



## Appeal Decision

Site visit made on 21 January 2016

**by Elaine Benson BA (Hons) DipTP MRTPI**

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

**Decision date: 08 March 2016**

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**Appeal Ref: APP/C3240/W/15/3138598**

**Land adjacent to Marbren House, Mill Lane, Tibberton TF10 8NL**

- 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 Mr Adrian Seabridge, Seabridge Developments Limited against the decision of Telford and Wrekin Council.
  - The application Ref TWC/2014/1080 dated 2 December 2014, was refused by notice dated 6 August 2015.
  - The development proposed is residential development (up to 22 houses) and construction of a modified vehicular access, with associated highways and drainage infrastructure and other accommodation works.
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### Preliminary Matters

1. The application was made in outline with all of the reserved matters except for 'access' subject to later consideration. Indicative layouts and elevations were provided and have been assessed solely on this basis.
2. A legal agreement under Section 106 of the above Act (S106) was submitted with the appeal. This is addressed in more detail below.

### Application for costs

3. An application for costs was made by Mr Adrian Seabridge, Seabridge Developments Ltd against Telford and Wrekin Council. This application will be the subject of a separate Decision.

### Decision

4. The appeal is allowed and outline planning permission is granted for residential development (up to 22 houses) and construction of a modified vehicular access, with associated highways and drainage infrastructure and other accommodation works at land adjacent to Marbren House, Mill Lane, Tibberton TF10 8NL in accordance with the terms of the application, Ref TWC/2014/1080, dated 2 December 2014, subject to the conditions on the attached Schedule.

### Main Issues

5. These are whether the proposed development would amount to an encroachment into the open countryside contrary to policies for its protection and the effect of the development on the form and character of the village of Tibberton.
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## Reasons

### *Background*

6. The planning application was first considered by the Council in February 2015. The relevant Committee Minute states that following a site visit the application was considered to comply with relevant national and local planning policies. The Council resolved to grant planning commission subject to the completion of a S106. Prior to the completion of this S106, the Council decided that the 'Telford and Wrekin Objectively Assessed Need Report' of March 2015 had identified a 5 years' supply of housing land. This was not the case when the application was originally determined. The Council considered that this change of position was a material consideration which required its members to reconsider applications with similar resolutions to the appeal proposal.
7. The programmed reconsideration of the application in June 2015 was deferred following the publication of an appeal decision<sup>1</sup> at land adjoining Hay House, Tibberton which relates to the provision of up to 60 new dwellings (the Tibberton appeal). The current appeal application was eventually refused in August 2015, contrary to officers' continuing recommendation to grant planning permission subject to the S106.

### *Policy Context*

8. The development plan for the area includes the Telford and Wrekin Core Strategy (2007) (CS) and saved policies within the Telford and Wrekin Local Plan 1995-2006 (LP). The more up to date National Planning Policy Framework (the Framework) is a significant material consideration.
9. CS Policy CS1 indicates that housing needs within the rural area will be met by approximately 170 new dwellings. It is not disputed that this number has been exceeded. However, the CS was adopted in 2007 and Policy CS1 is considerably out of date for reasons including its age and that it is based upon the revoked Regional Spatial Strategy for the West Midlands which set out the maximum numbers of dwellings to be permitted. Furthermore, to restrict the number of new dwellings constructed on a numerical basis alone would be inconsistent with the Framework's objective to boost significantly the supply of housing. This is a significant material consideration in this appeal.
10. Among other things CS Policy CS7 states that development within the rural area will be limited to that necessary to meet the needs of the area. It also states that development will be limited outside the identified settlements which include Tibberton and will be strictly controlled within the open countryside. As is also indicated in the Council's committee reports, I agree with the appellant and the Inspector in the Tibberton appeal that Policy CS7 should not be interpreted as imposing an absolute policy limit on the numbers of new housing. There is little evidence with this appeal to indicate the level of housing need within Tibberton, including for affordable housing.
11. CS Policy CS6 sets out the spatial development proposals for Newport to support its role as a market town. Its accompanying text identifies Tibberton as one of the service centres in which the majority of development to meet local rural needs will be focussed, with the scale and nature of development within and beyond these settlements addressed by policies within the Development

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<sup>1</sup> APP/C3240/W/15/3003907

Control Policies DPD. This policy follows on from the saved LP Policy H9 which also identifies Tibberton as one of the settlements suitable for new housing, subject to compliance with LP Policy H10 criteria (a) & (b).

12. Policy H10 deals with the scale of development within those settlements identified in Policy H9. I agree with the Council that its criterion (a) is inconsistent with Government policy as it seeks to restrict residential development to one or two dwellings on a suitable infill plot within the existing built up frontage. However, its criterion (b) indicates that development will be permitted where the site does not cause the loss of an important area of open space, nor cause an extension of the village into the open countryside. The Council considers that there is a policy conflict in respect of criterion (b) only.

#### *Housing Land Supply*

13. It is relevant to this appeal to consider whether the Council can demonstrate a 5 year housing land supply. The main parties continue to disagree on this point. During the determination of the planning application the Council initially accepted that it did not have the requisite supply of housing land and that as a consequence, and in accordance with the Framework, Policies CS1 and CS7 were out of date. At the time it considered that 'applications for housing could not be refused on the grounds of housing supply alone' and that there should be a presumption in favour of sustainable development in accordance with Paragraph 14 of the Framework.
14. In this appeal the Council rely predominantly on the Telford and Wrekin Five Year Housing Land Supply Statements for the periods 2014-2019 and 2015-2020 which indicate figures of 8.2 and 10.9 years respectively. On the face of it this evidence is based upon up to date research, is credible and can therefore be given some weight. However, the figures have not been formally tested and in accordance with the Framework this limits the weight that can be given to it.
15. The Council considers that its stance is supported by the Tibberton appeal Inspector. However, in that decision the Inspector states that his view is based upon the evidence available to him. The appellant states that limited evidence on this point was provided to him by the Tibberton appellant, but there is no other convincing evidence to support this view. The appellant has also provided expert evidence on housing need and housing supply which has been submitted in support of an as yet undetermined large scale housing appeal recently considered at a public inquiry in the district<sup>2</sup>. This evidence also questions the Council's claims to have a 5 year supply of housing land.
16. Limited evidence has been provided about the housing figures proposed in the emerging Local Plan. However I agree with the main parties that in any event the emerging Local Plan is a very early stage and can therefore be given very little weight.
17. Considering all of these points together there is insufficient verifiable and tested evidence to conclude with any certainty on this point. The appellant's evidence limits the weight that can be given to the Council's housing land supply evidence provided with this appeal. But in any event this is a matter which should more appropriately be determined at the examination of the emerging Telford and Wrekin Local Plan.

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<sup>2</sup> APP/C3240/W/15/3010085

18. Nonetheless, in the current appeal this is not a determinative matter as I have already concluded that the Council's housing supply policies identified above are all in excess than 10 years old, are out of date and inconsistent with the Framework, in particular with regard to its objective to boost significantly the supply of housing. Limited weight can therefore be given to them and in this case there are no supportable reasons to withhold planning permission on housing land supply grounds. Furthermore, this appeal turns principally on the effects of the proposed development on its rural surroundings as set out in the main issues above.

### **Main Issues**

19. The appeal site lies within the small village of Tibberton close to its northern boundary which is marked by the River Meese which is also the borough boundary with Shropshire. I have not been provided with any evidence of a defined settlement boundary within the LP or CS. Contrary to the views of some local residents, the site is not identified within the development plan as a green corridor.
20. The site is at a lower ground level than much of the other land surrounding it to the south, including the houses on Mill Lane. Historically, some of the eastern part of the site was used as a paper mill and more recently as a nursery business. There are above ground level remains of what appear to be glasshouse structures on the site. Having regard to the definitions in the Framework, I agree with the Council officer's committee reports and the appellant that this part of the site is previously developed land. The western part of the site appears to have been used as a paddock.
21. Adjacent to the appeal site are virtually derelict outbuildings associated with and in the garden of Marbren House which I understand is rented out as student accommodation. A car repair business under separate ownership operates to the north of the appeal site. There are houses on the opposite side of Mill Lane and the access to an adjacent pumping station separates the site from a recently constructed house, The Croft, which was built in the former garden of 39 Mill Lane. Mill Lane and much of the village comprise single-width roads with no footpaths and it is surrounded by predominantly flat agricultural land, including an agricultural field next to the appeal site.
22. The site is close to the village core which developed in the form of a broadly quadrilateral settlement bounded by 4 roads. Other older parts of the village are generally linear developments of low density detached housing, as demonstrated by historic maps. This is particularly the case at the village fringes, whereas later development includes cul-de-sacs and other suburban-scale layouts.

### *Encroachment into the countryside*

23. Parts of the appeal site which are open or contain the remnants of buildings appear to have been interpreted by some as being open countryside. There are rural features such as the trees and other vegetation along the river bank which are within the flood plain and would remain undeveloped. However, the site does not include any productive agricultural land, is not isolated and over time it has accommodated uses which would have generated non-agricultural activities. The site adjoins housing and a commercial use and in my judgement could not reasonably be described as open countryside. Furthermore, building

on this parcel of land could be considered a logical 'rounding off' of the edge of the village, as it would extend as far as the natural river boundary.

24. Objectors refer to comments made by the Council when planning permission was approved for The Croft. I understand that it was stated that built development ended at that point, with open countryside beyond. However, having given full consideration to the character of the appeal site, its current and historic uses and its relationship to neighbouring development, I consider that it is reasonable to consider the appeal site as within the village envelope and part of 'the containment of the village', as indicated in the officer committee report. I conclude therefore that there would be no conflict with Policy H10 (b) as there would be no loss of an important area of open space and the development would not result in the extension of Tibberton into the open countryside.

*The effect of the proposal on the character and form of Tibberton*

25. In summary, saved LP policies UD2 and UD4, along with CS Policy CS15 require new development to respect and respond to its surroundings and adopt a high quality and integrated design approach to the landscape and buildings. The appellant's assessment of the impact of the proposed development on its surroundings is set out in the professionally prepared Landscape and Visual Appraisal (LVA) which would also inform the detailed design process at reserved matters stage. The Council has not presented professional landscape evidence in support of its case.
26. The site is not within any designated landscape or a conservation area. The LVA states that the site's main landscape sensitivity is derived from its openness and its location at the edge of the village adjacent to the river Meese. However there is also a strong relationship with the neighbouring built development. The setting of the village will undergo slight change as a result of development of the site, although the existing buildings around and visible from the site's entrance contribute to the existing character of Mill Lane. Based on the available evidence and observations made at the site visit I agree with the conclusion of the LVA that there would be a minor negative landscape impact. Subject to the future layout details, the resulting change in character would not be uncharacteristic within its setting.
27. I have assessed the site's visibility in the wider landscape from a number of viewpoints. As it is within a valley, the site is largely screened by the surrounding topography and the proposed development would not be visually exposed, subject to the height and scale of the housing approved at reserved matters stage. The site is visible from Mill Lane and a number of its houses which face the site. Although the access would be wider and visible on the approach from Cherrington Road along Mill Lane, it is an existing feature that would be little changed. There are more distant views from the junction of Mill Lane and Cherrington Road and also from the listed bridge over the river, although this view is partially obscured by other buildings and structures due to the bends in the road. In my opinion the views across the fields to the north and west of the site are less important.
28. The Council's evidence that the proposed development would extend the village in such a way as to harm its established form and character as a settlement and to encroach into open countryside is unconvincing, particularly when the proximity of the village core and the opportunity to secure an appropriate

design and layout at reserved matters stage are taken into account. The Council's concerns about the potential for a suburban environment to be created should more appropriately be addressed at that time.

29. Overall there would be a localised landscape and visual impact associated with the development but this would not be unacceptable. Subject to the details which would be controlled at reserved matters stage and the imposition of suitable planning conditions I conclude that development of the appeal site would be seen as contained within the visual and topographical confines of the village. Subject to reserved matters details, the proposal could be designed to respect the pattern, form and appearance of the village and its general densities, reflect its scale and character. The principle of development here would not conflict with the aforementioned development plan policies or the design objectives of the Framework.
30. One of the general objectives of national and local policies is to resist disproportionate levels of development in rural settlements. Whilst there is some dispute about the number of existing dwellings in Tibberton, in my view a sensitively designed scheme of up to 22 dwellings could appropriately reflect its surroundings and would not be disproportionate to the existing settlement in terms of its scale and size.
31. Overall I conclude that the benefits derived from the provision of new housing, which includes a number of affordable dwellings, outweigh the limited loss of the open areas of the appeal site. Drawing these matters together, I conclude that the proposed development would not be contrary to CS Policy CS7 and WLP Policy H10 (b) and that there is no justification to withhold planning permission on the basis of harm to the character and appearance of the village, the area surrounding it or to the countryside.
32. This conclusion is consistent with the Council's initial resolution to grant planning permission subject to completion of the S106. There is nothing in the evidence with this appeal to convince me that the earlier resolution to grant planning permission was a decision which balanced the then lack of housing land supply against harm to the character and appearance of the surrounding area.
33. The current appeal proposal would provide for up to 22 homes and would be significantly smaller than the 60 proposed in the Tibberton appeal. Furthermore the larger scheme involved the development of an open field which could also impact on the setting of listed buildings, whereas the current appeal site contains some previously developed land, is not constrained by designated heritage assets, is not as visually exposed and has other forms of development around it. These significant and material differences between the 2 schemes limit the weight as a precedent that can be given to the earlier appeal decision.

#### *Other Matters*

##### *Access*

34. As detailed above, access is the only 'reserved matter' for consideration at this stage. The existing access would be amended, primarily through widening it at the outside of a sharp bend in the road. Minor works would be carried out elsewhere on the approach to the appeal site. The Highway Authority and the Council in its decision raised no objections to the access element of the

proposals and there are no reasons to disagree. The ownership of the verges identified to be altered is not a planning matter and it is noted that the Council consider it to be Highways land. Local residents' comments in respect of other highways matters are addressed further below.

#### Planning Obligation

35. The S106 accompanying the appeal makes provision for 40% on-site affordable housing as required by CS Policy CS7 and LP Policy H23. I agree with the main parties that proposals to reduce the level of contributions in the emerging Draft Local Plan can be given very little weight in this decision due to its early stage in the process towards adoption.
36. In order to address the increase in demand for facilities and services across a wide range of age groups the S106 includes financial contributions towards the provision of primary and secondary school places in accordance with the Council's education and planning objectives. This would address those concerns raised by local residents about the paucity of places for local children. Sums are also identified for transport infrastructure and the enhancement of local play and recreational space. The sums payable would be dependent upon the number of dwellings approved at reserved matters stage. A further sum of £5,000 is indicated for financial management and monitoring of the legal agreement.
37. Detailed information has been provided about where the sums sought would be spent. Based on the evidence before me, I am satisfied that contributions towards these projects and the provision of affordable housing are necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development. They would be provided in accordance with LP Policies T22, LR4 and LR6 and would meet the tests in Regulations 122 and 123 of the Community Infrastructure Levy Regulations 2010 and the guidance in Paragraph 204 of the Framework. The S106 is given significant weight in this decision.
38. However, notwithstanding this conclusion it is my view that in accordance with Regulation 122, the financial management and monitoring fee is not necessary to make the development acceptable. It appears to me that for the most part, such monitoring is part of the Council's function as local planning authority.

#### Sustainability

39. The Framework indicates that the economic role of sustainability includes the availability of sufficient land of the right type in the right place at the right time to support growth. Building a strong and competitive economy is an important element of Government policy. Tibberton is a small settlement with a small number of local services including a church, village hall, primary school, community-run shop selling basic supplies and a public house. It is identified by the Council as a settlement capable of accommodating new housing development. The potential increase in the number of households would in my view help sustain the village and its services and those of neighbouring villages, with the potential to improve their viability. Construction activity would provide jobs and economic benefits to the materials supply chain.

40. In terms of the social role of sustainability, the proposal would provide both market and affordable housing to help meet identified needs within the district and new residents could support the village's social facilities. At reserved matters stage design considerations should ensure that the development is of high quality and provides a good standard of amenity for future and neighbouring occupiers.
41. Turning to the environmental role of sustainability, this has largely been addressed above. A Phase I Environmental Appraisal was undertaken and concluded that the development would not result in any loss of habitat of significant value and there would be no adverse effects on protected species. There are opportunities to enhance biodiversity through the installation of bird and bat boxes within the development. The proposed development would have no adverse impact upon the village character and would be seen in the context of the existing settlement, with additional landscaping and ecological measures to be agreed.
42. A core principle of the Framework is for development to make the fullest possible use of walking, cycling and public transport, focussing significant development in locations which are or can be made sustainable. There is a limited bus service in Tibberton. However, the Framework accepts at Paragraphs 29 that opportunities to maximise sustainable transport solutions will vary from urban to rural areas. It is inevitable that a higher proportion of journeys by car may be expected within rural areas.
43. I consider that the proposal would reflect all 3 dimensions of sustainability and therefore represents sustainable development.
44. In the Tibberton appeal decision the Inspector identified an absence of sufficiently strong economic, social or environmental benefits to outweigh the shortcomings he identified. I have reached different conclusions about the acceptability of the appeal proposal and there is therefore a different balance of relevant considerations. In this regard the current appeal proposal is materially different from the Tibberton appeal proposal.

#### Flooding

45. I have noted local residents' concerns regarding the potential for flooding of the site which is adjacent to the River Meese. A professionally prepared Flood Risk Assessment (FRA) was provided in support of the planning application. It demonstrates that the appeal site is within flood zone Category 1, whereas areas nearer to the river are verified as being within flood zones 2 and 3 and therefore at greater risk of flooding. The indicative layout shows the houses built back from the identified 'flood zone line'. The Council and the Environment Agency raise no objections to the proposal or the FRA recommendations. On this basis and having regard to all of the other evidence provided, I am satisfied that a scheme could be designed to appropriately address the identified level of flood risk in accordance with Paragraphs 99 and 103 of the Framework. Matters such as finished floor levels would be addressed in any detailed submissions submitted at 'reserved matters' stage and are controlled by a condition. Insurance for the proposed dwellings is not a matter before me in this decision.



### Highway matters

46. I have considered the comments of Tibberton and Cherrington Parish Council and other local residents relating to the effect of the proposed development on highway safety as well as the submitted traffic survey. The road leading from the appeal site to the A41 for the most part carries single lane traffic, has some blind bends and limited passing places and is used for bussing schoolchildren to and from the village. Nonetheless, these features are not unusual in rural locations and future residents of the appeal site, as well as traffic generated by a number of other new developments approved in the area, are unlikely to result in significantly increased numbers of vehicles on the roads so as to adversely affect highway safety.
47. I am informed that agricultural contractors use Mill Lane as it is the only suitable river crossing point for heavy machinery in the locality. However there is no evidence that the increase in traffic resulting from the appeal proposal would threaten the structure of the listed bridge which crosses the River Meese close to the site. The Highway Authority and the Council raise no objections to the highways aspects of the proposed scheme and there are no sustainable reasons for reaching a different conclusion.

### Remaining matters

48. The possible contamination of the site derived from the former paper mill use can be assessed and remediation carried out if necessary. This can be controlled by the condition I have imposed. In my view the proposal would not set a precedent for further development in Tibberton as it has been determined on its own merits based on the unique circumstances of the appeal site. Applications approved by the Council at Cherrington Lane and Hay Street were for smaller schemes than the appeal proposal and were on significantly different sites. Little weight has been given to these examples in this decision.

### Conclusion

49. I have had regard to all other matters raised. None affect my conclusions that the proposed development would result in the effective use of land, including previously developed land, for market and affordable housing, would not harm the character of Tibberton and would not encroach into open countryside. I conclude that the proposal conforms to the development plan when considered as a whole and the wider objectives of the Framework.

### Conditions

50. In addition to the standard outline consent conditions, I have imposed a number of conditions suggested by the Council to which the appellant raises no objection. To protect the appearance of the appeal site and surrounding area I have required by condition details of external materials. In the interests of highway safety conditions are necessary to provide adequate visibility at the site's junction with Mill Lane and to implement the pedestrian safety scheme identified in the Highways Assessment.
51. Having considered to the previous uses on the site it is necessary to require an investigation of potential contamination and, if required, remediation works to protect the living conditions of future occupiers of the proposed dwellings. For the same reason it is necessary to require details of attenuation from noise

- generated by the nearby motor repair site. These matters can be addressed by the imposed conditions.
52. To ensure that there are adequate landscaping and biodiversity enhancements and to protect local character and appearance, it is necessary to impose conditions requiring details of hard and soft landscaping and the protection of trees and hedgerows during construction. It is also necessary to require details of a lighting strategy and details for the provision of bat and bird nesting boxes within the site in order to ensure that there are no adverse impacts on bats and birds and the night time environment. I have not specified the type and number of boxes identified by the Council within the condition, as this would be unduly prescriptive and in any event such details would be required by the condition. To avoid congestion on the roads surrounding the appeal site and to protect the living conditions of nearby residents during the construction period I have imposed a condition requiring the submission of a Site Environmental Management Plan.
53. I acknowledge the appellant's statement that there is nothing to suggest any archaeological interest at the appeal site. However, there is evidence that it is within an area formerly occupied by the post-medieval Tibberton Mill and its associated mill race. Despite later redevelopment of part of the site as a nursery, there remains potential for surviving below-ground archaeological remains. Therefore, in accordance with Paragraph 141 of the Framework, a scheme of archaeological investigation is required by condition.
54. To protect the proposed dwellings from flood risk and to prevent any impact on flood flows or flood risk elsewhere, I have imposed conditions setting out finished floor levels and preventing the construction/erection of structures on low-lying land or near to the river. For the same reason and to ensure the site is satisfactorily drained a scheme of foul and surface water drainage should be submitted. The Council proposed an additional condition which would require written confirmation from Severn Trent Water that off-site drainage works have been carried out or are unnecessary, in order to give the organisation time to investigate and deliver any necessary capacity improvements. I have not included this condition which would be unduly onerous for, and outside the control of, the developer and therefore unreasonable. Furthermore, any concerns in this regard would be addressed by the imposed condition requiring details of drainage.
55. As the proposal is in outline with solely indicative plans for the proposed development provided, with the exception of the access arrangement, there is no need to impose the Council's suggested condition that the development shall be carried out in accordance with the approved plans. Notwithstanding this, I have indicated above where compliance with an identified plan is required to provide the access and the pedestrian safety scheme. In some instances I have amended the suggested wording of the imposed conditions to better reflect the scheme proposal or Government guidance.

*Elaine Benson*

INSPECTOR

## SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin either before the expiration of three years from the date of the outline permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
- 2) Application for approval of the reserved matters shall be made to the local planning authority before the expiration of three years from the date of this outline permission.
- 3) Details of appearance, landscaping, layout and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
- 4) Development shall not take place until samples of types and colours of all external materials, including hard surfacing, have been submitted to and approved in writing by the local planning authority. The samples of materials shall be made available on site. The development shall be carried out in accordance with the approved details.
- 5) Before the commencement of the development, visibility splays of a depth of 2.4 m x 43 m from the centre point of the junction of the access road with the public highway shall be provided, and these splays shall thereafter be kept free of any obstacles or obstructions.
- 6) No dwelling shall be occupied until the pedestrian safety scheme shown on drawing reference ML-AA-400 dated November 2014 which accompanies the Highways Assessment has been completed.
- 7) Development shall not take place other than that required to be carried out as part of an approved scheme of remediation until parts a) to d) have been complied with, unless otherwise agreed by the local planning authority. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the local planning authority in writing until part d) has been complied with in relation to that contamination.

### a) Site Characterisation

An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the local planning authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the local planning authority. The report of the findings must include (where applicable):

- . a survey of the extent, scale and nature of the contamination
- . an assessment of the potential risks (where applicable) to:

- human health
  - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes
  - adjoining land
  - ground waters and surface waters
  - ecological systems
  - archaeological sites;
- . an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's *'Model Procedures for the Management of Land Contamination, CLR 11'*.

b) Submission of Remediation Scheme

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared and is subject to the approval in writing of the local planning authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

c) Implementation of Approved Remediation Scheme

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the local planning authority. The local planning authority must be given 2 weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the local planning authority.

d) Reporting of Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the local planning authority. An investigation and risk assessment must be undertaken in accordance with the requirements of part a), and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of part b), which is subject to the approval in writing of the local planning authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the local planning authority in accordance with part c).

- 8) Development shall not take place until a scheme for the protection of the occupants of the proposed dwellings from noise from the nearby Tibberton Motor Repairs site has been submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented in full prior to the first occupation of the dwellings and shall thereafter be retained.
- 9) Development shall not take place until full details of both hard and soft landscape proposals have been submitted to and approved in writing by the local planning authority. These details shall include:
- existing and proposed finished levels or contours
  - means of enclosure
  - car parking layouts
  - other vehicle and pedestrian access and circulation areas
  - minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting)
  - proposed and existing functional services above and below ground (e.g. drainage, power, communications cables, pipelines etc indicating lines, manholes, supports etc)
  - retained historic landscape features and proposals for restoration, where relevant
  - proposals for biodiversity enhancements (eg pond creation)

Soft landscaping shall include:

- planting plans
- written specifications including cultivation and other operations associated with plant and grass establishment
- schedules of plants, noting species, planting sizes and proposed numbers/densities where appropriate. The planting scheme shall include a mix of native species of local provenance, berry-producing shrubs and/or nectar-rich flowers
- implementation timetables

All hard and soft landscape works shall be carried out in accordance with the approved details prior to the occupation of any part of the development or in accordance with a timetable agreed in writing with the local planning authority. Any trees or plants that within a period of five years after planting, are removed, die or become in the opinion of the local planning authority seriously damaged or defective, shall be replaced with others of a similar species, size and number by the end of the first available planting season.

- 10) Ground clearance, demolition and construction work shall not take place until details of protective fencing in accordance with BS:5837 (2012), including implementation timetable, have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details. The protective fencing shall be maintained for the duration of the works and no vehicle, plant, temporary building materials, including raising and or lowering, of ground levels, shall be allowed within the protected areas.

- 11) Development shall not take place until a lighting strategy has been submitted to and approved in writing by the local planning authority. The lighting strategy shall identify the appropriate levels of illumination for the proposed development and include times of darkness during peak bat activity times/no direct illumination on bat roost access points.
- 12) Prior to the first occupation of the buildings hereby permitted, a suite of artificial nesting and/or roosting boxes shall be erected on the site. The type and location of the boxes shall be submitted to and agreed in writing with the local planning authority and the scheme shall then be undertaken in accordance with the agreed details.
- 13) Development shall not take place until a Site Environmental Management Plan has been submitted to and approved in writing by the local planning authority. The plan should comply with the Considerate Constructors Scheme and include the following details:
  - location of site compound
  - parking of vehicles of site personnel, operatives and visitors
  - loading and unloading of plant and materials
  - storage of plant and materials in constructing the development
  - storage of oil, fuel and chemicals
  - protection of ecology and archaeology
  - prevention of mud being deposited on the highway
  - measures for the control and reduction of noise from construction works
  - measures for the control of construction traffic within the site and on the surrounding highway network
  - hours of operation of construction works and other works on the site
  - measures for the monitoring and enforcement of the plans
  - the erection and maintenance of security hoarding, including decorative displays and facilities for public viewing where appropriateThe approved plan shall be complied with at all times during construction work.
- 14) No development shall take place until the appellant company, or its agents, or successors in title has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority. Such a programme must be prepared and carried out under the supervision and with the agreement of an archaeologist approved in writing by the local planning authority.
- 15) Finished floor levels shall be set no lower than 58.7 m AOD (600 mm above the 100 year plus climate change flood level).
- 16) There shall be no new structures (including gates, walls and fences) or raising of ground levels on land below 58.1 AOD, within the 100 year plus climate change floodplain, or within 8 m of the top of bank of the River Meese or along the boundary of the site.

- 17) No development shall take place until a scheme of foul drainage and surface water drainage has been submitted to and approved in writing by the local planning authority. The approved scheme shall be completed before the development is occupied. The proposed scheme shall restrict surface water run-off to 5 litres per second per hectare and any attenuation feature should be designed to attenuate all flows up to and including the 1 in 100 year event +30% for climate change. The approved details shall be fully implemented prior to the first occupation of the development.

Any attenuation and control features associated with the scheme must be located outside the flood envelope and dry access to these features for maintenance and inspection must be provided in perpetuity.

- 18) The development shall be carried out in accordance with the Access Arrangement Plan –AA-400.

Richborough Estates