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## Appeal Decision

Inquiry held on 25, 26 and 27 March 2014

Site visit made on 13 April 2014

**by Jessica Graham BA(Hons) PgDipL**

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

**Decision date: 22 May 2014**

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**Appeal Ref: APP/G1630/A/13/2209001**

**Land to the South of Beckford Road, Alderton, Tewkesbury**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Charles Church Developments Ltd against the decision of Tewkesbury Borough Council.
  - The application Ref 13/00114/FUL, dated 4 February 2013, was refused by notice dated 15 October 2013.
  - The development proposed is 47 dwellings, site infrastructure, landscape buffer and access.
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### Decision

1. The appeal is allowed and planning permission is granted for 47 dwellings, site infrastructure, landscape buffer and access on Land to the South of Beckford Road, Alderton, Tewkesbury in accordance with the terms of the application, Ref 13/00114/FUL, dated 4 February 2013, subject to the 21 conditions set out in the Schedule attached to this Decision Letter.

### Procedural matters

2. Alderton Parish Council (APC) sought, and was granted, Rule 6 status under the Inquiry Procedure Rules and was duly represented at the inquiry.
3. At the inquiry I was provided with certified copies of two S.106 Agreements made between the appellant and the Council, and the appellant and the County Council. I have taken these into account in my consideration of the appeal.
4. An application for costs was made by the appellant against the Council. That application is the subject of a separate Decision Letter of even date.

### Issues for the inquiry

5. The Council's refusal notice dated 15 October 2013 cited five reasons for refusal. Reasons 2–5 concerned the absence of provision for affordable housing, and the absence of contributions toward other local infrastructure and services. At the inquiry the Council confirmed that the subsequent completion of the two S.106 Agreements had secured its required provision of affordable housing and other relevant contributions, and that it therefore no longer wished to pursue refusal reasons 2-5.

6. As a consequence the Council's single remaining reason for refusal, and the main issue in this appeal, is the effect that the proposed development would have on the character and appearance of the area.
7. The Council took the view that the harm the proposal would cause to the character and appearance of the area would prevent it from constituting "sustainable development". APC raised a number of further concerns as to whether or not the development could be considered "sustainable", including such matters as the absence of a choice of sustainable modes of transport.
8. The question of whether or not the proposal amounts to sustainable development is key: not least because the government's National Planning Policy Framework (NPPF) explains that a presumption in favour of such development "should be seen as a golden thread running through both plan-making and decision-taking". However, at the inquiry there was considerable disagreement as to how this presumption should operate.
9. I shall therefore start by considering the NPPF's approach to sustainable development, since that determines the decision-making process I must follow. I will then assess the impact that the development would have on the character and appearance of the area, after which I will consider the concerns raised by APC and others, and the merits of the S.106 Agreements. I shall then be in a position to weigh all of the relevant considerations in the planning balance.

## **Reasons**

### The NPPF approach to sustainable development

#### *The "presumption in favour of sustainable development"*

10. The first section of the NPPF deals with "Achieving sustainable development", which it identifies as the purpose of the planning system. Paragraph 14 states that a presumption in favour of sustainable development is "at the heart of" the NPPF, and then goes on to explain what this means for plan-making and decision-taking. For decision-taking, we are told it means that (unless material considerations indicate otherwise) proposals which accord with the Development Plan should be approved without delay, and also that where the Development Plan is absent, silent or relevant policies are out of date, permission should be granted unless (a) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole, or (b) specific policies in the NPPF indicate development should be restricted.
11. That seems to me a reasonably straightforward explanation as to how the presumption in favour of sustainable development is intended to operate in practice, drafted so as to be applicable to the determination of all development proposals. Prompt approval of those that accord with the Development Plan (unless material considerations indicate otherwise) equates to applying the presumption, without the need for any prior decision as to whether the proposal would be "sustainable development". Similarly, where the Development Plan is absent, silent or relevant policies are out of date, no separate decision as to sustainability is specified: rather, the decision-taker is enjoined to grant permission unless either the adverse impacts would significantly and demonstrably outweigh the benefits, or specific policies in the NPPF indicate the development should be restricted.

12. The Council did not agree with the interpretation that I propounded at the inquiry, and have set out in paragraph 11 above. It argued that development proposals must be scrutinised for sustainability as a preliminary exercise, and that only once the outcome of that exercise has been established can it be known whether there will be a presumption in favour of the development. The Council's view was that this approach would accord with that taken by Lang J, who held that "paragraph 14 NPPF [sic] only applies to a scheme which has been found to be sustainable development"<sup>1</sup>. With the greatest of respect, I do not think that can be right. Paragraph 14 does not specify certain criteria against which each scheme must first be assessed, in order to determine that it would constitute sustainable development, before then going on to apply a presumption in that development's favour. Rather, what paragraph 14 does is to set out how the "presumption in favour of sustainable development" is to be operated, by prescribing the specific approaches that must be taken when making plans and when taking decisions.
13. The Council rightly pointed out that as a lower decision-making body, it is not open to me to depart from a High Court ruling. But, again with the greatest of respect, I do not share the Council's conviction that the finding quoted above amounts to a definitive ruling on the operation of paragraph 14 of the NPPF. The appellant drew my attention to three other High Court decisions<sup>2</sup>, each of which take the approach I have set out in paragraph 11 above. For example, at paragraph 5 of the *Colman* judgment, Parker J held that "In the context of decision-making, the presumption in favour of sustainable development is given expression in two ways. The first is by approving proposals that accord with the Development Plan. The second is to grant permission where the Development Plan is absent, silent or where relevant policies are out-of-date..."
14. There is no mention, in any of these other High Court judgments, of any perceived need to undertake a "preliminary exercise" to assess sustainability before paragraph 14 can properly be applied. I appreciate that they pre-date the *William Davis Ltd* judgment, but that judgment does not distinguish them or give reasons for departing from them. I am therefore faced with conflicting precedents. It is my strong conviction that if the approach to decision-taking set out in paragraph 14 of the NPPF is adopted, then it must follow that the presumption in favour of sustainable development will be correctly applied. As the appointed decision maker in the current case, that is the approach I shall use to determine this appeal.

*The implications of the Borough's housing supply position*

15. Paragraph 49 of the NPPF states that relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.
16. The Council accepts, as is recorded in the Statement of Common Ground, that it is currently only able to demonstrate a 2.7 year supply of deliverable housing sites. The Campaign to Protect Rural England (CPRE) took issue with this,

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<sup>1</sup> Paragraph 37 of the High Court judgment in *William Davis Limited, Jelson Limited v Secretary of State for Communities and Local Government, North West Leicestershire District Council* [2013] EWHC 3058 (Admin)

<sup>2</sup> *Tewkesbury Brough Council v Secretary of State for Communities and Local Government, Comparo Ltd, Welbeck Strategic Land LLP* [2013] EWHC 286 (Admin); *Stratford on Avon District Council v Secretary of State for Communities and Local Government, J S Bloor (Tewkesbury) Ltd, Hallam Land Management Ltd, RASE* [2013] EWHC 2074 (Admin); and *Anita Colman v Secretary of State for Communities and Local Government, North Devon District Council, RWE NPower Renewables Ltd* [2013] EWHC 1138 (Admin).

pointing out that the calculation is based on housing requirement figures from the draft Regional Strategy for the South West (RSSW), which are now out of date. However, as the CPRE accepts, updating these figures is not so straightforward as simply replacing them with more recent household projections. The evidence which will inform the calculation of the objectively assessed housing need for the Borough will be thoroughly tested at the Examination in Public (EiP) of the Council's emerging Local Plan, but in advance of that, I am obliged to assess the current housing supply position on the basis of the best available evidence.

17. For that purpose, I agree with the Council and the appellant that the most appropriate housing requirement figure is that set out in the Secretary of State's Proposed Changes to the RSSW. I appreciate that it is now somewhat dated, but the crucial point is that unlike any of the more recent data sets, it was informed by evidence that has been independently examined, and robustly tested at an EiP. On that basis, the Borough's current supply of deliverable housing sites falls a long way short of five years. By operation of paragraph 49 of the NPPF, then, Local Plan policies that are "relevant policies for the supply of housing" should not be considered up-to-date.

*Relevant policies for the supply of housing*

18. There is no dispute that saved Policy HOU4 of the Tewkesbury Borough Local Plan to 2011, which seeks to restrict residential development outside the designated development boundaries of settlements, is relevant to the supply of housing and so should not be considered up-to-date. This means that the location of the appeal site outside the designated settlement boundary for Alderton is not, in and of itself, a reason to refuse planning permission for the proposed scheme.
19. As discussed above, paragraph 14 of the NPPF explains how decision-taking should give effect to the presumption in favour of sustainable development. It provides specific advice on the approach to take where, as here, "relevant policies" are out-of-date.
20. The Council sought to persuade me that while "relevant policies for the supply of housing" should not be considered up-to-date, there are other policies which remain relevant to the development proposal currently under consideration, such that the guidance in this part of paragraph 14 would not apply. I do not agree with that interpretation. It seems to me that in the context of the NPPF's clearly stated aim "to boost significantly the supply of housing" (paragraph 47), the provisions of paragraph 49 are intended to ensure that, where existing Local Plan housing policies have failed to secure a five-year supply of housing sites, housing applications should be assessed not by reference to those policies but rather by using the approach set out in paragraph 14. I see no reason why that should give rise to any conflict with the need to have due regard to such other Development Plan policies as are relevant and up-to-date.

*Conclusions on the application of the NPPF guidance*

21. The Council cannot demonstrate a five-year supply of housing, and so relevant policies for the supply of housing should not be considered up-to-date. This means that planning permission for the proposed development should be granted unless any adverse impacts of doing so would significantly and

demonstrably outweigh the benefits, or specific policies in the NPPF indicate development should be restricted.

22. At the inquiry, the Council advanced an argument that paragraph 115 of the NPPF, which requires great weight to be given to conserving landscape and scenic beauty in Areas of Outstanding Natural Beauty (AONBs), constitutes one such "specific policy" of the NPPF. Since I indicated that I did not agree with that argument, the Council did not pursue it further. However, in the interests of fairness and clarity, it will be helpful to set out again the reasons why I take that view.
23. Briefly, the "decision-taking" guidance of paragraph 14 affirms the applicability of the statutory planning balance (that is, determining proposals in accordance with the Development Plan, unless material considerations indicate otherwise) in situations where there is an up-to-date Development Plan. But in situations where the Development Plan is absent, silent or relevant policies are out of date, paragraph 14 effectively shifts the fulcrum of that planning balance; the test instead becomes whether the adverse impacts would significantly and demonstrably outweigh the benefits. However, the final part of paragraph 14 makes it clear that this shift in the decision-taking process does not apply where specific policies in the NPPF indicate development should be restricted, and footnote 9 then lists some examples of such policies.
24. While that list is not exhaustive, the common feature of all the examples cited is that they are policies which incorporate their own specific decision-taking protocols. So, for example, the policy relating to sites designated as Green Belt specifies that "inappropriate development should not be approved except in very special circumstances" (paragraph 87), and the policy for sites in areas at risk of flooding requires the application of a "Sequential Test" and "Exception Test" (paragraph 103). The decision-taking process to be applied in areas designated as AONB is set out at paragraph 116, which provides that planning permission for major developments should be refused, "...except in exceptional circumstances and where it can be demonstrated they are in the public interest".
25. In contrast, paragraph 115 is of more general application. It does not prescribe the decision-making process to be followed when determining a development proposal within an AONB; it simply explains that great weight should be given to conserving the landscape and scenic beauty in AONBs. That is clearly an important consideration, which must be taken into account in my assessment of the current proposal. But it does not, in my view, amount to a "specific policy" indicating that development should be restricted, in the terms of paragraph 14 of the NPPF.
26. I therefore conclude that the decision-making process for my determination of this appeal should be to assess whether the adverse impacts of granting planning permission for the proposed development would significantly and demonstrably outweigh the benefits.

The effect the proposal would have on the character and appearance of the area

27. The Cotswolds Area of Outstanding Natural Beauty (AONB) covers Alderton Hill and Dumbleton Hill, and extends right down to the northern edge of the settlement of Alderton. To the south, Oxenton Hill is also part of the AONB.

The land between these outliers, known as the Teddington and Greet Vale, is designated a "Special Landscape Area" (SLA) by the Local Plan.

28. The *Gloucestershire Landscape Character Assessment* (2006) identifies the key characteristics of this "Unwooded Vale" landscape type as including medium- to large-scale hedged fields with a combination of both regular and irregular field patterns, and a relatively sparsely settled agrarian landscape with rural villages and scattered farms and dwellings. It notes that the escarpment and outliers create a sense of enclosure within the Teddington and Greet Vale, and provide a backdrop to many views across it.
29. The appeal site is a parcel of agricultural land, some 2.96ha in area, which is part of a larger field on the western edge of Alderton. Two bungalows (Nos. 37 and 39 Beckford Road) adjoin the northern part of its eastern boundary, and the village allotments are located immediately to the south of them. Beckford Road forms the northern boundary of the appeal site, with the village playing field and play area lying on the opposite side of this road where, unlike the appeal site, they are included within the AONB. The "Winchcombe Way", a long-distance recreational walking route, runs along the western boundary of the appeal site in the adjoining field. The appeal site is consistent, in terms of levels, with most of the settlement; the transition toward Alderton Hill begins to the north-east of the village, where the landform starts to rise up away from the Vale.
30. The proposed development would involve the construction of 47 dwellings, laid out in three perimeter blocks designed to limit the amount of built development along the western edge of the appeal site, and to accommodate an area of public open space in the south-west corner. The scheme would include a variety of different two-storey house types, ranging in ridge height from 7.6m to 9.2m. Some of the dwellings would have stone facades, while others would be finished in render; roof materials would be limited to slate, or plain tiles.
31. I note concerns that the proposed construction of a sizeable number of new dwellings at the same time, on the edge of the village and in a layout that involves cul-de-sacs, is at risk of appearing as a developer-led "bolt-on" to the settlement. That is a fair point. However, as the carefully considered Committee Report written by the Council's Planning Officer notes, there are a number of different house types and architectural styles in Alderton, reflecting the era in which they were constructed. There are historic thatched cottages, and traditional buildings of red brick and Cotswold stone, but also more modern houses and bungalows, such as those immediately adjacent to the eastern boundary of the appeal site, and there are other examples of cul-de-sac developments within Alderton.
32. The presence of a wide variety of styles in no way obviates the need to respect local distinctiveness, but it does serve to indicate that the village has successfully grown to accommodate additional housing at various points in its history, and not always on a one-at-a-time basis.
33. In this particular case, it is unfortunate that the initial designs for the new dwellings were based on the developer's standard housing types, but I note that the proposals have since evolved to address the Council's requirement that they better reflect the local vernacular. The density of the proposed development and the frontage treatment along Beckford Road would respect the character of the existing settlement. The retention and strengthening of

- the existing hedgerow boundaries and the planting of a new hedgerow to the south, together with the proposed extension of the native tree belt bordering the playing field to the north, such that it would continue alongside the western edge of the appeal site to the copse in the south-west corner, would provide visual containment and help the new housing to integrate with its setting.
34. Since the appeal site is part of the relatively level landscape of the Teddington and Geet Vale, views toward it from within the Vale are largely filtered and screened by the existing settlement and by intervening vegetation. Close range views are however available from Beckford Road, the section of the Winchcombe Way that runs alongside the western boundary of the appeal site, and from the properties adjacent to the eastern boundary.
  35. From Beckford Road, as it approaches Alderton from the west, there are currently views across the open field that is the appeal site towards Oxenton Hill in the distance. The proposed development would introduce residential development into the foreground of these views, and would replace some 170m of the existing hedgerow along the southern side of Beckford Road with a new one that would be punctuated by 6 shared driveways, as well as the main access into the site. The houses would be set back from the road and a number of new trees would be planted in front of them, but the development would clearly result in the domestication and loss of openness of this hitherto agricultural parcel of land. In public views from Beckford Road, the edge of the settlement would encroach further to the west, into what was previously undeveloped countryside.
  36. Similarly, from the stretch of the Winchcombe Way that approaches Alderton from the south-west, views towards the western edge of the settlement across the existing field would be replaced by close-range views of the new housing. As a consequence of the proposed development, walkers on the Winchcombe Way would be passing closer to the built-up part of Alderton than would otherwise be the case. However, the extent to which this might detract from their enjoyment of the open countryside and the feeling of being "away from it all" is, to my mind, somewhat lessened by the fact that after it crosses Beckford Road the Winchcombe Way runs alongside the village playing field. While this is not itself a built-up area, it is nevertheless clearly part of Alderton, such that walkers are here aware that they are closely skirting the edge of a settlement.
  37. The visual impact of extending the settlement closer toward the Winchcombe Way would be further mitigated, in time, by the proposed strengthening of the existing hedgerow boundary and extension of the tree belt discussed above. This planting would also help to filter views from other public rights of way to the west of the appeal site.
  38. Nos. 37 and 39 Beckford Road, the two bungalows adjoining the eastern boundary of the appeal site, have windows which look out across the appeal site. The view from No. 37 is screened to some degree by a line of trees along the intervening driveway, but No. 39 closely adjoins the existing boundary. The proposed residential development would clearly have a significant impact on the views from these properties, replacing the open rural expanse of the existing field with close views of domestic gardens and the dwellings beyond them. I note the existing residents' concerns that the two-storey design of the nearest new houses may cause them to appear overbearing, but having regard

- to the layout of the scheme and the distances between the existing and proposed dwellings, I share the Council's view that the development would not result in such a harmful loss of light or privacy, or adverse visual impact, as would cause significant detriment to living conditions at the existing properties.
39. The distinctive topography of the area means that while views of the appeal site from within the Vale itself are limited, the rising ground to the north and south provides vantage points from which there are clear vistas across the landscape that lies between the AONB outliers. There is no dispute that views out from, as well as in to, the AONB can be of importance to its landscape and scenic beauty.
40. The most noticeable impact of the proposed development would be in views from the footpath to the north of the appeal site which climbs Alderton Hill. From this elevated position there is a clear view of Alderton, in which the proposed development would appear as an extension to the existing settlement. While the Cotswold AONB Management Board raised no objection to the proposed development, the Council expressed concern that extension along the west-east axis of the village would result in a notable change to the settlement, altering its influence and dominance within the enclosed and overlooked Vale, so as to shift the balance of open countryside and built-up settlement in the view.
41. However, I saw at my site visit that looking south from Alderton Hill, there are extensive views across the Vale towards Dixton and Oxenton Hill in the far distance. Alderton is by no means a prominent or intrusive settlement in that vista; it is effectively assimilated into the landscape, and is only a small part of the panorama. The proposed residential development at the edge of this existing settlement would materially increase its overall size, but not, in my judgment, to such an extent as would alter its appearance as a "rural village" set in a sparsely populated agrarian landscape.
42. I saw that clear views of Alderton and the appeal site are also available from the rising ground to the south-west, for example from the Cotswold Scarp, from the Wychavon Way south of Gretton, and from the Winchcombe Way as it descends to the Vale from the AONB between Oxenton Hill and Dixton Hill. But again, seen in context (and, from these viewpoints, with the mitigating effect of distance) the proposed housing would not constitute a prominent or intrusive form of new development. Rather, it would increase the size of an existing settlement, to a degree that would not significantly alter the character of either the settlement itself, or the countryside surrounding it.
43. In views toward Alderton Hill that encompass the appeal site, it is notable that the existing play area and sports field, on the opposite side of Beckford Road to the appeal site, do not share the characteristics of the AONB that continues to the north. Visually, they function as a transitional area between the appeal site and the open countryside that rises up the slopes of Alderton Hill beyond. The residential development would consequently appear, appropriately, to be an extension of the existing village on to adjoining land rather than an incursion into the AONB itself. In views from Beckford Road toward Oxenton and Dixton Hill the new housing would, for a short stretch, be clearly apparent in the foreground but again, this would be appreciated in the context of the existing village. It would not, given the distance of the outliers to the south,



- significantly erode the extent to which they form a backdrop to views across the Vale.
44. Taking all of this into account, I am satisfied that the proposed development would not conflict with the important aim, reiterated at paragraph 115 of the NPPF, of conserving landscape and scenic beauty in the AONB.
45. Local Plan Policy LND2 states that special attention will be accorded to the protection and enhancement of the landscape character of the SLA. Within this area proposals must demonstrate that they do not adversely affect the quality of the natural and built environment and its visual attractiveness, or detract from the quiet enjoyment of the countryside. The supporting text to this policy explains that while the quality of the landscape in the SLA is worthy of protection in its own right, it also plays a role in providing the foreground setting for the adjacent AONB.
46. For the reasons set out above, I do not consider that the proposed development would be detrimental to the adjacent AONB. However, it would result in the loss of what is currently an open, arable field, and its replacement with housing, streets, lights and associated human activity. This would clearly have an adverse effect on the tranquil, rural quality of the landscape adjoining the western edge of Alderton, increasing the extent of the built-up part of the settlement at the expense of the surrounding open countryside. In these terms, the proposed development would conflict with the Policy LND2 requirement to have no adverse effect upon the quality of the natural environment: indeed, it is difficult to see how any development of previously undeveloped land in the SLA could accord with that requirement.
47. It is nevertheless material to note that in this case, the layout and landscaping of the proposed development would ensure that in close views from Beckford Road and from the nearby stretch of the Winchcombe Way, as well as in longer distance views from elevated vantage points, the new housing would be seen as a reasonably proportionate extension to the existing settlement. Alderton itself would retain the character and appearance of a rural village nestled within an open, agricultural landscape. The development would not, therefore, detract significantly from the quiet enjoyment of walkers using the public rights of way and long distance footpaths that traverse this attractive landscape. As discussed above, for a short section of the Winchcombe Way the existing sense that the path is skirting the edge of Alderton would be heightened, but this would not undermine the overall experience of walking through countryside.
48. In summary, the proposed development would be harmful to the character and appearance of the area, through the loss of an open agricultural field and the extension of the built-up part of the settlement into the adjoining countryside. This would conflict with the aims of Policy LND2 of the Local Plan, and is an adverse impact that will need to be weighed in the overall planning balance.

#### Other matters

##### *Transport*

49. APC raised concerns about the ability of the local road network to cope with the additional vehicular movements likely to be associated with the proposed new housing, and queried the validity of the traffic surveys and Transport Statement provided by the appellant. However, the appellant engaged in

pre-application discussions with the Highway Authority as to the remit for the surveys and the terms of the Transport Statement, and the Highway Authority has subsequently confirmed that it considers the information provided to be adequate and reasonable. The Highway Authority has assessed the details of the access to the proposed development, and the impact the additional vehicle movements would have on junctions and roads in the wider area, and has confirmed that subject to various conditions, it would have no objection to the proposed development in terms of either accessibility or highway safety.

50. While I can understand local residents' concern that increasing the amount of traffic on the road is statistically likely to increase the potential for accidents, I see no reason to doubt the Highway Authority's professional assessment that the existing road network would be able to cope adequately with the increased traffic. Paragraph 32 of the NPPF advises that proposals should only be refused on transport grounds where the residual cumulative impacts of development are severe, and there is no indication that such would be the case here.
51. As to the accessibility of the proposed development by modes of transport other than the private car, there is only a very limited bus service to and from Alderton. Trains run regularly from the station at Ashchurch, Tewkesbury to major centres such as Cheltenham, Bristol and Birmingham, but given the restricted availability of buses, those seeking to use the train would generally have to travel to the station by car. There are no designated cycle paths or pedestrian footways on the narrow country lanes leading to the village or on the busier main roads, and combined with the absence of street lighting, this makes walking or cycling the long distances to the nearest centres of employment and recreation a highly unattractive option.
52. This means that in all likelihood, future occupiers of the proposed development would be dependent on the use of a private car.
53. Paragraph 35 of the NPPF advises that developments should be located and designed, where practical, to give priority to pedestrian and cycle movements, and to have access to high quality public transport facilities. However, paragraph 29 recognises that opportunities to maximise sustainable transport solutions will vary from urban to rural areas. It is not uncommon for villages in the countryside to be poorly served by public transport, and it is clear that neither national nor local planning policy regards this as sufficient reason in itself to prevent any further residential development in such communities. Rather, it is one of the many considerations that need to be taken into account when assessing specific proposals. In this particular case, the absence of opportunities to use more sustainable modes of transport, and the associated implications in terms of increased pollution, constitute an adverse impact that will need to be weighed in the overall planning balance.

### *Employment*

54. APC provided detailed evidence about the labour market in Gloucestershire, and the lack of opportunities for local employment that would be available to prospective residents of new houses in Alderton. It rightly pointed out that paragraph 158 of the NPPF enjoins local planning authorities to ensure that their assessment of and strategies for housing, employment and other uses are integrated, and that they take full account of relevant market and economic signals.

55. I have no doubt that the Council will have borne this in mind when assembling its emerging Joint Core Strategy (JCS) with Gloucester City Council and Cheltenham Borough Council, which is to act as a spatial planning strategy for the area up to 2031. The current version of the JCS proposes the construction of 880 dwellings in 15 named Service Villages, which include Alderton. The precise number of dwellings likely to be allocated to Alderton will clearly be the subject of further debate; I appreciate that there is disagreement as to the basis on which the Service Villages have been ranked, and the JCS is not due to be submitted for examination until Winter 2014, so is unlikely to be adopted as part of the Development Plan until 2015.
56. In the meantime, however, the Council is only able to demonstrate a 2.7 year supply of deliverable housing sites, which is a significant and serious shortfall against the 5 year supply required by the NPPF. In these circumstances, it is not reasonable to turn down opportunities to address the housing shortfall on the basis that the new occupants, in common with most of the existing residents of Alderton, would need to commute to work. Rather, as paragraph 14 of the NPPF provides, the development of much-needed new housing should be permitted unless the adverse impacts would significantly and demonstrably outweigh the benefits.

*The impact on local infrastructure and services*

57. There is undisputed evidence that the village shop, which incorporates a part-time post office, does not have any space to store stock and is unable to expand. But even if it is not able to increase its existing operation to address the additional demand likely to arise from occupiers of the proposed new dwellings, it seems to me that the increase in patronage would be beneficial, rather than detrimental, to the ongoing viability of the shop and would help to secure its continuing presence as a valued asset to the community.
58. I was also told of the difficulties that the local Oak Hill Primary School experiences, in terms of flexible deployment of staff to cope with changing numbers of pupils on its register. However, the appellant has entered into a legal agreement with the County Council under S.106 of the Town and Country Planning Act 1990 to pay, should the proposed development be permitted, a financial contribution of £77,179 towards remodelling, upgrading and improving the capacity and suitability of the school's Dumbleton and Alderton sites.
59. Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010 requires that if planning obligations contained in S.106 Agreements are to be taken into account in the grant of planning permission, those obligations must be necessary, directly related, and fairly and reasonably related in scale and kind to the development in question.
60. The County Council has provided evidence to demonstrate how the agreed financial contribution has been calculated by establishing the extent to which the number of primary school age children likely to be living in the proposed new houses would exceed the number of available spaces at the school, and multiplying this by the costs (per advice from the Department for Education) of providing the necessary number of additional school places. I am satisfied that this obligation meets the requirements of CIL Regulation 122.

61. As to affordable housing, the S.106 Agreement completed by the appellant and the Council secures the provision of 34% of the proposed residences (that is, 16 of the 47 dwellings) as affordable homes. This accords with the requirements of Policy HOU13 of the Local Plan, and the guidance set out in the Council's *Affordable Housing Supplementary Planning Guidance*. The affordable homes would include two one-bedroom maisonettes, two two-bedroom maisonettes and five two-bedroom houses. This would help to address the problem, identified by the Alderton Parish Housing Needs Survey, that there is a high number of three- and four-bedroom homes in the village but a lack of two-bedroom accommodation for small families. I am satisfied that this obligation meets the requirements of CIL Regulation 122.
62. I am told that APC has been proactive in looking to provide affordable housing, and has come across a site that would fulfil the local need, but is not able to proceed with it because of the volume of affordable housing proposed by other recently submitted development proposals. Taking a proactive approach to the provision of affordable housing is to be applauded, and encouraged. However, I have not been provided with any details of APC's preferred method of delivery, or the suitability and availability of its identified site. In the absence of clear and convincing evidence that this would be a viable and prompt alternative means of providing much-needed affordable housing, it is not a consideration which weighs against the current appeal proposal.
63. Similarly, the work that has been done by and on behalf of Alderton residents as part of the 'Place Planning' initiative is laudable, and I can understand local concerns about the impact that current development proposals may have on the preparation of a Neighbourhood Plan. Neighbourhood Plans are required to accord with the Development Plan, and I was told at the inquiry that adoption of the JCS is awaited, so that its requirements, and the wishes of the local community, can be aligned to inform the emerging Neighbourhood Plan. Since that Neighbourhood Plan is currently at such a very early stage, it is not a consideration which can carry any substantial weight in my determination of the current appeal.
64. The S.106 Agreement between the Council and the appellant contains a number of other planning obligations. Financial contributions of £10,000 towards improvements to the play area, £9,740 for improvements to the sports pitch and £29,250 for the provision of changing facilities have been secured. This is on the basis that the existing facilities are inadequate to cope with the additional use likely to be made of them by occupiers of the new dwellings. Given the close proximity of these facilities to the proposed development, and the requirements of Policies RCN 1 and 2 of the Local Plan, I agree that these obligations meet the requirements of CIL Regulation 122.
65. The NHS advises that the medical practice at Winchcombe is already at capacity, such that the additional demand for its services likely to arise from occupiers of the proposed dwellings would add to the pressure it is under. A financial contribution of £12,600 has been calculated, by reference to the number of people likely to reside at the new dwellings and the costs of expanding the existing practice to provide cover. I am satisfied that this obligation meets the requirements of CIL Regulation 122.
66. There is currently a waiting list for Alderton's allotments, and it is likely that this would increase as a result of the proposed new housing. The S.106

- Agreement seeks to address this through the provision of additional allotments on the appeal site, close to the existing village allotment area. The number and size of the additional plots has been calculated by reference to the existing and proposed requirement per population, and I am satisfied that this meets the tests of CIL Regulation 122.
67. A financial contribution of £350 has been secured, to fund the provision of bins for dog waste in the proposed area of public open space. I agree that these are necessary to help ensure the open space remains safe and usable, and the contribution is directly and fairly related to the proposed development. It therefore meets the requirements of CIL Regulation 122.
68. The S.106 Agreement secures payment of an "Off-site Community Contribution" of £40,000 either towards improvements to Alderton Village Hall, or to provide recreational or community facilities within the parish of Alderton. The Council explained that due to the current configuration of the space, it is difficult for different events to be held in the Village Hall at the same time. There is however no evidence to suggest that the current space is so inadequate as to be unable to cope with the additional demand likely to result from occupiers of the proposed new housing. I do not doubt that an extension to the Village Hall may benefit the community as a whole, but I cannot see that it is rendered necessary by this specific development proposal. Similarly, I have not been provided with evidence of any directly related need for other recreational or community facilities, apart from the play space and sports pitch already addressed above.
69. Contributions of £15 per dwelling and £50 per dwelling have been secured toward, respectively, the installation of the "SmartWater" security system in each dwelling, and the provision of recycling and refuse containers to each household. I am not convinced, on the basis of the evidence provided, that either of these are necessary to make the development acceptable in planning terms. It seems to me that a decision as to which type of household security system to install should be a matter for the residents of the new housing, once in occupation. If the Council operates a recycling and refuse collection system which obliges householders to use specific containers, it would only be reasonable to require payment for those containers from residents of the new houses if existing residents were also required to pay for their own recycling and refuse containers. If that is the case, payments can be made by the new residents when they take up occupation.
70. Finally, a contribution of £1,598 is secured as a contribution toward additional burial grounds. The Council rightly points out that the increased population resulting from the development will increase demand for existing burial plots. However, there is no evidence that the current provision would be incapable of coping with that increased demand. In the absence of such evidence (as exists, for example, to demonstrate the lack of sufficient primary school places to accommodate children from the new development) it is not appropriate for Councils to seek S.106 contributions from developers to cover the costs of providing the community with the infrastructure and services they themselves are obliged to supply. Other mechanisms exist: Council Tax, for example, or the Community Infrastructure Levy.
71. I conclude that neither the "Off-site Community Contribution", the SmartWater Security Contribution, the Recycling Contribution or the "Burial Facilities

Contribution” meet the requirements of CIL Regulation 122. Consequently, I have not taken these planning obligations into account in my determination of the appeal.

### Conclusion

72. The proposed development would involve building on a previously undeveloped agricultural field, extending the settlement of Alderton into the adjoining countryside. This would have a harmful, albeit not extensive, impact on the character and appearance of the affected landscape and would conflict with the objectives of Policy LND2 of the Local Plan. Additionally, in terms of environmental harm, the occupiers of the new houses would be largely dependent on the use of private cars to access employment, shops and other necessary services. This would be at odds with national and local policies aimed at encouraging the use of more sustainable modes of transport, in order to reduce congestion and pollution.
73. However, these adverse impacts need to be viewed in the context of the Borough’s serious shortfall of housing, and the evidence base of the emerging JCS, which indicates that villages such as Alderton will need to accommodate a significant amount of new housing in order to help meet the objectively assessed requirement for the Borough. While precise numbers are not yet known, it is apparent that providing the necessary housing is likely to involve the development of sites outside development boundaries, within the SLA or even the AONB.
74. The current proposal would have the social and economic benefit of helping to address the acknowledged shortfall, providing much-needed open market housing and affordable housing. The secured provision of proportionate financial contributions toward local education facilities, play space, sport pitches, NHS services, allotments and public open space would ensure that it had no adverse impact on the existing services and infrastructure of Alderton.
75. Placing all of the relevant material considerations in the balance, I find that the adverse impacts of the proposed development would not outweigh the benefits. It should therefore, by reference to paragraph 14 of the NPPF, be granted planning permission.
76. I understand the concern raised by APC that permitting this development may “set a precedent” for others. Let me make it very clear that my decision in this appeal should not be interpreted as a finding that Alderton is necessarily a “sustainable location” for any further residential development. Rather, any proposal for such development will need to be assessed on its own site-specific merits, in the context of the Development Plan and national policy then in place. Substantially increasing the number of dwellings in a settlement without proportionate increases in infrastructure, employment opportunities and other local services risks eroding community cohesion, and the fact that 47 dwellings have now been allowed on appeal will be a consideration to be weighed in the balance when considering any future proposals.

### Conditions

77. The planning conditions suggested in the Statement of Common Ground were discussed in some detail at the inquiry. I have made amendments in the light of those discussions, in some cases to improve precision and enforceability,

and elsewhere to reflect more closely the (still extant) model conditions in Circular 11/95: *The Use of Conditions in Planning Permissions*.

78. In addition to the two standard conditions specifying the time limit for commencement of development and requiring compliance with the approved plans, I have attached conditions requiring a programme of archaeological work and an Ecological Management Plan to be agreed with the Council before development commences, in order to ensure that the works are carried out without adverse impact on any undiscovered heritage assets or on the area's biodiversity. I have also attached a condition requiring the Council's prior agreement of a detailed drainage scheme, including arrangements for its future maintenance, to ensure there will be no increase in flood risk for existing properties.
79. To ensure that the appearance of the new dwellings is in keeping with the existing built form of Alderton, I have attached conditions requiring the Council's prior approval of floor and slab levels; eaves details; and samples of the external wall and roof materials. The plans submitted with the application contained landscaping proposals but further information is needed, in particular to detail the proposed continuation of the native tree belt along the western boundary of the appeal site, and to clarify details of the proposed boundary treatment between the appeal site and the bungalows at Nos. 37 and 39 Beckford Road. I have therefore attached conditions requiring the Council's prior approval of further landscape details, and the replacement of any new planting that fails in the first 5 years.
80. In order to protect the living conditions of neighbouring properties, conditions are needed to secure the use of obscure glazing in first-floor windows that might otherwise give rise to the perception of being overlooked from the new dwellings; to ensure that any external lights installed on the new development accord with an approved lighting strategy; and to minimise the nuisance caused by noise and disturbance arising from construction work, by requiring adherence to a Method Statement approved by the Council.
81. In the interests of the safety of future occupiers, a condition requiring the installation of fire hydrants is needed. In the interests of highway safety it is necessary to impose conditions requiring the site access to be installed before work on site commences; the access to each dwelling to be completed before that dwelling is occupied; the provision of a pedestrian footway along the Beckford Road frontage of the development; the completion of the proposed pedestrian crossing facility on Beckford Road; and the provision and retention of parking facilities for each new dwelling.
82. I have also attached the suggested condition detailing the steps to be taken if any contamination is discovered in the course of construction works and, since it accords with the thrust of national policy, the agreed condition concerning carbon reduction measures.

*Jessica Graham*

INSPECTOR

## APPEARANCES

### FOR THE LOCAL PLANNING AUTHORITY:

Miss S Clover, of Counsel  
She called

Instructed by Ms S Freckleton, Borough  
Solicitor and Monitoring Officer

Mr R O'Carroll BSc(Hons) MSc MRTPI  
Mr T Jones BA(Hons) CMLI

DPDS Consulting  
Toby Jones Associates Ltd

### FOR THE APPELLANT:

Mr J Cahill, QC  
He called

Instructed by Mr C Sackett of RPS  
Planning and Development

Mr P Rech BA BPhil LD CMLI  
Mr C Sackett BA MSc MRTPI

FPCR Environment and Design Ltd  
RPS Planning and Development

### FOR ALDERTON PARISH COUNCIL:

Ms A Armishaw  
She gave evidence, and called

Alderton resident

Ms R Smith  
Mr I Armishaw  
Ms D Haines

Alderton resident  
Alderton resident  
Alderton resident

### INTERESTED PERSONS:

Mr D Bayne  
Mr D Jenkins

On behalf of Campaign to Protect Rural England (CPRE)  
Alderton resident



## **DOCUMENTS SUBMITTED AT THE INQUIRY**

- 1 List of appearances for the appellant
- 2 List of appearances for the Council
- 3 Large-format photomontages provided by Mr Rech for the appellant
- 4 Table of comparative evidence from the respective landscape witnesses, prepared by the appellant
- 5 Road accident information compiled by the Alderton Road Safety Group, submitted by Alderton Parish Council
- 6 Copies of drgs numbered 16900/1001 Rev L; 16900/128 Rev B; 16900/129 Rev B; 16900/131 Rev A; 16900/132 Rev A; 16900/133 Rev A and 16900/134 Rev A, as requested by the inspector
- 7 List of Core Documents
- 8 Copy of appeal decision ref: APP/X1118/A/12/2182606, provided by the Council
- 9 Opening statement made on behalf of the appellant
- 10 Opening statement made on behalf of the Council
- 11 Full and summary statements made on behalf of the Campaign to Protect Rural England
- 12 Certified copies of the S.106 Agreements between the appellant and the Council (and others), and the appellant and the County Council (and others)
- 13 Statements provided by the witnesses appearing for Alderton Parish Council
- 14 Copy of e-mail appending accident data compiled by Woods Hardwick on behalf of the appellant
- 15 Department for Transport fact sheet "Commuting and Business Travel", submitted by the appellant
- 16 Copy of the Officer's Reports to the Council's Planning Committee in respect of applications ref: 13/00734/OUT and ref: 13/01018/FUL
- 17 Copy of the consultation response provided by the Council's Urban Design Officer in respect of the application now the subject of this appeal
- 18 Copy of the appellant's application for an award of costs against the Council
- 19 Plan showing residential development sites in Winchcombe (Redrow/Gretton Rd scheme granted on appeal in 2013, and consented Bloor Homes scheme)
- 20 Extracts from the Planning Encyclopaedia concerning conditions, provided by the appellant
- 21 Copy of letter from the appellant to the Council dated 19 February 2014
- 22 Extract from early draft of the Statement of Common Ground
- 23 Letter from Mr D Jenkins to the Inspector dated 26 March 2014, enclosing copies of his correspondence with the Council
- 24 Suggested itinerary for the inspector's site visit, agreed between the three main parties
- 25 Alderton Parish Council's comments on the 2013 update to the Borough's Settlement Audit
- 26 Statement of CIL compliance concerning the requested planning obligations, provided by the Council and the County Council
- 27 Closing submissions made on behalf of the Council
- 28 Closing submissions made on behalf of Alderton Parish Council
- 29 Closing submissions made on behalf of the appellant
- 30 The Council's response to the appellant's application for an award of costs.

### **SCHEDULE OF CONDITIONS**

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) Subject to the provisions of conditions no. 7 and 9 below, the development hereby permitted shall be carried out in accordance with the following approved plans:

16900/1000	Location Plan
16900/1001 Rev L	Planning Layout
16900/1003 Rev C	Refuse Vehicle Tracking Layout
16900/1004 Rev B	Materials Layout
16900/138	Street Scene
16900/100/B	Badminton House Type Plans
16900/101/B	Badminton House Type Elevations
16900/102/B	Bowood House Type Plans
16900/103/B	Bowood House Type Elevations
16900/108/B	Houghton House Type Plans
16900/109/C	Houghton House Type Elevations
16900/110/B	Houghton House Type Elevations
16900/111/B	Kedleston House Type Plans
16900/112/B	Kedleston House Type Elevations
16900/113/A	Kowsley House Type Plans
16900/114/A	Kowsley House Type Elevations
16900/115/A	Kowsley House Type Elevations
16900/116/A	Longleet House Type Plans
16900/117/B	Longleet House Type Elevations
16900/118	Garages: Plan & Elevations
16900/118 Rev A	Revised Garage Plan
16900/128/B	Studley Plans
16900/129/B	Studley Elevations
16900/130/A	Studley (in stone) Elevation & Plan
16900/131/A	Plots 11-14 Plans
16900/132/A	Plots 11-14 Elevations
16900/133/A	Plots 15-18 Plans
16900/134/A	Plots 15-18 Elevations
16900/135	Plots 40-41 Elevations & Plans
16900/136	Plots 42-43 Elevations & Plans
16900/137	Plots 44-47 Elevations & Plans

- 3) No development shall take place until the appellant, or its agents or successors in title, has secured and implemented a programme of archaeological work in accordance with a written scheme of investigation which has first been submitted to and approved in writing by the local planning authority.
- 4) No development shall take place until an Ecological Management Plan (EMP) has been submitted to and approved in writing by the local planning authority. The EMP shall be in accordance with the mitigation and enhancement measures set out in the Habitat Survey (dated November 2012). It shall include a timetable for implementation, details for monitoring and review, and details of how the areas concerned will be maintained and managed. Development shall thereafter be carried out in accordance with the approved details and timetable of the EMP.
- 5) No development shall take place until a comprehensive and detailed drainage scheme for the disposal of surface water and foul sewage, incorporating sustainable drainage principles, has been submitted to, and approved in writing by, the local planning authority. The scheme shall be in accordance with the submitted Flood Risk Assessment and Foul Sewerage Assessment (as updated August 2013) and shall include details of future maintenance arrangements. The scheme shall be implemented, and thereafter maintained, in accordance with the approved details.
- 6) No development shall take place until details of existing and proposed ground levels and ground floor slab levels of the buildings hereby permitted, relative to Ordnance Datum Newlyn, have been submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with the approved details.
- 7) Notwithstanding the provisions of condition no. 2 above, the construction of the dwellings hereby permitted until detailed drawings of the proposed eaves, soffits, barge boards and fascia boards, including their colour, have been submitted to and approved by the local planning authority. The plans shall be at a minimum scale of 1:20 and the sections shall be at a minimum scale of 1:5. Development shall thereafter be carried out in accordance with the approved details.
- 8) The construction of the dwellings hereby permitted shall not commence until samples of the proposed external walling and roofing materials have been submitted to and approved in writing by the local planning authority. Thereafter all such materials used in the development shall conform to the approved samples.
- 9) Notwithstanding the provisions of condition no. 2 above, no development shall take place until a comprehensive Landscaping Scheme has been submitted to and approved in writing by the local planning authority. The Landscaping Scheme shall include details of all existing trees (including spread and species) and hedgerows on the land, and details of any to be retained, together with measures for their protection during the course of construction. The Landscaping Scheme shall also include details of all proposed planting, including species, density, and the height and spread of trees; and details of the design, position, height and materials of all the proposed boundary treatments.

- 10) All planting, seeding and turfing detailed in the approved Landscaping Scheme shall be carried out in the first planting and seeding season following the first occupation of any of the buildings hereby permitted or completion of the development, whichever is the sooner. Any trees or plants which, within a period of five years from completion of the development, die, are removed, or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written consent to any variation. The boundary treatments detailed in the approved Landscaping Scheme shall be implemented before any of the dwellings hereby permitted are first occupied.
- 11) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order with or without modification) the following windows:
  - Plot 15 – First-floor bathroom window in the rear south-east elevation
  - Plot 18 – First-floor bathroom window in the rear south-east elevation
  - Plot 20 – First-floor bedroom window in the side south-east elevationshall, prior to the first occupation of the dwellings they serve, be fitted with obscured glass and be non-opening, unless the parts of the window which can be opened are more than 1.7m above the floor of the room in which the window is installed. The windows shall be maintained in this state thereafter.
- 12) Prior to the first occupation of any of the dwellings hereby permitted, an External Lighting Strategy shall be submitted to and approved in writing by the local planning authority, and development shall be carried out in accordance with the approved details. Thereafter no external lights shall be installed on the dwellings or anywhere else within the appeal site otherwise than in accordance with the approved External Lighting Strategy, unless the written approval of the local planning authority has first been obtained.
- 13) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
  - i) the parking of vehicles of site operatives and visitors
  - ii) the hours to which construction work, deliveries and the running of external plant and equipment will be restricted
  - iii) loading and unloading of plant and materials
  - iv) storage of plant and materials used in constructing the development
  - v) wheel washing facilities
  - vi) measures to control the emission of dust and dirt during construction, and
  - vii) a scheme for recycling/disposing of waste resulting from demolition and construction works.

- 14) No development shall take place until details of the provision of fire hydrants served by the mains water supply, including a timetable for their provision, have been submitted to and approved in writing by the local planning authority. The fire hydrants shall be provided in accordance with the approved details.
- 15) No works shall commence on site until the site access from Beckford Road has been provided in accordance with the approved plans, including visibility splays to a height not exceeding 600mm above the adjacent footway level, and the first 20m of the access road from Beckford Road has been surfaced in a bound material. The access shall be retained and maintained in that form until and unless adopted as a highway maintainable at public expense.
- 16) None of the dwellings hereby permitted shall be occupied until the access road providing access from the nearest public road to that dwelling (and, in the case of plots 1-4 and 40-47 inclusive, visibility splays to a height not exceeding 600mm above the adjacent footway) have been completed to at least binder course level, with the footways complete to surface course, in accordance with the approved plans.
- 17) Prior to the first occupation of any of the dwellings hereby permitted, the pedestrian footway along the frontage of Beckford Road shall be provided in accordance with the approved plans. The footway shall be retained and maintained in that form unless and until adopted as a highway maintainable at public expense.
- 18) No development shall take place until details of a pedestrian crossing facility across Beckford Road have been submitted to and approved in writing by the local planning authority. The approved works shall then be completed prior to first occupation of any of the dwellings hereby permitted.
- 19) None of the dwellings hereby permitted shall be occupied until the car parking space, garage or car port associated with that dwelling has been provided in accordance with the approved plans, and that space, garage or car port shall not thereafter be used for any purpose other than the parking of vehicles.
- 20) In the event that contamination not previously identified is found when carrying out the development hereby permitted, it must immediately be reported in writing to the local planning authority. An investigation and risk assessment must be undertaken, and where remediation is necessary a remediation scheme must be prepared, for approval in writing by the local planning authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, for the written approval of the local planning authority.
- 21) At least a 30% improvement in carbon reduction above the 2010 Building Regulations requirement shall be secured across the development. Details and a timetable of how this is to be achieved, including details of physical works on site, shall be submitted to the local planning authority for approval in writing prior to the commencement of development. The approved details shall be implemented in accordance with the approved timetable and retained as operational thereafter.