



Appeal Decisions

Inquiry held on 18 - 21 and 25 September 2018

Site visits made on 17 and 25 September 2018

by H Baugh-Jones BA(Hons) DipLA MA CMLI

an Inspector appointed by the Secretary of State

Decision date: 27 November 2018

Appeal A Ref: APP/R1038/W/17/3182428 **Land off Mansfield Road, Winsick, Chesterfield**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant consent, agreement or approval to details required by a condition of a planning permission.
 - The appeal is made by Persimmon Homes North Midlands and Hallam Land Management Limited against the decision of North East Derbyshire District Council.
 - The application Ref 16/00888/RM, dated 25 August 2016, sought approval of details pursuant to condition No 1 of a planning permission Ref APP/R1038/A/13/2202979, granted on 7 February 2014.
 - The application was refused by notice dated 20 April 2017.
 - The development proposed is residential development of up to 160 dwellings with all matters reserved except for access.
 - The details for which approval is sought are: appearance, landscaping, layout and scale.
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Appeal B Ref: APP/R1038/W/17/3190910 **Land off Mansfield Road, Winsick, Chesterfield**

- 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 Persimmon Homes Nottingham and Hallam Land Management against the decision of North East Derbyshire District Council.
 - The application Ref 17/00806/FL, dated 26 July 2017, was refused by notice dated 24 November 2017.
 - The development proposed is residential development of 160 dwellings including necessary infrastructure and public open space.
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Decisions

Appeal A

1. The appeal is allowed and the reserved matters are approved, namely appearance, landscaping, layout and scale details submitted in pursuance of condition No 1 attached to planning permission Ref APP/R1038/A/13/2202979 dated 7 February 2014, subject to the conditions set out in the Schedule to this decision.

Appeal B

2. The appeal is allowed and planning permission is granted for residential development of 160 dwellings including necessary infrastructure and public open space at Land off Mansfield Road, Winsick, Chesterfield in accordance with the terms of the application, Ref 17/00806/FL, dated 26 July 2017, subject to the conditions set out in the Schedule to this decision.

Procedural Matters

3. The Inquiry was scheduled to sit for six days but was concluded on the fifth day.
4. I was invited to consider the replacement of the plans for appeal A with those for appeal B. The appellant has carried out a public consultation exercise in relation to this and the Council had no objections to the plans substitution. Having considered the matter in light of everything before me, I agreed to that substitution on the basis that no party's case, including those of interested parties would be prejudiced by me doing so.
5. I carried out an unaccompanied site visit on the afternoon before the first day of the Inquiry. I also made a part accompanied and part unaccompanied site visit on the final day of the Inquiry wherein I was able to view the appeal site from a number of residential properties in Mansfield Road in the presence of all relevant parties before continuing my visit alone.
6. I received three separate Statements of Common Ground (SoCGs) covering planning, housing land supply (HLS) and highways matters. The SoCGs set out areas of agreement and disagreement between the parties.
7. Completed planning obligations for both appeal schemes under Section 106 of the Town and Country Planning Act (S106) were provided at the Inquiry¹. These make provision for contributions towards education and healthcare. Following the close of the Inquiry, a separate obligation has been provided in relation to appeal B that makes provision for affordable housing. I consider these obligations later on in my decision.
8. The site address is different across the two applications but it was agreed at the Inquiry to adopt a common address. This is reflected in the heading and my formal decision above.
9. Policy GS5 of the North East Derbyshire Local Plan (2005) (the Local Plan) has been incorrectly referred to on the Council's decision notice. It should in fact refer to policy GS6 and this has been confirmed both in the written evidence and at the Inquiry.
10. Household projections were published on 20 September 2018, which fell during the latter part of the Inquiry. However, the issue of household projections was covered in the evidence and both the Council and appellants confirmed that no further submissions were necessary. I have no reason to take an alternative view and have taken the evidence on this specific matter into account in reaching my decisions on the basis of the 2014 household projection figures.

Main Issues

11. From all that I have read, heard and seen the main issues in relation to the appeals are:

Appeal A

- The effects of the proposal on the character and appearance of the area including whether it would have an acceptable layout and design.

¹ ID24 and ID25

Appeal B

- Whether the development plan policies most important to the proposal are out-of-date and if so, whether any adverse impacts of the development would significantly and demonstrably outweigh its benefits having particular regard to its effects on the character and appearance of the area including whether it would have an acceptable layout and design.

Reasons

Background

12. Outline planning permission was granted on appeal² for residential development on the site for up to 160 dwellings. In the event of the current appeal being dismissed, the outline permission would lapse. The appellants applied for full planning permission for a development of 160 dwellings in an attempt to address the Council's concerns on the reserved matters application. Given that I considered the proposed substitution of the full application plan for the reserved matters plan to be acceptable, the development that would be built in either the outline or the full case would be the same.
13. The Council argues that there has been a change in circumstances in relation to its HLS comparative to when the outline permission was granted. At that time, the Council could demonstrate only just above a 1 year HLS. It now considers this to be 7.7 years whereas the appellants consider it to be either 4.41 years or 3.86 years depending on whether a 5% or 20% buffer is applied. I address this matter later on in my decision.

Planning policy and guidance

14. The development plan is the Local Plan (2005) (LP). It has an end date of 2011 and is therefore time-expired. Consequently, the weight to be given to its policies depends on their degree of consistency with the National Planning Policy Framework (the Framework).
15. Saved policy GS1 has the broad aim of maintaining or improving quality of life for communities, maintaining economic growth and preserving or enhancing the District's environment. These are underpinned by a series of requirements which seek (unless indicated elsewhere in the LP) to ensure development is located within defined Settlement Development Limits subject to certain exception caveats; use previously developed land before greenfield sites; relate well to or be capable of providing public transport networks, access to services and facilities and be accessible on foot and by cycle and; protect and conserve the quality of an area's cultural and environmental quality and minimise pollution.
16. Saved policy GS6 seeks to limit development in the countryside unless it would meet a number of criteria. The provisions of this policy are taken further in saved policy H3, which sets out the types of development acceptable outside Settlement Development Limits. The market and affordable housing proposed in these appeals would not accord with the types of development permitted by saved policies GS6 or H3.

² APP/R1038/A/13/2202979 (Core Document 06/03)

17. However, whilst the broad objectives of saved policy GS1 align with the overall thrust of national policy, its means of achieving those objectives are more restrictive. Moreover, saved policies GS6 and H3 were formulated based on settlement limits that were drawn up to accord with housing need at the time that the LP was produced and which only ran until 2011. These policies are more restrictive in their terms than policies in the Framework. Consequently, I therefore find saved policies GS1, GS6 and H3 to be inconsistent with the Framework.
18. Saved policy BE1 sets out a number of general design principles that seek to ensure proposals for new development are of a density, scale, massing, height, layout and use materials that respect the character of the surrounding area and contribute towards providing a safe and secure local environment. The policy also says that appropriate landscaping will need to be provided where necessary, particularly where the development would be visually prominent or located on the edge of a settlement.
19. These principles and requirements are expanded upon in saved policy H12, which sets out a number of criteria that new housing development will be required to meet. These include considerations relating to the character of the surroundings and the amenity of existing and proposed residents. Notably, the policy requires that development will be expected to be at a minimum of 30 dwellings per hectare (dph) unless there are exceptional circumstances that would constrain it or where it would adversely affect the character and appearance of the locality.
20. The Council is working on a replacement Local Plan (emerging Local Plan) (eLP) which was submitted to the Secretary of State on 24 May 2018. It is therefore clearly advancing although there may still be unresolved objections to it which are not scheduled to be heard until it is examined through November and December 2018. It is anticipated that it would be adopted in early 2019.
21. It was put to me that eLP does not propose to amend settlement limits. However, it is agreed between the parties that this future expression of local policy can be given limited weight given its current status and stage. I have no reason to take an alternative view.
22. The revised Framework contains policies that are relevant to my consideration of the appeals including those that relate to HLS, achieving well-designed places, and making effective use of land.
23. The Council has published a Supplementary Planning Document (SPD) entitled Successful Places: A guide to Sustainable Housing Layout and Design (2013). Although it pre-dates the revised Framework, it is evident that the SPD is in close alignment with it in relation to the expression of national policy on achieving well-designed places.

The site and its surroundings

24. The generally tapering rectilinear site extends to the south-east away from Hasland. It contains some areas bounded by mature hedgerows that create smaller parcels of land. Within these areas, the land is regenerating with scrub vegetation, while elsewhere it comprises tall ruderal grassland. The latter covers the majority of the site although there also substantial areas of woodland and a pond.

25. When looking to the east including from the rear of dwellings along Mansfield Road, there are long distance views across the open site to the rolling rural landscape beyond. However, the site is bordered on three sides by development comprising the edge of Hasland including the incursion of the recent development at Honeysuckle Road, a ribbon of housing along Mansfield Road, which forms the settlement of Winsick and the A617 dual carriageway. There is also a garden centre beyond a modest gap further to the south east. However, the site lies outside any defined settlement boundary and is therefore within the open countryside.
26. Nevertheless, the proximate urbanising features have a significant influence on the site's character and its more unkempt appearance contrasts with that of the clearly much more managed farmland to the east of the A617. Overall, the site can reasonably be judged to have a semi-rural character.
27. There is an area of public open space – Winsick Park - on the other side of Mansfield Road. The park contains a small amount of fixed play equipment but is mostly given over to mown grass. Beyond the park is open countryside but again, there are urban influences from nearby housing that forms an edge of Hasland to the north-west.

Considerations on the main issues - Appeals A and B

28. The Council accepts that the appeal site is a suitable location to locate development in principle but argued that the layout of the proposed scheme should be of lower density to reflect the transition between the built up area and the open countryside. The outline application included an illustrative masterplan that showed the development to have a density of around 25 dwellings per hectare (dph). However, being illustrative, the masterplan does not constrain how the actual development might be laid out and the appellant is not bound by it.
29. Saved policy H12 requires density to be 30dph but is caveated where it would harm local character and appearance. The developable area of the site is constrained by its former use for open cast mining, which was not accounted for in the production of the illustrative masterplan. This has now clearly influenced where the proposed houses would be located within the site.
30. The result is that the dwellings would not be spread as widely across the site as may have been originally envisaged. The Council referred to it as "trying to fit a quart into a pint pot". Whilst the density of surrounding residential areas varies, development along Mansfield Road appears generally of lower density as a result of a number of dwellings set within larger plots. In addition the development to the south within Norwood Close provides a notable sense of transition between the more tightly packed residential areas within Hasland and the surrounding countryside. However, when all surrounding areas are looked at as a whole and in particular the variation in densities, the density of the proposal would not be at odds in this local context. Moreover, at the Inquiry, the Council offered no substantive evidence that the density proposed would not accord with that of immediately surrounding existing areas of housing.
31. As I have already described, the site is clearly bounded on most of its edges by existing development in some form and so the urban influences on its character are clear. The development would be punctuated by considerably sized areas of

green space, which would maintain an open character within parts of the site. The largest of these spaces would be informally laid out, retaining existing vegetation and other features such as the pond. Taking these factors together, the proposals would reflect the overall density of surrounding residential areas whilst also providing some semblance of transition between the built-up area and the countryside. There would be an acceptable balance between the amount of built development and open areas within the site. The proposals would not read as an 'over-development' of the site or appear as a cramped development.

32. In addition, the layout of the proposed development would see properties set back from the streets behind front gardens, large areas of open space at either end of the site and an incidental open space broadly centrally located within the scheme. Overall, this would assist in creating a satisfactorily spacious development in terms of its density and how that would be perceived.
33. At my site visit, I noted that local residents had erected timber posts in an attempt to demonstrate where the rear and side elevations of a number of dwellings would be in relation to properties along Mansfield Road. Whilst no evidence has been provided to confirm their positioning as being accurate, it is clear from the plans that a significant number of the proposed houses would be in close proximity to existing rear property boundaries. Furthermore, the arrangement of the proposed houses in these areas would have the overall appearance of a single substantial mass of built form. This was referred to at the Inquiry by local residents and the Council as the "Winsick Wall".
34. Whilst the effect on the living conditions of neighbouring occupiers is not a main issue, I have considered the relationship between proposed and existing development in order to assess the acceptability or otherwise, of the proposed layout of the scheme in the context of place-making. The proposed arrangement of dwellings along the south-western edge of the site would not be dissimilar to the layout of other surrounding development.
35. Moreover, whilst I accept that the views for a number of local residents would change from their current vistas, those affected would be modest in number. I recognise that little comfort will be given to them by these words but with appropriate buffer planting, they would not be subject to unacceptable effects and I have no evidence to conclude that this will not grow successfully to achieve its screening objectives. Overall, I do not consider that the proposed layout of the development would be unacceptable as a result of its relationship to neighbouring residential properties.
36. Some of the proposed garden sizes do not meet the SPD requirements whereas others exceed them. At the Inquiry, there was a particular focus on the gardens to proposed plots 114 and 115. The application plans show these plots to be formed by the 'Souter' house type. The appellants have provided a table showing the number of proposed dwellings with garden sizes below the minimum SPD requirements³. This shows the Souter type to be a three-bedroom dwelling (despite one of the rooms on the first floor being annotated on the plans as 'office'). For the avoidance of doubt, I have treated this house type as having three bedrooms as the rooms on the first floor clearly provide space for two bedrooms in addition to the one on the second floor.

³ See Erratum to Mr Carr's Proof of Evidence

37. The SPD normally requires such dwellings to have a single outdoor private amenity space of a minimum 70 square metres (sqm) (excluding parking and garage spaces). The gardens to plots 114 and 115 would fall well below this at around 40sqm.
38. The appellants pointed out that on average, garden sizes are SPD compliant although I consider that an average figure in this context is somewhat meaningless. The appellants also argued⁴ that in order to achieve an overall balanced and cohesive design in the layout of the scheme this necessitates some compromise including the size of plots 114 and 115.
39. Whilst I am not wholly convinced by that argument, not everyone wants a large garden and the properties offered would provide choice for the potential purchaser. Moreover, small gardens can still be laid out to provide attractive and comfortable outdoor spaces. To the rear of the gardens of plots 114 and 115 would be an area allocated for the parking of four cars and thence there would be a dwelling (plot 113) that would be side on. There would not be a level of overlooking of the gardens that would not ordinarily be experienced in residential areas.
40. Taking all of this into account and given that only a modest number of proposed gardens fall below the SPD requirement (12 overall) and indeed all but two by a small margin, I consider that the proposals would provide private outdoor spaces that would be within an acceptable range to meet people's individual needs and which, in any case would all meet the Buildings for Life standards.
41. The proposed houses would comprise standard house types and this approach was criticised by the Council. I acknowledge that the use of 'off the peg' designs could lead to the creation of a place that might look and feel the same as another, somewhere else – indeed, anywhere. However, in the appeals before me, a variety of dwelling styles would be used across the development and they would be variously arranged along the streets. Moreover, the development would be laid out with groups of houses in blocks separated by the main streets and cul-de-sacs. Each block would appear different through its mix of house types and its overall form. This would result in an acceptable variety of dwellings and visual interest throughout the built up part of the development.
42. The proposed road layout would include a loop around the central open space and a direct link through to Honeysuckle Road. This would create a permeable development overall even though a number of areas within the development would be laid out around cul-de-sacs. However, in my view this would create a more intimate and private character to these parts of the development which would provide a good quality space around those dwellings. It would also ensure the efficient use of land, which the Framework promotes⁵.
43. Although many properties would occupy cul-de-sac locations, many others would not, being set out along the main streets within the development. Although the SPD sets out a general steer away from a cul-de-sac model, it does not rigidly prevent them where explained and justified. I have already found the proposal to be acceptable in relation to other aspects of the layout.

⁴ Mr Carr's oral evidence

⁵ Framework paragraph 122

The proposed cul-de-sacs would not be overly long and would utilise the space within them for parking as opposed to merely providing a turning head. I therefore consider that the proposals would be in accordance with the SPD in respect of the use of cul-de-sacs.

44. The issue of whether the proposals would provide sufficient access routes to the surrounding area was raised by the Council at the Inquiry. I note that one of the footpath connections originally proposed at outline stage in appeal A no longer features. This would have provided a pedestrian route from the development onto Mansfield Road behind no. 145. Nevertheless, in the current scheme, there would be link further to the south east to Mansfield Road and one to the north-west through the natural play area. In my view, these two routes would provide a satisfactory level of pedestrian access onto Mansfield Road and to Hasland.
45. Winsick is considered by its residents to be a hamlet somewhat separate from other built up areas. I have no doubt that Winsick has its own cultural identity. However, although some of the regimented linear ribbon of housing is broken up by a small cluster of dwellings set further back from the road on larger plots, in reality when viewed on the ground, it appears as an extension of Hasland along Mansfield Road.
46. To conclude on this main issue the proposals in both appeals accord with saved policies BE1 and H12 which are consistent with the Framework.

Other Matters

47. The proposals in both appeals would be located outside the Settlement Development Limits and thus in conflict with saved policies GS1, GS6 and H3. However, given the inconsistency between these policies and the Framework, the weight I give to the conflict with them is limited. The appellant argued that the tilted balance in Framework paragraph 11(d) is engaged because of these inconsistencies.
48. However, the parties are in agreement that the most important policies to the determination of the appeals are saved policies BE1 and H12. Given that these policies directly bear on design matters and local character, I have no reason to take an alternative view. Moreover, I do not see any clear conflict between them and the Framework objective of achieving well-designed places. I therefore consider these saved policies to be up-to-date and give them full weight.
49. In this respect, the proposals would accord with the development plan. For decision taking, paragraph 11(d) of the Framework indicates that development proposals that accord with an up-to-date development plan should be approved without delay. Furthermore, even though there would be conflict with other policies, for the reasons already given they attract less weight than the Framework.
50. The Council argues that the matter of housing land supply (HLS) has a bearing on the consideration of both appeals but accepts that the weight given to this in Appeal A will be less than that for Appeal B because of the outline permission for the former. Things have moved on since the Inspector made his decision in granting outline permission. At that time, the Council were able to demonstrate just over a 1 year HLS. At the Inquiry, the appellants accepted that in the case

of the Council's housing requirement to be 266 dwellings per annum (dpa), the Council is able to demonstrate a 5 year HLS. However, that does not place a ceiling on further sustainable development.

51. Irrespective of this, I have found each appeal scheme to be in overall accordance with the most important development plan policies and with the Framework. Thus, the proposals benefit from the presumption in favour of sustainable development.
52. A number of other issues were raised by local residents. Those not already addressed in my considerations of the main issues related to the provision of infrastructure, education and healthcare are adequately addressed by appropriate financial contributions, which are set out in more detail below. In terms of the local highway network, there was no substantive evidence to contradict the views of the local highway authority although I acknowledge that local residents are concerned over the amount of traffic resulting from the development on the local roads. However, from what I observed, I do not see a reason to take an alternative view to the local highway authority that the proposals are acceptable in highways terms.

Planning Obligations

53. At the Inquiry, the appellant submitted an executed Section 106 Agreement for each appeal scheme which includes a number of obligations to come into effect in the event that planning permission is granted. As I have already explained this has been added to with a planning obligation related to the provision of affordable housing in respect of appeal B.
54. There is no corresponding affordable housing obligation in relation to appeal A as this was covered by a condition attached to the grant of outline permission. The reason for affordable housing to now be addressed by means of a legal agreement in relation to appeal B arises from the Court of Appeal's judgement in 'Skelmersdale'⁶. Consequently, a condition requiring a scheme to "ensure" that dwellings remain as affordable housing (or other similar wording) could be reasonably interpreted as requiring a legal agreement, and so engage the Planning Practice Guidance (PPG) tests. In order for it to meet those tests, I must be satisfied, before imposing the condition, that the proposed development is both complex and strategically important and that there is clear evidence that the delivery of the development would otherwise be at serious risk. The parties agree that the scheme does not fall into that category and I share that view. Accordingly, the obvious way forward in the circumstances is to secure affordable housing in relation to appeal B by means of a legal agreement.
55. I have considered the obligations in light of the Framework, PPG and the Community Infrastructure Levy Regulations (the CIL Regulations).
56. The obligation in respect of the on-site provision of affordable housing is supported by CS policy CS10. I am satisfied that the obligation is necessary to make the development acceptable in planning terms, is directly related to the development and is fairly and reasonably related to it in scale and kind. It therefore meets the statutory tests set out in paragraph 204 of the Framework.

⁶ R (on the application of Skelmersdale Ltd Partnership) v West Lancashire BC [2016]EWCA Civ 1260

57. The education contribution is supported by detailed information from Derbyshire County Council (the Local Education Authority) which identifies the ability of local schools to accommodate the number of additional children that the development is likely to generate. The contribution would be used towards the expansion of Hady Primary School to provide 18 junior places and 19 places at Hasland hall Community School.
58. The healthcare contribution is supported by detailed information from North Derbyshire Clinical Commissioning Group which identifies a need for additional capacity at Hasland Medical Centre.
59. The Council has provided a CIL Compliance Statement which sets out that none of the contributions sought would be prohibited by the pooling restrictions in CIL Regulation 123. I am satisfied on the basis of the evidence that this is the case and that the contributions provided by these obligations meet the Framework paragraph 204 tests and accord with CIL Regulation 122. Accordingly, I have taken them into account in reaching my decision.

Conditions

60. A number of conditions suggested by the Council were discussed at the Inquiry. I have considered these in light of the Framework and PPG. Where necessary, I have amended some of the suggested wordings for clarity, to ensure compliance with national policy and guidance and in light of the discussions between the main parties at the Inquiry. The pre-commencement conditions imposed have been agreed with the appellants. The agreed plans substitution has led to there being an out of date set of landscape proposals and a condition is therefore necessary in relation to appeal A in order to ensure the landscape reserved matter is adequately addressed.

Appeals A and B

61. I have imposed a condition specifying the relevant drawings as this provides certainty. A tree protection condition is necessary to safeguard existing trees and hedgerows that are to be retained within the development. A condition related to noise mitigation is necessary in order to protect the amenity of existing and future residential occupiers. To encourage sustainable travel modes conditions are imposed relating to the provision of footpaths/cycleways and cycle storage. The plans do not provide for a satisfactory means of access to the rear of plot 101 and a condition is therefore necessary to ensure it is provided. A condition related to the control of vehicle speeds within the development is necessary in the interests of highway safety.

Appeal A

62. The substitution of the layout for appeal B for appeal A means that the landscaping details in relation to appeal A are out of date as they relate to a previous iteration of the layout for that scheme. It is therefore necessary to impose a condition relating to hard and soft landscaping in order to ensure the appearance of the development is satisfactory and to comply with the reserved matters under consideration. A materials condition is necessary also in order to ensure a satisfactory appearance to the development.

Appeal B

63. A condition requiring a Landscape and Ecological Management Plan is necessary in order to ensure the remaining open areas of the site are appropriately managed. Conditions are necessary to safeguard protected species. In the interests of human and environmental health, contamination conditions are imposed. To protect existing occupiers and in the interests of highway safety, a conditions related to a Construction Method Statement is necessary. Also in the interests of highway safety and to ensure the appearance of the development is satisfactory, conditions are necessary in relation to the provision and specification of the estate roads within the development and the parking and manoeuvring. A condition related to a Travel Plan is necessary in the interests of encouraging the use of sustainable transport modes. A condition relating to play equipment is necessary in order to ensure the provision of appropriate play facilities and that they are of satisfactory appearance. In the interests of flood protection a drainage condition is necessary. In order to encourage recycling a condition related to waste storage and collection arrangements is necessary.

Conclusion

64. I have found that the proposal would run counter to saved LP policies GS1, GS6 and H3 but for the reasons given, I have significantly tempered the weight relating to the conflict with them. The proposals in each case would be in accordance with a number of other saved LP policies that I have found to be consistent with the Framework. Even if my decision were to be based on the application of the tilted balance, I have not found that there are adverse impacts that would significantly and demonstrably outweigh the benefits. The appeal A and appeal B schemes would accord with the development plan and the Framework as a whole and would be sustainable development.

65. For the above reasons the appeals succeed.

Hayden Baugh-Jones

Inspector

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

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INTERESTED PARTIES:

Lee Rowley MP

Member of Parliament for North
East Derbyshire

Julie Harris

Local resident

Jim Hughes

Local resident

Paul Hancox

Local resident

Richard Hattersley

Local resident

Peter Newton

Local resident

Roger Yarwood

Local resident

Ben Poulton

Local resident

DOCUMENTS

ID01	Community Infrastructure Levy Compliance Statement
ID02	Unsigned planning obligation (appeal scheme A)
ID03	Unsigned planning obligation (appeal scheme B)
ID04	Planning Statement of Common Ground
ID05	Appellant's Opening Submissions
ID06	Council's Opening Submissions
ID07	Supreme Court Judgement in Suffolk Coastal v Hopkins Homes Ltd and another Richborough Estates Partnership LLP and another v Cheshire East Borough Council [2017] UKSC 37
ID08	PPG - Housing and economic land availability assessment
ID09	PPG - Housing need assessment
ID10	Housing Land Supply Statement of Common Ground
ID11	Appellant's legal notes on affordable housing condition
ID12	Extract from PPG Guidance on plan-making
ID13	Revised Appendix 1 of Mr Cansfield's Rebuttal Proof of Evidence
ID14	Briefing Note – re-formatted Appendix 28 of Mr Bolton's Proof of Evidence
ID15	List of suggested planning conditions
ID16	Marked up outline illustrative plan at A1 size
ID17	Letter in support of appeal schemes not previously seen
ID18	Appeal Statement from Richard Hattersley
ID19	Appeal Statement from Ben Poulton
ID20	Appeal Statement from Julie Harris
ID21	List of nearby approved planning applications (from local resident)
ID22	Council's Closing Submissions
ID23	Appellant's Closing Submissions
ID24	Signed Planning Obligation (appeal scheme A)
ID25	Signed Planning Obligation (appeal scheme B)

SCHEDULE OF CONDITIONS – APPEAL A

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Layout Drawing No P17-1169-005a Rev I; Proposed Mansfield Road/Site Access T-Junction Layout Drawing No F11035/02 Rev C; Proposed Access Arrangements Honeysuckle Way Drawing No PL/WIN/05; House Type Pack P17-1169_HT Rev B; Drainage Strategy Drawing No CD11/050/200 Rev C.
- 2) Notwithstanding the details shown on Drawing Nos 7371-L-01 Rev D; 7371-L-02 Rev D; 7371-L-03 Rev D; 7371-L-04 Rev D, no dwelling shall be occupied until details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include:
 - i) means of enclosure and retaining structures;
 - ii) boundary treatments;
 - iii) vehicle parking layouts;
 - iv) other vehicle and pedestrian access and circulation areas;
 - v) hard surfacing materials;
 - vi) minor artefacts and structures e.g. furniture, play equipment, signs, etc.;
 - vii) retained historic or other landscape features and proposals for restoration, where relevant;
 - viii) water features;
 - ix) an implementation programme, including phasing of work where relevant.

The landscaping works shall be carried out in accordance with the approved details before any part of the development is first occupied in accordance with the agreed implementation programme.

- 3) Details of soft landscape works shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants noting species, plant supply sizes and proposed numbers/densities where appropriate.
- 4) 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.
- 5) Prior to commencement of any development works, protective tree fencing shall be erected in accordance with the details in the Arboricultural Assessment by FPCR Environment and Design Ltd, Revision B dated 21 July 2017. The fencing shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed within any fenced areas, and the ground levels shall not be altered, nor shall any excavation be made without the prior written consent of the local planning authority.
- 6) No construction works above slab floor level of the dwellings hereby permitted shall take place until samples of all external facing materials to

- be used in the construction of the dwellings have been submitted to and approved in writing by the local planning authority. The relevant works shall be carried out in accordance with the approved sample details.
- 7) The noise mitigation measures detailed in the Planning Noise Assessment by Cole Jarman Revision 1 dated 11 August 2017 ref 17/0408/R1 shall be implemented in full prior to the first occupation of the development. The mitigation measures shall be retained thereafter.
 - 8) No dwelling hereby permitted shall be occupied until footpaths/cycleways have been provided in accordance with Drawing No P17-1169_005a Sheet No: - Rev: I. The footpaths/cycleways shall be surfaced and lit in accordance with details that shall have first been submitted to and approved in writing by the local planning authority.
 - 9) Notwithstanding the details shown on Drawing No. P17-1169_005a Sheet No: - Rev: I, development shall take place in accordance with the measures to control speed on the internal spine road shown on Drawing No. F17052/11 and visibility splays from the parking space for plot 54 shown on Drawing No. F17052/10.
 - 10) Notwithstanding the details on Drawing No P17-1169_005a Sheet No: - Rev: I, details of the rear access to plot 101 shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details before that dwelling is occupied.
 - 11) Prior to occupation of the dwellings hereby permitted without garages, details for the provision of secure cycle storage for those 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 before occupation of those dwellings.

SCHEDULE OF CONDITIONS – APPEAL B

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Layout Drawing No P17-1169-005a Rev I; Proposed Mansfield Road/Site Access T-Junction Layout Drawing No F11035/02 Rev C; Proposed Access Arrangements Honeysuckle Way Drawing No PL/WIN/05; House Type Pack P17-1169_HT Rev B; Drainage Strategy Drawing No CD11/050/200 Rev C.
- 3) No dwelling shall be occupied until details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include:
 - i) means of enclosure and retaining structures;
 - ii) boundary treatments;
 - iii) vehicle parking layouts;
 - iv) other vehicle and pedestrian access and circulation areas;
 - v) hard surfacing materials;
 - vi) minor artefacts and structures e.g. furniture, play equipment, signs, etc.;

- vii) retained historic or other landscape features and proposals for restoration, where relevant;
- viii) water features;
- ix) an implementation programme, including phasing of work where relevant.

The landscaping works shall be carried out in accordance with the approved details before any part of the development is first occupied in accordance with the agreed implementation programme.

- 4) Details of soft landscape works shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants noting species, plant supply sizes and proposed numbers/densities where appropriate.
- 5) 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.
- 6) The development hereby permitted shall be carried out in accordance with the recommendations in the Arboricultural Assessment by FPCR Environment and Design Ltd, Revision B dated 21 July 2017 including protection and trees and hedgerows during construction works.
- 7) No dwelling hereby permitted shall be occupied until footpaths/cycleways have been provided in accordance with Drawing No P17-1169_005a Sheet No: - Rev: G. The footpaths/cycleways shall be surfaced and lit in accordance with details that shall have first been submitted to and approved in writing by the local planning authority.
- 8) No development shall commence until a Landscape and Ecological Management Plan has been submitted to and approved in writing by the local planning authority. The Landscape and Ecological Management Plan shall include the setting out of long term management responsibilities for all areas of open space within the development. The approved Landscape and Ecological management Plan shall be adhered to for the life of the development.
- 9) The development hereby permitted shall be carried out in accordance with the mitigation measures and recommendations in the Updated Extended Phase 1 Habitat & Protected Species Survey Report by FPCR Environment and Design Ltd dated July 2017.
- 10) No development shall take place until an updated survey to establish any badger activity on the site has been undertaken. Should evidence of badgers be found, a suitable avoidance or licensed mitigation plan shall be submitted to and approved in writing by the local planning authority. The approved plan shall be implemented in accordance with a timetable that shall first have been submitted to and approved in writing by the local planning authority.
- 11) No development shall take place until a Mitigation Strategy for amphibians and reptiles has been submitted to and approved in writing

by the local planning authority. The Strategy shall include provision of enhanced receptor sites for amphibians and reptiles that need to be translocated. Thereafter, any amphibians or reptiles found on the site during any demolition and/or construction works shall be handled in accordance with the Mitigation Strategy.

- 12) No development shall take place where (following the site investigations undertaken in accordance with the Phase 2 Site Appraisal Report Ref GRM/P7662/F.1) land affected by contamination is found which poses risks identified as unacceptable in the risk assessment, until a detailed remediation scheme shall have been submitted to and approved in writing by the local planning authority. The scheme shall include an appraisal of remediation options, identification of the preferred option(s), the proposed remediation objectives and remediation criteria, and a description and programme of the works to be undertaken including the verification plan. The remediation scheme shall be sufficiently detailed and thorough to ensure that upon completion the site will not qualify as contaminated land under Part IIA of the Environmental Protection Act 1990 in relation to its intended use. The approved remediation scheme shall be carried out and upon completion a verification report by a suitably qualified contaminated land practitioner shall be submitted to and approved in writing by the local planning authority before the development or relevant phase of development is occupied.
- 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 Statement shall provide for:
 - i) the parking of vehicles of site operatives and visitors;
 - ii) accommodation for site operatives and visitors
 - iii) loading and unloading of plant and materials;
 - iv) storage of plant and materials used in constructing the development;
 - v) wheel washing facilities;
 - vi) measures to control the emission of dust and dirt during construction;
 - vii) routing of construction vehicles;
 - viii) any temporary traffic restrictions;
 - ix) delivery, demolition and construction working hours.The approved Construction Method Statement shall be adhered to throughout the construction period for the development.
- 14) Notwithstanding the details shown on Drawing No P17-1169_005a Sheet No: - Rev: G, development shall take place in accordance with the measures to control speed on the internal spine road shown on Drawing No. F17052/11 and visibility splays from the parking space for plot 54 shown on Drawing No. F17052/10.
- 15) None of the dwellings hereby permitted shall be occupied until construction details of the internal estate roads have been submitted to and approved in writing by the local planning authority. Development shall be carried out as approved.

- 16) None of the dwellings hereby permitted shall be occupied until the access and the estate street/shared surfaces serving that dwelling have been constructed to at least base course level and kerb.
- 17) No part of the development shall be occupied until details of the arrangements for the storage of bins and collection of waste have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details and the facilities shall be retained for those purposes thereafter.
- 18) No dwelling hereby permitted shall be occupied until space has been laid out within the site in accordance with Drawing No P17-1169-005a Rev I for the parking and manoeuvring of vehicles and that space shall thereafter be kept available at all times for those purposes.
- 19) Prior to first occupation of the development, a Travel Plan shall be submitted to and approved in writing by the local planning authority. The approved Travel Plan shall be implemented in accordance with the approved details which shall including arrangements for monitoring and review in accordance with the approved Travel Plan targets.
- 20) The noise mitigation measures detailed in the Planning Noise Assessment by Cole Jarman Revision 1 dated 11 August 2017 ref 17/0408/R1 shall be implemented in full prior to the first occupation of the development. The mitigation measures shall be retained thereafter.
- 21) No construction works above slab floor level of the dwellings hereby permitted shall take place until details of all play equipment and its future maintenance and a timetable for its implementation relative to completion of the dwellings have been submitted to and approved in writing by the local planning authority. The play equipment shall be constructed in accordance with the approved details and shall thereafter be retained and made available for public use.
- 22) No dwelling hereby permitted shall be occupied until surface water drainage works shall have been implemented in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. Before any details are submitted to the local planning authority an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system, having regard to Defra's non-statutory technical standards for sustainable drainage systems (or any subsequent version), and the results of the assessment shall have been provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:
 - i) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
 - ii) include a timetable for its implementation; and,
 - iii) provide, a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

- 23) Prior to occupation of the dwellings hereby permitted without garages, details for the provision of secure cycle storage for those 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 before occupation of those dwellings.
- 24) Notwithstanding the details on Drawing No P17-1169_005a Sheet No: - Rev: G, details of the rear access to plot 101 shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details before that dwelling is occupied.