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# Appeal Decision

Inquiry held from 16 – 19 and 23 April 2024

Site visit made on 23 April 2024

**by A Dawe BSc (Hons), MSc, MPhil, MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 5<sup>th</sup> July 2024**

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**Appeal Ref: APP/G1630/W/23/3335833**

**Land East of Mythe Road, Tewkesbury**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
  - The appeal is made by Robert Hitchins Limited against Tewkesbury Borough Council.
  - The application Ref is 22/00610/OUT.
  - The development proposed is Residential Development (up to 235 dwellings), associated works, including infrastructure, open space and landscaping and pumping station. Construction of a new vehicular access from Mythe Road and demolition of existing structures.
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## Decision

1. The appeal is dismissed, and planning permission is refused.

## Preliminary Matters

2. The description of development in the above header includes reference to being for up to 235 dwellings, as originally applied for. However, during the course of the application process, the Appellant amended this to state it as being for up to 165 dwellings, with accompanying revised plans submitted. Together with those revised plans, I have determined the appeal on the basis of the amended description which reads as *Residential development (up to 165 dwellings), associated works, including infrastructure, open space, landscaping and pumping station. Construction of a new vehicular access from Mythe Road and demolition of existing structures.*
3. The planning application was submitted in outline with the matters of access, appearance, landscaping, layout and scale reserved for future consideration were the appeal to be allowed. However, the Appellant has submitted a concept masterplan along with three landscape parameter plans and a southern boundary building heights parameters plan which I have taken into account as a guide to how the site could be developed. I have determined the appeal on that basis.

## Main Issues

4. The submission of s106 agreements to secure planning obligations relating to the fourth, fifth, sixth and seventh of the Council's putative reasons for refusal (PRfRs), is agreed by the Council to have addressed those PRfRs, notwithstanding that there remain differences between the parties with the

principle of securing some of those. In those circumstances I have not included these matters as main issues.

5. As such, the main issues are:

- i) The suitability of the location for housing having regard to development plan and national policy;
- ii) Whether the proposed development would preserve the setting of the grade II listed buildings (LBs) comprising The Mythe, The Mythe Coach House, and Uplands and its effect on the significance of the Tewkesbury Conservation Area (the CA);
- iii) The effect of the proposed development on the character and appearance of the area.

## **Reasons**

### *Suitability of location*

6. The site is not located within a defined settlement boundary and does not meet any of the exemptions set out in policies SD10 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011-2031 (the JCS) and RES3 of the Tewkesbury Borough Plan 2011-2031 (the TBP). Together with policy SP2(6) of the JCS which cross refers to policy SD10, the proposed development would not accord with those policies. This position is agreed by the Council and Appellant and I have no basis to consider otherwise. This is notwithstanding the Appellant's position that, having regard to JCS policy SP2(4), the proposed development would be at Tewkesbury town. The two parties are also in agreement that the proposed development would be acceptable in terms of accessibility for prospective residents, including to local facilities and public transport and that this does not form a PRfR, which again I have no substantive basis to disagree with.
7. These are factors that I shall return to in the heritage and overall planning balance.

### *Heritage assets*

8. I acknowledge that the Council's reasons for previously refusing a larger proposed housing scheme at the site did not include a heritage reason for refusal. The Appellant also draws attention to advice during the application stage, relating to the appeal proposal, not raising any objection in relation to its effect on the significance of the designated HAs. However, I have determined this main issue on its merits based on all the evidence before me and my observations.
9. In considering those factors that define the significance of The Mythe and Uplands, these include their grand country house nature and design, dating back to the mid eighteenth, early nineteenth century (The Mythe) and mid to late eighteenth century with nineteenth century additions (Uplands). Features and buildings/structures directly associated with those LBs include, in respect of The Mythe, its Grade II listed Coach House, its associated grounds, driveway and woodland backdrop; and for Uplands, the grounds and woodland backdrop, the gate piers and driveway; together with the co-existence of the two

buildings themselves. Along with those other features and buildings/structures, the significance of the LBs is noticeably contributed to and highlighted by their raised position above the floodplain of the rivers Avon and Severn, each framed with a wooded backdrop and standing within an open setting.

10. That setting comprises pastureland to their immediate south and south-east, and to some extent in between them, with the spacious open grounds of The Mythe to its immediate north and then open grassland beyond extending northwards uphill. Arable fields, separated by a line of trees, then extend further northwards beyond the Mythe Farm access drive to the top of the Mythe landform. The main body of the appeal site that would contain the housing comprises the field to the north of that tree line. Despite the respective backdrops of trees to The Mythe and Uplands, they are nevertheless both clearly seen in that wider open setting.
11. It is the views of The Mythe and Uplands from southern and south-eastern vantage points in particular, including from the edge of Tewkesbury adjacent to the River Avon, from the A38 out of the town, and intervening footpaths, together with sweeping views outwards to the south and east from the LBs, which highlight their grandeur. Views northwards out from The Mythe in particular take in that existing grassland and field setting, albeit filtered to varying extents by intervening trees alongside the boundary of its grounds.
12. The two LBs are also seen from the riverside footpath to their east. However, from here, and more in relation to Uplands, there is clearer co-visibility with the Mythe Farm buildings thereby lessening the sense of isolated grandeur as seen from that direction.
13. The presence of the Mythe Farm complex, to the north of Uplands, reflects that rural agricultural setting. However, notwithstanding potentially greater visibility of any now demolished farm buildings in the past, it is not now prominent in those key views of the LBs from the south due to its position amongst trees immediately to the north of Uplands. The exception is a redbrick gable end of one of the buildings, which is clearly visible in views from the south.
14. There is also other development in the vicinity on the Mythe landform, including houses of various designs and ages, strung out alongside or relatively close to the A38, which itself represents the addition of relatively modern infrastructure. However, that road and the associated generally ribbon form of development is not prominent in the above visual setting of the LBs due to the degree of separation and presence of intervening trees and woodland. Other features in the vicinity such as the large waterworks and the former railway embankment can be seen to varying extents in the same views as the LBs. However, again the degree of separation and location adjacent to, rather than on, the Mythe landform ensures that they do not significantly detract from the open setting of the LBs.
15. I also note the past existence of the large Mythe House and its associated outbuildings, all now demolished, that was located on the higher ground to the north of The Mythe, and with land associated with it. Historically it is therefore likely that The Mythe and Uplands would have been seen to varying degrees in that context. However, that would likely still have been one of primarily grand buildings, and associated outbuildings, in a spacious open setting. Fundamentally, that open setting and associated contribution to the significance of The Mythe and Uplands remains, regardless as to the extent to

which land ownership within that setting has changed over time, the way the use of the land may have changed, and the past existence of Mythe House.

16. The main element of the development comprising the proposed houses would occupy land historically associated with The Mythe and Uplands, albeit not now. However, that main part of the site would be significantly separated from the LBs themselves both in terms of distance and to some extent by the intervening tree line, albeit that this is currently quite thin for part of it. Notwithstanding the proposed access road within the southern field, a good degree of openness surrounding the LBs would therefore remain.
17. I acknowledge the outline nature of the proposals at this stage. Nevertheless, in those key views from the south in particular, and as viewed to varying degrees from The Mythe itself, the proposed housing would inevitably be clearly visible at least until the intended additional intervening tree planting were to reach sufficient maturity to provide additional screening. As such, the introduction of what is likely to be a relatively dense layout of houses compared with the historic and existing context viewed in between the two LBs, albeit set back from them, would be likely to draw the eye as an obtrusive feature within that existing setting. The existing tree line, particularly the thinner section, would be unlikely to provide a high level of screening, particularly in the winter months with leaves off the trees.
18. The intention to mitigate this with lower height buildings at the southern end of the housing site would lessen that effect to some extent given that degree of set back from the LBs. Furthermore, the thickening up of the tree line referred to would over time, and if managed and maintained as such, be likely to at least have a significant softening effect and provide a good degree of screening, albeit that it would take a number of years, shown on the submitted visualisation photomontages as at the 15-year stage. Such planting in itself would also be unlikely to appear unduly alien in the context of that existing tree line. Nevertheless, it is not certain that rooftops would be completely screened by the proposed planting. Furthermore, for the planting to be effective as mitigation, there would be a reliance on its maintenance and survival. This would not necessarily be completely predictable in terms of retaining a consistent screen, particularly in the longer term, despite scope for some level of control through conditions.
19. Intended screen planting in front of the redbrick Mythe Farm building referred to above would have the potential to lessen that feature's visual effect in terms of the overall setting of the LBs. However, as a single relatively modest feature, it does not currently significantly detract from the prominence and grandeur of the nearby Uplands. Its screening would therefore not be a significant mitigating factor.
20. Even with the proposed additional tree planting to the south of the proposed housing, when travelling in and out of the proposed estate, particularly via the intended new access road, the contrast between the existing level of openness relating to the setting of the LBs and that more dense estate layout would be evident. Nevertheless, that degree of retained openness and separation between the LBs and the proposed houses would also be clearly apparent.
21. From the east, whether it be the riverside footpath or edge of the town, the proposed development would, at least in the early years, be clearly visible atop the Mythe landform. However, from such vantage points Uplands would be

clearly seen as separated from the proposed housing by the Mythe Farm complex, including large barns and the business park buildings. In this respect the proposed development would not have that same effect of intrusion into the LB's setting as in those views from the south, albeit occupying space historically associated with The Mythe and Uplands.

22. In respect of the proposed access road, this would occupy an element of that open grassland/arable field north of The Mythe, replacing part of the existing access drive to the Mythe Farm complex. It would be likely to be wider than the existing drive to accommodate the increased traffic and pedestrians, and likely to require street lighting. However, it would only occupy space still noticeably separate from The Mythe to the north of that LB, and then run alongside existing woodland at the edge of the field south of the main housing site. The extent to which it would be visible or prominent from those viewpoints to the south and south-east of the Mythe, also due to intervening landforms or the LBs themselves, would therefore be limited. From The Mythe it would be less obstructed in views but again still separated by a significant part of the intervening grassland and some existing vegetation.
23. Furthermore, in those views from south of the Mythe landform, it is unlikely that the access road, due to its flat profile as well as any screening provided by proposed planting alongside it, would be highly visible or obtrusive. Additionally, such planting itself would not necessarily be a significantly alien feature in the context of existing small trees alongside the existing access drive.
24. A likely increase in vehicular movements along the proposed access road compared with those relating to Mythe Farm, together with any street lighting, would have the potential to introduce more intrusive urban type activity and features into the setting of the LBs away from the A38. However, they would again be limited to that one section of the area of land concerned and as such unlikely to be highly dominant features as seen from those southerly vantage points, or to significantly reduce the degree of openness. Nevertheless, the extent of the visual effect of any street lighting, particularly as seen from The Mythe, would be determined by their nature and design. Whilst this could be secured at the detailed reserved matters stage, I have no substantive evidence to demonstrate the extent to which the visual minimisation could be balanced with other highway and pedestrian safety needs, regardless of whether the road would be adopted or not.
25. The significance of The Mythe Coach House is derived from its late eighteenth or early nineteenth century historic fabric and association with the function of The Mythe and its driveway access. However, in itself, it is positioned discretely within the woodland backdrop of The Mythe, such that the wider setting beyond the grounds of The Mythe is not of the same degree of importance as the prominence intended for The Mythe itself. To this extent, and by its association with The Mythe, in light of my findings above, there would be a degree of less than substantial harm caused to its significance but at a low level.
26. The CA draws its significance from the survival of a traditionally managed water meadow stretching from the line of the old railway embankment, south of the Mythe landform, around the western side of Tewkesbury; evidence of the typical mediaeval plan form of narrow burgage plots and alleyways along the three main streets; the abbey church of St Mary and its associated grounds;

and the town's historic core with timber framed buildings dating from the fifteenth century, many of which were re-fronted in the eighteenth century classical style, thereby providing stylistic cohesion. Uninterrupted views out from the town and from the A38 across the floodplain and countryside beyond and across the Severn Ham towards the historic town are important.

27. The Mythe landform contributes to those outward countryside views, albeit beyond the northern tip of the CA. In so far as the proposed development, with those effects referred to above, would be seen to varying degrees from vantage points within the CA, there would be some harm to visual setting. That would also include the proposed widening works to the A38, albeit it is unlikely that these would significantly affect views across the floodplain and in any case would be limited in extent. Furthermore, the effect of the proposed housing would be likely to diminish over time as the proposed new tree planting matures. Together with that location beyond the northern tip of the CA, the extent of the proposed development's harm to the significance of the CA would be at a very low level.
28. For the above reasons, the proposed development would harm the significance of the LBs comprising The Mythe, The Mythe Coach House and Uplands through a failure to preserve their setting, and the significance of the CA. As such, it would fail to accord with policies SD8 of the JCS and HER1 and HER2 of the TBP which together, amongst other things, seek to protect the significance of heritage assets.
29. Having regard to the Framework, in relation to the specific designated heritage assets (HAs) concerned and for the above reasons, the harm to those assets would likely be less than substantial. As such, it is necessary to weigh that less than substantial harm against the public benefits of the proposal. I shall return to this later in the heritage balance.
30. In respect of the non-designated HAs comprising Mythe End and Mythe Farm there is no dispute between the Council and Appellant that the proposed development would cause only a low level of harm to their heritage significance. I have no substantive basis to disagree with that position.

#### *Character and appearance*

31. The Mythe landform is a distinctive feature in terms of comprising higher ground separating the floodplains of the rivers Avon and Severn just prior to their confluence to the south. It forms part of a landscape character area and sensitivity area (parcel K and T2 respectively) within the Joint Core Strategy Landscape Characterisation Assessment and Sensitivity Analysis (the LCASA), assessed in that document to be of high sensitivity.
32. However, the Mythe landform currently accommodates a variety of features which serve to weaken its overall level of coherence. Notably these include the severance by the A48 which is a key route into Tewkesbury lined by a variety of buildings including detached houses of varying sizes, and a garden centre, albeit in itself providing a characteristic ribbon form of development leading out of the town. This contrasts with the more open landscape of the Mythe landform to the east of the A38, beyond the ribbon of buildings alongside it and trees in their close vicinity, in which The Mythe, Uplands and Mythe Farm are seen and where the landform shape can be more clearly observed. The top of the Mythe landform itself, where the land is either generally flat or gently

sloping, is only clearly visible at close hand from the adjacent footpath on the east side of the site running to its north. Nevertheless, that openness of the top of the Mythe landform is clearly apparent particularly when observed from vantage points to the east from the riverside footpath and the edge of the town on the opposite side of the river.

33. The hilltop of the Mythe landform forms parcel TE20 in the 2017 study, 'A Landscape Sensitivity Study for Tewkesbury and Ashchurch' by Toby Jones Associates (the Toby Jones study) and which is a finer grain assessment than that of the LCASA. The value of parcel TE20 as described in the Toby Jones study relates to its contributions to the setting of the river and riparian environment; to its contribution in places to the setting of fine listed buildings and to valued views from town and from the river Avon; it forming a very distinctive landmark at the confluence of the rivers Severn and Avon; and to its local cultural significance.
34. In considering whether the site forms part of a valued landscape, I have taken account of the range of factors for identifying landscape value set out in the Landscape Institute's Technical Guidance Note 02/21 'Assessing landscape value outside national designations' (TGN 02/21) and the associated analysis undertaken by the Council and Appellant. Notwithstanding those elements of value referred to in the Toby Jones study, the extent to which they cover enough of those factors relating to TGN 02/21 for it to be regarded as a valued landscape for the purposes of paragraph 180(a) of the Framework is less clear.
35. For the above reasons, taking account of the Mythe landform as a whole and the more fine grain assessment relating to parcel TE20 in the Toby Jones study, I am not clearly persuaded that the site forms part of or is a valued landscape for the purposes of paragraph 180(a) of the Framework.
36. That is not to say that there is no value to the site and its environs, as already highlighted by my findings concerning the heritage assets and the degree of harm that would be caused to their significance, which in relating to their setting also affects the general character and appearance of the area. Furthermore, and importantly, the top of the Mythe landform, even if its surface is not seen directly from many vantage points, noticeably contributes to the scenic beauty of the river environs. That is through its high degree of openness east of the A38 ribbon development and its natural lines atop the equally generally open slopes to the south and particularly to the east.
37. The undeveloped nature of the hilltop to the east of properties alongside the A38 in the vicinity of Mythe End can be perceived when viewing eastwards from the A38. Nevertheless, this is filtered to varying degrees by intervening mature trees and by the existing properties. However, notwithstanding the varying intervention of trees and other vegetation, that openness of the hilltop is clearly perceived from easterly, southerly and northerly vantage points by way of a general absence of any significant amount of development. This is in part due to the houses alongside the A38 being towards the western side of the hilltop where it starts to slope westwards and the varying extent of existing tree cover screening them.
38. Along with The Mythe, Uplands and Mythe Farm buildings, Mythe End is visible within that open setting from some vantage points. However, it too is towards that western side of the hilltop and so not a highly prominent feature, and in any case is seen as a single large house set apart from other development and

within a fundamentally spacious and open setting. Those other buildings comprising Mythe Farm, Uplands and The Mythe are at varying height levels below the highest part of the landform that would include the proposed housing. Furthermore, there are significant areas of established woodland and trees to the south of where that housing would be located albeit varying in extent. Extending northwards across the site and beyond, the landscape noticeably opens out with significantly less tree cover and a focus on fields bordered by hedgerows, atop the equally open eastern slopes of the landform that relate to the river Avon valley. This transition is seen particularly distinctly from easterly vantage points.

39. I note that the LCASA refers to the containment of views within the area east of the A38 around Mythe End due to vegetation and landform shape, and to views of the flat riverside meadows being well contained on the higher levels. However, in views towards the site from those easterly vantage points, particularly from alongside the river Avon and from the edge of the town on the opposite side of the river, whilst the surface of the site itself cannot be seen, the pleasing and characteristic level of exposure, openness and detachment from any existing development is clearly evident.
40. On the footpath approach to the site from the north, the site itself is again filtered or screened by intervening hedgerows. However, the presence of those existing properties alongside the A38 is not clearly apparent, albeit Mythe End is seen or glimpsed from some points. This provides a pleasant, albeit more confined, sense of openness experienced in that more contained part of the landscape.
41. The importance of the level of exposure, openness and prominence relating to the parcel TE20 landscape is clearly highlighted in the Toby Jones study, and which I saw to be the case. Those characteristics are also important in contributing to the pleasant open and spacious character of the river Avon valley to the east of the site, even if the actual land surface of the site would not be clearly visible from anywhere other than close-up.
42. The Toby Jones study highlights that where high sensitivity is attributed to a particular study parcel, that does not necessarily mean that judgements about sensitivity will be uniform across the whole land parcel or that any development is ruled out. That is clear from the analysis in that document relating to parcel TE20, which comments that there might be limited opportunities for small or very small clusters of residential development within strong woodland blocks and tree groups where there is currently tree cover. Whilst taking account of such guidelines, I have also done so in respect of the Landscape and Visual Impact Assessment submitted by the Appellant and subsequent analysis following the reduction in the site area and number of dwellings from that originally proposed, along with all other relevant submissions and my observations.
43. Again, I acknowledge the outline nature of the proposal at this stage and that all matters are reserved. However, the evidence, including the Concept Masterplan indicates that the proposed development would be of a fairly large and relatively dense clustered estate style, alien to the existing forms of development occupying the Mythe landform referred to previously, including ribbon development alongside the A38 and individual or small groups of buildings. Such proposed development would occupy the top of the Mythe

landform where it would extend down the gradually sloping land towards the northern and eastern site boundaries. In respect of the visual effect of the proposed development from southerly vantage points, I have generally addressed this in my findings relating to the second main issue. As such, I will focus now on how it would be perceived from easterly and northerly vantage points.

44. In the early years post-development, when the existing hedgerows, given their variable height and thickness, would provide limited screening, it is therefore highly likely that the proposed houses would be clearly visible from easterly vantage points and from the footpath approaching the site from the north. In the case of that northern approach the experience would be in contrast to the existing perception of largely undeveloped open countryside.
45. From those eastern and south-eastern vantage points alongside the river and edge of the town, the housing would be seen in the context of the Mythe Farm buildings and Uplands. However, it would be to a very much more exposed extent in terms of a combination of height above the floodplain and lack of immersion amongst trees. The extent, concentration and estate style of development would also be in stark contrast to those existing farm and business centre buildings. Combined with these factors would be its noticeable separation from the main built-up area of Tewkesbury, albeit acknowledging how the expansion of the town has not necessarily been locationally seamless due to constraints such as flood risk on lower ground. As such it would be likely to appear as a dominant, obtrusive, and incongruous feature in the landscape.
46. Maturity of the proposed tree planting on the site alongside the eastern and northern boundaries would be likely to provide a good degree of screening of the houses concerned as seen from the respective vantage points to the east and north. However, as previously referred to and as shown on the submitted visualisation photomontages, new tree planting on the site would take a number of years to reach that stage. Furthermore, the effectiveness of such planting, as also referred to previously, would be reliant on its ongoing long-term maintenance and survival. Again, whilst there would be scope for ongoing management of open spaces and associated planting and control through conditions, the maintenance of a consistently effective screen in the long term would not necessarily be completely predictable.
47. Even with the intended planting in place, potential glimpses of rooftops over the vegetation would indicate the development's presence when viewed from those eastern and northern vantage points. Furthermore, and notwithstanding the existing presence of hedgerows marking field boundaries, the introduction of such a significant belt of new tree planting alongside the eastern and northern site boundaries would itself appear somewhat alien in the context of that currently distinctly and characteristically more exposed hill-top location.
48. It would also be likely that the significantly increased vehicle and general activity on the housing area of the site would draw attention to the development from footpath users immediately adjacent to the site to the east and on the approach from the north, from where there would also be the potential for glimpses of the proposal's built form, particularly in the winter months after leaf fall. These factors would be likely to draw attention to the uncharacteristic nature and form of the proposed development in this location.

49. I have noted the relatively recent residential development on land west of Bredon Road on the opposite side of the river Avon from the site that was allowed on appeal<sup>1</sup>. However, despite that location, it is nevertheless noticeably detached from the Mythe landform and the appeal site. Furthermore, and in any case, the circumstances of that development, including its location immediately on the edge of Tewkesbury and without the same prominent hilltop context, are markedly different to those concerning the proposed development. That is regardless as to whether or not the Bredon Road proposal was considered by my colleague to be a valued landscape.
50. In terms of the effect of the proposed access road on the character and appearance of the area, this is reflected by my findings on this aspect of the proposal under the second main issue. In respect of the proposed access point itself, although access is a reserved matter the point at which it would be located along the A38 is clear from the proposals. The introduction of such an access here would likely be wider than the existing one to Mythe Farm that it would replace and that serving The Mythe just to the south. There is also an indicated provision for a bell-mouth design at the junction. As such it would draw the eye as being a more prominent feature than those existing accesses, particularly with the removal of any existing trees and vegetation to make way for it.
51. However, it is unlikely that such an access would be an unacceptably alien feature, being as it would be seen in the context of the well-used key route into Tewkesbury and those various other existing accesses, also including that to the garden centre opposite and others in the vicinity further along the A38 in both directions. Proposals to widen the footway alongside the A38 in this vicinity would encroach to varying degrees on the existing verge although not to an extent that would appear inconsistent with the existing nature of this key highway route. Nevertheless, these factors relating to the access to the site do not deflect from the harm I have otherwise found would be caused by other aspects of the proposal relating to this main issue.
52. For the above reasons, the proposed development would cause unacceptable harm to the character and appearance of the area. As such, in respect of this issue, it would be contrary to policies SD4 and SD6 of the JCS and RES5 and LAN2 of the TBP which together, amongst other things, seek to ensure that new development responds positively to, and respects the character of, the site and its surroundings; protects landscape character for its own intrinsic beauty; and is appropriate to, and integrated into, its existing landscape setting.

#### *Heritage and overall planning balance*

53. The proposed development would have the substantial benefit of providing a significant number of new dwellings to boost local supply, a factor that supports the Government's objective to do so, and in a location that would be acceptable in terms of accessibility to the town's facilities, services and employment. This is particularly given that the Council is unable to demonstrate a five-year supply of deliverable housing sites (5-year HLS) and the extent of the shortfall, which is significant regardless as to whether the existing supply is 3.17 or 3.4 years' worth. Not only that but there would be the substantial benefit of providing a significant number of new affordable

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<sup>1</sup> Appeal Ref. APP/G1630/W/15/3005756

dwellings in circumstances of a recognised current undersupply in the Borough, and a situation that has been worsening.

54. This is also set in the context of a significant number of housing schemes in the period since the adoption of the JCS having been allowed on appeal. Additionally, it is the agreed position between the Council and Appellant that there is no development plan led solution to the above shortfalls pending the adoption of a new Strategic and Local Plan and I have no basis to consider differently. Furthermore, there is no clear date by which such Plans are likely to be adopted. It is also in the context of development constraints in the area, including in relation to flood risk.
55. Having only in recent months accepted that it does not have a 5-year HLS, the Council is now attempting to address the shortfall through the recent publication of its Interim Housing Position Statement (IHPS); and by granting planning permission and withdrawing appeal objections relating to housing developments outside of settlement boundaries where they represent good quality schemes in otherwise appropriate locations. Furthermore, I have determined this appeal proposal on its own merits and have no substantive evidence to indicate the extent or otherwise to which alternative locations for local housing development would be more harmful. However, the IHPS does not represent adopted policy or a plan led solution, albeit providing a degree of certainty with respect to decision making. There is also no clear evidence that this approach alone will adequately address the housing shortfall pending the adoption of a new Strategic and Local Plan. I therefore afford substantial weight to the delivery of both the proposed market and affordable housing.
56. The Framework sets out that significant weight should be placed on the need to support economic growth and productivity. The proposed development would be likely to generate significant local expenditure and investment. However, I have insufficient substantive evidence to indicate that this would be of such a level, given the proposed scale of development involved, to warrant more than moderate weight being attributed to this benefit. In terms of construction and associated jobs, these would be temporary, albeit likely to be over a significant period of time. I therefore afford this benefit moderate weight. Prospective residents would be likely to add significant additional spending in Tewkesbury and the surrounding area on an ongoing basis, contribute to the employment market and add support to local services and facilities. In taking account of the proposed scale of development relative to the existing local population, I again afford this factor moderate weight.
57. When considering the proposed green infrastructure in its own right, such additional planting would be likely to create increased habitat, intended to represent a biodiversity net gain in excess of the minimum requirement. Such a benefit therefore attracts moderate weight.
58. There would be provision for on-site public open space and play areas, together with new pedestrian access between the A38 and the existing footpath immediately to the east of the site. These provisions could be used by others, however the likelihood is that it would be primarily used by prospective residents of the proposed development, particularly given the relatively small number of existing houses in the near vicinity of the site. Similarly, the proposed footway improvements along the A38 would inevitably be used by, and benefit, existing users of that route. However, again this would serve only

a relatively small number of existing properties and businesses and would also only be between the development site and Tewkesbury rather than extending to those properties further to the north. As such, those benefits should be afforded only limited weight.

59. Whilst the proposed financial contributions towards public transport improvements would be to mitigate additional demand, as this could potentially increase the frequency of services this would also benefit the wider community such that some, albeit only limited, weight should be afforded to this. The same limited weight applies to the proposed libraries contribution, and, in the event that I was to consider them necessary, to the proposed contributions relating to playing fields and changing room, artificial grass pitch and sports hall, community centre, and swimming pool. This is on the basis that any proportionate mitigating improvements to the respective services could include aspects used by existing users that result in a net benefit to them.
60. A financial contribution to make provision for refuse and recycling facilities would only relate to the needs of prospective residents and so not an added public benefit of the proposed development. Similarly, the proposed contributions relating to provision for a travel plan and Traffic Regulation Order would be solely for mitigation purposes.
61. In respect of the heritage balance, for the reasons set out in relation to the second main issue, the less than substantial harm to the significance of The Mythe and Uplands would be to a moderate level, whilst for The Mythe Coach House and CA it would be at low and very low levels respectively. This is set in the context of the special attention that has to be paid to the desirability of preserving the setting of the LBs and the great weight that should be given to the conservation of designated HAs. Any harm to, or loss of, the significance of such assets, including from development within their settings, should require clear and convincing justification.
62. In taking account of my findings relating to the respective levels of less than substantial harm for each of those designated HAs, whilst acknowledging the importance of any harm, the above public benefits would nevertheless outweigh that harm. As such, the application of policies in the Framework that protect those assets do not provide a clear reason for refusing the development proposed, having regard to paragraph 11d(i) of the Framework. In light of the Council's 5-year HLS position, it is therefore necessary to apply the planning balance set out in paragraph 11d(ii) of the Framework. I shall return to this below in the overall planning balance where consideration of benefits relates to those set out above, affording them the same respective weightings.
63. Having regard to my findings in respect of the first main issue, it is acknowledged by the Council, including through its IHPS, that given its 5-year HLS position, settlement boundaries in themselves will not determine whether housing development is acceptable. Furthermore, the proposed development would be acceptable in terms of accessibility for prospective residents, including to local facilities, services, employment, and public transport. As such, the focus of my overall planning balance is to weigh the harm that I have found would be caused in respect of the second and third main issues against the benefits of the proposal.
64. In respect of the second main issue, I have found that the proposed development would fail to accord with policies SD8 of the JCS and HER1 and

HER2 of the TBP. Furthermore, with the third main issue I have found that the proposed development would be contrary to policies SD4 and SD6 of the JCS and RES5 and LAN2 of the TBP. Those policies, relating to both of those main issues, are broadly consistent with the Framework.

65. Although there would be less than substantial harm to the significance of the Coach House and CA, I have found that the levels of harm would be low and very low respectively. I have also taken account of the harm that would be caused to the significance of the non-designated HAs that I have referred to although, given the low level of such harm, the weight afforded to this is limited. However, in relation to the less than substantial harm to the significance of the designated HAs comprising The Mythe and Uplands I have found that there would be a moderate level of harm.
66. Furthermore, I have found that there would be unacceptable harm caused to the character and appearance of the area, including significant residual additional harm to that found in respect of the second main issue relating to the significance of the designated HAs. When combining that residual additional harm to the character and appearance of the area with the albeit varying levels of harm to the significance of the HAs, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

## **Conclusion**

67. The proposal would conflict with the development plan as a whole, and material considerations do not indicate a decision should be made other than in accordance with the development plan. For the reasons set out above, I conclude that the appeal should be dismissed.

*A Dawe*

INSPECTOR

## APPEARANCES

### FOR THE APPELLANT:

Paul G Tucker KC, Kings Chambers

Instructed by the Appellant

He called:

Gail Stoten BA (Hons) MCIfA FSA

Heritage Executive Director, Pegasus Group

Paul Harris BA, Dip Landscape Architecture, CMLI

Director, MHP Design Ltd

David Hutchison BSc (Hons),  
Dip Town Planning, MRTPI

Planning Consultant, Pegasus Group

Robyn Evans (for round table discussion  
on planning obligations)

Solicitor, Robert Hitchins Limited

### FOR THE LOCAL PLANNING AUTHORITY:

Luke Wilcox, Counsel, Landmark Chambers

Instructed by Jeremy Patterson,  
Principal Planning Lawyer, One Legal

He called:

Julian Bagg BSc (Hons),  
PGCert (Urban Design), IHBC

Conservation Specialist, Tewkesbury  
Borough Council

Stuart Ryder BA (Hons), CMLI

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Helen Morris BSc (Hons),  
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Planning Director, RCA Regeneration

Gary Spencer (for round table discussion  
on planning obligations)

Solicitor, One Legal

Andy Sanders (for round table discussion  
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Head of Service, Community and  
Economic Development, Tewkesbury  
Borough Council

Catherine Ashby (for round table discussion  
on planning obligations)

Team Manager for Development  
Management, Tewkesbury Borough  
Council

### ALSO APPEARED (for round table discussion on planning obligations):

Krzysztof Kwiatkowski

Legal Advisor for Gloucestershire  
County Council

Ian Hunt

Highways Development Management  
Team, Gloucestershire County Council

**INQUIRY DOCUMENTS (IDs):**

1. Opening Statement on behalf of the Appellant.
2. Opening Statement on behalf the Council.
3. Copy of Inquiry press notice.
4. Inspector site visit itinerary.
5. Photographs of Mythe House.
6. Summary table setting out the Council's assessment of valued landscape status for the Mythe.
7. Correspondence from PJS Geotechnical Engineers Limited relating to a mineral resource assessment of the appeal site and subsequent confirmation of Gloucestershire County Council's Minerals and Waste Policy section's position on this matter, withdrawing its suggested draft conditions.
8. Planning balance table setting out the respective weightings attributed by the Appellant and Council to benefits and adverse impacts of the proposed development.
9. Copy of Tewkesbury Borough Local Plan Adopted Policies Map.
10. Renumbered copy of Eastern & Northern Boundary Landscape Parameter Plan ie Drawing number 24035.002 Rev.A.
11. Official copy of register of title of land comprising Mythe Farm.
12. Closing Submissions on behalf of the Council.
13. Closing Submissions on behalf of the Appellant.