



Department for Levelling Up,
Housing & Communities

Steven Drury
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Our ref: APP/B1605/W/22/3309156
Your ref: 20/01788/FULL

Sent by email only:
steven.drury@rpsgroup.com

27 February 2024

Dear Sir

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEAL MADE BY MILLER HOMES, IN RESPECT OF LAND SOUTH OF A46
SHURDINGTON ROAD, LECKHAMPTON, CHELTENHAM
APPLICATION REF: 20/01788/FULL**

This decision was made by Simon Hoare MP, Parliamentary Under Secretary of State for Local Government, on behalf of the Secretary of State

1. I am directed by the Secretary of State to say that consideration has been given to the report of Zoe Raygen DipURP MRTPI, who held a hearing on 4 July 2023 into your client's appeal against the decision of Cheltenham Borough Council to refuse your client's application for planning permission for a residential development comprising 350 dwellings, open space, cycleways, footpaths, landscaping, access roads and other associated infrastructure, in accordance with application Ref. 20/01788/FULL, dated 9 October 2020.
2. On 3 March 2023, this appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act (TCPA) 1990.

Inspector's recommendation and summary of the decision

3. The Inspector recommended that the appeal should be allowed.
4. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions, and agrees with her recommendation. He has decided to allow the appeal and grant planning permission. The Inspector's Report (IR) is attached. All references to paragraph numbers, unless otherwise stated, are to that report.

Procedural matters

5. The Secretary of State notes that, as explained at IR4 and IR5, prior to the appeal Hearing taking place the appellant amended the proposals so that all properties would have PV solar panels and air source heat pumps rather than gas boilers. The description

of the development did not change. The Council confirmed at the Hearing that these amendments addressed the reason for refusal, subject to the imposition of conditions securing provision of both. It did not therefore defend its reason for refusal and the matter was not discussed at the Hearing. As this minor change was made prior to the start of the Hearing and was therefore included in the Inspector's considerations, the Secretary of State does not consider the amendment of the proposals raises any matters that would require him to refer back to the parties for further representations prior to reaching his decision on this appeal, and he is satisfied that no interests have thereby been prejudiced.

Matters arising since the close of the inquiry

6. On 22 November 2023, Areas of Outstanding Natural Beauty (AONBs) were renamed as National Landscapes. For convenience, in this decision letter the Secretary of State retains the terminology used by the Inspector. As there is no change to the statutory or policy framework covering these areas, he does not consider it is necessary to refer back to parties on this matter.
7. Biodiversity net gain has only been commenced for planning permissions granted in respect to an application made on or after 12 February 2024. Permissions granted for applications made before this date are not subject to biodiversity net gain.
8. A revised version of the National Planning Policy Framework (the Framework) was published on 19 December 2023 and amended on 20 December 2023. The Secretary of State referred back to parties on 17 January 2024. The Secretary of State received a nil response from Cheltenham Borough Council and one further representation on behalf of the appellant, and this is set out at Annex A. The Secretary of State is satisfied the issues raised do not change the consideration of this appeal. The IR contains paragraph references to the previous version of the Framework; this decision letter refers to both the old and the new paragraph numbers, where these are different.
9. A list of other representations which have been received since the inquiry is at Annex A. The Secretary of State is satisfied that the issues raised do not affect his decision, and no other new issues were raised in this correspondence to warrant further investigation or necessitate additional referrals back to parties. Copies of these letters may be obtained on request to the email address at the foot of the first page of this letter.

Policy and statutory considerations

10. In reaching his decision, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act (PCPA) 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.
11. In this case the development plan consists of the Cheltenham Plan (CP) (adopted 2020), the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011-2031 (JCS) (adopted 2017), and saved policies of the Cheltenham Borough Local Plan second review (adopted 2006). The Secretary of State considers that relevant development plan policies include those set out at IR22-32.
12. Other material considerations which the Secretary of State has taken into account include the Framework and associated planning guidance ('the Guidance'), as well as one other document listed at IR33.

Emerging plan

13. The emerging plan comprises a Neighbourhood Plan for Leckhampton with Warden Hill. The Secretary of State considers that the emerging policies of most relevance to this case include LWH4 – Green Infrastructure.
14. Paragraph 48 of the Framework states that decision makers may give weight to relevant policies in emerging plans according to: (1) the stage of preparation of the emerging plan; (2) the extent to which there are unresolved objections to relevant policies in the emerging plan; and (3) the degree of consistency of relevant policies to the policies in the Framework. The Secretary of State notes that the main parties agree the emerging neighbourhood plan is yet to be examined and would be subject to change at this stage. He therefore agrees with the Inspector's conclusion that the plan carries no more than very limited weight (IR24).

Main issues

Accordance with site allocation in the local plan

15. The Secretary of State notes that Local Plan policy MD4 allocates the site for mixed-use development consisting of housing and a school, with the exception of an area comprising two fields that are allocated as part of a Local Green Space (LGS) under policy GI1 of the CP (IR25).
16. For the reasons given at IR109-115, the Secretary of State agrees that this area would be developed as the community orchard and allotments and would therefore still operate as LGS. He agrees with the Inspector that the proposal would not be in conflict with Policy GI1 of the CP.

The effects of the proposal on the character, appearance and special qualities of the Cotswolds Area of Outstanding Natural Beauty

17. The Secretary of State has carefully considered concerns raised locally regarding effects of the proposal upon the local landscape character, including that of the setting of the Cotswolds AONB. He notes that there is agreement among the main parties that the landscape and visual impacts of the development would be acceptable, including any landscape effects on the AONB, particularly on views from Leckhampton Hill (IR50). He also notes two fields, R2 and R3, have some local quality. However, he agrees with the Inspector that the degree of containment means they are not prominent in local views (IR116). For the reasons given by the Inspector at IR116-120, the Secretary of State agrees that the proposal would nestle into and be viewed as part of existing development from the AONB (IR118) and views from the AONB would not be harmed and its setting would be preserved thereby conserving its landscape and scenic beauty (IR119).
18. Overall, the Secretary of State agrees with the Inspector's conclusion at IR120 that the proposals would not be harmful to the landscape character and appearance including the setting of the AONB. Furthermore, he agrees that there would be no conflict with Policies SD6 and SD7 of the JCS, Policy L1 of the CP and the Framework.

Highways

19. The Secretary of State has carefully considered concerns raised locally regarding effects of the proposal upon the highway network.
20. For the reasons given at IR97-108, the Secretary of State agrees with the Inspector that subject to the highway improvements proposed with the appeal any significant impacts from the proposed development are mitigated to an acceptable degree and the residual cumulative impacts on the highway network would not be severe (IR102). The proposal would not have a severe impact on the transport network in terms of congestion (IR108) and he further agrees that the proposal is not in conflict with JCS Policy INF1 and the Framework.

Accessibility

21. For the reasons set out in IR121-126 the Secretary of State agrees with regards the site location there are currently reasonable alternatives available to the private car (IR125). As such he finds no conflict with the Framework, which promotes the active management of patterns of growth to focus on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. He agrees with the Inspector that the proposed development would be in an accessible location and there would be no conflict with JCS Policy INF1 (IR126).

Biodiversity Net Gain

22. The Secretary of State notes the Biodiversity Net Gain (BNG) position for the scheme set out at IR128-136 and agrees the development complies with JCS Policy SD9, CP Policy G12 and the Framework (IR137). Like the Inspector, he considers that a BNG of 14.37% for broad habitats provides an appropriate level of BNG and that this can be secured by condition.

Other matters

Habitats Regulations Assessment

23. The Secretary of State notes that the Appellant's Shadow Habitats Regulations Assessment identified a likelihood of increased recreational impact upon the Cotswold Beechwoods Special Area of Conservation as a result of the development (IR140-141). However, for the reasons given at IR142, he agrees that the green and open spaces to be provided on the appeal site would provide suitable alternative locations for informal outdoor recreation and would mitigate the potential reactional pressure on the SAC.
24. As the Secretary of State is the Competent Authority for the purposes of the Conservation of Habitats and Species Regulations 2017, and for the reasons set out at IR140-142, he agrees with the Inspector that he is required to make an Appropriate Assessment of the implications of that plan or project on the integrity of any affected European site in view of each site's conservation objectives. The site is the Cotswold Beechwoods Special Area of Conservation (SAC). The Secretary of State agrees with the assessment and findings in Annex 2 of the IR. He therefore adopts Annex 2 as the necessary Appropriate Assessment in his role as the Competent Authority on this matter, and agrees that there would be no adverse effect on the integrity of the designated sites.

Housing and affordable housing

25. The Inspector sets out at IR145 that the Council cannot demonstrate a five-year supply of housing land, as required by the Framework, with another Inspector concluding at an appeal in March 2023 that the Council could only demonstrate a 2.9 year supply. In the light of the provisions of paragraph 11(d) and footnote 8 of the Framework, the presumption in favour of sustainable development is therefore triggered. The Secretary of State notes that with regard to the revised Framework published December 2023, the transitional arrangements set out at footnote 79 specify that the Framework changes in respect of the requirement to demonstrate a five-year housing land supply apply only in relation to applications made on or after the date of publication of the amended Framework. The application was made in advance of that and there is no practical effect on this appeal. For the reasons given at IR146, the Secretary of State agrees with the Inspector that the provision of housing is a very significant benefit of the scheme. He considers that substantial weight should be attached to the benefits of housing delivery, including the 40% affordable rate.

Pollution

26. For the reasons set out in IR139 the Secretary of State agrees with the Inspector's conclusions that the proposed development would not be harmful in respect of air pollution.

Other benefits

27. For the reasons given at IR147, the Secretary of State agrees with the Inspector that there would be a range of economic benefits and affords these significant weight.

28. For the reasons given at IR151, the Secretary of State agrees with the Inspector that the provision of footpath and pedestrian links to the surrounding area would benefit future occupiers, and affords this modest weight.

29. The Secretary of State agrees with the Inspector that the development would provide environmental benefits through achieving a 66% reduction in carbon emissions, which would go beyond local and national requirements, and affords this limited weight.

Planning conditions

30. The Secretary of State had regard to the Inspector's analysis at IR91, the recommended conditions set out at the end of the IR and the reasons for them, and to national policy in paragraph 56 of the Framework and the relevant Guidance. He is satisfied that the conditions recommended by the Inspector comply with the policy tests set out at paragraph 56 of the Framework and that the conditions set out at Annex B should form part of his decision. Furthermore, for the reasons set out at IR167-168, the Secretary of State agrees with the Inspector's recommendation that Conditions 30A and 31A be applied.

Planning obligations

31. The Secretary of State has had regard to the Inspector's analysis at IR92-93, the planning obligation dated 13 March 2023, paragraph 57 of the Framework, the Guidance and the Community Infrastructure Levy (CIL) Regulations 2010, as amended. For the reasons given at IR169, he agrees with the Inspector's conclusion that the obligation

complies with Regulation 122 of the CIL Regulations 2010 and the tests at paragraph 57 of the Framework.

Planning balance and overall conclusion

32. For the reasons given above, the Secretary of State considers that there are no material conflicts with any relevant development plan policies, and that the appeal scheme is in accordance with the development plan overall. He has gone on to consider whether there are material considerations which indicate that the proposal should be determined other than in line with the development plan.
33. As the Council is unable to demonstrate a five-year supply of housing land, paragraph 11(d) of the Framework indicates that planning permission should be granted unless: (i) the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or (ii) any adverse impacts of doing so significantly and demonstrably outweigh the benefits, when assessed against policies in the Framework taken as a whole.
34. The proposal would deliver a substantial number of homes, including 40% affordable, which attracts substantial weight, given the poor housing land supply position. Also weighing in favour of the proposal is the creation of construction-based and indirect employment, which carries significant weight; the creation of footpath and pedestrian links to the surrounding area, which carries modest weight; and a 66% reduction in carbon emissions as a result of the development, which carries limited weight.
35. The Secretary of State considers that all other matters covered in this decision letter are neutral in the planning balance.
36. The Secretary of State considers that there are no protective policies which provide a clear reason for refusing the development proposed. He further considers that the adverse impacts of granting permission would not significantly and demonstrably outweigh the benefits. The presumption in favour of sustainable development therefore applies.
37. The Secretary of State therefore concludes that planning permission should be granted.

Formal decision

38. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby allows your client's appeal and grants planning permission subject to the conditions set out in Annex B of this decision letter for planning permission for a residential development comprising 350 dwellings, open space, cycleways, footpaths, landscaping, access roads and other associated infrastructure, in accordance with application ref 20/01788/FULL, dated 9 October 2020.
39. This letter does not convey any approval or consent which may be required under any enactment, bye-law, order or regulation other than section 57 of the TCPA 1990.

Right to challenge the decision

40. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged. This must be done by making an application to the High Court within 6 weeks from the day after the date of this letter for leave to bring a statutory review under section 288 of the TCPA 1990.

41. A copy of this letter has been sent to Cheltenham Borough Council, and notification has been sent to others who asked to be informed of the decision.

Yours faithfully

Laura Webster

Decision officer

This decision was made by Simon Hoare MP, Parliamentary Under Secretary of State for Local Government, on behalf of the Secretary of State, and signed on his behalf

Annex A Schedule of representations

General representations

Party	Date
Jacky and Gerry Potter	9 August 2023
Richard Graham MP	13 November 2023

Representations received in response to the Secretary of State's reference back letter of 17 January 2024

Party	Date
Cheltenham Borough Council	19 January 2024
RPS Consulting (on behalf of the appellant)	1 February 2024

Annex B List of conditions

1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans:

Overall Layout

Site Location Plan	CB_70_064_000	G
Overall Planning Layout	CB_70_064_001	R
Land Use Plan	CB_70_064_002	J
Housing Mix Plan	CB_70_064_003	H
Affordable Housing Plan	CB_70_064_004	H
Building Heights Plan	CB_70_064_005	H
Parking Strategy Plan	CB_70_064_006	H
Bin and Cycle Storage	CB_70_064_007	H
External Finishes Plan	CB_70_064_008	H
External Enclosures Plan	CB_70_064_009	H
Hard Surfacing Plan	CB_70_064_010	H
House Type Plan	CB_70_064_012	H
Character Area Plan	CB_70_064_013	H
Street Scene Location Plan	CB_70_064_014	G
EV Charging Strategy Plan	CB_70_064_016	E

100 Application Pack (Eastern Parcel) - Layout Plans

Planning Layout	CB_70_064_101	V
Land Use Plan	CB_70_064_102	D
Housing Mix Plan	CB_70_064_103	H
Affordable Housing Plan	CB_70_064_104	J
Building Heights Plan	CB_70_064_105	H
Parking Strategy Plan	CB_70_064_106	J
Bin and Cycle Storage Plan	CB_70_064_107	H
External Finishes Plan	CB_70_064_108	H
External Enclosures Plan	CB_70_064_109	H
Hard Surfacing Plan	CB_70_064_110	H
House Type Plan	CB_70_064_112	H
Character Areas Plan	CB_70_064_113	H
EV Charging Strategy	CB_70_064_116	EV C

Street Scenes

Character Area: School Route

01	CB_70_064_100_SHR_SS_01	A
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Character Area: Principal Spine Road

01	CB_70_064_100_SPR_SS_01	A
02	CB_70_064_100_SPR_SS_02	A
03	CB_70_064_100_SPR_SS_03	A
04	CB_70_064_100_SPR_SS_04	A

Character Area: Internal Streets

01	CB_70_064_100_INS_SS_01	A
02	CB_70_064_100_INS_SS_02	A
03	CB_70_064_100_INS_SS_03	A

04	CB_70_064_100_INS_SS_04	A
05	CB_70_064_100_INS_SS_05	A
06	CB_70_064_100_INS_SS_06	A
07	CB_70_064_100_INS_SS_07	A
08	CB_70_064_100_INS_SS_08	A

100 Series House types

Character Area: School Route

Bridgeford Elevations	CB_70_064_100_SHR_BR_E01	-
Bridgeford Floor Plans	CB_70_064_100_SHR_BR_P01	-
Kingwood Elevations	CB_70_064_100_SHR_KI_E01	-
Kingwood Floor Plans	CB_70_064_100_SHR_KI_P01	-
Oakwood Elevations	CB_70_064_100_SHR_OA_E01	-
Oakwood Floor Plans	CB_70_064_100_SHR_OA_P01	-
Eaton Elevations	CB_70_064_100_SHR_EA_E01	-
Eaton Floor Plans	CB_70_064_100_SHR_EA_P01	-
Tiverton Elevations	CB_70_064_100_SHR_TV_E01	-
Tiverton Elevations	CB_70_064_100_SHR_TV_E02	-
Tiverton Floor Plans	CB_70_064_100_SHR_TV_P01	-

Character Area: Principal Spine Road

Kingwood Elevations	CB_70_064_100_SPR_KI_E01	-
Kingwood Floor Plans	CB_70_064_100_SPR_KI_P01	-
Oakwood Elevations	CB_70_064_100_SPR_OA_E01	-
Oakwood Floor Plans	CB_70_064_100_SPR_OA_P01	-
Pearwood Elevations	CB_70_064_100_SPR_PE_E01	-
Pearwood Elevations	CB_70_064_100_SPR_PE_E02	-
Pearwood Floor Plans	CB_70_064_100_SPR_PE_P01	-
Overton Elevations	CB_70_064_100_SPR_OV_E01	-
Overton Floor Plans	CB_70_064_100_SPR_OV_P01	-
Kingston Elevations	CB_70_064_100_SPR_KG_E01	-
Kingston Floor Plans	CB_70_064_100_SPR_KG_P01	-
Eaton Elevations	CB_70_064_100_SPR_EA_E01	-
Eaton Elevations	CB_70_064_100_SPR_EA_E02	-
Eaton Floor Plans	CB_70_064_100_SPR_EA_P01	-
Tiverton Elevations	CB_70_064_100_SPR_TV_E01	-
Tiverton Elevations	CB_70_064_100_SPR_TV_E02	-
Tiverton Floor Plans	CB_70_064_100_SPR_TV_P01	-
Rushwick Elevations	CB_70_064_100_SPR_RU_E01	-
Rushwick Floor Plans	CB_70_064_100_SPR_RU_P01	-
Marchmont Elevations	CB_70_064_100_SPR_MA_E01	-
Marchmont Floor Plans	CB_70_064_100_SPR_MA_P01	-
4b7p/2-M4(2) Elevations	CB_70_064_100_SPR_4B7P/2_E01	-
4b7p/2-M4(2) Floor Plans	CB_70_064_100_SPR_4B7P/2_P01	-
Ht.3bc Elevations	CB_70_064_100_SPR_HT.3BC_E01	A
Ht.3bc Elevations	CB_70_064_100_SPR_HT.3BC_E02	A
Ht.3bc Floor Plans	CB_70_064_100_SPR_HT.3BC_P01	A
2b4p Elevations	CB_70_064_100_SPR_2B4P_E01	-
2b4p Floor Plans	CB_70_064_100_SPR_2B4P_P01	-
2b4p Elevations	CB_70_064_100_SPR_2B4P_E02	-
2b4p Floor Plans	CB_70_064_100_SPR_2B4P_P02	-
2bcha Elevations	CB_70_064_100_SPR_2BCHA_E01	-
2bcha Floor Plans	CB_70_064_100_SPR_2BCHA_P01	-

1bh Elevations
1bh Floor Plans

CB_70_064_100_SPR_1BH_E01-
CB_70_064_100_SPR_1BH_P01-

Character Area: Internal Streets

Oxford Elevations	CB_70_064_100_INS_OX_E01	-
Oxford Floor Plans	CB_70_064_100_INS_OX_P01	-
Bridgeford Elevations	CB_70_064_100_INS_BR_E01	-
Bridgeford Floor Plans	CB_70_064_100_INS_BR_P01	-
Kingwood Elevations	CB_70_064_100_INS_KI_E01	-
Kingwood Elevations	CB_70_064_100_INS_KI_E02	-
Kingwood Floor Plans	CB_70_064_100_INS_KI_P01	-
Oakwood Elevations	CB_70_064_100_INS_OA_E01	-
Oakwood Floor Plans	CB_70_064_100_INS_OA_P01	-
Overton Elevations	CB_70_064_100_INS_OV_E01	-
Overton Floor Plans	CB_70_064_100_INS_OV_P01	-
Overton Elevations	CB_70_064_100_INS_OV_E02	-
Overton Floor Plans	CB_70_064_100_INS_OV_P02	-
Kingston Elevations	CB_70_064_100_INS_KG_E01	-
Kingston Floor Plans	CB_70_064_100_INS_KG_P01	-
Kingston Elevations	CB_70_064_100_INS_KG_E02	-
Kingston Elevations	CB_70_064_100_INS_KG_E03	-
Kingston Floor Plans	CB_70_064_100_INS_KG_P02	-
Eaton Elevations	CB_70_064_100_INS_EA_E01	-
Eaton Floor Plans	CB_70_064_100_INS_EA_P01	-
Rushwick Elevations	CB_70_064_100_INS_RU_E01	-
Rushwick Floor Plans	CB_70_064_100_INS_RU_P01	-
Marchmont Elevations	CB_70_064_100_INS_MA_E01	-
Marchmont Floor Plans	CB_70_064_100_INS_MA_P01	-
Marchmont Elevations	CB_70_064_100_INS_MA_E02	-
Marchmont Floor Plans	CB_70_064_100_INS_MA_P02	-
Marchmont Elevations	CB_70_064_100_INS_MA_E03	-
Marchmont Floor Plans	CB_70_064_100_INS_MA_P03	-
Fairmont Elevations	CB_70_064_100_INS_FA_E01	-
Fairmont Elevations	CB_70_064_100_INS_FA_E02	-
Fairmont Floor Plans	CB_70_064_100_INS_FA_P01	-
5b8p Elevations	CB_70_064_100_INS_5B8P_E01	-
5b8p Floor Plans	CB_70_064_100_INS_5B8P_P01	-
4b7p Elevations	CB_70_064_100_INS_4B7P_E01	-
4b7p Floor Plans	CB_70_064_100_INS_4B7P_P01	-
4b7p Elevations	CB_70_064_100_INS_4B7P_E02	-
4b7p Floor Plans	CB_70_064_100_INS_4B7P_P02	-
3b6p Elevations	CB_70_064_100_INS_3B6P_E01	-
3b6p Floor Plans	CB_70_064_100_INS_3B6P_P01	-
3b6p Elevations	CB_70_064_100_INS_3B6P_E02	-
3b6p Floor Plans	CB_70_064_100_INS_3B6P_P02	-
3b6p Elevations	CB_70_064_100_INS_3B6P_E03	-
3b6p Floor Plans	CB_70_064_100_INS_3B6P_P03	-
A300 - Gibson M4(2) Elevations	CB_70_064_100_INS_A300_GIB_M4(2)_E01-	
A300 - Gibson M4(2) Floor Plans	CB_70_064_100_INS_A300_GIB_M4(2)_P01-	
3b5p Elevations	CB_70_064_100_INS_3B5P_E01	-
3b5p Floor Plans	CB_70_064_100_INS_3B5P_P01	-
3b5p Elevations	CB_70_064_100_INS_3B5P_E02	-

3b5p Floor Plans	CB_70_064_100_INS_3B5P_P02	-
3b5p Elevations	CB_70_064_100_INS_3B5P_E03	-
3b5p Floor Plans	CB_70_064_100_INS_3B5P_P03	-
A201/2 Elevations	CB_70_064_100_INS_A201_2_E01	-
A201/2 Floor Plans	CB_70_064_100_INS_A201_2_P01	-
2b4p Elevations	CB_70_064_100_INS_2B4P_E01	-
2b4p Floor Plans	CB_70_064_100_INS_2B4P_P01	-
2b4p Elevations	CB_70_064_100_INS_2B4P_E02	-
2b4p Floor Plans	CB_70_064_100_INS_2B4P_P02	-
2b4p Elevations	CB_70_064_100_INS_2B4P_E03	-
2b4p Floor Plans	CB_70_064_100_INS_2B4P_P03	-
2b4p Elevations	CB_70_064_100_INS_2B4P_E04	-
2b4p Floor Plans	CB_70_064_100_INS_2B4P_P04	-
2b4p Elevations	CB_70_064_100_INS_2B4P_E05	-
2b4p Floor Plans	CB_70_064_100_INS_2B4P_P05	-
2b4p Elevations	CB_70_064_100_INS_2B4P_E06	-
2b4p Floor Plans	CB_70_064_100_INS_2B4P_P06	-
2b4p Floor Plans	CB_70_064_100_INS_2B4P_P07	-
1bb/2 Elevations	CB_70_064_100_INS_1BB/2_E01	-
1bb/2 Floor Plans	CB_70_064_100_INS_1BB/2_P01	-
1bb Elevations	CB_70_064_100_INS_1BB_E01	-
1bb Floor Plans	CB_70_064_100_INS_1BB_P01	-
1bf Elevations	CB_70_064_100_INS_1BF_E01	-
1bf Elevations	CB_70_064_100_INS_1BF_E02	-
1bf Elevations	CB_70_064_100_INS_1BF_E03	-
1bf Elevations	CB_70_064_100_INS_1BF_E04	-
1bf Floor Plans	CB_70_064_100_INS_1BF_P01	-
1bf Floor Plans	CB_70_064_100_INS_1BF_P02	-
1bf Floor Plans	CB_70_064_100_INS_1BF_P03	-
Garages Elevations & Floor Plan	CB_70_064_100_GAR_E01	-
Garages Elevations & Floor Plan	CB_70_064_100_GAR_E02	-
Garages Elevations & Floor Plan	CB_70_064_100_GAR_E03	-
Garages Elevations & Floor Plan	CB_70_064_100_GAR_E04	-
Sub-Station Elevations & Floor Plan	CB_70_064_100_SUB_E01	-

300 Series (Western Parcel)

300 Series Layouts

Planning Layout	CB_70_064_301	L
Land Use Plan	CB_70_064_302	C
Housing Mix Plan	CB_70_064_303	E
Affordable Housing Plan	CB_70_064_304	F
Building Heights Plan	CB_70_064_305	E
Parking Strategy Plan	CB_70_064_306	E
Bin and Cycle Storage	CB_70_064_307	E
External Finishes Plan	CB_70_064_308	E
External Enclosures Plan	CB_70_064_309	E
Hard Surfacing Plan	CB_70_064_310	E
House Type Plan	CB_70_064_312	E
Character Areas Plan	CB_70_064_313	E
EV Charging Strategy Plan	CB_70_064_316	B

Street Scenes

Character Area: Kidnappers Lane

01	CB_70_064_300_KDL_SS_01	A
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Character Area: Principal Spine Road

01	CB_70_064_300_SPR_SS_01	B
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02	CB_70_064_300_SPR_SS_02	B
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03	CB_70_064_300_SPR_SS_03	B
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Character Area: Internal Streets

01	CB_70_064_300_INS_SS_01	B
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02	CB_70_064_300_INS_SS_02	B
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03	CB_70_064_300_INS_SS_03	B
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04	CB_70_064_300_INS_SS_04	B
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05	CB_70_064_300_INS_SS_05	B
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06	CB_70_064_300_INS_SS_06	B
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07	CB_70_064_300_INS_SS_07	B
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300 House types

Character Area: Kidnappers Lane

Ht.A Elevations	CB_70_064_300_KDL_HT.A_E01	-
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Ht.A Elevations	CB_70_064_300_KDL_HT.A_E02	-
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Ht.A Elevations	CB_70_064_300_KDL_HT.A_E03	-
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Ht.A Floor Plans	CB_70_064_300_KDL_HT.A_P01	-
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Ht.G Elevations	CB_70_064_300_KDL_HT.G_E01	-
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Ht.G Floor Plans	CB_70_064_300_KDL_HT.G_P01	-
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Ht.C Elevations	CB_70_064_300_KDL_HT.C_E01	-
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Ht.C Floor Plans	CB_70_064_300_KDL_HT.C_P01	-
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Character Area: Principal Spine Road

Ht.A Elevations	CB_70_064_300_SPR_HT.A_E01	-
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Ht.A Floor Plans	CB_70_064_300_SPR_HT.A_P01	-
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Ht.C Elevations	CB_70_064_300_SPR_HT.C_E01	-
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Ht.C Floor Plans	CB_70_064_300_SPR_HT.C_P01	-
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Ht.C Elevations	CB_70_064_300_SPR_HT.C_E02	-
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Ht.C Floor Plans	CB_70_064_300_SPR_HT.C_P02	-
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Ht.H Elevations	CB_70_064_300_SPR_HT.H_E01	-
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Ht.H Floor Plans	CB_70_064_300_SPR_HT.H_P01	-
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Ht.D Elevations	CB_70_064_300_SPR_HT.D_E01	A
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Ht.D Floor Plans	CB_70_064_300_SPR_HT.D_P01	A
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Ht.D Elevations	CB_70_064_300_SPR_HT.D_E02	A
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Ht.D Floor Plans	CB_70_064_300_SPR_HT.D_P02	A
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Ht.E Elevations	CB_70_064_300_SPR_HT.E_E01	-
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Ht.E Floor Plans	CB_70_064_300_SPR_HT.E_P01	-
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Ht.E Elevations	CB_70_064_300_SPR_HT.E_E02	-
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Ht.E Floor Plans	CB_70_064_300_SPR_HT.E_P02	-
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Ht.E Elevations	CB_70_064_300_SPR_HT.E_E03	-
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Ht.E Floor Plans	CB_70_064_300_SPR_HT.E_P03	-
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Ht.E Elevations	CB_70_064_300_SPR_HT.E_E04	-
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Ht.E Floor Plans	CB_70_064_300_SPR_HT.E_P04	-
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2bch Elevations	CB_70_064_300_SPR_2BCH_E01	-
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2bch Floor Plans	CB_70_064_300_SPR_2BCH_P01	-
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4b7p Elevations	CB_70_064_300_SPR_4B7P_E01	-
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4b7p Floor Plans	CB_70_064_300_SPR_4B7P_P01	-
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Ht.3bc Elevations	CB_70_064_300_SPR_HT.3BC_E01	A
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Ht.3bc Elevations	CB_70_064_300_SPR_HT.3BC_E02	A
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Ht.3bc Floor Plans	CB_70_064_300_SPR_HT.3BC_P01	A
Ht.3b Elevations	CB_70_064_300_SPR_HT.3B_E01	A
Ht.3b Floor Plans	CB_70_064_300_SPR_HT.3B_P01	A
Ht.3b Elevations	CB_70_064_300_SPR_HT.3B_E02	A
Ht.3b Floor Plans	CB_70_064_300_SPR_HT.3B_P02	A
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2bcha Elevations	CB_70_064_300_SPR_2BCHA_E01	A
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2bcha Elevations	CB_70_064_300_SPR_2BCHA_E02	A
2bcha Floor Plans	CB_70_064_300_SPR_2BCHA_P02	A
2bcha Elevations	CB_70_064_300_SPR_2BCHA_E03	-
2bcha Floor Plans	CB_70_064_300_SPR_2BCHA_P03	-
2bcha Elevations	CB_70_064_300_SPR_2BCHA_E04	-
2bcha Floor Plans	CB_70_064_300_SPR_2BCHA_P04	-
1bf Elevations	CB_70_064_300_SPR_1BF_E01	-
1bf Elevations	CB_70_064_300_SPR_1BF_E02	-
1bf Floor Plans	CB_70_064_300_SPR_1BF_P01	-
1bf Floor Plans	CB_70_064_300_SPR_1BF_P02	-
1bf Elevations	CB_70_064_300_SPR_1BF_E03	A
1bf Elevations	CB_70_064_300_SPR_1BF_E04	A
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1bf Floor Plans	CB_70_064_300_SPR_1BF_P04	A
Character Area: Internal Streets		
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Ht.A Elevations	CB_70_064_300_INS_HT.A_E02	-
Ht.A Elevations	CB_70_064_300_INS_HT.A_E03	-
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Ht.G Floor Plans	CB_70_064_300_INS_HT.G_P01	-
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Ht.C Elevations	CB_70_064_300_INS_HT.C_E02	-
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Ht.C Floor Plans	CB_70_064_300_INS_HT.C_P02	-
Ht.H Elevations	CB_70_064_300_INS_HT.H_E01	-
Ht.H Floor Plans	CB_70_064_300_INS_HT.H_P01	-
Ht.D Elevations	CB_70_064_300_INS_HT.D_E01	A
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4b7p Floor Plans	CB_70_064_300_INS_4B7P_P01	-

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Access Plans

A46 Kidnappers Lane Access General Arrangement	04649-PA-001	P08
A46 Priority Access Junction General Arrangement	04649-PA-002	P06
Junction improvement at Leckhampton Lane	04649-PA-003 Rev	P04
Proposed controlled crossing across Kidnappers Lane	ITB12049-GA-056	C

3. Prior to the commencement of development, a phasing plan which indicates the phases through which the development hereby permitted shall be delivered on site shall be submitted to and approved in writing by the Local Planning Authority.
4. Prior to the commencement of development within each phase, a Construction Method Statement or Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The approved plan/statement shall be adhered to throughout the construction process and shall include, but not be restricted to:

- i) Provision of parking for vehicles of site operatives and visitors (including measures taken to ensure satisfactory access and movement for existing occupiers of neighbouring properties during construction);
 - ii) Any temporary access to the phase;
 - iii) Locations for the loading/unloading and storage of plant, waste and construction materials;
 - iv) Measures to control the emission of noise, dust and dirt during demolition and construction;
 - v) Method of preventing mud and dust being carried onto the highway;
 - vi) Arrangements for turning vehicles;
 - vii) Arrangements to receive abnormal loads or unusually large vehicles;
 - viii) Joint highway condition survey; and
 - ix) Methods of communicating the Construction Management Plan or Construction Method Statement to staff, visitors, and neighbouring residents and businesses.
 - x) Details of construction traffic routing to and from the site.
5. Prior to the commencement of development within each phase, drainage plans for the disposal of foul and surface water for that phase shall be submitted to and approved by the Local Planning Authority. The scheme shall thereafter be implemented in accordance with the approved plans before the phase is first brought into use.
6. Prior to the commencement of development within each phase, a Construction Phase Surface Water Management Plan for that phase shall be submitted to and approved in writing by the Local Planning Authority. The plan shall outline what measures will be used throughout the construction period of the development to ensure that surface water does not leave the site in an uncontrolled manner and put properties elsewhere at increased risk of flooding. The construction phase shall be implemented in strict accordance with the approved plans until the agreed Sustainable Drainage System Strategy is fully operational.
7. Prior to the commencement of development within each phase, a site investigation and risk assessment shall be carried out for that phase to assess the potential nature and extent of any contamination on the site, whether or not it originates on the site. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR11 and shall include:
- a) a survey of the extent, scale and nature of contamination
 - b) an assessment of the potential risks to:
 - human health
 - property (including buildings, crops, livestock, pets, woodland and service lines and pipes)
 - adjoining land
 - ecological systems
 - groundwaters and surface water
 - archaeological sites and ancient monuments
 - c) an appraisal of remedial options to mitigate against any potentially significant risks identified from the risk assessment.

Where remediation is required, a detailed remediation scheme shall be produced. The scheme shall include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme shall ensure that the site will not qualify as contaminated land under Part 2a of the Environmental Protection Act (1990) in relation to the intended use of the land after remediation.

The site investigation, risk assessment report, and proposed remediation scheme for each phase shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of any development within that phase.

8. Prior to the commencement of development within each phase, other than that necessary for that phase to comply with the requirements of this condition, the approved remediation scheme necessary to bring the phase to a condition suitable for the intended use shall be implemented in full. Following the completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out shall be submitted to and approved in writing by the Local Planning Authority.
9. In the event that contamination is found at any time when carrying out the approved development that was not previously identified, it must be reported in writing immediately to the Local Planning Authority and development shall be halted on that part of the site affected by the unexpected contamination. An investigation and risk assessment must then be undertaken in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination', CLR11 and a remediation scheme, where necessary, also submitted to and approved in writing by the Local Planning Authority. Following completion of measures identified in the approved remediation scheme, a verification report shall be submitted to and approved in writing by the Local Planning Authority before development can recommence on the part of the site identified as having unexpected contamination.
10. The development shall be carried out in accordance with the recommendations of the Façade Schedule provided as Appendix C to the Acoustic Design Statement dated 14 April 2020.
11. Prior to the commencement of development within each phase, full details of all proposed street tree planting, root protection systems, future management plan, and the proposed times of planting for that phase, shall be submitted to and approved in writing by the Local Planning Authority. All street tree planting shall thereafter be carried out in accordance with the approved details.
12. Prior to the commencement of development within each phase, the following information for that phase shall be submitted to and approved in writing by the Local Planning Authority:
 - a) a full site survey showing:
 - i) the datum used to calibrate the site levels;
 - ii) levels along all site boundaries at regular intervals;
 - iii) levels across the site at regular intervals;
 - iv) finished floor levels or other datum of adjacent buildings; and
 - v) cross section drawings clearly showing existing ground levels in relationship with the finished floor and eaves levels of adjacent buildings

- b) full details showing:
 - i) the proposed finished floor level of all buildings and ground levels including hard surfaces; and
 - ii) cross section drawings showing the proposed finished floor and eaves levels of all buildings and ground levels including hard surfaces.

The development shall thereafter be implemented strictly in accordance with the approved details.

13. Prior to the commencement of development within each phase, a Landscape and Ecological Management Plan (LEMP) for that phase shall be submitted to and approved in writing by the Local Planning Authority. The content of the LEMP shall include, but not be limited to, the following:

- a) Description and evaluation of features to be managed;
- b) Ecological trends and constraints on site that might influence management;
- c) Aims and objectives of management, including mitigation and enhancement for species identified on site
- d) Appropriate management options for achieving aims and objectives;
- e) Prescriptions for management actions;
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a ten-year period);
- g) Details of the body or organisation responsible for implementation of the plan, along with funding mechanism(s) for that body or organisation; and
- h) Ongoing monitoring and remedial measures, including where monitoring shows that conservation aims and objectives of the LEMP are not being met.

The approved plan shall be carried out in accordance with the approved LEMP.

14. Prior to the commencement of development within each phase, including preparatory works, a Construction Environmental Management Plan (CEMP) for that phase shall be submitted to and approved in writing by the Local Planning Authority. The CEMP shall include the following:

- a) a risk assessment of potentially damaging construction activities;
- b) identification of biodiversity protection zones (e.g. buffers to areas of retained habitat);
- c) practical measures (both physical measures and sensitive working practices, such as protective fencing, exclusion barriers and warning signs) to avoid or reduce impacts during construction (particularly in relation to works within any areas of retained habitat);
- d) the location and timing of sensitive works to avoid harm to biodiversity features (in relation to breeding birds in particular);
- e) the times during construction when specialist ecologists need to be present on site to oversee works (as required);
- f) responsible persons and lines of communication; and
- g) the role and responsibilities on site of an Ecological Clerk of Works (ECoW) or similarly competent person (as necessary).

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless the ECoW otherwise sets out alternative details which are subsequently agreed by the Local Planning Authority.

15. Prior to the commencement of development within each phase, full details of a hard and/or soft landscaping scheme for that phase shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall identify all walls, fences, trees, hedgerows and other planting which are to be retained, and provide details of all new walls, fences, or other boundary treatments; finished ground levels; new hard surfacing of open parts of the site which shall be permeable or drained to a permeable area; a planting specification to include [species, size, position and method of planting of all new trees and shrubs]; and a programme of implementation.

All hard and/or soft landscaping works shall be carried out in accordance with the approved details prior to first occupation of that phase unless otherwise agreed in writing by the Local Planning Authority.

Any trees or plants indicated on the approved scheme which, within a period of five years from the date of planting, die, are removed or become seriously damaged, diseased or dying shall be replaced during the next planting season with other trees or plants of a location, species and size which shall be first agreed in writing by the Local Planning Authority.

16. The programme of archaeological works shall be carried out in accordance with the approved Written Scheme of Investigation dated 22nd March 2022.
17. The development shall be carried out in accordance with the proposals set out in the Energy and Sustainability Statement dated 4 July 2023.
18. Prior to first occupation of the development within each phase, a SuDS Management and Maintenance Plan for that phase, for the lifetime of the development, shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime, The approved plan shall thereafter be implemented in full in accordance with the agreed terms and conditions.
19. No external facing or roofing materials shall be used unless in accordance with: a) a detailed written specification of the materials; and b) physical samples of the materials, the details of which shall have first been submitted to and approved in writing by the Local Planning Authority.
20. No dwelling shall be occupied until the access, parking and turning facilities from that individual building to the nearest public highway have been provided in accordance with Drawing No. CB_70_064_001 Rev R.
21. The part of the development served from the proposed southern (roundabout) access shall not be occupied until the following highway improvements works have been constructed and completed:
- a) Roundabout, realignment of Kidnappers Lane, crossings and active travel infrastructure as shown on Drawing No. 04649-PA-001 Rev P08; and
 - b) Closure of the junction of Kidnappers Lane and A46 Shurdington Road.

22. The part of the development served from the proposed northern (priority junction) access shall not be occupied until the following highway improvements have been constructed and completed:

a) Priority Junction, crossings and footway improvements as shown on Drawing No. 04649-PA-002 Rev P06.

23. The 50th dwelling hereby approved shall not be occupied until the following highway improvements works have been constructed and completed:

a) Junction improvement at Leckhampton Lane as shown on Drawing No. 04649-PA-003 Rev P04.

24. The development shall not be occupied until the following highway improvements works have been constructed and completed:

a) Controlled Crossing as shown on Drawing No. ITB2049-GA-056 Rev C

25. No dwelling shall be occupied until sheltered, secure and accessible bicycle parking has been provided for that dwelling in accordance with details which shall be submitted to and approved in writing by the Local Planning Authority. The approved bicycle parking shall thereafter be kept available for the parking of bicycles only.

26. Notwithstanding the submitted details, no dwelling shall be occupied until at least 1 parking space for that dwelling, or 1 per 10 spaces for communal parking areas, has been fitted with an electric vehicle charging point. The charging points shall comply with BS EN 62196 Mode 3 or 4 charging and BS EN 61851 and Manual for Gloucestershire Streets. The electric vehicle charging points shall be retained for the lifetime of the development unless they need to be replaced in which case the replacement charging points shall be of the same specification or a higher specification in terms of charging performance.

27. The approved Residential Travel Plan (i-Transport Ref: MG/AI/ITB12049-102A R, dated 9th October 2020) shall be implemented and monitored in accordance with the regime contained within the plan. In the event of failing to meet the targets within the plan, a revised plan shall be submitted to and approved in writing by the Local Planning Authority to address any shortfalls, and where necessary make provision for and promote improved sustainable forms of access to and from the site. The plan shall thereafter be implemented and updated in agreement with the Local Planning Authority.

28. Prior to first occupation of the development, details of a Homeowner Information Pack (HIP) providing information on recreation resources in the locality shall be submitted to and approved in writing by the Local Planning Authority. The pack should present information describing informal recreation opportunities in the following sequence:

- In the immediate area
- A short drive by car or bus
- Further afield – e.g. The Cotswolds, the Severn Estuary, the Forest of Dean.

Each dwelling shall be provided with an approved HIP on occupation.

29. No development shall take place until a scheme has been submitted to and approved in writing by the local planning authority which provides details of how a minimum of 10%

measurable biodiversity net gain in broad (area) habitat types and a net gain in linear hedgerow (including treeline) and river features can be achieved. The details provided shall follow those set out in the Technical Note to accompany the Biodiversity Impact Assessment Calculation submitted 27 June 2023. The scheme shall be supported by appropriate planning obligations under section 106 of the Town and Country Planning Act 1990 or agreement with the local planning authority under other statutory powers as are necessary to secure the delivery of the ongoing habitat management requirements included in the scheme, with such legal documents to be completed prior to the written approval of the scheme by the local planning authority. The scheme shall be carried out in accordance with the approved scheme.

30. All dwellings and apartments hereby permitted shall have solar PV panels in accordance with the requirements of the Energy and Sustainability Statement version R6 dated 4th July 2023. No dwelling or apartment building hereby approved shall be occupied until the proposed solar PV panels serving that dwelling or apartment building have been fully installed in accordance with a specification which shall have been submitted to and approved in writing by the Local Planning Authority prior to the occupation of any dwelling.
31. All dwellings and apartments hereby permitted shall be fitted with air source heat pumps in accordance with the requirements of the Energy and Sustainability Statement, dated 4th July 2023, the specification of which shall have been submitted to and approved in writing by the Local Planning Authority prior to the occupation of any dwelling. The approved ASHP(s) shall be installed prior to first occupation of each dwelling or apartment building hereby approved in accordance with the details approved.

Report to the Secretary of State for Levelling Up, Communities and Local Government

by Zoe Raygen DipURP MRTPI

an Inspector appointed by the Secretary of State

Date

TOWN AND COUNTRY PLANNING ACT

CHELTENHAM BOROUGH COUNCIL

APPEAL BY

MILLER HOMES

Hearing held on 4 July 2023

Land south of A46 Shurdington Road, Leckhampton, Cheltenham GL53 0JN

File Ref: APP/B1605/W/22/3309156

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List of Abbreviations used in the Report

AONB	Cotswolds Area of Outstanding Natural Beauty
CIL	Community Infrastructure Levy
CP	Cheltenham Plan 2020
EA	Environment Agency
EIA	Environmental Impact Assessment
Framework	The National Planning Policy Framework 2021
GCC	Gloucestershire County Council Highways Authority
GIS	Green Infrastructure Strategy
JCS	The Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011-2031 adopted 2017
LAP	Local Area of Play
LGS	Local Green Space
LLFA	Lead Local Flood Authority
NE	Natural England
NP	The emerging Leckhampton and Warden Hill Neighbourhood Plan
PPG	Planning Practice Guidance
POS	Public open space
PRoW	Public Right of Way
PUA	Principal Urban Area
S106 Agreement	The legal agreements containing planning obligations pursuant to Section 106 of the Act
SAC	Cotswold Beeches Special Area of Conservation
SHMA	Strategic Housing Market Assessment
SoS	Secretary of State
SPD	Cheltenham Climate Change Supplementary Planning Document 2022
SuDS	Sustainable Drainage Scheme
TA	The appellant's Transport Assessment

File Ref: APP/B1605/W/22/3309156

Land south of A46 Shurdington Road, Leckhampton, Cheltenham GL53 0JN

- The appeal is made under section 78 of the Town and Country Planning Act 1990, against a refusal to grant full planning permission.
- The application is made by Miller Homes against the decision of Cheltenham Borough Council.
- The application Ref 20/01788/FULL dated 9 October 2020 was refused by notice dated 21 April 2022.
- The development proposed is residential development comprising 350 dwellings, open space, cycleways, footpaths, landscaping, access roads and other associated infrastructure.

Summary of Recommendation:

I recommend that the appeal should be allowed.

Preliminary Matters

1. The original planning application was initially reported to the Council's Planning Committee on 24 March 2022 when it was deferred to ensure that the scheme made the fullest contribution possible to the mitigation of climate change, with reference to Strategic Objective 6 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011-2031 (Adopted 2017) (JCS); to allow for the lack of a contribution towards off-site communality facilities and services to be revisited, with reference to JCS policy INF4; and to secure a condition in relation to the Mooredend Park Road junction improvements.
2. The appellant responded to these concerns and the application was reported to the Planning Committee on 21 April 2022. Members resolved to refuse full planning permission for the following reason:

- 1) *Cheltenham Borough Council has declared a 'Climate Emergency' and is committed to becoming a net zero carbon council and borough by 2030.*

Strategic Objective 6 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011-2031 (Adopted 2017) ('JCS') sets out the requirement to ensure that new developments "Make the fullest contribution possible to the mitigation of, and adaption to, climate change and the transition to a low-carbon economy" through a number of measures including, the production and consumption of renewable energy and the decentralisation of energy generation, and by encouraging and facilitating low and zero carbon development.

Additionally, the need to achieve sustainable development is highlighted throughout the National Planning Policy Framework 2021 ('NPPF') which at paragraph 8c) sets out that, from an environmental objective, opportunities should be taken to "mitigating and adapting to climate change, including moving to a low carbon economy".

The proposed development, as a result of the installation of gas boilers throughout, would fail to take full account of the opportunities available to move towards low carbon technologies such as heat pumps, and would be at odds with both local and national plans to achieve net zero targets.

In addition, the proposed development, by virtue of the orientation of some of the dwellings, would fail to maximise the potential to incorporate solar

pv panels and further reduce reliance on less sustainable forms of technology therefore not being adaptable to climate change contrary to the requirements of Policy SD3 of the JCS.

As such, the proposed development would be contrary to Strategic Objective 6 and Policy SD3 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011-2031 (Adopted 2017), and paragraph 8c) and sections 2, 12 and 14 of the National Planning Policy Framework 2021.

3. On 3 March 2023 the Secretary of State (SoS) directed that he would recover the appeal for his own determination. The reason for this direction is that the appeal involves a proposal for a residential development of over 150 units which would significantly impact on the Government's objective to secure a better balance between housing demand and supply and create high quality, sustainable, mixed and inclusive communities. This is one of the grounds set out in the guidelines for recovering appeals in the Ministerial Statement of 30 June 2008.
4. Prior to the Hearing, the appellant amended the proposals so that all properties would have PV solar panels and air source heat pumps rather than gas boilers and. On that basis, the Council confirmed at the Hearing that this addressed the reason for refusal subject to the imposition of conditions securing the provision of both. It did not therefore defend its reason for refusal and the matter was not discussed at the Hearing as no other objections had been received specifically on this matter.
5. With those changes I am of the view that the proposal would make the fullest contribution possible to the mitigation of, and adaption to, climate change and the transition to a low-carbon economy in accordance with Strategic Objective 6. Furthermore, the proposal would meet and exceed national standards regarding energy efficiency as demonstrated in the appellants Energy and Sustainability Statement R6¹ as required by Policy SD3 of the JCS. Consequently, subject to the imposition of appropriate conditions I consider that the proposal would meet the requirements of Policy SD3 and Strategic Objective 6 of the JCS.
6. Subsequently the SoS confirmed he still wished to recover the appeal for his own determination.
7. I carried out an unaccompanied pre-Hearing visit on 3 July 2023. I carried out further unaccompanied visits on 4 July 2023.
8. The Planning Inspectorate's Environmental Services Team determined that the development is not Environmental Impact Assessment (EIA) development in a screening direction dated 24 March 2023. While the proposed development falls within the definition of Schedule 2 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 due to its size, it would not give rise to significant environmental effects having regard to the relevant criteria in Schedule 3 of the same regulations. Accordingly, no Environmental Statement is required.
9. Subsequent to the Hearing the appellant submitted a recent appeal decision regarding the erection of 30 dwellings at land north of Church Road Leckhampton

¹ Document 2

which was allowed. The Council and Interested Parties were allowed time to comment.

The Site and Surroundings²

10. The appeal site is located on the southern side of Shurdington Road (A46) at the southwestern edge of the borough and comprises some 18.075 hectares of land.
11. To the east, the site is bounded by the Moorend Stream with residential properties on Merlin Way beyond. Kidnappers Lane runs along the western and south-western boundary of the site with residential properties adjacent at its northern end. The north-eastern boundary is formed by fields in pasture and small holdings. Hatherley Brook crosses the site centrally from south to north. Residential properties are located on Shurdington Road to the north, and opposite the site. The new Leckhampton High School has recently been constructed on Kidnappers Lane.
12. The site is relatively level, sloping gently from south to north. There are also a number of mature trees and hedges within the site and along field boundaries. Public rights of way run along the southern boundary of the site running west from Kidnappers Lane to a path adjacent to Merlin Way to the north.
13. Some of the site extends into the northern part of the Leckhampton area of Local Green Space (LGS) located southeast of the site.
14. The site is located outside both the Cotswolds Area of Outstanding Natural Beauty (AONB) and Green Belt which are located to the south of the site.
15. There are bus stops located within close proximity of the appeal site entrances with a bus service along Shurdington Road running between Cheltenham and Gloucester town centres every ten minutes during the day. The nearest railway station is Cheltenham Spa station which is located approximately 2.7km from the site.
16. Community facilities close to the appeal site include Leckhampton C of E Primary School, a pre-school centre adjacent to the Burrows Playing Fields and a children's day nursery on Kidnappers Lane. There are sports facilities including football and cricket pitches and a children's play area on the Burrows Playing Field and play facilities including a pitch and netball court on Brizen Farm Playing Field off Shurdington Road to the north-west. The Warden Hill Primary School Site is located less than 200 metres from the edge of the site to the west, across the Shurdington Road. The Bournside Secondary School Site is located 400 metres to the north-west of the edge of the appeal Site and is accessible via a direct footpath link opposite the original alignment of Kidnappers Lane.

Planning Policy

17. The National Planning Policy Framework (the Framework) outlines a presumption in favour of sustainable development. It also identifies that achieving sustainable development means that the planning system has three overarching objectives – economic, social and environmental.
18. Paragraph 11 of the Framework sets out how this presumption is to be applied.

² Largely taken from section 2 of the Statement of Common Ground (E26)

It indicates that development proposals that accord with an up-to-date development plan should be approved without delay. It goes on to say that where no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance, including Areas of Outstanding Natural Beauty, provides a clear reason for refusing the development proposed or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

19. The Framework indicates that, for applications which involve the provision of housing, such as this, where the local planning authority cannot demonstrate a five year supply of deliverable housing sites, as is the case in this instance, the policies which are most important for determining the application are out-of-date in the terms of paragraph 11.
20. Although I have considered the Framework in its entirety, the following sections are particularly relevant to this case:
 - 2 – Achieving sustainable development
 - 4 – Decision-making
 - 5 – Delivering a sufficient supply of housing
 - 9 – Promoting sustainable transport
 - 11 – Making effective use of land
 - 12 – Achieving well-designed places
 - 15 – Conserving and enhancing the natural environment
21. Although a weighty material consideration, the Framework does not change the statutory status of the development plan. The development plan for the area includes the saved policies of the Cheltenham Borough Local Plan Second Review 2006, the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2017 (the JCS) and the Cheltenham Plan 2020 (the CP). The parties agree that there are a number of relevant policies in the JCS and the CP³.
22. Policy SD3 of the JCS is the only development plan policy referenced in the reason for refusal. The policy concerns Sustainable Design and Construction. The relevant parts to be considered are: (1) Development proposals will demonstrate how they contribute to the aims of sustainability by increasing energy efficiency, minimising waste and avoiding the unnecessary pollution of air, harm to the water environment, and contamination of land or interference in other natural systems. In doing so, proposals (including changes to existing buildings) will be expected to achieve national standards; (2) All development will be expected to be adaptable to climate change in respect of the design, layout, siting, orientation and function of both buildings and associated external spaces. Proposals must demonstrate that development is designed to use water efficiently, will not adversely affect water quality, and will not hinder the ability of a water body to meet the requirements of the Water Framework Directive; and (5) Major planning applications must be submitted with an Energy Statement that clearly indicates the methods used to calculate predicted annual energy demand and associated annual Carbon Dioxide (CO₂) emissions.

³ See paragraphs 4.2 and 4.3 of the SOCG (E26)

23. The policy states that it contributes towards achieving Objectives 5, 6 and 9 of the JCS. Objective 6 – Meeting the challenges of climate change is also referenced in the Council's reason for refusal. This requires making the fullest contribution possible to the mitigation of, and adaption to, climate change and the transition to a low carbon economy, by amongst other things; in partnership with others the production and consumption of renewable energy and the decentralisation of energy generation, and by encouraging and facilitating low and zero carbon development.
24. Although not part of the development plan there is an emerging development plan document, the emerging Leckhampton with Warden Hill Neighbourhood Plan (NP) which has completed Regulation 14 but has not undertaken Regulation 16 submission. The main parties agree that given its stage of progress it may be subject to change such that it carries no more than very limited weight. I agree. In the absence of any examination, I cannot be sure that policies would be retained in their existing form. The Ward and Parish Councillors refer to Policy LWH4 which seeks to protect and enhance existing green infrastructure including on existing housing allocation site MD4 (the appeal site).
25. The site is outside of, but immediately adjacent to, Cheltenham's Principal Urban Area (PUA) and forms part of the Leckhampton mixed-use allocation in the CP (Policy MD4). Part of the site is also within the allocated Leckhampton Local Green Space (LGS) subject to Policy GI1 of the CP.
26. Policy MD4 of the CP describes the site as "Originally a JCS site, development at this location will need to take into account landscape impacts, highways issues and green space. Site boundaries are based on the JCS Inspector's comments in her Note of Recommendations from 21 July 2016. Development at this location will need to ensure that the JCS examination's consideration and findings related to this site are fully taken into account. Along with this, the site has an extensive planning history related to the earlier, larger proposal (13/01605/OUT); the Inspector's and Secretary of State's findings in this appeal should also be reflected in any future scheme."
27. The constraints relating to the allocation are described as Local Green Space, Impact on AONB, Flood Risk Mitigation, Highways and Heritage assets. The site specific requirements are: Approximately 350 dwellings on land north of Kidnappers Lane; Provision of a secondary of school with six forms of entry on land to the south of Kidnappers Lane; Safe, easy and convenient pedestrian and cycle links within the site and to key centres; A layout and form that respects the existing urban and rural characteristics of the vicinity; A layout and form of development that respects the character, significance and setting of heritage assets that may be affected by the development; A layout and form of development that respects the visual sensitivity and landscape; character of the site as part of the setting for the AONB.
28. Policy GI1 of the CP concerning LGS states that development will not be permitted within a LGS, designated either within the Cheltenham Plan or an approved Neighbourhood Plan, unless there are very special circumstances which outweigh the harm to the LGS. Particular attention will be paid to the views of the local community in assessing any development proposals that affect a designated LGS.
29. Other relevant policies concerning issues raised by interested parties are Policy

INF1 of the JCS which requires that all proposals should ensure safe and efficient access to the highway network for all transport modes. Planning permission will be granted only where the impact of development is not considered to be severe. Where severe impacts that are attributable to the development are considered likely, including as a consequence of cumulative impacts, they must be mitigated to the satisfaction of the Local Planning Authority in consultation with the Highway Authorities and in line with the Local Transport Plan. The Policy also seeks to ensure that development is in accessible locations with good access to travel choices.

30. Policies SD6 and SD7 of the JCS and Policy L1 of the CP seek to protect landscape character, views into and out of Cheltenham and to preserve and where appropriate enhance the landscape, scenic beauty, wildlife, cultural heritage and special qualities of the AONB.
31. Policy SD9 of the JCS seeks to protect the biodiversity and geological resource of the JCS area. Harm to biodiversity should be avoided, or mitigated by integrating enhancements into the scheme that are appropriate to the location, if not on site, then offsite enhancements may be acceptable. The Policy also safeguards European Protected Species.
32. Policy SD14 of the JCS protects air quality.
33. The Cheltenham Climate Change Supplementary Planning Document 2022 (the SPD) is also relevant.

Planning History

34. There is a lengthy history to the appeal site and its place within the development plan. The site is part of a wider area that was allocated as an urban extension at Leckhampton as part of the JCS process for 1124 dwellings with some 764 within the Council's area, the remainder over the boundary in Tewkesbury. However, the Inspector examining the JCS considered that to avoid areas of high landscape and visual sensitivity and due to the impact of traffic generation from the proposed allocation the number of houses should be significantly reduced and the area coloured red on the landscape and visual sensitivity plan should remain as green infrastructure⁴. The appeal site is mainly included within the area of low landscape sensitivity with just a small area designated as medium landscape sensitivity on the area referred to as fields R2 and R3 by interested parties and within the NP. None though is in the red area which the Inspector considered should be protected from development.
35. The Inspector stated in their interim report⁵ that a limited amount of development could be supported towards the north of the site where public transport is more accessible subject to the avoidance of land of high landscape sensitivity in the order of 200 dwellings for reasons of landscape/visual amenity and highway impacts.
36. Within the Inspectors Note of Recommendations made at the Hearing Session on 21 July 2016⁶ the Inspector states that they accept the JCS highway modelling

⁴ Paragraph 117 of the Inspectors Interim Report into the JCS (I4)

⁵ I4

⁶ I5

that indicates that a mitigation package could be produced which could reduce traffic impacts to a satisfactory level. Therefore, modifications were not proposed on highway grounds. The document also confirmed that built development should be confirmed within the less sensitive areas of the Landscape and Visual Sensitivity Plan towards the north. The area acceptable for development corresponds generally with fields NE, NW1, NW2, NW3 and NN, excluding fields R2 and R3 and the area HB around Hatherley Brook⁷.

37. However, within their final report⁸ the Inspector states that “whilst I previously commented that an allocation in the order of 200 dwellings at Leckhampton might be reasonable, this was only an approximation and intended to indicate a scale below the strategic threshold for the JCS. The final figures should be based on a full assessment of the area to provide the evidence base to underpin an appropriate allocation”.
38. At a similar time to the JCS process an appeal against the refusal of planning permission for 650 houses and a mixed use centre was recovered by the SoS for consideration on a site which included the appeal site⁹. The SoS considered that the residual cumulative effects of development proposed would increase demand for use of sections of the highway network which were already operating at over-capacity levels, contributing to a severe impact on a wider area of Cheltenham as traffic is displaced, contrary to both adopted and emerging policies and the Framework (in place at that time). In addition, he considered that development on this site at that time would harm the character and appearance of the local area through the loss of a valued landscape. Although development of the site would not harm more structural elements of the wider contextual landscape character, such as the nearby AONB or the setting of Cheltenham as a whole, its development would cause a local loss and would conflict with development plan policies.
39. At the time of the consideration of the CP, the appeal site was included in an area proposed as an allocation under the broad heading of Policy H2 regarding Mixed Use Areas. This area included fields R2 and R3. The proposed allocation under Policy MD4 was for 350 dwellings and a secondary school. The CP Inspector commented that “The level of housing as now proposed is less than 50% of the site for 764 dwellings considered by the Inspector at the JCS examination. The impact on the landscape and natural environment has been the subject of considerable evidence from both the developers of the housing site and from Gloucestershire County Council. I accept that there would be a significant change in the character of the area in the vicinity of the proposals. However, residential development would be primarily concentrated in the area which both I and the JCS Inspector consider to be most able to accommodate it, and careful siting of the school buildings and playing fields south of Kidnappers Lane would ensure that its impact is mitigated through careful design and landscape treatment”.¹⁰ The allocation was therefore taken forward as part of the adopted CP. The majority of the remaining area to the south was designated as LGS.
40. Planning permission has been granted for 12 dwellings on a small parcel of land

⁷ F24 & F19p2

⁸ I6

⁹ Planning application 13/01605/OUT, appeal ref: APP/B1605/W/14/3001717 (The Bovis Homes appeal)

¹⁰ I7

within the Policy MD4 allocation but outside of the appeal site¹¹.

The Proposals¹²

41. This is an application for full planning permission. It is for the construction of 350 dwellings, open space, cycleways, footpaths, landscaping, access roads and other associated infrastructure. The proposed homes would be a mix of 2, 3, 4 and 5 bedroom houses. They would include affordable homes at a rate of 40%, with 41 for social rent, 57 for affordable rent and 42 for shared ownership.
42. The majority of the built form would be 2-storeys, although there would be some at 3 storeys as well as single storey ancillary buildings, including garages. A range of terraced, semi-detached and detached forms are proposed.
43. There would be two vehicle access points into the appeal site; a priority junction and a new roundabout. The roundabout proposal also realigns Kidnappers Lane and the existing junction with Shurdington Road would be closed and replaced with a cycleway. A new Toucan crossing point is proposed to the east of the site on the Shurdington Road. New recreational footpaths are proposed to link to existing public rights of way (PROW) providing routes into the surrounding area.
44. In broad terms the developed site would have two distinct areas of housing separated by green space incorporating landscaping, a LAP, drainage features, cycleways and footpaths. There is further green space proposed within the eastern and southeastern parts of the appeal site also incorporating landscaping, drainage features, cycleways, footpaths, a LAP, community orchard and allotments.
45. Several drainage features and ponds would be created within the central green, the green corridor and the edge of the Ancient Woodland buffer, capturing surface water run-off and providing a new habitat.

Areas of Agreement

46. Principal of development: Even though planning permission has already been granted for 12 houses on the MD4 allocation, the main parties¹³ agree that the principal of a further 350 dwellings is acceptable on the appeal site given that the wording of the policy looks to the provision of **approximately** 350.
47. Transport: The main parties agree that the proposal would not be materially harmful to highway safety and the appeal site would be an accessible location with the scheme proposing suitable mitigation through off-site improvements, enhanced walking and cycling connections and planning obligations. Gloucestershire County Council Highway Authority (GCC) has undertaken an assessment of the appellant's transport information¹⁴ and concluded that there would not be an unacceptable impact on highway safety or severe impact on congestion.
48. Drainage: The main parties agree that the Drainage Strategy and Flood Risk Assessment submitted by the appellant would ensure that the appeal site would

¹¹ 19/02303/OUT, 21/00045/REM & APP/B1605/W/21/3281321

¹² The proposal drawings are listed in Condition 2 in the Annex attached thereto

¹³ Reference to the main parties in this report means the appellant and the Council

¹⁴ D1 and D2

- be adequately drained and not cause harm elsewhere. There has been no objection from the Lead Local Flood Authority (LLFA), the Environment Agency (the EA) and Severn Trent.
49. Ecology: The main parties agree that the ecological impacts of the proposed development would be acceptable subject to the imposition of conditions. No objections were received from Natural England (NE) or Wild Service (the Council's specialist ecology advisor).
50. Landscape and visual impact: The main parties are agreed that the landscape and visual impacts of the development would be acceptable, including any landscape effects on the AONB, particularly on views from Leckhampton Hill. Furthermore, the majority of quality trees and hedgerows would be retained, and the scheme would make the most of the two brooks crossing the site.
51. Design and layout: The main parties are in agreement that the layout of the proposed development is acceptable with appropriate green space, landscaping and play facilities. Affordable housing is of a similar design to market housing and would be effectively integrated into the development. They also agree that the design of the houses would be appropriate for the context, using an acceptable simple but varied palette of materials.
52. Air Quality: The main parties agree that the proposal would not materially harm air quality.
53. Living Conditions: The parties agree that there would be no harm to resident's living conditions.
54. Planning obligations: The main parties agree there is a requirement for a S106 agreement in order to make the development acceptable.
55. Effect on Special Area of Conservation: The main parties agree, supported by a Habitats Regulation Assessment, that the proposed development has the potential to affect the integrity of the Cotswolds Beechwoods Special Area of Conservation (SAC) through increased recreational pressure, however this could be mitigated by an appropriate condition requiring the provision of a Homeowners Information Pack and 6.5ha of on-site green and open space. NE support that approach and the necessary measures can be secured via a S106 agreement and conditions.
56. Five year housing land supply: The main parties agree that the Council cannot currently demonstrate a five year housing land supply. A recent appeal decision found that at that time (2 March 2023) the housing land supply stood at 2.9 years¹⁵.
57. The summaries of cases of the parties set out in the following sections are based on the written and oral evidence, with references given to relevant sources, up to the point at which I closed the Hearing.

The Case for the Appellant

58. The appellant's case is supported by an Air Quality Assessment, Arboricultural Impact Assessment, Design and Access Statement, Ecological Assessment, Flood

¹⁵ APP/B1605/W/22/3310455

Risk Assessment, Green Infrastructure Strategy, Heritage Assessment, Landscape and Visual Assessment, Noise Assessment, Renewable Energy and Sustainable Construction Statement and Transport Assessment¹⁶, demonstrating that the proposal accords with an up to date development plan. There are no objections from the Council. The applicant respectfully asks that the Inspector recommend that the appeal be allowed and planning permission granted.

59. If any harm is found leading to conflict with the development plan, then the adverse impacts would not significantly and demonstrably outweigh the substantial benefits when assessed against the policies of the Framework as a whole.
60. The economic benefits would be as follows: Creation of direct construction-based (378) and indirect employment (528.5); Support for services and facilities delivering a new population with a combined spending power of £2,411,649 per annum; Homes Bonus and Council Tax and Community Infrastructure Levy (CIL) The proposal would generate additional revenue for the local authority through Council tax generation of around £536,200pa as well as the potential New Homes Bonus funding of around £244,817 from central government in order to incentivise housing growth in local areas. The development would additionally contribute approximately £6.7 million through CiL. The proposal would make a number of financial contributions towards local infrastructure. Whilst these contributions would be to mitigate the impact of the development, of particular relevance is the financial contribution being made for education purposes, which would make a contribution of £796,300.50 towards primary education. As paragraph 95 of the Framework advises, great weight should be given to school expansion.
61. The social benefits would comprise the delivery of a mix and range of housing compliant with the Strategic Housing Market Assessment (SHMA) as well as affordable housing to meet a considerable shortfall. In addition there would be improved walking distances to new Leckhampton Secondary School and a contribution to the footpath network.
62. The environmental benefits would include a total of 6.73ha of open space, including 4.09ha of open space, 1.8ha of community space comprising a community orchard and allotments, 0.19ha of children's play space located at 4 locations across the site and a 0.64ha SuDS features. The Public Open Space (POS) and landscaping have been informed by a Green Infrastructure Strategy which sets out how the areas of green space will be provided across the Site and how landscaping will be designed to protect the surrounding area and AONB. The proposals would also incorporate 0.64 ha of SuDS features, and sustainable urban drainage techniques to ensure surface water drainage outflows would be reduced compared with the existing situation. The ponds would offer management of water quality and the opportunity for providing amenity and biodiversity benefits. The development would meet the requirements of the JCS in terms of renewable and low carbon energy and climate change. As well the development would deliver significant biodiversity net gain.

¹⁶ A4-A17

The Case for the Council

63. The proposal accords with an up to date development plan and therefore planning permission should be granted.

The Case for Other Parties Who Gave Evidence at the Hearing

The Case for Cllr Martin Horwood as Ward Councillor and Parish Councillor, and Cllr Emma Nelson as Ward Councillor and Cllr Bernard Fisher as County Councillor also on behalf of residents¹⁷

64. The Councillors raised four main issues regarding congestion, accessibility, landscape impact and biodiversity net gain.
65. With regards to accessibility, since the consideration of the JCS, 377 houses have been granted planning permission¹⁸ to the southwest over the Borough boundary in Tewkesbury. This planning permission was determined in 2016 when the site formed part of the proposed strategic allocation in the JCS prior to its removal.
66. A further 25 have been granted at land off Kidnappers Lane¹⁹ and 12 within the MD4 allocation creating a total of 414 dwellings. To include the 350 proposed within this appeal would take the total to 764, well above that considered by the Inspector to be unacceptable on highway grounds at the Bovis Homes appeal. Furthermore, the secondary school is nearly complete and due for full occupation by 2026 further adding to traffic in the area.
67. A condition was attached to the Redrow permission for 377 houses stating that junction improvements had to be in place by the time of the completion/occupation of the 200th dwelling. Redrow are now well past the provision of 200 dwellings and there seems to be no urgency for any scheme for the improvement to Moorend junction to come forward. Without that the addition of further traffic movements associated with the appeal scheme will lead to even more congestion and delay with residents queueing for lengthy periods of time along the A46. Also, there are very few routes into Cheltenham from this direction with the A46 being the primary one. The other, Church Road, is narrow and has cars parked on the road for much of its length. It also has a primary school which at drop off and pick up times adds to congestion and awkward manoeuvring. Furthermore, there have been a number of accidents and incidents on narrower roads and lanes as people divert to avoid the congestion on the A46. Adding more traffic would make it more likely such accidents would continue. The appellants have also not properly considered the impact of the Missing Link within their Transport Assessment (TA).
68. The Councillors consider that accessibility of the appeal site is poor. In particular, the bus service is subject to regular cancellations leading to lengthy waits for the bus. The walk to facilities is lengthy and residents would not walk to the nearest supermarket (1.5km) and do their shopping and carry heavy bags home. Although cycle and footpath links within the appeal site would be good, the linkages to the surrounding area are not and the shared cycle/pedestrian lanes

¹⁷ F10-F13, F16, F19, F20

¹⁸ 14/00838/FUL (the Redrow permission)

¹⁹ 19/00334/OUT, APP/B1605/W/19/3238462 & 21/00847/REM

recently installed along the A46 are dangerous. To this end as the site allocation is for mixed use then a local shop should be included in the proposal to serve the development and the wider local area.

69. The appeal site contains fields R2 and R3 which the JCS Inspector considered should not be built on within their various reports²⁰ due to the impact on the setting of the AONB. The Councillors consider therefore that while field R3 would become open space, the houses proposed within field R2 should be removed from the proposal. This would assist with reducing the number of traffic movements generated by the development and the consequent congestion on the A46. Furthermore, the proposal does not accord with the findings of the most up to date assessment of the landscape character carried out by Lepus Consulting as evidence for the NP.²¹ This study finds that the area covered, including the appeal site, is a highly valuable landscape under the majority of the indicators of landscape value set out in the guidelines. This study has been undertaken after the development of the school and during the construction of the nearby Newlands site.
70. The Councillors also consider that more could be made of the biodiversity on site as per the hierarchy within paragraph 180(a) of the Framework. Policy LWH4 of the NP specifies that "the roles and functions of existing green infrastructure identified in Figure 12 and Appendix 2 should be positively considered in new proposals for development. Where feasible, new development should contribute through onsite provision to the maintenance and enhancement of local green infrastructure roles and functions." The Green infrastructure list includes the Hatherley Brook corridor and Fields R2 and R3 as having valuable green infrastructure which they consider is not clearly protected by the appellants' proposal.
71. A number of residents raised similar issues to the Councillors which I have recorded and incorporated above.

Mr Humphries

72. Mr Humphries raised concern regarding the provision of a toucan crossing outside his house. Within a previous scheme a layby and bus stop had been removed due to noise and pollution concerns. A toucan crossing would raise similar concerns including allowing a full view into adjacent properties. This is in addition to the obvious noise, pollution, breach of privacy and security risk, which would result, and it should be removed from the scheme, especially given the number of crossing points already existing and proposed along the A46.

Mrs Matthews

73. Mrs Matthews raised concerns regarding the levels of pollution generated by vehicles queuing along Shurdington Road, which leads to residents not being able to open their windows. Further houses, without adequate mitigation, would add to this problem.

²⁰ I14, I15 and I17

²¹ F22

Gloucestershire County Council Highways Authority

74. Gloucestershire County Council (GCC), the Highway Authority acting in its role as Statutory Consultee has undertaken a full assessment of the proposal. Based on the appraisal of the development proposals GCC has no objection subject to conditions and financial obligations.
75. The appeal site forms part of the allocation MD4 of the CP. The policy details site specific requirements. From a transport perspective the site should provide "safe, easy and convenient pedestrian and cycle links within the site and to key centres" and references the findings of 13/01605/OUT which was determined by the SoS to be reflected in any future scheme.
76. The proposal seeks to provide 350 dwellings which are served off 2 vehicle access points from the Shurdington Road. The accesses proposed would be a priority junction and a new roundabout. The roundabout proposal also realigns Kidnappers Lane. No other vehicle accesses are proposed external to the site. The proposal also includes a series of walking and cycling connections to the existing community and within the proposal itself.
77. The appellant's TA considers the impact of the proposal from a multimodal perspective, this includes modelling on the potential impact on the Shurdington Road which is recognised as a congested corridor. It also considers routes to key destinations and how access to those services could be improved.
78. Local and national policy for access focuses on prioritising walking and cycling trips. The vehicle impact, must be read against the Framework tests of "severe" or have "an unacceptable impact on highway safety". In principle the proposal is acceptable as it provides the anticipated number of dwellings in the CP, and consequently the traffic generation from the allocation was considered at the time of the adoption of the plan. It still remains necessary to consider the impact on local junctions and any mitigation that would be required.
79. The proposal is expected to generate approximately 127 departures and 51 arrival vehicle trips in the AM peak and 79 departures and 126 arrives in the PM peak, these are 08:00-09:00 and 17:00-18:00 respectively. This is split between the 2 access points and the transport modelling shows trips are dispersed around the network. This has potential implications at the junctions of Moorend Park Road and Leckhampton Lane.
80. With regards to Moorend Park Road there is already a consented scheme in place to improve this junction associated with the Redrow development, this improvement is being refined and provides the optimum solution for this junction recognising the competing demands of different road users, no further alteration is required beyond the consented proposals.
81. The Leckhampton Lane Junction is proposed to be amended to provide a degree of space for right turning traffic. There is a balance to be had between providing more capacity and maintaining pedestrian space. Considering the needs of pedestrians is a key priority as such the reduction of footway width is not acceptable. Furthermore, increasing capacity could result in an increase of rat running whereas the A46 is the more suitable route. Therefore, the proposal

- looks to provide an improvement within the current kerb lines. This approach is considered to be acceptable.
82. The Kidnappers Lane junction with Shurdington Road is proposed to be closed and replaced with a cycleway. An alternative roundabout junction is proposed, this is considered to be a more suitable solution recognising the additional turning movements the development would generate alongside the new secondary school trips. It also allows for improved walking and cycling infrastructure to be provided as more space becomes available.
83. The proposal gives significant potential to reduce the walking distances from the existing residential communities to the new Leckhampton Secondary School. New and improved connections will be made from Merlin Way, Shurdington Road and Kidnappers Lane, the routes in the site would accommodate pedestrians and cyclists, and provide more attractive routes than otherwise would exist. The proposal also provides missing footway infrastructure on the A46. This is considered to be a benefit of the scheme and contributes to its sustainability credentials.
84. The proposed streets create a low-speed environment which includes measures to prioritise walking and cycling movements. Car and bicycle parking provision is agreed including electric vehicle provisions, but some refinement of details on these points is required so conditions are proposed to address this.
85. The proposal also includes a travel plan which would be secured by planning condition and ensured through a financial bond.
86. The proposal does require a consultation for highway legislation beyond any planning consultation to enable the development, and the proposal is reliant on this occurring. It is therefore necessary to include conditions which limit the developments construction until those processes have been progressed and orders implemented. The applicant should submit details of the required traffic regulation order to prohibit driving along the length of Kidnappers Lane which is to be closed at their earliest opportunity given the timescale associated with the implementation of such an order.
87. Overall, the proposal is considered to be acceptable and includes suitable mitigation through offsite improvements, enhanced walking and cycling connections and planning obligations.
88. GCC has undertaken a robust assessment of the planning application. Based on the analysis of the information submitted GCC concludes that there would not be an unacceptable impact on highway safety or a severe impact on congestion. There are no justifiable grounds on which an objection could be maintained.

Written Representations

Representations Made at the Recovery stage.

89. There are individual written representations from 13 individuals including from local residents, Leckhampton with Warden Hill Parish Council and three local Councillors. These raise considerations and objections to the proposal on grounds relating to the adequacy of local services and infrastructure, the safety

and efficiency of the local transport network, access to sustainable transport solutions, flooding, loss of locally important green space and consequent impact on the AONB.

Representations Made at Application Stage

90. The representations made in respect to the planning application up to the point that it was reported to the Council's Committee for determination are summarised in the Council officer's reports on the appeal development²². The report indicates that approximately 132 letters of objection were received and that some of these are from the same contributors. There were also 9 letters of support. The report provides analysis of the matters raised in the objections, which are generally on grounds repeated by interested parties at the recovery stage, including those made during the Hearing. The officer's reports also set out the majority of the responses from wider consultative bodies to the application.

Conditions

91. The Council and the applicant agreed a list of 31 suggested conditions at the Hearing. The exact wording of two of those conditions remained in dispute at the Hearing.

Obligations

92. In summary, the two S106 Agreements (one with Cheltenham Borough Council and one with Gloucestershire County Council) contain planning obligations in respect to:

- The provision of on-site affordable housing at a rate of not less than 40% of the total number of dwellings developed;
- On-site open space and children's play space and their maintenance;
- The provision of allotments;
- Provision of Approved Document M4(2) and M4(3)(2)(b) dwellings;
- Provision of a community orchard; and
- Payments to provide or support the provision / facilitation of:
 - Libraries at Up Hatherley Library;
 - Primary education in the Hatherley-Leckhampton Primary Planning Area;
 - PRow enhancement including a connection to Merlin Way;
 - Implementation and monitoring of the Travel Plan;
 - Junction improvement works at A46/Moorend Park Lane

93. Both Councils have provided a 'CIL Compliance Statement for contributions' (the Planning Obligations Statement) in support of all of the obligations²³. They address the application of statutory requirements to the planning obligations within the S106 Agreement and sets out the relevant planning guidance and policy justification.

²² D1 and D2

²³ E23, E24 and E25

Inspector's Conclusions

94. From the evidence before me at the Hearing, the written representations and my inspection of the appeal site and the surrounding area I have reached the following conclusions. The numbers in square brackets in this section are references to previous paragraphs in the Report which are particularly relied upon in reaching the conclusions.

Main Considerations

95. Having regard to the letter of recovery the relevant policy context and the evidence to the Hearing, the main considerations that need to be addressed are:

- The effect of the proposal on highway congestion;
- Whether the proposal accords with the allocation in the CP;
- The effect of the proposal on landscape character and appearance having regard to the landscape and scenic beauty of the Cotswold Area of Outstanding Natural Beauty (AONB);
- Whether the appeal site is in an accessible location; and
- Whether the proposal delivers appropriate biodiversity net gain.

96. In broad terms, in the six following subsections, which are initially based on the main considerations above, together with some important background to the appeal site and its allocation, followed by a planning balance type subsection. I conclude against the relevant development policies in each topic based subsection and then in the final subsection deal with the weight to be attached to other material considerations and the benefits of the scheme.

Highway congestion

97. Local residents are concerned about the impact of the proposal on the existing congestion caused by queuing traffic along the A46 Shurdington Road **[64, 65, 66]**. There is no doubt that this has been a significant problem for a lengthy period of time being referred to by the JCS Inspector and one of the main reasons for the SoS dismissing the Bovis Homes appeal for 650 houses with associated development **[38]**. Subsequently, the JCS Inspector placed weight on the GCC's confidence that there is an acceptable solution to the A46 capacity issues and confirmed that main modifications were not proposed on traffic grounds **[35]**.

98. Since that time 414 houses have been granted planning permission together with the adjacent secondary school. **[64,65]**. To include the 350 proposed within this appeal would take the total to 764, well above that considered to be unacceptable by the Inspector at the Bovis Homes appeal, albeit that also included other commercial development.

99. I heard from residents of the severe congestion of traffic queuing in the morning to access Cheltenham. Also there are very few routes into Cheltenham from this direction with the A46 being the primary one **[66]**. The other, Church Road, is narrow and has cars parked on the road for much of its length. It also has a primary school which at drop off and pick up times adds to congestion and awkward manoeuvring. I saw all this to be the case at my site visits.

100. The appellant's TA²⁴ has assessed the impact of the development using a Paramics micro simulation model of southwest Cheltenham, including Leckhampton and the A46 Shurdington Road corridor. In agreement with the HA, the development of the model has used output cordon matrices for the study area from the Central Severn Vale (CSV) SATURN strategic highway model. It considers three design year scenarios starting at 2022, an interim year of 2026 when the secondary school is forecast to be fully open and 2031 at the end of the Local Plan period. The model includes the Redrow homes scheme and full occupation of the secondary school. Other approved housing developments are accounted for in background growth in the model. The appellant also confirmed at the Hearing that the Missing Link road was accounted for in the model.
101. The A40 Arle Court Bus Priority Scheme, A40 Arle Court Roundabout upgrade and Park & Ride, A46/A417 Junction Improvement, Infrastructure associated with the proposed school development and associated infrastructure relating the committed Redrow development, including the A46/Moorend Park Road junction improvement scheme have also been included in the model.
102. The analysis demonstrates that with the highway improvements proposed with the appeal (the proposed Shurdington Road roundabout with realigned Kidnappers Lane junction and the A46 / Leckhampton Lane junction ghost-island improvement scheme) any significant impacts from the proposed development are mitigated to an acceptable degree and the residual cumulative impacts on the highway network would not be severe.
103. The residents provide no substantive evidence to dispute any of the findings of the TA and the TA addendum. Furthermore, GCC raise no objection to the proposals subject to the mitigation measures proposed **[73-88]**. I see no reason to disagree.
104. Shurdington Road is recognised as a congested corridor **[76]**. GCC confirmed at the Hearing that without the proposed key improvement at the Moorend Park junction, due to be delivered via the Redrow planning permission **[66]**, then the proposal would contribute to the ongoing highway congestion causing a severe impact.
105. Although GCC suggest that there is a consented scheme for the junction, nothing substantive was forthcoming at the Hearing. Instead, GCC advised at the Hearing that Redrow would be contributing money towards the junction improvements via a S106 agreement. However, GCC was not able to advise me of a timescale for that agreement.
106. Nevertheless, a condition was attached to the Redrow permission stating that the junction improvements had to be in place by the time of the completion/occupation of the 200th dwelling. While Redrow have now provided in excess of 200 dwellings and the scheme has not been delivered, I am satisfied from the evidence before me that the matter is in hand.
107. This includes the fact that one of the S106 agreements with the appeal proposal includes a contribution of £86,000 to improve the proposal for the Moorend Park Road junction **[92]**. The appellant confirmed that the contribution

²⁴ A17

would be paid early on in the development process and they would be chasing GCC to ensure the scheme would be delivered in a timely manner. There is also a clause in the S106 to require the contribution to be repaid if it is not spent. Moreover, the Council has the powers to enforce the requirements of the Redrow planning permission.

108. To my mind, therefore, there is no substantive evidence before me to lead me to a different conclusion from the Council and GCC that the proposal would not have a severe impact on the transport network in terms of congestion. There would therefore be no conflict with Policy INF1 of the JCS and paragraphs 110d and 111 of the Framework.

(2) Allocation

109. I appreciate the Parish Council's reliance on the JCS Inspectors Note of Recommendations 21 July 2016 where the Inspector very specifically excluded fields R2 and R3 from the area they considered acceptable for development. Fields R2 & R3 are within an area of medium sensitivity, the development of which the Inspector considered would impact on the AONB²⁵ **[35]**. However, the situation has moved on since that time, both in respect of the development plan position and the position on the ground.
110. The CP Inspector was satisfied, based on the evidence before them at that time, that development on the allocation would be on less sensitive land **[38]**. I accept that the site description for Policy MD4 refers to taking account of the JCS examination's considerations and findings **[25]**. However, in my view if the CP Inspector had considered that part of the allocation could not be built upon then it would have been removed from the allocation at that time. The description also states that the site boundaries are based upon the JCS Inspector's comments in her Note of Recommendations from 21 July 2016.
111. The CP also designated much of the land to the south of the appeal site as Local Green Space ensuring that it is protected from development. While therefore the SoS found that the site formed a valued landscape at the time of the Bovis appeal, that predated the Local Plan **[37]**. The Local Green Space covers much of the land covered by the Bovis appeal and it is that I consider to be valued landscape at the current time.
112. Furthermore, planning permission has been granted for housing on a site even closer to the AONB²⁶ as well as the school **[65]**. I note that the Inspector at the 2019 appeal found no harm to the setting of the AONB and did so in the context of the emerging allocation (at that time) that forms the appeal site altering the landscape and visual character of the immediate area.
113. Part of the evidence for the NP is formed by a report by Lepus Consulting carried out using the LI TGN21 guidelines in September 2022²⁷ **[68]**. However, the report does not, in my view, undertake a detailed assessment of each of the areas of the wider study area rather finding the whole area has value. It was clear to me at my site visit that while much of the area displayed valued landscape characteristics, these were more apparent in some areas than others

²⁵ I7

²⁶ APP/B1605/W/19/3238462 (the 2019 appeal)

²⁷ F22

creating variety in the quality of the landscape across the area as found during the JCS and CP process.

114. There was discussion at the Hearing as to whether the proposal could support a local shop both for the development and the surrounding area. However, while the allocation is a mixed use area, the site specific requirements refer to only houses and a school **[25]**. There are policies within the development plan which support the provision of local services and facilities, particularly in the interests of accessibility and to reduce dependence on the car. However, the appellants Retail Assessment by Bruton Knowles²⁸ concludes that it would not be viable to include a shop in the proposals. While interested parties may not agree with this conclusion there is no substantive evidence before me to enable me to reach any different conclusion.
115. Part of the appeal site extends into the neighbouring LGS beyond the allocation in Policy MD4. However, this area would be developed as the community orchard and allotments. The area would therefore still operate as LGS. Consequently, there would be no harm caused and no conflict with Policy GI1 of the CP.

(3) Landscape Impact

116. In the context of the history of the appeal site I have outlined above **[33-38]**, I understand residents' concerns regarding the development of this area, which they consider to be an erosion of their local valued landscape, particularly of parcels of land R2 and R3. However, I have explained above that these are part of an allocation for housing²⁹. Notwithstanding this I saw at my site visit that the two fields have some local quality. Both are strongly delineated by hedgerows and R3 in particular contains a number of trees as well as hardstanding and derelict greenhouses. However, the degree of containment means that they are not prominent in local views. The hedges form pleasant edges to Kidnappers Lane and the PRow alongside the field boundaries.
117. The proposal would see the field at R3 form an area of open space with a well treed boundary to Kidnappers Lane retaining existing features. This would ensure that the landscape appearance of the area would be little changed. Field R2 would be developed with housing but with a greenspace and landscaping at its southern boundary retaining the existing hedge³⁰. Outwardly therefore, although R2 would have housing on it, it would retain its green edge.
118. I observed the site from the adjacent AONB from various viewpoints at Leckhampton Hill. From here I saw that the areas identified as high sensitivity by the JCS Inspector form a clear setting for the housing in Cheltenham. They display the obvious characteristics of mixed arable and pastoral land use enclosed by a hedgerow network forming a strong characteristic landscape pattern. This is rightly protected within the CP as an Area of Green Space. Beyond that I saw the school and the new development resulting from the 2019 appeal, and beyond that would be the proposed housing. As a result, it would nestle into and be viewed as part of existing development from the AONB.

²⁸ B9

²⁹ Policy MD4 of the CP

³⁰ Figure 6: Green Infrastructure Strategy Plan, Green Infrastructure Strategy

119. The appellant's Green Infrastructure Strategy (GIS)³¹ means that the predominant green area viewed from the AONB, which forms the Hatherley Brook corridor, would be largely retained. This together with additional planting and the high quality architecture and design means that the housing would not be viewed as one large mass from the AONB but would integrate satisfactorily into the existing landscape. Consequently, views from the AONB would not be harmed and its setting would be preserved thereby conserving its landscape and scenic beauty. Therefore, I am satisfied that the proposal has taken onboard the JCS Inspector's findings as required by Policy MD4 as this was a key concern of that Inspector at that time.
120. For the reasons above, I conclude that the proposal would not be harmful to the landscape character and appearance including the setting of the AONB. There would therefore be no conflict with Policies SD6 and SD7 of the JCS, Policy L1 of the Local Plan and the Framework.

(4) Accessibility

121. One of the reasons for allocation MD4 in the Local Plan was due to its good accessibility as concluded by the JCS Inspector **[34]**. There is a regular bus service that operates along the A46 and there would be a good range of everyday facilities and services within a reasonable walking and cycling distance of the appeal site. The consented secondary school is located adjacent to the site. Warden Hill provides a convenience store, superstore, primary school and leisure facilities. Further facilities are provided in Leckhampton, with a wider range of services and employment opportunities accessible in Cheltenham town centre. There are also a number of primary schools within a reasonable walking distance of the site. The nearest supermarket is some 1.5km from the site.
122. I heard from residents that the bus services are unreliable and often cancelled with little notice meaning longer waiting times **[67]**. However, the operation of the service is not within the remit of the appellant. The fact that the appeal site is on a regular bus route into the town adds to its accessibility credentials. In addition, the internal layout of the site has been designed to give good pedestrian and cycle access within and towards the existing external linkages so that it integrates effectively into the surrounding movement network in accordance with paragraph 112 of the Framework, a matter agreed by local residents **[67]**. I also heard from residents though that the cycle/pedestrian lanes that had been installed along Shurdington Road are not effective or safe. However, again this issue is beyond the remit of the appellant.
123. Consequently, wider evidence does indicate that the site is reasonably well located in terms of its accessibility. I would particularly draw the SoS's attention to Sections 5 and 7 of the appellants TA³² which provides a helpful summary of walking, cycling and public transport options, links within and external to the site, and local facilities relative to the site. The Council and GCC raise no dispute on these matters **[46]**.
124. Most local facilities are within some 2km of the centre of the site; the majority of which are within some 1.6km. Nonetheless, I recognise that factors such as

³¹ A10

³² A17

topography, distance and traffic, including vehicle speeds, may discourage some people from walking and cycling, and that local public transport services have their limitations.

125. Notwithstanding such constraints and limitations and while they may not suit everybody at all times, there are currently reasonable alternatives available to the private car, including pedestrian, cycle and bus infrastructure and services, offering a genuine choice of transport modes as required by the Framework so that some people would walk, cycle or travel by bus. The location adjacent to the school would be conveniently accessed by means other than the car for those living in the local area. The proposed Travel Plan would support the use of these alternative modes of transport such that there is a good prospect of achieving the shift toward sustainable travel envisaged within Section 9 of the Framework.
126. Therefore, for the reasons above I conclude the proposed development would be in an accessible location and there would be no conflict with Policy INF1 of the JCS and the Framework which together require that development provides connections where appropriate, to existing walking, cycling and passenger transport networks to ensure that credible travel choices are provided by sustainable modes.

(5) Biodiversity net gain

127. The Framework seeks to promote the conservation, restoration and enhancement of priority habitats, ecological networks and for development to seek to identify and pursue opportunities for securing measurable net gains for biodiversity. It goes on to state that if significant harm to biodiversity cannot be avoided, adequately mitigated, or as a last resort, compensated for, then planning permission should be refused.
128. The proposal would lead to a biodiversity net gain of both linear features (hedgerows and trees) and river habitats. However, there would be a 37.64% loss of biodiversity units for broad habitats which mainly consists of the loss of the grassland habitats, to be expected as part of this proposal, particularly given its allocation for housing in the CP.
129. I am also mindful that the scheme would also deliver further enhancement of biodiversity through the delivery of measures set out in the appellants Ecological Assessment³³ report which do not feature in the Biodiversity Impact Assessment calculation³⁴. These measures include the provision of features for birds and bats, use of pollen and nectar rich species in the formal planting scheme and the provision of log and brash piles around hedgerow and scrub edges to provide habitats for invertebrates, amphibians and reptiles.
130. The appellants propose to compensate for the loss by the creation of habitats at Naunton and Winchcombe resulting in a 14.37% gain for broad habitats. This is some way from the appeal site. However, given that the appeal site is allocated for development, and the principal area lost is grassland which would be expected, I am not convinced that is unacceptable or inappropriate in this instance.

³³ A8

³⁴ E27

131. Residents consider that more could be made of the biodiversity on site as per the hierarchy with the Framework **[69]**. Furthermore, Policy LWH4 of the NP specifies that "the roles and functions of existing green infrastructure identified in Figure 12 and Appendix 2 should be positively considered in new proposals for development. Where feasible, new development should contribute through onsite provision to the maintenance and enhancement of local green infrastructure roles and functions." The Green infrastructure list includes the Hatherley Brook corridor and Fields R2 and R3 as having valuable green infrastructure which it considers is not clearly protected by the appellants' proposal.
132. The appellant's GIS starts from a position of retaining as much of the green features as possible. On field R2 the existing hedgerows to the east and southern boundaries would be retained as would much of the planting around Hatherley Brook. The comprehensive arboricultural assessment has been considered by the Council and its recommendations agreed given the limited value of the vegetation and trees on site which require removal. There is no substantive evidence before me to enable me to reach a different conclusion. A condition could be imposed to ensure a quality landscaping scheme that appropriately mitigates for those to be removed. I note that neither NE or Wild Service (acting as the Council's specialist Ecological Advisor) have objections to the proposal subject to appropriate conditions³⁵.
133. Therefore, there would be a mix of enhancement both on site particularly relating to linear and water features and offsite. I therefore find no fundamental conflict with the requirements of the Framework in this respect.
134. The main parties have agreed that the offsite works can be secured through the imposition of a condition securing a subsequent legal agreement prior to work commencing on site.
135. The Planning Practice Guidance (PPG) states that a negatively worded condition limiting the development that can take place until a planning obligation or other agreement has been entered into is unlikely to be appropriate in the majority of cases. Ensuring that any planning obligation or other agreement is entered into prior to granting planning permission is the best way to deliver sufficient certainty for all parties about what is being agreed. It encourages the parties to finalise the planning obligation or other agreement in a timely manner and is important in the interests of maintaining transparency. However, in exceptional circumstances a negatively worded condition requiring a planning obligation or other agreement to be entered into before certain development can commence may be appropriate, where there is clear evidence that the delivery of the development would otherwise be at serious risk (this may apply in the case of particularly complex development schemes)³⁶.
136. This scheme, while not particularly complex is an allocated site within an up to date development plan. Both parties have agreed that a condition would be an acceptable way forward and I do not doubt the appellants intention to deliver the biodiversity net gain. Consequently, in this instance, I consider that a condition would be an acceptable way forward.

³⁵ D26, D27, D31-34

³⁶ Paragraph: 010 Reference ID: 21a-010-20190723

137. Therefore, for the reasons above I conclude that the proposal would appropriately provide for biodiversity net gain. Consequently, there would be no conflict with Policy SD9 of the JCS, Policy G12 of the CP, Policy LWH4 of the NP and the Framework.

Other Issues and the Planning Balance

138. Before dealing with the overall planning balance there are other matters that also need to be taken into consideration.

Air quality

139. Local residents raised concerns regarding the level of pollution that would be caused by the proposal particularly from the addition of cars using the A46 queueing at the Moored Park junction and from the addition of a toucan crossing outside 104 Shurdington Road [71, 72]. However, the appellants Air Quality Assessment³⁷ concludes that the proposed development does not conflict with national or local policies, or the measures set out in the Council's Air Quality Action Plan. There is no substantive evidence before me to refute this report and therefore I find no conflict with Policy SD14 of the JCS which requires that development should not result in unacceptable levels of air or noise pollution.

SAC

140. The Cotswold Beechwoods Special Area of Conservation (the SAC) consists of ancient beech woodland, some secondary woodland and a small area of unimproved grassland. The qualifying features relate to both the woodland and grassland habitats. The Cotswold Way runs through the SAC and consequently there is recreational activity which causes damage to the protected areas from the passage of people, pets and vehicles.
141. The proximity of the appeal site to the SAC means that the introduction of 350 houses has the potential to add to that disturbance to the SAC due to increased visitor numbers and therefore the potential to have significant effects through increased recreational pressure. Consequently, based on the evidence before me it is likely that, in the absence of mitigation measures, the proposal would have a significant adverse effect on the integrity of the SAC.
142. The appellant proposes that 6.5 hectares of green and open space be provided on the appeal site and that a Homeowners Information Pack is distributed to all homeowners secured by an appropriately worded condition. Natural England and the Council are supportive of this approach. On that basis there would be no conflict with Policy SD9 of the JCS. If the SoS agrees with my recommendation and wishes to allow the appeal, he will need to carry out an appropriate assessment with the detail contained in annex 2 to this report.

Toucan crossing

143. At the Hearing GCC considered that the toucan crossing raised by Mr Humphries should be retained as it would provide convenient access to the new secondary school. I share that view, while I appreciate concerns raised by local residents, there are many properties that have pedestrian crossings outside of

³⁷ B12

them and this would not be an unusual feature in the streetscape. It would though together with the other improvements proposed provide important connection to the surrounding area in accordance with Policy INF1 of the JCS.

Planning Benefits

144. Although I have found that the proposal would accord with relevant policies and therefore with an up to date development plan, I have considered the planning benefits in case the SoS disagrees with any of my findings.
145. There is no dispute between the parties that the Council is unable to demonstrate a five year housing land supply with the Inspector concluding at a recent appeal that the Council could only demonstrate a 2.9 year supply³⁸ **[55]**. In such circumstances paragraph 11dii of the Framework states that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole.
146. Within that context the provision of a suitable mix of 350 houses in an accessible location would contribute significantly to the housing land supply. Furthermore, the provision of 40% of those houses as affordable would very significantly contribute to the shortfall of 1503 affordable houses delivered in Cheltenham since the start of the plan period, providing homes for people in need now, attracting substantial weight **[60]**.
147. There would be economic benefits through creation of construction based and indirect employment as well as the benefit to the local economy from the increased spend by future occupiers of the scheme which would attract significant weight **[59]**.
148. Increased Council Tax receipts are mentioned as a benefit. However, since the development would result in a corresponding increase in demand on local services etc, that is not a consideration to which I attach positive weight **[59]**.
149. In addition, reference is made to income for the Council from the New Homes Bonus and the Community Infrastructure Levy as a benefit. Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that a local planning authority must have regard to a local finance consideration as far as it is material. The New Homes Bonus payments recognise the efforts made by authorities to bring residential development forward. However, the PPG makes it clear that it would not be appropriate to make a decision based on the potential for the proposal to raise money for a local authority³⁹. Accordingly, while the Bonus and the CIL are material considerations, they are not ones to which I attach positive weight **[59]**.
150. Obligations within the S106 agreements secure contributions to local infrastructure, including education facilities. These would be to mitigate the impacts of the development and not benefits of it. They would therefore be neutral in the planning balance **[59]**.

³⁸ APP/B1605/W/21/3273053

³⁹ ID 21b-011-20140612

151. The proposal would deliver 6.73ha of open space, comprising 4.09ha of open space, 1.8ha of community space comprising a community orchard and allotments, 0.19ha of children's play space located at 4 locations across the site and 0.64ha SuDS features [61]. However, this is a requirement both of policy and to mitigate the potential for the adverse impact on the SAC. Any benefit over and above those requirements would be minor. The proposal would though provide effective footpath and pedestrian links to the surrounding area which would benefit future occupiers access to local services to which I give modest weight [60].
152. The proposed development would achieve a 66% reduction in carbon emissions which would go beyond local and national requirements and would be a modest benefit of the proposal.

Conditions

153. Conditions to be imposed on a grant of permission were discussed at the Hearing and were mainly agreed between the Council and the appellant. I have considered these in the light of government guidance on the use of conditions in planning permissions and made amendments accordingly. The suggested conditions are contained in the attached Annex 1. My conclusions are summarised below.
154. In order to provide certainty, a condition requiring that the development is carried out in accordance with the approved plans would be necessary (2), as would a condition to control the phasing of development (3).
155. The submission and approval of a Construction Statement/Construction Management Plan would also be necessary to safeguard the living conditions of local residents and in the interests of highway safety (4). Conditions to control foul and surface water drainage and management, together with a SuDS Management and Maintenance Plan, would be necessary in the interests of flood prevention and biodiversity, as well as to protect the environment and to secure acceptable living conditions for residents (5), (6) and (18).
156. Conditions to secure the investigation of contamination that might affect the site, along with any requisite remediation, would be necessary to protect the health and well-being of future occupiers and off-site receptors as well as in the interests of biodiversity (7), (8) and (9).
157. A condition requiring the development to be constructed in accordance with the recommendations of the acoustic design statement is necessary to protect occupiers living conditions (10).
158. Conditions to deliver and manage new planting and hard and soft landscaping, including street planting are necessary to ensure a good level of design and appearance of the proposed development (11) and (15). Details of levels are required to ensure a satisfactory relationship between the proposed development and adjacent buildings and land (12).
159. To ensure the protection and enhancement of the landscape and biodiversity value of the site a condition would be necessary to secure a Landscape and Ecological Management Plan (13). Also, to protect the biodiversity on the site

- during construction the submission of a Construction Environmental Management Plan would be required (14).
160. A condition requiring archaeological works to be carried out in accordance with the approved Written Scheme of Investigation is necessary to ensure that archaeological remains and features are preserved in situ or recorded as appropriate (16).
161. To ensure that the development makes the fullest contribution possible towards the mitigation of climate change a condition is necessary to ensure that the development is carried out in accordance with the Energy and Sustainability Statement dated July 4 2023 (17).
162. To ensure that the development harmonises with its context, a condition would be necessary to control materials used on the exterior of buildings and structures (19). In the interests of highway safety and to secure suitable access arrangements, conditions would be necessary to control the details of the site access and of on-site roads, footways, cycleways, parking areas and associated works and infrastructure, and to secure off-site highway works (20), (21), (22), (23), (24) and (25).
163. To promote sustainable modes of transport and reduce the need for travel and in the interests of highway safety, conditions to secure the implementation of a Travel Plan and to ensure the delivery of electric vehicle charging points are necessary (26) and (28).
164. A condition requiring details of a Homeowner Information Pack to be submitted including information regarding informal recreation opportunities is necessary to ensure that appropriate measures to mitigate adverse effects to the Cotswold Beeches SAC are delivered (28).
165. If the SoS disagrees with my recommendation regarding the appropriateness of imposing a condition regarding biodiversity, then condition (29) would need to be imposed to secure biodiversity net gain.
166. There was disagreement at the Hearing between the Council and the appellant regarding the wording of the conditions regarding the PV panels and the air source heat pumps with the Council wishing to retain full control over the operation, number, installed capacity, design, appearance and positioning of the panels and details of the pumps to ensure that they make the fullest contribution possible to climate change. The appellant considers that the condition should make reference to their Energy and Sustainability Statement which details a 66% reduction in carbon emissions using L12021 on average across the site.
167. In my view, the appellants approach would ensure that the proposal would meet the requirement of Policy SD3 of the JCS which requires that requires development to demonstrate how it contributes to the aims of sustainability by increasing energy efficiency. In doing so it states that proposals will be expected to achieve national standards. While the Councils objective to ensure that new developments make the fullest contribution possible to mitigate climate change is to be lauded, it is an objective, and the associated SPD is guidance. Furthermore,

the Council confirmed at the Hearing that it would not require the appeal to be dismissed if the condition it proposed was not imposed.

168. For those reasons therefore, my conclusions and recommendation that follow is that Conditions 30A and 31A should be applied to ensure that the proposal meets the requirements of the development plan policy. Should the SoS disagree, then Conditions 30B and 31B would be necessary to ensure that the proposal meets the requirements of objective 6 of the JCS and the SPD.

Obligations

169. I have considered the S106 Agreements in light of Regulation 122 of The Community Infrastructure Levy Regulations 2010 (as amended) and government policy and guidance on the use of planning obligations. Having done so, I am satisfied that the obligations therein would be required by and accord with the policies set out in the Council's and Gloucestershire County Council's CIL Compliance Statements⁴⁰. The obligations are directly related to the proposed development, are fairly and reasonably related to it and are necessary to make it acceptable in planning terms.

Overall Conclusion

170. This scheme proposes 350 homes on an allocated site at a time when the Council is unable to demonstrate a five year housing land supply by some way. While residents raise valid concerns, I have found above that the proposal would accord with an up to date development plan as a whole. Therefore in accordance with paragraph 11c of the Framework the proposal should be approved.

Recommendation

171. For the reasons set out above I recommend that the appeal is allowed.
172. The conditions listed in Annex 1 should be attached to any permission granted along with the obligations set out in the S106 agreements in E13 and E14. In these circumstances, I would recommend imposition of Conditions 30A and 31A rather than Conditions 30B and 31B for the reasons given above.

Zoe Raygen

INSPECTOR

⁴⁰ E24 & E25

Appearances

FOR THE APPELLANT

Christopher Young, Kings Counsel

Instructed by Paul Hill Senior Director RPS Group

Steve Drury
Mark Gimmingham
Adrian Meurer
Brian Duckett
Matthew Hurd
Helen Dawkins
Ben Baillie

RPS Group
Partner i-Transport
Director HDA
Landscape Director HDA
Director Energy & Design
Area Planning Director Miller Homes
Architect Cooper Baillie

FOR THE COUNCIL

Ryan Kohli, Counsel
Nicole Gillet

Instructed by Cheltenham Borough Council
Principal Planning Officer Cheltenham Borough Council

Anna McKenzie
Joseph Santos

Etude
Gloucestershire County Council Highways

INTERESTED PERSONS:

Alan Bailey
Samuel Coxon
Christopher Braunholtz
John Lambert
Cllr Martin Horwood

Local Resident
Local Resident
Local Resident
Local Resident
Leckhampton Ward Councillor &
Leckhampton with Warden Hill Parish
Councillor

Cllr Emma Nelson
Cllr Bernard Fisher
Vivienne Matthews
Michael Humphries
Kenneth Pollock
Irene Jones
Michael Vark

Leckhampton Ward Councillor
County Councillor
Local Resident
Local Resident
Local Resident
Local Resident
Local Resident

Documents

Core Documents

A and B: Planning Application Documents		
A1	Application Form	
A2	Affordable Housing Statement	
A3	Agricultural Resources Assessment	
A4	Air Quality Assessment	
A5	Arboricultural Impact Assessment	
A6	Completed CIL Liability Form	
A7.1	Design and Access Statement P1	
A7.2	Design and Access Statement P2	
A7.3	Design and Access Statement P3	
A7.4	Design and Access Statement P4	
A8	Ecological Assessment	
A9	Flood Risk Assessment	
A10	Green Infrastructure Strategy	
A11	Heritage Assessment	
A12	Landscape and Visual Assessment	
A13	Noise Assessment	
A14	Planning Statement	
A15	Renewable Energy and Sustainable Construction Statement	
A16	Sustainability Checklist	
A17	Transport Assessment	
A18	Travel Plan	
A19	Utilities Statement	
B1	Archaeological Evaluation Draft Rev B	
B2	Breeding bird Assessment	

B3	CB 70 064 Land at Shurdington Road Leckhampton DAS Addendum Rev B	
B4	Great Crested Newt eDNA – Pond 4	
B5	HIP	
B6	Shadow Habitats Regulation Assessment and Appropriate Assessment	
B7	Transport Assessment Addendum	
B8	Tree Report August 2021	
B9	Bruton Knowles Retail Assessment	
B10	Affordable Housing Statement	
B11	Archaeological WSI	
B12	Air Quality Assessment Rev 1	
B13	Energy and Sustainability Statement – Shurdington Road -Rev 3 11 11 2021	
B14	Energy Statement – Leckhampton March 2022	
B15	Energy Statement – Leckhampton April 2022	
B16	HAD response to Parish Council consultation response	
B17	HAD response to Ryder Landscape Consultation Comments 16.04.2021	
B18	Response to UD comments 23 April 2021	
B19	Letter to CBC – Carbon Energy Reduction	
	Drawings which the Council made its decision on	
A20	Site Location Plan CB_70_064_000	G
B21	Overall Planning Layout CB_70_064_001	R
B22	Land Use Plan CB_70_064_002	J
B23	Housing Mix Plan CB_70_064_003	H
B24	Affordable Housing Plan CB_70_064_004	H
B25	Building Heights Plan CB_70_064_005	H
B26	Parking Strategy Plan CB_70_064_006	H
B27	Bin and Cycle Storage CB_70_064_007	H

B28	External Finishes Plan CB_70_064_008	H
B29	External Enclosures Plan CB_70_064_009	H
B30	Hard Surfacing Plan CB_70_064_010	H
B31	House Type Plan CB_70_064_012	H
B32	Character Area Plan CB_70_064_013	H
B33	Street Scene Location Plan CB_70_064_014	G
B34	EV Charging Strategy Plan CB_70_064_016	E
B36	Planning Layout CB_70_064_101	V
B37	Land Use Plan CB_70_064_102	D
B38	Housing Mix Plan CB_70_064_103	H
B39	Affordable Housing Plan CB_70_064_104	J
B40	Building Heights Plan CB_70_064_105	H
B41	Parking Strategy Plan CB_70_064_106	J
B42	Bin and Cycle Storage Plan CB_70_064_107	H
B43	External Finishes Plan CB_70_064_108	H
B44	External Enclosures Plan CB_70_064_109	H
B45	Hard Surfacing Plan CB_70_064_110	H
B46	House Type Plan CB_70_064_112	H
B47	Character Areas Plan CB_70_064_113	H
B48	EV Charging Strategy CB_70_064_116 EV	C
B106	01 CB_70_064_100_SHR_SS_01	A
B107	01 CB_70_064_100_SPR_SS_01	A
B108	02 CB_70_064_100_SPR_SS_02	A
B109	03 CB_70_064_100_SPR_SS_03	A
B110	04 CB_70_064_100_SPR_SS_04	A
B111	01 CB_70_064_100_INS_SS_01	A
B112	02 CB_70_064_100_INS_SS_02	A

B113	03 CB_70_064_100_INS_SS_03	A
B114	04 CB_70_064_100_INS_SS_04	A
B115	05 CB_70_064_100_INS_SS_05	A
B116	06 CB_70_064_100_INS_SS_06	A
B117	07 CB_70_064_100_INS_SS_07	A
B118	08 CB_70_064_100_INS_SS_08	A
A47	CB_70_064_100_SHR_BR_E01	-
A48	CB_70_064_100_SHR_BR_P01	-
A49	CB_70_064_100_SHR_KI_E01	-
A50	CB_70_064_100_SHR_KI_P01	-
A51	CB_70_064_100_SHR_OA_E01	-
A52	CB_70_064_100_SHR_OA_P01	-
A53	CB_70_064_100_SHR_EA_E01	-
A54	CB_70_064_100_SHR_EA_P01	-
A55	CB_70_064_100_SHR_TV_E01	-
A56	CB_70_064_100_SHR_TV_E02	-
A57	CB_70_064_100_SHR_TV_P01	-
A58	CB_70_064_100_SPR_KI_E01	-
A59	CB_70_064_100_SPR_KI_P01	-
A60	CB_70_064_100_SPR_OA_E01	-
A61	CB_70_064_100_SPR_OA_P01	-
A62	CB_70_064_100_SPR_PE_E01	-
A63	CB_70_064_100_SPR_PE_E02	-
A64	CB_70_064_100_SPR_PE_P01	-
A65	CB_70_064_100_SPR_OV_E01	-

A66	CB_70_064_100_SPR_OV_P01	-
A67	CB_70_064_100_SPR_KG_E01	-
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A69	CB_70_064_100_SPR_EA_E01	-
A70	CB_70_064_100_SPR_EA_E02	-
A71	CB_70_064_100_SPR_EA_P01	-
A72	CB_70_064_100_SPR_TV_E01	-
A73	CB_70_064_100_SPR_TV_E02	-
A74	CB_70_064_100_SPR_TV_P01	-
A75	CB_70_064_100_SPR_RU_E01	-
A76	CB_70_064_100_SPR_RU_P01	-
A77	CB_70_064_100_SPR_MA_E01	-
A78	CB_70_064_100_SPR_MA_P01	-
A79	CB_70_064_100_SPR_4B7P/2_E01	-
A80	CB_70_064_100_SPR_4B7P/2_P01	-
B49	CB_70_064_100_SPR_HT.3BC_E01	A
B50	CB_70_064_100_SPR_HT.3BC_E02	A
B51	CB_70_064_100_SPR_HT.3BC_P01	A
B52	CB_70_064_100_SPR_2B4P_E01	-
B53	CB_70_064_100_SPR_2B4P_P01	-
B54	CB_70_064_100_SPR_2B4P_E02	-
B55	CB_70_064_100_SPR_2B4P_P02	-
B56	CB_70_064_100_SPR_2BCHA_E01	-
B57	CB_70_064_100_SPR_2BCHA_P01	-
B58	CB_70_064_100_SPR_1BH_E01	-
B59	CB_70_064_100_SPR_1BH_P01	-

A9 1	CB_70_064_100_INS_OX_E01	-
A9 2	CB_70_064_100_INS_OX_P01	-
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A94	CB_70_064_100_INS_BR_P01	-
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A96	CB_70_064_100_INS_KI_E02	-
A97	CB_70_064_100_INS_KI_P01	-
A98	CB_70_064_100_INS_OA_E01	-
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A101	CB_70_064_100_INS_OV_P01	-
A102	CB_70_064_100_INS_OV_E02	-
A103	CB_70_064_100_INS_OV_P02	-
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A108	CB_70_064_100_INS_KG_P02	-
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B70	CB_70_064_100_INS_3B6P_E03	-
B71	CB_70_064_100_INS_3B6P_P03	-
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B76	CB_70_064_100_INS_3B5P_E02	-
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B83	CB_70_064_100_INS_2B4P_P01	-
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A147	CB_70_064_100_GAR_E03	-
A148	CB_70_064_100_GAR_E04	-
A149	CB_70_064_100_SUB_E01	-
B119	CB_70_064_301	L
B120	CB_70_064_302	C
B121	CB_70_064_303	E
B122	CB_70_064_304	F
B123	CB_70_064_305	E
B124	CB_70_064_306	E
B125	CB_70_064_307	E
B126	CB_70_064_308	E
B127	CB_70_064_309	E
B128	CB_70_064_310	E
B129	CB_70_064_312	E
B130	CB_70_064_313	E
B131	CB_70_064_316	B
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B180	CB_70_064_300_SPR_SS_01	B
B181	CB_70_064_300_SPR_SS_02	B
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B183	CB_70_064_300_INS_SS_01	B
B184	CB_70_064_300_INS_SS_02	B
B185	CB_70_064_300_INS_SS_03	B

B186	CB_70_064_300_INS_SS_04	B
B187	CB_70_064_300_INS_SS_05	B
B188	CB_70_064_300_INS_SS_06	B
B189	CB_70_064_300_INS_SS_07	B
A175	CB_70_064_300_KDL_HT.A_E01	-
A176	CB_70_064_300_KDL_HT.A_E02	-
A177	CB_70_064_300_KDL_HT.A_E03	-
A178	CB_70_064_300_KDL_HT.A_P01	-
A179	CB_70_064_300_KDL_HT.G_E01	-
A180	CB_70_064_300_KDL_HT.G_P01	-
A181	CB_70_064_300_KDL_HT.C_E01	-
A182	CB_70_064_300_KDL_HT.C_P01	-
A183	CB_70_064_300_SPR_HT.A_E01	-
A184	CB_70_064_300_SPR_HT.A_P01	-
A185	CB_70_064_300_SPR_HT.C_E01	-
A186	CB_70_064_300_SPR_HT.C_P01	-
A187	CB_70_064_300_SPR_HT.C_E02	-
A188	CB_70_064_300_SPR_HT.C_P02	-
A189	CB_70_064_300_SPR_HT.H_E01	-
A190	CB_70_064_300_SPR_HT.H_P01	-
A191	CB_70_064_300_SPR_HT.D_E01	A
A192	CB_70_064_300_SPR_HT.D_P01	A
A193	CB_70_064_300_SPR_HT.D_E02	A
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A199	CB_70_064_300_SPR_HT.E_E03	-
A200	CB_70_064_300_SPR_HT.E_P03	-
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A202	CB_70_064_300_SPR_HT.E_P04	-
A203	CB_70_064_300_SPR_2BCH_E01	-
A204	CB_70_064_300_SPR_2BCH_P01	-
B132	CB_70_064_300_SPR_4B7P_E01	-
B133	CB_70_064_300_SPR_4B7P_P01	-
B134	CB_70_064_300_SPR_HT.3BC_E01	A
B135	CB_70_064_300_SPR_HT.3BC_E02	A
B136	CB_70_064_300_SPR_HT.3BC_P01	A
B137	CB_70_064_300_SPR_HT.3B_E01	A
B138	CB_70_064_300_SPR_HT.3B_P01	A
B139	CB_70_064_300_SPR_HT.3B_E02	A
B140	CB_70_064_300_SPR_HT.3B_P02	A
B141	CB_70_064_300_SPR_2B4P_E01	-
B142	CB_70_064_300_SPR_2B4P_P01	-
A219	CB_70_064_300_SPR_2BCHA_E01	A
A220	CB_70_064_300_SPR_2BCHA_P01	A
A221	CB_70_064_300_SPR_2BCHA_E02	A
A222	CB_70_064_300_SPR_2BCHA_P02	A
A223	CB_70_064_300_SPR_2BCHA_E03	-
A224	CB_70_064_300_SPR_2BCHA_P03	-
A225	CB_70_064_300_SPR_2BCHA_E04	-

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A233	CB_70_064_300_SPR_1BF_E05	A
A234	CB_70_064_300_SPR_1BF_P03	A
A235	CB_70_064_300_SPR_1BF_P04	A
A236	CB_70_064_300_INS_HT.A_E01	A
A237	CB_70_064_300_INS_HT.A_E02	-
A238	CB_70_064_300_INS_HT.A_E03	-
A239	CB_70_064_300_INS_HT.A_P01	A
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A241	CB_70_064_300_INS_HT.G_P01	-
A242	CB_70_064_300_INS_HT.C_E01	-
A243	CB_70_064_300_INS_HT.C_E02	-
A244	CB_70_064_300_INS_HT.C_P01	-
A245	CB_70_064_300_INS_HT.C_E03	-
A246	CB_70_064_300_INS_HT.C_P02	-
A247	CB_70_064_300_INS_HT.H_E01	-
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A251	CB_70_064_300_INS_HT.D_E02	A

A252	CB_70_064_300_INS_HT.D_P02	A
A253	CB_70_064_300_INS_HT.E_E01	A
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A256	CB_70_064_300_INS_HT.E_P02	-
A257	CB_70_064_300_INS_HT.E_E03	-
A258	CB_70_064_300_INS_HT.E_P03	-
B143	CB_70_064_300_INS_5B8P_E01	-
B144	CB_70_064_300_INS_5B8P_P01	-
B145	CB_70_064_300_INS_4B7P_E01	-
B146	CB_70_064_300_INS_4B7P_P01	-
B147	CB_70_064_300_INS_3BHA_E01	A
B148	CB_70_064_300_INS_3BHA_P01	A
B149	CB_70_064_300_INS_3BHA_E02	A
B150	CB_70_064_300_INS_3BHA_P02	A
B151	CB_70_064_300_INS_3B6P_E01	-
B152	CB_70_064_300_INS_3B6P_P01	-
B153	CB_70_064_300_INS_3B6P_E02	-
B154	CB_70_064_300_INS_3B6P_P02	-
B155	CB_70_064_300_INS_A300_GIB_M4(2)_E01	-
B156	CB_70_064_300_INS_A300_GIB_M4(2)_P01	-
B157	CB_70_064_300_INS_HT.3B_E01	A
B158	CB_70_064_300_INS_HT.3B_P01	A
B159	CB_70_064_300_INS_A203_E01	-
B160	CB_70_064_300_INS_A203_P01	-
B161	CB_70_064_300_INS_A203_E02	-

B162	CB_70_064_300_INS_A203_P02	-
B163	CB_70_064_300_INS_A203_E03	-
B164	CB_70_064_300_INS_A203_P03	-
B165	CB_70_064_300_INS_A201(s)_E01	-
B166	CB_70_064_300_INS_A201(s)_P01	-
B167	CB_70_064_300_INS_2B4P_E01	-
B168	CB_70_064_300_INS_2B4P_P01	-
B169	CB_70_064_300_INS_2B4P_E02	-
B170	CB_70_064_300_INS_2B4P_P02	-
B171	CB_70_064_300_INS_2BCHA_E01	-
B172	CB_70_064_300_INS_2BCHA_P01	-
B173	CB_70_064_300_INS_1BB_2_E01	-
B174	CB_70_064_300_INS_1BB_2_P01	-
B175	CB_70_064_300_INS_1BH_E01	-
B176	CB_70_064_300_INS_1BH_P01	-
B177	CB_70_064_300_INS_1BB_E01	-
B178	CB_70_064_300_INS_1BB_P01	-
A279	CB_70_064_300_GAR_01	A
A280	CB_70_064_300_GAR_02	A
A281	CB_70_064_300_GAR_03	-
A282	CB_70_064_300_SUB_01	-
B190	04649-PA-001	P08
B191	04649-PA-002	P06
B192	ITB12049-GA-056	C
C	PLANNING COMMITTEE	
C1	Committee Report	

C2	Updated Committee Report	
C3	Printed minutes 21 April 2022 Planning Committee	
C4	Decision Notice dated 21 April 2022	

D: Application Consultation Responses

D1	GCC Highways Development Management 21 December 2020	
D2	GCC Highways Development Management 26 November 2021	
D3	Ryder Landscaping (Council's Specialist Landscape Advisor) 2 February 2021	
D4	Ryder Landscaping (Council's Specialist Landscape Advisor) 12 November 2021	
D5	Ryder Landscaping (Council's Specialist Landscape Advisor) 22 November 2021	
D6	Housing Enabling 2 February 2021	
D7	Housing Enabling 1 October 2021	
D8	Housing Enabling 22 November 2021	
D9	Architects Panel 8 December 2020	
D10	Cheltenham Civic Society 8 December 2020	
D11	Severn Trent Water 22 November 2020	
D12	Cheltenham Borough Council Tree Officer 15 December 2020	
D13	Cheltenham Borough Council Tree Officer 29 September 2021	
D14	Gloucestershire County Council Lead Local Flood Authority 25 November 2020	
D15	Gloucestershire County Council Lead Local Flood Authority 27 September 2021	
D16	Gloucestershire County Council Lead Local Flood Authority 7 December 2021	
D17	Environment Agency 26 November 2020	
D17	Environment Agency 29 September 2021	
D18	Gloucestershire County Council Archaeology 27 November 2020	
D19	Gloucestershire County Council Archaeology 22 June 2021	
D20	Gloucestershire County Council Archaeology 1 October 2021	
D21	Ramblers Association 22 November 2020	
D22	Parish Council 4 December 2020	

D23	Parish Council 18 October 2021	
D24	Historic England 20 November 2020	
D25	Historic England 16 September 2021	
D26	Natural England 25 March 2021	
D27	Natural England 11 October 2021	
D28	Vision 21 2 December 2020	
D29	Environmental Health 22 October 2021	
D30	Gloucestershire County Council Community Infrastructure Team 7 October 2021	
D31	Wild Service (Council's Specialist Ecological Advisor) 8 February 2021	
D32	Wild Service (Council's Specialist Ecological Advisor) 7 April 2021	
D33	Wild Service (Council's Specialist Ecological Advisor) 6 October 2021	
D34	Wild Service (Council's Specialist Ecological Advisor) 19 November 2021	

E: Planning Appeal Documents

E1	Planning Appeal Form	
E2	Appellant Statement of Case	
E3	Appellant rebuttal	
E4	Appellant rebuttal Appendix A Third Party Comments Summary Table	
E5	Appellant Rebuttal Appendix B Sustainability & Energy Technical Response Note	
E6	Appellant Rebuttal Appendix C Transport & Highways Rebuttal	
E7	Appellant Rebuttal Appendix D Landscape Rebuttal	
E8	Appellant Rebuttal Appendix E Ecology Rebuttal	
E9	Appellant Rebuttal Appendix F RPS Letter to NPCU 19 January 2022	
E10	Appellant Rebuttal Appendix G MH Letter to SoS 19 January 2022	
E11	Appellant Rebuttal Appendix H Representations to the Leckhampton with Warden Hill Neighbourhood Development Plan November 2021	
E12	Appellant Rebuttal Appendix I Representations to NP Second Reg 14 Consultation on behalf of Miller Homes 30 March 2023 (superseded by E29)	
E13	Appellant Rebuttal Appendix J Gloucestershire County Council S106 Agreement 13 March 2023	
E14	Appellant Rebuttal Appendix K Cheltenham Borough Council S106 Agreement 13 March 2023	

E15	Appellant Rebuttal Appendix L Updated Energy & Sustainability Statement April 23 2023	
E16	Council Statement of Case	
E17	Council SoC Appendix A Climate Emergency Action Plan	
E18	Council SoC Appendix B Cheltenham Climate Change SPD June 2022	
E19	Council SoC Appendix C Planning Committee Minutes 24 March 2022	
E20	Council SoC Appendix D Planning Committee Minutes 21 April 2022	
E21	Council SoC Appendix E Decision Notice 21/00847/REM	
E22	Council SoC Appendix F Technical Response to Energy and Sustainability Statement March 2023	
E23	Gloucestershire County Council CIL Compliance Statement Summary	
E24	Gloucestershire County Council CIL Compliance Statement	
E25	Cheltenham Borough Council CIL Compliance Statement	
E26	Agreed Statement of Common Ground	
E27	Biodiversity Impact Assessment Calculation Technical Note Rev A	
E28	Energy & Sustainability Statement R5 June 26 2023	
E29	Appellant Rebuttal Appendix I Representations to NP Second Reg 14 Consultation on behalf of Miller Homes 11 April 2023	

F: Planning Appeal Representations

F1	Bailey A (recovery request)	F17	Humphries M
F2	Bailey A (Request to speak)	F18	Leckhampton with Warden Parish Council
F3	Bailey A (1)	F19	LWPC Appendix 1
F4	Bailey A (2)	F20	LWPC Appendix 2
F5	Bailey A (3)	F21	LWPC Appendix 3
F6	Bailey A (4)	F22	LWPC Appendix 4
F7	Bowden M	F23	LWPC Appendix 5
F8	Brook P	F24	LWPC Appendix 6
F9	Braunholtz C	F25	Percival N
F10	Horwood Cllr M 28 March	F26	Pollock K
F11	Horwood Cllr M 3 July	F27	Pollock K (attachment)
F12	Horwood Cllr M 22 June	F28	Potter G (1)

F13	Horwood Cllr M 14 March	F29	Potter G (2)
F14	Davis G		
F15	Dixon R		
F16	Nelson Cllr E		

G: National Planning Policy and Guidance

G1	National Planning Policy Framework	
G2	Planning Policy Guidance	

H: Local Planning Policy, Guidance and Material Considerations

H1	Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011-2031 (Adopted 2017)	
H2	Cheltenham Plan 2020	
H3	Emerging Leckhampton with Warden Hill Neighbourhood Plan	
H4	Cheltenham Climate Change SPD June 2022 (duplicate of ((()	

I: Other Documents

I1	R2 and R3 Location Plan	
I2	HDA Land Use and Designations Plan	
I3	HRA letter	
I4	Inspector's Interim Report on the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy May 2016	
I5	Note of Recommendations made at the hearing session on 21 July 2016	
I6	Report on the Examination into the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy October 2017	
I7	Report on the examination of the Cheltenham Plan 2011-2031 March 2020	

Hearing Documents

Documents submitted during course of Hearing	
1.	Draft conditions list V4
2.	Energy & Sustainability Statement R6
3.	Draft conditions list V3
4.	Statement from K Pollock
5.	Email from Ecology Planning regarding Biodiversity Net Gain dating 3 July 2023

6.	Email from HAD regarding Biodiversity net gain 3 July 2023
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Document submitted after the Hearing

A	Appeal decision APP/B1605/W/23/3317851
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Annex 1: Recommended Conditions

Conditions

- (1) The development hereby permitted shall be begun before the expiration of 3 years from the date of this decision.
- (2) The development hereby permitted shall be carried out in accordance with the following approved plans:

Overall Layout

▪ Site Location Plan	CB_70_064_000	G
▪ Overall Planning Layout	CB_70_064_001	R
▪ Land Use Plan	CB_70_064_002	J
▪ Housing Mix Plan	CB_70_064_003	H
▪ Affordable Housing Plan	CB_70_064_004	H
▪ Building Heights Plan	CB_70_064_005	H
▪ Parking Strategy Plan	CB_70_064_006	H
▪ Bin and Cycle Storage	CB_70_064_007	H
▪ External Finishes Plan	CB_70_064_008	H
▪ External Enclosures Plan	CB_70_064_009	H
▪ Hard Surfacing Plan	CB_70_064_010	H
▪ House Type Plan	CB_70_064_012	H
▪ Character Area Plan	CB_70_064_013	H
▪ Street Scene Location Plan	CB_70_064_014	G
▪ EV Charging Strategy Plan	CB_70_064_016	E

100 Application Pack (Eastern Parcel)

Layout Plans

• Planning Layout	CB_70_064_101	V
• Land Use Plan	CB_70_064_102	D
• Housing Mix Plan	CB_70_064_103	H
• Affordable Housing Plan	CB_70_064_104	J
• Building Heights Plan	CB_70_064_105	H
• Parking Strategy Plan	CB_70_064_106	J
• Bin and Cycle Storage Plan	CB_70_064_107	H
• External Finishes Plan	CB_70_064_108	H
• External Enclosures Plan	CB_70_064_109	H
• Hard Surfacing Plan	CB_70_064_110	H
• House Type Plan	CB_70_064_112	H
• Character Areas Plan	CB_70_064_113	H

• EV Charging Strategy	CB_70_064_116 EV C	
Street Scenes		
Character Area: School Route		
• 01	CB_70_064_100_SHR_SS_01	A
Character Area: Principal Spine Road		
• 01	CB_70_064_100_SPR_SS_01	A
• 02	CB_70_064_100_SPR_SS_02	A
• 03	CB_70_064_100_SPR_SS_03	A
• 04	CB_70_064_100_SPR_SS_04	A
Character Area: Internal Streets		
• 01	CB_70_064_100_INS_SS_01	A
• 02	CB_70_064_100_INS_SS_02	A
• 03	CB_70_064_100_INS_SS_03	A
• 04	CB_70_064_100_INS_SS_04	A
• 05	CB_70_064_100_INS_SS_05	A
• 06	CB_70_064_100_INS_SS_06	A
• 07	CB_70_064_100_INS_SS_07	A
• 08	CB_70_064_100_INS_SS_08	A
100 Series House types		
Character Area: School Route		
• Bridgeford Elevations	CB_70_064_100_SHR_BR_E01	-
• Bridgeford Floor Plans	CB_70_064_100_SHR_BR_P01	-
• Kingwood Elevations	CB_70_064_100_SHR_KI_E01	-
• Kingwood Floor Plans	CB_70_064_100_SHR_KI_P01	-
• Oakwood Elevations	CB_70_064_100_SHR_OA_E01	-
• Oakwood Floor Plans	CB_70_064_100_SHR_OA_P01	-
• Eaton Elevations	CB_70_064_100_SHR_EA_E01	-
• Eaton Floor Plans	CB_70_064_100_SHR_EA_P01	-
• Tiverton Elevations	CB_70_064_100_SHR_TV_E01	-
• Tiverton Elevations	CB_70_064_100_SHR_TV_E02	-
• Tiverton Floor Plans	CB_70_064_100_SHR_TV_P01	-
Character Area: Principal Spine Road		
• Kingwood Elevations	CB_70_064_100_SPR_KI_E01	-
• Kingwood Floor Plans	CB_70_064_100_SPR_KI_P01	-

• Oakwood Elevations	CB_70_064_100_SPR_OA_E01	-
• Oakwood Floor Plans	CB_70_064_100_SPR_OA_P01	-
• Pearwood Elevations	CB_70_064_100_SPR_PE_E01	-
• Pearwood Elevations	CB_70_064_100_SPR_PE_E02	-
• Pearwood Floor Plans	CB_70_064_100_SPR_PE_P01	-
• Overton Elevations	CB_70_064_100_SPR_OV_E01	-
• Overton Floor Plans	CB_70_064_100_SPR_OV_P01	-
• Kingston Elevations	CB_70_064_100_SPR_KG_E01	-
• Kingston Floor Plans	CB_70_064_100_SPR_KG_P01	-
• Eaton Elevations	CB_70_064_100_SPR_EA_E01	-
• Eaton Elevations	CB_70_064_100_SPR_EA_E02	-
• Eaton Floor Plans	CB_70_064_100_SPR_EA_P01	-
• Tiverton Elevations	CB_70_064_100_SPR_TV_E01	-
• Tiverton Elevations	CB_70_064_100_SPR_TV_E02	-
• Tiverton Floor Plans	CB_70_064_100_SPR_TV_P01	-
• Rushwick Elevations	CB_70_064_100_SPR_RU_E01	-
• Rushwick Floor Plans	CB_70_064_100_SPR_RU_P01	-
• Marchmont Elevations	CB_70_064_100_SPR_MA_E01	-
• Marchmont Floor Plans	CB_70_064_100_SPR_MA_P01	-
• 4b7p/2-M4(2) Elevations	CB_70_064_100_SPR_4B7P/2_E01	-
• 4b7p/2-M4(2) Floor Plans	CB_70_064_100_SPR_4B7P/2_P01	-
• Ht.3bc Elevations	CB_70_064_100_SPR_HT.3BC_E01	A
• Ht.3bc Elevations	CB_70_064_100_SPR_HT.3BC_E02	A
• Ht.3bc Floor Plans	CB_70_064_100_SPR_HT.3BC_P01	A
• 2b4p Elevations	CB_70_064_100_SPR_2B4P_E01	-
• 2b4p Floor Plans	CB_70_064_100_SPR_2B4P_P01	-
• 2b4p Elevations	CB_70_064_100_SPR_2B4P_E02	-
• 2b4p Floor Plans	CB_70_064_100_SPR_2B4P_P02	-
• 2bcha Elevations	CB_70_064_100_SPR_2BCHA_E01	-
• 2bcha Floor Plans	CB_70_064_100_SPR_2BCHA_P01	-
• 1bh Elevations	CB_70_064_100_SPR_1BH_E01	-
• 1bh Floor Plans	CB_70_064_100_SPR_1BH_P01	-
Character Area: Internal Streets		
• Oxford Elevations	CB_70_064_100_INS_OX_E01	-

• Oxford Floor Plans	CB_70_064_100_INS_OX_P01	-
• Bridgeford Elevations	CB_70_064_100_INS_BR_E01	-
• Bridgeford Floor Plans	CB_70_064_100_INS_BR_P01	-
• Kingwood Elevations	CB_70_064_100_INS_KI_E01	-
• Kingwood Elevations	CB_70_064_100_INS_KI_E02	-
• Kingwood Floor Plans	CB_70_064_100_INS_KI_P01	-
• Oakwood Elevations	CB_70_064_100_INS_OA_E01	-
• Oakwood Floor Plans	CB_70_064_100_INS_OA_P01	-
• Overton Elevations	CB_70_064_100_INS_OV_E01	-
• Overton Floor Plans	CB_70_064_100_INS_OV_P01	-
• Overton Elevations	CB_70_064_100_INS_OV_E02	-
• Overton Floor Plans	CB_70_064_100_INS_OV_P02	-
• Kingston Elevations	CB_70_064_100_INS_KG_E01	-
• Kingston Floor Plans	CB_70_064_100_INS_KG_P01	-
• Kingston Elevations	CB_70_064_100_INS_KG_E02	-
• Kingston Elevations	CB_70_064_100_INS_KG_E03	-
• Kingston Floor Plans	CB_70_064_100_INS_KG_P02	-
• Eaton Elevations	CB_70_064_100_INS_EA_E01	-
• Eaton Floor Plans	CB_70_064_100_INS_EA_P01	-
• Rushwick Elevations	CB_70_064_100_INS_RU_E01	-
• Rushwick Floor Plans	CB_70_064_100_INS_RU_P01	-
• Marchmont Elevations	CB_70_064_100_INS_MA_E01	-
• Marchmont Floor Plans	CB_70_064_100_INS_MA_P01	-
• Marchmont Elevations	CB_70_064_100_INS_MA_E02	-
• Marchmont Floor Plans	CB_70_064_100_INS_MA_P02	-
• Marchmont Elevations	CB_70_064_100_INS_MA_E03	-
• Marchmont Floor Plans	CB_70_064_100_INS_MA_P03	-
• Fairmont Elevations	CB_70_064_100_INS_FA_E01	-
• Fairmont Elevations	CB_70_064_100_INS_FA_E02	-
• Fairmont Floor Plans	CB_70_064_100_INS_FA_P01	-
• 5b8p Elevations	CB_70_064_100_INS_5B8P_E01	-
• 5b8p Floor Plans	CB_70_064_100_INS_5B8P_P01	-
• 4b7p Elevations	CB_70_064_100_INS_4B7P_E01	-
• 4b7p Floor Plans	CB_70_064_100_INS_4B7P_P01	-

• 4b7p Elevations	CB_70_064_100_INS_4B7P_E02	-
• 4b7p Floor Plans	CB_70_064_100_INS_4B7P_P02	-
• 3b6p Elevations	CB_70_064_100_INS_3B6P_E01	-
• 3b6p Floor Plans	CB_70_064_100_INS_3B6P_P01	-
• 3b6p Elevations	CB_70_064_100_INS_3B6P_E02	-
• 3b6p Floor Plans	CB_70_064_100_INS_3B6P_P02	-
• 3b6p Elevations	CB_70_064_100_INS_3B6P_E03	-
• 3b6p Floor Plans	CB_70_064_100_INS_3B6P_P03	-
• A300 - Gibson M4(2) Elevations CB_70_064_100_INS_A300_GIB_M4(2)_E01 -		
• A300 - Gibson M4(2) Floor Plans CB_70_064_100_INS_A300_GIB_M4(2)_P01 -		
• 3b5p Elevations	CB_70_064_100_INS_3B5P_E01	-
• 3b5p Floor Plans	CB_70_064_100_INS_3B5P_P01	-
• 3b5p Elevations	CB_70_064_100_INS_3B5P_E02	-
• 3b5p Floor Plans	CB_70_064_100_INS_3B5P_P02	-
• 3b5p Elevations	CB_70_064_100_INS_3B5P_E03	-
• 3b5p Floor Plans	CB_70_064_100_INS_3B5P_P03	-
• A201/2 Elevations	CB_70_064_100_INS_A201_2_E01	-
• A201/2 Floor Plans	CB_70_064_100_INS_A201_2_P01	-
• 2b4p Elevations	CB_70_064_100_INS_2B4P_E01	-
• 2b4p Floor Plans	CB_70_064_100_INS_2B4P_P01	-
• 2b4p Elevations	CB_70_064_100_INS_2B4P_E02	-
• 2b4p Floor Plans	CB_70_064_100_INS_2B4P_P02	-
• 2b4p Elevations	CB_70_064_100_INS_2B4P_E03	-
• 2b4p Floor Plans	CB_70_064_100_INS_2B4P_P03	-
• 2b4p Elevations	CB_70_064_100_INS_2B4P_E04	-
• 2b4p Floor Plans	CB_70_064_100_INS_2B4P_P04	-
• 2b4p Elevations	CB_70_064_100_INS_2B4P_E05	-
• 2b4p Floor Plans	CB_70_064_100_INS_2B4P_P05	-
• 2b4p Elevations	CB_70_064_100_INS_2B4P_E06	-
• 2b4p Floor Plans	CB_70_064_100_INS_2B4P_P06	-
• 2b4p Floor Plans	CB_70_064_100_INS_2B4P_P07	-
• 1bb/2 Elevations	CB_70_064_100_INS_1BB/2_E01	-
• 1bb/2 Floor Plans	CB_70_064_100_INS_1BB/2_P01	-

- 1bb Elevations CB_70_064_100_INS_1BB_E01 -
- 1bb Floor Plans CB_70_064_100_INS_1BB_P01 -
- 1bf Elevations CB_70_064_100_INS_1BF_E01 -
- 1bf Elevations CB_70_064_100_INS_1BF_E02 -
- 1bf Elevations CB_70_064_100_INS_1BF_E03 -
- 1bf Elevations CB_70_064_100_INS_1BF_E04 -
- 1bf Floor Plans CB_70_064_100_INS_1BF_P01 -
- 1bf Floor Plans CB_70_064_100_INS_1BF_P02 -
- 1bf Floor Plans CB_70_064_100_INS_1BF_P03 -
- Garages Elevations & Floor Plan CB_70_064_100_GAR_E01 -
- Garages Elevations & Floor Plan CB_70_064_100_GAR_E02 -
- Garages Elevations & Floor Plan CB_70_064_100_GAR_E03 -
- Garages Elevations & Floor Plan CB_70_064_100_GAR_E04 -
- Sub-Station Elevations & Floor Plan CB_70_064_100_SUB_E01 -

300 Series (Western Parcel)

300 Series Layouts

- Planning Layout CB_70_064_301 L
- Land Use Plan CB_70_064_302 C
- Housing Mix Plan CB_70_064_303 E
- Affordable Housing Plan CB_70_064_304 F
- Building Heights Plan CB_70_064_305 E
- Parking Strategy Plan CB_70_064_306 E
- Bin and Cycle Storage CB_70_064_307 E
- External Finishes Plan CB_70_064_308 E
- External Enclosures Plan CB_70_064_309 E
- Hard Surfacing Plan CB_70_064_310 E
- House Type Plan CB_70_064_312 E
- Character Areas Plan CB_70_064_313 E
- EV Charging Strategy Plan CB_70_064_316 B

Street Scenes

Character Area: Kidnappers Lane

- 01 CB_70_064_300_KDL_SS_01 A

Character Area: Principal Spine Road

- 01 CB_70_064_300_SPR_SS_01 B

- 02 CB_70_064_300_SPR_SS_02 B
- 03 CB_70_064_300_SPR_SS_03 B

Character Area: Internal Streets

- 01 CB_70_064_300_INS_SS_01 B
- 02 CB_70_064_300_INS_SS_02 B
- 03 CB_70_064_300_INS_SS_03 B
- 04 CB_70_064_300_INS_SS_04 B
- 05 CB_70_064_300_INS_SS_05 B
- 06 CB_70_064_300_INS_SS_06 B
- 07 CB_70_064_300_INS_SS_07 B

300 House types

Character Area: Kidnappers Lane

- Ht.A Elevations CB_70_064_300_KDL_HT.A_E01 -
- Ht.A Elevations CB_70_064_300_KDL_HT.A_E02 -
- Ht.A Elevations CB_70_064_300_KDL_HT.A_E03 -
- Ht.A Floor Plans CB_70_064_300_KDL_HT.A_P01 -
- Ht.G Elevations CB_70_064_300_KDL_HT.G_E01 -
- Ht.G Floor Plans CB_70_064_300_KDL_HT.G_P01 -
- Ht.C Elevations CB_70_064_300_KDL_HT.C_E01 -
- Ht.C Floor Plans CB_70_064_300_KDL_HT.C_P01 -

Character Area: Principal Spine Road

- Ht.A Elevations CB_70_064_300_SPR_HT.A_E01 -
- Ht.A Floor Plans CB_70_064_300_SPR_HT.A_P01 -
- Ht.C Elevations CB_70_064_300_SPR_HT.C_E01 -
- Ht.C Floor Plans CB_70_064_300_SPR_HT.C_P01 -
- Ht.C Elevations CB_70_064_300_SPR_HT.C_E02 -
- Ht.C Floor Plans CB_70_064_300_SPR_HT.C_P02 -
- Ht.H Elevations CB_70_064_300_SPR_HT.H_E01 -
- Ht.H Floor Plans CB_70_064_300_SPR_HT.H_P01 -
- Ht.D Elevations CB_70_064_300_SPR_HT.D_E01 A
- Ht.D Floor Plans CB_70_064_300_SPR_HT.D_P01 A
- Ht.D Elevations CB_70_064_300_SPR_HT.D_E02 A
- Ht.D Floor Plans CB_70_064_300_SPR_HT.D_P02 A
- Ht.E Elevations CB_70_064_300_SPR_HT.E_E01 -

• Ht.E Floor Plans	CB_70_064_300_SPR_HT.E_P01	-
• Ht.E Elevations	CB_70_064_300_SPR_HT.E_E02	-
• Ht.E Floor Plans	CB_70_064_300_SPR_HT.E_P02	-
• Ht.E Elevations	CB_70_064_300_SPR_HT.E_E03	-
• Ht.E Floor Plans	CB_70_064_300_SPR_HT.E_P03	-
• Ht.E Elevations	CB_70_064_300_SPR_HT.E_E04	-
• Ht.E Floor Plans	CB_70_064_300_SPR_HT.E_P04	-
• 2bch Elevations	CB_70_064_300_SPR_2BCH_E01	-
• 2bch Floor Plans	CB_70_064_300_SPR_2BCH_P01	-
• 4b7p Elevations	CB_70_064_300_SPR_4B7P_E01	-
• 4b7p Floor Plans	CB_70_064_300_SPR_4B7P_P01	-
• Ht.3bc Elevations	CB_70_064_300_SPR_HT.3BC_E01	A
• Ht.3bc Elevations	CB_70_064_300_SPR_HT.3BC_E02	A
• Ht.3bc Floor Plans	CB_70_064_300_SPR_HT.3BC_P01	A
• Ht.3b Elevations	CB_70_064_300_SPR_HT.3B_E01	A
• Ht.3b Floor Plans	CB_70_064_300_SPR_HT.3B_P01	A
• Ht.3b Elevations	CB_70_064_300_SPR_HT.3B_E02	A
• Ht.3b Floor Plans	CB_70_064_300_SPR_HT.3B_P02	A
• 2b4p Elevations	CB_70_064_300_SPR_2B4P_E01	-
• 2b4p Floor Plans	CB_70_064_300_SPR_2B4P_P01	-
• 2bcha Elevations	CB_70_064_300_SPR_2BCHA_E01	A
• 2bcha Floor Plans	CB_70_064_300_SPR_2BCHA_P01	A
• 2bcha Elevations	CB_70_064_300_SPR_2BCHA_E02	A
• 2bcha Floor Plans	CB_70_064_300_SPR_2BCHA_P02	A
• 2bcha Elevations	CB_70_064_300_SPR_2BCHA_E03	-
• 2bcha Floor Plans	CB_70_064_300_SPR_2BCHA_P03	-
• 2bcha Elevations	CB_70_064_300_SPR_2BCHA_E04	-
• 2bcha Floor Plans	CB_70_064_300_SPR_2BCHA_P04	-
• 1bf Elevations	CB_70_064_300_SPR_1BF_E01	-
• 1bf Elevations	CB_70_064_300_SPR_1BF_E02	-
• 1bf Floor Plans	CB_70_064_300_SPR_1BF_P01	-
• 1bf Floor Plans	CB_70_064_300_SPR_1BF_P02	-
• 1bf Elevations	CB_70_064_300_SPR_1BF_E03	A
• 1bf Elevations	CB_70_064_300_SPR_1BF_E04	A

- 1bf Elevations CB_70_064_300_SPR_1BF_E05 A
- 1bf Floor Plans CB_70_064_300_SPR_1BF_P03 A
- 1bf Floor Plans CB_70_064_300_SPR_1BF_P04 A

Character Area: Internal Streets

- Ht.A Elevations CB_70_064_300_INS_HT.A_E01 A
- Ht.A Elevations CB_70_064_300_INS_HT.A_E02 -
- Ht.A Elevations CB_70_064_300_INS_HT.A_E03 -
- Ht.A Floor Plans CB_70_064_300_INS_HT.A_P01 A
- Ht.G Elevations CB_70_064_300_INS_HT.G_E01 -
- Ht.G Floor Plans CB_70_064_300_INS_HT.G_P01 -
- Ht.C Elevations CB_70_064_300_INS_HT.C_E01 -
- Ht.C Elevations CB_70_064_300_INS_HT.C_E02 -
- Ht.C Floor Plans CB_70_064_300_INS_HT.C_P01 -
- Ht.C Elevations CB_70_064_300_INS_HT.C_E03 -
- Ht.C Floor Plans CB_70_064_300_INS_HT.C_P02 -
- Ht.H Elevations CB_70_064_300_INS_HT.H_E01 -
- Ht.H Floor Plans CB_70_064_300_INS_HT.H_P01 -
- Ht.D Elevations CB_70_064_300_INS_HT.D_E01 A
- Ht.D Floor Plans CB_70_064_300_INS_HT.D_P01 A
- Ht.D Elevations CB_70_064_300_INS_HT.D_E02 A
- Ht.D Floor Plans CB_70_064_300_INS_HT.D_P02 A
- Ht.E Elevations CB_70_064_300_INS_HT.E_E01 A
- Ht.E Floor Plans CB_70_064_300_INS_HT.E_P01 A
- Ht.E Elevations CB_70_064_300_INS_HT.E_E02 -
- Ht.E Floor Plans CB_70_064_300_INS_HT.E_P02 -
- Ht.E Elevations CB_70_064_300_INS_HT.E_E03 -
- Ht.E Floor Plans CB_70_064_300_INS_HT.E_P03 -
- 5b8p Elevations CB_70_064_300_INS_5B8P_E01 -
- 5b8p Floor Plans CB_70_064_300_INS_5B8P_P01 -
- 4b7p Elevations CB_70_064_300_INS_4B7P_E01 -
- 4b7p Floor Plans CB_70_064_300_INS_4B7P_P01 -
- 3bha Elevations CB_70_064_300_INS_3BHA_E01 A
- 3bha Floor Plans CB_70_064_300_INS_3BHA_P01 A
- 3bha Elevations CB_70_064_300_INS_3BHA_E02 A

• 3bha Floor Plans	CB_70_064_300_INS_3BHA_P02	A
• 3b6p Elevations	CB_70_064_300_INS_3B6P_E01	-
• 3b6p Floor Plans	CB_70_064_300_INS_3B6P_P01	-
• 3b6p Elevations	CB_70_064_300_INS_3B6P_E02	-
• 3b6p Floor Plans	CB_70_064_300_INS_3B6P_P02	-
• A300 - Gibson M4(2) Elevations CB_70_064_300_INS_A300_GIB_M4(2)_E01 -		
• A300 - Gibson M4(2) Floor Plans CB_70_064_300_INS_A300_GIB_M4(2)_P01 -		
• Ht.3b Elevations	CB_70_064_300_INS_HT.3B_E01	A
• Ht.3b Floor Plans	CB_70_064_300_INS_HT.3B_P01	A
• A203 (Edmond) M4(2) Elevations	CB_70_064_300_INS_A203_E01	-
• A203 (Edmond) M4(2) Floor Plan	CB_70_064_300_INS_A203_P01	
• A203 (Edmond) M4(2) Elevations	CB_70_064_300_INS_A203_E02	
• A203 (Edmond) M4(2) Floor Plans	CB_70_064_300_INS_A203_P02	
• A203 (Edmond) M4(2) Elevations	CB_70_064_300_INS_A203_E03	
• A203 (Edmond) M4(2) Floor Plans	CB_70_064_300_INS_A203_P03	
• A201(S) ELEVATIONS	CB_70_064_300_INS_A201(s)_E01	-
• A201(S) FLOOR PLANS	CB_70_064_300_INS_A201(s)_P01	-
• 2b4p Elevations	CB_70_064_300_INS_2B4P_E01	-
• 2b4p Floor Plans	CB_70_064_300_INS_2B4P_P01	-
• 2b4p Elevations	CB_70_064_300_INS_2B4P_E02	-
• 2b4p Floor Plans	CB_70_064_300_INS_2B4P_P02	-
• 2bcha Elevations	CB_70_064_300_INS_2BCHA_E01	-
• 2bcha Floor Plans	CB_70_064_300_INS_2BCHA_P01	-
• 1bb/2 Elevations	CB_70_064_300_INS_1BB_2_E01	-
• 1bb/2 Floor Plans	CB_70_064_300_INS_1BB_2_P01	-
• 1bh Elevations	CB_70_064_300_INS_1BH_E01	-
• 1bh Floor Plans	CB_70_064_300_INS_1BH_P01	-
• 1bb Elevations	CB_70_064_300_INS_1BB_E01	-
• 1bb Floor Plans	CB_70_064_300_INS_1BB_P01	-
• Garage Floor Plan & Elevations	CB_70_064_300_GAR_01A	

- Garage Floor Plan & Elevations CB_70_064_300_GAR_02A
- Garage Floor Plan & Elevations CB_70_064_300_GAR_03-
- Sub-Station Floor Plan & Elevations CB_70_064_300_SUB_01-

Access Plans

- A46 Kidnappers Lane Access General Arrangement 04649-PA-001 P08
- A46 Priority Access Junction General Arrangement 04649-PA-002 P06
- Junction improvement at Leckhampton Lane 04649-PA-003 Rev P04
- Proposed controlled crossing across Kidnappers Lane ITB12049-GA-056 C

- (3) Prior to the commencement of development, a phasing plan which indicates the phases through which the development hereby permitted shall be delivered on site shall be submitted to and approved in writing by the Local Planning Authority.
- (4) Prior to the commencement of development within each phase, a Construction Method Statement or Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The approved plan/statement shall be adhered to throughout the construction process and shall include, but not be restricted to:
 - i) Provision of parking for vehicles of site operatives and visitors (including measures taken to ensure satisfactory access and movement for existing occupiers of neighbouring properties during construction);
 - ii) Any temporary access to the phase;
 - iii) Locations for the loading/unloading and storage of plant, waste and construction materials;
 - iv) Measures to control the emission of noise, dust and dirt during demolition and construction;
 - v) Method of preventing mud and dust being carried onto the highway;
 - vi) Arrangements for turning vehicles;
 - vii) Arrangements to receive abnormal loads or unusually large vehicles;
 - viii) Joint highway condition survey; and
 - ix) Methods of communicating the Construction Management Plan or Construction Method Statement to staff, visitors, and neighbouring residents and businesses.
 - x) Details of construction traffic routing to and from the site.
- (5) Prior to the commencement of development within each phase, drainage plans for the disposal of foul and surface water for that phase shall be submitted to and approved by the Local Planning Authority. The scheme shall thereafter be implemented in accordance with the approved plans before the phase is first brought into use.

- (6) Prior to the commencement of development within each phase, a Construction Phase Surface Water Management Plan for that phase shall be submitted to and approved in writing by the Local Planning Authority. The plan shall outline what measures will be used throughout the construction period of the development to ensure that surface water does not leave the site in an uncontrolled manner and put properties elsewhere at increased risk of flooding. The construction phase shall be implemented in strict accordance with the approved plans until the agreed Sustainable Drainage System Strategy is fully operational.
- (7) Prior to the commencement of development within each phase, a site investigation and risk assessment shall be carried out for that phase to assess the potential nature and extent of any contamination on the site, whether or not it originates on the site. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR11 and shall include:
- a) a survey of the extent, scale and nature of contamination
 - b) an assessment of the potential risks to:
 - human health
 - property (including buildings, crops, livestock, pets, woodland and service lines and pipes)
 - adjoining land
 - ecological systems
 - groundwaters and surface water
 - archaeological sites and ancient monuments
 - c) an appraisal of remedial options to mitigate against any potentially significant risks identified from the risk assessment.
- Where remediation is required, a detailed remediation scheme shall be produced. The scheme shall include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme shall ensure that the site will not qualify as contaminated land under Part 2a of the Environmental Protection Act (1990) in relation to the intended use of the land after remediation.
- The site investigation, risk assessment report, and proposed remediation scheme for each phase shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of any development within that phase.
- (8) Prior to the commencement of development within each phase, other than that necessary for that phase to comply with the requirements of this condition, the approved remediation scheme necessary to bring the phase to a condition suitable for the intended use shall be implemented in full. Following the completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation

carried out shall be submitted to and approved in writing by the Local Planning Authority.

- (9) In the event that contamination is found at any time when carrying out the approved development that was not previously identified, it must be reported in writing immediately to the Local Planning Authority and development shall be halted on that part of the site affected by the unexpected contamination. An investigation and risk assessment must then be undertaken in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination', CLR11 and a remediation scheme, where necessary, also submitted to and approved in writing by the Local Planning Authority. Following completion of measures identified in the approved remediation scheme, a verification report shall be submitted to and approved in writing by the Local Planning Authority before development can recommence on the part of the site identified as having unexpected contamination.
- (10) The development shall be carried out in accordance with the recommendations of the Façade Schedule provided as Appendix C to the Acoustic Design Statement dated 14 April 2020.
- (11) Prior to the commencement of development within each phase, full details of all proposed street tree planting, root protection systems, future management plan, and the proposed times of planting for that phase, shall be submitted to and approved in writing by the Local Planning Authority. All street tree planting shall thereafter be carried out in accordance with the approved details.
- (12) Prior to the commencement of development within each phase, the following information for that phase shall be submitted to and approved in writing by the Local Planning Authority:
 - (a) a full site survey showing:
 - i) the datum used to calibrate the site levels;
 - ii) levels along all site boundaries at regular intervals;
 - iii) levels across the site at regular intervals;
 - iv) finished floor levels or other datum of adjacent buildings; and
 - v) cross section drawings clearly showing existing ground levels in relationship with the finished floor and eaves levels of adjacent buildings
 - (b) full details showing:
 - i) the proposed finished floor level of all buildings and ground levels including hard surfaces; and
 - ii) cross section drawings showing the proposed finished floor and eaves levels of all buildings and ground levels including hard surfaces.

The development shall thereafter be implemented strictly in accordance with the approved details.

- (13) Prior to the commencement of development within each phase, a Landscape and Ecological Management Plan (LEMP) for that phase shall be submitted to and approved in writing by the Local Planning Authority. The content of the LEMP shall include, but not be limited to, the following:

- a) Description and evaluation of features to be managed;
- b) Ecological trends and constraints on site that might influence management;
- c) Aims and objectives of management, including mitigation and enhancement for species identified on site
- d) Appropriate management options for achieving aims and objectives;
- e) Prescriptions for management actions;
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a ten-year period);
- g) Details of the body or organisation responsible for implementation of the plan, along with funding mechanism(s) for that body or organisation; and
- h) Ongoing monitoring and remedial measures, including where monitoring shows that conservation aims and objectives of the LEMP are not being met.

The approved plan shall be carried out in accordance with the approved LEMP.

- (14) Prior to the commencement of development within each phase, including preparatory works, a Construction Environmental Management Plan (CEMP) for that phase shall be submitted to and approved in writing by the Local Planning Authority. The CEMP shall include the following:

- a) a risk assessment of potentially damaging construction activities;
- b) identification of biodiversity protection zones (e.g. buffers to areas of retained habitat);
- c) practical measures (both physical measures and sensitive working practices, such as protective fencing, exclusion barriers and warning signs) to avoid or reduce impacts during construction (particularly in relation to works within any areas of retained habitat);
- d) the location and timing of sensitive works to avoid harm to biodiversity features (in relation to breeding birds in particular);
- e) the times during construction when specialist ecologists need to be present on site to oversee works (as required);
- f) responsible persons and lines of communication; and
- g) the role and responsibilities on site of an Ecological Clerk of Works (ECoW) or similarly competent person (as necessary).

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless the ECoW otherwise sets out alternative details which are subsequently agreed by the Local Planning Authority.

- (15) Prior to the commencement of development within each phase, full details of a hard and/or soft landscaping scheme for that phase shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall identify all walls, fences, trees, hedgerows and other planting which are to be retained, and provide details of all new walls, fences, or other boundary treatments; finished ground levels; new hard surfacing of open parts of the site which shall be permeable or drained to a permeable area; a planting specification to

include [species, size, position and method of planting of all new trees and shrubs]; and a programme of implementation.

All hard and/or soft landscaping works shall be carried out in accordance with the approved details prior to first occupation of that phase unless otherwise agreed in writing by the Local Planning Authority.

Any trees or plants indicated on the approved scheme which, within a period of five years from the date of planting, die, are removed or become seriously damaged, diseased or dying shall be replaced during the next planting season with other trees or plants of a location, species and size which shall be first agreed in writing by the Local Planning Authority.

- (16) The programme of archaeological works shall be carried out in accordance with the approved Written Scheme of Investigation dated 22nd March 2022.
- (17) The development shall be carried out in accordance with the proposals set out in the Energy and Sustainability Statement dated 4 July 2023.
- (18) Prior to first occupation of the development within each phase, a SuDS Management and Maintenance Plan for that phase, for the lifetime of the development, shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime, The approved plan shall thereafter be implemented in full in accordance with the agreed terms and conditions.
- (19) No external facing or roofing materials shall be used unless in accordance with: a) a detailed written specification of the materials; and b) physical samples of the materials, the details of which shall have first been submitted to and approved in writing by the Local Planning Authority.
- (20) No dwelling shall be occupied until the access, parking and turning facilities from that individual building to the nearest public highway have been provided in accordance with Drawing No. CB_70_064_001 Rev R.
- (21) The part of the development served from the proposed southern (roundabout) access shall not be occupied until the following highway improvements works have been constructed and completed:
 - a) Roundabout, realignment of Kidnappers Lane, crossings and active travel infrastructure as shown on Drawing No. 04649-PA-001 Rev P08; and
 - b) Closure of the junction of Kidnappers Lane and A46 Shurdington Road.
- (22) The part of the development served from the proposed northern (priority junction) access shall not be occupied until the following highway improvements have been constructed and completed:
 - a) Priority Junction, crossings and footway improvements as shown on Drawing No. 04649-PA-002 Rev P06.
- (23) The 50th dwelling hereby approved shall not be occupied until the following highway improvements works have been constructed and completed:
 - a) Junction improvement at Leckhampton Lane as shown on Drawing No. 04649-PA-003 Rev P04.

- (24) The development shall not be occupied until the following highway improvements works have been constructed and completed:
- a) Controlled Crossing as shown on Drawing No. ITB2049-GA-056 Rev C
- (25) No dwelling shall be occupied until sheltered, secure and accessible bicycle parking has been provided for that dwelling in accordance with details which shall be submitted to and approved in writing by the Local Planning Authority. The approved bicycle parking shall thereafter be kept available for the parking of bicycles only.
- (26) Notwithstanding the submitted details, no dwelling shall be occupied until at least 1 parking space for that dwelling, or 1 per 10 spaces for communal parking areas, has been fitted with an electric vehicle charging point. The charging points shall comply with BS EN 62196 Mode 3 or 4 charging and BS EN 61851 and Manual for Gloucestershire Streets. The electric vehicle charging points shall be retained for the lifetime of the development unless they need to be replaced in which case the replacement charging points shall be of the same specification or a higher specification in terms of charging performance.
- (27) The approved Residential Travel Plan (i-Transport Ref: MG/AI/ITB12049-102A R, dated 9th October 2020) shall be implemented and monitored in accordance with the regime contained within the plan. In the event of failing to meet the targets within the plan, a revised plan shall be submitted to and approved in writing by the Local Planning Authority to address any shortfalls, and where necessary make provision for and promote improved sustainable forms of access to and from the site. The plan shall thereafter be implemented and updated in agreement with the Local Planning Authority.
- (28) Prior to first occupation of the development, details of a Homeowner Information Pack (HIP) providing information on recreation resources in the locality shall be submitted to and approved in writing by the Local Planning Authority. The pack should present information describing informal recreation opportunities in the following sequence:
- In the immediate area
 - A short drive by car or bus
 - Further afield – e.g. The Cotswolds, the Severn Estuary, the Forest of Dean.

Each dwelling shall be provided with an approved HIP on occupation.

- (29) No development shall take place until a scheme has been submitted to and approved in writing by the local planning authority which provides details of how a minimum of 10% measurable biodiversity net gain in broad (area) habitat types and a net gain in linear hedgerow (including treeline) and river features can be achieved. The details provided shall follow those set out in the Technical Note to accompany the Biodiversity Impact Assessment Calculation submitted 27 June 2023. The scheme shall be supported by appropriate planning obligations under section 106 of the Town and Country Planning Act 1990 or agreement with the local planning authority under other statutory powers as are necessary to secure the delivery of the ongoing habitat management requirements included in the scheme, with such legal documents to be completed prior to the written approval of the scheme by the local

planning authority. The scheme shall be carried out in accordance with the approved scheme.

(30) **EITHER 30A:**

All dwellings and apartments hereby permitted shall have solar PV panels in accordance with the requirements of the Energy and Sustainability Statement version R6 dated 4th July 2023. No dwelling or apartment building hereby approved shall be occupied until the proposed solar PV panels serving that dwelling or apartment building have been fully installed in accordance with a specification which shall have been submitted to and approved in writing by the Local Planning Authority prior to the occupation of any dwelling.

OR 30B:

All dwellings and apartments hereby permitted shall have solar PV panels. No dwelling or apartment building hereby approved shall be occupied until the proposed solar PV panels serving that dwelling or apartment building have been fully installed in accordance with details (to include their operation, number, installed capacity, design, appearance and positioning on each roof) which shall have been submitted to and approved in writing by the Local Planning Authority prior to the occupation of any dwelling.

(31) **Either 31A:**

All dwellings and apartments hereby permitted shall be fitted with air source heat pumps in accordance with the requirements of the Energy and Sustainability Statement, dated 4th July 2023, the specification of which shall have been submitted to and approved in writing by the Local Planning Authority prior to the occupation of any dwelling. The approved ASHP(s) shall be installed prior to first occupation of each dwelling or apartment building hereby approved in accordance with the details approved.

OR 31B:

All dwellings and apartments hereby permitted shall be fitted with air source heat pumps. Details of the type/model, location and predicted noise levels of the proposed air source heat pumps (ASHPs) shall have been submitted to and approved in writing by the Local Planning Authority prior to the occupation of any dwelling. The approved ASHP(s) shall be installed prior to first occupation of each dwelling or apartment building hereby approved and in accordance with the details approved.

ANNEXE 2

INFORMATION TO INFORM THE SECRETARY OF STATE'S HABITATS REGULATIONS ASSESSMENT

INTRODUCTION

The proposed development is for the residential development comprising 350 dwellings, open space, cycleways, footpaths, landscaping, access roads and other associated infrastructure.

The Conservation of Habitats and Species Regulations 2017 (as amended) and the Conservation of Offshore Marine Habitats and Species Regulations 2017 (as amended) (for plans and projects beyond UK territorial waters (12 nautical miles)) require that where a plan or project is likely to have a significant effect on a European site⁴¹ or European marine site either alone or in combination with other plans or projects, and where the plan or project is not directly connected with or necessary to the management of the European site, a competent authority (the Secretary of State in this instance) is required to make an Appropriate Assessment of the implications of that plan or project on the integrity of the European site in view of the site's conservation objectives.

PROJECT LOCATION

173. The Cotswold Beechwoods Special Area of Conservation (the SAC) consists of ancient beech woodland, some secondary woodland and a small area of unimproved grassland. The qualifying features relate to both the woodland and grassland habitats. The Cotswold Way runs through the SAC and consequently there is recreational activity which causes damage to the protected areas from the passage of people, pets and vehicles.
174. The proximity of the appeal site to the SAC means that the introduction of 350 houses has the potential to add to that disturbance to the SAC due to increased visitor numbers and therefore the potential to have significant effects through increased recreational pressure. Consequently, based on the evidence before me it is likely that, in the absence of mitigation measures, the proposal would have a significant adverse effect on the integrity of the SPA.

The Proposed Development site is located on the edge of Cheltenham and is in proximity to a European site:

⁴¹ Regulation 8 of the Habitats Regulations 2017, as amended by The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019 (the '2019 Regulations'), defines European sites and European marine sites. European sites include: Special Areas of Conservation (SACs) and Special Protection Areas (SPAs) already existing at 31 December 2020; any Site of Community Interest (SCI) placed on the EU Commission's list or any site proposed to the EU prior to 31 December 2020; and any SAC or SPA designated in the UK after 31 December 2020. European marine sites are defined as European sites consisting of marine areas. As a matter of policy, the Government also applies the Habitats Regulations procedures to possible SACs (pSACs), potential SPAs (pSPAs), Ramsar sites and proposed Ramsar sites, and sites identified, or required, as compensatory measures for adverse effects on any of the above sites.

European sites in the UK will no longer form part of the EU's 'Natura 2000' ecological network. The 2019 Regulations have however created a 'national site network'. The national site network includes existing SACs and SPAs, and new SACs and SPAs designated under the Habitats Regulations 2017 (as amended), as noted above. Ramsar sites do not form part of the national site network, but all Ramsar sites are treated in the same way as SACs/SPA as a matter of policy.

Cotswold Beechwoods Special Area of Conservation: Qualifying features are ancient beech woodland, some secondary woodland and a small area of unimproved grassland. The Cotswold Beechwoods represent the most westerly extensive blocks of ***Asperulo-Fagetum* beech forests** in the UK. The woods are floristically richer than the Chilterns, and rare plants include red helleborine *Cephalanthera rubra*, stinking hellebore *Helleborus foetidus*, narrow-lipped helleborine *Epipactis leptochila* and wood barley *Hordelymus europaeus*. There is a rich mollusc fauna. The woods are structurally varied, including blocks of high forest and some areas of remnant beech coppice.

The site also hosts a rich suite of orchid species, and/or an important population of at least one orchid species considered uncommon, or one or several orchid species considered to be rare, very rare or exceptional.

HRA IMPLICATIONS OF THE PROJECT

The Proposed Development will generate recreational impacts as the Cotswold Way runs through the SAC with the potential to cause damage to the protected areas from the passage of people pets and vehicles.

PART 1 - ASSESSMENT OF LIKELY SIGNIFICANT EFFECTS

Such an increase in recreational activity from the provision of 350 households in proximity to the SAC is likely to have a significant adverse effect on the integrity of the SAC. This view is shared by Natural England.

CONSERVATION OBJECTIVES

This section and the assessment of adverse effects on integrity are only necessary in relation to those site(s) and features for which likely significant effect have been identified (see section above). This section should include a description of the conservation objectives for European site(s) that are considered relevant.

PART 2 - FINDINGS IN RELATION TO ADVERSE EFFECTS ON THE INTEGRITY

Surveys have already found that existing recreational pressure is causing harm to the integrity and biodiversity of the SAC through the impact on the protected habitat. It is suggested both the number and distribution of visitors has increased in recent years, with particular increases from mountain bikes and horse riders. Increased access has the potential to cause trampling and erosion, impact on ground flora. Dog walking has also increased, especially at Coopers Hill, and commercial dog walking has also increased. Poorly controlled dogs can disturb wildlife, as well as dog fouling causing eutrophication of soils. The potential for recreational pressures from people enjoying leisure time on foot or bicycles together with dog walking has the potential to further disturb the biodiversity of the SAC.

The appellant proposes that 6.5 hectares of onsite green and open space be provided on the appeal site to provide alternative recreational facility to encourage residents away from the SAC. In addition, a Homeowners Information Pack would be distributed to all homeowners secured by an appropriately worded condition. Natural England and the Council are supportive of this approach.

HRA CONCLUSIONS

I am of the view that with the mitigation in place the proposal would not cause a significant adverse effect on the integrity of the SAC.

These conclusions represent my assessment of the evidence presented to me but do not represent an appropriate assessment as this is a matter for the SoS to undertake as the competent authority.



Department for Levelling Up, Housing & Communities

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RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

These notes are provided for guidance only and apply only to challenges under the legislation specified. If you require further advice on making any High Court challenge, or making an application for Judicial Review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, Queens Bench Division, Strand, London, WC2 2LL (0207 947 6000).

The attached decision is final unless it is successfully challenged in the Courts. The Secretary of State cannot amend or interpret the decision. It may be redetermined by the Secretary of State only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS

The decision may be challenged by making an application for permission to the High Court under section 288 of the Town and Country Planning Act 1990 (the TCP Act).

Challenges under Section 288 of the TCP Act

With the permission of the High Court under section 288 of the TCP Act, decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application for leave under this section must be made within six weeks from the day after the date of the decision.

SECTION 2: ENFORCEMENT APPEALS

Challenges under Section 289 of the TCP Act

Decisions on recovered enforcement appeals under all grounds can be challenged under section 289 of the TCP Act. To challenge the enforcement decision, permission must first be obtained from the Court. If the Court does not consider that there is an arguable case, it may refuse permission. Application for leave to make a challenge must be received by the Administrative Court within 28 days of the decision, unless the Court extends this period.

SECTION 3: AWARDS OF COSTS

A challenge to the decision on an application for an award of costs which is connected with a decision under section 77 or 78 of the TCP Act can be made under section 288 of the TCP Act if permission of the High Court is granted.

SECTION 4: INSPECTION OF DOCUMENTS

Where an inquiry or hearing has been held any person who is entitled to be notified of the decision has a statutory right to view the documents, photographs and plans listed in the appendix to the Inspector's report of the inquiry or hearing within 6 weeks of the day after the date of the decision. If you are such a person and you wish to view the documents you should get in touch with the office at the address from which the decision was issued, as shown on the letterhead on the decision letter, quoting the reference number and stating the day and time you wish to visit. At least 3 days notice should be given, if possible.