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# Appeal Decision

Hearing held on 24 and 25 October 2024

Site visits made on 23 and 29 October 2024

**by Tom Bristow BA MSc MRTPI**

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

**Decision date: 5 December 2024**

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**Appeal Ref: APP/P1615/W/24/3346275**

**Land west of Gloucester Road, Corse, Gloucestershire GL19 3RQ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended (the '1990 Act') against a refusal to grant outline planning permission.
  - The appeal is made by John Hulls against the decision of Forest of Dean District Council ('FDDC').
  - The application is ref. P0517/23/OUT.
  - The development proposed is described on the application form as 'outline application for 50 dwellings (40% affordable) with public open space, landscaping and sustainable drainage system (SuDS). All matters reserved except for access and layout.'
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## Decision

1. The appeal is allowed and planning permission is granted for 50 dwellings (40% affordable) with public open space, landscaping and sustainable drainage system at land west of Gloucester Road, Corse, Gloucestershire GL19 3RQ in accordance with the terms of application ref. P0517/23/OUT, subject to the conditions at schedule 1 to this decision (and to the obligations contained within the 3 associated deeds under section 106 of the 1990 Act).

## Preliminary matters

2. Other than in respect of access and layout the proposal is in outline. Details of appearance, landscaping and scale are reserved for future consideration (the 'reserved matters'). I have treated as illustrative any references to reserved matters in the evidence before me.

## Statutory context

3. Various statutory duties are relevant to my determination of the appeal. As the site falls close to several listed buildings, I have approached the appeal in the context of section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended (the 'LBCA'). The site abuts the Snig's End Conservation Area ('SECA'). I have therefore been mindful of LBCA section 72(1), although implications in respect of the setting of the SECA are instead addressed via the National Planning Policy Framework (20 December 2023, the 'NPPF').
4. The general biodiversity duty applies,<sup>1</sup> as does that in respect of Sites of Special Scientific Interest ('SSSIs'),<sup>2</sup> including on account of the proximity of the Oridge Street Meadows SSSI (lowland grassland). Various SSSIs at a

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<sup>1</sup> Section 40 of the Natural Environment and Rural Communities Act 2006 as amended.

<sup>2</sup> Section 28(G) of the Wildlife and Countryside Act 1981 as amended.

greater distance are parts of the Wye Valley and Forest of Dean Bat Sites Special Area of Conservation ('SAC'),<sup>3</sup> to which the Conservation of Habitats and Species Regulations 2017 as amended relates (the 'Habitats Regulations'). Each proposal must be determined in accordance with the development plan unless material considerations indicate otherwise.<sup>4</sup>

### *Policy context*

5. The development plan here includes policies of the Forest of Dean Core Strategy (adopted 23 February 2012) and of the Allocations Plan 2006 to 2026 (adopted 28 June 2018). The Allocations Plan is stated to be 'complementary to', rather than a review of, the Core Strategy. I have had regard to various other material considerations in addition to the NPPF, including the Planning Practice Guidance ('PPG'), the Snig's End (Staunton Corse) Conservation Area and Character Appraisal (September 2000, the 'CAA'), and FDDC's Landscape Supplementary Planning Document (March 2007).
6. Of relevance to Staunton and Corse is that 2 sites were allocated for housing via the Allocations Plan. Policy AP107 allocated some 1.1ha of land for about 20 dwellings. That site, also accessed via Gloucester Road (A417), is a short distance to the north of the appeal site. It is separated from it by 4 ostensibly mid-to-late twentieth century properties and their plots (Staunton Lodge, the Poplars, the Beeches and Homelea). That site was recently developed for 27 dwellings, a density of some 25 dwellings per hectare ('dph'); Core Strategy policy CSP.5 setting out that 30dph will be used as a reference against which to assess schemes' suitability.
7. Allocations policy AP108 allocated some 1.2ha of land for up to 27 dwellings at the far reaches of Chartist Way relative to the A417 (reflecting a slightly lower density). That allocation, likewise now developed for 27 dwellings, took account of planning permission granted there at appeal in 2017.<sup>5</sup> Via policy AP109 the Allocations Plan also established a locally valued landscape of 'Staunton/ Corse' (the 'LVL').
8. In May 2024, FDDC endorsed a Regulation 18 version of a Draft Local Plan 2041.<sup>6</sup> That followed an earlier 'issues and options' and also first 'preferred option' consultation. Consultation on the emerging Regulation 18 plan was undertaken between 8 July and 19 August 2024 (after much of the evidence associated with the appeal had been submitted). Despite a lengthy preparatory process, the emerging plan nonetheless remains at a nascent stage. The appellant and FDDC (the 'main parties') agree that its approach cannot yet be accorded more than limited weight.

### *The dispute between the main parties*

9. FDDC's decision notice in respect of application ref. P0517/23/OUT of 13 December 2023 cited 4 reasons for refusing permission. On 30 August 2024 the main parties agreed a statement of common ground ('SoCG'). The SoCG records that, subject to conditions, and as by that juncture the appellant had

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<sup>3</sup> Designated pursuant to European Council Directive 92/43/EEC.

<sup>4</sup> Section 38(6) of the Planning and Compulsory Purchase Act 2004 as amended.

<sup>5</sup> Ref. APP/P1615/W/16/3152190.

<sup>6</sup> As in the Town and Country Planning (Local Planning)(England) Regulations 2012 as amended.

'signed-up' to the District licensing scheme in respect of great crested newts, that the third reason for refusal had been resolved. The SoCG, however, makes no reference to the position of the main parties at that juncture in respect of the fourth reason for refusal related to various contributions or requirements said to be necessary via planning obligation.

10. There are now 3 deeds before me. There is a planning agreement with FDDC of 23 October 2024 and a planning agreement with Gloucestershire County Council ('GCC') of 8 October 2024 (together the 'S106s'). There is also a unilateral undertaking of 22 October 2024 (the 'UU'). Setting the UU aside, the S106s contain obligations related to all the matters referenced in FDDC's fourth reason for refusal. It was clarified at the hearing that there were no other relevant requests for obligations beyond those incorporated in them.

#### *Planning history*

11. Application ref. P0517/23/OUT followed an earlier unsuccessful application for 50 homes.<sup>7</sup> That history may have been incorrectly interpreted by some local residents who suggest instead that 100 homes are proposed or that there are 2 simultaneous applications here. The perspective that the scheme could entail further development may also have arisen as point 7 on the illustrative masterplan,<sup>8</sup> shown at the western boundary of the site, is annotated as a '10m wide undeveloped corridor'. Nevertheless each proposal must be determined on its merits, including were development to be proposed elsewhere (in respect of which there is no tangible evidence before me).
12. FDDC's second reason for refusal in respect of the previous application differs markedly from their position in respect of character and heritage in relation to the current scheme. Previously substantial harm to the setting of Snig's End Farmhouse and its outbuilding was contended, along with a failure to preserve the special character of the SECA. In respect of the present scheme, however, FDDC contend that there would be harm to the site's agricultural character and instead substantial harm to the 'character, appearance, and setting' of the SECA (with other heritage harm also cited).
13. That divergence of position, and the need to precisely establish the main parties' perspective in respect of the adverse and beneficial effects of the proposal, prompted me to create annex 3 to my draft hearing agenda of 3 October 2024. That annex or schedule, now hearing document 2, was discussed and completed by the main parties at the hearing.

#### *Housing land supply*

14. It is common ground between the main parties that FDDC cannot presently demonstrate an adequate forward supply of deliverable sites for housing relative to needs. The Core Strategy was premised on delivering housing at around 310 dwellings per annum ('dpa'). Although the Allocations Plan states that its function is complementary to the Core Strategy, it nonetheless uplifted that figure slightly to 330dpa. With reference to NPPF paragraph 77, however, given their age and in the absence of review, provision presently falls to be considered relative to the local housing need methodology ('LHN').

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<sup>7</sup> Ref. P1307/21/OUT.

<sup>8</sup> Plan no. 1070011-ADAS-XX-XX-DR-L-8001 Rev. 07.

Coincidentally LHN also generates a minimum figure of 330dpa.<sup>9</sup> A five year housing land supply requirement ('5YHLSR') would therefore currently stand at 1,650 dwellings.

15. FDDC's position preceding the hearing was that they were able to demonstrate a deliverable housing land supply amounting to 1,146 dwellings, some 3.32 years' worth of provision. That was, however, based on the 5YHLS figure of 1,650 adjusted upwards by a buffer of 5% (which FDDC say generated a figure of 1,727). There is, though, no longer a requirement for that buffer. There is similarly no need for a 20% buffer as housing delivery test data here is healthy. FDDC's position of a deliverable supply of 1,146 dwellings therefore equates to a forward supply of around 3.47 years' worth.
16. Simon Coop's evidence challenges the deliverability of certain sites and the approach to anticipated windfall provision early in the five year period. Based on that, the appellant's position is that there is instead demonstrable supply of sites capable of delivering only 989 dwellings, some 2.99 years' worth. The evidence therefore points to a narrow range in respect of anticipated forward provision, between 989 to 1,146 dwellings, some 2.99 to 3.47 years' worth.

#### *Housing land supply requirement*

17. NPPF paragraph 77 sets out that, if the provisions in NPPF paragraph 226 apply, local planning authorities need only demonstrate a minimum of a four year supply of deliverable housing sites ('4YHLS'). NPPF paragraph 226 explains that the requirement to demonstrate only a 4YHLS applies to 'those authorities which have an emerging local plan that has either been submitted for examination or has reached Regulation 18 or 19...'. As above, FDDC recently consulted upon a Regulation 18 version of their Draft Local Plan 2041, which includes a policies map and allocations.
18. The PPG provides some guidance on the application of NPPF paragraph 226, notably: 'paragraph 76 of the National Planning Policy Framework is not a material consideration for applications made before 19 December 2023. For decision making, authorities will need to show a 5 year housing land supply with a 20% buffer, if appropriate. Where the criteria under paragraph 226 are met, an authority will need to demonstrate a 4 year housing land supply with a 20% buffer, if appropriate, against their five year housing land supply requirement'.<sup>10</sup>
19. No express reference is made to NPPF paragraph 77 in the foregoing, as opposed to NPPF paragraph 76.<sup>11</sup> In that context, my attention has been drawn to an appeal decision of 26 January 2024 in St. Albans City & District Council's administrative area, where the Inspector reasoned that only a 4YHLS needed to be demonstrated in relation to an application made in August 2022.<sup>12</sup>

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<sup>9</sup> Inputting the projected population change between 2024 and 2034 based on 2014-based household projections (live table 406) and applying the latest median workplace based affordability ratio in 2023 of 9.38 (live table 5c).

<sup>10</sup> Reference ID: 68-056-20240205.

<sup>11</sup> NPPF paragraph 76 setting out circumstances where local planning authorities are 'not required to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing...'.  
<sup>12</sup> Ref. APP/B1930/W/23/3323099.

20. Contrastingly, in an appeal decision of 9 February 2024 in Chichester District Council's administrative area, an Inspector reasoned that '...the 4 year change, should only be taken into account as a material consideration when dealing with applications made on or after the date of publication of this [19 December 2023] version of the Framework'.<sup>13</sup>
21. Their logic was that NPPF paragraph 224 sets out that 'the policies in this Framework are material considerations which should be taken into account in dealing with applications from the day of its publication<sup>79</sup>.' Footnote 79 there is 'as an exception to this, the policy contained in paragraph 76 and the related reference in footnote 8 of this Framework should only be taken into account as a material consideration when dealing with applications made on or after the date of publication of this version of the Framework'.
22. NPPF footnote 8 referenced immediately above, which guides as to where policies which are most important for determining the application should be deemed out-of-date for the purposes of NPPF paragraph 11.d), is that 'this includes, for applications involving the provision of housing, situations where: (a) the local planning authority cannot demonstrate a five year supply (or a four year supply, if applicable, as set out in paragraph 226) of deliverable housing sites...'
23. As an attempt at a summary, NPPF footnote 79 guides that footnote 8 is only material when applications post-date 20 December 2023. Footnote 8 in turn refers to NPPF paragraph 226. Paragraph 226, again in turn, refers to NPPF paragraph 77 which addressing circumstances where authorities need only demonstrate a 4YHLS. Notwithstanding that transitional provisions at NPPF paragraph 224 are set out separately to those in NPPF paragraph 226, and the absence of express reference to NPPF paragraph 77 in the PPG referenced above, that circuitous route nevertheless exists.
24. My attention has also been drawn to an appeal decision of 2 July 2024 in Dorset Council's administrative area.<sup>14</sup> Amongst other things, that decision addresses the practicability of an emerging plan there progressing to examination 'by the anticipated cut-off date of 30 June 2025 under transitional arrangements to a new plan-making system introduced by the Levelling Up and Regeneration Act 2023 (LURA)'.
25. However circumstances there are different. Dorset Council themselves took the position that it would not have been possible to submit their plan 'for examination by the anticipated [LURA] cut-off date of 30 June 2025...'.<sup>15</sup> Here there is some, albeit limited, potential. Moreover the Government proposed extending the foregoing cut-off date to December 2026 as part of consultation on proposed reforms to the NPPF and other changes to the planning system published on 30 July 2024.
26. The implications of the Government's consultation of 30 July 2024 to 24 September 2024 were discussed at the hearing. At their highest they signal a potential future direction of travel. Likely of greater significance in respect of FDDC's administrative area than any plan-making 'cut-off date' are, however,

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<sup>13</sup> Ref. APP/L3815/W/23/3319434, paragraph 46.

<sup>14</sup> APP/D1265/W/23/3323727.

<sup>15</sup> Ibid., paragraph 30.

changes ventured to the calculation of housing requirements. At present, theoretically, that approach would generate an annual housing requirement for the District of 597dpa.

#### *Housing land supply implications*

27. Tangibly, the narrow range of some 2.99 to 3.47 years' worth of anticipated housing provision means that NPPF paragraph 11.d) is engaged. Demonstrable housing provision falls significantly below four or five years' worth of forward provision relative to needs. At best there is an anticipated shortfall of 174 dwellings over the next 4 years, more than threefold the number of dwellings proposed here.
28. Moreover it appears, although the evidence before me is not comprehensive and notwithstanding recent HDT data, that the lack of a sufficient forward supply of deliverable sites has been a longstanding issue. The Inspector who dismissed an appeal at the site of Treona Nursery relatively nearby via decision of 11 March 2015 explained that at that juncture 'the Council agreed at the hearing that it was unable to demonstrate an adequate deliverable supply of land for housing...'.<sup>16</sup>
29. A plan-led resolution to the lack of sufficient forward housing provision is likely to persist for some time on account of the current stage of preparation of the emerging plan. Progressing that plan to FDDC's anticipated timescale is likely to be challenging, and may be affected by any future changes to the NPPF. Consequently applications which are not plan-led are a somewhat inevitably corollary of housing land supply circumstances at present.
30. There was some discussion at the hearing on the judgement in *Hopkins*,<sup>17</sup> regarding whether NPPF paragraph 11.d) applies. That judgement, however, pre-dates the current iteration of the NPPF. By virtue of footnote 8 to NPPF paragraph 11.d) the 'most important' policies for determining the application are deemed out-of-date, in summary, where there is an inadequate forward supply of deliverable sites to address housing needs (as is the case here).
31. That the most important policies are deemed out-of-date, however, does not displace the statutory basis for decision taking (nor does NPPF paragraph 225). Development plan policies deemed out of date do not disappear, and the weight attributable to any conflict therewith is a matter of judgement.

#### *NPPF paragraph 11.d)*

32. FDDC's position in their statement of case may be read so as to suggest that NPPF paragraph 11.d) does not apply where heritage assets would be adversely affected. Paragraph 38 of the judgement in *Monkhill*,<sup>18</sup> is however, that: 'under [NPPF] paragraph 11d)i, it is not enough that a footnote 6 policy, restrictive of development, is engaged. The policy in question must actually be applied... and its application must provide a "clear reason for [refusal]". Only then will the "tilted balance" under paragraph 11d)ii be disapplied by the

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<sup>16</sup> Ref. APP/P1615/A/14/2222494.

<sup>17</sup> *Suffolk Coastal District Council v Hopkins Homes Ltd. & Anor* [2016] EWCA Civ 168, [2015] EWHC 132 (Admin) and [2015] EWHC 410 (Admin).

<sup>18</sup> *Monkhill Ltd v Secretary of State for Housing, Communities and Local Government & Anor* (Rev 1) [2021] EWCA Civ 74 (28 January 2021).

operation of paragraph 11d)i....'. Adhering to that logic is now agreed between the main parties.

### **Main issues**

33. Against the context above the main issues are (i) whether the appeal site is an appropriate location for the development proposal, (ii) the landscape effects of the scheme, and (iii) the heritage effects of the scheme.

### **Location**

#### *The site and its context*

34. The site amounts to some 3.6ha and is presently largely in agricultural use. The principal element of the site is almost rectangular on plan, with a shorter eastern edge to the A417 (via which access would be created). There is also a long 'tail' to the site arcing away to the south-west. That crosses bridleway GC08 and footpath GC09 heading towards the Glynch Brook. It is not envisaged that either public right of way would need to be diverted or closed other than temporarily.
35. The site falls just within the Parish of Corse, the western boundary of which runs through the field to the west of the site and is not now demarcated (though was historically). To the north of the site the Corse Parish boundary cuts through the built form of Staunton and Corse. Staunton Parish to the west appears roughly centred around grade II listed Staunton Court.
36. Echoing several representations in respect of the scheme, Councillor Burford spoke at the hearing of many local residents' affinity with, and pride in, their area (emphasising that Staunton and Corse are not one and the same). Owing to the relationship of built development to the foregoing parish boundaries, the Allocations Plan explains that a single settlement boundary has been established in policy terms for the Villages.
37. In short the settlement boundary, also roughly rectangular, is drawn around where the built form of Staunton and Corse is most dense or consolidated. The settlement boundary encompasses a handful of listed Chartist buildings, but equally successive eras of incremental development from the mid-to-late twentieth century onwards including the 4 properties named in paragraph 6 above and those of Compton Close (immediately to the north of the site). The grade II listed Chartist bungalow Greenway is opposite the shared access the former properties, but is outside the settlement boundary and set between unlisted Littlefold and Ivy Dene.<sup>19</sup>
38. The settlement boundary extends from the northern boundary of the appeal site to the northern edge of development off Chartist Way pursuant to Allocations Plan allocation AP108. On the opposing axis it extends from the A417 as far west as Willow Bank and Millenium Cottages (stopping short of grade II listed Stone Cottage,<sup>20</sup> and the Glynch Brook beyond).

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<sup>19</sup> Noting that, via decision of 12 April 2022, an Inspector refused permission for two dwellings to the east of Greenway, in large part as that site formerly formed part of the historic plot of that property (ref. APP/P1615/W/3286332).

<sup>20</sup> List entry no. 1078473.

39. The settlement boundary is compact, far smaller than that of the irregular form of SECA. The SECA covers the more dispersed form of the Chartist settlement, a pattern of development that was low density and sprawling by its nature. Modest Chartist properties were set within substantial plots, typically of several acres, with the intention of landholdings providing for both self-sufficiency and enfranchisement.
40. The boundary of the SECA forms something of an hourglass shape, making way for the settlement boundary by its middle. In turn the SECA is set within the more expansive LVL. The LVL is an extensive tract of land extending as far north as footpath GST4 beyond Moat Lane, as far east as the B4211, south to the junction of the A417 with Oridge Street, and westwards across the Glynch Brook whereabouts the landscape becomes more open and dotted with historic farmsteads.
41. The appeal site abuts the SECA boundary to the to the east along the A417, the appellant's Archaeological Assessment indicating an overlap there of some 2.7m at most, beyond which is the property currently named Corse Grange. Corse Grange is agreed between the main parties to be a non-designated heritage asset ('NDHA'). The appeal site also abuts the SECA boundary to the south by grade II listed Snig's End Farmhouse and its separately listed outbuildings.<sup>21</sup> Both the Farmhouse and its outbuildings are within the SECA, as are a number of listed Chartist properties to the south and south-east (including the nearest, grade II listed Kilmorie).
42. Notwithstanding that the Villages grew significantly during the latter half of the twentieth century, many local residents express concern at the recent pace of change and its implications for what is often said to be already-stretched infrastructure of various types. Change may, entirely rationally, be disconcerting. I acknowledge that the Villages have recently grown rapidly. Over the last few years 54 homes have been constructed pursuant to Allocations Plan policies AP107 and AP108 in particular.
43. At the time of the Allocations Plan, the population of Staunton and Corse was said to be approximately 679. FDDC set out at the hearing that the commensurate figure in the emerging Local Plan 2041 is 1,035. That suggests a population growth of over 50% in recent years, albeit a figure which seems at odds with that which would be expected pegged against an increase in dwelling numbers. Neither the figure of 1,035, nor that mentioned by Julie C at the hearing based on online research, is supported by an evidential underpinning to assess whether it is comparable with the figure in the Allocations Plan (for example in terms of geographic extent).

*The spatial approach in the development plan*

44. In their decision notice of 15 April 2023 related to application ref. P0517/23/OUT, FDDC cited conflict with Core Strategy policies CSP.1, CSP.4, CSP5, CSP.16 and Allocations Plan policy AP.1. At their core those policies seek to achieve two principal aims.
45. The first aim, addressed via this main issue, is to guide development towards appropriate locations. That is with reference to the scale of settlements and

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<sup>21</sup> Respectively list entry nos. 1341956 and 1303385.

- the availability or proximity of services and facilities. Amongst other things that spatial approach seeks to avoid undue reliance on private modes of transport (and associated emissions). The second aim, addressed subsequently, is to avoid undue adverse effects to character, the landscape and heritage.
46. Core Strategy policy CSP.1 is, however, focussed on matters relevant to the second aim as above and second main issue in this decision (encapsulated in its title). In respect of an appeal decision at 91 High Street, Aylburton, of 4 August 2023, an Inspector concluded against it without expressly tussling with whether it might be deemed 'out of date'.<sup>22</sup> The Council's inference from that is, however, incidental; the concept of whether a policy relates to housing, or might sensibly exist in its own right, is an argument very much in the terms of the judgement in *Hopkins* addressed above.
47. Whilst overlapping thematically with matters relevant to the character of settlements, Core Strategy policy CSP.4 expects, in summary and amongst other things, that 'most changes in towns and villages will be expected to take place within the existing settlement boundaries, unless or until they are replaced by other LDF documents...'. Core Strategy policy CSP.4 therefore envisages that most development beyond settlement boundaries will be planned. The scheme is not that. Whilst the NPPF emphasises the importance of a 'genuinely plan-led' planning system, the development plan has nonetheless failed to enable appropriate levels of housing supply.
48. Policy CSP.4 also sets out that 'new development will be concentrated at the towns in a manner that relates closely to the intended role of each...'. That seeks to give effect to a hierarchical apportionment of development consistent with the spatial approach of the development plan. Notwithstanding my reasoning in paragraph 31 above, the essence of that approach nevertheless aligns with various elements of the NPPF (notably paragraphs 108, 109 and 180). My reasoning in that respect is consistent with the position of the Inspector who determined an appeal at Land off Foley Rise, Hartpury, via decision of 16 February 2024.<sup>23</sup>
49. The Inspector who determined the foregoing appeal set out that 'some exceptions [to the overarching approach in policy CSP.4] are highlighted under the policy...'. In terms of formatting, development plan policies are contained within a purple-shaded box. Justification or supporting explanatory text to policies is both in a green-shaded box and numbered paragraphs beneath the policy. The green-shaded box can only be understood as providing more detail as to the rationale for the relevant policy.
50. I have laboured that point as there are occasions where the purple-shaded policy box and green-shaded explanatory box sit awkwardly relative to one another. That is somewhat the case in respect of policy CSP.4, where the green-shaded explanatory box sets out how 'there will be cases where development is not located at settlements because of its nature but these will need to be justified (for example agricultural development and some tourism development is appropriate away from settlements)'. Whilst policies in

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<sup>22</sup> Ref. APP/P1615/W/23/3317225.

<sup>23</sup> Ref. APP/P1615/W/23/3324477.

development plan policies should not necessarily be read with the same level of detail as might be required of say a deed, in this instance there is no mention of agricultural development or tourism within policy CSP.4 itself.

51. With that said, policy CSP.4 can only be properly understood with reference to other elements of the development plan. 'Settlement characteristics', or categorisations of settlement's relative gravity, are at the table beneath Core Strategy paragraph 7.65. Staunton and Corse is one of 15 'service villages', where development is expected to be, in summary, relatively limited. That is somewhere in the middle of a spatial hierarchy of settlements, beneath 4 towns, 5 'major villages', beneath or comparable to 2 'group villages', but of higher order than 22 named 'small villages' and various 'small settlements without defined settlement boundaries'.
52. Following on from that categorisation, Core Strategy policy CSP.16 apportions a certain number of dwellings to settlements or settlement types. Collectively policy CSP.16 envisaged that 'about 283' dwellings would be delivered 'in Service villages' over the plan period. Although each settlement differs, 283 dwellings divided equally amongst 15 services villages would be about 19 dwellings apiece. Instead the Allocations Plan made provision for around 47 dwellings at Staunton and Corse, roughly a sixth of 283. That indicates that Staunton and Corse was seen by FDDC in the formulation of the Allocations Plan as a favourable location for development relative to its peers (albeit the logic that growth begets or justifies further growth can only be taken so far).
53. Conversely, the Core Strategy service village apportionment of about 283 dwellings represents a small fraction of the total plan requirement of 5,162. The figure of 5,162 dwellings is referenced in Core Strategy policy CSP.5, phrased as 'about 5,162' in the green-shaded box beneath vision 3 under paragraph 4.11. Levels of growth in respect of this tier of settlement were evidently consciously constrained.
54. Again in summary and amongst other things and, Core Strategy policy CSP.5 prioritises the use of previously developed land, setting out criteria where certain development may be appropriate if development needs cannot be met within settlement boundaries. The appeal site is not previously developed, nor is it argued that any CSP.5 criteria, as referenced above, are met.
55. Returning to policy CSP.16, were I to allow the appeal, in addition to the 54 dwellings already delivered in relation to allocations AP107 and AP108, numerically 104 dwellings would represent over a third of the apportionment of about 283 dwellings at service villages. On the face of it that appears to be something of a distortion of the development plan's spatial approach.
56. In short, therefore, the scheme either does not benefit from support from, or conflicts with, the approach in aspects of Core Strategy policies CSP.4, CSP.5 and CSP.16 as above. It might be said that conflict with elements of the development plan entails some harm in and of itself. The planning system does not, however, create policies or rules to be followed in the absence of justification for those rules. Rules must, in my view, be justified by at least seeking to avoid unacceptable planning harm.

57. The foregoing is effectively phrased in an alternate way in Allocations Plan policy AP1 'Sustainable Development'. That policy explains: 'in assessing planning applications the primary consideration will be whether or not the development proposed is sustainable, with the overall aim of improving the economic social and environmental conditions of the area'. In that context I now turn to gauge what locational planning harm would result in actuality.

*Accessibility of services and facilities*

58. SoCG paragraph 5.1.11 records that 'it is agreed between the [main] parties that the settlement contains a number of services including a primary school, doctors' surgery and recreation facilities. Since the decision was issued, the village shop has also re-opened.' That is not entirely accurate as the primary school, doctor's surgery, playing field by the Village Hall and Staunton Store fall outside the tightly-drawn settlement boundary.
59. I also understand that the Swan, a former pub, is now run by volunteers as a community hub (albeit with limited operating hours). That reflects how, in large part, the availability and viability of facilities and communities is a result of people themselves. For whatever reason the grade II listed Prince of Wales pub nearer the appeal site, formerly the Chartist school, has long since ceased to operate.
60. The particular nature and distribution of services and facilities hereabouts is reflected in paragraph 44.1 of the Allocations Plan. That explains in respect of Staunton and Corse how 'the wider area contains both parish churches and almost all of the substantial employment that is available (current and former garage sites, Staunton Court, The Hawthorns and a number of smaller sites). The wider area has the character of one of mixed uses which include a school, shops, pub, village halls and farms and related businesses'.
61. To add to that, as set out in the appellant's Transport Statement, there are bus stops around 100 metres away from the site either side of Gloucester Road currently providing some, albeit intermittent, wider connectivity (including to Gloucester). Moreover the economy is not now so dependent on commuting or physical employment spaces as it once one. The current nature of services and facilities in the area reinforces my reasoning in paragraph 52 of this decision.
62. There is a pavement running along the eastern side of the A417 from the appeal site northwards in the direction of the settlement boundary and various services and facilities. A new footway is also proposed as part of the scheme, to tie in to that by Homelea.<sup>24</sup> A new bus shelter is also proposed, as is the relocation of the 30mph speed limit to the Villages further southwards (as opposed to its current location near Prince Crescent).
63. As above, houses a few metres away to the north of the appeal site are within the settlement boundary. Subject to the foregoing interventions, the walking or cycling route between the appeal site and many services and facilities in the area would be broadly comparable in both length and experience to that which is associated within other properties within the settlement boundary (for example in relation to those at the far reaches of Prince Crescent).

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<sup>24</sup> Plan no. 662582-10-03 Rev. C.

64. Moreover the walking or cycling route between the appeal site and various services and facilities would be far shorter and more convenient than that associated with many properties in the SECA and wider area (which, as above, is characteristically dispersed). The proposal would also establish on site a local area for play ('LAP') and local equipped area for play ('LEAP'). Those may limit the extent to which future occupants of the development proposed, and others, may travel to elsewhere for recreation.
65. Whilst, theoretically, locating development closer to a higher order settlement may entail lesser private vehicular use and associated emissions, NPPF paragraph 109 recognises that 'opportunities to maximise sustainable transport solutions will vary between urban and rural areas...'. Moreover the PPG now guides that a wide range of settlements can play a role in delivering sustainable development in rural areas.<sup>25</sup>
66. Returning to the proportionality of the scheme relative to the locality, statistics are, at best, crude approximations for effects. Core Strategy policy CSP.5 seeks to deliver about 5,162 homes, policy CSP.16 about 283 at service villages. Neither set a definitive upper limit, nor proportionate threshold beyond which the expansion of settlements would become unacceptable.
67. In respect of what is contended to be overly-stretched local infrastructure, I understand that the doctor's surgery has some capacity to take on further patients (setting any delays in securing appointments aside). No contribution has been requested in that respect. I understand that the primary school has capacity for 120 pupils, but has a current school roll of 107. Contributions have been sought in that respect relative to the forecast implications of the scheme, which are provided for in the planning agreement of 8 October 2024 with GCC.
68. The mechanics by which other forms of infrastructure are funded are multifaceted, and not solely or exclusively reliant on public subsidy (the bus service here being an example of the latter). At the hearing it was common ground that no infrastructure contributions had been requested other than those included in the S106s. Albeit I acknowledge that any scheme will place additional demands on existing services, and that the timing of upgrades may not move in lock-step with development, there is no robust evidence before me indicating that the proposal would lead to undue infrastructural strain.

### *Consideration*

69. Drawing my reasoning on this main issue together, although the scheme either does not benefit from support from, or conflicts with, the approach in aspects of Core Strategy policies CSP.4, CSP.5 and CSP.16 as detailed above, in planning terms the site would nonetheless be a reasonable location for the development proposed. Any harm stemming from non-accordance with the foregoing policies therefore carries negligible weight against the proposal.

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<sup>25</sup> Reference ID: 67-009-20190722.

## **Landscape and visual effects**

### *Methodology*

70. GLVIA3 and TGN02/21 set out a methodological approach to evaluating landscape sensitivity (as a resource, visually, and as regards the effects of a proposal).<sup>26</sup> 'Landscape' is a complex concept; the site is both a landscape itself and part of wider landscapes.
71. GLVIA3 references how landscape character is 'not just about the physical elements and features that make up a landscape, but also embraces the aesthetic, perceptual and experiential aspects of the landscape that make different places distinctive'.<sup>27</sup>
72. Via the methodology in GLVIA3 'landscape receptors', components of the landscape likely to be affected, are ascribed a sensitivity combining judgements on their inherent value and susceptibility to a particular proposal. 'Visual receptors', those whose views or visual amenity may be affected, are likewise accorded a sensitivity taking account of the value of views and susceptibility. The magnitude of change results from combining those sensitivities with judgements about the effect of a proposal.
73. For all the foregoing terminology, however, assessing landscape and visual effects is founded on a sequence of judgements. GLVIA3 therefore recommends the use of word scales summarising underlying reasoning. Word are, however, themselves somewhat imprecise, and words may relate to different equations as much as to different units.

### *Relevant landscape studies*

74. Of 159 National (landscape) character areas, the site falls within the 'Severn and Avon Vales' ('NCA106'). Referring to an extensive landscape, the summary to NCA106 begins by describing that area as a 'low-lying open agricultural vale'. NCA106 is further described as either a flat or gently undulating landscape, predominantly open, sparsely wooded, and with a strong historic time depth.
75. With reference to the 2002 Forest of Dean Landscape Character Assessment the site is within landscape character ('LCA') area 6b, the 'Severn Vale'. LCA6b, also extensive, is described in the 2002 study as a landscape 'rich in history' and 'deeply rural'. The 2002 study, however, points to a more diverse, and in some respects divergent, landscape than summarised in respect of NCA106. It refers to a 'complex mix of arable and pasture farming', to the recent grubbing out of orchards, to fields being left fallow, and to the presence of hedgerows, field trees, copses and shelterbelts reflecting something of a 'well treed landscape'.

### *The nature of the LVL*

76. NPPF paragraph 180.a) sets out that planning should contribute to and enhance the natural and local environment including by protecting and

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<sup>26</sup> The Landscape Institute and Institute of Environmental Management & Assessment's Guidelines for Landscape and Visual Impact Assessment: Third edition (updated November 2021, 'GLVIA3') and the Landscape Institute's Technical guidance note 02/21 'Assessing landscape value outside national designations'.

<sup>27</sup> GLVIA3, paragraph 2.19.

enhancing 'valued landscapes'. The site is within the LVL, part of the statutory development plan. There is, however, no evidence as to what criteria or methodology applied to the establishment of the LVL, its extent, or its boundaries. There is furthermore no indication that the LVL was based on any methodology related to its intrinsic landscape character.

77. That is somewhat problematic given FDDC's second reason for refusing permission includes that there would be 'an unacceptable and adverse impact upon the character and appearance of the area and surroundings, including the Locally Valued Landscape'. There is, in other words, little evidence to assist me in reaching a view on that. Moreover 'unacceptable' is, as in respect of Allocations Plan policy AP1, a relative judgement that can only be arrived at having considered a scheme holistically.

*Landscape sensitivity*

78. There is some consistency between the nature of the site and NCA106 and LCA6b. It is, in the main, an arable field. It, and its surroundings, might aptly be described as gently undulating. The site itself has a moderate rise broadly from south-west to north, properties immediately beyond to the north at Compton Close appearing to be set either level or fractionally lower than the high point of the site.
79. There is nevertheless also some divergence. The site's boundary with the A417 is demarcated by patchy hedge without standards, likely on account of being flailed rather than actively managed over many years. Its boundaries to the north and south are similar. They appear to have been principally left to their own devices to become overgrown with scrub, the northern boundary appearing to incorporate some ornamental trees also.
80. There are no field trees, copses, or what might be termed shelterbelts said in the 2002 study to be somewhat characteristic of LCA6b. Such features are more readily apparent in the surrounding landscape, particularly to the west beyond the Glynch Brook, to the north of Ledbury Road, and to the east of the A417. In those directions the landscape becomes more characteristically 'deeply rural'.
81. The site formed part of the landscape context to the Chartist settlement historically (Snig's End Farmhouse and outbuildings within the SECA originating also around the early-to-mid nineteenth century). Whilst there is little intervisibility with the SECA to the north on account of its shape and relationship to the settlement boundary, there is some historic structure to the site and its context.
82. Nevertheless that is also qualified. At some point historically a hedgerow subdividing the site has been grubbed out. As above, the Parish boundary nearby has been lost. There has also been quite some change in land apportionment in the surrounding area. The appellant's Archaeological Desk-Based Assessment does not point to a particularly high potential for the site to embody archaeological interest.
83. With reference to GLVIA box 5.1 and TGN02/21 table 1, I was unable to discern any features of the site or its surroundings that would clearly indicate

a landscape value here out of the ordinary. That does not, however, suggest that the site and landscape is unimportant; NPPF paragraph 180.b) sets out that planning should recognise the 'intrinsic character and beauty of the countryside', which itself connotes a degree of protection. Nonetheless, taking account of the site's value and susceptibility in the context of its surroundings, its sensitivity might fairly be described as medium.

84. Whilst that might seem a contrarian finding given the LVL designation, Allocations Plan policy AP109 is that 'development proposals within the Locally Valued Landscape as defined on the policies map will be required to demonstrate that they are able to be implemented without detriment to the setting or the conservation of the Staunton and Corse Conservation Area and its component parts'. On a plain reading that is not a policy designed to address intrinsic landscape character, but instead to ensure that development affecting the setting of the SECA is suitably assessed. In that respect it is comparable to LBCA section 72(1) viewed through the lens of the NPPF.
85. There is again, however, a tension between the purple-shaded policy box of policy AP109 and the green-shaded explanatory box to it. The latter goes further than the policy in explaining that 'the landscape area itself and individual features within it are considered heritage assets'.<sup>28</sup> Arguably any building or human intervention in the landscape has a degree of significance in reflecting the past in the present; landscape character and history are intertwined.
86. That said there should be no need for forensic archaeology to understand a policy, nor can a policy be inferred by virtue of explanatory text or otherwise to mean something significant different to what it says. That the LVL is in actuality a heritage asset itself does not bear scrutiny. Even if it did, as above there is no supporting methodology before me related to its establishment.

#### *Visual sensitivity*

87. Having walked extensively around the site and its surroundings, including visiting various viewpoints shown in the appellant's Landscape and Visual Appraisal ('LVA'), the site is not particularly significant or prominent in landscape vistas or views. Although the wider landscape is readily apparent, it is difficult to discern the site specifically the London Illustrated News image from 1850 which features in the CAA (to which several residents have particularly drawn my attention).
88. As above in terms of landscape character, visually the site is not 'deeply rural'; landscape to the west and towards the fringes of the SECA more clearly fits that description. On account of the proximity of built development to the north, and to a lesser extent east and south, there is some susceptibility to accommodate development at the site; residential development here would not necessarily appear unexpected. As is a typical arrangement of development in the surrounding area the dwellings proposed would be set back significantly from the A417.
89. Delivery of 50 dwellings across a site of 3.60ha results numerically in a density of about 14 dwellings per hectare. That is far lower than mid-to-late

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<sup>28</sup> Reiterated in supporting paragraph 44.10.

twentieth century development within the settlement boundary. That indicates clear potential for landscaping to moderate visual effects.

90. Whilst public rights of way pass through the tail of the site, views to and through the appeal site from vantage points along them is limited. Visibility in that respect is variously impeded on account of the built form of Snig's End Farmhouse and its outbuildings and the presence of hedges, trees and scrub. Given the topography westwards of the appeal site towards the Glynch Brook and beyond, I saw that the eye naturally tends to be drawn towards that direction when proceeding westwards in any event.
91. There are a handful of views across the site from properties, or from within their plots, immediately to the north of it, and in respect of Snig's End Farmhouse and Corse Grange. Whilst most are filtered to greater or lesser degree by the topography or intervening features, GLVIA3 sets out how residential receptors and users of public rights of way are likely to be visual receptors most susceptible to change. Their appreciation of the landscape might aptly be described as active, as opposed to the landscape passively forming part of the backdrop to life (whereas those travelling along roads tend to fall into an intermediate category of moderate susceptibility to change).<sup>29</sup> PROW users and occupants of nearby properties may therefore fairly be characterised as having a medium to high sensitivity, others less so.

#### *Landscape and visual effects*

92. The scheme would inherently introduce significant substantial built development in what is presently a largely open and 'natural' site. That would also entail not just buildings, but also activity and illumination. Access would also be created via the A417, opening up new views into and the site from the east. That cannot rationally be described other than a major adverse landscape effect to the site itself, albeit an effect that tends towards minor considering the site in its wider context (which, as above, possesses a qualified affinity with characteristics identified in relevant landscape studies).
93. Visually the effect of the scheme would initially entail, as an overall summary, a moderate to major effect in respect of certain visual receptors.<sup>30</sup> Subject to a sensitive approach to landscaping in particular, however, shown illustratively on plan no. 1070011-ADAS-XX-XX-DR-L-8001 Rev. 07, that would diminish over time as planting matures. In all likelihood visual effects would, although differing between the receptor, tend towards moderate to slight over time. Although not verified views, and at best suggestive, visualisations nos. 1, 2, 3 and 4, the locations of which are shown on plan no. 0838-SHRK-00-00-DR-L-1005 Rev. 00, indicate how development might assimilate somewhat with prevailing character over time.

#### *Consideration*

94. Drawing together my reasoning above, the proposal would have an adverse effect on the landscape as a resource and visually. In doing so the scheme would fail to comply with the second aim of the spatial strategy as in paragraph 45 above, in contrast to the relevant expectations of Core Strategy policies CSP.1, CSP.4 and CSP.5 and of NPPF paragraph 180.

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<sup>29</sup> GLVIA3, paragraph 6.33.

<sup>30</sup> The LVA identifying a finer gradation between differential effects to the occupants of different properties.

95. That said, development has been allowed elsewhere in the LVL on greenfield land, including via Allocations Plan policies AP107 and AP108. Core Strategy policy CSP.5 prioritises, rather than mandates, the use of greenfield land. As reasoned previously ad-hoc rather than plan-led applications are somewhat inevitable on account of present housing land supply circumstances (the preference for development on previously developed land having evidently failed to generate sufficient forward supply). As such I accord the adverse landscape effects of the scheme only limited weight against the scheme.

## **Heritage**

### *Relevant policies*

96. Recognising that heritage assets are an irreplaceable resource, NPPF paragraph 205 sets out how 'great weight' should be given to their conservation in line with their importance. In addition to citing conflict with Allocation Plan policy AP109 and Core Strategy policy CSP.1, in their decision notice FDDC cite Allocations Plan policies AP.4 and AP.5; both of which, in summary, seek to achieve similar aims of statute and of the NPPF in terms of ensuring that development relates suitably to local character and history.

### *The heritage dispute*

97. As reflected via hearing document 2, the main parties agree that the scheme would entail some harm to historic significance but disagree as to its extent (to differing degrees dependent on the asset). It is common ground between them, however, that the scheme would have a neutral effect on the setting of Greenway, Stone Cottage and 'other Chartist bungalows' (noting that the word negligible has been found to reflect a degree of harm).<sup>31</sup>

98. On the face of it that common ground appears surprising given that Greenway and many other Chartist bungalows fall within the SECA, with the main parties in agreement that there would be some harm to the SECA. That position reflects, however, that it is common ground that no heritage harm would result to the setting of those assets specifically in addition to the effects on the SECA generally. That is a rational position with which I agree for 3 principal reasons.

99. Firstly there is little, if any, appreciable intervisibility between the site and Greenway, Stone Cottage and other Chartist bungalows.<sup>32</sup> Although Simon Murray on behalf of CPRE Gloucestershire indicates that Snigs' End farm may have provided employment for Chartist settlers, there is no tangible evidence of that (or otherwise of a specific historic associative connection between the foregoing assets and the site). Thirdly, and although the existence of development which detracts from significance does not inherently justify further harm, in many instances the setting of Chartist properties has been affected by modern development many multiples more impactful than the scheme would be.

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<sup>31</sup> At the hearing FDDC effectively reverted to the position at paragraph 5.15 of their Heritage appeal statement of 16 August 2024 in that respect.

<sup>32</sup> Noting that, as in the glossary to the NPPF, the setting of a heritage asset encompasses the surroundings in which they are 'experienced' (therefore encompassing more than a visual dimension).

100. That said, and notwithstanding Historic England's guidance,<sup>33</sup> there is some force in Simon Murray's position that disambiguating one heritage asset from another risks underplaying the interaction, or combined significance, that a collection of different assets embody. That here the sum of heritage assets is more than their constituent parts is echoed in many local representations; several point to Snig's End being not only the name of the farm presently, but the name of the Chartist settlement and SECA (in turn reflecting that much of the surrounding landscape was formerly sedge marsh).<sup>34</sup>
101. The UU aims to give effect to works to Sing's Farm outbuildings, currently in a poor state of repair, including as detailed in a document entitled 'Proposed Works to Snigs End Farm Barn and Other Outbuildings'.<sup>35</sup> Those works draw from a 'Basic Structural Condition Survey' of the outbuildings, to which there is also a 'Detailed Cost Plan'. In the appellant's evidence those works are often described as remedial.
102. The appellant argues that the effect of the UU would be beneficial. Whether that represents a heritage benefit or public benefit is incidental; the conservation of heritage assets is also a public benefit in maintaining an irreplaceable resource. FDDC contend, however, that I should not accept the foregoing evidence, a procedural argument rather than going to the weight attributable to it (which has also been addressed by FDDC at appeal).
103. The Planning Inspectorate's Guide to Planning Appeals explains that the appeal process should not be used to evolve a scheme. Nevertheless, practically, the appellant's establishment of the UU is an entirely rational response to FDDC's position that unacceptable heritage harm would result. Seeking to preserve heritage assets is, in the abstract, beneficial. Moreover the body of evidence related to the UU appears to stem from FDDC's position in respect of the previous application, where substantial harm was contended to occur to the setting of Snig's End Farmhouse and outbuildings as opposed to the SECA.
104. Practically the UU is somewhat analogous to a Grampian condition, which may in certain circumstances be imposed on a permission prohibiting development until a specified action has been taken.<sup>36</sup> Moreover the works that the UU seeks to enable are very much an adjunct to the scheme rather than significant change to it. There has also been the opportunity for comment on those works, both procedurally and substantively, at appeal.
105. There is therefore no procedural reason to discount the UU or its associated evidence from my assessment of the scheme, cognisant of the principles in *Wheatcroft*,<sup>37</sup> and in *Holborn Studios*.<sup>38</sup> But, even if I had reached a different view in that respect, the UU exists. Were the appeal to be allowed its provisions would bite regardless, and its implications would therefore be material.<sup>39</sup>

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<sup>33</sup> Notably Good Practice Advice in Planning Note 3 (second edition), 2017.

<sup>34</sup> The derivation of snig being from a small snake-like eel.

<sup>35</sup> Appendix 4 to appellant's heritage proof of evidence

<sup>36</sup> PPG reference ID: 21a-009-20140306, noting that in this instance the Farmhouse and outbuildings are within the appellant's ownership.

<sup>37</sup> *Bernard Wheatcroft Ltd v SSE* [JPL 1982 P37].

<sup>38</sup> *Holborn Studios Ltd. v The Council of the London Borough of Hackney* [2017] EWHC 2823 (Admin).

<sup>39</sup> Noting 'Background' clause (F) to the UU.

106. As reflected in hearing document 2, however, the appellant's case as to the implications of the UU is somewhat confused. It appears that the benefits of the proposed works have been taken account of in respect of Snig's End Farmhouse and its outbuildings, also in respect of the SECA, and then once again as a 'significant' benefit of the scheme overall. Whilst I will return to it, rationally any benefits in that respect cannot be counted multiple times.

#### *Special interest and significance*

107. Paragraphs 5 to 7 of the Inspector's decision in respect of the scheme at Treona Nursery referenced above aptly set out the context to the Chartist settlement here. I have therefore reproduced them below, omitting those elements incidental to this appeal:

'Snigs End was built by the Chartist movement in the 1840s and 1850s as one of five planned settlements. It was based on a strong social and political philosophy which aimed to settle large numbers of people on the land where they would have voting rights and be largely able to feed themselves through agricultural production. About 85 cottages of a more or less uniform design were built. Each was set in a substantial plot of land and the result was a very dispersed form of settlement extending over a large area and lacking the concentration around a focal building or main street which is common in English villages....

The Chartist movement was short lived and the form of settlement it promoted was not generally repeated. However, this was a significant part of England's history and the physical evidence of it is well preserved here. The Conservation Area covers most of the Chartist settlement and the continued existence of many elements of the settlement is fundamental to its character. Within the Conservation Area many of the original cottages survive...

In many parts of the village the Chartist cottages still stand in large plots and the dispersed form of the settlement is still evident. Elsewhere plots have reduced in size to accommodate more recent house building. This is particularly true along Prince Crescent where the cottages have been surrounded by more recent development and left with relatively small curtilages....'

#### *The SECA*

108. Adding to the foregoing with a particular focus on matters specifically relevant to this appeal, there are a number of distinctive crescents of properties at Staunton and Corse. Whilst I was told that there are crescents at other Chartist settlements,<sup>40</sup> they form a distinctive part of the Villages' morphology (although the rationale for that layout appears to have largely passed into history). Nevertheless the built form of Chartist bungalows along with their layout is an important element of historic significance.

109. The Inspector's reasoning above identified 'about 85 cottages', the Allocations Plan puts that figure around 90. Although all conservation areas are based on the same statutory footing, that suggests that Staunton and Corse is

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<sup>40</sup> Such as at Minster Lovell to which appeal ref. APP/D3125/W/23/3331279 relates.

relatively important amongst the 5 Chartist settlements that came into existence comprising around 200 properties collectively.<sup>41</sup> Historic buildings are, to greater or lesser extent, a product of their landscape context.

110. In this instance the land on which the Chartist settlement was built was purchased by the Chartist Land Company from the Lechmere estate in 1847 (Thomas Henry Hulls, an ancestor of the appellant, purchased Snig's End Farm from the Lechmeres around 1872). The Chartist movement occupies a particular place in the historiography of town planning, being one of a number of reactions against the squalor, overcrowding and inequity of the post-industrial city.
111. Agriculture was intrinsically important to the Chartist aim of providing self-sufficient landholdings. The CAA characterises the approach of the Chartist Land Company as 'agrarian socialism'. The layout of Staunton and Corse therefore consciously diverged not only from traditional patterns of historic development generally, but also from the pre-existing settlement here. Spaciousness and an agricultural or rural context contribute towards significance in honestly reflecting the ethos and context in which the Chartist settlement emerged.
112. For 7 principal reasons, however, the importance of an agricultural or rural landscape setting, including that of the site specifically, should not be overstated. Firstly there is no indication that, for want of a better phrase, the landscape context to the settlement was conceived of as of particular importance to it; generous smallholdings could not have been achieved other than in a rural context. There is little of substance regarding the surrounding environs to the settlement set out in the CAA.
113. Secondly, the plots of individual Chartist properties were characteristically enclosed. The CAA notes how the original estate was said to have been planted with French furze around smallholdings helping towards winter feed for livestock, and that now 'visually boundary hedgerows bordering the narrow roads give a sense of privacy and security...'. Whilst that does not suggest the settlement was inward looking, crescents suggestive of some thought being given to the communal interaction between plots, it nevertheless qualifies the extent to which the surrounding landscape contributes towards significance.
114. Thirdly, there is a now characteristic sense of enclosure around the appeal site. At page 17 the CAA describes how around Gloucester Road, 'this section is almost entirely enclosed from the busy main road by hedgerows on either side with trees interspersed sporadically in the hedgerows. The dwellings are screened by the hedges and can be glimpsed over the hedgerows in places or through the gateways. In sections there are high Cupressus hedges which are an alien feature in comparison to the more traditionally managed hedgerows. A particularly interesting feature is the stone wall along the roadside edge of Corse Grange, a non Chartist building, where a number of fine trees are also located.' The CAA further emphasises how the generally flat nature of the area means that the extent or layout of the Chartist settlement is not readily appreciable in surrounding views or vistas. That holds true.

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<sup>41</sup> As reflected in Alice Mary Hadfield's 'The Chartist Land Company', 1970.

115. Fourth, as can be inferred from paragraph 110 above, neither Snig's End Farmhouse nor the site was within the Chartist settlement. Whilst that does not suggest an absence of any value, in historical terms the site has no clear association with the Chartist settlement as opposed to being, crudely, next to it. Although I acknowledge that the name Snig's End has had some longevity, that name pre-dates Snig's End Farmhouse and appears to have originated as a more general reference to the area (Corse Grange, for example, having previously been called Snig's End House).
116. Although the existence of development detrimental to significance does not justify further harm, fifth the Chartist movement was short lived. By 1857 the Chartist estate here was sold, after which many of the smallholdings were amalgamated or altered. Various properties were left empty or pulled down from the 1920s to the Second World War. Those changes honestly attest to social and economic changes as with the original founding of the settlement, and as such there is nuance to the significance of the original settlement and its buildings.
117. In some instances, for example rural vernacular buildings, significance may be embodied principally in the fabric of buildings themselves and their surrounding context. Those features stand as the main, and occasionally only, way of readily appreciating the past in the present. Sixth, that is very different to the Chartist movement which had enfranchisement as one of its aims. Its origins and history are also well documented elsewhere, including via Parliamentary proceedings, as much as reflected in its physical presence by way of buildings and their context.
118. Seventh, at its core the Chartist movement sought to enable land ownership, for self-sufficiency, but also for a stake in society. In my view there is a danger of looking in too focussed a manner on the physical evidence of the Chartist movement and its context divorced from the objectives the moment sought to achieve. In that conceptual sense increased housing provision, as is proposed, is entirely consistent with the principals on which Chartism was based and gave rise to the physical heritage which is now at issue.
119. In summary the significance of the SECA as a whole is multifaceted. Insofar as relevant to this appeal it derives principally from the existence of Chartist properties set within expansive, albeit enclosed, plots and their arrangement relative to one another. Along with some subsequent change, those characteristics aid an understanding or appreciation of past forces in the present. The surrounding landscape to the Chartist settlement possesses some contribution in grounding the foregoing in context. In my view, however, it is of markedly lesser importance in terms of contributing towards significance for the reasons given above.

#### *Snig's End Farmhouse and outbuildings*

120. The list entry indicates the Farmhouse originated as two cottages around the second quarter of the nineteenth century. Although many rural buildings trace their origins further back than current appearances, physically the Farmhouse is something of a classical late Georgian symmetrical property. It is principally of Flemish bond brickwork with rubbed arches above casement windows and

silhouetted or dummy windows. It is orientated such that the principal elevation faces square east, with access via the track and public right of way to the south. There is a first floor window in the side elevation facing north towards the site.

121. There is a stone outshoot to the Farmhouse projecting northwards. A short distance beyond that is the westernmost element of a right-angled range of outbuildings, such that there is something of a traditional farmyard between the principal elevation of the Farmhouse and outbuildings (beyond which is a low-lying patch of scrub by the A417). The outbuildings comprise a range of structures, judging by their construction ostensibly of slightly different eras. The list entry indicates that, in summary, they are probably mid nineteenth century. That would be consistent with agricultural buoyancy generally during that era. Judging by the oversized nature of some brickwork, they were likely constructed before 1850.
122. Consistent with their scale, internal arrangement and the list entry, the appellant's Built Heritage Assessment indicates that the former functions of the range of outbuildings moving west to east were in all likelihood pigsties, stables and a cow house. The larger barn orientated north to south has a distinctive through-passage with hit-and-miss brickwork beneath similarly large arches either side of it (which, along with its orientation, suggests a threshing barn). That barn also incorporates a former cart shed and granary above. Albeit to varying degrees, all outbuildings are in a poor state of repair resulting from the lack of routine maintenance over many years.<sup>42</sup>
123. There is therefore a nested inter-relationship between the Farmhouse, its outbuildings and surroundings, reflecting an historic agricultural ecosystem. Whilst their significance derives principally from their materials, craftsmanship and the former agricultural practices they accommodated, their surrounding context evidently honestly attests to the agricultural context in which they emerged and developed. That is notwithstanding that mixed farming has evidently given way here to more intensive agriculture; in living memory local residents have referred to the site being used for producing silage, corn, wheat, turnips, potatoes and rapeseed.

#### *Corse Grange*

124. The CAA sets out how Corse Grange makes an important contribution to the CAA on account of its prominence and importance to the setting of Chartist Crescent (albeit apparently incorrectly referring to it having been built in association with the Chartist settlement, as opposed to having been established earlier and purchased by the Land Company in 1847).
125. Corse Grange is a complex property to describe on account of a number of historic additions to it. Nonetheless it is principally of brick, of both Flemish and English bond, with sash windows. It appears to have been originally orientated so as to face south, where that façade is more regular and faces towards the declining landscape. Additions to the north and south are potentially later or less formal. There is a low rough-dressed stone wall

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<sup>42</sup> There is no suggestion or indication that their current state results from active agency as opposed to their simply having become essentially redundant relative to the requirements of modern agriculture.

demarcating the A417 boundary of the plot, uncharacteristic of the area, in which a rounded brick arch and steps are set.

126. In short Corse Grange appears to have originated as a grand country estate house, consciously constructed as a display of affluence. That would be consistent with associated land holdings in 1798, much of which has now been lost to mid-to-late twentieth century development. Summarising a rich history, the appellant's Built Heritage Assessment fairly notes that it appears very probably that 'Corse Grange was the centre of a landholding which became part of the Chartist settlement'.
127. Consequently, insofar as relevant to this appeal, the significance of Corse Grange derives principally from its design, architecture, physical context and associations with Chartism. Aside from their being close by one another, there is no evidenced land ownership or particular associative connection with Snig's End Farmhouse or its buildings (even though Corse Grange evidently originated and prospered in conjunction with agriculture hereabouts).

#### *The development proposed*

128. In addition to points above regarding the development proposed, plan no. 1070011-ADAS-XX-XX-DR-L-8004 Rev. 05 shows how the site would accommodate 50 dwellings. FDDC's officer report indicates that access provision would entail the removal of approximately 87m of hedgerow initially. Dwellings are arranged in small clusters, rather than reflecting the regularity or spaciousness of Chartist plots (the largest garden being approximately 167sqm at plot no. 21, far less than one acre).
129. As above, appearance, landscaping and scale are reserved for future consideration. Nevertheless, the landuse parameter plan no. 1070011-ADAS-XX-XX-DR-L-8003 Rev. 03 shows that there would be an undeveloped buffer around the site, narrowing to the north of the site but extending to around 22m next to the listed outbuildings. The nearest elevation of any proposed property from the highway would be about 26m. Reflecting the comparatively low density of the development proposed referenced above, by virtue of landscaping and diverse planting the scheme presently aims towards biodiversity net gain ('BNG') of 155.21%, 15.96% in respect of hedgerows specifically.<sup>43</sup>

#### *The effect of the development proposed*

130. In a similar vein to my reasoning in respect of the second main issue, the proposal would adversely affect the significance of the SECA, Snig's End Farmhouse and outbuildings, and that of Corse Grange by virtue of introducing built development in a location which is, and has remained historically, undeveloped. In so doing the scheme would dilute an ability to readily appreciate the rural or agricultural context in which the foregoing assets emerged and changed. In doing so the scheme would conflict with the expectations of section 66(1) of the LBCA Act and with relevant provisions of Core Strategy policy CSP.1 and Allocations Plan policies AP.4, AP.5 and AP109.

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<sup>43</sup> Notwithstanding a slight net loss in hedgerow extent.

### *Consideration*

131. It is, though, for the decision-taking to consider the magnitude of harm that would result. In respect of the SECA, I reasoned above that the importance of the site, and of a rural or agricultural landscape setting to the SECA, is qualified. Only a relatively small element of the setting of the SECA would be affected by the proposal, and even then to limited extent (taking account of my reasoning at paragraphs 112 to 119 above). The development proposed, rationally, is of a different typology to the Chartist settlement allowing for a distinction between the two (and would, by virtue of landscaping, assimilate reasonably with the enclosed character of its surroundings over time).
132. With reference to the judgement in *Bedford*,<sup>44</sup> which I brought to the attention of the main parties in my draft hearing agenda, I cannot rationally agree with FDDC that substantial harm to the SECA by virtue of change to its setting would arise. Instead, with reference to NPPF paragraph 205, it is fair to categorise the effect of the proposal to the significance of the SECA as less than substantial. In my view, for the foregoing reasons, the extent of that may also accurately be gauged to be very limited on a spectrum of harm within that categorisation.
133. In respect of Snig's End Farmhouse and outbuildings, their immediate agricultural context is of relatively greater importance in terms of significance. That said, they are historic barns which even entirely devoid of context, subject to a sensitive approach to their preservation, would readily be appreciated as such. As also set out above, there would be a significant separation from the built development at its nearest relative to the Farmhouse and outbuildings. That would, to a degree, preserve some ostensibly natural context to them. Moreover, irrespective of the outcome of this appeal, much of the landscape hereabouts would remain rural and agricultural. In my view the effect of the scheme to the significance of these listed buildings would be less than substantial and limited within that categorisation.
134. In respect of Corse Grange, there would again be some effect to the historic authenticity of its agricultural context. Nevertheless, reflecting on the particular origins and history to that NDHA, that is at a greater level of abstraction tending towards negligible. NPPF paragraph 209 guides that the effect of a proposal on the significance of a non-designated heritage asset should be taken into account in determining an application, with a 'balanced judgement' required having regard to the scale of any harm or loss and the significance of the heritage asset.
135. Less than substantial harm does not, however, equate to a less than important planning consideration. NPPF paragraph 208 sets out in respect of designated heritage assets that where less than substantial harm would result, that should be weighed against the public benefits of the proposal. I now turn to the heritage balance in that context, and in respect of Corse Grange.

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<sup>44</sup> *Bedford Borough Council v Secretary of State for Communities and Local Government, Nuon UK Ltd.* [2013] EWHC 2847 (Admin), paragraph 85.

## **The heritage balance**

### *Approach*

136. There is no prescribed way in which heritage harms and benefits may be weighed against one another. For the reasons given in paragraph 106 above, however, to avoid any ambiguity and to ensure any benefits of the scheme are counted singularly, I have addressed any positive implications of the UU after establishing any harm.

### *Provision of housing*

137. If allowed, the proposal would enable the delivery of 50 dwellings. Whilst the lack of sufficient forward supply of homes is a District-wide issue, there is nonetheless a significant lack (at a minimum 174 dwellings over the next 4 years). That is not new. A plan-led remedy is likely to take a number of years. Addressing that issue in the meanwhile is somewhat reliant on ad-hoc proposals.

138. Moreover housing is occupied by people, which can sometimes be obscured by a discussion over numbers. The lack of a sufficient forward pipeline of deliverable housing sites will inevitably mean that the housing needs of many people, wherever they are, will not be met. Amongst other things the NPPF seeks to boost significantly the supply of homes, and at paragraph 70 sets out how small and medium sized sites can 'make an important contribution to meeting the housing requirements of an area, and are often built-out relatively quickly'. In that context I accord the provision of 50 homes significant weight.

### *Provision of affordable housing*

139. The proposal is for 40% affordable housing, as defined in the glossary to the NPPF, consistent with the expectations of Core Strategy policy CSP.5. That the scheme is policy compliant in that respect does not, in my view, diminish the social benefit associated with provision of affordable housing.

140. Core Strategy paragraph 4.13 explains how acute affordable housing needs were in the District at or before 2012: 'in common with every other district in the southwest, there is a shortage of affordable homes in the Forest of Dean and the provision of affordable homes is a priority... If all the needs were to be met over a five year period then over 3,525 affordable homes would be required'. Even on the intention of providing 70 affordable dwellings a year as in policy CSP.5, meeting the figure of 3,525 alone would take over 50 years (setting aside any newly arising needs).

141. LHN has two principal inputs, 2014-based household projections (published 12 July 2016) and affordability. The latter is based on the median workplace-based affordability ratio, i.e. median house prices represented as a multiple of median earnings. In 2023 the median affordability ratio for FDDC stood at 9.38. In 2012 it stood at 7.65. There is therefore no indication that affordability since the adoption of the Core Strategy has declined.

142. Whilst I accept that the pace of change here has recently been significant, and that many local residents express concern about the scheme, the social implications of the foregoing are stark. Many individuals' needs for

accommodation continue to be unmet, in direct contrast to the ethos of Chartism. NPPF paragraph 60 and 63 in particular set out the importance of meeting as much of an area's identified housing need as possible, including in respect of those who require affordable housing. I therefore also accord the intended provision of 20 affordable homes significant weight.

*Economic and environmental benefits*

143. In addition to providing employment during construction and maintenance, the proposal would result in economic benefits by virtue of additional local spend. Reflecting on my reasoning in paragraph 59 above, additional economic gravity here would, in all likelihood, be of benefit to the fabric of the community. Notwithstanding the loss of some agricultural land and the associated economic disbenefits of that, it is nonetheless fair to ascribe the economic benefits of the scheme moderate weight.
144. Whilst I will return to the ecological implications of the proposal, the scheme aims towards a marked increase in BNG, far in excess of the 10% statutory requirement that applies to relevant applications. Given the current nature of the site, used for arable production, there is no substantive evidence before me to indicate that significant BNG is unattainable (or would otherwise result). The environmental benefits of the scheme may therefore rationally be accorded at least limited weight, as may the benefits in terms of provision of a LAP, LEAP and open space (the benefits of the latter not being merely confined to addressing the implications of the development proposed but of some wider benefit too).

*Unilateral Undertaking of 22 October 2024 ('UU')*

145. The evidence associated with the UU has various shortcomings insofar as weight is concerned. The Basic Structural Condition Survey does not appear to have been heritage-led, for example identifying building components and methodologies that would not have existed in the early-to-mid nineteenth century (sarking and a damp proof course). The Detailed Cost Plan itemises various interventions which are not remedial or original, including the provision of mains water and electricity.
146. On the appellant's own evidence listed building consent would be needed, would not be needed, or may be needed for certain works. That is setting aside that the works to the barns are premised on facilitating their conversion to residential use. That would need planning permission. There is also nothing to substantiate that their conversion to residential use would be unviable or inherently dependent on the scheme before me.
147. Article 5 of the 1964 Venice Charter sets out, however, that conservation is facilitated by making use of heritage assets 'for some socially useful purpose'. The PPG says similar.<sup>45</sup> Addressing the dilapidated state of the outbuildings, if nothing else than to forestall further decline and to start on a path to some form of active use, is inherently a beneficial endeavour.
148. With that in mind, and in fairness to the appellant, the document entitled 'Proposed Works to Snigs End Farm Barn and Other Outbuildings' are limited

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<sup>45</sup> Reference ID; 19a-002-20190723.

to what might be characterised as structural repairs. They may therefore may or may not constitute works that would need consent under the LBCA if undertaken with due sensitivity (setting aside further works). It therefore accord the UU weight in favour of the scheme, albeit only limited on account of the foregoing.

### *Consideration*

149. Notwithstanding my reasoning in paragraphs 134 and 135, the public benefits of the scheme would collectively be substantial. They would provide clear and convincing justification relative to the totality of the heritage harm that would result, viewed through the lens of NPPF paragraph 208 and 209. It therefore follows that there is no clear reason for refusal in respect of NPPF paragraph 11.d)i.

### **Other matters**

150. I have taken careful account of all representations in respect of the proposal. Those representations reflect various concerns in addition to matters addressed via the main issues above, including the potential implications of the scheme as regards the loss of agricultural land, flood risk, drainage and sewerage, highways effects, living conditions of neighbours, ecology on and off site, and increased demands on various forms of infrastructure.

### *Agricultural land*

151. In gauging the economic benefits of the scheme above I have taken into account implications in respect of the loss of agricultural land. Whilst the loss of any agricultural land has implications for farming output, at its core the planning system balances between different competing interests in the land. In brief, NPPF paragraph 180.b) sets out how planning should contribute to and enhance the natural environment including by recognising the 'economic and other benefits of the best and most versatile agricultural land' ('BMV').

152. The site is shown as undifferentiated agricultural land classification ('ALC') grade 3 on Natural England mapping.<sup>46</sup> In my hearing agenda of 3 October 2024 I explained that I intended to ask whether it is known if the site contains BMV land. Interpreting that question in a certain way, the appellant produced a BMV Report of 21 October 2024. Again with reference to the principles in *Wheatcroft* and *Holborn*, FDDC were of the view that the BMV Report should not be accepted. That is despite local planning authorities having the ability to ask for further information at application stage,<sup>47</sup> and the suggestion that I should attribute 'minor' harm to the loss of agricultural land during the hearing for the first time.

153. In that context to set the BMV Report aside would unfairly deprive the appellant both of the opportunity of responding to FFDC's position and that of third parties (noting the reference earlier to crops previously grown here). There was, moreover, the opportunity to discuss the BMV Report at the hearing itself. In short, informed by desk-based research and survey work undertaken on 16 October 2024, the ALC Survey found the soil profile on site to conform with the Whimble series, soil association classification 572f,

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<sup>46</sup> Acknowledged factually at page 60 of the associated officer report.

<sup>47</sup> Section 62(3) of the 1990 Act.

'reddish fine loamy or fine silty over clayey soils with slowly permeable subsoils and slight seasonal waterlogging'.

154. That has been summarised in the ALC survey as heavy clay loam (HCL). Combined with a field capacity figure of 146 days taking account of climactic conditions, in line with table 6 the Ministry for Agriculture Food and Fisheries' 1988 Revised criteria for grading the quality of agricultural land (ALC011), the ALC of the site is identified as 3b, i.e. not BMV. In summary, section 7 of the ALC Survey finds that the 'overriding limitation to the ALC Grade is due to soil wetness'. That the soil here is wet, boggy or prone to waterlogging is consistent with the concerns of many nearby residents in respect of flooding (and with what I heard at the hearing from Councillor Roberts).
155. Therefore, on the balance of the evidence before me, the scheme would not entail the loss of BMV and no harm is attributable to the scheme in that respect with reference to NPPF paragraph 180.b). As an aside I note that much land in the District's administrative area outside of settlement boundaries is shown on Natural England's ALC maps as either undifferentiated grade 3 or higher, particularly towards the north of the District. As such, combining that with my reasoning in paragraphs 95 and 151 of this decision, some loss of agricultural land is more-or-less inevitable.

#### *Flood risk, drainage and sewerage*

156. Many local residents have expressed concern that the site and wider area including stretches of the Glynch Brook, A417 nearby, and also at Hartpury and Maisemore, are prone to waterlogging or flooding. Particular reference is made to flooding in 2007 (when there was well-documented record rainfall). Built development inherently affects the drainage characteristics of any site by virtue of introducing impermeable surfaces.
157. Aside from a small element of the 'tail', the site is otherwise within flood zone 1 (i.e. at low probability of flooding, having a less than 0.1% annual probability of river flooding). As acknowledged in the appellant's Flood Risk Assessment & Outline Surface Water Drainage Strategy ('FRA'), principally on account of the landform but also logically aligned with the nature of soil here in the BMV Report, that there is some risk of surface water and groundwater flooding (likely to exacerbated by implications of climate change). The FRA also notes that there is the potential in times of heavy rainfall for the existing drainage system here to be insufficient to cope with additional demand, which has potentially occurred previously in respect of the A417.
158. The FRA thereafter proposes an outline approach to surface water drainage, discounting infiltration on account of the nature of the land. That approach has informed the tail of the site arcing towards a tributary of the Glynch Brook, and an approach designed to ensure that surface water run off post-development does not exceed greenfield run-off rates. That would include attenuation measures, suggested in the FRA to be a basin in the south-west corner of the site. The scheme being in outline, such an approach could readily be secured via condition.
159. Whilst that approach would not alleviate any propensity for flooding in the wider area, it would nevertheless ensure that the scheme would have no

contributory adverse effect. I note that Severn Trent Water have no objection to the scheme, subject to conditions.<sup>48</sup> The appellant has also produced a Utilities Assessment, which provides details of infrastructure owned by utilities providers to inform an assessment of scheme feasibility and design of any subsequent approach.

160. The Pitt's Mill sewage treatment works is a short distance away and discharges into the Glynch Brook. Several local residents have brought my attention to a number of direct sewage discharges into the Brook in recent years. The scheme would increase pressure on those works. However that facility is operated by Seven Trent Water who, as above, have no objection to the scheme.
161. Moreover their management of that facility is governed by separate legislation, principally the Water Industries Act 1991 as amended. NPPF paragraph 194 guides that 'the focus of planning policies and decisions should be on whether proposed development is an acceptable use of land, rather than the control of processes or emissions (where these are subject to separate pollution control regimes). Planning decisions should assume that these regimes will operate effectively.' Therefore whilst local residents concerns in respect of flood risk, drainage and sewerage are entirely understandable, there is no indication that the development would be unacceptable in respect of flooding, drainage or sewerage.

#### *Highways effects*

162. As above the A417 is described in the CAA as busy. The development proposed would inevitably lead to more comings and goings, and I note that much of the wider highways network was created historically (and therefore inherently not designed to modern standards in terms of geometry, visibility, or design capacity). All told, however, the implications of the scheme relative to the existing baseline level of vehicular use hereabouts would be fractional.
163. As in the appellant's Transport Statement, there were no recorded accidents in the vicinity of the appeal site over the period 2017 to 2012 (despite many properties drawing their access directly from the A417 nearby which is presently subject to a 40mph speed limit northwards of the site). Subject to various measures secured via condition or obligation, including adherence to a Travel Plan designed to encourage modes of transport other than via private vehicles, GCC have no objection to the scheme (in terms of access provision, visibility splays, safety, traffic generation or otherwise). There is no evidence before me to reach a contrary view.

#### *Living conditions of neighbours*

164. I have set out above how there are a number of residential 'visual receptors' around the site, particularly immediately to the north, whose experience of the landscape would be affected in visual terms. There is a blurred interface between visual effects in landscape terms and living conditions, notwithstanding that there is no right to a particular view. I acknowledge that living conditions are, in large part, dependent on personal perception.

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<sup>48</sup> As set out in their correspondence of 2 June 2023.

165. As on plan no. 1070011-ADAS-XX-XX-DR-L-8004 Rev. 05, however, there would be some 15m separation between any proposed dwelling and the plots of properties to the north. That does not appear to be an atypical separation distance relative to that which exists elsewhere in the surrounding area.<sup>49</sup> The separation distance between residential development and Snig's End Farmhouse would be far greater, around 60m.
166. As above nos. 13, 14 and 15 Compton Close, single storey properties, appear to be set at a fractionally lower ground level to than the high point of the appeal site and are separated from it by a hedgerow running the length of the northern boundary. The latter would provide screening in terms of privacy in respect of the occupants of properties off Compton Close and also to the occupants of the Poplars. Moreover a suitable approach to landscaping, a reserved matter, including in respect of maintaining or augmenting a natural buffer along the northern edge of the site would have further potential to address effects.
167. Given that the site declines north to south and south-west, and as scale is also reserved, the scheme could in my view brought forward in such a way so as to avoid unacceptable effects in respect of outlook and natural light. Construction would be temporary, and any disruption resulting from it could be minimised subject to adherence to conditions.

#### *Ecology, on-site*

168. As described in the appellant's Ecological Impact Assessment ('EcIA'), the present ecological value of the site relates principally to its margins, hedgerows, scrub and waterlogged areas (both in terms of flora and fauna). Whilst limited by virtue of the lack of hedgerow management over time and agricultural practices, the EcIA nevertheless recorded that the site was used by birds, mice, rabbits, foxes and bats,<sup>50</sup> (with some potential for the use of watercourses or bodies nearby by great crested newts and otters).
169. There is no indication that the EcIA was flawed by lack of comprehensiveness or the need for further studies; in line with the Chartered Institute of Ecology and Environmental Management's Guidelines for Ecological Impact Assessment (September 2018) it sets out openly its limitations. Any findings may need to be updated as time passes. That is notwithstanding that local residents have also mentioned sightings of toads, voles and slow worms.
170. The proposal would inevitably change the nature of the site, entailing the loss of some habitat, notably the roadside hedge, and altering the value of the site to some species. However the majority of boundaries of the site would remain (and could be augmented subject to an appropriate approach at reserved matters stage).
171. As above, the proposal is for significant BNG such that there is every opportunity to increase the value of the site to many existing species and its overall diversity. Sensitively managing biodiversity through construction could readily be achieved via adherence to conditions, and there are provisions in

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<sup>49</sup> For example comparable to the separation distance between the properties off Yew Tree Close and rear gardens off Compton Close, or between the facing rear elevations of properties along Compton Close and Boundary Place.

<sup>50</sup> Noting a bat roost was found at location 'B2a', the former cart shed at the outbuildings.

other regimes for safeguarding ecology (notably in the Wildlife and Countryside Act 1981 as amended).

### *Ecology, off-site*

172. As above there is a potential interconnectedness of habitat at the appeal site and its value to bats and the SAC. FDDC's officer report refers to 3 roosts relatively nearby, noting that there is a roost recorded in the EcIA at Snig's End Farmhouse outbuildings and also evidence of use those structures by bats more broadly at some point. Despite the site being some distance from the nearest SSSI component to the SAC above, and that the EcIA recorded no evidence of use by Bechstein's bat and limited use of the site and its surroundings by greater and lesser horseshoe bats,<sup>51</sup> likely adverse effects to the ecological integrity of the SAC cannot necessarily be ruled out.
173. Habitats Regulation 63 requires that, before deciding to give any permission or other authorisation for a project which is likely to have a significant effect on a European site, a competent authority must make an appropriate assessment of its implications. I have undertaken an appropriate assessment in a reasonable and proportionate manner relative to circumstances here. As above the potential pathways between the site and the SAC are there, albeit on a precautionary basis. I have set out above how on-site the scheme could be managed and undertaken such as to safeguard ecology and enhance the value of the site in time.
174. Natural England, the appropriate nature conservation body under Habitats Regulation 6(3), commented on the scheme via correspondence of 7 December 2023. Insofar as implications for the SAC were concerned they were satisfied that, subject to adherence with various conditions including in respect of artificial lighting, adverse effects would be avoided. Via that correspondence Natural England further set out, rationally given the different reason for that SSSI being designated, that there was no likely pathway in respect of the Oridge Street Meadows SSSI.
175. In that context, subject to suitably worded conditions, to the provisions of the S106s, and given protections accorded via other regimes, the proposal would suitably safeguard ecology and biodiversity both directly and indirectly, and would not adversely affect the integrity of the SAC.

### *Infrastructure and obligations*

176. NPPF paragraph sets out that consideration should be given as to whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations (in that order of preference). Obligations should only be sought where they meet the tests set out in NPPF paragraph 57, also contained in Regulation 122 of the Community Infrastructure Levy Regulations 2010 as amended (the 'CIL Regulations').
177. The S106s commit all those with a legal interest in the land to the fulfilment of certain obligations in the eventuality that the appeal were to be allowed, conditional on my reasoning. They contain obligations by way of financial contributions towards school transport, libraries, primary education, a traffic

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<sup>51</sup> Species referred to in respect of the SAC pursuant to annex II of Directive 92/43/EEC.

regulation order, travel plan monitoring and legal fees. They also contain obligations in respect of provision of affordable housing, self-build and custom housebuilding, maintenance of an ecological buffer, provision of a LAP, LEAP and open space (along with associated details of implementation, management, trigger points, notice requirements and enforceability).

178. There is either an appropriate basis for all contributions and provisions of the S106s or they fulfil the intention of the scheme. That includes the affordable housing contribution in line with Core Strategy policy CSP.5, open space in line with Core Strategy policy CSP.9, and GCC contributions as set out in hearing documents 4 and 5. There is no dispute between the main parties over the justification or appropriateness of any obligations. As above there are no other relevant requests for obligations that have been sought and not fulfilled. As such there is nothing to indicate that associated infrastructure is, or would be, insufficient to accommodate the effects of the development proposed.
179. Inherent in my reasoning above is that the obligations contained within the S106s and the UU are necessary to make the development proposed acceptable, and also accord with the relevant provisions of NPPF paragraph 57 and CIL Regulation 122 as applicable.

### **Planning balance**

180. I have reasoned that there would be harm arising from the scheme by virtue of its location, landscape and heritage effects. Respectively I have gauged that harm to be negligible, limited and no more than limited dependent on the particular asset. Set relative to that there are various social, economic and environmental benefits to the scheme, ranging from significant to limited in terms of weight. Collectively there are therefore no adverse impacts that would significantly and demonstrably outweigh the benefits (in line with NPPF paragraph 11.d)ii). With reference to the statutory basis for decision-taking, other material considerations therefore justify allowing the appeal. No other matters considered above alter that reasoning.

### **Conclusion**

181. Consequently, having taken account of the development plan as a whole along with all other relevant material considerations, I conclude that the appeal should be allowed subject to the conditions below and to the obligations contained within the S106s and UU.

### **Conditions**

182. In addition to requiring reserved matters applications and commencement in accordance with statute via condition 1, for clarity, and so that the proposal is implemented as assessed above, I have imposed condition 2 requiring adherence to the relevant supporting plans. Condition 2 includes the Landuse Parameters Plan 1070011-ADAS-XX-XX-DR-L-8003 Rev. 03., adherence to which FDDC had proposed separately.
183. To address and minimise disruption during construction to those nearby in line with Allocations Plan policy AP.1 generally, and NPPF paragraph 135.f) specifically, adherence to a construction management plan would be secured via condition 3. For similar reasons, albeit in respect of future occupants and

on a precautionary basis on account of the proximity of the A417, applying the recommendations of the appellant's Noise Appraisal would be achieved by compliance with condition 4. Subject to requiring adherence in that respect, and given the applicable provisions of the Building Regulations 2010 as amended, there is no necessity of requiring the incorporation of good acoustic design techniques or for a verification report (as FDDC suggest).

184. Consistent with my reasoning in paragraphs 162 to 163 above,<sup>52</sup> with the position of GCC, and to adhere to the relevant provisions of NPPF paragraphs 108 and 114.b), I have imposed conditions 5, 6, 7, 8, and 9. It is unnecessary to require that the Traffic Regulation Order, to which condition 5 relates, would be effected prior to any development being undertaken as is put to me (given that appropriate provision for construction traffic and site access is governed by other conditions).
185. Following on from my reasoning in paragraphs 156 to 161 above, to ensure that the proposal is appropriately designed to mitigate any effects in respect of vulnerability to flooding on site and elsewhere in line with NPPF paragraph 173.c), I have imposed conditions 10 and 11.
186. With reference to the statutory duties on me in respect of biodiversity and reflecting my reasoning at paragraph 9 above, I have imposed conditions 12, 13 and 14 in respect of great crested newts. The wording of those conditions draws specifically from the approach in the District Licensing Scheme. Similarly, and with reference to my reasoning in respect of on-site ecology, conditions 15, 16 and, to some extent, 17 are necessary (related respectively to a construction and environmental management plan, a landscape and ecological management plan and an ecological design strategy).
187. Whilst there is some thematic overlap between the aims of conditions 15 and 16 with those of condition 17, the latter responds specifically to Natural England's position as regards potential off-site ecological implications. Condition 17 also incorporates the requirement for biodiversity enhancement or BNG addressed above. Condition 18 provides further safeguards to ensure that illumination does not unduly affect ecology.
188. Overlapping to some extent with the rationale for conditions justified in the previous paragraph, and also reflecting the statutory duty on me under section 197 of the 1990 Act, condition 19 is also necessary to ensure the scheme is undertaken with appropriate sensitivity as regards trees. In line with NPPF paragraph 104, effects to bridleway GC08 and footpath GG09 would be minimised by adherence to condition 20.
189. Although the potential for the site to contain archaeological interest is not particularly high, following on from my reasoning in paragraph 82 above and in line with NPPF paragraph 200, condition 21 is necessary to ensure that any archaeological interest embodied in the site is suitably investigated and addressed. Although there is limited potential for any contamination on site in the light of the site's agricultural history, as a precautionary approach in line with NPPF paragraph 189, condition 22 is nevertheless necessary should

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<sup>52</sup> And, in respect of condition 5, with regard to PPG Reference ID: 21a-009-20140306.

unforeseen contamination be encountered in the course of undertaking the development proposed.

190. Conditions 3, 10, 12, 13, 14, 15, 16, 17, 18 and 21 must necessarily apply before any development is commenced. Those conditions relate to implications of the development proposed, or its construction, which, if not managed suitably from the outset, may result in adverse effects (or to matters integral to the design of the scheme).
191. FDDC's suggested proposed pre-commencement conditions varied as to whether they stated that groundworks, site clearance and demolition was within the ambit of commencement. For the avoidance of doubt the conditions attached to this permission are from the perspective that any alteration to the nature of the site in relation to effecting the development proposed represent part of the development hereby permitted.
192. FDDC's suggested conditions 22 and 27 relate squarely to landscaping, a reserved matter. It would therefore not be appropriate to impose those conditions at this juncture, a position which is essentially procedural rather than commenting on the importance of the matters to which those conditions relate.
193. In imposing conditions I have had regard to the NPPF, to the PPG, and to relevant statute. Although some conditions have an implication for reserved matters, in my view none are of such a degree of specificity or overlap in that regard that they would be inappropriate to impose at this stage. In that context I have amended the wording of certain conditions put to me, and amalgamated some as well, to ensure that all are appropriate (without altering their fundamental aims).

*Tom Bristow*

INSPECTOR

## **SCHEDULE 1, CONDITIONS**

- 1) Details of appearance, landscaping and scale (the 'reserved matters') shall be submitted to, and approved in writing by, the local planning authority before any development hereby permitted takes place, and the development shall be carried out as approved. Reserved matters details shall include, or be accompanied by, existing and proposed site and floor levels and plans of sections through the site. Application for approval of the reserved matters shall be made to the local planning authority not later than the expiration of 3 years from the date of this permission. The development hereby permitted shall begin not later than the expiration of 2 years from the approval of the reserved matters (or, in the case of approval on different dates, the date of approval of the last of the reserved matters to be approved).
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan 1070011-ADAS-XX-XX-DR-P-8001 Rev. 2., Landuse Parameters Plan 1070011-ADAS-XX-XX-DR-L-8003 Rev. 03., Site Layout Plan 1070011-ADAS-XX-XX-DR-L-8004 Rev. 05, 662582-10-03 Rev. C and 662582-10-04.
- 3) No development hereby permitted shall take place until a Construction Management Plan ('CMP') has been submitted to and approved in writing by, the local planning authority. The CMP shall at least include details in respect of: (i) the parking of vehicles of site operatives and visitors (including measures to ensure satisfactory access and movement for existing occupiers of neighbouring properties during construction, (ii) routes for construction traffic, (iii) any temporary access provision to the site, (iv) locations for loading, unloading and storage of plant, waste and construction materials, (v) measures to prevent mud, debris and dust being carried onto the highway, (vi) arrangements for vehicle turning, (vii) working or operational hours, (viii) arrangements to receive abnormal loads or unusually large vehicles, (ix) methods of communicating the CMP to staff, site visitors and those nearby, and (x) measures, steps and procedures, to minimise the effects of any noise, vibration, dust, light spill or glare resulting from undertaking the development hereby permitted (including in respect of site set up, site preparation, groundwork, construction and site clearance). The approved CMP shall be adhered to throughout construction.
- 4) The development hereby permitted shall accord with the recommendations of the Desktop Noise Appraisal, RSK Acoustics, ref. 2060495-RSK-TN-001 Revision: 01, 4 November 2022.
- 5) No dwelling hereby permitted shall be occupied until a Traffic Regulation Order has taken effect to lower the speed limit of the A417 adjacent to the site access and effect alterations to the highway as shown on approved plan no. 662582-10-03 Rev. C.
- 6) Other than works related to this condition, no development hereby permitted shall take place until the first 20m of access road relative to the A417 and the junction with it has been provided to at least binder course level (along with visibility splays being secured as in approved plan 662582-10-03 Rev. C).

- 7) No dwelling hereby permitted shall be occupied until it has been provided with associated means of access in respect of vehicles, pedestrians and cyclists (including tactile crossing points, parking and manoeuvring provision) in accordance with the details set out in the Transport Statement ref. 111117-TS (2.0), 25 August 2023, and approved drawing 1070011-ADAS-XX-XX-DR-L-8004 Rev. 05. One implemented, means of access, tactile crossing points, along with parking and manoeuvring provision shall be maintained as such and kept available for those purposes alone.
- 8) The residential vehicular access hereby permitted shall not be brought into use until visibility splays have been provided in line with approved plan 662582-10-03 Rev. C, measured from an 'X' point 2.4m back from the carriageway edge, to 'Y' points 43m distant in both directions on the nearside carriageway edge. Those visibility splays shall be maintained so as to provide clear visibility between 1.05m and 2.0m at the X point, and between 0.6 and 2.0m at the Y points above the adjacent carriageway level.
- 9) The development hereby permitted shall accord with the approach in the Framework Travel Plan ('FTP'), ref. 111117-TP (1.0), 30 March 2023. In the event that the scheme fails to meet the targets within the FTP, a revised plan shall be submitted to and approved in writing by the local planning authority to address any shortfalls (and where necessary make additional provision to promote modes of transport other than via private vehicles). The revised plan as approved shall thereafter be adhered to.
- 10) No development hereby permitted shall take place until a detailed Sustainable Drainage System ('SuDS') scheme has been submitted to, and approved in writing by, the local planning authority. The SuDS scheme shall be in general accordance with the Flood Risk Assessment & Outline Surface Water Drainage Strategy, RSK ADAS, report ref. 680758-R1(00)-FRA, November 2022. The SuDS scheme shall include details of (i) a timetable for implementation, (ii) a risk assessment in respect of flooding during groundwork and building phases along with mitigation measures, (iii) the technical feasibility/ viability of the drainage system to manage flood risk on site and elsewhere, (iv) measures to manage water quality, (v) scheme objectives including in respect of attenuation and water discharge rates, and (vi) arrangements for ongoing maintenance and management (including any arrangements for adoption by any public body or other statutory undertaker). The SuDS scheme shall be implemented in line with the approved timetable and thereafter maintained and managed as approved.
- 11) Reserved matters applications pursuant to condition 1 above shall include, or be accompanied by, details of surface and foul water drainage (which shall be submitted to, and approved in writing by, the local planning authority). Those details shall include any connections to existing facilities, a timetable for implementation and arrangements for maintenance. The development hereby permitted shall be undertaken and maintained in accordance with the foregoing approved details.
- 12) No development hereby permitted shall take place other than in accordance with the terms and conditions of the District's Organisational License in respect of great crested newts (WML-00R138), or subsequent licence, and in line with the approach detailed on the plan entitled 'Land at Gloucester Road, Staunton-

Corse: Impact Plan for great crested newt District Licensing' (version 1, 2 November 2021).

- 13) No development hereby permitted shall take place until a certificate from the Delivery Partner (as set out in the District's Organisational License WML-OR138 or subsequent licence) confirming that all necessary measures regarding great crested newt compensation have been appropriately dealt with, has been submitted to, and approved in writing by, the local planning authority.
- 14) No development hereby permitted shall take place other than in accordance with Part 1 of the great crested newt mitigation principles (as set out in the District's Organisational License WML-OR138 or subsequent licence). Furthermore (i) works which will affect likely newt hibernacula may only be undertaken during the active period for amphibians, (ii) capture methods must be used at suitable habitat features prior to any development hereby permitted taking place (i.e. hand/ destructive/ night searches, which may include the use of temporary amphibian fencing, to prevent newts moving onto the site from adjacent suitable habitat, installed for the duration of the construction), (iii) amphibian fencing and pitfall trapping must be undertaken at suitable habitat features prior to any development hereby permitted taking place.
- 15) No development hereby permitted shall take place until a Construction and Environmental Management Plan ('CEMP') has been submitted to, and approved in writing by, the local planning authority. The CEMP shall, along with any necessarily updated studies relative to the Ecological Impact Assessment, ref. 1051059/ BRT69105-1092(01), March 2023, include details of: (i) a risk assessment of potentially damaging construction activities, (ii) the identification of 'biodiversity protection zones', (iii) practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction, which may be provided as a set of method statements, (iv) the location and timing of sensitive works to avoid harm to biodiversity features, (v) the use of protective fences, exclusion barriers and warning signs, including advanced installation and maintenance during the construction period, (vi) a non-native invasive species protocol, (vii) the times during construction when specialist ecologists need to be present on site to oversee works, (viii) responsible persons and lines of communication, (ix) the role and responsibilities of an ecological clerk of works or suitably qualified person including in respect of a post-implementation verification report, and (x) ongoing monitoring, including compliance checks by a suitably qualified person during construction and immediately post-construction. The CEMP shall be adhered to throughout construction.
- 16) No development hereby permitted shall take place until a Landscape and Ecological Management Plan ('LEMP') has been submitted to, and approved in writing by, the local planning authority. The LEMP shall include details of: (i) a description and evaluation of features to be managed, (ii) landscape and ecological trends and constraints that may influence management, (iii) aims and objectives of management (including those related to particular species), (iv) appropriate management options for achieving aims and objectives, (v) prescriptions for management actions, (vi) preparation of a work schedule (including an annual work plan capable of being rolled forward over a five year period), (vii) details of the body or organisation(s) responsible for implementing the LEMP, (viii) ongoing management, monitoring and provision

for remedial measures (the latter to be effected in the eventuality that the aims and objectives of the LEMP are not met to deliver the fully functioning biodiversity objectives thereof), (ix) a timeframe for reviewing the LEMP, and (x) details of how the aims, objectives and measures of the LEMP will be communicated to the occupants of the development hereby permitted. The approved LEMP shall be implemented, adhered to, and maintained in accordance with the approved details.

- 17) No development hereby permitted shall take place until an Ecological Design Strategy ('EDS') has been submitted to, and approved in writing by, the local planning authority. The EDS shall address ecological mitigation, compensation and biodiversity enhancement and shall include details of (i) its objectives, (ii) a review of site constraints and potential, (iii) detailed designs or working methods, or both, designed to achieve objectives, (iv) the extent and location of EDS works, (v) the type and source of any materials and planting, (vi) a timetable for implementation aligned with any phasing of development, (v) persons responsible for implementing and maintaining works, (vi) monitoring and any remedial measures, and (vii) details in respect of the disposal of any waste arising from the EDS works. The development hereby permitted shall accord with the approved EDS, including in respect of its timetable for implementation, and shall thereafter be maintained as approved.
- 18) No development hereby permitted shall take place until a lighting strategy has been submitted to, and approved in writing by, the local planning authority. The lighting strategy shall include details of: (i) any sensitive areas or dark corridors on site that particularly sensitive in respect of ecology and where illumination is likely to result in disturbance to ecology, including bats, (ii) lighting design in respect of areas or features identified pursuant to criterion (i) to achieve compliance with the Bat Conservation Trust's Guidance Note 08/18 'Bats and artificial lighting in the UK' (or successor document) including in respect of any shielding, baffling or other measures to manage illumination, (iii) light locations, heights, luminosity, colour, methods to control lighting (such as timer operation or passive infrared sensors), and (iv) lighting contour plans, both horizontal and vertical where appropriate, taking account of site features and landscaping. The development hereby permitted shall be undertaken, and maintained, in accordance with the approved lighting strategy. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (or any subsequent modification to that Order, or otherwise), no external lighting other than that approved via the lighting strategy shall be installed in relation to the development hereby permitted.
- 19) Reserved matters applications pursuant to condition 1 above shall include, or be accompanied by, an Arboricultural Method Statement ('AMS') in accordance with British Standard 5837:2012 'Trees in Relation to Design, Demolition and Construction' or successor document (which shall be submitted to, and approved in writing by, the local planning authority). The AMS shall address any trees on or off site that may be affected by undertaking the development, and shall include details of: (i) protective fencing and ground protection, (ii) the location of any services, utilities and drainage that may have an effect on trees, (iii) sensitive working methods including in relation to boundary treatment and any use during construction of areas within trees' root protection areas including no dig approaches, (iv) provision for arboriculturalist

supervision, inspection and reporting, (v) the timing, phasing and methodology of any arboricultural works including in respect of any root pruning, and (v) a tree protection plan. The development hereby permitted shall be undertaken in accordance with the approved AMS.

- 20) Reserved matters applications pursuant to condition 1 above shall include, or be accompanied by, details of measures to mitigate adverse effects to bridleway GC08 and footpath GC09 (the 'public rights of way') and their users during construction and thereafter (which shall be submitted to, and approved in writing by, the local planning authority). Those details shall include measures to avoid or manage any encroachment or alteration of whatever form, whether temporary or permanent, on the width or nature of the public rights of way along with any barriers or features related to them. The development hereby permitted shall be undertaken and maintained in accordance with the foregoing approved measures.
- 21) No development hereby permitted shall take place until a programme of archaeological work in accordance with a written scheme of investigation has been submitted to, and approved in writing by, the locally planning authority (in accordance with the recommendations of the Archaeological Desk-Based Assessment, RSK ADAS Ltd., June 2021). The development hereby permitted shall be undertaken in accordance with the approved scheme.
- 22) If, during the course of undertaking the development hereby permitted, any unforeseen contamination is encountered, measures for remediation shall be submitted to, and approved in writing by, the local planning authority before development affecting the relevant part of the site proceeds. Development shall be undertaken in accordance with any approved remediation measures.

## **SCHEDULE 2, APPEARANCES**

### *For the appellant*

Michael Bedford KC	Cornerstone Barristers
Anthony Heslehurst	ADAS
Gail Stoten	Pegasus Group
Simon Coop	Lichfields

### *For FDDC*

Stephen Colegate	FDDC
Hannah Ramsey	FDCC
Minette Matthews	FDDC

### *For Gloucestershire County Council*

Krzysztof Kwiatkowski	Specialist Advisor
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### *Interested parties*

Philip Burford	Councillor
Julie C	Local resident

### **SCHEDULE 3, HEARING DOCUMENTS**

- 1) Statement of Common Ground between the appellant and FDDC regarding the application of NPPF paragraph 11.d), which refers to the judgement in *Monkhill Ltd. v Secretary of State for Housing, Communities and Local Government & Anor* [2021] EWCA Civ 74 (28 January 2021).
- 2) A completed version of Annex 3 to my hearing agenda of 3 October 2024, which sets out a schedule of the main parties' perspectives on the adverse and positive implications of the proposal and their views on the weight attributable to each.
- 3) Appeal at Land South of Burford Road, Minister Lovell, ref. APP/D3125/W/23/3331279.
- 4) Summary of Gloucestershire County Council's position in respect of relevant planning obligations, NPPF paragraph 57 and CIL Regulation 122 compliance.
- 5) Gloucestershire County Council's position in respect of relevant planning obligations, NPPF paragraph 57 and CIL Regulation 122 compliance.