



Appeal Decision

Inquiry held on 12, 13, 14 and 15 June 2012

Site visit made on 15 June 2012

by J M Trask BSc(Hons) CEng MICE

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

Decision date: 4 September 2012

Appeal Ref: APP/Q4625/A/12/2169840

Land off Leys Lane, Meriden, West Midlands

- 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 Solihull Metropolitan Borough Council.
 - The application Ref 2011/1500, dated 15 September 2011, was refused by notice dated 23 January 2012.
 - The proposed works are described on the planning application form as "outline planning application with means of site access from Leys Lane to be determined (internal access, layout, scale, appearance, and layout reserved for subsequent approval) for the erection of up to 45 dwellings (Class C3), public open space including woodland/amenity area and improvements to existing allotments, balancing pond and associated earthworks."
-

Decision

1. The appeal is allowed and planning permission is granted for the erection of up to 45 dwellings (Class C3), public open space including woodland/amenity area and improvements to existing allotments, balancing pond and associated earthworks at Land off Leys Lane, Meriden, West Midlands in accordance with the terms of the application, Ref 2011/1500, dated 15 September 2011, subject to the conditions in the attached schedule.

Preliminary matters

2. The application was for outline planning permission with matters of principle and details of site access to be determined as part of the application and details of scale, layout, appearance and landscaping reserved for future determination. The proposal was accompanied by drawings showing some details of the reserved matters and I regard the details shown as being for illustrative purposes only in my assessment of the scheme.
3. A Unilateral Undertaking has been submitted by the appellant and I address this later in my decision.
4. In addition to my accompanied site visit, I visited Balsall Common and Cheswick Green on 13 June 2012 and the area surrounding Meriden on each day of the Inquiry, including a walk from the site to the centre of Meriden and back on 15 June 2012.

Main issues

5. I have reassessed my preliminary view of the main issues in this case following the representations at the Inquiry. I now consider the main issues to be:
 - i) housing land supply;
 - ii) the effect of the proposal on the character and appearance of the area; and
 - iii) whether the site is in a sustainable location for housing with regard to travel choices other than the private car.

Policy

6. The starting point for decision making is the development plan; in this case this comprises the West Midlands Regional Spatial Strategy (WMRSS) 2004 (revised in 2008) and the saved policies of the Solihull Unitary Development Plan (UDP) (2006). I have had regard to the Secretary of State's stated intention to revoke the WMRSS while bearing in mind that it continues to have effect at the present time.
7. The WMRSS aims to focus development on the urban areas to assist in their regeneration; to help achieve this aim, development of Greenfield land such as the appeal site, is strictly controlled. This theme is developed in Policies UR1, CF2 and CF3 and Policy QE3 aims to create a high quality environment. Saved UDP Policies H1 and H2 refer to housing provision and the protection to be afforded to safeguarded land. Other policies are referred to below.
8. The Regional Spatial Strategy for the West Midlands: Phase Two Revision was subject to Examination in Public and a Panel Report was published by the Secretary of State in 2009. It is unlikely to ever become part of the development plan but it has been subject to public examination.
9. In the light of the Government's intention to abolish regional spatial strategies, the West Midlands Joint Committee (WMJC), which represents the seven metropolitan boroughs, has issued a statement endorsing the urban renaissance strategy of the WMRSS. This has recently been revised by a Sub Committee, in what is commonly called the "Refresh Statement". This indicates that the urban renaissance guiding principles continue to be collectively supported.
10. The draft Solihull Local Plan (DSLPL), comprising a Core Strategy and site allocations, has been subject to consultation and representations have been received and reviewed. While the Council contends the unresolved objections are of little significance, some refer to housing supply, Green Belt land and the loss of employment land; these are important matters. I therefore consider that as the emerging plan is at an early stage of preparation and there are significant unresolved objections, it carries little weight.

Reasons

Housing land supply

Housing need

11. The UDP policies referred to by the parties, including Policy H2, have been saved by a Direction made by the Secretary of State extending the duration of policies. The Direction confirms the purpose of the extension as ensuring

continuity of the plan-led system and, in particular, a continual supply of land for development. Saved UDP Policy H1 seeks to ensure sufficient land is provided to meet the WMRSS target of 4,000 new dwellings during the plan period of 2001-2011. However, this was reconsidered in the West Midlands RS Phase 2 Review Panel Report (September 2009) and this was agreed by the parties to be the most up to date starting point for the assessment of the current need for housing. Having taken account of completions, the figure of 525 dwellings per year equates to a target for provision over the next five years of 3,440.

12. The Council do not consider that this number of dwellings can be accommodated without harmful consequences and conflict with the regional strategy identified in the Panel's Report. A lower figure of 500 dwellings per year is therefore advanced in the DSLP. It is maintained that the difference would be accommodated in areas outside the borough and the WMJC's Strategic Policy Framework for the West Midlands Metropolitan Area refers to cross boundary housing market areas. The WMJC "Refresh" document identifies that Solihull cannot meet all of the development needs that are generated and that some of this growth is to be accommodated in the neighbouring Black Country as well as a reasonable level of migration to some shire districts. However, I have seen no clear agreement that makes provision for the remaining homes. This is a matter for consideration at the Examination into the DSLP.
13. In the recent appeal decision Ref APP/Q4625/A/11/2157515, which related to a site at Moat House Farm, also in this borough, my colleague used the target figure provided by the Council at that time for the purposes of comparing need with supply. This was on the basis that it was the lowest figure proposed and did not indicate an acceptance of such a figure. The figure used by my colleague for the purposes of that decision is therefore of limited relevance to this appeal.
14. The appellant has put forward other scenarios. One is based on the Government's Household projections which give rise to a target of 4,661 dwellings over the next five years. This is a far higher requirement than that advanced in the Review Panel Report.
15. In order to ensure choice and competition in the market for land the Framework also sets out the requirement for an additional buffer of 5% or 20% to be included in the five year supply, depending on past performance. The adopted UDP planned for the completion of 4,000 dwellings between 2001 and 2011 and 5,821 were delivered. Although provision in each of the past three years has been below the UDP's annual target of 400, this was due in part to high levels of demolition within the North Solihull Regeneration Programme and poor housing market conditions. The fact that the target had already been met may also have affected housing delivery as the pressure to provide new housing would have been less. It is appreciated that the Review Panel's Report identifies a higher housing requirement and that this was not being met over the last 2 years. Nevertheless, bearing in mind that even on the Review Panel's higher target there would have been overall overprovision between 2001 and 2011, it would be difficult to conclude that the Council has a persistent record of under delivery. Thus the buffer of 5% is appropriate in this case.

16. I accept that there is no need to slavishly follow the figures and that they should be balanced against local impacts. I also acknowledge that each of the scenarios suggested by the parties has some merits and no doubt will be tested in detail at the forthcoming Examination in Public. However, for the purposes of this appeal, only the figure given in the West Midlands RS Phase 2 Review Panel Report has been tested by public examination. Clearly this was based on the evidence available at that time. Nonetheless, as it is the most up-to-date and tested figure, I conclude that 3,440 plus a 5% buffer (3612 dwellings), is the housing requirement against which the supply should be tested for the purposes of this appeal.

Housing delivery

17. The parties disagree on the current supply of housing land over the next five years, but the highest figure put forward is sufficient for 3,550 homes. I do not accept this figure for the reasons given later in this decision. However, even if I were to do so, it would still indicate a shortfall in housing land supply.
18. I have considered the need for housing on a borough-wide basis and I shall now look at housing land supply borough-wide and then consider need and supply in terms of village requirements. The differences between the parties in terms of borough-wide housing supply relate to sites which already have planning permission, the North Solihull Regeneration Sites, windfalls, Draft Local Plan sites and Strategic Housing Land Availability Assessment (SHLAA) sites.

Sites which already have planning permission (commitments)

19. The Council and appellant agree that the number of dwellings on sites which already have planning permission is 999. There were a large number of unimplemented planning permissions between 2006 and 2011 and historically a widely practised approach has been to apply a 10% discount to take this into account. This was the approach followed by the Inspector in the Moat House Farm appeal decision. Since then the Framework has been published and this advises that sites with planning permission should be considered deliverable unless there is clear evidence that schemes will not be implemented within five years.
20. The Council's contention that the UDP housing target was exceeded by a large amount seems to me to be of limited relevance in the context of this matter, but I have seen no clear evidence that the schemes would not be viable or that there is no longer a demand for the type of units proposed. I therefore conclude that the deliverable housing supply from sites which already have planning permission is 999.

North Solihull Regeneration sites

21. My colleague in the Moat Farm appeal decision did not have evidence before her to identify the North Solihull Regeneration housing sites and therefore found there was insufficient evidence to establish whether they were available, suitable and achievable. In this case the Council has provided more, albeit incomplete, information.
22. The Council has provided some redacted documents relating to the North Solihull Regeneration Programme. These identify that the Business Plan income is reliant upon land receipts and that this places high risk on the delivery of a

number of the identified sites. However, while the level of risk is identified, the information provided does not define the extent of that risk. The process for delivery of the sites has been disclosed to some extent but I have seen no documented commitment from the developer that the sites will be bought and development commenced. The evidence suggests that the regeneration programme may need to be extended by five years and that the Council is now providing the majority of the funding, whereas 80% of the funding was originally due to be from land sales. Overall, it seems to me there is insufficient information to conclude that all the sites are viable or that there are satisfactory arrangements to give confidence that there is a realistic prospect that they will all be brought forward.

23. Targets and priorities have recently changed and, while the Council advises all sites are progressing in accordance with the current (recently updated) land tracker, it is clear that fewer dwellings have been delivered to date than was planned originally. Excluding sites with planning permission and only taking account of land to be released over the next four years (so delivery should be possible in five years) the Council has identified land to accommodate a net figure of 824 new dwellings. This would be at a considerably higher rate than the housing delivery achieved so far and while the low delivery rate is due in part to the high number of demolitions which have to take place before construction of new dwellings commences, this also gives some cause for concern.
24. The development plan is clear that regeneration is a priority in the area and many sites have been assessed as part of the Strategic Housing Market Assessment, indicating that they are in a suitable location. The Council has provided a summary of the status of the sites which shows some where tenants have been re-housed, another where the site is being marketed, another which is Greenfield land which does not require further consent to dispose of the land and others to be brought forward through the DSLP. The DSLP carries little weight and will not be adopted before 2013 and some of the sites are within the Green Belt. The Government attaches great importance to Green Belts and for housing development to be permitted very special circumstances or exceptional circumstances would need to be demonstrated, so it cannot be concluded that these sites are available now.
25. Overall I conclude that, while the sites are in a suitable location, it has not been demonstrated that all of them are available now, viable and have a realistic prospect of delivery within five years. Some sites may meet all these criteria but I am not in a position to quantify the proportion of sites that would be deliverable, although, if just the Green Belt sites were removed, the remaining delivery figure would be 319 new dwellings.

Windfalls

26. The Framework has been published since the Moat House Farm appeal decision. It advises that an allowance may be made for windfall sites if there is compelling evidence that such sites have consistently become available and will continue to provide a reliable source of supply. The Council has shown that there has been an annual average of 187 homes on windfall sites over the past 20 years, although there is no indication of the historic provision on residential garden land, which the Framework indicates should be discounted. Delivery was significantly less in 2009-2010, but slightly more in 2010-2011 and about the average in 2011-2012.

27. There are few envisaged relevant changes in terms of policy, environmental capacity and the housing market over the next five years and many opportunities for the redevelopment and recycling of land continue to exist. The Council contends that 750 dwellings would be provided on windfall sites, that is, 150 per year which is less than the historic average and seems to me to be reasonable to take account of changes in circumstances.

Draft Local Plan (DSLPL) sites

28. The Council has advised that the situation has advanced since the Moat House Farm appeal decision and now land for 613 homes has been identified in the DSLP. However, some of the sites identified are within the Green Belt and there are other unresolved objections, including on the basis of loss of employment land which is another important consideration. Consequently, there is no guarantee that these sites will be in the final version of the Solihull Local Plan, which in any event will not be adopted before 2013 and so does not make the sites available now. I conclude that it has not been shown that these sites are deliverable.

Strategic Housing Land Availability Assessment (SHLAA) sites

29. All but three of the sites included in the SHLAA are Solihull Community Housing sites. There is a recent delivery plan and some schemes have funding. However, there is a limited borrowing capacity, which is recognised as potentially constraining development, and it is acknowledged that there is a need for innovative solutions to generate new homes. Some sites are in the Green Belt and as noted above this indicates they cannot be considered as deliverable in terms of the Framework.

Village requirements for housing including affordable housing

30. The Council carried out a Rural Housing Needs Survey in 2009 that showed that current and future housing needs in Meriden were low. In September 2011 there were 33 households in the Meriden Parish area on the Council's Housing Register. However, of the 21 identified as having a housing need, none were registered as in urgent housing need. This demonstrates that, while there is a need for affordable housing, this is not as urgent in Meriden as in other parts of the borough. Since then construction of 88 dwellings at Maxstoke Lane has started and some homes are now occupied. The appeal development includes 40% affordable housing, in accord with saved UDP Policy H4, with 9 homes available for those with a local connection.

31. The Parish Council considers there is a need for housing for young people and older people but that this would be best met by developing another site. A further site at Birmingham Road, which the Council and local residents consider would be less harmful and could provide for the needs of older people in the village, has been allocated in the DSLP for housing. However, part of this site is in the Green Belt and there is no guarantee this will be delivered for reasons explained above. Nevertheless, on balance I conclude the village requirements for housing, including affordable housing, are limited.

Conclusion on housing supply

32. I have found earlier in this decision that for the purposes of this appeal and based on the evidence before me, the borough-wide five-year housing land supply should be 3,440 plus 5%. While I am not in a position to calculate

precisely the number of homes on specific deliverable sites, it seems to me that, given my reservations described above, supply is likely to be of the order of about half to two-thirds the borough-wide target. While there is little evidence of significant need at village level, the lack of a five year supply of deliverable land for housing across the borough is an important matter.

33. The appeal site is designated as safeguarded land in the UDP. Saved UDP Policy H2 refers to the provision of safeguarded land and advises that the Council will identify sites to meet long-term (i.e. post-2011) housing needs and that in areas excluded from the Green Belt for this purpose development will be limited to uses which would be allowed in the Green Belt under saved UDP Policy C2. Policy H2 also confirms the possible future designation of the land for housing will be determined through subsequent reviews of the UDP.
34. In terms of the background to Policy H2 and the designation of the site as safeguarded land, the Inspector's Report 2005 which led up to the adoption of the UDP supported the findings of the 1991 and 1995 UDP Inquiries. The Report also confirmed that the purpose of identifying safeguarded land was not to provide additional housing sites, even in the event of a shortfall in housing supply, but to ensure that Green Belt boundaries endure beyond the end date of the plan. Nevertheless, the Inspector saw no exceptional circumstances to justify returning the site to the Green Belt at that time and also saw no urgent need for Greenfield sites to be allocated for housing. This view would have been based on the housing supply situation at the time and my colleague also noted that the designation of this particular land as a strategic housing site would conflict with regional guidance and may not necessarily be the first choice if further housing land were needed beyond the plan period.
35. There was an expectation that there would be an early review of the UDP adopted in 2006; but that did not happen. The UDP is currently being reviewed but that review is incomplete as it is not envisaged that the UDP will be replaced by the Solihull Local Plan until 2013. The DSLP proposes the return of the site to the Green Belt and a consequent change to the Green Belt boundary. However, exceptional circumstances need to be demonstrated to justify the alteration to the Green Belt boundary and, while the Council considers the use of the site for housing is no longer in accord with the spatial strategy for Solihull, there is no guarantee that this will be accepted at the forthcoming examination.
36. In any event paragraph 49 of the Framework makes clear that relevant policies for the supply of housing should not be considered up-to-date if a five-year supply of deliverable housing sites cannot be demonstrated. In this case I have concluded that there is a considerable shortfall in deliverable sites to meet housing requirements. The proposal would help meet these requirements and while the spatial vision for the area in the development plan, and confirmed in the WMJC Refresh Statement, seeks to focus development on urban areas this acts as a constraint on the supply of housing and so is out of date. Similarly with Policy H2 which, while it safeguards land for possible housing provision in the long term, does not say that any of the sites will necessarily be suitable for housing. This is a matter that it leaves to a review of the plan. The purpose of saved UDP Policy H2, as explained by the Inspector in his 2005 Report, is to ensure that Green Belt boundaries endure beyond the end date of the plan. Nevertheless, it is relevant to housing supply and, in the circumstances of this case, I consider that the relevant policies for the supply of housing in the

development plan, including WMRSS Policies UR1, CF2, CF3, QE3 and QE6 should not be considered up-to-date.

37. Paragraph 14 of the Framework sets out the presumption in favour of sustainable development and advises that where relevant policies are out-of-date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework as a whole or specific policies in the Framework indicate development should be restricted.
38. The examples given of specific Framework policies in the footnote to paragraph 14 of the Framework include Green Belt land, Local Green Space and an Area of Outstanding Natural Beauty but do not include safeguarded land. Safeguarded land differs from the examples given because it lacks permanence, unlike Green Belts. Moreover, while it may not have been the justification at the time, I have to have regard to paragraph 85 of the Framework which advises that safeguarded land is to meet longer-term development needs, which is not the purpose of the examples given. In any event, Paragraph 85 refers to safeguarded land in the context of defining Green Belt boundaries in relation to future plan preparation and, albeit that it advises in the section on plan making that planning permission for the permanent development of safeguarded land should only be granted following a Local Plan review, I note that the review of the UDP was never concluded.
39. While the Framework endorses a plan-led system, at the present time there is no adopted development plan that identifies sufficient housing to meet identified requirements. The DSLP will no doubt address this problem but it is at a very early pre-submission stage and therefore the provisions remain untested and can be afforded very little weight.
40. For all of these reasons I conclude that, as a principle, the contribution that the site could make in contributing to the supply of housing against the significant shortfall that I have found exists, is a factor of considerable weight.

The effect on the character and appearance of the area

41. The appeal site adjoins the eastern edge of Meriden village. The site comprises two fields, the western field has allotment gardens and the eastern field is overgrown grassland, scrub, and woodland. There is residential development to the north, south and west of the site and land designated as Green Belt, the Meriden Gap, is immediately to the east of the site. The proposed development would include up to 45 dwellings and an area of public open space. The main access would be from about half way along Leys Lane and there would be pedestrian access next to the houses at the southern end of the lane.
42. Any development of the site would bring about change and have an effect on the character and appearance of the area and, while there was some difference in approach and methodology by the parties, this is accepted in the evidence of the Council and the appellant. The point at issue between the parties is the extent of the effects of the proposed change and the consequent weight to be apportioned to this matter in the balancing exercise.
43. The site lies within the Ancient Arden landscape character type as defined by the Warwickshire Landscape Guidelines, adopted by the Council. The Guidelines define the characteristic Arden landscape as a "small scale farmed landscape

with a varied, undulating topography, characterised by an irregular pattern of fields and narrow, winding lanes”.

44. The Inspectors who undertook the UDP reviews anticipated the effects of developing the site on the character and appearance of the area when assessing the designation of the site as safeguarded land. While this was not in the context of a specific proposal, it was on the basis of a higher density of development than is currently proposed. At that time the Council also found the principle of developing the site could be acceptable if the benefits outweighed any harm caused, but that does not obviate the need to consider the effects of this specific proposal.
45. Meriden village extends along two main roads leading east and the appeal site is in the area between these projections. Thus it is bordered to the north, south and west by built development and other Inspectors have concluded that the appeal site relates more to the settlement than to the open countryside to the east. With the exception of some of the allotments adjacent to Leys Lane, the appeal site itself has been untended for some time and, while there are remnants of ancient landscape features, the site has a markedly different appearance to the farmed landscape to the east.
46. The site slopes down from north to south and there is mature vegetation along most of the boundaries and a hedge along Leys Lane which provides a degree of enclosure to the site. Even so, the proposed development would be seen from some local viewpoints, including Meriden Hill and public footpaths, as well as from a few individual properties. Although most of the houses would be set back behind the trees dividing the main site from the allotments and would be some distance from, and not generally visible from, Leys Lane, they would be seen from the first floor windows of a few houses and through the proposed new access onto Leys Lane. I saw this for myself on my informal and formal site visits, and I acknowledge that these were carried out in summer and the effect would be greater in winter as there would be less foliage. In addition, at night the lights that would inevitably be associated with the development would also be widely visible. While layout is a reserved matter, it is also likely that some length of hedgerow and a few trees within the site would be lost.
47. The recent character assessment for the Parish Design Statement identified Leys Lane as one of only two remaining traditional Warwickshire lanes within the village, with embankments and ancient hedgerows. However, the length of lane to the north of the site is largely developed and has a suburban character and appearance. Some rebuilding of the road is currently taking place to the north of the proposed access and the planting of a garden hedge along this section of road, which I saw on my site visit, did not appear to me to be representative of the type of multi indigenous species hedge generally expected in a rural lane. Also, there is a residential cul-de-sac to the west of the lane, near the proposed access, houses set back from the west side of the southern part of the lane and a few houses on the east side just to the north of the site as well as some at the southern end of the lane. The tall hedge, which is an important characteristic of Arden landscape, extends along part of the east side of the lane and part of the west side. There are allotments which are hidden from the lane by the tall hedge but nevertheless are features that are generally found close to built up areas and are more horticultural than rural in character. Thus the character of the lane varies along its length and while parts are semi-rural, there are also parts, including that near the proposed main access, that are less natural in character.

48. Although a significant amount of hedge would need to be removed to provide sight lines and pedestrian footways at the main access, a suitable replacement hedge would be planted further back from the road and, in time, this would provide a hedge of similar quality to that which was lost. I therefore find there to be no conflict with saved UDP Policy ENV14. As it would be set back from the road, the Ancient Arden feature of a narrow lane confined by tall hedgerows would be lost. However, the length of hedge that would be removed can only be seen from part of the lane and there is little remaining of the hedge on the west side of the lane at this point.
49. The main access itself, including man-made features and the widening of the lane, would be an urbanising feature, as would the increased activity associated with the development. However, the provision of the southern pedestrian access would have little noticeable effect, and the proposed main access would only result in moderate harm to the character and appearance of this part of the lane given the existing urbanising effect of other development in the area.
50. Drawing these matters together, the proposal would not have a significant impact on the Meriden Gap as a whole, but the introduction of the proposed amount of development onto the site would detract from the visual openness of the area and, albeit to a moderate extent, the character and appearance of Leys Lane. Accordingly, there would be some conflict with RSS Policy QE6 and saved UDP Policy C8 which aim to protect the countryside.

Location

51. While not a reason for refusal by the Council, this matter has been raised by them and by local residents at the time of the appeal. The development plan encourages growth towards the most accessible locations and the Council has carried out a Solihull Strategic Accessibility Study which evaluates access to essential local services, facilities and employment. Overall accessibility was found to be "*Medium*", but Meriden does not meet the Council's minimum strategic requirement for accessibility as there is limited access to a secondary school.
52. The proposed scheme is likely to include family homes where access to a secondary school would be important. The cycling route from Meriden to the closest secondary school is partly along narrow roads and would not be attractive to most pupils or their parents. There is a bus service which offers a service to the school in the morning and one returning in the afternoon. This provides a convenient means of travel to the school but it does not make provision for travel outside normal school hours and alternative journeys by bus and rail would take considerably longer than by private car and so would be unattractive. The appellant has suggested provision could be made within the Travel Plan for the development for a car share scheme and this would help limit the use of the private car.
53. There is a bus services that operates reasonably frequently to Coventry, Birmingham and Solihull. However, connectivity to other public transport systems is problematic and the Parish Village Statement confirms that residents are heavily dependent on the private car. There are few employment opportunities nearby but a reasonably wide range of employment opportunities can be found by travelling for little more than 30 minutes by public transport, although access to a large food store, leisure and recreational facilities is somewhat limited.

54. During the Inquiry I walked from the site into the centre of Meriden where there are shops and other local facilities. While the walk was pleasant, it would have been very difficult for people of limited mobility, particularly those with a child's push chair or a wheelchair, due to the gradients and irregularities of footpaths. A suitably designed pedestrian access at the southern end of the site could provide better accessibility but, overall, the limitation on access would be likely to increase the use of the private car.
55. The Inspectors undertaking the previous reviews would have had some regard to whether the site was in a sustainable location in accepting the site had the potential for housing development. However, circumstances have changed since then, not least in the form of the introduction of the Framework, and the emphasis on sustainable development. I have noted that the Council has recently approved the Maxstoke Lane development and that a further site in the village is being promoted through the DSLP. However, while some details of those schemes were brought to my attention, I am not aware of the full circumstances of those cases and I have considered this case on its own merits.
56. The Unilateral Undertaking provided by the appellant includes for new footway routes and an uncontrolled pedestrian crossing along Leys Lane as well as along Fillingley Road to help facilitate safe access to the primary school. It also provides for the enhancement of key walking routes extending from the site and raised kerbing at the two closest bus stops along Main Road. There would also be a Travel Plan, a Travel Information Pack and travel passes. These would improve accessibility and help limit reliance on the private car. While the Framework advises the need to travel should be minimised, it also advises this needs to take account of other policies in the Framework.
57. I conclude that it is likely that while, despite the improvements to access, there would be some trips by private car, there would be opportunities to travel by other modes of transport for a significant number of journeys. On balance I conclude that the proposal offers the opportunity to make sustainable travel choices in accord with the objectives of the Framework.

Other considerations

58. The Unilateral Undertaking has been submitted by the appellant in a form acceptable to the Council. It includes for the provision of affordable housing, enhancements for the allotments, provisions for maintaining the balancing pond, play area and community woodlands and contributions towards the maintenance of the on site public open space and off site highway works. In this regard, the Council has made reference to saved UDP Policies H4, R5, ENV14, R4, T2 and T5.
59. It is likely that there would be an increased number of pedestrians in the area and the highway works identified above are necessary to accommodate these highway users safely. The final amount of the contribution would be based on the final costs of the work and the contribution towards the maintenance of the on site public open space would be based on rates in the existing maintenance contract. I am content that the Unilateral Undertaking is in accord with the Framework and the tests in Regulation 122 of the Communities Infrastructure Levy Regulations 2010.
60. Reference has been made to saved UDP Policy ENV2 but this relates particularly to development in urban areas and insofar as it is relevant to this

proposal the issues raised would be dealt with at reserved matters stage. I have seen no evidence that the development would not be of high quality or any reason why the final design would not harmonise the built development and housing within the development. Thus I see no reason why this policy would not be complied with in the future.

61. I have taken account of all other matters raised including that, during preparations for the Parish Plan and Parish Design Statement, most respondents considered the appeal site should be returned to the Green Belt. I have also had regard to the suitability of the pedestrian access, highway safety and the free flow of traffic, but note that the highway authority has raised no objection and I am content that adequate mitigation of any adverse effects could be controlled.

Balancing exercise

62. The Framework states that housing applications should be considered in the context of the presumption in favour of sustainable development. As a five-year housing land supply has not been demonstrated, I consider relevant policies for the supply of housing should not be considered up-to-date. I have therefore considered whether any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
63. The proposed development would make a contribution to meeting the need for housing and this is a matter of considerable weight. Other benefits of the scheme include provisions to strengthen existing hedgerows, an overall increase in the length of hedgerow on site, the woodland management of the southern part of the site, the introduction of the pond and the provision of an area of public open space. Existing ecological interests would be protected and provisions made to maximise the biodiversity of the site. In economic terms, the proposal supports the Government's objectives in "Planning for Growth" and future occupiers of the development are likely to have jobs and contribute substantially to the local economy. The New Homes Bonus would also benefit the local community and additional pupils would improve the viability of the primary school and there would be a community woodland incorporating natural play equipment as well as improvements to the allotments and other minor benefits.
64. The adverse impacts of the proposed development would be moderate harm to the character and appearance of the area, some conflict with the development plan and limited harm to the environmental dimension of sustainable development through some increased use of the private car.
65. I conclude that the moderate and limited adverse impacts of granting planning permission would not significantly and demonstrably outweigh the considerable benefits. On balance, the limited environmental harm would be outweighed by the considerable social and economic advantages and so allowing the appeal would be consistent with the objectives of sustainable development. I conclude that the contribution the proposal would make to the supply of housing is a material consideration that outweighs the limited conflict with development plan policies.
66. I therefore conclude the release of the appeal site for development is justified.

Conditions

67. I have considered the conditions suggested by the Council having regard to Circular 11/95 The Use of Conditions in Planning Permissions. The appellant has accepted that the times for application for approval of reserved matters and commencement of development should be reduced and I consider this necessary to ensure the development makes a timely contribution to housing supply. In addition, otherwise than as set out in this decision and conditions, it is necessary that the development shall be carried out in accordance with the approved plans for the avoidance of doubt and in the interests of proper planning. The access road, pedestrian link and other highway works need to be completed before occupation of the development and retained thereafter. A lighting scheme should be completed and visibility splays kept free of obstruction. These conditions are necessary in the interests of highway and pedestrian safety.
68. A Landscape, Ecology and Environmental Management Plan is necessary to ensure the enhancement of bio-diversity. A surface water drainage system and a scheme for the disposal of foul sewage are necessary to protect the environment and the foul sewage scheme is required by the water authority.
69. Trees to be retained should be protected in the interests of the character and appearance of the area. For the same reason a condition requiring hard and soft landscaping details has been suggested by the parties, but this seems to me to be only necessary in the area around the access and to mitigate for the loss of the existing hedgerow, given that other landscaping within the site would be addressed as part of the reserved matters application.
70. A construction method statement is necessary to protect the living conditions of local residents and the provision of a Travel Plan that incorporates the car share scheme offered by the appellant is required to reduce the use of the private car. At the inquiry the appellant confirmed that the proposed development would include measures to aid sustainability and that he was content that the scheme could achieve Level 3 of the Code for Sustainable Homes. As requested by the Council I shall therefore impose a condition requiring that Level 3 is achieved in the interests of sustainable development. Similarly, and for the same reason, a condition requiring alternative energy sources is necessary.
71. The suggested conditions in respect of the provision of affordable housing, the Public Open Space and enhancements to the allotments are unnecessary as these matters are addressed by the Unilateral Undertaking. Also, no conditions requiring the submission of samples of the materials to be used in the construction of the external surfaces of the buildings or the provision of parking and turning spaces are necessary as these details can be considered at reserved matters stage.

Conclusions

72. For the reasons given above I conclude that the appeal should be allowed.

J M Trask

INSPECTOR

Schedule of Conditions: 1 to 17
Appeal Ref: APP/Q4625/A/12/2169840
Application Ref 2011/1500

- 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 twelve months from the date of this permission.
- 3) The development hereby permitted shall begin not later than eighteen months from the date of approval of the last of the reserved matters to be approved.
- 4) Except in respect of the details required by condition, the development hereby permitted shall be carried out in accordance with the following approved plans:

14636 01 Rev F	Site Location Plan
14636 12 Rev C	Application Masterplan
20064_03_002 Rev I	Site Access General Arrangement
20064_03_004 Rev A	Southern Pedestrian Link
20064_03_007	Forward Visibility Layout
20064_03_008	Existing and Proposed Carriageway Dimensions Plan
- 5) Before the first occupation of the buildings hereby permitted the new development access road, southern pedestrian link and all other works to the highway as shown on the approved drawings shall be completed and permanently retained as such thereafter.
- 6) Details of a lighting scheme shall be submitted to and approved in writing by the local planning authority and development shall be carried out in accordance with the approved details before the dwellings are occupied.
- 7) No structure or erection exceeding 0.6 metres in height shall be placed within the sight lines at the access shown on the approved plans.
- 8) No development shall take place until a combined Landscape, Ecology and Environmental Management Plan (LEAMP) based on the scope and content of the draft LEAMP prepared by the Environmental Design Partnership and submitted with the planning application, has been submitted to and approved in writing by the local planning authority. The plan shall include a timetable for implementation and be carried out in accordance with the approved details.
- 9) No development shall take place until details of the implementation, maintenance and management of a final surface water drainage scheme for the site, based on sustainable urban drainage principles and an assessment of the hydrological and hydro-geological context of the development, has been submitted to and approved in writing by the local planning authority. Before the first occupation of the buildings hereby

permitted the scheme shall be implemented and fully operational and thereafter managed and maintained in accordance with the approved details.

- 10) No development shall take place until a scheme for the disposal of foul sewage has been submitted to and approved in writing by the local planning authority. None of the dwellings shall be occupied until the works for the disposal of sewage have been provided on the site to serve the development hereby permitted, in accordance with the approved details.
- 11) No development shall take place until detailed proposals for the protection of all retained trees, hedges and large shrubs have been submitted to and approved in writing by the local planning authority in accordance with the provisions of BS5837:2012. The erection of fencing for the protection of any retained tree, hedge or large shrub shall be undertaken in accordance with the approved plans and particulars before any equipment, machinery or materials are brought on to the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the written approval of the local planning authority.
- 12) No development shall take place until full details of both hard and soft landscape works around the main access onto Leys Lane have been submitted to and approved in writing by the local planning authority. These details shall include proposed finished levels or contours; vehicle and pedestrian access; hard surfacing materials; retained landscape features and proposals for the reinstatement of the Leys Lane boundary hedgerow including: 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 and densities and an implementation programme.
- 13) All hard and soft landscape works approved under condition 12 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 the programme agreed with the local planning authority. If within a period of five years from the completion of the development any tree or hedgerow plant is removed, uprooted or destroyed or dies, or becomes, in the opinion of the local planning authority, seriously damaged or defective, another tree or hedgerow plant of the same species and size as that originally planted shall be planted at the same place, unless the local planning authority gives its written approval to any variation.
- 14) No development shall take place 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 parking of vehicles of site operatives and visitors
 - ii) loading and unloading of plant and materials

- iii) storage of plant and materials used in constructing the development
 - iv) wheel washing facilities
 - v) hours of work
- 15) No development shall take place until a Travel Plan has been submitted to, and approved in writing by, the local planning authority. The Travel Plan shall be based on that submitted by the appellant and include for the setting up of a car share scheme to facilitate access to the secondary school. The approved Travel Plan shall be adhered to thereafter.
- 16) The dwellings shall achieve Level 3 of the Code for Sustainable Homes. No dwelling shall be occupied until a final Code Certificate has been issued for it certifying that Code Level 3 has been achieved.
- 17) Before the development begins a scheme (including a timetable for implementation) to secure at least 10% of the energy supply of the development from decentralised and renewable or low carbon energy sources shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented and retained as operational thereafter.

Richborough Estates

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Ms Sharif, of Counsel	Instructed by the Solicitor to Solihull Metropolitan Borough Council
She called	
Ms Batts MA MRTPI	Housing Policy, Solihull Metropolitan Borough Council
Mr Osborne PGDipTP MRTPI	Area Planning Officer, Solihull Metropolitan Borough Council
Mr Eastwood BA Dip LA CMLI	Principal Landscape Architect, Solihull Metropolitan Borough Council

FOR THE APPELLANT:

Mr Cahill QC	Instructed by Barton Willmore
He called	
Ms Ventham BSc (Hons) MSc MRTPI	Planning Director, Barton Willmore
Mr McInerney BSc(Hons) MLD CMLI	Partner, The Environmental Dimension Partnership
Mr Bennett	Transport matters, M-EC

INTERESTED PERSONS:

Mr Pearce BA DipTP MRTPI	Principal, APS, representing Meriden Parish Council
Mr Roxburgh BSc(Eng) MSc DIC ACGI MICE FRSA	Local resident, convenor of the Leys Lane Residents' Committee and Chair Meriden Parish Plan Steering Group
Ms Roxburgh	Local resident
Mr Bacon	Local resident and Vice Chair Meriden RAID (Residents Against Inappropriate Development)
Ms Lee	Local resident

DOCUMENTS

- 1 Solihull UDP 2006 Chapter 4: Employment and Prosperity
- 2 Section 20 of the Planning & Compulsory Purchase Act 2004
- 3 Regulations 25 to 36 of the T & CP (Local Development) (England) Regs 2004
- 4 Section 109 of the Localism Act 2011 – Abolition of regional strategies
- 5 Unilateral Undertaking
- 6 Rebuttal to Proof of Evidence by Kathryn Ventham, prepared by Rachel Batts
- 7 Table summarising the Council's and the appellant's position on housing supply and targets
- 8 Extract from paragraph 3.13 of Rachel Batts Proof of Evidence (amended)
- 9 Solihull Draft Local Plan, Pre-submission draft January 2012, Chapter 5 The Spatial Strategy for Solihull
- 10A Regional Planning Guidance for the West Midlands, RPG11, Policy QE6
- 10B Solihull UDP 2006 Policies ENV2, ENV14 and R4
- 11 Report on Planning Application Ref 2010/1070/S, Meriden Garage,

- Birmingham Road
- 12A Sustainability – Additional Notes by A Bennett of M-EC
- 12B Marked Up Overall Accessibility – Solihull Strategy Accessibility Study
- 12C Lists of sites shown on Doc 12B
- 13 Report on Maxstoke Lane development
- 14 School bus timetable
- 15 Drg RG-M-01A, North Solihull Regeneration Area, Draft Local Plan Allocated Green Belt Sites; Drg RG-M-02, Meriden Sites 8, 58 and 147; Drg RG-M-03A, Pre-submission Draft Local Plan Allocated Housing Sites Within The Green Belt
- 16 Article from Planning Magazine 18 May 2012 “Regenerating North Solihull”
- 17 Statement of Common Ground
- 18 Solihull UDP 2006 Policies T1, T2, T3, T4, T5, T13 and T14
- 19A Statement on behalf of Meriden Parish Council
- 19B Meriden Parish Appraisal & Plan, Household Survey 2008, The Results
- 19C Meriden Parish Appraisal & Plan, Household Survey 2008, Questionnaire
- 20 Statement by Mr Roxburgh
- 21 Statement by Mr Bacon
- 22 Guidelines for Landscape and Visual Impact Assessment, pp 4 and 90
- 23A Draft supporting information for Unilateral Undertaking
- 23B Agreed supporting information for Unilateral Undertaking
- 24 Statement by Mrs Roxburgh
- 25 PINS letter 8 June 2012 re Examination Into The Soundness of the Wakefield Metropolitan District Council Site Specific Proposals Local Plan
- 26 Appellant’s suggested wording re additional bus provision through the Travel Plan
- 27 Appellant’s response to third parties

Richborough Estates

Richborough Estates