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Dear Ms Plant

Re: Planning application HPK/2015/0351 - Land at Manchester Road, Tunstead Milton

I refer to the planning application detailed above and write further to your recent discussions with my colleague Gareth Salthouse and the various consultee comments recently received.

## Planning policy considerations

Thank you for the comments prepared by the Council's Strategic Planning Section.

The planning policy note prepared by your colleagues concludes with the following comments:

"Due to the lack of a 5 year supply there would be a presumption in favour of sustainable development although there are other material considerations which can, and should be, taken into account. In this case there is clear conflict between the proposal and the provisions of the neighbourhood plan, the site being designated Local Green Space, outside the defined built up area boundary and not in accordance with the housing site allocations."

It is unclear as to whether your colleagues have had due regard for the submitted Planning Statement, which is not referenced in their note at any point as all of these points were addressed in our original submission. We have however set out our further response below.

## Housing land supply

The note provided by your colleagues indicates that the five year housing land supply position is 3.8 years on the basis of a housing requirement of 350 dwellings per annum and with a 20% buffer (as of March 2015).

REG: 4471702

VAT: 758112726



During the most recent examination hearing session, 3<sup>rd</sup> September 2015, the Council conceded that the 350 dwellings per annum figure did not represent the full objectively assessed housing need (OAN) for the Borough. Instead, it represents a 'constrained' figure and the full OAN equates to a greater figure.

Even on the basis of a 'constrained' housing requirement, there is a very significant shortfall in deliverable sites across the Borough. Accordingly, any policies (including emerging and recently adopted policies) relating to housing supply should be treated as out-of-date, and given limited weight in the planning balance. The 5 year shortfall is so substantial that it is imperative that a range of sites of different sizes and locations come forward to address the shortfall.

## **Emerging local plan**

The Local Plan Inspector has not yet issued his findings further to the most recent examination hearing session. Given the ongoing significant uncertainty with regard to the content of the emerging local plan, and in particular the overall housing requirement figure, it attracts little weight in the decision-making process in accordance with paragraph 215 of the NPPF.

You may be aware of the recent addition to the examination library relating to housing land supply, Core Document X12. Using the 'Sedgefield' method in the same way that officers have calculated the housing land supply position in the note prepared by your planning policy colleagues, the Council considers that it can demonstrate a supply of 4.8 years (buffer applied to the shortfall and requirement) or 5 years (buffer applied to the requirement only). On the basis of the Council's very optimistic assumptions, housing land supply would fall below NPPF requirements, or is marginal at best. This position is reliant upon several greenfield sites outside of the settlement boundaries coming forward within the short-term, including 39 dwellings on Green Belt land at Furness Vale. This again strongly indicates the need for the Council to boost housing land supply with immediate effect.

## Chapel-en-le-Frith Neighbourhood Plan (CNP)

Firstly, our client would like to clarify that he was unaware of the proposal and any consultation on the CNP intention to designate part of his land within the local green space designation. If he had been he would have made relevant submissions. Furthermore, the designation was not referenced by officers during pre-application discussions with the local planning authority and the referendum occurred subsequent to the submission of the planning application.

Your colleagues' comments with regard to the CNP do not have any regard for the Woodcock judgement referred to in our Planning Statement.

Although the CNP has been adopted, the Council cannot demonstrate a five-year housing land supply and the provisions of paragraph 49 of the NPPF apply. The housing related planning policies should therefore be considered out-of-date e.g. Policies H1 and H2 of the CNP.

Furthermore, there is presently an absence of an up-to-date full objectively assessed housing need (OAN). The Council conceded at the recent examination hearing session, 3<sup>rd</sup> September 2015, that the full OAN is greater than the 350 dwellings per annum figure referred to by your colleagues. This further undermines the weight that can be attributed to Policies H1 and H2 of the CNP.

The proposed development would result in the loss of a modest strip of land associated with a 'local green designation' for the purposes of Policy C1 of the CNP. The proposed development would provide a number of overriding and significant benefits:

- there is an identified and immediate need for the provision of new housing, especially family housing, across the Borough in order to address unmet housing need;
- provision of affordable housing;
- an extensive area of land would be secured as public open space (Nature Reserve) through this development and it would be accessible to all local residents as a shared community space;

- our client is willing to undertake significant tree and hedgerow planting and a new pond within the proposed area of Nature Reserve in order to secure significant ecological benefits;
- the proposed development would result in the provision of a new dedicated, safe footway along the entire development frontage, leading beyond Tom Lane to provide access to an existing bus stop;
- the proposed houses would be built to energy efficiency standards equivalent to the Code for Sustainable Homes Level 5 with significant benefits in terms of sustainability.

The Derbyshire Wildlife Trust (DWT) specifically address the Local Greenspace Designation in their emailed response dated 18<sup>th</sup> September 2015. They request that the local planning authority takes into account the net positive benefits in the biodiversity of the area as a result of the proposed development:

"It is not within the Trust's remit to consider all the features that make up a Local Green Space allocation (e.g. landscape, visual amenity, public amenity etc.), but I would suggest that the site's wider contribution to the localities biodiversity (as species poor semi-improved grassland) in terms of the ecological network is placed in the balance when considering the application."

The DWT recognise that the site comprises species poor semi-improved grassland and provides poor quality habitat for amphibians. There is no evidence of any other protected species. The response from the DWT goes on to state the following:

"... the area to the south of the application site (i.e. housing element) in the applicant's ownership will be set aside to form a Nature Reserve Area, which will be managed to improve the quality of the area's biodiversity. This along with other measures could be beneficial to the local area's biodiversity and increase the diversity of the grassland's flowering species (our emphasis)."

"..the retention of part of the site as a Nature Reserve, which would help ameliorate for the loss of species poor semi-improved grassland, by introducing appropriate management could over time move the site to a better more favourable condition (our emphasis)."

"DWT has identified that this area along with other LGS in the locality contribute to the biodiversity resource of the wider landscape ecological network (NPPF paragraph 113). It is advised that the LPA should give biodiversity the relevant weight along with other factors which contribute to the site's identification as LGS when considering the determination of the application."

The above should be seen in the context of Table 1 of the adopted CNP. This makes clear that Local Green Space Designation 6 (Land around Combs Reservoir) has been designated for reasons relating to 'wildlife, walking/recreation and tranquillity'. With regard to wildlife, the existing site provides poor quality habitat, whereas the proposal would result in significant habitat creation and enhancement. Recreational opportunities would be significantly enhanced as a result of the open space being accessible to the community and there would be no material impact on its 'tranquillity'. This being in the context of no public access to the land at present.

Tunstead Milton does not presently benefit from any shared community space. The proposed area of public open space, accessible to all local residents, would significantly benefit the local community with benefits in terms of their health and well-being and would enhance community cohesion through opportunities for incidental meeting with other local residents.

The proposed footway would provide a safe and convenient means of access for tourists to alight a bus and reach the public right of way network surrounding Combs Reservoir. It would also facilitate safe access for existing residents to use the public right of way network and the existing bus stop beyond Tom Lane. The proposal would significantly benefit recreational opportunities across the Combs Reservoir Local Greenspace Designation as a whole.

Our client is willing to make provision for affordable housing commensurate with planning policy and this attracts significant weight in the decision-making process.

The proposed energy efficiency measures should be seen in the context of the Ministerial Statement (March 2015) and the government's intention to deregulate the planning system and revoke the Code for Sustainable Homes in order to relieve the burden on developers. The proposal would go well above and beyond mandatory building regulations standards (equivalent Code Level 3).

The above should be seen in the context of the proposed development not resulting in the severance of the local green space designation. Only a modestly sized, inaccessible strip along the frontage would be compromised with significant positive net benefits outweighing any harm. These benefits collectively comprise 'very special circumstances' for the purposes of Policy C1 of the CNP and paragraph 78 of the NPPF.

## Boosting housing land supply

Notwithstanding the absence of a five-year housing land supply, we have demonstrated that the proposed development is consistent with the emphasis through the NPPF on sustainable development based on positive growth and a boost to housing land supply.

Three recent appeal decisions in Weedon Bec, Moreton and Davenham (see copies at **EP1, EP2** and **EP3**) relate to residential developments in the open countryside whereby permission has been granted even though the Council had been able to demonstrate a five-year housing land supply.

These three appeal decisions serve to emphasise the point that a five-year housing land supply is not a 'ceiling' bearing in mind the provisions of paragraph 47 of the NPPF and the need to boost housing land supply, particularly in the case of High Peak which has under-performed with regard to new housing for many years and continues to experience a shortfall of deliverable housing sites.

## **Ecology**

The comments from Derbyshire Wildlife Trust (DWT) have now been received via email and their comments are summarised as follows:

- the site comprises species poor semi-improved grassland with evidence of over-grazing and very few 'qualifying species';
- the site does not comprise a Local Wildlife Site (LWS);
- habitat for Great Crested Newts (GCN) is poor and no record of GCN has been identified in the area from the DWT database;
- the site offers little opportunity for toad refugia with the only potential element being a tipped pile of rubble;
- there is no need for additional surveys to be carried out;
- the potential net benefits of the development in terms of the local area's biodiversity as a result of the proposed nature reserve is noted.

All matters relating to supervision of the clearance of rubble, habitat creation, hedgerow planting and a Landscape Management Plan can be adequately dealt with via planning conditions. The proposed Nature Reserve would be clearly delineated from the garden curtilages of the new houses with boundary treatment and planning permission would be required in any case to extend those curtilages southwards. Again, a planning condition can adequately address this issue.

Our client agrees to incorporate the provision of amphibian habitat features (including a new pond and hibernacula) within the new Nature Reserve and all works and planting will be subject to the Landscape Management Plan in the interests of enhancing habitat creation and enhancement.

The existing site has poor ecological value with evidence of over-grazing associated with the present use of the land. The proposal would result in significant net positive impacts on ecology and biodiversity and this weighs heavily in favour of the proposed development.

### **Flooding**

All issues relating to flooding and drainage have been fully addressed. The Environment Agency raise no objections subject to conditions.

## **Trees**

The removal of the trees subject to this planning application was agreed by the Council's Tree Officer at the pre-application stage with High Peak Architects. See the submitted Design and Access Statement.

Most of the existing trees to the street frontage would be retained, although four trees of 'moderate' quality would be removed. The removal of these trees would not be significant and can be mitigated adequately through replacement planting (see Cheshire Woodlands report enclosed) as agreed at the pre-application stage with the local planning authority.

A replacement hedgerow for that lost to facilitate the proposed development would be provided to the front boundary of the site along the edge of the new footpath, with additional hedgerow planting elsewhere.

## Sustainable development

Appeal decisions have established the correct approach to applying paragraph 14 of the NPPF. See for example the following paragraph of the Inspector Lyon's decision letter for APP/RO660/A/14/2225591 (Kents Green Farm – see EP4 for a copy) whereby he draws on established case law and appeal precedents:

"I consider that the Droitwich decisions indicate the interpretation of policy favoured by the Secretary of State, and that it should be applied in this case. No prior or parallel assessment is needed, but the sustainability of the proposed is to be judged by a positively weighted balancing of the benefits and adverse impacts against the policies of the NPPF as a whole (our emphasis)" (paragraph 20).

We apply the correct positively weighted balancing exercise below:

#### Economic

The proposed development would result in both direct and indirect benefits that include construction jobs and additional household spending within the wider economy (e.g. on household goods and services). There will also be a substantial New Homes Bonus and council tax receipts associated with the proposed residential development.

The economic dimension of the proposed development would be satisfied.

## Social

Turning to the social role, the proposed development would result in the following benefits that attract significant weight in the decision-making process:

- the proposed development would add much-needed quantity and quality to the local housing market;
- provision of two live/work units giving people the opportunity to work from home with significant benefits in terms of sustainability (this responds to the local planning authority officer's suggestion for live/work units through pre-application discussions);
- provision of affordable housing;
- the proposed development would secure a substantially sized area of public open space (Nature Reserve) consistent with the aspirations of the CNP and be accessible to all members of the public as a shared community space;
- the provision of a safe and dedicated footway along the Manchester Road frontage encompassing the development site and land beyond Tom Lane to the bus stop, providing safe and convenient access to the significant benefit of the local community and visitors to the area; and
- the proposed development would help to safeguard the existing local services within Tunstead Milton and would help to sustain the viability and vitality of this established local community.

The social dimension of the proposed development would be satisfied.

#### Environmental

We have addressed all issues relating to landscape and visual harm through our Planning Statement.

Although the proposal would result in the release of a greenfield site with some loss of trees and hedgerow of 'moderate' quality, the proposed scheme would provide substantial net positive impacts through habitat creation and enhancement to include tree planting, hedgerow planting and the proposed Nature Reserve. The new Nature Reserve would be beneficial to the wider ecological network surrounding Combs Reservoir.

Furthermore, the proposed houses would be built to the equivalent 'Code for Sustainable Homes Level 5' and this goes far beyond mandatory requirements in terms of energy efficiency. Very significant weight should be attached to this benefit given how rare it is for developments to achieve this level of sustainability.

The environmental dimension of the proposed development would be satisfied.

## Positively weighted balancing exercise

We have not identified any adverse impacts that would demonstrably and significantly outweigh the benefits associated with the proposal, and planning permission should therefore be granted in accordance with the NPPF.

We trust that the above clarifies our position and we look forward to hearing from you.

Yours sincerely Emery Planning

# Rawdon Gascoigne BA (Hons), MRTPI Director

### Enc:

**EP1** – Appeal decision reference APP/Y2810/A/14/2225722 (Moulton)

EP2 - Appeal decision reference APP/Y2810/A/14/2228921 (Weedon Bec)

**EP3** – Appeal decision reference APP/H1033/A/02/1087162 (Davenham)

EP4 - Appeal decision reference APP/RO660/A/14/2225591 (Kents Green Farm)

EP5 – Updated Cheshire Woodlands Arboricultural report

# **Appeal Decision**

Inquiry held on 6-8 May 2015 Site visit made on 7 May 2015

# by David Spencer BA (Hons) DipTP MRTPI

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

Decision date: 18 June 2015

# Appeal Ref: APP/Y2810/A/14/2225722 Salisbury Landscapes Ltd, Boughton Road, Moulton, Northampton NN3 7SQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Salisbury Garden Services (Northampton) Ltd against the decision of Daventry District Council.
- The application Ref DA/2013/0690, dated 23 August 2013, was refused by notice dated 21 March 2014.
- The development proposed is residential development of up to 70 dwellings including affordable housing, access and associated works, open space, amenity space, attenuation ponds and infrastructure.

### **Decision**

1. The appeal is allowed and planning permission is granted for residential development of up to 70 dwellings including affordable housing, access and associated works, open space, amenity space, attenuation ponds and infrastructure in accordance with the terms of the application, Ref DA/2013/0690, dated 23 August 2013, and subject to the conditions set out in the schedule at the end of this decision.

# **Preliminary Matters**

- 2. The application was submitted in outline with all matters reserved except for access. Nevertheless it was accompanied by supporting information including, amongst other things, a planning statement, a transport assessment, a travel plan, a flood risk assessment, a preliminary ecological appraisal, a tree survey and a landscape and visual impact assessment.
- 3. A Unilateral Undertaking (UU) under Section 106 of the Town and Country Planning Act 1990 was submitted during the Inquiry. The UU would provide for public open space, and the delivery of affordable housing as well as financial contributions towards community infrastructure, fire and rescue, health, education, libraries and local transport infrastructure. As such the proposed contributions would need to be assessed against the statutory tests set out in the Community Infrastructure Levy (CIL) Regulations 2010.
- 4. The submitted UU contains provisions and a plan for the location of the proposed open space which the appellant submits would provide a degree of certainty. The Council considers that such specificity would be more appropriately dealt with at the reserved matters stage. However, the description of the development includes "open space" and consequently a

hybrid proposal on this basis would be a reasonable proposition. In coming to this view, I am cognisant that representations were made, including from the Council's landscape officer, on the originally submitted indicative layout drawing<sup>1</sup>, which shows the open space along both the western and northern boundaries of the site. However, this layout was suggestive and did not preclude other options for the balance of open space and up to 70 dwellings on the appeal site.

5. On the revised open space plan, the broad quantum of open space has not changed, nor its general orientation towards the western edge of the appeal site. Similarly, the overall emphasis of residential development on the eastern half of the site would remain as would the proposed position of the main site access. Therefore, in my view, this amended plan would not materially alter the appeal proposal and as such I am satisfied that no one would be prejudiced by my taking it into account.

# **Main Issues**

- 6. To assist the main parties at the Inquiry I circulated in advance a brief note setting out what I considered to be three main issues. Two of those main issues are set out below and were agreed at the start of the Inquiry. The third issue, to my mind, related to the application of paragraph 14 of the NPPF, in determining, whether the appeal proposal constituted sustainable development to which the presumption in favour would apply. I received lengthy oral and written submissions on this matter which are considered in the overall conclusion and planning balance section of this decision.
- 7. The main issues in this appeal are, therefore:
  - The District's housing land supply position and its policy implications; and
  - Whether the proposed development would undermine the 'green wedge' designation to the west of Moulton.

#### Reasons

## Policy Context

- 8. The development plan comprises the West Northamptonshire Joint Core Strategy Local Plan (Part 1) which was adopted in December 2014 (the WNJCS). This document has been found sound against the requirements of the National Planning Policy Framework (NPPF) and provides a spatial strategy for delivering growth, including objectively assessed housing need (OAHN), which includes District housing requirement figures to 2029. The WNJCS provides a strategic plan for Daventry District following the revocation of the East Midlands Regional Spatial Strategy (RSS) in April 2013.
- 9. The finalisation and adoption of the WNJCS post-dates the Council's decision on the appeal proposal. The Council has submitted that it considers WNJCS Policies S1 and R1 would be breached by the appeal proposal. The appellant has addressed these policies and provided additional extracts<sup>2</sup> of the adopted WNJCS considered to be relevant to the appeal proposal. As such I have taken into account the adopted WNJCS in reaching my decision.

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<sup>&</sup>lt;sup>1</sup> Drawing No. C-1307 (08) 03 Rev P1

<sup>&</sup>lt;sup>2</sup> Appendix 5 to Matthew Taylor Proof of Evidence & Doc 4

- 10. The development plan also consists of a number of saved policies from the Daventry District Local Plan 1991to 2006 which was adopted in 1997 (the DDLP). Whilst the plan period has time expired these policies remain extant and the degree of weight to be attached to them will reflect the circumstances of the appeal. Daventry District Council is currently working on an emerging Settlements and Countryside Local Plan (SaCLP), albeit work remains at a formative stage given the recent adoption of the WNJCS.
- 11. At a more local level Moulton Parish Council is presently preparing a Moulton Neighbourhood Development Plan (MNDP). A draft of the MNDP has been prepared and consulted on, including a proposed residential allocation on Boughton Road to the south of the appeal site. The Parish Council intend to submit the document to the District Council imminently although I have few details on the likely timetable for the examination and adoption. The emerging MNDP is a material consideration, however, given its early stage of preparation and having had regard to paragraph 216 of the NPPF and the PPG³, I share the view of the District Council that only little weight should be given to it.

# Housing Land Supply

- 12. The NPPF is predicated on the principle that sustainable development is about positive growth. In terms of positive housing growth, paragraph 47 of the NPPF requires a significant boost in the supply of housing by ensuring that the full, objectively assessed housing need (OAHN) is embedded within the development plan. It also requires Council's to identify and annually update a five year supply of deliverable housing land incorporating an additional 5% buffer, to ensure choice and competition, and where there is a record of persistent under-delivery a 20% buffer should be applied. Paragraph 49 of the NPPF requires housing applications to be considered in the context of the presumption in favour of sustainable development. Accordingly, where a five-year supply of deliverable housing sites cannot be demonstrated, relevant policies for the supply of housing should not be considered up-to-date.
- 13. The housing land supply position in Daventry and its policy implications have been the subject of a number of recent appeal decisions<sup>4</sup>, which are before me. These decisions date between 23 October 2012 and 24 December 2014 and largely track a period when the WNJCS was in various stages of preparation. In all of these decisions it was determined that the Council could not demonstrate a 5 year supply of deliverable housing land, partly on the basis of a 20% buffer for persistent under-delivery, including in some cases against an annualised OAHN figure of 388 dwellings per annum, based on emerging WNJCS figures.
- 14. The Council published an updated Housing Land Availability assessment on 2 April 2015 (HLA 2015). This document applies a 5% buffer on the basis that performance since 2011 has tallied with the plan period figures for 2011-15 in the housing trajectory of the WNJCS. Consequently, in applying a 5% buffer, in conjunction with estimates on supply, the Council submits that it has a 5.94 year supply of deliverable housing land.

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<sup>&</sup>lt;sup>3</sup> Paragraph 007 (Reference ID: 41-007-20140306)

<sup>&</sup>lt;sup>4</sup> APP/Y2810/A/12/2173992; APP/Y/2810/A/12/2178421; APP/Y2810/A/13/2197175; APP/Y2810/A/13/2202009; APP/Y2810/A/14/2214145; APP/Y2810/A/14/2216520; APP/Y2810/A/14/222311

15. I appreciate that this update to the housing land supply position has occurred relatively late in the consideration of the appeal proposal and consequently there is a marked difference in the Council's position on housing land supply when the appeal was submitted and compared to the most recent appeal at West Haddon<sup>5</sup>. Nonetheless the appellant has been able to scrutinise and make submissions on the Council's change in approach to its housing requirement. Furthermore, having considered the NPPF at paragraph 47 and the PPG<sup>6</sup>, I share the view of the Council that updating the housing land availability position should ordinarily be an annual exercise. The WNJCS was adopted in December 2014 and consequently I consider that the Council was reasonable in waiting the relatively short period to the end of the monitoring year before recalibrating its housing land supply position.

# The Starting Requirement

- 16. There is little dispute that the WNJCS reflects the established OAHN and as such represents a departure from the higher "policy driven" housing targets for the District contained in the revoked RSS. Nor is there a substantive difference between the parties that the starting point for the five year requirement going forward should be based on the WNJCS housing trajectory. The Council has deducted 30 units from this requirement on the basis of an 'oversupply' against the trajectory figures for 2011-14, resulting in a starting requirement of 2628 for the period 2015-2020.
- 17. This initial requirement is also reflected in the appellant's evidence, however, having had regard to paragraph 17.19 and the monitoring provisions at Appendix 6 of the WNJCS, together with the PPG<sup>8</sup> content on over-supply, I am not persuaded that the delivery over and above the housing figures for the years 2011-14 is either of a scale or duration to support an adjustment to the appreciable future need identified in the WNJCS trajectory. It would be premature, both in the context of the NPPF's requirement to significantly boost supply and the notable step-change in delivery as required by the WNJCS trajectory to meet the OAHN, to make a negative allowance for a very modest over-supply. As such I consider the more robust starting requirement to be 2658 in accordance with the WNCS trajectory.

## A 5% or 20% buffer

- 18. The principal matter of disagreement in establishing the 'total requirement', as per paragraph 47 of the NPPF, is whether to add a 5% buffer to increase choice and competition or a 20% buffer to address persistent under delivery. The PPG<sup>9</sup> is clear that identifying a record of persistent under delivery is a matter of judgment for the decision maker and advises that there is "....no universally applicable test or definition of the term."
- 19. The WNJCS trajectory covers the period 2011-2029. As the WNJCS Inspector's Report at paragraphs 35 and 38 concludes, this trajectory reflects the revised 2013 OAHN and is appropriate for setting the net new housing requirement for the extended plan period 2011-2029. Furthermore, the WNJCS states at paragraph 17.18 that delivery will be monitored against the trajectory. In my

<sup>&</sup>lt;sup>5</sup> APP/Y2810/A/14/2222311

<sup>&</sup>lt;sup>6</sup> PPG Reference ID:3-033-20140306

<sup>&</sup>lt;sup>7</sup> Appendix 3, West Northamptonshire Joint Core Strategy, Adopted 2014.

<sup>&</sup>lt;sup>8</sup> PPG Reference ID:3-036-20140306

<sup>&</sup>lt;sup>9</sup> PPG Reference ID:3-035-20140306

view, these figures are the appropriate measure against which delivery in the plan period should be recorded.

- 20. The appellant identifies that the WNJCS Inspector at paragraph 5.41 of his report acknowledges a shortfall in meeting need in Daventry District for the period 2011-13 against the annualised figure based on OAHN for the plan period. I am cognisant that where a shortfall is identified, decision makers can look to either the Sedgefield or Liverpool methodologies to re-dress that shortfall. The adopted WNJCS trajectory does not apply an annualised residual approach from the point of plan adoption onwards nor does it significantly backload delivery.
- 21. Instead the WNJCS trajectory has profiled OAHN, including the recognised shortfall, to be primarily met in the middle phases of the plan period which I consider to be 2015-2025. This involves a step change to deliver 531 dwellings per annum (dpa) in Daventry District between 2015 and 2020, compared to the annualised rate over the plan period of 388 dpa. Importantly, the WNJCS Inspector in assessing any shortfall, considered the trajectory profile as a "deliverable" approach that would also secure a spatial strategy focused on sustainable urban extensions (SUEs).
- 22. The appellant submits that the more robust delivery measure should be the annualised OAHN figure of 388 dpa based on the remaining requirement for the period 2011-2029 and remaining delivery planned in Tables 1 & 3 of the WNJCS respectively. However, to apply an annualised approach at this early stage of the WNJCS plan period would prematurely nullify the carefully considered approach to meeting housing need which has only recently been found sound and adopted in a development plan document whose preparation and examination post-dates both the NPPF and substantial parts of the PPG.
- 23. In coming to this view, I have carefully considered the WNJCS inspector's report at paragraph 42 which at the last two sentences states. "The modified new housing total, extended plan period, and revised housing trajectory represent a reasonable and realistic, deliverable and justified, basis for meeting local needs over the plan period. This incorporates provision for the needs of the existing local population, including in respect of affordable housing." I also note in respect of planned delivery that the WNJCS at paragraph 5.30 explains that the trajectory takes current market factors into account and seeks to show a rapid increase in housing completions based on existing commitments and the proposed SUEs.
- 24. The HLA2015 presents a record of delivery against only 4 years of the plan period in the WNJCS. On examining the trajectory, I note that for the years 2011-13 it is based on actual completions and for 2013/14 a realised completion figure. These figures have been recently accepted by the WNJCS inspector as reasonable and justified in the context of the evidence on OAHN and deliverability. The HLA2015 also demonstrates that in 2014/15 the transition to the increased delivery required by the WNJCS to meet OAHN has been comfortably achieved. I appreciate this is only one year of data and falls significantly below the recommended 5 year period for assessing delivery.
- 25. It would also fall below the two year period referred to, but not accepted, in the Bourton-on-the-Water appeal<sup>10</sup>. However, in the circumstances of this

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<sup>&</sup>lt;sup>10</sup> Doc 13

appeal, in contrast to Bourton-on-the-Water, there is a reliable measure for assessing delivery against OAHN from 2011 onwards. Furthermore, I am not persuaded that a longer period back to policy driven RSS figures, which would inevitably include a time of recessionary influences on the housing market, forms a reasonable basis for scrutinising the record of delivery in the District. I also have no evidence that the WNJCS adoption was subject to challenge. I therefore attach significant weight to the figures in the trajectory.

- 26. Therefore, and having regard to the PPG<sup>11</sup> it follows that adherence to the WNJCS housing trajectory does not trigger a requirement in excess of 5% to bring forward an additional supply of housing from the middle or latter phases of the plan period. Clearly, if monitoring in the forthcoming years shows a marked negative divergence from the step-change in delivery over the middle phase of the WNJCS, then a revised assessment of whether delivery triggers a re-profiling of the OAHN would be justified. However, in the circumstances of this appeal I am persuaded that the figures for the first four years of the plan period provide a robust basis for an assessment of a local delivery record and I find no support in the available text of the WNJCS that invites decision makers to put the trajectory to one side and adopt an annualised approach.
- 27. I have also been invited to consider whether the measure for delivery should be the annualised figure stemming from the total housing requirement for 2001-2029 at Tables 1 & 3 of the WNJCS which would equate to 351 dwellings per annum. However, paragraph 5.26 of the WNJCS makes clear that the inclusion of the completion figures for 2001-11 were shown for comprehensiveness. In my view their inclusion in the WNJCS is for context rather than a robust measure against which to assess delivery performance. As explained above, figures pre-dating 2011 do not reflect the up-to-date evidence and strategy for delivering OAHN. Accordingly, were decision makers to apply the annualised figure promulgated by the appellant, the considered and profiled housing trajectory and spatial approach of the WNJCS would be rendered null and void in Daventry District before any meaningful period of post adoption implementation. As such I am not persuaded that an annualised figure stretching back to 2001 represents an appropriate measure against which to record an assessment of delivery.

## Total Requirement

28. I therefore find that it is reasonable to assess previous performance against the 4 years of the WNJCS trajectory for the period 2011-2015. As such the Council has not persistently under delivered and in the context of the clear emphasis on a step change in delivery in the middle phase of the plan, it is not necessary to bring forward an additional supply of housing to meet OAHN. Consequently, a 5% buffer to improve housing choice and competition should be applied, resulting in a total requirement of 2,791 dwellings over the period 2015-2020. This would be equivalent to an annualised requirement of 558 dwellings over the next 5 years.

# Supply from Contested Sites

29. The parties are agreed the supply of deliverable sites in the District includes sites with the benefit of planning permission and a contribution of 334 units from other sites in the villages. Consequently, scrutiny of the potential

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<sup>&</sup>lt;sup>11</sup> PPG (Reference ID: 3-035-20140306

contribution from other sites in Daventry and the anticipated contribution from windfall sites formed a significant part of the Inquiry. Footnote 11 to paragraph 47 of the NPPF sets out what should be considered as a deliverable housing site. I have also been referred to relevant parts of the PPG<sup>12</sup> and the reserved judgment of *Wainhomes*<sup>13</sup> as references to the further interpretation of footnote 11. With this in mind, I now assess the potential supply on the five other large sites in Daventry contested by the appellant.

- 30. Daventry 3 & 6 is a greenfield site on the edge of the town centre owned by the District Council which has clearly been in the pipeline for some time. The Council advised that a new planning application was being prepared for site. I have little evidence from the appellant as to why a relatively modest supply cannot be yielded from this unconstrained site and I therefore find the Council's estimate of 50 units should be factored into the District's deliverable supply.
- 31. The Council also owns sites 8 & 9 at Middlemore, which are greenfield sites adjacent to recently completed housing developments. These sites benefit from servicing in the form of largely completed spine roads, public transport infrastructure and strategic landscaping. The Council has reasonably reduced the capacity of the site to allow for noise mitigation measures in the form of those found elsewhere on Middlemore. The Council has also referred to evidence<sup>14</sup> in its HLA2015 outlining the steps it is taking as land owner to bring part of site 8 forward as a Homes to Rent scheme in the short term. I am therefore persuaded that sites 8 & 9 would reasonably deliver 100 dwellings over the five year period to 2020.
- 32. I have considered carefully the Northampton College site including the availability and timeframe of LEP funding to facilitate the relocation of campus facilities and the necessity of funding from the proposed residential development. However, there are delivery issues with the site, including an unresolved objection from Sport England, which the Council acknowledges brings the scheme within the ambit of the *Wainhomes* judgment. I have considered the Council's submission that it would not be unreasonable to apply a lower figure for the college site. However, because delivery is dependent on two planning consents on the same site, where there is already one unresolved objection from a statutory consultee, I am not persuaded that there is sufficient certainty on the outcome and thus a realistic prospect that the site would be delivered in five years. I therefore discount the college site in its entirety from the projected supply.
- 33. The Daventry North East Sustainable Urban Extension (SUE) is allocated within the WNJCS providing certainty against which to submit a planning application. Nonetheless it is a large site which requires a strategic, rather than piecemeal approach. However, since the publication of the Council's 2015 HLA and the consideration of the delivery of this site at an earlier appeal<sup>15</sup>, the land owner of the SUE has confirmed that its strategic development partner has withdrawn from the site<sup>16</sup>. The HLA2015 document to some degree reflects this situation and reduces the anticipated short term supply from the site.

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<sup>&</sup>lt;sup>12</sup> PPG (Reference IDs: 3-030/031/032/033-20140306

<sup>&</sup>lt;sup>13</sup> Wainhomes (South West) Holdings Ltd v. SSCLG [2013] EWHC 597 (Admin)

<sup>&</sup>lt;sup>14</sup> Doc 9

<sup>&</sup>lt;sup>15</sup> APP/Y2810/A/14/2216520

<sup>&</sup>lt;sup>16</sup> Doc 8

- 34. The Council submits that early delivery of 75 dwellings within the next 5 years could be secured by a detailed application on part of the SUE set within the context of an approved wider masterplan. I do not find this approach to be unreasonable or inconsistent with the broad timeframes set out in the HLA2015. Given the certainty that it is allocated in the adopted WNJCS I have little evidence that the market will not be attracted to this site. Nor am I advised that there are insurmountable initial infrastructure constraints that would render the Council's suggested hybrid approach undeliverable. As such I am persuaded that the SUE site is available and deliverable now and that a relatively modest supply of 75 units in the next five years would be reasonable.
- 35. The largest 'other site' in Daventry is the greenfield site at Micklewell Park to the north of the town. There is a resolution to grant planning permission subject to the completion of a S106 agreement. The Council has applied a degree of caution to the site promoter's estimates however I share the appellant's submission, with reference to the recent Alsager decision<sup>17</sup>, that the projected output on the site requires at least two housebuilders operating simultaneously. Therefore, in terms of the remaining balance it seems more realistic, in my view, that it should be discounted to reflect that there is only one developer associated with the site. On this basis I consider a total supply of 200 dwellings, over the next 5 years, a more reasonable prospect.
- 36. Having considered, in some depth, the potential contribution from other sites in Daventry over the period to 2020 I am satisfied that the likely supply is not as optimistic at the Council estimate, nor, however, is it as pessimistic as the appellant avers. From my reasoning, as set out above, the five year deliverable housing supply from other sites in Daventry is some 425 dwellings.

## Windfall Contributions

37. Having regard to paragraph 48 of the NPPF, it would be reasonable, given the number of settlements, the extent of the rural area and the evidence of past windfall delivery in the district to make an allowance for windfall sites coming forward in years 3 to 5, thus avoiding any double counting. The appellant submits that a windfall allowance of 70 units per annum should be applied however I have little evidence to deduce how the figure of 70 units has been arrived at. There are fluctuations in the Council's figures for recent windfall delivery which leads me to doubt that there is a pronounced downward trend. Furthermore, it was submitted that the housing provisions in Policy R1 of WNJCS do not represent a ceiling and consequently additional small-scale housing development in the rural parts of Daventry would not be capped. The Council has also identified a number of legitimate sources<sup>18</sup> of windfall development going forward. As such I find that the Council's windfall allowance of 89 units per annum to be founded on credible evidence and as such represents a justifiable input into the housing land supply calculation.

## Scale of Deliverable Housing Land Supply

38. Therefore, I have concluded that the total requirement, including a 5% buffer based on performance against the WNJCS trajectory, equates to some 2,791 dwellings. I have also found persuasive evidence to enable me to conclude that the deliverable supply in Daventry District is some 2,931 dwellings. I

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<sup>&</sup>lt;sup>17</sup> APP/R0660/A/14/2203282, paragraphs 55 & 59

<sup>&</sup>lt;sup>18</sup> Section E, pages 10-11 Richard Wood Proof of Evidence

therefore conclude on the basis of these findings that the Council is able to demonstrate 5.25 years of deliverable housing land supply.

# Policy Implications

- 39. Therefore, having had regard to the case law<sup>19</sup> before me and earlier appeal decisions in the District, whilst it may be the case that DDLP policies HS22 and HS24 are relevant policies for the supply of housing, they are not rendered out of date in the context of paragraph 49 of the NPPF by my findings on deliverable housing land supply.
- 40. However, irrespective of the 5 year supply circumstances, the DDLP policies were adopted in 1997 to deliver an earlier Structure Plan period to 2006. It is now 18 years since the policies were adopted and whilst there are aspects of Policy GN1, HS22 and HS24 which echo some of the core principles of the NPPF, such as recognising the character of the countryside, it nonetheless remains that these policies pre-date the general thrust of the NPPF to secure sustainable development based on positive growth.
- 41. The appellant also points to the Secretary of State's saving letter issued in 2007 which states that the DDLP policies should be replaced promptly and the risk that new policies and new evidence are likely to be material considerations that will be afforded considerable weight in decisions. It seems clear to me that DDLP Policies GN1, HS22 and HS24 are intended to deliver a planning strategy, and consequently manage housing land supply, on what was an appropriate strategy for the period to 2006. These policies have time expired and whilst they have to some extent been taken forward by WNJCS policy it nonetheless remains that important detail on the delivery of rural housing numbers, including allocations, areas of countryside to be protected and settlement definition has not been advanced to a stage where any weight can be attached to the emerging SaCLP document. In this context, and having regard to paragraph 215 of the NPPF, when taking their consistency with the NPPF as a whole, I must ascribe little weight to the dated DDLP Policies GN1, HS22 and HS24 when undertaking the overall planning balance.
- 42. Additionally, the Council in its Statement of Case has identified those policies from the WNJCS it would have referred to, primarily Policies S1 and R1. In addition my attention was also drawn to Policy S3 by the appellant. These policies have been found sound against the NPPF and continue a hierarchal spatial strategy but state at Policy S1 that the development needs of the rural areas will be provided for, albeit in a limited way. In respect of housing development that is translated at Policy S3 into a Daventry rural housing requirement of "about 2,360" dwellings. The policy is not expressed as a ceiling and the evidence before me confirms that the 2,360 figure has not yet been reached<sup>20</sup>.
- 43. In seeking to deliver these 2,360 dwellings Policy R1 states that development will be guided by a rural settlement hierarchy in the SaCLP. That process has not been developed such that there is not an up-to-date Local Plan document which sets out how the rural housing numbers will be delivered for the plan period from 2011 onwards. As such there is a notable degree of policy silence

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William Davis etc v. SSCLG [2013] EWHC 3058 (Admin); Cotswold District Council v. SSCLG [2013] EWHC 3719 (Admin); and South Northamptonshire Council v. SSCLG & Barwood Land & Estates Ltd [2014] EWHC 573 (Admin)
 Paragraph 7.21, Steve Ellis Proof of Evidence

- until the SaCLP is advanced although it is clear from Policy R1 that new housing development in the rural areas will be guided to sustainable locations in accordance with Policy S1.
- 44. I note that the Council contend that the latter part of Policy R1 would be applicable and as such there would be conflict associated with the appeal site being outside the village confines. However, there is little disagreement that the proposal represents a "small-scale" development for Moulton and in the absence of the SaCLP I cannot conclude that the appeal proposal would compromise the overall emerging strategy for the rural areas, particularly given the sustainability credentials of Moulton.
- 45. I therefore conclude that whilst the District can demonstrate a five year housing land supply, those policies relevant to the supply of housing from the DDLP are of such date that only limited weight should be attached to them. The relevant strategic housing supply policies from the WNJCS are more up-to-date by virtue of being consistent with the NPPF and accordingly I attach significant weight to them. However, as strategic policies, they are relatively broad-brush and I find that the absence of detail through the SaCLP provides a policy gap on how and where rural housing needs to 2029 will be met.
- 46. In this policy context the presumption in favour of sustainable development, as set out in the first sentence of paragraph 49 of the NPPF, applies and it is therefore necessary to apply the tests in paragraph 14. This means, that where the relevant policies in the development plan are dated, and therefore of little weight, or more up-to-date policies silent on the detailed scale and location of rural housing allocations, then I have to apply the stipulated planning balance.

# Green Wedge

- 47. The DDLP identifies areas of green wedge to prevent coalescence between villages and the urban fringe of Northampton to which Policy EN10 applies. The policy does not preclude development but it seeks to safeguard open and green spaces by resisting development that would be discordant with the open/green character, would reduce physical separation between settlements, compromise countryside uses in the green wedge or impair public access. The supporting text at paragraph 3.31 of the DDLP identifies the values of the green wedge. Whilst this is not policy in itself, it nonetheless usefully amplifies that their greatest value is as undeveloped open space for a variety of countryside uses and providing separation between existing settlements.
- 48. I am satisfied that the relevant and up-to-date policy detail and delineation for green wedges remains in the DDLP. I consider Policy EN10 to be consistent with the NPPF with regards to the need to take account of the different role and character of different areas and to protect the intrinsic character and beauty of the countryside. The policy therefore carries significant weight for decision takers.
- 49. The appeal site is wholly within the green wedge as shown on the adopted policies map. It is situated on the northern side of Boughton Road, with recently completed residential development at Rose Tree Close adjacent to the east. The site is bordered on the north, west and south by rolling farmland which forms the predominant countryside character separating Moulton from Northampton to the south and the village of Boughton to the west.

- 50. The topography of the appeal site reflects the undulating oolitic limestone landscape. Accordingly the site occupies a series of folds and dips as the land slopes down from Boughton Road towards the valley of Pages Brook to the north. As such much of the site is appreciably lower than the highway on Boughton road. Importantly, when viewing the site from the limited vantage points to the north, these folds form a series of horizons as the land rises. The appeal site is broadly positioned between the lower and middle horizons. It sits lower than the adjacent housing at Rose Tree Close and appreciably lower than the horizon which forms the ridgeline of the valley.
- 51. The site benefits from strong boundary definition although there are some weaker points, notably in the south-west and south-east corners. However, these points only provide filtered snap glimpses into the site for the majority of users on Boughton Road such that there is a limited inter-visibility. Furthermore, I accept the appellant's submission that the south eastern gap could be readily strengthened by additional infill planting.
- 52. The appeal site is approximately 6 hectares in size and is used as a depot and tree growing site for the appellant's landscaping business. There are three sizeable utilitarian buildings on the site but they only occupy a relatively small proportion of the site area. However, various buildings can be seen from the two site entrances and parts of buildings seen from various viewpoints. In addition to the buildings, there are appreciable areas of visible hardstanding used for vehicle parking, external storage and composting of waste material. Two entrances to the site on Boughton Road also announce the presence of development, including signage, lighting, security gates and fencing. The frontage hedging, whilst not incongruous in a rural context, is nonetheless of a manicured appearance which adds to the recognisable presence of built development on the site. Consequently, the appeal site, from the key receptor points on Boughton Road, has a character and appearance which is in contrast to the adjacent open, undeveloped agricultural fields.
- 53. Whilst boundary vegetation and buildings toward the Boughton Road frontage significantly limits views into and across the site I nonetheless find that the predominant tree growing use and smaller fallow areas gives an open and green character to large parts of the appeal site. This can be appreciated in some wider views from the north and from the footpath to the south<sup>21</sup>. However, the views from these rights of way are limited due to the significant intervening distances and the fact that these viewpoints are unrepresentative gaps in otherwise enclosed rights of way. Additionally, the position of the appeal site in an undulating landscape below the ridgeline and the presence of strong boundary planting and retained trees within the site would mean that there would be negligible visibility of the proposed development from these viewpoints. Visually, the open and green character of the appeal site would remain largely unaffected from these perspectives.
- 54. The lowering land levels as the site falls away from Boughton Road, together with the appellant's submission to modestly cut parts of the development into the slope so that they would have a lower profile means the appeal proposal would be largely inconspicuous from Boughton Road and only briefly glimpsed from the south-east corner on Boughton Road until additional landscaping took

<sup>&</sup>lt;sup>21</sup> Viewpoints VP6, VP8 and VP10, p3, Appendix 2, David Coomes Proof of Evidence

- effect. Consequently, any visual harm to the open and green character of the appeal location from this viewpoint would be limited.
- 55. Whilst I acknowledge that large parts of the development would be effectively screened and that approximately a third of the site would remain undeveloped as public open space it nonetheless remains that a majority of the site would be developed. Openness equates to a freedom from development, which is a wider concept than visual intrusion. Whilst I accept for the reasons above that the appeal proposal would not be significantly visible, the scale of the proposed development would be perceptible. However, given the general absence of public access in and immediately around the site, the awareness of existing commercial structures and activity on the site and the potential to assimilate the proposal within its verdant and topographical context, I consider any harm against the perception of openness would be limited. As such, given the specific circumstances of the appeal site, I am not persuaded that the appeal proposal would be discordant with the predominantly open and green nature of the green wedge.
- 56. The appeal proposal would involve the removal of the westernmost depot building and the western edge of the appeal proposal would be effectively screened by a retained specimen tree collection and the proposed sizeable area of landscaped open space. As such there would not be a prominent new western settlement edge to Moulton as a result of the appeal proposal. Nor would the appeal proposal result in a tangible extension of the built form of Moulton at this location as reasoned above. I also accept that the proposed open space at the western edge of the site would form a protective measure that would prevent the green wedge suffering "death by a 1,000 cuts" at this location.
- 57. I have taken into account the Council's recent resolution to grant planning permission subject to a legal agreement for 56 dwellings<sup>22</sup> on land to the south-east of the appeal site and the proposed allocation in the MNDP on land directly to the south, both of which would involve the loss of current green wedge land. The approach to these sites infers that some development can take place in the green wedge without being fatal to the underlying principles. I consider that the same applies to the appeal site.
- 58. I recognise that the green wedge between the south west edge of Moulton and northern edge of Northampton is particularly narrow. However, the land to the south of the appeal site rises to form a pronounced ridge which largely conceals the urban fringe of Northampton. This topography was a key factor in the determination of a recently dismissed appeal<sup>23</sup>. The same cannot be said of the appeal site which is set much lower and more distant from this ridge compared to that appeal proposal such that there would be no coalescence with Northampton, which is also a key objective of Policy E2 for areas of separation in the emerging MNDP. I therefore find that the appeal proposal would not visually, or significantly on a perceptual basis, extend the physical settlement towards either Northampton or Boughton. There would be no visual coalescence and a significant gap of open countryside would be retained.
- 59. The appeal proposal would increase public access to the green wedge, both directly through the provision of a sizeable area of public space and indirectly

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<sup>&</sup>lt;sup>22</sup> Ref DA/2014/0604

<sup>&</sup>lt;sup>23</sup> APP/Y2810/A/14/2202009

by the potential of a final layout to incorporate vistas through the development to countryside beyond. The provision of open space at this location would address the deficit of open space in the west of the village identified in the Village Design Statement and I heard the appreciation from the Parish Council for this element of the scheme. However, the proposed open space is a benefit of the scheme to be weighed up in the overall balance. Policy EN10 does not require public access although I accept the appeal proposal does not offend criteria C and D of the policy in terms of compromising recreational use or impairing public access.

60. I therefore conclude that whilst the appeal proposal would result in some limited harm resulting from the perceived loss of openness at the appeal site, any harm would be minor and the proposal would not be incongruous with the open and green character of the site or significantly visible in short and long term views. Furthermore, due to the particular topography and verdant qualities of the site, the appeal proposal would not weaken the important objective of the green wedge to prevent coalescence. Overall I do not consider the integrity of the green wedge at this location would be undermined by the appeal proposal and as such the proposal would not compromise the objectives of DDLP Policy EN10.

## Other Material Considerations

- 61. In applying the definition at Annex 2 of the NPPF, the appeal site is previously developed land (PDL) by virtue of the existing permanent structures, their associated fixed surface infrastructure and the curtilage of these buildings extending to the perimeter of the appeal site. Accordingly, the appeal proposal would accord with the objective at paragraph 17 of the NPPF which encourages the effective use of PDL, which is reaffirmed at paragraph 111 of the NPPF. Whilst the site is in a green wedge I have no persuasive evidence that it is an area of high environmental value in the context of considering PDL. The PDL status of the appeal site would mean the proposal accords with the West Northamptonshire target of 30% of additional dwellings on PDL in WNJCS Policy S1. Accordingly, the PDL status of the site is a positive environmental attribute to which weight should be accorded.
- 62. The appeal proposal would also offer a dual environmental / social benefit in terms of approximately a third of the site would be publically accessible open space. The proposed larger open space to the west would come under a greater sense of community ownership in part of the village where there is a paucity of meaningful public open space provision<sup>24</sup>. I therefore consider the proposed open space to be a positive environmental and social element to which weight should be attributed.
- 63. The appeal proposal would provide market housing to help meet the rural housing figures in WNJCS Policy R1. It would also provide 29% affordable housing at a time when affordable housing delivery has not kept pace with the need identified in the Strategic Housing Market Assessment. These are positive social benefits in favour of the proposal which attract significant weight.
- 64. The Council has submitted at the Inquiry that there is economic harm from the potential loss of employment at the site, although I note this was not cited in the officer's report or given as a reason for refusal. The appellant has clarified

<sup>&</sup>lt;sup>24</sup> Moulton Village Design Statement 2014 Map 3

that the site essentially functions as a depot employing only 1 member of staff who is permanently retained on the site with other employees working off site. The appellant has also confirmed that the business would not be lost as a result of the appeal proposal and would relocate to the nearby Moulton Park industrial area. Given the evidence before me I am satisfied that there would be no significant economic harm and that on balance, given the employment that would be created during construction and the likely contribution from new inhabitants to supporting local services and employers, there would be a net economic benefit from the appeal proposal, to which moderate weight should be given.

- 65. Importantly, the appeal proposal would be within walking distance of a good range of day-to-day facilities in Moulton. Concern has been raised about the quality of the footway connection into the village centre but I noted that whilst there are some short stretches where the width narrows, the overall quality was good, including street lighting. As such I am satisfied that residents from the appeal proposal would be able to safely and conveniently walk and cycle to village services. The appeal site is also close to bus stops which connect the appeal location with an hourly service to higher order facilities in Northampton. In the context of the access to services the appeal site would be in a sustainable location and I attach considerable weight to this factor.
- 66. The appeal proposal would also contribute to the New Homes Bonus allocation, which I have taken into account in reaching my decision.

#### Other Matters

- 67. The Parish Council submits that Moulton has and continues to experience significant development, in large part, due to its proximity to Northampton. In response to these circumstances and to promote "joined-up" growth the Parish Council is preparing the MNDP. The Plan has not been formally submitted to the District Council but consultation has been undertaken and proposals prepared including the proposed allocation of land for additional housing and the identification of the appeal site within an "area of separation". The Parish Council submit that the proposal does not comply with the MNDP as well as the DDLP policies cited by the Council in its reason for refusal.
- 68. Whilst the preparation of Neighbourhood Plans is to be encouraged, nonetheless, government guidance<sup>25</sup> advises that it will seldom be justified to refuse development on the grounds of prematurity where a Neighbourhood Plan, such as the MNDP, has not yet been through its publicity period with the District Council. I have little evidence that the appeal proposal would prejudice the outcome of the MNDP process in regard to the housing allocation. In any event the MNDP's delineation and approach to "areas of separation" broadly accords with the green wedge at DDLP Policy EN10 which I have addressed above.
- 69. Both Boughton and Moulton Parish Councils have raised issues of highway safety and the ability of the highway infrastructure to cope with the additional traffic generated by the appeal proposal. However, I have little evidence that the local highway network in the vicinity of the appeal site is at capacity or has a poor safety record. The appellant has prepared a Travel Plan for the site which is endorsed by the Local Highway Authority (LHA) as a suitable package

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<sup>&</sup>lt;sup>25</sup> Planning Practice Guidance Reference ID: 21b-014-20140306

to encourage modal shift at the appeal site. Additionally, subject to financial contributions to junction improvements in Moulton, the LHA raises no objection to the appeal proposal on highway grounds. I therefore, conclude, on this basis, that the appeal proposal would not result in an unacceptable effect on the local highway network.

#### Local Infrastructure

- 70. Notwithstanding the Council's third reason for refusal, the submitted UU<sup>26</sup> covers a range of financial provisions, none of which are in dispute between the main parties. Following discussion at the Inquiry and from the evidence before me<sup>27</sup> I am satisfied that the provisions as they relate towards community facilities in Moulton, highway improvements, travel plans, education, fire and libraries meet the tests in CIL Regulation 122. They are necessary to make the proposed development acceptable in planning terms; they are directly related to the proposed development; and they are fairly and reasonably related in scale and kind to the development. In summary, the contributions are linked to specific schemes which would benefit the future residents of the proposed development.
- 71. The Inquiry also examined whether any of the proposed contributions came under the scope of the transitional period under CIL Regulation 123(3) for S106 planning obligations designed to collect pooled contributions ending on 6 April 2015. Despite the recent development pressures in Moulton, the Council confirmed that since 2010 only 3 large schemes and possibly a fourth medium sized scheme had made tariff style contributions towards the specific infrastructure funding being sought. This was not disputed or challenged by the appellant and I have no reason to doubt the veracity of the Council's evidence on this matter. Accordingly, I am satisfied that the pooled contributions would not infringe the transitional arrangements under CIL Regulation 123(3).
- 72. The provision of on-site open space through the UU was disputed between the parties and in particular the inclusion of a reference to a scheme and a plan fixing the location of the open space. Whilst I understand the Council's concerns about specificity in an outline application, in my view it is the appellant's prerogative if they want to establish its location at this early stage. I heard no dispute that the delivery mechanism and maintenance was unacceptable and overall I find the proposed specificity in the UU acceptable.
- 73. I therefore conclude that the effects of the proposal on the provision of affordable housing, on-site open space, community infrastructure, highways and sustainable travel would be acceptable by virtue of the provisions within the submitted UU. Accordingly, the planning obligations would accord with the requirements of DDLP Policies GN2 and GN3.

## **Conclusions and Planning Balance**

74. I have found that the Council is able to demonstrate a 5 year deliverable housing land supply. However, as I have reasoned elsewhere in my decision, the DDLP policies GN1, HS22 and HS24 because of their age and limited degree of consistency with the NPPF are now only of limited weight. To some degree they have been superseded by the more up-to-date and NPPF compliant

<sup>&</sup>lt;sup>26</sup> Doc 5

<sup>&</sup>lt;sup>27</sup> Docs 16, 23, various consultation responses to the original planning application

policies of the WNJCS. These include Policies S1, S3 and R1 that seek to deliver at least 2,360 new homes in the rural areas of Daventry, including a focus on sustainable locations, sites that would avoid open land that is of particular significance to the form and character of a village and land which is previously developed.

- 75. Whilst the WNJCS sets a framework for a rural settlement hierarchy, that work has not been sufficiently progressed through the nascent SaCLP. The emerging MNDP remains at an early stage such that I can only attach limited weight to conflict of the appeal proposal with the draft policies and proposals in that document. The potential role of Moulton in the rural hierarchy of the SaCLP remains to be determined. In the interim, restricting its role to an infill village on the basis of long established DDLP policies seems somewhat dated given the up-to-date policy approach of the WNJCS to secure sustainable housing development in the District's rural areas of at least 2,360 dwellings.
- 76. In this context, I have carefully considered the case law<sup>28</sup> submitted by the parties regarding approaches to determine whether the appeal proposal would be sustainable development for which there is a presumption for in the NPPF. In this context the appeal proposal comes under the approach of paragraphs 49 and 14 of the NPPF and Policy SA of the WNJCS. That approach requires any adverse impacts to significantly and demonstrably outweigh the benefits of the appeal proposal when assessed against the policies in the NPPF taken as a whole. Such an approach would be in broad accordance with the Council's evidence<sup>29</sup>, which was not withdrawn or amended during the Inquiry.
- 77. The appeal proposal would deliver economic benefits in terms of jobs during the construction and the relocation of the business to a nearby site which weigh moderately in favour of the proposal. It would provide social benefits in respect of market housing, 29% affordable housing and a sizeable area of public open space in a part of the village. These are notable benefits which weigh significantly in favour of the proposal. In contrast there are no persuasive adverse economic and social impacts before me. I acknowledge that the Council considers the appeal proposal would result in a weakening of the identity of Moulton but as I have concluded on the green wedge matter, the appeal proposal would not undermine Moulton's distinction from Northampton.
- 78. In environmental terms it would make use of previously developed land and it would do so in a sustainable location where residents would have a realistic choice to walk, cycle and use public transport to access essential day-to-day services and facilities. These are factors which weigh significantly in favour of the appeal proposal.
- 79. The appeal site is outside of the confines of Moulton in countryside designated as green wedge, which is the principal environmental harm identified by the Council. Accordingly, the proposal would be contrary to DDLP Policies GN1, HS22 and HS24 and WNJCS Policy R1 (criterion g) which seek to restrict development in the countryside, but when balanced against the benefits these should be given only limited weight. Additionally, I have concluded that the proposed development would not undermine the planning purpose and integrity of the green wedge which is a notable factor weighing in its favour. It also follows that the limited environmental harm to the openness of the site does

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<sup>&</sup>lt;sup>28</sup> Docs 19, 20, 21, 22 and Davis v. SSCLG etc. [2013] EWHC 3058 (Admin)

<sup>&</sup>lt;sup>29</sup> Paragraph 6.6, Steve Ellis Proof of Evidence

not significantly and demonstrably outweigh the wider environmental benefits of the scheme.

- 80. Accordingly, despite some limited conflict with development plan policy on development outside the confines of villages, the proposal would achieve an overall net positive contribution to economic, social and environmental gains jointly and simultaneously as required by paragraphs 6-9 of the NPPF. As such it would represent sustainable development, for which there is a presumption in favour of. The establishment of a 5 year housing land supply in the District does not mean that the appeal proposal would not make a sustainable contribution to the unmet and uncapped rural housing requirement in the WNJCS. The proposed development, therefore, subject to the UU and the conditions set out in the schedule, would be in broad accordance with WNJCS Policies S1, S3 and R1. It would also be consistent with the NPPF in terms of delivering homes, recognising the intrinsic character and beauty of the countryside, making effective use of PDL and focusing development in locations which are sustainable.
- 81. I have had regard to all other matters raised, both in the oral and written representations, but have found nothing to change my conclusion that this appeal should be allowed.

## **Conditions**

- 82. A number of conditions were tabled at the Inquiry<sup>30</sup>, which were the subject of a helpful discussion. I have considered these in the light of the PPG. For clarity and to ensure compliance with the PPG, I have amended some of the suggested wordings. Conditions (1)-(5) are necessary because the application was made for outline permission and set reasonable and necessary time limits and parameters for the submission of reserved matters.
- 83. Conditions (6)-(9) are to protect the character and appearance of the surrounding area. Conditions (10) and (11) are necessary to minimise the risk of flooding and exposure to contamination respectively. Condition (12) is necessary in the interest of highway safety and to ensure the site can be appropriately accessed by a variety of modes of transport. This latter aspect is further augmented by the necessary imposition of condition (14) to promote sustainable transport. Condition (13) is required to safeguard the living conditions of nearby residents and highway safety. Finally, condition (15) is necessary to secure the provision of fire hydrants.
- 84. I have not included a specific condition requiring separately the submission of plans and particulars at the reserved matters stage, as these would be included within the details required by condition (1). I have also omitted the suggested condition requiring a detailed tree survey given the 2013 tree survey and plan submitted with the application identifies the notable specimens within the site. However, I have amalgamated the two proposed tree conditions into a composite condition (9) which I consider reasonably secures the importance of tree protection on the site.

| David Spencer              |  |
|----------------------------|--|
| INSPECTOR.                 |  |
| <sup>30</sup> Docs 17 & 18 |  |

## **APPEARANCES**

FOR THE LOCAL PLANNING AUTHORITY:

Simon Aley, Solicitor Instructed by Mr Steve Ellis of

Daventry District Council.

He Called

Richard Wood, MRTPI Local Strategy Manager, DDC

Steve Ellis, MRTPI Senior Planning Officer, DDC

FOR THE APPELLANT:

Jeremy Cahill, Of Queen's Counsel

Instructed by Mr Matthew Taylor of

Aitchison Raffety

He Called

Matthew Taylor Aitchison Raffety

BA (Hons), DipTP MRTPI

David Coomes, CMLI EDCO Design

INTERESTED PARTIES

Mr John Clark Chairman, Boughton Parish Council

Mr Barry Care Chairman, Moulton Parish Council

# **DOCUMENTS Submitted during the Inquiry**

- 1 Infrastructure and Developer Contributions Supplementary Planning Document adopted October 2013, Daventry District Council
- 2 Drawing No. 20650\_03\_001 Development Access Road Junction Layout Rev A dated 7 November 2013, prepared by MEC.
- 3 High Court Judgment of South Northamptonshire Council v. SSCLG & Barwood Land and Estates Ltd [2014] EWHC 573 (Admin)
- 4 Additional Extracts from West Northamptonshire Joint Core Strategy Local Plan (Part 1) Adopted December 2014
- 5 Signed Unilaterial Undertaking (dated 8 May 2015)
- 6 Additional Plans and Information to Proof of Evidence of David Coomes
- 7 Statement of Moulton Parish Council
- 8 Letter from Christ Church, Oxford dated 23 April 2015 regarding North East Daventry
- 9 Report to Daventry District Council Strategy Group 12 February 2015 re: Homes to Rent 2 on part of Site 8, Middlemore, Daventry
- 10 Affordable Housing Supplementary Planning Document, adopted December 2012. Daventry District Council
- 11 A3 Plan of Daventry showing the five 'Other Sites' for potential housing supply.
- 12 Page 5 of Decision Letter APP/Y2810/A/14/2214145
- 13 Decision Letter APP/F1610/A/13/2196383 (Bourton-on-the-Water)
- 14 Decision Letter APP/R0660/A/13/2203282 (Alsager)
- 15 Policies INF 1 & 2, West Northamptonshire Joint Core Strategy Local Plan (Part 1) Adopted December 2014
- 16 Details from Moulton Parish Council on community infrastructure, dated 5 May 2015
- 17 Suggested conditions
- 18 Suggested conditions from the Local Highway Authority
- 19 High Court Judgment of Hopkins Homes Ltd v. SSCLG & Suffolk Coastal District Council [2015] EWHC 132 (Admin)
- 20 High Court Judgment of Bloor Homes East Midlands Ltd v. SSCLG & Hinckley and Bosworth Borough Council [2014] EWHC 754 (Admin)
- 21 High Court Judgment of Dartford Borough Council v. SSCLG & Landhold Capital Ltd [2014] EWHC 2636 (Admin)
- 22 High Court Judgment of Cheshire East Borough Council v. SSCLG & Richborough Estates Partnerships LLP [2015] EWHC 410 (Admin)

# **DOCUMENTS** submitted after the Inquiry

23 LHA plan of junction improvements

## **Schedule of Conditions**

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins 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 be begun either before the expiration of 3 years from the date of this permission, or before the expiration of 2 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: C1307 (08)00 Rev P1 Site Location Plan; C1307 (08) 01 Rev P1 Site Location Plan; C1307 (08)02 Rev P1 Existing Layout Plan; Dwg No. 20650\_03\_001 Rev A Development Access Road Junction Layout and Refuse Vehicle Tracking; and Open Space Plan EDCO Design 30.04.15.
- 5) There shall be no more than 70 dwellings erected on the site.
- No development shall take place until there has been submitted to and approved in writing by the local planning authority a plan indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed before the buildings are occupied. Development shall be carried out in accordance with the approved details.
- 7) No development shall take place until details of the slab levels of the proposed dwellings hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 8) No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include planting plans, species, size and proposed numbers/densities. All hard and soft landscape works shall be carried out in accordance with the approved details. The hard landscape works shall be carried out in accordance with the programme agreed with the local planning authority. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the

- development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.
- 9) In this condition "retained tree" means an existing tree which is to be retained in accordance with the submitted Tree Survey and Arboricultural Implication Assessment (Doc Ref TSAIA-001) and accompanying Tree Plan (dwg no. HED.1016.101 Rev B); and paragraphs (i) and (ii) below shall have effect until the expiration of 3 years from the date of the occupation of the building for its permitted use.
  - i) No retained tree shall be cut down, uprooted or destroyed, nor shall any retained tree be topped or lopped other than in accordance with the approved plans and particulars, without the written approval of the local planning authority. Any topping or lopping approved shall be carried out in accordance with British Standard 3998 (Tree Work).
  - ii) If any retained tree is removed, uprooted or destroyed or dies, another tree shall be planted at the same place and that tree shall be of such size and species, and shall be planted at such time, as may be specified in writing by the local planning authority.
  - iii) The erection of fencing for the protection of any retained tree shall be undertaken in accordance with the approved plans and particulars before any equipment, machinery or materials are brought on to the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the written approval of the local planning authority.
- No development shall take place until details of the proposed foul and surface water drainage for the site, including the arrangements for the management and maintenance of any surface water drainage features or installations, have been submitted to, and approved in writing by, the local planning authority. No dwelling shall be occupied until the drainage scheme for the site has been completed in accordance with the submitted details. The drainage scheme shall be managed and maintained thereafter in accordance with the agreed management and maintenance plan.
- 11) No development shall take place until a site investigation of the nature and extent of contamination has been 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 made available to the local planning authority before any development begins. If any contamination is found during the site investigation, a report 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. The site shall be remediated in accordance with the approved measures before development begins.

- If, during the course of development, any contamination is found which has not been identified in the site investigation, additional measures for the remediation of this source of contamination shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures.
- 12) No development shall take place until details of the closure of the existing highway access to the site, the footpath extension, crossing points and bus stops have been submitted to and approved in writing by the local planning authority. No dwelling shall be occupied until these measures have been completed in accordance with the approved details.
- 13) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
  - (i) the parking of vehicles of site operatives and visitors
  - (ii) loading and unloading of plant and materials
  - (iii) a routing agreement
  - (iv) wheel washing facilities
  - (v) measures to control the emission of dust and dirt during construction
  - (vi) hours of operation
- 14) No dwelling shall be occupied until the details of the Travel Plan have been submitted and approved in writing by the local planning authority. The Travel Plan shall be managed and monitored thereafter in accordance with the agreed details.
- 15) No development shall take place until details of a scheme for the provision of fire hydrants for the site have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

Schedule Ends.

# **Appeal Decision**

Inquiry held on 12-20 May 2015 Site visit made on 20 May 2015

# by David Nicholson RIBA IHBC

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

Decision date: 12 June 2015

# Appeal Ref: APP/Y2810/A/14/2228921 New Street, Weedon Bec, Northamptonshire NN7 4QS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Gladman Developments Ltd. against the decision of Daventry District Council.
- The application Ref. DA/2014/0455, dated 28 May 2014, was refused by notice dated 9 October 2014.
- The development proposed is residential development for up to 121 dwellings including access with all other matters reserved.

## **Decision**

 The appeal is allowed and outline planning permission is granted for residential development for up to 121 dwellings including access with all other matters reserved at New Street, Weedon Bec in accordance with the terms of the application, Ref. DA/2014/0455, dated 28 May 2014, subject to the conditions set out in the attached Schedule.

## **Preliminary Matters**

- 2. The application to which the appeal relates was submitted in outline form with all matters reserved except for access.
- 3. An Agreement was submitted under section 106 of the Town and Country Planning Act 1990 (s106). I deal with the contents and justification for this below. The Inquiry sat for 5 days. I conducted unaccompanied visits prior to the Inquiry and held an accompanied site visit on 20 May 2014.
- 4. Some policies from the Daventry District Local Plan (LP), adopted in June 1997, were 'saved' in September 2007. The West Northamptonshire Joint Core Strategy Development Plan Part 1 (JCS) was adopted on 15 December 2014. A revised version of the saved policies was published in December 2015 after the JCS was adopted. The Daventry Settlements and Countryside Local Plan (SCLP) will address development needs in rural settlements but is at an early stage of development. The draft Weedon Bec Neighbourhood Plan (NP) was published for consultation from 8 April until 3 June 2015.
- 5. Reason for Refusal (RfR) 3 was resolved with the Northamptonshire County Council archaeologist, subject to conditions, prior to the start of the Inquiry. RfR2 was similarly resolved with the local highway authority (LHA) with regard

to highway safety. Nevertheless, the Council maintained its objections on highway safety grounds with regard to local concerns.

## **Main Issues**

- 6. From the evidence before me at the Inquiry, the written representations, and my inspection of the appeal site and its surroundings, I find that the main issues are:
  - (a) the effects of the proposals on the character and appearance of the area;
  - (b) their effects on the adjoining special landscape area (SLA);
  - (c) whether the proposals would preserve the settings of nearby listed buildings;
  - (d) the effects of the proposals on the open field systems (ridge and furrow);
  - (e) whether the Council can demonstrate a 5 year housing land supply;
  - (f) the effects of the proposals with regard to integration and accessibility;
  - (g) their effects on highway safety and the free flow of traffic;
  - (h) whether any benefits would outweigh any harm which might be caused;
  - (i) whether the proposals would amount to sustainable development as defined in the National Planning Policy Framework (NPPF).

#### Reasons

## Character and appearance

- 7. The village of Weedon Bec essentially encompasses three small settlements, one to the north of the River Nene and two older parts to the south, sometimes together referred to as Weedon. The appeal site lies to the south, just beyond Weedon, on ground rising up onto Round Hill. The site and surrounding area lie within the landscape of the Northamptonshire Uplands. This area is characterised by gently rolling hills and valleys, with many long, low ridgelines and a great variety of landform, and by wide, far reaching views from the edges and across the ridgetops. Locally, the site falls within the Undulating Hills and valleys landscape character type, with the landscape character area Bugbrooke to Daventry being a specific geographical example of this type.
- 8. The site adjoins existing residential development along its northern boundary and is adjacent to a bridleway between it and Round Hill to the south. The topography of the site varies with the eastern side rising to a highpoint of just over 105m above ordnance datum (AOD) compared with a lower level to the west of under 100m AOD. From the top of Round Hill, I saw that the site fits into the pattern of undulations, albeit nestling closer to the bottom of the valley. The DAS sets out other aspects of the site's context in some detail as does the Spatial Portrait of Weedon Bec in the draft NP.
- 9. I did not have the opportunity to assess views across the appeal site and the village from the bridleway on horseback, as was suggested by one local resident, which would have given me a clearer vantage point. Nonetheless, I did walk its length from New Street, along the southern boundary and back through the site to the village, as well as view the site from higher up towards Round Hill.
- 10. Access is not reserved. The Council has made an assessment of the likely effects of the access on the site (ID15) with regard to the extent of cutting and

earthworks that might be required to achieve satisfactory gradients within the site. I accept that the new access would require significant regrading of the land around the entrance. However, subject to control over subsequent details of the layout, including associated landscaping, I find no reason why the proposed access could not allow an acceptable overall layout.

- 11. Landscaping buffers could screen views of the proposed houses from the bridleway, in time even from on horseback. As the landscaping would be based on the existing hedgerow it would have the potential to grow relatively quickly, and preserve its rural qualities along the southern boundary to the site.
- 12. The illustrative drawings show how housing might be arranged on the site. I acknowledge that these are effectively just sketches and do not fully take into account the change in contours and that the access information does not illustrate or resolve the potential problems around the changes in ground level that would occur. Nevertheless, subject to the close scrutiny of reserved matters, which is likely to follow given the extent of local interest, the information is sufficient to demonstrate that a new access could be made off New Street and that there is nothing to prevent a good standard of design and layout being achieved on the site from the proposed access point.
- 13. The Council also raised concerns with regard to the potential height of new dwellings. I saw that the houses along New Croft Road follow the contours of the road but are single storey at the higher, eastern end. I can find no reason why the new development should not avoid the highest parts of the site, as suggested by the illustrative drawings, or include lower homes for the higher areas, similar to the existing approach along New Croft Road, or both. I have also noted that the houses along the south side of New Croft Road are quite exposed when viewed from the site and beyond. There is therefore an opportunity for the new homes to incorporate fuller screening than is available for the existing dwellings when seen from the bridleway and so produce a softer boundary to this side of the village.
- 14. Nevertheless, the change from agricultural fields to residential development would harm the site itself and cause some harm to the rural character and appearance of the immediate area, particularly during construction and from loss of views from the bridleway, contrary to saved LP Policy GN1(B) which aims to protect and enhance the environment. The proposals would also conflict with saved LP and JCS policies which aim to limit, restrain or restrict development in the villages, open countryside, and rural areas (see below).

# Special landscape area (SLA)

15. Much of Daventry district lies within a SLA defined in saved LP Policy EN1 and sets criteria for development in these areas. Policy GN2(G) normally grants permission for development providing that it would not adversely affect a SLA. Two points arise. First, the appeal site adjoins the SLA, but is not itself within it, and so Policy EN1 does not apply and Policy GN2(G) does not apply directly. Secondly, these are very old policies being based on a Structure Plan which pre-dated the 1990 Act. Under the National Planning Policy Framework (NPPF) paragraph 215 (NPPF 215) policies relating to landscape areas should be criteria based whereas Policy GN2(G) is not. This policy should therefore be given limited weight.

- 16. I have noted the concerns of local residents of all ages as to the potential impact on tobogganing down Round Hill. I do not underestimate the pleasure this may bring. However, the development would not prevent this continuing although, given that the land is in private hands, the landowner could do so. By contrast, the scheme proposes to create public open space within the site, secured by the s106 Agreement, albeit at a shallower gradient than Round Hill, which would be available to both future and existing residents. With regard to views, as above, I find that the appearance of the back of New Croft Road provides potential for enhancement and there is the option to screen the development from the bridleway while not preventing the longer views across the village from further up the hill.
- 17. For the above reasons, I find nothing to show that the appeal site comprises land of particular significance to the form or character of the village, which is a criterion to be taken into account of in both saved LP Policy HS22 and in JCS Policy R1(B). On this issue, I conclude that proximity to the SLA should not count against the scheme.

# Listed building settings

18. In March 2015 Historic England published its *Historic Environment Good Practice Advice in Planning, Note 3 – The Setting of Heritage Assets* with guidance on the steps to follow in assessing these. I have taken this guidance into account in reaching my conclusions.

#### **Mullions**

- 19. No.9 Oak Street, now named Mullions, dates from the mid 17<sup>th</sup> century and is listed at Grade II. It is mostly of stone under a slate roof and has fine stone mullion windows with hood moulds. I saw that the exterior has been thoughtfully, but extensively, renovated and that a substantial rear extension, granted consent in 2007, faces the appeal site and obscures most of the house from this direction.
- 20. Historical maps show that the house once stood a little way apart from the village and at a short distance from the larger, and partly earlier, listed house nearby. Otherwise, I have little evidence of the use or status of the house within the village apart from the obvious points that it was built to live in and by someone of reasonably high status at that time. I therefore find that the special interest of the building lies in the survival of original fabric, and features, and its relationship with the contemporaneous buildings on the eastern edge of the historic settlement of Weedon.
- 21. I have nothing to suggest that Mullions was functionally related to the use of any of the adjoining land or that its position, orientation or outlook related in any way to the adjacent landscape. I therefore conclude that the extent of the setting that contributes to the significance and special interest of the house is confined to the village insofar as that has not been compromised by later development. Moreover, with regard to the appeal site, the extension to the rear of Mullions is such that little if any of the original house can now be seen, or appreciated, from the fields.
- 22. For the above reasons, I find that while residential development on the appeal site might be within close proximity of Mullions, and so alter its immediate surroundings, it would not affect any part of its setting which currently

contributes to its significance as a listed building, which would therefore be unharmed. Its special interest would be similarly preserved.

# **Royal Ordnance Depot**

- 23. Standing as it does on the north bank of the river, the Royal Ordnance Depot dominates Weedon. It dates from between 1804 and 1816 and is a complex of some 26 buildings of considerable historic importance all listed at Grade II\*. In particular, as noted in the extensive conservation plan, its significance stems from: the strategic decision in 1802 to create the first major Board of Ordnance Establishment to be built far inland in a central location, where it was well connected by canal and road ... principally to counter an expected invasion by Napoleon ...¹.
- 24. I have also noted the significance of the vistas between the buildings and gateways looking along the canal which was constructed to serve the new depot. However, other than the obvious observation that a large, vacant central site was likely to be in the countryside, I can find nothing about the surrounding open fields that offer anything to the significance or special interest of the buildings. This is in stark contrast with the canal where there is a clear functional relationship.
- 25. I have considered the argument that remoteness from settlements was a part of the locational choice of the buildings and that consequently the open fields in some way contributed to their setting. However, even if I were persuaded that this were the case, which I am not, the setting has changed considerably since that time with substantial and continuous residential development between the listed buildings and the appeal site which has now become the more dominant feature of its setting to the south.
- 26. I have noted the importance given to views of the vast scale of the depot from Farthingstone Road<sup>2</sup> but also that, subject to reserved matters, a scheme for 2-3 storey houses would be unlikely to obscure these views. For all these reasons, I find that the scheme would not affect the contribution which the settings make to the significance or special interest of the listed buildings of the Depot, which would remain unharmed.
- 27. I conclude on this issue that the proposals would not conflict with: JCS Policy R1C) which requires residential development in rural areas to preserve and enhance historic buildings; JCS Policy BN5 which requires heritage assets, and their settings, to be conserved and enhanced in recognition of their significance to local distinctiveness and sense of place; or with saved LP Policy GN2(E), whose underlying objectives are the same.
- 28. The scheme would accord with NPPF 132 which, when considering the impact of a proposed development on the significance of a designated heritage asset such as a listed building, gives great weight to its conservation. The scheme would comply with the general duty<sup>3</sup> that, in considering whether to grant planning permission ... the Secretary of State shall have special regard to the

<sup>&</sup>lt;sup>1</sup> Storehouse Enclosure Royal Ordnance Depot Weedon Bec, Northamptonshire. Conservation Plan Volume I Report Adopted 2005

<sup>&</sup>lt;sup>2</sup> As identified in the Conservation Plan Volume I Report, p71

 $<sup>^3</sup>$  As respects listed buildings in exercise of planning functions, in section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990

desirability of preserving the [listed] building or its setting or any features of special architectural or historic interest which it possesses.

# Ridge and furrow

- 29. The Northamptonshire Historic Landscape Character Assessment 2006 defines an open field system as a well-established means of land management during the medieval period that was widespread across much of lowland England. From the late Saxon period, peasant farmers would cultivate strips of land grouped into furlongs. It was the physical act of ploughing which created ridges marking out the strips of land. Few other forms of permanent boundary (such as the hedges employed today) were used and consequently the system is termed 'open fields'. The distinctive ridge and furrow landform survives in many places today as earthworks.
- 30. Much of the appeal site demonstrates the remains of ridge and furrow since overlain by hedgerow enclosures. Within the site these are concentrated towards the higher and eastern side and continue, with more pronounced examples to the south and further east, beyond the site. As these open field systems survive in many places throughout the country, English Heritage (as was) sought in particular to preserve good examples of ridge and furrow.
- 31. Although clearly discernable on site, there was no evidence that the ridge and furrow remains are particularly good examples and they are not as pronounced as those further east. While it would be regrettable to lose all these patterns, which comprise non-designated heritage assets under the NPPF, as the scheme would include public open space, probably towards the eastern side, the extent of loss could be limited at reserved matters stage. Following a desktop study based on consulting the historic environment record, a geophysical survey and trial trenching, reviewed by the County Archaeologist, the Council accepted that any remains of human activity could be controlled by a condition.
- 32. For all these reasons, I agree with the Council that protection of the open field systems is not an over-riding factor but one to be weighed in the balance, as required by NPPF 135, and I find that the loss should not be afforded substantial weight in my Decision.

# Housing land supply (HLS)

33. The Council and appellant produced a joint Table illustrating their respective positions with regard to a 5 year HLS (ID4). This draws on the Daventry District Housing Land Availability paper (HLA paper), dated 2 April 2015, and sets out agreement on housing requirement from the JCS of 2,628 dwellings between 2015/16 and 2019/20, but disagreement on the appropriate buffer (from NPPF 47), the supply of deliverable sites, the potential lapse rate, and expected contribution from windfalls.

#### **Buffer**

34. The ten years from 2001-2011 were governed by the East Midlands Regional Strategy (RS), revoked in 2013. This set out a target of 5,400 over 10 years or an annual target of 540 dwellings per annum (dpa). Delivery for these years varied between 158 and 435 dpa so that the target was never met. Between 2011 and 2014 the RS no longer applied and the JCS had yet to be adopted. There were therefore no direct target figures for these years. On an annual basis, the next 5 years equates to 552 with a 5% buffer or 631 dpa with a 20%

addition. Appendix 3 to the JCS (ID3) sets out the proposed trajectory from 2011 to 2029, using the actual delivery figures for the years 2011/2012 to 2013/2014 and an approximation for 2014/2015, which vary between 98 and 350 dpa. Since adoption of the JCS, the Council has considered that the basis for the 5 year HLS is the adopted housing trajectory. It argued that this justifies revising its position to one of a 5% authority with regard to buffer on the basis that it has met or exceeded the JCS requirements over the past 4 years. The appellant pointed to the poor delivery record against the RS followed by under-delivery against the annualised target for the last 5 years, using either the RS or the JCS.

35. The JCS Inspector reached a judgement that this plan was sound on the basis of the trajectory with a new starting point of 2011. This plan has now been adopted unchallenged. The issue is therefore whether or not 'delivery' can be assessed retrospectively and the suitability of the last 4 years as an appropriate record. To my mind, in judging the plan to be sound, the JCS Inspector accepted both the nature and the duration of the Council's record of delivery over the early years of the plan. I therefore find that the Council has an acceptable delivery record, at least for the last 4 years. While this does not apply before 2011, even if I take the earlier years into account, I am aware of the deep economic recession during the last 3 years of that period and so give less weight to the under delivery at that time. On this basis I conclude that over 7 of the last 10 years the Council's record was acceptable. Consequently, the Council does not have a persistent record of under delivery and, under NPPF 47, only a 5% buffer is required taking the 5 year HLS requirement to 2,759 or 552 dpa.

## Supply

- 36. As above, the parties reached a good deal of agreement such that the evidence on both sides was credible and the differences were based on reasonable judgements, mostly with regard to build rates. I have reached the following assessment based on the evidence before me.
- 37. Of the identified sites with planning permission, the parties essentially agreed on all but two: Monksmoor in Daventry and Byfield Road in Woodford. In both cases, the disagreement was over the rate of delivery. NPPF footnote (f/n) 11 requires that sites with planning permission should be considered deliverable unless there is clear evidence to the contrary. While I acknowledge some doubt over these sites, as the economy starts to pick up after the prolonged economic downturn, I consider that there is likely to be a greater incentive to deliver houses more quickly and so these sites should be considered as capable of delivering the estimated 2,010 dwellings.
- 38. The HLA paper also identifies a small number of sites which do not yet have written permission but which are expected to contribute over the next 5 years. NPPF f/n11 is silent on sites with a resolution to grant permission but awaiting completion of a s106 agreement. To my mind, here there is a greater onus on the Council to show that there is a realistic prospect of delivery within this period. Of these, the Council and appellant disagree on 5 sites.
- 39. Taking these sites in turn, Daventry sites 3 and 6 are owned by the Council. An outline planning application was submitted some 3 years ago but it remains undetermined. The appellant therefore argued delivery within 5 years is ambitious. The Council told me that funding is now available for designers and

that 50 out of 300 dwellings within 5 years was not an unreasonable estimate. On the basis of this information, I accept that 50 dwellings should be added to the supply.

- 40. The Daventry North East Sustainable Urban Extension is a large site with potential for some 4,000 dwellings of which 2,600 are expected to come forward by 2029. I accept that large allocations take longer to get off the ground and that delays are commonplace. On the other hand, the housing market is now more buoyant. The Council's estimate of 75 within 5 years therefore seems reasonable. The site at Middlemore is owned by the Council and has the potential to deliver 131 units. However, other than an agreed 'homes for rent' project for 50 dwellings, there is no developer interest or planning application for the remainder of the site. In these circumstances only 50 dwellings should be included.
- 41. A planning application has been submitted for the Northampton College site but this has been subject to an unresolved objection from Sport England. While some houses may come forward in due course, for the time being I consider that it should be excluded. An outline application for 450 dwellings at Mickle Well Park was recently approved by the Council subject to a s106 agreement. Although this will take time to deliver in full, given that it now has a resolution to grant permission, significant delivery should be included and the difference between the parties was again down to the build rate. The Council argued that there could be 2 developers but with little evidence to support this. To my mind the appellant's estimate of 80 units per year over 2.5 years would still be a good rate of delivery giving a total of 200 units. Taken together, I find that the Daventry sites are likely to deliver some 375 dwellings.
- 42. It emerged at the Inquiry that the Council's estimate for windfalls is a net figure based on 7 years of historical data. It confirmed that assumed policy compliant sites, typically those allowed within villages, and did not include an allowance for conversions which might arise as a result of changes to permitted development rights. In the absence of other evidence, 267 is therefore a reasonable number for me to adopt.

# **Conclusions on HLS**

43. Adding the agreed figure of 334 for rural areas and deducting the Council's allowance of 105 dwellings for lapses, based on an historical average, gives a total supply of 2,881. On the evidence before me at the Inquiry, I therefore conclude that the Council could deliver some 5.2 years HLS. It follows that the exclusion of policies for the supply of housing, in NPPF 49, should not apply. Nevertheless, the numbers in the JCS are not intended to be a maximum and the aim of policy in NPPF 47 is to boost significantly the supply of housing. It follows that just because the Council can meet its targets does not mean that more housing should necessarily be refused. Rather, the scheme would help the Council achieve what it recognises to be a challenging trajectory.

# Integration and accessibility

44. The older part of Weedon Bec lies south of the river. This includes a primary school, surgery, village hall and several shops and pubs including a foodstore. Further services lie a short distance away north of the river. The appeal site occupies a long, relatively thin area of land roughly parallel with New Croft Road. Vehicular access and, by extension, a route through for cycles and

pedestrians, would come from New Street where there is a bus stop. From here there is direct access to the centre of the village, albeit that there are issues with the use of the pavements (see under highway safety below). In addition, the bridleway runs through the site near the west end providing further cycle and pedestrian access to Oak Street and a more direct route to the village hall and primary school, and as an alternative to New Street for those concerned about the footways.

- 45. There are two sets of bus stops with shelters on New Croft Road, one near the start of the bridleway, the second near the surgery. The scheme would provide an extension to the surgery car park within the appeal site. From here there would be a pedestrian route to the entrance which is already open to New Croft Road. Although this is private land, on the balance of probability, a pedestrian route would be available through the new surgery car park to New Croft Road with its bus stops and access to the centre of the village. Taken with Oak Street and New Street, I find that the development would be well connected by a choice of short walking and cycling routes to local facilities.
- 46. Although buses are not usually as frequent as on the day of my site visit, when a major road was closed, the D3 provides a regular service from all the bus stops near the site to Daventry and to Northampton where there is a main line railway station. I have considered representations from local residents that the bus service might be withdrawn on account of the difficulties caused by onstreet parking along New Street. However, I heard no persuasive evidence that this is likely to occur and the potential for new customers from the appeal site, together with the s106 contribution towards an enhanced service (see below), would be likely to improve its viability.
- 47. I acknowledge that in terms of vehicular access the site would be a cul-de-sac. However, in promoting sustainable development, the NPPF seeks the fullest possible use of public transport, walking and cycling. I therefore find that the choice of routes, and access to bus stops, are more important factors in assessing integration and accessibility. Finally, while many of the measures set out in the DAS could not be assessed until the reserved matters details, and so merit limited weight in favour of the scheme at this stage, I accept the evidence that there is little to show that, within the site, the proposals could not deliver a well designed and attractive scheme of legible, interconnecting streets with a mix of accessible housing and public open space.
- 48. I conclude that the appeal site would integrate well with the existing village and, with the proposed measures for a new bus shelter and enhanced service, could be made into a sustainable location for residential development. The scheme would therefore accord with the core planning principle at NPPF 17, which expects significant development to be focussed in locations which are or can be made sustainable. It would comply with JCS Policy S10, which sets out sustainable principles for development to follow including access by easy walking, cycling or public transport. By providing additional accommodation within a short distance of existing shops and services over a choice of routes, the scheme would accord with the elements of JCS Policy S1D)1-3, which place emphasis on the vitality of rural communities, facilitating access to jobs and services, and strengthening rural enterprise, and with JCS Policy INF2 which requires on and off-site infrastructure to mitigate any impact.

Highway safety and the free flow of traffic

- 49. Weedon Bec lies close to the M1, A5 and A45. I saw that the old part of the village suffers from traffic congestion and that it can get busy around the crossroads and along New Street. The latter in particular narrows around the thatched cottage at No.25 where, on the day of my accompanied visit, there was extensive on-street parking, including on the footways. I accept the evidence that this causes congestion, vehicles to mount the pavement, and inconvenience to pedestrians, especially during peak hours. This street is also part of the route of the D3 bus service and, I was told, used by farm vehicles running to and from Farthingstone Road at harvest time.
- 50. I also heard that the amount of off-street parking has been reduced in recent years increasing the pressure to park on the road or pavement. The upshot of the on-street parking is an existing situation where there a high degree of conflict between cars, buses and pedestrians leading to a number of minor incidents and a recent fall, a good deal of inconvenience, and a huge amount of fear that there could be a very serious accident. From the weight of objections, I fully accept that frustration over congestion and fears for highway safety are major local concerns.
- 51. Outside London, unless there are specific restrictions, parking on the pavement is not an offence providing it does not cause obstruction to the footway or any points of access such as a dropped kerb. I was not shown any parking restrictions, and saw no traffic signs, either on the carriageway or the pavements, and was not made aware of any requests to the local highway authority (LHA) to introduce Traffic Regulation Orders banning the parking of vehicles on any part of the carriageway or pavement.
- 52. The proposed access to the appeal site would be from New Street. The appellants have submitted a Transport Assessment and used a national database<sup>4</sup> to estimate the likely amount of traffic that would be generated. Following discussions with the LHA, the appellant's proposals include a new junction, comprising a double mini-roundabout, in the centre of the village. Subject to conditions, the LHA accepted that the cumulative impacts of the proposals on the transport network would be less than severe and withdrew its objection.
- 53. At present, the forward visibility at the crossroads is rather poor, especially when looking right from most approaches. The proposed mini-roundabouts would direct cars to keep further to the left when approaching and so improve visibility. This should improve traffic flows as less time would be needed to creep forward at the junction. It should also reduce the chance of accidents although, as with New Street, it is unlikely these are very serious at the moment as poor visibility tends to result in slow speeds. On this point, I find that the proposed junction alteration would be likely to improve traffic flows and highway safety at the junction sufficiently to mitigate against deterioration along other parts of the transport network, particularly any increase in traffic along New Street.
- 54. I understand, and I have had regard to, local residents' fears that the development would make matters worse. However, from what I saw, the problems exist already as result of poor visibility at the crossroads and onstreet parking along New Street. While more traffic would probably increase the incidence of conflict, the problems exist already and are unlikely to be

<sup>&</sup>lt;sup>4</sup> Trip Rate Information Computer System (TRICS)

- made individually more dangerous, only slightly more frequent. Meanwhile, the proposed mini-roundabouts would improve matters at the junction and reduce the risk of vehicles backing up along New Street.
- 55. In the absence of substantive evidence, I give limited weight to fear in itself which should not therefore be a bar to development<sup>5</sup>. I have also noted the possibility that the short branch of South Street would be used as a rat run, but find this unlikely with the proposed junction improvements. I accept that construction traffic could be a major difficulty but, subject to a further clause in the construction management condition which was agreed by the main parties (see below) controlling the routing and timing of any such traffic to avoid peak and school hours, I find that this could be adequately managed.
- 56. For all these reasons, I agree with the LHA. I find that concerns with regard to highway safety arising from on street parking should not be used to prevent the provision of new housing. On balance the scheme would comply with saved LP Policy GN2(B&C), which requires development to have satisfactory means of access and not adversely impact on the road network, and the cumulative impacts of development on the transport network would not amount to severe (NPPF 32).

#### Benefits

- 57. The scheme would provide up to 121 houses. Although the details of the application would not guarantee this number, there is every likelihood that they would all be delivered or very close to that number. As the Council has a 5 year supply of houses, only moderate weight should be given to the benefits of these houses in general. On the other hand, 40% of these, probably some 48 dwellings, would be affordable housing (AH). The Council acknowledged that there is a need for AH equivalent to the amount proposed. Local residents sought guarantees that the AH would be occupied by local residents. I note that the \$106 Agreement would include provision to make this more likely. I therefore find that AH should be afforded substantial weight regardless of HLS.
- 58. I acknowledge other benefits put forward via conditions and the obligation, but these should more accurately be described as mitigation. While they would therefore be important in reducing potential harm, they should not attract significant weight as benefits. The appellant has also raised the potential benefits of Council Tax receipts and the New Homes Bonus but, for the reasons set out by the Council, I collectively give these limited weight.
- 59. I heard unchallenged evidence that the appellant's approach using a promotion agreement could deliver houses faster than some alternative arrangements. Timing should therefore not prevent the scheme being implemented within 5 years. By comparison, the sites proposed in the draft NP, or yet to come forward in the SCLP, might be subject to substantial delays.

## Other matters

60. As above, the draft NP is still out for consultation. It incorporates the local understanding that Weedon is viewed as sustainable, and so will attract development, and so the NP itself proposes varied sites for housing. However,

<sup>&</sup>lt;sup>5</sup> My attention was drawn to the judgment in West Midlands Probation Committee

- as the judge found in  $Woodcock^6$ , the weight to be given to emerging plans applies to neighbourhood plans as much as any other plan. There may well be objections to the suggested sites. Accordingly, following policy and advice in NPPF 216 and the PPG with regard to prematurity, as the draft NP is at an early stage, very limited weight should be given to its policies.
- 61. I have noted that an existing s106 obligation allows the Council to prevent development on the western part of the site, though it is not enforceable by other parties. This is not a planning matter and so I give it little weight in my Decision. With regard to delivery, this only affects a relatively small part of the site anyway and so any slight delay would only have a limited impact, if any, on phasing.

## Conclusion on sustainability

- 62. NPPF 6 defines sustainable development as the policies in NPPF 18 to NPPF 219 as a whole while NPPF 7 identifies 3 dimensions to sustainability: economic, social and environmental. I find that although new construction, and more accommodation, would provide economic benefits, limited weight should be given to the potential benefits of Council Tax receipts and the New Homes Bonus. There would be no significant economic downside to the proposals. New housing, and AH in particular, would provide substantial social benefits, as would increasing the population near existing shops, services and community facilities.
- 63. With regard to the environmental dimension, no harm would be caused to the SLA or the contribution that the site makes to the significance of any listed buildings. As acknowledged by the LHA, any additional risk to highway safety would be limited and offset by the proposed junction. The loss of rural views from the bridleway crossing the site, of some ridge and furrow, and of greenfield land count against the scheme but the weight to these harms should be tempered by the proposed landscaping, the provision of public open space, the limited value of the open field system on the site itself, and the likelihood that greenfield land would be lost to housing in any event to meet the JCS target for rural areas.
- 64. For all these reasons, on balance, I find that the proposed development would amount to sustainable development as defined by the NPPF. This is a material consideration to which I give substantial weight.

## Conclusion on the development plan

- 65. The NPPF does not change the status of the development plan as the starting point for my decision. As above, the change from fields to residential would cause some harm to the character and appearance of the area, contrary to saved LP Policy GN1(B) which aims to protect and enhance the environment, and the loss of some of the less pronounced ridge and furrow in the area, but balanced against the benefits these should be given only moderate weight.
- 66. As above, the scheme would not harm the settings of listed buildings but would accord with saved LP Policy GN2(E) and JCS Policies R1C) and BN5. Conditions could adequately protect archaeological deposits and so achieve compliance with saved LP Policy GN2(F) which seeks to prevent these being adversely

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<sup>&</sup>lt;sup>6</sup> Woodcock Holdings Ltd v Secretary of State for Communities and Local Government [2015] EWHC 1173 (Admin) Queen's Bench Division (Administrative Court) 01 May 2015

- affected. The proposals would be acceptable with regard to highway safety, and saved LP Policy GN2(B&C), and accessibility measured against JCS Policies INF2 and S10, which also reflects the objectives of the NPPF.
- 67. A number of policies, including: saved LP Policy GN1(E) and (F), which seeks to limit development in the villages, and severely restrain development in the open countryside; saved LP Policy HS22 which for infill villages, including Weedon Bec, restricts residential development to that which would be small scale, within the confines of the village, and would not affect open land which is particularly significant to the form and character of the village; and saved LP Policy HS24 which does not allow residential development in the open countryside save for two exceptions which do not apply here.
- 68. The Council acknowledged, as it must, that saved LP policies HS22 and HS24 are both policies for the supply of housing. However, given that the Council can demonstrate a 5 year HLS, albeit only just, these policies are not excluded by NPPF 47. Nevertheless, given the age of the policies and their lack of consistency with the thrust of NPPF 47 towards boosting significantly the supply of housing, I give the conflict with these policies, and GN1(E) and (F), reduced weight.
- 69. The scheme would also conflict with JCS Policy R1(G) which requires residential development in rural areas to be within the existing confines of the village. However, JCS Policy R1 repeats the Policy S3 target for about 2,360 within the rural areas of Daventry and the requirement that this should provide an appropriate mix including AH. The allocation of sites to achieve this has been deferred to the SCLP, to which I give little weight as it is still at an early stage, but given the number of dwellings proposed for the rural areas, it is unlikely that the allocations will all be within the existing villages. Indeed, some of the suggested sites for housing in the draft NP are on greenfield land. I therefore give reduced weight to conflict with JCS Policy R1 as a whole.
- 70. JCS Policy S1D) limits development in rural areas placing emphasis on the distinctive character and vitality of rural communities, shortening journeys and facilitating access, and strengthening rural enterprise. For the reasons set out above, I find that the scheme would not harm the character of the village while accommodation for more residents within walking distance would support vitality and enterprise. As Policy S1 does not exclude development in rural areas, and as the allocation of rural sites has yet to happen, I find no conflict with this policy.
- 71. For the above reasons, I find that only moderate weight should be given to the conflict with some policies in the LP and JCS. Conversely, substantial weight should be given to the scheme's contribution to meet housing targets and provide AH in particular. Taken together, I find that the proposals would accord with the development plan as a whole. Moreover, the fact that the proposals would amount to sustainable development, as defined in the NPPF, amounts to a material consideration of substantial weight which outweighs any conflict with the development plan in any event.

#### **Conditions**

72. Other than for clarity, and to adhere to the requirements for conditions set out in NPPF 206, I have generally adopted the agreed conditions for the reasons set out below. Some suggestions, including fixing the location and extent of

open space and landscaping, refer to documents or drawings as well as requiring a detailed scheme. The Council argued that these conditions would be contrary to the flexibility provided by the outline nature of the application and that there were some discrepancies between them. While I have studied these details, and found that they demonstrate that an acceptable solution could be achieved, to require them would amount to duplication and reduce flexibility. I have therefore removed the drawing references.

- 73. Although access was part of the application, it was agreed that the internal road layout has not been detailed and that this should be controlled by reserved matters. The Town and Country Planning (Development Management Procedure) (England) Order 2015, came into force on 15 April 2015. Article 2(1) states that "access", in relation to reserved matters, means the accessibility to and within the site, for vehicles, cycles and pedestrians in terms of the positioning and treatment of access and circulation routes and how these fit into the surrounding access network; where "site" means the site or part of the site in respect of which outline planning permission is granted or, as the case may be, in respect of which an application for such a permission has been made.
- 74. I note that there is some overlap between this definition and that of layout in the PPG<sup>7</sup> as: the way in which buildings, routes and open spaces within the development are provided, situated and orientated in relation to each other and to buildings and spaces outside the development. For precision and to ensure that control is retained over both access and layout within the site, a condition is needed to cover this. Rather than reword the condition to exclude access, and thereby alter the application, I have added a separate condition to this effect.
- 75. Although limited to 121 dwellings in the description, this is not determinative and so, for certainty, the number should be controlled. As I have given some weight to the appellant's claim that housing could be delivered quickly, the agreed reduction in timetable for reserved matters and phasing are necessary.
- 76. There is some likelihood of remains of previous human occupation so an archaeological scheme is needed. In the interests of amenity, and in response to concerns regarding builders' lorries, there should be control over the elements of construction likely to affect neighbouring residents, including the routeing and timing of construction traffic. To prevent an increased risk of flooding, as shown to be achievable by the submitted flood risk assessment, and to ensure a sustainable scheme, all aspects of surface water drainage should be controlled.
- 77. Anglian Water sought a condition requiring on- and off-site mains foul sewage infrastructure works prior to occupation. This would prevent any new connection overloading the sewer. However, the appellant has argued that this would be unreasonable, citing case law that: a sewerage undertaker has no right to ... refuse a developer the right to connect with a public sewer ... I acknowledge that if only 21 days' notice was given (being all that is required under the Water Industries Act 1991) then there would be the potential for a serious problem. However, as Anglian Water replied to statutory consultation in July 2014, and as it is likely to be at least 2 more years before any houses

<sup>&</sup>lt;sup>7</sup> Ref. ID 14-006-20140306

<sup>&</sup>lt;sup>8</sup> Barratt Homes Limited v Dwr Cymru [2010] Env. L. R. 14, 253, paragraph 59

- would be occupied, it would have adequate time to take the necessary measures. The proposed condition would therefore be unreasonable.
- 78. Given at least some previous occupation of the site, reasonable precautions should be taken to deal with any possible contamination. To ensure that the proposals do not lead to any worsening of existing traffic conditions and provide suitable pedestrian connections, off-site highway works including the double mini roundabout should be required. Given my conclusions on sustainability, a Travel Plan is needed. To maintain satisfactory access, control is needed over the public right of way. An Ecological Management Plan is necessary to protect wildlife and a condition is needed to require protection for existing trees and hedges. In the interests of safety a requirement for fire hydrants is necessary.

# Planning obligation

- 79. I have assessed the s106 Agreement in the light of the Community Infrastructure Levy Regulations 2010 (CIL Regulations), and NPPF 204, which set 3 tests<sup>9</sup> for such obligations. From April 2015, CIL Regulation 123(3) also restricts the use of pooled contributions that may be funded via a s106 agreement if five or more obligations for that project or type of infrastructure have already been entered into since April 2010 which could have been funded by the levy.
- 80. The s106 Agreement would oblige the owner to construct or procure AH, to lay out and transfer public open space to the Parish Council or a management company together with a maintenance contribution, to provide and transfer additional parking spaces for the surgery (or provide a healthcare contribution) and to offer provide bus passes. It requires the owner to contribute to: allotments, a bus shelter on New Street, indoor sports and youth facilities, outdoor sports, improving the Croft Way play area, a youth play area, a bus service, the Daventry Link Road, primary schooling and the Council's reasonable monitoring costs of the Deed.
- 81. The Council has provided a justification for the contributions and details of pooled contributions (ID17). From this, I am satisfied that, as Weedon Primary School is at capacity, a contribution is appropriate to absorb increased demand. In the interests of encouraging modal shift away from the private car, active promotion of the bus service is needed requiring funds to enhance the existing D3 service, provide a new bus shelter on New Street, and offer travel vouchers. To cope with increased demand from the development, additional public open space and its maintenance are necessary as well as contributions towards the allotments, play and sports facilities as above or as identified in the draft NP. Given my reasoning above, the requirement for AH is essential.
- 82. As the surgery is at capacity, extra parking is required. However, in the unlikely event that the owners of the Weedon Surgery decline the offer of additional parking, there is little before me to justify an alternative healthcare contribution. The Council has advised that the proposed contribution to the Daventry Link Road, including works to the A45 in Weedon, would be necessary as the A45 would be pushed further over capacity by the development, and that only 4 contributions at most have been secured for this to date.

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<sup>&</sup>lt;sup>9</sup> 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.

- 83. On the matter of monitoring, the appellant has referred to case law<sup>10</sup> where the judge found, on the facts of that case, that the Inspector was entitled to reason that: "With regard to...the payment of monitoring fees...the payment of a monitoring/administration fee [is] not necessary to make the development acceptable in planning terms". The Council, in recognising case law, has argued that the monitoring would not be part of its normal services but would require extra staff and referred to item B17 of its supplementary planning document on such contributions which identifies typical costs and a formula for their calculation.
- 84. Although technically discretionary, and arguably part of its normal functions, I accept that in principle a monitoring fee could be justified if it was shown to be necessary to ensure that a particular part of the agreement was fulfilled and that it was specifically calculated for a particular development, as is the case for the costs of drawing up the s106 Agreement. However, the suggested monitoring cost is based on a framework methodology and so is not specific. Otherwise, the accepted details show that none of the pooled contributions would give rise to a total of more than 5 such obligations so that the restriction at the end of the transitional period would not apply.
- 85. Clause 6.11 of the s106 Agreement stipulates that should I conclude that any of the obligations would be incompatible with the tests in the CIL Regulations, and attach no weight to it, then it will cease to have effect. On this point I conclude that this clause only applies to the off-site healthcare contributions and to monitoring, for which the owner therefore has no obligation to comply.

# Overall conclusions

86. For the above reasons, I find that as the Council can demonstrate a 5 year HLS the weighted presumption in favour of sustainable development (NPPF 14) does not apply and the appeal should be determined on the normal planning balance. Nevertheless, the site would be well connected to a village with many local services and none of the harm I have identified would outweigh the benefits of providing more housing and much needed affordable housing in particular. Subject to control, through conditions and the s106 Agreement, and having regard to all other matters raised, I conclude that the appeal should be allowed.

# David Nicholson

**INSPECTOR** 

 $<sup>^{\</sup>rm 10}$  Oxfordshire County Council v SSCLG [2015] EWHC 186 (Admin)

## **APPEARANCES**

## FOR THE LOCAL PLANNING AUTHORITY:

Christiaan Zwart instructed by Daventry District Council

He called

Tom James Daventry District Council
Samantha Hammonds Daventry District Council
Michael Venton Daventry District Council
Rachel Booth Daventry District Council

FOR THE APPELLANT:

Richard Kimblin instructed by Laura Tilston

He called

Mark Johnson Brook

Laura Tilston Gladman Developments Limited Nigel Wakefield Node Urban Design Limited

Jason Clemons CgMs Consulting

Nigel Weeks Stirling Maynard Transportation Consultants

#### INTERESTED PERSONS:

Steven Edwards Weedon Bec Parish Council
Dale Langley Weedon Action Group

Laura Langley Neighbourhood Plan Steering Group

Kit Edwards Local resident Joe Freestone Local resident Trevor Hawkey Local resident Millie Towning Local resident Ann from The Bakehouse Local resident Local resident Sharon Ball Diana Smith-Kinnard Local resident Dianne MacRae Local resident Jayne Hesketh Local resident Hannah Howden Local resident

## **INQUIRY DOCUMENTS**

| 1a,b&c<br>2 | Statement of common ground; appellant's opening; Council's opening<br>Letter from Barton Wilmore on behalf of Landform Estates Ltd |
|-------------|--|
| 3           | West Northamptionshire Joint Core Strategy Local Plan (Part 1) Adopted Proposed  |
| _           | Trajectory 2011-2029   |
| 4           | Table of agreement and disagreement with regard to HLS   |
| 5           | Plan of viewpoint locations  |
| 6&6a        | Index and text of statements from local residents and Weedon Bec Parish Council  |
| 7           | Note on Weedon Neighbourhood Plan Spatial Portrait   |
| 8           | Email dated 15 May 2015 from Northamptonshire Highways   |
| 9           | Legal advice re existing s106 from Ruth Stockley of Counsel  |
| 10          | Daventry Development Link Funding Report dated 9 April 2015  |
| 11          | Agreement under s106   |
| 12          | DDC justification re s106 requests   |
| 13a&b       | Proposed conditions  |
| 14          | Agreed viewpoints  |
| 15          | DDC illustration of access gradient requirements   |
| 16          | Core documents list for ID17   |
| 17          | Notice of Independent Examination under the Community Infrastructure Levy Regulations 2010   |

Appellant's 13 additional documents submitted with its closing statement

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# **CORE DOCUMENTS (CD)**

- CD 1.1 Application Covering Letter, Application Form and Certificates
- CD 1.2 Location Plan (including Application Red Line) Drawing No. GDL 2013-058 100-001
- CD 1.3 Development Framework Plan Drawing No. GLA-11-DF Rev 014
- CD 1.4 Design & Access Statement
- CD 1.5 Landscape and Visual Assessment
- CD 1.6 Transport Assessment
- CD 1.7 Travel Plan
- CD 1.8 Ecological Assessment
- CD 1.9 Arboricultural Assessment
- CD 1.10 Flood Risk Assessment
- CD 1.11 Surface Water Drainage Note
- CD 1.12 Air Quality Screening Report
- CD 1.13 Noise Screening Report
- CD 1.14 Archaeology Report
- CD 1.15 Geophysical Survey
- CD 1.16 Statement of Community Involvement
- CD 1.17 S106 Heads of Terms
- CD 1.18 Foul Drainage Strategy
- CD 1.19 Heritage Assessment
- CD 1.20 Economic Benefits Assessment
- CD 1.21 West Northamptonshire Objectively Assessed Needs Survey
- CD 1.22 Planning Statement
- CD 1.22.1 Planning Statement Appendix 1 Sustainability Assessment
- CD 1.22.2 Planning Statement Appendix 2 Draft Planning Conditions
- CD 1.22.2 Planning Statement Appendix 3 Waste Management Statement
- CD 1.23 Access Drawing Drawing No 4746/13/03
- CD 1.24 Energy Statement
- CD 2.1 Online 20/10/14 DDC Planning Committee Minutes for 08/10/14
- CD 2.2 Letter 09/10/14 DDC Notification of Refusal of Planning Permission
- CD 2.3 Online 30/09/14 DDC Planning Committee Papers
- CD 2.4 Letter 30/09/14 DDC Notification of Planning Committee
- CD 2.5 Email 24/09/14 DDC Confirmation of New Committee Date
- CD 2.6 Email 24/09/14 GDL Extension of Time
- CD 2.7 Email 24/09/14 DDC Extension of Time
- CD 2.8 Email 24/09/14 GDL Confirmation of Extension of Time
- CD 2.9 Email 23/09/14 DDC Extension of Time
- CD 2.10 Email 10/09/14 DDC TP Updates
- CD 2.11 Email 10/09/14 DDC Highways Update
- CD 2.12 Email 03/09/14 GDL Updated Framework Plan
- CD 2.13 Email 22/08/14 GDL Issuing Updated Reports
- CD 2.14 Email 19/08/14 DDC Request for Extension of Time
- CD 2.15 Email 12/08/14 DDC Wildlife Trust Response Update
- CD 2.16 Email 12/08/14 DDC Confirmation of Updated Reports
- CD 2.17 Email 07/08/14 GDL Progress Update
- CD 2.18 Email 06/08/14 DDC TP Update
- CD 2.19 Email 06/08/14 DDC Wildlife Trust Response
- CD 2.20 Email 01/08/14 GDL Highways Response
- CD 2.21 Email 01/08/14 DDC Consultants Reports
- CD 2.22 Email 31/07/14 NCC Confirmation of Response to Highways Consultation
- CD 2.23 Email 31/07/14 SMT Response to Highways Consultation
- CD 2.24 Email 28/07/14 GDL Meeting Attendance
- CD 2.25 Email 28/07/14 GDL Request for Consultee Responses
- CD 2.26 Email 28/07/14 DDC Meeting Agreement
- CD 2.27 Email 28/07/14 DDC Consultation Copies
- CD 2.28 Email 24/07/14 GDL Progress Meeting

- CD 2.29 Email 21/07/14 GDL EA Responses
- CD 2.30 Email 18/07/14 GDL EA Queries
- CD 2.31 Email 02/07/14 GDL Additional Reports
- CD 2.32 Email 02/07/14 DDC TA Response
- CD 2.33 Email 01/07/14 DDC Archaeological Response
- CD 2.34 Email 01/07/14 DDC EA Response
- CD 2.35 Email 30/06/14 DDC TA Review
- CD 2.36 Email 30/06/14 DDC TP Review
- CD 2.37 Email 30/06/14 DDC LVIA Queries
- CD 2.38 Email 24/06/14 GDL Highways Comments
- CD 2.39 Email 24/06/14 DDC Consultation Reponses
- CD 2.40 Email 23/06/14 DDC NCC Highways Response
- CD 2.41 Letter 11/06/14 DDC Validation Confirmation Letter
- CD 2.42 Letter 23/05/14 GDL Planning Application Covering Letter
- CD 2.43 Email 17/04/14 DDC S106 Restriction on Development
- CD 2.44 Email 11/04/14 GDL S106 Restriction on Development
- CD 2.45 Letter 07/02/14 DDC Request for Screening Opinion
- CD 2.46 Letter 30/01/14 GDL Request for Screening Opinion
- CD 3.1 Illustrative Masterplan rev 10
- CD 3.2 06. Transport Assessment Updated 20.08.14
- CD 3.3 07. Travel Plan Updated 10.08.14
- CD 3.4 08. Ecology Report Update 22.08.14
- CD 3.5 10. Flood Risk Assessment Updated 21.08.14
- CD 3.6 11. Surface Water Drainage note Updated 29.07.14
- CD 3.7 14. Archaeology Report Updated 21.08.14
- CD 3.8 15. Geophysical Report Update 21.08.14
- CD 3.9 ULS Foul Drainage Update
- CD 3.10 05. Landscape & Visual Impact Assessment Update July 2014
- CD 4.1 Daventry Five Year Land Supply Assessment Report
- CD 4.2 Archaeological Evaluation Interim Statement
- CD 5.1 Draft Statement of Common Ground
- CD 5.2 Appendix 1 Draft List of conditions
- CD 5.3 Appendix 2 Draft Core Documents List
- CD 6.1 Statement of Case
- CD 6.2 Appendix 1 Responses to Third Parties
- CD 6.3 Appendix 2 West Northamptonshire Objectively Assessed Needs Survey
- CD 6.4 Appendix 3 Draft S106 Heads of Terms
- CD 7.01 APP/H1840/A/12/2171339 land at Honeybourne, Wychavon (allowed 24 August 2012)
- CD 7.02 APP/Y2810/A/14/2206520 12th September 2014 Farndon Road, Woodford Halse
- CD 7.03 APP/Y2810/A/14/2222311 24th December 2014 Guilsborough Road, West Haddon
- CD 7.04 APP/R0660/A/13/2195201 18th October 2013 Sandbach Road North, Alsager
- CD 7.05 APP/J1860/A/13/2197037 Land at Lawn Farm, Drake Street, Welland
- CD 7.06 APP/C1625/A/13/2207324 21st July 2014 Bath Road, Leonard Stanley
- CD 7.07 APP/H1840/A/13/2203924 Land between Leasowes Road and Laurels Road, Offenham,
- Worcestershire -7 February 2014
- CD 7.08 APP/R0660/A/11/2158727 16th August 2012 Loachbrook Farm, Sandbach Road, Congleton
- CD 7.09 APP/R0660/A/12/2173294 28th November 2012 Rope Lane, Shavington,
- CD 7.10 APP/A0665/A/11/2167430 29th August 2013 Land Off Nantwich Road, Tarporley, Cheshire 29th August 2013
- CD 7.11 APP/J0405/A/12/2181033 Fleet Marston Farm, Fleet Marston, Aylesbury
- CD 7.12 APP/Z2830/A/12/2183859 Catch Yard Farm, Towcester Road, Silverstone

- CD 7.13 APP/R0660/A/13/2209335 Gresty Lane, Rope Lane, Crewe
- CD 7.14 APP/Y2810/A/14/2214145 August 2014 Land off Guilsborough Road, West Haddon
- CD 7.15 APP/T2350/A/11/2161186 26th March 2012 Henthorn Rd Clitheroe
- CD 8.01 [2013] EWHC 3058 William David Ltd vs SSCLG Case No: 10359/2012
- CD 8.02 [2014] EWHC 2636 Dartford Borough Council v SSCLG and Landhold Capital Limited
- CD 8.03 [2014] EWHC 573 SNC and SSCLG vs Barwood Land & Estates Ltd.
- CD 8.04 [2013] EWHC 4377 South Northants vs SSCLG Robert Plummer
- CD 8.05 CO/8377/2013 Sandbach Road, Alsager
- CD 8.06 CO/17165/2013 Challenge Grounds Alsager, Section 288
- CD 9.01 NCC Local Highway Authority
- CD 9.02 Highways Agency
- CD 9.03 Environment Agency
- CD 9.04 Anglian Water
- CD 9.05 Wildlife Trust
- CD 9.06 English Heritage
- CD 9.07 NCC Archaeology
- CD 9.08 DDC Conservation Officer
- CD 9.09 DDC Local Strategy Officer
- CD 9.10 DDC Landscape (Response Awaited)
- CD 9.11 DDC Engineer
- CD 9.12 DDC Environmental Health (Response Awaited)
- CD 9.13 Ramblers Association
- CD 9.14 NCC Infrastructure
- CD 9.15 NHS England (Response Awaited)
- CD 9.16 Weedon Surgery
- CD 9.17 Construction Futures
- CD 9.18 Weedon Bec Parish Council
- CD 10.01 Infrastructure and Developer Contributions Supplementary Planning Document (October 2013)
- CD 10.02 Daventry Settlements & Countryside Local Plan Issues Paper (October 2012)
- CD 10.03 West Northants Joint Core Strategy Relevant Policies (December 2014)
- CD 10.04 Daventry District Local Plan (June 1997) Saved Policies, Revised Post WNJCS Adoption Doc (Feb 2015)
- CD 10.05 Daventry District Local Plan Proposals Map (1997)
- CD 10.06 West Northamptonshire Strategic Housing Land Availability Assessment (SHLAA) (January 2012)
- CD 10.07 House of Commons Debate, 23 Oct 2013 Hansard
- CD 10.08 Weedon Bec Parish Plan
- CD 10.09 Natural England's National Character Area Profile 95 Northamptonshire Uplands
- CD 10.10 Northamptonshire Environmental Character and Green Infrastructure Suite Undulating Hills and Valleys
- CD 10.11 Northamptonshire Historic Landscape Character Assessment 2006
- CD 10.12 English Heritage Historic Environment Good Practice Advice in Planning
- CD 10.13 Inspectors Report On The Examination Into The West Northamptonshire Joint Core Strategy Local Plan
- CD 10.14 Pre-Application Response from DDC
- CD 10.15 Email Confirmation of Agreement from County Council Highways
- CD 10.16 Drawing 4746/13/10A New Street Site Access with Tracking
- CD 10.17 Drawing 4746/13/03D New Street Site Access
- CD 10.18 Drawing 4746/13/05A New Street Crossroads
- CD 10.19 NCC confirmation email to Stirling Maynard dated 1/4/2015
- CD 10.20 LHA requests for Conditions and S106 dated 1/4/2015
- CD 10.21 Appellant's bundle of Weedon Decisions and Judgments

## **Schedule of conditions**

- 1. Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority (LPA) before any development begins and the development shall be carried out as approved.
- 2. Notwithstanding that the access is not reserved, all internal roads and access arrangements shall be reserved as constituting an aspect of the layout.
- 3. The development hereby permitted shall comprise no more than 121 dwellings.
- 4. Application for approval of the reserved matters shall be made to the LPA not later than two years from the date of this permission.
- 5. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 6. Prior to commencement of development a scheme outlining the phasing of development, including a site layout plan identifying land uses such as formal and informal open space and infrastructure, shall be submitted to and approved in writing by the LPA. The development shall be carried out in accordance with the approved phasing scheme.
- 7. No development shall take place until a programme of archaeological work has been implemented in accordance with a written scheme of investigation which has been submitted to and approved in writing by the LPA. The work shall be carried out strictly in accordance with the approved scheme.
- 8. No development shall take place until a Construction Method Statement has been submitted to, and approved in writing by, the LPA. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
  - a) the hours of work:
  - b) the parking and turning of vehicles of site operatives and visitors;
  - c) loading and unloading of plant and materials;
  - d) storage of plant and materials used in constructing the development
  - e) designation, layout and design of construction access and egress points;
  - f) provision for emergency vehicles;
  - g) the erection and maintenance of a security hoarding;
  - h) wheel washing facilities and measures to prevent mud and other such material migrating onto the public highway;
  - i) measures to control the emission of noise, dust and dirt during construction;
  - j) a scheme for recycling/disposing of waste resulting from demolition and construction works;
  - routing and timing agreement for construction vehicles and directional signage on and off site;
  - I) details of any temporary works made necessary on the local highway network by virtue of the build out of the development.

- 9. No development shall take place in any phase of the development until details of the implementation, maintenance and management of each element of the surface water drainage scheme have been submitted to and approved by the LPA. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details. Those details shall include:
  - a) a timetable for its implementation; and
  - b) a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage scheme throughout its lifetime.
- 10. No development shall take place until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the LPA. The drainage strategy should demonstrate the surface water run-off generated up to and including the 0.5% (1 in 200) critical storm plus climate change will not exceed the run-off from the undeveloped site following the corresponding rainfall event. The scheme shall subsequently be implemented in accordance with the approved details.
- 11. No development shall take place until a site investigation of the nature and extent of contamination has been carried out in accordance with a methodology which has been previously been submitted to and approved in writing of the LPA. The results of the site investigation shall be made available to the LPA before any of the development begins. If any contamination is found during the site investigation, a report specifying the measures to be taken to remediate the site to render it suitable for the development herby permitted shall be submitted to and approved in writing by the LPA. The site shall be remediated in accordance with the approved measures before development begins. If, during the course of the development, any contamination is found which has not been identified in the site investigation, additional measures for the remediation of this source of contamination shall be submitted to and approved in writing by the LPA. The remediation of the site shall thereafter incorporate the approved additional measures.
- 12. No development shall commence until a detailed scheme (including a full set of engineering drawings) for off-site highway improvement works has been submitted to and approved in writing by the LPA. The scheme for off-site highway improvement works shall comprise:
  - (i) a double mini roundabout scheme for the New Street/West Street/Bridge Street/Church Street, Weedon crossroads; and
  - (ii) works to link the proposed access on New Street to the existing village footpath network. Thereafter the off-site highway improvement works shall be completed in accordance with the approved details and written confirmation shall have been gained from the LPA that the works are acceptable prior to the first occupation of any dwelling on the site.
- 13. No dwelling shall be occupied until full details of the access have been submitted and approved in writing by the LPA and the access has been constructed in accordance with the approved details.

- 14. No dwelling in the development hereby approved shall be occupied until a Detailed Travel Plan has been submitted to and approved in writing by the LPA. The Detailed Travel Plan shall include objectives, targets, mechanisms and measures to achieve the targets, implementation timescales, provision for monitoring, and arrangements for a Travel Plan co-ordinator, who shall be in place until 5 years after the completion of the final phase of development. The approved plan shall be audited and updated and submitted for the approval of the LPA at intervals no longer than 18 months. The measures contained within the approved plan and any approved modifications shall be carried out in full.
- 15. Prior to the commencement of works affecting any existing public right of way full details of any enhancement, improvement, diversion or closure shall be submitted to and approved in writing by the LPA. Works shall proceed only in accordance with the approved details.
- 16. Before any development commences a detailed Ecological Management Plan shall be submitted to and approved in writing by the LPA, and development shall proceed in accordance with the approved EMP.
- 17. No equipment, machinery or materials shall be brought onto the site for the purposes of the development until details of the proposed type and a plan of the proposed position of fencing for the protection of trees or hedges that are to be retained on the site, have been submitted to and approved in writing by the LPA. The fencing shall be implemented in accordance with these details and shall remain in place until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored, disposed of, or placed, nor fires lit, in any area fenced in accordance with this condition and the ground levels within these areas shall not be driven across by vehicles, altered, nor any excavation made (including addition/removal of topsoil/subsoil) without the written consent of the LPA.
- 18. Prior to the commencement of development a scheme and timetable for the provision of three fire hydrants for the development shall be submitted to and agreed in writing by the LPA and provision of the fire hydrants shall be made in accordance with the approved scheme and timetable.

# **Appeal Decision**

Inquiry opened on 12 May 2015 Accompanied site visit made on 15 May 2015

# by Philip Major BA (Hons) DipTP MRTPI

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

**Decision date: 3 September 2015** 

# Appeal Ref: APP/A0665/W/14/3000528 Land at Hill Top Farm, By-Pass Road, Northwich, Cheshire CW9 8JU.

- 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 Robert Matthew, Mr & Mrs Igoe, and Russell Homes Limited against the decision of Cheshire West & Chester Council.
- The application Ref: 13/05006/FUL, dated 15 November 2013, was refused by notice dated 24 October 2104.
- The development proposed is the demolition of the existing dwelling and construction of residential development of 113 dwellings with associated public open space, landscaping, highways and parking.

# **Preliminary Matters**

- 1. The application was submitted on the date set out above and at that time proposed the erection of 121 dwellings. That scheme was replaced by the scheme before me, for 113 dwellings, which was submitted in May 2014.
- 2. During the course of the inquiry I carried out unaccompanied visits to the area surrounding the site on 11 and 13 May.
- The decision notice relating to this proposal refers to the emerging Cheshire West and Chester Local Plan Part 1 (LP). This was adopted in January 2015 and forms part of the development plan along with saved policies of the Vale Royal Borough Local Plan (BLP).
- 4. Shortly after the close of the inquiry the Council published the Housing Land Monitor (HLM) for the period 1 April 2014 to 31 March 2015. This has been considered by the parties and representations have been made. I have taken into account those representations in reaching my decision. The important point to note from this information is that on the Appellant's new evidence the Council can demonstrate some 4.77 years of supply. This is self evidently close to the 5 year requirement and it would not need much change in order to reach that level. In other words the position has moved significantly since evidence was given at the inquiry and the supply position has moved significantly towards a position of being able to demonstrate a 5 year supply on the Appellant's calculations.

## **Decision**

5. The appeal is allowed and planning permission is granted for the demolition of the existing dwelling and construction of residential development of 113

dwellings with associated public open space, landscaping, highways and parking at land at Hill Top Farm, By-Pass Road, Northwich, Cheshire CW9 8JU in accordance with the terms of the application, Ref: 13/05006/FUL, dated 15 November 2013, and the plans submitted with it, subject to the conditions set out in the attached schedule.

# **Location and Planning Policy Background**

- 6. The site is located within Kingsmead parish, which lies to the north of the A556. The A556, a dual-carriageway by-pass, forms an effective boundary between Kingsmead and Davenham to the south. The 2 settlements have different characteristics. Kingsmead is an urban extension of Northwich with modern housing and a local centre developed in relatively recent years. Davenham is an older village, with its village centre to the south-east of the appeal site, and more recent development stretching outwards. There is a tract of open land to the north of Davenham and south of the A556 which is designated as an Area of Significant Local Environmental Value (ASLEV) under saved Policy NE12 of the BLP. It is designated as an environmental buffer between Davenham, the A556 and Leftwich. In practice it also forms a buffer between Davenham and much of Kingsmead.
- 7. There is no dispute between the parties that the site lies outside the defined settlement limits of Northwich as identified in the BLP. These development limits are applicable under the auspices of LP Policy STRAT 9 which seeks to protect the intrinsic character and beauty of the Cheshire countryside. The explanation to that policy indicates that until the Local Plan Part 2 is prepared and adopted the policies of (amongst others) the Vale Royal Borough Local Plan relating to settlement boundaries will be retained. In this case that relates to saved policy GS5 of the BLP. The site lies outside the defined settlement limit and does not fall within any of the exceptions permitted by Policy STRAT 9. There is, therefore, an acknowledged breach of development plan policy at least in the period until the Local Plan Part 2 is adopted.
- 8. The Appellant suggests that GS5 is not consistent with the pro-growth thrust of the National Planning Policy Framework (NPPF) and as such should carry reduced weight. In the context of this appeal I do not consider that this is a matter which is determinative. Taking the Local Plan as a whole, however, I am not persuaded that GS5 should be given reduced weight in light of its recent confirmation as being relevant in the context of the adopted Local Plan, albeit for a limited period until LP Part 2 is adopted.
- 9. Local Plan Policy STRAT 2 lists Northwich as one of 3 towns outside Chester which are to be the main focus for development. Northwich itself is constrained by Green Belt, flood risk areas and a brine works. I agree that new development is likely to be focussed generally towards the south of the town. The site itself was included within the 2013 Strategic Housing Land Availability Assessment (SHLAA), and no constraints to development were identified other than the requirement for a new access.
- 10. The NPPF seeks to ensure that the supply of housing is boosted significantly, and requires local planning authorities to identify and update annually a supply of sites sufficient to provide 5 years worth of housing to meet objectively assessed need. If the authority cannot do so then policies for the supply of housing should not be considered to be up to date. Policies STRAT 9 and GS5 can be taken to be policies of relevance to the supply of housing, and whether

they can be regarded as being up to date depends on whether the Council is able to show that it has a 5 year supply of deliverable housing sites.

## **Main Issues**

- 11. The main issues in the appeal are:
  - (a) Whether the Council can demonstrate a 5 year supply of deliverable housing sites and;
  - (b) If there is a deliverable 5 year housing land supply whether other material considerations indicate that planning permission should be granted, or;
  - (c) If there is no deliverable 5 year housing land supply whether the NPPF presumption in paragraph 14 should apply in the light of the effect of the proposal on highway safety and the character and appearance of the area.

#### Reasons

# Housing Land Supply

- 12. There is general agreement between the parties as to the housing requirement over the appropriate 5 year period. At the time of the inquiry the period was April 2014 to March 2019. Following the publication of the HLM the period is now April 2015 to March 2020. The requirement is made up of the (minimum) level of net provision set out in the adopted LP (1100 per annum), the backlog from previous years (836), and an agreed 20% buffer applied to the base requirement of 1100, in line with NPPF requirements. The requirement is therefore 7436 dwellings.
- 13. That said, there is no common approach established as to dealing with the backlog, and whether a 20% buffer should also be applied to that. However I acknowledge that there are decisions available which do apply a buffer to the backlog and decisions which do not. These include decisions by the Secretary of State. Were such a buffer to be applied here the requirement would rise to 7603 dwellings on the Appellant's calculations.
- 14. Before embarking on the assessment of supply it is apposite to understand the position agreed at the inquiry. First, that a 5 year requirement is not a maximum figure in the context of the NPPF objective to significantly boost supply. Secondly it is acknowledged that housing land supply calculations can never be exact. The predictions can only be based on the best available information applied with the best available skill and knowledge. For that reason the inquiry did not dwell on some disputed sites where the difference in supply predicted by each party was of a very small order. As an example the difference in supply predictions for the site at Leaf Lane Infant School, Winsford was just 4 dwellings. Such sites would be unlikely to materially alter the 5 year supply position.
- 15. This agreed starting point assists in assessing the dispute between the parties in relation to supply. The Council (based on the recent HLM) believes it has a total net deliverable supply of about 10151 dwellings (6.83 years) if the buffer is not applied to the backlog. On the other hand the Appellant considers supply to be about 7086, or 4.77 years. The difference of just over 3000 stems from a variety of matters, including:

- Whether a non-implementation 'discount' should be applied to small sites;
- Whether a demolitions and losses allowance should be included in calculations and;
- Whether student housing can reasonably be included;
- Disagreement about delivery on a number of sites, in terms of both availability and deliverability.
- 16. I therefore turn to some principles of assessing sites as investigated at the inquiry. I then go on to examine some sites with disputed numbers which, alone or together, are likely to be material to the supply position.
- 17. As a precursor I record here that the examination of the recently adopted Local Plan found that the Council could demonstrate a 5 year supply of deliverable sites. However, that examination took place some time ago, and evidence at this inquiry was given that the discussion of supply at the examination was relatively brief. That is not to criticise the Inspector, who can only deal with the information before him. In any event the supply position is a dynamic environment and evidence has inevitably moved on.
- 18. Subsequently the Council has been found not to be able to demonstrate a 5 year supply in an appeal decision relating to proposed development at Nether Peover<sup>1</sup>. That decision was clearly based on up to date information at that time. This decision is based on the evidence presented to me but I am mindful of the fact that the position in relation to housing land supply changes over time, and that this decision is made in a new monitoring year following the publication of the Council's HLM for the 2014 2015 year. I turn now to the matters set out above in turn.
- **19. Non-implementation discounts for small sites.** The Council indicated at the inquiry that at 1 April 2014 there were some 942 dwellings on small sites which could be regarded as commitments to be delivered in the 5 year period. Future supply relies on a windfall allowance on small sites of 150 dwellings per annum from year 3 onwards. However, I acknowledge the Appellant's evidence that some of these sites will not come to fruition for a variety of reasons. The evidence presented to me is that between 1 April 2014 and 1 March 2015 planning permission expired on 11 sites equating to 46 dwellings. Suffice to say at this stage that I believe that the Council was being optimistic in assuming the completion rate on small windfall sites with planning permission would be as high as it had allowed for. Nonetheless I acknowledge that the Inspector in the Nether Peover appeal and the Secretary of State<sup>2</sup> have not made an allowance for non-implementation on small sites. In light of the recently published HLM I do not in any event consider that this is a determinative matter as non implementation is catered for in the monitoring exercise.
- **20. Demolitions and Loss Allowance.** The LP clearly states that the housing requirement is a net figure of at least 1100 dwellings per annum. That clearly means that any losses through demolition or other loss must be made up elsewhere so the figure of 1100 is reached. The Local Plan Inspector's report

<sup>&</sup>lt;sup>1</sup> APP/A0665/A/14/2224763

<sup>&</sup>lt;sup>2</sup> Appeal ref APP/A0665/A/2214400

- indicates that, based on recent trends, approximately 50 dwellings per annum may be lost.
- 21. However, I also accept the Council's evidence that the figure of 50 dwellings per annum lost could be an over estimate when some larger redevelopment schemes are taken out. But I do not accept that the demolitions and loss figure should be removed entirely. Any net supply calculation must factor in the likelihood of losses at whatever level. As with the Inspector at Nether Peover I consider it appropriate to account for losses and on the basis of submitted evidence following the publication of the HLM I note that the Council's new calculations are all expressed as net figures and include demolitions.

# **Student Housing**

- 22. The Appellant argues that student housing should be removed from the Council's calculations on the basis that these are communal establishments and should not therefore be included in the supply figure.
- 23. However, Planning Practice Guidance (PPG) states that "All student accommodation, whether it consists of communal halls of residence or self-contained dwellings, and whether or not it is on campus, can be included towards the housing requirement, based on the amount of accommodation it releases in the housing market. Notwithstanding, local authorities should take steps to avoid double-counting." The information supplied indicates that the accommodation in question is in fact self contained units which include sleeping, bathing, cooking and eating facilities. I have no evidence that there is any double counting here and I see no need to discount these units. I am also satisfied that it is likely that they will be delivered in the 5 year period.
- 24. That adds 511 units to the supply calculation of the Appellant, bringing it to a total of 7597, which equates to a 5.1 year supply if there is no buffer added to the backlog, and just about equal to a 5 year supply of 7603 if it is. On the face of it, therefore there is sufficient information to conclude at this point that the Council can probably demonstrate a 5 year supply. However, some sites were argued at the inquiry and in representations and for completeness I deal with a number of them here.
- 25. **Individual disputed sites**. In considering these sites I pay strong heed to the contents of footnote 11 of the NPPF which states that

"To be considered deliverable, sites should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within 5 years and in particular that development of the site is viable. Sites with planning permission should be considered deliverable until permission expires, unless there is clear evidence that schemes will not be implemented within 5 years, for example they will not be viable, there is no longer a demand for the type of units or sites have long term phasing plans."

This footnote clearly introduces matters of professional judgement. I have considered the sites on the basis of their importance to the overall supply position, where the difference between the parties is at a significant level (above 10 units) down to those with least influence on supply. It is worth reiterating that this is a dynamic, but not exact, area of study. The evidence I

- heard, as updated by the HLM representations, is particular to this case and where I differ from the conclusions of the Inspector who considered the Nether Peover appeal I explain why that is so. The fact that I may differ from the conclusions of the Local Plan Inspector in part reflects the likely difference in evidence and detailed consideration of individual assumptions.
- 26. Premier House, Chester. This is a phased mixed use development and there is no dispute that the residential element has been permitted on the basis that it would be in the final 3 phases of 10. The approved phasing plan confirms this position. Whilst the Council has indicated that it has expectations of detailed applications for the residential phases and a change to the approved phasing plan during the spring or summer of 2015, no application had been submitted at the time of this inquiry. Bearing in mind that the NPPF expects deliverable sites to show a realistic prospect of development within 5 years, it is difficult at this stage to conclude that the 200 units argued at the inquiry would be delivered in the current 5 year period and I note that the HLM cuts this to 100. The agents for the developer did indicate in February 2015 that the intention would be to deliver the residential element within 5 years. But that intention does not provide firm enough evidence for it to be regarded as part of the supply. For one thing there is no planning application, and the length of time to determine an application is unknown. Secondly there would be likely to be the necessity to discharge conditions as well as to coordinate construction with other phases of the development. Taken in the round it seems to me that this is not a site which could be reasonably held to offer the likelihood of housing provision in the current 5 year period. It is currently subject to a phasing plan which sets it outside the current 5 year horizon, and there is too little evidence to suggest that this will change materially. Even if some provision were made I consider the Council's delivery rate to be highly optimistic. On balance my judgement is to exclude delivery on this site.
- 27. Cheshire Warehousing, New Road, Winsford. Although the Council has received a planning application for development on this site the HLM records it as pending. I acknowledge that a permission of some sort may be forthcoming, but it seems likely that there would need to be some time required for discharge of conditions and other preparatory works. There is information from Wulvern Housing that its funding arrangement with the Homes and Communities Agency (HCA) would require completion by March 2018. Although the site is occupied by an operating business Wulvern Housing has expressed the view that delivery is expected from March 2016 with completion in about 18 months. On that basis, on balance, I accept that this site is likely to deliver.
- 28. Research Laboratories, Winnington Lane, Northwich. Planning permission exists for 20 dwellings on this site, granted in 2012. However, a more recent permission was granted for the improvement of the existing leisure facilities which occupy the site. Neither permission has been implemented and the residential permission expires in September 2015. There is no evidence to support a conclusion that the existing leisure use is likely to be abandoned in favour of providing dwellings. The site cannot be regarded as being available now, and 20 dwellings should be removed from the Council's assessment of supply.
- 29. Malvern House, Old Road, Anderton with Marbury. This is another site which is in use. The extant planning permission was due to expire in May 2015 and I

- am told that a new application has been submitted. However as the site is currently still in use by a coach company it would be too optimistic to regard the site as being available now and so 11 dwellings should be removed from supply calculations.
- 30. Former Van Leer site, Meadow Lane, Ellesmere Port. The site has planning permission which I understand was granted in 2010 and extended in 2012. I note that the owner's agent regards the site as being available now. I do not challenge that position, but the counter evidence from the Appellant indicates that the site has been marketed for 7 years, and that an extended time period for a reserved matters application was sought in order to address contamination issues. The latest information is that the site is in the process of being sold. However, it is not yet a certainty that any delivery would take place in the near future. I recognise that the Nether Peover Inspector accepted that some delivery could be included from this site. I agree with that, but do not share the Council's delivery expectations. This is because of the question mark relating to decontamination (which goes to the viability of the site) and the extended time sought for the submission of reserved matters (which also suggests an acknowledgment by the owners that delivery will not be quick and easy). On that basis and despite the extant planning permission I consider that the Council is too optimistic and that there are clear reasons to suggest that delivery on this site will be limited in the 5 year period. I discount 50 units from the Council's calculations.
- 31. S Cooper and Sons, Nat Lane, Winsford. This site has an extant planning permission but is in active use as a haulage yard. I was told at the inquiry that the occupant is a well known haulier in this locality, operating numerous vehicles. The planning permission does not require a reserved matters submission until 2021 at the latest, and in the absence of any evidence suggesting that a submission is likely in the near future this must lessen the weight attaching to the permission. There is also no evidence of the occupier having found any alternative premises to move to. In these circumstances I depart from the Nether Peover Inspector and consider the Council's suggestion that delivery should be included in years 4 and 5 to be too optimistic. The site cannot be regarded as being available now. I discount 60 dwellings from the Council's assessment.
- 32. Former Garage, Lower Bridge Street, Chester. The Council seems confident that this site will come forward, though no planning permission exists at present. I am told that pre-application discussions took place some time ago, but there is no evidence of a planning application having been submitted. The lack of a planning permission and the apparent tardiness in bringing forward a planning application carries more weight in my judgement than the Council's optimism that such sites can be delivered quickly. That would only happen if there is some realistic prospect of a developer showing signs of wishing to move ahead with some speed. I am not aware of any such circumstances, and again I differ from the Nether Peover Inspector as I believe that, based on current evidence, the Council is too optimistic. This site should be discounted.
- 33. Land at Moorside Lane, Neston. This is a site on which an application for 33 units was refused in December 2014. However, planning permission has been granted for access works to the site. An appeal against the earlier refusal of permission has also now been allowed and this increases certainty of some

- development. It therefore seems that some development is likely in the future. I am satisfied that delivery will take place on this site.
- 34. Roften Works, Hooton Road, Hooton. Outline planning permission exists on this site and the Council's evidence is that progress is being made towards an application for reserved matters being submitted. But as pointed out by the Appellant planning permission has existed since 2013, the site has been marketed but remains in the owner's control. As a result I agree that the lead in time for development commencing is too optimistic on the Council's part. I give greater credence to the Appellant's assessment that development might begin a year later. This results in a reduction of about 50 dwellings from supply.
- 35. Land off Chester Road, Malpas. In view of the acknowledged likelihood of a sale being completed on this land only after June 2016 it seems unlikely to me that the site would provide the number of dwellings in the 2017 2018 year predicted by the Council (year 3 of 5). Hence I discount 20 dwellings from supply (leaving about 40).
- 36. Wrexham Road, Chester. This is a strategic site with an ultimate capacity beyond 1200 houses. There is currently no planning permission on this site Local Plan Policy requires a development brief to be prepared (possibly in the form of a masterplan) and such a document has not been prepared as yet. It seems very optimistic to expect any delivery on this site at the level predicted by the Council. The development brief, planning permissions and discharge of conditions will take time. I therefore consider that delivery rates should be lowered with a consequent reduction in the 5 year supply. Even so this would add about 100 dwellings to the Appellant's figures.
- 37. Rossmore Road (former service station). As pointed out by the Appellant, this site has benefitted from a series of planning permissions and renewals. The current permission is valid for the period to October 2016. I accept that development will be forthcoming here at some point, but the difficulty is predicting when. The fact that other apparently 'stalled' sites have moved forward to delivery does not mean that this site will follow suit. Although the Nether Peover Inspector accepted delivery on this site within 5 years I am not persuaded that there is sufficient information to reach that conclusion. The assumption that all 39 units would come forward in year 5 might be seen as a pragmatic move on behalf of the Council, but it seems equally likely than no dwellings would be built. It would be more realistic to assume a partial build out of the site at best. I therefore discount 20 units from supply, leaving 19 for delivery.
- 38. Sites at Handley Hill Primary School, Castleleigh Centre and Church Street, Winsford. These sites are in the Council's ownership and are expected by the Authority to provide some supply. But none of the sites has planning permission. Although the Nether Peover Inspector expressed sympathy for the Council's position on these sites, he did not assess whether that position was realistic. In my judgement it is too optimistic. To be generous, and in acknowledgement of the Council's control and desire to push the sites forward, I consider that it would be more realistic to predict supply coming forward at half the rate suggested. This discounts some delivery but I would find a supply of about 45 units to be realistic.

- 39. Pausing here in my consideration of disputed sites the above reasoning amply illustrates the difficulties of predicting which sites are likely to provide housing within the 5 year period. It is also ample illustration that there is likely to be a middle way on many of them, with delivery somewhere between that predicted by the Council and that predicted by the Appellant. In some cases I accept the Council position, in others I accept the position of the Appellant. Neither prediction is right or wrong. However, an overall assessment that the Council can demonstrate a 5 year supply is reasonable, not just because of the inclusion of student housing, but because other delivery is also likely which is discounted by the Appellant at the present time. The actual supply figure is likely to fall somewhere between the 2 competing predictions, but I have no difficulty, based on the evidence presented to me, in reaching a conclusion that the Council can demonstrate a 5 year housing supply at the present time. This applies whether or not the 20% buffer is applied to the backlog. The assessments above on just a few sites result in supply increasing above the figure calculated by the Appellant by something approaching 350 units. Even if some of the student housing were to be discounted the Council's figures would still provide confidence that a 5 year supply can be demonstrated.
- 40. There are also other sites which are contested by the Appellant which have been included by the Council in its assessed supply. These sites, some of which have come forward in the HLM but were not discussed at the inquiry, will no doubt play a role in the current and future supply assessments, but for my purposes in this appeal they would make no difference to whether or not a 5 year supply is currently demonstrated and I see no need to consider them in detail here. The fact that the sites assessed indicate that the likely outturn is between the 2 sets of figures before me will in all likelihood be repeated elsewhere, further boosting the Appellant's figures whilst depressing those of the Council. Nor do I need to consider by what margin the 5 year supply is exceeded, though it is apparent to me that it is likely to be exceeded by several hundred houses or more.
- 41. As a result of finding that the Council can demonstrate a 5 year supply of deliverable housing sites it must follow that the policies for the supply of housing in the development plan are not out of date. That in turn means that paragraph 14 of the NPPF is not engaged. I turn, then, to consider the other main issues in the appeal.

# Highway Safety

- 42. The impact of the proposal on highway safety is not a matter contested by the Council. Access to the appeal site would be taken from a new signal controlled junction on the A556, and this would also involve changes to the access and egress from Hartford Road, Davenham, which lies opposite the proposed entrance.
- 43. Extensive modelling and consultations have taken place between the Appellant's highway consultant and the highway authority. The result is a scheme which would involve a reduction in the speed limit along the A556, right and left turn access to the A556 from the site and from Hartford Road, TOUCAN pedestrian facilities for crossing the A556, appropriate sight lines, and the closing up of 2 unsatisfactory access points from the appeal site.
- 44. Davenham Parish Council and others are concerned that the proposed development would be harmful to highway safety, in contrast to the significant

- benefits in this respect claimed by the Appellants. The Parish Council's objections<sup>3</sup> are set out in its written submission, and the Appellant's response is also set out in writing<sup>4</sup>.
- 45. Much of the objection centres on the fact that this is a fast stretch of road (it is currently subject to a 70mph speed limit) and that the site access is on a bend on the brow of a hill. Those facts are indisputable. However, the proposed access junction has been designed in accordance with the current Design Manual for Roads and Bridges (DMRB) and has been assessed and agreed by the technical officers of the highway authority. I agree with the Appellant that there would be significant safety improvements resulting from the proposed junction. These include the installation of a TOUCAN pedestrian crossing to replace the hazardous uncontrolled crossing which now exists, the reduction in the speed limit, and the effective breaking up of traffic flows which would be likely to make access to and egress from Royal Gardens easier and safer. My conclusions on this point are based not only on the technical material presented, but also my own experience and observations of the local highways over 3 separate site visits at both peak and off-peak times.
- 46. Although the reintroduction of a right turn facility into Davenham causes concern to some, I do not share it. I accept that there would be an increase in traffic travelling west to east along Hartford Road, but I do not consider that this would amount to significant extra flows. The possibility of the use of Mount Pleasant Road as a 'rat run' cannot be discounted, but that route is not attractive for car drivers because of its narrowness and twisting nature. It would be very unlikely to save time, would not be an easy route, and I cannot believe that it would be an attractive alternative to using the A556 and turning right at the nearby roundabout, for access to or beyond Davenham.
- 47. The traffic lights proposed would enable traffic from within Davenham an alternative route onto the A556 travelling east and would no doubt remove some traffic which currently flows through the village centre. The lights would also control flows both east and west, so making any other manoeuvres safer in the breaks in flow. The amount of traffic added to the A566 and surrounding roads from the proposed housing would be relatively limited and would not be likely to lead to any extra congestion. Taken in the round I am satisfied that the proposed access would bring significant enhancements to the highway network and its safe operation. This is a material consideration which adds substantial weight in favour of the proposal.

## Character and Appearance

48. This matter is, in essence, the root of the Council's objection. Davenham Parish Council and others also express concerns in relation to the environmental impact of the proposal. The location of the proposed housing is extremely well concealed for the most part. Though the site includes part of Poors Wood to the north and well vegetated tree belts on other sides, these are not proposed for housing development. There is no public access to the site and it is not prominent in the landscape. It carries no protective designation. In my judgement it has a low sensitivity to change.

<sup>&</sup>lt;sup>3</sup> Document 14

<sup>&</sup>lt;sup>4</sup> Document 12

- 49. Some development in the south-east part of the site would be visible from the A556 and some dwellings at the western end of Davenham. However, I do not subscribe to the view that the proposal would lead to a perception that Davenham and Kingsmead had merged. The position at which Davenham and the appeal development would be closest is a short distance only. From the A556 any impression of development being on each side of the road would be fleeting. It is right that the proposed block of flats on site, and houses, would be seen particularly when travelling west and in passing the site entrance, but the majority of viewers would be concentrating on the road ahead. In any event the views into the site would be filtered by vegetation. The apartment block would be higher than other dwellings but would not be unduly prominent given the local topography.
- 50. The remainder of the area proposed for housing is exceptionally well visually self contained. It is likely that there would be some glimpses of development through existing trees during winter months, but these would be minor and little different to any glimpses of the existing Kingsmead development.
- 51. Poors Wood would be unaffected with the exception of a new footpath to link to the existing footpath in the wood to the north. I understand the concerns of residents of Royal Gardens who own parts of Poors Wood, but I have nothing before me which suggests that development of the appeal site would lead to trespass on their property.
- 52. In a wider sense it was suggested that the development would also lead to a perception of coalescence with the development just starting at School Lane, Hartford. I saw at my site visits that these 2 developments, separated by the Weaver Navigation and its valley, would sit on the higher slopes of either side of the valley. Some minor intervisibility would be possible from within the developments, but the degree of landscape containment of the appeal site would be such that there would be minimal impression of built development reaching anything approaching what might be described as coalescence.
- 53. This landscape containment would also protect the users of the Weaver Valley leisure facilities from any material impression of the development existing at all. It may be possible to glimpse parts of dwellings at some times of the year, but as existing and proposed vegetation matures those glimpses would diminish.
- 54. Taking these matters together it is my judgement that the impact of the proposed on the landscape character of this area would be slight. When combined with its low sensitivity to change this results in a very small overall impact on character. The self contained nature of the majority of the site also means that any visual impact would be small and restricted in extent. I therefore conclude that the proposed development would have no more than a minor effect on the character and appearance of the locality.

#### **Other Matters**

- 55. There are a number of other matters which I should address as they have been raised by local residents.
- 56. The capacity of local schools and medical facilities to cater for residents of the development is questioned. The Appellant has offered a contribution to enable school places to be provided (a matter I refer to later) but I have no evidence

- that medical facilities would be unable to cope with the residents of the proposed development and these matters therefore carry little weight.
- 57. I also have nothing before me which suggests that harm would be caused to the ecology or biodiversity of Poors Wood, a site managed by the Cheshire Wildlife Trust. The Trust has no objection to the proposals and it is proposed that parts of the woodland within the appeal site should in future be managed by that organisation (I also deal with that matter later in relation to the offered Unilateral Undertaking). The site has been subject to investigative work and it would be possible to impose conditions to give the greatest possible degree of ecological protection. This matter does not militate against permission being granted.
- 58. I am informed that the land has not been used for agricultural purposes for many years. The remnants of horticultural use are in evidence towards the eastern end of the site, and much of the rest is grazed by horses and ponies. It is not disputed that the land is a low grade classification. I can appreciate that this area of land would be difficult to use productively given its lack of connection to other land and the difficulty which might ensue for slow moving agricultural vehicles seeking to use the site access points. The loss of the land from potential agricultural use is not something which should weigh against the proposal.
- 59. It has been suggested that the site is relatively isolated and not well connected with nearby settlements. Whilst Poors Wood stands between the site and the majority of Kingsmead actual distances are small, and I deal with connectivity below.

# The Planning Balance

- 60. Having determined that the Council can demonstrate a 5 year housing supply, I now assess the sustainability of the site when assessed against the NPPF as a whole. There are 3 dimensions to sustainability.
- 61. **Environmental.** I have dealt with the impact on the character and appearance of the area above and I do not need to repeat those findings here. Suffice to say that it is my judgement that the proposed development would not cause more than minimal harm to the local environment. The Phase 1 Habitat and Bat Survey Report of April 2014 explains that the scheme would either protect habitats or suitably compensate for any loss. The scheme would also include the provision of public open space, and the elimination of invasive species.
- 62. It is proposed that the dwellings on site should be constructed in such a way that energy consumption would be reduced. This would assist in combating the impacts on climate change and is an inherently sustainable objective. The proposal therefore follows the environmental dimension of sustainable development.
- 63. **Social**. The proposal would provide housing in accordance with the NPPF objective to increase housing delivery. Some 30% of the housing would be affordable. This is a significant and important social benefit which addresses a long term need for such provision in a borough which has an acknowledged pressing need for affordable housing.

- 64. I know from my site visits that there are services within reasonable walking distance of the site, and that it would not be necessary to cross any major road to access those services. Local bus services are also available nearby. The provision of public open space and access to the managed woodland to the north would support the health, well being and understanding of the environment for residents. As a result of these factors the proposal accords with the social dimension of sustainability.
- 65. **Economic**. The economic dimension is supported by the provision of new dwellings and the construction jobs that that would bring, together with the economic benefits accruing to the local centre. Some economic benefits can also be expected to filter down to the centre of Northwich, which is currently undergoing a major redevelopment. Whilst economic benefits are difficult to quantify I am satisfied that the scheme would follow the thrust of the economic dimension of sustainable development.
- 66. Overlying these three dimensions, and contributing to them all to some extent would be the significant benefits resulting from the improved traffic arrangements and improved pedestrian safety. In overall terms, therefore, the proposed development is sustainable.
- 67. As acknowledged earlier in this decision the proposed development is in conflict with Policy GS5 of the BLP and STRAT 9 of the LP. On the other hand the fact that Northwich is a focus for growth, and that the southern part of the town seems likely to form a logical area for development means that LP Policy STRAT 2 lends a degree of support.
- 68. Notwithstanding these policy matters I have examined the reasons given for opposing the development earlier in this decision. In my judgement none of these matters establishes that there would be harm which is significant or demonstrably outweighs the benefits, the most significant of which include housing provision, affordable housing provision, and improvements to the highway network. The material considerations in support of the development are such that they outweigh any development plan conflict. It follows that the appeal should succeed.

# **Conditions and Obligations**

- 69. **Conditions.** A number of conditions have been agreed between the parties as being necessary in the event of planning permission being granted. These fall under a number of general themes, and I agree that the conditions set out below are reasonable and necessary in relation to those matters.
  - In the interests of the appearance of the area conditions dealing with:
    - Materials to be used on site
    - Finished floor and site levels
    - Landscaping
  - In the interest of ecology and biodiversity conditions dealing with:
    - Application of the avoidance measures identified in the ecological report
    - o Restriction on works during certain periods
    - Provision of bat and bird boxes
    - Eradication of Japanese Knotweed
    - Construction of the Poors Wood footpath

- In the interests of highway safety and to encourage travel other than in private vehicles conditions dealing with:
  - o The design and construction of highway improvements
  - Accordance with the travel plan
- In order to protect the living conditions of on-site and nearby residents conditions dealing with:
  - o Provision of acoustic fencing
  - Working and delivery hours on site
  - Location of site facilities
- In order to ensure a satisfactory form of development conditions dealing with:
  - o Future maintenance of public open space
  - o The provision of adequate drainage
  - The demonstration of energy saving measures
- In order to ensure the delivery of affordable housing a condition requiring that a scheme be submitted, approved and implemented.
- 70. **Planning Obligations.** I have 2 Unilateral Undertakings before me. The first of these makes provision for contributions towards traffic regulation order making, education provision and playing pitch provision. Each of these is fairly and reasonably related to the development and is necessary to make the development acceptable. The contributions meet the tests of the Community Infrastructure Regulations 2010. The submitted CIL compliance note<sup>5</sup> sets out the justification for the contributions, and also confirms that in relation to the playing pitch provision this would be the third pooled contribution. There are no other pooled contributions to take into account. I am therefore satisfied that the Obligation can be taken into account and supports the decision to grant planning permission.
- 71. The second undertaking makes arrangements for the management of that part of the site which is being transferred to the management of the Cheshire Wildlife Trust. In the absence of such an Obligation I do not consider that it would have been necessary to refuse planning permission, but in any event it is a lawful document which adds some weight to the Appellant's case in relation to the connectivity to be provided for the site and the commitment to protecting ecology and biodiversity. I have therefore taken it into account as offering further support to the grant of planning permission.

## **Overall Conclusion**

| 72. For the reasons given above I conclude that the appeal should be allo | wed. |
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| Philip Major |
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**INSPECTOR** 

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<sup>&</sup>lt;sup>5</sup> Document 6

## **SCHEDULE OF CONDITIONS**

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
  - Site location plan W0999/LP/105;
  - Site layout plan W0999/PL/101/B;
  - Poors Wood Open Space plan W0999/PWOS/501;
  - Landscape plans (4483.05D, 4483.06D, 4483.03G);
  - Boundary Treatment Plan (W0999/BTP/DAV/102A,103,104,105); and
  - House type plans and boundary treatment plans as set out in the table below.

| HOUSE TYPE and BOUNDARY TREATMENT PLANS: |                          |              |  |  |  |
|--|--------------------------|--------------|--|--|--|
| Plan Name                                | Plan Type                | Drawing No.  |  |  |  |
| Aberwood (Mid Terrace)                   | Elevations & floor plans | W0257-PD-101 |  |  |  |
| Aberwood (End Terrace)                   | Elevations & floor plans | W0257-PD-102 |  |  |  |
| Argyll                                   | Elevations & floor plans | W0257-PD-103 |  |  |  |
| Bathford (semi-detached)                 | Elevations & floor plans | W0257-PD-104 |  |  |  |
| Caplewood (Mid Terrace)                  | Elevations & floor plans | W0257-PD-105 |  |  |  |
| Caplewood (End Terrace)                  | Elevations & floor plan  | W0257-PD-106 |  |  |  |
| Corrywood (Detached)                     | Elevations               | W0257-PD-107 |  |  |  |
| Corrywood (Detached)                     | Floor plans              | W0257-PD-108 |  |  |  |
| Westwood (Detached)                      | Elevations               | W0257-PD-109 |  |  |  |
| Westwood (Detached)                      | Floor plans              | W0257-PD-110 |  |  |  |
| Denewood (Detached)                      | Elevations               | W0257-PD-111 |  |  |  |
| Denewood (Detached)                      | Floor plans              | W0257-PD-112 |  |  |  |
| Dukeswood (Detached)                     | Elevations               | W0257-PD-113 |  |  |  |
| Dukeswood (Detached)                     | Floor plans              | W0257-PD-114 |  |  |  |
| Glenmore (Detached)                      | Elevations               | W0257-PD-115 |  |  |  |
| Glenmore (Detached)                      | Floor plans              | W0257-PD-116 |  |  |  |
| Hampsfield (Detached)                    | Elevations               | W0257-PD-117 |  |  |  |
| Hampsfield (Detached)                    | Floor plans              | W0257-PD-118 |  |  |  |
| Hollandswood (Detached)                  | Elevations               | W0257-PD-119 |  |  |  |
| Hollandswood (Detached)                  | Floor plans              | W0257-PD-120 |  |  |  |
| Laurieston (Detached)                    | Elevations               | W0257-PD-121 |  |  |  |
| Laurieston (Detached)                    | Floor plans              | W0257-PD-122 |  |  |  |
| Detached Double Twin Garage              | Elevations & floor plans | W0257-PD-123 |  |  |  |

| HOUSE TYPE and BOUNDARY TREATMENT PLANS:   |                          |               |  |  |  |
|--|--------------------------|---------------|--|--|--|
| Detached Double Garage                     | Elevations & floor plans | W0257-PD-124  |  |  |  |
| Detached Single Garage                     | Elevations & floor plans | W0257-PD-125  |  |  |  |
| 1.8m Timber Screen Fence                   | -                        | W0257-PD-126  |  |  |  |
| 1.8m Timber Gate                           | -                        | W0257-PD-127  |  |  |  |
| 1.8m Brick Pier and 1.8m<br>Timber Fence   | -                        | W0257-PD-128  |  |  |  |
| 0.7m Post and Two Rail<br>Divisional Fence | -                        | W0257-PD-129  |  |  |  |
| Apartments                                 | Front elevation          | W0257-PD-130  |  |  |  |
| Apartments                                 | Rear elevation           | W0257-PD-131  |  |  |  |
| Apartments                                 | Right Side elevation     | W0257-PD-132  |  |  |  |
| Apartments                                 | Left Side elevation      | W0257-PD-133  |  |  |  |
| Apartments                                 | Ground floor plan        | W0257-PD-134A |  |  |  |
| Apartments                                 | First floor plan         | W0257-PD-135A |  |  |  |
| Apartments                                 | Second floor plan        | W0257-PD-136A |  |  |  |

- 3) No development shall commence until samples of the materials to be used in the construction of external surfaces of the buildings hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in complete accordance with the approved materials.
- 4) Prior to the commencement of the development full details of existing levels and proposed finished floor (slab) and site (garden) levels shall be submitted to and approved in writing by the Local Planning Authority. All submitted details must relate to adjoining land. Development shall be carried out in accordance with the approved details.
- 5) Notwithstanding the submitted details no development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include:
  - proposed finished levels or contours;
  - means of enclosure;
  - car parking layouts;
  - other vehicular and pedestrian access and circulation areas; and
  - hard surfacing materials.
- 6) If within a period of 5 years from the date of initial planting, any trees or shrubs planted in accordance with the approved landscaping works (plan reference 4483.05 Rev D, 4483.06 rev D and 4483.03 Rev G) are removed, die, become diseased or seriously damaged then replacement trees or shrubs shall be planted in the next planting season with others of similar size and species, unless the local planning authority gives its written approval to any variation.
- 7) The development shall be implemented in accordance with the reasonable avoidance measures contained within the Extended Phase 1 Habitat and

Bat Survey Report (REC Ecology, November 2013) in accordance with a timetable to be first agreed in writing with the local planning authority prior to commencement of development. No development shall take place until a method statement providing for protection and translocation of reptiles on the site and the location and number of bird and bat boxes have been submitted and approved in writing by the local planning authority. The works shall be carried out in strict accordance with the approved details.

- 8) No vegetation removal shall be undertaken during the bird breeding season (1st March to 31st August inclusive) unless otherwise approved in writing by the local planning authority after a request by the developer's ecologist.
- 9) Prior to the commencement of the development a scheme and programme for the eradication of the Japanese Knotweed (on land within the ownership of the applicant) in accordance with Environment Agency Guidelines shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall thereafter be implemented in accordance with the agreed timetable and methodology before commencement of construction, or such other time as may be approved in writing by the local planning authority.
- 10) Prior to the commencement of development an up to date badger survey shall be undertaken and method statement detailing any mitigation to avoid harmful impacts to badgers shall be submitted and approved in writing by the local planning authority, and shall be implemented in accordance with an agree timetable.
- 11) Development shall not commence until a programme for the delivery of the footpath link through Poor's Wood has been submitted to and approved in writing by the LPA. The programme shall be accompanied by a method statement to include full details of the location of, design of and construction methods for the footpath through Poor's Wood, as indicated on plan W00999/PWOS/501, This shall first be agreed in writing with the LPA before development commences. Part of the methodology shall include that post pits should be hand dug (not machine dug) and any roots less than 25mm in diameter may be cleanly severed (not with a spade or shovel). Roots greater than 25mm in diameter shall not be severed.
- 12) Notwithstanding drawing number drawing No DR/4006100/100/002 rev A, including interactive speed limiting features and the closing up of any existing accesses onto the A556, no development shall commence until the details and the specifications of the access that will serve the development from the A556 have been submitted to and approved in writing by the local planning authority. The agreed access shall be completed and made available for use prior to any residential occupation and shall thereafter be retained in the agreed form.
- 13) All highways, footways and cycleways within the approved development excluding the footpath link through Poor's Wood, as set out on drawing No WO999/PL/101/B shall be designed and constructed in complete accordance with the agreed highway specification (to be agreed in writing with the local planning authority). No dwelling/building shall be occupied until that part of the highway or footway which provides access to it has

- been constructed in this way and up to binder-course level. The surface course shall then be completed within a timescale which has been agreed in writing by the Local Planning Authority prior to the occupation of any part of the development.
- 14) Development shall be carried out in accordance with the Travel Plan dated October 2013 and measures contained therein shall be implemented in accordance with the timetable set out within the approved plan.
- 15) Development shall be carried out in accordance with the details as set out in Hepworth Acoustics report number 22060.01V3 November 2013.
- 16) Prior to the commencement of development details of the acoustic fence to be installed at or near (and parallel) to the site boundary with the A556 as indicated on plan reference W0999/PL/101/B shall be agreed in writing with the local planning authority. The fence shall be 3m reducing to 2.5m in height where the site raises up above the road (as shown in Figure 2 of the Hepworth's Report) The fence shall be constructed of solid timber (min 20mm thickness) with no holes or gaps. It shall be maintained and retained thereafter. The fence shall be provided prior to the occupation of units 1-40 and 107-113.
- 17) No operations associated with the demolition and construction phases shall be carried out on the site except between the hours of 08:00 18:00 Monday to Friday and between the hours of 08:00 13:00 on Saturday. No activities shall take place on the site on Sundays and Bank Holidays.
- 18) No deliveries shall be taken at or dispatched from the site during the demolition and construction phases except between the hours of 08:00 18:00 Monday to Fridays, 08:00 13:00 on Saturdays and no deliveries Sundays or Bank Holidays.
- 19) Before the commencement of operations on site the location of the site office and construction compound shall be approved in writing by the local planning authority and shall remain in the approved position unless otherwise agreed beforehand with the local planning authority.
- 20) No operations requiring piling or subsurface vibration ground improvement techniques shall be carried out on the site unless, details of the work, monitoring and environmental controls proposed have been supplied to and agreed in writing with the local planning authority. All such works shall be undertaken in complete accordance with the agreed scheme.
- 21) Prior to the occupation of the first dwelling on the site details of the management and maintenance of the open spaces shall be submitted to and approved in writing by the Local Planning Authority.
- 22) Prior to the occupation of the first dwelling on the site details of the management and maintenance of the woodland (Poors Wood) shall be submitted to and approved in writing by the Local Planning Authority.
- 23) Prior to the commencement of the development, a drainage scheme for the site, showing how foul water, surface water and land drainage will be dealt with, shall be submitted to and agreed in writing by the Local

- Planning Authority. The approved scheme shall be implemented in accordance with the approved drainage scheme.
- 24) Prior to the commencement of the development a scheme for the provision of affordable housing shall be submitted to and approved in writing by the Local Planning Authority.
- 25) The affordable housing shall be 30% of the total number of dwellings to be provided on site and must be provided in accordance with the approved scheme and shall meet the definition of affordable housing in the National Planning Policy Framework or any future guidance that replaces it. The scheme shall include:
  - a. the numbers, tenure and location on the site of the affordable housing provision to be made;
  - the type and mix of affordable dwellings shall be a split of 50:50 intermediate/affordable rent, unless otherwise agreed in writing by the Local Planning Authority;
  - c. the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;
  - d. the arrangements for the transfer or management of the affordable housing;
  - e. the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
  - f. the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.
- 26) All parts of the agreed scheme for the provision of affordable housing shall be implemented in full.
- 27) No development, hereby permitted, shall commence until a scheme to demonstrate that not less than 10% of the total energy consumption of the development will be provided by means of renewable energy or that alternative measures will achieve at least 10% less energy consumption than similar development constructed in accordance with the current Building Regulations has been submitted to and approved in writing by the Local Planning Authority. The development shall be completed wholly in accordance with the approved details.

## **APPEARANCES**

## FOR THE LOCAL PLANNING AUTHORITY:

Mr M Carter of Counsel Instructed by Karen McIlwaine, Acting head of

Governance, Cheshire West and Chester Council

He called

Mrs D Fifer BSc(Hons) Principal Planning Officer, Planning Policy Team,

DipTP MRTPI Cheshire West and Chester Council

Mr N Howard BSc(Hons) Senior Planner, Development Management

MRTPI Services, Cheshire West and Chester Council

FOR THE APPELLANT:

He called

Mr B Pycroft BA(Hons) Principal Consultant, Emery Planning

DipTP MRTPI

Mr R Hindhaugh BSc Director, Bob Hindhaugh Associates Ltd

PGCert(TEP) FIHE MIHT MIOEE

Mr D Griffin BA(Hons) Director, Trevor Bridge Associates Ltd

DipLA(Hons) CMLI

Mrs A Freeman MRTPI Director, Emery Planning

#### **INTERESTED PERSONS:**

Cllr A Wood Davenham Parish Council

Cllr H Weltman Cheshire West and Chester Council

Mr G Lewis Local Resident Mr R Matthew Landowner

## **DOCUMENTS SUBMITTED AT THE INQUIRY**

| Doc 1  | Letter of notification of the inquiry date and venue                 |
|--------|--|
| Doc 2  | Opening Statement of the Council                                     |
| Doc 3  | Statement of Common Ground   |
| Doc 4  | Statement of Common Ground on Housing Land Supply                    |
| Doc 5  | Table of disputed sites  |
| Doc 6  | Statement of Compliance with Community Infrastructure Levy           |
|        | Regulations 2010   |
| Doc 7  | High Court Judgement: Bloor Homes East Midlands Ltd v SoS            |
| Doc 8  | High Court Judgement: Wainhomes (South West) Holdings Ltd v SoS      |
| Doc 9  | Plan showing the boundary between Davenham and Kingsmead             |
| Doc 10 | Extract from the Strategic Housing Land Availability Assessment 2013 |
| Doc 11 | Schedule and plan of housing sites around Northwich                  |
| Doc 12 | Rebuttal response of Mr Hindhaugh to the highway concerns of         |

|        | Davenham Parish Council  |
|--------|--|
| Doc 13 | Concept Masterplan and extract of planning conditions for School Lane, |
|        | Hartford   |
| Doc 14 | Statement of Davenham Parish Council                                   |
| Doc 15 | Draft Unilateral Undertaking relating to Traffic Regulation Order,     |
|        | Education, and Pitch Provision contributions                           |
| Doc 16 | Draft Unilateral Undertaking relating to works within and management   |
|        | of Poors Wood  |
| Doc 17 | Draft agreed list of planning conditions                               |
| Doc 18 | Closing submissions of the Council                                     |
| Doc 19 | Closing notes of the Appellant   |

# **DOCUMENTS SUBMITTED POST INQUIRY**

| Doc 20 | Bundle of correspondence relating to the HLM |
|--------|--|
| Doc 21 | Planning Obligations                         |

# **Appeal Decision**

Inquiry held on 19-20 May 2015 Site visit made on 21 May 2015

## by Brendan Lyons BArch MA MRTPI IHBC

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

**Decision date: 7 September 2015** 

# Appeal Ref: APP/R0660/A/14/2225591 Kents Green Farm, Kents Green Lane, Haslington, Crewe CW1 5TP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Renew Land Developments Ltd against the decision of Cheshire East Council.
- The application Ref 13/4240N, dated 4 October 2013, was refused by notice dated 17 March 2014.
- The development proposed is the development of up to 60 dwellings with associated car parking, roads and landscaped open space.

## **Decision**

 The appeal is allowed and outline planning permission is granted for the development of up to 60 dwellings with associated car parking, roads and landscaped open space at Kents Green Farm, Kents Green Lane, Haslington, Crewe CW1 5TP, in accordance with the terms of the application Ref 13/4240N dated 4 October 2013, subject to the conditions set out in the schedule annexed to this decision.

## **Preliminary matters**

- 2. The application that has given rise to this appeal was submitted in outline form, with only the principle of development and the means of access to the site for full approval at this stage. Other matters, including the layout and landscaping of the site and the scale and appearance of development were 'reserved' for later approval by the Council. However, the application was supported by an illustrative site plan¹ that shows how development might be laid out on the site.
- 3. The appeal is accompanied by a Statement of Common Ground ('SoCG') which sets out a description of the site and its surroundings, and the policy context for consideration of the appeal proposal, including the adopted and emerging development plan, and the Government policy guidance of the National Planning Policy Framework ('NPPF'). Matters not in dispute between the appellants and the Council are identified.

<sup>&</sup>lt;sup>1</sup> Plan Ref 1938-110 Rev F

- 4. The appeal was accompanied by a draft planning obligation under S106 of the Town and Country Planning Act 1990, as amended. The draft obligation, in the form of a unilateral undertaking ('UU') by the landowners and appellants, was discussed at the Inquiry and further drafts submitted. By agreement with the main parties, the Inquiry was adjourned after closing submissions to allow the final UU to be signed and properly executed in accordance with a set timetable. The UU contains covenants in respect of the provision and management of affordable housing on the site, a contribution towards education provision, the implementation of bus stop improvements, and the provision and management of on-site open space. The merits of the obligation are considered later in this decision.
- 5. At the submission of the final UU, the appellants drew attention to a recently published report by Council officers recommending approval of housing development at a nearby site<sup>2</sup>. As the application was relevant to the current appeal, and had been referred to in evidence to the Inquiry, written submissions on the matter were invited and were subsequently received from both main parties and from two interested parties who had spoken at the Inquiry. These submissions and the report and the Council's decision on the application have been taken into account in the determination of this appeal.
- 6. The Inquiry was then closed in writing on 25 June 2015.

## **Proposal**

- 7. The appeal site comprises the farmhouse and outbuildings of Kents Green Farm and two adjoining fields, making up some 2.67 hectares of land. The site is bounded to the north by a tree-lined brook, beyond which is suburban-style housing that marks the edge of the village of Winterley. To the west, the site fronts onto Kents Green Lane, which is a narrow rural road, and to the south onto Crewe Road, which is the main approach to the village. A small field separates the site from further recent housing development to the east. A group of trees adjoining Crewe Road is protected by a Tree Preservation Order ('TPO').
- 8. The submitted application sought permission to erect up to 70 dwellings, but the number was reduced to 60 during consideration of the application by the Council. The revised description of development, as set out in the SoCG is used in the heading and decision above. Of the 60 dwellings, 18 (30%) would be reserved for affordable occupation. The Design and Access Statement ('DAS') that accompanied the application envisages development with a mix of detached, semi-detached and terraced houses. The illustrative plan, which actually shows 64 units, suggests that development would be set back from Crewe Road behind an open space, with the existing hedges and trees retained. It is also proposed to retain and renovate the existing farmhouse and two of the brick-built traditional farm buildings. Access to the new housing would be taken mid-way along the Crewe Road frontage, giving onto a network of short roads within the site and a potential footpath link to the housing area north of the brook.

<sup>&</sup>lt;sup>2</sup> Application Ref 14/3962N Land north of Pool Lane, Winterley, Cheshire

## **Main Issue**

9. It was agreed at the Inquiry that the main issue in the appeal is whether the proposal would amount to a sustainable form of development in accordance with national and local policy, having particular regard to its location on land allocated as open countryside.

#### Reasons

Policy context

- 10. The development plan for the purposes of this appeal comprises the saved policies of the Borough of Crewe and Nantwich Local Plan 2011 ('LP'), adopted in 2005.
- 11. The appeal site lies outside the defined settlement boundary of Winterley. Under saved LP Policy NE.2, it is classed as open countryside, within which only specified classes of development, not including general housing, are to be permitted. This is confirmed by saved Policy RES.5, which defines the limited types of housing considered acceptable in the countryside. The appeal proposal would therefore not comply with these policies.
- 12. Statutory duty requires applications to be determined in accordance with the development plan unless material considerations indicate otherwise<sup>3</sup>. Should the proposed development for housing be contrary to the LP it should be refused unless material considerations are found to outweigh the conflict with the adopted plan.
- 13. Among the material considerations are the policies of the emerging Cheshire East Local Plan Strategy ('CELP'). In addition to the two adopted plan policies cited above, the reason for refusal of the application also referred to CELP Policy PG5, which is similar to them in seeking to protect open countryside from development, other than of certain very limited categories. Examination of the CELP has undergone a period of suspension following the Inspector's interim conclusions on the soundness of the plan. Even if the examination were to resume, the emerging policies are subject to considerable uncertainty and only limited weight can be attached to them. This is accepted by the main parties to the appeal.
- 14. Much greater weight must be given to national policy as set out in the NPPF, which is centred on the achievement of sustainable development. Paragraph 14 of the NPPF states a presumption in favour of sustainable development, which means approving development proposals that comply with the development plan, or, where the plan is absent, silent or relevant policies are out of date, granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies of the NPPF taken as a whole.
- 15. The LP was drawn up to cover the period to 2011, and the settlement boundaries it defined will have reflected the need for and supply of land for new development, particularly housing, at the time the plan was drafted. The plan is now time-expired and its definition of settlement boundaries can thus be seen as out-of-date.

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<sup>&</sup>lt;sup>3</sup> Planning and Compulsory Purchase Act 2004 s38(6)

- 16. At the time of the refusal of the planning application, the Council considered that it could demonstrate a five-year supply of deliverable housing land, as required by NPPF policy, and this is noted in the reason for refusal. However, the Council later acknowledged that this position had changed, so that by the time of the Inquiry, it was common ground that a five-year supply did not exist. In such circumstances, the NPPF advises that the housing supply policies of the development plan cannot be regarded as up-to-date, and the proposal must be assessed in accordance with the presumption in favour of sustainable development set out in NPPF paragraph 14.
- 17. The Council acknowledges that the restriction on the location of development imposed by LP Policies NE.2 and RES.5 is relevant to the supply of housing, and that the policies are therefore out-of-date in this respect. The policies' countryside protection objective remains relevant to the decision, and is a matter to be taken into account in the assessment of the appeal proposal's sustainability.

## Test of sustainability

- 18. The judgment of the High Court in the case of William Davis<sup>4</sup> confirmed that the presumption in favour of sustainable development stated by paragraph 14 could not apply to development that would not be sustainable. The Council seeks to follow that judgment in arguing at this appeal that some form of separate assessment of the sustainability of the proposed development is therefore required before deciding whether paragraph 14 is engaged.
- 19. However, subsequent judgments, in particular *Dartford*<sup>5</sup> and *Bloor*<sup>6</sup>, have clarified that there is not a requirement to carry out a prior or free-standing assessment of sustainability before applying the balancing exercise defined by paragraph 14, which in itself provides a sufficient basis to decide whether proposed development would be sustainable. This approach was endorsed by the Secretary of State's decisions on two appeals at Droitwich<sup>7</sup>, in accepting the conclusion of an Inspector that the need for a separate assessment of sustainability does not arise from the NPPF. In reaching his decision, the Secretary of State acknowledged the *Dartford* judgment, as well as several earlier judgments that had pointed in a similar direction. I note that the more recent Wenman judgment<sup>8</sup> by Mrs Justice Lang, who had issued the William Davis judgment, acknowledges the Dartford and Bloor judgments, but concludes that a separate assessment of sustainability did not give rise to any error of law. However, the judgment is clear that where policies are out-of-date an overall assessment under paragraph 14 is required.
- 20. Therefore, like the Inspector who determined a recent appeal at Saltersford Farm, Crewe<sup>9</sup>, I consider that the Droitwich decisions indicate the interpretation of policy favoured by the Secretary of State, and that it should be applied in this case. No prior or parallel assessment is needed, but the sustainability of the proposed development is to be judged by a positively weighted balancing of

<sup>&</sup>lt;sup>4</sup> William Davis Ltd v Secretary of State for Communities and Local Government [2013] EWHC 3058 (Admin)

 $<sup>^{5}</sup>$  Dartford Borough Council v Secretary of State for Communities and Local Government and Landhold Capital Ltd [2014] EWHC 2636 (Admin)

Bloor Homes East Midlands Ltd v Secretary of State for Communities and Local Government and Hinckley and Bosworth Borough Council [2014] EWHC 754 (Admin)
<sup>7</sup> Appeals Ref APP/H1840/A/13/2199085; APP/H1840/A/13/2199426

<sup>&</sup>lt;sup>8</sup> Mark Wenman v Secretary of State for Communities and Local Government and Waverley Borough Council [2015] EWHC 925 (Admin)

Appeal Ref APP/R0660/A/14/2221374

the benefits and adverse impacts against the policies of the NPPF as a whole. The Council argues that the proposal would not meet that assessment.

## Sustainability of proposed development

- 21. The Council accepts that the proposal would result in economic benefits through the provision of jobs and supply chain investment during the construction phase. There would also be increased demand for local goods and services over the long-term occupation of the dwellings, as well as a short-term local financial benefit from the payment of the New Homes Bonus. As pointed out by a local resident at the Inquiry, the existing farm buildings could have potential for conversion to small business use. The economic dimension of sustainable development would be met.
- 22. The NPPF seeks to boost significantly the supply of housing. There is no dispute that the Council's five-year supply is lacking. The Council accepts that the proposal's contribution to meeting outstanding need for market and affordable housing should be given significant weight in assessing the social dimension of sustainable development. But at the same time it seeks to query the scale of the benefit that would be achieved. In my view the provision of 60 dwellings would amount to a significant benefit, in the light of current conditions and the emerging future need. The provision of 18 affordable dwellings must be seen in the light of a stated need for 44 homes per year in the immediate local area, and would make a significant contribution.
- 23. Evidence on the objective assessment of housing need leading to and arising from the suspension of the CELP examination suggests that the future housing requirement is likely to be considerably greater than previous estimates. Figures produced at the Inquiry suggest that a substantial proportion of the currently projected requirement of 2000 dwellings in the rural areas remains to be found, but that target figure also remains to be confirmed by the final adoption of the CELP. As things stand, the contribution to meeting the current shortfall in supply lends significant weight in support of the proposal.
- 24. Further social benefits would be gained by public access to the proposed open space and equipped play area, whose provision forms part of the UU obligation. There would be clear evidence of the social dimension of sustainable development.
- 25. The Council's primary objection relates to the environmental dimension and the loss of countryside to built development.
- 26. The Council's concern is very much one of principle, and hinges on the loss of 'rural character'. The change from open fields surrounding farm buildings to new housing is seen as inherently harmful. However, it appears that the Council places undue reliance on the core principle of the NPPF which requires recognition of the 'intrinsic character and beauty of the countryside'. This principle is prefaced by the need to 'take account of the different roles and characters of different areas'. The policies of the NPPF do not offer blanket protection for all parts of the countryside, regardless of their quality, but rely on an assessment of harm and benefit. Protection is primarily directed to 'valued landscapes', particularly those with formal designation.
- 27. The appeal site has no such designation, even at county level. I agree with the appellants that the two fields are not unattractive but are of generally

unremarkable landscape quality. This stretch of Kents Green Lane has distinctive character, being lined with trees that provide the setting for the traditionally built, if rather dilapidated, farm buildings. But despite the row of trees along the brook, which provide the site's other most distinctive feature, there is a clear perception of the adjoining village housing. The character of the site is influenced by its location at the village edge and is not classic 'open countryside'. The appeal proposal would not amount to the type of 'new isolated homes in the countryside' that NPPF paragraph 55 seeks to resist.

- 28. The Council accepts that meeting current and future housing requirements will involve the release of greenfield land, often at the edge of settlements. Reference was made in evidence to the Inquiry to other schemes for which permission had already been granted. It is not entirely clear why the Council considers that this is an instance where the settlement boundary should not be allowed to 'flex'. The expansion of the original linear village towards the west has clearly been a pattern of development over many years, with the village edge already extending to Kents Green Lane immediately to the north of the site. The site has been identified in the Council's SHLAA<sup>10</sup> Update of February 2013 as suitable for development. Furthermore, the Council raises no objection on landscape grounds and the SoCG confirms agreement that an acceptable design and layout of development could be achieved.
- 29. The junction of Kents Green Lane with Crewe Road already marks an informal edge to the settlement, identified by the change in speed limit, and by the opening of views of the village buildings. I accept that the sharp bend to the east, at Winterley Pool, makes a more pronounced entrance, but the extension of built form to the Kents Green corner, particularly when well set back behind hedges and protected trees as indicatively proposed, would not provide an incongruous form of development.
- 30. The Council and other parties raise concern about the reduction that this would entail of the gap between Winterley and Haslington. There would be some erosion of the gap, but a substantial separation would remain. There would be no risk of perceived merger of the two villages.
- 31. Similarly, the proposal would involve expansion of Winterley's physical envelope, but would be unlikely to fundamentally alter the character of the settlement or of views out from the centre of the village, even allowing for other development already approved. The village would clearly remain as a small-medium sized settlement in a rural setting. The appropriateness of the village for future development, including the concern raised about imbalance between the north and south of the borough, is a matter to be resolved by the CELP.
- 32. I consider that there would be some loss of rural character of the site as a result of the proposed development, principally as experienced from Kents Green Lane, and some loss of the sense of an open break between settlements when travelling on Crewe Road, but that the effects in either case would not be significantly harmful.
- 33. The Council accepts that the site is sustainably located in terms of access to facilities and use of non-car modes of transport. The bus stops adjoining the south-west corner of the site provide hourly services to larger centres.

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<sup>&</sup>lt;sup>10</sup> Strategic Housing Land Availability Assessment

Improvements to the stops would be funded through the UU. While Winterley lacks some local community facilities, those in Haslington would be quite readily reachable by bus or cycle or on foot. The proposed Travel Plan should include measures to encourage non-car modes. Concern has been expressed by some local residents about the suitability of Clay Lane as a pedestrian route to the nearest primary school, but there would be a potentially safer alternative using the footways along Crewe Road.

- 34. There are no objections by the highway authority on grounds of safety or the effect of traffic generation on the immediate or wider highway network. Notwithstanding the concerns of some local residents about the location of the proposed site access and the effect of additional trips likely to be generated, I have found no reason to dissent from the highway authority's view.
- 35. The Council's assessment of air quality issues gives no grounds for concern for future residents' living conditions, while the need for sound insulation measures in houses close to the road can be the subject of a condition.
- 36. While layout is reserved for later approval, the indicative plan gives confidence that dwellings could be laid out to avoid harmful effects on outlook from existing houses near the site, particularly those to the north of the brook, or to affect their privacy. Scale is also a reserved matter, but the intention of the DAS is to provide houses of similar scale to those nearby. It would be unduly restrictive to impose a condition at this stage, as requested by a local resident, preventing the option of any development above two-storey level.
- 37. It is agreed that the site has limited ecological value. Subject to the approval prior to the commencement of development of updates to the draft mitigation strategies for bats and badgers submitted in support of the planning application, secured by a condition, there should be no harm to nature conservation interests. The approval of reserved matters would allow opportunities for habitat enhancement measures. The retention and protection of trees and hedges could also be secured by a condition.
- 38. A small portion of the site is said to be subject to flooding. Conditions are proposed to restrict development to Flood Zone 1 and to create a clear strip along the bank of the brook, and to require approval of details of surface water and foul drainage. Notwithstanding some local concern, it appears that subject to these measures the risk of flooding on the site and elsewhere would be adequately mitigated.
- 39. Winterley Cottage, on the opposite side of Crewe Road, is a Grade II listed house dating from the early C19. The house's immediate setting is defined by its contained front garden with mature trees. The appeal site forms part of the wider setting but there is no evidence that it makes any particular contribution to the house's significance as a heritage asset. I agree with the main parties that the proposed development, including the site access, would be sufficiently set away from the house that its setting would not be harmed.
- 40. For the reasons set out above, I consider that apart from some very limited harm to rural character, the environmental dimension of sustainable development would largely be addressed. When assessed against the policies of the NPPF as a whole, the adverse impacts of the proposed development would not significantly and demonstrably outweigh the benefits. The proposal

must therefore be regarded as sustainable development, to which the presumption in favour set by the NPPF would apply.

# **Unilateral Undertaking**

- 41. The Council raises no objection to the construction or content of the completed UU, and has provided a CIL<sup>11</sup> Compliance Statement which sets out the background to each of the obligations given.
- 42. In addition to providing for approval of the phasing of development, the UU allows for 30% of the dwellings on the site to be provided as affordable housing, for the timing of their provision and transfer, and for definition of the numbers, type and location of the affordable units and the control of their future occupation. The Council has confirmed that these provisions would accord with its normal requirement, based on LP and NPPF policy and the level of unmet need in the area. No concern has been raised by the appellants about effect on viability.
- 43. The UU provides for the laying out and later management of open space on the site, and the provision of a LEAP equipped play area. The Council confirms that the proposed provision would readily meet local standards and accord with LP policy.
- 44. A contribution of £30,000 would secure improvements to the two bus stops adjacent to the site, principally through the provision of proper waiting facilities on the southern side of the road, where there is no footway. The Council confirms that the amount needed has been calculated by the highway authority and that the proposal would comply with LP policy.
- 45. I am satisfied that each of these site-specific obligations would comply with the requirements of the CIL Regulations 2010 and with the tests set out in paragraph 204 of the NPPF and with the advice of the PPG. The obligations can be fully taken into account in support of the appeal proposal.
- 46. The UU also includes an obligation to pay contributions of £119,309 towards the provision of primary school places and £130,742 towards secondary school places. The Compliance Statement provides details of the education authority's methodology in calculating the amounts and of the schools assessed within 2 mile and 3 mile catchment areas. The consultation response by the education authority provides details of the committed schemes that would remove any apparent surplus capacity at the relevant schools. The SoCG records agreement that these payments are necessary to address the impacts of the development on local infrastructure.
- 47. I am satisfied that this obligation would comply with the requirements of the CIL Regulations 2010 and with the tests set out in paragraph 204 of the NPPF and with the advice of the PPG. The Council confirms that there would be no breach of the requirements of Reg 123 with regard to the pooling of contributions. The obligation can be fully taken into account in support of the appeal proposal.

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<sup>&</sup>lt;sup>11</sup> Community Infrastructure Levy

## **Conditions**

- 48. A schedule of conditions agreed by the main parties, together with one disputed condition, was discussed at the Inquiry. Subject to some amendment and amalgamation, I am satisfied that the agreed conditions would be reasonable and necessary and would comply with the requirements of the NPPF and the advice of national Planning Practice Guidance.
- 49. In summary, standard conditions are required on the approval of the reserved matters and on the commencement of development. Confirmation of the number of dwellings and of the approved plans is needed to define the nature and extent of the development and the approved access arrangements. Further conditions are required to ensure that the submission of reserved matters and later details complies with the considerations taken into account in the approval of the outline permission and would respect the character and appearance of the area. These include details of phasing, landscaping, site and building levels, retention of farm buildings and details of materials and boundary treatments.
- 50. As outlined above, a set of conditions on the location of development, the formation of a buffer zone along the brook bank and the details of surface water and foul drainage are needed to minimise the risk of flooding.
- 51. Further investigation of potential contamination, and approval and implementation of any necessary remediation, are required to ensure satisfactory living conditions for future residents. For the same reason, assessment and implementation of acoustic measures is needed for houses adjoining Crewe Road, and approval of proposed external lighting.
- 52. Protection of living conditions for existing residents and of highway safety justifies the approval and implementation of an Environmental Management Plan to govern hours of work and operation of the construction phase, and the implementation of the site access.
- 53. For the protection and enhancement of the natural environment, a set of conditions is needed to include the protection of nesting birds during construction, habitat improvements, and approval and implementation of mitigation strategies for bats and badgers. For the same reason, and to protect the character and appearance of the area, conditions are needed for the approval and implementation of tree protection measures and of the layout and management of open space.
- 54. In order to promote the sustainable use of the completed development, conditions are justified on the provision of bin storage and recycling and the approval and implementation of a Travel Plan
- 55. I agree with the appellants that the proposed condition on the provision of broadband infrastructure would not be justified in the absence of a clear adopted policy provision to support its imposition.

#### Conclusion

56. For the reasons set out above, I conclude that the proposal would be contrary in principle to LP Policies NE.2 and RES.5, but that the conflict would be outweighed by other material considerations. These are principally the contribution that the proposal would make to meeting unmet need for market and affordable housing that arises from the borough's lack of an adequate

housing supply, and the very limited harm that it would cause, thereby benefitting from the presumption in favour of sustainable development set by the NPPF.

57. Having taken careful account of the submissions made both in writing and at the Inquiry and having regard to the obligations of the completed UU, I conclude that the appeal should be allowed and outline planning permission granted subject to conditions.

Brendan Lyons

**INSPECTOR** 

## **Annex**

# Appeal Ref: APP/R0660/A/14/2225591 Kents Green Farm, Kents Green Lane, Haslington, Crewe CW1 5TP

## **Schedule of Conditions**

- (1) Details of the layout, scale, appearance and landscaping, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
- (2) Application(s) 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 begin no 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 comprise a maximum of 60 new-build dwellings.
- (5) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan Ref 1938-101\*, Proposed Site Access Ref SCP/13219/GA01 Rev A.
- (6) The reserved matters shall include a scheme of phasing for the development. The development shall be carried out in accordance with the approved scheme unless amended by a subsequent reserved matters application.
- (7) Any future reserved matters application for approval of landscaping shall be in general accordance with the indicative Site Layout Ref 1938-110 Rev F, and shall make provision for replacement hedge planting for any hedgerows to be removed as part of the development hereby permitted.
- (8) Prior to the commencement of the development hereby permitted, details of existing ground levels, proposed ground levels and the levels of proposed floor slabs for the dwellings shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- (9) Prior to the commencement of the development hereby permitted, details of a scheme for the retention and renovation of the farmhouse and two brick barns adjoining Kents Green Lane shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- (10) Prior to the commencement of the development hereby permitted, details or samples of the materials to be used in the construction of

boundary treatments and the external surfaces of the dwellings shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

- (11) Prior to the commencement of the development hereby approved, details of the positions, design, materials and type of boundary treatment to be erected shall be submitted to and approved in writing by the local planning authority. No dwelling shall be occupied until the boundary treatment pertaining to that property has been implemented in accordance with the approved details.
- (12) Prior to the commencement of the development hereby permitted, a scheme demonstrating that all built development is to be located within Flood Zone 1 as indicated on the Environment Agency's flood risk map shall be submitted to and approved in writing by the local planning authority.
- (13) Prior to the commencement of the development hereby permitted, a scheme to limit the surface water runoff generated by the development and to manage the risk of flooding from overland flow of surface water shall be submitted to and approved in writing by the local planning authority.
- (14) Prior to the commencement of the development hereby permitted, a scheme for the provision and management of an undeveloped buffer zone alongside Fowle Brook shall be submitted to and approved in writing by the local planning authority. The buffer zone shall be a minimum of 5m wide measured from bank top (bank top is defined as the point at which the bank meets normal land levels), and shall be kept free from built development including domestic gardens and formal landscaping.

#### The scheme shall include:

- plans showing the extent and layout of the buffer zone, including cross sections clearly showing the watercourse, bank top and the edge of the development.
- details of any proposed planting scheme (for example, native species).
- details demonstrating how the buffer zone will be protected during development and managed/maintained over the longer term including adequate financial provision and named body responsible for management plus production of a detailed management plan.
- details of any proposed footbridge across the brook and proposed footpaths, fencing, lighting and associated development.

The development shall be carried out and retained thereafter in accordance with the approved scheme.

(15) Prior to the commencement of the development hereby permitted, a scheme for the disposal of foul water from the development shall be submitted to and approved in writing by the local planning authority. For the avoidance of doubt, surface water shall drain separately from

the foul and no surface water will be permitted to discharge directly or indirectly into the existing public sewerage system. The approved scheme shall be implemented prior to the first occupation of the development hereby permitted.

- (16) Prior to the commencement of the development hereby permitted:
  - (i) A thorough site walkover shall be undertaken in order to inform the design of a Phase II investigation for contaminated land.
  - (ii) A Phase II investigation shall then be carried out and the results submitted to and approved in writing by the local planning authority.
  - (iii) If the Phase II investigations indicate that remediation is necessary, then a Remediation Statement shall be submitted to and approved in writing by the local planning authority. The remediation scheme in the approved Remediation Statement shall then be carried out.
  - (iv) If remediation is required, a Site Completion Report detailing the conclusions and actions taken at each stage of the works, including validation works, shall be submitted to and approved in writing by the local planning authority prior to the first occupation of any part of the development hereby approved.
- (17) Prior to the commencement of the development hereby permitted, an acoustic assessment report detailing any required noise mitigation measures for internal and external areas of the properties adjacent to Crewe Road shall be submitted to and approved in writing by the local planning authority. Any mitigation measures must achieve the internal noise levels within the "good" standard defined by BS 8233:1999. The scheme must also include provisions for ventilation that will not compromise the acoustic performance of any proposals whilst meeting building regulation requirements. The development shall be implemented in accordance with the approved scheme.
- (18) Prior to installation, details of any external lighting shall be submitted to and approved in writing by the local planning authority. The details shall include the location, height, design and luminance of any lighting and minimise potential loss of amenity caused by light spillage on adjoining properties. The lighting shall thereafter be installed and operated in accordance with the approved details.
- (19) Prior to the commencement of the development hereby permitted, an Environmental Management Plan shall be submitted to and approved in writing by the local planning authority. In particular, the Plan shall include details of:
  - a. The hours of construction work and deliveries;
  - b. The parking of vehicles of site operatives and visitors;
  - c. Loading, unloading and storage of plant and materials;
  - d. Wheel washing facilities;
  - e. Any piling required, including method (best practicable means to reduce the impact of noise and vibration on neighbouring sensitive properties), hours, duration, prior notification to the occupiers of potentially affected properties;

- f. A responsible person (e.g. site manager / office) who could be contacted in the event of complaint;
- g. Mitigation measures in respect of noise and disturbance during the construction phase including piling techniques, vibration and noise limits, monitoring methodology, screening, a detailed specification of plant and equipment to be used and construction traffic routes;
- h. Waste management. There shall be no burning of materials on site during demolition / construction;
- A scheme to minimise dust emissions arising from demolition/ construction activities on the site, including details of all dust suppression measures and the methods to monitor emissions of dust arising from the development.

The approved Environmental Management Plan shall be implemented and kept in force during the demolition / construction phase of the development.

- (20) Prior to the first occupation of the development hereby permitted the formation of the site access and associated works shall be carried out in accordance with the approved details.
- (21) Prior to any commencement of works between 1st March and 31st August in any year, a detailed survey shall be carried out by a suitably qualified person to check for nesting birds and the results submitted to and approved by the local planning authority. Where nests are found in any building, hedgerow, tree or scrub to be removed (or converted or demolished in the case of buildings), a 4 metre exclusion zone shall be left around the nest until breeding is complete. Completion of nesting shall be confirmed by a suitably qualified person and a further report submitted to and approved in writing by the local planning authority before any further works within the exclusion zone take place.
- (22) Prior to the commencement of the development hereby permitted, detailed proposals for the incorporation of features into the scheme suitable for use by breeding birds, including house sparrow, shall be submitted to and approved in writing by the local planning authority. The approved features shall be installed prior to the first occupation of the development hereby permitted and thereafter retained.
- (23) Notwithstanding the submitted Ecological Scoping and Protected Species Report (October 2013), Outline Bat Mitigation Strategy (November 2013) and Outline Badger Mitigation Statement (December 2013), any future reserved matters application for approval of layout or landscaping shall be supported by updated badger and bat surveys and mitigation strategies. The development shall be carried out in accordance with the approved revised mitigation strategies.
- (24) Prior to the commencement of the development hereby permitted (including any tree felling, tree pruning, demolition works, soil moving, temporary access construction and/or widening or any operations involving the use of motorised vehicles or construction machinery), a detailed Arboricultural Method Statement shall be

submitted to and approved in writing by the local planning authority. The Method Statement shall include details of the following:-

- a. A scheme (hereinafter called the "approved protection scheme"), which provides for the retention and protection of trees, shrubs and hedges growing on or adjacent to the site including trees which are the subject of a Tree Preservation Order currently in force, or are shown to be retained on the approved layout, and which shall be in place prior to the commencement of work.
- b. Implementation, supervision and monitoring of the approved protection scheme. The approved protection scheme shall be retained intact for the full duration of the development hereby permitted and shall not be removed without the prior written permission of the local planning authority.
- c. A detailed Tree Work Specification.
- d. Implementation, supervision and monitoring of the approved Tree Work Specification.
- e. Implementation, supervision and monitoring of all approved construction works within any area designated as being fenced off or otherwise protected. No excavations for services, storage of materials or machinery, parking of vehicles, deposit or excavation of soil or rubble, lighting of fires or disposal of liquids shall take place within any area designated as being fenced off or otherwise protected in the approved protection scheme.
- f. Timing and phasing of arboricultural works in relation to the approved development.

No development shall take place except in complete accordance with the approved Method Statement.

- (25) The first reserved matters application shall include an Open Space Scheme showing all areas of open space to be provided within the site, including public amenity open space and an equipped children's play area (LEAP). The scheme shall also include details of the location, layout and size, the timing of provision, proposed planting, location and specification of boundary structures, play equipment and materials.
- (26) Prior to the first occupation of any dwelling on the site, a Management Plan for the future management and maintenance of the open space shall be submitted to and approved in writing by the local planning authority. The Plan shall identify the maintenance requirements including all ongoing maintenance operations, and shall thereafter be implemented in perpetuity.
- (27) Prior to the commencement of the development hereby approved, details of the proposed bin storage facilities shall be submitted to and approved in writing by the local planning authority. The details shall ensure that bins are stored securely, and provide facilities for both recyclable and household waste storage. No dwelling shall be occupied until the bin storage facilities pertaining to that dwelling have been constructed and made available for use.

(28) Prior to the first occupation of the development hereby permitted, a Travel Plan shall be submitted to and approved in writing by the local planning authority. The Travel Plan shall include a timetable for implementation and provision for monitoring and review. No part of the development hereby permitted shall be occupied until those parts of the approved Travel Plan that are identified as being capable of implementation prior to occupation have been carried out. All other measures contained within the approved Travel Plan shall be implemented in accordance with the timetable contained therein and shall continue to be implemented, in accordance with the approved scheme of monitoring and review.

## **APPEARANCES**

#### FOR THE LOCAL PLANNING AUTHORITY:

Graeme Keen of Counsel Instructed by the Head of Legal Services,

Cheshire East Council

He called:

Ben Haywood Major Applications Team Leader,

BA(Hons) MA MBA MRTPI MCMI

For discussion of obligation:

Patricia Evans Legal Services Department,

Cheshire East Council

Cheshire East Council

FOR THE APPELLANTS:

Jeremy Cahill QC Instructed by David Diggle, Turley Planning

He called

David Diggle Director, Turley Planning

BSc(Hons) MCD MRTPI Written evidence by:

Iain M Reid Director, Iain Reid Landscape Planning Ltd

DipTRP DipLD MRTPI MLI

**INTERESTED PERSONS:** 

Elly McFahn Local resident, for Winterley Action Group Geoff Beadle Chairman, Haslington Parish Council

John Hammond Member, Cheshire East Council

Member, Haslington Parish Council

Richard Hovey Local resident Jean Jameson Local resident

#### **DOCUMENTS**

Submitted at the Inquiry:

- 1. Cheshire East Housing Development Study 2015
- 2. High Court Challenge Claim Form: Muller Property Group v Secretary of State for Communities and Local Government and Cheshire East Council
- 3. Officer report: Application Ref 12/3564N Land off Vicarage Road, Haslington
- 4. Opening Statement on behalf of the Appellant
- 5. Opening Statement on behalf of Cheshire East Council
- 6. CIL Compliance Statement
- 7. Draft Unilateral Undertaking
- 8. Extract from LTP Final Strategy
- 9. Appeal Decision Ref APP/R0660/A/14/2220021 Land off Wren Close, Nantwich
- 10. Elly McFahn's Statement
- 11.Geoff Beadle's Statement
- 12. Councillor Hammond's Statement
- 13. Richard Hovey's Statement
- 14. Cheshire East Press Release, 13 May 2015

- 15.List Entry: Winterley Cottage
- 16. Table of housing completions and commitments for Rural Area
- 17. Letter from Mr G F Thompson on Application Ref 14/1915N
- 18. Letter from Dr C D Easter on Application Ref 14/1915N
- 19. Amended Unilateral Undertaking
- 20. Closing Submissions on behalf of Cheshire East Council
- 21. Closing Submissions on behalf of the Appellant

## Submitted following adjournment of the Inquiry:

- 22.Copy of Unilateral Undertaking as completed
- 23.E-mail dated 3 June 2015 from Council, confirming receipt of executed Unilateral Undertaking
- 24.E-mail dated 3 June 2015 from Turley Planning, enclosing copy of committee report on Application Ref 14/3962N Land north of Pool Lane, Winterley
- 25.E-mail dated 15 June 2015 from Council, enclosing copy of Decision Notice for Application Ref 14/3962N
- 26.E-mail dated 16 June 2015 from Councillor Hammond
- 27.E-mail dated 17 June 2015 from Richard Hovey
- 28.E-mail dated 3 June 2015 from Turley Planning, confirming no further submissions.

# ARBORICULTURAL STATEMENT

ON

PROPOSED RESIDENTIAL DEVELOPMENT

LAND AT MANCHESTER ROAD, TUNSTEAD MILTON SK23 7ES

ON BEHALF OF

MR G BEVAN

HIGHER BIRCHES, TUNSTEAD MILTON HIGH PEAK SK23 7ES

**Author: Glyn Thomas** 

Our Ref: CW/7645-AS1

Date: 15 September 2015

## **CONTENTS**

- 1. Executive Summary
- 2. Terms of Reference
- 3. Introduction
- 4. The Site
- 5. Statutory Tree Protection
- 6. Survey Methodology
- 7. Evaluation of the Trees
- 8. Conclusions
- 9. Recommendations
- 10. References

## **APPENDICES**

- 1. Tree Survey Schedule CW/7645-SS2
- 2. Tree Constraints Plan CW/7645-P-TC-3
- 3. Guidance Note Retention Values and Visual Prominence
- 4. Guidance Note Statutory Controls
- 5. Glossary of Terms

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## EXECUTIVE SUMMARY

- 1.1 Outline planning permission is sought for the erection of six new dwellings on agricultural land at the junction of Manchester Road and Tom Lane in Tunstead Milton.
- 1.2 Trees and hedges on and adjacent to the site have been assessed and the impacts of the development proposal on trees evaluated in accordance with current best practice guidance.
- 1.3 One tree to the centre of the site, four trees to the Manchester Road boundary and four sections of boundary hedge will be removed, the loss of which can be mitigated by new tree planting and management of an area of public open space to the rear of the site.
- 1.4 All of the trees and hedges identified for retention can be protected during the development in accordance with current best practice recommendations.
- 1.5 Some construction works are proposed within the root protection areas of several retained trees but should not cause any significant long-term harm providing appropriate safeguards are implemented during the development.
- 1.6 Residual details for the protection of retained trees and hedges, the installation of new hard surfacing within root protection areas and landscaping of the site can be resolved by planning condition.
- 1.7 The development proposal is sustainable in arboricultural terms.

## 2. TERMS OF REFERENCE

#### 2.1 Instruction

- 2.1.1 Cheshire Woodlands is instructed by Garie Bevan to:
  - Survey and prepare a schedule of trees to comply with the general requirements of British Standard 5837:2012 Trees in relation to design, demolition and construction – Recommendations (BS5837)
  - Annotate a topographical land survey drawing and produce a Tree Constraints Plan
  - Appraise a development proposal in relation to trees and produce an arboricultural statement
- 2.1.2 The following documents have been considered in our evaluation:
  - Topographical land survey drawing ref. SSL:15891:200:1:1
  - Proposed site layout drawing ref. 1207.PL03
  - Preliminary tree survey schedule ref. CW/7645-SS
  - Tree constraints plans drawing refs. CW/7645-P-TC and TC-1

## 2.2 Limitations

- 2.2.1 Assessing the potential effects of trees upon load-bearing soils beneath existing and proposed structures is not considered in this report.
- 2.2.2 The tree survey is carried out in sufficient detail to gather data for and inform the current project. Our appraisal of the mechanical integrity of trees on the site is of a preliminary nature and sufficient only to inform the project. The assessment of trees was carried out from ground level without invasive investigation and the disclosure of hidden defects cannot be expected.

- 2.2.3 Trees were viewed from within the site or from areas with public access.

  Our assessment was restricted where trees were ivy clad or where vegetation obscured lower stems and root collars.
- 2.2.4 This report and associated documents remain the copyright of Cheshire Woodlands and there should be no transfer of rights to any third party without our express written consent.

#### INTRODUCTION

- 3.1 The shaded sections in this report highlight the key issues that are specific to the project.
- 3.2 This assessment evaluates the impacts of a development proposal on trees. The comparative values of trees are considered broadly in line with the guidance of BS5837 and retention, protection and management of trees are informed by this evaluation.
- 3.3 Glyn Thomas (Dip Arb (RFS), FICFor, FArborA, CEnv) senior consultant with Cheshire Woodlands Ltd assessed the trees and the development proposal. The tree survey was carried out on 18 March 2015.
- 3.4 The construction of six detached dwellings and associated access and hardstanding is proposed as set out on the planning application drawings and on the tree constraints plan at appendix 2. An area to the south of the site will be developed as public open space.
- 3.5 This report provides sufficient supporting information to demonstrate impacts on trees and enable the local planning authority (LPA) to determine the planning application insofar as it relates to trees. It does not include detailed working specifications for the protection of trees or engineering and design features, which if required can be resolved by planning condition.

#### 4. THE SITE

- 4.1 The site, which slopes by around 5 metres from north east to south west and comprises open grazing land with mature trees and hedges to the front and side boundaries, is bounded by Manchester Road (B5470) to the north, Tom Lane and Combs Reservoir to the east, open agricultural land and woodland to the south and a residential property to the west.
- 4.2 The British Geological Survey Geology of Britain Viewer identifies the underlying soils as 'Till, Devensian Diamicton'. Till is a general term referring to any kind of sediment deposited directly from glacier ice; typically unstratified and unsorted and sometimes called 'boulder-clay'. No soil samples were taken during our survey.

#### STATUTORY TREE PROTECTION

5.1 Email enquiries to High Peak Borough and Derbyshire County Councils confirmed that trees on and adjacent to the site are subjects of The Derbyshire County Council Tree Preservation Order No. 78 of 1962 Tunstead Milton, Chapel-En-Le-Frith Rural District, which is referenced in the tree survey schedule at appendix 1. The site is not in a conservation area. See appendix 4 for further guidance.

## 6. SURVEY METHODOLOGY

6.1 The topographical land survey overlaid with the site layout proposal drawing is the base for our tree constraints plan.

- 6.2 The trees were identified, measured and recorded in the tree survey schedule with tree stem diameters and canopy spreads mostly measured using a tape, tree heights using a tape and clinometer.
- 6.3 The trees were assessed on the basis of the 'visual tree assessment method' (Mattheck and Breloer 1994).
- 6.4 Below ground constraints are represented as 'root protection areas' (RPA), calculated and where appropriate, modified in accordance with section 4.6 and table D.1 of BS5837. The RPA is a layout design tool indicating an area of ground around a tree containing sufficient roots and rooting volume to maintain tree viability.
- 6.5 The RPAs for trees T4, T5 and G3/1, groups G1 and G2, five trees in G1 and two trees in G6, have been modified on the basis that there is unlikely to be any significant root activity beneath the highway carriageway along Manchester Road to the northern boundary and Tom Lane to the east.
- 6.6 All surveyed trees were assessed for 'Visual Prominence' and were categorised as set out in Table 1 below (see appendix 3 for further guidance).
- 6.7 A brief assessment for obvious signs of wildlife habitat in trees and hedges on the site was carried out during our survey. Any wildlife habitats of potential significance identified in the trees during our survey will be described in the 'comments' column of the tree survey schedule.



## 7. EVALUATION OF THE TREES

7.1 BS5837 recommends that trees be evaluated and categorised as set out in Table 1, which also provides a summary of the impact of the application proposal on trees.

## 7.2 Table 1

|   | To be retained and protected   | To be removed for development  | To be removed for other reasons |
|---|--|--|---------------------------------|
| Category A  High quality with life expectancy of at least 40 years                      | None   | None   | None                            |
| Category B  Moderate quality with life expectancy of at least 20 years                  | Trees T3, T4, T5<br>and G3/1 and<br>groups G1, G2 and<br>G6                                    | Trees T1 and G3/2<br>and group G5                                    | None                            |
| Category C  Low quality with life expectancy of at least 10 years, or small young trees | Group G4   | Tree T2  | None                            |
| Category U  Cannot be retained in context of current land-use for longer than 10 years  | None   | None   | None                            |
| Hedges and Shrubs   | Hedges H1 (save for<br>three 7-9m long<br>sections) and H2<br>(save for an 8m<br>long section) | Three 7-9m long<br>sections of H1 and<br>an 8m long section<br>of H2 | None                            |

- 7.3 A total of nine 'moderate quality' B category and two 'low quality' C category trees and groups and two field boundary hedges were assessed.
- 7.4 The off-site group G4 beyond the western boundary is unaffected by the development proposal and requires no particular consideration.

- 7.5 The 'low quality' C category alder tree T2 to the centre of the site will be removed to accommodate the new dwelling at Plot 2. The loss of this tree will have no significant impact on the wider amenity and can easily be mitigated by the provision of new trees and landscaping.
- 7.6 Four of the 'moderate quality' B category ash trees to the Manchester Road boundary trees T1 and G3/2 and group G5 will be removed to accommodate the new accesses serving plots 1 to 4 and the highway visibility splays at plots 5 and 6. Whilst the loss of these trees will have a more significant impact on the local street-scene, we understand their removal has been agreed in broad terms during pre-application discussions with the Council's Arboricultural Officer, and that any resulting impacts will be mitigated by new tree planting along the northern boundary, within the rear gardens of the new dwellings and in the area to the south of the site as part of development of the proposed public open space.
- 7.7 Four sections of boundary hedges H1 and H2, of around 7 to 9 metres long, will be removed to accommodate the new vehicular and pedestrian accesses and will be mitigated by the planting of a new native hedge to the southern edge of the new public footpath at the front of the dwellings.
- 7.8 The remaining 'moderate quality' B category trees to the northern boundary fronting Manchester Road trees T4, T5 and G3/1 and groups G2 and G6 to the eastern boundary along Tom Lane group G1 and to the rear of the site tree T3 together with the remaining sections of hedges H1 and H2 comprising almost 80% of the northern boundary will be retained and can be protected during the development in accordance with current best practice as set out in BS5837.
- 7.9 Retained groups G1 to G3 and G6 will be pruned as detailed in the

'management' column of the tree survey schedule to remove low branches and improve ground clearances over the site. Such works are of a minor nature and will have no significant long-term impacts on the wider amenity or the health of the trees.

- 7.10 Detailed recommendations for the installation of new permanent hard surfacing within RPAs are set out at section 7.4 of BS5837 and will be implemented in the areas identified with orange cross-hatching on the tree constraints plan, where the new public footpath and areas of new hardstanding at the fronts of the dwellings extend into the RPAs of retained trees T4, T5 and G3/1 and groups G2 and G6.
- 7.11 Section 7.4.2.3 of BS5837 suggests that 'new permanent hard surfacing should not exceed 20% of any existing unsurfaced ground within the RPA'.

  Our calculations confirm that this is broadly achievable for trees T4, G3/1, G2 and G6 (between 7% and 24% coverage), but is exceeded for tree T5 (35% coverage). Given that the suggested 20% maximum is an arbitrary limit, with no apparent technical justification or evidence base, and that the calculated RPA for T5 based on a basal stem diameter is most probably a substantial over-estimation of root spread, at more than three times the canopy area, there is no substantive reason why the additional 15% RPA coverage would result in any significant adverse impacts or otherwise compromise the tree's long-term retention.
- 7.12 Recommendations for the provision of pedestrian construction access within RPAs are detailed at section 6.2.3.3 a) of BS5837 and will be implemented in the area identified with orange diagonal hatching on the tree constraints plan, where the RPA of one of the retained trees in group G1 extends close to the side elevation of plot 6.
- 7.13 Details for the protection of retained trees and hedges during the

development and new tree planting can reasonably be resolved by planning condition and should include submission and local planning authority (LPA) approval of:

- A detailed landscaping scheme including suitable replacement trees for T1, G3/2 and G5 and management of the public open space
- · A 'tree protection plan' and 'arboricultural method statement'
- Engineering details for the installation of new hard surfacing within the RPAs of retained trees.

## 8. CONCLUSIONS

- 8.1 Implementing the development proposal will require the removal of one 'low quality' tree to the centre of the site and four 'moderate quality' trees and around 30 metres of hedge to the northern boundary, which we understand has previously been agreed in broad terms with the Council's Arboricultural Officer during pre-application discussions.
- 8.2 All of the remaining boundary trees and hedges will be retained and can be protected during the development in accordance with current best practice guidance.
- 8.3 Some construction works are proposed within the RPAs of several of the retained trees but are achievable without significant long-term adverse impacts providing the appropriate safeguards are implemented during the design and build process.
- 8.4 New tree and hedge planting around the site boundaries and as part of management of public open space at the rear of the site will mitigate trees and hedges lost to the development, enhance the landscape setting of the

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site, improve continuity of tree cover in the area and provide considerable long-term amenity benefits.

8.5 Residual details for the protection of retained trees and hedges during the development, the installation of new hard surfacing within the RPAs of retained trees and landscaping of the site can be resolved by planning condition.

## 9. RECOMMENDATIONS

- 9.1 No tree or hedge pruning or removal works should commence on site until the requisite consents have been obtained from the LPA, either in respect of the tree preservation order or as part of a detailed planning permission.
- 9.2 All tree and hedge pruning and removal works should be implemented in accordance with the tree survey schedule at appendix 1 and in compliance with the requirements of BS3998:2010.
- 9.3 Statutory protection of wildlife should be taken into account in the planning and execution of tree and hedge pruning and removal. See appendix 4 for further guidance.
- 9.4 All trees and hedges scheduled for retention should be protected during the development in accordance with a scheme of work to be agreed with the LPA and in compliance with section 5.5 of BS5837.
- 9.5 The areas of new hard surfacing identified with orange cross-hatching on the tree constraints plan should be installed in accordance with an engineer-designed construction specification and method statement to be agreed with the LPA and in compliance with section 7.4 of BS5837. The

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specification should include detailed working drawings and details of likely loading, the bearing capacity of the underlying soils and existing and proposed ground levels.

- 9.6 Foundation design should take into consideration the juxtaposition of existing and proposed trees and the nature of the load-bearing soils.
- 9.7 Underground services should be installed in accordance with a scheme of works to be agreed with the LPA and in compliance with the requirements of BS5837 and NJUG Volume 4.
- 9.8 Landscaping of the site and management of the public open space should be implemented in accordance with a scheme of works to be agreed with the LPA.

#### 10. REFERENCES.

Anon. Geology of Britain Viewer. British Geological Survey, Nottingham. <a href="http://www.bgs.ac.uk/">http://www.bgs.ac.uk/</a> (accessed 21 May 2015)

BS5837:2012. Trees in relation to design, demolition and construction - Recommendations. British Standards Institute, London.

BS3998:2010. Tree work - Recommendations. British Standards Institute, London.

Mattheck. M, and Breloer. H,. 1994. The Body Language of Trees A handbook for failure analysis. Research for Amenity Trees No. 4.

NJUG Volume 4. 2007. NJUG Guidelines for the Planning, Installation and Maintenance of Utility Apparatus in Proximity to Trees. National Joint Utilities Group, Milbank, London. 34pp.

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DATE: 18 MARCH 2015

SURVEYED BY: G THOMAS

PAGF: 1

PROJECT: LAND AT MANCHESTER ROAD, TUNSTEAD MILTON

CLIENT: MR G BEVAN REF: CW/7645-SS2

**REVISIONS:** 

| KE V | ISIONS.                  |              |               |                        |                      |          |  |   |        |                                |                                |                                |
|------|--------------------------|--------------|---------------|------------------------|----------------------|----------|--|---|--------|--------------------------------|--------------------------------|--------------------------------|
| No.  | Species                  | Age<br>Range | Height<br>(m) | Crown<br>Spread<br>(m) | Stem<br>Dia.<br>(mm) | Vitality | Comments   | Management  | Visual | Retention<br>Value<br>Existing | Retention<br>Value<br>Proposed | BS5837<br>RPA<br>Radius<br>(m) |
| T1   | Ash (Fraxinus excelsior) | EM           | 14            | 10.5                   | 290<br>330<br>330    | G        | Field boundary hedgerow tree     Triple-stemmed from just above ground lovel | <ul> <li>Fell for development</li> <li>Grub out or grind stump to a double of 0.3m</li> </ul> | 3      | В                              | U                              | N/A                            |

|   |                             |      |    |   |   | 330<br>(EST) |   | level  One of the stems is colonised by dense ivy  Ivy basal shoots and hedge prevent a detailed assessment   | depth of 0.3m  |   |   |   |     |
|---|-----------------------------|------|----|---|---|--------------|---|---|--|---|---|---|-----|
| Т | 2 Alder (Alnu<br>glutinosa) | is . | PM | 8 | 7 | 500          | P | <ul> <li>Very low vigour</li> <li>Signs of past disturbance of ground beneath crown</li> <li>Stem and crown slightly biased to north east</li> <li>Adventitious shoots to stem and primary branches</li> <li>Reduced vitality with dieback of twigs and branches, particularly on the west side</li> <li>Part group G1 of the 1969 TPO</li> </ul> | <ul> <li>Fell for development</li> <li>Grub out or grind stump to a depth of 0.3m</li> </ul> | 2 | С | U | N/A |

Data in this schedule are time limited and subject to limitations described elsewhere.

#### **HEADINGS & ABBREVIATIONS**

Age Range Y = young SM = semi-mature EM = early-mature M = mature PM = post-mature V = veteran

Stem Dia Stem diameter (measured in accordance with Figure C.1 of BS5837: 2012) (MS = multi-stemmed EST = estimated)

Crown Spread Maximum crown spread (EST = estimated)

Vitality D = dead MD = moribund P = poor M = moderate G = good

Visual (Visual Prominence)
Retention Category Existing
Retention Category Proposed

Broad indication of prominence in the landscape (0 = none 1 = very low up to 5 = very high) (G = contributes to a wider group)
Broadly in accordance with Table 1 of BS5837: 2012 (considers the merits of the tree or group in the context of a development proposal)
Broadly in accordance with Table 1 of BS5837: 2012 (considers the merits of the tree or group in the context of a development proposal)

BS5837 RPA Radius Calculated in accordance with Table D.1 of BS5837: 2012

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PROJECT: LAND AT MANCHESTER ROAD, TUNSTEAD MILTON

CLIENT: MR G BEVAN REF: CW/7645-SS2

SURVEYED BY: G THOMAS
DATE: 18 MARCH 2015

| No. | Species | Age<br>Range | Height<br>(m) | Crown<br>Spread<br>(m) | Stem<br>Dia.<br>(mm) | Vitality | Comments   | Management  | Visual | Retention<br>Value<br>Existing | Retention<br>Value<br>Proposed | BS5837<br>RPA<br>Radius<br>(m) |
|-----|---------|--------------|---------------|------------------------|----------------------|----------|--|---|--------|--------------------------------|--------------------------------|--------------------------------|
| ТЗ  | Alder   | M            | 12            | 10.5                   | 600                  | M        | <ul> <li>Forms part of a longer linear group of similar trees extending to the south</li> <li>Adventitious shoots to lower stem</li> <li>Open cavity with extensive decay/hollowing to lower stem up to 1.5m</li> <li>Bird box fixed to upper stem</li> <li>Branch pruning stubs with minor regrowth around base of crown where low lateral and sub-lateral branches have been shortened in the past</li> <li>Stem and crown slightly biased to north east</li> <li>General ground clearance of around 4m</li> <li>Reduced vitality with peripheral twig and branch dieback, particularly in the north and east parts of the crown</li> <li>Part group G1 of the 1969 TPO</li> </ul> | Retain and protect during development     No work required  | 2      | В                              | В                              | 7.2                            |
| T4  | Ash     | EM           | 11            | 6                      | 300<br>250           | M        | <ul> <li>Field boundary hedgerow tree</li> <li>Stem and crown biased to north</li> <li>Twin-stemmed from just above ground level</li> <li>Stem and crown colonised by dead and live ivy preventing a detailed assessment</li> <li>Bark necrosis, twig and branch dieback and reduced vitality in the southern part of the crown, most probably old fire damage</li> </ul>  | <ul> <li>Retain and protect during development</li> <li>Sever and remove ivy to a height of 2m to facilitate a more detailed assessment of the lower stems</li> </ul> | 3      | В                              | В                              | 4.8                            |
| T5  | Ash     | EM           | 13            | 9                      | 700                  | M        | <ul> <li>Field boundary hedgerow tree</li> <li>Triple-stemmed from just above ground level</li> <li>Stem and crown colonised by dense ivy, preventing a detailed assessment</li> <li>Extensive bark and twig dieback throughout the southern part of the crown consistent with old fire damage</li> <li>Ground clearance on south side down to 4m</li> </ul>   | <ul> <li>Retain and protect during development</li> <li>Sever and remove ivy to a height of 2m to facilitate a more detailed assessment of the lower stems</li> </ul> | 3      | В                              | В                              | 8.4                            |

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PROJECT: LAND AT MANCHESTER ROAD, TUNSTEAD MILTON

CLIENT: MR G BEVAN REF: CW/7645-SS2

SURVEYED BY: G THOMAS

DATE: 18 MARCH 2015

| No. | Species   | Age<br>Range            | Height (m) | Crown<br>Spread | Stem<br>Dia.        | Vitality | Comments  | Management  | Visual | Retention<br>Value | Value    | RPA           |
|-----|---|-------------------------|------------|-----------------|---------------------|----------|---|---|--------|--------------------|----------|---------------|
|     |   | Range                   | (111)      | (m)             | (mm)                |          |   |   |        | Existing           | Proposed | Radius<br>(m) |
|     |   |                         |            |                 |                     |          |   |   |        |                    |          |               |
| G1  | Hawthorn (Crataegus<br>monogyna)<br>Sycamore (Acer<br>pseudoplatanus)<br>Ash<br>Alder | M<br>Y-SM<br>SM-EM<br>M | ≤15        | ≤15             | ≤600                | M-G      | <ul> <li>Closely spaced linear group of field boundary trees and shrubs</li> <li>Mainly ash and alder with recent natural colonisation of sycamore</li> <li>Several hawthorns are remnants of a former field boundary hedge</li> <li>Stems and crowns of the majority of the trees are colonised by dense ivy</li> <li>Would benefit from re-spacing to favour retention of the alder and ash stems and enable restoration of the former field boundary hedge</li> <li>2 mature Alder trees form part group G2 of the 1969 TPO</li> </ul> | <ul> <li>Retain and protect during development</li> <li>Sever and remove ivy to a height of 3m to facilitate a more detailed assessment of the lower stems and root collars</li> <li>Prune on west side by removal of low lateral and sub-lateral branches and a secondary basal stem from one of the ash trees, to obtain 6m ground clearance over application site</li> </ul> | 3      | В                  | В        | ≤7.2          |
| G2  | 2 Ash   | EM                      | ≤14        | ≤10             | 550 &<br>350<br>370 | G        | <ul> <li>Field boundary hedgerow trees</li> <li>Stems and crowns colonised by dense ivy</li> <li>Ivy and hedge prevent a detailed assessment</li> <li>G2/1</li> <li>Twin-stemmed from just above ground level, at which point there is an acute included bark union of co-dominant stems with no signs of failure</li> </ul>  | <ul> <li>Retain and protect during development</li> <li>Clear low vegetation and sever and remove ivy to a height of 2m to facilitate a more detailed assessment of the lower stems</li> <li>Prune on south side by removal of low lateral and sub-lateral branches to obtain 5m ground clearance over application site</li> </ul>  | 3      | В                  | В        | 6.6           |

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PROJECT: LAND AT MANCHESTER ROAD, TUNSTEAD MILTON

CLIENT: MR G BEVAN REF: CW/7645-SS2

SURVEYED BY: G THOMAS

DATE: 18 MARCH 2015

| No. | Species                            | Age<br>Range | Height<br>(m) | Crown<br>Spread<br>(m) | Stem<br>Dia.<br>(mm) | Vitality | Comments  | Management   | Visual | Retention<br>Value<br>Existing | Retention<br>Value<br>Proposed | RPA<br>Radius |
|-----|------------------------------------|--------------|---------------|------------------------|----------------------|----------|---|--|--------|--------------------------------|--------------------------------|---------------|
|     |                                    |              |               | (111)                  | (11111)              |          |   |  |        |                                |                                | (m)           |
| G3  | 2 Ash                              | EM           | ≤10           | ≤10                    | 300 &<br>350         | M        | <ul> <li>Field boundary hedgerow trees</li> <li>Low vigour</li> <li>Stems and crowns of both trees colonised by dense ivy</li> <li>Hedge, ivy and basal shoots prevent a detailed assessment</li> </ul>   | <ul> <li>G3/2 - Fell for development and grind stump to a depth of 0.3m</li> <li>G3/1 - Retain and protect during development</li> <li>Clear low vegetation, prune to remove basal shoots and sever and remove ivy to a height of 2m to facilitate a more detailed assessment of the lower stem</li> <li>Prune on south side by removal of low lateral and sub-lateral branches to obtain 4m ground clearance over application site</li> </ul> | 3      | В                              | B&U                            | 3.6 & 4.2     |
| G4  | Various ornamental and fruit trees | Y            | -             | -                      | -                    | -        | Closely spaced off-site group of recently planted saplings  | No work required   | 1      | С                              | С                              | -             |
| G5  | 2 Ash                              | EM           | ≤12           | ≤8                     | 350 -<br>575         | M        | <ul> <li>Closely spaced group of field boundary hedgerow trees</li> <li>Stems and crowns colonised by dense ivy</li> <li>Bark and twig dieback and reduced vitality in the southern parts of the crowns consistent with old fire damage</li> <li>Ivy and hedge prevent a detailed assessment</li> <li>Multi-stemmed from just above ground level</li> </ul> | Fell for development     Grind stumps to a depth of     0.3m   | 3      | В                              | U                              | N/A           |

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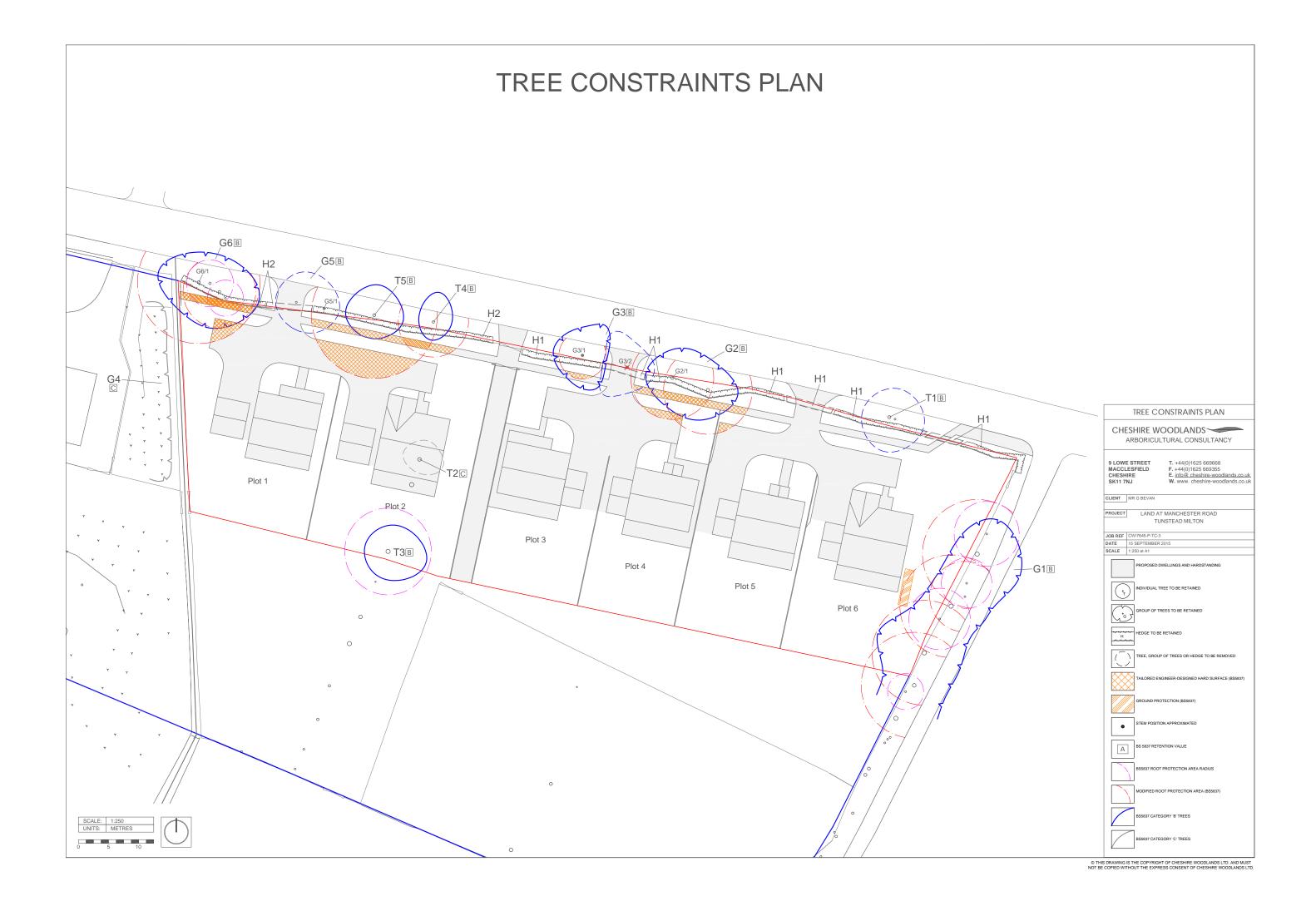
PROJECT: LAND AT MANCHESTER ROAD, TUNSTEAD MILTON

CLIENT: MR G BEVAN REF: CW/7645-SS2

SURVEYED BY: G THOMAS

DATE: 18 MARCH 2015

| No. | Species   | Age<br>Range | Height<br>(m) | Crown<br>Spread<br>(m) | Stem<br>Dia.<br>(mm) | Vitality | Comments   | Management   | Visual | Retention<br>Value<br>Existing | Value | BS5837<br>RPA<br>Radius<br>(m) |
|-----|---|--------------|---------------|------------------------|----------------------|----------|--|--|--------|--------------------------------|-------|--------------------------------|
| G6  | Ash<br>Sycamore<br>Holly ( <i>Ilex aquifolium</i> )                   | SM-EM        | ≤14           | ≤10                    | 200 -<br>700         | G        | <ul> <li>Closely spaced group of field boundary hedgerow trees</li> <li>Stems and crowns colonised by dense ivy</li> <li>Ivy and hedge prevent a detailed assessment</li> <li>G6/1 Ash</li> <li>Multi-stemmed from just above ground level</li> </ul>  | <ul> <li>Retain and protect during development</li> <li>Prune on south side by removal of low lateral and sub-lateral branches to obtain 5m ground clearance over application site</li> <li>Sever and remove ivy to a height of 2m and clear low vegetation to facilitate a more detailed assessment of the lower stems</li> </ul> | 3      | В                              |       | 2.4 - 8.4                      |
| H1  | Hawthorn Damson (Prunus domestica) Holly Ash Hazel (Corylus avellana) | -            | 1.8 - 9       | ≤6<br>(EST)            | -                    | M-G      | <ul> <li>Partially maintained field boundary hedge</li> <li>Managed in the past by regular clipping at a height of between 1.5 and 1.8m with the central section between G1 and G2 allowed to grow on in recent years</li> <li>Sparse in places along the base</li> <li>Would benefit from management</li> </ul> | <ul> <li>Remove three sections (approx. 7m to 9m long) for development (as identified for removal on drawing CW/7645-P-TC-2) and grind roots to a depth of 0.3m</li> <li>Retain remainder and protect during development</li> <li>Clip back to solid form and maintain by annual clipping</li> </ul>                               | 2      | -                              | -     | -                              |
| H2  | Hawthorn<br>Hazel<br>Holly  | -            | ≤4            | ≤3                     | -                    | P-G      | <ul> <li>Partially maintained field boundary hedge</li> <li>Mainly hawthorn</li> <li>Sparse and gappy in places, particularly to the central section which appears to have been damaged in the past by fire</li> <li>Central section colonised by dense ivy</li> <li>Would benefit from gapping-up</li> </ul>    | <ul> <li>Remove 8m long section for development (as identified for removal on drawing CW/7645-P-TC-2) and grind roots to a depth of 0.3m</li> <li>Retain remainder and protect during development</li> <li>Clip back to solid form and maintain by annual clipping</li> </ul>  | 2      | -                              | -     | -                              |



Guidance Note - Assessment of Visual Prominence and Assessment of Retention Values

#### **Visual Prominence Values**

Determined by assessment of current and potential visual prominence and taking account of location, tree size, growth potential and useful life expectancy. Visual prominence values are classified as follows:

(0) none, (1) very low up to (5) very high

#### **Retention Values**

Trees or groups of trees are evaluated twice in order to facilitate consideration of their relative merits. Firstly, the trees are assessed and categorised in the context of the pre-development situation to provide a broad valuation of all of their attributes and the contribution to their environs. Secondly, the trees are similarly assessed and categorised in the context of a development proposal. The evaluations consider current or projected:

- life expectancy (broad categorisation)
- visual prominence (current and potential)
- landscape function
- numbers of other trees and their maturity (continuity for landscape, amenity, habitat)
- wildlife habitats (incl. continuity)
- safety
- conflicts with the built environment or other land-use
- cultural, historical or other special value

Groups of trees are assessed and categorised as a single unit.

Pre-Development Retention Value

Each surveyed tree or group of trees is valued and placed into one of the following categories (A, B, C or U). The valuation considers the benefits and disbenefits of retaining the tree or group of trees in the pre-development context; any specific issues are noted in the tree survey schedule.

(A) Trees the retention of which in the pre-development context is most desirable and that have an estimated remaining life expectancy of at least 40 years (high value category)

Wholly appropriate to the pre-development situation and without significant conflict

(B) Trees the retention of which in the pre-development context is desirable and that have an estimated remaining life expectancy of at least 20 years (moderate value category)

Appropriate to the pre-development situation but not of highest value

(C) Trees that could be retained in the pre-development context and have an estimated remaining life expectancy of at least 10 years (low value category)

Ill-suited to the pre-development situation but could be retained with moderate conflicts

Trees of no particular merit in the pre-development context

(U) Trees unsuitable for retention in the pre-development context

Cannot reasonably be retained within the pre-development situation for longer than 10 years

Post-Development Retention Value

With reference to a development proposal, each of the trees or groups of trees is placed in one of the following categories (A, B, C or U). The valuation considers the benefits and disbenefits of retaining the tree or group of trees in the context of the development proposal; any specific issues are noted in the tree survey schedule.

(A) Trees the retention of which is most desirable (high value category)

Retention wholly appropriate to the proposed situation and without significant conflict

(B) Trees the retention of which is desirable (moderate category)

Retention appropriate to the proposed situation but not of highest value and/or having only minor conflicts

(C) Trees which could be retained (low value category)

Retention ill-suited to the proposed situation but could be retained with moderate conflicts

Trees of no particular merit in the proposed situation

(U) Trees for removal

Cannot reasonably be retained within the proposed situation

#### **GUIDANCE NOTE- STATUTORY CONTROLS**

#### TREES AND HEDGES:

Subject to certain specified exemptions, the Town and Country Planning Act 1990, requires that an application must be made to the local planning authority (LPA), to carry out works upon or remove trees that are subject to a tree preservation order (TPO).

Six weeks' notice must be given to the LPA of intention to carry out works upon or remove trees within a conservation area and not protected by a TPO.

Local planning authority consent may be required to carry out works upon or remove trees, shrubs and hedges that are the subjects of planning conditions.

LPA consent may be required for the removal of hedgerows under the Hedgerow Regulations 1997.

Your Council's planning department will advise whether or not any of the above controls apply to your trees, shrubs and hedges.

Subject to certain exemptions, the Forestry Act (1967 specified) requires that a licence must be obtained for the felling of growing trees

Your nearest Forestry Commission office will advise whether you require a felling licence.

#### **WILDLIFE**

The Wildlife and Countryside Act 1981 (together with the amendments of 1985 & 1991, the subsequent variations to the schedule orders, and strengthening amendments made within the Countryside and Rights of Way Act 2000) forms the basis for legislation protecting Britain's flora and fauna.

Nesting birds and all species of bat are afforded statutory protection. It is an offence to:

- · disturb a nesting bird
- disturb a roosting bat or damage, destroy or block access to a bat roost
- intentionally kill, injure or take a bat
- sell, hire, barter or exchange a bat, dead or alive
- be in possession or control of a bat or anything derived from a bat

Your local Wildlife Trust or your Council's Ecologist will provide guidance on statutory controls relating to wildlife.

#### GLOSSARY OF ARBORICULTURAL TERMS

Abscission. The shedding of a leaf or other short-lived part of a woody plant, involving the formation of a corky layer across its base; in some tree species twigs can be shed in this way

Abiotic. Pertaining to non-living agents; e.g. environmental factors

Absorptive roots. Non-woody, short-lived roots, generally having a diameter of less than one millimetre, the primary function of which is uptake of water and nutrients

Adaptive growth. In tree biomechanics, the process whereby the rate of wood formation in the cambial zone, as well as wood quality, responds to gravity and other forces acting on the cambium. This helps to maintain a uniform distribution of mechanical stress

Adaptive roots. The adaptive growth of existing roots; or the production of new roots in response to damage, decay or altered mechanical loading

Adventitious shoots. Shoots that develop other than from apical, axillary or dormant buds; see also 'epicormic'

Anchorage. The system whereby a tree is fixed within the soil, involving cohesion between roots and soil and the development of a branched system of roots which withstands wind and gravitational forces transmitted from the aerial parts of the tree

Architecture. In a tree, a term describing the pattern of branching of the crown or root system

Axil. The place where a bud is borne between a leaf and its parent shoot

Bacteria. Microscopic single-celled organisms, many species of which break down dead organic matter, and some of which cause diseases in other organisms

Bark. A term usually applied to all the tissues of a woody plant lying outside the vascular cambium, thus including the phloem, cortex and periderm; occasionally applied only to the periderm or the phellem

Basidiomycotina (Basidiomycetes). One of the major taxonomic groups of fungi; their spores are borne on microscopic peg-like structures (basidia), which in many types are in turn borne on or within conspicuous fruit bodies, such as brackets or toadstools. Most of the principal decay fungi in standing trees are basidiomycetes

Bolling. A term sometimes used to describe pollard heads

Bottle-butt. A broadening of the stem base and buttresses of a tree, in excess of normal and sometimes denoting a growth response to weakening in that region, especially due to decay involving selective delignification

Bracing. The use of rods or cables to restrain the movement between parts of a tree

#### Branch:

- Primary. A first order branch arising from a stem
- Lateral. A second order branch, subordinate to a primary branch or stem and bearing sub-lateral branches
- Sub-lateral. A third order branch, subordinate to a lateral or primary branch, or stem and usually bearing only twigs

Branch bark ridge. The raised arc of bark tissues that forms within the acute angle between a branch and its parent stem

Branch collar. A visible swelling formed at the base of a branch whose diameter growth has been disproportionately slow compared to that of the parent stem; a term sometimes applied also to the pattern of growth of the cells of the parent stem around the branch base

Brown-rot. A type of wood decay in which cellulose is degraded, while lignin is only modified

Buckling. An irreversible deformation of a structure subjected to a bending load  $% \left\{ 1,2,\ldots,n\right\}$ 

Buttress zone. The region at the base of a tree where the major lateral roots join the stem, with buttress-like formations on the upper side of the junctions

Cambium. Layer of dividing cells producing xylem (woody) tissue internally and phloem (bark) tissue externally

Canker. A persistent lesion formed by the death of bark and cambium due to colonisation by fungi or bacteria

Canopy species. Tree species that mature to form a closed woodland canopy

Cleaning out. The removal of dead, crossing, weak, and damaged branches, where this will not damage or spoil the overall appearance of the tree

Compartmentalization. The confinement of disease, decay or other dysfunction within an anatomically discrete region of plant tissue, due to passive and/or active defences operating at the boundaries of the affected region

Compression fork. An acute angled fork that is mechanically optimised for the growth pressure that two or more adjacent stems exert on each other

Compression strength. The ability of a material or structure to resist failure when subjected to compressive loading; measurable in trees with special drilling devices

Compressive loading. Mechanical loading which exerts a positive pressure; the opposite to tensile loading

Condition. An indication of the physiological condition of the tree. Where the term 'condition' is used in a report, it should not be taken as an indication of the stability of the tree

Construction exclusion zone. Area based on the Root Protection Area (in square metres) to be protected during development, by the use of barriers and/or ground protection

Crown/Canopy. The main foliage bearing section of the tree

Crown lifting. The removal of limbs and small branches to a specified height above ground level

Crown thinning. The removal of a proportion of secondary branch growth throughout the crown to produce an even density of foliage around a well-balanced branch structure

Crown reduction/shaping. A specified reduction in crown size whilst preserving, as far as possible, the natural tree shape  $\,$ 

Crown reduction/thinning. Reduction of the canopy volume by thinning to remove dominant branches whilst preserving, as far as possible the natural tree shape

Deadwood. Dead branch wood

Decurrent. In trees, a system of branching in which the crown is borne on a number of major widely-spreading limbs of similar size (cf. excurrent). In fungi with toadstools as fruit bodies, the description of gills which run some distance down the stem, rather than terminating abruptly

Defect. In relation to tree hazards, any feature of a tree which detracts from the uniform distribution of mechanical stress, or which makes the tree mechanically unsuited to its environment

Delamination. The separation of wood layers along their length, visible as longitudinal splitting

Dieback. The death of parts of a woody plant, starting at shoot-tips or root-tips

Disease. A malfunction in or destruction of tissues within a living organism, usually excluding mechanical damage; in trees, usually caused by pathogenic micro-organisms

Distal. In the direction away from the main body of a tree or subject organism (cf. proximal)  $\,$ 

Dominance. In trees, the tendency for a leading shoot to grow faster or more vigorously than the lateral shoots; also the tendency of a tree to maintain a taller crown than its neighbours

Dormant bud. An axial bud which does not develop into a shoot until after the formation of two or more annual wood increments; many such buds persist through the life of a tree and develop only if stimulated to do so

Dysfunction. In woody tissues, the loss of physiological function, especially water conduction, in sapwood  $\,$ 

DBH (Diameter at Breast Height). Stem diameter measured at a height of 1.5 metres (UK) or the nearest measurable point. Where measurement at a height of 1.5 metres is not possible, another height may be specified

Deadwood. Branch or stem wood bearing no live tissues. Retention of deadwood provides valuable habitat for a wide range of species and seldom represents a threat to the health of the tree. Removal of deadwood can result in the ingress of decay to otherwise sound tissues and climbing operations to access deadwood can cause significant damage to a tree. Removal of deadwood is generally recommended only where it represents an unacceptable level of hazard

Endophytes. Micro-organisms which live inside plant tissues without causing overt disease, but in some cases capable of causing disease if the tissues become physiologically stressed, for example by lack of moisture

Epicormic shoot. A shoot having developed from a dormant or adventitious bud and not having developed from a first year shoot

Excrescence. Any abnormal outgrowth on the surface of tree or other organism

Excurrent. In trees, a system of branching in which there is a well defined central main stem, bearing branches which are limited in their length, diameter and secondary branching (cf. decurrent)

Fastigiate. Having upright, often clustered branches

Felling licence. In the UK, a permit to fell trees in excess of a stipulated number of stems or volume of timber

Field layer. Herbs, ferns, grasses and sedges

Flush-cut. A pruning cut which removes part of the branch bark ridge and or branch-collar

Girdling root. A root which circles and constricts the stem or roots possibly causing death of phloem and/or cambial tissue

Ground layer. Mosses, ivy, lichens and fungi

Guying. A form of artificial support with cables for trees with a temporarily inadequate anchorage  $\,$ 

Habit. The overall growth characteristics, shape of the tree and branch structure

Haloing. Removing or pruning trees from around the crown of another (usually mature or post-mature) tree to prevent it becoming supressed

Hazard beam. An upwardly curved part of a tree in which strong internal stresses may occur without being reduced by adaptive growth; prone to longitudinal splitting

Heartwood/false-heartwood/ripewood. Sapwood that has become dysfunctional as part of the natural aging processes

Heave. A term mainly applicable to a shrinkable clay soil which expands due to re-wetting after the felling of a tree which was previously extracting moisture from the deeper layers; also the lifting of pavements and other structures by root diameter expansion; also the lifting of one side of a wind-rocked root-plate

High canopy tree species. Tree species having potential to contribute to the closed canopy of a mature woodland or forest

Incipient failure. In wood tissues, a mechanical failure which results only in deformation or cracking, and not in the fall or detachment of the affected part

Included bark (ingrown bark). Bark of adjacent parts of a tree (usually forks, acutely joined branches or basal flutes) which is in face-to-face contact

Increment borer. A hollow auger, which can be used for the extraction of wood cores for counting or measuring wood increments or for inspecting the condition of the wood

Infection. The establishment of a parasitic micro-organism in the tissues of a tree or other organism

Internode. The part of a stem between two nodes; not to be confused with a length of stem which bear nodes but no branches

Lever arm. A mechanical term denoting the length of the lever represented by a structure that is free to move at one end, such as a tree or an individual branch

Lignin. The hard, cement-like constituent of wood cells; deposition of lignin within the matrix of cellulose microfibrils in the cell wall is termed Lignification

Lions tailing. A term applied to a branch of a tree that has few if any side-branches except at its end, and is thus liable to snap due to end-loading

Loading. A mechanical term describing the force acting on a structure from a particular source; e.g. the weight of the

structure itself or wind pressure

Longitudinal. Along the length (of a stem, root or branch)

Lopping. A term often used to describe the removal of large branches from a tree, but also used to describe other forms of cutting

Mature Heights (approximate):

- Low maturing less than 8 metres high
- Moderately high maturing 8 12 metres high
- High maturing greater than 12 metres high

Microdrill. An electronic rotating steel probe, which when inserted into woody tissue provides a measure of tissue density

Minor deadwood. Deadwood of a diameter less than 25mm and or unlikely to cause significant harm or damage upon impact with a target beneath the tree  $\,$ 

Mulch. Material laid down over the rooting area of a tree or other plant to help conserve moisture; a mulch may consist of organic matter or a sheet of plastic or other artificial material

Mycelium. The body of a fungus, consisting of branched filaments (hyphae)  $\,$ 

Occluding tissues. A general term for the roll of wood, cambium and bark that forms around a wound on a woody plant (cf. woundwood)

Occlusion. The process whereby a wound is progressively closed by the formation of new wood and bark around it

Pathogen. A micro-organism which causes disease in another

Photosynthesis. The process whereby plants use light energy to split hydrogen from water molecules, and combine it with carbon dioxide to form the molecular building blocks for synthesizing carbohydrates and other biochemical products

Phytotoxic. Toxic to plants

Pollarding. The removal of the tree canopy, back to the stem or primary branches, usually to a point just outside that of the previous cutting. Pollarding may involve the removal of the entire canopy in one operation, or may be phased over several years. The period of safe retention of trees having been pollarded varies with species and individuals. It is usually necessary to re-pollard on a regular basis, annually in the case of some species

Primary branch. A major branch, generally having a basal diameter greater than  $0.25\ x$  stem diameter

Primary root zone. The soil volume most likely to contain roots that are critical to the health and stability of the tree and normally defined by reference BS5837 (2005) Guide for Trees in Relation to Construction.

Priority. Works may be prioritised, 1. = high, 5. = low

Probability. A statistical measure of the likelihood that a particular event might occur

Proximal. In the direction towards from the main body of a tree or other living organism (cf. distal)  $\,$ 

Pruning. The removal or cutting back of twigs or branches, sometimes applied to twigs or small branches only, but often used to describe most activities involving the cutting of trees or shrubs

Radial. In the plane or direction of the radius of a circular object such as a tree stem  $\,$ 

Rams-horn. In connection with wounds on trees, a roll of occluding tissues which has a spiral structure as seen in cross-section

Rays. Strips of radially elongated parenchyma cells within wood and bark. The functions of rays include food storage, radial translocation and contributing to the strength of wood

Reactive Growth/Reaction Wood. Production of woody tissue in response to altered mechanical loading; often in response to internal defect or decay and associated strength loss (cf. adaptive growth)

Removal of dead wood. Unless otherwise specified, this refers to the removal of all accessible dead, dying and diseased branchwood and broken snags

Removal of major dead wood. The removal of, dead, dying and diseased branchwood above a specified size  $\,$ 

Respacing. Selective removal of trees from a group or woodland to provide space and resources for the development of retained trees

Residual wall. The wall of non-decayed wood remaining following decay of internal stem, branch or root tissues

Rib. A ridge of wood that has usually developed because of locally increased mechanical loading. Often associated with internal cracking in the wood of the stem, branch or root.

Ring-barking (girdling). The removal of a ring of bark and phloem around the circumference of a stem or branch, normally resulting in an inability to transport photosynthetic assimilates below the area of damage. Almost inevitably results in the eventual death of the affected stem or branch above the damage

Root-collar. The transitional area between the stem/s and roots

Root-collar examination. Excavation of surfacing and soils around the root-collar to assess the structural integrity of roots and/or stem

Root protection area. An area of ground surrounding a tree that contains sufficient rooting volume to ensure the tree's survival. Calculated with reference to Table 2 of BS5837 (2005) and shown in plan form in square metres

Root zone. Area of soils containing absorptive roots of the tree/s described. The Primary root zone is that which we consider of primary importance to the physiological well-being of the tree

Sapwood. Living xylem tissues

Secondary branch. A branch, generally having a basal diameter of less than  $0.25\ x$  stem diameter

Selective delignification. A kind of wood decay (white-rot) in which lignin is degraded faster than cellulose  $\,$ 

Shedding. In woody plants, the normal abscission, rotting off or sloughing of leaves, floral parts, twigs, fine roots and bark scales  $\,$ 

Silviculture. The practice of controlling the establishment, growth, composition, health, and quality of forests to meet diverse needs and values

Silvicultural thinning. Removal of selected trees to favour the development of retained specimens to achieve a management objective

Simultaneous white-rot. A kind of wood decay in which lignin and cellulose are degraded at about the same rate  $\,$ 

Snag. In woody plants, a portion of a cut or broken stem, branch or root which extends beyond any growing-point or dormant bud; a snag usually tends to die back to the nearest growing point

Soft-rot. A kind of wood decay in which a fungus degrades cellulose within the cell walls, without any general degradation of the wall as a whole

Spores. Propagules of fungi and many other life-forms; most spores are microscopic and dispersed in air or water

Shrub species. Woody perennial species forming the lowest level of woody plants in a woodland and not normally considered to be

Sporophore. The spore bearing structure of fungi $\,$ 

Sprouts. Adventitious shoot growth erupting from beneath the bark

Stem/s. The main supporting structure/s, from ground level up to the first major division into branches

Stress. In plant physiology, a condition under which one or more physiological functions are not operating within their optimum range, for example due to lack of water, inadequate nutrition or extremes of temperature

Stress. In mechanics, the application of a force to an object

Stringy white-rot. The kind of wood decay produced by selective delignification

Storm. A layer of tissue which supports the fruit bodies of some types of fungi, mainly ascomycetes

Structural roots. Roots, generally having a diameter greater than ten millimetres, and contributing significantly to the structural support and stability of the tree

Subsidence. In relation to soil or structures resting in or on soil, a sinking due to shrinkage when certain types of clay soil dry out, sometimes due to extraction of moisture by tree roots

Subsidence. In relation to branches of trees, a term that can be used to describe a progressive downward bending due to increasing weight

Taper. In stems and branches, the degree of change in girth along a given length

Target canker. A kind of perennial canker, containing

concentric rings of dead occluding tissues

Targets. In tree risk assessment (with slight misuse of normal meaning) persons or property or other things of value which might be harmed by mechanical failure of the tree or by objects falling from it

Topping. In arboriculture, the removal of the crown of a tree, or of a major proportion of it

Torsional stress. Mechanical stress applied by a twisting force

Translocation. In plant physiology, the movement of water and dissolved materials through the body of the plant

Transpiration. The evaporation of moisture from the surface of a plant, especially via the stomata of leaves; it exerts a suction which draws water up from the roots and through the intervening xylem cells

Tree Risk Assessment. An assessment and description of the risks and where appropriate the values associated with a tree or trees. The primary risk being considered is that from falling trees. Other risks, such as damage to infrastructure, interruption of service and building subsidence may also be considered.

- Walkover A general view of the tree population considered in the context of the adjacent land-use to identify trees that present significantly elevated risks
- Drive-by A general view of the tree population from a moving vehicle and considered in the context of the adjacent land-use to identify trees that present significantly elevated risks
- Individual the assessment of risks from a single tree considered in the context of the adjacent land-use to identify trees that present significantly elevated risks

Understorey. This layer consists of younger individuals of the dominant trees, together with smaller trees and shrubs which are adapted to grow under lower light conditions

Understorey tree species. Tree species not having potential to attain a size at which they can contribute to the closed high canopy of a woodland

Vascular wilt. A type of plant disease in which water-conducting cells become dysfunctional

Vessels. Water-conducting cells in plants, usually wide and long for hydraulic efficiency; generally not present in coniferous trees

Veteran tree. A loosely defined term for an old specimen that is of interest biologically, culturally or aesthetically because of its age, size or condition and which has usually lived longer than the typical upper age range for the species concerned

Vigour. The expression of carbohydrate expenditure to growth (in trees)

Vitality. A measure of physiological condition expressed through the health and growth of foliage, shoots and adaptive woody tissues

 $\label{thm:colonisation} Volunteer\ trees.\ \ Trees\ arising\ from\ natural\ colonisation\ rather\ than\ having\ been\ planted$ 

White-rot. A range of kinds of wood decay in which lignin, usually together with cellulose and other wood constituents, is degraded

Wind exposure. The degree to which a tree or other object is exposed to wind, both in terms of duration and velocity  $\,$ 

Wind pressure. The force exerted by a wind on a particular object

Windthrow. The blowing over of a tree at its roots

Wound dressing. A general term for sealants and other materials used to cover wounds in the hope of protecting them against desiccation and infection; only of proven value against fresh wound parasites

Woundwood. Wood with atypical anatomical features, formed in the vicinity of a wound