



Highway Planning Ltd

Highways & Transportation Consultants

**BRUNNINGHAMS FARM,
HEATH RIDE,
FINCHAMPSTEAD
RG40 3QJ**

TRANSPORT STATEMENT

NOVEMBER 2025

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1.0 INTRODUCTION

- 1.1 Highway Planning Ltd has been appointed to provide highway advice in respect of the residential redevelopment of Brunninghams Farm, Heath Ride, Finchampstead.
- 1.2 The proposals have been the subject of pre-application discussions with Wokingham Borough Council and the comments received have been taken into account in the final scheme.
- 1.3 This report has been prepared in support of the development proposals described herein. It should not be reproduced in whole or in part, or relied upon by third parties, without the express written authority of Highway Planning Ltd.

2.0 SITE LOCATION AND PROPOSED DEVELOPMENT

- 2.1 The site is located on the south side of Heath Ride and approximately 780m east of the junction of Heath Ride with the B3430 Nine Mile Ride. The site comprises an agricultural building with an access to Heath Ride. The site is considered to be agricultural although some car repair activities are taking place at present..
- 2.2 Heath Ride is a restricted byway that forms a junction at its western end with Nine Mile Ride. At its eastern end is the Wellingtonia Roundabout, approximately 1.4km from the site. Heath Ride has an unmade carriageway between its junctions with Nine Mile Ride and the



Kiln Ride Extension. It has a metalled carriageway between Kiln Ride Extension and Hollybush Ride. The section between Hollybush Ride and the Wellingtonia Roundabout is unmade. Heath Ride provides access to a large number of dwellings. Most of the plots have direct accesses to the Heath Ride carriageway and there are examples of private drives that serve multiple dwellings.

2.3 There is an advisory 15mph speed limit which is accompanied by speed humps. The carriageway varies in width but is generally wide enough for a car to pass a pedestrian. Vehicles are able to pass at property access points and locations such as the Kiln Ride Extension junction.

2.4 The site is located close to local facilities. The following table has been provided by the Council in its pre-application advice and demonstrates the walking distances to these facilities.

Destination	Location	Distance (in Metres)	Approximate Time (in Minutes)
Bus Stops (both services)	Kiln Ride	900m	12m
Train Station	Crowthorne	1.9km	26m
Primary School	Nine Mile Ride Primary School	1.5km	21m
Secondary School	Luckley House School	3.4km	46m
Local Shops	Londis	1.4km	19m
Dr's Surgery	Finchampstead Surgery	1.7km	23m
Employment	Nine Mile Ride Industry	2.7km	37m
Nursery School	Gorse Ride Infant and Nursery School	2km	27m
Public House	The Queens Oak	2.7km	38m



- 2.5 The proposed development comprises the replacement of the existing buildings with 7 houses (1 x 4 bed and 6 x 5 bed).

3.0 HIGHWAY AND TRANSPORTATION CONSIDERATIONS

- 3.1 The highway considerations for the proposed development relate to the following:

- Accessibility of the site location
- Access arrangements
- Site specific issues

- 3.2 These issues will be considered in detail below.

Accessibility of the site location

- 3.3 The Council provided detailed comments on accessibility within its pre-application response dated 17th January 2025. It concluded that *“...the application site is located within an unsuitable location for residential development. The occupants of the dwellings would be overly reliant on private motor vehicles to access basic amenities and services, contrary to Core Strategy and Local Plan policies”*.

- 3.4 The Council's accessibility assessment is predicated on specific criteria for the frequency of bus services and the walking distance to public transport and local facilities and this is applied to ALL development proposals. The requirement in paragraph 110 of the NPPF is that *“significant development should be focussed on locations which are, or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes.”* Paragraph 110 also notes that *“opportunities to maximise sustainable transport solutions will vary between urban and rural areas.”*



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- 3.5 The Council's approach to a formulaic assessment of accessibility does not include the flexibility that paragraph 110 clearly identifies
- 3.6 Furthermore, the Council considered that, notwithstanding its own accessibility criteria, the location of the site does not follow the general advice published by the Chartered Institute Of Transport in its "Providing for Journeys on Foot" and that the *"...the initial walking route would be via Heath Ride which as already outlined above is a narrow single lane private road with no pathways or crossing points and is not desirable for the average walker."*
- 3.7 The Council's assessment formed part of its submissions for the appeal at Broughton Farm (APP/X0360/W/24/3350050) which is located immediately opposite the current site (on the north side of Heath Ride). The Inspector's decision is included at **Appendix 1**. The relevant paragraphs in the decision are 24 – 32. In paragraph 27 the Inspector considers the suitability of Heath Ride as a walking (& cycling) route to facilities:

"In order to access the local services and facilities, future occupants would have to walk or cycle along Heath Ride, which is a flat, straight, non-adopted rural road. It does not have any street lighting, nor does it have a pavement alongside it. However, similar to the earlier Inspector, I witnessed it to be a relatively quiet road, with modest speeds. Given the nature of Heath Ride, I do not consider the distance to be overly prohibitive in these circumstances. Whilst I noted the condition of the road varied, it wasn't that severe so as to prevent wheelchairs or pushchairs utilising the road. Therefore, I agree with the earlier Inspector, and I am satisfied that some journeys would be possible on foot. Furthermore, whilst I note that there are not any formal cycle paths, I consider that the form and nature of Heath Ride would also allow it to be a safe and attractive option for those on bike."



- 3.8 In paragraphs 29 & 30 the Inspector considers the available bus services. He stated:

"I note the supporting text to Policy CP6 of the Core Strategy sets out the requirement and frequency of what could be considered a 'good bus service'. The nearest bus stop is along Nine Mile Ride, which is served by the 125, 125a and 125b bus services. The Council state that this cannot be considered as a 'good bus service' due to there being no 30-minute frequency during peak nor hourly service during off-peak hours.

Nevertheless, whilst it might not be a frequent service, the bus service provided at the closest bus stop would represent an accessible alternative to the car, in order to access services and facilities, albeit on an infrequent basis. Furthermore, the distance to the bus stop from the appeal site would not be prohibitive. Whilst future occupants would have to walk along Heath Ride to get to the bus stop on Nine Mile Ride, for the same reasons set out above, this would be both a safe and attractive option for pedestrians. Therefore, on balance, I consider that future residents of the proposal would have a viable option to access a local bus service on foot."

- 3.9 It is very apparent that the Inspector determined that the local circumstances of the Broughton Farm site satisfied the need to reduce the reliance on the private car and to provide a reasonable choice of transport mode. Given that Broughton Farm is immediately adjacent to the current site, the same conclusions must apply.

- 3.10 Included at **Appendix 2** is an appeal decision dated 15th October 2024 (APP/W1850/W/23/3334520) for a site at Flaggoners Green, Bromyard, Hertfordshire. The proposal was for 120 dwellings. At paragraphs 30 to 34 the Inspector considers the criteria to be applied when considering



the role that walking and cycling should play in the assessment of accessibility.

3.11 At paragraph 31 the Inspector states,

*“MfS guidance talks about walkable neighbourhoods, which are typically characterised by having a range of facilities within 10 minutes (up to about 800m) walking distance of residential areas which residents may access comfortably on foot. However, it also states that this is not an upper limit, noting a reference to the extinguished PPS13, which stated that walking offers the greatest potential to replace short car trips, particularly those under 2km. Given that MfS is a government document and carries forward guidance from PPS13, **I find this to be the most appropriate guidance when applying a planning judgement.** In this case all services and facilities would be within the 2km upper limit.” [my emphasis]*

3.12 In paragraph 33 the Inspector considers how walking distances differ from person to person;

“Having walked the route myself I acknowledge that the topography is undulating, particularly on the return journey from the town centre to the appeal site. Nonetheless, everyone has a different tendency to walk and cycle. Some people will walk and cycle across undulating terrain and further distances than 2km to access local services and facilities, whilst others will choose to drive to the end of the road to post a letter. What is significant in this appeal is that all services and facilities would be within 2km. Therefore, whilst it would be on the upper limits of walkable, the site’s location would not deter walking or cycling entirely.”

3.13 The Council have identified that the majority of local facilities would be within a 2km walking (& cycling) distance from the site and therefore,



following the Bromyard Inspector's reasoning, residents from the proposed houses would have the opportunity to walk and cycle to local facilities and public transport.

- 3.14 The requirement under paragraph 110 of the NPPF is to reduce the reliance on the private car and not to obviate its use entirely, particularly in rural locations. The approach taken by Inspectors is clear and requires a degree of flexibility and pragmatism to be applied when making an assessment of accessibility, rather than the rigid policy applied by the Council. On this basis, the site is in a location that does offer realistic choices of how residents can access day-to-day facilities without complete reliance on the private car.

Access arrangements

- 3.15 The site currently has 2 vehicular accesses to Heath Ride. The central access does not appear to have been used for some time but the crossing over the ditch remains. The second access is located at the western end of the site frontage and comprises a wide crossover with gates located at the site boundary.
- 3.16 The proposed site layout shows the creation of a bellmouth junction onto Heath Ride in the same location as the western access point. The bellmouth junction will lead to a shared surface access road. The access road will have an initial width of 5.5m to accommodate the swept path of larger vehicles turning into the development.
- 3.17 The access will be accompanied by visibility splays of 2.4m x 17m in both directions. These splays comply with the requirements of *Manual for Streets* for a road that is subject to a 15mph speed limit. The splays will be maintained clear of all obstructions to visibility over a height of 600mm above carriageway level.



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- 3.18 The proposed access is suitable to safely accommodate the vehicle movements that the development will generate.

Site specific issues

- 3.19 The proposed road will provide access to 7 dwellings. It has been designed as a shared surface road to respect the rural character of the location and to acknowledge that Heath Ride is a shared surface route.
- 3.20 The road will have a carriageway width of 5.5m for the first 60m. Thereafter it will reduce to a 4.8m width. The carriageway will be accompanied by 2m service margins on both sides. Each plot will have direct access to the carriageway.
- 3.21 A carriageway width of 4.8m is suitable for a car to pass a service vehicle as defined in Figure 7.1 in *Manual for Streets*. The sinuous alignment of the access road will mean that the largest vehicle will require a greater width due to its swept path and therefore opportunities for a car to pass a refuse vehicle will be provided at locations along the length of the access road.
- 3.22 Each dwelling will be provided with a double garage (6m x 6m internal dimensions) and at least 2 further parking spaces within the individual driveways. The driveways will accommodate visitor parking but additional visitor parking will be available in the “passing places” along the access road. (NOTE: the largest vehicle/refuse vehicle will only attend the development on one occasion per week).
- 3.23 The Wokingham Parking Calculator spreadsheet is included at **Appendix 3**. It suggests that 7 unallocated spaces are required for the development. This does not take into account the space available within each driveway for casual/visitor parking.



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- 3.24 The proposed house designs include the provision of bicycle storage within the double garages. Each plot will be provided with an EV charging point.
- 3.25 The site layout has been designed to accommodate the turning movements of the large (11.3m) refuse vehicle. The swept path of this vehicle is shown on drawing 25.52 – 001. As this vehicle far exceeds the dimensions of a typical delivery vehicle and a fire appliance, the Council can be content that the proposed carriageway alignment and turning head will be suitable to accommodate all service and delivery vehicles that are likely to attend the development.

4.0 CONCLUSIONS

- 4.1 The site is in an accessible location and future residents will not be wholly reliant on the private car. Local facilities are available within a convenient walking and cycling distance and this has been accepted by an appeal Inspector for the nearby Broughton Farm appeal.
- 4.2 The proposed access arrangements will have suitable visibility splays and junction geometry to safely accommodate the traffic movements that will be generated.
- 4.3 The proposed site layout complies with the Council's requirements for access road design, turning facilities and car parking provision.
- 4.4 Overall, there are no highway related reasons why the development should not receive planning permission.

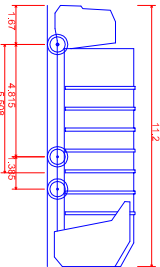


BRUNNINGHAMS FARM, HEATH RIDE, FINCHAMPSTEAD

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DRAWING No. 25.52 - 001



Phoenix 2 Duo (P2-15W with Elite 6x4 chassis)
Overall Width 11.200m
Overall Height 4.250m
Min Body Ground Clearance 0.304m
Track Width 2.500m
Lock to lock time 4.00s
Kerb to Kerb Turning Radius 9.500m



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REV	AMENDMENTS	DRAWN	CHKD	DATE
1	AMENDMENTS			
Job Title BRUNNINGHAMS FARM, HEATH RIDE, FINCHAMPSTEAD				
Client Highway Planning Ltd 59 Barnards Hill Marlow Bucks SL7 2NX 01628 488444				
Drawing Title REFUSE VEHICLE SWEEP PATH				
Scale	Date	Designed	Drawn	Drawing No
1:500 @ A3	18 NOV 25	DFM	DFM	25.52 - 001
				Rev



BRUNNINGHAM FARM, HEATH RIDE, FINCHAMPSTEAD

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NOVEMBER 2025

APPENDIX 1



Appeal Decision

Site visit made on 25 February 2025

by Laura Cuthbert BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 April 2025

Appeal Ref: APP/X0360/W/24/3350050

Land at Broughton Farm, Heath Ride, Finchampstead, Wokingham RG40 3QJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant permission in principle.
 - The appeal is made by Mr Gary Stevenson against the decision of Wokingham Borough Council.
 - The application Ref is 240918.
 - The development proposed is Demolition of existing storage buildings and hardstanding and erection of 2no. 2 storey detached home.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposal is for permission in principle. Planning Practice Guidance (PPG) advises that this is an alternative way of obtaining planning permission for housing-led development. The permission in principle consent route has 2 stages: the first stage (or permission in principle stage) establishes whether a site is suitable in principle and the second stage ('technical details consent') is when the detailed development proposals are assessed. This appeal relates to the first of these 2 stages.
3. The scope of the considerations for permission in principle is limited to location, land use and the amount of development permitted. All other matters are considered as part of a subsequent technical details consent application if permission in principle is granted. I have determined the appeal accordingly.
4. In respect of residential development, an applicant can apply for permission in principle for a range of dwellings by expressing a minimum and maximum number of net dwellings as part of the application. In this instance, permission in principle has been sought for a minimum of 2 and a maximum of 2 dwellings at the appeal site.
5. Since the appeal was made, a revised National Planning Policy Framework (the Framework) was published on 12 December 2024. I have taken the revised Framework into account as part of the determination of this appeal.
6. The planning history related to the site includes an earlier appeal decision¹ for 2 detached dwellings on the site which was dismissed, and a subsequent application for a certificate of existing lawful development for existing use of land (shown in red) and outbuildings (shown in green) for storage (Class B8) purposes², which

¹ Appeal Ref APP/X0360/W/15/3131732

² Application No 220218

was approved. I have had regard to these decisions insofar as they are relevant to the proposal before me now.

Main Issues

7. The main issues are whether the location, the proposed land use and the amount of development is suitable with particular regard to:
- the effect on the landscape character and appearance of the area, in so far as it relates to the principle of development;
 - whether the principle of the proposal would provide a suitable location for housing, having regard to the development strategy for the area; and
 - whether the principle of the proposal would provide a suitable location for housing, having regard to the accessibility of services and facilities.

Reasons

Character and Appearance

8. The appeal site consists of a rectangular parcel of land, situated to the rear of Pine Lodge and Broughton Farm. It is accessed from Heath Ride via a private driveway. The site is enclosed with mature vegetation on all sides, with a swathe of woodland situated to the rear. The surrounding area is predominately residential in character, with residential development surrounding the site on 3 sides.
9. The site is currently occupied by extensive areas of hardstanding and contains a handful of buildings, including a Nissen Hut, a brick and concrete single storey structure and a static caravan. The appellant runs a groundworks and construction company and currently uses the site for the storage of his own equipment, machinery and materials, all of which were evident on site. Whilst the site's history may have been in agriculture, since March 2022 the site now has lawful B8 use, as confirmed by the aforementioned certificate of lawfulness. Therefore, it is common ground between the parties that the appeal site falls under the definition of 'previously developed land'.
10. The appeal site is located in a landscape character area known as the 'M1: Finchampstead Forested and Settled Sands', that is classified as a high quality landscape with high sensitivity and the lowest capacity for change. Key characteristics include large swathes of interconnected forestry and woodland, long straight roads, which give a strong linear character to the landscape, and a strong settlement character with a low density pattern of detached houses lining the historic rides. In terms of development, the aim is to conserve and enhance the rural setting and gaps between settlements and maintain the low density domestic character of development.
11. Heath Ride is an example of this strong linear character with a low density pattern of detached houses. There are some examples of tandem development beyond the more established linear built form fronting Heath Ride, including Broughton Farm itself and the nearby properties identified on the location plan as Cedar Lodge, Tulaig, and Copse View. However, any existing backland development are predominantly just a single backland dwelling, resulting in 2 dwellings back to back from Heath Ride. Therefore, the prevailing character of the area is of relatively

- large dwellings within a woodland setting in generous plots fronting Heath Ride, with long rear gardens extending towards the woodland to the rear.
12. The appeal site, despite its lawful B8 use, sits appropriately within its more semi-rural/woodland setting, respectful of the low density domestic linear development. Consequently, the appeal site contributes positively to the character and appearance of the area, and the quality of the environment.
 13. Notwithstanding the unknown nature of the design and positioning of the proposed dwellings, the proposal would involve a minimum of 2 and a maximum of 2 dwellings on the appeal site. It would introduce built form of a domestic nature, resulting in a further backland development of an additional 2 dwellings behind Broughton Farm, which is already a 'backland' dwelling, resulting in a line of 4 dwellings extending back from Heath Ride. This would appear incongruous within the area, failing to maintain the low density pattern and strong linear character of the area and the high quality of the environment. The introduction of residential development on to the site would fail to preserve the semi-rural setting and would also fail to complement the prevailing characteristics of the landscape in the immediate locality.
 14. The proposed dwellings would encroach further north from the original buildings along Heath Ride, incongruously extending the domestic built form, with associated boundary treatments and residential paraphernalia, further north towards the surrounding woodland and open countryside. This would be to the detriment of the semi-rural and woodland setting of the ride and the quality of the environment.
 15. I acknowledge the 'fallback' position in relation to the lawful B8 use of the site, with the appellant submitting that this use is 'not subject to any restriction and the nature and intensity of the use could be expanded at any time'. I recognise the various court cases that have considered the concept of fall-back development as a material consideration. There are a variety of options that would be available under the lawful use including the storage of caravans or construction vehicles, equipment and machinery or container storage, all without the need for any further planning permissions. I accept that this is a genuine fallback position, one which is more than a merely theoretical prospect, and an intensified storage use could be lawfully implemented on the appeal site.
 16. I am not convinced that the access to the site would be as prohibitive to the expansion of the site as the Council allege. This is in part because the appellant already accesses the site by large commercial vehicles. I also note that there is adequate hardstanding on site to facilitate turning, such that commercial vehicles can enter and leave the site in a forward gear. I also acknowledge that the illustrative layout plan shows potential areas for tree and natural planting adjacent to the woodland belt which 'would not occur with the continuation of the existing use here which will look to maximise the storage potential of the existing hardstanding areas', as the appellant submits.
 17. Nevertheless, a storage use, even at an intensified level, would be of a temporary nature and planning permission would be required for future permanent buildings and structures associated with the B8 use. Therefore, I disagree with the appellant's statement that the visual impact of a storage use would be demonstrably more harmful visually than the permanent dwellings proposed.

18. Furthermore, any intensification of a commercial storage use at the appeal site would not necessarily 'introduce alien elements to this quiet residential area with associated business use comings and goings by staff and customers', given the other existing B8 use along Heath Ride that the appellant has drawn my attention to. Therefore, whilst I acknowledge that it could be used more intensely for storage than it currently is, including an unrestricted height in the storage areas, I am not convinced that the fallback position would be significantly more harmful on the character and appearance of the area than the appeal scheme.
19. I accept that when the earlier appeal was determined, the lawful status of the site was 'greenfield land', as opposed to the now agreed 'previously developed land' status. However, the resultant impact on the character and appearance of the area would still be of permanent harm.
20. Therefore, for the reasons set out above, the proposal would harm the landscape character and appearance of the area, in so far as it relates to the principle of development. It would be contrary to Policies CP1, CP3 and CP11 of the Wokingham Borough Council Core Strategy (Core Strategy) (2010), Policies ADH1, IRS4 and D2 of the Finchampstead Neighbourhood Development Plan (FNDP). These policies, in combination, seek to restrict proposals outside of development limits except in certain circumstances, including where it would lead to excessive encroachment or expansion of development away from the original buildings, to ensure the development proposals maintain or enhances the high quality of the environment. Proposals should be of an appropriate scale of activity, layout, built form, and character in order to preserve the semi-rural look and feel of the Parish with its surrounding natural open environment, with proposals being located to complement the characteristics of the landscape in the immediate locality.
21. It would also be in conflict with the Wokingham District Landscape Character Assessment (2019) which seeks to conserve and enhance the existing character and rural setting, maintaining the low density domestic character of development, as well as guidance in the Borough Design Guide Supplementary Planning Document (the Design Guide SPD) (June 2012) which states that development should respond positively to its site and local context and respond positively to the local character of the area. It would also be contrary to the principles set out in chapters 12 and 15 of the Framework in regard to achieving well designed places, that are sympathetic to local character, including the surrounding landscape setting, and conserving and enhancing the natural environment.

Development Strategy

22. The appeal site lies outside of the settlement limits of Finchampstead and is classed as open countryside. It is not allocated for housing and the proposal would not fall within any of the exceptions set out by the development plan to enable new development in the open countryside. It would not be supported by any other policies.
23. Therefore, by virtue of its location outside of any defined settlement limits, the principle of the proposal would not be in a suitable location for housing, having regard to the development strategy for the area. The proposal would be contrary to Policies CP1, CP3, CP6, CP9, CP11, CP17 of the Core Strategy, Policies CC01, CC03 and TB21 of the Managing Development Delivery Local Plan (MDD Local Plan) (2014), Policies ADH1, IRS4 and D2 of the FNDP, the Design Guide SPD

and the Framework. In combination, these policies set out the overarching development strategy, settlement hierarchy and spatial objectives for the borough, including restricting proposals outside of development limits except for in certain circumstances, the sustainable development principles and general principles for development.

Accessibility of Services and Facilities

24. The nearest settlement is Finchampstead. The Council set out that within 2km of the appeal site, there is a nursery school, a doctor's surgery, a train station, a primary school as well as local shops. A bus stop is approximately 900m away.
25. The Council advise that Manual for Streets (MfS), the National Design Guide and the standards set out in The Chartered Institution of Highways and Transportation's (CIHT) 'Providing for journeys on Foot' all set out that local services should be no more than a 10 minute walk away (or 800 metres). As was the case under the earlier appeal, local facilities would be situated beyond this preferred maximum distance.
26. The earlier Inspector considered this matter and concluded that 'the nearby settlement is modest in size, and the bus stops would allow future occupants to access public transport and provide potential alternative journey options. Overall, I consider that the appeal site is in a sustainable location which provides access to local services and facilities'³. I note that the Council do not agree with the conclusion of the earlier Inspector, questioning 'why modest road speeds ultimately outweigh the fact there are no facilities within acceptable walking distance'.
27. In order to access the local services and facilities, future occupants would have to walk or cycle along Heath Ride, which is a flat, straight, non-adopted rural road. It does not have any street lighting, nor does it have a pavement alongside it. However, similar to the earlier Inspector, I witnessed it to be a relatively quiet road, with modest speeds. Given the nature of Heath Ride, I do not consider the distance to be overly prohibitive in these circumstances. Whilst I noted the condition of the road varied, it wasn't that severe so as to prevent wheelchairs or pushchairs utilising the road. Therefore, I agree with the earlier Inspector, and I am satisfied that some journeys would be possible on foot. Furthermore, whilst I note that there are not any formal cycle paths, I consider that the form and nature of Heath Ride would also allow it to be a safe and attractive option for those on bike.
28. Heath Ride already currently serves a number of dwellings. Therefore, the number of existing driveways to the other properties along Heath Ride would also provide a temporary refuge for either those on foot or on bike whilst a vehicle passes, in the event that there was a conflict with other road users. The straight form of the road also allows for good intervisibility between road users.
29. I note the supporting text to Policy CP6 of the Core Strategy sets out the requirement and frequency of what could be considered a 'good bus service'. The nearest bus stop is along Nine Mile Ride, which is served by the 125, 125a and 125b bus services. The Council state that this cannot be considered as a 'good bus service' due to there being no 30-minute frequency during peak nor hourly service during off-peak hours.

³ Paragraph 45 of Appeal Decision APP/X0360/W/15/3131732

30. Nevertheless, whilst it might not be a frequent service, the bus service provided at the closest bus stop would represent an accessible alternative to the car, in order to access services and facilities, albeit on an infrequent basis. Furthermore, the distance to the bus stop from the appeal site would not be prohibitive. Whilst future occupants would have to walk along Heath Ride to get to the bus stop on Nine Mile Ride, for the same reasons set out above, this would be both a safe and attractive option for pedestrians. Therefore, on balance, I consider that future residents of the proposal would have a viable option to access a local bus service on foot.
31. In addition, the Framework advises that opportunities to maximise sustainable transport solutions will vary between areas. My findings above do not necessarily mean that future occupants would choose not to have a car. However, the site's location does provide for sustainable forms of transport to allow choice to reasonably carry out day-to-day activities. Therefore, this would reduce the reliance on the private car.
32. Therefore, taking all the above into account, the proposal would be in a suitable location, having regard to the accessibility of services and facilities. It would be in accordance with Policies CP1, CP2, CP3, CP6 and CP11 of the Core Strategy, Policies CC01 and CC02 of the MDD Local Plan, the Design Guide SPD and Chapter 9 of the Framework. These policies, in combination, require development to support sustainable development and demonstrate how they support opportunities for reducing the need to travel, in particular by private car, in order to maximise the possibilities for sustainable patterns of living. Planning permission will be granted for schemes that provide for sustainable forms of transport to allow choice and are located where there are or will be at the time of development choices in the mode of transport available and which minimise the distance people need to travel.

Other Matters

33. The site is within the 5km Linear Mitigation Zone for the Thames Basin Heath Special Protection Area (SPA), and the proposal involve a net increase of two dwellings. The Council confirms that the proposal is therefore liable for monetary SANG and SAMM contributions to avoid and mitigate any potential adverse effects of the development. Nevertheless, the Council continue to state that as floor plans have yet to be provided, it is not yet possible to complete the Appropriate Assessment at this stage, stating that such an assessment would be completed at the 'technical details consent' stage.
34. However, advice set out in the PPG⁴ states that permission in principle must not be granted for development which is habitats development. This means for sites where development is likely to have a significant effect on a qualifying European site without any mitigating measures in place, the local planning authority should ensure an appropriate assessment has been undertaken before consideration of the grant of permission in principle. Only if the local planning authority is satisfied, after taking account of mitigation measures in the appropriate assessment and concluding that the development will not adversely affects the integrity of the protected site, then, subject to compliance with other statutory requirements regarding the permission in principle process, it can grant permission in principle.

⁴ Paragraph: 005 Reference ID: 58-005-20190315

35. Therefore, if a proposed permission in principle development is likely to have a significant effect on a qualifying European site or a European offshore marine site without any mitigating measures in place, an Appropriate Assessment (AA) must be carried out. Had I been minded to allow the appeal, I would have sought more information on this matter. However, given my conclusion on the main issues, it is not necessary or appropriate for me to do so as I do not need to carry out an Appropriate Assessment as required under The Conservation of Habitats and Species Regulations 2017 (as amended) (the Habitats Regulations). I do not need to consider the matter any further.

Planning Balance and Conclusion

36. The latest published assessment of housing land supply concluded a deliverable supply of 3.2 years as of the 31 March 2023. The Council submits that the substantive reason for such an identified shortfall is due to significant over delivery of housing in recent years. This has reduced the bank of planning permissions that remain and therefore the short-term deliverable housing land supply. They refer me to 2 earlier appeal decisions where the Inspectors appeared to have accepted this approach. Nevertheless, for the purposes of this appeal, I have adopted the position that the Council is unable to demonstrate a five year supply of housing.
37. Paragraph 11 of the Framework states that where there are no relevant development plan policies, or the policies which are most important for determining the application are out of date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole, having particular regard to, amongst other things, key policies for securing well-designed places. Footnote 8 of paragraph 11 confirms that this includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five-year supply of deliverable housing sites. Footnote 9 sets out the key policies of the Framework which should be given particular regard.
38. I have found that the location of the proposal would be suitable, having regard to the accessibility of services and facilities. However, I have found harm to the character and appearance of the area, as well as finding conflict with the development strategy for the area, by virtue of the site being outside of any defined settlement boundary and it not being allocated for housing. Therefore, the proposal would conflict with the development plan as a whole. The harms would be significant and long lasting. They would accordingly attract substantial weight.
39. The proposal would make a small contribution towards the provision of housing, consistent with the Government's stated aim in the Framework of significantly boosting the supply of homes. I also note the support for the re-use of previously developed land, in particular how this would address the 'Government's drive for new homes following the 'Brownfield First' approach'. I also note the appellant states that a higher housing requirement figure set out in the Framework increases the importance to 'consider the redevelopment of brownfield sites first for the accommodation of new homes'. Together, I attach moderate weight to these benefits.
40. I acknowledge that the proposal would provide gardens and landscaping associated with the dwellings, and would deliver biodiversity gains over the current use, providing 'tangible environmental and biodiversity enhancements over the

alternative', as submitted by the appellant. There would also be economic benefits contributing to building a stronger, responsive and competitive economy, supporting growth with construction and post-construction benefits. The proposals would encourage development and associated economic growth with future occupants contributing to the local economy and continued viability of services in the local area. Again, these benefits carry moderate weight in favour of the development.

41. Overall, I find that the adverse impacts of the proposed development would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework when taken as a whole, having particular regard to, amongst other things, key policies for securing well-designed places.
42. Therefore, in conclusion, whilst acceptable in some regards, the proposal conflicts with the development plan as a whole and there are no material considerations, including the Framework, which outweigh that conflict.
43. For the reasons given above, and having regard to all other matters raised, the appeal is dismissed.

Laura Cuthbert

INSPECTOR



BRUNNINGHAM FARM, HEATH RIDE, FINCHAMPSTEAD

TRANSPORT STATEMENT

NOVEMBER 2025

APPENDIX 2

Appeal Decision

Hearing held on 13 August 2024

Site visits made on 14 August 2024 and 19 September 2024

by J Burston BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 October 2024

Appeal Ref: APP/W1850/W/23/3334520

Land at Flaggoners Green, Bromyard, HR7 4QR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Gladman Developments Limited against the decision of Herefordshire Council.
 - The application Ref is 190111.
 - The development proposed is 'Outline Planning Application for the erection of up to 120 dwellings with public open space, landscaping and sustainable drainage system (SuDS) and vehicular access point from the A44. All matters reserved except for means of access.'
-

Decision

1. The appeal is allowed and outline planning permission is granted for the erection of up to 120 dwellings with public open space, landscaping and sustainable drainage system (SuDS) and vehicular access point from the A44, with all matters reserved except for means of access, on land at Flaggoners Green, Bromyard, HR7 4QR in accordance with the terms of the application, Ref 190111, and the plans submitted with it, subject to the conditions in the attached schedule.

Preliminary Matters

2. The appeal seeks outline permission with all matters reserved except for access. In so far as the submitted plans and drawings show details of matters other than the access, I have treated those as being purely illustrative.
3. The Appellant submitted new evidence at the start of the appeal process, which related to, amongst other matters, amended access arrangements and footpath and cycleway provision. It was explained at the Hearing that the reason for these revisions was due to the promoters of another site, known **as the 'Hardwick Bank scheme'**, amending its access proposals and these were only presented to the **Council's Planning Committee in January 2024**. As the appeal site and Hardwick Band are located opposite each other on either side of the A44, the Highway Authority (Herefordshire County Council) expect any access arrangements for the appeal site to not prejudice the Hardwick Bank site being developed.

4. Interested parties will have had an opportunity to comment on the new evidence during the appeal procedure. I consider that accepting this new evidence will not cause prejudice to proceedings and it has been accepted on this basis. Furthermore, the appellant undertook additional consultation to inform local residents, interested parties and statutory consultees of the amendments, which included a leaflet distributed to 579 local homes and business. Whilst the Council stated that such new evidence would not have had the formality and rigour of a statutory planning consultation, local residents would be aware of the planning application and those with an interest in it, would, I am sure, have taken the time to read any correspondence relating to it. Moreover, they would have been aware of the appeal given the formal notification undertaken by the Council and how to access the appeal documentation. In coming to this view, I have had regard to the Wheatcroft principles (*Bernard Wheatcroft Ltd v SSE* [JPL 1982 P37]) and consider it consistent with the Holborn judgment (*Holborn Studios Ltd v The Council of the London Borough of Hackney* [2017] EWHC 2823 (Admin)) that I was referred to at the Hearing.
5. A draft agreement made under Section 106 of the Town and Country Planning Act 1990 as amended, was presented at the Hearing. This Section 106 agreement dated 15 August 2024 has since been finalised and informs my conclusions.
6. On 30 July 2024 the Government published a consultation on proposed reforms to the National Planning Policy Framework (the Framework) and other changes to the planning system. However, the proposed changes to the Framework can only be given limited weight at this stage, given that no final document has been published. The main parties have been provided with an opportunity to comment on these documents and their responses have been taken into account, where received.
7. I note that planning application ref P142175/O was also the subject of an appeal (reference APP/W1850/W/15/3039164) (the previous appeal) which was dismissed on 19 May 2015. I have had regard to that appeal decision in determining this appeal.

Main Issues

8. The submitted Statement of Common Ground highlights areas where the Council and Appellant are in dispute. The areas of dispute relate to footway and cycle provision and whether the site would offer a genuine choice of modes of travel.
9. In light of the above, the main issue is whether the appeal site is a suitable location for new residential development having regard to safety and accessibility for sustainable modes of transport, with particular reference to pedestrians and cyclists.

Reasons

Background

10. The appeal site relates to approximately 4.7 hectares of agricultural land, currently set to grass, situated on the western edge of Bromyard. The site is bounded on all sides by mature hedgerows, with the A44 along the northern site boundary. The site also lies within the hydrological catchment of the River Lugg, which forms part of the River Wye Special Area of Conservation (SAC).
11. Bromyard itself offers a wide range of services that includes a primary and secondary school, community facilities, health centre, leisure centre and numerous shops and eateries. Bus services also operate from Bromyard to the cities of Hereford and Worcester.
12. Policy SS2 of the Herefordshire Core Strategy, 2015 (HCS) confirms that the city of Hereford, along with the market towns (including Bromyard), are the main focus for new housing development. Policy BY1 of the HCS sets out that Bromyard will accommodate a minimum of 500 new homes with around 5 hectares of employment land during the Plan period, with a minimum of 250 homes located in the northwestern areas of the town. In this respect Policy BY2 provides an allocation of up to 250 homes at Hardwick Bank, adjacent to the A44 (opposite the appeal site) and at the time of the Hearing a planning application for this allocation had been approved subject to a S106 agreement being agreed.
13. I acknowledge that the Council is currently reviewing the HCS, to cover the period 2021 – 2041 and that the appeal site is identified as a potential area for housing growth. Given that the emerging Plan is at an early stage and has yet to be examined it attracts little weight, nevertheless, it is common ground that the site represents a western extension to the town and is well contained by existing field boundaries and by the A44 and Pencombe Lane. I was informed by the Council that it is, therefore, an appropriate location for residential development.
14. It has also been established, by both the previous appeal decision and the Council, that the site has capacity to accommodate the proposed quantum of development, without (subject to proposed mitigation) causing any material landscape harms.

Sustainable transport

15. Having regard to the submitted evidence, two substantive areas of dispute between the parties arise in respect of (i) whether a safe and suitable means of pedestrian and cycle access for all users would be provided, that manages conflicts between pedestrians, cyclists and vehicles particularly on the A44 and Panniers Lane and (ii) whether walking and cycling would be an attractive mode of transport for future residents. I consider these matters in turn below.

Whether a safe and suitable means of pedestrian and cycle access for all users would be provided

16. **HCS Policy MT1 seeks, amongst other matters to “ensure that developments are designed and laid out to achieve safe entrance and exit, have appropriate operational and manoeuvring space, accommodate provision for all modes of transport, the needs of people with disabilities and provide safe access for the emergency services.”**
17. **The Framework makes it clear, at paragraph 115, that “development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.”** Moreover, at Paragraph 116 the **Framework states, amongst other matters, that “Within this context, applications for development should: a) give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas.”**
18. From what I observed, the A44 is a busy 60mph through road, particularly at peak times, that is frequently used by HGVs. The current footpaths are extremely limited in width and overgrown by scrubby vegetation which makes them difficult to use. The carriageway width is also only sufficient to allow two vehicles to pass and a motorised vehicle would not be able to overtake a bicycle without going on the other side of the carriageway. I was also told at the Hearing that the wing mirrors of HGVs often overhang the footpath and there has been an incident where a wing mirror has hit a pedestrian.
19. Whilst I do not dispute the concerns which I saw and heard relating to the existing A44 and the wider highway network, the Appellant proposes a number of measures to improve the local highway network, which can be secured through planning conditions or by planning obligations. These include:
 - Amended vehicular access to introduce a three-arm traffic signal junction on the site, which will tie into the revised access strategy for the Hardwick Bank site to the north of the A44, to provide a four-arm traffic signal junction in this location to suitably serve both developments.
 - Introduction of right turn bays on A44 for right turn movements into both the appeal site and the Hardwick Bank site.
 - Widening of the A44 using land within the appeal site.
 - Introduction of a pedestrian island on the eastern side of the A44 with assisted crossing facilities.
 - Introduction of a new footway on the northern side of the A44 between the pedestrian crossing and Upper Hardwick Lane, ensuring a 2m footway can be achieved.
 - Widening of the existing footway between Upper Hardwick Bank and Winslow Road to 2m.

- Provision of pedestrian and cycle access on Panniers Lane and the introduction of a new footway on the western side Panniers Lane.
 - Introduction of a 30mph speed limit introduced on the A44.
20. The Highway Authority is responsible for the function and safety of the local road network. As the statutory authority it has a duty to consider matters of safety and whether development proposals would be acceptable without severe impacts. In this case, a Statement of Common Ground between the Highway Authority and the Appellant was submitted which concluded that, subject to the works outlined above, the appeal site can be safely accessed by foot, cycle and public transport.
 21. The proposed highway works have also been the subject of an independent Stage 1 Road Safety Audit (RSA), the recommendations of which were taken into account in the design process.
 22. I acknowledge that even with the proposed highway improvements there would still be some '**pinch points**' on the highway network for both pedestrians and cyclists, which are identified in the FLOW consult document, dated 27 June 2024, prepared on behalf of Bromyard Town Council.
 23. I also note that cyclists travelling eastbound would have to merge back onto the A44, close to the junction with Upper Hardwick Lane. However, the traffic would be subject to a 30mph speed limit and there would be good forward visibility, enabling drivers to see cyclists merging from the left and manoeuvre accordingly. For cyclists travelling west along the A44 there would be a short section of cycle lane on the approach to the site access, nevertheless, the speed limit here would also be 30mph and traffic would likely be slowing down to take into account the junction arrangements. Whilst I accept that there may be more children using the A44 to access the nearby primary school, I would expect such children to be accompanied by an adult and would be more likely to use the proposed shared footpath/cycleway and cross the A44 at the proposed pedestrian crossing. Children accessing the secondary school would be more likely to leave the appeal site using the access on to Panniers Lane and would not therefore use the A44.
 24. As I observed the footway between the A44 junction with Upper Hardwick Lane and Winslow Road is narrow due to the existing highway verge and street furniture. Whilst the abutting residential property owners have historically maintained the verges along this stretch of road, the Appellant has provided title deeds which confirm Highway Authority ownership. The Appellant has therefore agreed with the Highway Authority to widen the footway to approximately 2m. This would be of sufficient width to enable two people (including those with prams or in a wheelchair) to safely pass each other.
 25. As already mentioned, a further pedestrian / cyclist only access would be provided through the south-east site boundary, close to the junction of Pencombe Lane with Panniers Lane, with a widened footway along the western side of Panniers Lane. A crossing point would also be provided for people to cross Panniers Lane to facilitate a safe route to the Secondary School and onward to the nearby convenience store and bus stop.

26. I appreciate that people regularly use the pavement along Panniers Lane to walk from other parts of the town to the secondary school and to access the countryside beyond. The existing footpath on Panniers Lane varies in width, narrowing in some points to below the 2m specified in Manual for Streets (MfS) as the generally recognised minimum width.
27. The representations made in objection to the proposed development comment that Panniers Lane requires wider pavements given that it manages a high pedestrian flow and that students walking to school often do so in groups. The narrow pavement forces users to sometimes walk in the road.
28. Nevertheless, whilst there may be some additional pedestrian movements along Pencombe Lane there is no substantive evidence that the existing arrangements are harmful to pedestrian safety or would materially worsen with additional movements. Moreover, at peak times, such as school start and finish, the additional flows from the development would be unlikely to be using the footpath to the north of the school (the narrowest section), rather they would be using the new footway from Pencombe Lane.
29. In reaching these findings I have had regard to the previous appeal decision. The Inspector concluded in that case that there was not a reasonable prospect of delivering an acceptable pedestrian access and the lack of an identified safe and convenient pedestrian access to the appeal site from the A44 constituted a compelling reason for dismissing that appeal. Nevertheless, the Appellant has now confirmed land ownership to enable the delivery of a pedestrian and cycle access and route from the site along the A44 and the changes in junction layout have facilitated a safe crossing point of the A44, which differentiates it from the previous proposal the subject of the earlier appeal decision.

Whether walking and cycling would be an attractive mode of transport for future residents

30. Paragraph 109 of the Framework states that significant development should be focussed on locations that either are, or can be made, sustainable, by limiting the need to travel and offering a genuine choice of transport modes.
31. MfS guidance talks about walkable neighbourhoods, which are typically characterised by having a range of facilities within 10 minutes (up to about 800m) walking distance of residential areas which residents may access comfortably on foot. However, it also states that this is not an upper limit, noting a reference to the extinguished PPS13, which stated that walking offers the greatest potential to replace short car trips, particularly those under 2km. Given that MfS is a government document and carries forward guidance from PPS13, I find this to be the most appropriate guidance when applying a planning judgement. In this case all services and facilities would be within the 2km upper limit.
32. Following the implementation of the highway measures set out above, access from the site to all facilities either on foot or bicycle would be pleasant, on footways / cycleways of sufficient width with dropped kerbs such that access for all is possible. Therefore, walking and cycling to and from schools and town centre shops and leisure facilities would be a realistic option.

33. Having walked the route myself I acknowledge that the topography is undulating, particularly on the return journey from the town centre to the appeal site. Nonetheless, everyone has a different tendency to walk and cycle. Some people will walk and cycle across undulating terrain and further distances than 2km to access local services and facilities, whilst others will choose to drive to the end of the road to post a letter. What is significant in this appeal is that all services and facilities would be within 2km. Therefore, **whilst it would be on the upper limits of walkable, the site's location would not deter walking or cycling entirely.**
34. In reaching these findings I have had regard to the previous appeal decision. My findings here are broadly similar, insofar as the Inspector set out at paragraph 70 that *"the appeal site allows most of the existing facilities to be reached by walking, though some destinations would be at the limit of acceptability."*

Conclusions on this Main Issue

35. Drawing all this together, I consider that the location of the site, close to the town centre of Bromyard, would limit the need to travel because of the range of facilities that would be available to future residents of the appeal site within a relatively short distance. Residents would have a genuine choice of travel modes. The proposal would therefore accord with policies of the Framework which seek to promote sustainable transport. The appeal scheme would also improve access to sustainable forms of transport, by providing additional infrastructure such as footways and cycle paths linking the appeal site along the A44 towards the town. As a result, it would comply with Policy MT1 of the HCS, which seeks the safe operation of the highway network and access to a genuine choice of modes of travel.

Habitats Regulation Assessment (HRA)

36. The appeal site is located within the River Lugg catchment which forms part of the River Wye SAC, which is recognised by the Conservation of Habitats and Species Regulations 2017 as an area of international importance for its flora and fauna. The River Wye SAC is currently considered to be failing its water quality targets due to phosphate levels. The Regulations require decision-makers (in this case myself) to undertake appropriate assessment where significant effects on a SAC are likely either alone or in combination with other proposals.
37. Accordingly, new development within any part of the catchment which will increase the amount or concentration of wastewater effluent or organic **materials discharged directly or indirectly into the catchment's waterbodies** has the potential to increase phosphate levels within those waterbodies. Natural England (NE) therefore recommend that any proposed new development that might otherwise result in increasing the amount of phosphate within the SAC either by direct or indirect discharges must be able to demonstrate phosphate neutrality.
38. The proposed development includes a mains foul sewerage connection for 120 new dwellings which will be treated at the Bromyard Wastewater Treatment Works (WwTW). The Bromyard WwTW sits within the River **Lugg/River Wye SAC catchment in which NE's 'Nutrient Neutrality'** applies.

Accordingly, the additional phosphate load generated by the proposed development has the potential to result in a likely significant effect on the River Wye SAC.

39. In this case the Appellant has applied for, and received, an allocation of phosphate credits from Herefordshire Council to provide mitigation. The phosphate credits being relied upon to mitigate this development are **provided by the Council's second integrated wetland which is located on land adjacent to Tarrington WwTW**. As stated in the Council's Habitat Regulation Assessment (HRA) the purpose of the wetland would be to provide enhanced treatment for removal of phosphorus from the final effluent of the Tarrington WwTW.
40. Given this background, I have undertaken an appropriate assessment in a reasonable and proportionate manner relative to the circumstances here.

Appropriate Assessment (AA)

41. The AA is necessary to comply with Regulation 63 (1) of the Conservation of Habitats and Species Regulations 2017. In undertaking the AA, I must be certain that the proposed development would not result in adverse effects to the integrity of the relevant European site.
42. As set out in both **the Appellant's shadow HRA and** the Council's HRA, the proposed development would create an annual phosphorus load of 14.82kg TP/year which must be managed against in order to avoid detriment to the River Lugg. That calculation is premised on water usage being limited to 110 litres per person per day and being processed by the Bromyard WwTW. Having no evidence to the contrary I have no reason not to accept these calculations as an accurate representation of the phosphorus load.
43. There are no on-site measures proposed to deal with the phosphate produced. Therefore, it is put forward that this additional phosphorus entering the ecosystem be addressed via the purchase of phosphate credits. Phosphate Credits in Herefordshire are being generated through the delivery, by Herefordshire Council, of a programme of integrated wetlands associated with existing WwTWs. The phosphate credits being relied upon to mitigate **this development are provided by the Council's second integrated wetland** which is located on land adjacent to Tarrington WwTW, which particularly serves the lower catchments of the Lugg. The aim of the Tarrington Integrated Wetland is to reduce the Total Phosphorus (TP) in the effluent leaving the Tarrington WwTW from an average of 5.10mg/L TP to less than 1mg/L TP. The Tarrington scheme is due to come on stream in 2026.
44. NE, the appropriate nature conservation body under Habitats Regulation 63(3), should be consulted as part of the allocation of phosphate credits to individual schemes. Via correspondence of 12 August 2024 NE agreed with the methodology for calculating phosphate loading and with the proposed nutrient neutrality mitigation measures. However, due to the timescales for constructing the Tarrington Wetland scheme, NE advised that a condition should be added to any consent to ensure that the proposed dwellings would not be occupied prior to 1 June 2026. Furthermore, NE noted that Welsh Water has requested that hydraulic modelling be undertaken to ensure that a

connection can be made to the WwTW. Both these matters can be secured by planning conditions if the development was found acceptable.

45. Given the mitigation measures set out above, I conclude that the development, when considered either alone or in-combination with other plans or projects, would not have any residual adverse impact upon fauna and flora of the River Lugg/Wye. The risk of adverse effect on the integrity of the SAC can be ruled out, applying the precautionary principle. In this respect, the proposed mitigation measures would minimise any residual adverse impacts and safeguard the favourable conservation status of the River Lugg SSSI/River Wye SAC.

Other Matters

46. There is local concern that Bromyard has been subject to a large amount of development in a relatively short period and that it has been difficult to absorb such rapid growth into the existing community. Whilst I understand this concern there is no evidence before me to demonstrate that this would be the case. Also, there is no evidence that integration cannot satisfactorily be achieved. Whilst pressure on GP services is raised, this is a problem nationally and S106 contributions are to be provided.
47. I appreciate that there is local objection relating to primary and secondary school capacity to accommodate the children who would live within the appeal development. However, it is important to understand that the Council as Local Education Authority (LEA) has a statutory duty to provide sufficient school places for pupils in its area. As such, the LEA have required financial contributions towards the costs of enhanced educational infrastructure at Bromyard Early Years, St Peters Primary School, Queen Elizabeth High School, Special Education Needs and Bromyard Youth Services. The financial contribution is secured through a planning obligation, details of which are set out below.

Conditions

48. A list of planning conditions was drawn up by the main parties and these were discussed at the Hearing. My consideration has taken account of paragraph 56 of the Framework and advice in the Planning Practice Guidance (PPG). In particular, **I have had regard to the Government's intention that** planning conditions should be kept to a minimum and that pre-commencement conditions should be avoided unless there is clear justification. Subject to some minor changes in the interests of clarity and consistency, the conditions I have imposed are, in substance, the same as those that were discussed at the Hearing. Some conditions require matters to be approved before development commences. These are necessary to manage impacts that would arise during construction and/or to resolve details that would need to be settled at an early stage.
49. This is an outline application with all matters save for access reserved. The standard requirements regarding the submission of reserved matters have been imposed. There is a requirement that the development should accord with the submitted drawings in the interests of precision and proper planning. A phasing plan is required to ensure that essential infrastructure is developed at the appropriate stages of the development. Although

landscaping is a reserved matter a condition is required to ensure the submission of a scaled landscaping plan to safeguard and enhance the character and appearance of the area. Alongside this a condition is necessary to secure planting and the replacement of any plants that die, are removed or severely damaged, in the interests of amenity and biodiversity. Furthermore, open space management details shall be submitted to ensure that the visual amenity of the area is maintained post construction.

50. A condition is required for details relating to the number, size and type of the tenure for both open market and affordable housing in order to define the parameters of the consent and to ensure that the development is consistent with the effects that have been assessed. Relating to the reserved matter of layout, a detailed scheme for the comprehensive and integrated drainage of the site showing how foul water, surface water and land drainage will be managed is required to ensure effective drainage facilities can be provided.
51. A condition is required to secure the submission of a Construction Environment Management Plan to be approved, in the interests of biodiversity and sustainable development. Details relating to construction traffic is required in the interest of highway safety. A condition to secure the submission of a Resource Audit is required in the interests of waste management and sustainable development.
52. The Appellant considered that a condition relating to the submission of a hydraulic modelling assessment was not necessary as this was subject to other legislation. I acknowledge that Under s.106 of the Water Industry Act **1991 there is an 'absolute right' for a developer (in the capacity of the owner or occupier of premises)** to connect to a public sewer and the sewerage undertaker has no right to object or to refuse on the basis of lack of capacity of the sewer. Nevertheless, given the harm that would be caused to the SAC without appropriate sewage connection and the mitigation considered in the AA, a planning condition would be necessary in this case to mitigate the impact of additional wastewater generated by the proposal.
53. Highway improvements have been proposed on the highway network as referred to earlier in my decision. These works are necessary for reasons of highway safety for pedestrians and cyclists, to improve the highway network to encourage sustainable transport modes and to mitigate the impact of additional traffic generated by the proposed development. Full details of a scheme for the provision of covered and secure cycle parking facilities within the curtilage of each dwelling shall be submitted as well as a condition to secure a Travel Plan in the interests of sustainable transport.
54. A condition is required to secure Biodiversity Net Gain through the submission of a plan. This is to ensure that Biodiversity Net Gain is secured and habitats enhanced having regard to The Conservation of Habitats and Species Regulations 2017, as amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019.
55. A condition to secure the provision of electric vehicle charging points is not necessary due to the provisions in the Building Regulations. Whilst the Council suggest that this condition goes further than the regulations I have little substantive evidence to support this approach to consider it acceptable. Similarly, a condition to restrict connection to the sewage system is not

necessary as such connections require permission from the appropriate sewerage undertaker.

- 56. A condition to limit the brightness, tilt and timing of external lighting is necessary in the interests of biodiversity and amenity given the position of the site on the edge of the settlement.
- 57. A scheme demonstrating measures for the efficient use of water as per the optional technical standards contained within Policy SD3 of the HCS is necessary in the interests of sustainable development.

The planning obligation

- 58. The 2010 Community Infrastructure Levy Regulations (CIL) and paragraph 57 of the Framework provide the legal and policy tests for obligations. These tests require that planning obligations should only be sought where they are: a) necessary to make the development acceptable in planning terms; b) directly related to the development; and c) fairly and reasonably related in scale and kind to the development. This is also confirmed in the Planning Practice Guidance on planning obligations (PPG).
- 59. The matter of justifying contributions rests with the Council and is a matter I would have to satisfy myself of, irrespective of whether or not the Appellant advanced a case against various clauses/contributions during the course of the appeal.
- 60. The Council have provided evidence in a CIL compliance statement to show that the obligations include measures to mitigate the impacts of development and meet the costs of associated infrastructure.
- 61. There is a dispute between the Council and the Appellant relating to whether the enforcement of the obligations in the s106 agreement should be the subject of an Enforcement Exemption clause. The Appellant asserts that the clause would operate to ensure that individual purchasers or tenants of the residential units and their mortgagees would not be bound by the obligations in the Section 106 agreement.
- 62. Section 106 of the Town and Country Planning Act 1990 provides that a planning obligation under a S106 Agreement runs with the land and therefore means that it can be enforceable against and bind successors in title. Whilst I acknowledge the **Appellant's concerns** it is possible for these to be overcome by, for example, ensuring that obligations are paid or by providing an indemnity in the sales agreement from the developer in relation to the future performance of any undischarged planning obligations.
- 63. Furthermore, I am concerned that if the exemption clause suggested was executed the obligation would carry little weight and the Council would have no redress in the circumstances where the developer defaults. Therefore, the enforcement of the obligations set out in Schedules 1-6 of the Section 106 Agreement should not be subject to clause 1.6 of the agreement.
- 64. The Council requested monitoring fees, based on their own calculations for their particular responsibilities in each obligation within the agreement as

outlined in their respective obligations' guidance. The PPG allows for monitoring costs if proportionate and reasonable. The obligations would have to be checked by the Council staff throughout the progress of the development and payments would need to be requested, received, and actioned. The Council has a responsibility for overseeing the obligations and the funding. I therefore find that, from the evidence before me, the monitoring fees are necessary and reasonably related to the proposal.

65. The Affordable Housing obligation would ensure that 40% of the residential units are affordable, with a tenure split of 60% as Social Rented Housing and 40% as Shared Ownership. The contributions for primary care and health care and waste and recycling are all justified as directly related and proportionate in scope and necessary to making the proposal acceptable in planning terms.
66. Given the location of the development within the catchment of the River Lugg, which forms part of the River Wye Special Area of Conservation (SAC) the Appellant is required to ensure that any detriment to the SAC is avoided. In this case the Appellant has chosen to purchase phosphate credits from the Council, based on the calculated phosphorus load. as directly related and proportionate in scope and necessary to making the proposal acceptable in planning terms.
67. The Section 106 Agreement would secure on-site public open space, including a play area. These facilities and features would ensure the development provides adequate recreation and an attractive environment. They would therefore be directly related, proportionate in scope and necessary to making the development acceptable in planning terms.
68. As the proposal would have a direct impact on the demand for school places, mitigation is required. The contributions sought in respect of Primary, Early Years, Secondary, SEN Education and youth services are directly linked to the development, reasonably related in scale to it and necessary to making it acceptable in planning terms.
69. Contributions relating to public transport infrastructure and services and highways works, all stem from the development. These are all warranted to ensure that the development mitigates the impact on the surrounding highways network and to ensure that future occupiers have a choice of means of travel. I am satisfied that all of these contributions are fair, reasonable and necessary to mitigate the impacts of the development.
70. Contributions towards football, cricket, rugby, tennis, shooting, archery and a skate park are justified as being necessary, directly related, and fairly and reasonably related in scale and kind to the proposal.
71. The above obligations are intended to mitigate the needs and impact of the future occupants of up to 120 additional houses, to avoid placing undue pressure on the existing community facilities. The requirements were based on calculating the resulting new residents and the likely need for the particular facilities.
72. For the reasons given above and taking account of all of the information provided to the Hearing, I am satisfied that the planning obligations in the

Section 106 agreement are necessary to make the development acceptable in planning terms, directly related to the development and are fairly and reasonably related in scale and kind to the appeal development. They meet the statutory requirements of Regulation 122 in the CIL Regulations and the policy requirements of paragraph 57 in the Framework. I am therefore able to take them into account in my decision.

Conclusion

73. For the reasons given above, and taking into account all matters raised, the appeal is allowed, subject to the conditions set out in the annex to this decision.

J Burston

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr. Christian Hawley (No.5 Chambers)

Mr. Simon Helme, BEng(Hons), MSc, MCIHT (Director, Ashley Helme Associates)

Mrs Helen Ball BA (Hons) MA. MRTPI (Planning Director, Gladman Developments Limited)

FOR THE LOCAL PLANNING AUTHORITY:

Mr Ollie Jones. Principal Planning Officer, Herefordshire Council

Ms Katy Jones, Highways Officer, Herefordshire Council

Ms Yvonne Coleman, Planning Obligations Manager, Herefordshire Council

Mr John Lloyd, Flow Consulting (also acting on behalf Bromyard Town Council)

INTERESTED PARTIES:

Cllr Roger Page (Vice Chairman of Bromyard & Winslow Town Council)

Professor Mark Whitehorn

Cllr Gill Churchill

Cllr Clare Davis

HEARING DOCUMENTS

1. Appellant's Appearance List
2. Plans for approval:
 - D7050.001C Location Plan
 - 1470/45 Rev C Traffic Signal Arrangement
3. Opening Statement on behalf of the Appellant
4. Condition on SHRA
5. Appellant Opening
6. Appellant's Highways Technical Note 6
7. Appellant's Highways Technical Note 7

8. Adopted Highways Plans
9. Title Plans
10. Planning Obligation Summary
11. Proposed Site Visit Walking Route
12. Road Safety Audit Briefing Note

**Schedule of Conditions attached to Appeal Reference:
APP/W1850/W/23/3334520**

- 1 Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.
- 2 The development hereby permitted shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of the approval of the last reserved matters to be approved, whichever is the later.
- 3 Approval of the details of the layout, scale, appearance and landscaping (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority in writing before any development is commenced.
- 4 The development shall be carried out strictly in accordance with the approved plans as far as it relates to access:
 - Location Plan
 - Access Plan (1470/32 Rev I)

except where otherwise stipulated by conditions attached to this permission.

- 5 No development shall commence until a plan has been submitted to and approved in writing by the Local Planning Authority identifying the phasing, if any, for the development and shall specify the following;
 - Residential phases
 - Timing of delivery of on-site highway works (including but not limited to on-site roads, footways, cycleways)
 - Timing of delivery of offsite highways improvements
 - Timing of delivery of public open space
 - Delivery of drainage infrastructure

The development, including the completion and delivery of infrastructure shall be constructed in accordance with the agreed phasing plan.

- 6 The reserved matters application, relating to Landscaping, submitted pursuant to Condition 1 shall be accompanied by a scaled landscape plan that shall include, but may not be limited to the following;

- Trees and hedgerow to be retained, setting out measures for their protection during construction, in accordance with BS5837: 2012.
 - Trees and hedgerow to be removed.
 - All proposed planting, accompanied by a written specification setting out; species, size, quantity, density with cultivation details.
 - All proposed hardstanding and boundary treatment.
- 7 Proposals for the number, size and type of the tenure for both open market and affordable housing shall be submitted to the Local Planning Authority for approval either prior to, or as part of any reserved matter application(s) relating to 'layout' submitted pursuant to Condition 1.

This scheme shall comprise a schedule outlining the number of 1, 2, 3 and 4 + bed dwellings (open market and affordable) with the overall mix being in general accordance with the Council's Local Housing Market Assessment (or any successor document adopted by the Local Planning Authority).

- 8 Any reserved matters application(s), relating to the reserved matter of 'layout' submitted pursuant to Condition 1, shall be accompanied by a detailed scheme for the comprehensive and integrated drainage of the site showing how foul water, surface water and land drainage will be managed. The submission shall include, but may not be limited to the following; -
- Detailed drawings that demonstrate the inclusion of SuDS, location and size of key drainage features, pumping stations and outfall structures;
 - Updated calculations of greenfield runoff rates using FEH methods;
 - Calculations to demonstrate that the proposed surface water drainage system has been designed to prevent the surcharging of any below ground drainage network elements in all events up to an Including the 1 in 2 annual probability storm event, noting that 2013 FEH rainfall data is expected;
 - Calculations to demonstrate that the proposed surface water management system will prevent any flooding of the site in all events up to an including the 1 in 30 annual probability storm event noting that 2013 FEH rainfall data is expected;
 - Updated calculations of proposed attenuation basin sizing, noting that 2013 FEH rainfall data is expected;

- Assessment of potential failure of above-ground attenuation features, including assessment of residual risks to downstream receptors, and proposed mitigation and management measures (if applicable);
 - Confirmation of the proposed methods of treating surface water runoff to ensure no risk of pollution is introduced to groundwater or watercourses both locally and downstream of the site, especially from proposed parking and vehicular areas
 - Description and drawing demonstrating the management of surface water runoff during events that may temporarily exceed the capacity of the drainage system;
 - Confirmation of agreement in principle of proposed adoption and maintenance arrangements for the surface water and foul water drainage system;
 - Demonstration that appropriate access is available to maintain drainage features, including pumping stations;
 - Operational and maintenance manual for all proposed drainage features that are to be adopted and maintained by a third party management company.
- 9 Development (in each phase) shall not begin, including site clearance or demolition or equipment and materials moved on to site, until details of:
- where tree protection shall be erected and works within root protection areas is required;
 - a fully detailed Construction Environmental Management Plan (CEMP) and named 'responsible person', including:
 - i. Hours of working
 - ii. Tree protection (and arboricultural report)
 - iii. Dust management and mitigation measures
 - iv. Storage of materials
 - v. detailed ecological risk avoidance measures based on current site conditions and all protected species known to be locally present (all ecological surveys and site assessments should be under two years old from date of CEMP).

The approved CEMP shall be implemented in full for the duration of all construction works at the site unless otherwise approved in writing by the Local Planning Authority.

10 Development (in each phase) shall not begin until details and location of the following have been submitted to and approved in writing by the Local Planning Authority, and which shall be operated and maintained during construction of the development hereby approved:

- A method for ensuring mud is not deposited onto the Public Highway
- Construction traffic access location and specification
- Parking for site operatives
- Construction Traffic Management Plan - Travel plan for operatives.
- Siting of site compound / site offices (including stack heights) and storage areas

The development shall be carried out in accordance with the approved details for the duration of the construction of the development.

11 Development (in each phase) shall not begin until a Resource Audit to identify the approach to materials has been undertaken. The Resource Audit shall include the following;

- The amount and type of construction aggregates required and their likely source;
- the steps to be taken to minimise the use of raw materials (including hazardous materials) in the construction phase, through sustainable design and the use of recycled or reprocessed materials;
- The steps to be taken to reduce, reuse and recycle waste (including hazardous wastes) that is produced through the construction phase;
- The type and volume of waste that the development will generate (both through the construction and operational phases);
- End of life considerations for the materials used in the development; and
- Embodied carbon and lifecycle carbon costs for the materials used in the development.

Construction works shall thereafter be carried out in full accordance with the details of the approved Resource Audit unless agreed in writing by the Local Planning Authority.

12 No development shall take place until a point of connection on the public sewerage system has been identified by a hydraulic modelling assessment, which shall be first submitted to and

approved in writing by the Local Planning Authority. Thereafter the connection shall be made in accordance with the recommended connection option following the implementation of any necessary reinforcement works to the sewerage system, as may be identified by the hydraulic modelling assessment.

- 13 Development shall not begin in relation to the following specified highways works until the details have been submitted to and approved in writing by the Local Planning Authority following (or concurrently with) the completion of the technical approval process by the local highway authority. The works shall include those illustrated in drawing reference 1470/45/C.

The development shall not be occupied until the scheme has been constructed in accordance with the approved details.

- 14 Prior to any new development above damp proof course levels, a detailed and holistic site-wide location plan for proposed biodiversity net gain enhancement features should be submitted to and approved in writing by the Local Planning Authority. The plan should include the provision of 'fixed' habitat features including a range of bird nesting boxes, bat boxes (or similar roosting features), Hedgehog homes and hedgehog highways through all impermeable boundary features and consideration for pollinating insects and invertebrates. The approved scheme shall be implemented in full and hereafter maintained as approved unless otherwise agreed in writing by the Local Planning Authority.
- 15 Prior to the first occupation of the development hereby approved, a Travel Plan which contains measures to promote alternative sustainable means of transport for residents with respect to the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall be implemented, in accordance with the approved details, on the first occupation of the development. A detailed written record shall be kept of the measures undertaken to promote sustainable transport initiatives and a review of the Travel Plan shall be undertaken annually. All relevant documentation shall be made available for inspection by the Local Planning Authority upon reasonable request.
- 16 Prior to the first occupation of any dwelling within any phase of residential development hereby permitted a scheme demonstrating measures for the efficient use of water as per the optional technical standards contained within Policy SD3 shall be submitted to and approved in writing by the Local Planning Authority and implemented as approved.

- 17 Prior to the first occupation of the development hereby permitted full details of a scheme for the provision of covered and secure cycle parking facilities within the curtilage of each dwelling shall be submitted to and approved in writing by the Local Planning Authority I. The covered and secure cycle parking facilities shall be carried out in strict accordance with the approved details and available for use prior to the first occupation of each dwelling to which it relates. Thereafter these facilities shall be retained for their permitted use.
- 18 No surface water and/or land drainage shall be allowed to connect directly or indirectly with the public sewerage network.
- 19 No external lighting shall be provided other than the maximum of one external LED down-lighter above or beside each external door (and below eaves height) with a Corrected Colour Temperature not exceeding 2700K and brightness under 500 lumens. Every such light shall be directed downwards with a 0 degree tilt angle and 0% upward light ratio and shall be controlled by means of a PIR sensor with a maximum over-run time of 1 minute. The Lighting shall be maintained thereafter in accordance with these details.
- 20 No dwelling shall be occupied until the following landscape / open space management details for all areas outside of the curtilage of the dwellinghouses are submitted;
- a map or plan indicating the management responsibility of each respective area of the proposed development.
 - a schedule of implementation and maintenance of non-private landscaped areas / open space

Delivery and maintenance shall be carried out in accordance with these approved details.

21. All planting, seeding or turf laying in the approved landscaping scheme for each respective phase shall be carried out in the first planting season following the occupation of the building or the completion of the development on that respective phase, whichever is the sooner.

Any trees or plants which die, are removed or become severely damaged or diseased within 5 years of planting will be replaced in accordance with the approved plans.

END



BRUNNINGHAM FARM, HEATH RIDE, FINCHAMPSTEAD

TRANSPORT STATEMENT

NOVEMBER 2025

APPENDIX 3



RG40 3QJ

Find Postcode

Access Map

Development location

Village

Reset Sheet

Total number of properties	8
Total allocated spaces	24
Total unallocated spaces	3

[illegible]