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## Appeal Decisions

Inquiry held on 10 December 2013

Accompanied site visit made on 18 December 2013

**by M Middleton BA(Econ) Dip TP Dip Mgmt MRTPI**

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

**Decision date: 24 January 2014**

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### **Appeal A Ref: APP/J1915/A/13/2205582**

#### **Land North of Hare Street Road, Buntingford, Hertfordshire.**

- 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 Taylor Wimpey UK Ltd against the decision of East Hertfordshire District Council.
  - The application Ref 3/13/1183/OP, dated 30 July 2013, was refused by notice dated 11 September 2013.
  - The development proposed is erection of up to 160 dwellings with associated works, public open space, children's play area and landscaping; and the provision of allotments and a cemetery with associated works and landscaping.
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### **Appeal B Ref: APP/J1915/A/13/2205581**

#### **Land North of Hare Street Road, Buntingford, Hertfordshire.**

- 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 Taylor Wimpey UK Ltd against the decision of East Hertfordshire District Council.
  - The application Ref 3/13/1000/FP, dated 10 June 2013, was refused by notice dated 11 September 2013.
  - The development proposed is described as "the erection of up to 160 dwellings with associated garages, car parking, public open space, children's play area, landscaping, diversion of footpath, pumping station with associated works and new vehicular, pedestrian and cyclist accesses; and the provision of allotments and the change of use of land for a cemetery with associated accesses, car parking and landscaping".
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### **Appeal C Ref: APP/J1915/A/13/2199777**

#### **Land South of Hare Street Road, Buntingford, Hertfordshire, SG9 9JQ.**

- 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 Wheatley Homes Ltd against the decision of East Hertfordshire District Council.
  - The application Ref 3/13/0118/OP, dated 22 January 2013, was refused by notice dated 22 May 2013.
  - The development proposed is for approximately 100 houses.
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## **Decisions**

### **Appeal A**

1. The appeal is dismissed.

### **Appeal B**

2. The appeal is allowed and planning permission is granted for a development described as "the erection of up to 160 dwellings with associated garages, car parking, public open space, children's play area, landscaping, diversion of footpath, pumping station with associated works and new vehicular, pedestrian and cyclist accesses; and the provision of allotments and the change of use of land for a cemetery with associated accesses, car parking and landscaping" on Land North of Hare Street Road, Buntingford, Hertfordshire in accordance with the terms of the application, Ref 3/13/1000/FP, dated 10 June 2013, and the plans submitted with it, subject to the conditions in the attached schedule 1.

### **Appeal C**

3. The appeal is allowed and outline planning permission is granted for approximately 100 houses on Land South of Hare Street Road, Buntingford, Hertfordshire, SG9 9JQ in accordance with the terms of the application, Ref 3/13/0118/OP, dated 22 January 2013, and the plans submitted with it, subject to the conditions in the attached schedule 2.

### **Application for costs**

4. At the Inquiry applications for costs were made by Taylor Wimpey UK Ltd and Wheatley Homes Ltd against East Hertfordshire District Council. These applications will be the subject of separate Decisions.

### **Procedural Matters**

5. As well as on an accompanied site visit on 18 December 2013, I visited the appeal sites and their locality, Buntingford town centre and the surrounding countryside unaccompanied on 9, 13 and 19 December 2013.
6. These three appeals concern development to the east of Buntingford outside of the settlement boundary and within the open countryside but in circumstances where East Hertfordshire District Council (the Council) cannot identify a five year supply of deliverable housing sites. Issues concerning prematurity, sustainability and impact upon the landscape, traffic and local services affect all of the appeals. I therefore propose to deal with them together, using the same reasoning to justify the decision in each case where appropriate but distinguishing between them where individual site considerations dictate. Appeals A and B affect the same site, the latter being a full application. Its detailed design consequently requires a separate consideration.
7. The applications for Appeals A and C are in outline with all matters, except access in the case of Appeal C, reserved for subsequent approval. In accordance with the amendments to the Town and Country Planning (Applications) Regulations made in 2006 and brought about by the implementation of the Planning and Compulsory Purchase Act 2004, the proposals were accompanied by Planning Statements and Design and Access Statements. These include Illustrative Master Plans as well as a number of

- background reports providing information about the sites in the context of the proposed development. These provide information on the possible site layouts, including the general disposition of buildings across the sites. However, they are no more than illustrations of one way in which the buildings, whose scale, appearance and location are reserved matters, could be sited within each of the developments and they do not form a part of my decision.
8. The Appellant with regard to Appeals A and B submitted a signed and sealed Deed made under Section 106 of the Town and Country Planning Act 1990 between the land owners, Taylor Wimpey Developments Ltd, East Hertfordshire District Council and Hertfordshire County Council. The Appellant with regard to scheme C submitted a Unilateral Undertaking under the same provisions and signed by the landowners.
  9. In these documents the Appellants agree, if planning permission is granted, to provide 40% of the total number of dwellings, to be constructed as a part of the developments, as affordable housing and to make financial contributions towards the provision of a number of public services in the area. These include the maintenance of any public open space adopted by the Council, initiatives to encourage sustainable travel and additional provision for education, libraries, childcare, local areas for play, outdoor sports and youth facilities. They also agree to carry out or secure the carrying out of local highway improvements prior to the occupation of any of the dwellings on the respective sites and to provide footpath links to enable better pedestrian access from the sites to nearby facilities. Fire hydrants are to be provided and at least 15% of the dwellings are to be built to lifetime homes standards.
  10. With regard to appeals A and B, allotment gardens and land for a cemetery could also be provided. The latter requires the agreement of Buntingford Town Council who, in any event, could receive a financial contribution to develop a cemetery.
  11. I discuss the details of the matters proposed in the Deed and Undertaking and their appropriateness in the body of my report. The Deed includes a clause that says that the covenants and obligations shall not apply or be enforceable if I state in the decision letter that such obligations are unnecessary or otherwise fail to meet the relevant statutory tests. Unless otherwise stated I am satisfied that the measures, as set out, comply with the provisions of Circular 05/2005: *Planning Obligations*, are necessary to make the development acceptable in planning terms and meet the *Community Infrastructure Levy Regulations (CIL) 2010*.
  12. On 6 November 2013 the Council resolved not to present evidence to the Inquiry. It read out a pre prepared statement at the beginning of the Inquiry. In this it explained the reasoning behind its decision and confirmed that whilst not contesting these appeals and taking a neutral position on their outcome, it nevertheless continues to consider that the District Plan formulation process is the most appropriate means of identifying and allocating sites for future residential development in Buntingford and across the District.
  13. It has confirmed that although it did not consider that it would be appropriate for it to sign the Statements of Common Ground (SoCG), it was happy with the contents and would have been in a position to sign if it was to have continued to present evidence. It was also satisfied with the conditions and planning

obligations set out in the SoCG, which reflect those set out in its initial Rule 6 Statements.

14. At the Inquiry the Council's decisions were defended by Buntingford Town Council and Buntingford Action for Responsible Development (BTC/BARD), who made a joint submission. The Council was nevertheless present throughout the Inquiry and answered factual questions as well as providing documents and information requested by the Inspector and the parties. It also participated in the round table discussions about conditions and the Agreement and Undertaking made pursuant to Section 106 of the Town and Country Planning Act 1990.
15. On 13 January 2014 a representation was received from Mark Cotton of Buntingford (document 10). He provided an electronic link to Chapter 6 of the East Herts Draft District Plan, which was due to be considered by the District Plan Executive Committee on 16 January. Consultation with all of the main parties resulted in a unanimous response that the version of the District Plan currently being considered is consistent with and reflects the content of document 9, which was discussed at the Inquiry. BTC confirmed that information presented to the Inquiry by the Council about the timetable was still relevant, that the updated document has still to be approved by the Council and that it is not proposed to release it formally for public consultation until 12 February 2014. The proposed site allocations at Buntingford are as indicated on Plan C, which was submitted by Councillor Jones when presenting his evidence.

### **Planning Policy**

16. The Development Plan (DP) now consists of *the East Herts Local Plan Second Review 2007* (LP). This makes provision for development within the District until 2011. Policy GB2, which has been saved, maintains a rural area beyond the Green Belt in the central and northern part of the District where inappropriate development will not be permitted. Policy GB3, which is also saved, defines appropriate development and points out that except for development within Buntingford, permission will not be given for the construction of new buildings other than for a limited range of appropriate purposes. The proposals are not within the development limits of Buntingford as currently defined or for any of the purposes listed in Policy GB3. The proposals are therefore contrary to these Development Plan policies.
17. The second reason for the refusal of all of the applications referred to the impact of the proposals on local services and found them to be contrary to saved LP Policy SD1. This policy requires larger proposals for development to be accompanied by a Sustainability Statement and in the Council's opinion, at the times that it determined the applications, these proposals would have constituted unsustainable forms of development, particularly in relation to the impact and demand placed upon local services. The Council confirmed at the Inquiry that its former concerns with regard to these matters would be overcome by the proposed Deed and Unilateral Undertaking. The Council did not refer to other LP saved policies in its decisions and neither did BTC/BART when presenting its case.
18. A replacement plan, *East Herts District Plan* (EHDP), is now being prepared. However, this plan is still in the early stages of preparation and according to the current timetable is not expected to be adopted until 2016. A draft plan is

expected to be published early in 2014 and following a sustainability appraisal will be the subject of the first of two rounds of public consultation. In such circumstances this plan attracts very limited weight in the context of its options for development.

19. The Council accepts that East Hertfordshire does not have a five year supply of housing land. Paragraph 49 of the *National Planning Policy Framework* (Framework) says that relevant policies for the supply of housing should not be considered up-to-date if the Local Planning Authority cannot demonstrate a five-year supply of deliverable housing sites.
20. The development limits of Buntingford were last defined in the context of the development needs until 2011. In a post 2011 situation this boundary constrains development at Buntingford, including housing. This aspect of LP Policies GB2 and GB3 is clearly time expired and can attract no weight, particularly as it was agreed that the establishment of new limits is essential if land for further development at Buntingford is to be proposed in the EHDP. In a report to East Herts' Development Control Committee on 22 May 2013, the Council's Director of Planning also advised that the 2007 settlement boundaries are now considered to be out of date.
21. Nevertheless, the thrust of LP Policies GB2 and GB3 is to protect the countryside from unnecessary development, which is an aspiration of the Framework. I therefore consider this aspect of the policies to be in conformity with the Framework and capable of attracting significant weight.
22. Paragraph 49 of the Framework says that in circumstances where the Local Planning Authority cannot demonstrate a five-year supply of deliverable housing sites, housing applications should be considered in the context of the presumption in favour of sustainable development. At paragraph 14 it says that where the relevant DP Policies are out of date, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole or specific policies in the Framework indicate that development should be restricted. The DP Policies that regulate the supply and location of housing are time expired and out of date. I have not been referred to any specific restrictive policies.

### **Main Issues**

23. Draft issues were circulated before the Inquiry and were discussed and amended at its beginning. In the above context and from all that I have read, heard and seen I consider the main issues to be
  - a) Whether the proposal is sustainable development within the meaning of paragraph 7 of the National Planning Policy Framework and if so
  - b) Whether any harm to the assessment process of the East Hertfordshire District Plan, the character and appearance of the local countryside, public services within Buntingford and any other harm attributable to the development, outweighs the presumption in paragraph 14 of the Framework to favourably consider applications for sustainable development in areas where Local Planning Authorities cannot demonstrate an up-to-date five year supply of deliverable housing sites.

## **Reasons**

24. The appeal sites are located at the eastern edge of Buntingford to the north and south of Hare Street Road. Appeal site A/B would take its access from that road, whilst Appeal site C would take its access from Snells Mead. Both roads lead to Station Road, which is a part of the main north-south access through the town. There is existing built development to the west of both sites, to the north of Appeal site A/B (Layston First School) and between the sites along Hare Street Road. To the east of both sites are established tree belts beyond which is open countryside.

## ***Sustainable development***

25. As portrayed in the Framework, sustainable development is a multi faceted, broad based concept with economic and social dimensions as well as environmental ones. The considerations that can contribute to sustainable development are not always positive and it is often necessary to weigh relevant attributes against one another to arrive at a balanced opinion. The situation at the appeal sites in this respect is no exception. Whilst the distribution of employment, services and facilities and the need to travel to them, is a major influence on the establishment of a sustainable pattern of development, such environmental considerations are not necessarily paramount.
26. Development contributes to the building of a strong and competitive economy, creating local jobs in the construction industry as well as business for and jobs in the building supply industry. This is particularly important in times of economic austerity. Whilst such jobs and business could be generated by development anywhere and in the context of East Hertfordshire there are no doubt locations that are more sustainable than the appeal sites, that is not the issue. At the present time this District is falling far short of its requirements in terms of housing construction and building land is in short supply. In such circumstances, the availability of any site that could contribute to house building and economic development in the short term should attract weight and unless any adverse impacts of the development significantly and demonstrably outweigh the benefits then it should be given planning permission.
27. The appeal sites are available. Well established building companies have acquired options to purchase them with the intention of building on them in the short term if planning permission is obtained. Their development does not require the provision of significant off-site infrastructure. There is no insurmountable reason why these sites could not make a significant contribution to housing supply in the next five years. The time limitation conditions could be adjusted to encourage this and this contribution to the economic dimension of sustainability attracts further weight.
28. Appeals A and B affect the same site. Appeal B is a detailed version of Appeal A, which is an outline application. Before work could commence on site, following a grant of approval for Appeal A, conditions requiring the preparation and approval of a detailed layout would have to be discharged. Appeal A would therefore inevitably have a later start date than Appeal B. Given the urgent need for new dwellings in East Hertfordshire and the additional weight that should be given to proposals that can make an early contribution to house building in the area, if I consider the layout proposed by Appeal B to be acceptable or to be made so by conditions, then it is not appropriate to approve Appeal A .

29. Buntingford centre serves a large rural catchment, as well as nearly 5,000 persons who live in the town itself. Consequently, for its size, it has a very good range of retail and service facilities that includes two supermarkets, a wide range of independent shops, eating and drinking establishments, a library and health facilities. At the times of my site visits the centre showed all the visual signs of a vital and viable centre. Buntingford also has schools in each of the three tiers of education that prevails in this part of Hertfordshire. Financial contributions from the developments would facilitate any expansion required to accommodate pupils from the additional housing as well as improvements to the library and youth facilities. In these contexts Buntingford is and would remain a very sustainable location.
30. All of these facilities are within easy walking distance of the appeal sites, as is the Hare Street recreation ground, which would also be improved to accommodate the additional usage generated by the new residents, through financial contributions from the developments. The developments would provide improved pedestrian links from the sites to Hare Street Road and the town centre as well as to Layston First School. Paragraph 38 of the Framework identifies primary schools and local shops as key facilities that should be located within walking distance of most residential properties. In these contexts the appeal sites are very sustainable locations for development. Additionally, they represent the closest undeveloped areas of land capable of accommodating a significant number of dwellings to Buntingford town centre and other facilities. The appeal proposals are clearly in locations from where a sustainable relationship with the town centre and other facilities could be achieved. These considerations give further weight to the sustainability credentials of the appeal sites.
31. The proposals are close to the bus routes that pass through Buntingford. Appeal C would facilitate the resiting of a bus stop on Station Road to make its use more amenable to the residents of that site and those of Snells Mead. It would also provide two new bus shelters. All of the proposals would make financial contributions towards the improvement of bus services, which would improve Buntingford's sustainability in this context, to the benefit of all of its future residents. Travel Plans accompany each of the proposals and if successfully implemented, these should further increase the use of public transport and its overall viability in the context of Buntingford.
32. However, despite their quality, the facilities in Buntingford are not sufficient to sustain the local population. Consequently, some residents travel elsewhere for some main food shopping and most for some element of comparison shopping. Although there are bus services to all of the larger surrounding towns, they are not frequent and they travel circuitous routes in order to serve isolated villages. As a result, most residents are likely to travel by car to larger supermarkets and for comparison shopping. In such circumstances it would not be easy to tempt residents of the new developments away from this mode of travel by the initiatives that could result from the Travel Plans. Although the use of internet shopping and home delivery is on the increase, the likelihood is that most families would travel by car to supermarkets in the surrounding larger towns for their major convenience shopping as well as to their town centres for comparison shopping, for some considerable time to come. This is not a sustainable outcome and weighs against any future development at Buntingford.

33. Paragraphs 94 and 95 of the Framework, in discussing climate change, say that local authorities should adopt proactive strategies that plan for new development in locations and ways that reduce greenhouse gas emissions. Buntingford is between seven and twelve miles from the major concentrations of employment in the surrounding towns. Whilst, despite the closure of the Sainsbury depot with the loss of about 600 jobs, there is still a significant concentration of employment within the town, this is not sufficient to sustain the local working population. As a result, although a large proportion of the persons of working age that reside within Buntingford work within the town and its immediate environs, a majority do not. Most of these travel between ten and twenty miles, probably to the surrounding towns.
34. The town does not possess a railway station and as referred to in paragraph 32 above, bus services are infrequent and circuitous. Consequently, unless new employment can be attracted to the town, a significant amount of new residential development is unlikely to be environmentally sustainable, its occupants having to seek work elsewhere and most likely being induced to travel there by private car. This again weighs against the appeal proposals and other residential development proposals at Buntingford, which in the context of the movement to a low carbon economy are not environmentally sustainable.
35. Whilst paragraph 34 of the Framework says that decisions should ensure that developments that generate significant movement are located where the need to travel can be minimised and the use of sustainable transport modes can be maximised, it also says that this needs to take account of other policies set out elsewhere in the Framework, particularly in relation to rural areas. Paragraph 54 refers to the need to plan housing development to reflect local needs, particularly affordable housing. It points out that there is a need to consider whether allowing some market housing would facilitate the provision of significant affordable housing to meet local needs.
36. Evidence from the Council's Housing Register suggests that over 30 persons in the Buntingford area are in housing need and that about 240 applicants on the register have expressed a preference for a dwelling at Buntingford. The Buntingford Town Plan's analysis of housing needs also notes that a major consideration should be for more affordable homes for young couples and families in the town.
37. In accordance with LP Policy HSG3 and *the Affordable Housing and Lifetime Homes Supplementary Planning Document 2008*, the appeal schemes would provide 40% of their dwellings as affordable homes. This represents about 100 new affordable homes in Buntingford. These would contribute to the meeting of this identified need at a time when the means to create affordable housing on a large scale are limited. The ability of the sites to provide affordable homes in developments of mixed house types, as well as tenures and with at least 15% of them constructed to the "Lifetime Homes" standard, all encouraged by the Framework, would assist in supplying the housing required to meet the needs of present and future generations at Buntingford to a good standard and attracts weight.
38. The Framework also says that housing should be located where it will enhance or maintain the vitality of rural communities. Buntingford now has a decidedly aged population. Every age cohort above forty has a higher representation in Buntingford than the national average, whilst those between twenty and forty



have a noticeably lower representation. This may in part be a product of reduced local employment opportunities, but the fact that the age cohorts of the population of working age between forty and sixty five all have higher than national average representation suggests that it has more to do with the availability of housing for younger families, a consideration that is referred to in a number of documents. The appeal proposals would create additional family housing at Buntingford in the short term and this contribution to the social dimension of sustainability has to weigh in their favour.

39. The proposals would contribute to the quantitative and qualitative supply of housing at Buntingford. The emerging EHDP suggests that there is a requirement to provide for at least a further 500 new dwellings in the town to maintain the area's vitality, meeting its needs and those of its rural hinterland in the period up to 2031. Even if these appeals were allowed, there would still be a shortfall in this identified dwelling requirement at Buntingford. This reduces the overall weight that I should award against the proposals on the basis of accessibility to jobs and higher order services.
40. The land is grade 2 quality agricultural land. The Framework at paragraph 112 requires account to be taken of the economic and other benefits of the best and most versatile agricultural land. Where significant development of agricultural land is demonstrated to be necessary the use of areas of poorer quality land in preference to that of a higher quality should be sought. Housing needs in East Hertfordshire are such that extensive areas of agricultural land will have to be developed if the dwelling need is to be met. The agricultural land immediately surrounding Buntingford is largely grade 2 but there is some grade 3. The sites are a part of much larger land holdings so that agricultural efficiency and farm viability would not be impaired. Nevertheless, the use of grade 2 agricultural land weighs against the proposals.
41. As I discuss below the proposals need not have an adverse impact on the character and appearance of the countryside or the landscape and their impact upon nature conservation would not be negative. Despite the likelihood of a high use of the private car for journeys outside of Buntingford, particularly for shopping and journeys to work and the consequent adverse impact on climate change, as well as the use of Grade 2 agricultural land, in the round I consider the proposals overall to be better than neutral in the context of sustainability within the meaning of paragraph 7 of the Framework.

### ***Prematurity***

42. The EHDP is in its very early stages of preparation, with the first of two consultation drafts about to be published. Arguably there is no plan that is capable of being prejudiced. A plan at this stage cannot carry other than limited weight. Guidance, appeal and High Court decisions on this matter are quite clear, refusal on the basis of a prematurity argument is rarely justified. The DP background papers are suggesting that the most recent studies indicate a requirement for between 15,000 and 16,000 new dwellings in East Hertfordshire in the period to 2031. In this context 260 dwellings are not significant.
43. Even in the context of Buntingford, the numbers only represent about half of the minimum of the range of dwellings that have been considered. The development that would occur if these appeals were allowed would not predetermine decisions about the overall scale, location or phasing of new

development and consequently it would not prejudice the Development Planning Process.

44. I note that at the present time two sites to the north and the south of the town are proposed for development in the emerging DP but this could change, not least as a result of a sustainability appraisal that has still to be concluded. I am also aware that these sites are now the subject of planning applications.
45. However, the former Sainsbury's site, being located adjacent to the A10 and traditionally used for employment purposes, is possibly the best opportunity in Buntingford to promote significant employment growth and improve the sustainability of the town. The loss of this opportunity requires careful consideration before this site is released for residential development, particularly if a strategy proposing major growth at Buntingford could eventually be adopted.
46. Additionally, both sites, as well as another potential site to the west of the town that I was referred to at the Inquiry, have infrastructure issues that require resolution. Such matters are not easily resolved in a short period of time. In consequence, from what I learnt about these sites at the Inquiry, I do not consider them to be candidates to assist the current housing crisis in East Hertfordshire or capable of contributing to the 5 year housing supply through the early delivery of housing.
47. The Council points out in Supporting Document Chapter 6 to its District Plan Update Report that "the Inspector's decisions on the two appeals to the east of the town may necessitate a review of these preferences, in order to appropriately contain and manage the scale, timing and delivery of development and its supporting infrastructure in Buntingford, in a manner that is proportionate to its size and the projected housing need". Whilst agreeing completely with this sentiment, on the evidence before me, I am not persuaded that any of the other sites referred to are, on balance, preferable sites upon which to locate new residential development within Buntingford, to an extent that justifies rejecting these appeals.
48. I accept that if all of the current applications and appeals at Buntingford are determined favourably then there would be over 800 dwellings committed. I agree that such a level of housing development without an accompanying growth in employment could only lead to significant out-commuting and that given the state of public transport at Buntingford, this would not be an environmentally sustainable outcome. However, decisions on the other sites are not for me to make. It is for the Council through its application decisions and DP preparation processes to determine the future of these other sites in the context of my decisions and its own strategic vision.

### ***Character and appearance of the local countryside***

49. Buntingford is located within a valley and for the most part its urban characteristics do not impact upon the wider agricultural landscape. The undeveloped land to its east is included within the Wyddial Plateau landscape character area. Its key characteristics include gently undulating arable land divided into large fields by maintained hedgerows, containing some trees and interspersed by isolated houses and small to medium sized woods. Although the ridgeline on the Wyddial Plateau is some distance to the east of the town,

there is a distinct change in gradient close to the village's eastern edge and just beyond the appeal sites.

50. Established belts of trees immediately to the east of the part of Appeal site A/B that is proposed for residential development and some distance to the east of Appeal site C, screen the areas proposed for residential development and the adjacent parts of Buntingford, from view when walking along the public footpaths or travelling along the lanes and roads in the vicinity of Alswick Hall and Owles Farm, which are to the east. At the same time, other parts of Buntingford are clearly visible below the western skyline and at the southern end of the town. The improvement, extension and future management and maintenance of the tree belts could be secured by conditions. The former could act as a logical eastern boundary to built development at Appeal site A/B, preventing its breakout onto the higher parts of the Wyddial Plateau.
51. If the whole of the land to the west of the tree belt and to the east of Appeal site C were to be developed, then the resulting built environment could have a presence in the wider landscape of the Wyddial Plateau. However, such a proposal or the one considered by the Local Plan Inspector in 2005, is not before me. The appeal scheme's eastern limits are some distance to the west of the tree belt, which screens it from distant views and at a noticeably lower elevation. Consequently this proposal would not impact upon the wider landscape.
52. At the present time the urban boundary to Buntingford, adjacent to this appeal site, consists of a collection of domestic fences in various states of repair, beyond which are sheds and other paraphernalia in the rear gardens of brick dwellings. These create a hard edge to the settlement, there being little mitigation by vegetation at this point. The indicative layout accompanying the appeal proposal suggests that dwellings would face the open countryside but through a landscape feature that would filter the views from the adjacent open land as well as from Hare Street to the west of Mill Cottages and in front of the dwellings on Owles Lane. Such a treatment, which could be secured through the landscaping proposals, would noticeably improve the views of Buntingford from these vantage points and weighs in favour of this appeal.
53. Some of the dwellings proposed by Appeal B and close to its eastern boundary are 2.5 stories high. Given their proposed height they could impact on the wider landscape to the east, particularly in winter. However, a condition could secure their replacement with dwellings with a lower ridge height. The removal of the coniferous trees would open up filtered views of the whole site from the east, particularly in winter. However, this could be avoided by a managed replacement of the coniferous trees with more appropriate evergreen vegetation, the bulking of the tree belt and plans for its long term management and maintenance, as discussed in paragraph 50 above.
54. Appeals A and B include proposals for a cemetery and allotment gardens to the east of the tree belt. The paraphernalia associated with these would inevitably impact on the wider landscape and weighs against these proposals. The proposed vehicular access through the tree belt would also open up views of the dwellings to the detriment of the appearance of the Wyddial Plateau and views from the roads and footpaths to the east of the site, which are currently rural. This would also be harmful.

55. The allotments are replacing existing allotments that are affected by the development and its access. Their replacement is CIL compliant. The cemetery would create a new burial ground to complement the existing graveyard, which is further along The Causeway. The evidence suggests that this is not the favoured location for a cemetery by the Town Council, which is the responsible body and that it does not wish to see a cemetery provided in this location. Consequently, it is difficult to conclude that its provision in this location and as a part of this development meets the CIL regulations or that the land should be reserved for such a purpose.
56. In such circumstances, there is an opportunity to relocate the allotments adjacent to the Causeway, where they would have least impact on the wider landscape and from which they could be accessed. Conditions could ensure that their southern boundary was appropriately screened and that the tree belt was continued across the whole of the eastern boundary of the residential development, through which there could be pedestrian access to the allotments.
57. Both Appellants have undertaken landscape and visual assessments that have been informed by the landscape strategy contained in the Council's Landscape Character Assessment. If the proposed vehicular access through the tree belt (Appeal site A/B) is closed by planting and development close to its western boundary is restricted to two stories then, given the proposed enhancement of the tree belt, I agree with the Appellant that the residential aspect of proposals A and B would be screened and have minimal impact on the wider landscape. The impact from Hare Street Road to the west of the tree belt would be moderate/adverse but the area affected is limited and the views are already dominated by the built fabric of Buntingford. From the east of the tree belt I agree that without the implementation of the changes and improvements discussed in paragraph 56, the impact in the medium and long term would be moderate adverse. With the proposed changes to the siting of and access to the allotment gardens there would be minimal adverse impact once boundary planting had become established to the south-east of the relocated site. I also agree with the findings for site C that the landscape effects are limited to the site and its immediate surroundings to the west of the tree belt and that the medium and long term effects will be negligible or positive.
58. A part of Appeal site A/B is clearly visible from a number of vantage points to the west of the town, being seen as agricultural land beyond residential development and in front of the tree belt but with the higher countryside beyond clearly visible above the trees. This backdrop would remain after the site was developed, visually containing the buildings within the landscape.
59. The appeal sites are within the countryside but for the most part they relate visually to the adjacent parts of the town, rather than the open countryside beyond the tree belts. The topographical context of these sites suggest that their loss to development would be less harmful than would be the case at many edge of settlement sites within East Hertfordshire and some adjacent to Buntingford. Whilst the proposals would result in the development of land that is currently open and in agricultural use, the harm caused, by the urbanisation of this land, to the intrinsic character and appearance of the wider countryside would be minimal. The harm to the still relevant aspects of LP Policies GBC2 and GBC3 is consequently reduced and it can only attract minimal weight.

60. There is no reason why the proposals, through conditions, could not contribute to the enhancement of the natural environment by improving biodiversity, as required by paragraph 7 of the Framework. Setting aside my findings above on climate change, I conclude that on balance Appeal C would contribute positively to the other aspects of the environmental dimension of sustainability and that Appeals A and B could be amended to have only a minimal harmful impact. I conclude that that the harm to the character and appearance of the local countryside, resulting from the implementation of either scheme, would not be significant.

### **Public Services**

61. The second reason for refusal refers to perceived unsustainable aspects of the developments, particularly in relation to the impact and demand placed upon education, public transport, health facilities and local leisure facilities. At the start of the Inquiry, the Council confirmed that the proposed contributions through the Section 106 Deed and Unilateral Undertaking towards improvements in education, child care, youth and library services, highways, sustainable transport, open space, sport and recreation would mitigate against any adverse effects that the proposed developments could have on these public services and infrastructure. It accepted that along with the commitment to a "Lifetime Homes standard" they overcome reason for refusal No. 2. I agree that this funding mitigates these likely adverse impacts of the proposals and makes the developments acceptable in planning terms. The contributions are directly related to the impact of the proposed developments on local public services, infrastructure and the environment and fairly and reasonably related in scale and kind to the proposals. They are compliant with the requirements of Circular 05/2005 and the CIL Regulations 2010.
62. No contribution has been made towards the improvement of health facilities. The only evidence before the Inquiry relating to this matter referred to waiting times for appointments at surgeries. There was no evidence to suggest that this was as a result of accommodation, rather it was caused by an under provision of doctors. Although this problem would be accentuated by the residents of new developments, if additional medical staff were not recruited beforehand, its resolution lies in the hands of the medical practices and their recruitment policies. There is no evidence to suggest that it requires a justifiable financial contribution from the appeal developments.
63. Whilst the development at Appeal site A/B and that at Appeal site C would increase the need for Burial spaces at Buntingford, appeal site A/B would accommodate less than 5% of the population of Buntingford. To expect this development to provide or finance a cemetery to meet the needs of the whole community is disproportionate, particularly when no contribution appears to have been requested from a development at Appeal site C. As proposed I do not consider the provision of a cemetery within the development or the amount of the proposed contribution towards the provision of one elsewhere, to be fair and reasonable or necessary to make the development acceptable in planning terms. It is not compliant with the requirements of Circular 05/2005 or the CIL Regulations 2010.

## **Other Harm**

### *Highways*

64. Concern was expressed about the ability of Hare Street Road and its junction with Station Road to carry the additional traffic without resulting in increased congestion and/or accidents. The development would widen the pavement along the northern side of Hare Street Road to 2 metres for all of its length between Station Road and the appeal site. The carriageway would also be extended to the south, wherever possible but in order to achieve the proposed footpath widening, in places, it would be narrower than existing. I was told that the resultant carriageway width could be below 6 metres for 355 metres as compared to 310 metres at the present time. Various Road Safety Audits have not highlighted adverse implications of the proposed scheme, which affects a stretch of road where there have been no recorded personal injury accidents during the last five years. I note that the road is a part of a bus route and that heavy lorries visiting the quarry at Anstey use it along with agricultural vehicles. However, experience suggests that where roads are little wider than is needed for such vehicles to pass, drivers are cautious and accidents less frequent than otherwise might be the case. The proposal, although not ideal, is compliant with the Hertfordshire Design Guide and Manual for Streets and is not opposed by the Highway Authority.
65. Improvements to the junction of Station Street and Hare Street Road would increase its capacity so that as well as being able to absorb the additional traffic generated by the Appeal proposals, traffic overall would flow more smoothly in this part of Buntingford. Access to the undertaker's property could be safely accommodated and the retention of the lamp post would not impair visibility to an extent that impacted upon highway safety.
66. I am not persuaded that the residents of Appeal site A/B would be induced to use Sunny Hill in preference to High Street/Baldock Road to reach the A10 when travelling north. Parts of the Sunny Hill route are heavily congested with parked cars for much of the day and the route is less commodious than the conventional route. As a result of the improvements, to be carried out in association with the proposed development at Hare Street North, traffic would flow more freely than occurs at the present time along the conventional route. There is adequate space on the Causeway to create an access that meets the required visibility standards, into an allotment site and without having to remove any trees.
67. Measurements at the site visit confirmed that there would be a 25 metre sight line, at the junction of Snells Mead and the access road to Appeal site C, if the junction priority was changed. A revised junction that gave priority to the Appeal site could be designed in accordance with the Hertfordshire Highway Design Guide and Manual for Streets.
68. Paragraph 32 of the Framework says that development should only be refused on transport grounds where the residual cumulative impacts of development are severe. There is no evidence to suggest that the situation pertaining in Buntingford, were these appeals to be allowed, would come even close to such a situation.

### *Appeal B Layout and Design*

69. I consider the proposed layout for Appeal B to be to a good aesthetic standard, with active street frontages that would create a safe environment for future residents. Given the proposed mix of dwellings and the potential high quality open space, this development has the ability to create a sustainable, inclusive and mixed community as envisaged in the Framework.
70. The parking provision is compliant with the standards *in Vehicle Parking Provision at new Developments* Supplementary Planning Document 2008. Similar standards are used widely throughout the country to determine parking requirements in new developments. There is no evidence to suggest that the highway environment within the site would be unsafe as a result of the implementation of these standards.

### *Localism*

71. The Localism Act 2011 gives communities the power to plan for their own areas, but with this power comes the responsibility to plan and positively seek opportunities to meet the development needs of their areas. The Framework emphasises the desirability of having up-to-date plans in place to manage development. Over two years after the last adopted plan became time expired, its replacement is only at the stage where a draft plan for public consultation is about to be published. The current timetable suggests that it will be 2016 at the earliest before this plan can begin to make any meaningful contribution to the supply of Housing in East Hertfordshire. In the meantime unless planning permission is given to sites that can make an immediate contribution to housing delivery, there will continue to be less than a five year supply and a woeful housing delivery position. In such circumstances localism, although a material consideration, can not be afforded other than minimal weight.
72. I note that the local community has put effort and commitment into the preparation of a document that assesses Buntingford's housing needs until 2031 and suggests where that development should be accommodated. It is clear that this document is an important expression of the preferences of the Town Council and local people. Whilst not wishing to take away its local importance it is nevertheless an information gathering document that identifies preferred options for consideration in the DP preparation process. However, it has not been the subject of formal public participation and in its own right it can carry no more weight than the emerging DP. In the fullness of time its findings may become embodied in the DP. However given the housing land supply position in East Hertfordshire, sites that can be developed now are needed not ones that come forward post 2016. In such circumstances the appeal sites must be determined on their own merits.

### *Other Appeals*

73. I was referred to a number of recent appeals that dealt with similar situations where there was not an up-to-date DP or a five years supply of housing land. Those referred by BTC/BARD, which were dismissed, also had issues concerning green belt, green wedge, heritage assets and/or would be prominent within the countryside landscape; attributes that these appeals do not have. Whilst those referred to by the Appellants, for the most part, did not have these characteristics and to that extent they have more in common with these appeals, it is rarely the case that other appeal decisions are so similar as

to justify the outcome of an appeal. In my view that situation does not apply to these appeals. I have determined them on the merits of the evidence put before me by all of the parties and have given minimal weight to the outcome of the other appeals referred to me.

## Conclusions

74. I conclude that on balance the proposal is better than neutral in the context of sustainable development within the overall meaning as set out in paragraph 7 of the Framework. The Council does not have a five year supply of housing land and in such circumstances paragraph 14 of the Framework makes a presumption in favour of granting planning permission unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits.
75. Any potential harm to the character and appearance of the local countryside could be largely resolved by conditions requiring the improvement of the tree belts associated with all of the schemes and a different design approach to that which accompanied the application with regard to the eastern part of site A/B. Any potential harm to public services within Buntingford could be overcome through the contributions that would be delivered through the Section 106 Deed and Undertaking.
76. I do not consider the disadvantages of the schemes carry sufficient weight to significantly and demonstrably outweigh the presumption in favour of sustainable development provided by the Framework, when considered alongside the benefits provided for the supply of affordable and market housing in East Hertfordshire in general and Buntingford in particular at an early date and the other material considerations in favour of the proposals discussed above. I therefore find for the reasons discussed above and having taken account of all of the other matters raised, including the representations from local residents and Oliver Heald QC MP that appeals B and C should be allowed subject to conditions but that Appeal A should fail.

## Conditions

77. The Council's twenty two suggested conditions for Appeal B and the thirteen for appeal C were considered in the context of Circular 11/95: *The Use of Conditions in Planning Permissions*, and rationalised and amended in discussion at the Inquiry. All of the conditions are agreed by the principal parties. They include time limits for commencement and the submission of detailed/reserved matters and a plans condition.
78. To enable the developments to meet Development Plan policies that seek to achieve sustainable development and protect the living conditions of the developments' and nearby residents, other conditions concerning, tree and hedge protection, biodiversity enhancement, flooding, archaeology, a green travel plan, contamination, construction management and the timing of the provision of the site access and vehicular access to each dwelling have been suggested and agreed in the context of both sites. Additional conditions concerning materials, privacy, landscaping, the tree belt along the eastern boundary of the residential development, the redesign of the area proposed for allotments and a cemetery and the heights of dwellings close to the eastern boundary have been proposed in the context of Appeal B.



79. I have considered the need for these conditions in the light of the guidance contained in Circular 11/95 and used the model conditions suggested in the Circular where appropriate. As one of the reasons for allowing these appeals concerns the sites' alleged ability to provide housing within the next five years, it is appropriate to reduce the time limits for the submission of details and the commencement of development from the norm. In this context I have also amended conditions, where appropriate, to allow site works to commence as soon as possible. As discussed at the Inquiry, I also consider that works to the tree belt east of site C should accompany the landscaping proposals.

80. I consider these conditions to be necessary in order to ensure that the development is of a high standard, creates acceptable living conditions for existing and future residents within the development and area as a whole, is safe and sustainable and minimises the impact on the environment. With regard to Appeal C I am also satisfied that they enable the Council to ensure that the siting, scale, design, external materials and landscaping enhance and do not detract from the visual quality and essential characteristics of the area, as required by LP Policies ENV1 and ENV2.

*M Middleton*

INSPECTOR

Richborough Estates

## APPEARANCES

FOR TAYLOR WIMPEY UK Ltd:

Andrew Tabachnik of Counsel

He called

Neil Osborn BA, MRTPI

Stephen Dale Dip LA, CMLI

Nicholas Oliver B Eng, MSc, MICE

DLP Planning

ACD, Landscape

Matrix Transportation Planning Ltd

FOR WHEATLEY HOMES Ltd:

Paul Shadarevian of Counsel

He called

Gary R Surkitt Dip SURV (P&D)

Rachel Bodiam CMLI

Robert Parker MTD, DMS, MIHT,  
MILT

Edward Keymer FRICS

Woods Hardwick Ltd, Surveying

JBA Consultancy Services Ltd, Landscape

Peter Brett Associates LLP, Transport

Keymer Cavendish, Planning

FOR BUNTINGFORD TOWN COUNCIL AND BUNTINGFORD ACTION FOR RESPONSIBLE DEVELOPMENT:

Robert A Jameson Solicitor

He called

Jed Griffiths MA, Dip TP, FRTPI

Stephen Baker MRTPI

Stephen Bowman

Graham Waite

Griffiths Environmental Planning

Local resident, Landscape, Sustainability

Local resident, Highways, Transport

Local resident, Cemetery

INTERESTED PERSONS:

Michael Moulton FRICS

Cllr Jeff Jones

Wattsdown Ltd

Buntingford Ward Councillor, East Herts District Council

## PLANS

- A East Hertfordshire, Agricultural Land Classification, submitted by Taylor Wimpey UK Ltd
- B Buntingford Settlement compared to Buntingford Ward, submitted by BTC/BARD
- C East Herts Draft District Plan, site allocations at Buntingford, submitted by Cllr Jones
- D Land at Hare Street Road North, three indicative sections, submitted by Taylor Wimpey UK Ltd
- E Land at Hare Street Road North, indicative sketch scheme, option 4, submitted by Taylor Wimpey UK Ltd
- F Land at Hare Street Road North, site contours, submitted by Taylor Wimpey UK Ltd

## DOCUMENTS

- 1 Supplementary Written Statement and Appendices on behalf of Wattsdown Ltd
- 2 Second Supplementary Written Statement and further Appendices on behalf of Wattsdown Ltd
- 3 Statement from Councillor Jeff Jones
- 4 Supplementary Statement on traffic at the junction of Hare Street Road and Station Road, submitted by Nicholas Oliver on behalf of Taylor Wimpey UK Ltd
- 5 Statement of Position, submitted by the Council
- 6 Signed Statement of Common Ground on Highway and Public Transport Issues between the Planning Law Practice on behalf of Wheatley Homes and Hertfordshire County Council, submitted by Wheatley Homes Ltd
- 7 Draft District Plan:- Meeting Schedule, submitted by the Council
- 8 District Plan:- Update Report, presented to District Planning Executive Panel, 3 October 2013
- 9 District Plan:- Update Report and Supporting Document Chapter 6, presented to District Planning Executive Panel, 3 December 2013
- 10 District Plan Chapter 6 as presented to District Planning Executive Panel, 16 January 2014, with accompanying correspondence from Mark Cotton and observations from the main parties.
- 11 Buntingford Parish Population figures 1991 to 2011, submitted by the Council
- 12 2011 Census, Buntingford, Age by quinary age group, submitted by the Council
- 13 Housing Land Supply, East Herts 2013, submitted by Taylor Wimpey UK Ltd
- 14 Emails between Graham Waite of BTC and Louise Corcoran of East Herts Council, concerning housing need in Buntingford, submitted by BTC/BARD
- 15 Summary of evidence on employment in Buntingford, submitted by the Council
- 16 2001 Census, Buntingford, East Herts, East of England and England, Distance and means of travel to work of population aged 16 to 74, submitted by the Council
- 17 2001 Census, Buntingford, East Herts, East of England and England, Distance travelled to work, submitted by Wheatleys
- 18 2011 Census, Buntingford, East Herts, East of England and England, method of travel to work, submitted by BTC/BART
- 19 2011 Census, Buntingford, East Herts, East of England and England, employment status of population aged 16 to 74, submitted by BTC/BART
- 20 Emails between Stephen Bowman of BART and Matt Armstrong of Hertfordshire County Council, concerning highway aspects of the Hare Street Road South proposal, submitted by BTC/BART
- 21 Extract from Roads in Hertfordshire, Highway Design Guide, 3<sup>rd</sup> Edition showing Road Design Criteria, submitted by Wheatley Homes Ltd
- 22 Freeman College Admissions Policy for 2014, submitted by Wheatley Homes Ltd
- 23 Letter from Taylor Wimpey to Mr and Mrs Sibley of 11 Hare Street Road, concerning the provision of a 3m buffer strip and landscaping between the appeal site and 11 Hare Street Road, submitted by Taylor Wimpey UK Ltd
- 24 Development Control Landscape Advice, land north of Hare Street Road, submitted by Taylor Wimpey UK Ltd
- 25 Programme of anticipated housing completions, Hare Street Road South, submitted by Wheatley Homes Ltd

- 26 Current major and minor planning applications in Buntingford, submitted by the Council
- 27 Email to Simon Butler-Finbow from Paul Chappell of Hertfordshire County Council confirming the County Council's acceptance in principle to a new direct access onto the A10 from land north of Park Farm, submitted by BTC/BART
- 28 Development Control Landscape Advice, land north of Park Farm, Buntingford, submitted by Wheatley Homes Ltd
- 29 Corneybury, Royston road, Buntingford, Listed Building entry summary, submitted by Wheatley homes Ltd
- 30 Objection letter to the proposed redevelopment of the former Sainsbury's Depot, London Road, Buntingford, for housing, by DLP Planning on behalf of Taylor Wimpey UK Ltd
- 31 Proposed list of viewpoints and other locations for the Inspector to visit on his accompanied site visit, submitted by BTC/BARD
- 32 Deed made under Section 106 of the Town and Country Planning Act 1990 in respect of the land north of Hare Street Road, submitted by Taylor Wimpey UK Ltd
- 33 Unilateral Undertaking made under Section 106 of the Town and Country Planning Act 1990 in respect of the land south of Hare Street Road, submitted by Wheatley Homes Ltd

Richborough Estates

## Schedule 1

### **Appeal B Ref: APP/J1915/A/13/2205581 Land North of Hare Street Road, Buntingford, Hertfordshire. Conditions**

- 1) The development hereby permitted shall begin not later than two years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: (2E10 – 57/PL01, 57/PL02-F, AA/01-A, AA/02-A, A/01-00, A/02-A, A/03-00, AB/01-00, AB/02-A, AB/03-00, AC/01-A, AC/02-B, AC/03-A, AD/01-00, AD/02-B, AD/03-A, AE/01-A, AE/02-B, AE/03-A, AF/01-A, AF/02-B, B/01-00, B/02-A, B/03-00, C/01-00, C/02-A, C/03-00, D/01-A, D/02-B, D/03-00, D/04-00, E/01-00, E/02-A, E/03-00, F/01-00, F/02-A, F/03-00, G/01-A, G/02-B, G/03-B, G/04-00, J/01-00, J/02-A, J/03-A, J/04-00, K/01-A, K/02-B, K/03-B, K/04-00, K/05-00, K/06-00, K/07-00, L/01-A, L/02-B, L/03-B, L/04-A, L/04.1 A, L/05-A, L/05.1 A, M/01-00, M/02-A, M/03-00, N/01-00, N/02-A, N/03-00, N/04-00, P/01-A, P/02-A, P/03-00, P/04-00, R/01-00, R/02-00, R/03-00, 3882-1 Rev A, E2028/5/A, E2028/6, TWWL18027-01, TWNT18550-03, TWNT18550 30, TWNT 18550 A, TWNT18550 31 A, Figure 3, Figure 4, Figure 5, Figure 6, Figure 7, Figure 8, Figure 9, Figure 10, Figure 11, Figure 12).
- 3) Notwithstanding condition No. 2 no construction shall take place until revised details of the dwellings to occupy plot Nos. 11, 12, 14, 15, 18 and 22 have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) In the event that a cemetery is not transferred to the Town Council in accordance with Schedule 8 of the Deed made under S106 of the Town and Country Planning Act 1990 and dated 20 December 2013, a scheme for the re-siting of the allotments, including suitable access, boundary landscaping and the control of incidental structures, shall be submitted as a revised application for the approval of the Local Planning Authority. Thereafter all land not required for use as a cemetery, allotments or landscaping incidental to the development shall be retained in agricultural use.
- 5) No development or groundworks shall take place until a programme of archaeological work has been implemented in accordance with a written scheme of investigation, which has been submitted to and approved in writing by the Local Planning Authority.
- 6) No construction shall take place until samples of the materials to be used in the construction of the external surfaces of the buildings hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved materials.

- 7) All existing trees and hedges shall be retained, unless shown on the approved drawings as being removed. All trees and hedges on and immediately adjoining the site shall be protected from damage as a result of works on the site, to the satisfaction of the Local Planning Authority and in accordance with BS5837: 2012 Trees in relation to Design, Demolition and Construction, for the duration of the works on the site. In the event that trees or hedging become damaged or otherwise defective during such period or within five years following contractual practical completion of the approved development, the Local Planning Authority shall be notified as soon as is reasonably practicable and remedial action agreed and implemented. In the event that any tree or hedging dies or is removed without the prior consent of the Local Planning Authority, it shall be replaced as soon as is reasonably practicable and, in any case, by not later than the end of the first available planting season following its death or removal, with trees of such size, species and in such number and positions as may be agreed with the Local Planning Authority.
- 8) No construction shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved. These details shall include proposed finished levels or contours; means of enclosure; car parking layouts; other vehicle and pedestrian access and circulation areas; hard surfacing materials; minor artefacts and structures (eg. furniture, play equipment, refuse or other storage units, signs, lighting etc).
- 9) Soft landscape works shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate; implementation programme.
- 10) No construction shall take place until a schedule of landscape maintenance for a minimum period of 5 years has been submitted to and approved in writing by the Local Planning Authority. The schedule shall include details of the arrangements for its implementation. Maintenance shall be carried out in accordance with the approved schedule.
- 11) No construction shall take place until a scheme for the replacement, reinforcement and where appropriate the extension of screen planting on the eastern boundary of the residential development hereby approved has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of the replacement of the existing coniferous trees with other evergreen species, the timings of its initial implementation and the management and maintenance arrangements that are to be implemented whilst ever the residential development hereby permitted remains.
- 12) All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with a programme agreed with the Local Planning Authority.
- 13) Site preparation and construction works shall not take place outside 07:30 hours to 18:30 hours Mondays to Fridays and 07:30 hours to 13:00 hours on Saturdays nor at any time on Sundays or Bank Holidays.

- 14) Prior to the commencement of construction, a detailed surface water drainage scheme shall be submitted to and agreed in writing by the Local Planning Authority and the approved scheme shall be implemented prior to first occupation of the development. The scheme shall be based on the submitted Flood Risk Assessment (FRA) E2028-FRA Report Rev 0-JUN13 dated June 2013 and shall include a restriction in run-off rate to 26.8 litres/second and surface water storage as outlined in the FRA.
- 15) The development hereby permitted shall not begin until a scheme to deal with any contamination of land and/or groundwater has been submitted to and approved in writing by the Local Planning Authority and until the measures approved in that scheme have been fully implemented. The scheme shall include all of the following measures unless the Local Planning Authority dispenses with any such requirement specifically in writing:
  - i) A site investigation, based on the details contained in the Submitted Phase 1 Preliminary Contamination Assessment Report (DMB/723774/R1) shall be carried out to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off-site;
  - ii) An options appraisal and remediation strategy, giving full details of the remediation measures required and how they are to be undertaken, based on the results of the site investigation and detailed risk assessment referred to in (i) above;
  - iii) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (ii) above are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.
- 16) The development hereby permitted shall not be occupied until a verification report, demonstrating completion of works set out in the approved remediation strategy and the effectiveness of the remediation, has been submitted to and approved in writing by the Local Planning Authority. The report shall include the results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include a plan (a 'long term monitoring and maintenance plan') for longer term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan. The long-term monitoring and maintenance plans shall be implemented as approved.
- 17) The recommendations to retain and enhance the biodiversity of the site, highlighted in Sections 6.0 and 7.0 of the Ecological Assessment (ACD) reference TWNT 18027 Rev A, dated August 2012, shall be implemented as approved unless otherwise agreed in writing by the Local Planning Authority.
- 18) No dwelling shall be occupied unless and until the access, junction, road and parking arrangements serving that dwelling have been completed in accordance with the approved drawings and constructed to the Highway Authority's specification.

- 19) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
- i) the programme and phasing of works on site
  - ii) the parking of vehicles of site operatives and visitors
  - iii) loading and unloading of plant and materials
  - iv) storage of plant and materials used in constructing the development
  - v) the erection and maintenance of security hoarding, including decorative displays and facilities for public viewing, where appropriate
  - vi) wheel washing facilities
  - vii) measures to control the emission of dust and dirt during construction
  - viii) a scheme for recycling/disposing of waste resulting from demolition and construction works
  - ix) construction vehicle routing and access
  - x) the protection of pedestrians using the public footpath that crosses the site.
- 20) A Green Travel Plan, with the object of reducing travel to and from the development by private car, shall be submitted to and approved in writing by the Local Planning Authority prior to the first occupation of any dwelling and the proposed measures shall be implemented to an agreed timetable.
- 21) Details of the proposed new public right of way and the improvements and alterations to existing routes shall be submitted to and approved in writing by the Local Planning Authority. Unless otherwise agreed in writing, the approved works shall be completed and made available for use by the public prior to the first occupation of any dwelling on the development hereby permitted.
- 22) All bathroom windows shall be fitted with obscured glass and shall be permanently maintained in that condition.
- 23) Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development Order) 1995 the erection or construction of gates, fences, walls or other means of enclosure as described in Schedule 2, Part 2, Class A of the Order shall not be undertaken along the eastern boundary of 11 Hare Street Road without the prior written consent of the Local Planning Authority.



## Schedule 2

### **Appeal C Ref: APP/J1915/A/13/2199777 Land South of Hare Street Road, Buntingford, Hertfordshire. Conditions**

- 1) Application for approval in respect of all matters reserved in this permission shall be made to the Local Planning Authority within a period of 1 year commencing on the date of this notice.
- 2) The development to which this permission relates shall be begun prior to the expiration of a period of 1 year commencing on the date upon which final approval is given by the Local Planning Authority or by the Secretary of State, or in the case of approval given on different dates, the final approval of the last such matter to be approved by the Local Planning Authority or by the Secretary of State.
- 3) The development hereby approved shall be carried out in accordance with the following approved plans 16700/1005, 16700/1007, C-207128/SK09 rev P2).
- 4) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") of the development 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.
- 5) The landscaping scheme referred to in condition No. 2 shall include replacement, reinforcement and where appropriate the extension of screen planting on the eastern boundary of the land in the Appellant's control, together with proposals for the future management and maintenance of this area whilst ever the residential development hereby permitted remains.
- 6) No development or groundworks shall take place until the applicant 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. The development shall thereafter be carried out in accordance with the approved scheme, and this condition will only be discharged when the required archaeological reports are submitted to and approved in writing by the Local Planning Authority.
- 7) Prior to the commencement of development, a detailed surface water drainage scheme shall be submitted to and agreed in writing by the Local Planning Authority and the approved scheme shall be implemented in phases, prior to the first occupation of each phase of the development. The scheme shall be based on the submitted Flood Risk Assessment C-07128/10 dated January 2013 and shall include a restriction in run-off rate to 3.5 litres/second/hectare, surface water storage as outline in the FRA and pollution prevention measures.

- 8) The development hereby permitted shall not begin until a scheme to deal with any contamination of land and/or groundwater has been submitted to and approved in writing by the Local Planning Authority and until the measures approved in that scheme have been fully implemented. The scheme shall include all of the following measures unless the Local Planning Authority dispenses with any such requirement specifically in writing:
- i) A site investigation, based on the details contained in the Submitted Phase 1 Preliminary Contamination Assessment Report (DMB/723774/R1) shall be carried out to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off-site;
  - ii) An options appraisal and remediation strategy, giving full details of the remediation measures required and how they are to be undertaken, based on the results of the site investigation and detailed risk assessment referred to in (i) above;
  - iii) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (ii) above are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.
- 9) The development hereby permitted shall not be occupied until a verification report, demonstrating completion of works set out in the approved remediation strategy and the effectiveness of the remediation, has been submitted to and approved in writing by the Local Planning Authority. The report shall include the results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include a plan (a 'long term monitoring and maintenance plan') for longer term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan. The long-term monitoring and maintenance plans shall be implemented as approved.
- 10) No dwelling shall be occupied unless and until the access, junction and parking arrangements serving that dwelling have been completed in accordance with the approved in principle plan, drawing number C-7128/SK09 rev P2, to the standards outlined in Roads in Hertfordshire and constructed to the Highway Authority's specification.
- 11) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
- i) the programme and phasing of works on site
  - ii) the parking of vehicles of site operatives and visitors
  - iii) loading and unloading of plant and materials
  - iv) storage of plant and materials used in constructing the development
  - v) the erection and maintenance of security hoarding, including decorative displays and facilities for public viewing, where appropriate
  - vi) wheel washing facilities

- vii) measures to control the emission of dust and dirt during construction
  - viii) a scheme for recycling/disposing of waste resulting from demolition and construction works
  - ix) construction vehicle routing and access
  - x) the protection of pedestrians using the public footpath that crosses the site.
- 12) Prior to the commencement of development, additional scale layout plans showing the arrangements to be implemented at the intersection of the site entrance with public footpath 21, along with details of temporary fencing/signing to protect the alignment of the footpath, shall be submitted to and approved in writing by the Local Planning Authority in accordance with Hertfordshire County Council's Rights of Way Good Practice Guide.
- 13) A Green Travel Plan, with the object of reducing travel to and from the development by private car, shall be submitted to and approved in writing by the Local Planning Authority prior to first occupation of any dwelling and the proposed measures shall be implemented to an agreed timetable.
- 14) All existing trees and hedges shall be retained, unless shown on the approved drawings as being removed. All trees and hedges on and immediately adjoining the site shall be protected from damage as a result of works on the site, to the satisfaction of the Local Planning Authority in accordance with BS5837: 2012 Trees in relation to Design, Demolition and Construction, for the duration of the works on site. In the event that trees or hedging become damaged or otherwise defective during such period or within five years following contractual practical completion of the approved development, the Local Planning Authority shall be notified as soon as reasonably practicable and remedial action agreed and implemented. In the event that any tree or hedging dies or is removed without the prior consent of the Local Planning Authority, it shall be replaced as soon as is reasonably practicable and, in any case, by not later than the end of the first available planting season, with trees of such size, species and in such number and positions as may be agreed with the Local Planning Authority.
- 15) The recommendations to retain and enhance the biodiversity of the site highlighted in Section 7.3 of the Ecological Appraisal and Protected Species report dated January 2013 shall be implemented as approved unless otherwise agreed in writing by the Local Planning Authority.