Planning Inspectorate

Appeal Decision

Inquiry held on 25-27 November & 2 December 2025

Site visits made on 24 & 26 November 2025

by D M Young JP BSc (Hons) MA MRTPI MIHE

an Inspector appointed by the Secretary of State

Decision date: 27 February 2026

Appeal Ref: APP/Y3940/W/25/3370482
Land North of Bath Road, Corsham, SN13 9XR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) 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 Great Tew Construction LLP against Wiltshire Council.
- The application Ref is PL/2024/05384.
- The development proposed is a residential development (including 30% affordable housing), up to 1550m^2 mixed-use hub (Use Class E), construction of 4-arm roundabout junction, secondary pedestrian access, parking, public open space with play space, pedestrian and cycle routes, landscaping, sustainable drainage system (SuDS) and associated infrastructure with all matters reserved except for access.

This decision is issued in accordance with section 56 (2) of the Planning and Compulsory Purchase Act 2004 as amended and supersedes that issued on 2 January 2026.

Decision

1. The appeal is allowed and outline planning permission is granted for a residential development (including 30% affordable housing), up to 1550 sqm mixed-use hub (Use Class E), construction of 4-arm roundabout junction, secondary pedestrian access, parking, public open space with play space, pedestrian and cycle routes, landscaping, sustainable drainage system (SuDS) and associated infrastructure with all matters reserved except for access at land north of Bath Road, Corsham, SN13 9XR in accordance with the terms of the application, Ref PL/2024/05384, subject to the conditions in the attached schedule.

Applications for costs

2. An application for costs was made by the Appellant against Mr Pank Koria. This application is the subject of a separate decision.

Preliminary Matters

3. The application is made in outline with only ‘access’ to be determined at this stage.

4. Mr Pank Koria, the owner of Guyers House Hotel (GHH) appeared at the Inquiry as a Rule 6 Party (R6).

5. The Inquiry sat for 4 days between 25 November and 2 December 2025. Pre-Inquiry Case Management Conferences were held on 29 September and 17 October with representatives of the Appellant, Council and R6 to discuss the

procedure for the Inquiry. The merits of the appeal were not discussed. A summary of the conference was subsequently sent to the main parties.[1]

6. Statements of Common Ground (SoCG) covering planning, noise and highway matters were submitted prior to the Inquiry, and I have had regard to these in reaching my decision.[2]

7. Signed and dated agreements under s106 of the Town and Country Planning Act were submitted after the close of the Inquiry in accordance with an agreed timetable. Draft versions of the Deeds were discussed at the Inquiry.[3] The proposed obligations need to be assessed against the statutory Community Infrastructure Levy (CIL) tests, a matter I return to later in my decision.

8. Outline planning permission for 150 dwellings, up to 1,394 sqm B1 offices, access, parking, public open space with play facilities and landscaping was allowed on appeal in 2015 (hereafter referred to as the "2015 permission").

9. It is common ground that the Council's emerging plan[4] attracts only limited weight at this time.

10. The latest revision to the National Planning Policy Framework (NPPF) was published in draft form on 16 December 2025. I wrote to the parties giving them the opportunity to make submissions on the document and the responses received have been taken into account.

Main Issues

11. At the beginning of the Inquiry the Council confirmed that it no longer opposed the proposed development. This was on the basis that its putative reasons for refusal set out in in its Statement of Case (SoC)[5] could be addressed by a combination of planning obligations and conditions. It was therefore left to the R6 to provide the main opposition to the proposed development at the Inquiry. The main issues are:

    1) Whether noise and vibration from subterranean mining activity would result in unacceptable harm to the living conditions of future residents through re-radiated noise and if so, whether that harm could be satisfactorily mitigated, and

    2) Whether the development would harm the setting of GHH (Grade II listed), the Pickwick Conservation Area (PCA) and other nearby heritage assets and if so, whether the harm would be outweighed by the public benefits of the scheme.

Reasons

Noise

12. NPPF paragraph 198 states that planning decisions should "*mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life*…". It also directs readers to the Noise Policy Statement for England (NPSE) seeks to avoid significant adverse impacts on health and quality of life, mitigate and minimise adverse impacts on health and quality of life and where

[1] CD8.06
[2] CD8.10, 8.08 and 8.11
[3] CD8.28
[4] CD5.09
[5] CD8.03

possible, contribute to the improvement of health and quality of life.[6] The Planning Practice Guidance (PPG) advises that as noise crosses the 'no observed effect' level, as is the case here, it has no *"adverse effect so long as the exposure does not cause any change in behaviour, attitude or other physiological responses of those affected by it".*[7]

13. The Appellant's assessment of noise and vibration arising from mining activity is contained in a Groundborne Noise Assessment undertaken by Accon.[8] Notwithstanding its conclusions, the Council raised concerns about the use of heavy machinery (such as a hydraulic pecker). It was argued that the resulting vibration would travel through the ground and manifest itself as re-radiated noise within the proposed dwellings thereby impacting on the amenity of residents. Following further testing, including the adoption of a series of robust assumptions, an updated report was submitted to the Council in June 2025.[9] This concluded that re-radiated noise levels would not exceed the Noise Rating (NR)30 $L_{eq.1min}$ criterion when housing is located at a ground distance of 54 metres from the mining buffer zone.

14. Obligations in the Unilateral Undertaking (UU) would prevent the owner of Hartham Park mine from winning, working and abstracting minerals below the appeal site once occupation of dwellings has commenced. Of particular significance, it would also secure a buffer zone of 115m between intrusive mining activities and the nearest dwellings.[10] The UU also contains restrictions on the use of mine machinery to a maximum power rating and noise levels in the proposed residential buildings to NR25 (day and night) which the main parties agree would not result in adverse effects due to re-radiated sound.[11] Although blasting is a rare event, it has in the past led to complaints from local residents in the immediate vicinity of the mine.[12] Against that background, the requirement for the mine owner to give appropriate notice of any blasting and for this to be carried out in accordance with an approved methodology, is a notable public benefit.

15. In response to the additional testing and provisions contained in the UU the Council confirmed that any adverse effects on future residents of the proposed development would be effectively mitigated. The R6 made it clear that it was not bound by agreements between the main parties in relation to noise and its expert gave evidence at the Inquiry. The main thrust of the R6's case was that the noise curve should be NR15. This would ensure any noise from the mine would be inaudible within the proposed dwellings at night. However, no policies or guidance were cited in support of that position, and a test of inaudibility is inconsistent with the NPPF, NPSE and the PPG. I am therefore satisfied that a NR25 noise curve would secure a good level of amenity for future residents.

16. In respect of the 115m buffer zone it should be noted that the mine has previously been worked directly underneath the Copenacre estate, a short distance to the west, and that no noise complaints were received by the Council. Where complaints have been received, these relate mainly to activity within the yard

[6] CD9.07
[7] CD5.11, Paragraph: 005 Reference ID: 30-005-2019072
[8] CD1.26
[9] CD3.26
[10] The buffer zone only includes areas to the north and east of the appeal site because areas to the south-west have already been worked. The ownership of the minerals to the east in unknown.
[11] See Noise SoCG (CD8.11) paragraph 2.4
[12] This last took place in 2019 to create a new shaft and is not used for routine stone extraction.

and/or blasting operations which took place many years ago. Although there are no planning restrictions to prevent night working in the mine, the operator has confirmed that is does not, nor intends to operate at night.[13]

17. In the unlikely event that mining activity did adversely affect the amenity of future residents, the Council has not raised any concerns about the enforceability of the obligations in the UU. Of course, a grant of planning permission would not disengage the statutory nuisance regime which NPPF paragraph 201 advises should be assumed to operate effectively. In that vein, the evidence before me demonstrates that previous noise complaints in respect of Guyers Lodge were successfully resolved.

18. I am therefore satisfied that the proposed buffer zone as well as the restrictions on machinery and noise levels within the dwellings to be secured by the UU would be sufficient to protect the amenity of future residents whilst providing a degree of betterment to local residents. Accordingly, there would be no conflict with the NPPF, NPSE, PPG or Core Policy 57(vii) of the Wiltshire Core Strategy (WCS). Collectively these seek a good standard of amenity for future residents and the avoidance of significant adverse noise impacts.

Heritage assets

19. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act, 1990 (as amended) states that in considering whether to grant planning permission for development which affects a listed building or its setting, the decision maker shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Section 72(1) requires decision makers to give special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.

20. There has been no objection to the proposed development from either Historic England or the Council's Conservation Officer. Moreover, the effect of a similar development on the two nearest heritage assets; GHH and the PCA was carefully considered by the previous inspector who concluded there would be minor harm to GHH and no harm to the PCA. Those findings were based on a significant amount of information including a Built Heritage Assessment which identified all the listed buildings in the locality. I do not therefore consider that the information before the previous inspector was in some way deficient or incomplete.

21. There has been no meaningful change to the assets themselves, their surroundings or the prevailing policy and legal framework since 2015. Consequently, the heritage case presented by the R6 represents something of a re-running of arguments that were made at the previous Inquiry on which the previous Inspector came to a clear and reasoned conclusion. I accept the R6 has submitted a significant amount of information about the origins and subsequent development of Corsham and Pickwick from a small stagecoach/turnpike settlement in the 18th Century. While interesting, much of this work has limited relevance to the assets and the way they are experienced today.

22. No development is proposed within the grounds of GHH or in the PCA or any of the heritage assets identified in the R6's proof[14], instead the disagreement relates

[13] CD8.20g
[14] CD8.17a

solely to the impact of the scheme on the significance or special architectural or historic interest of the assets through a change to their setting. What constitutes 'setting' is a well understood notion – it is the surroundings in which an asset is experienced. However, it is important to recognise that setting is not a heritage designation in its own right and is distinct from curtilage, character or context. There is generally a staged approach to scoping assets in or out of analysis, predominantly done on the basis of intervisibility.[15] While non-visual considerations can sometimes be relevant to the issue of setting, there is no evidence of any specific historical or cultural associations between the appeal site and the PCA, GHH or any of the additional assets highlighted by the R6.

23. The setting of GHH is defined principally by its immediate landscape grounds which are of the highest order. Given the extent of mature landscaping within the grounds and particularly along the southern boundary, only fleeting glimpses of the appeal site are possible.[16] While the wider landscape around GHH, including the appeal site, contributes to an understanding of the building's agricultural origins, I consider the contribution to be limited. In coming to that view, I acknowledge that the appeal site was once former parkland. However, there is no evidence to suggest it was associated with GHH or that GHH was designed to gain views over it. In any event, it has been an arable field for many decades now and in my view has lost the majority of its parkland character.

24. There is no intervisibility between the appeal site and the core part of the PCA (from the Hare & Hounds Inn eastwards). The R6 referred to views from Academy Drive, a modern housing estate built within the grounds of Beechfield House. However, even in winter, I was unable to obtain any meaningful view of the appeal site when I visited the area. Despite two reviews since its designation in the early 1970s, the appeal site has not been included in the PCA. Reference was made to Dickens' 'Pickwick Papers' but that historical connection to the PCA would not be diminished by development on the appeal site. In light of the very limited intervisibility and lack of historical connection, I do not consider the appeal site forms part of the surroundings in which the PCA is experienced.

25. The R6 alleges harm of differing degrees to St Patrick's Church, 52 Pickwick, the Roundhouse, Beechfield House and the Hare & Hounds Inn which are all listed due to their architectural interest. In relation to these assets, the previous Inspector stated:

"*I agree that the other listed buildings identified in the assessment are either too far from the appeal site, or have an insufficiently direct relationship with it, for there to be any material impact on their settings or their significance".*

26. Despite the submission of some general background information about the history of Pickwick and Corsham, there is no substantive evidence before in relation to the additional assets which would lead me to doubt the previous Inspector's findings. The additional assets are further away from the appeal site than GHH and the PCA and their settings are confined to their curtilages and the roads and public spaces immediately adjacent to them. In all cases their special architectural or historic interest would remain intact.

[15] See Historic England's Good Practice Advice in Planning Note 3 - CD10.24
[16] I accept there might be more intervisibility from GHH's upper floor windows. Nonetheless that would have been the case in 2015 when the previous appeal was considered.

27. While 52 Pickwick and St Patrick's Church would have at one time enjoyed a rural outlook, that has been eroded over the years by the subsequent expansion of Corsham. The connection of the footpath across the appeal site to St Patrick's Church is tenuous at best. The footpath is in any event to be retained on its current alignment and therefore any historical association between it and the church would be retained. The proposed dwellings would be sited further away from Beechfield House than the existing housing estate off Academy Drive. Given existing and proposed levels of landscaping along and beyond the western edge of the PCA, there would be no intervisibility or harm to the setting of Beechfield House.

28. The R6's expert witness accepted that the significance of all the aforementioned assets is primarily contained in a visual appreciation of the form, fabric and aesthetic qualities of the buildings. That is supported by the listing descriptions which refer to the buildings' architectural interest. Where assets derive most of their significance from their physical form, as is the case here, it is difficult to see how the impact can advance a long way along the less than substantial scale. Adopting those principles, a finding of 'high'[17] or even 'moderate' levels of less than substantial harm in a setting case, with very limited or no intervisibility, is only likely to occur in very small number of exceptional cases.

29. Taking all of the above in the round, I consider there would be harm to GHH through a change to its wider setting. That harm would be mitigated by the proposed landscaped buffers along the northern and eastern site boundaries such that the existing intervisibility between the site and the GHH would be all but lost. The level of harm would therefore be at the bottom end of the 'less than substantial' range. This would nonetheless bring the proposed development into conflict with WCS Policy 58 and Policies HE1 and HE2 of the Corsham Neighbourhood Plan (CNP), which require proposals to 'conserve and enhance' the historic environment.

30. NPPF paragraph 215 requires that a balancing exercise is undertaken to weigh the harm to GHH against the public benefits of the proposal. I undertake this balance in the context of the guidance in NPPF paragraph 212, which makes it clear that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Nonetheless, I am satisfied that the scale of the public benefits arising from the proposed development (set out in Chapter 6 of Mr Grant's proof) not least the urgent need for housing, are sufficient to outweigh the harm to GHH. The proposal therefore passes the paragraph 215 test and heritage matters do not provide a strong reason for refusing the proposed development.

31. The R6 contended that Guyers Cottages and the Traveller's Rest (both non-designated heritage assets (NDHAs)) would be harmed through an erosion to their rural surroundings which enhances the ability to understand the history of the buildings. However, neither building has been identified by the Council as a NDHA. The Appellant's heritage witness assessed the buildings using the criteria in Historic England's Advice Note 7[18] and concluded that the buildings did not merit NDHA status, a view shared by the previous inspector. Accordingly, any harm to the setting of these buildings is not a matter that carries any significant weight in the planning balance.

[17] As the R6 witness accepted a 'high' level of less than substantial harm is only one step below 'substantial' harm which is widely accepted as meaning the near or total loss of an asset.
[18] CD5.15

Other Matters

32. Local residents have raised concerns about the speed of traffic and congestion along Bath Road. While I witnessed peak-hour congestion along Bath Road when I visited the area, it is important to draw a clear distinction between existing issues and the effect of development traffic. The latter is the responsibility of the developer and the former, the Local Highway Authority. The proposed mitigation/improvements set out at paragraphs 3.5 and 6.2 of the Highways SoCG include a lowering of the speed limit on Bath Road, improved pedestrian and cycle links including a new toucan crossing on Bath Road, additional bus stops financial contributions to improve pedestrian and cycle routes to the town centre and primary school on Bradford Road. I consider that the above works would go beyond mitigating the impact of the development and would result in a degree of betterment for the local community.

33. In terms of congestion, the Transport Assessment (TA) indicates that the scheme would generate 71 and 75 vehicular trips in the AM and PM peak-hour respectively.[19] 58% of this traffic is assigned to Bath Road, Chippenham bound. Junction modelling indicates that development traffic would not lead to a material worsening of congestion at junctions between the site and Chippenham. While I understand the concerns of local people, there is no evidence which would lead me to doubt the conclusions of the TA and the Highway Authority's response to it.

34. Under Regulation 63 of the Conservation of Habitats and Species Regulations 2017 (as amended) as competent authority I am required to undertake an Appropriate Assessment of the development on the basis of its Likely Significant Effects on the Bath and Bradford on Avon Bats Special Area of Conservation. Natural England nor the Council have objected to the information provided by the Appellant to support the Appropriate Assessment.[20] Following consideration of the proposed avoidance and mitigation measures identified, I conclude that there would not be any adverse effect on the integrity of these European Sites, either for the proposed development alone, or in combination with other plans and projects.

35. The appeal site is wholly within a Mineral Safeguarding Area and subject to a historic minerals consent for Bath Stone extraction linked to Hartham Park Quarry. The Council, as both the LPA and the Minerals and Waste Authority, accept that the sterilisation of any of the mineral reserve as a consequence of the proposed development and noise mitigation, would be negligible. The mine operator has also confirmed that the stone under the site is not currently viable due to poor quality and extraction is to continue in a north and westward direction away from the appeal site.

36. The Inquiry heard from the Appellant's expert witness Mr Bailey, who explained the process and methodology behind the Mineral Reserve Assessment[21] (MRA) which was submitted in support of the planning application. This was supplemented at the appeal stage by a Technical Note[22] which sought to address matters raised in the R6's SoC[23]. While the R6 raised a number of concerns regarding the MRA and subsequent Technical Note, these did not stand up to scrutiny at the minerals round-table discussion, where the Appellant's witness was

[19] CD1.16
[20] Shadow HRA CD1.12
[21] CD3.20
[22] CD8.20k
[23] CD8.04

able to explain the purpose, process and guidance that had been followed in preparing the MRA.

Planning Obligations

37. The NPPF sets out policy tests for planning obligations which must be 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.

38. As outlined above, I am satisfied that the obligations in the UU would secure effective noise mitigation and are reasonably necessary to make the development acceptable in planning terms.

39. The bilateral S106 agreement contains obligations in respect of affordable housing (30%), off-site play/Sports Pitch contribution, waste Infrastructure, highways contributions (see paragraph 3.5 of the Highways SoCG), a Public Rights of Way contribution, ecology/bio-diversity net-gain monitoring fee, a financial contribution to local health facilities and a public art contribution of £45,000.

40. The CIL compliance statement[24] sets out the detailed background and justification for each of the obligations which are not disputed by the Appellant. I am satisfied from the evidence before me that the obligations are necessary, directly related to the proposal and fair and reasonable in scale and kind to the appeal scheme. As a result, I have taken the obligations into account as part of my overall conclusion that the appeal should be allowed.

Conditions

41. The parties have suggested a number of planning conditions which I have considered against the advice in the PPG. In some instances, I have amended the conditions in the interests of brevity, to avoid repetition or to ensure compliance with the PPG.

42. To provide certainty, I have imposed standard conditions for outline permissions covering time limits, the reserved matters and the approved plans [Conditions 1-4]. A phasing plan is necessary to ensure the development comes forward in a coherent and planned manner [5]. Conditions covering sustainable construction, renewable energy, EV charging points, cycle parking, travel plans and water efficiency are necessary to promote greener modes of travel, reduce reliance on fossil fuels and to generally comply with the Council's sustainability objectives [6-14].

43. A Traffic Regulation Order to reduce the speed limit along Bath Road is necessary in the interests of highway safety [15]. A Construction Management Plan is necessary to ensure all aspects of site preparation and construction adhere to best practice to minimise adverse effects on local residents [16]. Drainage conditions are necessary to ensure satisfactory drainage of the site in the interests of flood prevention [17-18].

[24] CD8.29a

44. Landscaping conditions are necessary to secure the landscape mitigation shown on the Masterplan and to ensure the satisfactory appearance of the development [19-20]. Given the landscaping condition requires details of the tree protection measures to be agreed with the Council, I am not persuaded a separate Arboricultural Method Statement is necessary. Ecology conditions including a Construction Environmental Management and Habitat Management and Monitoring Plans are necessary to protect habitats and wildlife and to ensure the development delivers a net-gain for biodiversity [21-24].

45. A contaminated land condition is necessary to ensure the land is suitable for a residential use [25]. A Bird Hazard Management Plan is necessary in the interests of aviation safety [26]. Finally, a condition relating to mineral working buffer zone is necessary to protect the living conditions of future residents [27]. In response to the Council's query and to ensure the mixed-use hub does not generate additional traffic that has not been assessed in the Transport Assessment, I have imposed a condition restricting the size of the Class E use 550m^2 [28].

46. Conditions 5-8, 16-19, 21, 23 and 25 are 'pre-commencement' form conditions and require certain actions before the commencement of development. In all cases the conditions were agreed between the main parties and address matters that are of an importance or effect that need to be resolved before construction begins.

Conclusion and Planning Balance

47. I am required to determine this proposal in accordance with the development plan, unless material considerations indicate otherwise, the starting point is therefore the development plan.

48. There would be conflict with WCS Policy 58 and CNP Policies HE1 and HE2 in respect of 'less than substantial' harm to GHH. This harm would be outweighed by the public benefits of the scheme and therefore there would be no conflict with the NPPF. There would be limited conflict with WCS Policy 51 and CNP Policies E3 in respect of landscape harm which as the Council points out would be largely mitigated. As the appeal site is outside the settlement boundary of Corsham there would also be conflict with WCS Policies 1 and 2.

49. However, there is no dispute between the parties that the Council cannot demonstrate a 5-year supply of housing.[25] In such situations NPPF paragraph 11 d) is engaged.[26] The effect of this is two-fold. Firstly, it renders the policies which are most important for determining the application '*out-of date*'. This means the conflict with WCS Policies 1 and 2 carries limited weight. Secondly, the planning balance shifts in favour of the grant of consent as a result of the '*tilted*' balance in paragraph 11d)ii). Only if harm "significantly and demonstrably" outweighs the benefits of the development, should consent be refused.

50. The benefits of the proposed development include:

    - 150 new homes in an area of pressing need (30% of which would be affordable) contributing to the national policy imperative of significantly boosting the supply of housing;

[25] The agreed supply is 2.42 years – see SoCG paragraph 5.3 & CD5.05
[26] CD5.07

- The development of a site with strong sustainability credentials with a wide range of destinations within a 20-minute walk and regular bus services to Bath and Chippenham;
- A Biodiversity net-gain of 17% (Habitat Units) and 32% (Hedgerow Units);
- Public access to the appeal site including significant areas of public open space including 8,889m² of public open space and 879m² of equipped play space;
- The provision of a 550m^2 mixed-use employment hub providing alternative employment opportunities for local residents;
- Economic benefits through construction and supply chain jobs and resident expenditure;
- Highway benefits including new pedestrian crossings on Bath Road, new foot and cycleways linking to the existing provision, new bus stops and a reduction of the speed limit along the A4, and
- Noise and vibration benefits to local residents to be secured through the UU as set out in paragraph 14 above;

51. The largely undisputed social, economic and environmental benefits listed above are of such magnitude that they clearly outweigh the identified harms and associated policy conflicts. Accordingly, the appeal scheme would be sustainable development for which there is a presumption in favour.

52. For the reasons given above the appeal should be allowed.

D M Young

INSPECTOR

APPEARANCES

FOR THE APPELLANT: Mr John Litton KC, he called

Clive Bentley BSc (Hons) MCIEH MIEnvSc MIOA CEnv CSci	Noise Witness, Sharps Acoustics
John Brown MA ACIfA	Heritage Witness, Tetra Tech
Richard Grant BA (Hons) Dip TP MRTPI	Planning Witness, Origin3
Eddie Bailey CGeol FGS EurGeol FIQ	Minerals Expert, Touchstone Geological
Jonathan Bruton	Wansbroughs LLP, Appellant's Solicitor

FOR THE LOCAL PLANNING AUTHORITY: Mr James Neill

Peter Crozier BA (Hons) Dip(UP) MRTPI	Senior Planning Officer
Brett Warren	Principal Environmental Protection Officer

FOR THE RULE 6 PARTY: Ms Kate Olley of Counsel, she called,

Edward Clarke BEng (Hons) FIOA	Noise Witness, Clarke Saunders Associates
Nichola Burley MA, Dip Cons Arch, MRTPI, IHBC	Heritage Witness, Heritage Vision Ltd

INTERESTED PARTIES:

Cllr Belcher
Cllr Coward
Cllr White
Edward Barrett
Tony Clark
David Taylor
Chris Johnson
Jenny Newman
Matthew Whitelaw
Guy Hungerford
Derek Elliot
Jenny Enstone
Jennifer Newman
Emma Sweet

INQUIRY DOCUMENTS

ID 1	10862677 E letter A. Thomas Esq Wiltshire Council 241125 (also CD 10.40)
ID 2	Appellant Opening Statement
ID 3	Rule 6 Opening Statement
ID 4	Cllr Helen Belcher Statement
ID 5	John Coward Statement
ID 6	Tony Clark Statement
ID 7	Corsham Civic Society Statement
ID 8	David Taylor Statement
ID 9	Chris Johnson Statement
ID 10	Matthew Whitelaw Statement
ID 11	Jennifer Newman Statement
ID 12	Emma Sweet Statement
ID 13a	Rule 6 email to PINS, LPA & Appellant RE Submissions in relation to Minerals
ID 13b	Rule 6 Party's Late Submission in relation to Minerals
ID 13c	Appendix 1 - Advisory Note on MRA and Minerals Technical Note
ID 13d	Mineral Reserve Assessment (Touchstone) December 2024
ID 13e	PERC REPORTING STANDARD 2021
ID 13f	Wisloe Geological Exploration and Mineral Resource Assessment Sept 2023
ID 14	Bath Rd Corsham - SoCG on noise 07.11.25 signed +rule6
ID 15	Hartham Park - Ariel Survey – Aerial (also CD 10.41)
ID 16	Hartham Park - Ariel Survey – OS (also CD 10.42)
ID 17	Wiltshire Council Opening Statement
ID18	Rule 6 Closing Statement
ID19	Appellant Closing Statement

SCHEDULE OF CONDITIONS

1) Details of the appearance, landscaping, layout, and scale, ("the reserved matters") shall be submitted to and approved in writing by the Local Planning Authority before any development takes place and the development shall be carried out as approved.

2) Application for approval of the reserved matters shall be made to the Local Planning Authority not later than three years from the date of this permission.

3) The development hereby permitted shall take place not later than two years from the date of approval of the last of the reserved matters to be approved.

4) The development hereby permitted shall be carried out in accordance with the following approved plans and documents.
   - Site Location Plan 23007 200 Rev B (received 11/06/2024)
   - Parameters Plan – Composite 23007 501 Rev A (received 31/01/2025)
   - Ecological Parameters Plan 1982-EPP-Rev1 (received 31/01/2025)
   - Access Plan – 23016/PHL-02 Rev.D
   - Statutory Biodiversity Metric. March 2025. N Hargreaves
   - IACPC Certificate. November 2024. Natural England
   - Lighting Strategy. April 2025. DPL Lighting
   - Outline Lighting Design. April 2025. DPL Lighting
   - Arboricultural Impact Assessment & Tree Protection Plan. January 2025. The Environmental Dimension Partnership

5) Prior to the commencement of any development and concurrently with any future reserved matters application(s), details of the phasing of the development shall be submitted to and approved in writing by the local planning authority. The details shall include the phasing of market and affordable housing units, public open spaces and equipped play areas. Development shall be carried out in accordance with the approved phasing details.

6) Prior to the commencement of any development and concurrently with any future reserved matters application(s), final Sustainable Energy Strategy(ies), including details of operational energy, embodied carbon, climate change adaptation measures and sustainable transport shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and shall be implemented prior to occupation of the development.

7) Prior to the commencement of any non-residential development and concurrently with any future reserved matters application(s), a BREEAM Pre-Assessment shall be submitted to and approved in writing by the Local Planning Authority demonstrating that the non-residential development is targeting the relevant BREEAM "Excellent" standard (or any such equivalent national measure of sustainable building which replaces that scheme). Within 6 months of the non-residential development being first brought into use a final Certificate shall have been submitted to and approved in writing by the Local Planning Authority certifying that the relevant BREEAM "Excellent"

standard (or any such equivalent national measure of sustainable building which replaces that scheme) has been achieved by the non-residential development.

8) Prior to the commencement of any development and concurrently with any future reserved matters application(s), final details of the low-carbon and renewable energy technologies (such as air source heat pumps and roof-mounted solar PV) shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

9) No development above damp-proof course level shall commence until details of the electric vehicle charging points (including their location, number and manufacturer's details) have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

10) Before the commercial building and mobility hub is first brought into use, cycle parking shall be provided in accordance with details that have first been submitted to and approved in writing by the Local Planning Authority.

11) The dwellings shall be constructed to meet, as a minimum, the higher Building Regulations standard Part G for water consumption limited to 110 litres per person per day using the fittings approach.

12) Prior to the occupation of the 100th dwelling a mobility hub shall be opened for use on the development in accordance with details to be first submitted to and approved by the Local Planning Authority.

13) Prior to first occupation of any dwelling of the development a Full Residential Travel Plan based on the submitted Travel Plan Statement shall be submitted to and approved by the Local Planning Authority. The Full Residential Travel Plan when approved shall be implemented including the appointment of a residential travel plan co-ordinator for three years from the date of first appointment.

14) Prior to the beneficial occupation of any part of the employment use, a Full Workplace Travel Plan based on the submitted Travel Plan Statement shall be submitted to and approved by the Local Planning Authority. The Full Workplace Travel Plan when approved shall be implemented including the appointment of a workplace travel plan coordinator for three years from the date of first appointment.

15) Prior to first occupation of any dwelling of the development, a Traffic Order to extend the 30mph speed limit along the A4 road over the frontage of the development shall have been prepared, consulted upon, and advertised, with a final report recommending whether to proceed with the Order prepared for consideration by the Cabinet Member for Highways. In the event that the Cabinet Member for Highways approves the Order the amendments shall be implemented.

16) Prior to the commencement of any development and concurrently with any future reserved matters application, a Construction Management Plan (CMP) shall be submitted to and approved by the Local Planning Authority. The Plan shall include details of the following:

- the parking of vehicles of site operatives and visitors;

- construction vehicle routeing;
- loading and unloading of plant and materials;
- storage of plant and materials used in constructing the development;
- the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- wheel washing facilities;
- measures to control the emission of dust and dirt during construction;
- a scheme for recycling/disposing of waste resulting from demolition and construction works;
- measures to avoid the risk of noise and vibration impacting upon bats roosting within underground workings, and
- Details of construction hours

The site construction shall be carried out in accordance with the approved CMP.

17) Prior to commencement of development and concurrently with any future reserved matters application(s), a scheme for works for the disposal of sewage from the development shall be submitted to and approved by the local planning authority. The scheme shall be carried out in accordance with the approved details.

18) Prior to commencement of development and concurrently with any future reserved matters application(s), full details of a scheme for the discharge of surface water from the site (including surface water from the access/driveway), incorporating sustainable drainage details, shall be submitted to and approved by the local planning authority, the details of which shall include:

i. winter infiltration BRE365 testing shall be undertaken at TP51 (as identified at Figure 2.1 of the Flood Risk Assessment - Addendum (September 2025)), with details to be provided of how a basin in this location will be lined.;

ii. evidence and justification as to why infiltration is not a feasible method of surface water disposal, including evidence demonstrating how the surface water disposal hierarchy has been applied and how all other options have been exhausted;

iii. revised detailed drawings of the proposed drainage network removing the connection into the highways sewer, and instead into Wessex Water's network as proposed;

iv. demonstrable evidence that flows from the southern border of the site are prevented from flowing onto the highway;

v. a detailed plan showing overland exceedance routes for flows in excess of the 1 in 100 year plus climate change (40%) rainfall event, that minimise and mitigate the flood risk to people and property, and that demonstrate flow is retained and safely managed onsite;

vi. confirmation as to who will be responsible for the SuDS maintenance (if any maintenance will be the responsibility of a house/plot owner, this should be included in the title deeds for the land/property);

vii. detailed calculations and cross/long section drawings for each SuDS drainage feature proposed,and

viii. demonstration and evidence of agreement to discharge foul water into the foul water sewer with the foul sewerage undertaker. The development shall not be first occupied until surface water drainage has been constructed in accordance with the approved scheme.

19) Prior to the commencement of any development a scheme of hard and soft landscaping shall be submitted to and approved in writing by the Local Planning Authority, the details of which shall include:

i) location and current canopy spread of all existing trees and hedgerows on the land;

ii) full details of any to be retained, together with measures for their protection in the course of development;

iii) a detailed planting specification showing all plant species, supply and planting sizes and planting densities;

iv) finished levels and contours;

v) means of enclosure including details of the retention of stone walls;

vi) car park layouts;

vii) other vehicle and pedestrian access and circulation areas;

viii) all hard and soft surfacing materials;

ix) minor artefacts and structures (e.g. furniture, play equipment, refuse and other storage units, signs, lighting etc), and

x) proposed and existing functional services above and below ground (e.g. drainage, power, communications, cables, pipelines etc indicating lines, manholes, supports etc);

20) All soft landscaping comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the first occupation of the building(s) or the completion of the development whichever is the sooner; All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local planning authority. All hard landscaping shall also be carried out in accordance with the approved details prior to the occupation of any part of the development or in accordance with a programme to be agreed in writing with the Local Planning Authority.

21) Prior to the commencement of any works, including demolition, ground works/excavation, site clearance, vegetation clearance and boundary treatment works, a Construction Environmental Management Plan (CEMP) shall be submitted to the local planning authority for approval in writing. The Plan shall provide details of the avoidance, mitigation and protective measures to be implemented before and during the construction phase, including but not necessarily limited to, the following:

i) Identification of ecological protection areas/buffer zones and tree root protection areas and details of physical means of protection, e.g. exclusion fencing.

ii) Working method statements for protected/priority species, such as nesting birds and reptiles.

iii) Mitigation strategies already agreed with the local planning authority prior to determination, such as for great crested newts, dormice or bats; this should comprise the pre-construction/construction related elements of strategies only.

iv) Work schedules for activities with specific timing requirements in order to avoid/reduce potential harm to ecological receptors; including details of when a licensed ecologist and/or ecological clerk of works (ECoW) shall be present on site.

v) Key personnel, responsibilities and contact details (including Site Manager and ecologist/ECoW), and

vi) Timeframe for provision of compliance report to the local planning authority; to be completed by the ecologist/ECoW and to include photographic evidence.

Development shall be carried out in accordance with the approved CEMP.

22) No additional external lighting other than that stipulated on the Outline Lighting Design – April 2025, DPL Lighting will be installed within the application site unless details of the proposed new lighting have been submitted to and approved by the Local Planning Authority in writing. The plans will be in accordance with the appropriate Environmental Zone standards set out by the Institution of Lighting Professionals (ILP) Guidance Notes on the Avoidance of Obtrusive Light (GN 01/2021) and Guidance note GN08/23 “Bats and artificial lighting at night”, issued by the Bat Conservation Trust and Institution of Lighting Professionals.

23) Prior to the commencement of any development a Habitat Management and Monitoring Plan (the HMMP), prepared in accordance with the statutory Biodiversity Gain Plan, shall be submitted to and approved in writing by the local planning authority, and shall include the following details:

- a non-technical summary;
- the roles and responsibilities of the people or organisation(s) delivering the HMMP;
- the planned habitat creation and enhancement works to create or improve habitat to achieve the biodiversity net gain in accordance with the statutory Biodiversity Gain Plan and schedule for implementation;
- the management measures to maintain habitat in accordance with the statutory Biodiversity Gain Plan for a period of 30 years from the completion of development; and
- the monitoring methodology and specification of a Monitoring Pack (to include but not exclusively up to date Management Actions Logs, Habitat Condition Assessment Reports, metric calculation; and corresponding post intervention Habitat Map) which shall be submitted

to the Local Planning Authority in years 2 (two) 5 (five) 10 (ten) 15 (fifteen) 20 (twenty) and 30 (thirty) of the Maintenance Period, has been submitted to, and approved in writing by, the local planning authority.

No dwellings shall be occupied until the habitat creation and enhancement works set out in the approved HMMP have been implemented. The created and/or enhanced habitat shall be managed and maintained in accordance with the statutory HMMP at all times thereafter.

24) Prior to the occupation of any dwelling or building, the bat roosts and nesting opportunities for birds and hedgehogs, details of which shall first be submitted to and agreed in writing by the local planning authority, shall be provided and thereafter retained.

25) Prior to the commencement, based on the information contained within the submitted Phase 1 Contaminated Land Desk Study Report (EX-23-130, January 2024), the following shall be undertaken and complied with:

i. A more detailed site investigation and risk assessment shall be carried out in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination CLR11'. A report detailing the site investigation shall be submitted to and approved in writing by the local planning authority.

ii. If the report submitted pursuant to step (i) indicates that remedial works are required, full details must be submitted to and approved in writing by the local planning authority. The remedial works shall be carried out as approved prior to the commencement of development or in accordance with a timetable that has been agreed in writing by the local planning authority. On completion of the remedial works the applicant shall provide written confirmation to the local planning authority that the works have been completed in accordance with the approved details.

26) No development above the level of the damp proof course for any the buildings hereby approved shall take place until a Bird Hazard Management Plan (BHMP) has been submitted to and approved in writing by the Local Planning Authority in consultation with the Ministry of Defence (MOD). The Bird Hazard Management Plan should contain, but not be limited to:

a) An assessment of the various bird species found in the vicinity of the site, to include species data and numbers;

b) Details of measures designed to prevent the development forming an environment attractive to those large and/or flocking bird species hazardous to aviation safety;

c) Details of roof proofing measures designed to prevent access to any identified problematic species; and

d) Confirmation of drain to dry times for the attenuation basins and details of the maintenance programme through which those drain to dry times will be maintained.

The development shall be carried out and managed strictly in accordance with the details agreed and there shall be no variation without the express written consent of the Local Planning Authority in consultation with the MOD.

27) No residential buildings shall be built within the 20m buffer zone as shown on 'Proposed Buffer Zones' plan (drawing number BP_103 Rev A, dated 05/11/2025).

28) The total gross internal (GIA) floorspace of any commercial building(s) submitted as part of any future Reserved Matters application(s) forming part of the proposed Mixed-Use Hub (Use Class E) hereby approved shall not exceed 550m^2 (GIA) cumulatively.

Planning Inspectorate

Costs Decision

Inquiry held on 25-27 November & 2 December 2025

Site visits made on 24 & 26 November 2025

by D M Young JP BSc (Hons) MA MRTPI MIHE

an Inspector appointed by the Secretary of State

Decision date: 2 January 2026

Costs application in relation to Appeal Ref: APP/Y3940/W/25/3370482
Land North of Bath Road, Corsham, SN13 9XR

- The application is made under the Town and Country Planning Act 1990, sections 78, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
- The application is made by Great Tew Construction LLP for a partial award of costs against Mr Pank Koria.
- The inquiry was in connection with an appeal against the failure of the Council to issue a notice of their decision within the prescribed period on an application for a residential development (including 30% affordable housing), up to 1,550m^2 mixed-use hub (Use Class E), construction of 4-arm roundabout junction, secondary pedestrian access, parking, public open space with play space, pedestrian and cycle routes, landscaping, sustainable drainage system (SuDS) and associated infrastructure with all matters reserved except for access.

Decision

1. The application for a partial award of costs is allowed in the terms set out below.

The submissions for Great Tew Construction LLP

2. The costs application was submitted in writing.

3. The Appellant submits that the Rule 6 Party (R6) behaved unreasonably in the conduct of its case in the following respects:

    1) The R6's evidence on heritage matters went far beyond the impact of Guyers House Hotel (GHH) and the Pickwick Conservation Area (PCA). Introduced for the first time in Ms Burley's (the R6's heritage witness) proof, harm was alleged to St Patrick's Church, 52 Pickwick, the Round House, Beechfield House, Hare & Hounds Inn, Guyers Cottages and Traveller's Rest. That went substantially beyond the R6's Statement of Case (SoC)/Rebuttal to the Council's SoC and the issues agreed at the second Case Management Conference (CMC).

    2) Notwithstanding the length of the heritage proof, there was no substantive evidence to support the contention that the appeal site is within the setting of these additional assets, contributes to the significance of those assets and/or that the proposed development would harm their significance. There was also a failure to follow the 'staged' approach in Historic England's GPA3.

    3) As regards non-designated heritage assets, the R6 failed to apply Historic England's advice in AN7 on the identification of non-heritage assets and/or provide clear evidence that Guyers Cottage and/or Traveller's Rest should be considered non-designated heritage assets.

4) The heritage rebuttal proof submitted on 18 November introduced and criticised the previous material associated with the application and 2015 inquiry and subsequent planning permission. No such criticism was identified by the R6 in its SoC despite the same material being available from the outset.

5) On 18 November the R6 submitted a technical report by Mr Fulton (the Fulton Report) criticising the Minerals Reserve Assessment[1] (MRA) a document that had been available since late 2024. That was followed up by a further document (the R6's late submission) from Mr Pank Koria (PK) submitted the day before the inquiry arguing that the MRA should be withdrawn "*in the public interest*". Many of the points raised in this late submission did not go to the merits or reliability of the MRA and went beyond the mineral sterilisation points raised in the R6's SoC. The R6 also failed to comply with the Inspector's Direction that any evidence in relation to minerals sterilisation should be submitted by 7 November.

6) The R6 raised a large number of matters relating to the draft Unilateral Undertaking (UU) at the last minute which could have been raised earlier and in a timely manner.

4. The above behaviour resulted in the following unnecessary expense:

a) The timetable agreed by the parties allowed for 1 day to examine/cross-examine the heritage evidence of Ms Burley & Mr Brown (Day 2) and a Round Table Discussion (RTD) on minerals sterilisation (Day 3) to allow the Appellant to respond to the Fulton Report.

b) The widening of the R6's heritage case necessitated the Appellant's heritage witness to submit a rebuttal proof. Inevitably, the evidence on heritage matters took longer than it should have because of the unreasonable introduction by the R6 of many more additional heritage assets.

c) The additional evidence submitted in relation to mineral sterilisation and the reliability of the MRA required, as a matter of fairness, the Appellant to call its own minerals expert (Mr Bailey). The inquiry therefore had to sit on an extra day. But for the R6's unreasonable behaviour, this would not have been necessary.

d) The R6's belief that the additional evidence could be dealt with by the Appellant submitting a written note disregards inquiry procedure. The point of conducting the appeal under the Inquiry Rules is to avoid parties having to respond to matters on the hoof because they are raised late in the day. That is sometimes unavoidable but in this case all the points made by the R6 relating to mineral sterilisation and the MRA could and should have been made well in advance of the inquiry.

e) The R6's submission, two working days before the inquiry, of 36 questions or issues relating to the UU was also unreasonable. Consequently, it was necessary to call Mr Bruton (the Appellant's solicitor responsible for negotiating the UU) to appear by video link at the RTD on Tuesday afternoon to address these matters. This would not have been necessary but for the R6's unreasonable behaviour and has resulted in the Appellant incurring yet further additional and unnecessary expense.

[1] CD3.20

f) Had the R6 restricted its evidence to the heritage assets identified in its SoC, not persisted in presenting a noise case that reduced the noise rating levels below what even the Council was requesting and/or advanced an unfounded and untenable case about the reliability of the MRA, it is likely that the appeal would have been heard in 1 or 2 days. It certainly would not have gone into a third day as it did.

5. In light of the above, the Appellant seeks a partial award of costs against the R6 for its unreasonable procedural conduct in the course of the appeal which has resulted in additional time and expense being incurred by the Appellant unnecessarily at the inquiry.

The response by Mr Pank Koria (Rule 6 Party)

6. The response was made in writing.

7. The Appellant's application is wholly unjustified and should be refused. The R6 did not behave unreasonably. Neither did its conduct cause the Appellant to incur unnecessary or wasted expense.

8. At the second CMC, the Inspector sought clarity from the R6 regarding the issues that would be pursued at the inquiry. That clarity was provided when it was confirmed that the R6 would call a heritage and noise witness. The R6 also stated that he would confirm in short order whether he wished to pursue any other points. He did so. The Inspector had in any case ordered that other matters covered in the R6's SoC be dealt with in writing. Accordingly, the R6 wrote to the Appellant on 22 October confirming his acceptance of that procedure but, reasonably, reserved the right to respond to matters arising from the other parties' proofs once they were filed.

Heritage

9. As is clear from the correspondence, it was clarified within a matter of days from the second CMC which matters the R6 intended to focus upon. On 27 October it was stated that the "…*scope is the settings of* ***the relevant*** *designated assets*…" (emphasis added). The Appellant is therefore unjustified in arguing that the R6's evidence would be confined to the impact of the development upon the PCA and GHH alone.

10. In the same email on 27 October the R6 stated that the topics would be confined to points made in writing would involve short written notes "*..to be filed only if helpful in light of the Appellant's or Wiltshire Council's proofs/SOCGs*…". This is what the R6 did. It is clear from the chain of email communications following the CMC that the R6 duly sought to assist the Appellant by confirming the scope of its contribution, but also, fairly and reasonably, reserved its position as set out. The R6's concern always was to assist the Inspector.

11. The Appellant's complaint, that Ms Burley was unreasonable in considering all relevant heritage assets is nothing short of bizarre. Ms Burley had a duty to the inquiry as an independent professional witness. That was her first duty, above and beyond the duty to her client. The Appellant's comments amount in effect to a submission that relevant assets should be ignored.

12. Plainly an approach of artificially confining the assessment to some relevant assets and not others would be wholly wrong in principle and contrary to the NPPF. The Appellant's position is all the more untenable given that as part of its closing submissions it is argued that the Inspector had before him material making an assessment of relevant assets that went beyond just those two. For the above reasons it cannot sensibly be suggested that it was unreasonable for Ms Burley, a competent professional of 30 years' experience, to have considered all relevant heritage assets. Indeed, anything else would have been misleading to the inquiry.

13. Even weaker is the Appellant's suggestion that the length of the inquiry was longer due to Ms Burley's identification of additional heritage assets. Ms Burley began her evidence in chief at 10.29 on Day 2 of the inquiry and finished at 11.05. She was then cross-examined until approximately 12.20, with the inquiry session ending at 12.40 (after questions from the Inspector and re-examination). Day 2 ended early, after Mr Brown's evidence at 15.17. The R6 can hardly be accused of delaying matters and taking undue time in the inquiry. Given that the minerals RTD on Day 3 took a total of 54 minutes, that could have been accommodated towards the end of Day 2. The Appellant did not at that point suggest that the rest of the available inquiry time that day should be used.

Mineral safeguarding

14. The R6 reserved the right to say something more on the MRA if warranted. The Appellant complains that the R6 did not take issue with the MRA in its SoC, but a wider minerals sterilisation point was made. The Fulton Report was not prompted by the MRA but rather the supplementary Technical Note at Appendix 10 of Mr Grant's proof.[2] In the R6's view, this effectively downgraded the mineral resource compared to the MRA.

15. The fact that Mr Bailey does not agree with the Fulton Report is nothing to the point. That is a substantive matter, separate to the resolution of the Appellant's costs application. The R6 indicated at the outset that if anything arose from the other parties' proofs, a response may be warranted. In the event, the R6 responded extraordinarily quickly. The proofs were submitted on 12 November. The Fulton Report was concise, prepared and filed in time for the rebuttals to the proofs of evidence, on 18 November. It cannot reasonably be claimed that the Fulton Report resulted in unnecessary time and expense.

16. It was not necessary to hold a mineral RTD. The Inspector had already directed that mineral sterilisation matters could be dealt with in writing. Instead, the Appellant could have asked Mr Bailey to prepare a written note rather than causing all parties to attend the RTD. The Appellant says that suggesting a written note is some sort of 'wilful disregard' of inquiry procedure, which is not true at all. It is extremely commonplace. Effectively the Appellant 'identified' the need for a RTD and then argued that that session wasted everyone's time.

17. The Appellant forgets that the R6's late submission on 24 November was in direct response to receiving an agenda for the minerals RTD to which the R6 had no input. Not only was the R6 not asked and invited to input into that agenda, but it was unilaterally declared that PK would be taking no part. That is in itself

[2] CD8.20k

unreasonable behaviour. PK explained that he was setting down in writing what he would wish to say at the RTD.

18. There was no justification for having purported to cut the R6 out of the RTD. It seems there was a wilful misunderstanding of his statement that he was not proposing to call his witness. Clearly that was on the assumption that the Appellant would respond in writing. PK in fact behaved with the utmost reasonableness in not complaining that holding the RTD with only one expert witness raised issues of procedural unfairness. In any case it was legitimate, in the circumstances, for him to have prepared his speaking note. Disappointingly, he received no credit at all for being transparent and setting out in advance what he would have wished to say, at the earliest opportunity after having been cut out of the process.

19. Again, the Appellant's response to that speaking note is out of all proportion to what actually happened. It was repeated that PK had made many points, and reference was made to the length of the document. In fact, it was just 12 pages long, double-spaced, and essentially boils down to asking 1) whether the Appellant had consent to take the minerals, 2) why was there no chain of custody in evidence and 3) was it not unfair to publish material that could damage the extrinsic value of those minerals. He asked the entirely reasonable question as to why there were only 3 boreholes made when there were examples from other sites of many more taken, in a grid pattern. He even submitted an example of the same to explain the basis for his question.

20. Whilst it may suit the Appellant's case to say that none of this was relevant, the fact is that it was. More so given that Mr Bailey confirmed that he did not have consent to take the minerals on the adjoining area. It was a legitimate line of enquiry in view of the link of the ownership of the site to the key issue of noise/vibration and residential amenity.

21. Moreover, Mr Fulton had given his expert view that not reaching one section of minerals for '100 years' was a reason to preserve them, not sterilise them. Again, whose evidence the Inspector prefers is not relevant here; obviously it is relevant to his consideration of the substantive issues, but even if he were to find against the R6 on that matter, that does not mean that the R6 should have been muzzled and prevented from even airing the concerns. Concerns which frankly legitimately arose from the material placed before the inquiry and which called for an explanation. Mr Bailey accepted that PK's points were valid ones and that it was valid to have raised them.

Response for Great Tew Construction LLP

22. The R6 appears to have misunderstood his role in the appeal. Paragraph 4 of the R6's response submits that "*once the Council withdrew on the first morning of the Inquiry, the Rule 6 Party's role in representing unresolved issues and assisting the Inspector became significantly more important in the public interest*".

23. That is incorrect. The R6 is not a community organisation but a private individual who is opposed to the grant of planning permission for development he does not like close to his hotel. It is the Council who represents and acts in the public interest, not the R6. Acting in the public interest, the Council rightly considered that the appeal should be allowed, and planning permission granted.

24. The R6's role was to advance a positive case in relation to those matters which might affect and, therefore, be of concern to him. It was not his role to present purportedly "*unresolved issues*" in the public interest. For example, it was entirely appropriate for PK to be concerned about what effect the proposed development might have on GHH and to call evidence on that matter. It is completely different to have a purported concern about the impact of noise from mining activities on the amenity of proposed residents of the development, to question the reliability of the MRA and to raise questions at the last minute about the UU in an attempt to derail the appeal.

25. The R6's misunderstanding of his role has been apparent from the outset, notwithstanding the Inspector's help. It was PK's decision to seek Rule 6 status and to be legally represented. That decision came with responsibility to act in the appeal reasonably. That included identifying at an early stage the case he wished to advance at the inquiry and then to support that case in all respects. He did not have a roving brief to raise all sorts of matters that he thought might be in the public interest for the inquiry to consider.

26. The R6's SoC ran to over 50 pages and raised 12 separate issues – many of which were abandoned before the inquiry but nonetheless had to be addressed by the Appellant. The Appellant has suggested that this was prepared with the assistance of Artificial Intelligence (AI) something which undeclared would be contrary to the Planning Inspectorate's guidance. It is noted that the R6 has not denied that he has used AI in formulating his SoC or indeed other aspects of his case such as the late submissions on mineral sterilisation.

27. The Appellant has made its submissions in relation to the evidence of the R6's heritage witness and does not repeat them here. What is notable is that the R6 accepts that its heritage case at the inquiry went well beyond its SoC. The justification for doing so rests on Mr Koira's statement that the R6's heritage evidence would relate to "*the setting of the relevant designated assets*". The relevant designated assets had been identified and agreed by the R6 (attended by PK, his Counsel and Ms Burley) at the second CMC as being GHH and the PCA. There was no suggestion, even on 27 October when specifically asked to identify the scope of his evidence, that the assets allegedly impacted would include all those assets now relied on by the R6. Plainly a substantially greater amount of time had to be spent on considering and addressing the additional assets.

28. As regards to mineral sterilisation, the R6's submission in Costs Response that the Fulton Report and the R6's late submission were prompted by the Technical Note at Appendix 10 of Mr Grant's proof is completely contradicted by PK himself. In paragraph 42 of the R6 late submission, it is stated (emphasis added):

    "I would like to point out the following:

    • ***Appendix 10 does not replace the MRA, and relies entirely on it***

    • ***Appendix 10 does not state that it supersedes the MRA, nor that it withdraws any part of it, nor that the earlier assessment should be disregarded****.*

    • *Instead, Appendix 10 repeatedly refers back to the MRA, and expressly relies upon:*

- *the same borehole data,*
- *the same geological information,*
- *the same interpretation of strata, and*
- *the same conclusions about quality and viability.*

Sir, if the underlying sampling is flawed, undocumented, or unlawfully obtained, a document that simply re-states those conclusions cannot correct that flaw."

29. The MRA, the real target of the R6's late submission, had been available for a year at that point. Those belated criticisms relating to the borehole sampling, chain of custody of the samples etc had nothing to do with Appendix 10 of the Appellant's planning proof. That is being relied on as an excuse for unreasonably raising these matters at the last minute.

30. Given the importance attached to the Fulton Report and the alleged flaws in the MRA raised in the R6's late submission (which plainly are not a speaking note) it was inevitable that the inquiry would have to consider the points raised. No other party had raised concerns about the mineral resource. The R6 raised the issue and cannot now seek to avoid the consequences of the inquiry having to deal with it in the way it did which resulted in additional time and costs being incurred.

31. There can also no complaint about the RTD. The timetable agreed by the R6 identified the participant for the RTD as being Mr Bailey. The R6 could have amended the draft to indicate that PK wished to participate but did not. In any event, the RTD was intended to consider the matters that were already in evidence i.e. Mr Bailey's Technical Note and the Fulton Report. PK's additional submissions went well beyond those matters already in evidence and raised wholly new matters relating to the borehole sampling, chain of custody etc. By any measure that amounts to unreasonable behaviour.

32. A similar point can be made about the UU. The participants for that session were identified in the draft timetable and agreed to by the R6. The R6 did not indicate that PK wished to participate and his interest in the UU was not apparent until 17 November. Most of his points did not arise from the final draft of the UU and could have been made long before he did so because earlier drafts of the UU were contained in the Core Documents. There is no reasonable reason why the points he made on the final draft UU were not made earlier. Moreover, there was no reason for PK to be copied into every email about the UU given the obligations were concerned with addressing the Council's noise and vibration concerns. Further, the R6 has not identified any "*critical flaw*" in the UU as alleged, nor was he seeking to assist the inquiry.

33. The R6 insisted that he should be given Rule 6 status. Having been given that status he was bound by the procedural rules and responsibilities of being a Rule 6 party to advance his case in a positive way and to act reasonably. Despite being legally advised, he chose belatedly and unreasonably to raise concerns about assets other than GHH/PCA, the MRA and/or the UU which he wished to rely on to argue that permission should be refused. Inevitably, the Appellant had to respond to these late points and evidence and did it as efficiently as it could but nonetheless has incurred additional expense unnecessarily.

Reasons

34. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process. The PPG advises that the aim of the costs regime is, inter alia, to encourage all those involved in the appeal process to behave in a reasonable way and follow good practice, both in terms of timeliness and the presentation of full and detailed evidence to support their case.[3]

35. An example of unreasonable behaviour in the PPG is "*prolonging the proceedings by introducing a new … issue*".[4] Related to this, the Planning Appeals Procedure Guide states that: *'A full statement of case contains all the details and arguments (as well as supporting documents and evidence) which a person will put forward to make their case in the appeal*". Another example of unreasonable behaviour cited in the PPG is "*persisting in objections to a scheme or elements of a scheme which the Secretary of State or an Inspector has previously indicated to be acceptable*".[5]

36. There are various strands to this cost application but in essence the Appellant argues that the R6 behaved unreasonably by widening its heritage and minerals case substantially beyond that outlined in its SoC and by submitting late evidence. It is said that this behaviour lengthened the inquiry and required the Appellant to instruct witnesses to respond to the points raised.

37. The costs application needs to be seen in light of the following timeline of events leading up to the inquiry:

- **23 September** – PK submitted a wide ranging SoC and a Rule 6 request, one week before the first CMC. [6]
- **25 September** – The Case Officer wrote to PK at my request providing him with a link to the Rule 6 Guide.[7] The email also advised PK "*you do not need Rule 6 status to be able to speak at the inquiry – you can do so as an interested party*". PK was informed of the date and time of the first CMC.
- **29 September** – First CMC. PK did not attend.
- **30 September** – PK wrote to the Case Officer confirming he wished to appear as a Rule 6 party and set out six topics on which he intended to submit evidence.
- **1 October** – The Case Officer wrote to PK at my request advising: (my emphasis added)

  As you know, Rule 6 status infers various rights, privileges and responsibilities. One of the rights as a Rule 6 party is the ability to call witnesses and cross examine the evidence of others. However, I should point out that both the Council and Appellant are only intending to call one witness each covering noise and vibration matters. At this stage there is no intention to call witnesses

[3] Paragraph: 028, Reference ID: 16-028-20140306
[4] Paragraph: 052 Reference ID: 16-052-20140306
[5] Paragraph: 049 Reference ID: 16-049-20140306
[6] There was a delay in the SoC reaching the Appellant which was no fault of the R6.
[7] Guide to Rule 6 for interested parties involved in an inquiry

on the wider issues raised in your Statement of Case (heritage, HRA, mineral safeguarding, highways and BMV land). Given that these matters are largely agreed between the Council and Appellant, it is agreed that they will be dealt with in a number of Statements of Common Ground.

While you are entitled to call your own witnesses, I would ask that you give careful consideration to whether the wider matters in your Statement of Case could be dealt with by an exchange of written evidence. It maybe that you or your advocate simply wishes to make oral representations on these matters at the inquiry and if that is the case you could speak as an interested person on the first day of the inquiry.

If you decide to call witnesses, I need to make you aware of the responsibilities that come with Rule 6 status. These include adhering to the inquiry timetable and otherwise ensuring that all conduct is reasonable. You should be aware that there is no immunity for Rule 6 parties in relation to costs. I would therefore strongly recommend that you wish legal advice on the matter before making a final decision.

- **7 October** – PK emailed the case officer confirming his participation as a Rule 6 Party. In response to my earlier comments about witnesses, PK pointed out that he was not bound by agreements between the main parties on the wider issues and intended to submit evidence on the following:

  "*heritage/LVIA at the gateway, Habitats Regulations parameters, minerals safeguarding/sterilisation, highways/NMU deliverability, and BMV soils/arboriculture. I intend to set these out in concise written notes/proofs and to make short oral submissions at the Inquiry, and would be grateful if the running order can accommodate a Rule 6 slot within the relevant topic sessions*"

- **17 October** – Second CMC. Counsel for PK indicated that the scope of matters to be relied on would be reduced and that he would call noise and heritage witnesses.

- **21 October** – The R6 wrote to the Appellant stating that he "*may*" submit "*short written notes*" on the following matters:

  i. *Habitats Regulations / ecology parameters at outline*

  ii. *A4 NMU deliverability and severance*

  iii. *Best and Most Versatile land / arboriculture interaction*

  iv. *Planning balance (plan-led conflict and tilted-balance interface*)

- **22 & 24 October** – The Appellant wrote to the R6 seeking clarification of what he meant by the word "may" in his 21 October email.[8] The R6 responded stating that with the exception of noise and heritage, he did not intend to submit separate technical notes beyond the material already in the SoC.

- **26 & 27 October** – There was a further exchange of correspondence regarding the scope of the R6's case given the wide-ranging nature of its SoC. The R6 responded reaffirming that he was relying on the matters in his SoC and would

[8] CD10.18

not introduce any new grounds beyond those already set out. In relation to heritage, it was stated:

"*I will file a Proof of Evidence from Nichola Burley (heritage), and she will attend to give oral evidence. The scope is the settings of the relevant designated assets and the settlement-edge/gateway composition, consistent with my SoC*."

On the other topics, PK stated he intended to submit short written notes (within SoC scope) to be filed only if helpful in light of the Appellant's or the Council's proofs/SoCGs.

- **31 October** – I wrote to PK through the Case Officer and advised:

  "Any written evidence in relation to the above matters will need to be submitted by 7 November, the same time as the deadline for proofs of evidence. To be clear, the Inspector is not currently inviting submissions on the matters listed above. If that position changes you will be notified accordingly".[9]

- **7 November** – Proofs were exchanged.
- **18 November** – Rebuttal proofs were served.
- **20 November** – PK submits a list of questions regarding the UU.
- **24 November** –PK submits a 12-page submission in relation to the MRA.[10]
- **25 November** – Inquiry opens.

Heritage

38. There was a stark expansion of the case contained in the R6's SoC in Ms Burley's proof. That was contrary to the express assurance given by PK in his email of 27 October that his evidence would be confined to "*the settings of the relevant designated assets*". The relevant assets were those identified at the second CMC as being GHH and the PCA.

39. The R6 argues that the heritage witness had a "*professional obligation*" to consider all the heritage assets she considered fit. I disagree. As with all planning inquiry witnesses, Ms Burley was first and foremost obliged to assist the inquiry which by extension means adhering to the relevant inquiry procedure rules. I do not consider professional witnesses have some kind of *carte blanche* to suddenly expand their client's case. Moreover, should they decide to do so, I am not persuaded that '*professional obligations*' can be used as a proverbial 'get out of jail card'. I therefore consider that the expansion of the R6's heritage case (sometimes referred to as 'case-creep') contrary to its SoC, email of 27 October and the CMC Summary and Directions, was unreasonable.[11]

40. It is germane that heritage matters were considered in some detail as part of the 2015 decision.[12] While that decision is now over 10-years old, there has been no meaningful change to GHH or the PCA or any of the other assets referred to by the R6. Beyond the submission of some interesting, but largely irrelevant, background

[9] The deadlines were subsequently amended to 12 November for planning proofs and 18 November for rebuttals.
[10] ID13b
[11] CD8.06
[12] CD6.01

information about the general development of Pickwick and Corsham, the information before me was essentially the same as that before the previous inspector. The R6 did not submit any probative evidence which cast doubt on the previous inspector's findings at paragraphs 107 and 123 of his decision. Accordingly, I consider the R6 persisted in objections to a scheme or elements of a scheme which an inspector has previously indicated to be acceptable. In my judgement that also amounted to unreasonable behaviour.

41. The above behaviour resulted in the Appellant calling a heritage witness to respond to Ms Burley's proof. Without the unreasonable behaviour, this would not have been necessary and therefore the Appellant is entitled to receive the costs which were incurred by responding to the R6's heritage case.

Mineral safeguarding

42. The R6's SoC contained a detailed section on minerals safeguarding and sterilization. Although a general concern was raised about the sterilization of the mineral resource under the appeal site, there was no criticism of the MRA which was only mentioned once and had been available since late 2024. Responding to the R6's SoC, Mr Grant's proof set out the minerals position at paragraphs 5.8-5.20. A Minerals Technical Note authored by Mr Bailey was attached at Appendix 10. [13] The Technical Note did not introduce any new matters and did not depart from the findings of the MRA.

43. The Technical Note was only provided because the R6 had indicated on the 27 October that he *may* produce short written notes on, amongst other things, "*Minerals sterilisation insofar as it is a planning consequence of the Appellant's own noise-mitigation stand-off / mat-only zones overlapping the safeguarded/Probable reserve*". The R6 initially responded to the Technical Note through PK's Rebuttal proof.[14] This appended the Fulton Report highlighting what was seen as a number of inconsistences between the MRA and subsequent Technical Note. Although fairly succinct, the 8-page report along with PK's 4-page Rebuttal Note were probably at the limit of what could be considered a '*short written note*'.

44. The first question is therefore – *did the R6's rebuttal introduce new evidence or simply respond to matters in Mr Grant's proof*? Having carefully considered the content of the MRA, the Technical Note and the contents of Mr Grant's proof, I consider the R6's rebuttal did unintentionally introduce new matters. I say unintentionally because for the reasons explained by Mr Bailey at the RTD, the concerns raised in the Fulton Report were predicated on a misunderstanding about the fundamental purpose of the MRA and Technical Note. As it turned out there was no discrepancy or downgrading between the MRA and Technical Note. Had matters ended there, it is likely that I could have dismissed the Fulton Report as procedural clumsiness on the R6's part.

45. However, the matter did not end there. The day before the inquiry and knowing that the Appellant had applied for an award of costs against the R6, a 12-page critique of the MRA was submitted by PK the day before the inquiry. It was thus undeniably late evidence. The substantive points raised included concerns about how the samples had been taken, the identity of the drilling company, the absence of a verifiable 'chain of custody' for the samples, non-compliance with PERC Standards,

[13] CD8.20k
[14] CD8.25

the number of boreholes and the inconsistency of the sampling undertaken on the appeal site compared with another site in Gloucestershire.

46. The R6's primary defence to the late submission is that it merely responded to the supplementary Technical Note at Appendix 10 of Mr Grant's proof which in the R6's view, downgraded the mineral resource compared to the MRA. There are three principal points here:

    1) The Fulton Report had already raised the 'inconsistency' point, it is not therefore clear why PK felt the need to add anything further.

    2) On any fair reading, the late submission did not deal with alleged inconsistencies with the Technical Note or a downgrading of the MRA, rather it was a detailed and systematic attack on the latter and went far beyond what could reasonably be considered as a 'speaking note'. It also went well beyond matters raised in the R6's SoC, email correspondence flowing from the second CMC, Mr Grant's proof including Technical Note and even the matters raised in the Fulton Report.

    3) As with the Fulton Report, the matters raised by the R6 in its late submission patently failed to stand up to scrutiny at the RTD and a number of matters such as land ownership issues, were clearly not material planning considerations.

47. The R6 also argues that the late submission was in direct response to receiving an agenda for the RTD to which PK had had no input. I find that unconvincing. The draft agenda for the Minerals RTD circulated by the Appellant on 24 November did not include reference to the matters that were contained in the late submission. As to whether the R6 was cut out of the RTD, the draft agenda circulated the day before the inquiry was just that, a draft. It was therefore entirely open to PK to have responded by informing the Appellant that he or his expert (Mr Fulton) wished to participate.[15] I do not therefore agree that the R6 was '*cut-out*' of the minerals RTD in the manner implied. On the contrary, the R6 through his Counsel participated in the session and asked Mr Bailey a number of questions.

48. For the above reasons, I am satisfied that the R6's late submission crossed the unreasonable behaviour threshold. The next question is whether this caused the Appellant unnecessary or wasted expense. In my view, the R6 raises several valid arguments about the way the Minerals RTD was introduced by the Appellant. My views were not sought before it was inserted into the inquiry programme. While I was subsequently content for it to proceed when the matter was discussed in opening, I still maintain the view that Mr Bailey could have dealt with the matters arising from the Fulton Report and the R6's late submission in writing, particularly since Mr Fulton was not able to attend the inquiry.

49. However, that does not really help the R6, whether orally at the inquiry or in writing, the Appellant through Mr Bailey was still required to respond to the R6's submissions. I therefore consider the Appellant is entitled to reclaim the expense that would have been incurred had Mr Bailey responded to the Fulton Report and PK's late submission in writing.

[15] As it turned out Mr Bailey was not available to attend the inquiry, but this should have been checked by the R6 before his Note was submitted in evidence.

Unilateral undertaking

50. The Appellant complains that the submission by the R6 of 36 questions or issues relating to the UU, two working days before the inquiry was unreasonable and resulted in Mr Bruton having to attend the inquiry by video link. As is commonplace in planning inquiries, a RTD on planning obligations was included in the draft agenda. It is customary that a solicitor acting for the Appellant and Council attend. It is also not unusual for there to be contributions from interested parties.

51. PK was only provided with a copy of the draft UU on the 17 November and submitted a list of questions on the 21 November. The Appellant's solicitor duly responded on 24 November. I can see nothing unusual or unreasonable in that timeline. Clearly the R6 could have commented earlier given the draft UU was available as early as March 2025. However, PK was not a formal party at that stage and was only added to the email circulation list at a relatively late stage. I am not therefore persuaded that the R6's conduct in relation to the UU was unreasonable.

Other Matters

52. The Appellant has suggested that some of the R6's submissions may have been aided by the use of AI. The Inspectorate's 'Rule 6 Guide' advises that "*If you use AI to create or alter any part of your documents, information, or data, you should tell us that you have done this when you provide the material to us*" and directs readers to the 6 September 2024 Guidance on "Use of artificial intelligence in casework evidence".

53. The R6 has not commented on this matter in its Costs Response, something I would have expected particularly if the allegation was false. Having read the R6's SoC, I can appreciate why concerns have arisen. It is not just the detail, scope and lengthy citation of appeal decisions and case law that raises suspicion but also the unusual layout and phraseology. It is very different to anything I have encountered before. No author other than PK is identified, who as far as I am aware, is not a planning professional. One is therefore inevitably drawn to ask how PK could have produced such a document which would have been a significant undertaking even for the most experienced planning consultant.

54. In light of the above, I have serious concerns that the SoC was produced using AI, something which undeclared, would in my view amount to unreasonable behaviour as the Appellant was required to respond to the many points raised. However, on this occasion I have decided to exercise discretion and give the benefit of some substantial doubt to the R6.

Conclusion

55. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred in respect of the R6's heritage case-creep and the minerals submissions insofar as they related to the MRA. A partial award of costs is therefore warranted.

Costs Order

56. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Mr Pank Koria

shall pay to Great Tew Construction LLP, the costs of the appeal proceedings described in the heading of this decision, limited to those costs incurred in respect of the R6's heritage case and mineral safeguarding submissions (CD8.25 & ID13.b); such costs to be assessed in the Senior Courts Costs Office if not agreed.

The applicant is now invited to submit to Mr Pank Koria, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

D M Young

INSPECTOR