



Appeal Decision

Site visit made on 25 May 2016

by R M Pritchard MA PhD MRTPI

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

Decision date: 27 June 2016

Appeal Ref: APP/N2535/W/16/3144855

Sudbrooke Farm, Sudbrooke, Lincolnshire, LN2 2QZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on a hybrid application for outline and full planning permission.
 - The appeal is made by Jackson and Jackson Developments Ltd against West Lindsey District Council.
 - The application Ref 133284, is dated 12 November 2015.
 - The development proposed is the erection of up to 130 dwellings¹ and a new building to provide up to 25 apartments for retirement living; the extension and widening of West Drive and Holme Drive to serve the development; associated hard and soft landscaping and the demolition of existing poultry sheds; together with the change of use of land to provide a new area of open space, including the provision of new footpaths and sustainable drainage infrastructure, and to provide new community allotment facilities.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of up to 130 dwellings and a new building to provide up to 25 apartments for retirement living; the extension and widening of West Drive and Holme Drive to serve the development, associated hard and soft landscaping and the the demolition of existing poultry sheds; together with the change of use of land to provide a new area of open space, including the provision of new footpaths and sustainable drainage infrastructure, and to provide new community allotment facilities at Sudbrooke Farm, Sudbrooke, Lincolnshire, LN2 2QZ in accordance with the terms of the application, Ref 133284, dated 12 November 2015, subject to the conditions attached as a Schedule to this Decision.

Procedural Notes

2. The application is in hybrid form. It comprises an outline application for residential development – both new dwellings and a new building to accommodate apartments for retirement living – with only access to be considered at this stage and all other matters reserved for subsequent approval; and a full application for the change of use of land to provide open space and community allotments to serve the proposed residential development.
3. The appeal was made on the basis of the Council not having made a decision within the statutory timescale, despite an extension of time having been

¹ Cf Paragraph 4 of this Decision.

mutually agreed. However, a Council Planning Committee meeting on 6 April 2016 resolved that the Council would have been minded to refuse planning permission and the reasons set out in the Committee Report have informed the main issues that I have set out below.

4. During the period when the application was being considered by the Council, and as a result of discussions between the applicants and the Council, revisions were made to the proposals. These included a reduction in the number of dwellings from '...up to 140...' to '...up to 130...'², changes to both the boundary of the application site as a result of removing an area known as Ten Acre Covert in order to reduce possible harm to biodiversity; moving the location of the proposed attenuation pond in order to lessen the loss of existing trees; and increasing the scale of replacement tree planting and biodiversity offsetting. I have accepted these changes, which are illustrated on revised Drawings Nos 8002 (Rev A) and 8001 (Rev D). However, neither of these revised drawings can be considered as other than illustrative at this stage given that layout and landscaping are reserved matters. I have, nevertheless, amended the description of development to reflect the lower number of dwellings now proposed.

Main Issues

5. I consider the main issues to be –
 - i. The relationship of the proposed development to the growth strategy being put forward by the emerging Central Lincolnshire Local Plan; and
 - ii. The sustainability of the proposed development in respect of –
 - a) Its effects on –
 1. The individual trees, groups of trees and areas of woodland within the development site, including those protected by Tree Preservation Orders (TPOs);
 2. The Site of Nature Conservation Interest (SNCI); and
 3. The Historic Park and Garden; and
 - b) Its location.

Reasons

Background

6. The appeal site, which has a total area of around 18 hectares, lies to the east of Sudbrooke village. It comprises a mix of woodland and rough pasture, most of which is unfenced. There are a number of poultry units within the site. The land was apparently used as an army camp during the Second World War and after. There are remnants – by way of foundations and areas of hard-standing – of buildings that date from this use. Prior to 1939, the site comprised informal parkland and gardens associated with a large house, Sudbrooke Holme, which had, nevertheless, been demolished some years earlier. A stream, Nettleham Beck, flows across the site and there are a number of ditches and ponds within its boundaries.

² There is a small element of potential confusion in the reference to 'dwellings' because of the existence of the new building to contain 25 'apartments for retirement living' which is additional to the dwellings total quoted by the applicants. I have therefore used the description 'residential units' throughout this decision unless otherwise specified.

7. Two informal metalled tracks cross the site to provide access to the poultry units concentrated in the eastern part of the site and beyond and also to a number of residential dwellings sited outside its northern boundary. The site is also crossed by a Public Right of Way (PROW)(Definitive Footpath (Sudbrooke) No 817) that links Sudbrooke to the east. In addition, there are two existing dwellings, The Old Coach House and Labda, that lie within the broad area of the proposed development but which are excluded from the appeal site. The former occupies a salient extending down from the northern boundary: the latter in the centre would be entirely surrounded by the proposed development.
8. The proposal is for the development of up to 155 additional residential units. The great majority, up to 130 dwellings, would be provided in a new estate with an additional 25 units – described as apartments for retirement living – being provided in a new building to be erected on the approximate site of the former Sudbrooke Holme. It is expected that 25% of the new houses would be affordable. It is also proposed to include within the development site land for a new public house/restaurant, a significant area of Public Open Space (POS) and opportunities for new and upgraded footpaths.
9. The appeal site was identified as long ago as the 1950s as a potential location for additional housing, representing an eastward extension of the existing Sudbrooke Park development then being planned. Sudbrooke Park, also originally part of the Sudbrooke Holme estate is to the west of the appeal site from which it is separated by an area of mature woodland. The appellants suggest that planning permission over much of the appeal site was obtained in the 1960s for a residential development of similar form to Sudbrooke Park. However, that permission was never implemented and lapsed some years ago. The layout of Sudbrooke Park nevertheless suggests potential accesses into the appeal site via West Drive and Holme Drive and the proposed development would make use of both of these.

The growth strategy of the emerging Central Lincolnshire Local Plan

10. The appellant's case focuses on housing need in the area, the state of housing land supply and the on-going relevance of local development policies in the context of those factors and the Government's policies as set out in the National Planning Policy Framework ('the Framework').
11. The latest estimates of housing land supply in the wider area stem from the Central Lincolnshire Five Year Land Supply Report ('the Report') that was published in October 2015 as part of the process to produce the emerging Central Lincolnshire Local Plan. The housing need estimates in the Report were drawn from the proposals in the Draft Local Plan. The Report estimated that there was a 5.37 years worth of supply for the period 2016 – 2021 (including a 20% buffer to take account of past under-delivery) and that the latest estimates of completions were on target in relation to the overall need identified.
12. Nevertheless, I share the caution with which the appellant approaches these estimates. The Draft Local Plan is still at an early stage with consultation on its proposed Submission Draft only just having started. The housing land supply estimates rely heavily (the appellant suggests around two-thirds of the total of over 11,000 dwellings) on allocations put forward in an earlier draft of the Local Plan. I have no evidence that these allocations have been tested to ensure that they meet the Framework's criteria of representing '*...a realistic*

prospect that housing will be delivered on the site within five years...' or that development on them would be viable at the required rates.

13. In this context, I give particular weight to the advice of the Government's Planning Practice Guidance (PPG). This advises that evidence of housing land supply being prepared for emerging local plans should be considered, but that the weight afforded to such estimates '*...should take account of the fact that they have not been tested or moderated against relevant constraints*'. Furthermore, the appellants reinforce these reservations by pointing to both legal judgments³ that emphasise the limited weight that should be afforded to emerging allocations where – as here in West Lindsey – local plans have neither been consulted on or examined and to recent appeal decisions in the area⁴ that have questioned the weight that should be afforded to the Report's estimate of housing land supply.
14. I agree with the reservations expressed generally by the Courts and by my colleagues in the specific context of West Lindsey. I therefore conclude that West Lindsey cannot yet conclusively demonstrate a current five years' worth of deliverable specific housing sites to meet the requirements set out in paragraph 47 of the Framework. In those circumstances, as emphasised by paragraph 49, relevant policies for the supply of housing cannot be considered up-to-date.
15. This must be true both of the policies of the adopted West Lindsey Local Plan First Review, which dates from 2006, and the emerging policies of the Central Lincolnshire Local Plan. In respect of the former, I acknowledge that Sudbrooke was identified for only a '*...very small...*' (Council's emphasis) scale of development, whilst the Further Draft of the latter proposes Sudbrooke as a 'Medium Growth Village'. Such villages will not have specific land allocations but will expect around 10% growth in the plan period up to 2036, predominantly on small sites of less than 10 dwellings. Nevertheless, in the light of my conclusions on the housing supply position in West Lindsey, I can give only minimal weight to those policies of the Local Plan Review, e.g. STRAT12 and CORE9, that set out priorities for the location of new residential development, including settlement boundaries established in relation to those policies. Nor, at this relatively early stage in the adoption cycle, can I afford substantial weight to the emerging policies of the Draft Local Plan, especially perhaps Policy LP55.
16. I have noted that this approach has been taken by a number of my colleagues in recent appeal decisions in West Lindsey but, perhaps as significantly, that it is also agreed to be the current position by the Council, as set out on page 34 of its officers' report to the Planning Committee of 6 April 2016.
17. The proposed development must therefore be assessed against the criteria set out in paragraph 14 of the Framework. These are that where the development plan is absent, silent or, as here, out-of-date, proposals that accord with the overall presumption in favour of sustainable development, should only be refused permission where specific policies in the Framework indicate development should be restricted or there are demonstrable and significant adverse impacts that would outweigh its benefits when assessed against the policies of the Framework taken as a whole.

³ E.g. *Wainhomes (South West) Holdings Ltd v SSCLG* [2013] EWHC 597 (Admin).

⁴ E.g. *Church Lane, Saxilby* (APP/N2535/A/14/2223170) & *Lodge Lane, Nettleham* (APP/N2535/W/15/3133902).

The sustainability of the proposal

18. The issue of sustainability is identified by the Framework as having three dimensions – economic, social and environmental.
19. With regard to economic sustainability, housing development has been long recognised by the Government as a major factor in supporting economic growth and I also acknowledge that it can and often does provide local employment and generate additional local income. The provision of housing must also benefit the social strand of sustainability if only through the provision of more homes. That benefit would be added to here by the likelihood that 25% of properties would be affordable and by the provision of the retirement apartments that would cater for a growing element in the housing market. Obviously, all new development generates additional demand for infrastructure provision and local community services. The appellant has submitted an Undertaking to make a financial contribution to health and education services to offset the impact of his proposal. I make more specific reference to this Undertaking under Other Matters.
20. In respect of the economic and social strands of sustainability, I therefore give significant weight in favour of the proposed development especially in an area where there is currently no conclusive evidence that sufficient housing can be provided in the short-term. That weight is reinforced by the broad thrust of Government policy which emphasises the need to boost the supply of housing.
21. However, if there are doubts about the sustainability of the site, they lie within its environmental dimension. Three linked aspects have been identified by the Council in terms of the characteristics of the site – the loss of trees and woodland, the threat to its biodiversity value, and the need to preserve those elements that reflect the historic park and garden that originally comprised its use.

The individual trees, groups of trees and areas of woodland within the development site, including those protected by Tree Preservation Orders (TPOs)

22. To the Council and to many local residents, the principal value of the appeal site lies in the attractiveness created by its woodland character. That character comprises both substantial blocks of mature woodland, but also a substantial number of individual trees, some of which have merit and amenity value in their own right. The appeal site is also characterised by a series of Tree Preservation Orders (TPOs) that apply to both blocks of woodland and individual species. Moreover, 'saved' Policy NBE 10 of the West Lindsey Local Plan Review places emphasis on development proposals preserving the character of the District's landscapes.
23. The appellants submitted a tree report with their application that suggested which trees would be retained and which would be lost. Nevertheless, the tree report has to be treated with caution. Much of the argument is not especially helpful in the context of the matters before me. Not only is this an outline application in which both layout and landscape are reserved matters, but, unlike a grant of full planning permission, an outline permission does not have the effect of overriding the protection afforded by a TPO. There is therefore the substantial likelihood that issues over the loss of particular areas of woodland or individual trees would play a significant part in any debate over the reserved matters if this appeal were allowed.

24. Notwithstanding this uncertainty, there can be no argument that a development of the proposed scale would change radically and permanently the appearance and environment of the appeal site. In the most simple terms, what is currently an area of open, if somewhat neglected, land would be transformed into a suburban housing estate. The principal cause of this change would be the loss of substantial areas of existing woodland and individual trees. The tree report acknowledges this and comments that, based on the revised indicative layout to which I made reference earlier, some 2.3 hectares of woodland would be adversely affected by the proposed development. Those revised proposals would, however, put greater emphasis on protecting the more valuable specimens.
25. It is at the heart of the appellants' case, however, that new planting would more than compensate for the losses. Some 2.4 hectares are proposed with an emphasis on native species. The largest element of this compensation would be a 2 hectare woodland block, currently laid to improved pasture, that would be planted in the eastern part of the site. The appellants' commitment to compensatory planting is to be welcomed, but I accept that the new planting would take many years to mature if, indeed, it ever achieved the character of the woodland that would have been lost.
26. Nevertheless there would be substantial areas of existing woodland that would be retained (including almost all of the area of mature woodland on the western side of the appeal site that forms a barrier with the Sudbrooke Park estate) For these areas, the appellants suggest that the overall woodland environment could be significantly improved by better management of existing trees, selective crown lifting and thinning etc. The tree report assessed the trees to be lost as no better than of 'moderate' value and without the benefit of better woodland management that the appellants claim could only occur as a result of development, '*...the long-term viability of the woodland is questionable*'.
27. I acknowledge this last point. Whilst the woodland environment of the appeal site is attractive and a feature obviously much valued by local residents, there appears currently to be neither the resources nor the incentive to apply to that woodland the positive management that I agree with the appellants may be necessary to secure its long-term future. I therefore conclude that, despite the disruption to the existing woodland environment, on balance, the proposed development would be acceptable and could lead to some positive benefits.

The Site of Nature Conservation Interest (SNCI)

28. The appeal site's value as wildlife habitat is intimately bound up with its current character and the preponderance of trees and woodland. It is not, however, a Site of Special Scientific Interest (SSSI) and Natural England, whilst commenting on the steps needed to ensure as great a protection as possible for the biodiversity of the site has not formally objected to the proposed development.
29. Notwithstanding this, the appeal site is part of a locally-designated Site of Nature Conservation Importance (SNCI) and both the Lincolnshire Wildlife Trust and the Greater Lincolnshire Nature Partnership have expressed concerns about the impact of the development on the biodiversity value of the site. That value seems to me to derive largely from the woodland character of much of the land and the lack of positive management on which I have commented

- above may have contributed to the development of a local ecosystem that would not have been present when the site comprised parkland and gardens.
30. An additional exception to the preponderance of woodland habitats is the presence of a European protected species, the Great Crested Newt (*Triturus cristatus*) on that part of the appeal site where there are streams, ditches and ponds.
31. The appellants have acknowledged that the proposed development should provide a degree of compensation for the possible losses of biodiversity that would occur if it went ahead. A Biodiversity Enhancement Plan (BEP) has been prepared. At the core of this BEP is the new woodland on the eastern side of the site to which I have already referred but it would also seek to use the opportunities for better management of existing woodland to enhance its value through the creation of micro-habitats. It is also proposed to plan a species-rich grassland meadow and in addition to native trees, native shrubs would be planted to provide nourishment for a number of fauna, including birds and small mammals. There would also be a programme to provide bat roosts and a range of nesting boxes. The BEP also contains provisions for the Great Crested Newts at the core of which would be a series of ponds along the eastern side of the site, These would be aimed at providing breeding habitats for a range of amphibians.
32. I acknowledge that the BEP puts significant weight on creating habitat connectivity – an especially essential element if the biodiversity value of the site is to be maintained in the long-term and it substantially contributes to my similar conclusion in respect of the biodiversity value of the appeal site as that I arrived at when considering the woodland character of the site. There would be a good deal of disruption to the existing biodiversity of the site but the BEP would provide sufficient compensation for the inevitable losses of habitat that would occur if the development went ahead.

The effect on the Historic Park and Garden

33. Sudbrooke Park is not included in English Heritage's statutory list of historic parks and gardens but is on a supplementary, local list of parks, gardens and formally laid out areas that has been compiled by the Council. Policy NBE 8 of the Local Plan Review seeks to protect the character, appearance, setting or features of the Historic Parks and Garden included on the Council's local list.
34. I have no doubt that Sudbrooke Park was, at one time, a very fine example of a parkland environment associated with a large country house, in this case, Sudbrooke Holme. As I have already commented, the latter was demolished before 1939 and all that remains of it within the site boundaries are the remnants of the boundary wall and gates to the former house⁵ and what may be parts of the house's foundations. There are elements of the former parkland that survive but it has to be acknowledged that the past eighty years have not been kind to these features. Not only was the western third of the parkland built over to provide the Sudbrooke Park development but the depredations of the Second World War are sometimes all too obvious. In the last half century, the growth of poultry farms with their sheds and feeders has added to changing the character of the landscape.

⁵ There is also the main entrance to the Park from the A158 and the lodges and gates here are listed. They are not, however, within the appeal site and would not be affected in anyway by the proposed development.

35. The Council makes a good case, in my view, for the need for an archaeological survey of the site – this has apparently never been carried out – but I am less persuaded that the significance of the Historic Park and Garden as a heritage asset – to use the terminology of the Framework - is as great as the Council suggests. I do not dispute the value of this land to local residents as an environmental and informal recreational asset, but the casual observer would have to be especially perceptive to recognise its parkland origins. Moreover, I see little prospect of the resources being available to restore the appeal site to anything like its former glories on the basis of its current use. On the contrary, continuation of the lack of active management that has been characteristic since at least the Second World War would seem likely to lead to the loss of the surviving historic features in a few decades.
36. In this context, the appellants suggest that their proposals, whilst they cannot in anyway be described as restoration, offer some prospect of returning at least parts of the site to a state where those parkland features that remain and which would be incorporated in the proposed development may be placed in a more acceptable context. As example, the building to contain the retirement apartments would be largely on the footprint of Sudbrooke Holme. In a small way that could provide a focus for a new landscape.
37. Of the three specific issues associated with environmental sustainability that are identified within the Council's reasons for refusal, I give least weight to the Historic Park and Garden. I do not deny that there are remnant features left on the site but it seems to me that these are too few and too damaged to give this matter the value that the Council has sought to award it. I agree that archaeological investigation should precede any development but I am not persuaded that the Historic Park and Garden can be a factor that should weigh significantly against the appeal being allowed.

The sustainability of the proposed development's location

38. In respect of the environmental dimension to sustainability, a central concern is whether the location of the proposed development is appropriate. This is a matter that I address below, although I acknowledge that there are other environmental issues which also need to be considered – as I have identified in the Main Issues.
39. It is incontrovertible that the proposed development would add substantially to the size of Sudbrooke. With currently around 700 dwellings in the village, the proposal represents an increase of some 20% - to be concentrated on a single site. Furthermore, that site would to a considerable degree be physically separated from the heart of the village that lies some way to the west. There has been some debate as to whether the appeal site might comprise 'previously developed' or 'brownfield' land given its wartime uses. On balance, I conclude that it cannot. Those uses ceased virtually half a century ago and since that time, despite remnant features, the use of the land has been essentially rural in character. I therefore conclude that the proposal must represent development in the open countryside.
40. Furthermore, Sudbrooke does not immediately seem to me to be a settlement with the range of services that makes it attractive for this scale of development. There is no primary school and no doctors' surgery and only a small convenience store. The great bulk of services and community facilities

for the proposed development would continue to have to be provided outside the village⁶.

41. In accessing those services and facilities, I conclude that the predominant use would have to be the private car. At my site visit, I took the opportunity to look at local bus connections. There is a bus stop around 200 metres from the edge of the proposed development. There is a weekday link to Lincoln and a service that operates during term time to connect the village to local schools, i.e. the nearest primary school in Scothern⁷. Nevertheless, the village could not be described as being particularly well connected in terms of public transport.
42. Indeed, I would not be surprised if the majority of future residents of the proposed development were families with school-age children who would need two cars to enable them to access services and facilities with the ease that is expected today. In respect of children and also the residents of the proposed retirement apartments, there must be a significant risk that these could become isolated from the services that they especially need.
43. It could therefore be argued that this is not a sustainable location for the proposed development and that its scale would be inappropriate for the current size of, and facilities available in, Sudbrooke. However, I acknowledge the appellants' claims that West Lindsey as a rural area inevitably sees a much greater use of private cars than might otherwise be expected or acceptable elsewhere. I am also wary of concluding that other settlements would not have very similar problems if and when development were proposed in them. Nevertheless, the location of the proposed development and the services and community facilities available in Sudbrooke seem to me to be a factor weighing against allowing the appeal.

Other Matters

44. The appellants submitted to me a signed Unilateral Undertaking, dated 26 May 2016, made under section 106 of the Town and Country Planning Act 1990 in respect of financial contributions payable to the Council in respect of education and healthcare requirements as may arise from the proposed development. A contribution of some £315,000 is directed towards the provision of additional places at the Scothern primary school and some £60,000 towards NHS primary care facilities within a five mile radius of the appeal site. West Lindsey having, as yet, not formally adopted a charging schedule under the Community Infrastructure Legislation (CIL) Regulations 2012 (as amended), such contributions remain required under Policy STRAT 19 of the Local First Review (and draft Policy LP 12 of the emerging Central Lincolnshire Local Plan). I accept, in these circumstances, that the Undertaking is properly made and appropriate to the development.
45. However, although not advanced as a reason for refusal, the Council clearly also expects that 25% of the dwellings on the site should be affordable. I strongly support the Council in this requirement, which would be in line with Policy RES6 of the Local Plan First Review (and with Policy LP11 of the

⁶ I have noted the appellants' proposal to allocate land on the site for a new public house/restaurant. That is to be welcomed but I also acknowledge the comments by a number of local residents, supported by the Council, that the viability of such a proposal is very much untested and runs against the well-evidenced trend for rural public houses to be shrinking in number.

⁷ Scothern is around two kilometres by road north of the site of the proposed development. There are footpaths that also provide access to this village but they are not much shorter in distance and might be unattractive in inclement weather or the winter.

emerging draft Central Lincolnshire Local Plan). The usual method to secure such affordable housing provision would be an agreement made under section 106 that could include details of social housing providers and other matters. No such agreement has been submitted to me, possibly because negotiations between the appellants and the Council's Housing and Communities Team have not been concluded.

46. In these circumstances, the appellants have proposed that sufficient commitment towards the appropriate provision of affordable housing could be secured by a suitable, negatively worded condition. They cite the precedent of a recent appeal decision in West Lindsey (PINS Ref. APP/N2535/W/15/3129061) where a colleague imposed such a condition. His justification was the advice in the Government's Planning Practice Guidance (PPG) that '*...exceptionally...*' such a condition requiring an agreement to be entered into before development commences may be appropriate. The proposal before me would provide over three times the numbers of residential units permitted under the above appeal. Its contribution to the '*...strategically important housing land supply...*' would therefore be at least as great and the justification for such a condition even greater. If the appeal were allowed, I therefore conclude that the requisite affordable housing component could be secured through a condition.

The Planning Balance

47. The uncertainty of the present position in respect of the emerging Central Lincolnshire Local Plan and the estimates of housing need and housing land availability that are feeding into its preparation are powerful arguments in support of the proposed development. This is a site where it seems development could begin almost immediately and the 150 plus residential units that could be provided would make a significant contribution to housing needs in West Lindsey. Nor do I consider that the characteristics of the site, whether in terms of existing woodland, its biodiversity value or its past as a Historic Park and Garden, are so unique or valuable as to be overriding reasons why development could not take place. On the contrary, there appear to be opportunities not merely to provide compensation for many of the elements that would be lost but also to impose a more positive management regime that could give the environmental value of the site a more secure future.
48. Opposing those factors, the most compelling argument against the proposed development seems to me to be that Sudbrooke is too small and has too few services to absorb a development of this scale. I acknowledge that this is not only the Council's position but that it is shared by many local residents. However, I consider that similar arguments could well be applied to many villages in West Lindsey where residents currently rely on the private car to reach the full range of services and community facilities that they need. Furthermore, in circumstances where Government policy places such emphasis on the delivery of additional housing, I am not persuaded that these disadvantages would produce sufficiently demonstrable and significant adverse impacts to outweigh the benefits allowing the appeal.

Conclusions

49. For the reasons given above I conclude that the appeal should be allowed both in respect of the outline and full applications.

Conditions

50. I have considered the conditions put before me by the Council that it would wish me to impose were the appeal to be allowed in the light of policies towards conditions as now set out in the Government's Planning Practice Guidance (PPG) and the model conditions included in the still extant Annex to Circular 11/95, *The Use of Conditions in Planning Permissions*. In this case, the hybrid nature of the application requires some amendment to the standard conditions that set a time limit on the development and the submission and approval of reserved matters. I shall impose such amended conditions together with a condition that ensures that the development is carried out in accordance with the site location plan that shows the extent of the site and which I consider is the only plan relevant to the outline permission granted. I also consider that, given the changes made to the numbers of residential units proposed during the application process, a condition clearly limiting the development to up to 130 dwellings and 25 apartments for retirement living is appropriate and necessary. I shall impose such a condition.
51. The Council has asked that it be clear that when details of the reserved matters are submitted these include details of the Public Open Space to be provided, including arrangements for its future management; a landscape management plan; a biodiversity enhancement scheme; confirmation that no building will be erected within Flood Zones 2 or 3; and a phased implementation timetable for the development. I agree these will clarify the matters needed to secure the approval of reserved matters and shall impose an appropriate condition.
52. There are three issues – outwith the reserved matters – where there is a need for schemes to be submitted for approval before development begins. These are arrangements for surface and foul water drainage from the site; an investigation of possible contamination and proposals to deal with any found; and arrangements for archaeological investigation of the site. All are necessary given the existing condition of the site and its history and I shall impose conditions in all these respects.
53. Access is before me at this stage and conditions are needed to stop up any direct access from the site to the A158, to ensure that estate roads and footways are laid out before dwellings they serve are first occupied; and to protect and improve the existing Public Right of Way (PROW) that crosses the site. I shall impose appropriate conditions in these respects as well as a condition that requires a Travel Plan and measures to increase the use of sustainable transport to and from the site. However, in respect of the last, I do not consider that it is reasonable to expect the developer to be committed to annual travel surveys to review the Travel Plan and I shall omit that element of the proposed condition.
54. A construction method statement is appropriate to protect the amenity of the occupants of neighbouring residential properties, especially where these are particularly adjacent to elements of the proposed development. I shall impose a condition requiring such a statement, together with conditions that protect during the period of development identified nesting sites and trees, hedges and shrubs that are to be retained.
55. Finally, as already discussed under Other Matters, I have concluded that a negatively worded condition is appropriate to secure the affordable housing

that the Council seeks and which I consider is essential to allow the development to go ahead. I shall impose such a condition.

R M Pritchard

INSPECTOR

Richborough Estates

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision or not later than two years from the date of approval of the last of the reserved matters to be approved, which ever is later.
- 2) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") included in the application for outline permission 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.
- 3) 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.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plan: Drawing No 0001 (Rev B).
- 5) The total number of residential units to be provided shall not exceed 130 dwellings and 25 apartments for retirement living.
- 6) The details to be submitted in accordance with Condition 2) shall include –
 - i. An area of land, comprising not less than 10% of the total site area, to be dedicated for use of Public Open Space (POS) and arrangements for its on-going management and maintenance;
 - ii. A Landscape Management Plan setting out the management responsibilities and management schedules for all landscape areas, including trees, hedges, ditches and balancing ponds, as well as details of all boundary walls and fences.
 - iii. A Biodiversity Enhancement Scheme setting out measures for habitat creation and management, including the provision of bat roosts and bird boxes;
 - iv. A plan confirming that all the proposed buildings will be located outside Flood Zones 2 and 3; and
 - v. A phasing plan for the development of the whole site.

The development shall thereafter be carried out in accordance with the approved details.
- 7) Notwithstanding the details submitted on Drawing No SP_0004, no development shall take place until a surface water drainage scheme for the site, based on sustainable urban drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme shall provide details of –
 - i. How run-off will be safely conveyed and attenuated during storms up to and including the 1 in 100 year critical storm event, with an allowance for climate change, from all hard surfaced areas within the development into the existing local drainage infrastructure and watercourse system without exceeding the run-off rate for the undeveloped site;
 - ii. Attenuation and discharge rates which shall be restricted to no more than 5 litres per second per hectare;

- iii. A timetable, including any phasing of its implementation, for the drainage scheme;
- iv. How the scheme, which shall be retained throughout the lifetime of the development, shall be managed and maintained, including any arrangements for its adoption by any public body or statutory undertaker or any other arrangements necessary to secure its operation.

The development shall be carried out in accordance with the approved scheme and no residential unit hereby permitted shall be occupied until the scheme has been completed and is in operation in accordance with any approved phasing.

- 8) No development shall take place until the details of a foul water drainage scheme for the site has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved scheme and no residential unit hereby permitted shall be occupied until any off-site capacity improvements necessitated by the development have been implemented in accordance with any approved phasing.
- 9) No development shall take place until a scheme to deal with any risks associated with past contamination of the site has been submitted to and approved in writing by the local planning authority. The scheme shall include –
 - i. A preliminary risk assessment identifying –
 - a) All previous uses;
 - b) Potential contaminants associated with those uses;
 - c) A conceptual model of the site indicating sources, pathways and receptors; and
 - d) Potentially unacceptable risks arising from any identified contamination.
 - ii. A site investigation scheme, based on i., providing a detailed assessment of the risks to all receptors that may be affected – including those off-site;
 - iii. An options appraisal and remediation strategy giving full details of the remediation measures required and how and when these are to be undertaken;
 - iv. A verification plan providing details of data to be collected to demonstrate that the works set out in the approved remediation strategy are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

The scheme shall be implemented as approved and no residential unit hereby permitted shall be first occupied until all necessary works have been completed.

- 10) No development shall take place until details of a scheme of archaeological investigation has been submitted to and approved in writing by the local planning authority. The scheme shall include –

- i. An assessment of the archaeological significance of the site and a proposed mitigation strategy based on preservation by record, preservation *in situ* or a mix of both;
- ii. A methodology and timetable for site investigation and recording;
- iii. Provision for site analysis;
- iv. Provision for publication, dissemination and archive deposition of analysis and records;
- v. The nomination of a competent person or organisation to undertake the work.

The approved scheme shall thereafter be carried out in accordance with the Lincolnshire Archaeological Handbook and the approved details.

- 11) No work in accordance with the approved scheme set out in Condition 10) shall commence before the local planning authority has been informed in writing at least 14 days before the proposed commencement.
- 12) Following the completion of the approved archaeological site work, a written report of the findings shall be submitted to the local planning authority within 3 months of completion of said site work and shall be approved in writing. The approved report and any artefactual evidence recovered from the site shall be deposited in accordance with a methodology and in a location agreed in writing by the local planning authority.
- 13) No development shall take place until a scheme, including the timing of its implementation, to prevent vehicles from accessing the private drive that connects in a southerly direction with the A158 have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved scheme.
- 14) No residential unit hereby permitted shall be first occupied until the estate road and associated footways that provide access to that dwelling for the whole of its frontage have been laid out and constructed to adoptable standards in accordance with details submitted to and approved in writing by the local planning authority. No residential unit hereby permitted shall be first occupied until the existing Public Rights of Way (PROWs) that cross the site have been upgraded and finished with a metalled surface in accordance with details submitted to and approved in writing by the local planning authority.
- 15) Before the first occupation of any of the residential units hereby permitted, a Travel Plan shall be submitted to and approved in writing by the local planning authority. The Travel Plan shall include a commitment to undertake a travel survey within three months of the occupation of the last of the residential units hereby permitted and targets to achieve a modal shift in favour of sustainable methods of transport, together with an action plan to achieve those targets.
- 16) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
 - i. the routing and management of construction traffic;
 - ii. the parking of vehicles of site operatives and visitors;

- iii. loading and unloading of plant and materials;
 - iv. storage of plant and materials used in constructing the development;
 - v. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - vi. wheel cleaning facilities;
 - vii. measures to control the emission of dust and dirt during construction;
 - viii. details of noise reduction measures;
 - ix. a scheme for recycling/disposing of waste resulting from demolition and construction works;
 - x. the hours during which machinery may be operated, vehicles may enter or leave, and all other work may be carried out on the site; and
 - xi. measures to ensure that the Public Right of Way (PROW) crossing the site is protected and kept clear and unobstructed at all times.
- 17) No works involving the loss of any existing tree, hedgerow or shrub on the site shall take place during the bird nesting season (1 March to 31 August inclusive) until a survey to identify the existence of nesting birds has been undertaken. Where nests are found, an exclusion zone with a radius of 4 metres around the nests shall be created until breeding is completed. Completion of breeding shall be confirmed by a suitably qualified person and a report shall be submitted to and approved in writing by the local planning authority before the removal of any identified tree, hedgerow or shrub takes place.
- 18) No development shall take place until details of the form and positioning of fencing for the protection of existing trees, hedgerows and shrubs that are to be retained on the site have been submitted to and approved in writing by the local planning authority. Nothing shall be placed or stored within the areas fenced, nor shall the ground levels within these areas be altered. The approved fencing shall be erected before any work on the site is undertaken and shall be retained until the development is completed.
- 19) No development shall take place until a scheme for the provision of affordable housing as part of the development shall have 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: Glossary of National Planning Policy Framework ('the Framework') or any future guidance that replaces it. The scheme shall include:
- i. the numbers, type, tenure and location on the site of the affordable housing provision to be made which shall consist of not less than 25% of housing units;
 - ii. the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;
 - iii. the arrangements for the transfer of the affordable housing to an affordable housing provider;
 - iv. the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and

- v. 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.

The affordable housing shall be retained in accordance with the approved scheme.

Richborough Estates