

TOWN AND COUNTRY PLANNING ACT
1990 (AS AMENDED) SECTION 78
APPEAL

TOWN AND COUNTRY PLANNING
(INQUIRIES PROCEDURE) (ENGLAND)
RULES 2000

On behalf of:

**Alban Developments Limited
and Alban Peter Pearson,
CALA Homes (Chiltern) Ltd
and Redington Capital Ltd**

In respect of:

**Land South of Chiswell Green
Lane, Chiswell Green,
St Albans**

**APPENDICES DP28 – DP37
TO PROOF OF EVIDENCE IN
RESPECT OF AFFORDABLE
HOUSING PROVISION**

By:

DAVID PARKER MSc BA(Hons) DMS FCIH

PINS reference:

APP/B1930/W/22/3313110

LPA References:

5/2022/0927

Date:

20th March, 2023

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- 1 Appendix DP28 – Site To The West Of The A1237 And South Of North Lane, Huntington, York - Appeal References APP/C2741/W/21/3282969, Inspector’s Report 17th March 2022, Secretary of State Letter 14th December 2022**



Department for Levelling Up,
Housing & Communities

Mark Johnson
Johnson Mowat
Coronet House
Queen Street
Leeds
LS1 2TW

Our ref: APP/C2741/W/21/3282969
Your ref: 18/00017/OUTM

14 December 2022

Dear Sir,

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEAL MADE BY REDROW HOMES (YORKSHIRE) LIMITED
SITE TO THE WEST OF THE A1237 AND SOUTH OF NORTH LANE, HUNTINGTON,
YORK
APPLICATION REF: 18/00017/OUTM**

This decision was made by the Minister of State for Housing, Lucy Frazer MP, on behalf of the Secretary of State, and signed on her behalf

1. I am directed by the Secretary of State to say that consideration has been given to the report of David Prentis BA BPI MRTPI, who held a public local inquiry on 25-28 January 2022 into your client's appeal against the failure of the Council of the City of York to determine your client's application for outline planning permission for residential development of circa 970 dwellings with associated demolition, infrastructure works, open space, primary school, community facilities and convenience store (use class A1; not exceeding 200sqm floorspace) on land west of Monks Cross Link Road and a country park with drainage infrastructure east of Monks Cross Link Road, in accordance with application Ref. 18/00017/OUTM, dated 4 January 2018.
2. On 10 January 2022 this appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990.

Inspector's recommendation and summary of the decision

3. The Inspector recommended that the appeal be allowed, and planning permission be granted, subject to conditions.
4. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions, except where stated, and agrees with his recommendation. He has decided to allow the appeal and grant planning permission. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

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Phil Barber, Decision Officer
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urgent need for housing in York. He further agrees with the Inspector that significant weight should be attached to the social and economic benefits of housing delivery.

29. For the reasons given at IR178 and IR196, the Secretary of State agrees that delivery of 30% affordable housing would be a further social and economic benefit to which significant weight should be attached. For the reasons given at IR204, the Secretary of State agrees that the proposal would be in accordance with HNP Policy H3.

Primary school and early years facility

30. For the reasons given at IR179, the Secretary of State agrees that the provision of an early years facility and a primary school on site should be regarded as an important benefit. For the reasons given at IR180 he agrees that creating a school within the appeal site would contribute to place-making and community identity and also agrees that as both the primary school and the early years facility would be within a reasonable walking distance of all parts of the site, this would contribute to sustainable transport objectives and reduce car travel from the site to other schools in the locality. For the reasons given at IR181, the Secretary of State agrees that while 'Plan B' is a sensible contingency arrangement, based on the evidence before the inquiry the likelihood is that the school would be delivered on site.

31. Overall, for the reasons given at IR179-181 and at IR196, the Secretary of State agrees at IR196 that significant weight should be attached to provision of a primary school and associated early years facility.

Country park

32. For the reasons given at IR182, the Secretary of State agrees at IR196 that the park would provide an extensive area of informal open space with a rural character that would be attractive to new residents as well as existing residents of Huntington. The Secretary of State agrees that whilst the detailed design of the park would be approved at a later stage, the illustrative plans show how it could be laid out as an attractive space with a rural character and further agrees that this would result in social and environmental benefits to which moderate weight should be attached.

Other matters

Character and appearance of the area

33. The Secretary of State has had regard to the Inspector's conclusions on character and appearance at IR183. He recognises that matters of design and landscape would be considered at reserved matters stage. The Secretary of State is not persuaded that he has sufficient evidence before him to conclude that overall landscape effects during the operational phase would be beneficial. He considers that the proposed development is likely to have an overall neutral effect on the landscape and attracts neutral weight in the planning balance.

2 Appendix DP29 – Land At Sandleford Park, Newtown Road, Newbury - Appeal References APP/W0340/W/20/3265460, Inspector’s Report 29th November 2021, Secretary of State Letter 6th May 2022



Department for Levelling Up,
Housing & Communities

Mr Owen Jones
LRM Planning
22 Cathedral Road
Cardiff
Wales
CF11 9LJ

Our ref: APP/W0340/W/20/3265460
Your ref: 20/01238/OUTMAJ

6 May 2022

Dear Sir

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEAL MADE BY BLOOR HOMES AND SANDLEFORD FARM PARTNERSHIP
LAND AT SANDLEFORD PARK, NEWTOWN ROAD, NEWBURY
APPLICATION REF: 20/01238/OUTMAJ**

This decision was made by the Minister of State for Housing, Stuart Andrew MP, on behalf of the Secretary of State

1. I am directed by the Secretary of State to say that consideration has been given to the report of Lesley Coffey BA Hons BTP MRTPI, who held a public local inquiry on 5-28 May 2021 into your client's appeal against the decision of West Berkshire Council to refuse your client's application for outline planning permission, with all matters of detail reserved except for access for up to 1,000 new homes; 80 extra care housing units (Use Class C3) as part of the affordable housing provision; a new 2 form entry primary school (D1); expansion land for Park House Academy School; a local centre to comprise flexible commercial floorspace (A1-A5 up to 2,150 sq m, B1a up to 200 sq m) and D1 use (up to 500sq m); the formation of new means of access onto Monks Lane; new open space including the laying out of a new country park; drainage infrastructure; walking and cycling infrastructure and other associated infrastructure works, in accordance with application Ref. 20/01238/OUTMAJ, dated 2 June 2020.
2. On 25 February 2021, this appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990.

Inspector's recommendation and summary of the decision

3. The Inspector recommended that the appeal be allowed, and planning permission granted subject to conditions.
4. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions, except where stated, and agrees with her recommendation. He has decided to allow the appeal and grant planning permission. A copy of the Inspector's report (IR)

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agrees that together these measures would help to reduce the number of trips by cars and contribute to air quality improvements (IR16.219).

Single Application

26. Policy GS1 of the Housing Site Allocations DPD and Development Principle S1 of the Sandleford SPD require a single planning application for the Sandleford Strategic Site Allocation. For the reasons given at IR16.221-16.233 and further at IR16.248, the Secretary of State agrees with the Inspector and does not find that the failure to provide a single application for the entire allocation gives rise to any significant harm (IR16.248).

Benefits

27. For the reasons given at IR16.234-16.241, the Secretary of State agrees with the Inspector that the proposal would deliver up to 1,080 homes and would deliver 40% of the dwellings as affordable dwellings and these would include the Extra Care Units for which there is an identified need. The Secretary of State considers that the delivery of up to 1,000 units, including affordable and 80 extra care units, is a significant benefit and significant weight is afforded to the totality of housing delivery.
28. The Secretary of States agrees the proposal would also deliver a Country Park that would be a benefit for residents of Newbury as well as future residents on the appeal site, and agrees that additional planting in the vicinity of Waterleaze Copse would be a further benefit of the proposal. He agrees that this should carry moderate weight (IR16.236).
29. The Secretary of State agrees with the Inspector that limited weight should be afforded to the public transport provision since the bus service is required to meet the sustainable transport requirement of the Core Strategy and Sandleford SPD (IR16.237).
30. He agrees that the provision of expansion land for Park House School would be a benefit of the proposal and that the expansion is required, not only to meet the educational needs arising from the proposed development, but also to accommodate the educational needs arising from the Donnington New Homes site and some existing demand within the District. He agrees that this should carry moderate weight (IR16.238).
31. The Secretary of States agrees with the Inspector that the appeal scheme would provide economic benefits during the construction phase and the operational phase and would also increase expenditure in the local area. He agrees that the economic benefits should carry significant weight (IR16.239).
32. The Secretary of State notes that the proposed off-site highway improvements are required to mitigate the effect of the proposed development on the local highway network. He agrees that these measures would also enable the local highway to operate more efficiently and facilitate the delivery of the Donnington New Homes site, and agrees with the Inspector that this benefit should be afforded moderate weight (IR16.240).
33. The Secretary of State agrees the proposal would safeguard the ancient woodland on the site and the management proposals in relation to the ancient woodland would be a benefit of the proposal, but like the Inspector recognises that this benefit must be weighed against any harm arising from the increased recreational use of the Country Park and the ancient woodlands. He agrees with the Inspector and considers that the proposal would be an overall benefit in this regard (IR16.241). The Secretary of State affords this benefit limited weight.

Unless uncontested there would need to be a further Inquiry, the outcome of which would be uncertain. No evidence was submitted by the Council to indicate that it has resolved to issue a CPO in respect of the SSSA, or has committed resources to developing a scheme and pursuing a CPO. I therefore accord little weight to this matter. Were the Council to pursue this option and the CPO be confirmed, it would be likely to delay the development of the Site and the delivery of housing considerably.

Benefits

- 16.234. The proposal would deliver 1,080 homes. The dwellings would be predominantly family dwellings. Whilst it is agreed that the Council currently has in excess of a 5 year housing land supply the purpose of the allocation is to meet the future housing needs of the District. The emerging Local Plan confirms that it remains the firm belief of the Council that Sandleford Park is the most appropriate location for strategic housing delivery in Newbury. Large sites such as this usually take considerable time to deliver the first dwellings due to the need to deliver significant infrastructure early in the development process. Therefore whilst the proposal may not make a significant contribution to the five year housing land supply it would assist with meeting the housing needs of the District going forward.
- 16.235. The proposal would also deliver 40% of the dwellings as affordable dwellings and these would include the Extra Care units for which there is an identified need. These dwellings would assist with meeting the need for affordable housing in the District. Whilst the parties disagree as to the extent of the affordable housing need, it is acknowledged by the Council to be high. I therefore give significant weight to the delivery of affordable housing, including the extra care units. [8.107]
- 16.236. The proposal would also deliver a Country Park that would be a benefit for residents of Newbury as well as future residents on the appeal site. The additional woodland planting in the vicinity of Waterleaze Copse would be a further benefit of the proposal. I afford moderate weight to these matters.
- 16.237. The appellants suggest that the public transport provision would be a further benefit of the proposal. I attach limited weight to this matter since the bus service is required to meet the sustainable transport requirement of the Core Strategy and Sandleford SPD.
- 16.238. The provision of the expansion land for Park House School would be a benefit of the proposal. The expansion of the School is required, not only to meet the educational needs arising from the proposed development, but also to accommodate the educational needs arising from the DNH site and some existing demand within the District. I give moderate weight to this benefit.
- 16.239. The appeal scheme would also provide economic benefits during both the construction phase and the operational phase. The employment opportunities arising from construction would extend over a period of 10 years. Permanent employment would be created at both schools and the local centre. The proposal would also increase expenditure in the local area. I give significant weight to these economic benefits.

3 Appendix DP30 – Land At Citroen Site, Capital Interchange Way, Brentford, Secretary of State Letter 10th September 2020 and Inspector’s Report 11th June 2020, Appeal Reference: APP/G6100/V/19/3226914



Ministry of Housing,
Communities &
Local Government

Mr Mark Connell
JLL
30 Warwick Street
London
W1B 5NH

Our ref: APP/G6100/V/19/3226914
Your ref: GLA/4279 & 01508/A/P6

10 September 2020

Dear Sir

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 77
APPLICATION MADE BY L&Q
LAND AT CITROEN SITE, CAPITAL INTERCHANGE WAY, BRENTFORD TW8 0EX
APPLICATION REF: GLA/4279 & 01508/A/P6**

1. I am directed by the Secretary of State to say that consideration has been given to the report of David Nicholson RIBA IHBC, who held a public local inquiry on 14-24 January and 4-6 February 2020 into your client's application for planning permission for redevelopment of the site to provide a mixed use scheme of 441 residential units (Class C3) including 50% affordable housing with ancillary facilities, flexible uses (within Classes A1, A2, A3 and B1) and a nursery (Class D1). Comprising buildings of 12, 13, 16, 17 and 18 storeys in height with associated cycle parking, car parking, play space, landscaping and public realm improvements, ref. GLA/4279 & 01508/A/P6, dated 3 November 2017.
2. On 15 April 2019, the Secretary of State directed, in pursuance of Section 77 of the Town and Country Planning Act 1990, that your client's application be referred to him instead of being dealt with by the local planning authority.

Inspector's recommendation and summary of the decision

3. The Inspector recommended that the application be approved.
4. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions, except where noted, and agrees with his recommendation. He has decided to approve the application. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

Environmental Statement

5. In reaching this position, the Secretary of State has taken into account the Environmental Statement which was submitted under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017. Having taken account of the Inspector's comments at IR1.5, notwithstanding the criticisms by the Royal Borough of Kensington

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reasons given he agrees that there is a reasonable prospect that a lower scheme might have reduced impacts on the settings of the Orangery/WHS and the Strand-on-the-Green CA/listed buildings while still offering a reasonable amount of housing and affordable housing. However, he also agrees (IR15.68) that the weight to be given to such an alternative should not be substantial.

19. The Secretary of State attaches great weight to the conservation of the heritage assets, in line with paragraph 193 of the Framework. Paragraph 196 of the Framework states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. The Secretary of State agrees with the Inspector that there would be conflict with LonP Policy 7.8, 7.10, emerging IDLP policies HC1 and HC2, and potentially HLP CC4 (IR15.39) which requires a balance between harm to designated heritage assets and public benefits (IR15.85).

Other harm

20. For the reasons given at IR15.49 the Secretary of State agrees that the levels of daylight in 75 of the habitable rooms would fail to meet BRE standards, and that this weighs against the proposal. He further agrees, for the reasons given at IR15.50 that the level of contributions to fund improvements to Transport for London services should not weigh against the proposal. Given his conclusions on the impacts on the Wellesley Road Conservation Area, the Secretary of State agrees with the Inspector at IR15.51 that the absence of any reference to the low-rise, high quality townscape within it would not weigh against the proposal.

Housing

21. The Secretary of State notes that the applicant does not dispute that the Council can deliver a 5-year supply of housing land (IR6.18), and he has proceeded on that basis. The Secretary of State notes that the proposals would provide 441 new homes, 218 of which would be affordable (IR15.59). He has taken into account the acute housing shortage right across London (IR15.61) and the Inspector's conclusions on affordable housing at IR.60. For these reasons the Secretary of State considers that overall, the benefits of housing should be given substantial weight. The Secretary of State agrees with the Inspector at IR15.86 that the proposal does not conflict with Lon P policies 3.3-3-5 and 3.8-3.13, and HLP policies SC1, SC2 and SC3, and emerging IPLP policies GG2 and GG5.

Design

22. The Secretary of State has considered the Inspector's reasoning given at IR15.52-15.58 and for the reasons given agrees that the positive aspects of the design would be negated by the flaws with regard to daylight and heritage in particular, taking account of other criticisms as well. As such he agrees that the design is neutral in the planning balance (IR15.85). The Secretary of State agrees that given the Inspector's conclusions on design, there is no conflict with HLP policy SC4 (15.86).

Other benefits of the proposal

23. The Secretary of State agrees (IR15.62) that the proposals would be on a brownfield site in a highly sustainable location. He further notes (IR15.62) that construction would bring 250 jobs, though agrees that these would be short term, and that there is little evidence

noise pollution. Finally, it wondered how the Government hopes to meet its carbon-reduction targets if it approves new buildings which would lock us into unsustainable additional energy demands for mechanical ventilation and air conditioning. These matters should all be weighed in the design balance. [11.10-11.12]

- 15.57 The harm to the settings of designated heritage assets also counts against the quality of the design. LBH argued that, without the written brief to the architects, it's not clear what was expected. Also, that the scheme could only be as good as the advice from its original consultants: that the architects did not need to worry about the wider heritage context. For this report, the distinction between the brief and the architects' input is of little relevance and what matters is the quality of the final design, including its impact on the settings of designated heritage assets. [7.5 8.6 8.29]
- 15.58 Overall, I find that the positive aspects of the design would be negated by the flaws with regard to daylight and heritage in particular, but taking account of other criticisms as well, so that the quality of the design would be broadly neutral in the planning balance, and should not be given any weight either as a benefit or a disadvantage of the scheme. [6.81.3 7.52 8.28 11.10]

Benefits: housing and affordable housing (AH)

- 15.59 The proposals would provide 441 new homes, 218 of which would be AH of one sort or another. LBH argued that as it had a 5YHLS the weight to the benefits of housing should be reduced. On the other hand, London is one housing market and so the benefits of new housing should not be downgraded. While LBH may well be a high performer, and close to any new targets, it would be wrong to argue that the London-wide need for housing could be met elsewhere. [5.5 6.11 6.18.4 7.56 8.20 8.24]
- 15.60 The Applicant argued that achieving more than usual AH was a further benefit. The current LBH policy requirement is only 40% and there is an Early Stage Review Mechanism in the s.106. The Mayor held out for 50% AH. It may be true that, compared with many other schemes, the proposals would result in significantly more AH than would be achieved by a market developer, but the scheme at 1-4 CIW calls this into question and although the viability evidence suggests that this is the maximum, it was not tested. Consequently, the AH offer is no more than would be policy compliant as and when the IPLP is formally published (which is likely to be before the decision on this case) and anything less could be weighed against the scheme. The AH should be given substantial weight but not more than that. [3.30 5.5 6.9 6.11 6.12.2 6.14 6.60 8.29 10.24]
- 15.61 RBGK suggested that the benefits of housing, and AH, were unremarkable and no more than a common or garden benefit. While this may be true in some circumstances, it should not apply when there is an acute housing shortage right across London. [7.62 10.21]

Other benefits

- 15.62 The proposals would be on a brownfield site in a highly sustainable location. It would employ 250 construction workers with other uses and include a nursery. Otherwise, there was little persuasive evidence that the proposal would bring a massive uplift to the area around it. The 250 jobs would be a short-term

- 4 **Appendix DP31 – Land at Hatchfield Farm, Fordham Road, Newmarket, Inspector’s Report 1st August 2019, Secretary of State Letter 12th March 2020, Appeal reference: APP/H3510/N/14/2222871**



Department for
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Mr T Blaney
Trevor Blaney Planning
Burgh House
Waldron
Nr HEATHFIELD
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Our Ref: APP/H3510/V/14/2222871

31 August 2016

Dear Sir,

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 77
APPLICATION MADE BY LORD DERBY
LAND AT HATCHFIELD FARM, FORDHAM ROAD, NEWMARKET
APPLICATION REF: DC/13/0408/OUT**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, Christina Downes BSc, DipTP, MRTPI who held a public local inquiry from 14 April – 1 May 2015 into your client's application for outline planning permission for up to 400 dwellings plus associated open space (including areas of habitat enhancement) foul and surface water infrastructure, two accesses onto the A142, internal footpaths, cycle routes and estate roads at Hatchfield Farm, Fordham Road, Newmarket in accordance with application reference DC/13/0408/OUT dated 2 October 2013.

Inspector's recommendation and summary of the decision

2. The Inspector recommended that outline planning permission be granted. For the reasons set out below, the Secretary of State disagrees with the Inspector's recommendation and he has decided to refuse outline planning permission. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers are to that report.

Matters arising since the inquiry

3. Following the close of the inquiry, the Secretary of State received representations submitted by the Newmarket Horsemen's Group dated 18 September 2015 and by the Rt Hon Matthew Hancock MP dated 18 September 2015. On 7 October 2015 the Secretary of State wrote to parties to give them the opportunity to submit comments on these representations and, on 30 October 2015, he circulated the representations he had received.

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Newmarket); and Distribution Option 2 (Higher growth at Newmarket, enabling lower growth at Mildenhall, Red Lodge and Primary Villages). Distribution Option 1 is the Council's preferred option. Policy N1 allocates Hatchfield Farm for mixed use development, including 400 dwellings, while stating that the policy will be reviewed, if necessary, following the Secretary of State's decision on this case.

11. Paragraph 216 of the Framework states that decision makers may give weight to relevant policies in emerging plans according to: (1) the stage of preparation of the emerging plan; (2) the extent to which there are unresolved objections to relevant policies in the emerging plan; and (3) the degree of consistency of relevant policies to the policies in the Framework.
12. The Secretary of State has taken into account the early stage of the emerging plan, which has not yet gone through an independent examination. With regard to the second limb, he has taken into account that there are unresolved objections relating to development at Hatchfield Farm. With regard to the third limb, the Secretary of State considers that at this stage the relevant policies do not contain inconsistencies with the Framework, but are still subject to change. On balance he considers that little weight can be afforded to the relevant policies in the emerging plan.
13. A Neighbourhood Plan for Newmarket is in preparation, and a Neighbourhood Plan Designated Area Application has been submitted to the Council. The Neighbourhood Plan is at an extremely early stage of preparation. There are not yet any relevant policies, but draft objectives have been published and are consistent with the Framework. Overall the Secretary of State considers that very little weight attaches to the emerging Neighbourhood Plan.

Main issues

14. The Secretary of State agrees with the Inspector that the main considerations in this case are those set out at IR355.

Housing land supply and the contribution that the proposal would make to the market and affordable housing needs of the District

15. The Secretary of State has given careful consideration to the Inspector's analysis at IR356–364, and has also taken into account representations on housing land supply following the inquiry.
16. He notes that on 10 February 2016 the Council published an updated 'Assessment of a five year supply of housing land'. This sets out that under the Sedgefield approach, Forest Heath has a 6.2 year supply of housing land, and that if this application is refused by the Secretary of State, there is a 5.2 year supply. Sellwood Planning, on behalf of Lord Derby, indicated in its letter of 19 February 2016 that given the uncertain nature of some of the sites relied on, it is considered that the land supply situation is, at best, only around 5 years. The Secretary of State has taken account of representations on this matter, and considers that the Council has demonstrated it has a 5 year supply of housing land and therefore relevant policies for the supply of housing should not be considered out of date through the operation of paragraph 49 of the Framework.

5 Appendix DP32 – Land at Site Of Former North Worcestershire Golf Club Ltd, Hanging Lane, Birmingham B31 5lp, Inspector’s Report: 24th July 2019, Secretary of State Letter 24th July 2019, Appeal ref: APP/P4605/W/18/3192918



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Local Government

Harris Lamb Property Consultancy
75-76 Francis Road
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Our ref: APP/P4605/W/18/3192918
Your ref:

24 July 2019

Dear Sirs

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEAL MADE BY BLOOR HOMES (WESTERN)
LAND AT SITE OF FORMER NORTH WORCESTERSHIRE GOLF CLUB LTD, HANGING
LANE, BIRMINGHAM B31 5LP
APPLICATION REF: 2017/02724/PA**

1. I am directed by the Secretary of State to say that consideration has been given to the report of Paul Singleton BSc (Hons) MA MRTPI, who held a public local inquiry starting on 2 October 2018 into your client's appeal against the decision of Birmingham City Council (the Council) to refuse your client's application for outline planning permission, with all matters reserved except access, for the demolition of the club house and development of up to 950 dwelling, public open space, primary school, multi-use community hub, new access points and associated infrastructure. developments in accordance with application reference 2017/02724/PA dated 24 March 2017.
2. On 31 January 2018, this appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990.

Inspector's recommendation and summary of the decision

3. The Inspector recommended that the appeal should be determined on the basis of the revised proposal for up to 800 dwellings and should be allowed.
4. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions and agrees with his recommendation. He has decided to allow the appeal and grant planning permission. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

Environmental Statement

5. In reaching this position, the Secretary of State has taken into account the Environmental Statement which was submitted under the Town and Country Planning (Environmental Impact Assessment) Regulations 2011. Having taken account of the Inspector's

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Potential benefits

28. For the reasons given at IR14.106-14.112 the Secretary of State agrees with the Inspector's conclusions on benefits.

Planning conditions

29. The Secretary of State has given consideration to the Inspector's analysis at IR13.1-13.7, the recommended conditions set out at the end of the IR and the reasons for them, and to national policy in paragraph 55 of the Framework and the relevant Guidance. He is satisfied that the conditions recommended by the Inspector comply with the policy test set out at paragraph 55 of the Framework and that the conditions set out at Annex B should form part of his decision.

Planning obligations

30. Having had regard to the Inspector's analysis at IR12.10-12.18, the planning obligation dated 31 October 2018, paragraph 56 of the Framework, the Guidance and the Community Infrastructure Levy Regulations 2010 as amended, the Secretary of State, agrees with the Inspector, for the reasons given at IR12.10-12.12, that there is no justification for the inclusion of the Additional Sports Improvement Fund and this obligation does not meet the relevant tests (IR12.13). For the reasons given in IR12.14-12.17 the Secretary of State also agrees with the Inspector that there is no justification for payment of the Secondary School Contribution and this proposed obligation does not meet the relevant tests (IR12.18). He concludes that it would not be appropriate to take these two obligations into account in the determination of the appeal.

31. Having had regard to the Inspector's analysis at IR12.1-12.8, The Secretary of State agrees with the Inspector's conclusion for the reasons given in IR12.9 that the remaining obligations comply with Regulation 122 of the CIL Regulations and the tests at paragraph 56 of the Framework.

Planning balance and overall conclusion

32. For the reasons given above, the Secretary of State considers that the appeal scheme is in accordance with Policies PG1, TP8, TP27, TP28, TP30 and PG3 of the development plan, and is in accordance with the development plan overall. He has gone on to consider whether there are material considerations which indicate that the proposal should be determined other than in accordance with the development plan.

33. Weighing in favour the Secretary of State considers that the 800 family homes, including up to 280 affordable homes is a benefit of significant weight. He considers that only limited weight in favour should be given to the proposed community hub with moderate weight to the on-site open space and play provision and opening up of public access to an attractive area of open space. He also attaches limited weight to the longer term benefit that might result for the provision of a site for a primary school.

6 Appendix DP33 – Land to the rear of the former Dylon International Premises, Station Approach, Lower Sydenham, London SE26 5BQ, Inspector’s Report 26th June 2019, Appeal Ref. APP/G5180/W/18/3206569



Appeal Decision

Inquiry Held on 4 June 2019

Site visit made on 12 June 2019

by **S R G Baird BA (Hons) MRTPI**

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

Decision date: 26th June 2019

Appeal Ref: APP/G5180/W/18/3206569

Land to the rear of the former Dylon International Premises, Station Approach, Lower Sydenham, London SE26 5BQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Relta Limited and Dylon 2 Limited against the Council of the London Borough of Bromley.
 - The application Ref DC/18/01319/FULL1, is dated 19 March 2018.
 - The development proposed is the demolition of existing buildings and the redevelopment of the site by the erection of a 4 to 8-storey development comprising 151 residential units (63, one-bedroom; 80, 2-bedroom & 8, 3-bedroom) together with the construction of an estate road, ancillary car and cycle parking and the landscaping of the east part of the site to form open space accessible to the public.
-

Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing buildings and the redevelopment of the site by the erection of a 4 to 8-storey development comprising 151 residential units (63, one-bedroom; 80, 2-bedroom & 8, 3-bedroom) together with the construction of an estate road, ancillary car and cycle parking and the landscaping of the east part of the site to form open space accessible to the public on land to the rear of the former Dylon International Premises, Station Approach, Lower Sydenham, London SE26 5BQ in accordance with the terms of the application, Ref DC/18/01319/FULL1, dated 19 March 2018, subject to the conditions attached at Annex 4.

Application for costs

2. Three applications for the award of costs were made. Two applications, one for a full award and one for a partial award, were made by the Council of the London Borough of Bromley (LBB) against Relta Limited and Dylon 2 Limited. One application for a partial award of costs was made by Relta Limited and Dylon 2 Limited against the Council of the London Borough of Bromley. These applications are to be the subject of separate decisions.

- required to met and exceed their required minimum allocation to close the gap between identified housing need and supply.
33. For Bromley, the 2014 South East Strategic Housing Market Assessment identifies a AH requirement of some 1,404 dpa for the next 20 years. Currently, there are some 3,477 households on the Council's, heavily circumscribed, housing waiting list. For those accepted on the waiting list, there is an average wait time of 1.3-years for a one-bed home, 2.7-years for a 2-bed home and 2.6 -years for a 3-bed home. In 2017/18 there were some 630 households accepted as homeless. In April 2019 there were some 391 households housed in temporary accommodation in the Borough and 831 households housed in temporary accommodation outside Bromley. In terms of housing affordability, the average house price in Bromley is 67% higher than the national average and the average house price to average income ratio sits at 14:26. The position on rents is just as startling. In 2017/2018, the average private rental market rent was some £1,226 as opposed to the average Registered Providers rent of some £509.
 34. Figures produced by the GLA show the provision of 858 units of AH in the last 6.5 years. The GLA figure is much higher than the lpa's own figures from the Annual Monitoring Report, which shows for the period 2012 to 2017 that 65 affordable dwellings had been provided. This figure is very similar to that noted in the Maybrey Works appeal decision when the Inspector noted in relation to AH that, "*...the Council acknowledges has not been well catered for, an average of only 13 being delivered in the last 5 years*".
 35. The future position for general and affordable housing looks bleak. Based on the lpa's existing 5-year supply figures the forecast total amount of AH is some 405 units, some 28% of the identified annual requirement. In terms of housing need, the emerging LP is currently being examined which sets a target for Bromley at 1,424 dpa; well over twice the current target. Whilst the emerging plan attracts reduced weight it does represent the most up-to-date evidence on housing need, the grave housing crisis facing London and the direction of travel. Even if this figure is adjusted following the examination, it is reasonable to assume that Bromley's housing target is going to increase materially. Considering the above, *very substantial weight* attaches to the contribution of this scheme to the provision of market housing and particularly the pressing need for affordable housing.
 36. The lpa submits that only moderate weight should be attached to the environmental and recreational benefits of the scheme i.e. a new park, Pool River restoration, Waterlink Way and Green Chain extension and improving damaged land. The appellants suggest that when these elements are assessed collectively, the recreational and environmental benefits attract very significant weight. Although the immediate area is blessed with an extensive area of recreational land it is for the most part not publicly accessible. The public park, which would include a play area and an outdoor gym, would be a significant amenity for the wider community and a positive enhancement. Framework paragraph 141 encourages the seeking out of opportunities to provide access to areas for outdoor recreation, to enhance landscapes and biodiversity and to improve damaged land. In this context, *very significant weight* attaches to the recreational and environmental benefits that would be derived from this scheme.

37. I have noted the lpa's submission that good design is indivisible from the policy context. That said, the wider area is not blessed with good quality architecture/layout and the appellants are to be commended for engaging an architect and practice of national and international repute. The building is of high architectural quality and the site layout would contribute to a significant improvement of the townscape of this part of Lower Sydenham. Accordingly, *significant weight* attaches to the architectural and townscape quality of this scheme. It is agreed that *moderate weight* attaches to the economic, locational regeneration benefits of the scheme.
38. The starting point is that substantial weight is attached to any harm to the MOL by reason of inappropriateness and any other harm resulting from the proposal. Very special circumstances will not exist unless the potential harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. Further to LP Policy 7.17 and BLP Policy 50, the proposal is inappropriate development and there would be material harm to the openness of the MOL. Bearing in mind, Ministerial Statements in 2013, 2014 and 2015 indicate that the single issue of unmet demand for housing is unlikely to outweigh harm/other harm to constitute very special circumstances, I conclude that, taken together, the other considerations in this scheme clearly outweigh the harm identified and amount to the very special circumstances necessary to justify the development.

Other Matters.

39. Based on the contents of the CIL Compliance Schedule, the provisions of the UU, except those relating to the Obligation Monitoring Fee, meet the tests set out in Framework paragraph 56 and CIL Regulations 122/123. I attach significant weight to the UU. On the Obligation Monitoring Fee, there is nothing in the Planning Acts, the CIL Regulations, the Framework or PPG that suggests that a lpa could or should claim monitoring fees as part of a planning obligation. Monitoring and administration are a standard function of the Council. That said, case law⁷ recognises that, given the general nature of the Framework/CIL tests, in exceptional cases (very large developments or a nationally significant project) a decision maker could conclude that the payment of a monitoring fee satisfied those tests. Neither of those exceptions apply here. In the absence of a full justification supported by evidence⁸, the payment of a monitoring fee is unnecessary to make the development acceptable in planning terms and fails the tests set out in the Framework/CIL Regulations 122 and, I have not taken it into account in coming to my decision.
40. The highway authority does not object to the proposal in terms of the impact on the local highway network. I have no reason to disagree. Station Approach is a 2-way cul-de-sac that gives access to the station and the one-way private access road that serves Dylon 1. Significant and sometimes indiscriminate on-street parking takes place on Station Approach and I can understand the residents' frustration. However, the monitoring of on-street parking and enforcement is a matter for the respective local authorities and would not justify withholding permission. The use and upkeep of the private

⁷ Oxfordshire County Council and (1) Secretary of State for Communities and Local Government, (2) Cala Management Limited, (3) William Roger Freeman, (4) Ross William Freeman, (5) Julian James Freeman (6) Cherwell District Council [2015] EWHC 186 (admin).

⁸ Planning Policy Guidance, Paragraph: 004 Reference ID: 23b-004-20150326.

- 7 Appendix DP34 – Money Hill, Ashby-de-la-Zouch Appeal reference APP/G2435/A/14/2228806, Inspector’s report 21st October 2015, Secretary of State Letter 15th February 2016**



Department for
Communities and
Local Government

Mr J Bompas
Iceni Projects
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London WC2H 0JR

Our Ref: APP/G2435/A/14/2228806

15 February 2016

Dear Sir

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEAL BY MONEY HILL CONSORTIUM: MONEY HILL, LAND NORTH OF
WOOD STREET, ASHBY-DE-LA-ZOUCH**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, John Braithwaite BSc (Arch) BArch(Hons) RIBA MRTPI, who held a public local inquiry on 8 and 10 September 2015 into your client's appeal against the decision of North West Leicestershire District Council (the Council) to refuse planning permission for 605 residential dwellings including a 60 unit extra care centre (C2), a new primary school (D1), a new health centre (D1), a new nursery school (D1), a new community hall (D1), new neighbourhood retail use (A1), new public open space and vehicular access from the A511 and Woodcock Way, in accordance with application Ref 13/00335/OUTM dated 22 April 2013, at Money Hill, land north of Wood Street, Ashby-de-la-Zouch.
2. The appeal was recovered for the Secretary of State's determination on 3 December 2014, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990 because it involves a residential development of more than 150 units on a site of more than 5 hectares, which would significantly impact on the Government's objective to secure a better balance between housing demand and supply and create high quality, sustainable, mixed and inclusive communities.

Inspector's recommendation and summary of the decision

3. The Inspector, whose report is enclosed with this letter, recommended that the appeal be allowed. For the reasons given below, the Secretary of State agrees with the Inspector and has decided to allow the appeal and grant planning

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public consultation on a draft Local Plan, but does not consider that the emerging Local Plan can be afforded any more than very limited weight at this stage. The Secretary of State also notes that consultation has now closed on the Ashby-de-la-Zouch Draft Neighbourhood Plan (NP) and, given the stage it has reached in its progress towards adoption, affords it very limited weight.

10. In accordance with section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the LB Act), the Secretary of State has paid special regard to the desirability of preserving those listed structures potentially affected by the scheme or their settings or any features of special architectural or historic interest which they may possess. The Secretary of State has also paid special attention to the desirability of preserving or enhancing the character or appearance conservation areas, as required by section 72(1) of the LB Act.

Main Issue

11. The Secretary of State agrees with the Inspector that the main issue in this case, taking all relevant matters into account, is whether the proposal would be sustainable development (IR68).

Development Plan

12. The Secretary of State notes that, for the reasons in IR14, the appeal proposal conflicts with LP policy S3; but that the LP's housing policies only made provision to meet the need for new homes in the district until 2006 and are consequently are out of date (IR14). He notes the Council's view that a new Local Plan will have to identify land outside the existing limits to development to meet the present and future need for housing, and that policy S3 is out of date (IR14). He agrees with the Council that, in the circumstances, no weight should be attached to the conflict with policy S3 (IR14).

Sustainable development

13. For the reasons in IR82-84, he agrees with the Inspector that the proposed development satisfies the economic, social and environmental roles of sustainable development; and that it would be sustainable development (IR85).

Housing need and supply

14. Paragraph 47 of the Framework requires local planning authorities to identify and update annually a supply of specific deliverable sites to provide five years of housing against their housing requirements. The Secretary of State notes that the appellant has not disputed the Council's contention that it has a five year supply of housing land (IR87). He agrees with the Inspector that local planning authorities must also plan for housing supply beyond the five year period and, as set out in paragraph 47 of the Framework, identify a supply of sites for 6-10 years and, where possible, 11-15 years (IR87). He agrees with the Inspector that there is also a current national imperative to boost the supply of housing and, in recognition of this, the Council rightly does not cite their five year housing land supply as a reason to withhold planning permission (IR87). The Secretary of State attaches significant weight to the fact that the proposed development would provide for 605 new homes of which up to 182 would be affordable.

8 Appendix DP35 – Greetham Garden Centre, Oakhham Road, Greetham Appeal reference APP/A2470/A/14/2222210, Inspector's report 26th May 2015



Appeal Decision

Hearing held on 12 March 2015

Site visit made on 12 March 2015

by **C J Anstey BA (Hons) DipTP DipLA MRTPI**

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

Decision date: 26 May 2015

Appeal Ref: APP/A2470/A/14/222210

Greetham Garden Centre, Oakham Road, Greetham, Oakham, LE15 7NN.

- 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 Hanover Developments Ltd. against the decision of Rutland Council.
 - The application Ref 2013/0956/OUT, dated 28 October 2013, was refused by notice dated 15 January 2014.
 - The development proposed is the redevelopment of the former Greetham Garden Centre for residential development for up to 35 dwellings, and the provision of access.
-

Decision

1. The appeal is allowed and outline planning permission is granted for the redevelopment of the former Greetham Garden Centre for residential development for up to 35 dwellings, and the provision of access, at Greetham Garden Centre, Oakham Road, Greetham, Oakham, LE15 7NN, in accordance with the terms of the application Ref 2013/0956/OUT, dated 28 October 2013, and the plans submitted with it, subject to the conditions set out in the attached Schedule.

Preliminary Matters

2. Refusal Reason 2 related to the failure in the appeal application to make any commitment to developer contributions. As part of the appeal submissions two unilateral undertakings have been submitted. I consider that these two undertakings are compliant with *paragraph 204 of the National Planning Policy Framework (the Framework)* and *Regulation 122 of the CIL Regulations 2010*. In arriving at this view I have taken account of the replies from the Council and the Police Authority to the Planning Inspectorate's letter of 5 May 2015 relating to 'pooled' contributions. The first unilateral undertaking, dated 22 January 2015, makes provision for various contributions towards health services, indoor activity services, libraries, museums, outdoor sports, open space, children's services and policing. As the contribution to policing is in line with the amount per dwelling specified in the adopted Developer Contributions Calculation increasing this amount would not be justified. The second unilateral undertaking, dated 12 March 2015, will ensure that at reserved matters stage a Section 106 agreement is drawn up to secure 35% affordable housing. Consequently I believe that Refusal Reason 2 has now been addressed.

order of 4.29 years (anticipated supply of 887 dwellings or 177 dwellings per year)

10. The lower figures advanced for the appellant company are essentially based on different views about likely supply. It is argued for the appellant that a 10% non-implementation rate to all large sites should be applied as it is unrealistic to expect that all the large sites in the supply figures will be built. This is due to various inherent uncertainties, including financial constraints, number of house builders involved, rate of sales, material shortages, legal disputes and site problems. In particular it is argued that too much reliance is put by the Council on the delivery of sites at Oakham North where it is anticipated that well over 600 dwellings will be built in the 5 year period, with about 400 of these by a single developer (Larkfleet Homes). It is contended for the appellant that a developer is unlikely to build more than 50 dwellings per year on a site and consequently in the order of 450 dwellings would be built at Oakham North, about 150 less than anticipated by the Council.
11. In my view the Council has sought to make a realistic assessment of the likely housing land supply position in the County over the next five years. It has engaged positively with landowners and developers to determine delivery on particular sites and on the basis of these discussions drawn up its 5-year supply figures. Not all allocated sites have been included. In the light of this I do not believe that there is sufficient justification for the inclusion of an arbitrary 10% non-implementation rate to all large sites. Even if I had been swayed by the appellant's argument in this regard the delivery figure would at 1021 dwellings have only been 12 dwellings below the agreed figure of 1033 needed over the next five years to meet the requirement and shortfall. Such a very small difference could not have been accorded significant weight.
12. As regards Oakham North written confirmation has been received from Larkfleet Homes confirming a commitment to continue with Phases 9 and 10 together. Consequently I consider that it is reasonable for the Council to include these sites within the 5 year supply. In reaching this view I am mindful that the argument put forward for the appellant about the number of dwellings likely to be built by a developer on a site is a generalised one and does not relate to this specific case.
13. I conclude, therefore, that there is a five year supply of housing land in Rutland and therefore policies for the supply of housing remain up-to-date.

Issue 2: Rural setting

14. In my judgement the close relationship of this brownfield site to the built-up part of the Greetham is of considerable importance. Immediately to the east of the appeal site there is a small housing estate and to the rear of that land allocated for housing in the recently adopted *SAPDPD*. Upon leaving or entering the village the appeal site, and the buildings thereon, appear as being within the developed part of the village and not part of the surrounding countryside. The conifer trees and hedgerows along the western and northern boundaries of the site mark the extent of the built-up part of the village along the north side of Oakham Road. Beyond these firm physical boundaries, with the exception of the sewage treatment works to the north-west, there are open fields. Consequently the proposed housing scheme would not intrude into the surrounding attractive countryside or harm the rural setting of the village.

15. The current derelict and unsightly appearance of the front part of the appeal site detracts from the approach to Greetham and the character of the local area. Given its location within the built-up part of the Greetham the site's redevelopment with a sensitively designed housing scheme would enhance the character and appearance of this part of the village.
16. I conclude, therefore, on the second main issue that the proposal would not harm the rural setting of the village and would enhance the character and appearance of this part of Greetham.

Issue 3: Sustainable development

17. *Paragraph 14 of the Framework* makes it clear that there is a presumption in favour of sustainable development, which has three dimensions: economic, social and environmental. In my judgement the proposal would fulfil the economic role of sustainable development and would contribute to building a strong, responsive and competitive economy, by helping to ensure that there is housing land available to support growth. In terms of the social dimension the scheme would contribute to boosting housing supply by providing a range of sizes and types of housing for the community, including a number of much-needed affordable housing units. The site is available and in the absence of any significant constraints could be developed in the near future.
18. As regards environmental considerations the site is well located in terms of accessibility to the various services and facilities available in Greetham. The village is identified in the *Core Strategy DPD (CSDPD)* as a Local Service Centre, with a range of facilities and access to public transport. It is clear from my consideration of the second main issue that in terms of the environment the proposal would not harm the rural setting of the village and would enhance the character and appearance of this part of Greetham.
19. In my view, therefore, the positive attributes of the development, in terms of the economic, social and environmental gains, means that the scheme would constitute sustainable development. Consequently the *Framework's* presumption in favour of sustainable development applies.
20. I conclude, therefore, on the third main issue that the proposed scheme constitutes sustainable development.

Other matters

21. Local people have raised a number of other concerns including the impact on residential amenity, density and layout. However, having considered all the material before me, none of these matters individually or cumulatively would be likely to cause overriding harm, and they are not, therefore grounds for dismissing the appeal.

Overall planning balance

22. I have concluded that housing land supply policies in the County remain up-to-date. The appeal site lies outside the Planned Limit to Development for Greetham and within the countryside as defined in the recently adopted *SAPDPD*. Consequently the appeal scheme is clearly contrary to *Policy CS4: The Location of Development* of the *CSDPD* and *Policy SP5: Housing in the Countryside* of the *SAPDPD*, which aim to focus development to within

identified settlements, whilst restricting development in the countryside to that which needs to be there.

23. I have found, however, that the proposal would not harm the rural setting of the village and would enhance the character and appearance of this part of Greetham. I have also concluded that the appeal proposal constitutes sustainable development and would generate various economic and social benefits, including a number of much-needed affordable housing units. I consider that these other material considerations should be accorded very significant weight and, when added together, outweigh the identified conflict with local planning policy. These findings constitute compelling grounds for allowing the appeal subject to conditions.

Conditions

24. I have considered the planning conditions put forward and discussed at the Hearing in the light of the advice in the Government's *Planning Practice Guidance*. I have applied the standard outline conditions (*Conditions 1, 2 & 3*). To ensure that the development proceeds in accordance with what has been approved the plan is specified (*Condition 4*). The submission of samples of materials for approval is required to make sure that those used are in keeping with local character (*Condition 5*).
25. Landscaping details are required to ensure that the site is suitably landscaped and in keeping with local character (*Condition 6*). In order to control the height of the new dwellings, thereby minimising the impact on the surrounding area, details of existing and proposed levels are required (*Condition 7*). In the interests of highway safety the roads and associated elements need to be laid out in a satisfactory manner (*Conditions 8 & 9*). In view of the possible archaeological interest of the site a suitable scheme of investigation needs to be drawn up and implemented (*Condition 10*).
26. In the event that any contamination is found on the site a remediation scheme strategy will be required (*Condition 11*). To safeguard residential amenity hours of demolition/construction need to be specified (*Condition 12*). The provision of appropriate sewerage and drainage works to serve the site are necessary (*Conditions 13 & 14*).

Overall Conclusion

27. My overall conclusion, therefore, is that the appeal should be allowed subject to appropriate planning conditions. None of the other matters raised, including the various appeal decisions submitted, outweigh the considerations that have led to my decision.

Christopher Anstey

Inspector

9 Appendix DP36 – Land North of Pulley Lane, Droitwich Spa Appeal References APP/H1840/A/13/2199085 and APP/H1840/A/13/2199426, Inspector’s Report 6th June 2014, Secretary of State Letter 2nd July 2014



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Your Ref: P484

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Our Ref: APP/H1840/A/13/2199426
Your ref: Bir.3689

02 July 2014

Dear Sirs,

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEAL BY BARBERRY DROITWICH LIMITED
SITE AT LAND AT PULLEY LANE, NEWLAND ROAD AND PRIMSLAND WAY,
DROITWICH SPA, (WYCHAVON DC)
APPLICATION REF: W/11/01073/OU;
and
APPEAL BY PERSIMMON HOMES LIMITED AND PROWTING PROJECTS LIMITED
SITE AT LAND NORTH OF PULLEY LANE AND NEWLAND LANE, NEWLAND,
DROITWICH SPA, (WYCHAVON DC)
APPLICATION REF: W/12/02336/OU**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, Harold Stephens BA MPhil DipTP MRTPI FRSA, who held a public local inquiry between 28 January and 14 February 2014 into your respective clients' appeals against decisions by Wychavon District Council ("the Council"):

Appeal A: to refuse outline planning permission for the development of land for up to 500 dwellings (Class C3); up to 200 unit care facility (Class C2); provision of mixed use local centre to include shop (Class A1); financial & professional services (Class A2); restaurants & café (Class A3); drinking establishment (Class A4); hot food takeaway (Class A5); offices (Class B1a) and police post; indoor bowls facility; means of access and estate roads; public open space; landscaping and infrastructure at Pulley Lane, Newland Road and Primsland Way, in accordance with application Ref: W/11/01073/OU; and

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Appeal B: to refuse outline planning permission for the construction of a maximum of 265 dwellings with associated car parking, access, infrastructure provision and open space at land north of Pulley Lane and Newland Lane, Newland, in accordance with application Ref: W/12/02336/OU.

2. On 26 June 2013, both appeals were recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990, because they involve proposals over 150 units on sites of more than 5 ha which would significantly impact on the Government's objective to secure a better balance between housing demand and supply and create high quality, sustainable mixed and inclusive communities.

Inspector's recommendation and summary of the decisions

3. The Inspector recommended that both appeals be allowed and outline planning permission granted. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions and recommendations. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

Procedural matters

4. In respect of Appeal B, the applications for costs by Barberry Droitwich Ltd and by Persimmon Homes & Prowting Projects Ltd are the subjects of decision letters being issued separately by the Secretary of State.
5. The Secretary of State notes (IR1.21) that, although the development did not require an Environmental Impact Assessment, an Environmental Statement was prepared to support the outline planning applications.
6. The Planning Inspectorate wrote to interested parties on 11 March 2014, following the publication of new planning guidance on 6 March, inviting representations on any implications for these cases. The representations received were forwarded to the Inspector who has taken them into account in writing his report.

Policy considerations

7. In deciding these appeals, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. In this case, the development plan consists of the saved policies of the Wychavon District Local Plan 2006 (WDLP) as well as the Worcestershire Waste Core Strategy (November 2012).
8. Other material considerations which the Secretary of State has taken into account include the *National Planning Policy Framework* (The Framework); the planning guidance referred to in paragraph 6 above; and the *Community Infrastructure Levy (CIL) Regulations 2010* as amended.
9. The Council is also working jointly with Malvern Hills DC and Worcester City Council to prepare a South Worcestershire Development Plan (SWDP) (IR1.26-1.29). However, as work is still proceeding on that emerging plan and there are a number of

uncertainties outstanding (see paragraph 13 below), the Secretary of State gives it very little weight.

Main issues

10. The Secretary of State agrees with the Inspector that the main issues in these appeals are those set out at IR1.4.

APPEAL A

Consistency with development plan and sustainability of development

11. The Secretary of State notes (IR8.10) that the reasons for refusal did not allege breach of WDLP policies and both main parties accept that bringing forward housing development in the context of the district's housing needs inescapably creates tension in particular with WDLP policies SR1 and GD1. He also agrees with the Inspector at IR8.14 that, for the reasons at IR8.12-8.14, policies GD1 and SR1 are out of date and paragraph 14 of the Framework applies, triggering the presumption in favour of sustainable development. Furthermore, for the reasons given at IR8.15-8.18, the Secretary of State agrees with the Inspector that only limited weight can be given to policy ENV1 (IR8.15) He also agrees that the appeal scheme would not conflict with ENV8 (IR8.18).
12. Turning to the question as to whether the development is sustainable,, the Secretary of State notes the arguments set out at IR8.19-8.20 in relation to the interpretation and application of the presumption under paragraph 14 of the Framework in the case of *William Davis*. The Secretary of State also notes the recent decision in *Dartford Borough Council v. Secretary of State for Communities and Local Government and Landhold Capital Limited* where Mrs Justice Patterson rejected elevating *William Davis* to a formulaic sequential approach to paragraph 14 of the Framework. Like the Inspector, the Secretary of State finds the relevant policies for the supply of housing are out of date (IR8.24) and therefore the presumption applies and that the evidence before them both (IR8.21-8.23)demonstrates that the Appeal A scheme is sustainable in terms of economic, environmental and social benefits..

Prematurity

13. Having regard to the arguments set out at IR8.25-8.30, the Secretary of State agrees with the Inspector that, for the reasons given at IR8.30-8.36, granting permission for these appeal schemes cannot be seen as being likely to prejudice a local plan and so cannot be regarded as premature. In particular, the Secretary of State has taken account of the fact that the Council are proposing at least an extra 3,000 homes and have not yet decided where these should be located (IR8.30); that there are unresolved objections to the SWDP which dramatically reduce the weight that can be given to it (IR8.31); and that the appeal site has previously been under active consideration as a location for development (IR8.34).

Whether the appeal proposal is necessary to meet housing needs

14. For the reasons given at IR8.38-8.55, the Secretary of State agrees with the Inspector's conclusions at IR8.56-8.58 that the Council cannot demonstrate a 5-year housing land supply, so that the test in paragraph 14 of the Framework applies.

Character and appearance of the area

15. For the reasons given at IR8.59-8.72, the Secretary of State agrees with the Inspector that the proposed development would not significantly harm the character and appearance of the area and that the countervailing environmental benefits more than outweigh the limited harm caused by the loss of green field land. He therefore also agrees that the proposal would comply with the environmental policies of the WDLP and the emerging SWDP and with the relevant provisions of the Framework.

Effect on local highway infrastructure

16. Having carefully considered the Inspector's arguments at IR8.74-8.80, the Secretary of State agrees with him that the location of the appeal site, with good access to the centre by cycle and foot, would minimise the highways impact which any substantial development inevitably brings (IR8.81); so that it would not give rise to highway safety or the free-flow of traffic in accordance with the relevant development plan policy . (IR8.82).

Brine Run

17. For the reasons given at IR8.83, the Secretary of State agrees with the Inspector that there is no sound and robust evidence to suggest that the Brine Run could have any adverse implications for the appeal scheme so long as appropriate engineering measures to mitigate the risk of damage were agreed via the Council's Building Control Department in advance of any development.

Conditions

18. The Secretary of State has considered the proposed conditions and the Inspector's reasoning and conclusions thereon in respect of Appeal A (IR8.84-8.87), and he is satisfied that the conditions as proposed by the Inspector and set out at Annex A to this letter are reasonable, necessary and would meet the tests of paragraph 206 of the Framework and the planning guidance. However, he also agrees with the Inspector (IR8.87) that it would not be appropriate to attach a planning condition regarding a Brine Run Monitoring Report (IR8.87) since this is a matter covered through the Building Control regime.

Section 106 obligation

19. The Secretary of State has also considered the S106 Planning Agreement in respect of Appeal A submitted by the main parties at the inquiry (IR8.88) and, like the Inspector, he is satisfied that the provisions can be considered to be compliant with CIL Regulation 122 and paragraph 204 of the Framework and that full weight in support of the appeal proposal can therefore be given to the obligations.

Conclusion

20. For the reasons given at IR8.89, the Secretary of State agrees with the Inspector that, although the proposal would not be consistent with a strict interpretation of Policy GD1 of the WDLP, little weight can be afforded to that or to the other development plan

policies relied on by the Council because they are clearly out of date and significantly outweighed by the inability of the Council to demonstrate a 5-year housing land supply. Similarly, the Secretary of State agrees with the Inspector at IR8.90 that the proposed development would not significantly harm the character and appearance of the area, with the countervailing environmental benefits more than outweighing the limited landscape harm caused by the loss of green field land. Overall, therefore, the Secretary of State agrees with the Inspector that the benefits of the Appeal A scheme are not significantly and demonstrably outweighed by the alleged disadvantages.

APPEAL B

Consistency with development plan and sustainability of development

21. For the reasons given at IR8.91-8.96, the Secretary of State agrees with the Inspector at IR8.96 that WDLP Policy GD1 is no longer fit for purpose and would not help the Council to meet its housing requirements in 2014 because land beyond the settlement boundary needs to be released for development in a manner which reflects the housing needs of the area and the terms of the Framework. The Secretary of State also agrees with the Inspector (IR8.97) that, as WDLP policy SR1 is out of date, paragraph 14 of the Framework applies, thereby triggering the presumption in favour of sustainable development. He further agrees with the Inspector (IR9.98) that the application of a Special Landscape Area (SLA) designation to the appeal site (IR8.98) has been superseded. Overall, the Secretary of State agrees with the Inspector (IR8.99-8.100) that the situation represented by the out-dated WDLP has dramatically changed and can no longer be a sound basis against which to decide this proposal, therefore by default the appeal scheme needs to be considered against the provisions of the Framework.

Prematurity

22. Having regard to the arguments set out at IR8.101-8.110, the Secretary of State agrees with the Inspector's conclusion at IR8.111 that the Council's reliance upon prematurity as a reason for refusal cannot stand as it is contrary to the weight of guidance, policy and judicial decisions and with no relevant precedent.

Whether the appeal proposal is necessary to meet housing needs

23. For the reasons given at IR8.112-8.126, the Secretary of State agrees with the Inspector's conclusion at IR8.127 that the Council does not have a 5-year supply of housing land and the appeal scheme is necessary to meet the housing needs of the district, including the need for affordable housing.

Character and appearance of the area

24. Having carefully considered the Inspector's arguments as set out at IR8.128-8.137, the Secretary of State agrees with his conclusions at IR8.138 including his summary that these conclusions demonstrate that there is no logical basis to refuse the Appeal B scheme on the basis of landscape impact. The Secretary of State also agrees with the Inspector at IR8.139 that, if both schemes were to be approved, the additional impact of the Appeal B scheme in landscape terms would be *de minimis*; and that the substantial provision of green infrastructure in connection with both schemes would

mean that the overall result of the proposals would bring benefits to clearly off-set the initial impact of the development. He also agrees with the Inspector's conclusion at IR8.140 that, although there would be changes to the visual effect of the development, there would be no significant harm to the character and appearance of the area and the scheme would comply with the pertinent WDLP and emerging SWDP policies.

Effect on local highway infrastructure

25. For the reasons given at IR8.141-8.143, the Secretary of State agrees with the Inspector that the proposed development would not give rise to harm to highway safety or to the free flow of traffic, and that relevant WDLP policies would not be offended in this respect.

Conditions

26. The Secretary of State has considered the proposed conditions and the Inspector's reasoning and conclusions thereon in respect of Appeal B (IR8.144-8.147); and he is satisfied that the conditions as proposed by the Inspector and set out at Annex B to this letter are reasonable, necessary and would meet the tests of paragraph 206 of the Framework and the planning guidance.

Section 106 obligation

27. The Secretary of State has also considered the S106 Planning Agreement submitted by the main parties at the inquiry in respect of Appeal B and the Inspector's comments on it (IR8.148-8.153). Like the Inspector, he is satisfied that the provisions can be considered to be compliant with CIL Regulation 122 and paragraph 204 of the Framework and that full weight in support of the appeal proposal can therefore be given to the obligations in the Agreement.

Planning balance and conclusion

28. For the reasons given at IR8.154-8.158, the Secretary of State agrees with the Inspector's conclusions (IR8.159-8.161) that there is a need for the Appeal B site, which is suitable for the proposed development and which would bring about substantial and tangible benefits. The Secretary of State also agrees that there is no overall conflict with the development plan or the emerging SWDP or with the Framework. Instead, there is a strong positive case for the development of the Appeal B site to provide not only market housing but also much needed affordable housing.

Overall Conclusions

29. Overall, the Secretary of State is satisfied that the adverse impacts of granting planning permission for both the Appeal A scheme and the Appeal B scheme would not significantly and demonstrably outweigh the benefits when assessed against the Framework taken as a whole, and he does not consider that there are any material considerations of sufficient weight to justify refusing planning permission for either scheme.

Formal Decision

30. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendations he hereby allows your respective clients' appeals and grants outline planning permission for:

Appeal A: the development of land for up to 500 dwellings (Class C3); up to 200 unit care facility (Class C2); provision of mixed use local centre to include shop (Class A1); financial & professional services (Class A2); restaurants & café (Class A3); drinking establishment (Class A4); hot food takeaway (Class A5); offices (Class B1a) and police post; indoor bowls facility; means of access and estate roads; public open space; landscaping and infrastructure, subject to the conditions set out at Annex A to this letter, at Pulley Lane, Newland Road and Primsland Way, in accordance with application Ref: W/11/01073/OU; and

Appeal B: the construction of a maximum of 265 dwellings with associated car parking, access, infrastructure provision and open space, subject to the conditions set out at Annex A to this letter, at land north of Pulley Lane and Newland Lane, Newland, in accordance with application Ref: W/12/02336/OU.

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

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

Right to challenge the decision

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

34. A copy of this letter has been sent to the Council. A notification e-mail / letter has been sent to all other parties who asked to be informed of the decision.

Yours faithfully

JEAN NOWAK

Authorised by Secretary of State to sign in that behalf

point. Without adequate provision of affordable housing, these acute housing needs will be incapable of being met. In terms of the NPPF's requirement to create inclusive and mixed communities in paragraph 50, this is a very serious matter. Needless to say these socially disadvantaged people were unrepresented at the Inquiry.^[4.42]

8.124 These bleak and desperate conclusions are thrown into even sharper focus by an examination of the current circumstances in Wychavon itself. Over the whole of the District's area there is presently a need for 268 homes per annum. These are real people in real need now. Unfortunately, there appears to be no early prospect of any resolution to this problem. Firstly, the 2009 AMR recognizes that between 2005 and 2009, only 229 affordable homes were delivered, an average of some 55 per annum. Over the following 8 year period, between 2009 and 2013, some 501 were delivered, or an average of 62 per annum over a whole economic cycle. Given the continuing shortfall in affordable housing within the District, I consider the provision of affordable housing as part of the proposed development is a clear material consideration of significant weight that mitigates in favour of the site being granted planning permission.^[4.43- 4.44]

8.125 Secondly, although SWDP15 (and supporting text) notes that 657 dwellings are needed over the next 5 years, a solution still remains a relatively distant prospect given the state that the forward-planning process finds itself in at present. The information shows that the delivery of affordable housing in Wychavon has been very poor. There are no allocations for housing purposes which would begin to address the significant housing crisis in Wychavon. Furthermore, none of the permissions identified are capable of addressing the need. There is thus no solution identified by the Council to begin to address the crisis in housing provision for the substantial number of households living with housing need which the Council can identify. And as the map made clear, those living in Droitwich Spa are amongst the unluckiest as it is one of the most unaffordable places for housing.^[4.46]

8.126 It seems to me that the Council has largely ignored the affordable housing need in its evidence. The poor delivery record of the Council has also been largely overlooked. The Council's planning balance is struck without any apparent consideration being given to one of the most important reasons why housing in Droitwich Spa is needed. From all evidence that is before me the provision of affordable housing must attract very significant weight in any proper exercise of the planning balance.^[4.47]

8.127 On main matter (iii) I conclude that the Council does not have a 5-year supply and the proposed development is necessary to meet the housing needs of the district.

Main matter (iv): The effect of the proposed development on the character and appearance of the area

8.128 The Council, supported by local objectors, maintains that the proposed development would give rise to demonstrable adverse impacts to the overall landscape, including character and in terms of visual effects, thereby failing to achieve the environmental objectives of sustainable development. In the overall balancing exercise it is claimed, that the adverse impacts would be

10 Appendix DP37 – Appeal Ref: APP/B1930/W/20/3265949 The Old Electricity Works, Campfield Road, St Albans, AL1 5HT - Inspector’s report 22nd June 2021



Appeal Decision

Site visit made on 25 May 2021

by Eleni Randle BSc (hons) MSc FRICS FAAV MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 June 2021.

Appeal Ref: APP/B1930/W/20/3265949

The Old Electricity Works, Campfield Road, St Albans, AL1 5HT

- 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 Glen Charles (Campfield Road Property Limited) against the decision of St Albans City & District Council.
- The application Ref 5/19/3164 dated 17 December 2019, was refused by notice dated 14 August 2020.
- The development proposed is retention of the northern elevation to the Old Electricity Works building and adjoining façade of the warehouse building and demolition of all other existing buildings and construction of new buildings between two and six storeys in height to provide 107 flats (64 x 1 bed, 31 x 2 bed, 12 x 3 bed), 499sqm of office floor space and associated parking, landscaping and access works.

Decision

1. The appeal is allowed and planning permission is granted for retention of the northern elevation to the Old Electricity Works building and adjoining façade of the warehouse building and demolition of all other existing buildings and construction of new buildings between two and six storeys in height to provide 107 flats (64 x 1 bed, 31 x 2 bed, 12 x 3 bed), 499sqm of office floor space and associated parking, landscaping and access works at The Old Electricity Works, Campfield Road, St Albans, AL1 5HT in accordance with the terms of the application ref: 5/19/3164, dated 17 December 2019, subject to the conditions set out in the schedule at the end of this decision.

Procedural Matters

2. Whilst not specifically a reason for refusal I note the requirement for a Unilateral Undertaking (S106 agreement) in the event the appeal is allowed. The Council confirms the heads of terms to secure provision of affordable housing and contribution to primary education, secondary education, library services, youth services, parks and open spaced, sustainable transport, residential travel plan, travel plan monitoring and support contribution and healthcare. Given that I have before me a completed, executable, S106 agreement dated 17 June 2021 which secures the aforementioned matters, consistent with the Council's report, I find that the social and infrastructure needs of the proposal would be sufficiently mitigated.

Main Issues

3. The main issues are i) the impact of the proposal upon the amenity of future occupiers with regard to daylight, sunlight and outlook and ii) whether the proposal can provide adequate on-site car parking without creation of increased parking demand in the immediate locality.

the area (and indeed the general scale, bulk and massing) is established though the existing consent and the Council's committee report outlines services and transport links within the area and the flats meet the Nationally Described Space Standards. I have no evidence before to conclude differently in light of an already acceptable principle. The appellant's final comments demonstrates that the proposal will not dwarf or block out space between it and Albanian Court and the Council do not raise refusal based upon privacy matters. Property prices are not a material planning consideration. A construction management plan can be conditioned to manage construction in terms of impact upon neighbouring amenity. Environmental Compliance confirm no objection to the proposal subject to conditions.

20. I have already dealt with matters relating to parking within this decision letter. The Council do not raise any refusal reason based upon light to other residences and I have no evidence to conclude differently. Comments relating to schools, dentists and doctors surgery noted and as outlined in procedural matters a S106 agreement is in place to secure contributions which include being towards the NHS and education. I note concern regarding the timing of some survey work; however, this is unavoidable given the Covid-19 pandemic and furthermore the original survey work was none the less done prior to the pandemic. There is nothing to suggest the proposal will contribute to anti-social behaviour.
21. LP Policy 7A is noted to state that the Council will seek to negotiate a proportion of affordable housing based on site and marketing conditions and local housing need. I find that this, combined with the wording in the St Alban's Supplementary Planning Guidance on Affordable Housing, does indicate flexibility on the level of affordable provision when supported by appropriate evidence as to site viability. In addition the Framework is clear that it is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage. The weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case, including whether the plan and the viability evidence underpinning it is up to date, and any change in site circumstances since the plan was brought into force.
22. The existing consent is noted to have secured a policy compliant (LP Policy 7A) affordable housing provision of 35%. The appellant has submitted a viability appraisal which has been assessed by an independent consultant. It evidences that the proposed 6.5% (mathematically correct) affordable provision is what the site can support and thus that any increase in this would render the proposal unviable. This was reiterated by the independent assessment. If a site is unviable, clearly it will not be delivered. For these reasons I find it has been proven that the scheme is not viable if policy compliant with respect to affordable provision.
23. Whilst the proposed rented units may not reflect the housing need of the district I do not find this outweighs the benefit of providing units that would still contribute towards the need for affordable housing. Of course, the delivery of affordable housing is of importance within overall housing supply and I note that the area is stated by the Council to be in an area of "affordable housing stress" albeit this is unevidenced. Despite this, taking an overall view of housing supply in the district the Council are notably below (2.4 years) having

their required five-year housing land supply (5YHLS). The proposal therefore falls to be considered in the context of a planning balance.

Planning Balance

24. Paragraph 11 of the Framework sets out the approach to the presumption in favour of sustainable development. Paragraph 11 d) confirms that, for decision-taking, this means where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the Framework as a whole. In the case of the appeal site there are no elements (in relation to paragraph 11 d) i) footnote 6) which provide a clear reason why permission should be refused. Paragraph 11 d) ii) thus applies.
25. The proposal would bring social and economic benefits associated with the construction works and expenditure of future occupants in the local area to which I give substantial weight given the number of units proposed overall. In an authority which is significantly below its 5HLYS I attach significant weight to the supply of 107 units on a site where the principle has already been secured. The appeal proposal ultimately seeks to adjust this proposal to support viability and thus make it deliverable, the latter is key in such an area of undersupply.
26. Notwithstanding the existing consent, when based upon its own merits, I have found the proposal would result in an acceptable level of amenity for future and existing occupiers and that there would be no unacceptable impact upon highway safety, nor a severe residual cumulative impact on the road network. The only matter, for this scheme, is the conflict in terms of a reduced affordable housing which is not directly an adverse impact in the usual sense. Overall, I do not find that the proposal would result in adverse impacts that would significantly and demonstrably outweigh the benefits of providing 107 much needed new residential units and 6.5-7% affordable housing in a highly sustainable urban location.

Conditions

27. The Council have suggested conditions in the event an appeal is allowed. The appellant has had chance to review these suggestions as part of receipt of the Council's statement of case. No further comments were received at final comments stage with regard to conditions. A time condition is attached to comply with section 51 of the Planning and Compulsory Purchase Act 2004. A condition requiring the development to be in accordance with the approved plans is required in order to control and define the development which is granted consent. Conditions requiring external materials (including external circulation space materials) and window details to be approved are required to ensure a satisfactory finish.
28. A construction traffic management plan, and piling method statement (if considered appropriate), are needed to protect the amenities of residents of neighbouring properties during construction. A condition requiring cycle parking and electric vehicle charging infrastructure is required to meet the needs of future occupiers and encourage sustainable modes of transport. Surface and foul water drainage conditions, as well as compliance with the flood risk assessment and management/maintenance of SuDS, are required to