shall be occupied until the proposed footway and tactile drop kerb pedestrian crossing shown on drawing 01 21293 01 is constructed in accordance with the approved plans.
- 17) No dwelling shall be occupied until the approved pedestrian crossing over the A48 is provided.
- 18) No dwelling shall be occupied until the approved cycle storage is provided in accordance with the approved details. The cycle storage shall be kept available for the storage of cycles thereafter.
- 19) No dwelling shall be occupied until the equipped local play area is provided in full accordance with the approved details and the scheme of access and management.
- 20) The equipped local play area shall be maintained and managed in accordance with the approved details and the approved access and management scheme and shall thereafter be retained as a local play area only.
- 21) The approved vehicle parking shall be kept permanently available as vehicle parking spaces only and the approved manoeuvring areas as manoeuvring areas only.
- 22) The approved visibility splays shall be maintained in accordance with the details approved under condition 8.

End of schedule