



Appeal Decision

Hearing held on 18 April 2023

Site visit made on 18 April 2023

by M Russell BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 May 2023

Appeal Ref: APP/J1860/W/22/3306186

Land adjacent to Sandyfields, Kingswood, Martley WR6 6PD

Easting (x) 374966, Northing (y) 259703

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Neil Jessup - Jessup Brothers Limited and Citizen Housing Group Limited against the decision of Malvern Hills District Council.
 - The application Ref 21/02245/OUT, dated 9 December 2021, was refused by notice dated 22 March 2022.
 - The development proposed is an outline application with all matters reserved (except for access) for the erection of up to 52 dwellings, including 42% affordable homes, up to 10no. self-build plots and a public car park together with ancillary works.
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Decision

1. The appeal is allowed and outline planning permission is granted for an outline application with all matters reserved (except for access) for the erection of up to 52 dwellings, including 42% affordable homes, up to 10no. self-build plots and a public car park together with ancillary works at land adjacent to Sandyfields, Kingswood, Martley WR6 6PD in accordance with the terms of the application, Ref 21/02245/OUT, dated 21 December 2021, subject to the conditions set out in the attached schedule.

Applications for costs

2. An application for costs was made by Mr Neil Jessup – Jessup Brothers Limited and Citizen Housing Group Limited against Malvern Hills District Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The South Worcestershire Development Plan review (SWDP Review) has not yet been through examination. I therefore concur with the main parties that the policies of this emerging plan carry very limited weight for the purposes of this appeal.
4. The planning application was submitted in outline with all matters of detail reserved for future consideration save for access. Therefore, other than the details of access, I have considered the remaining details on the plans provided on the basis that they are indicative only for the purposes of my assessment.
5. The main parties have produced a statement of common ground (SOCG) which amongst other things confirms that the Council cannot demonstrate a 5-year housing land supply. At the hearing, the Council confirmed this remained its

position. The Council also confirmed that it was not relying on a 5 Year Housing Land Supply 2022 addendum (April 2023) as it had not been published. Given the uncertainty in respect of the status of this document, I have based my decision on the debate at the hearing which was focussed on the extent of the deficit in the Council's housing land supply.

6. At the hearing, the appellant provided a new iteration of the landscape masterplan. The Council also raised no objection to this plan informing my considerations. On the basis that this plan is for illustrative purposes only, no party would be prejudiced by me taking this drawing into account.

Main Issues

7. The main issues are:
 - (i) the extent of the deficit in the Council's housing land supply;
 - (ii) whether the appeal site is a suitable location for the proposal having regard to the development plan and national policy;
 - (iii) the effect of the proposal on the character and appearance of the area, including landscape character;
 - (iv) whether the setting of the Grade II listed Longstone Cottage would be preserved; and
 - (v) whether the development would make adequate provision for affordable housing and any other necessary infrastructure requirements arising from the development.

Reasons

Housing land supply

8. The SOCG on Housing Need and Supply provided in advance of the hearing confirms that there is agreement between the main parties that as a result of the SWDP being over 5 years old, the Standard Method to determine Malvern Hills District Council's Local Housing Need (LHN) should be applied to the Council's 5-year housing land supply (5YHLS) requirement for the period 1 April 2022 to 31 March 2027. This equates to a 5-year requirement for a minimum of 2,174 homes including a 5% buffer and it is agreed between the parties that the minimum local housing need is significantly greater than provided for by the adopted Development Plan.
9. There is also agreement that if regard is to be had to the adopted SWDP for the purpose of calculating 5YHLS, then the relevant area of assessment for calculating 5-year supply would be the Malvern Hills (excluding Wider Worcester Area) policy. The Wider Worcester Area (WWA) includes supply from the Worcester urban extensions which were allocated in the adopted SWDP to meet the unmet needs of both Worcester City and Malvern District and are to be monitored separately under the SWDP.
10. However, the evidence before me confirms that the Council's housing land supply position of 2,199 dwellings set out in the South Worcestershire Five Year Housing Land Supply Report December 2022 (SW5YHLS) includes 1,091 dwellings from the Worcester urban extensions within Malvern District which is a departure from the spatial distribution of housing set out in the development

plan. The parties also agree that the Council's deliverable supply position should be reduced by at least 69 dwellings when compared with the figure in the SW5YHLS having regard to the deliverability of specific sites set out in the SOCG.

11. On this basis of the above, the Council considers its deliverable supply to be 2,130 dwellings which equates to a 4.9 year housing land supply. The difference between the positions of the main parties is substantial with the appellant arguing a figure of 2.3 years supply. This equates to a shortfall of 1,173 dwellings once the supply from the Worcester urban extensions and other sites where deliverability is disputed are deducted.
12. My attention has been drawn to recent appeal decisions in the District¹ where the Inspectors in those cases found that that an approach which moved to addressing housing land supply on a plan-wide basis jointly between Malvern Hills, Wychavon and Worcester was a matter for the plan making process (through the SWDP Review) and not for this decision-making process.
13. In an appeal decision in March 2023 in Tewkesbury Borough², the housing policies of the development plan were similarly out of date and the Inspector in that instance found that the LHN pertains to housing need and that there is nothing to suggest that a change to the local needs figure would impact on the spatial distribution set out in the adopted development plan.
14. In this appeal, the Council is not advocating the plan-wide approach previously advanced. Even so, as confirmed in the SOCG, the approach to calculating 5-year supply set out in the SW5YHLS is a departure from the adopted Development Plan. This is because it disregards the agreed distribution of supply between the policy areas set out at Policies SWDP3 and SWDP2 and allows the some of the unmet needs of Malvern Hills (excluding Wider Worcester Area) policy area to be met through the Worcester urban extensions contrary to the supply components in these adopted policies.
15. The Planning Practice Guidance (PPG) is clear that while areas which have a joint plan have the option to monitor their 5-year housing land supply over the whole of the joint planning area or on a single authority basis, the approach to using individual or combined housing requirements will be established through the plan-making process. There is no compelling evidence before me to suggest that the approach in the SW5YHLS overcomes the concerns of previous Inspectors in terms of applying methodologies to calculate 5YHLS which depart from the spatial distribution in the development plan.
16. Once the dwellings arising from the Worcester urban extensions are discounted, I find that the Council's 5YHLS deficit would be considerably lower than the 4.9YHLS put forward by the Council. The position is not entirely certain in terms of the actual undersupply position. However, what is clear is that there is no dispute between the main parties that the LPA cannot demonstrate a 5-year supply of deliverable housing sites.
17. For the purposes of this appeal, it has not been necessary for me to reach a definitive view in terms of the actual undersupply position. However, for the avoidance of doubt, and for the purpose of my overall planning balance, I have considered the worse-case scenario in housing land supply terms and applied

¹ Appeal Refs APP/J1860/W/21/3267054, APP/J1860/W/19/3242098 and APP/J1860/W/21/3289643

² APP/G1630/W/21/3284820

the appellant's claim of 2.3 years supply. In the context of an undersupply position, I afford positive weight to the provision of dwellings in the area. Given this undisputed position that a 5YHLS cannot be demonstrated, paragraph 11d of the National Planning Policy Framework 2021 (the Framework) is engaged.

18. Therefore, it has not been necessary for me to reach a further conclusion on the individual sites disputed by the appellant as even if I was to favour the Council's position on specified sites this would be unlikely to significantly improve the overall position and the and the Council has in any case conceded that it cannot demonstrate a 5YHLS. The absence of a 5YHLS is a matter to which I attach substantial weight and to which I shall return to in my planning balance and conclusion.

Location

19. The main parties are not in dispute that the appeal site is located outside the development boundary for Martley. Therefore, the site is in the countryside for the purposes of decision making.
20. Policy SWDP2 (Development Strategy and Settlement Hierarchy) of the South Worcestershire Development Plan (2016) (SWDP) and Policy MKD6 (New Housing Development Outside the Martley Development Boundary) of the Martley, Knightwick and Doddenham Neighbourhood Development Plan (2018) (NP) confirm that development in the countryside will be strictly limited to specific development types. The types of development supported do not include market housing such as that forming part of the proposal.
21. The appellant accepted at the hearing that the location of the proposal conflicts with the above policies of the development plan albeit that this needed to be considered in the context that the SWDP and NP are both more than 5 years old and the Council's housing land supply position. For these reasons, the Council agreed at the hearing that limited weight could be applied to the conflict with these policies. I shall return to this matter within my planning balance and conclusion.
22. Notwithstanding the above, Martley is identified as a Category 1 village in the SWDP. The SWDP recognises the varying ranges of services and facilities provided in such villages and confirms that they are suited to accommodate market and affordable housing needs. The appeal site shares a boundary with the housing development at Rycroft Way which sits within the village's development boundary. The village recreation ground and the public footway into the village sit opposite the site. There is common ground between the main parties that the site is not isolated and is sustainable insofar as the proposal would have access to the range of services and facilities that Martley has to offer. This includes but is not limited to primary and secondary schools, a leisure centre as well as a bus service to Worcester. In these respects, the location of the site clearly has some positive credentials in terms of its close proximity to the existing village.
23. At the hearing, the Parish Council representative provided anecdotal evidence that few people used the village bus service to get to work and that a significant number of car journeys were made. Whether or not that be the case, the location of the site would give future occupiers the option to walk or cycle to nearby facilities within the village including the schools. For example, the indicative drawings demonstrate that a pedestrian route which links

through to the neighbouring development at Ryecroft Way could be provided, thereby promoting permeability to this neighbouring residential development. This generally accords with the objectives to promote walking and cycling in the National Planning Policy Framework (the Framework).

24. I conclude that the proposal conflicts with the specific requirements for development in the countryside in Policy MKD6 of the NP and Policies SWDP1 (Overarching Sustainable Development Principles) and SWDP2 (Development Strategy and Settlement Hierarchy) of the SWDP. This conflict and the position of the site adjacent to the settlement boundary with good access to local services and facilities are matters for my planning balance and conclusion.

Character and appearance including landscape character

25. The appeal site relates to an arable field which sits within an undulating landscape. The residential development at Ryecroft Way is situated next to the eastern boundary of the site. Hedgerow lines the majority of the front boundary of the site with the B4197. However, the frontage opens up close to the junction with Kingswood Lane which lies to the south. The Grade II listed Longstone Cottage and its associated gardens are situated on the opposite corner of this junction and there are three residential properties further along Kingswood Lane on the same side as the appeal site. Together with the recreation ground that lies opposite, the site forms part of the transition into a predominantly open and more rural character at the fringe of the settlement.
26. Land on the site rises towards a belt of mature trees which lie in the vicinity of the site's rear northern boundary. Where these trees coalesce with the hillside, this gives a wooded foreground to The Nubbins. This escarpment of sandstone, a remnant of historic quarrying, forms a distinctive backdrop to the appeal site and the neighbouring residential development at Ryecroft Way. However, the site does not sit within a designated landscape or protected view. Even so, from what I have seen and heard, the site sits within a 'significant view' identified within the NP and I accept that the rural landscape at Martley including the Nubbins is valued by residents of the village and those familiar with the area.
27. The evidence before me indicates that the Worcestershire County Council Landscape Character Assessment identifies the landscape that the appeal site is located within as the Principal Timbered Farmlands Landscape. The associated Landscape Type Advice Sheet (LTAS) identifies this as a small scale wooded, agricultural landscape characterised by filtered views through densely scattered hedgerow trees. Indeed, the appeal site and its immediate surroundings display some of the key characteristics of this area in terms of the hedgerow boundaries, organic enclosure pattern and the rowling lowland with occasional steep-sided hills and low escarpments.
28. As the proposal is in outline, the detailed matters of appearance, landscaping, layout and scale are not before me. Even so, residential development of the site will inevitably change the site to one of a more developed character and appearance. I saw on my site visit that this change would be particularly evident in localised views from nearby residential properties, from the nearest PROW including that which passes through the site, from the elevated views of at the top of The Nubbins and from the recreation ground opposite.

29. The indicative drawings provided show that towards the road frontage a more open character could be retained through the provision of the proposed car park and areas of public open space. Such an arrangement with buildings set well back from the road frontage would be similar to the neighbouring residential development at Ryecroft Way. The illustrative plans also show how the PROW through the site could be framed by soft landscaping to create an attractive route for pedestrians.
30. The parameters height plan provided indicates that the dwellings would be a maximum two-storeys in height and that the dwellings towards the higher land levels on the site would include single storey bungalows. These factors would help to reduce the prominence of the dwellings and their associated curtilages along the roadside and the wider landscape. In these respects the proposal could resonate with some of the design principles for new development in the development plan. There are a range of plot sizes in the area and given the proposal is for up to 52 dwellings, there is some scope for flexibility on the final number provided to ensure plot sizes suitably reflect others in the village.
31. Roadside vegetation and the buildings and boundary treatments at Foxhole, Sandyfields and Owls Barn partially screen views of the site to the initial section of Kingswood Lane which lies to the south of the site. Further along this road to the west, I saw for myself that the appeal site is well contained due to its position between the tree belt towards The Nubbins, the existing cottages on Kingswood Lane, and the development at Ryecroft Way which forms the backdrop to the site in this view. As the existing hedgerow is set back from the roadside along the B4197, there would be no need to remove it other than to facilitate access points for the access drive and PROW and this was not disputed by the Council at the hearing.
32. The access points would open up views into the development from the B4197. However, these would account for small sections of the roadside boundary. The site area measurements and landscape masterplans in the appellant's Landscape and Visual Impact Assessment (LVIA) indicate that more than 50% of the site could be dedicated to green infrastructure and that tree and shrub planting could be provided throughout the development. This could include supplementary planting within the areas of Public Open Space, including along the PROW through the site and towards the site frontage which over time would create a wooded foreground to the development.
33. The new iteration of the landscape masterplan provided at the hearing demonstrates how public open space and tree and shrub planting could also form a buffer to the boundary with Kingswood Lane. Planting species which reflect the species composition of the local area could be sought through the reserved matters. Such landscaping would help to soften the appearance of the development in localised views.
34. During my site visit I saw that in views from the top of The Nubbins, the development would elongate the form of the village in a westerly direction. Even so, from this higher ground the development would be seen in close context with the existing built form and associated infrastructure of the settlement. The viewpoints in the LVIA also indicate that the development would be seen to closely relate to the settlements existing built form in views from further afield. Subject to the design and materials forming part of the reserved matters suitably corresponding with the local vernacular, the

development would be likely to appear congruent with the existing settlement in these views.

35. In addition, the substantial change in levels and the intervening mature landscaping would provide a buffer to the escarpment. The indicative plans indicate that this could be supplemented through setting the nearest dwellings away from the rear boundary with intervening public open space provided within the site. Together with the envisaged scale of the development, these factors would ensure that The Nubbins would retain a suitable presence in the backdrop thereby sufficiently retaining the visual connectivity of this landscape feature with the settlement and the wider landscape.
36. The above factors indicate that there is scope for the reserved matters to ensure that the development reflects some of the 'Opportunities for Landscape Gain' on the LTAS which encourages opportunities to plant new hedgerows and hedgerow trees and to create an intimacy of scale with filtered views. The close visual relationship of the proposal to the existing built form of the village, the filtered views that could be achieved through the layout and landscaping opportunities and the level of containment provided by existing built form and landscape features would help to integrate the proposal into the landscape.
37. Overall, the proposal would inevitably change the character and appearance of the site from open countryside at the fringe of the settlement to one of a more developed character forming part of the built footprint of the village. However, my observations on site, the appellants' LVIA and the illustrative drawings persuade me that the development could be sensitively designed to reduce the extent of the change and help to assimilate the proposal into the landscape. Over time as the landscaping incorporated matures the visual impacts of the development would be further minimalised.
38. Taking all the above factors into account, I conclude that there would be some moderate harm to the character and appearance of the area and this includes landscape character where such harm would be moderately adverse in the early years following completion of the development. In these respects, there would be some moderate conflict with the design, context, character and landscape requirements of Policies MKD1 (Landscape Design Principles), MKD3 (Building Design Principles outside Martley Conservation Area) and MKD4 (Maintaining the Settlement Pattern in Martley, Knightwick and Doddenham) of the NP and Policies SWDP2 (Development Strategy and Settlement Hierarchy), SWDP13 (Effective Use of Land), SWDP21 (Design) and SWDP25 (Landscape Character) of the SWDP and paragraphs 130 and 174 of the Framework.

Setting of Longstone Cottage

39. Longstone Cottage is a C17 two-storey cottage with C19 and C20 alterations. The building is timber framed with brick infill, on a brick plinth with a plain tile roof and brick end stacks. This Grade II listed building is set within a substantial plot with mature landscaping.
40. The listed building would historically have occupied a more isolated position within a rural landscape. The sense of isolation has no doubt diminished as the Martley has expanded closer to the listed building both in terms of the village's built form and its infrastructure which includes the recreation ground which sits opposite. Even so, as one travels along the B4197, the appeal site and the recreation ground form part of a spacious character in the immediate vicinity of

the listed building which alludes to its more isolated origins. This forms the listed building's setting and adds to its significance.

41. Due to the position of Longstone Cottage set away from its side boundary with Kingswood Lane and the dense trees and shrubs towards its side boundaries, the special attributes of Longstone Cottage are most readily appreciated as one passes its more open front boundary and in direct views towards its front elevation such as from the recreation ground.
42. Due to the relative positions of the appeal site and the listed building at right angles to each other on a bend in the road, this largely reduces views of these two sites together to more acute angles of their respective frontages for passers-by along the B4197. From my own observations on site, while the Nubbins forms part of the wider local landscape, it is a peripheral feature of the listed buildings setting. Outward views from the listed building and its grounds are largely restricted towards the recreation ground due to the orientation of its principal elevation and the substantial planting to all sides other than the front boundary.
43. The new illustrative 'Landscape Masterplan' provided at the hearing removes the plots that were indicatively shown as 51 and 52 on the previous iteration of the 'Indicative Masterplan' drawing. This revised layout demonstrates that the development could be laid out with the nearest dwellings set well back from the boundary with the Kingswood Lane. Together with the remaining open areas envisaged towards the boundary with the B4197, this has the potential to retain a spacious and prevailing soft planted appearance along these road frontages.
44. Provided that a similar layout was to come forward as part of the reserved matters, the general position of the buildings would be sufficient to retain an overriding open and soft landscaped character in shared views of the site and listed building along the road frontages. Even though buildings within the development would be more appreciable in wider vistas of the listed building, such as from the recreation ground, this would not dominate views of the listed building. Rather the degree of spacing retained together with supplementary planting would sufficiently allude to the listed building's historical context set away from the nearest settlement in the countryside.
45. Overall, while the above factors indicate that there would be some change to the surrounding environment, in principle there is no reason why a carefully designed reserved matters scheme would cause harm to the setting of the Grade II listed building. The illustrative details provided indicate that the proposal would not detract from, nor reduce the ability to appreciate, the listed building's distinctive architecture or its position as a separate entity to the main built form of the settlement. In these respects, I am satisfied that the proposal would be capable of preserving the setting of the listed building and in this regard would accord with the conservation requirements of Policies SWDP6 (Historic Environment) and SWDP24 (Management of the Historic Environment) of the SWDP and the Framework.

Affordable housing and any other necessary infrastructure requirements

46. The Council has provided a CIL compliance statement which sets out the affordable housing and other infrastructure requirements that it would seek in the event that planning permission was granted.

47. It was confirmed by the Council at the hearing that the draft Section 106 Agreement (S106) provided at that time set out appropriate contributions to meet the affordable housing and other infrastructure requests. More specifically it set out an obligation for a minimum of 42% of the total number of dwellings within the development to be provided as affordable units. This would slightly exceed the minimum requirement in Policy SWDP 15 (Meeting Affordable Housing Needs) of the SWDP which includes that on sites of 15 or more dwellings on greenfield land, 40% of the units should be affordable and provided on site. A tenure split of 73% social rented and 27% First Homes was also included in the draft S106 as per the requirements set out by the Council.
48. The draft S106 also included provisions for a management company to be created for future maintenance and enhancement of public open space within the development as well as the requested contributions towards education, highways and transport infrastructure and community infrastructure.
49. At the hearing, the appellant confirmed that they were generally comfortable with the affordable housing and other infrastructure requirements they were being asked to meet. However, they did suggest further clarification was required as to how the respective levels of contributions had been calculated particularly in terms of the community infrastructure and community transport requests.
50. Following the hearing, the LPA has provided an addendum to its CIL compliance statement which includes a formula for calculating the requested community infrastructure contribution. The costings in the formula substantively align with the figures set out in the South Worcestershire Developer Contributions Supplementary Planning Document (2018) (Developer Contributions SPD). The Council has also forwarded an email from the highway authority (HA) which set out a methodology for calculating community transport contributions which the HA suggests has been consistently applied by them. Worcestershire County Council's response during the planning application process indicates that this contribution is required in support of mobility impaired residents to access vital services such as Acute Hospitals. The appellant has confirmed that they have no objection to the principle of this contribution and the sum requested.
51. The CIL compliance statement sets out the policy background for each of the developer contribution requests. The appellant did not provide any detailed evidence to dispute that the contributions requested are not justified. Indeed, since the hearing the appellant has completed the planning obligation on 25 April 2023. There is no alternative planning obligation before me setting out any alternative levels of developer contributions, rather the completed S106 Agreement specifically meets the Council's affordable housing and other infrastructure requests. In the circumstances, there is no reason for me to find that the contributions secured by the S106 would not meet the relevant tests at Paragraph 56 of the Framework and Regulation 122 of the CIL Regulations.
52. I conclude that the development would make adequate provision for affordable housing and the other necessary infrastructure requirements arising from the development. In that regard, it would comply with the affordable housing and infrastructure requirements of Policies SWDP7 (Infrastructure), SWDP15 (Meeting Affordable Housing Needs), SWDP39 (Provision for Green Space and Outdoor Community Uses in New Development) and SWDP62 (Implementation) of the SWDP, the Framework and the Developer Contributions SPD.

Other Considerations

53. At the hearing, my attention was drawn to another site at Martley on land to the south of the playing fields. From what I heard, that particular site is a draft allocation in the emerging plan and at the time of the hearing a planning application for residential development on that site had not yet been determined³. The applicant for that site raised concern at the hearing that the proposal could undermine the emerging plan and derail their own application. However, I must determine the proposal on the basis of the existing development plan and the evidence before me, including the housing land supply situation. It is for the Council to consider the particular circumstances of the planning application before it and not for me to assess the relative suitability of these sites as part of this appeal.
54. The Framework recognises the need to provide housing for different groups including for people wishing to commission or build their own homes. The main parties are in agreement that the cumulative number of self-build plots that need to be permissioned by 20 October 2023 is 57 plots. At the hearing the appellant also suggested that if part 2 of the self-build register is taken into account, in terms of those seeking plots with no local connection, the requirement is for 72 plots and this was not disputed by the Council. In any case, the evidence before me indicates that to date, 20 self-build plots have been granted planning permission which leaves a minimum shortfall of 37 plots. Therefore, the provision of up to 10 self-build plots has the potential to make an important contribution towards the housing mix and the need for such plots in the district.
55. At the hearing, the appellant suggested that due to the significant demand for such plots, it was unlikely that no self-build plots would come forward. However, while the S106 Agreement provided clearly defines that any self-build unit on the site would need to meet the definition in the Self-Build and Custom Housing Building Act 2015 it does not set out a minimum number of such plots to be provided. At the hearing the appellant confirmed that they would be willing to accept a condition requiring a minimum number of self-build plots. Such a condition would provide certainty that the development would help to address the Council's shortfall for self-build plots. On the basis that a minimum of 5 self-build plots are provided this would attract positive weight in favour of the development.
56. The parties are in agreement that the village hall and recreation ground, which lie opposite the appeal site, have very limited on-site parking. The provision of a public car park on the appeal site could help to address issues with overspill parking, which I understand often occurs on the road during events.
57. At the hearing, the Parish Chair suggested the long-term plan would be for parking to be provided at the recreation ground and that car parking could also be directed to other sites in the village. Whether or not that is the case, the appellant confirmed that they would be happy to engage with the local community further in terms of the specification and or requirements of a public car park on the appeal site. If further discussions to inform the reserved matters indicated that a smaller car park than shown on the indicative drawings would be acceptable, this would be open to the Council to consider. The reduction in the size of any public parking facility would also provide

³ LPA Ref 20/01963/OUT

further opportunities to increase soft landscaping towards the site frontage. Given the uncertainty in respect of this element of the scheme, I only attach modest weight any potential benefits to the community that might derive from it.

58. The appellant confirmed at the hearing that they were in a position to progress development of the site at speed and would be willing to accept a shorter timescale for reserved matters to be submitted to 18 months. Accelerated delivery in the absence of a 5-year housing land supply attracts further positive weight in favour of the proposal.
59. Policy SWDP 13 (Effective Use of Land) of the SWDP required that development makes only exceptional use of the Best and Most Versatile Agricultural Land (BMVAL). The proposal would result in the permanent loss of 4.14 hectares of BMVAL. The evidence before me confirms that all the land surrounding the village of Martley falls within Grade 2 or Grade 3 agricultural land quality and that the loss of this agricultural land would equate to less than 0.008% of BMVAL in Worcestershire. There is no contrary evidence before me to suggest that development of the site would have a tangible effect on the stock of BMVAL. With this in mind, together with the Council's housing land supply situation this is an instance where its exceptional use would be justified and the benefits of the development would significantly outweigh its loss in accordance with Policy SWDP 13. Therefore, I attach very limited weight to the loss of BMVAL in this instance.
60. The Council has not contested that the density of the development would be unacceptable in terms of making efficient use of land. Having regard to illustrative plan and the need for the development to be sympathetic to the character and appearance of the area and the setting of Longstone Cottage, I find no reason to seek a higher density than that proposed in this instance.
61. With regards to concerns raised by third parties not covered under the main issues, the Council has not suggested that the proposal would cause harm to the setting of the Martley Conservation Area. In terms of ecology, there is scope through the reserved matter of landscaping for the proposal to secure biodiversity net gains compared with an active arable field through landscaping which could provide for a range of new habitats including copses, individual feature tree planting, scrub, new hedgerows, ornamental and wetland planting, and both biodiverse and managed grassland. There is no objective evidence to suggest that a suitable drainage scheme could not be provided and the provision of suitable drainage could be made a condition of permission. No concerns were raised by the highway authority in terms of traffic generation or likely implications for highway safety. From what I have seen and heard, including my observations on site, I find no reason to reach different conclusions to the Council in respect of these matters.
62. In terms of the impacts on local infrastructure including schools the appellant has committed to meeting the justified infrastructure requirements arising through their S106 Agreement. The Council's Officer report includes that the specifics of the methodology employed by the NHS Trust for calculating financial contributions towards revenue funding of acute health services has been the subject of ongoing discussion. The Council is not satisfied that the Trust has adequately evidenced that all components of its calculated need are appropriate or relevant in formulating a contribution request. I have also had

regard to the similar situation which arose in respect of the appeal decision at Rushwick⁴. In the absence of any detailed evidence to the contrary, I find these matters persuasive that a healthcare contribution has not been sufficiently justified.

63. The provision of up to 52 dwellings on the site would make a very significant and positive contribution to the undersupply position and weighs in favour of allowing the proposal. Furthermore, occupation of the dwellings would likely support existing facilities and services in the locality and hence there would be some economic benefits associated with approval of planning permission. There would of course also be some economic benefits associated with construction employment, although I accept that these would be a short-lived benefits.

Conditions

64. At the hearing, a discussion took place in respect of the suggested conditions provided within the SOCG. I have not included the suggested condition requiring details of an informal pedestrian crossing on the B4197 adjacent to The Crown as this matter is adequately covered in the S106 Agreement.
65. It was suggested at the hearing that the requirement for a management company to be appointed to manage and maintain the Public Open Space would be covered in the S106 Agreement. While this is the case, the detailed arrangements for the implementation, long-term design objectives, management responsibilities and maintenance schedules for all of the defined areas are not. Therefore, I have retained the suggested condition covering these matters.
66. Parameters for the detailed design were also discussed at the hearing. The Council noted that the appellant is aware of the constraints. I have also referred to elements of the indicative drawings that would assist in assimilating the development into its surroundings within this decision. In the circumstances, I agree with the Council that the detailed design can be advanced with these matters in mind. Therefore, I have not added parameters to the suggested conditions in order to allow for flexibility on the detailed design at the reserved matters stage.
67. No significant matters have been raised by statutory consultees in respect of matters relating to ecology or trees. As was suggested by the Council at the hearing, opportunities to incorporate biodiversity net gain can be incorporated into the detailed design and landscaping proposals which come forward under the reserved matters. The appellant has suggested that there are no plans to fell trees in the vicinity of the site and the root protection areas of any trees can be considered as part of the detailed design.
68. The other suggested conditions are broadly reasonable and necessary. However, I have made some minor drafting changes in line with the discussions that took place at the hearing.
69. The conditions defining the reserved matters and the timescales for submission of these and implementation are included. I have set a shorter timescale for the reserved matters to be submitted in line with the discussions at the hearing. This is reasonable in the interests of accelerating housing delivery to help address the Council's housing land supply shortfall.

⁴ Appeal Ref APP/J1860/W/21/3267054

70. The conditions defining the approved site, block and access drawings are included in the interests of certainty. These include clarification on the relevant 'proposed site access drawing' as being that within the Transport Assessment Addendum. The suggested archaeology condition is attached in the interests of ensuring the archaeological potential of the site is investigated and recorded before development takes place.
71. Conditions requiring visibility splays to be provided, electric vehicle charging points to be installed at the dwellings, for cycle parking and accessible parking spaces to be provided, for measures to ensure that the Public Right Of Way is maintained and upgraded through the site and for a Construction Environmental Management Plan to be submitted, approved and complied with are all attached. I have also the merged of the suggested conditions requiring a travel plan and residential welcome pack promoting sustainable forms of access as per the discussions at the hearing. These conditions are reasonable and necessary in the interests of accessibility, sustainability and highway safety.
72. To ensure that the development is provided with satisfactory means of drainage, I have attached the suggested conditions provided to cover these matters. However, I have amended the suggested surface water drainage scheme to include a requirement for an assessment of the potential for disposing of surface water by means of a sustainable drainage system (SuDS). This is in line with the discussions at the hearing which noted the reference to SuDS provision on the indicative masterplan.
73. Finally, I have included the aforementioned condition requiring a minimum of 5 self-build plots to be provided in the interests of certainty that the proposal will help to address the Council's shortfall in terms of the delivery of such plots.

Planning Balance and Conclusion

74. The evidence is that local planning authority Council cannot demonstrate a deliverable 5-year supply of housing sites. For the purposes of this appeal, I have applied a worse-case undersupply position as claimed by the appellant. Paragraph 11d of the Framework and the presumption in favour of sustainable development is engaged.
75. The harm arising to the character and appearance of the area would be moderate and this includes the effect on the landscape to which the harm would be moderately adverse. I have also found that the proposal would be capable of preserving the setting of the Grade II listed Longstone Cottage, although this is a matter of neutral consequence in the overall planning balance.
76. However, in the context of the Government's objective to significantly boost the delivery of housing, up to 52 dwellings would make a very significant contribution towards addressing the shortfall in the 5YHLS. The reduced timescales for submission of reserved matters would help to accelerate delivery of the housing. In addition, I have found that the proposal would be sustainably located next to a 'Category 1 village' and in reasonable proximity to the services and facilities it has to offer including the alternative options to car travel.
77. There would also be public benefits both in social and economic terms, through the development of the site, through the provision of both affordable housing

and self-build units as well as in terms of the future use of local services and facilities by occupiers of the development.

78. In the circumstances, I find that the adverse impacts of the development would not significantly and demonstrably outweigh the identified benefits when assessed against the policies of the Framework as a whole. The proposal therefore benefits from the presumption in favour of sustainable development and planning permission should be granted.

79. I therefore conclude that the appeal should be allowed.

M Russell

INSPECTOR

APPEARANCES

FOR THE APPELLANTS:

Mr Neil Pearce BA (Hons) Urban & Regional Planning, PGDip Town Planning, MRTPI
Managing Director - Avon Planning Services Ltd

Mr Matthew Tyas BA (Hons) Geography, MSc Spatial Planning MRTPI
Principal Planner - Zesta Planning Ltd

Ms Sue Illman PPLI Hon FSE Hon Fellow (UoG)
Managing Director - Illman Young Landscape Design Ltd

Mr Dave Robertson BSc FRICS
Commercial Director (Midlands) - Arcadis Ltd

Mr Stennard Harrison
On behalf of Jessup Brothers Ltd and Citizen Housing Group Ltd

FOR THE LOCAL PLANNING AUTHORITY:

Lee Walton BA(Hons), MSc, MPhil, MRTPI, AssocIHBC Principal Planning Officer

Chris Lewis-Farley Landscape Officer

Isobel Roberts Housing Officer

INTERESTED PARTIES:

Mr Stuart Cumella Chairman of Martley Parish Council

Rachel Bibby Lioncourt Homes

DOCUMENTS SUBMITTED AT THE HEARING

- 1 Revised illustrative 'Landscape masterplan' which removes plots 51 and 52 shown on the separate 'Indicative Masterplan - Drawing no 14 A'

Schedule of Conditions

- (1) Application for the approval of all reserved matters shall be made to the Local Planning Authority before the expiration of eighteen months from the date of this permission. The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.
- (2) Approval of the details of the appearance, landscaping, layout & scale (hereinafter called 'the reserved matters') shall be obtained from the Local Planning Authority in writing before any development is commenced. The development shall be carried out in accordance with approved reserved matter details.
- (3) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - Site Location Plan Drawing no. 001
 - Block Plan Drawing no. 002
 - Proposed Site Access – Drawing no. 21039-01a (in the David Tucker Associates Transport Assessment Addendum dated 7 April 2021)
- (4) (A) No development shall take place until a programme of archaeological work, including a Written Scheme of Investigation, has been submitted to and approved by the local planning authority in writing. The scheme shall include an assessment of significance and research questions; and:
 - 1) The programme and methodology of site investigation and recording.
 - 2) The programme for post investigation assessment.
 - 3) Provision to be made for analysis of the site investigation and recording.
 - 4) Provision to be made for publication and dissemination of the analysis and records of the site investigation.
 - 5) Provision to be made for archive deposition of the analysis and records of the site investigation.
 - 6) Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.(B) The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition (A) and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.
- (5) The development hereby approved shall not commence until the visibility splays shown on drawing 21039-01a have been provided. The splays shall always be maintained free of level obstruction exceeding a height of 0.6m above adjacent carriageway.
- (6) The development hereby permitted shall not be first occupied until all the proposed dwellings have been fitted with an electric vehicle charging point. The charging points shall comply with BS EN 62196 Mode 3 or 4 charging and BS EN 61851 and the Worcestershire County Council Streetscape Design Guide. The electric vehicle charging points shall be retained for the lifetime of the development unless they need to be replaced in which case the replacement charging point(s) shall be of the

same specification or a higher specification in terms of charging performance.

- (7) The development hereby permitted shall not be first occupied until sheltered, secure and accessible cycle parking to comply with the Council's adopted highway design guide has been provided in accordance with details which shall first be submitted to and approved in writing by the Local Planning Authority and thereafter the approved cycle parking shall be kept available for the parking of bicycles only.
- (8) The development hereby approved shall not be brought into use until details of accessible parking spaces have been submitted to and approved in writing by the Local Planning Authority.
- (9) The development hereby approved shall not be occupied until the applicant has produced a travel plan which promote sustainable forms of access to the development. The travel plan will be produced in consultation with Worcestershire County Council's Travel plan co-ordinator. The travel plan shall form part of a residential welcome pack both of which shall be submitted to and approved in writing by the Local Planning Authority prior to the development first being occupied. Once approved in writing, the residential welcome pack shall be provided to the occupiers of each dwelling at the point of occupation.
- (10) The development hereby approved shall not be occupied until the applicant has provided measures to ensure that Public Right Of Way (PROW) access using the existing network is maintained within the development, upgraded to 3m width to allow shared pedestrian/cycle use, and that any necessary amendments are subject to statutory process in consultation with Worcestershire County Council's PROW manager. In addition to this, the applicant shall ensure that:
- The Public safety of those using the right of way must be always ensured.
 - There must be no disturbance of, or change to, the surface of the paths or part thereof without our written consent.
 - There must be no diminution in the width of the rights of way available for use by the public.
 - Building materials must not be stored on the rights of way.
 - Vehicle movements and parking are to be arranged so as not to unreasonably interfere with the public's use of the rights of way.
 - No additional barriers are to be placed across the rights of way. No stile, gate, fence, or other structure should be created on, or across, a public right of way without written consent of the Highway Authority.
- (11) The development hereby approved shall not commence until a Construction Environmental Management Plan has been submitted to and approved in writing by the Local Planning Authority. This shall include but not be limited to the following:
- Measures to ensure that vehicles leaving the site do not deposit mud or other detritus on the public highway.
 - Details of site operative parking areas, material storage areas and the location of site operatives' facilities (offices, toilets etc).

- The hours that delivery vehicles will be permitted to arrive and depart, and arrangements for unloading and manoeuvring.
- Details of any temporary construction accesses and their reinstatement.
- A highway condition survey, timescale for re-inspections, and details of any reinstatement.

The measures set out in the approved Plan shall be carried out and complied with in full during the construction of the development hereby approved. Site operatives' parking, material storage and the positioning of operatives' facilities shall only take place on the site in locations approved by in writing by the local planning authority.

- (12) No development shall take place until a scheme for the provision of surface water drainage has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include an assessment of the potential for disposing of surface water by means of a sustainable drainage system (SuDS) and shall include the proposed route and point of discharge for the restricted surface water discharge from the site. The approved scheme shall be completed before the development is first occupied.
- (13) The development hereby permitted should not commence until drainage plans for the disposal of foul and surface water flows have been submitted to and approved by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.
- (14) Before first occupation of the development hereby permitted a management plan for the public open space/play area and all other areas of landscaping not within residential curtilages in perpetuity shall be submitted to and approved in writing by the local planning authority. The plan shall include details of the arrangements for its implementation, long-term design objectives, management responsibilities and maintenance schedules for all of the defined areas. The approved management plan shall thereafter be fully implemented.
- (15) The reserved matters shall make provision for a minimum of 5 self-build plots.