

Mr Barnes
Star Planning Development
140 Brandwood Road
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Our Ref: APP/G1630/A/11/2146206,
APP/G1630/A/11/2148635

Your Ref:

16 July 2012

Mr J Orton
Origin3 Ltd
127 Hampton Road
Redland
Bristol
BS6 6JE

Dear Mr Barnes and Mr Orton

TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78

APPEAL A:

APPEAL BY COMPARO LTD

HOMELANDS FARM, BISHOP'S CLEEVE, GLOUCESTERSHIRE GL52 8EN

APPLICATION: REF 10/01005/OUT

APPEAL B:

APPEAL BY WELBECK STRATEGIC LAND

LAND AT DEANS FARM, BISHOP'S CLEEVE, GLOUCESTERSHIRE GL52 7YP

APPLICATION: REF 10/01216/OUT

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, David Nicholson, RIBA IHBC, who held a public local inquiry that sat for 13 days between 20 September – 13 December 2011, into the failure of Tewkesbury Borough Council (TBC) to determine the above applications within the prescribed period.
2. The development proposed under Appeal A (known as Homelands 2) is up to 450 dwellings (use class C3), provision of a local centre comprising 450sqm (total gross internal floor area) of use classes A1, A2, A3, A4 and A5, 500sqm (total gross internal floor area) of community hall (use class D1), 700sqm (total gross internal floor area) health, leisure and nursery accommodation (use classes D1 and D2), strategic parkland (including allotments and orchards) public open space (POS) facilities and ancillary landscaping, vehicular access and provision

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of foul, surface water and infrastructure; in accordance with application ref 10/01005/OUT for outline planning permission dated 16 September 2010.

3. The development proposed under Appeal B (known as Cleavelands) is up to 550 dwellings, including 30 for retired people; a high street comprising 4 units with a gross retail floorspace of 475sqm, plus ancillary accommodation of 475sqm (classes A1, A2, A3, A4 and A5), 15 units with a floorspace of 3,750sqm for class B1 and D1 uses and 16 live/work units; a community facility with a hall; extension to allotments; open space provision including changing rooms; sustainable drainage provision and accesses from the A435 and Little Acorns; in accordance with application ref 10/01216/OUT for outline planning permission dated 24 June 2011.
4. By letters dated 24 February and 8 March 2011 the Secretary of State directed, in pursuance of section 79, and paragraph 3 to schedule 6, of the Town and Country Planning Act 1990, that the appeals be recovered for his determination. The reason for making the directions was that the appeals involved proposals for residential development over 150 units or on sites of over 5 hectares, which would significantly impact on the Government's objective to secure a better balance between housing demand and supply and create high quality, sustainable, mixed and inclusive communities.

Inspector's Recommendations and Summary of the Decisions

5. The Inspector recommends that planning permission be granted subject to conditions. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions and agrees with his recommendations. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

Procedural Matters

6. The Inspector also considered a third appeal, Appeal C for engineering operations for the provision of vehicular and foot/cycle links between the Homelands Farm consented area (07/00448/OUT) and the current appeal site to the north (10/01005/OUT); in accordance with application ref 11/00632/FUL dated 24 June 2011. Following the Secretary of State's receipt of the Inspector's report, Comparo Ltd informed him on 1 May 2012 that it had withdrawn Appeal C because a duplicate application had been granted planning permission by TBC on 27 April 2012. Consequently the Secretary of State has only determined Appeals A and B.
7. In reaching his decision, the Secretary of State has taken into account the Environmental Statements and supplementary information which were submitted under the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 for appeal proposals A and B. The Secretary of State is content that the Environmental Statements comply with the above regulations and that sufficient information has been provided for him to assess the environmental impact of the applications (IR 14.3).

8. The Secretary of State has taken account of the revised site plan 4080_PL_001 Rev A submitted by Welbeck Strategic Land for Appeal B, as noted at IR 1.4, and has determined the appeal on that basis. He does not consider that there has been any prejudice to any party in so doing.

Matters Arising After the Close of the inquiry

9. Following the close of the inquiry, the Secretary of State received several representations, as listed in Annex A. He has carefully considered these representations but, as they did not raise new matters that would affect his decision, he has not considered it necessary to circulate them to all parties. Copies of the representations can be made available upon written request.
10. After the close of the inquiry, the Government published the National Planning Policy Framework (March 2012) (the Framework). This document replaces those Planning Policy Guidance and Statements, Minerals Planning Guidance notes, Circulars and Letters to Chief Planning Officers set out in its Annex 3. Following the publication of this document the Secretary of State wrote to interested parties on 19 April seeking their views on its implications, if any, on the proposal before him. On 11 May the Secretary of State circulated the responses, inviting final comments. A list of those responding and other post-inquiry correspondence is set out in Annex A.
11. The Secretary of State has carefully considered all of the representations received in his determination of this case. In considering these further representations the Secretary of State also wishes to make it clear that he has not revisited issues which are carried forward in the Framework and which have therefore already been addressed in the IR. He does not consider that they raise new issues relevant to these appeals that affect his decision and the reasons for it set out below. Notwithstanding that the majority of former national planning policy guidance has been replaced by the Framework, the Secretary of State considers that the main issues identified by the Inspector essentially remain the same. He has reflected his views on the implications of the Framework in the relevant sections on main issues below.

Policy Considerations

12. In determining the appeals, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.
13. In this case, the development plan comprises the Regional Planning Guidance for the South West 2001 (RPG10); the saved policies of the Gloucestershire Structure Plan Second Review 1999 (SP); and the saved policies of the Tewkesbury Borough Local Plan 2006 (LP). The Secretary of State considers that the development plan policies most relevant to the appeal are those set out in the Statements of Common Ground, as indicated by the Inspector at IR 3.4, and discussed in subsequent paragraphs of his report.

14. The Secretary of State considers that the revocation of Regional Strategies has come a step closer following the enactment of the Localism Act on 15 November 2011. However, until such time as RPG10 is formally revoked by order, he has attributed limited weight to the proposed revocation in determining these appeals.
15. The Secretary of State notes that TBC is working with Gloucester City Council and Cheltenham Borough Council to prepare a Joint Core Strategy (JCS). He further notes that the JCS Developing the Preferred Option consultation document explains the strategy over the period 2011-2031 (IR 3.13). As the JCS is at an early stage of preparation he considers that it merits little weight. However, he notes the extensive evidence base that supports the emerging plan (IR 3.18-3.21).
16. Other material considerations which the Secretary of State has taken into account include the *National Planning Policy Framework* (2012); *Technical Guidance to the National Planning Policy Framework* (2012); Circular 11/95: *The Use of Conditions in Planning Permission*; and *The Community Infrastructure Levy (CIL) Regulations 2010 and 2011*. He has also had regard to *Part 6 (Planning) of the Localism Act 2011*; *BIS/HMT The Plan for Growth* (2011); *Written Ministerial Statement by the Rt Hon Greg Clark MP Planning for Growth* (2011); and *DCLG Laying the Foundations: A Housing Strategy for England* (2011) as indicated in IR 3.2

Main Issues

Development Plan and Other Material Considerations

17. The Secretary of State agrees with the Inspector's reasoning and conclusions at IR 14.4-14.26 on compliance with the development plan and whether there are other material considerations that outweigh any conflict. He agrees that as both sites are in the countryside, outside any development boundary, the proposals are contrary to development plan policy (IR 14.4). He also agrees that components of the development plan are dated and that the settlement boundaries in the LP are based on housing requirements for the period up to June 2011. Consequently the weight that should be accorded to this conflict should be significantly reduced (IR 14.5).
18. The Secretary of State agrees with the Inspector that the most significant material consideration in this case is the housing land supply, where the requirement for a 5 year land supply cannot be demonstrated against the development plan (IR 14.8). The Secretary of State notes that there are various ways in which housing need can be assessed in this case (IR 14.10). He agrees with the Inspector that on the basis of extrapolations of past requirements there is a pressing need for additional housing (IR 14.10 -14.14).
19. The Secretary of State notes that a JCS preferred options consultation document identifies strategic allocations for up to 29,500 homes. It is proposed that Bishop's Cleeve be placed in the third tier of settlements and that the timescale for adoption of the JCS is January 2014 (IR 14.9). The Secretary of State further notes that some of the proposed housing delivery in the emerging JCS is reliant on sites currently in the Green Belt, where substantial local opposition may be

expected and permission is unlikely to be granted in the near future. He further notes that a housing figure has been given for rural areas where sites have yet to be allocated (IR 14.16 -14.18). In accordance with Annex 1 of the Framework he therefore gives little weight to emerging policies for housing land allocations. He agrees with the Inspector that other than allowing these appeals there is no other credible way of reducing the 5 year land supply shortfall (IR 14.22).

20. The Secretary of State considers it important for the local planning authorities preparing the JCS to identify the needs and requirements in their area and he agrees with the Inspector's comments at IR 14.25 that this is not the same as allowing them to postpone their obligation to identify and maintain a 5 year supply of deliverable sites. He notes that there has been extensive public consultation before and after the applications and throughout the inquiry (IR 14.26), and has taken account of the views expressed at these stages, as well as those responses from his referral back to parties on the impacts of the Framework, in reaching his decision.

Prematurity

21. The Secretary of State agrees with the Inspector's reasoning and conclusions on prematurity in IR 14.27 - 14.30. As indicated above, the JCS is at a very early stage and little weight can be attached to it. The appeal proposals are necessary now to meet immediate housing need and the presumption in favour of sustainable development in the Framework applies. This is considered in more detail under the heading of Sustainable Development below.

Character and Appearance

22. The Secretary of State agrees with the Inspector's reasoning and conclusions with regard to the impact of the proposed developments on the character and appearance of the area at IR 14.31 – 14.36. He acknowledges that any loss of countryside is regrettable and that there would be harm to the landscape, but this harm is likely to occur in the Central Severn Vale if adequate housing is to be provided. He notes that no evidence had been put forward to suggest that an adequate housing land supply could be found without using greenfield sites in the Central Severn Vale. The Secretary of State considers that the proposed landscaping would soften the appearance of the proposed developments and he shares the Inspector's view that there is every reason to accept that the proposals would result in a pleasant, if very different, environment.

Sustainable Development

23. The Secretary of State agrees with the Inspector's reasoning and conclusions on sustainable development in IR 14.38 – 14.46. The Secretary of State attaches significant weight to the need to support economic growth through the planning system. He notes that between them both schemes offer some opportunities for employment (IR 14.40) and he also considers that the provision of housing is itself a contributor to economic growth. He considers that the proposals will fulfil a social role by delivering a good mix of high quality housing to meet current and future needs, with a range of tenures (IR14.40 and IR 14.43). He considers that the measures to promote sustainable transport choices (IR 14.42), and the

proposals for high standards of energy efficiency and renewable energy, and use of the land efficiently and effectively (IR 14.40) reflect the environmental credentials of the proposals. However, he acknowledges that this is a matter of balance and that there are matters that weigh against such as the loss of best and most versatile land (BMV) in respect of Homelands 2 (see paragraph 25 below).

24. The Secretary of State considers that the sites lie in relatively sustainable locations, on the edge of Bishop's Cleeve, and that its public transport links, and range of community, employment, retail and recreational facilities would be enhanced (IR 14.44). He agrees with the Inspector that developing greenfield land would not protect the natural environment, but providing the right sort of housing in the right place would satisfy both social and economic roles (IR 14.46). He agrees that both schemes make efficient and effective use of land and have the potential for good design. He agrees that considerable efforts have been made to mitigate as far as possible against any potential harms that would arise; and that this weighs heavily in their favour (IR 14.43). The Secretary of State agrees with the Inspector that the proposals represent sustainable development (IR 14.46) and in reaching this conclusion he has taken into account the three dimensions of sustainable development in the Framework.

Best and Most Versatile Land (Homelands 2)

25. The Secretary of State agrees with the Inspector's reasoning and conclusions with regard to the loss of BMV at IR 14.37. He acknowledges that the loss of BMV land, as a result of the Homelands 2 proposal is a significant harm, which needs to be weighed in the planning balance. He considers that the need for a 5 year land supply outweighs the loss in this case.

Other Considerations

26. The Secretary of State agrees with the Inspector's reasoning and conclusions with respect to the other matters set out at IR 14.47 – 14.51.

Conditions

27. The Secretary of State has considered the proposed conditions, the Inspector's assessment of these at IR 12.1 – 12.16 and 12.18 – 12.23, and national policy as set out in Circular 11/95. He agrees with the Inspector's assessment that the conditions are necessary and he considers that they comply with the provisions of Circular 11/95. The Secretary of State is satisfied that the reasons given by the Inspector for the conditions in Annex C of his report, with reference to national policy guidance are still relevant, following the publication of the Framework. He has renumbered and made some minor changes to the wording of conditions (conditions 10, 23 and H28.3 in Annex B of this letter) to reflect the current national planning policy position but does not consider that these materially alter the intent of the conditions.

Planning Obligations

28. The Secretary of State has considered the various planning obligations, six by agreement, three by unilateral undertaking and two deeds of covenant, identified at IR 13.1, as well as the Transport Statement of Common Ground at IR 13.2 and the Inspector's assessment and conclusion on these at IR 13.4 – 13.19. He is satisfied that the provisions of the obligations, with the exception of the police contribution which he has not taken into account, comply with policy in the Framework, which has replaced Circular 05/2005, and meet the tests of Regulation 122 of the CIL Regulations 2010 as amended (IR 13.19).

Overall Conclusions

29. The Secretary of State agrees with the Inspector's overall conclusions, as set out at IR 14.58 – 14.64. He considers that the proposed developments are contrary to the development plan, but as the components of the plan are dated, the weight to be accorded to them should be substantially reduced (IR 14.58).

30. In reaching his conclusions the Secretary of State has considered whether the proposals are sustainable development and considered whether any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits assessed against the policies in the Framework. He considers that the proposals represent sustainable development, in respect of both the proposed economic and social contributions that would result from the developments, as well as their siting in a relatively sustainable location on the edge of Bishop's Cleeve. He acknowledges that development of the sites would conflict with countryside policies, and in the case of Homelands 2 the loss of BMV. However, overall he considers that the proposals represent sustainable development.

31. The Secretary of State agrees that the most significant material consideration is the national policy requirement for a 5 year land supply, which the emerging JCS is unlikely to rectify in time, and that considerable weight should be given to this matter (IR 14.59). He considers that the lack of an up to date development plan that makes provision for development needs adds weight to this matter. He also agrees that weight should be given to the need to secure economic growth and employment (IR 14.60). This is further supported in the Framework which says that "significant weight should be placed on the need to support economic growth" (The Framework paragraph 19).

32. The Secretary of State notes the Inspector's comments in IR 14.62 that allowing these appeals may be seen by objectors as undermining the local democratic process and the planning system. However, he is clear that the changes to the planning system that give communities more say over the scale, location and timing of developments in their areas carry with them the responsibility to ensure that local plans are prepared expeditiously to make provision for the future needs of their areas. He agrees that these proposals would not be premature (IR 14.61). Having weighed up all the relevant material considerations, the Secretary of State concludes that that the factors in favour of the proposed developments outweigh the harms and that the balance should fall in favour of both proposals (IR 14.64).

Formal Decision

33. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby allows the appeals for Homelands 2 and Cleavelands and grants planning permission for:

Appeal A (known as Homelands 2) - up to 450 dwellings (use class C3), provision of a local centre comprising 450sqm (total gross internal floor area) of use classes A1, A2, A3, A4 and A5, 500sqm (total gross internal floor area) of community hall (use class D1), 700sqm (total gross internal floor area) health, leisure and nursery accommodation (use classes D1 and D2), strategic parkland (including allotments and orchards) public open space (POS) facilities and ancillary landscaping, vehicular access and provision of foul, surface water and infrastructure; in accordance with application ref 10/01005/OUT for outline planning permission dated 16 September 2010, subject to the conditions set out at Annex B of this letter.

Appeal B (known as Cleavelands) - up to 550 dwellings, including 30 for retired people; a high street comprising 4 units with a gross retail floorspace of 475sqm, plus ancillary accommodation of 475sqm (classes A1, A2, A3, A4 and A5), 15 units with a floorspace of 3,750sqm for class B1 and D1 uses and 16 live/work units; a community facility with a hall; extension to allotments; open space provision including changing rooms; sustainable drainage provision and accesses from the A435 and Little Acorns; in accordance with application ref 10/01216/OUT for outline planning permission dated 24 June 2011, subject to the conditions set out at Annex B of this letter.

34. An applicant for any consent, agreement or approval required by a condition of this permission for agreement of reserved matters has a statutory right of appeal to the Secretary of State if consent, agreement or approval is refused or granted conditionally or if the Local Planning Authority fail to give notice of their decision within the prescribed period.

35. This letter does not convey any approval or consent which may be required under any enactment, bye-law, order or regulation other than section 57 of the Town and Country Planning Act 1990.

36. This letter serves as the Secretary of State's statement under regulation 24(2) of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011.

Right to Challenge the Decision

37. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged by making an application to the High Court within six weeks from the date of this letter.

38. Copies of this letter have been sent to Tewkesbury Borough Council and Gloucestershire County Council. A notification letter has been sent to all other parties who asked to be informed of the decision.

Yours sincerely,

Pamela Roberts

Authorised by Secretary of State to sign in that behalf

ANNEX A - POST INQUIRY CORRESPONDENCE

First comments - following the publication of the National Planning Policy Framework

Name / Organisation	Date
Ellen Cooke and David Hearn / Gotherington Parish Council	28/04/2012
Rita Paterson / Bishop's Cleeve Parish Council	04/05/2012
Richard Chatham / Stoke Orchard Parish Council	06/05/2012
David Barnes / Star Planning on behalf of Welbeck Strategic Land	08/05/2012
Ms M Yates / Tewkesbury Borough Council (TBC)	09/05/2012
Colin Danks / Origin3 on behalf of Comparo Ltd	09/05/2012
Mr Cahill QC / Counsel for Comparo Ltd	09/05/2012

Second comments - following the publication of the National Planning Policy Framework

Name / Organisation	Date
Ms M Yates / Tewkesbury Borough Council (TBC)	17/05/2012
David Barnes / Star Planning on behalf of Welbeck Strategic Land	17/05/2012
Jonathan Orton / Origin3 on behalf of Comparo Ltd	18/05/2012

Other Post Inquiry Correspondence

Name / Organisation	Date
David Roscoe / Gotherington Parish Council	15/12/2011
Ben Jordan / Headteacher Gotherington Primary School	24/12/2011
Admin appeals / Tewkesbury Borough Council	25/01/2012
John Hinett / Tewkesbury Borough Council	31/01/2012
Colin Danks / Origin3 on behalf of Comparo Ltd	01/02/2012
Mike Ralls	07/02/2012
Rhianon Boulton / Origin3 on behalf of Comparo Ltd	14/02/2012
Colin Danks / Origin3 on behalf of Comparo Ltd	01/05/2012
Cllrs Robert Bird and Bob East	07/06/2012
Susan Green	13/06/2012

ANNEX B – SCHEDULE OF CONDITIONS

CONDITIONS COMMON TO BOTH HOMELANDS 2 (APPEAL A) AND CLEVELANDS (APPEAL B)

Where conditions are the same but the plan references are different these are repeated, or set out separately, within the same condition.

Conditions unique to Homelands 2 and to Cleavelands are set out after common condition 27.

Approved Drawings

1. For those matters not reserved for later approval, the development hereby permitted shall be carried out in accordance with the following approved plans:

Cleavelands –

Drawing Nos.:

- 4080_PL_001 Rev A (Location Plan)
- 22820/101/SK02 Rev D (A435 Access)
- 22820/101/SK06 Rev B (Little Acorns Access).

Homelands –

Drawing Nos.:

- 08-032_001 (Red line boundary plan).
- 08-032_013 Rev K (Illustrative Master Plan) *save for and subject to details shown in dwg. PL11 revision A (Gotherington Lane) and dwg. 11006P-010 (Amended Junction Design, 27.10.11).*
- PL01 Rev A (Traffic Calming and Cycle Route) *save for and subject to details shown in dwg. PL11 revision A (Gotherington Lane).*
- TE/1001/131 (Evesham Road Access).
- 08-032_037 Rev A (Phasing Plan).

Phasing

2. As part of the first reserved matters application a phasing plan for the whole site shall be submitted to the local planning authority for approval in writing. The phasing plan shall include details of the intended number of market and affordable dwellings for each phase of development together with general locations and phasing of key infrastructure, including surface water drainage, green infrastructure, community facilities and access for pedestrians, cyclists, buses and vehicles.

Cleavelands – The phasing plan shall be based on the Master Plan (dwg. no. 4080_PL_002 Rev G), the Parameters Plan (dwg. no. 4080_PL_003 Rev A) and the Consolidated Design and Access Statement (June 2011) except where other planning conditions specify otherwise. The development shall be carried out in accordance with the approved phasing plan.

Homelands 2 - The phasing plan shall be in accordance with dwg. no. 08-032_037 Rev A and based on the Master Plan Drawing 08-032_013. Rev K and the Design and Access Statement Final September 2010 *save for and subject to, details shown in drawing PL11 Revision A (Gotherington Lane) and drawing 11006P-010 (Amended Junction Design, 27.10.11),* except where other planning conditions specify otherwise. The development shall be carried out in accordance with the approved phasing plan.

Design Principles

3. **Cleavelands** - As part of the reserved matters for phase 1 submitted pursuant to condition 4, a document setting out the Design Principles (hereafter referred to as 'Design Principles') for the development hereby approved shall be submitted to the local planning authority for approval in writing. The Design Principles shall set out how the principles and objectives of the Consolidated Design and Access Statement (June 2011) will be met, and shall accord with the Master Plan (dwg. 4080_PL_002 Rev G), the Parameters Plan (dwg. 4080_PL_003 Rev A), and Phasing Plan except where other planning conditions specify otherwise. The Design Principles shall include the following matters:

(i) The principles for determining the design, form, heights and general arrangement of external architectural features of buildings including the roofs, chimneys, porches and fenestration;

(ii) The principles of the hierarchy for roads and public spaces;

(iii) The principles for determining the colour, texture and quality of external materials and facings for the walls and roofing of buildings and structures;

(iv) The principles for the design of the public realm to include the colour, texture and quality of surfacing of footpaths, cycleways, streets, parking areas, courtyards and other shared surfaces;

(v) The principles for the design and layout of street furniture and level of external illumination;

(vi) The principles for the laying out of the green infrastructure including the access, location and general arrangements of the multi use games area, the children's play areas and allotments;

(vii) The principles for the incorporation of decentralised and renewable or low carbon energy sources as an integral part of the development based on the Energy Strategy (November 2010); and

(viii) The principles to ensure that there is appropriate access to buildings and public spaces for the disabled and physically impaired.

The development shall be carried out in accordance with the approved Design Principles.

Homelands - As part of the reserved matters for phase 1 submitted pursuant to condition 4, a document setting out the Design Principles for the development, including the local centre, hereby approved shall be submitted to the local planning authority for approval in writing. The Design Principles shall set out how the principles and objectives of the Design and Access Statement Final September 2010 will be met, and shall accord with the Master Plan dwg. 08-032_013. Rev K save for and subject to details shown in dwgs. PL11 Rev A and 11006P-010, the Parameters Plans and phasing plan except where other planning conditions specify otherwise. The Design Principles shall include the following matters:

(i – vi and viii) As per **Cleavelands** above.

(vii) The principles for the incorporation of decentralised and renewable or low carbon energy sources as an integral part of the development.

The development shall be carried out in accordance with the approved Design Principles.

Reserved Matters

4. The development of each phase for which permission is hereby granted shall not be begun before detailed plans thereof showing the layout, scale and external appearance of the buildings and landscaping (hereinafter referred to as "the reserved matters") have been submitted to and approved in writing by the local planning authority. The development shall be carried out as approved.

5. Application for the approval of the reserved matters for phase 1 as identified by the phasing plan shall be made to the local planning authority before the expiration of 2 years from the date of this permission. The development hereby permitted shall be begun either before the expiration of 3 years from the date of this permission, or before the expiration of one year from the date of approval of the reserved matters for phase 1, whichever is the later.

6. Application for the approval of reserved matters for the subsequent phases of development as identified by the phasing plan shall be made to the local planning authority before the expiration of 4 years from the date of this permission. The subsequent phases of development hereby permitted shall be begun either before the expiration of 5 years from the date of this permission, or before the expiration of one year from the date of approval of the last of the reserved matters to be approved, whichever is the later.

Other Information Requirements

7. For each phase of development the reserved matters submitted pursuant to Condition 4 shall be accompanied by the following details:

(i) The existing and proposed ground levels shall demonstrate that the finished floor level of all buildings shall be 300mm above the proposed ground level;

(ii) The location of fire hydrants and a timetable for their provision, that is before the first occupation of a dwelling, in accordance with the reserved matters submitted pursuant to Condition 4;

(iii) The location and design of bus stops (including the provision of Real Time Information displays) and a timetable for their provision;

(iv) The location and design of any recycling and refuse stores which will not be provided as part of individual residential, commercial or community buildings;

(v) The design and layout of the roads, footways and cycleways including the provision of highway drainage;

(vi) Any of the parking, turning, manoeuvring, loading/unloading areas not being provided as part of individual residential, commercial or community buildings;

(vii) The design and location of cycle parking facilities which will not be provided as part of individual residential, commercial or community buildings; and

(viii) The level of external illumination, including street lighting, and measures to control light pollution.

(ix) Specification of the multi use games area and the childrens' play areas

Each phase of the development shall be carried out and thereafter retained in accordance with the details approved.

Defining the Planning Permissions

8. No more than 450 (**Homelands**) / 550 (**Cleevelands**) dwellings shall be constructed on the site pursuant to these planning permissions.

9. The total gross retail floorspace available for use by customers (excluding toilets and other ancillary facilities) of all premises falling within Class A1, A2, A3, A4 and A5 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification) shall not exceed 475sq m (**Cleevelands**) / 450sq m (**Homelands**). Only one premises to be used for Class A1, A2, A3, A4 or A5 purposes shall have gross retail floorspace available for use by customers (excluding toilets and other ancillary facilities) exceeding 75sq m but shall not exceed 200sq m.

Drainage and Flooding

10. The first reserved matters application submitted pursuant to Condition 4 shall be accompanied by details of the surface water drainage scheme for the whole development hereby approved, incorporating sustainable drainage principles and a management and maintenance plan (to include culvert maintenance). All subsequent reserved matters submitted pursuant to Condition 4 shall incorporate the approved surface water drainage scheme and the development shall be carried out only in accordance with the approved surface water drainage scheme.

The details shall be based on:

Cleevelands - the Flood Risk Assessment (November 2010)

Homelands - the Callidus Flood Risk Assessment TE1011/503/RHB (27 August 2010)

11. No building hereby permitted shall be occupied until the sustainable drainage scheme for the relevant phase has been completed in accordance with the submitted details. The sustainable drainage scheme shall be managed and maintained thereafter in accordance with the agreed management and maintenance plan.

Trees, Landscaping and Biodiversity

12. For each phase of development the plans and particulars submitted in accordance with condition 4 above shall include:

(i) a plan showing the location of, and allocating a reference number to, each existing tree on the site which has a stem with a diameter, measured over the bark at a point 1.5 metres above ground level, exceeding 75 mm, showing which trees are to be retained and the crown spread of each retained tree;

(ii) details of the species, diameter (measured in accordance with paragraph (i) above), and the approximate height, and an assessment of the general state of health and stability, of each retained tree and of each tree which is on land adjacent to the site and to which paragraphs (iii) and (iv) below apply;

(iii) details of any proposed topping or lopping of any retained tree, or of any tree on land adjacent to the site;

(iv) details of any proposed alterations in existing ground levels, and of the position of any proposed excavation, within the crown spread of any retained tree;

(v) details of the specification and position of fencing and of any other measures to be taken for the protection of any retained tree from damage before or during the course of development.

In this condition "retained tree" means an existing tree which is to be retained in accordance with the plan referred to in paragraph (i) above.

13. The plans and particulars submitted in accordance with condition 12 above shall include details of the size, species, and positions or density of all trees to be planted, and the proposed time of planting.

14. For each phase of development the reserved matters submitted pursuant to condition 4 shall be accompanied by full details of both hard and soft landscape proposals. These details shall include, as appropriate:

(i) Proposed finished levels or contours;

(ii) Positions, design, materials and type of boundary treatment to be erected;

(iii) Hard surfacing materials;

(iv) The equipment and surfacing for the multi use games area and the children's play areas; and

(v) Minor artefacts and structures (e.g. street furniture, refuse or other storage units and signs); and

Soft landscape details shall include:

a. Planting plans including the positions of all tree, hedge and shrub planting;

b. Written specifications (including cultivation and other operations associated with plant and grass establishment);

c. Schedules of plants, noting species, planting sizes and proposed numbers;

d. Densities where appropriate; and

e. Implementation timetables including time of planting.

15. If within a period of five years from the date of the planting of any tree that tree, or any tree planted in replacement for it, is removed, uprooted or destroyed or dies, or becomes, in the opinion of the local planning authority, seriously damaged or defective, another tree of the same species and size as that originally planted shall be planted at the same place.

Heritage

16. No development shall take place within the application site until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority. The scheme shall be implemented in accordance with the approved details.

Construction Method Statement

17. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning

authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- (i) the parking of vehicles of site operatives and visitors;
- (ii) loading and unloading of plant and materials;
- (iii) storage of plant and materials used in constructing the development;
- (iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- (v) wheel washing facilities;
- (vi) measures to control the emission of dust and dirt during construction;
- (vii) a scheme for recycling/disposing of waste resulting from demolition and construction works.

18. Demolition or construction works shall not take place outside 07.30 hours to 18.00 hours Mondays to Fridays and 08.00 hours to 13.00 hours on Saturdays nor at any time on Sundays or Bank Holidays.

Noise

19. Reserved matters applications submitted pursuant to condition 4 shall, as necessary, be accompanied by details of mitigation measures for any dwelling located within those parts of the site subject to NEC B (the exact areas to be agreed in writing with the local planning authority) to achieve internal noise level of LAeq 30dB between the hours of 23.00 to 07.00 and LAeq 40dB between the hours of 07:00 to 23.00. No dwelling shall be occupied until it has been constructed in accordance with the approved details.

The details shall be based on the following drawings:

Cleevelands - Illustrative Master Plan and pba Technical Note CD5/21

Homelands - Appendix 15.3 of the Environmental Statement, Sept 2010

20. Details of any extraction, ventilation, cooling and refrigeration equipment to be installed on or in any building shall be submitted to and approved in writing by the local planning authority. The rated noise level from any extraction, ventilation, cooling and refrigeration equipment to be installed within the application site shall be no more than LAeq 5dB above the night-time background noise level measured at the nearest noise sensitive receptors. The method of assessment shall be carried out in accordance with BS4142:1997 Rating industrial noise affecting mixed residential and industrial areas (or other document which may replace or modify the method of assessment). All equipment installed shall be installed on or in the building prior to occupation and shall thereafter be operated and maintained in accordance with the manufacturer's instructions.

21. Any Class A3 (food and drink for consumption on the premises), Class A4 (public house, wine-bar or other drinking establishment) and Class A5 (hot food for consumption off the premises) shall not be open to customers outside the hours of 08.00 to 23.00 Monday to Saturday and 12.00 to 22.30 on Sundays and bank or public holidays.

Renewable Energy, Code Levels and Standards

22. The non-residential building hereby permitted shall be constructed to a 'very good' standard of the BREEAM (or subsequent equivalent quality assured scheme). No non-residential building shall be occupied until an authorised assessor has demonstrated confirmation with the required standard.

23. At least 20% of the energy demand of the development shall be secured from decentralised and renewable or low carbon energy sources (as described in the glossary to the National Planning Policy Framework 2012). Details and a timetable of how this is to be achieved, including details of physical works on site, shall be submitted to and approved in writing by the LPA as part of the reserved matters submissions required by condition 4. The approved details shall be implemented in accordance with the approved timetable and retained as operational thereafter.

24. A 30% improvement in carbon reduction above 2010 Building Regulations requirement shall be secured across the development by each residential application for Reserved Matters providing details of how the proposal will contribute to achieve aggregate reduction in carbon emissions in accord with an agreed delivery trajectory.

25. Reserved Matters applications shall include details of how each residential application will achieve a minimum Level 4 of the Code for Sustainable Homes or such a level above Code level 4 as may be set out in current development plan policy at the time that each Reserved Matter is made (or such equivalent national standard which may replace or modify the Code for Sustainable Homes). No dwelling shall be occupied until a Final Code Certificate has been issued for it certifying that the required Code Level has been achieved.

26. All the dwellings shall be constructed to Lifetime Homes standards (or such national standards for house design which may replace or modify these).

Mitigation, Enhancement and Management Plan

27. Prior to the commencement of development, a Mitigation, Enhancement and Management Plan (MEMP) shall be submitted to and approved in writing by the local planning authority. The MEMP shall include the following details:

- (i) protection and enhancement of retained habitats and provision of any mitigation areas;
- (ii) methods for the retention and protection of hedgerows, trees and watercourses;
- (iii) methods for pre-commencement checks for protected species;
- (iv) methods for precautionary soft felling of trees with bat roost potential;
- (v) a bat friendly lighting scheme;
- (vi) details of site clearance which shall not be carried out during bird nesting season (March – August inclusive) unless a survey to assess the nesting bird activity on the site during this period has been undertaken and a method of working to protect any nesting bird interest found established and then implemented;
- (vii) a timetable for the implementation of any works;
- (viii) provisions for the long term management and monitoring of all mitigation areas and retained habitats within the scheme;

(ix) the personnel responsible for implementation and supervision of the scheme.

The MEMP shall be implemented in accordance with the approved details.

CONDITIONS UNIQUE TO HOMELANDS 2

Contamination

H28. Development other than that required to be carried out as part of an approved scheme of remediation must not commence until conditions H28.1 to H28.4 have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the LPA in writing until condition H28.4 has been complied with in relation to that contamination.

H28.1. Site Characterisation

An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the local planning authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the local planning authority. The report of the findings must include:

- (i) a survey of the extent, scale and nature of contamination;
- (ii) an assessment of the potential risks to:
 - human health,
 - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
 - adjoining land,
 - groundwaters and surface waters,
 - ecological systems,
 - archaeological sites and ancient monuments;
- (iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency (EA)'s *'Model Procedures for the Management of Land Contamination, CLR 11'*.

H28.2 Submission of Remediation Scheme

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the local planning authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

H28.3 Implementation of Approved Remediation Scheme

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation. The local planning authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the local planning authority.

H28.4. Reporting of Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the local planning authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition H28.1, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition H28.2, which is subject to the approval in writing of the local planning authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the local planning authority in accordance with condition H28.3.

H28.5. Long Term Monitoring and Maintenance

A monitoring and maintenance scheme to include monitoring the long-term effectiveness of the proposed remediation, and the provision of reports on the same must be prepared, both of which are subject to the approval in writing of the local planning authority.

Following completion of the measures identified in that scheme and when the remediation objectives have been achieved, reports that demonstrate the effectiveness of the monitoring and maintenance carried out must be produced, and submitted to the local planning.

This must be conducted in accordance with DEFRA and the Environment Agency's '*Model Procedures for the Management of Land Contamination, CLR 11*'.

Highways

H29. Phase 3 of the development shall not begin until full engineering details and a specification of the Gotherington Lane traffic calming scheme and Gotherington to Bishop's Cleeve cycle route shown on drawing PL01 rev A, as amended by PL11 rev A, have been submitted for technical approval by the Local Highway Authority. Phase 3 of the development shall not be occupied until technical approval has been given by the Local Highway Authority and all highway works, not otherwise provided by others, have been completed in accordance with the approved plans, details and specification.

H30. No works shall commence on Phases 1 or 3 of the site (other than those required by this condition) on the development hereby permitted until the first 20m of the proposed access road, including the junction with Evesham Road and associated visibility splays, has been completed to at least binder course level.

H31. No works shall commence on Phase 2 of the site (other than those required by this condition) on the development hereby permitted until the first 20m of the proposed access road, including the junction with Gotherington Lane and associated visibility splays, has been completed to at least binder course level.

H32. No building shall be occupied until the roads providing access to the nearest public road to the building has been constructed to at least binder course level.

CONDITIONS UNIQUE TO CLEVELANDS

Defining the Planning Permission

C28. The 30 retirement dwellings identified as Area D on the Master Plan (Drawing No. 4080_PL_002 Rev G) hereby permitted shall be occupied only by:

- (i) Persons of 60 years of age or over;
- (ii) Persons living as part of a single household with such a person or persons;
- (iii) Persons who were living as part of a single household with such a person or persons who have since died.

C29. Notwithstanding the description of development no separate changing room building shall be constructed on the site.

C30. Notwithstanding the details in the consolidated design and access statement (June 2011), no reserved matter shall include development exceeding 2.5 storeys in height.

Drainage and Flooding

C31. With the exception of the structure to provide access from Little Acorns, in the location identified on Dwg. 22820/101/SK06 Rev A, no new buildings or structures (including gates, walls and fences) shall be erected and the ground level shall not be raised within 8m of the top of the of the Dean Brook banks and 5m of the tops of both the Dean Farm Ditch and Glebe Farm Brook banks.

C32. Within 3 months of the date of this permission the result of a FIDOL (Frequency, Intensity, Duration Offensiveness and Location) Odour Assessment for the Deans Farm Pumping Station shall be submitted for approval to the local planning authority in writing. No dwellings or live/work units within 30m of the boundary of the Dean Farm Pumping Station shall be occupied until the works or other requirements specified in the approved Odour Assessment have been undertaken.

C33. No buildings shall be erected within 15m of the current boundary of the Dean Farm Pumping Station.

Contamination

C34. If, during the course of development, any contamination is found which has not been identified in the site investigation, additional measures for the remediation of this source of contamination shall be submitted to and approved in writing by the local planning authority.

C35. The remediation of the site shall incorporate the approved additional measures.

Highways

C36. Other than works associated with the construction of a crossing of Gilders Brook, access to the site for construction traffic shall only be from the A435.

C37. Prior to the commencement of development full engineering details of the junction (including footways and crossing facilities) onto the A435 shall be submitted to and approved

in writing by the local planning authority. The junction shall be constructed in accordance with the approved details. Other than demolition and site investigation works, or works required by other conditions, no development shall commence until the junction and the first 20 metres of the road from the junction into the site have been constructed to at least binder course level.

C38. No building shall be occupied until roads providing access to the nearest public road to the building have been constructed to at least binder course level.

C39. No building shall be occupied until a pedestrian/cycle link has been constructed between the A435 and Finlay Way in accordance with details to be submitted to and agreed in writing by the local planning authority.

ends

RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

These notes are provided for guidance only and apply only to challenges under the legislation specified. If you require further advice on making any High Court challenge, or making an application for Judicial review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, Queens Bench Division, Strand, London, WC2 2LL (0207 947 6000).

The attached decision is final unless it is successfully challenged in the Courts. The Secretary of State cannot amend or interpret the decision. It may be redetermined by the Secretary of State only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS;

The decision may be challenged by making an application to the High Court under Section 288 of the Town and Country Planning Act 1990 (the TCP Act).

Challenges under Section 288 of the TCP Act

Decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged under this section. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application under this section must be made within six weeks from the date of the decision.

SECTION 2: AWARDS OF COSTS

There is no statutory provision for challenging the decision on an application for an award of costs. The procedure is to make an application for Judicial Review.

SECTION 3: INSPECTION OF DOCUMENTS

Where an inquiry or hearing has been held any person who is entitled to be notified of the decision has a statutory right to view the documents, photographs and plans listed in the appendix to the report of the Inspector's report of the inquiry or hearing within 6 weeks of the date of the decision. If you are such a person and you wish to view the documents you should get in touch with the office at the address from which the decision was issued, as shown on the letterhead on the decision letter, quoting the reference number and stating the day and time you wish to visit. At least 3 days notice should be given, if possible.



The Planning
Inspectorate

Report to the Secretary of State for Communities and Local Government

by David Nicholson RIBA IHBC

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

Date: 16 March 2012

TOWN AND COUNTRY PLANNING ACT 1990

TEWKESBURY BOROUGH COUNCIL

APPEALS MADE BY

COMPARO LTD.

WELBECK STRATEGIC LAND

Inquiry held on 20, 22-23 & 27-29 September; 29 November; 1-2, 6-8 & 13 December, 2011

Homelands Farm, Bishop's Cleeve, Gloucestershire GL52 8EN
Land at Deans Farm, Bishop's Cleeve, Gloucestershire GL52 7YP

File Refs: APP/G1630/A/11/2146206, 2148635 & 2159796

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GLOSSARY

BMV	best and most versatile (agricultural land)
BREEAM	Building Research Establishment Environmental Assessment Method
AONB	Area of Outstanding Natural Beauty
CBC	Cheltenham Borough Council
CD	Core document
C/L	Cleevelands
CPO letter	Letter to Chief planning officers: Revocation of Regional Strategies (DCLG – 6 July 2010) and Q&A on Written Ministerial Statement
CPRE	Campaign to Protect Rural England
CSV	Central Severn Vale
DAS	Design and Access Statement
DCLG	Department for Communities and Local Government
dNPPF	draft National Planning Policy Framework
DPD	Development Plan Document
DPO	JCS Developing the Preferred Option consultation document
EIA	Environmental Impact Assessment
EiP	Examination in Public
ES	Environmental Statements
GCC	Gloucestershire County Council
GCT	Gloucester City Council, Cheltenham Borough Council and Tewkesbury Borough Council
HBP	Housing Background Paper
H/L 2	Homelands 2
HLS	Housing Land Supply
JCS	Joint Core Strategy
LP	Tewkesbury Borough Local Plan
LPA	Local Planning Authority
MEMP	Mitigation, Enhancement and Management Plan
POS	Public open space
PPG	Planning Policy Guidance Note
PPS	Planning Policy Statement
PSGP	The Planning System: General Principles
RfR	Reason for Refusal
RPG10	Regional Planning Guidance for the South West, 2001
RS	Regional Strategy
RSS	Regional Spatial Strategy
S106	Section 106 (of the Town and Country Planning Act 1990)
SHLAA	Strategic Housing Land Availability Assessment
SHMA	Strategic Housing Market Assessment
SLA	Special Landscape Area
SoCG	Statements of Common Ground
SP	Gloucestershire Structure Plan Second Review, 1999
SPG	Supplementary Planning Guidance
TBC	Tewkesbury Borough Council
UDS	Urban Extensions Boundary Definitions Study
WMS	Written Ministerial Statement – <i>Planning for Growth</i> : Greg Clarke (23 March 2011)
XX	cross-examination

Appeal A: APP/G1630/A/11/2146206

Homelands Farm, Bishop's Cleeve, Gloucestershire GL52 8EN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
- The appeal is made by Comparo Ltd. against Tewkesbury Borough Council.
- The application Ref. 10/01005/OUT is dated 16 September 2010.
- The development proposed is up to 450 dwellings (use class C3), provision of a local centre comprising 450 sq.m (total gross internal floor area) of use classes A1, A2, A3, A4 and A5, 500 sq.m (total gross internal floor area) of community hall (use class D1), 700 sq.m (total gross internal floor area) health, leisure and nursery accommodation (use classes D1 and D2), strategic parkland (including allotments and orchards) public open space (POS) facilities and ancillary landscaping, vehicular access and provision of foul, surface water and infrastructure.

Summary of Recommendation: That the appeal be allowed

Appeal B: APP/G1630/A/11/2148635

Land at Deans Farm, Bishop's Cleeve, Gloucestershire GL52 7YP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
- The appeal is made by Welbeck Strategic Land against Tewkesbury Borough Council.
- The application Ref. 10/01216/OUT is dated 11 November 2010.
- The development proposed is up to 550 dwellings, including 30 units for retired people; a high street comprising 4 units with a gross retail floor space of 475 sq.m, plus ancillary accommodation of 475 sq.m (classes A1, A2, A3, A4 & A5), 15 units with a floor space of 3.750 sq.m for class B1 and D1 uses and 16 live/work units; a community facility with a hall; extension to allotments; open space provision including changing rooms; sustainable drainage provision and accesses from the A435 and Little Acorns.

Summary of Recommendation: That the appeal be allowed

Appeal C: APP/G1630/A/11/2159796

Homelands Farm, Bishop's Cleeve, Gloucestershire GL52 8EN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
- The appeal is made by Comparo Ltd. against Tewkesbury Borough Council.
- The application Ref. 11/00632/FUL is dated 24 June 2011.
- The development proposed is an engineering operation: provision of vehicular and foot/cycle links between Homelands Farm consented area (07/00448/OUT) and current application/appeal site to the north (10/01005/OUT).

Summary of Recommendation: That the appeal be allowed

1. Procedural Matters

- 1.1 The Inquiry sat for 13 days between 20 September and 13 December 2011. I conducted an accompanied site visit on 8 December 2011 and carried out unaccompanied site visits before, during and after the Inquiry. An evening session was held at Bishop's Cleeve and a day was allocated for discussion of the s106 agreements with Gloucestershire County Council (GCC). Along with TBC and both appellants, GCC was given Rule 6 Party status.

- 1.2 The applications to which both appeals A and B relate were made in outline form except for access. All other matters (appearance, landscaping, layout and scale) were reserved. Design and Access Statements (DASs) were also submitted (see discussion of conditions below). The proposals in Appeal A were referred to as Homelands 2 (the adjoining site at Homelands 1 being under construction); those in Appeal B as Cleevelands.
- 1.3 Comparo submitted Appeal C on 30 August 2011. If allowed, this would grant permission for works to link the Homelands 2 proposals with the rest of Bishop's Cleeve. The works would be required by a planning obligation¹. In its Rule 6 Statement, TBC advised that it would not object to the proposals, subject to a suitably worded obligation, but that without the links Homelands 2 would not be a sustainable form of development².
- 1.4 Welbeck submitted a revised site plan, 4080_PL_001 rev A³, with a minor amendment correcting the red line site boundary. As no one would be prejudiced by this correction, the drawing should be taken into account.
- 1.5 With regard to Appeals A and B, TBC formally resolved on 29th March 2011⁴ and 26 April 2011⁵ that it would have refused each of the planning permissions had it been in a position to do so. There were 13 putative reasons for refusal in Appeal A and 9 in Appeal B.
- 1.6 In its Statements of Case, TBC anticipated that its concerns relating to most of the putative reasons for refusal could be overcome through mitigation measures. Relevant agreements were subsequently reached as set out in a number of Statements of Common Ground (SoCGs)⁶ between each of the appellants, TBC and GCC. The mitigation measures would be secured through planning obligations by agreement⁷. Subject to their completion, GCC confirmed in closing that all of its objections would be withdrawn. The agreements have now been completed. TBC also agreed that its other previous objections could be addressed through planning conditions⁸.
- 1.7 At the Inquiry TBC only pursued the following putative reasons for refusal⁹. For both appeals:
 - a) the site lies outside the development boundary;
 - b) prematurity;
 - c) landscape.

¹ HOM49

² Main file for Appeal C. Paragraphs (paras) 6.1 and 6.2

³ CD5/32

⁴ CD1/3 – appended to Rule 6 statements (green folder – main file); app 10 to CD1/10

⁵ WEL/027 – appended to Rule 6 statements (green folder – main file)

⁶ At CD1/6, CD1/7, CD1/8, CD1/9, CD1/10, CD4/1, CD4/3, CD9/43, CD9/44, CD9/54 and WEL/053

⁷ See section 13 below

⁸ See section 12 below

⁹ LPA/40 confirms that TBC is no longer pursuing: for Homelands 2 numbers 3, 4, 6, 7, 8, 9, 11 and 12; for Cleevelands numbers 3, 4, 6, 7, 8 and 9.

For Appeal A (Homelands 2), a further refusal reason was:

d) the loss of best and most versatile (BMV) agricultural land.

1.8 The appeals were recovered for Decisions by the Secretary of State himself¹⁰. The reasons for these direction were that the appeals involve proposals for residential development of over 150 units, on sites of over 5 ha, which would significantly impact on the Government's objectives to secure a better balance between housing demand and supply and create high quality, sustainable, mixed and inclusive communities.

1.9 The matters about which the Secretary of State particularly wishes to be informed are as follows for each appeal:

- a) the extent to which the proposed development would be in accordance with the development plan for the area;
- b) the extent to which the proposed development would be consistent with Government policies in Planning Policy Statement (PPS) 1: *Delivering Sustainable Development*, and accompanying guidance *The Planning System: General Principles* (PSGP), with particular regard to:
 - i) the achievement of sustainable development and sustainable communities through an approach to social cohesion, protection and enhancement of the environment, prudent use of natural resources and economic development;
 - ii) whether the design principles adopted in relation to the site and its wider context, including the layout, scale, open space, visual appearance and landscaping, are appropriate in their context and take the opportunities available for improving the character and quality of the area and the way it functions, having regard to advice in paragraphs 33 to 39 of PPS1;
 - iii) the extent to which the applications take into account the access needs of all in society, including people with disabilities – including access to and into buildings, having regard to the advice in paragraphs 36 and 39 of PPS1;
 - iv) advice on prematurity in paragraphs 17-19 of PSGP having regard to progress towards the adoption of any emerging development plan documents or saved policies under the transitional arrangements;
- c) the extent to which the proposed development is consistent with Government planning for housing policy objectives in PPS3: Housing with particular regard towards delivering:
 - v) high quality housing that is well-designed and built to a high standard;

¹⁰ Recovery letters, dated 24 February and 8 March 2011 – blue folders, main files

- vi) a mix of housing, both market and affordable, particularly in terms of tenure and price, to support a wide variety of households in all areas, both urban and rural;
 - vii) a sufficient quantity of housing taking account of need and demand and seeking to improve choice;
 - viii) housing developments in suitable locations, which offer a good range of community facilities and with good access to jobs, key services and infrastructure;
 - ix) a flexible, responsive supply of land – managed in a way which makes efficient use of land, including the re-use of previously developed land, where appropriate;
- d) the extent to which the proposed development is consistent with the advice in PPG13: Transport, in particular the need to locate development in a way which helps to promote more sustainable transport choices; promote accessibility to jobs, shopping, leisure facilities and services by public transport, walking and cycling; reduce the need to travel, especially by car, and; whether the proposal complies with local car parking standards and the advice in paragraphs 52 to 56 of PPG13;
 - e) whether any planning permission granted should be subject to any conditions and, if so, the form these should take;
 - f) whether any planning permission granted should be accompanied by any planning obligations under section 106 of the 1990 Act and, if so, whether the proposed terms of such obligations are acceptable; and
 - g) any other matters that the Inspector considers relevant.

Environmental Statements

1.10 Appeal proposals A and B are both developments which require an Environmental Impact Assessment (EIA). An Environmental Statement (ES) was submitted with each application in accordance with the Town and Country Planning (EIA) (England and Wales) Regulations 1999 (The Regulations)¹¹. Supplementary information was submitted for Homelands¹². An amended site plan and other updated information were submitted for Cleavelands¹³. The ESs now consider the cumulative effects of both developments proceeding. Correspondence with TBC confirms the scoping and publicity¹⁴. Both include a non-technical summary. Under The Regulations, planning permission cannot be granted for EIA development unless the environmental information has been taken into account. This includes not only the ES but also the written and oral evidence to the Inquiry. As the site area in Appeal C is below the threshold of The Regulations, there was no need to consider an EIA for this.

¹¹ CD2/27-2/30; 5/10, 5/15 and 5/17-5/18

¹² Homelands Addendum Environmental Statement, July 2011, under Regulation 19

¹³ Cleavelands Addendum Transport Assessment, amended application Site plan, Parameters Plan and Illustrative Master Plan, CD5/30-34

¹⁴ CD2/28 app 1 and CD5/17 app 1B

2. The Sites and Surroundings

- 2.1 The Central Severn Vale (CSV) is defined as the Districts of Gloucester City, Cheltenham Borough and those parts of Tewkesbury Borough and Stroud District in close proximity to Cheltenham and Gloucester which can be easily and conveniently accessed by public transport¹⁵. Tewkesbury Borough includes most of the area around and between Cheltenham and Gloucester. It is common ground¹⁶ that Bishop's Cleeve¹⁷ is located within the CSV. It is within the administrative boundary of TBC, but only a few miles from Cheltenham to the south, from which it is separated by part of the Cheltenham and Gloucester Green Belt. Neither appeal site is within the Green Belt.
- 2.2 The A435 runs north from Cheltenham and to the west of Bishop's Cleeve, apart from housing between the Stoke Road and Hayfield Way, just to the south of the Cleavelands appeal site. The village of Gotherington stands less than a mile to the north and is directly connected to Bishop's Cleeve, through the Homelands 2 appeal site, via the junction between Gotherington Lane and Station Road. There is a bus service with a 10 minute daytime weekday frequency (Service D) from Bishop's Cleeve to Cheltenham and an hourly service to Gotherington (Service 527)¹⁸.
- 2.3 Bishop's Cleeve parish has a population of approximately 10,700¹⁹ with a number of employers, its own Chamber of Commerce, a good range of shops and services, including Tesco and Aldi supermarkets, and four schools²⁰. It also benefits from a library, sport and recreation facilities, doctor, dentist, and nursery provisions. The Parish Council Tithe Barn has many uses. Bishop's Cleeve acts as a service centre for surrounding villages. Wingmoor Farm landfill site lies to the south of Stoke Road.

Landscape

- 2.4 Bishop's Cleeve is within a vast area characterised by the Gloucestershire Landscape Character Assessment²¹ as Settled Unwooded Vale, typical of the non-contrived, open, agricultural countryside of the wider Vale of Gloucester. The landscape is of medium sensitivity using the 'Blue Book'²².
- 2.5 To the west of Bishop's Cleeve runs the flood plain of the Severn valley. To the east, just beyond the privately owned Gloucestershire Warwickshire Railway (the Honeybourne line) is the steep escarpment of Nottingham Hill and Cleeve Hill in the Cotswolds Area of Outstanding Natural Beauty (AONB). Land beyond the north of Homelands 2 and south of Gotherington has been

¹⁵ CD 7/3, para 6.4.5, 6.5.4

¹⁶ CD 1/10 para 2.4

¹⁷ There was no consensus at the Inquiry as to spelling. I note that the name probably originates from the Bishop (of Worcester)'s (manor of) Cleeve, or Bishop's Cleeve. I have therefore adopted the spelling with an apostrophe but make no claim that this is definitive.

¹⁸ CD1/10 para 2.5

¹⁹ SoCG CD9/54

²⁰ Cleeve Secondary; and Bishop's Cleeve, Grangefield and Woodmancote Primary schools

²¹ CD 9/09

²² CD 6/55: Guidelines for Landscape and Visual Impact Assessment (Landscape Institute - second Edition - 2002)

designated a Special Landscape Area (SLA) as has a smaller area east of the railway line²³.

- 2.6 There are outstanding views across the CSV from Cleeve Hill, within the AONB, which has public access and is well used for walking and as a golf course. Both sites can be viewed from parts of the AONB; Homelands 2 more easily than Cleavelands. The Landscape SoCG²⁴ identifies key views (A to I) and photomontages of these identify the appeal sites. No montage has been produced from viewpoint H but I walked the lengths of footpath covering this and views G and I. Both sites are apparent in footpaths crossing or near to the sites and from the A435.
- 2.7 Neither appeal sites nor any land immediately adjoining either site is subject to any national or local landscape designation or features of particular recognised value, but can be summarised as open farmland. The Cotswolds Conservation Board (for the AONB) has not objected to the proposals²⁵. The nearby settlement of Winchcombe is mostly in the AONB.

Homelands 2

- 2.8 The site extends to 32.3ha of agricultural land in Flood Zone 1 to the immediate north of the built-up area of Bishop's Cleeve. Some 14.4ha, or 44%, represents BMV agricultural land²⁶. The site is bounded to the east by the steep embankment of the railway line where it comes close to the AONB but does not touch it. Gotherington Lane passes north/south through the site. A public right of way, called the Coffin Path, runs north from Bishop's Cleeve to Gotherington. Another public footpath skirts the eastern boundary of the site and passes under the railway. A popular footpath between Butt's Lane, Woodmancote, on the eastern side of Bishop's Cleeve, and Manor Lane, to the south-east of Gotherington, runs roughly parallel with the railway line, in the AONB, and affords good views of the site.
- 2.9 The northern boundary is generally limited by a hedgerow along the Middle Brook, a watercourse which runs into the Dean Brook, beyond which are agricultural buildings. The southern boundary coincides with the edge of Homelands 1 (see chapter 4 below); to the west is Evesham Road, which connects with the A435²⁷.

Cleavelands

- 2.10 The Cleavelands site extends to 55.6ha to the north west of Bishop's Cleeve, on the other side of the A435. To the south stand houses around Hayfield Way and north of Stoke Road. Just east of the A435 is the recent residential development at Dean Farm (now known as Deans Lea). To the north is the Dean Brook. The eastern limit abuts existing allotments; the western boundary runs along the field boundary. The land is generally level, falling

²³ In the Local Plan – see section 3

²⁴ CD9/43

²⁵ CD6/56

²⁶ Recent surveys by Tony Kernon (PoE para 8.4), unchallenged by Paul Smith in cross-examination (XX)

²⁷ General SoCG CD1/10

immediately adjoining the Dean Brook, and enjoys distant views to the Malvern Hills. The site comprises fields divided by native hedgerows with pasture mostly grazed by sheep. It is grade 3b agricultural land with the remains of a small pear orchard.

- 2.11 An overhead electricity line runs over the site. Near the middle there is a foul-water pumping station, with some underground services, and some agricultural buildings in poor condition. The site is crossed by three public footpaths and visible from other footpaths to the north, particularly where hedges have recently been grubbed up. Footpaths and cycleways run adjacent to the A435 as do existing bus services²⁸.

3. Planning Policy

- 3.1 The relevant national policy documents are set out in the two Statements of Common Ground (SoCG)²⁹. Of particular importance are: PPS1; PPS1 Supplement: *Planning and Climate Change*; accompanying guidance to PPS1 in *The Planning System: General Principles* (PSGP); Planning Policy Guidance Note 2: *Green Belts* (PPG2); PPS3 (revised June 2011); Planning Policy Statement 7: *Sustainable Development in Rural Areas* (PPS7); Planning Policy Statement 12: *Local Spatial Planning* (PPS12); Planning Policy Guidance Note 13: *Transport* (PPG13); Planning Policy Statement 22: *Renewable Energy* (PPS22) and Planning Policy Statement 25: *Development and Flood Risk* (PPS25).
- 3.2 Part 6 of the Localism Act (November 2011) is especially pertinent, as are *The Plan for Growth*³⁰, Department for Business, Innovation and Skills/Treasury (March 2011) and the *Written Ministerial Statement* (WMS - March 2011) of the Rt. Hon Greg Clark MP³¹. The draft National Planning Policy Framework³² (dNPPF) was issued for consultation on 25 July 2011. *Laying the Foundations: A Housing Strategy for England* (November 2011) is also topical.
- 3.3 The *Convention on access to information, public participation in decision-making and access to justice in environmental matters* (Aarhus Convention)³³ requires provision for public consultation during the preparation of plans and programmes relating to the environment.

Development plan

- 3.4 For the purposes of determining these appeals, the development plan comprises the Regional Planning Guidance for the South West, 2001 (RPG10)³⁴, the saved policies of the Gloucestershire Structure Plan Second

²⁸ Initial SoCG CD4/1

²⁹ CD1/10 and CD4/1

³⁰ CD6/71

³¹ CD6/74

³² CD6/72

³³ LPA/33

³⁴ CD7/2

Review 1999 (SP)³⁵, and the saved policies of the Tewkesbury Borough Local Plan, 2006 (LP)³⁶. The SoCGs give the full list of potentially relevant policies.

Regional Strategy

- 3.5 The Secretary of State revoked Regional Strategies in a Written Ministerial Statement but, following the *Cala Homes* judgement³⁷, they were reinstated. The Localism Act will abolish them in due course. A letter with 'question and answer' advice to Chief Planning Officers (CPO letter)³⁸ on this confirmed that LPAs are still required to provide a 5 year Housing Land Supply (HLS). Until then, the regional strategy in RPG10 is part of the development plan. It seeks to focus growth, including urban extensions, on the Principal Urban Areas.
- 3.6 Although never to become part of the development plan, the Draft Regional Spatial Strategy for the South West (RSS) was in the process of being reviewed. This was published for consultation in June 2006 followed by an Examination in Public (EiP) and its Panel Report in December 2007. Recommended changes were considered by the Secretary of State whose RSS Proposed Changes were published for consultation in July 2008³⁹. The EiP anticipated the need for joint working between councils. It regarded Bishop's Cleeve functionally, if not physically, part of the wider Gloucester/Cheltenham conurbation. The RSS Proposed Changes identified an area of search for 1,000 dwellings to the north of Bishop's Cleeve.

Structure Plan

- 3.7 The SP sets out the framework for development to 2011; it predates RPG10 and PPS3. TBC accepted that the relevance of its policies is therefore decreasing⁴⁰. SP Policy S.2 expects that principal settlements should form the focal points for a scale of development consistent with their character and function, and which supports local services and the social and economic well-being of local communities. SP Policy S.4 strictly controls development in the open countryside.
- 3.8 SP Policy H.4 requires most residential development to be in the CSV where employment, leisure, commercial and community facilities can be integrated and where the use of public transport can be maximised. Priority for residential development will be within Gloucester and Cheltenham and to locations adjacent or close by which are or can be easily and conveniently accessed by means of transport other than the private car. SP Policy H.6 refers to villages where residential development should be well integrated without intrusion into surrounding countryside.

³⁵ CD7/3 and CD7/4

³⁶ CD7/9 and 7/10

³⁷ CD6/35 and WEL/064 *The Queen on the application of Cala Homes (South) Limited v Secretary of State for Communities and Local Government* [2010] EWHC 2866 (Admin)

³⁸ See CD6/70 Letter to Chief planning officers: Revocation of Regional Strategies (DCLG - 6 July 2010) and Q&A on Written Ministerial Statement

³⁹ CD7/12-14

⁴⁰ Paul Smith para 7.15

- 3.9 Landscape SP policy NHE.1 requires that the countryside's character, appearance and non-renewable and natural resources will be protected from harmful development unless the social and economic needs of the area or wider environmental objectives outweigh such harm. SP policy NHE.3 is relevant to Homelands 2 and seeks to protect the BMV agricultural land⁴¹ and requires an overriding need for development to take place on such land. However, this policy has been superseded by advice in PPS7⁴².
- 3.10 The draft Gloucestershire Local Transport Plan 2011-2026 (LTP3) was published for consultation in February 2010. It notes that public transport use, at just under 5% of the population at least once a week, is lower than the UK average but rose by 4% between 2006/7 and 2007/8. It sets out conditions for developer funding to 'kick start' new or diverted bus services in order to improve accessibility. The GCC prepared a Third Alteration⁴³ to the Structure Plan but this was never adopted.

Local Plan (LP)

- 3.11 LP Policy HOU1 sets out housing allocations up to 30 June 2011. LP Policy HOU2 identifies the larger settlements containing a primary level of community facilities and services, which include Bishop's Cleeve. Within these, residential development proposals will be supported within boundaries defined on the proposals map, provided that they can be satisfactorily integrated and subject to other LP policies. New development must be sympathetically designed in harmony with the scale and character of the settlement. Status as a 'larger settlement' in HOU2 is justified against a range of criteria relating to their level of services and facilities, including a good level of accessibility by public transport to surrounding urban areas. Housing proposals for sites lying outside the residential development boundary will be assessed in accordance with Policy HOU4 which, for other settlements/rural areas, only permits new residential development in specific circumstances, none of which applies here.
- 3.12 In considering proposals for development in rural areas other than the AONB, SLA, and landscape protection zone, LP policy LND4 requires regard to be given to the need to protect the character and appearance of the rural landscape. The reasoned justification includes that the countryside of the Borough is worthy of protection for its own sake and that, to protect its existing environmental quality, proposals affecting rural areas should be designed to harmonise with their character or, if unacceptably intrusive, be refused. LP policy LND2 designates the SLAs on the proposals map. LP policy AGR1, for BMV agricultural land, was not saved.

Joint Core Strategy

- 3.13 TBC is working with Gloucester City Council and Cheltenham Borough Council (CBC) to prepare a Joint Core Strategy (JCS), as recommended in the RSS EiP, which will act as a spatial planning strategy for the area up to 2031. The

⁴¹ Defined as grades 1, 2 and 3a in the Ministry of Agriculture, Food and Fisheries (MAFF) Agricultural Land Classification

⁴² PPS7 Para 28: BMV should be taken into account

⁴³ CD 7/5

latest timetable aims for adoption in January 2014⁴⁴. The *JCS Developing the Preferred Option consultation document* (DPO)⁴⁵ explains the strategy over the period of 2011-2031. The intention is that the DPO will become a Development Plan Document (DPD) and form part of the JCS.

- 3.14 The DPO estimates that development is required to support a rise in population of 45,200 by 2031⁴⁶. Including any current shortfall, this equates to 36,800 new homes in the JCS area or 1,840 every year. The DPO divides the plan period into two phases of 10 years. In its consultation, the DPO identifies strategic allocations adjacent to Cheltenham, Gloucester and Tewkesbury⁴⁷, mostly within Tewkesbury Borough⁴⁸, which could provide approximately 29,500 new homes. In line with the recommendations in the draft RSS/EiP, most of the strategic allocations would be within the Green Belt. The DPO then puts forward 4 options of which Scenario C would meet the expected requirement for 36,800 new homes with B and D representing 10% above or below. Scenario A, for 16,200 new homes only in the urban areas, would be expected to result in significant out migration of people of working age, virtually no rise in the number of children, due to younger families moving away, and seriously undermine the ability of the JCS area to compete economically⁴⁹. TBC acknowledged that Scenario A is not considered a sound or robust scenario to progress⁵⁰.
- 3.15 The shortfall between the chosen scenario and the overall figure 36,800 dwellings, which would need to be made up in the latter half of the plan period, would range from 3,700 in Scenario B, through 7,350 in Scenario C, to 11,000 in Scenario D. As well as the strategic allocations, the DPO puts forward a number of Themes for broad locations as possibilities to deal with the identified shortfall in the latter phase of the plan⁵¹. Land to the north of Bishop's Cleeve is identified amongst these.
- 3.16 The DPO invites comment on whether 1,840 new homes per annum would be appropriate or whether the authorities should plan for a higher or lower number⁵². The DPO has been presented to all 3 Councils⁵³. TBC approved publication for consultation on the basis that Scenario B, for 1,660 per year, appeared to best meet the development needs of the JCS area⁵⁴. Gloucester City Council approved the DPO for consultation, endorsing Scenario B for the same reason⁵⁵. CBC's recommendations only note that the officer recommendation is for Scenario B while only Scenario A would protect the

⁴⁴ Holly Jones Revised PoEs para 4.13

⁴⁵ CD8/52

⁴⁶ Taken from projections in the *JCS Housing Background Paper* CD8/57. Extracts from the household forecasts are at Holly Jones Appendix 7

⁴⁷ At Ashchurch, Brockworth, Innsworth, Leckhampton and Shurdington

⁴⁸ With parts of the Leckhampton and Shurdington sites in the Borough of Cheltenham

⁴⁹ CD8/52 p33

⁵⁰ Holly Jones Revised PoEs para 4.23

⁵¹ CD8/52 p53

⁵² CD8/52 p21

⁵³ Ibid paras 4.28-4.30 and appendices 10-12

⁵⁴ CD9/33

⁵⁵ CD9/35

current Green Belt⁵⁶. CBC's recommendations also confirmed its intention to continue to protect Green Belt and open countryside around Cheltenham.

- 3.17 The DPO figure of 29,500 also includes an unspecified allocation of 2,400, to be distributed over the wider rural areas over the plan period. This is not an estimate for windfall sites, which lie outside these considerations⁵⁷. Under its proposed consultation draft strategic development management policies, the DPO suggests a settlement hierarchy in which Cheltenham and Gloucester would be in the first tier, Tewkesbury the second, and Bishop's Cleeve in the third tier with other larger settlements.

Evidence base

- 3.18 The emerging JCS is supported by an extensive evidence base to update that produced for the RSS⁵⁸. This includes the Tewkesbury Borough Sustainability Appraisal Scoping Report, Gloucestershire Strategic Housing Market Assessment (SHMA) and the JCS Initial Sustainability Appraisal⁵⁹. The latest version of TBC's annual Strategic Housing Land Availability Assessment (SHLAA), August 2011, considered both appeal sites to be suitable, available and achievable⁶⁰. Information has also been gathered through public consultations during 2009/10⁶¹.
- 3.19 TBC commissioned an Urban Extensions Boundary Definition Study (UDS)⁶². The final draft report recommended conserving the separation between Bishop's Cleeve and Gotherington but also that the Dean Brook forms a natural boundary and that there is an opportunity to introduce a new northern landscape boundary. It noted that the A435 provides a strong boundary rendering the area to its west more sensitive to development. In putting forward two options, both to the north, it recommended the smaller Option 2.
- 3.20 TBC also commissioned a Green Belt Assessment for the JCS area which concludes that there are areas that merit further consideration for possible removal, should Green Belt land be required now or in the future⁶³. The DPO acknowledges that further work on this is required⁶⁴.
- 3.21 A JCS Rural Area Settlement Audit⁶⁵ has assessed the services and accessibility of settlements other than Cheltenham and Gloucester. The Audit identified Tewkesbury Borough as predominantly rural with 74 named

⁵⁶ CD9/34 p20

⁵⁷ By the definition at footnote 31 to paragraph 59 of PPS3: 'Windfall sites are those which have not been specifically identified as available in the local plan process. They comprise previously-developed sites that have unexpectedly become available. These could include, for example, large sites resulting from, for example, a factory closure or small sites such as a residential conversion or a new flat over a shop'. This is agreed in CD1/7.

⁵⁸ Tabulated at Holly Jones Revised PoEs para 4.43 and summarised in App 3

⁵⁹ CD8/7, CD8/11, CD8/13, CD8/16, CD8/54

⁶⁰ CD8/14

⁶¹ Holly Jones Revised PoEs para 4.36

⁶² Final draft report July 2010, CD8/7

⁶³ CD8/56 para 7.3.7

⁶⁴ CD8/52 p24

⁶⁵ CD8/59

settlements, of which its three major settlements are Tewkesbury, Bishop's Cleeve and Winchcombe, and audited these for services, accessibility and population. It ranked Bishop's Cleeve as second equal with Brockworth, after Tewkesbury, while Churchdown and Winchcombe were ranked equal fourth.

Housing Land Supply (HLS)

- 3.22 It is common ground that there is a current shortage of HLS in Tewkesbury Borough. By extrapolating forward the figures in the 1991-2011 SP, there is a shortfall of 1,534 dwellings. Against the RSS Proposed Changes this would be 1,428⁶⁶. Looking ahead to 2011-2016, and using TBC's supply figures, these equate to a shortfall of either 1,394 or 2,469 dwellings or to 3.3 or 2.6 years respectively⁶⁷. These figures take no account of the proposed strategic allocations in the DPO.
- 3.23 Based on the Housing Background Paper (HBP), TBC and the appellants have set out projected housing delivery trajectories. There is an agreed comparison table in the latest SoCG⁶⁸. This table identifies 14 sites from the DPO and agrees on many of them. Most of the differences lie adjacent to Cheltenham and Gloucester and in the Tewkesbury rural areas. Of these, the Green Belt sites, to the north-west of Cheltenham, and adjacent to Gloucester at Innsworth, Brockworth and Churchdown, would account for 845 dwellings. No specific allocations have been made with regard to the Tewkesbury rural areas. There have been some pre-application discussions by owners of these Green Belt sites but no planning applications⁶⁹. If TBC's trajectory is correct, then there would be no shortfall in HLS over the next 5 years or beyond.
- 3.24 There is also a total current need in the Borough for 707 affordable dwellings⁷⁰. TBC has published Supplementary Planning Guidance (SPG) on requirements for Affordable Housing⁷¹.

4. Planning History

- 4.1 There is little relevant planning history for the appeal sites themselves.
- 4.2 Homelands 1 is a residential development site immediately to the south of Homelands 2. It was granted outline permission for 450 dwellings at appeal in 2008⁷². Both lie roughly within the area of search for 1,000 dwellings to the north of Bishop's Cleeve identified in the RSS Proposed Changes. In recommending that permission should be granted, the Inspector noted that the site was not allocated in the LP, lay outside the residential development boundary, and within the countryside area, and so the proposals did not accord with the development plan but conflicted with policies S.4, H.6 and NHE1 of the SP and policies HOU4 and LND4 of the LP; in the light of the

⁶⁶ CD1/7 tables 2.1 and 2.2

⁶⁷ Ibid tables 6.3 and 6.4

⁶⁸ LPA/36 and at SoCG CD9/54, based on p27 of the DPO

⁶⁹ LPA/35

⁷⁰ LPA/30

⁷¹ CD9/01

⁷² CD 9/15

conditions proposed and section 106 undertaking, it did not conflict with any other specific policies of the LP.

- 4.3 The Council's position at that time was that other material considerations, particularly the HLS shortfall in the Borough and the emerging RSS, outweighed these conflicts with the Development Plan. It therefore withdrew its "in principle" objections in the face of its significant 5 year HLS and the terms of the emerging RSS. As part of the s106 undertaking, TBC sought further land between Bishop's Cleeve and Gotherington as a community wood and to prevent their coalescence. While some community woodland was to be provided, agreement was not forthcoming as the appellant considered that it would prejudice any further development on its land to the north. TBC asked that, if the Secretary of State was minded to grant permission but agreed as to the inadequacy of the community woodland, that time be given to negotiate this. In the event, the appellant was not asked to renegotiate and permission was granted.
- 4.4 The Inspector for Homelands 1 found that, from the higher ground of Cleeve Hill to the east, the development would be seen to extend the built up area significantly but that it would not appear dissonant with what is already there and the shape of the site would help its absorption in the open fairly flat landscape adjacent and within the distant views of the Severn Vale with the Malvern Hills beyond; it would not spoil views from the AONB or have any impact on the superb quality of this western edge of the Cotswolds, nor affect the SLA. She continued that the site is predominantly Grades 2 and 3a agricultural land, with the remainder Grade 3b, and any development to the north or north-west of Bishop's Cleeve would involve best and most versatile agricultural land, and that it appears likely that so would greenfield housing development elsewhere in the Borough. In view of this, and given the shortfall in housing land supply there was an overriding need, such that the proposed development would not conflict with development plan Policy AGR1 on the use of agricultural land⁷³. Reserved matters approval has been granted for 44 of these homes and construction is well advanced.
- 4.5 Permissions were also granted in July 2008 for residential developments at M+G Sports Ground, on the edge of Cheltenham, and at Longford, on the edge of Gloucester, both within Tewkesbury Borough⁷⁴. In both cases the Secretary of State found that lack of HLS outweighed conflict with the development plan. Residential development for approximately 165 dwellings at Deans Lea was allocated under LP policy BI2⁷⁵ to meet the strategic requirements of policy HOU1. The reasoned justification also notes that: *The site's location close to Cheltenham, which can be accessed by a choice of transport modes, and also its wide range of local community, employment, retail and recreational facilities, will minimise the transport demand arising from the development.*
- 4.6 Other potential development sites in the JCS areas include Ashchurch: east of Tewkesbury; Brockworth: east of Gloucester; Innsworth: north of Gloucester;

⁷³ With reasons at paras 20.26-20.27 of the Report, CD 9/15

⁷⁴ CD9/17 and CD9/18

⁷⁵ CD7/9 p 121

Leckhampton: south of Cheltenham; and Shurdington: north of Cheltenham. Brockworth and Churchdown are satellite settlements between Cheltenham and Gloucester. TBC has tabulated progress with regard to pre-application discussions for Major Development Proposals within the JCS Area⁷⁶. A site referred to at Lincoln Green Lane is close to TBC's offices in Tewkesbury⁷⁷. Wingmoor Farm landfill site has an ongoing planning permission for another 20 years⁷⁸.

5. The Appeals Proposals

- 5.1 The descriptions of the proposed developments are set out in the bullet points above. The SoCGs lists the information for which approvals are sought. Control of details and a requirement for Design Principles and other matters to be submitted for approval, including Design and Access Statements, Master Plans, Parameters Plans, and Phasing Plans⁷⁹, are covered in the discussion of conditions in chapter 12. Both schemes would focus on new local centres and not all of the site areas would be used for built development. TBC accepted that the housing densities would be appropriate. The off-site provisions and contributions are summarised in section 13.

Homelands 2

- 5.2 The principle vehicular access would be from Evesham Road, with secondary access from a traffic-calmed Gotherington Lane. There would be eight new linkages to the centre of Bishop's Cleeve⁸⁰ with the aim of providing extended access on foot and along cycle routes into the new development. The geometry would follow Homelands 1 but also take advantage of views towards the AONB in a layout that would be both legible and easily permeable. It would accord with the South West Sustainability Checklist and Building for Life Assessments⁸¹. The sites would include significant areas of 'green infrastructure'.
- 5.3 The SW Design Review Panel commended the aspiration for Homelands 'feathered edge' to the northern boundary as an innovative approach which would soften this edge of Bishop's Cleeve, facing the AONB and Gotherington, with private areas open to public views⁸², rather than the indicative straight line in UDS option 2⁸³. Conditions could ensure continuing involvement of the Panel. There are examples of where this type of boundary treatment has been successfully used elsewhere.⁸⁴ TBC's concerns over their subsequent management have now been accepted, subject to conditions and a s106

⁷⁶ LPA/35, at the Inspector's request

⁷⁷ See LPA/35 and HOM56

⁷⁸ WEL/069

⁷⁹ CD2/14 and CD3/6-CD3/15; CD5/7 and CD5/32-CD5/34

⁸⁰ Through Appeal C

⁸¹ Roger Ayton PoE app 5 and 6

⁸² HOM22 & 23

⁸³ CD8/7 fig 7.6

⁸⁴ HOM34

agreement⁸⁵. There would also be a small local centre for retail and employment, allotments, recreational and ecologically managed meadow land.

Cleevelands

5.4 The Cleevelands proposals would follow many of the same design principles as Homelands 2. The layout would separate two areas by a 'green corridor' and include landscaping: to the north alongside the Dean Brook, to the south-west where there are archaeological remains, and to the north-west which would be given over to recreational uses and balancing ponds for flood mitigation. There would be less effort to soften the built-up edges but the layout would respond to the existing residential boundary to the south, the allotments to the east and the natural boundary of the Dean Brook to the north. To the west, the built form would roughly follow the line of houses along the end of Hayfield Way. There would be fewer opportunities for links, due to the A435, but crossings would be improved. There would also be a local centre. Some dwellings would be live/work units and others would be restricted to the elderly.

6. The Case for Tewkesbury Borough Council

Issues

6.1 Many objections have been addressed by conditions or obligations. The following remain:

- a) the site lies outside the development boundary;
- b) prematurity;
- c) landscape.

For Homelands 2 there would also be the loss of BMV agricultural land.

Development plan

6.2 Both appeal sites lie outside the defined settlement boundary for Bishop's Cleeve⁸⁶ and would be contrary to saved Structure Plan policies S.4 and H.6 and saved Local Plan policy HOU4. Although the plan period for the Local Plan (LP) expired on 30 June 2011, the housing policies have been saved and should be read in the context of PPS7⁸⁷ and the strict control over new development in the open countryside outside allocated areas.

6.3 It is acknowledged that, for the BMV agricultural land at Homelands 2, the more recent policies in PPS3 and PPS7 no longer support the 'overriding need' justification in policy NHE.3. Nevertheless, this is still contrary to saved LP

⁸⁵ HOM24 and LPA/40

⁸⁶ In the statutory development plan

⁸⁷ Paragraph 1(iv): *To promote sustainable, diverse and adaptable agriculture sectors where farming achieves high environmental standards, minimising impact on natural resources, and manages valued landscapes and biodiversity; contributes both directly and indirectly to rural economic diversity; is itself competitive and profitable; and provides high quality products that the public wants.*

policy and needs to be weighed in the planning balance, as happened recently in a case where there was no 5 year housing land supply⁸⁸.

Landscape

- 6.4 TBC⁸⁹ agrees that Homelands 1 has caused no substantial visual harm to the landscape, as was anticipated by both the Local Plan Inspector⁹⁰ and the Inspector for that appeal⁹¹. The UDS, for the JCS evidence base, took a fresh look⁹² and recommended Study Option 2 to conserve the setting of Gotherington and the more sensitive landscape to the west of the A435. Homelands 2 would extend beyond this. Study Option 1 (which broadly includes Homelands 2) looked at needs beyond 2026.
- 6.5 Irrespective of any mitigation measures, further expansion of Bishop's Cleeve is not justified in landscape terms and would cause the permanent loss of non-contrived, open, agricultural landscape which is significant as it is typical of the wider Vale of Gloucester and laps up against the Cotswolds AONB⁹³. Nor would 'green infrastructure' mitigate against the significant adverse and permanent effects from elevated vantage points, or the dynamic views along Gotherington Lane, but would contribute to the visual intrusion⁹⁴.
- 6.6 The Cleavelands site was similarly discounted by the UDS due to the heightened sensitivity of its location to the west of the A435⁹⁵. This is not 'urban fringe' but well screened open countryside which has retained its sense of rural tranquillity. This loss of character justifies refusal and could not be mitigated through design or green infrastructure⁹⁶. It would also be a very notable visual intrusion from some elevated vantage points and would be seen as a wedge of development into the open countryside of the Vale⁹⁷.
- 6.7 In neither proposal would the mitigation reduce the disharmony with the wider landscape from elevated views. It would be wrong to suggest that the dNPPF would depart from the key principles in PPS7 (above). All landscapes are important as recently confirmed by DEFRA⁹⁸.

Policy context

- 6.8 The policy context for these appeals has changed and is changing. Following an EiP, the then emerging RSS indicated the need for joint working within the Gloucester and Cheltenham area. On 28 March 2008, nearly 4 years ago, TBC resolved to work with CBC and Gloucester City Council to prepare a JCS⁹⁹ and

⁸⁸ Decision for *Welbreck Lane* WEL/036, appendix 3 paragraph 20

⁸⁹ Toby Jones PoE paras 3.2.3 and 3.2.6 LPA/07

⁹⁰ CD 7/11

⁹¹ JP Cooper PoE appendix 6 paras 20.41-20.43 HOM 6/3

⁹² CD 8/7 para 1.1

⁹³ LPA/07 para 4.2.4-4.2.12

⁹⁴ LPA/07 section 5.3

⁹⁵ CD 8/7 paras 7.5.1-2

⁹⁶ LPA/16 para 5.2.1-2

⁹⁷ LPA/16 para 4.3.16

⁹⁸ LPA/21. See also LPA/23

⁹⁹ Holly Jones Supplementary proof of evidence (SuppPoE) para 4.11

the authorities have since been gathering a robust evidence base, including locally derived housing requirements.

- 6.9 The evidence base has informed the DPO document which explains the strategy over the period of 2011-2031. This is to focus on Gloucester and Cheltenham, close to existing areas of population and jobs to maximise existing opportunities¹⁰⁰. Only beyond this should development be directed towards Tewkesbury and Bishop's Cleeve within the wider rural area. A high score in the JCS Rural Area Settlement Audit does not mean that development is appropriate and deliverable, nor that development is to be avoided, rather that other factors must be considered such as environmental constraints¹⁰¹.
- 6.10 The HBP¹⁰² underpins the DPO and it was agreed¹⁰³ that there is no prescribed method for calculating requirements. The primary evidence is from unchallenged, up-to-date local household and population projections¹⁰⁴. All the scenarios in the DPO will now be consulted upon. The scenarios¹⁰⁵ include 10% above and below 36,800 and this is common sense as complete accuracy is unobtainable. The DPO also identifies a number of preferred sites that can deliver 29,500 homes during phase 1 of the plan period (2011-2021) without Bishop's Cleeve. Until locally derived housing target have been agreed, there is no statistical basis available for the housing land supply (HLS) requirement¹⁰⁶ and the final housing requirement for the JCS area will be determined in the DPO.
- 6.11 TBC acknowledges that it cannot demonstrate a 5 year HLS against the SP or RSS and so paragraph 71 of PPS3 applies. However, the locations being consulted upon would provide over 10 years of HLS¹⁰⁷. Any backlog was taken into account when the numbers were reassessed¹⁰⁸. Past performance needs to factor in the changing planning context with old areas of search, as identified in the then emerging RSS, being removed when the Council determined to review its housing requirements and location strategy. A 5 year supply can be demonstrated compared with option B and details of pre-application discussions have been provided¹⁰⁹.
- 6.12 The proposed locations in the DPO will involve redefining the Green Belt. This is nothing new. The EiP panel acknowledged this could amount to exceptional circumstances¹¹⁰ and that details should be established through the LDF process¹¹¹. This will now be part of the JCS process. The precautionary

¹⁰⁰ Holly Jones PoE p8 para 4.16

¹⁰¹ Ibid p9 para 4.18

¹⁰² CD8/57

¹⁰³ Dave King in cross-examination (XX)

¹⁰⁴ Using a Housing Affordability Model constructed by Heriot Watt University CD 8/57 para 1.8 onwards, unchallenged by Dave King in XX

¹⁰⁵ B-D

¹⁰⁶ Holly Jones App 1b

¹⁰⁷ CD8/52 p26

¹⁰⁸ Holly Jones Revised PoE para 5.16 - LPA/13 and 15

¹⁰⁹ LPA/27 – at Inspector's request

¹¹⁰ PPG2 paras 2.6 and 2.10 and dNPPF paras 137-139

¹¹¹ CD7/13

approach represented by Scenario B is clearly justified by the inherent uncertainties of prediction as too high a figure could put pressure on locations which are ultimately unnecessary. It is not only about housing numbers and a 10% factor is reasonable as open countryside is an irreplaceable environmental resource.

- 6.13 There have been major planning changes during the Inquiry. The government's steer is clear. The top down imposition of housing numbers through regional strategies has gone. These are decisions to be taken by the Community. TBC has followed government advice since revocation of the regional strategies was announced¹¹² by producing a robust evidence base for its developing JCS. Notwithstanding statements on growth¹¹³, and the dNPPF, the environment and localism should not be ignored.
- 6.14 The NPPF is likely to include transitional arrangements in the context of strengthening localism. Recent Decisions¹¹⁴ confirm the return of decision making powers to local authorities is a key government priority and this has been further described in the preface to the Localism Act¹¹⁵: *The Localism Act sets out a series of measures with the potential to achieve a substantial and lasting shift in power away from central government and towards local people. They include: ... reform to make the planning system more democratic and more effective, and reform to ensure that decisions about housing are taken locally.*

Planning balance / prematurity

- 6.15 The JCS document has been approved by all three authorities¹¹⁶ for public consultation but the housing requirements have yet to be formally adopted. The 3 authorities have a robust evidence base and are engaging with the Community before agreeing final numbers. PSGP indicates that a refusal on the grounds of prematurity may be appropriate where a proposed development is so substantial, or where the cumulative effect would be so significant, that granting permission could prejudice the DPD by predetermining decisions about the scale, location or phasing of new development. These are being addressed in the JCS and it is for the LPA to demonstrate how granting permission would prejudice this process¹¹⁷.
- 6.16 To permit development on either site would effectively ringfence Bishop's Cleeve and exclude it from the consultation process. This involves three authorities working together, to determine the scale, location and phasing of housing in the JCS area to 2031. Bishop's Cleeve is not in the first phase; whether or not it will be a broad location for the second phase has yet to be determined. To allow either or both of these appeals would not only predetermine the JCS strategic decisions but also their scale and timing.

¹¹² CPO letter, CD6/70

¹¹³ CD 6/71, CD 6/74 and CD 6/102

¹¹⁴ CD 9/37, CD 9/38 and CD 9/39

¹¹⁵ By Greg Clark (Minister of State for Decentralisation) LPA/34

¹¹⁶ Holly Jones SPoE LPA/13 paras 4.28-30

¹¹⁷ Paragraphs 17 and 19

- 6.17 To consider the uncertainty around the ability to deliver the JCS is to miss the point. The robust evidence base and consultation process are in accordance with PPS12 principles¹¹⁸. In particular, they satisfy the government's obligations in accordance with the Aarhus Convention¹¹⁹, that a proportionate approach should be taken and that it would be appropriate to involve the community where there is a major change in circumstances¹²⁰. It is an understatement to describe the presently evolving planning environment as a *major change*.
- 6.18 It is agreed that this is not an examination of the emerging JCS¹²¹, which will be the time to look at demographics and the balance between competing JCS demands. To isolate Bishop's Cleeve from this process would be to distort the overall picture. Furthermore, another 1,000 houses would double the number of dwellings built there over the past 20 years.
- 6.19 The JCS process is not just about numbers or percentages of housing requirements but about the Community deciding where best to locate strategic housing and its timing. Even if only the requirement for the Tewkesbury Wider Rural Area is considered¹²² the appeals together would represent some 42% of the total at the beginning of the plan period. There is no merit in the argument that Tewkesbury is somehow failing to take its 'fair share' of the JCS housing requirement¹²³ when, using the HBP figures, its requirement is only some 4,325 until 2031 yet it is consulting on a figure of 5,360 for the first ten years or so¹²⁴. Overall the Borough would accommodate 9,195 dwellings during the first phase of the plan period.
- 6.20 TBC acknowledges the benefits that would follow, including affordable housing, improved public transport, cycleways, community facilities and market housing. However, localism tips the balance. The scale, location and phasing of such developments should be determined in the context of the JCS alongside the determination of defensible settlement boundaries, Green Belt boundaries, highway implications and employment levels etc. They should be determined through the engagement with the JCS Community not the appeal process.

Obligations

- 6.21 TBC has agreed the format of the required planning obligations. Taken with the suggested conditions these have enabled TBC to withdraw many of its putative reasons for refusal, including its concern over the passive supervision of local green spaces.

Conclusions

- 6.22 The evidence in the planning balance weighs against both proposals.

¹¹⁸ Holly Jones Revised PoE para 4.44 – LPA/37

¹¹⁹ LPA/33 Article 7

¹²⁰ Para 4.25 and 4.26

¹²¹ Both appellants' planning witnesses in XX

¹²² Some 2,400 from CD 8/57 p12

¹²³ Dave King Supp PoE

¹²⁴ CD 8/57

7. The Case for Gloucestershire County Council (GCC)¹²⁵

- 7.1 Gloucestershire County Council is the authority for children and families, libraries, highways and transportation. The relevant issues for GCC, in both appeals, are: the effects of traffic generated on highway safety, the free flow of traffic, public transport provisions and vehicular, cycle and pedestrian integration; and the need or otherwise for contributions towards education and libraries provisions.
- 7.2 GCC believes that these will be adequately addressed through completed planning obligations and as set out in the SoCGs¹²⁶. A summary Statement of Compliance with the Community Infrastructure Regulations (CIL Regs) has been provided¹²⁷. GCC's position is that it will formally withdraw its objections on completion of the planning obligations in respect of both appeals. A summary addressing the queries raised by the Inspector has been included in a joint statement¹²⁸. GCC published its Gloucestershire Local Transport Plan 3: 2011-2026 in March 2011 (LTP3)¹²⁹. Other relevant policy and guidance is listed in the GCC Rule 6 statement¹³⁰.
- 7.3 GCC advised that the calculated modal shift, from the private car to other modes of travel¹³¹, is realistic and has been achieved elsewhere, particularly at Quedgeley near Gloucester, such that even with the new developments the total number of trips by private car in Bishop's Cleeve by year 10 would be no greater than at present¹³². This evidence was not challenged. The likely traffic impact of Wingmoor Farm, which could continue for another 20 years, has already been taken into account. The highway improvements would ensure that buses are not slowed down.
- 7.4 With regard to the proposed shared pedestrian/cycleway, the width of this would not be ideal but it would be satisfactory without pedestrian danger and achievable without the need for land owned by third parties¹³³. It would be a realistic and practical solution that would encourage modal shift. The penalty defaults in the s106 agreements would be imposed if targets were not met and used to implement further steps. It is common ground, between the appellants and GCC, that if both appeals were allowed, the impact of the proposed initiatives is likely to be greater and the bus service would be increasingly viable¹³⁴.

¹²⁵ Neil Troughton and others attended at the Inspector's request

¹²⁶ CD1/6, CD1/8, CD1/9 CD4/1, CD4/3 and CD9/44

¹²⁷ LPA32

¹²⁸ WEL/072

¹²⁹ CD 7/6

¹³⁰ GCC/1, para 5.6

¹³¹ CD2/31, CD5/9 tables 6.3 and 6.4: year 10, and WEL/072 app C

¹³² Neil Troughton in answer to Inspector's questions: 5,643 trips in year 10 compared with 5,702 trips at present

¹³³ See WEL/072 app B

¹³⁴ CD9/44

8. The Case for Comparo

- 8.1 The context for these appeals is that the LPA does not have a 5 year housing land supply (HLS). The Statement of Common Ground (SoCG) establishes that, in the absence of a current development plan led figure for Tewkesbury, this should be identified either from the SP or the RSS Proposed Changes¹³⁵. Both appellants question TBC's figures as to the availability and deliverability of sites¹³⁶. Even on TBC's own figures, without any reductions, the supply is 3.3 years under the SP and 2.6 years under the Proposed Changes. These represent the best possible calculations. If the appellants' concerns are well founded, the actual supply will be lower.
- 8.2 TBC's case has focused on the recent changes to the planning system. However, other than reclassifying garden land, there has been no amendment to PPS3. There has been nothing to suggest that the presumption in favour of permission under paragraph 71 has altered. Indeed, recent announcements have made this clear¹³⁷. This 5 year supply requirement is not restricted to plan preparation. The growth agenda further emphasises this¹³⁸. Recent appeal Decisions at Bude¹³⁹, Winchester¹⁴⁰, Sandbach¹⁴¹ and St. Austell¹⁴² reinforce this. Even where the decision was to refuse, these cases still establish a presumption in favour of permission where there is no 5 year HLS. Even more recently, *Laying the Foundations*¹⁴³ sets out strong expectations that councils maintain a robust HLS. Consequently, the presumption in favour of housing development in PPS3 should apply unless there is an overriding objection, and the other issues should be considered in this context.
- 8.3 The development plan includes RPG10 and the saved policies of the SP and LP. The 'saving letter'¹⁴⁴ refers to PPS3 and its requirement for a 5 year HLS, which post dates both the SP and LP. TBC has failed to provide a development plan led 5 year HLS over many years. In July 2008, 1,390 dwellings were allowed within Tewkesbury Borough¹⁴⁵ because TBC failed to maintain a 5 year supply. This duty has applied since PPS3 was issued in 2006 and TBC has done nothing to address it.
- 8.4 SP policy H.4 intended to concentrate 'most' development in the CSV. Bishop's Cleeve is within the CSV¹⁴⁶ and TBC has accepted this¹⁴⁷. It follows that the

¹³⁵ CD 1/7, para 1.2.2

¹³⁶ CD 1/7, table 5.1 pp 9-11

¹³⁷ CD 6/70

¹³⁸ CD 6/74

¹³⁹ Jonathan Orton appendix 25, Decision dated 28 July 2011, para 24 and pp33-35 para 35

¹⁴⁰ CD 9/37, 28 September 2011

¹⁴¹ CD 9/38, 29 September 2011

¹⁴² CD 9/39 para 17, 31 October 2011

¹⁴³ CD 9/45, November 2011, para 77: We are ensuring that local authorities identify a robust land supply. The draft Framework sets out strong expectations that councils should maintain a robust rolling supply of deliverable sites to meet their housing needs for the next five years, ensuring that there is choice and competition in the land market.

¹⁴⁴ CDs 7/4 and 7/10

¹⁴⁵ CD 9/17, CD 9/15 and CD9/18

¹⁴⁶ As found by the LP Inspector CD 7/11 p 298

¹⁴⁷ In answer to Inspector's questions

proposals would comply with SP policy on location. They would accord with the evidence base for the RSS proposed changes recommendation that land to the north of Bishop's Cleeve was a sustainable location for up to 1,000 houses (of which 450 have been permitted at Homelands 1).

- 8.5 The approach taken in the emerging JCS, to downgrade Bishop's Cleeve to a tertiary level settlement, would be at odds with the existing SP and draft RSS. The LP was adopted as being in conformity with the SP¹⁴⁸ and made housing provision for 1 January 2003 to 30 June 2011. The allocation at Dean Farm was justified under policy BI2, on the basis that its location close to Cheltenham would minimise the transport demand arising¹⁴⁹, and this is not consistent with the JCS intention. Policy HOU2 identifies Bishop's Cleeve as a 'larger settlement', justified by a range of criteria including a good level of accessibility by public transport. The development boundaries in the LP were only ever intended to provide for needs up to 30 June 2011. It follows that any breach of HOU4 is the inevitable consequence of the lack of a 5 year HLS.

Best and most versatile (BMV) agricultural land

- 8.6 SP policy NHE.3 and LP policy AGR1 are relevant. The 'saving' process has created an anomaly as NHE.3 has been saved but AGR1 has not. The SP policy is based on the 1997 version of PPG7 not PPS7 from 2004¹⁵⁰. The LP Inspector noted that the loss of BMV land would not necessarily conflict with PPG7 as amended in 2001¹⁵¹ and the Homelands 1 Decision held that there would not be a conflict with AGR1 due to an overriding need¹⁵². The 'overriding need' test is not in PPS7. Although this test persists in policy NHE3, the 'saving letter' refers to up-to-date national policy, which in this case would include PPS7. Only 14.4ha, or 44%, represents BMV land¹⁵³, and even if the overriding need test were still enforced, it was overridden in Homelands 1 and at Longford in February 2008¹⁵⁴.

Landscape

- 8.7 Relevant saved policies are SP policy NHE1 and LP policy LND4. As noted in Homelands 1, NHE1 allows for social and economic needs to outweigh any harm¹⁵⁵. Homelands 1 and 2 will deliver around 860 dwellings compared with a suggested capacity of around 1,000 by the EiP panel and the current proposals have always sought a landscape led approach to the northern boundary. The AONB officers have not objected; nor has the Board which is under a duty to protect the AONB. Natural England has deferred to the AONB board¹⁵⁶. If a 5 Year HLS outweighs the policies on settlement boundaries, it follows that it would also outweigh landscape harm.

¹⁴⁸ As required by the then development plan regulations

¹⁴⁹ CD7/9 p 121

¹⁵⁰ Tony Kernon PoE para 3.13 - 3.20 and appendix 4

¹⁵¹ Tony Kernon app 5 para 3.13.7

¹⁵² Tony Kernon app 8 Decision para 21

¹⁵³ Tony Kernon PoE para 8.4, unchallenged by Paul Smith in XX

¹⁵⁴ CD9/18 Inspector's Report para 66, after TBC's Reason for Refusal had been withdrawn

¹⁵⁵ Jonathan Orton app 15 Decision para 24; CD9/15 para 20.29

¹⁵⁶ HOM18

- 8.8 The UDS supported development north of Bishop's Cleeve, as Study Option 2, up to an east–west line. Very little of the current proposals would encroach north of the line and parts to the south of it would be left undeveloped. TBC's own landscape officer felt that any protrusion could be mitigated¹⁵⁷. The imaginative approach to the northern boundary shows that there would not be unacceptable impact with regard to policies NHE1 or LND4. The SW Design Review Panel commended the aspiration to do something different and of high quality¹⁵⁸. The Deed of Covenant would restrict any further development between Homelands 2 and Gotherington and secure the long term separation with the softer appearance of the north of Bishop's Cleeve.
- 8.9 The Conflict with the development plan should be overridden by the need for a 5 year HLS, as in recent Decisions in 2008¹⁵⁹ and as recommended by TBC's own officers at the Invista site in 2011¹⁶⁰. The breaches of policy are an inevitable consequence of the lack of housing land.

*Prematurity/PPS1 and the Planning System: General Principles (PSGP)*¹⁶¹

- 8.10 The PSGP is extant and relevant; it was raised by the Secretary of State. It is agreed that: the JCS is at an early stage¹⁶²; the Preferred Option has not yet been identified¹⁶³; 9,800 of the identified dwellings would be on land wholly or mostly within the Green Belt; in approving consultation on the JCS, a unanimous resolution was made by CBC to protect green belt and open countryside around Cheltenham¹⁶⁴; and all four options are offered for consultation.
- 8.11 Paragraph 17 of PSGP refers to prematurity which may be justified *where a DPD is being prepared or is under review, but it has not yet been adopted*. Otherwise, paragraph 18 advises that it will not usually be justified, an example including where a DPD is at the consultation stage. It falls on the LPA to demonstrate clearly how the grant of permission would prejudice the outcome of the DPD process. This would include decisions about scale, location or phasing.
- 8.12 Homelands 2 would be a small part of the present housing shortfall; indeed it would only be 18.75% of the figure for rural areas. The scores in the Rural Settlement Audit¹⁶⁵ form part of the JCS evidence base. However, the JCS ignores: Bishop's Cleeve's favourable status within this audit; its location within the CSV; the evidence base of the EiP and its functional relationship with Cheltenham; and reduces it to a tertiary settlement. There is no

¹⁵⁷ Julian Cooper PoE app 8: Tracy Lewis email 17 February 2011

¹⁵⁸ Julian Cooper PoE app 10 committee report p 28

¹⁵⁹ CD9/17, 9/18 and 9/15

¹⁶⁰ Invista Committee Report CD9/47

¹⁶¹ As raised in para (b) (i) to (iv) of the Secretary of State's letter J O app 3

¹⁶² CD8/52

¹⁶³ CD8/52 p8

¹⁶⁴ Holly Jones app11 p66

¹⁶⁵ CD8/59

justification for these changes but, in any case, if Bishop's Cleeve is a tertiary settlement then it is the most sustainable of these¹⁶⁶.

- 8.13 In any event, the approach taken in the JCS deserves little weight because: Option C is the most sustainable overall according to the Report¹⁶⁷; TBC acknowledged that a 5 year HLS is needed for the JCS to be found to be sound¹⁶⁸; if the JCS employment aspirations are to be achieved, and a population skewed toward the elderly is to be avoided, Option D should be chosen¹⁶⁹; Bishop's Cleeve should receive a larger share as it is in the CSV; greater provision at Bishop's Cleeve would reduce the requirement for land in the Green Belt. It is therefore likely that reducing Bishop's Cleeve to a tertiary settlement in the JCS will be found to be flawed. In any case, releasing 450 houses at Bishop's Cleeve would not conflict with the JCS as it would leave almost 2,000 houses to be found in the wider rural area, with Bishop's Cleeve still the best candidate for location according to the Sustainability Audit.
- 8.14 TBC has failed to show what harm would flow from releasing the appeal site which is in a sustainable location outside the Green Belt. The JCS Trajectory¹⁷⁰ shows the release of land for 750 dwellings at Churchdown, within the Green Belt, before the JCS examination. The same applies to Brockworth and Innsworth. To do so before the JCS is adopted, TBC would have to show that very special circumstances exist¹⁷¹. Any opponents, of whom there would be many¹⁷² including CBC¹⁷³, could rightly argue that the release of these lands should only take place as part of the development plan process, knowing that the Secretary of State highly values protection of the Green Belt. Release of land at Bishop's Cleeve would reduce the amount of Green Belt land required and is an important benefit of the proposals.

Housing

- 8.15 There is a clear commitment to something different in terms of layout, quality of build, variety of housing provision and a new village centre. TBC accepts that these aspirations have been met and has withdrawn its previous concerns with regard to linkages, design, the 'feathered edge' and Gotherington Lane¹⁷⁴. The SW Design Panel has acknowledged that it would achieve something completely different¹⁷⁵.
- 8.16 The scheme is committed to the highest standards of building and design. The 'feathered edge' to the northern boundary is an innovative approach which would soften this edge of Bishop's Cleeve with private areas open to public views. The s106 agreement with TBC includes provisions for a 'Private Areas

¹⁶⁶ HOM54

¹⁶⁷ CD 8/54 para 3.46

¹⁶⁸ Holly Jones in XX

¹⁶⁹ CD 9/54 section 3

¹⁷⁰ CD 8/57

¹⁷¹ In accordance with PPG2

¹⁷² Jonathan Orton in chief, unchallenged

¹⁷³ Based on its Resolution 4

¹⁷⁴ LPA/40 and HOM41

¹⁷⁵ HOM22 and HOM23

Scheme' which would resolve any management issues and TBC has withdrawn its objection. The new village square will provide the centre currently missing from Homelands 1 and link the new retail and other facilities with the bus service. The Coffin Path will be maintained together with generous and convenient recreational land. Solar capture, geothermal heating and reduced carbon heating would achieve the highest environmental standards for others to copy¹⁷⁶.

- 8.17 There will be a strong element of affordable housing¹⁷⁷ through the s106 agreement and the proposals will deliver exactly what the TBC housing officers seek in its mix of tenure types. There is a strong housing market requirement in Bishop's Cleeve and demand has been corroborated on both the Bovis and Taylor Wimpey sites¹⁷⁸. Homelands 2 will 'raise the game' compared with Homelands 1 and this would be locked into the proposals by the Design and Access Statement, suggested conditions and the various s106 obligations and the Deed with regard to land between the site and Gotherington. It will become a popular and attractive housing destination.
- 8.18 The Settlement Audit¹⁷⁹ shows what a sustainable location it is for development. The new facilities would become a focal point, which Homelands 1 lacks, while still being within walking distance of the centre of Bishop's Cleeve along a pleasant route. Transport arrangements would offer easy access by public transport to employment in Cheltenham.

Housing Land Supply (HLS)

- 8.19 TBC does not have a flexible supply of land. Rather, this has dwindled to just 2.6 years despite the requirement in PPS3 for a 5 year supply since 2006. It has not learned the lesson of the 3 appeals in July 2008 which allowed 1,390 dwellings at M+G, Longford and Homelands 1. No development plan led method attempts have been made to make up this shortfall. It is remarkable that the JCS already plans to make unpopular releases of Green Belt land in advance of the consultation exercise. Without the appeal sites, TBC could only meet its 5 year supply if it relied on a site in Lincoln Green Lane which was classified as inappropriate in the SHLAA and rejected at appeal¹⁸⁰. Without the current proposals, TBC will have no prospect of a substantial land supply in the short to medium term until Green Belt sites are eventually released.

Transport

- 8.20 The planning obligation would secure funding of up to £1,144,000 to subsidise the extension and enhancement of the local bus service¹⁸¹, with stops within 400m of each and every dwelling¹⁸², for up to 8 years by which time it would

¹⁷⁶ HOM32 and HOM40

¹⁷⁷ CD9/4 para 9.11

¹⁷⁸ Colin Danks app 7 and HOM51

¹⁷⁹ CD8/59

¹⁸⁰ LPA/35 – SUB24: 'Nil potential site' as it would cause irreversible damage to the battlefield

¹⁸¹ No. 527 from Gotherington to Cheltenham via Gotherington Lane and Bishop's Cleeve

¹⁸² SuppSoCG CD1/8 and1/9

become commercially viable¹⁸³. New pedestrian links with Homelands 1 through to Bishop's Cleeve, secured by a unilateral undertaking, would improve accessibility of both the site and the proposed local centre and community facilities¹⁸⁴.

- 8.21 A new cycle route, secured by a condition¹⁸⁵, would improve cycle accessibility to the site and to residents of both Gotherington and Bishop's Cleeve. Financial contributions to the Highway Authority would improve cycle route signage and a shared use footway/cycleway and so also improve cycle accessibility to the site and for the wider community. Accordingly, the Highway Authority has confirmed that it is now satisfied with the level of accessibility by walking and cycling and has withdrawn its objections¹⁸⁶.
- 8.22 The Travel Plan¹⁸⁷ will contain a range of measures and incentives to complement the above improvements including: the appointment of a Travel Plan Coordinator; information to residents; modal share targets at 3, 5, and 10 years from occupation; and vouchers of £150 per household towards bicycles. A s106 obligation would secure a deposit of £81,330, to enable the Highway Authority to implement measures in the event that the modal shift targets are not met, and a fee for it to monitor the Travel Plan.
- 8.23 Highway improvements¹⁸⁸ on the A435 corridor would mitigate any residual traffic impact that might have impeded bus service improvements and the traffic calming scheme would reduce speeds on Gotherington Lane¹⁸⁹. Accordingly, the Highway Authority has also withdrawn its second objection¹⁹⁰. The junction between Gotherington Lane and Station Road does not require alteration¹⁹¹: no accidents have been recorded there and it is forecast to operate within capacity¹⁹². There would also be a degree of self-regulation in that a short detour would be easy so that if congestion does become a problem drivers are likely to move to the alternative route using the A435. Beyond occasional peak time congestion, there would be no interference with the free flow of traffic and nothing to indicate that it would not be sustainable development.

Localism

- 8.24 TBC's case has increasingly come to rely on a conflict with 'localism'. When the Secretary of State sought to revoke Regional Strategies in July 2010, this was found to be beyond his powers at the time¹⁹³. However, the advice of the Chief Planner at that time¹⁹⁴ remains sound. In answer to question 10, he

¹⁸³ HOM 10/1 Rupert Lyons PoE paras 6.84 – 6.92 and app RLF/1

¹⁸⁴ Drawing no. TE/1011/153 in Addendum Transport Assessment CD 3/5 app G

¹⁸⁵ Drawing no. PL01 in SuppSoCG CD 2/8 app D

¹⁸⁶ Letter dated 17 July 2011 CD 2/8 SuppSoCG app B

¹⁸⁷ Draft in app B of the TA CD 2/29

¹⁸⁸ Secured by a financial contribution of £819,939

¹⁸⁹ Secured by condition – see drawing no. PL01 in app D of the Supp SoCG CD 2/8

¹⁹⁰ Letter dated 17 July 2011 CD 2/8 SuppSoCG app B

¹⁹¹ HOM 59, contrary to the statement by Councillor Jones

¹⁹² CD 2/29 table 2.2 p 11 and CD 3/5 table 7.9 p 25

¹⁹³ Cala Homes High Court Challenge

¹⁹⁴ CD 6/35

clarified that establishing the right level of housing provision in an area rests with the local planning authority (LPA) but also made clear that the chosen numbers would have to be justified and that there was a continuing duty to maintain a 5 year HLS¹⁹⁵. This inevitably affects the release of land where there is no such supply. Nowhere does the guidance revoke the duty to maintain a 5 year supply; nor has the government removed paragraph 71 from PPS3.

- 8.25 *The Plan for Growth*¹⁹⁶ refers to the expectation that permission should be granted where plans are silent, out of date or indeterminate, and that Neighbourhood Plans were to be able to shape development but not to block it. This is how the powers are framed in the Act. TBC's assertion that to grant permission would not be consistent with localism is flatly contradicted by the emphasis on delivery and the clear commitment to HLS. The Localism Act does not erode the commitment to HLS in any way¹⁹⁷. Section 109 deals with the abolition of Regional Strategies at some time in the future with the subsequent control over housing numbers granted to LPAs. However, LPAs have always had the power through LPs to indicate where development should be located. The RSS has gone but the numbers put forward by LPAs must be sound. They still have a duty under the Localism Act to make proper provision and section 110 creates a duty to co-operate when planning for sustainable development.
- 8.26 It is therefore wrong to suggest that local opposition is a conflict with localism. There will still be objections to new housing development but LPAs are also under a duty to consider those in need of affordable housing and would want to live in a new home. No case has been made by local objectors that there is a better location for development locally and there has been a reluctance to express a preference between the two schemes. Rather, the message has been that development is not welcome here, at odds with *The Plan for Growth*.
- 8.27 Section 122 of the Localism Act requires consultation and this is set out in the Statement of Community Involvement. While the LPA will have greater freedom over plan preparation it will still have to plan for a considerable number of houses even if these appeals are allowed. There is no reason under the Localism Act why the appeals should be rejected and no breach of the Aarhus Convention as the full process of consultation has taken place. If localism means tending to the needs of the community then there is a keen need for affordable housing.

Previous Decisions

- 8.28 The Secretary of State has recently rejected housing development at Winchester, Sandbach and St. Austell¹⁹⁸. Of these, the Winchester and Sandbach Decision are subject to challenge¹⁹⁹ but, in any event, there are important differences between these cases and the present appeals. At

¹⁹⁵ Questions 11 and 13

¹⁹⁶ CD 6/71 paras 2.12 and 2.16

¹⁹⁷ Part 6, Sections 109-144 and Schedules 9-12

¹⁹⁸ CDs 9/37 - 39

¹⁹⁹ WEL 064 and 065

Sandbach, the Secretary of State found that allowing the appeal would prevent permission being granted on previously developed land and that appropriate housing levels were yet to be set. These matters are not the case here.

- 8.29 At St. Austell, the appeal site was only one of a number of candidate locations and the scale (1,300 dwellings) was significant in the context of Cornwall. Here, the suggested locations to the south are in the Green Belt, while to the east is the AONB, and so the 2 appeal site locations are the only ones left. The Homelands 2 proposal is for 450 homes where, even under Option B, 33,000 are required in the JCS area.
- 8.30 At Winchester (*Cala Homes*), very little of the proposal would be achieved within the 5 year period²⁰⁰ and there was a 'blueprint' for considering other locations. The Decision has now been challenged²⁰¹. Here, two-thirds of Homelands 2 would be delivered²⁰² and comparison sites are within the Green Belt. These are important material differences. There is no reason associated with the Localism Act, recent Decisions or ministerial announcements to justify refusal. Rather, the appeal offered land to meet the 5 year HLS and affordable housing needs.

Obligations and conditions

- 8.31 These are now understood and agreed. The Covenants not to develop north of Homelands 2 are valuable, relevant to planning and can only be released by the Lands Tribunal if obsolete (in contrast with obligations under section 106). The Parish Council's stated preference, that the land should be transferred to it, acknowledges the value of control over development but transfer is not necessary.
- 8.32 To avoid delays associated with pre-submission of phasing details before reserved matters, the Design Principles, which must accord with the DAS, Parameters Plans and phasing plan, should be submitted with the reserved matters; any further requirement would be unjustified. As there is a commitment to early delivery, and the issue is over the 5 year HLS, it would be reasonable to require all reserved matters applications to be submitted within 4 years.

Comparison between Homelands 2 and Cleevelands²⁰³

- 8.33 Both proposals are required to meet the housing shortfall. Even if both are delivered within 7 years, there would still be a shortfall of 1,400 out of 2,400 for the rural areas over the remainder of the plan period. Subject to appropriate linkages, the edges of Bishop's Cleeve are the most sustainable locations within the areas the LP defines as rural.
- 8.34 However, should the Decision be that only one site should be developed, Homelands 2 is preferable because: the Cleevelands site is isolated by the A435 which would restrict linkages; Cleevelands was less favourably assessed

²⁰⁰ 7.5% acknowledged by Paul Smith in XX

²⁰¹ WEL/064

²⁰² Holly Jones in XX

²⁰³ Set out in written evidence but not subject to XX

in the UDS; there are landscaping preferences for Homelands 2²⁰⁴; Cleevelands is close to Wingmoor Farm with odour and dust consequences²⁰⁵; the Cleevelands master planning struggles to accommodate the utilities and foul/surface water arrangements as well as Homelands 2²⁰⁶.

- 8.35 Homelands 2 would perform better with regard to accessibility to the centre of Bishop's Cleeve and to sustainability in general²⁰⁷; using the Homelands 1 infrastructure gives further sustainability advantages; Homelands 2 will properly complete the public transport infrastructure, village centre and softening of the northern edge for Homelands 1. The awareness of Homelands 2 from the AONB also applies to Homelands 1 and would apply to Cleevelands. The traffic concerns along Gotherington Lane are unfounded as there would be lower speed limits and new car traffic would be more likely to use the A435 junction. The presence of BMV agricultural land at Homelands 2 is only one of a number of factors. When weighed together Homelands 2 is the obvious choice²⁰⁸.

Overall conclusions

- 8.36 The appeal would redress a deficit in the 5 year HLS. When faced with a smaller shortfall 3 years ago TBC released over 1,300 houses outside the development plan process, including 2 Green Belt locations. The wide ranging criticisms have only served to show how well conceived the proposals are. TBC's opportunistic interpretation of localism does not justify its approach and there is no merit in waiting for transitional arrangements. There still is, and will be, a clear commitment to a 5 year HLS. Concerns by interested parties have been carefully answered²⁰⁹.
- 8.37 The presumption in favour of granting planning permission persists. The JCS vision is just beginning. Its categorisation of Bishop's Cleeve as a tertiary settlement is at odds with its status in the CSV in both the SP and the panel advice in the EiP. However, even if accepted, the early release of land at Bishop's Cleeve would not offend the overall vision. The recommendation should be for planning permission to be granted.

9. The Case for Welbeck

- 9.1 There is really little dispute between the appellant and TBC. It is common ground²¹⁰ that there is no 5 year HLS. In blatant disregard of national planning policy, TBC has no coherent plan to address this. The shortfall is so substantial and protracted that it can now only be addressed through the development control process. TBC's concerns must be set against the position on housing need.

²⁰⁴ Jonathan Orton PoE s7

²⁰⁵ Dr Davey PoE HOM11/1

²⁰⁶ Richard Buckley PoE HOM12/1

²⁰⁷ Mr. Lyons HOM10/1

²⁰⁸ Jonathan Orton SuppPoE on Cleevelands

²⁰⁹ HOM37, HOM55 and HOM57

²¹⁰ CD1/7

- 9.2 It is also common ground²¹¹ that: Cleavelands would deliver the necessary infrastructure to make the proposals acceptable in planning terms; the contributions and benefits would help the existing community, for example the bus service and foot/cycleway to Cheltenham; the only amenity impact would be on the landscape; TBC's policy reliance is misconceived as the settlement boundary is aged, and cannot provide for current needs, and its prematurity objection is not supported by the Secretary of State's policy.

Development plan

- 9.3 The starting point is the development plan unless material considerations indicate otherwise. That is, the current, adopted plan not one which may be adopted in the future. Moreover, it should be considered as a whole, that is with regard to all the relevant provisions, making a judgment as to the importance of the policies and the extent of compliance or breach²¹². TBC prefers to take a mechanistic approach rather than acknowledge that some policies are more fundamental and that others are no longer relevant. For example, its wish to equate the LP settlement boundary policy, specifically to accommodate development until 2011, with the conservation policies cited in the Murray House appeal²¹³ which have no particular time frame. This ignores the need to determine weight.
- 9.4 TBC has not suggested that the proposals would be contrary to the RS, although it is accepted that RPG10 will be abolished. This is the only provision in the Localism Act which is relevant to this appeal. Nothing else in the Act alters the material considerations in this case or the weight to be attached to them.
- 9.5 There is no dispute that the appeal site lies beyond the settlement boundary in the SP²¹⁴ or the LP²¹⁵ and that the proposals would be contrary to policies S.4 and H.6 respectively. However, these must be read in context. SP policy S.4 applies to all villages across the county. Bishop's Cleeve is in a special location in the CSV which includes Cheltenham, Gloucester and those settlements closely linked by public transport. The strategy in SP policy S.2 and LP policy H.4 is to focus development in the CSV. There is no doubt that Bishop's Cleeve lies in the CSV²¹⁶. The strategy is still relevant and up-to-date as shown by LTP3 and the policy for investment in sustainable transport between Cheltenham and Bishop's Cleeve²¹⁷. It has been tried and tested, most recently in the EiP for the emerging RS²¹⁸. All these matters temper the weight to be attached to the conflict with SP policy S.4.

²¹¹ CD4/1 and CD 4/3

²¹² Sullivan J (as he then was) in *R v Rochdale Borough Council ex Parte Milne (No.2)* (2001)81 P&CR 27

²¹³ CD 9/32

²¹⁴ CD 7/3

²¹⁵ CD 7/9

²¹⁶ LP Inspector's report; Deans Lea; reasoned justification to LP policy BI2

²¹⁷ Corridor 7 in the CSV transport study CD 8/44

²¹⁸ CD 7/13

- 9.6 The LP was drawn up to meet development needs up to 30 June 2011, in accordance with the SP. Weight must be tempered by the fact that the settlement boundary was not drawn to deal with housing needs after that date. Although the policy has been saved, prior to 30 June 2011, considering the LP as a whole it is clear that housing policy has lost its meaning and importance and is now out of date. This has left a vacuum which emphasises the need to look at the underlying strategy for the CSV.
- 9.7 The appeal should not be decided just by reference to a breach of outdated policies but by attaching appropriate weight, which should be 'little weight', and weighing that against 'other material considerations'. These are: the absence of coherent prematurity objections; lack of landscape harm, and; the considerable benefits of the scheme. These tip the balance decisively in favour of granting permission. All the remaining refusal reasons²¹⁹ have been addressed through agreed planning obligations.

Prematurity

- 9.8 PSGP deals with prematurity²²⁰. From this advice, the emerging JCS has not yet reached a stage where it can form the basis of a reason for refusal. Moreover, the JCS has not even settled on a housing requirement figure and so no decisions about scale or location have been taken. It is not even a plan for the whole plan period. Thought is being given to including Stroud and the Forest of Dean²²¹. There is therefore potential for further delay.
- 9.9 PSGP also advises that where there is no early prospect of submission for examination, as is the case with the JCS, then refusal on prematurity grounds would seldom be justified because of the delay which this would impose in determining the future use of the land in question. If prematurity were allowed to prevent development here, the delay would be considerable. The earliest the JCS could be adopted is 2014²²²; the programme has slipped before and is likely to slip again. Promoting the removal of land from the Green Belt will not be easy. There will be much more strenuous local opposition even than the evening session at this Inquiry. This would be even harder due to the very special circumstances which would have to be demonstrated.
- 9.10 Even if all the evidence had been gathered, there would be significant delay by the local politicians as there has been in the past. Here, collecting the evidence base has just begun²²³. The landscape assessment timetable has slipped²²⁴, part of a familiar pattern of matters not moving as quickly as TBC has planned and showing how far there is to go to achieve a formed strategy.

²¹⁹ CD5/36

²²⁰ Paras 17 and 18

²²¹ Revealed during Colin Danks XX

²²² David Barnes SuppPoE app S1

²²³ As evidence by Holly Jones that there was a need for further testing and enquiries

²²⁴ LPA/41

- 9.11 Acknowledging the current economic climate, the need for growth and lengthy forward planning process, the WMS²²⁵ was intended to put an end to prematurity objections. It exhorts decision makers to grant permission on suitable sites where development plans are absent, silent or not up-to-date²²⁶.
- 9.12 The integrity of the forward planning system in this area already gives rise for concern. Alternative modelling²²⁷ broadly supports the JCS technical work, and that Scenario C is required at the very least²²⁸, but suggests that if the economic development and job growth, to which the JCS aspires, is to be delivered then Scenario D is the best option. It is therefore unaccountable that each of the authorities chose Scenario B. Although only at the beginning of a consultation process, they have already made their choice. Neither TBC nor Gloucester City Council has provided reasons for their choice²²⁹. CBC has provided some justification but only by questioning the population projections²³⁰. The approach is irrational as deducting 10% is not the way to allow for a 2% confidence margin²³¹. Moreover, CBC intends to protect its Green Belt, a stance which will have significant implications for the JCS and its timetable.
- 9.13 The JCS authorities have also shown a flagrant disregard for the Sustainability Appraisal²³². This independent assessment shows that Scenario C is the most sustainable option. The lack of explanation for rejecting this is both a failing of planning common sense and a fundamental legal failing. The authority responsible for the adoption of the plan or programme must be presented with an accurate picture of what reasonable alternatives there are and, if alternatives are rejected, reasons must be given²³³. In this case, TBC has failed to provide any rational explanation for its choice. To support Scenario B, TBC would need to reinvent the Sustainability Appraisal, something that the High Court would quickly see through. TBC has shot itself in the foot at the very first stage.
- 9.14 The other Decisions referred to are of no assistance. Cala Homes and Fox Strategic Land have been challenged²³⁴ and cannot be relied upon. The St. Austell case²³⁵ is clearly flawed as the Secretary of State failed to take account of his own policy, as set out in the WMS, or to follow his earlier Decision at Bude²³⁶ where he gave the same Core Strategy process little weight.

²²⁵ CD6/74

²²⁶ See also CD6/96

²²⁷ By Dave King

²²⁸ CD 8/57

²²⁹ CD 9/33, 9/35 and 9/36

²³⁰ CD 9/34

²³¹ CD8/57 para 2.7

²³² CD 8/56

²³³ The High Court in *Save Historic Newmarket Ltd and others v Forest Heath District Council and others* [2011] EWHC 606

²³⁴ WEL 064 and 065

²³⁵ CD 9/39

²³⁶ David Barnes app 3

- 9.15 There is nothing in the Localism Act to say that the development control system cannot proceed until the forward planning process has run its course. To suggest otherwise is to ignore both the WMS and the dNPPF. Rather, the Localism Act creates powers for an additional tier of neighbourhood planning prepared in accordance with the JCS. There is no suggestion that this will happen at Bishop's Cleeve.
- 9.16 The notion that granting planning permission before adopting the JCS would contravene the Aarhus Convention ignores three central points: to date no one has suggested that England's development plan process is not in accordance with the Convention; the process must comply with Article 7 and TBC will no doubt ensure it does; the Inquiry process must comply with Article 6 and there has been extensive public consultation before and after the application and throughout the Inquiry.

Landscape

- 9.17 The site has no landscape policy constraints. Protected landscapes are the most important and TBC accepted²³⁷ that: this graded approach reflected PPS7 and is repeated in the dNPPF, so that impact is to be assessed on character and visual effect; there would be no loss of on-site features of landscape value; the site is within a vast area characterised by the Gloucestershire Landscape Character Assessment²³⁸ as Settled Unwooded Vale; any candidate for an urban extension will affect this landscape type; in terms of the landscape type itself, the impact on the character type would be inconsequential; as the landscape is of medium sensitivity, using the 'Blue Book'²³⁹, the impact would be similar to that of development anywhere in the character area.
- 9.18 Impact on landscape character is not a sensible objection as this is an unremarkable landscape which can acceptably absorb change as it has done in the past.

Visual impact

- 9.19 The landscape officer argued originally that views from the south east would be the most adversely affected²⁴⁰. In evidence, this was not pursued. Impact from views 8 and 9, the footpaths in the countryside, would be 'medium' at worst once an error from view 8 was corrected²⁴¹. The sensible conclusion is that the impact would be 'low'. At the site access, the passing motorist is travelling at speed. They should be viewed as 'low' sensitivity²⁴². The impact should not be an objection. This leaves views from the AONB.
- 9.20 In considering a larger site, the LP Inspector concluded that the AONB was not a basis for objection²⁴³. She was also concerned with containment of the site

²³⁷ *ibid*

²³⁸ CD9/09

²³⁹ CD6/55

²⁴⁰ Report to Tewkesbury Planning Committee WEL/027

²⁴¹ A miscalculation of 'medium' sensitivity x 'medium' change

²⁴² Following the Blue Book

²⁴³ CD 7/11 p430 para 3.14.9

to the west, but that has been dealt with through 'green infrastructure'. There would need to be cogent reasons for departing from that conclusion²⁴⁴. Natural England has raised no objection and expressly deferred to the AONB Board. The Board has accepted the findings of the ES that the impact would be negligible/minor adverse.

- 9.21 The reasons for these conclusions are that: the views are from between 2 and 4km away; settlement is a key characteristic of the views of the 'settled vale' and Bishop's Cleeve is already part of the view; the key issue is the magnitude of change, this is not 'high'²⁴⁵ but 'low'²⁴⁶. There is no case in relation to impact from the AONB and the landscape impacts would all be acceptable.

Benefits

- 9.22 These are many and various²⁴⁷. Most importantly, the proposals would contribute towards a 5 year HLS²⁴⁸. The HLS situation is serious whether rolling forward the requirements of the development plan or taking the figure from the RS Proposed Changes²⁴⁹ which use the most recent, tested evidence base²⁵⁰. It is not legitimate to look at it against Scenario B²⁵¹. There are many Decisions²⁵² in the South West where Inspectors and the Secretary of State have used the RS evidence to assess the HLS.
- 9.23 The JCS will not solve the problem. None of the identified sites will deliver in the next 5 years. The trajectories suppose that Green Belt sites will be released in advance of the JCS being adopted. This would flatly contradict TBC's arguments on prematurity and public consultation. In truth, TBC has given up on a 5 year HLS, contrary to the growth agenda in the WMS.
- 9.24 TBC acknowledges that paragraph 71 of PPS3 applies and that it calls for favourable consideration of the scheme subject to the criteria in paragraph 69. The latter all support development: there would be high quality housing; there would be a good mix including families and, in particular, the elderly; the site is suitable and environmentally sustainable as it would not impinge on any protected landscapes or specific features; it would use land efficiently and effectively.
- 9.25 TBC's only argument with regard to paragraph 69 is that the proposals would endanger the spatial vision for the area. However, the site lies within the CSV and the spatial strategy in the development plan is for development to be situated in the CSV. The scheme cannot breach the JCS spatial strategy as this hasn't been settled on. Whatever it arrives at, Bishop's Cleeve will remain

²⁴⁴ See *North Wiltshire v SoS* (1993) 65 P&CR 137

²⁴⁵ As defined in Table 2.4 of Toby Jones LVIA p9

²⁴⁶ As assessed by Phil Rech

²⁴⁷ Summarised in David Barnes PoE paras 6.90 – 6.92

²⁴⁸ See CD 1/7 for example

²⁴⁹ CD 7/14

²⁵⁰ CD 7/13

²⁵¹ TBC closing para 4.7

²⁵² David Barnes app 3, including: Brynard's Hill, Wootton Bassett paras 28 and 32; Treceus Farm, Padstow para 13; Binhamy Farm, Bude – regard was had to the technical evidence underpinning the RSS

close to Cheltenham and Gloucester, with a functional relationship. It will retain strong public transport links, to be built on by the LTP3 policies, and continue to possess a wide range of community, employment, retail and recreational facilities and so remain top of any assessment of sustainable settlements in the Borough²⁵³.

Affordable housing

9.26 The Housing Needs Assessment²⁵⁴ shows a massive requirement for affordable housing which can only be met through market housing sites. The socially disadvantaged and those on low incomes are already being driven out of the Borough by a lack of housing, contrary to PPS3. Bishop's Cleeve is within Cheltenham's sphere of influence where the need is most acute. Significant weight should therefore be attached to the proposals' commitment to 40% affordable housing.

Infrastructure improvements

9.27 The scheme will deliver a vital contribution to the CSV in LTP3, not just to new residents but to the wider public²⁵⁵. The modal shift to more sustainable modes of transport via the Area Wide Travel Plan²⁵⁶ would improve travel choices for the whole of Bishop's Cleeve and complement those for Cleevelands. Conjoining the two sites would further strengthen Bishop's Cleeve's indicators of sustainability and together deliver complementary bus services and a completed foot/cycle path to the racecourse roundabout²⁵⁷.

Mixed uses

9.28 This mixed use scheme²⁵⁸ would deliver a high street, with employment and live/work units; 4 shops; a site for a health care centre; potential for a nursery and dentist's practice; an allotment extension; a new hall and extensive green infrastructure. The high street would create about 200 jobs and promote small enterprises. The scheme would add to the sustainability and quality of life for existing residents and future occupiers.

9.29 In addition to sustainable transport measures (including buses, cycleways and footways, area wide travel planning and highway improvements to facilitate bus journeys) contributions would be made to additional education and library provision. There would be adequate and appropriate provision to meet the needs of future residents without placing undue burdens on social, community or physical infrastructure.

Comparative exercise

9.30 The parlous HLS and lack of alternatives means that there is a clear and present need for both appeals to be allowed. However, should the Secretary

²⁵³ Rural Settlements Audit CD 8/59

²⁵⁴ CD 9/04

²⁵⁵ Summarised in the agreed note WEL/072 based on CD 4/3, 5/9, 5/11, 5/30 and 5/35

²⁵⁶ See s106 agreement WEL/033

²⁵⁷ CD 9/44

²⁵⁸ CD 5/7 and 5/34

of State conclude that only one site is currently required, Cleavelands is the better site as: it would not involve the loss of BMV agricultural land; the Road Traffic Order along Gotherington Lane is uncertain and the Station Road/Gotherington Lane junction is unsafe, and any measures to deter its use are just beginning, whereas the Cleavelands access arrangements would be straightforward and conventional; Homelands 2 is nearer to the AONB, would form more of the view out and cause greater change²⁵⁹; delivery of Homelands is likely to be slower than for Cleavelands.

- 9.31 Comparo's criticisms of Cleavelands are unsupported. In particular: the foul water pumping station is not an issue²⁶⁰; Wingmoor Farm poses no significant threat to residential amenity²⁶¹; none of the properties would be at risk of flooding²⁶²; people already cross the A435 and the crossing points would be made entirely safe and satisfactory; the design retains a view to the Malvern Hills and, unlike Homelands 2, would have a much lower impact from the AONB. A comparative analysis favours Cleavelands.

Conclusions

- 9.32 The need to address the parlous HLS cannot wait for the forward planning. TBC has become notorious for failing to meet its 5 year HLS. It neither can, nor will, provide housing land through forward planning, nor will it release it through the development control process. Bishop's Cleeve remains a suitable sustainable settlement for growth. The emerging JCS does not discount this possibility. TBC failed to consider the potential benefits²⁶³; when these are put in the planning balance, permission should be granted.
- 9.33 All the matters raised by the Secretary of State have been addressed. The evidence shows that the scheme would be sustainable development. It should benefit from the presumptions in favour of sustainable development, in the dNPPF and WMS, and the appeal should be allowed.

10. The Cases for Interested Parties

Comments made in addition to those of the main parties are summarised below²⁶⁴. Where speakers made the same points these are not repeated in this report. The views expressed overwhelmingly opposed both applications. Apart from representatives for the developers, I was not aware of any support for the schemes amongst the 245 people who attended the evening session of the Inquiry.

Bishop's Cleeve Parish Council

- 10.1 Approval for the 450 houses at Homelands 1 was based on the RSS identified need for 1,000 houses north of Bishop's Cleeve. This process has halted and is

²⁵⁹ CD 8/7 is draft and ignored the views out from the AONB – see Phil Rech PoE pp 27-28

²⁶⁰ Neither TBC's Environmental Health Officer (EHO) nor Severn Trent Water (WEL/059) objected

²⁶¹ Neither TBC's EHO nor the Environment Agency (EA) objected (WEL/069)

²⁶² Neither TBC's Drainage Officer nor the EA objected

²⁶³ Paul Smith in XX

²⁶⁴ Documents TP/01 – TP/18

no longer relevant. The appeals are contrary to the LP and no decisions should be made before the JCS is completed.

- 10.2 Bishop's Cleeve does not generate enough employment for current residents: it is a dormitory town. Each scheme would represent a 10% increase on the existing village population. The proposals would not provide significant employment but would increase commuting and congestion and so be unsustainable. The A435 is already heavily congested at peak times. The Evesham Road access is restricted in a northerly direction increasing traffic through the village. This should be converted to a roundabout. The Cleevelands development on the other side of the A435 would encourage car use to get from one side to the other. There should be good cycle and pedestrian routes to the village.
- 10.3 Cleevelands proposes a new GP surgery. While expansion would be welcome, it would not be accessible to many. Although additional convenience stores would be welcome, they could encourage satellite communities, reduce the cohesiveness of the village and affect the vitality and viability of the village.
- 10.4 Many of our objections are common to both developments and so we will not be drawn into a beauty contest between the two. Despite our objections, we have engaged actively with both developers and developed a 4 year plan for consultation which was used as the basis of our s106 wish list. This identifies the need for changing rooms at the sports field, youth shelter and multi use games area (MUGA), enhancing the formal sports pitches at the Cheltenham Road site, a separate toilet block at the sports field, statutory allotment land, outdoor tennis courts, and an additional community building.
- 10.5 In the event of the doomsday scenario of both proposals proceeding, the Parish Council has looked constructively at how the s106 provisions could sensibly be combined²⁶⁵.

Robert East/Robert Bird, Borough Councillors, Bishop's Cleeve

- 10.6 A questionnaire was delivered to 4,880 dwellings asking whether the proposals were supported or not, and inviting comments. Of 558 replies, 554 opposed, only 4 supported one or other or both. Their objections included, in order of concern: inadequate highway infrastructure; traffic; medical facilities; parking; school and nursery facilities; flood risk here, upstream and downstream; employment, and; lack of housing for specific groups.

Helen Wells, Save Our Countryside

- 10.7 The dNPPF has an uncomfortable bias towards growth at the expense of social and environmental concerns. The Prime Minister has since asserted that these three aspects should be treated equally but this has yet to appear in a revised text.

²⁶⁵ Email at CD 9/40 app 3

Rachel Lee

- 10.8 I live in Little Acorns which is the only residential road adjacent to the Cleevelands site and would be one of the residents most affected. 10 years ago I paid more for my house as it was backing onto beautiful fields, with wildlife, and was in a quiet area. All this wildlife would be destroyed. My road would be one of the access points but the road is not big enough and trees would be destroyed. It is a quiet cul de sac where children play and cats sit in the road. It would be used as a rat run. It is certainly not suitable for a regular bus route and is not necessary as an entrance.
- 10.9 Affordable housing usually equates to housing association homes and the issues that go with them. Shop units also attract anti-social issues including food and takeaway units which bring noise, traffic, smells and pollution. There is a stream/brook alongside Little Acorns and in the 2007 floods water inched towards my house. Any development would worsen this situation. The soil is clay and does not absorb water.

Ellen Cooke, Gotherington Parish Councillor

- 10.10 The draft RSS has been discredited and does not have any legal validity. The government introduces the draft Localism Bill as follows: *This government trusts people to take charge of their lives and we will push power downwards and outwards to the lowest possible level, including individuals, neighbourhoods, professionals and communities as well as local councils and other local institutions.*
- 10.11 The Gotherington Village Design Statement was adopted as SPG by TBC in July 2006. Amongst other useful information it identifies the view south to Bishop's Cleeve and a strong commitment by residents to 'fight against any development which would bring Bishop's Cleeve closer to Gotherington'.
- 10.12 In its latest letter, the Gotherington Parish Council (GPC) submitted a map illustrating its concern that traffic wishing to travel north from Homelands 2 would use Gotherington Lane as a rat run to the A435 adding to the problems at a difficult and dangerous junction²⁶⁶. GPC sought ownership of land between Homelands 2 and Gotherington, which it would then lease back for 125 years on a nominal rent, rather than a Deed undertaking not to develop the land.

Ray Woolmore – Campaign to Protect Rural England (CPRE) Cheltenham & Tewkesbury District

- 10.13 The Regional Strategies will soon be abolished under the Localism Act. Nevertheless, it should be noted that the draft RSS had not been subject to the required sustainability appraisal. The dNPPF defines sustainable development as planning for prosperity, people and places (economic, social and environmental roles).
- 10.14 There is no doubt as to the importance successive governments have given to protection of AONBs. Both proposals would harm valuable tracts of open

²⁶⁶ These concerns are addressed in HOM53

countryside and the setting of the AONB. Both appellants' landscape consultants have used landscape and visual impact assessments (LVIAs), in accordance with guidelines from the Landscape Institute and the Institute of Environmental Assessment, and concluded that there would be negligible to moderately significant medium term adverse visual impact. These involve a measure of professional, subjective judgement. As a planner well versed in landscape and visual impacts, I believe that the proposed developments would have highly adverse landscape and visual impacts on the Cotswold AONB. This is supported by a letter from Natural England²⁶⁷.

- 10.15 Regardless of the proposed landscape mitigation measures, from the public footpath between Woodmancote and Manor Farm Gotherington, along the open slopes of Nottingham Hill within the AONB, the classic view outwards across open countryside to the Vale of Severn and beyond would be detrimentally affected by the scale and proximity of the proposals. From higher viewpoints, the developments would add considerably to the urbanisation of the Severn Vale setting of the AONB and no amount of mitigation would be effective from these heights. The setting of the AONB should be a crucial issue in these Decisions.
- 10.16 The CPRE has agreed much of the Homelands 2 SoCG²⁶⁸. However, concerns remain that: it does not cover Cleavelands or the cumulative impact; that viewpoints D, E and F would be particularly damaging to the classic view outwards from the AONB across open countryside to the Vale of Severn and beyond to the distant Malvern Hills AONB; and that Cleavelands would have a highly adverse visual impact from these 3 high AONB viewpoints. Although the colour washes are agreed as accurate, they do not show the Vale of Severn and Malvern Hills with any clarity and from viewpoint H the impact would be more prominent.

Stoke Orchard Parish Council

- 10.17 The Parish Council strongly objects on the grounds of potential flooding as a result of increased run off speed from storm water. Detailed flood reports have not convinced us that the proposals would be effective in slowing the run off which could then cause flash floods at pinch points in the watercourse further downstream including the culvert under the railway line and the bridge culvert at Tredington. In particular, the proposed balancing ponds and swales would be excavated out of heavy impermeable blue lias clay which will already be full during periods of wet weather, when they will be most needed.

Allen Keyte, Deputy Leader of Tewkesbury Borough Council

- 10.18 I recently completed a survey of the 3 villages north of Bishop's Cleeve. 231 of 500 households responded with around 98% opposed to new development.

²⁶⁷ Letter dated 17 August 2011 from Sally King of the Exeter Land Use Team at TP/18

²⁶⁸ By Ray Woolmore attached to CD9/43

*Mandy Gibbs, Gloucestershire Constabulary*²⁶⁹.

- 10.19 The Constabulary has requested funding towards police transport, the use of a room for community surgeries and mobile data equipment costs. Originally, contributions were sought for additional staffing in line with the Association of Chief Police Officers National Formula but this was downgraded following the freeze on recruiting. In the views of the constabulary, the contributions would satisfy the tests in Circular 05/05 and CIL Regulation 122²⁷⁰.
- 10.20 In written representations, the Constabulary set out its detailed concerns with regard to the design of Homelands 2 and suggestions for features which would aid crime reduction. These have generally been incorporated into subsequent revisions.
- 10.21 Cllr. Ceri Jones summarised the objections of very many local residents. Particular emphasis was placed on the woeful lack of infrastructure.
- 10.22 Cllr Tony Mackinnon argued that there is a very wide margin of error in the population predictions such that it is likely that considerable pressure would be taken off TBC in the future. Although the dNPPF suggests 20% should be added to the 5 year housing land supply, not many LPAs are keen on the idea and it is likely to be thrown out.

11. Written Representations

The numerous representations submitted at appeal stage are in the red folders. Virtually all of these oppose one or both of the appeal proposals. Few of the written representations made points which were materially different to those subsequently raised by TBC and the interested persons who spoke at the Inquiry. Of those who did raise significant additional matters, the material points are set out below.

- 11.1 The *Villages Action Group* made representations, most of which were also made by TBC. Bill Spragg, for the Group, sent in his traffic survey analysis including records of gridlock of the A435. The Group also submitted a bird study covering 60 species some of which are on the RSPB red endangered list. In a separate letter it queried the impact on the junction between the A435 and Malleson Road.
- 11.2 *Laurence Robertson, MP for Tewkesbury*, objected to Homelands 2 expressing particular concern over coalescence, traffic, flooding, community spirit and facilities, conflict with the LP and lack of proven need.
- 11.3 *RPS Planning & Development Ltd.* wrote on behalf of Miller Strategic Land and M A Holdings, members of the Leckhampton Consortium, which is promoting land adjacent to Cheltenham. It objects as: there is already sufficient housing at Bishop's Cleeve to 2016; other sources of housing land supply are already committed; the Core Strategy is progressing; it would be contrary to the development plan and would not satisfy paragraph 69 of PPS3.

²⁶⁹ Representations collated at CD9/51 together with Cllrs. Ceri Jones, and Tony Mackinnon

²⁷⁰ Some points were later conceded by Mandy Gibbs in XX

- 11.4 *Boyer Planning* wrote in a similar vein on behalf of J S Bloor and Persimmon Homes Ltd. with regard to their site at north-west Cheltenham.
- 11.5 The *Severn & Avon Valley Combined Flood Group* objected, with reference to the Environment Agency flood map, that reliance, at Cleavelands, solely on SUDS would be totally inadequate and would not work within a floodplain which would be fed from other areas.
- 11.6 *Mark Franks of NHS Gloucestershire* clarified²⁷¹ the complicated matter of where the public benefit would lie in contributions towards GP surgery buildings. He advised that the Primary Care Trust provide General Medical Services contracts to GP Practices which then provide medical care on behalf of the NHS through their own Surgery buildings. The contracts are between the Primary Care Trust and the Practice not the individual GP. These buildings are either owned or rented by the Practice. Nevertheless, the services provided from them are for patients of the NHS. Any commuted sums paid for healthcare would therefore be spent on buildings that are owned by Practices which provide an essential service to NHS patients.
- 11.7 *Dr W A Martin* of the dental practice in Church Road, Bishop's Cleeve advised that it has been looking for new premises for some time and supports the Welbeck proposals which would provide the necessary facility to employ between 12 and 15 staff and practice dentistry to an exceptional standard.
- 11.8 *Janet Weyers* of The White House, Gotherington Lane, would be particularly affected by Homelands 2 and made a number of detailed representations. Of those not covered elsewhere, she expressed particular concern with regard to the proposed road along her northern boundary, a commercial centre to the west, and development on all sides.
- 11.9 *Andrew Harrington* set out reasons why he thought the SHLAA was wrong. *Michael Stevens* pointed out the large number of empty homes. *Simon Tarling* expressed his worries about increased light pollution. *Mrs Butler* added her concern over the height of future dwellings, regretting the height of those allowed at Homelands 1.
- 11.10 *John and Sue Hunt* accepted, on balance, that the local infrastructure would be able to accommodate the 450 homes at Homelands 1. However, adding a further 1,000 dwellings would take the population of Bishop's Cleeve close to that of Tewkesbury without comparable infrastructure. *Abid Nasser*, a local businessman who started working from home, offered his support for the live/work accommodation proposed at Cleavelands.

12. Conditions

A combined schedule of conditions, followed by those unique to Appeal A and to Appeal B, were mostly agreed between the Council and the Appellants²⁷². All the suggested conditions were discussed at the Inquiry and, subject to minor adjustments to accord with guidance in Circular 11/95: *The Use of Conditions in Planning Permissions*, these are set out at Appendix C. For the following reasons,

²⁷¹ In a written response following one of my questions (email – red folder)

²⁷² CD 9/55

should planning permission be granted for one or both of these proposals, I recommend that these should be imposed.

- 12.1 In accordance with DCLG: *Greater flexibility for planning permissions* I have added a condition which requires the development (other than that subject to reserved matters approvals) to be carried out in accordance with the approved plans (condition 1). Conditions are needed to impose the statutory time limit conditions and to cover the submission of reserved matters (conditions 4, 5, 6).
- 12.2 In the interests of proper planning, and to ensure the delivery proposed is carried out in the timescale referred to in my reasoning, a phasing scheme is required that covers the submission of the details appropriate to each phase. In the event that both schemes are granted permission, the combined effect would need consideration²⁷³. On the other hand, development should not be delayed unnecessarily by waiting for approval of details. On this point, I find that a condition requiring submission of the phasing at the same time as, rather than before, the first of the reserved matters would provide the necessary control without risking unnecessary delay (condition 2).
- 12.3 To achieve the standard of development necessary to avoid any greater harm than I have assessed in my planning balance, and in the interests of sustainability, the proposed agreed Design Principles should be enforced. Concern has been expressed by interested parties over the height of recent housing compared with older developments in Bishop's Cleeve. I agree that this juxtaposition is unfortunate and that there is therefore a need to restrict the height of future dwellings, which could also be achieved through the Design Principles (condition 3).
- 12.4 A condition requiring a statement demonstrating compliance with the Parameters Plans, Consolidated Design and Access Statement, the Master Plan, phasing plan and Design Principles would repeat the control provided by conditions 3 and 4 and would be unnecessary (suggested condition 7).
- 12.5 To provide greater precision for these substantial developments, the details required for reserved matters should be set out. Of these, Comparo queried whether or not fire hydrant details were necessary as they may be covered by other legislation. However, given the importance of these and in the absence of the details of how they could otherwise be required, I find that their location and timetable for their provision would be needed (condition 8).
- 12.6 To properly control the permission/s, the numbers of dwellings and other areas need to be defined (conditions 9 and 10).
- 12.7 Drainage needs to be controlled to minimise flood risk, including compliance with a management and maintenance plan (conditions 11 and 12).
- 12.8 In order to achieve the standard proposed, and minimise harm to the character and appearance of the area outside the site/s, control over trees, landscaping and biodiversity is necessary (conditions 13, 14, 15 and 16).

²⁷³ Summarised in CD 9/40

- 12.9 Protection is needed for any archaeological remains, as recommended by the county archaeologist (condition 17).
- 12.10 In the interests of neighbouring residents, construction methods and hours need control (conditions 18 and 19). Similarly, but with regard to future occupiers, noise from external sources and proposed uses should be controlled with regard to what is proposed in each appeal (conditions 20, 22 and 23 as appropriate).
- 12.11 Different standards were agreed for renewable energy, Code Levels and Standards for the proposed houses. As the degree of sustainability, or otherwise, is a significant part of the planning balance, for the proposals to be acceptable it is appropriate to consider the amount of energy, and proportion of decentralised, low carbon or renewable energy, which would be consumed in the future. Comparo put forward a suggested condition requiring a minimum of 20%, as against the more usual 10%. A higher % would not only reduce carbon use but, through a strong financial incentive to minimise the provision of more expensive renewable energy, would also be likely to increase the levels of insulation. Consequently, to reduce overall energy consumption and substantiate both appellants' claims that their schemes would be sustainable development, I find that the higher level of 20% would be necessary and should be imposed on both schemes. As the development plan is under review, it is appropriate that the level of carbon reduction should be linked to that at the time of each reserved matters application. (Homelands 2 [H/L 2] conditions 8, 9 and 10 renumbered as common conditions 25 - 27).
- 12.12 For similar sustainability reasons, all the dwellings shall be constructed to Lifetime Homes standards (or equivalent) and this requirement should apply to both schemes (Cleavelands [C/L] condition 15 renumbered as common condition 28).
- 12.13 It was agreed that the non-residential buildings should meet the 'very good' standard, as assessed by the Building Research Establishment Environmental Assessment Method (BREEAM), and for similar reasons, I find that this would be necessary (condition 24).
- 12.14 To protect existing wildlife as far as possible, a Mitigation, Enhancement and Management Plan (MEMP) is needed (condition 29).

Homelands 2

- 12.15 Although nothing has been found to date, previous uses suggest possible contamination. To minimise any risk, control is required. Recent government advice²⁷⁴ suggests that the model conditions in PPS23: *Planning and Pollution Control* can be improved upon and the Environment Agency and TBC have confirmed its agreement to the use of the DCLG contamination condition²⁷⁵ (H/L condition 2).

²⁷⁴ HOM58 and CD9/55

²⁷⁵ LPA/43

- 12.16 Highways improvements, both for access and safety, would be controlled by both conditions and s106 agreements. Conditions are preferable where possible and these are necessary to achieve these improvements and control their phasing (conditions H/L 4, 5, 6 and 7).
- 12.17 The works in Appeal C would be required by unilateral undertaking (see paragraph 13.10 below) and so no conditions were suggested and none would be necessary other than to list the plans as the undertaking.

Cleavelands

- 12.18 The description in Appeal B includes a provision of 30 units for retired people. Contributions towards Education have been reduced accordingly. TBC sees no need for this restriction and nor do I. Nevertheless, if Welbeck is to be allowed to avoid these payments on the basis that its application would have this limitation, then this restriction should be imposed (C/L condition 1).
- 12.19 The requirements and contributions have evolved such that changing rooms are no longer desired on the site, but improved provision is needed on the existing Cheltenham Road sports ground, on the southern edge of Bishop's Cleeve, and this can be secured through the relevant s106 agreement. Accordingly, a condition is needed to exclude this aspect of the development (C/L condition 2).
- 12.20 Appeal B includes a proposal for 16 live/work units. TBC did not agree that there is a requirement for these to be controlled. I agree, and find that any restriction would be difficult to enforce. While not seeking to exclude this provision, I have omitted this suggestion (previous C/L condition 3).
- 12.21 The relatively low lying land at Cleavelands could put houses at risk of flooding in extreme events without other precautions. The pumping station could also give rise to odours without an assessment and if dwellings were built too close. Control over these is therefore necessary (C/L conditions 4, 5 and 6).
- 12.22 There is no information suggesting contamination on the site and so, while control is needed, a simplified version would be appropriate (C/L condition 8).
- 12.23 Similar control to that at Homelands 2 is required over highways, but with reference to different roads (C/L conditions 9, 10, 11 and 12).

13. Section 106 Agreements, Unilateral Undertakings and other Deeds

- 13.1 There are a number of fully executed Planning Obligations, six by agreement and three by Unilateral Undertaking, and two Deeds of Covenant all of which were discussed at the Inquiry. Statements of Compliance with the CIL Regs have been submitted²⁷⁶.
- 13.2 In the event that both appeals are successful, and Homelands 2 and Cleavelands are developed concurrently, a Transport SoCG²⁷⁷ has been agreed between both appellants and the GCC with regard to Highways

²⁷⁶ LPA/31 and LPA/32

²⁷⁷ CD9/44

contributions. Draft Heads of Terms²⁷⁸ have been drawn up to avoid double counting. This eventuality would also allow the proposed cycleway to be completed in full and provide the best option for the 527 bus service.

- 13.3 Affordable Housing would be provided on both sites which would satisfy the revised definition of affordable housing in Annex B to PPS3 June 2011.

Cleevelands

- 13.4 Welbeck has submitted three planning obligations, by agreement, under s106²⁷⁹. Two are with GCC; one is with TBC. Within the TBC agreement, the owners undertake to provide public open space, play areas²⁸⁰, sports pitches, a community facility²⁸¹, a healthcare facility²⁸², allotments²⁸³, recycling and refuse bins²⁸⁴, changing rooms²⁸⁵, ecological management²⁸⁶, SmartWater signage²⁸⁷, dog waste bins and signage, and 40% affordable housing²⁸⁸.
- 13.5 In the first agreement with GCC, the owners covenant to pay, in phases, three education contributions²⁸⁹ and a library contribution²⁹⁰. They also undertake to procure a fixed bond of £3,436,000 plus undefined legal charges and technical charges of £2,000.
- 13.6 The final agreement would require phased contributions for highways²⁹¹, public transport²⁹² and a Travel Plan²⁹³. The latter contribution would fund an Outline Travel Plan²⁹⁴ with the aim of achieving a modal shift across the whole of Bishop's Cleeve²⁹⁵. In the event that this is not achieved, the deposit would be used as necessary to undertake further measures to achieve this end. This agreement would again include a bond, in this case for £2,866,350.

²⁷⁸ CD9/56

²⁷⁹ The final versions have been substituted for the drafts at WEL/031, WEL/032 and WEL/033

²⁸⁰ Both locally equipped areas for play (LEAPs) and multi-use games areas (MUGAs)

²⁸¹ Defined as a community building of 700m² constructed to a defined specification for community uses to Sport England guidelines at a cost of approximately £750,000

²⁸² Meaning either land of approximately 0.17ha for this purpose or a Healthcare Facility Contribution

²⁸³ Defined as an area of approximately 0.7ha marked for indicative purposes only on the Masterplan, and prepared to a defined specification, to be offered to TBC (or the Parish Council at TBC's direction)

²⁸⁴ Defined as a contribution of £50 for their provision

²⁸⁵ For Cheltenham Road sports ground through a contribution of £176,000

²⁸⁶ To be in accordance with the fpcr Framework Landscape and Ecological Management Plan

²⁸⁷ Or other approved anti-theft product

²⁸⁸ With provisions for phasing and a mix of generally 50% rented and 50% intermediate

²⁸⁹ Comprising: Early Years - £171,694; Primary - £1,430,780; Secondary - £1,832,704

²⁹⁰ £107,758 for re-arrangements described in evidence by Mr Murphy of GCC. At one time GCC planned to close a number of libraries but this decision was overturned at Judicial Review. The decision would not have affected Bishop's Cleeve in any event.

²⁹¹ £720,000 for stipulated works together with a contingency fund of £305,950

²⁹² A total of £1,750,000 in ten instalments

²⁹³ A contribution of £90,400 plus a deposit of £74,500 and a monitoring fee of £5,000

²⁹⁴ Annexed to the agreement

²⁹⁵ See chapter 7

Homelands 2

- 13.7 Comparo has submitted a number of planning obligations, under s106, and two Deeds of Covenant. Of the two s106 agreements with GCC²⁹⁶, one concerns libraries and education²⁹⁷, the other highways and transportation²⁹⁸. As well as contributions the latter would also require a Travel Plan²⁹⁹ and deposit³⁰⁰ to be held against the failure to achieve targets for modal shift to be agreed. GCC would also have the option of entering into a highway works agreement³⁰¹ for the owner to carry out the highway works in lieu of that contribution. Finally, the agreement would require a bond³⁰² and provision for unspecified legal and technical fees.
- 13.8 There is one agreement with TBC³⁰³. In this, the owners undertake to provide public open space³⁰⁴, play areas and equipment³⁰⁵, youth shelter³⁰⁶, sports pitches³⁰⁷, changing facility, toilets and tennis provision³⁰⁸, a community building³⁰⁹, bowls equipment³¹⁰, a healthcare facility³¹¹, allotments³¹², recycling bins³¹³, dog waste bins and signage, policing³¹⁴ and 40% affordable housing³¹⁵. In addition to the public open space, there would be private areas with shared access (described as 'green fingers', above) for which the agreement would require a 'Private Areas Scheme'³¹⁶ for their provision and subsequent maintenance.

²⁹⁶ HOM45 and HOM 46

²⁹⁷ Requiring phased contributions for: Early Years - £148,581; Primary - £1,238,175; Secondary - £1,585,994; Libraries - £88,200

²⁹⁸ Comprising phased contributions for: cycle routes signage - £9,400; highway works - £819,939; bus service (maximum) - £1,144,000; foot/cycleway link - £40,209

²⁹⁹ Defined as a means to deliver a modal shift away from private car in favour of public transport and other means of travel including walking and cycling

³⁰⁰ Of £81,300, and monitoring fee of £10,000, with a schedule of repayments

³⁰¹ For which a draft is included

³⁰² Of £2,751,714

³⁰³ HOM47a

³⁰⁴ Identified as informal open space on the Public Open Space Plan together with a commuted maintenance

³⁰⁵ For both locally equipped areas for play (LEAPs) and multi-use games areas (MUGAs) and for equipment and commuted maintenance sums towards future maintenance

³⁰⁶ Up to a construction cost of £9,000

³⁰⁷ To a set specification together with a commuted maintenance

³⁰⁸ By way of a contribution of £250,000

³⁰⁹ Defined as a multi-use building of 511m² of cost not more than £562,100 to be constructed to a defined specification for community uses (including indoor sport to the standard required by Sport England)

³¹⁰ Via a contribution of £1,596.90

³¹¹ Meaning a contribution of £50,750 towards a new centre, surgery or other improvement

³¹² Defined as approximately 1ha as shown on the Masterplan, together with specified services

³¹³ Defined as a contribution of £50 per dwelling

³¹⁴ A contribution of £25,000 towards 2 police cars and £3,000 towards handheld networked technology

³¹⁵ With provisions for phasing and a mix of generally 50% rented and 50% intermediate

³¹⁶ Defined as a management plan either for individual groups or a Management Company

- 13.9 There are three undertakings to TBC. The first³¹⁷ covenants the appellant to submit details to the South West Design Review Panel for comment prior to submitting any reserved matters.
- 13.10 The second³¹⁸, with adjoining owners, would prevent the development starting until permission is granted for the links with Homelands 1, which were the subject of Appeal C. The undertaking includes TBC's draft permission. A third undertaking to TBC³¹⁹ by the appellant would prevent occupation of Homelands 2, in phases, until the links have been completed. TBC confirmed on the final day, following completion of the s106 agreement, that it was withdrawing its objections to this appeal and that it would be issuing an approval. Comparo advised that it would be withdrawing this appeal. However, although it is in TBC's interests to grant permission and allow the undertaking to require the works, until this is formally confirmed, Appeal C should be considered and I have made my recommendation accordingly.
- 13.11 Finally, Comparo has also offered signed and dated Deeds of Covenant between the respective owners of the land between Homelands 2 and Gotherington and Gotherington Parish Council, for it to complete or not as it sees fit, not to develop these lands without its written consent³²⁰.

Conclusions on planning obligations

- 13.12 The legal provisions are as set out above. All the s106 obligations have now been completed and so the GCC's objections and the relevant TBC putative reasons for refusal are withdrawn. All the agreements are fit for purpose and most of their provisions meet the tests in Circular 05/2005: *Planning Obligations*. Three of the tests in Circular 05/2005 have been given a statutory basis through Regulation 122 of the Community Infrastructure Levy Regulations 2010 (CIL Regs) which stipulates that a planning obligation may only constitute a reason for granting planning permission if the obligation is: necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind to the development. TBC has not yet adopted a charging regime under the CIL Regs.
- 13.13 Works to the highways, directly or indirectly, a public transport subsidy and a Travel Plan in each appeal have been calculated to achieve the correct modal shift to avoid increased use of the private car across Bishop's Cleeve as a whole and so render the locations of the sites significantly more sustainable. Although an ambitious target, this level of modal shift has been achieved elsewhere. As well as considerable bus subsidies, significant penalties could be imposed on each developer if the target is not met and these have been calculated so that they could be deployed on other measures to achieve the target. The extended bus route would achieve the aim of access to public transport and make the schemes compliant with SP policies S.2 and H.4.

³¹⁷ HOM47b

³¹⁸ HOM48, signed on three similar copies

³¹⁹ HOM49

³²⁰ HOM27

- 13.14 The education contributions in both appeals would be spent on: Early Years' provision in the Bishop's Cleeve area, capital works to extend, remodel, upgrade and improve local schools. The library contributions would be spent on internal re-arrangements to the local library in Bishop's Cleeve to increase the lending area. Similarly the public open space provisions, play areas, sports pitches, community and healthcare facilities, allotments, recycling and refuse bins, changing rooms, ecological management, dog waste bins and signage, would all be proportionate to the needs of future residents and necessary to mitigate against the likely impact on Bishop's Cleeve.
- 13.15 One small exception is the police contribution. While there was no dispute that additional policing would be required, and that in the current economic climate existing resources are likely to be stretched, to be lawfully considered in these Decisions any contributions would need to satisfy the CIL Regs. The contributions towards transport, room rental and mobile data equipment would not be exclusively used for the development. By comparison, the education contributions would fund new school buildings specifically for the anticipated increase in children, and therefore be a legitimate subject for s106 agreements, but would not fund additional teachers. In my assessment, which also accords with that of both appellants at the Inquiry, the Constabulary's request would not be sufficiently closely related and so would not meet the tests in the CIL Regs and should not be taken into account in these Decisions.
- 13.16 The provision of 40% affordable housing, and its phasing, would comply with the requirements of relevant development plan policies and keep pace with the market housing completions. Dedicating up to 400 dwellings as affordable homes would make considerable inroads into the current shortfall of 707 affordable homes in the Borough. Their provision would not only comply with the CIL Regs but is a material consideration to which substantial weight should be given.
- 13.17 Payment of the larger contributions includes phasing to marry up with delivery of the dwellings and the agreements include clauses requiring repayment in the event that the contributions are unspent. In almost all cases, the provisions for both appeals would strike the right balance between fully mitigating the likely adverse impacts of the developments, and meeting the needs of future residents, without the provisions exceeding that which is necessary to make the developments acceptable.
- 13.18 Finally, the Deeds of Covenant may or may not offer some reassurance to the residents of Gotherington, but the lands concerned could not be developed without planning permission which should not be granted without good reason. Limited weight should therefore be given to the benefits of these Deeds.
- 13.19 With the minor exceptions above, the requirements in Circular 05/2005 and the CIL Regs have been met and account should therefore be taken of the obligations in these Decisions.

14. Inspector's Conclusions

References in square brackets [N] refer to earlier paragraphs in this report.

From the written evidence, from the submissions at the Inquiry and from my site visits I have reached the following conclusions.

- 14.1 Subject to the planning obligations, which have now been completed (see section 13), at the end of the Inquiry TBC was only pursuing three putative reasons for refusal (with a fourth for Homelands 2) [1.7].
- 14.2 Taking account of the oral and written evidence, my observations of the sites and the surrounding area, and the matters on which the Secretary of State wishes to be informed, the MAIN CONSIDERATIONS in these appeals are as follows.

For both appeals:

- i) whether or not the proposals would comply with the development plan and, if not, whether there are material considerations which could outweigh any conflict;
- ii) whether the release of either or both sites for housing would be premature in advance of the emerging Joint Core Strategy (JCS);
- iii) the effects of the proposals on the character and appearance of the area, including the adjacent Area of Outstanding Natural Beauty (AONB), with particular regard to landscaping;
- iv) the extent to which the proposals would comprise sustainable development, with particular regard to design principles and promoting sustainable transport choices.

For Appeal A (Homelands 2), a further consideration is:

- v) the effect of the proposals on the supply of the best and most versatile (BMV) agricultural land.

- 14.3 From the Environmental Statements (ESs), and the further information submitted at the Inquiry, I am satisfied that the evidence in both the ESs is thorough and comprehensive and fully adequate for a reasoned assessment of the likely environmental impacts of the developments, and how they may be mitigated, and that the requirements of The Regulations have been met. Both ESs are fit for purpose. I have taken all the environmental information into account in my report and my recommendations to the Secretary of State.

The development plan and other material considerations

- 14.4 Both appeal sites are in the countryside beyond any defined residential development boundary. Both proposals would therefore be contrary to SP Policy S.4 and LP Policies HOU2 and HOU4. If Bishop's Cleeve is considered a village, then they are also contrary to SP policy H.6. Development in the countryside is contrary to policy in PPS7. On the face of it, considerable weight should be given to these conflicts with policy. [3.7][3.11-12][6.2][9.3]
- 14.5 On the other hand, the SP has an end date of 2011. The boundaries in the LP are similarly based on housing requirements for the period up to June 2011.

While some policies in the LP were saved, this was by a Direction in March 2009, prior to June 2011. LP policy HOU1 has run its course and the relevance of all these policies has receded considerably. This significantly reduces the weight that should be given to the conflict with the relevant SP and LP housing policies. [3.7][3.11][6.2][9.3]

- 14.6 Interpretation of the SP depends in part on an understanding of the Central Severn Vale (CSV). Tewkesbury Borough Council (TBC) acknowledged that Bishop's Cleeve is within the CSV. Compliance with SP policies S.2 and H.4 relies partly on the functional links between the appeal sites and the principal settlements of Cheltenham and Gloucester and the ease and convenience of access by public transport. Deans Lea was allocated on the basis that it would comply with the development plan. Both proposals include s106 agreements to deliver substantial bus subsidies and Travel Plans; these would be even more effective if both sites were developed together. Consequently, whether or not the sites lie within the CSV as defined in the SP depends in part on the ability of the s106 Agreements to deliver attractive bus services and effective travel plans, and I return to this matter below. [2.1][3.7][13.2]
- 14.7 Section 109 of the Localism Act (November 2011) deals with the abolition of Regional Strategies (RSs). The first stage has immediate effect and prevents any further RSs being created. The second stage is to lay orders in Parliament revoking the existing RSs, and saved SP policies, but this is subject to the outcome of environmental assessments and decisions will not be made until these have been considered. Following enactment of the Localism Act, the revocation of RSs has therefore come a step closer. However, until such time as RPG10 is formally revoked by order, limited weight should be attributed to the proposed revocation in determining these appeals. On the other hand, RPG10 is very dated and the draft RSS will now never be finalised. [3.5]
- 14.8 The most important material consideration is Housing Land Supply (HLS). TBC cannot demonstrate a 5 year HLS, against the SP or draft RSS, and has accepted that the presumption in favour of housing development in these circumstances (paragraph 71 of PPS3) applies. In principle, the pressing need for a 5 year HLS is capable of outweighing the conflict with housing policies in the development plan. TBC has argued that the emerging Joint Core Strategy (JCS) would provide over 10 years HLS. To understand the HLS position, and the weight to be given to this material consideration, I have therefore first looked at emerging policy. [3.23-25][6.11]

Prematurity

- 14.9 The emerging JCS follows a steer in the draft RSS EiP and is also in line with the duty to co-operate in the Localism Act. This is no doubt a sensible approach, not least because most of the area around and between Cheltenham and Gloucester lies within Tewkesbury Borough. A broad evidence base has been assembled to update that for the draft RSS. The 3 Councils have chosen to review the housing requirements locally and agreed that the *Developing the Preferred Option consultation document* (DPO) should be published for consultation. This identifies strategic allocations for up to 29,500 homes. It proposes that Bishop's Cleeve should be placed in the third

tier of settlements. From past responses, it must be expected that there will be a significant number of representations to the DPO and that they will not all be in support. The conclusions on the DPO will form a key part of the JCS. The current timescale is for adoption in January 2014. [3.13][3.18]

- 14.10 PPS3 seeks an evidence-based approach, drawing on sources such as SHLAAs and other relevant evidence, to identify sufficient specific deliverable sites for the first 5 years. For the JCS area, there are 3 ways of assessing this. Against both the extrapolated SP and the RSS Proposed Changes there is an agreed shortfall, but the evidence bases for both of these is out of date. Against the emerging JCS, the position depends on the estimated needs and the likely delivery rates (trajectory). TBC's stance is that, until locally derived figures have been agreed, there is no statistical basis available for the HLS requirement which should be determined in the JCS, following local consultation. [6.11][8.19]

HOUSING NEED

- 14.11 The parties roughly agree about the population projections in the HBP, and the DPO estimates, and so on the number of new homes required, including any backlog and taking account of previously developed land and vacant homes. TBC has accepted that Scenario A is not a sound or robust proposition but has argued that, in allowing for a 10% margin of error in the population forecasts, Scenario B would avoid developing greenfield sites unnecessarily in the event that the forecasts are too high. In general, TBC appears to have been scrupulous in acquiring an extensive, thorough, robust and up-to-date evidence base for the JCS, and these projections stem from it. However, at a rather arbitrary 10% below the estimated need, Scenario B is at odds with the best information in the evidence base and would be unlikely to meet the full housing needs. The appellants have argued, based on the HBP, that the anticipated margin of error is much smaller at 2%. [3.14] [3.19] [9.12]
- 14.12 Current government advice on the correct approach to HLS, without RSs, is found in the Q&A to the CPO letter. TBC's approach is in line with Q&A 10: that LPAs will be responsible for establishing the right level of local housing provision in their area. The appellants' approach follows Q&A 11: that LPAs must justify their HLS policies in line with the PPS3 requirement for a 5 year supply. While PPS3 finds it would be acceptable for trajectories to vary by 10-20%, it does not suggest that the HLS could do so. Regardless of RSs, advice in PPS3 still demands an evidence base for the levels of need and demand for housing. There is nothing to suggest that the current requirement for a 5 year HLS will not persist. [3.5]
- 14.13 The dNPPF was issued for consultation on 25 July 2011. In its present form, it would require 5 years HLS plus 20% (paragraph 109), and sets out strong expectations that LPAs should maintain a robust rolling supply of deliverable sites for the next five years. As it may be subject to change, it should only be given little weight at this stage, but it does not suggest that the need for a 5 year HLS will be abandoned in the foreseeable future or diminish the weight to be given to PPS3 in any way. Most recently, *Laying the Foundations* aims to ensure that local authorities identify a robust land supply (paragraph 77).

Like the Localism Act, it is silent about the need, or otherwise, for a 5 year HLS. [3.2][8.24][9.15]

- 14.14 On the basis of evidence produced for the SP and the RSS Proposed Changes, there is a pressing need for additional housing land. Whether looking at Scenarios B, C or D, the extent to which the JCS would provide a 5 year HLS depends on the likely rate of delivery.

HOUSING DELIVERY

- 14.15 PPS3 requires regular monitoring of housing delivery and trajectories. PSGP advises that any proposed development which would undermine the location, scale and phasing of the JCS should be rejected. It is not for this Inquiry to review the emerging JCS. However, assessing whether or not the proposals would predetermine any of the decisions to be taken in the JCS requires examination of its housing trajectory over the next 5 years.
- 14.16 Although the JCS is at an early stage, there is no reason why its evidence base should not be used to determine future HLS, as an alternative to those in the SP and RSS Proposed Changes, and so allow the housing requirement to be set locally. The 29,500 homes at strategic allocations in the DPO would not require land to the north of Bishop's Cleeve. Given that any of these sites could theoretically be allocated in phase 1 (the first 10 years) only the shortfall in each of Scenarios B-D would need to be found in phase 2. If TBC's trajectory is correct then, over the next 5 years, there would be no shortfall in HLS in Scenario B and only a small one in Scenario C. If the appellants' figures are correct there would be a shortfall of almost 1,000 homes against Scenario B and of nearly 2,000 against Scenario C. [3.23]
- 14.17 The SoCG on the emerging 5 year HLS identifies 14 sites and agrees on many of them. The main differences concern 845 homes in the Green Belt and allocations in the Tewkesbury rural areas. Although owners are keen to promote the Green Belt sites, there have been no applications as yet and it must be doubtful that they would receive the support of the relevant LPA, or the Secretary of State, before the JCS is adopted, following a more detailed Green Belt review. The Green Belt exercise could be completed in tandem with the JCS, such that the two could be adopted at the same time, without it being delayed. While CBC approved the DPO for consultation, only Scenario A would protect the current Green Belt so its recommendations are contradictory. Despite a long standing intention to review the Green Belt boundary, given CBC's stance, it is not a foregone conclusion that the strategic allocations in the DPO will be removed from it. [8.14][9.12][11.3-4]
- 14.18 TBC conceded that there may be substantial local opposition to most if not all the proposed Green Belt sites. While the new duty to co-operate in the Localism Act (Section 110) may assist in resolving this apparent contradiction, it has yet to be tested and may not prevent delays to the JCS on account of any Green Belt review. Even if the Green Belt changes were agreed without dissent it would be at least January 2014 before they could be adopted as part of the JCS. There is little prospect that any of the strategic allocations within the Green Belt will receive planning permission before then. Given the usual timescales for planning permissions for large residential sites,

it is therefore unlikely that any Green Belt strategic allocation will deliver a significant number of homes within the next 5 years. [3.17][11.3-4]

- 14.19 The rural areas have been given a figure of 2,400 over the 20 year plan period, or 120 a year, or 600 over the next 5 years, for currently unallocated sites. TBC acknowledged that none of these sites will be developed in 2012 so the plan is already 120 homes short. Although sites may be identified through the JCS process, in the absence of any current allocations, or other information on where they might be, it is unlikely that the rural areas will make a worthwhile contribution to meeting housing needs within 5 years. [3.18]
- 14.20 The possible exception to this argument is if part of the allowance for rural sites were allocated to Bishop's Cleeve. Given the evidence on sustainability in the JCS Rural Area Settlement Audit, there is a strong possibility that Bishop's Cleeve would be one of the best contenders for these allocations. If these appeals were allowed, and the numbers counted against the allowance for rural areas, there would still be a significant 1,400 out of 2,400 homes left to be allocated over the remaining period. [3.18][8.12]
- 14.21 For the above reasons, even if all the other sites were to proceed at the rate that the JCS hopes, because of uncertainty over the Green Belt review and the lack of allocations in the rural areas, it is unlikely that the strategic allocations, or rural areas, will deliver a significant HLS within the next 5 years. Consequently, unless the appeal sites account for part of the rural areas, the trajectory presented by TBC is unachievable. Adding these allowances together, it follows that delivery of the strategic sites through the JCS in the next 5 years is likely to be short by a factor of some 845 plus 600 or 1445 dwellings.
- 14.22 Over the whole period, even under Scenario B, the strategic sites could only provide 29,500 dwellings. Allowing both appeals would still leave a shortfall of 2,620, to be found in the later stages of the plan, and so need not predetermine decisions on any of the strategic allocations as all of the acceptable sites will be required anyway. As a result, the proposals could not prejudice the other choices to be made in the JCS exercise. Other than allowing these appeals, there is no other credible way of providing a 5 year HLS. [3.23]
- 14.23 Finally, on this point, I note the history of housing land releases and that three Decisions, including Homelands 1, went against TBC at appeals in 2008 due to a lack of HLS. TBC resolved in March 2008 to work with CBC and Gloucester City Council to prepare a JCS, but the consultation draft DPO was only issued in December 2011. It is this delay which has created the current policy vacuum, between the end date of June 2011 in LP policy HOU1, and the moment at which the JCS becomes sufficiently advanced to assume significant weight. That stage has not yet arrived, producing the circumstances where PPS3 paragraph 71 applies. [3.23][8.23]

LOCAL CONSULTATION

- 14.24 *A plain English guide to the Localism Act* explains its provisions. One effect of abolishing RSs will be to remove the regional HLS targets and to this extent

the Act will ensure that decisions about housing are taken locally. Local participation and consultation are also requirements of the Localism Act, as they are in the Aarhus Convention, and this is important so that information and opinion can contribute to the decision-making process. If there are good reasons for adopting a different figure for HLS than that arrived at by population projections alone, this could be examined in the JCS process. [6.10]

14.25 On the other hand, there is nothing in the Localism Act to suggest that delegating decisions to LPAs will alter the requirement for a 5 Year HLS, either in quantum or timetable. Allowing LPAs to review their requirements locally is not the same as allowing them to postpone their obligations under PPS3. As well as location, PSGP indicates that predetermining decisions on the scale or phasing of housing could prejudice a DPD. Again, there is nothing in the Localism Act to suggest that decisions on the relative size of developments, or the order in which they come forward, could alter the overall requirement to provide a 5 year HLS based on credible evidence. [6.14][9.4]

14.26 There is therefore nothing in the Localism Act which would be undermined by the proposals. The tension in policy between the desire for decisions to be taken locally and the requirement for a 5 year HLS remains unaltered. This is unsurprising as it reflects the tension in reality between the understandable concerns of local residents, to protect the qualities of its community and environment, and the acute needs of other local people for additional market and affordable housing. Granting planning permission before adopting the JCS would not contravene the Aarhus Convention as there have been extensive public consultations before and after the applications and throughout the Inquiry, including a local evening session. [6.17][9.16]

Conclusions on Prematurity

14.27 PSGP (paragraph 18) advises that where a DPD is at the consultation stage then refusal on prematurity grounds would seldom be justified. Some four years after the steer in the draft RSS EiP, the DPO is only in consultation draft form, without an agreed option to take forward. The JCS should not attract significant weight at this stage. By this definition, neither of the proposals would be premature.

14.28 Until the DPD is sufficiently advanced, there is a gap in housing policy for the Borough. Even using the DPO figures, rather than the extrapolated SP or RSS proposed changes, few substantial sites will be ready to deliver housing before 2017. Barring adoption of Scenario A, recognised in the DPO itself as unsound, all the strategic sites put forward would be needed by any of the Scenarios. It is therefore very unlikely that TBC's trajectory could deliver a 5 year HLS, whichever housing needs figures are used. By comparison, the proposed phasing for the appeal schemes would be controlled to require that all reserved matters applications be submitted within 4 years.

14.29 Cumulatively, substantial numbers of dwellings are involved. However, releasing the appeal sites for housing now would not predetermine the decisions on scale, location or timing for any of the other sites as they will be required after the first 5 years of the plan and cannot be delivered sooner.

TBC's evidence fails the test, in PSGP paragraph 19, to show clearly how the appeal proposals would prejudice the outcome of the JCS process. There is nothing in the Localism Act to alter the requirement for a 5 year HLS.

- 14.30 For the above reasons, I conclude that the JCS is at a very early stage, the DPO is unlikely to deliver a 5 year HLS in any event, and the proposals would not predetermine future decisions or prejudice other sites which will be needed anyway. It follows that neither of the proposals would be premature. The presumption in favour of the grant of planning permission (paragraph 71 of PPS3) therefore applies. This in turn refers to the criteria in paragraph 69. As these overlap, I shall deal with other issues first, and then return to these criteria.

Character and appearance/landscaping

- 14.31 The Cotswolds Conservation Board has not objected and although one representative for Natural England has expressed concern, another has not. The Landscape SoCG identifies the wider landscape views which would be most affected. Impact on the ground, for Homelands 2, would be particularly felt along Gotherington Lane, the Coffin Path, the A435 and the footpath to the east of the railway, as well as from the open slopes of Nottingham Hill and the views outwards from Cleeve Hill across the CSV and beyond. For Cleavelands, the impact would be particularly felt from Bishop's Cleeve, the A435, and from footpaths within the site and to the north. [2.4-7][4.2][8.7][9.17][10.13-16]
- 14.32 The CPRE has agreed much of the SoCG, but with some outstanding concerns including that the high level photographic views are slightly hazy and do not show the contrast between the existing houses, including those at Deans Lea and Homelands 1, with the surrounding farmlands and distant Malvern Hills. On my first visit, in bright autumn sunlight near the start of the Inquiry, I could see these distinctions very clearly and have taken them into account when considering the photographs. [10.16]
- 14.33 Both proposals would alter substantial parts of the landscape from farmland to built-up areas. On the other hand, SoCG viewpoints D, E and F show that the landscape already consists of a mixture of rural and urban areas across the CSV. While any loss of countryside is regrettable, and the cumulative effect of both schemes would be more pronounced, it is unlikely that the loss of the proposed sites would be significantly worse than the loss of other greenfield sites in the CSV which would affect the same landscape type. Although both sites comprise pleasant countryside they are also unremarkable. No evidence has been put forward to suggest that the situation described in Homelands 1 has changed such that an adequate HLS could be found without using greenfield sites in the CSV. [8.8][9.19][10.14-15]
- 14.34 Subject to conditions and s106 agreements, control over the layout, landscaping, 'green infrastructure' and materials could render the schemes rather less obtrusive than many of the homogenous roofs of earlier developments in Bishop's Cleeve, even if it would still be evident that the land use would have changed from farmland to residential and recreational. This landscaping could include better mitigation for Homelands 1, when viewed from Gotherington, and although development would come closer,

there would still be a substantial gap. Restrictions on the overall height would make the buildings slightly less conspicuous than the more recent dwellings when seen from the lower views along the popular footpath at the foot of the escarpment. The final appearance would be softened from lower levels by planting, although few trees between the dwellings would be likely to reach any significant size. [4.3]

- 14.35 From higher levels, the developments would have an impact on views from the AONB, Homelands 2 more so than Cleevelands, but this would simply alter the existing balance of urban and rural areas within the CSV, rather than spoil any views, and Bishop's Cleeve is already part of the wider landscape. At lower levels, specific views from footpaths and roads, the A435 and Gotherington Lane in particular, would be affected but similar effects are likely to be inevitable for any large scale greenfield development in the CSV. Neither the Cotswolds Conservation Board nor TBC claimed that there would be any harm to the AONB. [6.4-5][8.7]
- 14.36 For the above reasons, my findings are comparable with those of the previous Inspector and the Secretary of State for Homelands 1, that is to say that there would be harm to the landscape but that this is capable of being outweighed by other material considerations, and that this harm would be likely to occur somewhere in the CSV if adequate housing is to be provided. There is every reason to accept that the proposals would result in a pleasant, if very different, environment. SP policy NHE.1 requires a balance to be struck between protecting the countryside and the social and economic needs of the area. In Homelands 1, the Secretary of State found that social and economic needs outweighed any harm. LP policy LND4 notes that the countryside is worthy of protection for its own sake and that unacceptably intrusive proposals should be refused, again implying a balance. My findings on both policies, and on this issue, therefore turn on my wider conclusions. [3.12]

BMV agricultural land quality

- 14.37 A little under half of the Homelands 2 appeal site comprises BMV agricultural land. TBC has acknowledged that the more recent policies in PPS3 and PPS7 no longer support the 'overriding need' justification in SP policy NHE.3. Nevertheless, the loss of this land would be a significant harm, and needs to be weighed in the planning balance. In the Homelands 1 appeal, even when the overriding need test still applied, the Inspector found that it was overridden by the need for a 5 year supply such that the proposed development would not conflict with the development plan. Conclusions for Homelands 2 also depend on the planning balance. [3.9][6.3][8.6]

Sustainable development

- 14.38 Both proposals include masterplans, parameters plans and DASs. Design Principles would have to be submitted, incorporating these and other requirements, such as access to buildings. Although in the countryside, the schemes would not be built on any protected landscapes and the limited number of existing features, mainly hedges, would be largely protected and enhanced. Well considered mitigation measures would minimise the impact on the environment. [5.1]

- 14.39 Although both applications are in outline form, the details submitted so far indicate the potential for high to very high quality and standards. The masterplans promise developments which would be well laid out, with buildings of an appropriate scale, suitably arranged with regard to local centres, housing, open space and landscaping. The extensive evidence supports the claims that both schemes are based on sound design principles and, with the exception of the Homelands 2 objection now withdrawn, these claims were not challenged. [5.3-4][12.3]
- 14.40 Between them the schemes would offer some employment and retail units within local centres, allotments, and contributions to a range of infrastructure needs including highway improvements, school extensions, recreation space and facilities, library and healthcare provisions. The dwellings would include a broad mix with a range of tenure within the affordable houses. To justify their sustainability claims, the buildings in both schemes would have high standards of energy efficiency and renewable energy and use the land efficiently and effectively. Any adverse impacts on the social and physical infrastructure of the area would be minimised. [5.1][s13]
- 14.41 The sites are both on the edge of Bishop's Cleeve in the CSV which is where the SP supports development. In allocating Deans Lea, the LP found the location, in Bishop's Cleeve, was close to Cheltenham, and to a wide range of local community, employment, retail and recreational facilities, and accessible by a choice of transport modes. The Rural Settlement Audit puts Bishop's Cleeve in the third tier but sustainability is not an absolute concept. This was based on an assessment of current access in the consultation draft. [3.22][7.3]
- 14.42 Measures to promote sustainable transport choices, including bus subsidies, travel plans, cycleways, footways, area wide travel planning and highway improvements to facilitate bus journeys, should make all parts of both sites at least as accessible as Deans Lea. The locations would be relatively sustainable and therefore lie with the CSV with regard to SP policies. The measures would not only assist future occupiers but existing residents as well so that the 10% modal shift would be such that there should be no overall increase in the use of private cars by residents of Bishop's Cleeve. [7.4]

PPS3 objectives (paragraph 69 criteria)

- 14.43 For similar reasons as those for sustainable development, both proposals would achieve a good mix of high quality housing, reflecting current needs and demands, especially for affordable housing. The opportunity to accommodate working people and young families would go some way to rectify the potentially damaging imbalance in the population from a growing elderly sector. Apart from the use of open countryside and impact on the landscape (and for Homelands 2 the loss of some BMV agricultural land) both sites are suitable for housing and could deal with any minor environmental impacts. Other sites in the CSV are unlikely to perform better against these issues. The proposed densities for the built-up areas would use the land effectively and efficiently with generous allocations for open space and amenity areas. There can be little doubt that the designers for both schemes have made considerable efforts to achieve the potential for good quality

schemes and to mitigate as far as possible against any potential harms that would arise and this weighs heavily in their favour.

- 14.44 As above, Bishop's Cleeve is close to Cheltenham, with a functional relationship. Its public transport links would be extended; its range of community, employment, retail and recreational facilities would be enhanced. There is little dispute that existing urban areas cannot meet the demand for housing. Through their proposed public transport provisions, and so their locations in the CSV, the schemes would be in line with the adopted spatial vision for the area. As broad locations in later years of the JCS, they would not undermine future spatial visions for the area. On this issue, there is nothing arising from the considerations in paragraph 69 of PPS3 to alter the conclusion from paragraph 71 that, as there is less than 5 years HLS, the proposals should be considered favourably.

Conclusions on sustainable development

- 14.45 For the above reasons, both schemes would take the right approach to achieving social cohesion and result in balanced communities, with good access to employment and services, which would be well integrated into pleasant environments. They would minimise harm to the environment, make efficient use of land and follow good practice on urban design, crime prevention and access for all. Both schemes would satisfy the requirements of current policy in PPS1 with regard to good design and sustainable development. This should be given substantial weight. [5.2-4][8.20-23][9.27]
- 14.46 Emerging policy in the dNPPF should be given limited weight at this stage. It currently defines three elements to sustainable development. The economic role demands sufficient land for prosperity; the social role aims for an increased supply of accessible housing; the environmental role requires protection of the natural environment. Of these, developing greenfield land would not protect the natural environment but providing the right sort of housing in the right place would satisfy both the social and economic roles. [3.2]

Other considerations

- 14.47 Interested parties have raised additional objections. No site is ideal and no scheme is perfect. Nevertheless, the extent to which both schemes have gone out of their way to address and, where possible, overcome these concerns is noteworthy. In the session of the Inquiry convened for questioning GCC with regard to traffic generation, highway safety, infrastructure and the free flow of traffic, it became apparent that, following extensive discussions with GCC, these have all been dealt with through the s106 agreements, as have other provisions. Homelands 2 would do what it can, through modal shift and eight new links in Appeal C to the centre of the village, to alleviate any congestion at the Gotherington Lane/Station Road junction other than at occasional peak times, and drivers could avoid this anyway. Cleevelands would be less well linked but the proposals would significantly improve the crossing points over the A435. [s7][8.23][10.6]
- 14.48 The detailed report by Stoke Orchard Parish Council, and the representations of the Severn & Avon Valley Combined Flood Group and residents of Little

Acorns, highlight the serious floods in summer 2007 and question whether the balancing ponds would be effective against flooding if the ground was already saturated or within a floodplain which would be fed from other areas. Subject to conditions, including sustainable urban drainage, raised floor levels and a management and maintenance plan, the Environment Agency (EA) and TBC are both satisfied that the ESs and Flood Risk Assessments demonstrate that neither site would create unacceptable flood risks to existing neighbours, riparian owners or future occupiers. While there would still be some risk, in the absence of detailed challenges to the evidence of the appellants and the support of the EA, the probability of damaging floods to future occupiers is low and there would be no increased risk to existing residents. Consequently this concern should not be a bar to development. [10.8][10.17][11.5]

- 14.49 The 40% affordable housing would be of mixed tenure, with only some being run by registered social landlords, with the aim of creating balanced communities. There is no evidence before the Inquiry that an increase in housing association homes would lead to additional levels of anti-social behaviour. Moreover, the schemes have adopted the helpful police suggestions for features which would aid crime reduction. [10.20]
- 14.50 Small local shops and pedestrian links should prevent a significant increase in parking difficulties without undermining the vitality and viability of the centre of Bishop's Cleeve. They would offer some local employment in addition to the improved access to Cheltenham where employment is available. Agreed conditions could deal with any legitimate concerns with regard to noise and external light pollution. Air quality, as a result of proximity to Wingmoor Farm, has not resulted in any objection from TBC's Environmental Health Officer and there are existing houses nearby. [10.3][10.6]
- 14.51 Subject to reserved matters conditions and planning obligations, many of the local concerns would be overcome through the high quality of design and the mitigation measures included in both the DASs and masterplans. Insofar as they could not be eliminated, none of these legitimate concerns should attract as much weight as the main considerations of conflict with the development plan or the need for housing.

Comparisons

- 14.52 Should the Secretary of State be minded to allow some additional housing but not both appeals, there is little to choose between the schemes. Most objectors were reluctant to differentiate. The similarities between the two proposals are more striking than the differences. Both would be extensions to the settlement into the open countryside with around 500 dwellings and include schemes to make the housing accessible, and so more sustainable, including pedestrian and cycle links and substantial public transport subsidies. Both would produce well-designed mixed communities including affordable housing, retail, community and recreational uses. Set against the weightier issues, the differences are insubstantial. [10.4]
- 14.53 Homelands 2 would use some BMV agricultural land while Cleevelands would be on grade 3b land, which is just below the threshold to qualify as BMV, and an exception to the finding in Homelands 1 that BMV land would probably be

required elsewhere. It follows that, if only one site were to be allowed, this issue would count in favour of Cleavelands. [4.4]

- 14.54 Homelands 2 would reduce the gap towards Gotherington, intrude into some views into and out of the AONB, and add to the traffic at the Station Road junction. On the other hand the scheme would stay within a highly defensible boundary, be very well linked by the works in Appeal C to the centre of Bishop's Cleeve, and introduce commended innovative design techniques to soften the northern and eastern boundaries against low level views from Gotherington and the AONB. The road junction will shortly become busier in any event while the latest proposals would include steps to reduce traffic from both developments. [8.33-35][9.27-28]
- 14.55 Cleavelands would extend development across the A435. While its new boundary would be less defensible than Homelands 2, the limitations of the Dean Brook and probable archaeological remains would make further expansion unlikely. A precedent has already been set along Hayfield Way; constraints due to the lower lying ground, the pumping station and proximity to Wingmoor Farm can all be mitigated against. Future occupiers would have to cross the busy A435 to reach services in the centre, and so the links would not be as good as those to be established for Homelands 2, but the crossing points would be improved significantly and made safer for those who already cross the road. Although on lower ground, the proposed buildings would not be in the flood plain and conditions would reduce the risk of flooding to an acceptable degree.
- 14.56 There is therefore little to tip the balance either way. Both are needed to make up the shortfall in the HLS. The bus subsidies and Travel Plans would be even more effective, and so each development even more sustainable, if the other proposals were to be implemented. If the case is made for one of the sites, I conclude that the arguments and planning balance justify the second site as well.

Other Decisions

- 14.57 Of most relevance, there are some parallels between the Decision in *Cala Homes* and the current appeals. However, in that appeal few of the homes would be completed within 5 years, the Decision predates the Localism Act, and the Secretary of State found that the amount of development would prejudice future choices on the location of housing. Moreover, this Decision has been challenged in the High Court. Without knowing the outcome of this challenge, limited weight should be given in the current appeals to the *Cala Homes* Decision, or to any other large housing schemes elsewhere. [3.5][8.30]

Overall Conclusions

- 14.58 The starting point is the development plan. Both sites are in the countryside, outside any development boundary, and so contrary to relevant policies. Although RPG10 and the SP are still current, they are very dated. The relevance of LP housing policies has become greatly diminished since June 2011. Although contrary to the development plan, the weight to this should be substantially reduced. Both proposals would harm the landscape, though

not necessarily more than any other potential development sites in greenfield locations which qualify as within the CSV. The same applies to Homelands 2 with regard to the loss of BMV agricultural land. Compliance with relevant policies for these depends on a balance, as for Homelands 1.

- 14.59 The most significant material consideration is the requirement in PPS3 for a 5 Year HLS. There is an agreed shortfall. For the reasons set out above, the trajectory in the emerging DPD is unlikely to rectify the shortfall in time. The JCS is at an early stage in any event and so the proposals would not be premature. By comparison, most of the housing in both schemes should be delivered within 5 years and there is no other credible option. This consideration should be given considerable weight.
- 14.60 Weight should also be given to the need to secure economic growth and employment as set out in *The Plan for Growth* and the WMS: "*Planning for Growth*". Housing development is an important economic driver and the appeal schemes would contribute to local jobs, both directly and indirectly, and within a few years. Conversely, if sufficient housing is not delivered, there is a very real danger that the local economy will suffer. This adds weight to the benefits of providing housing sooner rather than later.
- 14.61 As the appeals would not be premature, they should be considered favourably, subject to the considerations in paragraph 69 of PPS3. As set out above, against these criteria both proposals would: use the land effectively and efficiently; achieve a good mix of high quality housing; be on sites which are suitable for housing and demonstrate many indicators of being environmentally sustainable; and reflect the need and demand for housing. Given the proposed improvements to public transport links with Cheltenham, and so their location in the CSV, they would be in line with the adopted and emerging spatial visions for the area. The schemes would be to a high design standard, make substantial contributions to affordable housing and provide a string of extensive, detailed and well-researched contributions to demonstrate many other indicators of sustainability. These matters all weigh in favour of the proposals.
- 14.62 By abolishing RSs, the Localism Act will devolve more planning power to local authorities, including decisions on the scale, location or timing of housing developments. However, it does not alter the requirement for a 5 year HLS. There is therefore some tension between the Localism Act and PPS3, both of which are very important material considerations. The Localism Act introduces a new neighbourhood level at which permissions may be granted but it does not alter procedures for neighbours or local opponents who wish to object to proposals. Nevertheless, allowing the appeals would probably be seen by objectors as undermining the local democratic process and so the planning system.
- 14.63 Although the other harms would be slightly different for each proposal, the weight these should attract is much less than should be attributed to the main considerations. Subject to conditions and s106 obligations, on which I conclude in sections 12 and 13, the benefits from each set of proposals would be similar. On balance, I recommend that if one scheme is allowed the other should be as well.

14.64 The main weight against the schemes stems from conflict with countryside policies, which should be given greatly reduced emphasis as the development plan is rather dated, and a commitment to revoke regional housing targets, which should be given limited weight at this stage. In their favour are the need for housing, where the requirement for a 5 year HLS is not being met, and the need to boost the economy, which together warrant considerable weight. In short, the proposals require a difficult balance to be struck between giving priority to the development plan, and the moves towards planning at a local level, and the chance to rectify a substantial shortfall in HLS, with affordable housing and other benefits, which could also provide a significant boost to the economy. For all the above reasons, I find that the balance should fall in favour of both proposals.

15. Recommendation

15.1 I conclude that all three appeals should be allowed and planning permissions granted subject to the Schedules of conditions attached at Appendix C.

David Nicholson

INSPECTOR

APPENDIX A: APPEARANCES

Some witnesses were not formally called but their proofs were taken as read

FOR THE LOCAL PLANNING AUTHORITY (TEWKESBURY BOROUGH COUNCIL):

Paul Cairnes of Counsel	instructed by TBC
He called	
Paul Smith BA BSc DipDBE MRTPI	Sole Practitioner
Toby Jones BA CMLI MAPM	Associate Director, AMEC Environment and Infrastructure UK Ltd.
Holly Jones BSc DipTP MRTPI	TBC

FOR THE FIRST APPELLANT (COMPARO LTD.):

Jeremy Cahill QC	instructed by Origin3 Ltd.
He called	
Tony Kernon BSc MRICS FBIAC	Kernon Countryside Consultants Ltd.
Rupert Lyons MSc CMILT	Transport Planning Associates Ltd.
Nicholas Davey PhD BSc MIEnvSc	Entran Ltd.
Kevin Foster MIOA	Entran Ltd.
Richard Buckley BSc CEng MCIM	Callidus Transport & Engineering Ltd.
Julian Cooper BSc DipLD FLI AILA	Cooper Partnership
Roger Ayton BArch DipTP MA MRTPI RIBA	Origin3 Ltd.
Jonathan Orton BA DipTP MRTPI	Origin3 Ltd.
Colin Danks BA DipTP MRTPI	Origin3 Ltd.
Dave King BA MA MRTPI	Barton Wilmore LLP

FOR THE SECOND APPELLANT (WELBECK STRATEGIC LAND):

Ian Dove QC	instructed by David Barnes, Star
Assisted by Satnam Choongh of Counsel	Planning and Development
They called	
Howard Elliot BA MSc FBIAC	Associate, Peter Brett Associates LLP
AIEMA	
Nick Church BSc PGDip TransPlng	Director, Peter Brett Associates LLP
Paul Swindale BSc EEng EEnv	Associate, Peter Brett Associates LLP
MICE MCIWEM	
Philip Rech BA BPhil CMLI	FPCR Environment and Design Ltd.
David Barnes MBA BSc DipTP MRTPI	Star Planning and Development

FOR THE 'RULE 6' PARTY (GLOUCESTERSHIRE COUNTY COUNCIL):

Bridget Forster of Counsel	instructed by Nigel Roberts, Legal & Democratic Services, GCC
She called	
Neil Troughton MCIHT	Highways Authority, GCC
Richard Pitts	Education & Libraries, GCC

INTERESTED PERSONS:

Robert Bird	Borough Councillor, Bishop's Cleeve
Robert East	Borough Councillor, Bishop's Cleeve
Geoffrey Jackson	Bishop's Cleeve Parish Council
Ellen Cooke	Gotherington Parish Councillor
David Hearn	Gotherington Parish Councillor
Ray Woolmore BA DipTP MRTPI	Campaign to Protect Rural England (CPRE)
Allen Keyte	Deputy Leader of Tewkesbury Borough Council
Alice Ross for Helen Wells	Save Our Countryside
Sue Hillier-Richardson	Borough Councillor
Alistair Cameron	Lib Dem spokesman for Tewkesbury
Richard Chatham	Stoke Orchard Parish Council
Mandy Gibbs	Gloucestershire Constabulary
Ceri Jones	County Councillor
Tony Mackinnon	Borough Councillor
Rachel Lee	Local resident
Michael Newman	Local resident
Peter Richmond	Local resident
Michael Stevens	Local resident
Mark Calway	Local resident
Mike Beresford	Local resident
Paul Roberts	Local resident
Michelle Roberts	Local resident

APPENDIX B: DOCUMENTS

CORE DOCUMENTS

Doc No	Description
APPEAL DOCUMENTS – HOMELANDS 2	
CD1/1	Completed and signed Appeal Form – on main file
CD1/2	Grounds of appeal – on main file
CD1/3	Report to the Council's Planning committee 29th March 2011 – appended to Rule 6 statements (green folder – main file); appendix (app.) 10 to CD1/10
CD1/6	Statement of Common Ground (SoCG) – Education and Community Services – between Comparo and Gloucestershire County Council (GCC)
CD1/7	SoCG – Housing Land Supply – between Welbeck, Comparo and JCS
CD1/8	SoCG – Highways – between GCC Highways and Comparo
CD1/9	SoCG Appendices – Highways – between GCC Highways and Comparo
CD1/10	SoCG – General – between Tewkesbury Borough Council and Comparo Limited

ORIGINAL APPLICATION DOCUMENTS – HOMELANDS 2

CD2/1	Application form, site ownership and agricultural holdings certificates – main file
CD2/2	Illustrative Masterplan – Dwg. 08-032_13 Rev I (final): Scale 1:1,250 @ A0 (September 2010)
CD2/11	Block Plans - Appendix 2 to the Design and Access Statement (DAS - CD2/15 Scale 1:500 @ A3 (September 2010)
CD2/12	Planning Supporting Statement (September 2010)
CD2/13	Affordable Housing Statement (September 2010)
CD2/14	Design and Access Statement (September 2010)
CD2/15	Daylight/Sunlight Assessment app. 3 to the DAS: Scale 1:500 @ A3 (Sept. 2010)
CD2/16	Energy / Sustainability Statement (August 2010)
CD2/18	Foul Drainage Statement Reference TE/1011/516/RHB/B (August 2010)
CD2/19	Waste Minimisation Statement Reference TE/1011/513/RB/B (August 2010)
CD2/20	Primary Highway Access Arrangement Dwg. TE/1011/131 1:500 @ A3 (Sept 2010)
CD2/21	Secondary Highway Access Arrangement Dwg. TE/1011/122 Rev C Scale 1:500 @ A2 (Sept 2010)
CD2/22	PPS4 Assessment - within Appendix 8.1 of the ES
CD2/23	Illustrative Landscape Masterplan - Dwg. 2178-16D Scale @ 1:1000 located within Plan 9.11 of the ES (June 2010)
CD2/25	Tree and Hedgerow Retention and Removal Plan - Dwg. 2178-17B Scale @ 1:2000 (AO) located within Plan 9.12 of the ES (June 2010)
CD2/27	Environmental Statement (ES) (Volume 1) (Sept 2010)
CD2/28	ES Appendices (Volume 2) Chapters 1-10 (Sept 2010)
CD2/29	ES Appendices (Volume 3) Chapters 1-17 (Sept 2010)
CD2/30	Non Technical Summary to the ES (Sept 2010)
CD2/31	Draft Travel Plan, Ref TE/1011/515/RM
CD2/32	Statement of Community Involvement (pre application consultation)
CD2/33	Location plan Dwg. 08-032_001 Scale 1:2500 @ A1 (Sept 2010)
CD2/34	Topographical Survey Dwg. 08-032_010 Scale 1:250 @ A0 (Sept 2010)

OTHER APPLICATION DOCUMENTS, REVISIONS AND CORRESPONDENCE – HOMELANDS 2

CD3/1	Planning Application Forms with Section 19 amended
CD3/2	Revised Tree and Hedgerow Retention and Removal Plan - Dwg. 2178-17D with more legible tree numbering
CD3/3	Revised legend replacement to the masterplan

- CD3/4 Revised Affordable Housing Statement providing an indication of possible final affordable housing numbers and mix
- CD3/5 Addendum Transport Assessment

DRAWINGS WITHIN ADDENDUM ES (CD3/16)

- CD3/6 – Revised Tree and Hedgerow retention and removal plan (Dwg. 2178-17E)
- CD3/15 Revised Illustrative Landscape masterplan – Dwg. 2178-16E
Revised Illustrative Masterplan – Dwg. 08_013 Rev K
Parameter 1 : Redline Application Boundary Plan – Dwg. 08-032_031 Rev A
Parameter 2: Land use Plan – Dwg. 08-032_032 Rev A
Parameter 3: Density Plan – Dwg. 08-032_033 Rev A
Parameter 4: Building Heights Plan – Dwg. 08-032_034 Rev A
Parameter 5: Green Space Plan – Dwg. 08-032_035 Rev A
Parameter 6: Access Hierarchy Plan – Dwg. 08-032_036 Rev A
Parameter 7: Phasing Plan – Dwg. 08-032_037 Rev A
- CD3/16 Addendum ES
- CD3/17 Addendum Non Technical Summary to the ES
- CD3/19 Additional Technical Analysis on Noise
- CD3/20 Potential Sand and Gravel Deposit Report dated July 2011 Ref No. 4298 – at app 7 to CD1/10

APPEAL DOCUMENTS - CLEEVELANDS

- CD4/1 Initial SoCG (green folder – main file)
- CD4/3 Transport SoCG

ORIGINAL APPLICATION DOCUMENTS - CLEEVELANDS

- CD5/2 Access ref 22820/101/SK02 Rev C now Rev D
- CD5/3 Little Acorns Access 22820/101/SK06 Rev A now Rev B
- CD5/6 Affordable Housing Statement
- CD5/7 Consolidated Design and Access Statement (DAS)
- CD5/9 Draft Travel plan
- CD5/10 Further landscape information for the Environmental Statement
- CD5/11 Cleavelands Transport Assessment (TA) (reference 22820, October 2010)
- CD5/15 Regulation 19 Statement
- CD5/17 Environmental Statement (ES)
- CD5/18 ES Non Technical Summary
- CD5/19 Flood Risk Assessment
- CD5/21 Technical Note 01 Preliminary Acoustic Advice
- CD5/22 Technical Note 02 Air Quality Advice
- CD5/23 PPS4 Statement and Commercial Report
- CD5/24 Utilities Capacity Assessment
- CD5/25 Sustainability Statement and Errata
- CD5/26 Waste Minimisation Statement
- CD5/27 Statement of Community Involvement

OTHER APPLICATION DOCUMENTS, REVISIONS AND CORRESPONDENCE (Cleavelands)

- CD5/30 Cleavelands Addendum Transport Assessment (reference 22820, dated Feb 2011)
- CD5/32 Amended application Site plan 4080_PL_001 Rev A
- CD5/33 Amended Parameters Plan 4080_PL_003 Rev A
- CD5/34 Amended Illustrative Master Plan 4080_PL_002 Rev G
- CD5/35 Technical Note 11A response to GGC Highway Recommendations
- CD5/36 Report to Tewkesbury Borough Planning Committee 26th April 2011

OTHER GOVERNMENT DOCUMENTS & LEGISLATION

- CD6/31 By Design: Urban design in the planning system towards better practice (CABE - May 2000)
- CD6/33 Strategic Housing Land Availability Assessments - Practice Guidance (DCLG - July 2007)
- CD6/35 Letter to Chief Planning Officers: Abolition of Regional Strategies (DCLG, Steve Quartermain - 10th November 2010)
- CD6/37 Manual for Streets (DfT- March 2007)
- CD6/39 Safer Places: The Planning System & Crime Prevention (ODPM/Home Office - 2004)
- CD6/40 Secured by Design: New homes (ACPO - 2009)
- CD6/42 Creating Successful Masterplans (CABE - 2004)
- CD6/43 Urban Design Compendium (English Partnerships and Housing Corporation - 2000)
- CD6/44 Car Parking: what works where (English Partnerships - 2006)
- CD6/50 Code for Sustainable Homes: Technical Guide (DCLG - 2009) - recent update 2010
- CD6/51 SPACE - This way to better residential streets (CABE- 2009)
- CD6/52 Better Places to Live: A companion guide to PPG3 (DTLR/CABE - September 2001)
- CD6/55 Guidelines for Landscape and Visual Impact Assessment (Landscape Institute - second Edition - 2002)
- CD6/56 Cotswolds Conservation Board Position Statements: Housing and Development, Biodiversity Planning, Tranquillity and Dark Skies, and Development in the setting of the Cotswolds AONB - Cotswolds AONB
- CD6/57 The Landscape of the Cotswolds - Cotswolds AONB
- CD6/62 Preparing Design Codes: A Practice Manual - DCLG Nov 2006 - online
- CD6/70 Letter to Chief planning officers: Revocation of Regional Strategies (DCLG - 6 July 2010) and Q&A on Written Ministerial Statement
- CD6/71 The Plan for Growth (BIS / Treasury - March 2011)
- CD6/72 Draft National Planning Policy Framework (DCLG - July 2011)
- CD6/73 Local Land Supply Assessment Checks (DCLG- May 2009)
- CD6/74 Planning for Growth Ministerial Statement: Greg Clarke (23 March 2011)
- CD6/86 Nature Nearby – Accessible Natural Greenspace Guidance (Natural England- March 2010)
- CD6/92 A New Settlement for Planning: Greg Clarke (14th July 2011)
- CD6/93 Government Response to the Communities and Local Governments Committee report – Abolition of Regional Spatial Strategies: Eric Pickles (23rd June 2011)
- CD6/95 Letter to Chief Planning Officers Planning for Growth (DCLG, Steve Quartermain 31st March 2011)
- CD6/96 Positive Planning a new focus on driving sustainable development (DCLG- 15th June 2011)
- CD6/97 Presumption in favour of sustainable development (DCLG)
- CD6/102 Budget Speech (Chancellor of the Exchequer - 23rd March 2011)

REGIONAL, COUNTY, LOCAL POLICY ADOPTED AND EMERGING

- CD7/2 The Regional Spatial Strategy (RPG10 'Regional Planning Guidance for the South West) (GOSW, 2001)
- CD7/3 GCC Structure Plan Second Review (November 1999)
- CD7/4 Saved Gloucestershire County Council Structure Plan Second Review Policies and covering letter (September 2007)
- CD7/5 Gloucestershire Structure Plan Third Alteration Proposed Second Modifications
- CD7/6 Gloucestershire Local Transport Plan 3: 2011-2026 (GCC- March 2011)
- CD7/7 Gloucestershire Travel Plan Guide for Developers (GCC- March 2010)
- CD7/8 Gloucestershire County Council Cycling Guide (GCC- 2010)
- CD7/9 Tewkesbury Borough Local Plan and Proposals Map (TBC- March 2006)
- CD7/10 Saved Tewkesbury Borough Local Plan Policies and covering letter (March 2009)
- CD7/11 Tewkesbury Borough Local Plan: Inspector's Report (December 2003) [Extracts]

- CD7/12 Draft Regional Spatial Strategy for the South West 2006-2026 (GOSW- June 2006)
- CD7/13 Draft Regional Spatial Strategy for the South West Panel report (December 2007) [Extracts]
- CD7/14 Draft Regional Spatial Strategy for the South West Examination in Public (incorporating the Secretary of State's proposed changes - for public consultation) (July 2008) [Extracts]
- CD7/16 Public Transport Strategy (Draft for Consultation, 18 February 2010)
- CD7/17 GCC Parking Strategy (Draft for Consultation, GCC -18 February 2010)
- CD7/18 Guidance on Contributions Related to Accessibility (Final Draft GCC - 25 May 2010)
- CD7/19 Gloucestershire County Council Sustainable School Travel Strategy 2007 – 2012

OTHER LOCAL PLANNING DOCUMENTS

- CD8/5 TBC's response to the proposed changes to the RSS (TBC- October 2008)
- CD8/7 Urban Extensions Boundary Definition Study, Draft Final Report Volumes I & II (Entec UK Limited- July 2010)
- CD8/8 LDF Annual Monitoring Report 2007/08(TBC- December 2008)
- CD8/9 LDF Annual Monitoring Report 2008/09 (TBC- December 2009)
- CD8/10 Strategic Flood Risk Assessment (SFRA) Level I (TBC- September 2008)
- CD8/11 Gloucestershire Strategic Housing Market Assessment (GCC-February 2009)
- CD8/12 Strategic Housing Land Availability Assessment (SHLAA) (TBC - December 2009)
- CD8/13 SHLAA (TBC - October 2010)
- CD8/14 SHLAA (TBC - August 2011)
- CD8/15 Local Development Scheme (TBC - November 2009)
- CD8/16 Tewkesbury Borough Sustainability Appraisal Scoping Report (TBC - June 2008)
- CD8/17 Joint Core Strategy Issues and Key Questions Reg 25 Nov 2009 - Feb 2010 (JCS- November 2009)
- CD8/18 Joint Core Strategy Sustainability Appraisal Scoping Report (JCS-October 2008)
- CD8/19 TBC Housing Strategy 2005-2010 (TBC-2005)
- CD8/20 TBC Interim Housing Strategy 2010-2012 (TBC- July 2010)
- CD8/21 Estimating Housing Need and Demand in Gloucestershire (February 2009) – Strategic Housing Market Assessment
- CD8/22 Gloucestershire Housing Trend Analysis and Population and Household projections (GCC- May 2011)
- CD8/23 NI 159 Housing Land Supply Abridged (TBC- Dec 2008)
- CD8/24 Q1 NI 159 Housing Land Supply (TBC- April 2009)
- CD8/25 Q2 NI 159 Housing Land Supply (TBC- July 2009)
- CD8/26 Q3 NI 159 Housing Land Supply (TBC- Oct 2009)
- CD8/27 Q4 NI 159 Housing Land Supply (TBC- Dec 2009)
- CD8/33 Issues and Key Questions Consultation report March 2010 TBC
- CD8/34 JCS 'Developing the spatial options', combined Consultation Report (Dec 2010)
- CD8/35 Residential Land Availability 2010 (TBC)
- CD8/37 Gloucestershire Housing Monitor (GCC- 2007)
- CD8/38 Gloucestershire Housing Monitor (GCC- 2008)
- CD8/41 Renewable Energy Viability Assessment (to be commissioned)
- CD8/44 Central Seven Vale Transport Study (Draft Final Report, GCC- 30 April 2010)
- CD8/45 Sustainable Community Strategy for Tewkesbury Borough 2008-2028 (TBC- November 2010)
- CD8/46 Residential Land Availability (TBC - July 2011)
- CD8/47 Residential Land Availability 2010 (TBC – Published 2010)
- CD8/49 JCS Employment Land Review (March 2011)
- CD8/50 LDF Annual Monitoring Report 2009/2010 (TBC)
- CD8/51 LDF Annual Monitoring Report 2010/2011 (TBC)
- CD8/52 Draft Gloucester Cheltenham Tewkesbury Joint Core Strategy: Developing the Preferred Option Consultation Document December 2011
- CD 8/53 Gloucester Cheltenham Tewkesbury Joint Core Strategy: Response Report on

Consultations Carried Out to Date Issue: October 2011

- CD 8/54 JCS Initial Sustainability Appraisal Summary Report December 2011
- CD 8/55 Gloucester Cheltenham Tewkesbury Joint Core Strategy: Joint Core Strategy Broad Locations Report October 2011
- CD 8/56 Joint Core Strategy Green Belt Assessment September 2011
- CD 8/57 JCS Housing Background Paper
- CD 8/58 Gloucestershire Housing Affordability Model October 2011
- CD 8/59 Joint Core Strategy Rural Settlement Audit

OTHER DOCUMENTS

- CD9/01 Affordable Housing SPG (Adopted August 2005 updated Nov 2006)
- CD9/04 Housing Needs Assessment, Tewkesbury Borough Council (November 2009)
- CD9/07 Playing Pitch and Outdoor Sports Assessment and Strategy (TBC- 2008)
- CD9/08 Countryside Character. Volume 8 South West. (The Countryside Agency)
- CD9/09 Gloucestershire Landscape Character Assessment. LDA Design. (GCC- Jan 2006)
- CD9/12 Cotswold AONB Management Plan
- CD9/15 Homelands 1 Inspector's Report dated 11th April 2008 and SoS Decision (July 2008) Ref. APP/G1630/A/07/2053255
- CD9/17 M&G Sports Ground, Golden York Egg and Middle Farm (APP/G1630/A/05/1183971; APP/G1630/A/07/1201923; APP/G1630/A/07/1201927) Inspector's Report and SoS Decision (July 2008)
- CD9/18 Longford Appeals, Inspector's Report and SoS Decision (APP/G1630/A/07/2043681 and APP/G1630/A/07/2055282) (July 2008)
- CD9/23 Andover Appeal Decision APP/X3025/A/10/2140962 dated 30th June 2011
- CD9/26 Market Harborough Appeal Decision APP/F2415/A/09/2114425 dated 1st Feb 2010
- CD9/27 Toby Clempson – TBC – Homelands 1 – Proof of Evidence
- CD9/28 Joan Desmond – TBC – Homelands 1 – Proof of Evidence
- CD9/30 Homelands 1 – Committee Report – dated 11th December 2007
- CD9/31 Homelands 1 – Committee Minutes – dated 5th February 2008
- CD9/32 Murray House, Cheltenham Appeal Decision (APP/B1605/A/11/2152718) 9 Sept 2011.
- CD 9/33 Report on the JCS to Tewkesbury Borough Council on 26 October 2011
- CD 9/34 Report on the JCS to Cheltenham Borough Council 10 November 2011
- CD 9/35 Report on the JCS to Gloucester City Council on 10 November 2011
- CD 9/36 Report on the JCS to Gloucester City Council on 25 November 2011
- CD 9/37 Land at Barton Farm, Winchester Appeal Decision (APP/LI765/A/10/2126522) 28 September 2011.
- CD 9/38 Land off Abbey Road and Middlewich Road, Sandbach Appeal Decision (APP/R0660/A/10/2141564) 29 September 2011.
- CD 9/39 Land at Treverbyn Road, St Austell Appeal Decision (APP/D0840/A/10/2130022) 31 October 2011.
- CD 9/40 Joint Statement Comparo/Welbeck Strategic Land Concerning Housing Trajectory and Section 106 Matters
- CD 9/41 Joint Statement Comparo/Welbeck Strategic Land Concerning Transport Matters
- CD 9/42 Joint Statement Comparo/Welbeck Strategic Land Concerning Utilities
- CD 9/43 Homelands II Landscape SoCG
- CD 9/44 Transport SoCG for both Cleavelands and Homelands 2 being Developed Concurrently
- CD 9/45 Laying the Foundations: A Housing Strategy for England: DCLG
- CD 9/46 Environmental report on the revocation of regional planning guidance for the South West (RPG10)
- CD 9/47 Invista Committee Report (Tewkesbury Borough Council)
- CD 9/48 RTP1 Briefing on Localism Bill
- CD 9/49 Tewkesbury Borough Reps letter to the Proposed Changes RSS
- CD 9/50 Tewkesbury Borough Reps pro-forma to the Proposed Changes RSS

- CD 9/51 Representations by interested parties on 6th December, including Cllr. Ceri Jones, Cllr. Tony Mackinnon and Mandy Gibbs, Gloucestershire Constabulary
- CD 9/53 Legal Note on status of Local Plan Inspector's Report
- CD 9/54 SoCG between Appellants and Tewkesbury Borough Council on the emerging five year land position
- CD 9/55 Lists of agreed suggested conditions – disagreements highlighted in yellow
- CD 9/56 Draft Heads of Terms between Cleavelands and Homelands 2 owners and GCC

ORIGINAL PLANNING APPLICATION DOCUMENTS – HOMELANDS 1 TO 2 LINKAGES

- CD10/5 Covering Letter
- CD10/6 Application form and certificates
- CD10/7 Connection Points Location Plan (Drawing Ref: 009) 1:1250
- CD10/8 Link A: Principal Access West (Drawing No. 009 A) 1:200
- CD10/9 Link B,C,D Footway Access West (Drawing No. 009 B,C,D) 1:100
- CD10/10 Link E,H Vehicular Access (Drawing No. 009 E,H) 1:100
- CD10/11 Link F Access Lane (Drawing No. 009 F) 1:200
- CD10/12 Link G Access East (Drawing No. 009 G) 1:200
- CD10/13 Supporting Statement (June 2011)
- CD10/15 Letter from Solicitor dated 6th June 2011
- CD10/16 Plan accompanying solicitors letter
- CD10/17 Bovis Homes submission Phase 1 (application no. 10/01381/APP) Layout Plan (Drawing No. 0068_2_101E)
- CD10/18 Bovis Homes submission Phase 2 (application no. 11/00595/APP) Layout Plan (Drawing No. 0068_2_111A)
- CD10/19 Bovis Homes submission Phase 3 (application no. 11/00595/APP) Layout Plan (Drawing No. 0068_2_112A)
- CD10/20 Covering Letter to LPA with revisions dated 17th June 2011
- CD10/21 Revised Location/Connection Plan (Drawing Ref: 009 Rev A) 1:2500
- CD10/22 Link A: Principal Access West (Drawing No. 009 A Rev A) 1:200
- CD10/23 Link B,C,D Footway Access West (Drawing No. 009 B,C,D Rev A) 1:100
- CD10/24 Link E,H Vehicular Access (Drawing No. 009 E,H Rev A) 1:100
- CD10/25 Link F Access Lane (Drawing No. 009 F Rev A) 1:200
- CD10/26 Link G Access East (Drawing No. 009 G Rev A) 1:200
- CD10/27 Letter to LPA dated 24th June 2011submitting revised certificates
- CD10/28 Covering Letter to LPA with revisions dated 2nd August 2011
- CD10/29 Revised Location/Connection Plan (Drawing Ref: 009 Rev B) 1:2500
- CD10/30 Link B,C,D Footway Access West (Drawing No. 009 B,C,D Rev B) 1:100
- CD10/31 Draft Section 106 Agreement
- CD10/32 Draft Section 106 Plan 1
- CD10/33 Draft Section 106 Plan 2
- CD10/34 Connections plan dated 17th June 2011
- CD10/35 Connections plan dated 21st June 2011

TEWKESBURY BOROUGH COUNCIL'S DOCUMENTS

- LPA/01 Evidence of Mr P Smith (Homelands)
- LPA/02 Appendix 1 to Mr P Smith (Homelands)
- LPA/03 Summary of Mr P Smith Evidence (Homelands)
- LPA/04 Evidence of Ms H Jones (Homelands)
- LPA/05 Appendices to Ms H Jones Evidence (Homelands)
- LPA/06 Summary of Ms H Jones Evidence (Homelands)
- LPA/07 Evidence of Mr T Jones (Homelands)
- LPA/08 Appendices to Mr T Jones Evidence (Homelands)
- LPA/09 Summary of Mr T Jones Evidence (Homelands)
- LPA/10 Evidence of Mr P Smith (Cleavelands)

- LPA/11 Appendix 1 to Mr P Smith (Cleevelands)
- LPA/12 Summary of Mr P Smith Evidence (Cleevelands)
- LPA/13 Evidence of Ms H Jones (Cleevelands)
- LPA/14 Appendices to Ms H Jones Evidence (Cleevelands)
- LPA/15 Summary of Ms H Jones Evidence (Cleevelands)
- LPA/16 Evidence of Mr T Jones (Cleevelands)
- LPA/17 Appendices to Mr T Jones Evidence (Cleevelands)
- LPA/18 Summary of Mr T Jones Evidence (Cleevelands)
- LPA/19 Opening Submissions of Mr P Cairns
- LPA/20 JCS "Developing the Preferred Option" timetable
- LPA/21 DEFRA letter to Landscape Inst. 08/02/11
- LPA/22 Letter from European Landscape Convention to PM 07/01/2010
- LPA/23 European Landscape Convention
- LPA/24 Correspondence and minutes between John Hinett and Origin3
- LPA/25 Secured by Design Principles
- LPA/26 Regional Panel Tour list and associated press cutting
- LPA/27 MOD e-mail to H Jones
- LPA/28 Murray House Appeal Decision
- LPA/29 A3 Sheet Demographics of JCS Area taken from King app 3.2
- LPA/30 Affordable Housing Backlog Information Sheet
- LPA/31 S.106 and CIL Compliance (TBC)
- LPA/32 S.106 and CIL Compliance (GCC)
- LPA/33 Aarhus Convention
- LPA/34 Plain English Guide to Localism Act
- LPA/35 Major Development Proposals within JCS Area.
- LPA/36 JCS Delivery Trajectory Note 2011
- LPA/37 Holly Jones's PoE supplementary (Homelands)
- LPA/38 Paul Smith's supplementary PoE
- LPA/39 Holly Jones' PoE (Cleevelands)
- LPA/40 LPA's position with regard to putative reasons for refusal – letter dated 13 December 2011
- LPA/41 Email dated 9 December 2011 re landscape assessment timetable
- LPA/42 Closing Submissions of Mr P Cairns
- LPA/43 Email dated 31 January 2012 re contamination conditions

DOCUMENTS FROM INTERESTED PARTIES

- GCC/1 Gloucestershire County Council Rule 6 statement – on Homelands green folder
- GCC/2 Gloucestershire County Council closing statement – on lead file

- TP/01 Statement from Bishop's Cleeve Parish Council
- TP/02 Statement of Robert Bird, Borough Councillor, Bishop's Cleeve
- TP/03 Statement of Helen Wells, Save Our Countryside
- TP/04 "The Practice" Stoke Road Surgery newsletter
- TP/05 Daily Mail September 21, 2011 article re flooding
- TP/06 Statement of Rachel Lee, 14 Little Acorns
- TP/07 Gotherington Village Design Statement
- TP/08 Gotherington Parish Plan
- TP/10 Statement of Alistair Cameron Lib Dem Parliamentary spokesman for Tewkesbury
- TP/11 Statement Of Sue Hillier-Richardson, Borough Councillor
- TP/12 Statement of Ellen Cooke, Gotherington Parish Councillor
- TP/13 Statement of Gotherington Parish Council
- TP/14 Statement of Michael Newman 18 Courtiers Drive, Bishop's Cleeve
- TP/15 Statement of CPRE (Ray Woolmore)
- TP/16 Statement of Stoke Orchard Parish Council
- TP/17 Statement of Allen Keyte Deputy Leader of Tewkesbury Borough Council

TP/18 Natural England letter to Mr Hinett 17 August 2011 from Sally King, Exeter Land Use Team, Temple Quay House, Bristol

COMPARO'S DOCUMENTS

COMPARO EVIDENCE FOR HOMELANDS

HOM1/1 Agricultural Matters Main Text Evidence (Volume 1)
HOM1/2 Agricultural Matters POE (Volume 2)
HOM1/3 Agricultural Matters Summary of Evidence (Volume 3)
HOM2/1 Highways and Transport Proof of Evidence
HOM2/2 Highways and Appendices
HOM2/3 Highways and Transport Summary of Evidence
HOM3/1 Air Quality Proof of Evidence and Appendices
HOM4/1 Noise Proof of Evidence and Appendices
HOM5/1 Drainage and Utilities POE Main Report and Appendices
HOM6/1 Landscape Proof of Evidence Document 1 of 3 (A4)
HOM6/2 Landscape Proof of Evidence Document 2 of 3 (A3)
HOM6/3 Landscape Proof of Evidence Document 3 of 3 (A4)
HOM7/1 Design Proof of Evidence
HOM7/2 Design Appendices
HOM7/3 Design Summary of Evidence
HOM8/1 Planning Proof of Evidence
HOM8/2 Planning Appendices
HOM8/3 Planning Summary of Evidence
HOM9/1 Housing Proof of Evidence
HOM9/2 Housing Appendices
HOM9/3 Housing Summary of Evidence

COMPARO EVIDENCE AGAINST CLEVELANDS

HOM10/1 Highways and Transport POE Report
HOM10/2 Highways and Transport POE Appendices
HOM10/3 Highways and Transport POE Summary of Evidence
HOM11/1 Air Quality POE Report and Appendices
HOM12/1 Drainage POE Main Report and Appendices
HOM13/1 Landscape POE Main Report and Appendices
HOM14/1 Design POE Report
HOM15/1 Planning POE Report and Appendices

COMPARO DOCS SUBMITTED DURING INQUIRY

HOM16/1 Opening Submissions of Mr J Cahill QC
HOM16/2 Background to Homelands 1 re discharge of conditions
HOM16/3 Mr Davey's Response to Mr Harker re Air Quality
HOM16/4 Mr Lyons' Response re Highway/Transport Matters
HOM16/5 Mr Kernon's Response on Agricultural matters
HOM16/6 Mr Orton's Response on Planning Matters
HOM16/7 Technical Note Response on Drainage Matters
HOM17 Urban Extensions Definition Study Option 2 Plan Figure 7.6
HOM18 Natural England Letter to Mr Desmond 21 October 2010
HOM19 Public Footpath Views
HOM20 J Cooper Rebuttal to P Rech
HOM21 Response to Gotherington Residents re Gap
HOM22 Design Panel Review letter to Mr Ayton 27 Jan 2011
HOM23 Design Panel Review letter to Mr Ayton 27 September 2011

- HOM24 Private Open Space Management
- HOM25 Tree and Hedgerow Retention and Removal Plan
- HOM26 Homelands 2 Masterplan correspondence chronology
- HOM27 Deed of Covenant given to Gotherington Parish Council
- HOM28 Homelands Linkages Proof of Evidence
- HOM29 Supplementary Planning Proof of Evidence
- HOM30 Supplementary Housing Proof of Evidence
- HOM31 Agreed position on distances to Gotherington
- HOM32 Sustainability – Carbon Reduction
- HOM33 Living Villages, Bishops Castle Example
- HOM34 Examples of north edge boundary
- HOM35 Revised Public Open Space Management Plan
- HOM36 Letter to PINS: update on possible minor amendments
- HOM37 Response Statement to Third Parties
- HOM38 JCS Strategic Allocations Constraints Plan
- HOM39 Gotherington Lane Junction Plan
- HOM40 Note on Sustainable Development
- HOM41 TBC Position on Gotherington Lane amendments: dated 25 November 2011
- HOM42 Tree Schedule
- HOM43 Letter of Interest from RSL Sovereign
- HOM44 Cheltenham Local Plan Policy CP7
- HOM45 S106 With GCC: Education & Libraries
- HOM46 S106 with GCC: Highways
- HOM47a S106 With TBC: General
- HOM47b S106 with TBC: SW Review Panel
- HOM48 UU with Bovis and Taylor Wimpey: Linkages
- HOM49 UU with TBC: Linkages
- HOM50 Comparo Numerical Apportionment Scenarios
- HOM51 Taylor Wimpey Interest Letter
- HOM52 Transport Chronology for Homelands
- HOM53 Highways Response Note by Rupert Lyons
- HOM54 Homelands 2 and Cleavelands Contributions to the Emerging Rural Areas Housing Requirement
- HOM55 Response to Weyers letter of 8th December
- HOM56 Note to Inspector on Lincoln Green Lane (SHLAA Site SUB24)
- HOM57 Response to Gotherington Parish Council of 1 December 2011
- HOM58 Model Planning Conditions for Development on Land Affected by Contamination
- HOM59 Letter from tpa dated 14 December 2011 reference Gotherington Parish Council letter dated 8 December 2011
- HOM 60 Closing Submissions of Mr J Cahill QC

WELBECK STRATEGIC LAND'S DOCUMENTS

- WEL/001 Planning Application Form – on main file and in Supporting Documents, section 1
- WEL/018 Planning Statement, Supplement and Errata
- WEL/024 Energy Statement
- WEL/027 Report to Tewkesbury Planning Committee 26 April 2011 – appended to Rule 6 statements (green folder – main file)
- WEL/031 Planning Obligation with TBC
- WEL/032 Planning Obligation with GCC – libraries and education
- WEL/033 Planning Obligation with GCC – Transport
- WEL/035 Evidence of Mr Elliot
- WEL/036 Figures and Appendices of Mr Elliot
- WEL/037 Summary of Mr Elliot's Evidence
- WEL/038 Evidence of Mr Church
- WEL/039 Figures and Appendices of Mr Church

WEL/040	Summary of Mr Church's Evidence
WEL/041	Evidence of Mr Swindale
WEL/042	Figures and Appendices of Mr Swindale
WEL/043	Summary of Mr Swindale's Evidence
WEL/044	Evidence of Mr Rech
WEL/045	Figures and Appendices of Mr Rech
WEL/046	Summary of Mr Rech's Evidence
WEL/047	Evidence of Mr Barnes
WEL/048	Figures and Appendices of Mr Barnes
WEL/049	Summary of Mr Barnes' Evidence
WEL/050	Evidence of Mr Harker
WEL/051	Figures and Appendices of Mr Harker
WEL/052	Summary of Mr Harker's evidence
WEL/053	Update of the Planning Obligation SoCG
WEL/054	Appearances
WEL/055	Opening Submission of Mr Dove QC
WEL/056	Response Note by Phil Rech to the Evidence of Mr Ayton and Mr Cooper
WEL/057	Response Note to the Planning Evidence of Mr Orton prepared by David Barnes
WEL/058	Response Note to the Evidence of Mr Buckley prepared by Osborne Clarkes
WEL/059	Severn Trent Water Position Statement
WEL/060a	Letter from Natural England dated 10 December 2010
WEL/060b	Appellant's Response to Matters Raised During the Public Session on 22 Sept 2011
WEL/061	Supplementary Evidence of Mr Barnes
WEL/062	Note to the Inspector on Renewable Energy and the Standards for Buildings
WEL/063	Note to the Inspector on Sustainable Development
WEL/064	High Court Challenge re Barton Farm Winchester (Cala Homes)
WEL/065	High Court Challenge re Sandbach (Fox Strategic Land)
WEL/066	Explanatory note on Flood and Water Management Act 2010
WEL/067	Home Truths (South West)
WEL/068	Lifetime Neighbourhoods
WEL/069	Wingmoor Farm Permission
WEL/070	Save Historic Newmarket Ltd v Forest Heath DC
WEL/071	Viewpoint O photomontages
WEL/072	Joint Statement with Gloucestershire County Council concerning transport matters arising at the Inquiry on 6 December 2011
WEL/073	Closing Submission of Mr Dove QC

DOCUMENTS FOR BOTH APPELLANTS

BW1	Mr King's Proof of evidence on demographics
BW2	Mr King's Summary
BW3	Mr King's Appendices

APPENDIX C: SUGGESTED CONDITIONS

CONDITIONS COMMON TO BOTH APPEALS A AND B

Where conditions are the same but the plan references are different these are repeated, or set out separately, within the same condition. Some numbers have been changed where conditions common to both have been combined.

Approved Drawings

1. For those matters not reserved for later approval, the development hereby permitted shall be carried out in accordance with the following approved plans:

Cleavelands –

Drawing Nos.:

- 4080_PL_001 Rev A (Location Plan)
- 22820/101/SK02 Rev D (A435 Access)
- 22820/101/SK06 Rev B (Little Acorns Access).

Homelands –

Drawing Nos.:

- 08-032_001 (Red line boundary plan).
- 08-032_013 Rev K (Illustrative Master Plan) *save for and subject to details shown in dwg. PL11 revision A (Gotherington Lane) and dwg. 11006P-010 (Amended Junction Design, 27 10.11).*
- PL01 Rev A (Traffic Calming and Cycle Route) *save for and subject to details shown in dwg. PL11 revision A (Gotherington Lane).*
- TE/1001/131 (Evesham Road Access).
- 08-032_037 Rev A (Phasing Plan).

Phasing

2. As part of the first reserved matters application a phasing plan for the whole site shall be submitted to the LPA for approval in writing. The phasing plan shall include details of the intended number of market and affordable dwellings for each phase of development together with general locations and phasing of key infrastructure, including surface water drainage, green infrastructure, community facilities and access for pedestrians, cyclists, buses and vehicles.

Cleavelands –

The phasing plan shall be based on the Master Plan (dwg. no. 4080_PL_002 Rev G), the Parameters Plan (dwg. no. 4080_PL_003 Rev A) and the Consolidated Design and Access Statement (June 2011) except where other planning conditions specify otherwise. The development shall be carried out in accordance with the approved phasing plan.

Homelands 2 -

The phasing plan shall be in accordance with dwg. no. 08-032_037 Rev A and based on the Master Plan Drawing 08-032_013. Rev K and the Design and Access Statement Final September 2010 *save for and subject to, details shown in drawing PL11 Revision A (Gotherington Lane) and drawing 11006P-010 (Amended Junction Design, 27.10.11),* except where other planning conditions

specify otherwise. The development shall be carried out in accordance with the approved phasing plan.

Design Principles

3. Cleavelands -

As part of the reserved matters for phase 1 submitted pursuant to condition 4, a document setting out the Design Principles (hereafter referred to as 'Design Principles') for the development hereby approved shall be submitted to the LPA for approval in writing. The Design Principles shall set out how the principles and objectives of the Consolidated Design and Access Statement (June 2011) will be met, and shall accord with the Master Plan (dwg. 4080_PL_002 Rev G), the Parameters Plan (dwg. 4080_PL_003 Rev A), and Phasing Plan except where other planning conditions specify otherwise. The Design Principles shall include the following matters:

- (i) The principles for determining the design, form, heights and general arrangement of external architectural features of buildings including the roofs, chimneys, porches and fenestration;
- (ii) The principles of the hierarchy for roads and public spaces;
- (iii) The principles for determining the colour, texture and quality of external materials and facings for the walls and roofing of buildings and structures;
- (iv) The principles for the design of the public realm to include the colour, texture and quality of surfacing of footpaths, cycleways, streets, parking areas, courtyards and other shared surfaces;
- (v) The principles for the design and layout of street furniture and level of external illumination;
- (vi) The principles for the laying out of the green infrastructure including the access, location and general arrangements of the multi use games area, the children's play areas and allotments;
- (vii) The principles for the incorporation of decentralised and renewable or low carbon energy sources as an integral part of the development based on the Energy Strategy (November 2010); and
- (viii) The principles to ensure that there is appropriate access to buildings and public spaces for the disabled and physically impaired.

The development shall be carried out in accordance with the approved Design Principles.

Homelands -

As part of the reserved matters for phase 1 submitted pursuant to condition 4, a document setting out the Design Principles for the development, including the local centre, hereby approved shall be submitted to the LPA for approval in writing. The Design Principles shall set out how the principles and objectives of the Design and Access Statement Final September 2010 will be met, and shall accord with the Master Plan dwg. 08-032_013. Rev K save for and subject to details shown in dwgs. PL11 Rev A and 11006P-010, the Parameters Plans and

phasing plan except where other planning conditions specify otherwise. The Design Principles shall include the following matters:

- (i – vi and viii) As per **Clevelands** above.
- (vii) The principles for the incorporation of decentralised and renewable or low carbon energy sources as an integral part of the development.

The development shall be carried out in accordance with the approved Design Principles.

Reserved Matters

- 4. The development of each phase for which permission is hereby granted shall not be begun before detailed plans thereof showing the layout, scale and external appearance of the buildings and landscaping (hereinafter referred to as "the reserved matters") have been submitted to and approved in writing by the LPA. The development shall be carried out as approved.
- 5. Application for the approval of the reserved matters for phase 1 as identified by the phasing plan shall be made to the LPA before the expiration of 2 years from the date of this permission. The development hereby permitted shall be begun either before the expiration of 3 years from the date of this permission, or before the expiration of one year from the date of approval of the reserved matters for phase 1, whichever is the later.
- 6. Application for the approval of reserved matters for the subsequent phases of development as identified by the phasing plan shall be made to the LPA before the expiration of 4 years from the date of this permission. The subsequent phases of development hereby permitted shall be begun either before the expiration of 5 years from the date of this permission, or before the expiration of one year from the date of approval of the last of the reserved matters to be approved, whichever is the later.

Other Information Requirements

- 8. For each phase of development the reserved matters submitted pursuant to Condition 4 shall be accompanied by the following details:
 - (i) The existing and proposed ground levels shall demonstrate that the finished floor level of all buildings shall be 300mm above the proposed ground level;
 - (ii) The location of fire hydrants and a timetable for their provision, that is before the first occupation of a dwelling, in accordance with the reserved matters submitted pursuant to Condition 4;
 - (iii) The location and design of bus stops (including the provision of Real Time Information displays) and a timetable for their provision;
 - (iv) The location and design of any recycling and refuse stores which will not be provided as part of individual residential, commercial or community buildings;

- (v) The design and layout of the roads, footways and cycleways including the provision of highway drainage;
- (vi) Any of the parking, turning, manoeuvring, loading/unloading areas not being provided as part of individual residential, commercial or community buildings;
- (vii) The design and location of cycle parking facilities which will not be provided as part of individual residential, commercial or community buildings; and
- (viii) The level of external illumination, including street lighting, and measures to control light pollution.
- (ix) Specification of the multi use games area and the childrens' play areas

Each phase of the development shall be carried out and thereafter retained in accordance with the details approved.

Defining the Planning Permissions

- 9. No more than 450 (**Homelands**) / 550 (**Cleavelands**) dwellings shall be constructed on the site pursuant to these planning permissions.
- 10. The total gross retail floorspace available for use by customers (excluding toilets and other ancillary facilities) of all premises falling within Class A1, A2, A3, A4 and A5 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification) shall not exceed 475sq m (**Cleavelands**) / 450sq m (**Homelands**). Only one premises to be used for Class A1, A2, A3, A4 or A5 purposes shall have gross retail floorspace available for use by customers (excluding toilets and other ancillary facilities) exceeding 75sq m but shall not exceed 200sq m.

Drainage and Flooding

- 11. The first reserved matters application submitted pursuant to Condition 4 shall be accompanied by details of the surface water drainage scheme for the whole development hereby approved, incorporating sustainable drainage principles set out in Annex F of PPS25 (or any subsequent version) and a management and maintenance plan (to include culvert maintenance). All subsequent reserved matters submitted pursuant to Condition 4 shall incorporate the approved surface water drainage scheme and the development shall be carried out only in accordance with the approved surface water drainage scheme.

The details shall be based on:

Cleavelands - the Flood Risk Assessment (November 2010)

Homelands - the Callidus Flood Risk Assessment TE1011/503/RHB (27 August 2010)

- 12. No building hereby permitted shall be occupied until the sustainable drainage scheme for the relevant phase has been completed in accordance with the submitted details. The sustainable drainage scheme shall be managed and

maintained thereafter in accordance with the agreed management and maintenance plan.

Trees, Landscaping and Biodiversity

13. For each phase of development the plans and particulars submitted in accordance with condition 4 above shall include:
- (i) a plan showing the location of, and allocating a reference number to, each existing tree on the site which has a stem with a diameter, measured over the bark at a point 1.5 metres above ground level, exceeding 75 mm, showing which trees are to be retained and the crown spread of each retained tree;
 - (ii) details of the species, diameter (measured in accordance with paragraph (i) above), and the approximate height, and an assessment of the general state of health and stability, of each retained tree and of each tree which is on land adjacent to the site and to which paragraphs (iii) and (iv) below apply;
 - (iii) details of any proposed topping or lopping of any retained tree, or of any tree on land adjacent to the site;
 - (iv) details of any proposed alterations in existing ground levels, and of the position of any proposed excavation, within the crown spread of any retained tree;
 - (v) details of the specification and position of fencing and of any other measures to be taken for the protection of any retained tree from damage before or during the course of development.

In this condition "retained tree" means an existing tree which is to be retained in accordance with the plan referred to in paragraph (i) above.

14. The plans and particulars submitted in accordance with condition 13 above shall include details of the size, species, and positions or density of all trees to be planted, and the proposed time of planting.
15. For each phase of development the reserved matters submitted pursuant to condition 4 shall be accompanied by full details of both hard and soft landscape proposals. These details shall include, as appropriate:
- (i) Proposed finished levels or contours;
 - (ii) Positions, design, materials and type of boundary treatment to be erected;
 - (iii) Hard surfacing materials;
 - (iv) The equipment and surfacing for the multi use games area and the children's play areas; and
 - (v) Minor artefacts and structures (e.g. street furniture, refuse or other storage units and signs); and

Soft landscape details shall include:

- a. Planting plans including positions for all tree, hedge and shrub planting;
 - b. Written specifications (including cultivation and other operations associated with plant and grass establishment);
 - c. Schedules of plants, noting species, planting sizes and proposed numbers;
 - d. Densities where appropriate; and
 - e. Implementation timetables including time of planting.
16. If within a period of five years from the date of the planting of any tree that tree, or any tree planted in replacement for it, is removed, uprooted or destroyed or dies, or becomes, in the opinion of the LPA, seriously damaged or defective, another tree of the same species and size as that originally planted shall be planted at the same place.

Heritage

17. No development shall take place within the application site until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved in writing by the LPA. The scheme shall be implemented in accordance with the approved details.

Construction Method Statement

18. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the LPA. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
- (i) the parking of vehicles of site operatives and visitors;
 - (ii) loading and unloading of plant and materials;
 - (iii) storage of plant and materials used in constructing the development;
 - (iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - (v) wheel washing facilities;
 - (vi) measures to control the emission of dust and dirt during construction;
 - (vii) a scheme for recycling/disposing of waste resulting from demolition and construction works.
19. Demolition or construction works shall not take place outside 07.30 hours to 18.00 hours Mondays to Fridays and 08.00 hours to 13.00 hours on Saturdays nor at any time on Sundays or Bank Holidays.

Noise

20. Reserved matters applications submitted pursuant to condition 4 shall, as necessary, be accompanied by details of mitigation measures for any dwelling

located within those parts of the site subject to NEC B (the exact areas to be agreed in writing with the LPA) to achieve internal noise level of LAeq 30dB between the hours of 23.00 to 07.00 and LAeq 40dB between the hours of 07:00 to 23.00. No dwelling shall be occupied until it has been constructed in accordance with the approved details.

The details shall be based on the following drawings:

Cleevelands - Illustrative Master Plan and pba Technical Note CD5/21

Homelands - Appendix 15.3 of the Environmental Statement, Sept 2010

22. Details of any extraction, ventilation, cooling and refrigeration equipment to be installed on or in any building shall be submitted to and approved in writing by the LPA. The rated noise level from any extraction, ventilation, cooling and refrigeration equipment to be installed within the application site shall be no more than LAeq 5dB above the night-time background noise level measured at the nearest noise sensitive receptors. The method of assessment shall be carried out in accordance with BS4142:1997 Rating industrial noise affecting mixed residential and industrial areas (or other document which may replace or modify the method of assessment). All equipment installed shall be installed on or in the building prior to occupation and shall thereafter be operated and maintained in accordance with the manufacturer's instructions.
23. Any Class A3 (food and drink for consumption on the premises), Class A4 (public house, wine-bar or other drinking establishment) and Class A5 (hot food for consumption off the premises) shall not be open to customers outside the hours of 08.00 to 23.00 Monday to Saturday and 12.00 to 22.30 on Sundays and bank or public holidays.

Renewable Energy, Code Levels and Standards

24. The non-residential building hereby permitted shall be constructed to a 'very good' standard of the BREEAM (or subsequent equivalent quality assured scheme). No non-residential building shall be occupied until an authorised assessor has demonstrated confirmation with the required standard.
25. At least 20% of the energy demand of the development shall be secured from decentralised and renewable or low carbon energy sources (as described in the glossary of Planning Policy Statement 1: *Planning and Climate Change* (December 2007) or as provided for in any subsequent guidance. Details and a timetable of how this is to be achieved, including details of physical works on site, shall be submitted to and approved in writing by the LPA as part of the reserved matters submissions required by condition 4. The approved details shall be implemented in accordance with the approved timetable and retained as operational thereafter.
26. A 30% improvement in carbon reduction above 2010 Building Regulations requirement shall be secured across the development by each residential application for Reserved Matters providing details of how the proposal will contribute to achieve aggregate reduction in carbon emissions in accord with an agreed delivery trajectory.

27. Reserved Matters applications shall include details of how each residential application will achieve a minimum Level 4 of the Code for Sustainable Homes or such a level above Code level 4 as may be set out in current development plan policy at the time that each Reserved Matter is made (or such equivalent national standard which may replace or modify the Code for Sustainable Homes). No dwelling shall be occupied until a Final Code Certificate has been issued for it certifying that the required Code Level has been achieved.
28. All the dwellings shall be constructed to Lifetime Homes standards (or such national standards for house design which may replace or modify these).

Mitigation, Enhancement and Management Plan

29. Prior to the commencement of development, a Mitigation, Enhancement and Management Plan (MEMP) shall be submitted to and approved in writing by the LPA. The MEMP shall include the following details:
 - (i) protection and enhancement of retained habitats and provision of any mitigation areas;
 - (ii) methods for the retention and protection of hedgerows, trees and watercourses;
 - (iii) methods for pre-commencement checks for protected species;
 - (iv) methods for precautionary soft felling of trees with bat roost potential;
 - (v) a bat friendly lighting scheme;
 - (vi) details of site clearance which shall not be carried out during bird nesting season (March – August inclusive) unless a survey to assess the nesting bird activity on the site during this period has been undertaken and a method of working to protect any nesting bird interest found established and then implemented;
 - (vii) a timetable for the implementation of any works;
 - (viii) provisions for the long term management and monitoring of all mitigation areas and retained habitats within the scheme;
 - (ix) the personnel responsible for implementation and supervision of the scheme.

The MEMP shall be implemented in accordance with the approved details.

CONDITIONS UNIQUE TO HOMELANDS 2

Contamination – taken from CPO letter 30 May 2008 Appendix 1: Model planning conditions for development on land affected by contamination

2. Development other than that required to be carried out as part of an approved scheme of remediation must not commence until conditions 2.1 to 2.4 have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the LPA in writing until condition 2.4 has been complied with in relation to that contamination.

2.1. Site Characterisation

An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the LPA. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the LPA. The report of the findings must include:

- (i) a survey of the extent, scale and nature of contamination;
- (ii) an assessment of the potential risks to:
 - human health,
 - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
 - adjoining land,
 - groundwaters and surface waters,
 - ecological systems,
 - archaeological sites and ancient monuments;
- (iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency (EA)'s *'Model Procedures for the Management of Land Contamination, CLR 11'*.

2.2 Submission of Remediation Scheme

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the LPA. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

2.3. Implementation of Approved Remediation Scheme

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation. The LPA must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the LPA.

2.4. Reporting of Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the LPA. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 1, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 2, which is subject to the approval in writing of the LPA.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the LPA in accordance with condition 3.

2.5. Long Term Monitoring and Maintenance

A monitoring and maintenance scheme to include monitoring the long-term effectiveness of the proposed remediation, and the provision of reports on the same must be prepared, both of which are subject to the approval in writing of the LPA.

Following completion of the measures identified in that scheme and when the remediation objectives have been achieved, reports that demonstrate the effectiveness of the monitoring and maintenance carried out must be produced, and submitted to the LPA.

This must be conducted in accordance with DEFRA and the EA's *'Model Procedures for the Management of Land Contamination, CLR 11'*.

Highways

4. Phase 3 of the development shall not begin until full engineering details and a specification of the Gotherington Lane traffic calming scheme and Gotherington to Bishop's Cleeve cycle route shown on drawing PL01 rev A, as amended by PL11 rev A, have been submitted for technical approval by the Local Highway Authority. Phase 3 of the development shall not be occupied until technical approval has been given by the Local Highway Authority and all highway works, not otherwise provided by others, have been completed in accordance with the approved plans, details and specification.
5. No works shall commence on Phases 1 or 3 of the site (other than those required by this condition) on the development hereby permitted until the first 20m of the proposed access road, including the junction with Evesham Road and associated visibility splays, has been completed to at least binder course level.
6. No works shall commence on Phase 2 of the site (other than those required by this condition) on the development hereby permitted until the first 20m of the proposed access road, including the junction with Gotherington Lane and associated visibility splays, has been completed to at least binder course level.

7. No building shall be occupied until the roads providing access to the nearest public road to the building has been constructed to at least binder course level.

CONDITIONS UNIQUE TO CLEVELANDS

Defining the Planning Permission

1. The 30 retirement dwellings identified as Area D on the Master Plan (Drawing No. 4080_PL_002 Rev G) hereby permitted shall be occupied only by:
 - (i) Persons of 60 years of age or over;
 - (ii) Persons living as part of a single household with such a person or persons;
 - (iii) Persons who were living as part of a single household with such a person or persons who have since died.
2. Notwithstanding the description of development no separate changing room building shall be constructed on the site.
3. Notwithstanding the details in the consolidated design and access statement (June 2011), no reserved matter shall include development exceeding 2.5 storeys in height.

Drainage and Flooding

4. With the exception of the structure to provide access from Little Acorns, in the location identified on Dwg. 22820/101/SK06 Rev A, no new buildings or structures (including gates, walls and fences) shall be erected and the ground level shall not be raised within 8m of the top of the of the Dean Brook banks and 5m of the tops of both the Dean Farm Ditch and Glebe Farm Brook banks.
5. Within 3 months of the date of this permission the result of a FIDOL (Frequency, Intensity, Duration Offensiveness and Location) Odour Assessment for the Deans Farm Pumping Station shall be submitted for approval to the LPA in writing. No dwellings or live/work units within 30m of the boundary of the Dean Farm Pumping Station shall be occupied until the works or other requirements specified in the approved Odour Assessment have been undertaken.
6. No buildings shall be erected within 15m of the current boundary of the Dean Farm Pumping Station.

Contamination

8. If, during the course of development, any contamination is found which has not been identified in the site investigation, additional measures for the remediation of this source of contamination shall be submitted to and approved in writing by the LPA. The remediation of the site shall incorporate the approved additional measures.

Highways

9. Other than works associated with the construction of a crossing of Gilders Brook, access to the site for construction traffic shall only be from the A435.
10. Prior to the commencement of development full engineering details of the junction (including footways and crossing facilities) onto the A435 shall be submitted to and approved in writing by the LPA. The junction shall be constructed in accordance with the approved details. Other than demolition and site investigation works, or works required by other conditions, no development shall commence until the junction and the first 20 metres of the road from the junction into the site have been constructed to at least binder course level.
11. No building shall be occupied until roads providing access to the nearest public road to the building have been constructed to at least binder course level.
12. No building shall be occupied until a pedestrian/cycle link has been constructed between the A435 and Finlay Way in accordance with details to be submitted to and agreed in writing by the LPA.