



Appeal Decision

Inquiry Held on 24-26 November 2020

Site visit made on 27 November 2020

by Paul Singleton BSc MA MRTPI

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

Decision date: 9th December 2020

Appeal Ref: APP/F1610/W/20/3248674

Scrap Haulage Yard, Fosseway, Lower Slaughter GL54 2EY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Peter Gilder against the decision of Cotswold District Council.
 - The application Ref 18/01681/FUL, dated 4 May 2018, was refused by notice dated 13 November 2019.
 - The development proposed is redevelopment of existing scrap yard and haulage depot to create electric car charging service station and associated works.
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Decision

1. The appeal is allowed and planning permission is granted for redevelopment of existing scrap yard and haulage depot to create electric car charging service station and associated works at Scrap Haulage Yard, Fosseway, Lower Slaughter GL54 2EY in accordance with the terms of the application, Ref 18/01681/FUL, dated 4 May 2018, subject to the conditions set out in the schedule attached to this decision.

Application for costs

2. An application for costs was made by Mr Gilder against Cotswold District Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The appeal inquiry sat for 2.5 days from the 24 to the 26 November. With the agreement of the parties I carried out an unaccompanied inspection of the appeal site and surrounding area on 27 November.
4. Planning permission was refused by Cotswold District Council (the Council) on the recommendation of Gloucestershire County Council (GCC) as the local highway authority for the A429 Fosseway and other local roads within the District. The single reason for refusal of permission alleged that the proposal would result in an overprovision of infrastructure in an unsustainable location and in a privately operated facility that would have a wider impact on strategic planning and that the proposal fails to make provision for freight movements.
5. Following the lodging of the appeal, GCC advised the Council, on 11 June 2020, that it no longer objected to the proposed development. Officers reported that information to the Council's Planning and Licensing Committee at its meeting on 8 July 2020. As there was no other reason for refusal, the Committee resolved not to defend the appeal at the public inquiry. The Council set out its

- revised position in an Updated Statement of Case [CD2.3]. In the Statement of Common Ground between the appellant and the Council [CD2.4], the Council has confirmed its agreement that the proposal is in accordance with the development plan and that there are no material considerations to indicate that planning permission should be refused. Although it was represented at the inquiry, the Council did not call any evidence or ask questions of the appellant's witnesses.
6. GCC's revised position is set out within the Officer Report to the July meeting of the Council's Planning and Licensing Committee [CD8.4]. This can be summarised as follows:
- Following receipt of further information in relation to the required visibility splays at the improved access junction, it can be concluded that a safe and suitable access has been demonstrated;
 - The proposal is not expected to strain parking demand on the site or to result in vehicles seeking to park on the A429;
 - There is no evidence to support the authority's previous concerns that the site's location is unsuitable for the proposed use;
 - Although the proposal does not make provision for use by HGVs, there is no identified shortfall in roadside services for such vehicles and the site access arrangements would be capable of use by larger vehicles. Hence, there are no grounds to challenge the suitability of the site to address the needs of larger vehicles.
7. Both the Appellant, in his closing submissions [ID13], and the Council, in its Closing Comments [ID14], urge that, in accordance with the relevant caselaw in *Shadwell Estates*,¹ I should ascribe considerable weight to the advice of the local highway authority and follow that advice unless there are cogent and compelling reasons for diverging from it.
8. Lower Slaughter Parish Council (LSPC) declined an invitation to apply for Rule 6 Status. However, LSPC made a statement at the Inquiry and its representatives asked questions of the appellant's witnesses in relation to matters raised in the Parish Council's written representations. In addition to making representations to the application and when the appeal was first lodged, interested persons were given further opportunities to comment on the appeal following the Council's decision not to defend its reason for refusal. These multiple stages of consultation have resulted in a significant number of written representations to which I have had regard in my consideration of the appeal proposal.

Main Issues

9. The main issues in the appeal are:
- a) Whether the proposal constitutes sustainable development for the purposes of section 2 of the National Planning Policy Framework.
 - b) The effect on the character and appearance of the area including on the landscape and scenic beauty of the Cotswolds Area of Outstanding Natural Beauty.

¹ *Shadwell Estates V Breckland DC* [2013] EWHC 12 Admin paragraph 73

- c) Whether the appellant's transport assessment provides for a robust assessment of the likely level of traffic movements into and out of the proposed development.
- d) The effect on the safety of pedestrians, cyclists and other road users including persons travelling between the site and local services/facilities in Lower Slaughter and Bourton-on-the Water.
- e) Whether the proposals comply with and derive support from relevant national and local planning and environmental policies and objectives.

Reasons

Sustainable development

Need and Location

10. Many of those objecting to the proposal support a move from internal combustion engine (ICE) vehicles to electric vehicles (EV), in the interests of reducing carbon emissions and pollution, and recognise the need for an enhanced charging infrastructure to support that transition. Their objections relate mainly to the scale of the proposal, the suitability of the location, highway safety, and the potential effects on local communities and the Cotswolds Area of Outstanding Natural Beauty (AONB).
11. There is no general requirement, under national or local planning policy, to demonstrate a need for the proposed EV charging station and viability and the commercial risk involved are matters for the appellant. As Mr Gilder proposes to carry out the development himself, the absence of a land acquisition cost could be a significant factor in terms of the scheme's viability. The planning test is whether the proposal would result in such harm as a result of its scale, form and location that it cannot reasonably be considered to constitute sustainable development, having regard to the policies and guidance in section 2 of the National Planning Policy Framework (Framework).
12. Some objectors question the overall carbon cost of EVs, when battery production and the generation of the electricity needed to recharge the batteries is taken into account, and suggest that hydrogen powered vehicles represent a greener future. The Government's 2018 Road to Zero Paper [CD1.5] does provide support for increased use of hydrogen vehicles and for the development of the fuelling infrastructure needed for these. However, on reading that Paper in full, there can be little doubt that the Government expects that EVs will be at the forefront of its planned transition to zero emission transport over the next two or more decades.
13. The Government's mission is to put the UK at the forefront of the design and manufacturing of EVs and the Paper stated an intention to ban the sale of new petrol and diesel cars and vans by 2040. In addition to ensuring that EVs are available and affordable, the transition to zero emission transport also requires a charging infrastructure network that is easy to use and is affordable, efficient and reliable. The Government envisages that the majority of vehicle charging will take place at home but recognises that a widespread public charging point network is important for drivers who do high mileage, travel long distances or who do not have access to charging points at home or at work.

14. The paper notes the importance of 'range anxiety' for drivers considering the purchase and use of an EV and sets a number of objectives for increasing the provision of charging points on the strategic and major road network. Research commissioned by the Committee on Climate Change in January 2018 showed that the number of rapid chargers located next to the major road network needs to increase by around 710 between 2016 and 2030 and that the number of public chargers for top-up charging needs to increase from 2,700 to 27,000 over the same period. Highways England had a target of ensuring that there is a charging point every 20 miles on the Strategic Road Network (SRN) by 2020.
15. The Ten Point Plan for a Green Industrial Revolution, published by the Prime Minister on 18 November 2020, increases the sense of urgency for the development of an efficient and reliable EV charging network by bringing forward the ban on the sales of petrol, diesel and most hybrid cars to 2030. The press release [ID1] speaks of accelerating the transition to EVs and of transforming our national infrastructure to better support their use. In light of the current, very low level of EV ownership in the UK compared to many other European countries,² transforming the existing charging network will be critical to achieving the Government's objective of an accelerated transition to EV use. The Government's ambition is that the UK should have one of the best and most comprehensive charging networks in the world.
16. Against that background, the provision of public charging points in the south-west is currently at a very low level,³ with the average distance between public charging points in the Cotswolds being between 20 and 35 miles. To date, the Council has installed only 2 EV charging points in its public car parks, one in Moreton-in-Marsh and one in Cirencester. There is good evidence that the deficiency in provision compared with other regions, combined with the relatively longer journeys that those living in rural areas tend to make, is a contributory factor in the comparatively low levels of EV ownership in the south west⁴. There is no requirement for the appellant to demonstrate a need for additional EV charging infrastructure in this area. However, there can be little doubt that a significant need exists.
17. In my judgement the appellant's evidence overestimates the difficulties of installing charging points in public car parks in Bourton-on-the-Water (Bourton) and Stowe-on-the-Wold (Stowe). However, the Council appears to have no clear plans for introducing such provision and I accept that only a small number of charging points are likely to be installed in each of those car parks. In addition, the likely limited provision of charging points in Bourton and Stow would not remove the need for more accessible charging points along the major road network.
18. The A429 Fosseway forms a key north/south spine road through the Cotswolds linking the M40 at Junction 15 near Warwick to Cirencester and the M4 to the south. The road is classified as a Primary Link which forms a strategic route in this part of Gloucestershire. It has a high traffic flow of between 12,000 and 15,000 vehicles per day and is a designated freight route that is critical to the economy. Given the importance of the route to the area's tourist and wider economy, a site immediately adjacent to the A429 is the most logical location for a EV charging station designed to meet a range of charging needs.

² Table on page 6 of Mr Wildish's proof

³ Mr Bird's Table 5.1

⁴ News article at page 16 of Mr Wildish's proof

19. The appeal site is approximately at the half-way point between the two motorways and the urban areas of Warwick, Stratford-on-Avon, Swindon and Cheltenham, which are likely to be the main destinations of much of the traffic passing the site. The site also has the advantage of being in close proximity to Bourton and Stow and a relatively short distance from Moreton-in-Marsh which, together, comprise the main settlements and visitor destinations in the heart of the Cotswolds.
20. There was much discussion at the Inquiry about the way in which the proposal has evolved since the application was refused and I have carefully considered the nature and scope of the new information that has been provided. Having done so, I am satisfied that this reflects a development and refinement in the appellant's thinking about how the charging station might be built out and used rather than comprising a material change to the physical form and content of the scheme. Accordingly, I consider that there is no disadvantage to any party in my taking that information into account in the determination of the appeal.
21. In part, these refinements result from the time that has elapsed since the application was submitted in May 2018. It also reflects the still emerging and rapidly developing technologies associated with EVs, battery design and capacity and charging requirements. Given that the technology in all of these areas is likely to continue to develop and evolve over the coming years, the appellant's acceptance that the development would need to be built out over a number of phases is both realistic and desirable. This would better enable him to respond to changing demands and opportunities and to make an effective contribution to the Government's aspiration for the development of an easy to use, efficient and reliable EV charging network.
22. The Planning Statement [CD3.2] indicated that the planning application sought to establish the principle of the charging station development with more detailed proposals being developed in response to emerging technologies. However, the application was made in full, rather than outline, and the Planning Statement did, in my view, set out an expectation that the charging station would mainly comprise 'slow' chargers which would require drivers to leave their cars plugged in for 4 or more hours. The Planning Statement also outlined an aspiration that the site would act as a destination or hub, serving in part as a park and ride facility from which customers could travel into Bourton on foot, cycle or a bus while their cars are being charged.
23. The appellant's thinking with regard to the likely mix of charging points to be provided has evolved significantly since the application was lodged. Mr Wildish now expects that some 60% of the charging points would be rapid chargers (allowing a vehicle to charge up to 80% of its battery capacity within 30-40 minutes) with the balance being split between fast and slow chargers. This prediction is based on the expectation that the first phase of development would begin within 3 years of planning permission being granted. Given that technological developments in battery life and charging technology are expected to continue over the next few years, it seems likely that later phases of the development would comprise an even higher proportion of rapid and fast chargers and that average charging times will be reduced.
24. Based on the evidence presented by Mr Wildish and Mr Bird, I consider that the proposed facility is likely to have two main groups of users. The first would comprise drivers with an origin and destination outside of the Cotswolds, for

- whom this location would serve as a convenient point to break their journey and recharge their vehicle. The second main group would comprise drivers with a destination in the local area but who have already travelled some distance from their home or other starting point. Those users are likely to wish to recharge their vehicle in readiness for their return journey or onward travel after their planned visit to the Cotswolds.
25. In both of these cases, the majority of those drivers and passengers are likely to stay on the site and to make use of the toilets and refreshment facilities in the proposed service building while their car is charging. Those with a local destination would then most likely drive on to where they are going and park in Bourton or the other local attractions that they wish to visit. Both groups of users would already be using the A429 to get to their destinations and neither category of use would result in new trips on the road network.
26. The charging station could provide an opportunity for some of those who commute from local settlements to larger towns for work purposes if they are able to recharge their car within 30-40 minutes. The letters of support for the proposal indicate a need for such facilities along the A429. However, I expect that most of those potential users would prefer to use a charging point close to their home or place of work if one was available. Local EV owners without access to home charging would also prefer to use a charging point in a local car park or to recharge their car as part of a planned shopping or leisure trip. Taken together, these considerations lead me to conclude that the site is likely to attract very limited use by those needing a longer charge of 4 or more hours.
27. For these reasons, I find that the proposal would not become a destination in its own right nor lead to a significant increase in the numbers of visitors to the district and to the settlements that serve as the main tourist attractions in the Cotswolds. Hence, while I fully understand the concerns that residents of the Slaughters have about the numbers of tourists visiting their very picturesque villages, I have no reason to conclude that the proposal would lead to a significant increase in the numbers seeking to do so.

Scale

28. A large number of those objecting to the proposal consider that the 102 charging points proposed would represent an overprovision on one site. The appellant acknowledges that this number simply reflects the reasonable capacity of the site and has not been informed by any detailed assessment of the likely demand for EVs needing to charge at any one time. He argues that, in view of the innovative nature of the appeal scheme and the commercial risk involved in bringing the proposal forward, there is no good reason to impose any restriction on the number of charging points to be provided.
29. The evidence, arising from third party representations, that a charging station with 102 charging points would not only be larger than any existing or planned charging facility in the UK but would also be one of the largest in Europe was not disputed by the appellant. The proposal would also be much larger than that being constructed by Gridserve in Braintree⁵ as part of that company's planned roll out of 100 such charging stations across the UK

⁵ Mr Wildish proof paragraph 3.16 incorporating a link to the Gridserve website and Mr Bird proof paragraphs 5.24-5.27

30. The Road to Zero Paper sets out objectives for the provision of charging points on the strategic and major road network but does not provide express support for the development of a cluster of more than 100 charging points on one site adjacent to a Primary Link Road. Having said that, neither the Road to Zero Paper nor any other national or local policy imposes a ceiling on the number of charging points to be provided in any one location. It is also relevant to note that the Government's objective is that the UK should have one of the best EV infrastructure networks in the world.⁶ A key part of the Government Strategy is that the transition to zero emissions transport is to be led by industry and consumers and that private investment is expected to drive the EV revolution. By implication, issues of viability and commercial risk are matters for the developer and not for the planning system.
31. Withholding planning permission on the grounds that the proposal would constitute an overprovision of charging points might possibly be justified if there is clear evidence that this would deter others from investing in such infrastructure, with a resultant harmful effect on the delivery of the efficient and accessible charging network that the Government seeks. No such evidence has been put before me.
32. I can see no reason why the proposal would remove either the need or desirability for EV charging points to be introduced in public car parks in the local settlements or the incentive for hoteliers and operators of other holiday accommodation to provide charging points for use by their guests. Having driven along the A429 between Bourton and the M40, I also accept Mr Bird's evidence that the existing petrol filling stations along this route provide potential for only a small number of charging points to be introduced alongside their current operations. Some of these might be remodelled in the longer term but this would not meet the Government's expectation that the accelerated delivery of an effective and accessible charging network should help to drive a major change in the purchase and use of EVs.
33. Having weighed all of the evidence on this matter, I consider that 102 car charging points represents an aspirational figure that may never be realised on the site. Mr Wildish agreed, in his oral evidence, that the development might not progress beyond the first or second phase as envisaged in the indicative phasing plans [CD11.4]. However, even if only half that number of charging points was to be provided, the proposal would still support the strategy set out in the Road to Zero Paper and the Government's 10 Point Plan and would make a significant contribution to the transformation of the charging network in an area that is currently lagging behind other UK regions.
34. Having regard to the limited supply of brownfield sites within the AONB, the possibility that the appeal scheme may not be developed out as proposed could give rise to concern that the proposal might not represent an effective use of such a site. I am, however, satisfied that this consideration does not weigh against a grant of planning permission for two reasons.
35. Although there is no policy requirement that it should provide for a range of vehicle types, the submitted layout would allow for the charging points to be used only by electric cars and small light goods vehicles (LGVs). However, if there proves to be spare capacity within that layout that could potentially enable later phases of the development to be modified, if demand is found to

⁶ Page 15 of Road to Zero Paper

exist, to accommodate larger LGVs and HGVs. As noted previously, GCC has confirmed that the improved site access junction would be suitable for use by such vehicles. Secondly, I accept Mr Wakefield's evidence that there would be potential for small buildings for office or business use to be developed on the site in the event that not all of the land is required for EV charging purposes. Any such development would, of course, need to be the subject of a separate planning application.

36. I therefore find that the proposal would constitute sustainable development in terms of the site's location and the form and scale of the development proposed. The proposal would provide employment for a small number of people on the site itself and would support the local tourist and visitor economy by enabling those who wish to travel to the Cotswolds in an EV to do so with increased confidence that they can complete their journey by this means. It would also support employment in the EV charging supply chain.
37. By helping to encourage the transition from ICE vehicles the proposal would help to cut carbon emissions and reduce pollution from traffic using the A429. Those living close to the site would benefit from reduced noise as the large number of HGVs currently visiting the site are replaced by EVs and as operations within the scrapyards cease. The proposal would also bring benefits in terms of the quality of the design and landscape treatments proposed (see section below) and the creation of a more natural landscape frontage in keeping with the area.
38. Accordingly, I find that the proposal would make a positive contribution in respect of the economic, social and environmental dimensions of sustainable development as identified in paragraph 8 of the Framework and would constitute sustainable development for the purposes of section 2 of that document.

Electricity Demand and on-site generation.

39. The illustrative drawings and Planning Statement indicated the possibility of solar paving being used within the main parking and circulation areas of the site but Mr Wildish confirmed that this remains an unproven technology for this type of application. The appellant proposes to install solar panels on the roof of the service building which may contribute a significant part of that building's electricity requirements. Although storage batteries are proposed to balance out peak demand it must be assumed, at this stage, that the major part of the electricity required for the charging points will be sourced from the grid. The appellant accepts that rapid chargers have a much higher rating than slow chargers and that the revised thinking as to the proportion of rapid chargers has implications in terms of the electrical power requirement to run the proposed charging station.
40. In those circumstances, I can understand the concerns raised by LSPC and some other objectors that there may not be sufficient capacity within the Western Power electricity network to accommodate the requirements of the proposal without some upgrade or reinforcement of the supply to the site. However, the only evidence before the inquiry, in the form of the EV charging capacity plan (ID6), does not indicate a capacity problem in this location and, although Western Power are aware of the proposed development, they have made no representations in relation to the planning application or appeal.

41. I accept the appellant's assertion that the Government is likely to expect distribution companies, such as Western Power, to invest in any infrastructure improvements required to support its strategy of achieving a world-leading charging network. In addition, the likely phasing of the proposal over a number of years would provide time for any upgrading of the electricity supply to be planned and implemented as part of the phased development if this is required. This matter can, accordingly, be dealt with by means of a planning condition.

Summary in relation to Sustainable Development

42. In summary, the proposal would help to deliver part of the charging network required to drive the transition to zero emissions transport and is both consistent with and supported by the Road to Zero Paper and the 10 Point Plan. It is also supported by draft Policy PDo1 in the emerging replacement Local Transport Plan for Gloucestershire. This is supportive of the provision of EV charging points and commits GCC to ensure that the necessary infrastructure is provided and to work towards a network of charging points at interchange hubs and other key location.
43. In light of its compliance with the emerging LTP, the proposal is also consistent with Local Plan Policy INF3 which states that development that assists in the delivery of the LTP will be permitted. Policy INF10 is not directly relevant to the principal components of the proposal. However, insofar as the proposed solar panels and storage batteries will contribute to renewable and low carbon energy development, I find no conflict with that policy. The proposal comprises sustainable development in accordance with the Framework.

Character and appearance and effect on the AONB

44. The appeal site is generally flat and sits about 2 metres (m) below the carriageway level on Fosseyway. The grass bank to the road frontage is planted with a wide (4m+) belt of conifer (Leyland Cypress) hedging which extends to about 16m in height. This provides a very effective screen to the stacked cars and piles of scrap metal and to the operational activities within the scrap and haulage yard but has very little amenity value. There are other sections of conifer planting to the northern boundary and to the boundaries of other sites nearby. However, the length of the appeal site frontage and the height and density of the Leyland Cypress makes this planting particularly dominant in views along this section of the A429. I agree with the observation in the Landscape and Visual Statement prepared by Landscape Matters Design Ltd⁷ (LMD) that this planting is not characteristic of the wider Vale of Bourton rural landscape and that it forms an incongruous element in the generally rural character of the A429 corridor.
45. The site is generally well hidden from view in the surrounding locality such that long and very long-range views are minimal. There are only limited views from the nearest long-distance paths and other nearby public footpaths and, from those viewpoints, it is the upper parts of the conifer hedge that can be seen rather than the core of the site. Only partial views of the roof of the Bence builders merchant's building, to the rear of the appeal site, are available in some of those views. In views from the main viewpoints close to the site,⁸ the tall and dense conifer planting to the site frontage appears as a dominant and

⁷ Appendix 1 to Mr Wakefield's proof

⁸ Viewpoints 8,9,10,11 & 12 in the LMD study

- intrusive element. From Viewpoints 11 and 12, which directly face the site, this planting provides an effective screen of the storage piles and operational activities on the site, with only a filtered view of the roof to the Bence building being available. However, the intermittent noise of the mobile crane working within the scrap yard is audible from these locations, notwithstanding the constant noise of traffic on the A429.
46. Once the current uses have ceased, phase one of the proposed development would see the removal of the conifers to the site frontage. The proposed service building would be of two storeys but, because of the site's lower ground level, only the upper storey would be seen from the Fosseyway. The building and the boundary/retaining walls to the site frontage would be faced in Cotswold limestone and the elevation facing the road would not have any windows. I agree with LMD that this would give it a simple, almost barn-like appearance when seen from the road which would be in keeping with the general character of buildings in the locality and along the A429 corridor.
 47. In light of the quality of the building's design and appearance, there would be no need for it to be screened from view. Hence, the new landscaping to the site frontage would be much less dense than the existing conifer screen but would include native species hedgerow with trees. As this planting matures it would soften the extent of stone along the site frontage. This would provide a more natural landscape frontage than the current planting and would have the benefits of adding to biodiversity and helping to restore a wildlife corridor.
 48. LMD's analysis shows that, due to a combination of the site levels within the car parking area and the screening provided by the stone boundary wall, cars parked within the charging spaces would largely be hidden in views from the A429. The Bence's building and The Grafters dwelling would be more exposed than they currently are but the wall and new planting would help to screen and filter views of those buildings. The compound for the sub-station and storage batteries would be located in the lowest corner of the site and would be enclosed within a 2.8m high boundary wall, also faced in stone. Although no details of the sub-station and storage batteries are available as yet, it seems unlikely that a wall of this height would not provide adequate screening in views from outside of the site. Similarly, I see no reason why a carefully designed lighting strategy should not be effective in limiting visual clutter and minimising the risk of light spill so as to avoid evening light pollution.
 49. Having regard to these considerations, I find the proposal would have a positive overall effect on the character and appearance of the site and its immediate surroundings. The replacement of the conifer planting with native hedging and trees would help to enhance the character and appearance of this section of the A429. In addition, the removal of the incongruous conifer planting from the views available from key viewpoints, as identified by LDM, would also have a minor positive effect on the landscape and scenic beauty of the AONB.
 50. Having not objected to the planning application, the Cotswolds Conservation Board has submitted an objection to the appeal which states that the proposal would have a moderate adverse effect on the landscape character of the AONB. Although weight must be attached to those comments, they have not been tested at the inquiry. My observations on my site visit do not support the Board's conclusions. Having regard to the design quality of the proposed

services building and boundary walls, and to new native landscaping proposed, I do not agree that the proposal would open up 'peri-urban' views to those passing the site. Also, for the reasons set out above, I find that the removal of a large expanse of very tall conifers from the medium and longer distance views, into which these currently intrude, would have a minor positive rather than an adverse effect on landscape character.

51. Although not part of the Conservation Board's objection, the issue of whether the proposal would constitute major development in the AONB was discussed at the inquiry in response to part of the LSPC objection.
52. Compared with the existing and planned EV charging stations that were brought to my attention in written representations from interested parties, the proposal would be of a substantial and unprecedented scale. However, I accept the appellant's evidence, which was supported by the Council in its closing comments [ID14], that, when considering the tests under paragraph 172 of the Framework and Local Plan Policy EN5, the scale of the proposal must be considered in the particular context and constraints of the site. In this case, the development would be contained within a site which has already been developed and used for purposes which detract from the special qualities of the landscape. For the reasons set out above, the proposal would have a net positive effect on the landscape character and scenic beauty of the AONB. It does not, therefore, constitute major development in the AONB.
53. Accordingly, I find that the proposal would result in a net positive effect on the character and appearance of the site and its surroundings and on the landscape character and scenic beauty of the AONB. The proposal complies with Local Plan Policies EN4, which requires that development should not have a significant adverse effect on the natural landscape and should enhance and restore landscape character, and EN5, which requires that great weight should be given to the conservation and enhancement of the natural beauty and character of the landscape within the AONB. I find no conflict with Policies EN7 (relating to trees) or EN8 (relating to biodiversity).
54. In view of my conclusion that the proposal does not constitute major development for the purposes of paragraph 172 of the Framework, there is no requirement that exceptional circumstances be demonstrated to justify a grant of planning permission.

Whether the Transport Assessment is Robust

55. The questions that GCC had about the manner in which the likely number of vehicle trips generated by the proposal had been calculated have now been withdrawn. However, many objectors are concerned that there would be a significant increase in the numbers of vehicles using the Fosseway through this part of the Cotswolds. The innovative nature of the proposal also made it important that this matter should be considered at the inquiry.
56. Because this is one of the first such developments to go through the application and appeal process there is no equivalent development within the TRICS database that transport consultants would normally use to provide an indication of the number of movements that the proposal might generate. For that reason, when producing their Transport Technical Notes [CD3.3 & 3.4], Cotswold Transport Planning (CTP) took a 'first principles' approach of

- estimating worst-case trip generation figures on the basis of the site's parking capacity.
57. In his evidence and response to my questions, Mr Bird endorsed that approach and explained his reasons why it would not be appropriate to use, for example, a non-motorway roadside service station as a proxy to calculate the likely trip generation from the proposal. I have no evidence that would contradict his view on this matter. Mr Bird confirmed that the assessment carried out for the Gridserve proposal in Braintree, which has already been granted planning permission, also calculated trip generation on the basis of the site's capacity.
58. I do have some concerns about the assessment undertaken in CTP's first Technical Note, in which they assumed that most vehicles would stay on site for 4 or more hours. Their revised assessment assumed a much greater use of rapid chargers and, consequently, a more frequent turnover of cars coming to and leaving the site. Mr Bird has adopted a slightly different charging point mix than was used by CTP but his assessment produces a broadly similar estimate of the likely 2-way hourly movements.
59. Having considered that evidence, I am satisfied that the methods adopted for assessing trip generation and for calculating the proportion of new trips provides for a reasonable, worst-case assessment of the likely number of movements generated by the proposal. The assessment can also be considered to be robust as no allowance has been made for the traffic movements on the network generated by the existing uses on the site. As these include a high proportion of HGV trips, the removal of these uses would help to reduce the number of unnecessary HGV movements on the A429 in accordance with one of the objectives in the Gloucestershire LTP 2015-2031 [CD1.4].
60. The predicted level of additional movements on the A429 is minimal and at a level that does not warrant a more detailed assessment of the effects on the capacity of nearby junctions or the links between them. Mr Bird's evidence and conclusions align with the assessment undertaken by CTP that has now been accepted by the local highway authority.
61. As no technical evidence has been submitted to contradict it, the appellant's highway evidence should be given significant weight. I accept the appellant's conclusion that the proposal would not have an adverse effect on the highway network. I also give considerable weight to GCC's conclusion that the proposal is acceptable in highway terms. In this regard, the proposal complies with part d of Local Plan Policy INF4 which requires that development should avoid locations where there would be an undesirable effect on the network. I also find that the proposal complies with Policy INF3.

Effect on safety of pedestrians, cyclists and other road users

62. Although some concerns have been expressed about the proposed access junction this has been subject to a Stage 1 Road Safety Audit (RSA). The small number of issues raised in that audit have been addressed by the appellant's design team. GCC has advised that the proposed junction meets the relevant safety standards and I saw nothing on my site visit to contradict that conclusion. The introduction of the ghost island, right turn lane would represent a significant improvement. The visibility splays required for this category of road can be achieved following the clearance of the conifers to the site frontage and local widening to accommodate the right turn lane.

63. LSPC and a number of other objectors fear that a significant number of people using the charging station might walk or cycle into Lower Slaughter or Bourton, thereby putting themselves at risk because of the unsuitability of the available routes for such use. These issues were fully explored at the inquiry and I took careful note of the nature and condition of the routes between the site and the two settlements as part of my site visit.
64. Based on those observations I consider that the A429 from the site, both between the site and the junction of Copsehill Road (to gain access to the Slaughters) and from that point on towards Bourton, does not provide a particularly suitable route for pedestrians. Where a footway exists it is of limited width and is not segregated from the fast moving traffic on the road. Other sections of the route require a pedestrian to walk in the highway verge which I observed to be uneven and very wet in parts.
65. In my view, the route would be unsuitable for wheelchair users, or anyone pushing a pram or pushchair and the passing traffic is likely to be intimidating for anyone not used to walking alongside a busy road. My impression is that this section of the A429 would also be an intimidating route for inexperienced cyclists to use given the absence of a cycle way and the volume and speed of passing traffic. This is my personal assessment of the suitability of the route for walking and cycling. However, it should be noted that the collision data provided in Mr Bird's proof show no accidents in close proximity to the appeal site in the past 5 years and only one involving a cyclist, which occurred further to the south, near the Copsehill Road junction. There have been no recorded accidents involving a pedestrian in that same period. At the time of my visit, the nearby public footpaths that I inspected were unsuitable for use other than by those with appropriate, wet-weather footwear.
66. I would have concerns about the safety of anyone who might seek to walk or cycle from the site to the Slaughters or Bourton but my clear expectation is that very few people would try to do this. The risk would be much greater if the majority of charging points to be provided were of the slow type that require a car to be plugged in for 4 hours or more. However, the appellant's thinking as to the mix of chargers on the site has moved on since the application was first submitted. For the reasons already set out above, it seems most likely that the majority of charging points would be rapid chargers with most vehicles having to wait for only 30-40 minutes. Some fast chargers, requiring a car to be plugged in for 2 to 4 hours might also be provided.
67. A wait of 40 minutes or so would allow the driver and passengers to get some refreshments and to make use of the facilities within the services building. However, given the distances involved, it would not allow sufficient time for them to walk into Lower Slaughter or Bourton. Nor, in my view, would it make it worthwhile to cycle to either of these places since the length of the journey would leave little time for sightseeing. Those using a fast charger would obviously have more time to fill. However, I consider that only a relatively small proportion of those might be expected to want to walk or cycle into Lower Slaughter or Bourton given the time needed to get there and back to the site.
68. My conclusion in relation to this issue is that there would only be a limited risk of significant numbers of EV users wishing to walk or cycle from the site to the Slaughters or Bourton. I do, however, consider that such journeys should not directly be encouraged. A condition is, therefore, required that limits the use of

- the parking spaces for charging purposes only so that users cannot park for a longer period than needed to recharge their vehicle. It is also appropriate to attach a condition that no cycle hire facilities should be provided on the site.
69. As noted previously, the evidence indicates that the majority of those using the charging station will be on their way to a more distant destination or stopping to recharge before driving on to a destination within the local area. Most users will stay on the site while their car is being charged. Hence, the site would be unlikely to have the significant park and ride role that appears to have been contemplated in the Planning Statement.
70. Given that evidence, I accept the appellant's argument that there is no need for the provision of a shuttle bus service to render the proposal acceptable in planning terms. This is a matter for the site operator to consider over the longer term. However, the condition agreed between the appellant and the Council, limiting the use of the parking spaces for vehicle charging purposes only, would in my view also restrict use of the site for park and ride purposes.
71. There is some discrepancy in the way that the one-way flow of traffic through the site is indicated on the ArchiWildish Phasing Plans [CD11.4] and CTP Drawing No SK03,⁹ which Mr Bird describes in paragraphs 4.7 to 4.10 of his proof. Mr Bird's 'Response to Inquiry Questions' [ID8] confirms that the CTP plans submitted for the Stage 1 RSA showed that cars entering from the A429 would access the site by travelling north in Aisle 3 (with the aisles numbered from west to east) with Aisle 1 and 2 being one way in a north-south direction. Mr Bird confirmed that the plans also assumed a one-way flow on the short link between Aisles 2 and 3, immediately to the north of the traffic island indicated on the site layout.
72. The CTP drawings appended to that note show that this internal circulation arrangement would allow a 9m long bus to turn around the traffic island at the southern end of the site should the appellant choose to introduce a shuttle bus service. The swept path analysis shows that service vehicles of up to 12m length could safely negotiate the internal circulation road. The 2.7m headroom limit under the first floor of the services building would restrict the use of some service vehicles. However, I agree that the servicing requirements of that building would likely be met by the use of small LGVs rather than large lorries.
73. I note that one of the recommendations in the Stage 1 RSA was that the one-way flow should be reversed, such that cars exiting the charging station would not have to turn across the flow of traffic accessing the site from the A429. It seems to me that this would be a better arrangement.¹⁰ Mr Bird indicated that these one-way flows could work in either direction and it would be for the appellant to review these options as part of detailed plans for a first phase of the scheme. The important point is that the RSA did not identify any issues of concern as to the safety of site users on the basis that a one-way flow is operated along the aisles and the short link between Aisles 2 and 3. Such an arrangement would, therefore, provide for the safe circulation of cars into and around the site and would meet the site's likely servicing needs.
74. Some objectors have expressed concern about the use of a shared surface within the car charging area but I consider that the risk to pedestrians would

⁹ At Appendix 3 to Mr Bird's proof

¹⁰ As indicated on CTPs drawing SK04 (Internal Signage Plan) at Annex C to Mr Bird's proof.

be low. The 90 degree parking bays and the manoeuvring of cars into and out of spaces is likely to result in very low traffic speeds around the site. There would also be adequate provision for people to cross the central bank of spaces to get to and from the pedestrian access ramp and the other entrances to the service building.

75. Concerns were raised by LSPC about the gradient of the access road and pedestrian ramps but the plans appended to Mr Bird's Responses to Inquiry Questions provide clarification as to the site levels. No concerns about these matters were identified in the Stage 1 RSA or by GCC in its assessment of the proposal. At the detailed design stage the access and circulation proposals would be subject to a Stage 2 RSA and the building details would have to be submitted for Building Regulations approval. As the scheme includes a lift for access to the first floor of the services building, I have no reason to conclude that the proposal cannot be made DDA compliant. Concerns were also raised about whether the RSA complies with GCC guidance for such documents but it is clear that these have been carefully scrutinised by GCC when considering its position in respect of the proposal.
76. In summary, I find that the proposal would provide safe access for all potential users and would not result in an unacceptable risk to the safety of pedestrians, cyclists and other road users. The proposal does, therefore, accord with parts a, b and c of Local Plan Policy INF4 and with the policy as a whole.

Compliance with National and Local Planning and Environmental Policy

77. Due to its central location on the principal spine road through the Cotswolds and rural Gloucestershire, and the form of development proposed, the appeal scheme would make a significant contribution to the development of an accessible and efficient EV charging network in this part of the UK. In so doing, it would help to deliver the Government's objectives¹¹ for the creation of one of the best such networks in the world and of achieving the transition to zero emissions transport. The proposal is supported by draft Policy PDo.1 of the emerging LTP for Gloucestershire and I have found no conflict with the relevant policies in the Framework.

Minerals Local Plan

78. The appeal site falls within the Gloucestershire Minerals Safeguarding Area (MSA) as designated in the Minerals Local Plan (MLP) for Gloucestershire (2018-2032) [CD1.10] which was adopted in March 2020. It also forms part of the County's minerals consultation area which requires that consideration be given to the potential risk of the sterilisation of minerals on sites proposed for development. In this case the minerals that might be affected are below ground sand and gravel reserves.
79. When this issue was raised by GCC Minerals and Waste Planning Team in their consultation response to the application, Mr Wildish sought to clarify what additional information was required to address any concerns. The ensuing correspondence with GCC [CD4.5] is inconclusive but Mr Wildish recalls that the officer agreed that, as the potential workable area within the site is very small and the site has already been developed, GCC would not pursue any concerns with regard to potential sterilisation.

¹¹ As set out in the Road to Zero Paper and the Ten Point Plan

80. There is no formal objection from the Mineral Planning Authority and the site has already been developed and is surrounded by other built development. In these circumstances, the prospects of winning any workable reserve under the site would not be made materially worse by the proposed development. I accept that no conflict arises with MLP Policy MS01.

Waste Core Strategy

81. Policy WCS11 of the Waste Core Strategy (WCS) [CD1.12] for Gloucestershire states that existing waste management sites will normally be safeguarded. Proposals that would adversely affect waste management uses will not be permitted unless it can be demonstrated that there would be no conflict. This policy is applicable to the scrap metal collection and processing use of a large part of the appeal site.

82. I do not agree with the appellant's contention that conflict with that policy arises only if the Waste Planning Authority formally opposes the proposed development. However, I accept that the absence of such an objection should reduce the weight to be given to any conflict. In this case, although the issue was raised by GCC at the application stage, that consultation did not constitute a formal objection and did not form part of the recommended grounds for refusal. No further representations have been submitted by GCC as the Waste Planning Authority and it can, therefore, be concluded that they do not have overriding concerns about the loss of the scrap yard.

83. In the absence of any demonstration by the appellant that there would be no conflict, I find that the proposal would not comply with WCS11 but consider that only limited weight can be attached to that conflict.

Local Plan

84. As set out in the paragraphs above, I find that the proposal complies with the following Local Plan policies:

- EN4 and EN5 in respect of its effects on character and appearance and the AONB;
- EN7 and EN8 in respect of its effects on trees and biodiversity;
- INF3 and INF4 in respect of its effects on highways and transport;
- INF10 insofar as the renewable energy and battery storage components of the proposal are concerned.

85. On my reading, Policy EC2 of the Local Plan is concerned only with the Established Employment Sites listed in Appendix E to the plan¹² and does not, therefore, apply to the appeal site. As "*employment uses*" are currently defined in the glossary to the Local Plan, Policy EC1 also has limited relevance to the appeal proposal which is a sui generis use. However, as noted by the appellant, the recent changes to the Town and Country Planning (Use Classes) Order 1987 (as amended) will significantly reduce the relevance of that definition such that the policy might, in future, be deemed to have a broader application. Insofar as the proposal would create a number of direct jobs and support other employment in the supply chain and visitor economy, it would support and help to deliver the objectives of Policy EC1.

¹² Paragraph 9.2.3 of the LP Written Statement

Summary

86. The proposal is consistent with and supported by Government policy in respect of the transition to zero emissions transport and with the Framework. Notwithstanding the conflict with the WCS, the proposal also accords with the development plan as a whole.

The Planning Balance

87. The benefits of the proposed development are that it would:

- Help to deliver an efficient and affordable EV charging network and support the transition to zero emissions transport;
- Provide direct and indirect employment and support the Cotswolds visitor economy;
- Enhance the landscape character and scenic beauty of the AONB by removing the conifer planting and replacing this with a more natural landscape treatment with resultant biodiversity benefits;
- Reduce noise and air pollution for those living close to the A429 and the site;
- Reduce the number of unnecessary HGV movements on the A429.

I have not identified any significant harm that would be caused.

88. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications and appeals should be determined in accordance with the development plan unless material considerations indicate otherwise. No such considerations arise in this case. Paragraph 11 of the Framework advises that the presumption in favour of sustainable development means that proposals that accord with the development plan should be approved without delay. As I have found that the presumption applies on a 'flat balance' basis, there is no need for me to reach a conclusion as to whether or not the development plan contains relevant policies for the purposes of paragraph 11 d).

Conditions

89. A set of draft conditions prepared jointly by the appellant and the Council, together with additional conditions suggested by LSPC, were discussed at the Inquiry. I have taken those discussions into account in drafting the conditions in the attached schedule.
90. Condition 2 ties the permission to the approved plans in the interests of certainty but condition 3 modifies this to exclude the provision of cycle hire facilities from the approved development so that visitors are not encouraged to cycle along the A429. Conditions 4 and 5 require the submission and approval of a detailed phasing plan and of a method statement in respect of the charging technology to be used in each phase. These are needed to ensure that the development is implemented in an ordered fashion with the necessary infrastructure in place for each phase.
91. In order to ensure the envisaged landscape and ecology benefits of the proposal are secured and maintained over the long term, I have attached a series of conditions (6-11) requiring approval of a detailed landscape scheme,

- replacement planting, adherence to the recommendations of the arboricultural and ecology reports and the approval of a Landscape and Ecology Management Plan. Condition 12, requiring approval of a detailed lighting scheme, is needed to minimise light pollution and an adverse effect on the evening sky in the AONB. Conditions 13 (completion of site access) and 14 (maintenance of visibility splays) are needed in the interests of highway safety.
92. Because of the existing use of the site, condition 15, requiring a desk study in respect of possible ground contamination, is needed to ensure the safety of construction workers and end users of the development. Condition 16 (Construction Management Plan) is needed to minimise the risk of adverse effects on nearby residents and businesses and the public highway during construction works. Conditions 17-20, relating to the detailed design of the services building and boundary walls, are needed to ensure that the development is of a high quality of design and appearance, in keeping with its location within the AONB. Condition 21, requiring approval of a detailed scheme for surface water drainage, is needed to ensure that no flooding occurs on the site or elsewhere as a result of the development.
93. To ensure the safe operation of the site, condition 22 prevents the use of any part or phase of development until the requisite vehicle circulation, turning and parking areas have been completed in accordance with the approved plans. Conditions 23 (opening hours), 24 (use of parking spaces) and 25 (use of the services building) are all required to provide an appropriate control of the development so as to avoid an adverse effect in terms of light pollution, and that it is used only as a vehicle charging station and not as a long-stay car park or destination in its own right.

Conclusion

94. For the reasons set out above, I conclude that the appeal should be allowed.

Paul Singleton

INSPECTOR

SCHEDULE OF CONDITIONS FOR APPEAL DECISION 3248674

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
ArchiWildish Drawing Numbers:
17-172-01B; 17-172-02B; 17-172-03B; 17-172-04B; 17-172-05B and 17-172-06B.
Cotswold Transport Planning Drawing Number:
SK03 Revision B
- 3) Notwithstanding condition 2, the development hereby permitted shall not include the provision of cycle hire facilities.
- 4) No development shall take place until a detailed Phasing Plan has been submitted and approved in writing by the local planning authority. As a minimum, the Phasing Plan shall include the following information:
 - (i) details of which buildings and structures are to be completed in each phase;
 - (ii) the extent of the internal road network, parking and circulation areas to be included in each phase;
 - (iii) the areas of hard and soft landscaping to be included in each phase;
 - (iv) proposals for the temporary treatment of those parts of the site which are proposed for development in subsequent phases.

For the avoidance of doubt, the removal of the existing conifers to the site's boundary with the Fosseyway and their replacement with new landscaping in accordance with an approved landscaping scheme shall be carried out in the first phase of the development.

The development shall be carried out in accordance with the approved phasing plan.
- 5) No development shall take place in any phase of development approved under condition 4, until a Charging Technology Method Statement (CTMS) for that phase has been submitted to and approved in writing by the local planning authority. For each phase, the CTMS shall include the details of the charging technology proposed in that phase, including the mix of slow, fast and rapid charging points; the means by which these will be powered; and full details, including generating and storage capacities, of any substation, storage batteries and any means of solar power generation to be included in that phase. The development in that phase shall be carried out in accordance with the approved CTMS.
- 6) No development, including site clearance, shall take place until a comprehensive landscape scheme has been submitted to and approved in writing by the local planning authority. The scheme shall include details of:

- (i) all earthworks to be carried out as part of the development including the proposed grading and mounding of areas within the site, together with the finished site levels, contouring and relationship to existing landform and vegetation;
- (ii) all planting areas, tree and plant species including details of trees to be retained, numbers and planting sizes, including the planting of native species-rich hedgerows (at least 5 woody, locally characteristic species), native wildflower meadows and native trees;
- (iii) the proposed means of enclosure and screening, together with details of any mounding, walls and fences and hard surface materials to be used throughout the proposed development.
- (iv) a programme for the implementation of the approved hard and soft landscaping works in accordance with the phasing plan approved under condition 4.

The landscaping works approved within each phase shall be completed in accordance with the approved details and programme. All soft landscaping within each phase shall, in any event, be completed no later than the end of the first planting season following the date on which the buildings and/or charging spaces approved in that phase are first brought into use.

- 7) Any trees or plants shown on the approved landscaping scheme to be planted or retained that die, are removed, are damaged or become diseased, or grassed areas that become eroded or damaged, within 5 years of the completion of that phase of the approved landscaping scheme, shall be replaced by the end of the next planting season. Replacement trees and plants shall be of the same size and species as those lost, unless the local planning authority approves alternatives in writing.
- 8) All site clearance and construction works shall be completed in accordance with the recommendations in the Arboricultural Impact Assessment, dated 29th June 2018. All of the recommendations, including any recommended timescales for specific measures, shall be implemented in full.
- 9) The development shall be completed in accordance with the recommendations in Section 4 of the Preliminary Ecological Appraisal, dated 6th July 2018, prepared by Wharton Natural Infrastructure Consultants. All the recommendations shall be implemented in full according to the specified timescales, unless otherwise agreed in writing by the local planning authority, and thereafter permanently retained
- 10) No development shall take place until details of the on-site provision of the ecological mitigation measures recommended in Section 4 of the Preliminary Ecological Appraisal, dated 6th July 2018, have been submitted to and approved in writing by the local planning authority. As a minimum, the mitigation measures shall include least two no. integrated bat boxes (e.g. bat tubes, bat bricks or raised/modified roof tiles) and at least one no. integrated nest box each for house sparrow, starling and swift. The submitted details shall include a technical drawing showing the types of integrated boxes (product type, make and supplier details), their locations within the site (site layout plan) and their positions on the

elevations of the building (elevational drawing). The approved details shall be implemented before any part of the approved development (or any part of an agreed phase if a phased implementation of the ecological mitigation measures is approved by the local planning authority) is first brought into use. The mitigation measures provided on the site shall thereafter be retained for the lifetime of the development.

- 11) No part of the development hereby approved shall be brought into use until a Landscape and Ecology Management Plan (LEMP) has been submitted to and approved in writing by the local planning authority. The content of the LEMP shall include, but not necessarily be limited to:
- (i) A description and evaluation of features to be managed; including location(s) shown on a site map;
 - (ii) Aims and objectives of management;
 - (iii) Appropriate management options for achieving aims and objectives;
 - (iv) Prescriptions for management actions;
 - (v) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a 5-10 year period);
 - (vi) Details of the body or organisation responsible for implementation of the plan;
 - (vii) Ongoing monitoring and remedial measures for a minimum 10 year period following the completion of the landscape and ecological works on the site; and
 - (viii) A timeframe for reviewing the plan.

The LEMP shall be implemented in full in accordance with the approved details.

- 12) No external lighting shall be installed other than in accordance with a detailed lighting scheme for the development as a whole that has been submitted to and approved in writing by the local planning authority. All lighting shall be installed in accordance with the approved scheme. The lighting works relating to each approved phase of development shall be completed and operational before any part of that phase is first brought into use. All external lighting shall subsequently be operated and maintained in accordance with the lighting manufacturer's specifications.
- 13) No development, including site clearance and preparation works, shall take place until the existing site access has been improved and the ghost island, right turn lane has been completed in accordance with the details shown on Cotswold Transport Planning Drawing SK03 Rev B. The junction shall, thereafter, be retained in its approved form.
- 14) No development, other than works required to provide the visibility splays, shall take place until visibility splays of 2.4 metres x 182 metres in either direction have been provided at the improved site access junction. Following the completion of those works, the approved visibility splays shall be kept free of any structures of more than 1.0 metre in height and no shrubs, trees or other vegetation shall be allowed to grow above 0.6 metres in height, relative to the adjoining nearside

carriageway channel level, within the visibility splays for the lifetime of the development.

- 15) (i) No development, including site preparation works, shall take place until a desk study to assess the nature and extent of any contamination present, whether or not it originated on site, has been submitted and approved in writing by the local planning authority. The desk study shall include a risk assessment of potential source-pathway-receptor linkages.
- (ii) If potential pollutant linkages are identified, a site investigation of the nature and extent of contamination shall be carried out in accordance with a methodology which has previously been submitted to and approved in writing by the local planning authority. The results of the site investigation shall be submitted to and agreed in writing by the local planning authority before construction or other works are commenced on the site.
- (iii) If any contamination is found during the site investigation, a Remediation Scheme, specifying the measures to be taken to remediate the site to render it suitable for the development hereby permitted shall be submitted to and approved in writing by the local planning authority before any development begins. The approved remediation scheme shall be fully implemented in accordance with the details and timescale agreed by the local planning authority. On completion of the remediation works, a verification report, prepared by a suitably qualified contaminated land practitioner, to confirm that the necessary remediation has been achieved shall be submitted to and approved in writing by the local planning authority before the development [or any relevant phase of development] is first brought into use for the purposes approved as part of the development.
- (iv) If, during the course of development, any contamination which has not been identified in the site investigation is found, additional measures for the remediation of that contamination shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures.
- 16) No development, including any works of demolition, shall take place until a Construction Management Plan (CMP) has been submitted to, and approved in writing by the local planning authority. The CMP shall include but not be restricted to:
- (i) the parking of vehicles of site operatives and visitors, including measures to be taken to ensure satisfactory access, during the construction works, to the adjoining business premises and residential property that share the access road;
- (ii) locations for the loading and unloading of plant and construction materials and waste;
- (iii) methods to be adopted to prevent mud and dust being carried onto the highway;
- (iv) delivery, demolition and construction working hours;
- (v) measures to communicate the CMP to staff, visitors and neighbouring residents and businesses.

The approved CMP shall be adhered to throughout all phases of construction of the development hereby permitted.

- 17) No above ground works relating to the construction of any external wall to the proposed services building, any retaining/boundary wall to the roadside frontage of the site, and any wall enclosing the proposed substation and battery storage compound shall be commenced until samples of the materials to be used in the construction of those walls have been submitted to and approved in writing by the local planning authority. No external/ facing materials that have not been approved in writing by the local planning authority shall be used in the construction of the walls covered by this condition.
- 18) No above ground works relating to the construction of any external wall to the proposed services building, any retaining/boundary wall to the roadside frontage of the site, and any wall enclosing the proposed substation and battery storage compound shall be commenced until a sample panel of the proposed walling has been constructed on the site and has subsequently been approved in writing by the local planning authority. The sample panel required by this condition shall be of at least 1 metre square in size and shall be constructed so as to show the proposed stone colour, coursing, bonding, treatment of corners, method of pointing and the mix and colour of the mortar to be used. All walls covered by this condition shall be constructed in accordance with details incorporated in the sample panel as approved. The sample panel shall be retained on the site for inspection until the local planning authority has provided its written agreement to its being removed.
- 19) No windows, doors or glazed screens shall be installed in any building approved under this permission unless and until full details of those components have been submitted to and approved in writing by the local planning authority. The submitted details shall include full design details and specifications and their external finish/RAL colour and shall be accompanied by drawings to a minimum scale of 1:5 and full size moulding cross sections profiles, sections and elevations. The development shall only be carried out in accordance with the approved details.
- 20) All door and window frames shall be recessed a minimum of 75mm into the external walls of the building and shall be permanently retained as such thereafter.
- 21) No part of any approved phase of the development shall be occupied/ brought into use until the surface water drainage works serving that phase have been completed in accordance with a detailed scheme of drainage works for the development as a whole that has been submitted to and approved in writing by the local planning authority.
- 22) No part of any approved phase of development shall be occupied/ brought into use until the areas required for the circulation, turning and parking of vehicles within that approved phase have been provided in accordance with ArchiWildish Drawing 17-172-01B. Areas required for the circulation, turning and parking of vehicles shall thereafter be retained solely for that purpose.
- 23) The building and vehicle charging spaces hereby approved shall not be used outside of the hours of 07.00 to 21.00 each day.

- 24) The parking spaces approved as part of the development hereby permitted shall be used for electric vehicle charging only and shall not be used for general parking purposes or parking by internal combustion engine vehicles.
- 25) Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (as amended) or of any subsequent revision of that Order, the service building hereby permitted shall be used only for purposes ancillary to the principal use of the site for the charging of electric vehicles and for no other purpose.

LIST OF CORE DOCUMENTS

CD1.0 Planning Documents

- CD1.1 National Planning Policy Framework (NPPF)
- CD1.2 Countryside and Rights of Way Act 2000
- CD1.3 Cotswold District Local Plan 2011 to 2031
- CD1.4 Gloucestershire Local Transport Plan 2015 to 2031
- CD1.5 HM Government 'The Road to Zero' Paper
- CD1.6 The House of Commons Business, Energy and Industrial Strategy Committee Report 'Electric Vehicles: Driving the Transition' (published 19th October 2018)
- CD1.7 Response from Parliament on the Business, Energy and Industrial Strategy Committee Report (December 2018)
- CD1.8 Electric Vehicles and Infrastructure January 2020, Briefing Paper No. CBP07480
- CD1.9 Gloucestershire Local Transport Plan Draft
- CD1.10 Extract from Minerals Local Plan for Gloucestershire (2018-2032)
- CD1.11 GCC Policies Map Extracts regarding Mineral Safeguard Areas
- CD1.12 Extract from Gloucestershire Waste Core Strategy (Policy WCS11)

CD2.0 Statements of Case and Common Ground

- CD2.1 Appellant Statement of Case
- CD2.2 LPA Statement of Case – Cotswold District Council Statement of Case
- CD2.3 Updated LPA Statement of Case – Cotswold District Council Statement of Case
- CD2.4 Statement of Common Ground between the Appellant and the Council

CD3.0 Documents Upon Which the LPA Made its Decision

- CD3.1 Application Form
- CD3.2 Planning Statement
- CD3.3 Transport Technical Note - February 2019
- CD3.4 Transport Technical Note - September 2019
- CD3.5 Arboricultural Impact Assessment
- CD3.6 Preliminary Ecological Appraisal
- Plans
- CD3.7 Proposed Site Plan (Drawing No. 17-172-01B)
- CD3.8 Proposed Ground and First Floor Plans (172-17-02B)
- CD3.9 Proposed Elevations (17-172-03B)
- CD3.10 Proposed Site Elevations (17-172-04B)
- CD3.11 Proposed Block Plan (17-172-05B)
- CD3.12 Proposed Location Plan (17-172-06B)
- CD3.13 Views of Site Entrance, Bus Stop and from house driveway (17-172-0)
- CD3.14 Views of Service Buildings and Aerial View Not Used (17-172-08)
- CD3.15 Views (17-172-09B)

CD3.16 Views of Cycle Rental Area, looking from North West and North East (17-272- 010B)

CD3.17 3D Views of Bourton Car Charging Service and Electric Information Area (17-172-011B)

CD3.18 3D Aerial Site Plan (170172-012B)

CD3.19 Proposed Landscaping Scheme (17-172-013B)

CD3.20 Proposed Lighting Strategy (17-172-014B)

CD3.21 Topographical Survey (17-172-035B)

CD4.0 Consultee Comments to The Original Application

CD4.1 Biodiversity Officer Comments 08/08/2018

CD4.2 Bourton-on-the-Water Parish Council Comments 26/07/2018

CD4.3 Bourton-on-the-Water Parish Council Comments 02/08/2018

CD4.4 Bourton-on-the-Water Parish Council Comments 20/03/2019

CD4.5 GCC Strategic Infrastructure Comments 10/10/2018

CD4.6 GCC Highways Comments 07/08/2018

CD4.7 GCC Highways Comments 04/07/2019

CD4.8 GCC Highways Comments 18/09/2019

CD4.9 GCC Highways Comments 11/10/2019

CD4.10 GCC Highways Comments 11/06/2020

CD4.11 Landscape Officer Comments 09/08/2018

CD4.12 Landscape Officer Comments 17/04/2019

CD4.13 Landscape Officer Comments 25/06/2019

CD4.14 Lower Slaughter Parish Council Comments 10/08/2018

CD4.15 Lower Slaughter Parish Council Comments

CD4.16 Lower Slaughter Parish Council Comments

CD4.17 Tree Officer Comments 08/08/2018

CD4.18 Wyck Rissington Parish Council Comments

CD4.19 Wyck Rissington Parish Council Comments

CD5 (not used)

CD6 Additional Responses from the Appellant

CD6.1 N02-HA-Visibility Assessment prepared by Vectos

CD7.0 Relevant Appeal Decisions and Court Cases

CD7.1 The Old Station Yard Appeal Decision (ref. APP/E2530/W/20/3250031)

CD7.2 Monkill Ltd v Secretary of State for Housing, Communities and Local Government [2019] EWHC 1993 (Admin) (24th July 2019)

CD7.3 Corner Meal, Newland Lane, Droitwich Spa Appeal Decision (ref. APP/H1840/W/19/3241879)

CD7.4 Paul Newman New Homes Ltd v SSHCLG (QBD)

CD7.5 Corbett v Cornwall Council Judgement 9 April 2020

CD8.0 Planning Committee Documents

- CD8.1 Officers Committee Report 13/11/2019
- CD8.2 Minutes Planning and Licensing Committee 13/11/2019
- CD8.3 Appellant's Minutes from the Planning and Licensing Committee 13/11/2019
- CD8.4 Officers Committee Report 08/07/2020
- CD8.5 Minutes Planning and Licensing Committee 08/07/2020

CD9.0 Decision Notice

- CD9.1 Decision Notice

CD10.0 Site Notice

- CD10.1 Site Notice 12/07/2018

CD11.0 Appeal Documents

- CD11.1 Appeal Form
- CD11.2 Appeal Notification Letter
- CD11.3 Appeal Notification List
- CD11.4 Site Phasing Plans 1-4
- CD11.5 3D Site Phasing Plans 1-4

LIST OF INQUIRY DOCUMENTS

- ID1 Government Press Release on 10 Point Plan (18th November 2020)
- ID2 Department for Transport Annual Vehicle Licensing Statistics 2019 (released 30th April 2020)
- ID3 Department for Transport Total Vehicle Registrations by Year (published 2019)
- ID4 Department for Transport New Vehicle Registrations by Quarter (published 2020)
- ID5 HM Government Industrial Strategy - Building a Britain Fit for the Future
- ID6 Images showing capacity of electricity at Lower Slaughter (Source: Western Power)
- ID7 A429 A433 Corridor Study
- ID8 Mr Bird's Response to Inquiry Questions
- ID9 Lawson Builders Ltd. and other v Secretary of State for Communities and Local Government and another
- ID10 Mr Robin Cochrane's Statement
- ID11 Lower Slaughter Parish Council's Statement
- ID12 Appellant's Opening Statement
- ID13 Appellant's Closing Submissions
- ID14 Local Planning Authority's Closing Comments
- ID15 Combined List of Suggested Conditions including conditions proposed by LSPC
- ID16 Proposed Route Map and Itinerary for Inspector's Site Visit including locations suggested by LSP



Costs Decision

Inquiry Held on 24-26 November 2020

Site visit made on 27 November 2020

by Paul Singleton BSc MA MRTPI

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

Decision date: 9th December 2020

Costs application in relation to Appeal Ref: APP/F1610/W/20/3248674 Scrap Haulage Yard, Fosseway, Lower Slaughter GL54 2EY

- 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 Mr Peter Gilder for a full award of costs against Cotswold District Council.
 - The inquiry was in connection with an appeal against the refusal of planning permission for redevelopment of existing scrap yard and haulage depot to create electric car charging service station and associated works.
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Decision

1. The application for an award of costs is refused.

The submissions for Mr Gilder

2. The application seeks a full award of costs on the grounds that the appeal should not have been necessary because the refusal of planning permission was substantively unreasonable. The Council now accepts that the proposal complies with the development plan and, as the development plan is unchanged since the application was refused, it should have reached that conclusion when determining the application. It was for the Council to assess the proposal's compliance with the development plan and it is no excuse that it relied upon the advice and recommendation of Gloucestershire County Council (GCC) as local highway authority. That advice has subsequently been abandoned by GCC and was, itself, unreasonable.

The response by Cotswold District Council

3. GCC unequivocally recommended that the application be refused and it was wholly appropriate for the Council to give considerable weight to GCC's advice as the statutory consultee with its particular area of statutory responsibility and expertise. In line with the High Court judgment in *Shadwell Estates*,¹ the Council was obliged to follow that advice unless clear and compelling reasons could be demonstrated for diverging from it. When making its decision the Council could not reasonably have expected that GCC would alter its advice and withdraw its objection. However, having received notification of that change in GCC's position, the Council acted as promptly as possible to report this to the

¹ *Shadwell Estates v Breckland DC* [2013] EWHC 12 (Admin)

relevant Committee and to pass a resolution that it would not defend the reason for refusal at the appeal inquiry.

Reasons

4. Planning Practice Guidance (PPG) advises that costs may be awarded against a party that has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process. Claims can be made on the basis of procedural, relating to process, or substantive grounds, relating to the issues arising in the appeal.
5. I agree with the Council that it was both entitled to and obliged to place considerable weight on the advice and recommendation of GCC that permission should be refused. GCC is the local authority with statutory responsibility for the Local Transport Plan and for setting the strategy for highway management and transport infrastructure. A proposal for a large scale and innovative addition to that transport infrastructure clearly falls within the scope of GCC's statutory role and the Council was entitled to place reliance upon GCC's knowledge and expertise in this area. In relation to this point, I note that GCC's advice that the proposal should be opposed was not a 'one off' piece of advice but was maintained over a considerable period of time, notwithstanding GCC's review and appraisal of the additional information submitted by Mr Gilder prior to the application being reported to Committee.
6. For the reasons set out in the appeal decision, I have found that there is no conflict with Policy INF10 of the Cotswolds Local Plan. I have reached that conclusion on the basis of the updated information presented at Inquiry, including that regarding what renewable energy provision is to be incorporated within the development and the contribution this might make to the development's electricity requirements. That information was not available to the Council at the time the application was determined. The Council's reason for refusal was also founded on alleged conflict with a number of transport related policies in the National Planning Policy Framework. Again, as these matters were within the purview of GCC's statutory role and expertise, I consider it was reasonable for the Council to have relied upon GCC's advice as to whether the proposal complies or conflicts with those policies.
7. The applicant referred to the Shadwell Estates² case in closing submissions. He urged that I should place considerable weight on the highway authority's updated advice that there are no highway or transport objections to the proposal. Given those submissions, there is, in my view, some degree of inconsistency in the applicant asserting that the Council should not have placed considerable weight on the advice it was given by GCC at the time the application was determined. Having regard to that case law, the Council was obliged to follow that advice unless there were clear and compelling reasons not to do so. No such reasons were identified at the time that the Council made its decision.
8. The Council could not reasonably have anticipated the change in stance by GCC following the lodging of the appeal. Given how significant a change that was, it was appropriate for the Council to consider whether its reason for refusal could be defended by an external transport consultant. Having concluded that it could not, the Council acted promptly to pass its resolution not to defend the

² Shadwell Estates v Breckland DC [2013] EWHC 12 Admin paragraph 73

reason for refusal and to communicate that decision to the applicant and the Planning Inspectorate.

9. I have reviewed the costs decision by Inspector Hockenhill in the South Oxfordshire appeal appended to Mr Gilder's costs application. I do not consider that this sets a precedent for an award to be made in the present case. In that case the Council's decision to refuse permission was against its officers' recommendation and does not appear to have related to the advice and recommendation of a statutory consultee. It was, therefore, open to the Council to review its position at any time following the lodging of the appeal but it only did so at a late stage, some 10 days before evidence was due to be exchanged. In the present case, the Council was not made aware of GCC's revised position until the middle of June. At that point it took the appropriate action to advise the elected members of this changed position as quickly as possible. The ensuing resolution not to defend the refusal was taken without any delay and was quickly communicated to the applicant.
10. It is also pertinent to note that the applicant requested that the appeal be dealt with by means of an inquiry so that the evidence relating to the proposal could properly be tested. Following the Council's decision not to defend its reason for refusal I considered that, in view of the substantial public interest in and opposition to the proposal, it remained appropriate that the evidence should be tested at an inquiry.
11. I note the applicant's suggestion that GCC could be joined in the appeal so that an award could be made against them. I see no reasonable grounds for taking that action. The change in GCC's position followed its receipt and review of additional information provided by the applicant in relation to some of the key concerns that it had raised. Having concluded that it should no longer maintain its objection on highway grounds, GCC notified the Council of that changed stance at the earliest possible opportunity in accordance with the guidance within paragraph 055 of the PPG. Having done so, GCC has not sought to sustain any objection or concerns about the proposal and has not taken part in the appeal.
12. For this reasons I find that there has been no unreasonable behaviour on the part of the District Council and conclude that the application should be refused.

Paul Singleton

INSPECTOR