



Appeal Decisions

Hearing held on 27 September 2022
Site visit made on 27 September 2022

by AJ Steen BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 December 2022

Appeal A Ref: APP/F1610/C/22/3290110

Land at Siddington House, Cirencester Road, South Cerney, Gloucestershire GL7 6EU

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended (the Act). The appeal is made by Mr John Shannon against an enforcement notice issued by Cotswold District Council.
- The notice was issued on 7 December 2021.
- The breach of planning control as alleged in the notice is without planning permission, the erection of timber fencing to the northern, western and southern boundaries of the Land that is not in keeping with the heritage of the grade II listed building known as Siddington House (“the Unauthorised Works”) within the area shown edged red on the plan here attached.
- The requirements of the notice are to dismantle and remove from the Land the timber fencing erected to the northern, western and southern boundaries of the land.
- The period for compliance with the requirement is: 3 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a) and (f) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Summary Decision: Appeal A succeeds in part and permission for that part is granted, but otherwise the appeal fails, and the enforcement notice is upheld as corrected in the terms set out below in the Formal Decision.

Appeal B Ref: APP/F1610/W/22/3299249

Siddington House, Siddington, Cirencester GL7 6EU

- 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 Mr John Shannon against the decision of Cotswold District Council.
- The application Ref 21/02556/FUL, dated 24 June 2021, was refused by notice dated 2 December 2021.
- The development proposed is 4 no. dwellings and garages.

Summary Decision: The appeal is dismissed.

Appeal C Ref: APP/F1610/W/22/3300052

Siddington House, Siddington, Cirencester GL7 6EU

- 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 Carrefour Holdings Ltd against the decision of Cotswold District Council.
- The application Ref 21/02543/FUL, dated 23 June 2021, was refused by notice dated 2 December 2021.
- The development proposed is 2 no. dwellings and garages.

Summary Decision: The appeal is dismissed.

Appeal D Ref: APP/F1610/W/22/3302427

Siddington House, Siddington, Cirencester GL7 6EU

- 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 Mr John Shannon against the decision of Cotswold District Council.
- The application Ref 21/02555/FUL, dated 23 June 2021, was refused by notice dated 23 March 2022.
- The development proposed is erection of 3 no. dwellings to replace existing aircraft hangar.

Summary Decision: The appeal is dismissed.

Appeal E Ref: APP/F1610/W/22/3302428

Siddington House, Siddington, Cirencester GL7 6EU

- 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 Carrefour Holdings Ltd against the decision of Cotswold District Council.
- The application Ref 21/02544/FUL, dated 23 June 2021, was refused by notice dated 23 March 2022.
- The development is a proposed dwelling.

Summary Decision: The appeal is dismissed.

Preliminary Matters

1. These appeals relate to a number of developments on different sites within the area around Siddington House. Appeal A relates to the erection of fences around the immediate gardens of the house, appeals B-E to residential development in the wider grounds. Whilst they are on different sites, most of the issues overlap so I will consider appeal A on ground (a) and the deemed planning application with appeals B-E that planning permission should be granted for the developments.
2. Appeal C relates to two houses. I suggested at the hearing that, as they are detached houses on opposite sides of the access drive, I could issue a split decision if I considered appropriate. This was agreed with the parties so I will take it into account in coming to my decision.
3. The description of the alleged breach of planning control in the enforcement notice subject of appeal A includes reference to the development not being in keeping with the heritage of the grade II listed building of Siddington House. That is confused with the reasons for issuing the notice. However, under the appeal on ground (a) and the deemed planning application, I could conclude that the development does not affect these matters in whole or in part. Removing reference to this from the allegation would not affect whether the appellant could understand what the notice alleges. It would not result in injustice to any party. For these reasons, I will use the powers granted to me under section 176(1) of the Act to correct the notice by removing reference to those reasons from the allegation.
4. In determining these appeals involving a listed building I have had special regard to section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

5. I was asked to visit North Meadow and Clattinger Farm Meadows Special Area of Conservation. I walked around the nature reserve at North Meadow on the day following the hearing, after re-visiting the site and neighbouring garden centre.

Appeal A on Ground (a) and the Deemed Planning Application Appeals B, C, D and E

Main Issues

6. For all appeals:
- whether the development would affect the setting of the grade II listed building at Siddington House.

For appeals B, C, D and E:

- whether the proposal would be in a suitable location in terms of access to services and facilities;
- the effect of the development on the integrity of North Meadow and Clattinger Farm Meadows Special Area of Conservation.

For appeal D:

- the effect of the development on trees.

For appeal E:

- the effect of the dwelling on the living conditions of occupiers of a neighbouring dwelling with particular regard to privacy.

Reasons

Listed building

7. Siddington House is a small country house set within a parkland landscape. It was constructed in the late nineteenth century, replacing an earlier country house, in stone. The entrance front faces the main Cirencester Road to the east, with the more utilitarian service elevation to the northern side. The south and west elevations are garden fronts, with windows facing over the garden including large bay window on the west elevation and gabled projecting bay to the south elevation.
8. The grounds of the house comprise the gardens immediately surrounding the house, including to either side of a straight tree lined drive to Cirencester Road. To the south is a ha-ha along much of the boundary, except that bounding the neighbouring garden centre, that separates the main garden from the surrounding parkland. Beyond the ha-ha and between the garden and garden centre is a public footpath. In the past, the house was associated with parkland to the southeast and north. Service buildings, possibly including agricultural buildings, were within a yard area to the west. The parkland to the north is in the process of being developed to provide a retirement village. The parkland between the house and South Cerney Road, from which there is a modern brick paved access road to the former service yard and service side of the house, contains two tennis courts and a hangar built by a previous owner to allow storage of a helicopter.

9. Siddington House can be seen in glimpsed views from Cirencester Road. Prior to erection of the fence, it would have been visible in views through the planting and over the garden from the public footpath. This allowed the heritage asset to be appreciated from those directions. The significance of the listed building is derived from its character as a small country house and its relationship with the surrounding parkland and former service area.

Appeal A

10. This appeal relates to a number of fences that have been erected in the grounds of the house. They seek to restrict views from outside the site into that private garden. They are located along parts of the boundary with the retirement village to the north, between the house and hangar to the west and along the public footpath to the south, above the ha-ha and between the house and garden centre.
11. The fence to the west and above the ha-ha to the south divide the garden from the surrounding parkland. There are important historic visual links between the house and that parkland that have, due to gradual planting in that area, reduced over time. Nevertheless, the planting resulted in filtered views but the fence has a different, more solid and permanent character. It results in a more substantial visual block to the view and a sense of enclosure to the immediate garden area of the house. Therefore, the fence alters the historic relationship between the house and its associated parkland.
12. The section of fence between the garden and the garden centre is alongside the public footpath. It forms a harsh, solid boundary along the path, restricting visibility and affecting the ability to appreciate the heritage asset from this direction.
13. The sections of fence to the north are disguised to a large extent by surrounding planting in views from the house and garden. The land beyond is currently being developed with a dense and substantial form of development that replaces any previous parkland character to that area. The relationship between the listed building and that area, therefore, has been significantly eroded. Given the limited amount of fencing on this boundary and the changes to the character of the neighbouring land, the fence erected on this boundary does not affect the setting of the heritage asset or how it is appreciated from this direction.
14. For these reasons, I conclude that the fences, other than that on the northern boundary, affect the ability to appreciate the listed building within its parkland setting, such that they harm the setting of the listed building. Consequently, these fences affect the listed building's significance as a heritage asset. As such, they are contrary to Policies EN1, EN2, EN4 and EN10 of the Cotswold District Local Plan (LP) and the National Planning Policy Framework (the Framework) that seek to protect and enhance historic environmental assets and their settings in proportion to the significance of the asset. They should take account of the historic landscape character, visual quality and local distinctiveness.
15. I conclude that the fences to the northern boundary have a neutral effect on the setting of the listed building, such that they do not harm its significance as a heritage asset. They do not conflict with Policies EN1, EN2, EN4 and EN10 of

the LP or the Framework. Section 177(1) of the Act allows me to grant planning permission for the matters stated in the enforcement notice as constituting a breach of planning control, whether in relation to the whole or any part of those matters. As a result, I will grant planning permission for the sections of fence to the north of the listed building.

16. Policy EN10 of the LP reflects the requirements of the Framework, which advises at Paragraph 199 that, when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification. Accordingly, while less than the 'substantial harm' referred to in Paragraph 201 of the Framework, the harm to the listed building is nevertheless a matter of considerable importance in this case.
17. Policy EN10 of the LP and paragraph 202 of the Framework establish that, where a development proposal would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use. The fence screens the private garden area in views from the public footpath and from neighbouring dwellings, including any permitted under appeals B, C, D or E. However, that would be a private rather than public benefit so cannot outweigh the identified harm to the listed building.

Appeal B

18. The appeal site comprises a pair of tennis courts. They are located some distance from the rear elevation of the listed building, beyond the aircraft hangar and modern access drive. They are would have been within view of the western garden elevation of the house. They are now largely hidden behind substantial planting, the fence and hangar.
19. The tennis courts are previously developed land within the curtilage of the listed building. They provide a leisure facility for the owners of Siddington House. As a result, there is a clear link between the use of the tennis courts and residential occupation of the listed building. The use contributes to the historic understanding of the listed building and the relationship of this area of the grounds with it. Nevertheless, it is a hard surfaced court with tall fencing surrounding it, albeit not materially restricting views over the tennis courts. On balance, therefore, they do not contribute to the significance of the listed building. Their loss would not harm the setting of the listed building.
20. The replacement of the tennis court with four houses would result in more substantial built development in this location than the tennis court. The design and form of the proposed development would provide houses around a small courtyard, resulting in a suburban appearance to this small development. There would be no functional link between the houses and the listed building. The historic link as a leisure facility related to the listed building would be severed, albeit the layout on the area of the tennis courts may provide some link to the previous use. As a result, the development will appear incongruous in this location.

21. I note the Council raise concern at the design of the development, with garages attached to the houses. The Cotswold Design Code states that integral garages should be avoided on vernacular dwellings. This adds to my concern that the development would affect the setting of the listed building.
22. For these reasons, I conclude that the proposed dwellings would harm the setting of the grade II listed building. As a result, they would affect the significance of the building as a heritage asset. They would be contrary to Policies EN1, EN2, EN4 and EN10 of the Cotswold District Local Plan (LP) and the Framework. In addition, the proposals do not accord with the Cotswold Design Code that seeks development to respond to its site and setting, and to respect the distinctive and consistent traditional architecture of the Cotswolds.
23. I consider the harm to the significance of the heritage asset is less than substantial. However, the only public benefit arising from the development would be the contribution of the houses toward housing supply in a location with some services and facilities in close proximity. Nevertheless, this benefit is modest and does not outweigh the harm to the significance of the heritage asset in this instance.

Appeal C

24. This appeal relates to two proposed houses that may have a different effect on the setting of the heritage asset. I will consider them separately.

House 1

25. It is proposed that some garages in the former service yard to Siddington House be demolished and replaced with a dwelling. The garages comprise a substantial stone clad and tiled building. The doors step up the slope of the land, although the roof is level. It is in a location that historic mapping suggests service buildings were located for a large part of the listed building's history. Nevertheless, the existing building is not historic and has a functional character and appearance, so has a neutral contribution to the setting of the listed building.
26. The proposed dwelling would contain a garage on the ground floor along with the entrance hall, kitchen/dining and sitting room. The upper floor would contain three bedrooms and bathroom within the roofspace. A further set of four garages would be attached to the side, with a substantial roof. The building, at ground and roof level, would step up the slope of the land.
27. The building has been designed in the line of the earlier service buildings to Siddington House. It seeks to take the appearance of a service building, with large ground floor full height windows that appear to mock garage type openings and with modest dormers in the roof. As a result, it would appear as a dwelling converted from a service building and subservient to the dwellings around it, including Siddington House. I note that the Council object that, as with appeal B, the integral and attached garages do not reflect local vernacular. However, given the style of the proposed dwelling, this would not result in an adverse effect on the setting of the listed building.
28. For these reasons, I conclude that the proposed dwelling to replace the garages would not harm the setting of the listed building. As a result, it would not affect the significance of the listed building as a heritage asset and would not conflict

with Policies EN1, EN2, EN4 and EN10 of the LP, the Cotswold Design Code or the Framework.

House 2

29. The other proposed dwelling is on the other side of the access route through the former service yard. It is located on an open area of ground between a pair of semi-detached dwellings converted from buildings forming part of the previous service uses of this area and another dwelling lower on the slope and adjacent to South Cerney Road. Historically, I understand it was used as a kitchen garden and it remains open, with a historic wall to the front including arched pedestrian gateway.
30. Access to the proposed dwelling would be provided from the access drive, with a section of the frontage wall removed to enable that access. It would replace what has, historically, been an open area of land within the curtilage of the listed building. The dwelling would have the appearance of a detached cottage and would, with the exception of the attached garage, reflect vernacular design principles. Nevertheless, in combination with surrounding development this would add to the appearance of a small suburban housing estate in this area that would detract from the remaining appearance of the area as the former service yard to the listed building. It would also harm the historic link of this former kitchen garden, with its remaining frontage wall, with Siddington House.
31. For these reasons, I conclude that this dwelling would affect the setting of the listed building. As such, it would harm the significance of Siddington House as a heritage asset. Consequently, it would conflict with Policies EN1, EN2, EN4 and EN10 of the LP, the Cotswold Design Code and the Framework.
32. The harm to the significance of the heritage asset is less than substantial. The only public benefit arising from the development would be the contribution of the houses toward housing supply in a location with some services and facilities in close proximity. This benefit is modest and, as such, I consider that it does not outweigh the harm to the significance of the heritage asset in this instance.

Appeal D

33. The appeal site comprises an aircraft hangar that is no longer required, located between the tennis courts subject of appeal B and Siddington House. It is located on or close to the axial walk from the west garden elevation of the listed building. It is a substantial metal clad structure of utilitarian appearance, with a concrete landing pad to the side. It is visible through the trees and planting and over the fence from the listed building. Given its location, it is a prominent building that harms the setting of the listed building. Its previous use as an aircraft hangar contributes to the understanding of the history of the listed building, reflecting a previous use by executives of a car manufacturer when visiting the UK. However, that does not outweigh the harm caused by its prominent location within the curtilage of the listed building on the setting of that building.
34. The proposal would replace the aircraft hangar with three dwellings in a contemporary style but reflecting some of the traditional materials and other features in nearby development. It would be a permanent building with individual residential curtilages for each dwelling.

35. The proposed dwellings would appear more permanent than the simple metal clad hangar. They would have a domestic appearance, with additional paraphernalia within the garden areas. As individual, separate dwellings from Siddington House, they would appear incongruous in this location.
36. For these reasons, I conclude that the three dwellings would have a greater effect on the setting of the listed building than the existing aircraft hangar they would replace. As a result, they would harm the significance of the heritage asset. As such, they would be contrary to Policies EN1, EN2, EN4 and EN10 of the Cotswold District Local Plan (LP), the Cotswold Design Code and the Framework.
37. That harm is less than substantial. The only public benefit arising from the development would be the contribution of the houses toward housing supply in a location with some services and facilities in close proximity. I consider that this benefit is modest and, as such, does not outweigh the harm to the significance of the heritage asset in this instance.

Appeal E

38. This appeal site is adjacent to the entrance to the former service yard and on the access drive to the listed building from South Cerney Road. It is currently an open space surrounded by a hedge within the grounds of a semi-detached dwelling. It is higher on the slope leading down through the former service yard from the listed building. The site contributes to the open, parkland, setting of the listed building.
39. The proposal is for a relatively modest detached dwelling of a vernacular style. It would be prominent on the access drive toward the listed building and on the junction of the former service yard with the access drive. As such, it would appear more prominent within the service yard than the former service buildings, such as the converted barn over the service yard access. The Council suggest that they consider this is the best designed of the dwellings proposed in this appeal, primarily because there isn't an attached garage. However, it is designed to appear as a lodge house. Lodge houses are normally located at the junction of the access from the main road. For these reasons, it would appear somewhat incongruous in this location.
40. On balance, I conclude that the dwelling would affect the setting of the listed building and would, therefore, harm the significance of Siddington House as a heritage asset. As a result, the proposal would not comply with Policies EN1, EN2, EN4 and EN10 of the Cotswold District Local Plan (LP), the Cotswold Design Code and the Framework.
41. The harm to the significance of the listed building is less than substantial. In terms of public benefits, it would also contribute to the supply of housing in the area, in a location with some services and facilities in close proximity. Nevertheless, the limited public benefits that would arise from provision of this single dwelling do not outweigh the harm to the significance of the heritage asset that I have found.

Location (appeals B, C, D and E)

42. Siddington House is located outside a defined settlement. It is close to the village of Siddington and town of Cirencester. The proposed dwellings would be

in the former service yard to the historic country house of Siddington House, on the tennis courts or replacing the aircraft hangar. The remainder of the former service yard comprises a number of houses, with further dwellings on neighbouring land to the north. Also to the north is the development site that will comprise approximately 180 retirement apartments. Beyond that is another recent development of six houses, with a small number of houses, including one recently constructed, over South Cerney Road. This means the area around these sites will contain some 200 homes once the retirement apartments are complete.

43. I understand that the retirement community would comprise a residential institution under use C2 of the Town and Country Planning (Use Classes) Order 1987. Consequently, the units provided would not fall within class C3 dwellinghouses. Nevertheless, it would provide residential units that, for the purposes of this issue, I consider would be dwellings.
44. The proposals are for modest, small scale developments that reflect the scale and type of development in the vicinity. Other than in relation to the setting of a heritage asset as set out above, cumulatively they would respect the scale, form or character of the surrounding area.
45. A garden centre is located next to Siddington House and would be accessible from the dwellings by foot via the public footpath between Siddington House and the garden centre, as well as a longer route by road. This provides a range of shopping facilities, including normal garden centre sales but also convenience shopping including food, pet food, cookware, cleaning and laundry equipment and materials, and restaurant with small children's play area. I understand that the retirement village may include a restaurant open to the public, as well as other facilities for residents.
46. Further facilities are available in nearby settlements. There is a large supermarket on the edge of Cirencester, close to the site. Cirencester also has primary and secondary schools and the town centre contains further services and facilities.
47. Provision of dwellings in this location would support the local facilities as well as the services and facilities in nearby settlements, such as Siddington and Cirencester. Given the number of homes, services and facilities in the immediate vicinity, including those under construction in the retirement village, this is not an isolated location.
48. The LP refers to principal and non-principal settlements. Principal settlements are listed in Policy DS1 of the LP and include Cirencester. Non-principal settlements aren't defined in the LP, but Policy DS3 of the LP states that small scale residential development may be permitted in those settlements subject to a number of criteria. The amount of residential and other development in the locality suggests the area including the sites is a non-principal settlement.
49. Taking account of all the above, I conclude that the proposed dwellings would be in a suitable location in terms of access to services and facilities. As such, they do not conflict with Policy DS3 and DS4 of the LP or the Framework that seeks to locate housing where it will enhance or maintain the vitality of rural communities and restrict development outside the principal and non-principal settlements of the district.

*North Meadow and Clattinger Farm Meadows Special Area of Conservation
(appeals B, C, D and E)*

50. North Meadow and Clattinger Farm Meadows Special Area of Conservation (SAC) comprise lowland hay meadows in the Thames Valley. It represents an exceptional survival of the traditional pattern of management of these meadows, with a high degree of conservation of structure and function. It contains a very high proportion, at least 90%, of the surviving UK population of fritillary (*Fritillaria meleagris*), a characteristic species of damp lowland meadows in Europe that is now rare. These comprise the qualifying features of the SAC.
51. Natural England have suggested that the qualifying features of the SAC at North Meadow may be threatened by disturbance, particularly by visitors to the site trampling beyond the paths and affecting the survival of fritillary. They suggest any additional residential development within an 8km zone of influence, whether alone or in combination with other schemes, may result in additional recreational visits to the SAC that could add to those effects.
52. However, the appellant suggests that evidence for that harm is less than persuasive and that taking a precautionary approach to that is incorrect in terms of how the Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations) should be applied. My attention has been drawn to caselaw, in particular *Morge v Hampshire County Council* [2010] EWCA Civ 608, *Boggis v Natural England* [2009] EWCA Civ 1061, *R (Champion) v North Norfolk District Council* [2015] UKSC 52, [2015] 1 WLR 3710 and *Smyth v SSCLG & ors* [2015] EWCA Civ 174. I have also been referred to the case known as *Waddenzee* [2004] C-127/02 in the Grand Chamber of the European Court of Justice. The Habitats Regulations refer to likely significant effects from development on the SAC. This means that there needs to be a probability or risk that the project will have significant effects. There is a risk of significant effects if it cannot be excluded on the basis of objective information that the plan or project would have significant effects on the conservation objectives of the SAC.
53. Natural England indicate in their Statement that growing visitor numbers to the SAC has led to an increase in trampling, particularly in April and May when people visit to see the fritillaries in flower. They suggest this is primarily driven by increases in the local population and there is evidence that visitors come from the area around Siddington and Cirencester. I note that the Site Unit Condition Assessment of 2010 shows the status of the site as favourable. However, it is unclear whether that remains correct and could change as a result of trampling.
54. The proposed developments would result in an increase of between 1 and 10 dwellings depending on whether I was to allow one, some or all of the appeals. Any assessment would need to take account of the proposed development in combination with any other residential development within the zone of influence of the SAC. Whilst I accept that the effect of any of these developments would be limited, taking account of the rarity of the species concerned and in combination with other plans or projects, including other housing developments, the effects could be significant. There is, therefore, a risk of significant effects on the conservation objectives of the SAC.

55. I understand that other developments are not currently being approved within the zone of influence of the SAC due to the risk of significant effects of development on the conservation objectives of the SAC. It is possible that allowing one or more dwellings on this site would not have a material effect on the SAC on its own. However, I need to consider this appeal as if all similar applications for residential development were treated in the same way, in which case there is a risk of significant effects in combination with those schemes.
56. On that basis, if I were to conclude that I should allow any of the appeals, as the competent authority it would be necessary for me to carry out an appropriate assessment to determine the extent of those effects, whether they could be avoided or whether mitigation measures could remove or reduce the effects. I will return to the appropriate assessment, if necessary, once I have considered all the other matters in the planning balance.
57. My attention has been drawn to a number of other appeal decisions that considered the effects on the integrity of the SAC. This includes decisions relating to other SACs, although the effects of development will differ based on the conservation objectives of different SACs.
58. The appellants have submitted a Unilateral Undertaking (UU) to make out a financial contribution toward measures to protect the integrity of the SAC. They suggest this would mitigate any effects of the development and that I could take it into account in carrying out the appropriate assessment.
59. Policies EN8 and EN9 of the LP state that proposals resulting in the deterioration of irreplaceable habitats or an adverse effect on internationally protected species will not be permitted. They seek to safeguard internationally designated wildlife sites from development that could cause a significant effect that would adversely affect their integrity. Unless the appropriate assessment were to conclude that mitigation would outweigh any effect on that integrity, the developments would conflict with that policy.

Trees (appeal D)

60. My attention has been drawn to the proximity of the tree adjacent to the proposed dwelling at Plot A. This tree is located within the curtilage of the listed building and contributes to the character of the parkland setting. It is visible in wider views as part of that mature parkland, such that in combination with other trees and landscaping it has a high landscape, amenity and historical value.
61. The tree is located close to the corner of the existing hangar. The proposed building would be in exactly the same location, such that the tree would overhang the corner of the building, affecting views and the light to the side window of bedroom 1 at first floor and, to a lesser extent, the rooflights to that bedroom. It would also be located outside the secondary window to bedroom 2 and only window to bedroom 3.
62. I note that it would be possible to demolish the existing building and construct the new dwellings in this location without harming the tree. However, subsequent occupiers of the dwelling may consider that the proximity of the tree to the resulting building, and its effect on the living conditions of occupiers

would result in future occupiers seeking to do works to the tree or to seek its removal. I note that the tree is subject of a Tree Preservation Order such that the Council can control or limit works to the tree to that which they consider reasonable.

63. I consider that the living conditions within bedrooms 1 and 2 are not likely to be significantly affected by the tree. There would be limited outlook from the windows in those rooms facing toward the tree, but as there are other windows to those rooms, this effect is limited. I accept that the remaining set of windows in bedroom 1 would be rooflights, such that their angle would result in a limited outlook. Nevertheless, that would not materially affect my conclusion.
64. Bedroom 3 would be the smallest bedroom in the dwelling, where an outlook is less likely to be critical. Whilst there is some potential for pressure to carry out works to the tree, this is unlikely to be sufficient to threaten its removal or materially affect its contribution to the parkland near the listed building.
65. For these reasons, I conclude that the effect of the development on trees would be limited such that it would not mean permission should be withheld for this reason. As such, the development would not conflict with Policy EN7 of the LP or the Framework that seek development to conserve and enhance trees of high landscape, amenity or historical value.

Living conditions (appeal E)

66. The proposed dwelling subject of appeal E would be located next to the pair of semi-detached dwellings in the former service yard area of the grounds to Siddington House. The closest of those semi-detached dwellings is single storey at the end closest to the proposed dwelling and set lower on the slope of the land. The main garden areas are to the rear and side closest to the proposed dwelling.
67. The proposed dwelling would have windows and a door serving the kitchen, W.C., utility room and secondary window serving the study at ground floor. A window serving bedroom 3 would be located at first floor, with rooflight to bedroom 1. Any boundary treatment is likely to block views from windows and door at ground floor and the windows are secondary to the rooms they serve, so would not result in overlooking. The rooflight to bedroom 1 is small and secondary to the main window facing over the garden and parkland beyond, so would also not result in any material overlooking of the neighbouring property. However, the window to bedroom 3 would face in that direction. I accept that the main use of this room would be for sleeping and it is the smallest bedroom. Nevertheless, a window in this location would result in some overlooking of the neighbouring property. As such, this would result in some loss of privacy to the occupiers of that dwelling.
68. I note that a condition would be possible to require the window in bedroom 3 to be obscure glazed. That may reduce the possibility of overlooking but would result in poor living conditions within that room. On balance, I consider such a condition would not be appropriate.
69. For these reasons, on balance I conclude that the layout of the proposed dwelling would result in a development that would affect the living conditions of occupiers of a neighbouring dwelling with particular regard to privacy. As such,

it does not comply with Policy EN2 of the LP, the Cotswold Design Code and the Framework that seek to respect the living conditions of occupiers of surrounding dwellings, including relating to privacy.

Other Matters

70. The proposed dwellings would contribute to housing supply in this area. I note that the Council can demonstrate that they meet the housing delivery test. Nevertheless, the contribution of between one and ten dwellings would be a benefit arising from the proposed developments.
71. The sites relating to appeals B and D contain a former aircraft hangar or tennis courts. Part of the site of appeal C comprises a block of garages. They clearly comprise previously developed land as defined in the Framework.
72. The remainder of the sites relating to appeals C and E are located within the parkland or gardens of Siddington House and neighbouring dwellings. As such, they are within the curtilage of developed land. However, I have concluded above that the sites are within a non-principal settlement due to the surrounding development. As a result, and taking account of their locations between or directly adjacent to other dwellings, they should also be considered to be within a built-up area. The Framework states that land within the curtilage of developed land is previously developed land with a number of exceptions, including land in built-up areas such as residential gardens and parks. Consequently, these sites do not comprise previously developed land for the purposes of this definition.

Conditions

73. I have concluded that I should allow part of appeal A relating to the timber fencing to the northern boundary of Siddington House. A condition is necessary to retain a natural appearance to the timber fence in order to reflect the character and appearance of the site, its surroundings and the setting of Siddington House.

Conclusions

Appeal A

74. I have concluded that the timber fencing to the southern and western boundaries harms the setting of the Grade II listed building at Siddington House and, therefore, harms its significance as a heritage asset. There are no public benefits that outweigh that harm. For that reason, I conclude that those parts of the development do not accord with the development plan. The appeal on ground (a), in relation to the sections of timber fencing to the southern and western boundaries of Siddington House, therefore fails.
75. In relation to the timber fencing to the northern boundary of Siddington House I have concluded that it does not harm the setting of the listed building or its significance as a heritage asset. For that reason, that part of the development accords with the development plan and the appeal on ground (a) succeeds to that extent.
76. However, to remove the requirement on the enforcement notice in relation to the fence on the northern boundary would mean section 173(11) of the Act

would apply and planning permission would be treated as having been granted. That would be separate from that granted on the deemed planning application under section 177(5) of the Act and would not be subject of the condition relating to this development. Consequently, I will not amend the notice to remove reference to the timber fencing on the northern boundary of Siddington House from the description of the breach and the requirements of the enforcement notice.

77. I note that section 180 of the Act states that if, after service of an enforcement notice, planning permission is granted for any development carried out before the grant of that permission, the notice shall cease to have effect so far as inconsistent with that permission.

Appeal B

78. I have concluded that the four dwellings in the location of the tennis courts would result in less than substantial harm to the setting and significance of the grade II listed building at Siddington House, contrary to Policies EN1, EN2, EN4 and EN10 in the LP and the Framework. I have not found any public benefits to outweigh that harm. However, this is a suitable location for residential development in terms of access to services and facilities, would contribute to the supply of housing and results in the re-use of previously developed land. Nevertheless, on balance, I consider that the conflict with development plan policy arising from the harm to the setting and significance of the listed building is not outweighed by other material considerations. That being the case, I consider that it is not necessary to carry out the appropriate assessment that would otherwise be required into the effect of the development on the SAC.

79. For these reasons, the appeal should be dismissed.

Appeal C

80. The proposal to replace the garages with garages and a dwelling would not result in harm to the setting or significance of the grade II listed building at Siddington house. It is in a suitable location for residential development in terms of access to services and facilities and would contribute to the supply of housing. I have not identified any other material considerations. However, I would need to complete an appropriate assessment in relation to any effects on the SAC were I to allow the appeal. As this could be completed in relation to all the dwellings I may seek to allow, I shall return to this at the end of my conclusions.
81. The other dwelling proposed would result in less than substantial harm to the setting and significance of the grade II listed building at Siddington House. As such, the development conflicts with Policies EN1, EN2, EN4 and EN10 of the LP and the Framework. No public benefits have been presented that would outweigh that harm. Nevertheless, this dwelling would be in a suitable location for residential development in terms of access to services and facilities and would contribute to the supply of housing. Taking all these factors into account, I consider that the conflict with development plan policy arising from the harm to the setting and significance of the listed building is not outweighed by other material considerations. As such, it is not necessary to complete an appropriate assessment relating to the effect of the development on the integrity of the

SAC. As a result, I conclude that the appeal in relation to this dwelling should be dismissed.

Appeal D

82. The proposed development relates to the redevelopment of an aircraft hangar to provide three dwellings. I have concluded that this would result in less than substantial harm to the setting and significance of the grade II listed building at Siddington House, contrary to Policies EN1, EN2, EN4 and EN10 in the LP and the Framework. I have not found any public benefits to outweigh that harm. As with the above developments, the site is located in a suitable location for residential development in terms of access to services and facilities. It results in the re-use of previously developed land and the dwellings would contribute to the supply of housing. Nevertheless, the conflict with the development plan arising from the effect of the development on the setting and significance of the heritage asset is not outweighed by other material considerations. Given this, an appropriate assessment of the effect of the development on the integrity of the SAC would not affect my conclusions.

83. I conclude that the appeal should be dismissed.

Appeal E

84. The provision of the single dwelling subject of appeal E would conflict with Policies EN1, EN2, EN4 and EN10 in the LP and the Framework due to the effect of the development on the setting and significance of the listed building and the living conditions of occupiers of a neighbouring dwelling. No public benefits have been demonstrated to outweigh the effect on the heritage asset. The site is not previously developed land but is in a suitable location in relation to services and facilities and contributes to the supply of housing. Taking all of that into account, the conflict with the development plan arising from the effect on the setting and significance of the heritage asset and living conditions of neighbouring occupiers would not be outweighed by other material considerations. As with the other schemes, an appropriate assessment of the effect of the development on the integrity of the SAC would not affect this conclusion. As a result, the appeal should be dismissed.

Appropriate Assessment

85. I have concluded above that I should dismiss the dwellings for other reasons, except in relation to the dwelling to replace garages under appeal C. Consequently, this appropriate assessment solely relates to that proposed dwelling.

86. The appropriate assessment needs to consider the effect of the development on the integrity of the SAC and its qualifying features and species. Whilst a single dwelling would be likely to have a limited effect on the integrity of the SAC, in combination with other developments in the zone of influence those effects could be substantial.

87. The effects on the North Meadow part of the SAC would arise from trampling of vegetation beyond the paths. Additional visitors from the new dwelling located within the zone of influence of the SAC would increase the effect from trampling. In order to provide mitigation, the appellant has submitted a UU that seeks to meet the costs of schemes to minimise the impact of high levels

of trampling, especially during times when the fritillary is in flower. They suggest that, based on the cost estimate set out within the Site Improvement Plan for North Meadow and Clattinger Farm dated 2014, the costs of this would be £5,000. They are willing, for this single dwelling, to meet that cost in full.

88. However, the Framework and Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended) require that planning obligations are subject to three tests, in particular that they be fairly and reasonably related in scale and kind to the development. Given that the payment is at a level intended to enable all development within the zone of influence to come forward, it is clearly more than can be considered fair or reasonable in relation to the scale of this development. Although intended to be used for the purposes set out, there is no mechanism to ensure it would do so. I can't be certain that it would be effective or achieve the necessary mitigation. For these reasons, I cannot take the UU into account in coming to my decision.
89. I note that a strategy is being prepared that seeks to provide mitigation to the effects of trampling by residents of new development on the SAC. However, that is not yet in place.
90. On this basis, I cannot conclude that the proposed development, in combination with other developments, would not have an adverse effect on the integrity of the SAC. It would, therefore, be contrary to Policies EN8 and EN9 of the LP and the Habitats Regulations.
91. Given that conflict with the LP and taking into account my conclusions set out above, I conclude that the development proposed in appeal C would conflict with the development plan as a whole. On that basis, I will dismiss appeal C in full.

Appeal A on Ground (f)

92. An appeal on this ground is that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach. In this case, the requirements seek the removal of the fences subject of the breach of planning control. On that basis, the purpose of the notice requirements is to remedy the breach of planning control. It is not, therefore, an excessive requirement.
93. For the reasons set out in the ground (a) appeal, I will not alter the enforcement notice as a result of the partial success on ground (a).
94. As a result, I will not amend the requirements of the notice. I conclude that the appeal under ground (f) should fail.

Formal Decisions

Appeal A

95. It is directed that the enforcement notice is corrected by:
- The deletion of "that is not in keeping with the heritage of the Grade II Listed Building known as Siddington House" in section 3: the matters that appear to constitute the breach of planning control.

96. Subject to the correction, appeal A is allowed insofar as it relates to the timber fencing to the northern boundary of the land at Siddington House, Siddington, Cirencester GL7 6EU and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended, for the timber fencing to the northern boundary of the land at Siddington House, Siddington, Cirencester GL7 6EU and subject to the following condition:

1. The timber fencing shall not be treated in any way and shall be left to weather and silver naturally and shall be permanently retained as such.

97. Appeal A is dismissed and the enforcement notice is upheld as corrected and planning permission is refused insofar as it relates to the timber fencing to the western and southern boundaries at the land at Siddington House, Siddington, Cirencester GL7 6EU on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Appeals B, C, D and E

98. The appeals are dismissed.

AJ Steen

INSPECTOR

APPEARANCES

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Dr Jonathan Turner Heritage Consultant, Pegasus Group

Tim Goodwin Ecology Solutions

John Shannon Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Andrew Moody Senior Case Officer

Justin Eyton Heritage Consultant

Ben Holding Tree Officer

DOCUMENTS SUBMITTED AT THE HEARING:

Document 1: Policy EN9 of the Cotswold District Local Plan

Document 2: Policy DS1 of the Cotswold District Local Plan

