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## Appeal Decision

Inquiry held on 2 to 5 August and 4 to 5 October 2016

Site visit made on 4 August 2016

**by Cullum J A Parker BA(Hons) MA MRTPI IHBC**

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

**Decision date: 10 November 2016**

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**Appeal Ref: APP/L3245/W/15/3137161**  
**Land at Foldgate Lane, Ludlow, Shropshire**  
**(Easting 352500, Northing 274038)**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (the TCPA) against a refusal to grant outline planning permission.
  - The appeal is made by Mr Mike Jones of Richborough Estates against the decision of Shropshire Council.
  - The application Ref 14/04608/OUT, dated 10 October 2014, was refused by notice dated 3 September 2015.
  - The development proposed is described as '*residential development of 137no. units, including demolition of existing agricultural buildings and creation of vehicular access from the A49 Ludlow Bypass*'.
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### Decision

1. The appeal is allowed and planning permission is granted for residential development of 137no. units, including demolition of existing agricultural buildings and creation of vehicular access from the A49 Ludlow Bypass at Land at Foldgate Lane, Ludlow, Shropshire in accordance with the terms of the application, Ref 14/04608/OUT, dated 10 October 2014, subject to the conditions set out in Appendix A of this decision.

### Preliminary Matters

2. Prior to the Inquiry, the appellant submitted amended drawings labelled 'Proposed Indicative Masterplan BIR.4452\_21' dated 11 May 2016. The principal difference these drawings show is the 'Barn Close' element closest to Foldgate Farmhouse is now omitted. This change was also reflected in amended drawings labelled 'Landscape Masterplan 2060/P13a' dated August 2016.
3. On 17 June 2016, the appellant wrote to a number of public bodies and neighbouring occupiers informing them of the suggested amended plan and asking for any comments to be sent to the Inspectorate. Comments on the drawing BIR.4452\_21 were received and have been taken into account.
4. The changes to the outline scheme that the drawings seek are relatively small, interested parties were made aware that amended drawings had been submitted, the drawing has been in the public domain in the months leading up to the Inquiry, and the matter of amended drawings was raised on the first day of the Inquiry. Given all these factors, and in accordance with the

'*Wheatcroft Principles*<sup>1</sup>', I am satisfied that there are no significant differences in substance between what was applied for and the amended scheme. Furthermore, interested parties would not be prejudiced by me taking these drawings into account as the scheme for which planning permission is sought.

5. The proposal has been submitted in outline, with only the approval of details for access sought. Nonetheless, a submitted Section 106 legal agreement clearly restricts the development so that the broad layout and landscaping aims sought in these drawings should form the substantial basis for the submission of full details. For the avoidance of doubt, I have proceeded on this basis in considering the appeal scheme.

### **Main Issues**

6. Having taken into account the written evidence before me and what I heard at the Inquiry, the main issues of the appeal are:
  - The effect of the proposed development on the character and appearance of the area, and;
  - Whether the proposed development would preserve the setting of nearby designated heritage assets, and;
  - Whether the Council is able to demonstrate a five year supply of housing land for their area, and;
  - Whether the proposed development would make adequate provision in respect of local infrastructure with specific regard to development plan policies which seek affordable housing and public open space.

### **Reasons**

#### *Character and appearance*

7. The appeal site is located to the south of Ludlow, with the northern part of the site abutting the defined development boundary. Through part of the site runs Foldgate Lane which is a single track lane bounded by high hedges and trees along most of its length. This lane also has some openings providing access to fields and properties, such as Foldgate Farmhouse. The appeal site itself essentially comprises two fields on either side of the lane, interspersed with hedges and field gates. The topography of the land is characterised by undulations, which means that some parts are visible from nearby dwellings and public vantage points, whereas other parts are not.
8. There is a Public Right of Way (PROW), at the southern end of the site providing access across a level crossing onto Steventon Road, known as the Ludlow 1 pedestrian level crossing. This crossing has no barriers, and Network Rail has suggested that a condition is used to ensure that this crossing and its associated PROW is diverted prior to occupation of the development. At the current time, views from this PROW into and across the southern section of the appeal site are possible.
9. Along the eastern edge of the site is the A49, which is a main trunk road carrying traffic from Shrewsbury to the north and Hereford to the south. The

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<sup>1</sup> Core Document F01 - Bernard Wheatcroft Ltd v Secretary of State for the Environment and Another (1982) 43 P. C.R. 233

- boundary along the road is formed by mature trees, with the road elevated above the ground level of the site nearest to the proposed access. The line of mature trees effectively screen most of the site from the A49, and this is not a dissimilar relationship to that found along the industrial site by Parys Road, when viewed from the A49. To the west is the main railway line, with the Steventon Conservation Area beyond and also some sporadic housing sites.
10. The proposal would result in the construction of up to 137 dwellings, with roughly 64% of the appeal site (exceeding 11 hectares) provided as various forms of Public Open Space (including an orchard and a Locally Equipped Area for Play (LEAP), for example). The appellant has submitted a Landscaping Masterplan, which forms part of the S106 agreement and suggested conditions. In this respect, were the appeal allowed, it would be expected that this drawing formed a significant part of the landscaping for the appeal site. In this respect, the landscaping masterplan seeks to retain areas of topography and trees/hedges within the illustrative layout. Although it is clear that some trees would need to be removed in order to facilitate the proposed access onto the A49. But such removal is limited in scope and scale relative to the wider appeal site.
  11. The site does not benefit from any specific local or national landscape designations. In this respect, the Council are of the view that the landscape is not one that should be considered as 'valued' in the terms set out in Paragraph 109 of the Framework. At the Inquiry, Mr Lynch (for the LPA) confirmed that the Council's reason for refusal could have been better expressed in that their main concern related to character and appearance rather than landscaping separately. Indeed, the Council's concerns principally related to the fact that the proposal would encroach into the open countryside to its detriment, and to the detriment of the setting of Ludlow.
  12. The Landscape Visual Impact Assessment (LVIA) identifies that there would be some harm in terms of adverse visual effects. I heard from Mr Berry (for the appellant) that these effects could be mitigated through the use of suitably worded conditions that would ensure screening of certain areas so as to reduce their visual impact. The Council agreed that landscaping would reduce adverse effects to a localised level. What is more, it appears clear from the indicative layout of the scheme, which has taken into account local topography, and the large areas of land for public open spaces, that in practice the proposal would appear as a spacious, verdant and fairly low density development. This contrast can be seen from a comparison with the housing on Greenacres to the north of the appeal site, where open space is principally restrained to the private gardens to the front and rear of dwellings. Nonetheless, the proposal would result in some limited and localised landscape harm.
  13. In terms of character and appearance, the proposal would result in some change, principally from open agricultural fields to a planned housing development. However, views into the site are, in the main, contained by the fact that to the east and south is the A49, with glimpses through trees into the site, to the west is the railway line that effectively borders this side of the site, with the boundary to the north facing onto Foldgate Lane and then further onto the rear gardens of the more densely laid out Greenacres development. I heard that whilst there are views of Ludlow, its surrounds and the appeal site from places such as Mortimer Forest to the west, such views are seen within

the context of the wider landscape and there are no clear vistas of the whole site from close up.

14. The combination of these factors means in practice that whilst there would be some harm to the local landscape, this harm would be very localised, with the site not within a 'valued' landscape, and in itself fairly well contained in the wider landscape. Furthermore, the proposed landscape masterplan would help integrate the areas of public open space with both the development, and the area more generally. As a consequence, when all of these factors are taken into account, I find that the identified harm can be mitigated to an extent that it weighs no more than a minimal level against the proposed development. What is more, any such impact would not result in significant adverse impacts to the character or appearance of the area or the general setting of Ludlow.
15. I acknowledge that there would be minimal conflict with Policies MD7a and MD12 of the SAMDev, insofar as they seek to ensure that developments which are likely to have significant adverse effect on landscape character will only be permitted if they meet certain criteria. Notwithstanding, the fact that I have not found a significant adverse impact on landscape, nor has the Council submitted evidence that explicitly suggests this degree of harm, I find that the use of mitigation in this case provides a practical and realistic way in which the small amount of harm identified could be addressed.
16. I therefore conclude that the proposal development would accord with Policies CS1, CS3, CS5, CS6 and CS17 of the *Shropshire Core Strategy*, adopted March 2011 (CS) and Policies MD1, MD2, MD3, MD7a and MD12 of the *Site Allocations and Management of Development Plan*, adopted December 2015 (SAMDev) (insofar as they apply to character and appearance), which amongst other aims seek to ensure that development should be designed to a high quality using sustainable design principles, to achieve an inclusive and accessible environment which respects and enhances local distinctiveness.

#### *Heritage assets*

17. The Council did not refuse permission on the basis that the proposal would fail to preserve the setting of nearby listed buildings. The Statement of Common Ground agreed that *'there are no heritage issues which would prevent development from being brought forward on this site<sup>2</sup>*. Nonetheless, there is a statutory duty placed upon a decision-maker under *The Planning (Listed Buildings and Conservation Areas) Act 1990*, as amended, (PLBCA) to, among other matters, consider the impact of a development on the setting of listed buildings. Concerns have also been raised by interested parties in this respect.
18. Both Foldgate Farmhouse and Foldgate Barn are Grade II listed buildings. Whilst located outside of the appeal site, they are surrounded by it. The listing description for both details their external and internal features, with the Farmhouse dating from circa 17<sup>th</sup> Century and the barn from the same period albeit with later 19<sup>th</sup> Century alterations. I saw during my site inspection that neither building is used for agricultural purposes anymore, with the Farmhouse occupied as a residential dwelling and the barn partially converted as holiday accommodation, together with a small meeting hall. The main parties agree that the proposal would not affect the fabric of the listed buildings, and I see no reason to disagree.

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<sup>2</sup> SOCG, Paragraph 5.2

19. The significance of the listed buildings, in terms of their setting, mainly derives from their associative and historic illustrative use in terms of farming parts of the surrounding land, as evidenced by the tithe maps<sup>3</sup>. However, the change from its former agricultural use to holiday accommodation and residential dwelling has altered the character of the immediate setting of the listed buildings from this former agricultural use. Added to this, since the 1840s the surrounding area has changed dramatically, with the main railway line to the west, the A49 to the east and the encroachment of the built up form of Ludlow to the north of the site all changing the immediate context of the listed buildings from a predominantly rural one in the 1840s, to the edge of settlement context it now comprises. In this changing context to the listed buildings, the setting is restricted to the immediate area surrounding them rather than the wider area, the significance of which derives in part from its rural appearance.
20. The main parties consider that the proposal would result in harm to the setting of the listed building; although this would amount to no more than 'less than substantial harm' as set out in Paragraphs 131 to 134 of the Framework. This is primarily due to loss of farm land which the main parties consider has some historical value.
21. However, as I have considered above, the setting of the listed buildings is the immediate area surrounding the listed buildings, which would be retained. For example the removal of the 'faux-barn style' element at Barn Close shown on earlier submitted drawings would provide space between the existing and proposed built form. In practice, there would also be large areas of open land around the site containing Foldgate Farmhouse and Barn; for example Foldgate Green and Newtown Community Green as shown on drawing BIR.4453\_21. I acknowledge that the use of these areas is unlikely to be pastoral land in the way that they are currently used. Nonetheless, they would retain the overall spacious and open nature of this part of the site, and the overall topography of the land so that the objective observer would be able to appreciate the listed buildings within a distinctly rural and open setting. In this respect, the setting of the listed buildings would be preserved.
22. Contrary to the positions of the main parties, I heard from one interested party that, in their view, the harm to the setting of the listed building would be 'substantial'<sup>4</sup> as set out in Paragraphs 132 and 133 of the Framework. However, case law<sup>5</sup> is clear in that to result in a 'substantial' level of harm it would need to have such a serious impact on the significance of the asset that its significance was either vitiated altogether or very much reduced. The proposal here would clearly not result in this degree of harm as suggested by this interested party, for the reasons aforesaid; whether directly or indirectly.
23. The appellant has suggested that the degree of harm would be 'less than substantial' and towards the lower end of that scale. The Framework does not provide a scale beyond the three possible levels of 'substantial', 'less than substantial', or neutral impact/no harm. However, whilst the proposal would lead to some change in the local character, it would retain large areas of open space, and it would be possible for visitors to the listed buildings to see that they existed, and continue to exist, within an open rural edge of town location

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<sup>3</sup> Proof of Evidence of Heritage June 2016, Mrs Stoten - Appendix 4

<sup>4</sup> Oral evidence of Mr Joyce and see also IP13, 'In summary' paragraph

<sup>5</sup> Core document F04 - EWHC 2847 [2013], R DCLG and Nuon UK Ltd v. Bedford Borough Council

with wide tracts of open land continuing to separate them from any contiguous built form. In this respect, I do not find that a change in the context of a listed building equates to any harm to its setting. Consequently, I do not agree with the main parties that the proposal would result in 'less than substantial harm' to the significance of the listed buildings or their setting. Indeed, I find that the proposal would result in no harm to the setting of the listed buildings.

24. In terms of the Steventon Conservation Area, this is located to the west of the main rail line, with none of the appeal site located within it. Its significance derives, in part, from its character as a ribbon development located along the historic main road into Ludlow from the south; a function which I understand changed when the A49 by-pass was built. As such, the importance of this conservation area derives from its linear form and its separation from the appeal site by the railway line aids in the distinction between the conservation area and the appeal site. As such, I do not find that the proposal would have an adverse impact on the character or appearance of the conservation area, nor would it fail to preserve the setting of the conservation area.
25. I therefore conclude, paying special regard to the desirability of preserving the setting of listed buildings, as set out in Section 66(1) of the PLBCA<sup>6</sup> that the proposed development would preserve the settings of the listed buildings and that of Steventon Conservation Area. The proposal would therefore accord with Policies CS6 and CS17 of the CS and Policies MD2 and MD13 of the SAMDev, which amongst other aims seek to protect, conserve, sympathetically enhance and restore Shropshire's heritage assets by ensuring that wherever possible, proposals avoid harm or loss of significance to designated heritage assets including their settings.
26. It would also accord with those of the Framework, which include conserving heritage assets in a manner appropriate to their significance and taking account of the desirability of new development making a positive contribution to local character and distinctiveness.

*Five year housing land (OAN/Housing sites)*

27. The appellant has pointed me to Paragraph 47 of the Framework which, put simply, indicates that to boost significantly the supply of housing, LPAs should use their evidence base to ensure that their Local Plan meets the full objectively assessed needs (FOAN) for market and affordable housing in the area. To summarise the appellant's case on this point, they consider that the Council is not able to demonstrate a FOAN, and have submitted evidence to support this stance. The Council published a *Full Objectively Assessed Housing Need Report* on 4 July 2016.<sup>7</sup>
28. I heard various arguments put forward by both Mr Corden (for the LPA) and Mr Usher (for the appellant) in terms of the variety of factors to be considered when working out an OAN, such as the issue of suppressed households and whether it is better to use one 'forecasting house' or an average of three, for example. However, the aim of the evidence of Mr Usher was to question the

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<sup>6</sup> 'in considering whether to grant planning permission for development which affects a listed building or its setting...the Secretary of State shall have special regard to the desirability of preserving the building or its setting.' The Inspector acts 'in the shoes' of the Secretary of State in exercising this special regard as their appointed person.

<sup>7</sup> Appendix 3, Daniel Corden's Proof of Evidence

LPA's OAN figures so as to make the case that the requirement figure, set out in Policy CS1 of the CS to deliver around 27,500 dwellings, redundant.

29. However, this appeal is not a local plan examination, and it is not my role to set a specific housing requirement figure. I have been directed to the judgement in the case of *Hunston v SS CLG [2013] EWCA Civ 1610*<sup>8</sup> where, put simply, the courts found that the Inspector had erred by failing to identify the full objectively assessed needs for housing in the area<sup>9</sup>. However, the circumstances in that case, where there was no definitive housing delivery requirement in any relevant plan with an absence of a local plan figure<sup>10</sup>, are very different to that before me, where the LPA does have a housing requirement figure set out in its adopted CS and has recently adopted the SAMDev in December 2015; both of which form the development plan for the area. Therefore, it is not for me to necessarily come to a specific figure in this case. Indeed, whilst the requirement and arguments on the view that this needs replacing on the basis of the OAN are noted, I am not in a position to set a new requirement and the evidence in this case does not lead to a single clear conclusion.
30. In such circumstances, the OAN that underpins the housing requirement figure within the adopted CS, and for which the SAMDev uses to identify housing sites within the local authority area is, in this case, a pragmatic and methodically tested one. Given this, I have considered that the OAN that underpins the adopted housing requirement figure is the one which should be used in this instance and therefore the housing supply requirement should be considered against this; as the main parties have primarily done in their evidence.
31. In terms of housing supply, following the revision of figures after the LPA published its *Five year housing land supply statement*<sup>11</sup>, both parties worked towards identifying sites where disputes remained<sup>12</sup> and providing an overall figure<sup>13</sup>. In terms of delivery against the requirement set out in Policy CS1, the Council's original figures demonstrated a 5.89 years of supply, whereas the appellant's indicated a supply of 4.82 years<sup>14</sup>.
32. After hearing the evidence of Mr Corden, and during cross-examination, Mr Jeremiah (for the appellant) conceded that he had essentially miscalculated the windfall allowance element. Instead of the 100 units windfall allowance given in the 'Current Hourigan Connolly Position (29/09/2016)' column of the Revised Summary Table, the figure should instead be 538. As a result, the appellant's position changes in that they consider 10,796 units could be delivered against a requirement of 10,738. Accordingly, Mr Jeremiah accepted that, based upon this assumption, the Council is able to demonstrate a five year supply of deliverable housing in this case.
33. The *Report on the examination into Site Allocations and Management of Development (SAMDev) Plan*<sup>15</sup> dated 30 October 2015, clearly explains that 'A significant proportion (some 35%) of the remaining housing requirement is expected to come forward through windfalls... reliance on windfalls to achieve

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<sup>8</sup> Core Document F05 – [2013] EWCA 1610

<sup>9</sup> Ibid, Paragraph 17

<sup>10</sup> Ibid, Paragraphs 12 and 32

<sup>11</sup> LPA20, Shropshire Council – Five year housing land supply statement

<sup>12</sup> APP13, List of disputed sites

<sup>13</sup> APP19, Revised summary table – Housing Land Supply

<sup>14</sup> Ibid.

<sup>15</sup> D05

*housing requirements does not provide the same level of certainty...however historically windfall development has been a major component of housing land supply in Shropshire.*<sup>16</sup> In this respect, whilst the windfall contribution to housing supply in Shropshire in this case may appear somewhat high, they appear to be reflective of the local circumstances in practice, and I do not doubt that they are a reasonable stance to take into account here.

34. I note the points made by the appellant in respect of what they consider to be the optimism of the Council in delivery and the potential 'talking-up' of delivery by developers so as to suppress the need for other sites. At the same time, there is a risk that the appellant was 'talking down' delivery of other sites. Mr Jeremiah pointed to factors such as certain sites not having developers with track records of delivery – which the Guidance suggests is a factor to consider. When questioned, Mr Jeremiah applied his estimates of lead times and build rates to this proposal, he suggested that were permission granted by the end of 2016, the erection of dwellings could be started by 2019. Yet, he also conceded that there was no cogent evidence before me that Richborough Estates Ltd themselves have a track record of delivery, and themselves are not a developer or house building company.
35. My attention was also drawn to the fact that a site for 77 dwellings at Flax Mill, may not come forward as planned owing to how a heritage lottery funding scheme may, or may not, proceed. However, despite the efforts of both parties, detailed evidence on this has not been put before me. It does not in any case alter my considerations of the five year housing land supply matter.
36. I acknowledge that the Council's demonstration of a five year supply of deliverable housing sites is on the basis that all of these sites will be delivered on time. The Council has an in-built 10% non-delivery rate deduction which provides some practical flexibility within the figures and there is clear historic evidence that windfall deliveries make an important contribution to housing supply in Shropshire. I am therefore satisfied, on the basis of the evidence before me, that the five year supply sought is demonstrated, and accordingly Paragraph 49 of the Framework is not engaged in this case.
37. In terms of affordable housing, the main parties broadly agree that the delivery of this type of housing is about 2,000 units behind trajectory, with only 2,000 built out of the 9,000 envisaged between 2006-2026, as set out in Policy CS1 of the CS. Policy CS1 goes on to set out that outside of settlements development will primarily be to meet the needs of the local communities for affordable housing. Mr Lynch confirmed at the Inquiry that there is large demand for affordable housing and it is a key issue locally; especially with the prevalence of low wages within the rural area. He also confirmed that there is a pressing need for affordable housing and this could be capable of outweighing any policy conflicts. Mr Lynch also indicated that in his view, the weight accorded to the 14 additional affordable dwellings (that is above the 20 required by policy) weighs heavily in its favour.
38. My attention was drawn to *Crane v SoS and Harborough [2015] EWHC 425 Admin* in that *'The decision-maker is left to judge, in the particular circumstances of the case before him, how much weight should be given to conflict with a plan whose policies for the supply of housing are out of date.*

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<sup>16</sup> Ibid., Paragraphs 44 and 45



*This is not a matter of law; it is a matter of planning judgment.*<sup>17</sup> In this case, as established previously, the policies for the supply of housing are not out of date. However, the point remains that the weight ascribed to any affordable housing shortfall should be informed by the extent of the shortfall against policy and then calibrated against the provision the proposal seeks.

39. In this case, the appellant has submitted a legal agreement (which I consider in greater detail below) which would secure about 25%, equating to around 34 dwellings, as affordable housing. Policy CS11 of the CS, as supported by the *Type and Availability of Housing SPD*, seeks to secure at least 15% affordable housing from developments of this type<sup>18</sup>. The proposal would therefore exceed the policy by 10%, providing what is effectively an over-provision of affordable housing. This is an over-provision of much needed affordable housing in an area that has a historic under-supply of such accommodation, and where there is a pressing and real need here and now. As such, the provision of roughly 25% of the total or about 34 dwellings as affordable housing is a significant benefit in favour of the proposal.
40. What is more, whilst the LPA is able to demonstrate a deliverable five year supply of housing sites based upon its requirement set out in Policy CS1, this is not a limit: there is an acute housing shortage in England. It is recognised in national planning policy that the government anticipates a significant boost in the supply of housing. In this respect, the provision of any extra housing to this national shortfall is a benefit in favour of the proposal, including both market and affordable housing.
41. I therefore conclude that the proposed development would accord with Policies CS1 and CS3 of the CS and Policies MD1, MD3 and MD7a of the SAMDev, which, amongst other aims seek to ensure the delivery of around 27,500 homes, of which 9,000 will be affordable housing and that Ludlow will provide a focus for development, whilst respecting its historic character, in southern Shropshire. It would also comply with the Policies of the Framework, which include that planning should proactively drive and support sustainable economic development to deliver the homes that the country needs.

#### *Local Infrastructure*

42. The appellant has submitted a Section 106 Agreement (S106) that is signed and dated, between the landowners, appellant, the local planning authority and the mortgagee. Put simply, the S106 provides for 25%<sup>19</sup> of the total number of dwellings to be affordable housing and for the provision of public open space including Local Equipped Area of Play (LEAP) and the maintenance and transfer to a management company in the future of such land. The matters set out in the S106 are detailed within a '*Justification for Planning Obligations*<sup>20</sup>' paper submitted and discussed at the Inquiry.
43. Policy CS11 of the CS, as supported by the *Type and Availability of Housing SPD*, seeks to secure at least 15% affordable housing from developments of this type. Policy CS1 of the CS identifies that over the entire plan period of 2006-2026, 9,000 of the 'around 27,500 new homes' will be affordable

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<sup>17</sup> Core Document F12, [2015] EWHC 425 Admin

<sup>18</sup> LPA1, Justification paper for planning obligations

<sup>19</sup> The precise percentage may change as it would be rounded down to the nearest whole dwelling (LPA12, Second Schedule, Paragraph 1.3)

<sup>20</sup> LPA1, Justification paper for planning obligations

housing. The provision of 25% of the units would therefore represent an exceedance of what the affordable housing policy seeks.

44. In terms of public open space, Policies CS6 and CS17 of the CS and Policy MD2 of the SAMDev, broadly support the enhancement of Shropshire's natural environment and the provision of quality open space. The *Open Space Interim Planning Guidance 2012* seeks a provision of 3 hectares per 1000 population. With the provision of around 11 hectare of open space for a development of 137 dwellings, the proposal is likely to exceed this guidance. In terms of LEAP, I understand that this is not included in the Council's Reg. 123 list for 2015/16. The Justification paper also confirms that the Council is not aware of any other contributions towards play area equipment in the Ludlow area.
45. Paragraph 204 of the Framework and CIL Regulation 122(2) set out the three tests for seeking planning obligations: that they must be '*necessary to make the development acceptable in planning terms, directly relate to the development, and fairly and reasonably related in scale and kind to the development.*' All the obligations in this case are necessary, directly related, and fairly and reasonably related to the development. Therefore, they meet all the tests within the CIL Regulations 122 and 123, and should be taken into account in the decision. What is more, the provision of both affordable housing and public open space levels in excess of local guidance are public benefits which weigh in favour of the grant of permission.

### **Other Matters**

46. A number of matters were raised by interested both before and during the Inquiry. I now consider these before coming to an overall conclusion.
47. In terms of the proposed 'T-junction' with the A49, I heard concerns raised about how this would operate with regard to highway safety. The A49 is the main trunk road west of the M5 and M6 motorways and there have been some accidents and collisions along this road<sup>21</sup>. However, it is not clear how many accidents there have or have not been on the specific stretch of road relevant to the appeal site. What is more, the graph provided in Figure 2/2 on page 21 of the Transport Assessment<sup>22</sup> shows that the provision of other junction solutions, such as a roundabout (or other type), would be an unnecessary overdesigned solution. I am reinforced in this view by the lack of formal objection to the scheme by Highways England and the local highways authority (subject to conditions). Concerns over the proposed highway junction with the A49 do not therefore justify the refusal of permission in this case.
48. I also heard concerns raised in respect of Foldgate Lane being partially closed by bollards in order to direct traffic arising from the development to the proposed access. Given the number of dwellings proposed and that only some of these would be located to the north of Foldgate Lane, the reality is that traffic crossing Foldgate Lane is likely to be infrequent and not to an extent that would result in a severe cumulative impact on existing and future residents. I also have no cogent evidence before me that access for emergency vehicles is not feasible or practical, and it is likely that such use would be very limited in duration and usage.

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<sup>21</sup> IP2, Statement of Mr Bernard H North

<sup>22</sup> Core Document A08 – Land at Foldgate Lane, Ludlow Transport Assessment by David Tucker Associates 13 October 2014

49. I note concerns raised in terms of the development's location and links to the wider public transport network, including bus and railway networks. Given the edge of settlement location of the site and the various ways in which it can be integrated in terms of pedestrian and cycle links, I do not find that it would be isolated in respect of links to the wider public transport network.
50. There is a level crossing to the southern end of the site, providing access along a PROW to and from the Steventon Road through parts of the site. I saw that this takes the form of yellow coloured ground level platforms, accessed by stiles in boundary fences, but with no other barriers. Comments have been received from Network Rail, who have indicated that if a condition or obligation is imposed/agreed in which the appellant formally closed the PROW and level crossing (through a diversion under the provisions of Section 257 of the TCPA, for example) prior to occupation of the proposed development, they would not object to this development. At the Inquiry, a suggested condition to this effect was discussed and the main parties agreed that it would be appropriate. With no evidence to the contrary, I see no reason to disagree that such a condition would not be effective or meet the tests set out in Paragraph 206 of the Framework in this case.
51. In terms of Sustainable Urban Drainage Systems (SUDs) and local features such as culverts and swales, it is clear from photos<sup>23</sup> that in the past there have been some very limited localised flooding issues. With an absence of full details and analysis of these incidents, I cannot be certain whether these are a direct result of water run-off from the appeal site.
52. The appellant has submitted a *Pre-Inquiry Statement of Case - Flood Risk & Drainage* undertaken by BWB Consulting Limited.<sup>24</sup> Put simply, this identifies that there are no outstanding technical objections with respect to flood risk and drainage, and the mitigation measures are considered acceptable, robust and would satisfactorily account for the low residual flood risk to the development site in the event of localised blockages of the ditch network and accounting for climate change<sup>25</sup>. With no evidence to the contrary, and with the ability to control such measures through planning conditions or other regulatory regimes, I see no reason to disagree with the conclusions of this report; even when taking into account the concerns raised by interested parties.
53. I heard concerns over sewerage capacity and that this is limited within the local area. However, no objection from the local sewerage body, Severn Trent Water, has been received in respect of the proposed development raising specific concerns. In such circumstances, there is no firm basis for me to conclude that the proposal would result in an unacceptable impact on the local sewerage network in terms of capacity.
54. I note the concerns raised in respect of the potential impact on livelihood of the occupiers of the retreat activities taking place at Foldgate Farm. I also note the important contribution that tourism makes to local economic activity more generally. However, there is no cogent evidence before me that demonstrates that the erection of 137 dwellings would, either directly or indirectly, lead to a materially harmful impact on the economic vitality of the local tourist industry.

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<sup>23</sup> IP10

<sup>24</sup> Appendix 2, Pre-Inquiry Statement of Case – Flood Risk & Drainage, John Acres Proof of Evidence

<sup>25</sup> Ibid. Page 12 of 15

55. In respect of noise and disturbance during the construction phase, the duration of any works is likely to be limited. Moreover, any adverse effects could be mitigated through the use of appropriately worded conditions. In terms of noise and light pollution, whilst I appreciate the changed use of the site would increase such factors, I have not been provided with any detailed evidence that either factor would be to a materially harmful level. What is more, factors such as light pollution could be partially mitigated through the use of suitably worded conditions.
56. Concerns raised in respect of hedgerow protection under the 1997 Act, the protection afforded to Tree Preservation Order (TPO) trees and trees more generally under Section 197 of the TCPA are noted. However, these are matters which can be mitigated and protected through the use of conditions, and when considered with the enhancements proposed by the appellant, would mean that the proposal would not result in material harm to the local tree or hedgerow populations.
57. Parts of the appeal site comprise Grade 2 agricultural land, which is amongst the 'best and most versatile agricultural land' category (BMVAL). Paragraph 112 of the Framework indicates that where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality. I was not directed to any specific development plan policy that dealt with such matters. Furthermore, I have not been provided with any detailed evidence that the LPA has undertaken such an assessment in this case, nor where land of lesser quality exists within the LPA area. Indeed, I heard at the Inquiry that the main parties do not consider that the proposal would result in a significant development of agricultural land and that large areas of Shropshire benefit from high grading of agricultural land.
58. The proposal would see the development of around 36% or about 6 hectares developed out of a total 17 hectares, with the rest of the site used for public open space which, in itself, does not preclude the BMVAL from being used for agricultural purposes, such as the proposed orchard or supporting local biodiversity through the use of flower meadows for example. Nonetheless, there would still be a loss of BMVAL, albeit this would be a very small amount in the wider context of such land within Shropshire. This would loss would result in a limited degree of harm.
59. Interested parties raised the matter of the Human Rights Act 1998, and in particular referred me to Article 1 (Protection of property) and Article 8 (Right to respect for private and family life). I have considered the Act as a whole insofar as it is pertinent to the appeal and relates to all parties. At the Inquiry I sought the views of the advocates of the main parties, who had no specific observations. Given my careful consideration of the issues and matters raised in this decision, I am content that the proposal does not result in a conflict with the aims or Articles of the Human Rights Act 1998, in this case.
60. Policy MD3 of the SAMDev indicates that planning permission will be granted for sustainable housing developments having regard to the Local Plan. Paragraph 14 of the Framework sets out the 'presumption in favour of sustainable development' and what this means in planning terms. The Framework sets out at Paragraphs 7 and 8 that sustainable development

comprises three mutually dependent roles; economic, social and environmental.

61. In this case, the evidence indicates that the proposal would fulfil the economic role through the provision of factors such as jobs during construction and infrastructure in the form of CIL receipts. It would fulfil the social role through factors such as the provision of much needed housing for the needs of present and future generations including the desperately needed (in Shropshire) affordable housing units above policy requirements, and the close proximity of accessible local services in Ludlow. It would fulfil the environmental role through the provision of large areas of landscaped public open space, the creation of an orchard and recreational routes through the site and improving biodiversity for bats, birds and other creatures. There would be some limited localised landscape harm, but this could be mitigated.

### **Conditions**

62. Prior and at the Inquiry, a list of suggested conditions was submitted by the Council<sup>26</sup>. During the conditions session, the suggested conditions were discussed without prejudice to the cases presented by any and all parties. These led to a revised suggested schedule of 28 conditions, together with reasons for their imposition, agreed by the main parties<sup>27</sup>. I have considered these latter conditions in the context of Paragraph 206 of the Framework and the Planning Practice Guidance in terms of the use of planning conditions. Where appropriate, I have reworded the conditions to those listed in Appendix A.
63. The submission of the reserved matters relating to appearance, landscaping, layout and scale and time limits for their submission and the start of development, the phasing of no more than 137 dwellings, and that the development be carried out broadly in accordance with drawings BIR.4452\_21 and 2060/P13A, are necessary for the avoidance of doubt.
64. The submission of details relating to a Construction Management Plan, geotechnical assessment for earthworks, a Non Motorist User Audit, and the completion of access works shown on drawing 13177-06 Revision D are necessary and reasonable to ensure that the site can adequately and safely access both on and off the A49. Furthermore, the restriction of the use of Foldgate Lane by motorised vehicles, other than emergency vehicles, to access the dwellings is reasonable to ensure that the primary vehicular access is from the A49. For similar reasons, the Travel Plan Measures should be implemented to ensure that residents utilise sustainable transport modes.
65. The submission of a construction method statement is reasonable in order to ensure the proposal does not lead to unnecessary noise or disturbance for local residents, and where such matters arise, this is limited. A condition requiring certain soundproofing measures to be incorporated into the design of the proposed dwellings and their boundaries are necessary to ensure that the noise from road or rail traffic is adequately mitigated.
66. Conditions relating to drainage including the disposal and storage of surface water, and also of foul water, and their interaction with the public sewerage network, are reasonable in order to reduce the risk of flooding and pollution

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<sup>26</sup> LPA5

<sup>27</sup> LPA9

within the local environment. The submission of a programme of archaeological work is necessary and reasonable as the site, or parts thereof, are known to hold archaeological interest and such a condition would allow their recording.

67. Conditions relating to trees, including root protection areas, a tree protection plan and that these are put in place before any work commences, and for the provision of all new tree planting (including details of species, size and so on), are necessary and reasonable in order to safeguard existing trees on site. A condition requiring the provision of an Environmental Management plan is reasonable in this case in order to ensure that any features of nature conservation interest are protected during construction work.
68. Conditions requiring the submission of a habitat management plan, a lighting design strategy for biodiversity, the location and design of at least 20 bat boxes and 20 bird boxes and precautionary method of working for Great Crested Newts in accordance with the Ecological Impact Assessment dated October 2014 are necessary and reasonable in order to protect any existing or potential protected species and to promote local diversity.
69. Lastly, a condition requiring the PROW across the railway line to be formally diverted before occupation of any dwellings is both necessary and reasonable. Such a condition would be in the interest of public safety (for both pedestrians and railway users) by ensuring that future occupiers close to the unmanned level crossing use other routes for crossing the main railway line that do not involve climbing over stiles and then traversing a platform without any safety barriers.

### **Overall Planning Balance and Conclusion**

70. The proposal would result in a small conflict with elements of Policies MD7a and MD12 of the SAMDev, in terms of the minimal harm arising from the impact on the local landscape. This harm could be mitigated, and would be extremely localised in nature. Whilst the proposal would breach part of the policies of the development plan, the adopted development plan for the area should be taken as a whole and conflict with one or more policies does not mean that the proposed development does not comply with the plan in its entirety.
71. Set against this limited harm, which could be mitigated, and also the limited harm arising from the small loss of BMVAL, are a number of benefits including the provision of 137 homes, of which about 34 (25%) would be affordable housing, and the large areas of landscaped public open space which weigh significantly in favour of the proposal. There would also be modest benefits in the form of the creation of direct and indirect jobs of roughly 106 Full Time Equivalent (FTE), construction productivity of around £5.5 towards the economy of Shropshire, the provision of infrastructure in the form of CIL receipt of about £580,000, the new homes bonus and council tax payments, an increase in Ludlow's population by around 315 people which could help sustain services within the wider locality, local labour force expansion including higher skilled occupations, and the accessible location of the development on the edge of an existing settlement<sup>28</sup> which is identified as a focus for development within the CS.

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<sup>28</sup> See Paragraph 7.20, Proof of Evidence Mark Lynch

72. When the small degree of harm to a local landscape is set against the overall thrust of the policies of the adopted development plan and the Framework, it is clear that the proposal would represent a sustainable development for which a presumption applies. Accordingly, I find that the proposal would accord with the development plan and there are no material considerations that indicate that the proposal should not be approved.
73. For the reasons given above, and having taken into account all matters raised, including those by both the main and interested parties, I conclude that the appeal should be allowed.

*Cullum J A Parker*

INSPECTOR

## APPEARANCES

### FOR THE LOCAL PLANNING AUTHORITY:

Gary Grant of Counsel

Instructed by the Solicitor to  
the Council

He called:

Edward West, BA(Hons), MCD, MRTPI

Mark Lynch BSC, PGDipTP, PGCMS, MRTPI

Daniel Corden, BSc(Hons), MSc, MPLAN, MRTPI

Principal Policy Specialist  
Planning Consultant

Senior Policy Officer (Planning  
Policy)

### FOR THE APPELLANT:

Christopher Young, Barrister

Instructed by Mr John Acres

He called:

James Stacey, BA (Hons), DipTP, MRTPI

Jon Berry, BA(Hons), DipLA, CMLI, AIEMA,  
M.Arbour.A

Gail Stoten, BA(Hons), MCiFA, FSA

Dan Usher, BA(Hons), MA, MRTPI, MIED

Tom Jeremiah, MPLAN (Hons) MRTPI

John Acres, MSC, DipTP, MRTPI

Affordable housing  
LVIA

Heritage

Housing need

5 year housing land supply

Planning balance

### INTERESTED PERSONS:

Town Councillor Ginger

Mr Maddicott

Mr Spall, MRTPI

Parish Councillor Ms North

Mr Joyce

Councillor Boddington

Councillor Mrs Parry

Mr North

Mr Woodcock

Mr Treasure

Ludlow Town Council

Local Resident

Interested person

Chairman Ludford Parish Council

Interested person (Conservation Architect)

Ward Member Ludlow North (Shropshire Council)

Ward Member Ludlow South (Shropshire Council)

Local Resident (Chartered Engineer)

Local Resident (Retired Engineer)

Conservation Building Contractors located in  
Ludlow

Mr Currant

Local Resident, though acting as voice for local  
community in this case

Mr Woodbridge

Local Resident, though acting as voice for local  
community in this case



## **DOCUMENTS SUBMITTED AT THE INQUIRY:**

### **By the Local Planning Authority**

<b>Document Reference:</b>	<b>Title</b>
LPA1	Justification paper for Planning Obligations
LPA2	Opening on behalf of the LPA by G.A. Grant of Kings Chambers, Manchester-Leeds-Birmingham
LPA3	Ludford Parish Map
LPA4	Ludlow Conservation Area (showing Ludlow, Steventon and Victorian Conservation Areas)
LPA5	Suggested schedule of conditions
LPA6	Revised Table of contested supply sites (positions as at 3 August 2016)
LPA7	Small sites with Planning Permission
LPA8	Email from Anne Gerzon Solicitor Shropshire Council, to Mark Lynch dated 4 August 2016 relating to S106
LPA9	Suggested schedule of conditions (revised and with Reasons)
LPA10	CV of Greg Ball (See Appendix K LPA's FOAN Report July 2016)
LPA11	Email from Anne Gerzon Solicitor Shropshire Council, to Mark Lynch dated 5 August 2016 relating to S106
LPA12	Section 106 Agreement, Dated 8 August 2016: Received 12 August 2016
LPA13	Judgement of <i>St Modwen Developments Ltd v SoS CLG</i> , Neutral Citation number: [2016] EWHC 968 (Admin)
LPA14	Appeal decision Ref: 3146986; Land to the north of Pulley Lane, Shropshire, dated 2 September 2016
LPA15	Appeal decision Ref: 3145470; Land at Shrewsbury Road, Shropshire, dated 19 September 2016
LPA16	Appeal decision Ref: 3146165; Woodlane Farm, Shropshire, dated 19 September 2016
LPA17	Appeal decision Ref: 3131686; Crawfortan, Shropshire, dated 21 September 2016
LPA18	Outline of Closing Submissions on behalf of the LPA, by G.A. Grant of Kings Chambers, Manchester-Leeds-Birmingham, dated 5 October 2016
LPA19	Email from Mr West (Shropshire Council) clarifying APP24 dated 6 October 2016

LPA20 Shropshire Council - *Five Year Housing Land Supply Statement* data to 31 March 2016, published 26 August 2016

### By the Appellant

**Document Reference:**

**Title**

APP1	Photos taken by Mrs Stoten of Foldgate Farmhouse and surrounds
APP2	Letters and leaflet from Mr Maddicott entitled ' <i>Proposed housing development on Land around Foldgate Lane between Greenacres, Steventon and the A49</i> '
APP3	Opening statement on behalf of Richborough Estates Limited by Christopher Young of No5 Chambers, Birmingham-Bristol-East Midlands-London
APP4	Site visit Itinerary (Agreed between main parties)
APP5	Schedule of Plans August 2016
APP6	Landscape Masterplan 2060/P13a August 2016
APP7	Section 106 agreement (Unsigned)
APP8	Judgement of <i>West Berkshire District Council v SoS for CLG and HDD Burghfield Common Ltd, Neutral Citation number: [2016] EWHC 267 (Admin)</i>
APP9	Appeal decision ref: 3025042; Land north of Haygate Road, Wellington, Shropshire, dated 15 April 2016
APP10	d. Household Representative Rates
APP11	Consent order of <i>Gladman Developments Limited v SoS for CLG and Telford and Wrekin Borough Council Claim Ref: CO/2082/2016</i> (quashing appeal ref: 3010085)
APP12	DCLG - <i>Household Projections 2014-based: Methodological Report</i> , dated July 2016 Excerpts of Glossary Pages 31 & 32
APP13	List of disputed sites, (as at end of September 2016)
APP14	Appeal decisions Ref: 3132791 & 31344743; Land at Kedleston Road, Derbyshire, dated 22 August 2016
APP15	Appeal decision Ref: 2186546; Land Between Iron Acton Way and North Road, South Gloucestershire, dated 8 April 2013
APP16	Appeal decision Ref: 2180060; Land east of Butts

	Road, Devon, dated 14 December 2012
APP17	Turley letter entitled Further submission by Richborough Estates dated 29 <sup>th</sup> September 2016
APP18	Rebuttal Relating to housing land supply issue following public inquiry adjournment, dated 16 September 2016 ( <i>excluding</i> Appendix 1 – Proof of evidence of Mr Andrew Timbrell)
APP19	Revised summary table – Housing Land Supply – Positions of main parties as at 29 September 2016 (Hourigan Connelly figures on windfall further revised following oral evidence)
APP20	Appeal decision Ref: 3147519; Land off Avenue Road, Shropshire, dated 31 August 2016
APP21	Appeal decision Ref: 3003171; Land at The Cross, Shropshire, dated 30 November 2015
APP22	Appeal decision Ref: 3147776; Land to the rear of 41 Furlongs Road, Shropshire, dated 28 July 2016
APP23	Closing submissions on behalf of Richborough Estates Ltd by Christopher Young of No5 Chambers, Birmingham-Bristol-East Midlands-London
APP24	Copy of circular email from Ian Kilby (Operations Manager, Planning Services, Shropshire Council) to developers and agents dated 27 January 2016.

### **By Interested Parties**

<b>Document Reference</b>	<b>Identifying feature/Submitted by</b>
IP1	Barbara & Chris Woodcock
IP2	Statement of Mr Bernard H North
IP3	Stephen Evans
IP4	Paul Baker
IP5	Rosamund Sly
IP6	Ludford Parish Council appeal statement July 2016
IP7	Appeal statement by Richard and Clare Maddicott August 2016
IP8	Stephen Treasure of Treasure and Son, Conservation Building Contractors
IP9	Colin Richards, former Head of Conservation and Archaeology, Shropshire Council

IP10	Photos of flooding at nearby property
IP11	Nicholas Spall MRTPI
IP12	Mr Carrant
IP13	Nick Joyce Architect, heritage Statement on the historic setting of Foldgate Farm and the Steventon Conservation Area
IP14	Letter from Richard Maddicott dated 14 September 2016

## **Appendix A – List of conditions**

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall take place not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted is for no more than 137 dwellings and no development shall take place until a programme of phasing for implementation of the whole development has been submitted to and agreed in writing with the local planning authority. Such a programme of phasing shall include the overall number of years for delivery, and the projected number of dwellings to be delivered each year, including the type of housing. Any amendments to this phasing must be first agreed in writing with the local planning authority. Thereafter, the development shall be carried out in accordance with the agreed details.
- 5) The submission of the reserved matters and implementation of the development shall be carried out substantially in accordance with the Proposed Indicative Masterplan by Pegasus Urban Design drawing number BIR.4552\_21 and Landscape Masterplan - Tyler Grange drawing number 2060/P13A, in so far as it relates to new structural landscaping and the location of areas of public open space, buffer zones, play areas and broad areas of built development.
- 6) 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 (in consultation with the relevant highways authority for the A49). The CMP shall, at the very least, include details of:
  - i) Parking facilities for site operatives and visitors;
  - ii) Routes for construction traffic to and from the site;
  - iii) Methods for the prevention of mud and other substances being carried onto the public highway, including details of wheel washing facilities and their location;
  - iv) Measures to protect pedestrians and cyclists;
  - v) Any temporary traffic restrictions, and;
  - vi) Arrangements for the turning of vehicles within the site.Thereafter, the development shall be carried out in accordance with the agreed details.
- 7) The development hereby permitted shall not take place until a geotechnical assessment relating to the proposed site access earthworks has been submitted to and approved in writing by the local planning authority (in consultation with the relevant highways authority for the A49 and the Highways England Formal Recommendation Letter v.2 July 2015). The geotechnical data shall be in accordance with

- DMRB 4.1.2 HD22/08 'Managing Geotechnical Risk', or any similar replacement document, and include provision for a staged assessment and approval process throughout the construction period. The development shall be carried out in accordance with such details thereafter.
- 8) The site access works hereby approved shall not commence until a Non Motorist User Audit (NMUA), which shall be in accordance with DMRB 5.2.5 HD42/05, or any similar replacement document, has been submitted to and approved in writing by the local planning authority (in consultation with the relevant highways authority for the A49). The development shall be carried out in accordance with such details thereafter.
  - 9) Prior to the commencement of any building works or structural development within the site, the site access work shown on DTA drawing 13177-06 Revision D shall be completed in accordance with details submitted to and approved in writing by the local planning authority (in consultation with the relevant highways authority for the A49). The development shall be carried out in accordance with such details thereafter.
  - 10) With the exception of emergency access (as shown on drawing DTA 13177-11), no motorised vehicular access to any dwelling hereby approved shall be made via Foldgate Lane.
  - 11) The Travel Plan Measures (as shown in David Tucker Associates SJT/NES/13177-04A-Travel Plan dated 13 October 2014) shall be implemented within one month of the first occupation of any part of the residential development. The Travel Plan Measures shall relate to the entirety of the development, and reflect the phasing of occupation as appropriate.
  - 12) With the exception of work to provide access onto or from the A49, construction works shall not take place outside of the following times:
    - i) Monday to Friday 07:30 to 18:00;
    - ii) Saturday 08:00 to 13:00, and;
    - iii) Not at any times on Sundays, Public or Bank Holidays.
  - 13) No development hereby approved shall take place until a Construction Method Statement (CMS) has been submitted to and approved in writing by the local planning authority. The approved CMS shall be adhered to throughout the construction period. The CMS shall, at the very least, include details of:
    - i) The loading and unloading of plant and materials;
    - ii) The storage of plant and materials used in construction of the development;
    - iii) The erection and maintenance of security hoarding, including decorative displays and facilities for public viewing and information where appropriate;
    - iv) Measures to control the emission of dust, dirt and other substances during construction, and;
    - v) A scheme for the recycling and disposing of waste resulting from any demolition and construction works.

- 14) No development shall take place until details of a phased drainage scheme, that has been informed by an assessment of the hydrological and hydrogeological context of the development in relation to the disposal of surface water and an assessment of the need for improvements to the public foul sewerage system necessary to ensure that there is sufficient capacity within the public sewerage system to accommodate the development, has been submitted to and approved in writing by the local planning authority.

No dwelling hereby permitted shall be first occupied until the drainage scheme approved has been implemented and completed in accordance with the submitted details, and not until written confirmation, in terms of the foul sewerage system improvements, is made by Severn Trent Water Limited (or any replacement body) and provided to the local planning authority.

- 15) The development hereby permitted shall not commence until details of the drainage plans for the disposal of surface water have been submitted to and approved in writing by the local planning authority. Such details shall include the time that the surface water drainage plans shall become effective. The details shall be implemented as approved and thereafter retained in the approved form.
- 16) No development shall take place until details of the implementation of a programme of archaeological works in accordance with a written scheme of investigation have been submitted to and approved in writing by the local planning authority. Any such archaeological works shall be carried out in accordance with such details thereafter.
- 17) No development shall take place until an Arboricultural Method Statement (AMS) is submitted to and approved in writing by the local planning authority. The AMS should where any construction works is to take place within the Root Protection Areas (RPAs) of any retained trees, large shrubs or hedges. The AMS shall also include details on how and when the works will take place and be managed, and how the trees, shrubs and hedges to be retained will be protected during the construction process.
- 18) No ground clearance, demolition, or construction works shall take place until a scheme has been submitted and approved in writing by the local planning authority to safeguard trees to be retained on the site as part of the development. The submitted scheme shall include the provision of a tree protection plan that reflects the guidance given in *BS5837:2012* (or any such replacement guidance). The approved details shall be implemented and retained for the duration of construction works on the site.
- 19) No demolition or construction work should take place until the local planning authority is notified in writing of the full establishment of the tree protection measures and the local planning authority has given written confirmation that such measures have been implemented as approved.
- 20) No works or development shall take place until a specification of all proposed tree planting has been submitted to and approved in writing by the local planning authority. This specification shall include details of the quantity, size, species, position and proposed planting time of all trees to be planted, together with an indication of how they integrate with the

proposal in the medium to long term with regard to their mature size and anticipated routine maintenance. All tree, shrub and hedge planting included within that specification shall be carried out in accordance with that specification and in accordance with *BS8545:2014 –Trees from nursery to independence in the landscape recommendations* (or any such replacement document). Such specification shall also include details of how and when any tree may be replaced should they die, become uprooted, destroyed, or removed, and confirmation that they will be replaced within the first five year period of tree planting with a suitable tree of similar size and species.

- 21) No development shall take place until an Environmental Management Plan (EMP) shall be submitted to and approved in writing by the local planning authority. The EMP should include details of;
- i) A five metre high Heras (or similar) fence stand off to watercourses;
  - ii) Strict pollution control measures;
  - iii) The personnel responsible for the implementation of the plan.
- The EMP shall be carried out as approved by the local planning authority.
- 22) Prior to occupation of the development hereby permitted, a 'Lighting Design Strategy for Biodiversity' shall be submitted to and approved in writing by the local planning authority. The Strategy shall:
- i) Identify those areas or features on site that are particularly sensitive for bats and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory, for example for foraging, and;
  - ii) Show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory or having access to their breeding and resting places. Such lighting should also seek to reduce, so far as practicable, light pollution from the site.
- All external lighting shall be installed in accordance with the specifications and locations set out in the Strategy, and these measures shall be retained thereafter.
- 23) As part of the reserved matters details, the location and design of no less than 20 bat boxes or bat bricks suitable for nursery or summer roosting for small crevice dwelling bat species shall be submitted to and approved in writing by the local planning authority. The approved details shall be implemented as approved prior to the occupation of the dwellings hereby approved and shall thereafter be retained.
- 24) No development shall take place on site until work and details, in accordance with Precautionary Method of Working for Great Crested Newts in accordance with the Ecological Impact Assessment by Atkins dated October 2014, are submitted to and approved in writing by the local planning authority. Such work shall be undertaken by a suitably qualified ecologist and any recommendations approved shall be carried out in accordance with the approved details.
- 25) Prior to the first occupation of the dwellings hereby permitted, details of the location and type of no less than 20 artificial nests suitable for small



birds species such as the robin, blackbird, tit, sparrow and swallow, shall be submitted to and approved in writing by the local planning authority. The details shall be implemented as approved prior to the first occupation of the dwellings and shall thereafter be retained.

- 26) No development shall take place until a Habitat Management Plan (HMP) shall be submitted to and approved in writing by the local planning authority. The HMP shall include:
- i) A description and evaluation of the features to be managed;
  - ii) Ecological trends and constraints on site that may influence management;
  - iii) Aims and objectives of management;
  - iv) Appropriate management options for achieving aims and objectives;
  - v) Prescriptions for management actions;
  - vi) Preparation of a works schedule (including a 5 year project register, an annual work plan and the means by which the plan will be rolled forward annually);
  - vii) Personnel responsible for the implementation of the plan;
  - viii) Monitoring and remedial/contingencies measures triggered by monitoring.

The plan shall be carried out as approved for the lifetime of the development.

- 27) The reserved matters shall include:
- i) 4-12-4mm glazing (or similar) in all rooms on the eastern façade of properties which run alongside the A49;
  - ii) A 1.8 metre solid timber close boarded fence (or similar noise reducing acoustic boundary treatment) to the western boundary of the site where external residential garden areas face the railway line, and;
  - iii) Enhanced glazing and ventilation requirements on the western facades of properties closest to the railway line.
- 28) The development hereby approved shall not be occupied until the Public Right of Way crossing the railway line using the Ludford 1 pedestrian level crossing has been formally diverted. The Ludford 1 pedestrian level crossing shall be permanently closed thereafter.