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## Appeal Decision

Inquiry held on 24 to 26 May 2016

Site visit made on 23 May 2016

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

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

**Decision date: 20 June 2016**

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**Appeal Ref: APP/J3720/W/15/3133319**

**Land east of Knightcote Road, Bishops Itchington, Warwickshire CV47 2SP**

- 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 Gladman Developments Limited against the decision of Stratford on Avon District Council.
  - The application Ref 14/03419/OUT, dated 5 December 2014, was refused by notice dated 3 August 2015.
  - The development proposed is described as 'residential development (up to 105 dwellings), access, parking, public open space, landscaping and associated infrastructure – outline, all matters reserved with the exception of vehicular access which is not reserved for subsequent approval'.
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### Decision

1. The appeal is allowed and planning permission is granted for residential development of up to 84 no. dwellings including means of access (from Knightcote Road), new footway on Knightcote Road, open space, landscaping and associated infrastructure, with all other matters (appearance, landscaping, layout and scale) reserved for subsequent approval, at Land east of Knightcote Road, Bishops Itchington, Warwickshire CV47 2SP, in accordance with the terms of the application Ref 14/03419/OUT, dated 5 December 2014, subject to the conditions contained in the Schedule to this decision.

### Preliminary Matters

2. The application was made in outline with all matters other than access reserved for later determination. I have considered the appeal scheme on this basis and have treated the submitted Development Framework drawing as indicative.
  3. I undertook an extensive, unaccompanied site visit in advance of the Inquiry. It was agreed at the Inquiry that a further, accompanied, visit was unnecessary.
  4. Notwithstanding the description of development in the header above, which reflects that on the application form, prior to the determination of the application the parties agreed changes to the scheme. This being so, a more accurate description of development is that set out on the Council's Decision Notice and on the Planning Appeal Form, namely, '*residential development of up to 84 no. dwellings including means of access (from Knightcote Road), new footway on Knightcote Road, open space, landscaping and associated*
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*infrastructure, with all other matters (appearance, landscaping, layout and scale) reserved for subsequent approval'. I have considered the appeal on this basis.*

5. There is dispute between the parties as to whether the Council is able to demonstrate a five-year supply of deliverable housing sites. Nonetheless, it was agreed between them that this matter was not critical to the determination of the appeal and did not need to be considered further. The basis of this agreement is the Council's position that the adopted development plan, the Stratford on Avon Local Plan, is out of date. This is set out in the following statement, agreed by the parties:

*The Council believe that they can demonstrate an NPPF-compliant 5 year supply of land for housing. The Appellant has contested this position and believes that the Council cannot demonstrate a 5 year supply and that the shortfall is significant. These positions noted, in any event, it is agreed between the parties that, in the absence of an up-to-date Development Plan, relevant policies for the supply of housing are out-of-date and the weighted balance within paragraph 14 of the Framework is engaged in this case. This means that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits. Neither party in this context concedes their position in respect of the housing land supply, but agree that the Inquiry can proceed without the need to deal with the detailed evaluation of housing land supply<sup>1</sup>.*

6. The Council's closing submission also acknowledges the 'engagement of §14 of NPPF', and states clearly that, 'It is accepted that the relevant policies of the adopted LP are out of date. Accordingly it has been accepted that §14 of NPPF is engaged in this case'.
7. Even if this were not so, however, the only development plan policies that I was asked to consider were Local Plan policies EF6 and EF7 in relation to ecology<sup>2</sup>. This being so, if I were to find compliance with this policy, and having regard to the development plan as a whole, it is reasonable to consider planning permission should be granted, albeit with consideration given to the weight to be afforded to emerging policy.

### **Main Issues**

8. The main issue is whether, having regard to the requirements of local and national planning policy for the delivery of housing, and any impacts upon the ecology of the site, the proposal would represent a sustainable form of development.
9. To assist the reader, and to aid clarity, I have considered this main issue under a number of headings and concluded upon it in the main Conclusion section.

### **Reasons**

#### *Emerging Policy*

10. There was considerable debate at the Inquiry about the weight to be given to emerging Stratford on Avon Core Strategy (the Core Strategy) policies CS15 and CS16, albeit that neither is referenced in the Council's decision notice.

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<sup>1</sup> Email from Stratford DC to the appellant 20 May 2016, forward to PINS the same day.

<sup>2</sup> Albeit that only EF7 is referenced in the Council's decision notice.

These policies set out, respectively, the proposed distribution of residential development across the District, directed by a settlement hierarchy, and the indicative amount of housing to be directed to each level of that hierarchy. The debate made it clear that each party had very different interpretations of the statements made by the Core Strategy examining Inspector, in relation to these policies and to his overall view of the 'soundness' of the emerging Core Strategy, in his Interim Conclusions report of 18 March 2015.

11. The Core Strategy has advanced a considerable way through the plan making process and I am mindful of the advice in paragraph 216 of the National Planning Policy Framework (the Framework) on this point. However, a round of consultation on proposed Main Modifications, including to policy CS16, had only just finished at the time of the Inquiry. It was clear from the oral evidence to the Inquiry that objections to the proposed modifications to CS16 have been made, including from the appellant. In addition, the Core Strategy Inspector has made it clear<sup>3</sup> that his indicative reporting timetable could be subject to change if, for example, he were minded to agree to reconvene the Hearings as a result of the consultation responses.
12. The level of, unresolved, debate at the Inquiry over the wording of the Interim Conclusions report, is, in my judgment, clearly indicative of a lack of certainty as to the Core Strategy Inspector's likely final view in relation to the level and distribution of housing and, thus, of what the final policies may say. Indeed, the *Interim* Conclusions are just that. There is no sense of finality of decision making. In this context, it would not be helpful or appropriate for me to presume to anticipate the Inspector's final judgment in relation to policies CS16 and CS15. Given this situation, and the outstanding objections to the proposed Main Modifications to CS16, I consider that CS16 attracts limited weight at the present time and the scheme fails to be judged on its own merits in accordance with adopted development plan policy and national guidance.
13. A decision<sup>4</sup> was drawn to my attention wherein an Inspector had afforded the Council's so-called 'Interim Core Strategy' policies, including CS16, 'some' weight. Notwithstanding that, with respect to my colleague, it is not entirely clear how much weight 'some' weight may be, I note that a decision<sup>5</sup> issued since that time (albeit that the event was earlier) takes the same view as me. In addition, it is not clear that the Inspector heard the level of debate that I did in relation to the Interim Inspector's Report and the Main Modifications, with particular regard to CS16. As such, I do not consider that this sets any kind of precedent to which I must be wed.

#### *Stratford on Avon Local Plan*

14. The Local Plan identifies Bishops Itchington as a Local Centre Village, on the penultimate rung of the settlement hierarchy, as set out in policy STR1. Such villages are defined as those with 'a basic range of facilities'. This policy seeks to focus housing growth on Stratford-upon-Avon, with Main Rural Centres and Local Centre Villages receiving lesser amounts, albeit that housing delivery is allowed for here and the village is identified as a preferred settlement for housing growth.

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<sup>3</sup> Inspector's Note of 4 March 2016

<sup>4</sup> 3132655

<sup>5</sup> 3009042

### *Location and Scale of Development*

15. The Council's decision notice makes no reference to adopted or emerging planning policy, other than in relation to ecology (see below). It raises concerns at the number of dwellings proposed by the appeal scheme in relation to the numbers indicated by the emerging Core Strategy, but my conclusions on the weight to be afforded to this are set out above.
16. The Council's first reason for refusal is then, in essence, that the appeal scheme proposes too many houses in a settlement *'that does not have the infrastructure, shops, services, or employment opportunities'*<sup>6</sup> to accommodate them.
17. There is no dispute that Bishops Itchington cannot take new housing development *ad infinitum*, for a range of reasons. Nonetheless, with regard to the proposal before me the village has, in my judgement, adequate services for the day-to-day needs of most current and future residents, with a primary school and pre-school, well-stocked village shop, newsagent, GP surgery and post office. There is also a church, community centre, public house and a large playing field, with a football pitch and tennis courts.
18. There are no capacity issues at the primary school, such that the local education authority has sought planning obligations to address them, nor is there any substantive evidence, and no primary evidence from the surgery itself, that the GP surgery is under pressure. It was not suggested that the other facilities were suffering in any way from population pressure or would be unable to cope with an increased population. Nor is there any reason to consider that commercial operations, such as the village shop and newsagent, would not respond to potentially increased market demand for their services. As such, I am not persuaded, on the basis of the evidence before me, that the village's infrastructure would be unable to accommodate the additional population that would arise from the appeal scheme.
19. While there are some employment opportunities within Bishops Itchington, these are, unsurprisingly, limited. It is almost inevitable that a substantial proportion of any future residents of the appeal scheme would need to travel elsewhere for work. In addition, any future residents would need to travel to access higher order services and facilities. However, Southam and Leamington Spa are close by, providing access to jobs, a supermarket, library, leisure centre and secondary school<sup>7</sup>. The major local employer that is Jaguar Land Rover is also close by.
20. It was not disputed that there is a reasonable bus service throughout the day to and from Leamington Spa, which has a railway station, and Southam. In addition, some future residents may seek to cycle to the higher order settlements and employment opportunities, which are not so far distant as to be inaccessible within a reasonable timeframe.
21. It may be that the majority of journeys from the appeal site, notably for work (out commuting being the only non-ecology related planning harm that the Council could identify in relation to the scale and location of the proposed

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<sup>6</sup> Decision Notice

<sup>7</sup> Planning obligations have been provided to address pupil capacity issues at the secondary school arising from the proposed development.

development<sup>8</sup>), would be by private car. Nonetheless, the close proximity of Leamington Spa, Southam and Jaguar Land Rover would mean that such journeys are likely to be short, even in a rural context. This also needs to be seen in the context of the fact that even for those living in Stratford on Avon, the District's largest town, the vast majority of journeys to work are still by car or van<sup>9</sup>.

22. It was suggested that the appeal scheme, notably when considered cumulatively with recent permissions in and near the village, would be detrimental to the social fabric of the village community. I am sympathetic to these concerns and I am mindful that it is probably impossible to provide empirical evidence to support them. Nonetheless, there is no suggestion that past growth 'surges' in the village have resulted in a break down in community cohesion.
23. I accept that a significant change in the size and/or make up of a community may disrupt normal patterns of social interaction. On the basis of the evidence before me, however, I am not persuaded that the proposed development, alone or in combination with other extant permissions, would give rise to such an effect. Nor, in my judgment, is there any reason to consider that new residents would fail to integrate successfully with, what was widely regarded as being, a thriving community.
24. Thus, taking the above matters into consideration, I conclude that there is no evidence to suggest that the village does not have the infrastructure, shops or services to support the proposed development. I accept that employment opportunities and higher order services and facilities are to be found elsewhere, but the appeal site cannot reasonably be considered as being isolated or remote from larger centres and employment sites in the District. Given this context, any journeys by private car are likely to be short and, in line with paragraph 34 of the Framework, the site is situated, taking account of its rural location, in an area where the need to travel could be minimised and the use of sustainable transport modes could be maximised.
25. It may be that the appeal scheme is not in strict accordance with the indicative housing targets for Local Service Villages set out in emerging Core Strategy policy CS16. However, this emerging policy attracts little weight and, in any case, I am not persuaded that the appeal scheme would come close to undermining the overarching principle of dispersed development set out in the emerging Core Strategy or be fatal to its focus on the growth of larger settlements.

### *Ecology*

26. The western part of the appeal site is a field of around 1.7 ha. It is distinct from the arable field that comprises the wider site by virtue of its use, for grazing horses, and the presence of ridge and furrow works. The appellant's survey data concludes that, on the basis of the flora found within it on the ridges, the field's grassland habitat sits somewhere on a transition between MG5 grassland and MG6<sup>10</sup> grassland.

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<sup>8</sup> Mr Holmes' response to my questions.

<sup>9</sup> Assessment of Current and Future Sustainability of Land East of Knightcote Road, Bishops Itchington - Rural Solutions November 2014 (Figure 8-5: Method of Travel to Work)

<sup>10</sup> These 'MG' plant communities are set out in the National Vegetation Classification (NVC).

27. Although the Council suggested that the Farm Environment Plan (FEP) Manual standards should be applied to the assessment of the field, ultimately the robustness of the appellant's survey data, based upon the more detailed standards set out in the National Vegetation Classification system, is not disputed by the Council. Rather, the dispute between the parties centres on the interpretation of this data.
28. This may be distilled down to disagreement over the degree to which the field can be regarded as MG5 grassland, being a UK Priority Lowland Meadow Habitat characterised by its unimproved state, or MG6 grassland, being a more widespread grassland type, often brought about by 'improvement' (i.e. the introduction of fertilisers or other nutrients, directly or through grazing) on originally unimproved grassland types. The evidence presented by the two expert witnesses to the Inquiry did not lead to a consensus on this point, which comes down to a matter of judgment.
29. On the basis of the evidence presented to me, I do not consider that the field can be regarded as unadulterated MG5 type grassland. Although parts of the site may appear to come close to it, on the basis of the quadrat sampling, overall the habitat is fragmented and the field has clearly been 'improved' through over grazing by horses. It is also evident that a number of key indicator plant species are not present. In my judgment, therefore, I consider the field to be semi-improved, grassland, closer to the MG6 typology. This is not to say that the field has no ecological value. Even as an MG6 grassland type, it is species rich and a priority habitat that is a focus for action under the Local Biodiversity Action Plan. It is also registered as a potential Local Wildlife Site (pLWS).
30. The Council is of the view that the site is worthy of formal classification as a LWS. It was, however, first identified as a pLWS some years ago and, even with the detailed survey information provided by the appellant, has yet to be fully considered or designated. The site has also been identified as part of a much more extensive network of grasslands, flowing through the centre of England. However, its contribution to this network appears somewhat marginal and there is no reason to consider that the appellant's proposals to increase the amount of grassland habitat would not also serve this purpose.
31. In summary, therefore, the field does not benefit from any statutory ecological designation or from formal planning policy protection as a LWS. There are incentive schemes available to encourage landowners to retain and restore grasslands, but there is no evidence before me to suggest that this is something that would be actively pursued by the field's owner. In theory, therefore, there is nothing to stop its continued deterioration from over grazing by horses or from different agricultural management practices. Indeed, it was common ground that such habitats are remarkably sensitive to change or destruction in this way. Given the site's clear ecological sensitivity, even if not of national or formal county importance, this would be unfortunate and unwelcome.
32. The Framework, at paragraph 118, states that in determining planning applications, the aim should be to conserve and enhance biodiversity. In particular:  
*if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately*

*mitigated, or, as a last resort, compensated for, then planning permission should be refused.*

33. In my judgement, the loss of a sizeable proportion of the western field to the access road and built development would amount to something approach significant harm to what is clearly an important grassland habitat. In relation to the Framework's guidance, there is no substantive evidence before me to demonstrate that this harm cannot be avoided by locating the development on an alternative site or by moving the access to another point (which might address the Council's concerns about the loss of what it regards as the more important part of the field).
34. The crucial consideration here, however, is the ephemeral nature of the field's ecological interest. It may be that development could take place elsewhere but this would not, for the reasons noted above, provide any guarantee that the field's grassland habitat would not deteriorate further. Indeed, it is common ground that a traditional management regime is central to the restoration and long term survival of unimproved lowland meadow habitat and that even neglected habitats can recover under such management. Thus, in my judgment, the mitigation/compensation<sup>11</sup> proposed by the appellant, while noting the Council's reservations about the likely success of the translocation aspect (see below), must be considered as beneficial in the longer term.
35. The mitigation/compensation proposals, to be secured by condition, would result, on the basis of the indicative drawings, in the retention of a large proportion of the field. This would be fenced off, animals would be removed from it and it would be subject to restoration and an ongoing traditional management regime. In addition, a nearby field under the control of the landowner would be brought under management to create further semi-improved grassland habitat. An area of species rich grassland, with translocated turves from that part of the western field that would be developed, would be created on the southern part of the eastern field. Overall, this would result in an area of around 2.9ha being brought under appropriate management to secure its long term future as traditional grassland habitat, with the aim of increasing species diversity.
36. Local Plan policy EF7 states that:
- The retention, protection, management and, where appropriate, creation of wildlife habitats and geological features will be pursued in order to improve ecological biodiversity, contribute to geological science and assist in achieving Biodiversity and Geodiversity Action Plan targets.*
- Opportunities for integrating ecological and geological features into development proposals will be thoroughly investigated and, where appropriate, secured.*
37. Local Plan policy EF6 similarly seeks to protect features of nature conservation value through assessing the extent to which any impact can be mitigated or compensated for; seeking to ensure the protection and long-term management of features of significant ecological interest; and ensuring the securing of such measures through planning conditions and/or obligations.

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<sup>11</sup> There is, in my view, a blurring of these terms when one considers the appellant's proposals.

38. The appellant's mitigation/compensation proposals would still result in the loss of some habitat. Much would be retained, protected and managed, however, with additional habitat creation being secured by condition. It is also common ground that, when combined with other proposed ecological features<sup>12</sup>, the appeal scheme would result in an overall increase in biodiversity when scored against the Biodiversity Offsetting metric used in the Warwickshire, Coventry and Solihull area. I agree with the Council that, as a matter of principle, the harm caused by the loss of one habitat type cannot just be 'offset' by the creation of other, different habitat types. That is not the case here, however, and the wider gains are an additional, incidental benefit rather than an attempt to compensate for loss of grassland.
39. Considering this issue in the round, in my judgment the positive aspects of the appeal scheme's mitigation/compensation proposals would outweigh the harm caused by the loss of part of the western field. Thus, I am not persuaded that, given the current status of the western field, the appeal scheme would conflict with the requirements of paragraph 118 of the Framework. Similarly, although not all of the field will be retained, the scheme (with mitigation/compensation secured by condition) arguably accords with the requirements of Local Plan policies EF6 and EF7.

### **Other Matters**

40. Some local residents, and the Parish Council, made reference in submissions to the Warwickshire Landscape Guidelines, which state that it is important to conserve those ridge and furrow features that remain in the Feldon claylands area, in which the appeal site is situated. This is a reasonable concern. However, the features on the appeal site are not designated heritage assets and there is no evidence before me to suggest that they benefit from any particular protection, legislative or otherwise. Thus, there is no reason to consider that they would necessarily remain undisturbed if the development were not to go ahead. However, the ecological mitigation/compensation in the western field would, by default, preserve much of the ridge and furrow features in situ. I also note that the County Council's archaeologist, who commented on the proposals, has raised no objection.
41. Concerns were raised at the impacts upon highway safety and efficiency from the proposed development. The County Council's highways section has not objected to the scheme, however, and there is no substantive technical evidence before me that would lead me to question its position.
42. The impact of the proposed development upon the character and appearance of the area was raised. I accept that there would be a change to character and appearance, being largely a shift from a large arable field (being the focus of development) to a residential estate. The field is largely unremarkable, however, and extant residential development on the edge of the village is already prominent in the landscape. The latter point is acknowledged in the Bishops Itchington Designations and Constraints document, to which I was referred. I accept this document's assessment that the development of much of zone Bi03, in which the appeal site sits, would be of high/medium sensitivity to development, with much of it forming the wider, undulating setting to the village. I do not consider, however, that the appeal scheme, which would take

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<sup>12</sup> E.g. SUDS, tree planting, hedgerow enhancement



- up a small proportion of this wider area, abutting extant development on a relatively level plateau, would be significantly harmful.
43. It was suggested that the design of the new dwellings would result in adverse impacts. The appeal is in outline only, however, and, while I agree that some recent development in the village fails to reflect vernacular form, scale/height and building materials, I see no reason why a well-designed scheme, better reflecting local character, could not be secured for the site under a reserved matters application.
  44. The potential impact of the access upon the new build bungalow at the rear of 37 Gaydon Road was drawn to my attention. It was evident, however, that a revised access location, of which the objector was unaware, addressed these concerns.
  45. Objections were raised by residents of extant dwellings around the site, concerned with impacts upon their living conditions, notably in relation to outlook, privacy and light, and noise during construction. It was apparent from my site visit that several of the properties on Dadglow Road have relatively open rear boundaries and an outlook over the appeal site. There would, of course, be a significant change to their outlook. Whether this change equates to harm is a matter of judgement. In this particular case the dwellings are set back a reasonable distance from their rear boundaries such that, with sensitive boundary treatment and careful positioning of new dwellings, I am satisfied that no significant harms, in terms of a sense of oppressiveness, overlooking or overshadowing, would arise.
  46. Dwellings on Mandale Close and Scowcroft Drive have mature landscape boundaries to the site and I am not persuaded that any significant harms would arise with regard to the living conditions of their occupiers. Again, careful consideration would need to be given to the juxtaposition of any new dwellings with extant houses on Parrish Close, notably No 11, to avoid adverse impacts upon outlook, light and privacy, but there is no reason to consider that such impacts could not be avoided by thoughtful design.
  47. There would, inevitably, be noise during the construction period, but this would be relatively short lived and is a matter that could be addressed through the construction management plan, which is secured by condition.
  48. It was suggested that there is the potential for other sites in the village to come forward for housing development. That may be so, but there are no proposals before me. In any case, my decision in this appeal should not be interpreted as a finding that Bishops Itchington is necessarily a 'sustainable location' for further residential development. Indeed, any future proposals would need to be assessed on their own site-specific merits, in the context of any adopted development plan and national policy then in place. While I have concluded that the appeal scheme is acceptable, given the site's context and the arguments before me, the fact that up to 84 dwellings have been allowed on appeal would be a consideration to be weighed in the balance when considering any future development proposals in the village.

### **Conditions**

49. A list of proposed planning conditions was discussed in some detail at the Inquiry. I have made amendments in the light of those discussions. This is to

improve precision, clarity and enforceability, as well as to avoid overlap. Additional conditions were considered during the discussion and I have included these, as agreed, as appropriate.

50. The standard conditions specifying the reserved matters and the time limits for submission of reserved matters and commencement of development are necessary to ensure legal compliance and to provide certainty. That defining the number of dwellings permitted is also necessary to provide certainty and I have imposed a condition requiring compliance with the approved plans for the same reason. An access condition, being that relating to the site access and offsite footway works, is necessary to ensure highway and pedestrian safety. A condition relating to drainage is required to ensure that the site is properly drained and to prevent flooding. A Construction and Environment Management Plan condition is necessary to ensure that there is no adverse impact upon retained habitat or the living conditions of the occupiers of surrounding dwellings, or upon the local highway network, during construction. An ecological condition and a trees condition are necessary to ensure appropriate ecological protection, mitigation and enhancement is secured in order to achieve the proposed biodiversity benefits of the scheme. That relating to an archaeological scheme of investigation is necessary in the light of the potential for historic remains being encountered on the site. A condition relating to contamination investigation, and remediation as necessary, is required given the potential for contamination in light of the intensive agricultural use of much of the site. The affordable housing condition is necessary to secure the benefits with regard to boosting housing supply advanced by the appellant in this regard. Finally, that relating to housing mix is necessary to ensure that the site delivers an appropriate mix of housing in line with local need.
51. On the basis of evidence presented to me, I am not persuaded that conditions relating to provision of fire hydrants and foul water drainage are necessary, given the requirements of other legislative provisions outwith the land use planning regime.

### **Planning Obligations**

52. 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.
53. The Unilateral Undertaking sets out obligations in relation to acute healthcare; the provision, management and maintenance of open space; public recreation facilities (being either £150,000 towards the costs of the improvement of the sports pavilion in the vicinity of the site or £127,638.42 towards the provision and/or improvement of equipped play facilities and £7600.32 towards the provision and/or improvement of allotments and community gardens); sustainable travel packs; footpath improvements; a traffic regulation order; and secondary education, including a sixth form contribution.
54. Evidence of the necessity, relevance and proportionality of these obligations is set out in detailed submissions from the District and County Councils, and from the South Warwickshire NHS Foundation Trust, which were considered at some length, and supplemented by further submissions, at the Inquiry. They demonstrate the basis for the obligations, how they relate to the development

proposed and set out how any financial contributions have been calculated. In my judgment, with the exception of the proposed contribution for £150,000 towards the costs of the improvement of the sports pavilion in the vicinity of the site<sup>13</sup>, these provide convincing (and undisputed) evidence that the above obligations meet the tests set out in the Regulations.

### **Conclusion**

55. There would be limited adverse impacts, being minor harm to landscape and an increase in the use of the private car for journeys to work and higher order settlements, arising from the appeal proposal. However, the appeal proposal would not conflict with the requirements of adopted local and extant national planning policy. Indeed, it is apparent that, overall, the appeal proposal offers net biodiversity gains and would secure the creation and long term management of species rich grassland. Thus, I am satisfied that the proposal accords with the development plan as a whole.
56. This being so, and following the parties' agreed position concerning housing land supply, I have not found the proposal to infringe any development plan policies drawn to my attention and, thus, taking all other matters into consideration, have no reasonable basis on which to withhold planning permission.
57. In the circumstances, therefore, I conclude that having regard to the requirements of local and national planning policy for the delivery of housing, and any impacts upon the ecology of the site, the proposal would represent a sustainable form of development and that the appeal should be allowed.

*Richard Schofield*

INSPECTOR

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<sup>13</sup> Which lacks any substantive justification in relation to need or how the sum involved has been calculated, such that it may be regarded as fairly and reasonably related in scale and kind.

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## **APPEARANCES**

### FOR THE LOCAL PLANNING AUTHORITY:

Mr Gary Grant of Counsel

Instructed by Stratford Upon Avon  
District Council

He called:

Mr David Lowe BSc MCIEEM  
Mr James Holmes BA(Hons) MA MRTPI

Warwickshire County Council  
Aitcheson Rafferty

### FOR THE APPELLANT:

Mr John Barrett of Counsel

Instructed by Gladman Developments  
Ltd

He called:

Mr Peter Hoy Pg Dip MCIEEM  
Mr Jason Tait Dip TP MRTPI

FPCR  
Planning Prospects

The following parties took part in the discussion on planning obligations and/or conditions:

Mr Cain Ormondroyde of Counsel (for South Warwickshire NHS Trust)  
Mrs Jayne Blacklay (South Warwickshire NHS Trust)  
Mrs Janet Neale (Warwickshire County Council)  
Mr Jamie Whitehouse (Stratford Upon Avon District Council)  
Mrs Sue Mullins (Stratford Upon Avon District Council)

### INTERESTED PARTIES:

Cllr Judith Christian-Carter (Bishops Itchington Parish Council)  
Cllr Christopher Kettle (Bishops Itchington Parish Council and local Ward Member)  
Mr Brian Laughland (Local resident)

### **DOCUMENTS SUBMITTED DURING THE INQUIRY**

1. Appearance list on behalf of the appellant
2. Stratford Upon Avon District Council CIL Compliance Statement
3. A Habitats Translocation Policy for Britain (JNCC, 2003)
4. Opening Submission on behalf of the Appellant
5. Opening Submission on behalf of the Council
6. Statement by Bishops Itchington Parish Council
7. Statement by Cllr Christopher Kettle
8. Statement by Mr Brian Laughland
9. Updated bus timetable for routes 63, 64, 64A, 65, 66, 67A
10. Appellant's note on the chronology of the evolution of policy CS16
11. Statement by Mrs Jayne Blacklay
12. Signed Unilateral Undertaking
13. Proposed Biodiversity condition
14. Example Housing Mix condition
15. Further information in support of planning obligation with regard to open space
16. Stratford Upon Avon District Council Affordable Housing S106 Template
17. Closing Submissions on behalf of Stratford Upon Avon District Council
18. Closing Submissions on behalf of the Appellant
19. Completed Unilateral Undertaking

### **DOCUMENTS SUBMITTED AFTER THE CLOSE OF THE INQUIRY**

20. An extract of s41 of the Water Industry Act 1991
21. Severn Trent Guidance on the application of s41 and the requisition of a public water main.

## **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. The reserved matters shall be in general accordance with the submitted Development Framework Plan reference 5914-L-02 Revision N.
- 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: 5914-L-04 Rev A (Location Plan) and 1368/01 Rev B (Site Access Plan).
- 5) The total number of dwellings authorised by this permission shall not exceed 84.
- 6) No development shall take place until a detailed scheme for the provision and future management and maintenance of surface water drainage, together with a timetable for its implementation, has been submitted to and approved in writing by the Local Planning Authority. The drainage scheme shall be prepared in general accordance with the submitted Flood Risk Assessment (FRA 13 1052-Final, dated November 2014) and shall ensure that any attenuation ponds to be provided shall not be within two metres of any footpath or cycleway. The drainage scheme shall be implemented in accordance with the approved details.
- 7) No development shall take place until a scheme for the protection of all existing trees and hedges to be retained on site has been submitted to and approved in writing by the local planning authority and has been put in place. The scheme must include details of the erection of protective fencing in accordance with British Standard 5837: 2012 clause 6.2 (Trees in relation to design, demolition and construction). Fencing shall be shown on a plan and installed to the extent of the tree protection areas as calculated using British Standard. Nothing shall be stored or placed in those fenced areas or the ground levels altered without prior consent in writing of the local planning authority. The development shall be carried out in accordance with the approved scheme.
- 8) No development shall take place, including any site clearance, until a Construction and Environment Management Plan (the Plan) has been submitted to, and approved in writing by, the local planning authority. The Plan shall include details of:

- measures to avoid impacts upon retained habitat, including hedgerows and ridge and furrow shown on Framework Plan 5914-L-02 Rev N, during the construction phase;
- the parking of vehicles of site operatives and visitors;
- HGV routing;
- the 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 to ensure that mud and debris is not spread onto the adjacent public highway;
- measures to control the emission of dust and dirt during construction;
- a scheme for recycling/disposing of waste resulting from site clearance and construction works; and
- hours of construction and deliveries.

The approved Plan shall be adhered to throughout the construction period.

- 9) No development shall take place until a combined Landscape and Ecological Habitat Enhancement and Management Scheme (the Scheme) has been submitted to and approved in writing by the Local Planning Authority. The Scheme is to include all aspects of landscaping for non-residential areas involving proposals for the retention, enhancement and creation of habitat to ensure no net loss to biodiversity determined by the locally derived Defra Offsetting metric as well as arrangements for their long term management, maintenance and monitoring. The Scheme will include hedgerows, the sustainable drainage area, retained ridge and furrow as shown on the proposed Framework Plan 5914-L-02 Rev N and the additional off site area shown as land edged blue and marked as Field 3 on this same plan. The development shall be carried out in accordance with the requirements of the approved Scheme, which shall be implemented in full, or any variation to it as so approved in writing by the Local Planning Authority.
- 10) No development shall take place until a programme of archaeological work, including a written scheme of investigation, has been submitted to and approved in writing by the local planning authority prior to the submission of the reserved matters. The programme and scheme shall thereafter be implemented as approved.
- 11) a) No development shall take place until an investigation of the nature and extent of any contamination affecting the site has been carried out by a suitably qualified and experienced person, in accordance with a methodology based on a Phase 2 assessment and conceptual site model for the application site, in accordance with BS10175. The site investigation methodology, its results and the recommended remediation plan shall be deposited with the Local Planning Authority before any development begins.  
  
b) If, during the site investigation (described in paragraph a) above, or throughout the development period any unacceptable contamination is found

a further report specifying the measures to be taken to remediate the site shall be deposited with the Local Planning Authority.

c) The site shall be remediated in accordance with the approved measures before the development hereby permitted commences.

The development hereby permitted shall not be brought into or continue in use unless and until all and any remediation works identified under paragraphs a), b) and c) above have been carried out and a Validation or Post-remediation Report produced by a suitably qualified and experienced person has been submitted to and approved in writing by the Local Planning Authority.

- 12) No development shall take place until a scheme for the provision of affordable housing as part of the development has been submitted to and approved in writing by the local planning authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex 2 of the National Planning Policy Framework or any future guidance that replaces it. The scheme shall include:
- the numbers, type, tenure and location on the site of the affordable housing provision to be made which shall consist of not less than 35% of housing units;
  - the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;
  - the arrangements for the transfer of the affordable housing to an affordable housing provider [or the management of the affordable housing] (if no Registered Provider involved) ;
  - the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
  - the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.
- 13) Prior to the occupation of the approved dwellings, the access to the site from Knightcote Road, including the new footway link to the existing footway at Scowcroft Drive, shall be constructed, located and laid out in general accordance with drawing 1368/01 Rev B.
- 14) Notwithstanding any indicative details provided within the application hereby approved, proposals for the size, type, tenure and range of housing to be developed (including both market and affordable housing), shall be submitted to the Local Planning Authority for approval as part of any reserved matters application relating to layout and scale. Development shall thereafter be implemented only in strict accordance with the approved scheme.