



Appeal Decision

Inquiry held on 21 to 22 April 2015

Site visit made on 20 April 2015

by **R Schofield BA(Hons) MA MRTPI**

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

Decision date: 17 June 2015

Appeal Ref: APP/H0738/A/14/2227047

Land at Little Maltby Farm, Low Lane, Ingleby Barwick TS17 0QR

- 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 Tiviot Way Investments Ltd against the decision of Stockton-on-Tees Borough Council.
 - The application Ref 14/0562/OUT, dated 27 February 2014, was refused by notice dated 30 June 2014.
 - The development proposed is residential development with access from Low Lane, Ingleby Barwick.
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Decision

1. The appeal is allowed and planning permission is granted for residential development with access from Low Lane, Ingleby Barwick at Land at Little Maltby Farm, Low Lane, Ingleby Barwick TS17 0QR, in accordance with the terms of the application ref 14/0562/OUT, dated 27 February 2014, subject to the conditions set out in the schedule to this decision.

Application for costs

2. At the Inquiry an application for costs was made by Tiviot Way Investments Ltd against Stockton-on-Tees Borough Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The application was made in outline with all matters other than access reserved for later determination. I have determined the appeal on this basis.
4. A copy of an executed S106 agreement, dated 20 April 2015, was submitted at the Inquiry. This is a material consideration and I address below the provisions that it secures.
5. An amended access plan, TS10015/00/001 (Sept 2014), was also submitted at the Inquiry. This reflects changes to the positioning of the roundabout within the highway requested by the Council's highways section. These are not significant changes, insofar as the location of the roundabout and access has not altered, and the plan has been available for public comment. This being so, I have determined the appeal on the basis of the amended access plan.
6. It was common ground that, due to the early stage of the emerging Local Plan, it could be afforded little weight. I agree with this and, consequently, have

determined the appeal on the basis of adopted local and extant national planning policy.

7. One of the reasons for refusal related to concerns about the impact of the appeal proposal upon local primary education infrastructure. However, having had regard to the S106 agreement, the Council decided not to pursue this reason for refusal.

Main Issues

8. In the light of the above, the main issues are:
 - whether the development proposed for the appeal site would be to the detriment of the creation of an integrated and sustainable local community, having regard to the requirements of local and national planning policy;
 - the effect of the proposed development on the living conditions of the occupiers of dwellings on Regency Park, with regard to outlook and privacy; and
 - whether, having regard to the benefits and disbenefits of the proposal, it would represent a sustainable form of development.
9. In the interests of clarity, my conclusion on the final Main Issue is found in the overall conclusion to this decision.

Reasons

Integrated and sustainable community

10. Notwithstanding the wording of its decision notice, the Council's objection in relation to this issue is, in essence, to the proposed construction of dwellings on land 'previously indicated to be school playing field'¹, under documents submitted with outline planning application 12/2517/OUT and, subsequently, outline planning application 13/3077/VARY. The Council's case centres on whether or not the permissions granted in relation to these applications 'fixed' the land use of the appeal site, which is encompassed by them, as school playing field such that its development for housing would conflict with local and national planning policy.
11. Planning permission 12/2517/OUT was granted by the Secretary of State on 26 September 2013 for the erection of Ingleby Manor Free School and Sixth Form and residential development (350 houses) including means of access. 13/3077/VARY, granted by the Council on 14 March 2014, permitted the same development, albeit with some differences in the conditions.
12. Both applications were accompanied by a considerable number of plans and reports, including a drawing titled 'Proposed Masterplan', which indicates the land now forming the appeal site as School Sports Fields. The Council drew my attention to the letter from the appellant's agent, which accompanied application 12/2517/OUT. This sets out the plans, reports and other documentation that comprised that application. A Site Master Plan (i.e. the Proposed Masterplan) is listed and, unlike other plans, is not titled 'illustrative' or 'indicative'.

¹ Decision Notice 14/0562/OUT

13. However, the application form and subsequent decision letter for 12/2517/OUT, explicitly reserve appearance, landscaping, layout and scale for future determination. It was not disputed that the same is true for 13/3077/VARY. In this context, Condition 2 of 13/3077/VARY defined the consent by reference only to plans SBC0001 and 8067 SCG/7, being, it was agreed, respectively a site plan and an access plan. Similarly, Condition 4 of 12/2517/OUT defined the consent by reference only to plans 110096-D-001 and 8067 SCG/7, again being respectively a site plan and access plan. No plans fixing land uses or layout were secured by condition. Indeed, conditions specifically reserving layout were applied. It is also readily apparent from references in the reports to Planning Committee for both applications that the Site Master Plan and other drawings accompanying the application were fully understood by Officers to be indicative.
14. My attention was drawn to case law² that articulates the legal principles applicable to the use of other documents to construe a planning permission. It is clear that a planning application may itself be incorporated within a planning permission and, in the case of 12/2517/OUT, permission is granted 'in accordance with' the planning application. However, it cannot automatically follow that all accompanying material contained within the application defines, rather than informs, the planning permission. If one accepts the appellant's argument that, in this case, the planning permission draws in the Site Master Plan, which was part of the application, this would, in my judgement, undermine and be at odds with the conditions attached to the planning permission. These clearly inform any reasonable or objective reader that the site plan and access plan are the only definitive plans and that layout, among other things, is reserved for future determination.
15. To infer from the words 'in accordance with' the planning application that all plans included with application 12/2517/OUT, even if not specified by condition or if addressing matters reserved for future consideration, define the subsequent permission would serve only to confuse any 'lay' reader seeking to interpret it. This would result in obfuscation rather than the provision of additional clarity, even were that required from a reading of the application form and decision letter on their face.
16. Case law³ relating to applications made under Section 73 of the Town and Country Planning Act 1990 was drawn to my attention. Given the nature of the conditions attached to 13/3077/VARY, however, the same considerations referred to above would have to apply to it. This makes consideration of whether the Site Master Plan is also 'captured' by that permission, which does not make express reference to 'the application', unnecessary.
17. It is reasonable to consider then that both permissions granted 'bare' outline consents for the development of a Free School and Sixth Form and a maximum of 350 dwellings, on land encompassing the appeal site. This is evidenced by the 'plans' conditions referred to above, which clearly demonstrate that the Site Master Plan was not drawn out from the mass of application material and

² R v Ashford Borough Council, ex parte Shepway District Council [1999] PLCR 12 and Carter Commercial Developments Limited (in administration) v Secretary of State for Transport, Local Government and the Regions [2002] EWCA Civ 1994]

³ Pye v Secretary of State for the Environment & North Cornwall District Council [1999] PLCR ,Part 1; Powergen UK PLC v Leicester City Council & Safeway Stores PLC [2000] EWCA Civ ; (R) Reid v Secretary of State for Transport and Local Govt and the Regions & Mid-Bedfordshire District Council [2002] EWHC 2174 Admin

- approved as a defining plan of either permission. It is further evidenced by conditions reserving layout, which in my judgment must include the location of development within the site and the amount of land required for that development, to be determined by any future reserved matters applications.
18. The appeal proposal would, as the decision notice states, be on 'land previously indicated to be school playing field'. However, the operative word here is 'indicated'. For the reasons given above, the appeal site cannot be regarded as having planning permission only for school playing fields, such that residential development upon it may compromise the implementation of such a permission⁴. It is part of a wider site within which dwellings and a school, with accompanying playing fields as necessary, may be developed pursuant to extant outline planning permissions, in locations to be defined by any reserved matters applications. It is also common ground that the site is not 'allocated' as school playing fields in any development plan or that it is required to meet any objectively assessed shortfall in school playing field provision in the area. Nor can it be regarded as publically accessible open space or any kind of community facility as there is no public access to it beyond the narrow confines of the right of way across it, which would remain.
19. Thus, the development of the appeal site would not result in the physical loss of any extant school playing field or public open space or of land specifically consented or allocated for such uses. It is also apparent from the reserved matters application for the Free School and Sixth Form currently before the Council that this facility, if approved (noting that the Council indicated that there were no substantive matters to be resolved), will have school playing fields of a size deemed by the Ingleby Manor Free School Trust and the Education Funding Authority to be appropriate for the school's purposes.
20. Planning permissions 12/2517/OUT and 13/3077/VARY both have conditions attached that require a scheme for the wider use of the Free School and Sixth Form by the community to be submitted to and approved in writing by the local planning authority before the school is brought into use. Although the relevant condition has yet to be discharged, no substantive evidence was presented to suggest that this would not be achieved. Thus, there is no reason to consider that the appeal proposal would compromise the delivery of a facility, regarded by relevant parties to be of an appropriate size (and of a size not specified or constrained by any extant planning permission), which will have a wider community use, secured by condition, to the benefit of that community.
21. Nor am I persuaded by the appellant's view that the Secretary of State gave significant weight to the provision of the school playing fields when granting permission for application 12/2517/OUT. The decision letter makes reference only to the benefits of a Free School and Sixth Form. It may be that such a facility could include playing fields, but there is no indication that the size or location of such playing fields had any bearing upon the weight afforded to the benefit of the provision of the school facility itself.
22. In addition, sufficient on-site open space to serve the proposed development, in accordance with the requirements of the Council's Supplementary Planning Document on Open Space, Recreation and Landscaping, could be secured by condition requiring the submission, agreement and implementation of an Open Space Strategy for the appeal site.

⁴ *Pilkington v Secretary of State for the Environment & Others* [1973] 1 WLR 1527 CA

23. I conclude, therefore, that the proposed development would not be to the detriment of the creation of an integrated and sustainable local community, having regard to the requirements of local and national planning policy. It would not conflict with Stockton on Tees Core Strategy Development Plan Document (the Core Strategy) policy CS6 criteria (1) and (3), which seek respectively to give priority to the provision of facilities that contribute towards the sustainability of communities and to protect and enhance the quantity and quality of open space, sport and recreation facilities throughout the Borough. Nor would it conflict with paragraphs 70 and 74 of the National Planning Policy Framework (the Framework), which seek, among other things, to ensure that planning decisions plan positively for the provision and use of shared space, community facilities and other local services to enhance the sustainability of communities and residential environments; guard against the unnecessary loss of valued facilities and services; and prevent development upon existing open space, sports and recreational buildings and land, including playing fields.
24. Although not cited in the Council's decision notice, my attention was also drawn to Stockton on Tees Local Plan (the Local Plan) policy HO3. This states that that within the limits of development new residential development may be permitted provided that, in relation to criterion (i), the land is not specifically allocated for another use. It was common ground that the appeal scheme is within the limits of development and, as noted above, the land is neither allocated nor consented for any specific or exclusive use. Thus, the appeal proposal would not harm this aspect of the policy.
25. The Council also sought to suggest that criterion (v) of this policy would be breached. This allows for residential development within development limits provided it does not result in the loss of unacceptable amenity to adjacent land users. I also note that the Glossary to the Framework defines open space as, among other things, all open space of public value. It may be that the proposed development would lead to a diminution of the experience of the area as 'open' land for users of the footpath that runs across it, in the sense of it being perceived by them as open countryside of value in aesthetic or recreational terms (albeit that it is private land). I also note the Ministerial letter⁵, in relation to landscape character, referred to by the Council in this regard. But the Council does not raise a landscape character objection and this matter must be seen in the context of the extant permissions for residential and school development covering the wider area, the implementation of which would fundamentally compromise this sense of openness when on the footpath in any event. Consequently, I do not consider that the appeal proposal would conflict with criterion (v) or offend paragraphs 70 and 74 of the Framework in this regard.

Living conditions

26. The parties agreed that the technical separation standards set out in the Council's Sustainable Design Guide Supplementary Planning Document for facing habitable rooms and gable walls to habitable rooms could be met, or exceeded, by a suitable layout of the proposed development at reserved matters stage. Based on all that I have heard and seen I have no reason to disagree with this.

⁵ Minister of State for Housing & Planning to Chief Executive of The Planning Inspectorate, 27 March 2015

27. The rear elevations of some of the houses upon Regency Park face the appeal site. The houses are, however, set well back from the site beyond a tall, mature hedge, containing some substantial trees; a wide grassed area with a path running along it; and their own rear gardens. The hedgerow and trees, even absent of leaves, form a dense barrier between the appeal site and the dwellings on Regency Park, the rear boundaries of which are themselves secured by fencing approximately 2m in height.
28. This situation means that the outlook from these houses at ground floor level is typically limited to their own rear gardens and the hedgerow beyond, with some constrained glimpses of the appeal site. Some of the dwellings have windows at first floor level, whose outlook is not compromised by the hedgerow/tree cover. These have an outlook over the appeal site and the, currently, open land beyond. The outlook from these windows will change. However, change does not necessarily equate to harm and, given the outline permissions that already exist for the wider site, this change would be the case regardless of the appeal proposal. Notwithstanding this, a change in outlook from fields to houses, given the distances involved and the nature of the intervening vegetation, would not of itself result in significant detrimental impact upon living conditions. The elevation to elevation distances that it is agreed could be achieved along with the mature planting between the appeal site and Regency Park, which is to be retained, also means that loss of privacy would not be an issue.
29. Turning to the matter of a 'perceived' sense of overlooking, cited in the decision notice, no substantive evidence was presented by the Council on this matter. Even so, for the reasons given above, namely the achievable separation distances and mature hedgerow boundary, I am not persuaded that there would be any harmful perception of overlooking of Regency Park from the proposed development.
30. I conclude, therefore, that the appeal proposal would not have an adverse effect on the living conditions of the occupiers of dwellings on Regency Park, with regard to outlook and privacy. It would not conflict, therefore, with paragraph 17 of the Framework, which advises that planning should always seek, among other things, to secure a good standard of amenity for all existing and future occupants of land and buildings.
31. Although not cited in the decision notice, my attention was again drawn to criterion (v) of Local Plan policy HO3, the requirements of which are noted above. However, for the reasons given above, the appeal scheme would not conflict with these requirements.

Benefits and Disbenefits

32. The parties agreed for the purposes of the Inquiry that the Council was only able to demonstrate a 4.62 year supply of deliverable housing sites, rather than the five years that it is required to demonstrate by the Framework, which is itself a significant material consideration. Even so, the Council raised various concerns about the likelihood of all of the proposed dwellings, to a potential maximum of 70, being built out within the next five-year period. It contended that, in line with case law⁶, such concerns necessarily reduced the weight that

⁶ Crane v Secretary of State for Communities and Local Government [2015] EWHC 425 (Admin)

- could be afforded to any benefit arising from the contribution that the proposed development could make towards increasing housing supply in the Borough.
33. The evidence in relation to whether 70 dwellings could or would be delivered within five years is inconclusive. Nonetheless, it is accepted by the Council that 'some' would come forward within five years and that some dwellings would be affordable units. Thus, given the Government's aim 'to boost significantly the supply of housing'⁷, coupled with the Council's inability to demonstrate an adequate supply of deliverable housing sites, I give considerable weight to the social benefit that would arise from any dwellings delivered by the appeal proposal, including the 15% of the overall number of dwellings that would be affordable dwellings secured by planning obligation.
34. I have addressed the matter of outlook and privacy above and, based upon my conclusions, I give this consideration very little weight.
35. In environmental terms, the appeal proposal would result in the loss of some countryside, not the loss of school playing fields alleged by the Council. However, the studies submitted by the appellant, which have not been disputed, do not raise any issues of significant concern in this regard. In addition, appropriate mitigation, including a buffer to Bassleton Beck, would be secured by condition. I am also mindful of the context of the school and residential development already permitted for the wider area. Thus, I give this impact little weight. Similarly, given the urban fringe location of the site and the wider planning context I consider that little weight can be given to any suggestions of adverse impact upon landscape or character and appearance.
36. The Framework does not regard housing as economic development *per se*. However, the Government has made clear its view that house building plays an important role in promoting economic growth. In economic terms the appeal scheme would provide construction jobs, including work for local residents and firms during the build out, secured by planning obligation, which is a matter to which I afford moderate weight. It would also generate New Homes Bonus and Council Tax receipts for the Council. However, as these are incentives for local planning authorities to provide housing on suitable sites, I do not consider that they attract weight as benefits in the planning balance.

Other Matters

37. Concerns were raised about the impact of the appeal scheme on local infrastructure, notably shops, secondary schools, doctors and dentists. However, notwithstanding the lack of objection from these bodies, or substantive evidence to suggest that their capacity is limited, any new housing development proposed within this area of the Borough, whether at the appeal site or not, would have a similar impact. I also note that a planning obligation is proposed to address the impact that the proposal scheme would have upon primary school places.
38. A number of objectors raised concerns in relation to highway safety and the effects of increased traffic volume on local roads. However, I have not been presented with any technical evidence that contradicts the professional view of the Council's highways officers that the scheme is acceptable in highways

⁷ National Planning Policy Framework Paragraph 47

- terms subject to a contribution towards off-site highway works to be secured by planning obligation.
39. There would be no impact upon the Green Wedge from the scheme, as any encroachment into it has already been sanctioned by the outline planning permissions, which encompass the appeal site, referred to above.
40. It is suggested that a footpath link to Thorington Gardens would lead to youths congregating, leading in turn to anti-social behaviour. There does not appear to be any reason to consider that this would be the case, but notwithstanding this the application is in outline and such a link remains unconfirmed.
41. There were a number of views expressed that the appeal proposal would be the 'thin end of the wedge', insofar as the grant of permission may lead to applications for further residential development on the wider area of land beyond that already granted planning permission. The appellant may well wish to submit proposals for further development, but nothing specific was drawn to my attention. Even were this the case, any future applications would need to be assessed on their own merits, taking into account the planning policies and material considerations pertinent at such a time.
42. It was alleged that the appeal site was outwith the electoral boundaries of Ingleby Barwick. This may be so, but the location of such boundaries has no bearing on the determination of the appeal before me.
43. The fact that the appeal site and wider area were identified for a golf course some years ago was drawn to my attention. However, this is no longer the case and I have determined the appeal on the basis of the up-to-date planning status of the site and its wider context.

Planning Obligations

44. Regulation 122 of the Community Infrastructure Levy Regulations 2010 (the Regulations) requires that if planning obligations contained in S106 Agreements are to be taken into account in the grant of planning permission, those obligations must be necessary, directly related, and fairly and reasonably related in scale and kind to the development in question.
45. With regards to impact on local schools, the Council has confirmed that there is insufficient capacity at local primary schools to accommodate the extra pupil numbers that would arise from the proposed development in relation to primary education. It has also provided calculations to demonstrate the costs of providing the necessary additional capacity. I am satisfied that this is obligation requirement meet the tests in the Regulations.
46. Contributions have been secured towards the implementation of highway improvements to the west of Ingleby Barwick, as part of the West Side Alterations scheme, to mitigate the impacts of the appeal proposal upon the local highway network. Calculations have been provided to explain how the required sum has been reached. In addition, an obligation secures the provision of a Residents Welcome Pack to encourage the use of sustainable modes of transport in accordance with local and national planning policy, which seeks to maximise the use of non-car modes of transport. I am satisfied that these obligation requirements meet the tests in the Regulations.

47. One of the benefits claimed by the appeal proposal is the economic activity that it will generate locally. If there is to be any certainty that these benefits will arise, and can be taken into account when assessing the merits of the proposal, it is necessary to ensure a means of securing them. Thus, I am satisfied that the proposed obligation requirement ensuring that not less than 10% of construction jobs and not less than 10% of the net value of services and materials are made available to residents and businesses locally meets the tests in the Regulations.
48. A planning obligation is provided to secure the provision of 15% of the proposed dwellings as affordable dwellings. This accords with Core Strategy policy CS8 and would assist in meeting locally identified need. I am satisfied that the obligation meets the tests in the Regulations.

Conditions

49. The planning conditions suggested by the parties were discussed in some detail at the Inquiry. I have made amendments in the light of those discussions. In some cases this is to improve precision, clarity and enforceability, as well as avoiding overlap, and elsewhere to reflect more closely the (still extant) model conditions in Circular 11/95: The Use of Conditions in Planning Permissions. I am satisfied that, in order to enable a full and complete understanding of the nature and construction of any development that may come forward as a result of this permission, that all of those conditions requiring action before commencement of development are so structured.
50. The standard conditions requiring compliance with the approved plans; specifying details of the reserved matters; specifying the time limits for submission of reserved matters; and specifying the time limit for the commencement of development are necessary in the interests of proper planning.
51. That requiring the submission and agreement of an open space strategy is necessary to ensure an appropriate level and location of open space is secured.
52. A condition limiting the number of dwellings to 70 is necessary to ensure that the extent of the consent is clearly defined.
53. A condition requiring the details of how at least 10% of predicted energy requirements will be met through the use of on-site renewable energy sources is necessary to ensure compliance with Core Strategy policy CS3. That requiring achievement of Code for Sustainable Homes Level 4 is necessary for the same reason, albeit with some amendments to reflect the forthcoming changes to Building Regulations.
54. Given the proximity of the site to existing residential property, conditions limiting construction and delivery hours and the burning of waste, as well as one requiring the submission, agreement and implementation of a Construction Method Statement are necessary to protect the living conditions of the occupiers of nearby dwellings with regard to noise and fumes.
55. Conditions requiring a watercourse buffer zone and ecological mitigation measures are necessary in the interests of habitat protection and enhancement. Conditions requiring the agreement and implementation of foul and surface water drainage schemes are necessary to mitigate the risk of flooding on and off the site and to ensure that the site is properly drained.

56. The conditions relating to an archaeological scheme of investigation and the remediation of any contamination are necessary in the light of the, albeit limited, potential for archaeology and contamination being encountered on the site.
57. The condition relating to noise mitigation is necessary in the interests of the provision of acceptable living conditions for future occupiers of the appeal scheme.
58. In addition, the parties agreed that it was necessary to have a condition requiring the agreement of a Travel Plan, as this was indicated in the S106 agreement.

Conclusion

59. I have found that while the appeal proposal would be on land previously 'indicated' to be school playing fields it would not result in the loss of actual or permitted school playing fields and would not be to the detriment of the creation of an integrated and sustainable local community, having regard to the requirements of local and national planning policy. I have also found that it would not have an adverse effect on the living conditions of the occupiers of dwellings on Regency Park, with regard to outlook and privacy.
60. The scheme would also secure additional housing, both market and affordable, which, in the absence of a five-year supply of deliverable housing sites in the Borough, is a benefit to which I afford considerable weight. It would also give rise to some local economic benefits, to which I afford moderate weight.
61. The appellant suggested that the Travel Plan, highways works, on-site open space and primary education contribution were also to be regarded as benefits. However, these are clearly policy requirements or mitigation for the impacts of the development, rather than benefits.
62. Weighed against this are some minor adverse ecological and landscape impacts, which need to be regarded in the context of the residential and school development already permitted for the wider area.
63. Thus, placing all of the relevant material considerations in the balance, I find that the benefits of the proposed development would significantly and demonstrably outweigh the harm. In the circumstances I conclude that the proposal would represent a sustainable form of development and, for the reasons given above, and taking all other matters into consideration, I conclude that the appeal should be allowed.

R Schofield

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr Christiaan Zwart of Counsel

Instructed by the Solicitor to Stockton-on-Tees Borough Council

He called:

Mr Matt Verlander

Ove Arup & Partners

FOR THE APPELLANT:

Mr Christopher Lockhart Mummery of Queen's Counsel

Instructed by Satnam Planning Services Ltd

He called:

Mr Colin Griffiths

Satnam Planning Services Limited

INTERESTED PERSONS:

Mr Peter Hadfield

Local resident

Ms Louise Baldock

Local resident

Ms Pamela Beddow

Local resident

Mr Kevin Faulks

Ward Councillor

Ms Jean Kirby

Ward Councillor

Mr Doug Dalby

Local resident

Mr Ted Strike

Local resident

Richborough Estates

DOCUMENTS SUBMITTED AT THE INQUIRY

1. Survey of Trees for Bat Roosting and Foraging Potential (30 January 2013), submitted by the appellant
2. Copy of executed S106 Agreement, dated 20 April 2015, submitted by the Council
3. Statement of Common Ground, submitted by the appellant
4. Nine plans of the site, submitted by the Council
5. Opening Submissions on behalf of the appellant
6. Opening Submissions on behalf of the Council
7. Summary Proof of Evidence of Matt Verlander, submitted by the Council
8. Email to Mr Colin Griffiths from Mr Gary Laybourne, dated 31 March 2015, re S278 agreement for the site access, submitted by the appellant
9. Letter from Mr Colin Griffiths to Mr Simon Grundy, dated 19 October 2012, submitting application 12/2517/OUT, submitted by the Council
10. Emails from Mr Bob McGovern to Mr Simon Grundy, regarding the site of the Ingleby Barwick Free School, submitted by the appellant
11. Report to Planning Committee for application 13/3077/VARY, submitted by the appellant
12. Email from Mr Richard Bagnall to Ms Cassandra Weadon, dated 29 January 2015, regarding open space requirements for the Low Lane Site (with Free School) Ingleby Barwick, submitted by the Council
13. Email from Mr Gary Laybourn to Ms Julie Butcher, dated 22 April 2015, regarding S278 agreement for site access, submitted by the Council
14. Plan TS10015/00/001, dated September 2014, submitted by the appellant.
15. Closing Submissions on behalf of the Council
16. Closing Submissions on behalf of the appellant
17. Costs Application on behalf of the appellant
18. Briefing note on the current status of planning conditions attached to 13/3077/VARY, submitted by the Council
19. Proposed alternative Code for Sustainable Homes condition, submitted by the Council

SCHEDULE OF CONDITIONS

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall begin no later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans in respect of those matters not reserved for later approval: Site Plan 110096-B-038 D (January 2013) and Access Plan TS10015/00/001 (Sept 2014).
- 5) No development shall take place until an open space strategy has been submitted to and approved in writing by the Local Planning Authority. This shall identify the extent, location and design of public open space within the development permitted herein or how alternative open space provision can be provided within a wider strategy with any neighbouring development pursuant to planning permission 13/3077/VARY. Development shall thereafter be carried out in accordance with the approved open space strategy.
- 6) The total number of dwellings authorised by this permission shall not exceed 70.
- 7) No development shall take place until details of how the housing will meet at least 10% of its predicted energy requirements on site from renewable energy sources, other than where such requirements are satisfied or superseded as a result of changes to national standards and/or regulation, have been submitted to and approved in writing by the local planning authority. Development shall thereafter be carried out in accordance with the approved details.
- 8) The dwellings hereby approved shall achieve Code Level 4 of the Code for Sustainable Homes or satisfy any equivalent replacement national standards and/or regulation. No dwelling shall be occupied until a final certificate has been issued for it certifying that Code Level 4 or the equivalent replacement standard has been achieved.
- 9) Construction activity and deliveries in relation to the development shall take place only between the hours of 0800 and 1800 on Monday to Friday and 0900 and 1300 on Saturdays. There shall be no construction activity or deliveries in relation to the development on Sundays or Bank Holidays.
- 10) No waste products arising from the construction of the development hereby approved shall be burned on the site except in an appliance first approved in writing by the local planning authority.
- 11) No development shall take place until a Construction Method Statement (CMS) has been submitted to and approved in writing by the local planning authority. The approved CMS shall be adhered to throughout the construction period and shall include details of the parking of vehicles of site

- operatives and visitors; loading and unloading of plant and materials; storage of plant and materials used in constructing the development; the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate; wheel washing facilities; measures to control and monitor the omission of dust and dirt during construction; a Site Waste Management Plan; details of the routing of associated HGVs; measures to protect existing footpaths and verges; and a means of communication with local residents.
- 12) No development shall take place until a scheme for the provision and management of a 10 metre wide buffer zone around Basselton Beck has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved scheme and the buffer zone retained and managed in line with the scheme thereafter.
- 13) No development shall take place until details of the implementation, maintenance and management of a sustainable drainage scheme, based on an assessment of the hydrological and hydrogeological context of the development, have been submitted to and approved in writing by the local planning authority. The scheme shall demonstrate that surface water run-off generated up to and including the 100 years critical storm will not exceed the run-off from the undeveloped site following the corresponding rainfall event. The approved scheme shall be implemented before first occupation of the dwellings hereby permitted and thereafter managed and maintained in accordance with the approved details.
- 14) No development shall take place until a detailed scheme for the disposal of foul water from the development hereby approved has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented before first occupation of the dwellings hereby permitted.
- 15) No development shall take place until an ecological mitigation scheme for the site has been submitted to and approved in writing by the local planning authority. The scheme shall be in accordance with the advice and recommendations within the Extended Phase 1 Habitat Survey (The Appleton Group, October 2012) and the Survey of Trees for Bat Roosting and Foraging Potential (Martin Prescott Environmental Services, January 2013). Development shall thereafter be carried out in accordance with the approved scheme.
- 16) No development shall take place until a programme of archaeological works has been implemented in accordance with a written scheme of investigation, which has been first submitted to and approved in writing by the local planning authority.
- 17) If during the course of development contamination not previously identified is found to be present, then no further development shall be carried out until the developer has submitted to, and obtained written approval from the local planning authority for, a remediation strategy detailing how this unsuspected contamination shall be dealt with. The remediation strategy shall thereafter be carried out as approved.
- 18) No dwelling hereby permitted shall be first occupied until any living rooms or bedrooms within those dwellings with windows affected by traffic noise levels of 68 dB (A) L10 (18 hour) or more (or predicted to be affected by such

levels in the next 15 years) have been insulated against such noise in accordance with a scheme approved by the Local Planning Authority.

- 19) No development shall take place until a Residential Travel Plan, including procedures for its implementation, has been submitted to and approved in writing by the Local Planning Authority. The Residential Travel Plan shall thereafter be implemented as approved and development carried out in accordance with it.

Richborough Estates