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## Appeal Decision

Site visit made on 4 May 2016

by **I Radcliffe BSC(Hons) MCIEH DMS**

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

Decision date: 28 June 2016

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**Appeal Ref: APP/J0405/W/16/3144138**

**66 High Street North and adjoining land, Stewkley, Buckinghamshire LU7 0EW**

- 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 J Grace and J Scott against the decision of Aylesbury Vale District Council.
  - The application Ref 15/00932/AOP, dated 16 March 2015, was refused by notice dated 7 January 2016.
  - The development proposed is residential with off street parking, estate road and associated works.
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### Decision

1. The appeal is allowed and planning permission is granted for demolition of 66 High Street and its outbuildings and the erection of up to 14 dwellings, off street parking, estate road and associated works at 66 High Street North and adjoining land, Stewkley, Buckinghamshire LU7 0EW in accordance with the terms of the application, Ref 15/00932/AOP, dated 16 March 2015, subject to the conditions in the schedule at the end of this decision.

### Procedural matters

2. The cover letter to the appeal refers to the appeal being made against refusal of Conservation Area Consent for the demolition of 66 High Street and the refusal of planning permission for its development. However, the system of Conservation Area Consent has been abolished and replaced by the requirement for demolition that instead planning permission is sought. Accordingly, I have dealt with the application on this basis.
  3. The application was submitted in outline with only access and scale to be determined at this stage. I have dealt with the appeal on that basis and I have taken the illustrative plans that have been submitted into account, insofar as they are relevant to my consideration of the principle of the development on the appeal site.
  4. The description of development in the heading above has been taken from the planning application form. Whilst in Part E of the appeal form it is stated that the description of development has not changed different wording was provided. On the basis of this wording, the description of the proposed development used in the cover letter to the appeal, and the Council's description on its decision notice, it is clear to me that both parties consider the application to be for the demolition of 66 High Street and its outbuildings and the erection of up to 14 dwellings, off street parking, estate road and
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associated works. Accordingly, I shall use this description in the determination of the appeal.

5. In order to understand the position of the development plan in relation to the proposal, I have taken into account the Overview Report referred to in section 10.1 of the Committee Report. This report was provided to me by the Council at my request.

### **Main Issue**

6. The main issue in this appeal is whether new housing in this location would be acceptable, having regard to the principles of sustainable development.

### **Reasons**

#### *Location of development*

7. The development plan for the District is the Aylesbury Vale District Local Plan ('Local Plan'). The overall strategy for the District is to concentrate the majority of growth in Aylesbury with the remainder in rural areas. In rural areas, such as Stewkley, policies RA13 and RA14 of the Local Plan restrict residential development to small developments of up to 5 dwellings. The proposed development of up to 14 dwellings would therefore be contrary to policies RA13 and RA14 of the Local Plan.

#### *Character and appearance*

##### *Countryside*

8. In terms of the appeal site, No 66 and the gap in built development between it and housing on its northern side lie within the Conservation Area. The larger part of the 0.67 hectare appeal site is to the rear and forms part of a field that lies within the open countryside, outside the Conservation Area.
9. The National Planning Policy Framework ('the Framework') is an important material consideration. A core planning principle of the Framework is that the intrinsic character and beauty of the countryside should be recognised in decision taking. As an area of open pasture the rear part of the site is pleasant open countryside which is enjoyed in public views from the public footpath that cuts across it. As the proposed development would result in the loss of this area of countryside to development it would cause harm to its character and appearance, albeit this harm would be limited as the area of countryside in question is not large.

##### *Heritage Assets*

10. The Framework identifies that heritage assets, such as Conservation Areas and listed buildings, are irreplaceable resources. Paragraph 132 advises that when considering the impact of a proposed development on the significance of a designated heritage asset great weight should be given to the asset's conservation.

##### *Conservation Area*

11. The appeal site is located within the Stewkley Conservation Area. In the exercising of planning functions the statutory test in relation to Conservation Areas is that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the Conservation Area. Policy GP.53 of the Local Plan, which controls development in Conservation Areas, is consistent with this test.

12. In terms of assessing the significance of the Conservation Area, I have relied upon the Stewkley Conservation Area Appraisal (SCAA), the comments made by all parties, along with my observations during the site visit. The heritage significance of the Conservation Area, deriving largely from the design and grouping of its older buildings, is architectural and historical.
13. The village is surrounded by open countryside and is characterised by linear development with some development in depth along residential side roads. The Conservation Area, by including only those parts of the village of architectural and historic interest, is focussed on buildings and their curtilages along High Street North and High Street South. The pattern of development that characterises development along these streets is varied: detached buildings on narrow or spacious plots are present along with terraced and semi-detached housing. Gaps in development are few and far between.
14. In views from the road, the appeal site is in part occupied by the detached house at No 66. The house dates from the middle part of the last century and has little historical or architectural merit. A dense band of trees, approximately 30m in width, screens a gap that separates the side garden of No 66 from the next house to the north. As a result, the important view from the road of this gap and the open countryside beyond identified in the SCAA no longer forms part of the streetscene. In conjunction with the privet hedge which forms the front boundary to the house, and the trees behind it, the main contribution of the appeal site to the Conservation Area is as a verdant break in development. Together with the houses set close to the pavement opposite this verdant break serves to enclose the highway.
15. The proposed site layout shows how the site could be developed by up to 14 dwellings. The layout of the two dwellings shown along the front of the southern side of the site would be in keeping with the position of neighbouring houses. In contrast, the bungalows proposed towards the front of the northern side of the site would be set further back and angled away from the road. In conjunction with the break in development represented by the site access in the middle of the site, this would provide space for landscaping and help retain a sense of spaciousness. The indicative scheme illustrates how the two important trees identified within the curtilage of No 66 could be retained as part of the scheme. The privet hedge and the enclosure that it provides has been identified as being important by the SCAA. On the basis of the indicative site layout it would be largely lost. However, I agree with the Council that, with the landscaping proposals at reserved matters stage, sufficient controls exists for mitigation and enhancement that the proposal overall would not have an adverse effect on trees and hedgerows.
16. With regard to scale, the Design and Access Statement (DAS) states that there would be a mixture of bungalows and two storey dwellings. Based upon the dimensions of the dwellings proposed in the DAS the Council has no adverse comments on the scale of the buildings proposed. In my assessment, the size of the houses would be in keeping with residential development in the area. In terms of density, the proposed scheme would be in keeping with the grain of development within the Conservation Area.
17. With regard to the setting of the Conservation Area, a mixture of built development in depth and open countryside surrounds it. The proposal would result in the loss of an area of countryside adjacent to the eastern boundary of the Conservation Area. The SCAA identifies important views westwards

towards the village from the boundary of the field that the appeal site partly occupies. From here the development would be evident. However, the area of countryside lost would be small in size, the new housing would be in scale with existing dwellings and the development would not protrude significantly into the surrounding countryside. As a result, if permission was granted and the development went ahead the Conservation Area would still be set within a rural landscape of fields and seen, and appreciated as such, in this important view.

18. I therefore find that subject to the sensitive design of the proposed residential scheme, which is a matter that could be controlled at reserved matters stage, a well designed development could be achieved that would not harm the Conservation Area, its setting, significance or views into or out of it.
19. Taking all these matters into account, I therefore conclude that whilst the proposed development would change part of the Conservation Area it would not harm its character or appearance locally, or as a whole. As a result, the objective of preservation would be achieved and policy GP.53 of the Local Plan would be complied with.

*Listed buildings*

20. In the exercise of planning functions, the statutory test in relation to a listed building is that special regard shall be had to the desirability of preserving the building or its setting, or any features of special architectural or historic interest which it possesses.
21. Sycamore Farmhouse is an attractive house set back at an angle from the road opposite the appeal site. It is timber framed and brick built with a part thatched and partly tiled roof. A detached timber clad barn stands between the dwelling and the road. The farmhouse and barn are both Grade II listed and form part of the agricultural heritage of the village. 67 High Street North is a detached brick built house with a twin gable end. It is also located opposite the appeal site. It is a Grade II listed building dating from the late 18<sup>th</sup> century. No 78 is a timber framed brick built Grade II building with a thatched roof set back from the road dating from the 16<sup>th</sup> and 17<sup>th</sup> centuries. It is located on the same side of the road as the appeal site on its northern side. The significance of all these buildings is their historic and architectural interest.
22. The elements of setting that contribute to the significance of these buildings, include their relationship with the street, and their immediate plots. In that context, I consider that the appeal site contributes little, if anything, to the significance of these buildings, or their setting. I therefore find that the setting of these buildings, with the scale of development proposed and the control that exists at reserved matters stage, would not be harmed by the proposed development. As a consequence, the statutory test would be passed.

*Overall conclusion on character and appearance*

23. The proposed development would result in harm to the character and appearance of the countryside through the loss of an area of countryside to development. However, as I have earlier noted, by virtue of the relatively small amount of countryside involved the harm caused would not be large. In compliance with policy GP53 of the Local Plan and the statutory test the Conservation Area as a whole and its setting would not be harmed by the proposal. Similarly, the setting nearby listed buildings would not be adversely affected. Subject to the control that exists at reserved matters stage in relation to layout, landscaping and appearance a well designed scheme could

be achieved in compliance with policy G35 of the Local Plan. This policy requires the protection of the character and appearance of a locality through high quality design that respects local design features.

#### *Accessibility*

24. The Framework encourages the use of sustainable transport modes of transport for the environmental and health benefits that this can bring. The centre of Stewkley and the facilities that it has to offer is within comfortable walking and cycling distance of the appeal site. Identified by the Council's Settlement Hierarchy Assessment 2013 as one of the District's 'larger villages' it offers the majority of key facilities considered necessary for a sustainable settlement. Given the proximity of the village to large service centres and its existing public transport provision the appeal site is in an accessible location for development.

#### *Highway safety*

25. I note that the bend in the road to the north of the site reduces forward visibility. As a result, it is a feature that reduces vehicle speeds along this part of the road. The bend in combination with the on road parking that takes place, at times, leads to congestion with vehicles, including lorries, having to give way to each other. There are also concerns for pedestrian safety as the pavement on the western side of the road ends outside No 67, requiring pedestrians to cross to the other side of the road at a point where visibility is limited. For the same reason substandard visibility exists for vehicles exiting No 67.
26. However, in terms of traffic generation the Council has no objections to the effect that the proposal would have on the local highway network. On the basis of the relatively small size of development proposed I have no reason to disagree with that position. As a result, the proposed development would not significantly increase traffic flow along High Street North to the extent that congestion or the likelihood of accidents would be materially increased.
27. In terms of pedestrian safety, in creating the site access the relatively narrow pavement outside the appeal site would be significantly widened. As a result, the eastern side of the road would become the obvious side of the road for pedestrians to walk on. This would reduce the likelihood of pedestrians crossing by the bend when outside No 67 where the pavement ends, thereby improving highway safety.
28. The appellant is offering to provide onsite parking for nearby residents who have no off road parking and is willing to agree to a condition to that effect. However, as the appeal site in principle is large enough to accommodate all the parking that the proposed new housing would generate the scheme would not exacerbate on road parking. As a result, a condition requiring such a scheme would not be necessary to make the development acceptable in planning terms. Consequently, its use would be contrary to paragraph 206 of the Framework. Whilst I recognise that this will be disappointing for local residents there is nothing to stop the developer providing the additional parking if they so wished. However, that would be a matter for the developer concerned and for the reasons that I have given it would not be appropriate in this instance to require such provision by condition.
29. In order to ensure that vehicles turning out of the proposed access would not come into conflict with vehicles driving along High Street North adequate visibility splays would need to be achieved at the proposed site access. The

Council accepts that satisfactory visibility splays that meet, or are very close, to those sought by national guidance can be achieved in relation to oncoming traffic in both directions. I saw no reason why such splays could not be provided. As a result, I have no reason to disagree with the conclusions of the Council that subject to the provision of satisfactory visibility splays highway safety would not be harmed.

30. The proposal would result in construction traffic. However, this would be temporary and subject to a standard of site management that is reasonable to expect would not harm highway safety or the free flow of traffic.

#### *Ecology*

31. There is evidence of bats, a protected species, roosting in the roof space of the house. As a result, if permission was to be granted further survey work to determine the mitigation works required to provide replacement roosting space would be necessary. The hedgerows around the perimeter of the appeal site could largely be retained. However, the semi-improved grassland of the appeal site is otherwise species poor. Nevertheless, details of measures to enhance the biodiversity value of the hedges, the proposed development and its soft landscaping could be secured by the Council's suggested condition.

#### *Living conditions*

32. The outlook across the appeal site from some nearby houses on the same side of the road as No 66 is currently of open undeveloped land. The loss to development of such a view would have a minor adverse effect on living conditions. However, given that the occupiers of houses in the area currently enjoy good living conditions, the slight harm that would be caused would not result in a standard of amenity lower than that sought by the Framework. With the space available on the site sufficient separation distances could be achieved to avoid problems with overlooking, loss of light or poor outlook for existing residents and future occupiers of the proposed houses.

#### *Agricultural land*

33. Outside the curtilage of No 66 the appeal site comprises agricultural land. Grade 3a is amongst the best and most versatile agricultural land. It is unclear whether the agricultural land on the site is grade 3a or grade 3b. I have therefore proceeded on the basis that the appeal site could be grade 3a. In preference to the development of this type of land the use of land of poorer quality is encouraged by paragraph 112 of the Framework. This guidance though relates to proposals involving significant development. As the amount of agricultural land involved in the proposed development is relatively small, it is therefore necessary in determination of the application to take into account, in accordance with the Framework, the economic and other benefits of Grade 3a Agricultural Land. I have done so below in my discussion in relation to sustainable development.

#### *Initial marketing only to local people*

34. The planning statement that accompanied the application advised that the proposed dwellings would initially be offered to residents of the village and those with a local connection, before marketing to the general public. However, there is nothing before me to ensure that this would happen. Offering dwellings first to those who live in the village, or have a local connection, is not a requirement of the development plan or the Framework. As a result, such marketing is not necessary to make the development

acceptable in planning terms. Compliance therefore could not be secured by condition. Whilst it would be within the gift of those who develop and own the site to market the development in this manner, I therefore attach minimal weight to this consideration as a social benefit in favour of the proposal.

#### *Local facilities and infrastructure*

35. A signed and dated deed of planning obligation has been submitted. The agreement has been assessed having regard to the requirements of Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended) and the tests in paragraph 204 of the Framework. A contribution based upon the number of dwellings and their size toward sports and leisure, which includes outdoor play space, is sought. Policies 86, 87 and 88 of the Local Plan support contributions to provide or improve such facilities.
36. In relation this area of infrastructure no assessment of local provision has been provided. As a consequence, it has not been shown that there is a shortage of sports and leisure provision, which includes outdoor play space, or that the proposed development would cause such a shortage. It has not therefore been shown that the contribution sought is necessary to make the development acceptable in planning terms.
37. Information as to on what and where locally the monies sought would be spent has been given. The obligation also includes a formulae based upon the number of houses and their size to calculate the size of contribution. As a result, the contribution would be directly related to the development and reasonably and fairly related in scale and kind to it. Nevertheless, in the absence of information demonstrating a shortage of sports and leisure provision, which includes outdoor play space, or that the proposed development would cause such a shortage, I cannot conclude that the obligation the Council seeks meets all the requirements of the Regulation or the tests in the Framework. I am therefore unable to take the content of the submitted planning obligation into account in the determination of this appeal.
38. Regulation 123(3) of the Community Infrastructure Levy Regulations 2010 (as amended) prevents the pooling of more than five planning obligations made since 6 April 2010 towards a specific infrastructure project or particular type of infrastructure. In addition, the Council is concerned that the legal interest in the entire site of two of the parties to the obligation has not been demonstrated. However, as it has not been shown that the contribution sought has passed the requirements of Regulation 122 and paragraph 204 the planning obligation cannot be taken into account. As a result, it is unnecessary to assess the submitted obligation against the requirements of Regulation 123(3), or reach a finding as to whether all the parties are bound to the legal obligation in the Deed.

#### *Housing land supply*

39. In order to boost significantly the supply of housing paragraph 47 of the Framework requires that local planning authorities have a five year supply of deliverable housing sites. It is common ground that the Council does not have a five year supply of such sites.

#### *Sustainable development*

40. Sustainable development is at the heart of the Framework. Paragraph 49 advises that housing applications should be considered in the context of the presumption in favour of sustainable development. The policies of the

Framework as a whole constitute the Government's view of what sustainable development means in practice.

41. One of the core planning principles is that planning should be plan led. In this regard, the location of the appeal site is contrary to policies RA13 and RA14 of the Local Plan. However, for the reasons given in my overall conclusions below these policies are out of date. This considerably lessens the weight I attach to them.
42. There are three dimensions to sustainable development; economic; social and environmental. In relation to the environment, although an area of countryside would be developed, the proposal would not harm Stewkley Conservation Area as a whole and the setting of the nearby listed buildings would be preserved. The appeal site is in a location where local services and facilities are accessible by walking, cycling or using public transport. A wider pavement would also be provided outside the appeal site improving highway safety. In ecological terms, an alternative bat roost could be provided, many of the perimeter hedges could be retained and measures to enhance the biodiversity value of the site could be secured by a condition suggested by the Council.
43. Turning to the economic aspects of sustainability, the construction of the houses proposed would generate employment and the spending of up to an additional fourteen households would benefit the economy of the area. The development of what may be Grade 3a agricultural land would result in its loss for farming use. However, given the relatively small size of the land involved, and its narrow awkward shape to the side of No 66, the loss economically to agricultural production would not be significant.
44. In terms of the social aspect of sustainability, there is nothing to guarantee that in accordance with the planning statement that accompanied the application the proposed dwellings would be initially offered to local people only. However, the number of dwellings and the proposed mix of dwelling sizes would help meet the need for smaller properties in the village identified in the Stewkley Parish Plan. It would also make a contribution towards helping address the shortage of housing in the District.
45. Taking all these factors into account, I conclude, based upon the overall balance of considerations, that the proposal would be a sustainable development.

### **Overall Conclusions: The Planning Balance**

46. For the reasons that I have set out earlier the proposal would be contrary to the development plan. This is because it would not comply with policies RA13 and RA14 of the Local Plan. These policies strictly control new housing in rural areas and only support developments of up to 5 dwellings in settlements such as Stewkley.
47. Such a contravention is a consideration that normally weighs heavily against a proposal. However, the Local Plan and its policies only sought to provide a supply of housing up until 2011. As such the Council considers these policies to be out of date. Furthermore, the Council does not have a 5 year housing land supply. In such circumstances, paragraph 49 of the Framework directs that development plan policies relevant to housing land supply should not be considered up to date. Policies RA13 and RA14 of the Local Plan are therefore out of date.



48. The Framework further states that housing proposals should be considered in the context of the presumption in favour of sustainable development. I have found that the development would constitute such a development. Where relevant policies, as in this instance, are out of date paragraph 14 of the Framework is clear. It states that planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
49. The amount of housing on the appeal site would be contrary to the development plan for the District. In terms of adverse impacts, the proposed development would result in the loss of countryside and agricultural land. However, the area involved would be small and the Conservation Area and its listed buildings would not be harmed.
50. In terms of benefits, the proposed development would be a sustainable development in a location with good access to local facilities and services. Although it would not help address local housing need for affordable housing the development would make a contribution towards addressing the need for smaller dwellings in the village and the undersupply of housing in the District. Collectively, these factors are of significant weight in favour of allowing the appeal.
51. My overall conclusion in this case, having considered all the matters raised, is that the adverse impacts of the proposal are limited and they do not significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework as a whole. The appeal should therefore be allowed. In reaching this decision the views of local residents, councillors and the Parish Council have been taken into account.

*Conditions*

52. In order to help address the shortfall in housing a reduced time period for the submission of a reserved matters application is necessary. For the avoidance of doubt and in the interests of proper planning, otherwise than as set out in this decision and conditions, the development needs to be carried out in accordance with the approved plans, insofar as they relate to matters that are not reserved for subsequent approval.
53. In the interests of highway safety, the new access with adequate visibility splays needs to be created in accordance with the Highway Authority's standards and the existing access closed. For the same reason, a parking and turning area needs to be provided so that during construction and following completion of the development vehicles may enter and leave the site without reversing onto or off the highway.
54. The Archaeological Desk Based Assessment concluded that the potential existed for archaeological interest on the site. As a result, a condition should be attached to address this matter. To avoid flooding on site, and minimise the risk of flooding elsewhere, sustainable surface water drainage is necessary. In order to ensure that the scale of development is in keeping with surrounding buildings, slab levels need to be agreed. To conserve and enhance biodiversity on the site further details on ecological matters are necessary.
55. I have required all these matters by condition, revising the conditions suggested by the Council where necessary to reflect the advice contained within Planning Practice Guidance.

56. For the reasons that I have given in relation to highway safety the condition suggested by the appellant requiring that onsite parking is provided for local residents is not necessary. A condition governing the management of the construction site was suggested by a local resident. However, given the standard of site management that is reasonable to expect of such a size of site this is also not necessary.

*Ian Radcliffe*

Inspector

**Schedule**

- 1) Details of the appearance, landscaping and layout, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 18 months from the date of this permission.
- 3) The development hereby permitted shall begin either before the expiration of three years from the date of this permission or before the expiration of two years from the date of the approval of the last of the Reserved Matters to be approved, whichever is the later.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: site location plan 1:1250 scale and site layout proposed, ref 09097(B)101 Rev A, but only in respect of those matters not reserved for later approval.
- 5) The details to be submitted for the approval of the Local Planning Authority in accordance with condition 1 shall include a scheme for parking, garaging and manoeuvring in accordance with the Local Planning Authority's "Car Parking Standards". The plan shall allow for sufficient manoeuvring space for refuse and service vehicles to turn and exit the site in forward gear. The approved scheme shall be implemented and made available for use before the development hereby permitted is occupied and that area shall not be used for any other purpose.
- 6) The details to be submitted in accordance with condition 1 above shall include details of a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro-geological context of the development the proposed drainage strategy for the site. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.
- 7) The details to be submitted for approval in writing by the Local Planning Authority in accordance with condition 1 shall include details of the proposed slab levels of the buildings in relation to the existing and proposed levels of the site and the surrounding land, with reference to fixed datum point. The buildings shall be constructed with slabs at levels that have been approved in writing by the Local Planning Authority.
- 8) The details to be submitted for approval in writing by the Local Planning Authority in accordance with Condition 1 shall include details of the

proposed ecological mitigation and enhancement measures. Development shall not commence until the approved protected species mitigation strategy has been fully completed in accordance with the approved details.

- 9) No development shall take place until a programme of archaeological work has been implemented in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority.
- 10) No development shall begin until the new means of access has been sited and laid out in accordance with the approved drawing and constructed in accordance with Buckinghamshire County Council's guide note "Commercial Vehicular Access Within Highway Limits" 2013. For the avoidance of doubt the applicants will be required to enter into a S184 Agreement with the Highway Authority in order to comply with the requirements of this condition.
- 11) No other part of the development shall begin until visibility splays have been provided on both sides of the access between a point 2.4 metres along the centre line of the access measured from the edge of the carriageway and a point 43 metres to the north of the access and 41 metres to the south of the access along the edge of the carriageway measured from the intersection of the centre line of the access. The area contained within the splays shall be kept free of any obstruction exceeding 0.6 metres in height above the nearside channel level of the carriageway.
- 12) No development shall take place until of an area for vehicles to turn within the site during demolition and construction has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 13) Within one month of the new access being brought into use all other existing access points not incorporated in the development hereby permitted shall be stopped up by raising the existing dropped kerb or removing the existing bellmouth and reinstating the footway and highway boundary to the same line, level and detail as the adjoining footway and highway boundary. For the avoidance of doubt the applicants will be required to enter into a S184 Agreement with the Highway Authority in order to comply with the requirements of this condition.