
Appeal Decision

Inquiry held on 10-12 May 2016

Site visit made on 11 May 2016

by Christa Masters MA (Hons) MRTPI

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

Decision date: 27 June 2016

Appeal Ref: APP/G2245/W/15/3135258

Broom Hill Site, London Road, Swanley, Kent

- 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 Cooper Estates Limited against the decision of Sevenoaks District Council.
 - The application Ref SE/14/04022/OUT, dated 23 December 2014, was refused by notice dated 10 April 2015.
 - The development proposed is mixed use development comprising up to 61 new homes, not less than 1.41 hectares of public open space, not less than 0.24 hectares of retained open land and vehicular access.
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Decision

1. The appeal is allowed and planning permission is granted for mixed use development comprising up to 61 new homes, not less than 1.41 hectares of public open space, not less than 0.24 hectares of retained open land and vehicular access at Broom Hill Site, London Road, Swanley, Kent in accordance with the terms of the application, Ref SE/14/04022/OUT, dated 23 December 2014, subject to the conditions as set out on the attached schedule.

Application for costs

2. An application for costs was made by Cooper Estates Limited against Sevenoaks District Council. This application is the subject of a separate Decision.

Procedural matters

3. The application is in outline form only with the matter of access to be determined at this stage. Matters of layout, scale, appearance and landscaping are all reserved for future determination and I have dealt with the appeal on this basis.
4. A previous planning appeal decision was issued on 17 March 2014¹. This decision related to 4 different planning appeals on the site. Appeals 1 and 2 were outline schemes and provided for 61 and 39 dwellings respectively. In both of these schemes, the appeal site included commercial premises on London Road and vehicular access to the site was proposed from London Road. Appeals 3 and 4 were also outline schemes and proposed 20 dwellings each.

¹ APP/G2245/A/13/2197478, APP/G2245/A/13/2197479, APP/G2245/A/13/2195874, APP/G2245/A/13/2195875

However, in these schemes the appeal site excluded the commercial premises on London Road so that vehicular access was from Beechenlea Lane only. All 4 appeals were allowed. I return to this decision below.

Main Issue

5. From the evidence presented and what I heard at the inquiry, this appeal has one main issue. The effect of the proposed access on the living conditions of the neighbouring properties, with particular reference to:
 - Noise and disturbance associated with the use of the access and the effect on the existing and future occupiers of Upland, Hawcroft, Hemvist, Colmar and Rosedale;
 - Car headlights and vehicular movements and the effect on the existing and future occupiers of Upland, Hawcroft, Hemvist, Colmar, Mountain Ash, Argent and Rosedale.

Reasons

6. The appeal site is a regular shaped piece of land located on the western side of Beechenlea Lane. It is currently open grass land which has in the past been used for grazing. The western and southern edges of the site adjoin existing built development within Swanley. The northern part of the site is significantly overgrown and there is evidence on the site of a former nursery.

Noise and disturbance associated with the use of the access

7. The Council's reason for refusal refers to conflict with policy EN2 of the Allocations and Development Management Plan (DP) 2015. This policy relates to amenity protection. It advises, amongst other things, that proposals will be permitted where they would provide adequate residential amenities for existing and future occupiers of both the development and nearby properties by ensuring that development does not result in excessive noise, vibration, odour, air pollution, activity or vehicle movements, overlooking or visual intrusion. In the case of this appeal, an assessment must therefore be made as to whether the proposal would result in excessive noise. No definition is provided as to what constitutes excessive. However, the supporting text at paragraph 2.9 states that paragraphs 2.38-2.39 of the plan set out how noise levels will be measured and interpreted, *in association with Policy EN7 (Noise Pollution)* (my emphasis).
8. Policy EN7 relates to noise pollution. The policy advises that proposals which meet identified criteria will be permitted. The first criterion relates to assessing proposals against the indoor and outdoor acoustic environment including the amenities of existing and future occupants of nearby properties and future occupiers of the development. The second relates to assessing the development and noise levels from existing noise sources. It was common ground between the main parties that the proposal accords with policy EN7. This being the case, there is no debate between the parties that in the context of noise pollution and policy EN7, the development would have an acceptable impact on the amenities of existing and future occupants of nearby properties.
9. I heard significant evidence at the inquiry as to whether policy EN2 could apply in isolation without EN7. On my reading of the policy, there is clearly a linkage between the two policies and the cross reference within the supporting text

confirms this to be the case. Both the policy wording and supporting text of the policies indicate that any objective assessment would inform both policies and the assessment as to whether a development proposal conflicts or otherwise. In the case of this appeal, the Council's Senior Environmental Health Officer has no objection to the proposal. The Council also advised that the conflict with policy EN2 is based on a subjective assessment of the proposal. This being the case, there appears to me to be an obvious tension between a proposal which is deemed to be acceptable in noise and disturbance terms under policy EN7 but would still conflict with policy EN2.

10. The Council's evidence presented to the inquiry focused on the subjective assessment of additional cars in terms of comings and goings, cars revving engines and a general increase in vehicular traffic. This subjective assessment to my mind focuses on the perception of noise and disturbance. However, it is important to note that in terms of this assessment, planning permission exists to utilise the proposed access from Beechenlea Lane for vehicular traffic. The principle of the use of this access is therefore established and the previous appeals allowed in 2014 represent a valid fall back position for the appellant. In the circumstances of this appeal, the assessment therefore falls as to whether the use of this access for 61 dwellings instead of 20 would cause material harm to the living conditions of existing and future occupiers.
11. The Planning Practice Guidance notes that noise is a complex technical issue and as such, it may be appropriate to seek experienced specialist assistance. The Guidance goes on to note that when determining noise impact, decision taking should take account of the acoustic environment and consider whether significant adverse effects are occurring or are likely to occur, whether any adverse effect is occurring or is likely to occur and whether a good standard of amenity can be achieved. In the case of this appeal, an objective assessment has been provided by WSP in the form of the Noise Assessment dated September 2014.
12. The assessment includes a baseline survey to establish the existing noise climate and then the predicted noise levels of vehicles using the proposed new access to determine the noise levels and changes likely to result from those vehicles. The report concludes that the predicted noise contribution from traffic at the proposed new access road is very low when compared with the ambient noise levels as measured on the site. The resultant change when compared with the approved use of the access is less than 1dB (A) change, and the magnitude of this change is negligible.
13. The evidence presented on behalf of the appellant describes the actual noise impact to align, in a worst case scenario with the 'noticeable and not intrusive' description as provided by the Planning Practice Guidance. This is below the LOAEL reading and accordingly, no specific measures are required.
14. Whilst I agree that a subjective assessment can inform the assessment of the proposal, the starting point in the case of this appeal is the objective assessment provided. The Council's Senior Environmental Health officer has raised no objection to the report, its conclusions or the methodology used. I also agree the report presents a comprehensive objective technical assessment of the appeal proposal and the predicted noise impacts.
15. The appeal proposal differs from the 2014 appeals in that the appeal site excludes the industrial land to the south of the site. As such, the only access

for consideration is the access from Beechenlea Lane. On this basis, it is the Council's view that the previous Inspector, in his decision only considered this access acceptable for the 20 dwellings as proposed by appeal 3 and 4. The Council contend that the increase in the number of dwellings to 61 would result in harm to the living conditions of existing and future occupiers of the properties identified above.

16. As is the case with this appeal, an Inspector is only able to consider this proposal as presented. In the case of the 2014 appeal, access to the site for appeals 1 and 2 was not proposed from Beechenlea Lane apart from emergency vehicles, cyclist and pedestrians. The comments made by the previous Inspector regarding the access points must therefore be considered within this overall context and the evidence presented at that time.
17. The Council have specified within their evidence the specific properties which they consider would be adversely effect by the appeal proposal. In my view, in terms of noise and disturbance, the effect of the proposal would be most felt by the two properties either side of the access, Upland and Hawcroft. The other 3 properties identified by the Council are on the western side of Beechenlea Lane. The properties are set back and elevated in position. They are also separated from the access by the existing Beechenlea Lane, front gardens and off street parking areas. As a result of these factors, I am not convinced that the proposal would result in any excessive noise and disturbance to these properties as defined by policy EN2.
18. In the case of both Upland and Hawcroft, the occupiers would experience vehicular traffic movements along the side of the property should the appeal proposal be allowed. This would be an increase above what has already been approved by appeals 3 and 4 outlined above. The appellant has provided a detailed assessment of what the likely increase would be in terms of the AM and PM peak hours. In summary, when compared to the approved scheme, the appeal proposal would result in 8 additional arrivals during the AM peak and 15 additional arrivals during the PM peak. I do not consider that these increases would be so significantly different from the approved development so as to result in excessive noise and disturbance. The appellant has proposed the erection of an acoustic fence along the side boundaries on both Upland and Hawcroft which would extend along the boundary at the rear of the gardens too. The provision of an acoustic fence could be conditioned to ensure the extent and appearance of the boundary treatment is satisfactory.
19. The property at Upland is unusual in that one of the reception rooms at the front of the property is dual aspect. I was able to view inside this property as part of my site visit. There can be no doubt that as a result of the open aspect at the front of the property, the occupiers of this property would be aware of cars entering and exiting the new access road, particularly if they travelled north up towards the site from London Road. However, this change in outlook would occur as a result of the approved use of the access in any event. I do not agree that the additional vehicular movements which the appeal scheme would generate would result in material harm in this regard. Furthermore, I do not consider that the perception of visual intrusion would result in excessive visual intrusion or noise and disturbance as defined by policy EN2.
20. Although I was not able to visit inside Hawcroft, the positioning of the existing fenestration and existing screening in place would minimise the effect on this

property. However, in my view this visual connection would contribute to the perception of noise rather than actual harm. The Senior Environmental Health Officer's consultation response also concurs with this view.

21. The Council also made reference to singular spike noise events where cars may rev engines during the night-time hours. However, in my view, these incidents would be more than likely to be isolated events. As such, I cannot agree that such potentially isolated events which may or may not occur would result in excessive noise and disturbance to the existing and future occupiers of the neighbouring properties as defined by policy EN2. Similarly, the reference to a perception of a significant level of vehicle use is neither supported by technical evidence or the Senior Environmental Health officer.
22. I note the Council have referred to appeal decisions within Sevenoaks to support this subjective approach². Although I do not have the full details of these appeals, it would appear from these decisions that the proposals related to the use of an access track which had a close relationship with the existing dwelling, Oast Cottage. The track was to be used to access a 2 bedroom dwelling and had a gate across it. The Inspector here concluded that no suitable form of mitigation could be used to address the issue of vehicle movements very close to the house and garden. In the case of this appeal, the access road is some 4m and between 6-8m from the neighbouring properties which in my view is not a close relationship. The access in the case of this appeal would not be gated. Furthermore, the use of the access for 20 dwellings is in the circumstances of this appeal, a material consideration. I can therefore draw no similarities between the two cases and have placed very limited weight on it.
23. For the above reasons, I therefore conclude that use of the access to the appeal site would not result in excessive noise and disturbance to the existing and future occupiers of Upland, Hawcroft, Hemvist, Colmar and Rosedale. As such, the proposal would accord with policy EN2 of the DP. For the same reasons, the proposal would also be consistent with the objectives of paragraph 109 and 123 of the Framework which seek to avoid, amongst other things, development which would give rise to significant adverse impacts.

Car headlights and vehicular movements associated with the use of the access

24. Turning to consider the issue of car headlights and visual intrusion, I was able to view the access road from the inside of Hemvist during my site visit. This property is located directly opposite the appeal site proposed access. There is currently no boundary treatment separating the frontage of this property from the road. As a result, the comings and goings along Beechenlea Lane are experienced outside of this property although the front driveway does provide a degree of separation. The use of the access has the potential to cause some disturbance from car headlights to Hemvist given the location of the property directly opposite the entrance.
25. The appellant has advised that for the 6 hour period between 0000-0600 hours when car headlights would be most likely to be used, the two way vehicle movements would increase from 7 associated with the 20 dwelling scheme to 21 two way movements associated with the appeal scheme. In my view, these figures are low. Moreover, taking into account the slightly elevated nature of

² APP/G2245/W/15/3007600 and APP/G2245/C/14/3000490.

the properties along this side of Becchenlea Lane, the set back nature of the property and the limited number of potential vehicular movements which could occur during night time hours, I cannot agree that car headlights or vehicular movements would result in excessive visual intrusion as defined by policy EN2. The Council also allege that the site may be subject to a higher number of evening trips as Swanley itself has limited leisure facilities and a relatively limited evening economy. However, I was not presented with any evidence to substantiate these statements. Moreover, I have no evidence before me to suggest that this site is an inherently unsustainable location. These factors mean I can give these statements very limited weight.

26. The issue of car headlights was considered by the previous Inspector. The Inspector concluded that vehicles leaving the site at night would direct headlights into Hemvist which is located directly opposite the access. However, the Inspector concluded that the property is on slightly raised ground, so it would be unlikely that lights would shine directly into the front windows. The Inspector also concluded that at night, there would be a normal expectation that curtains or blinds would be drawn. I agree with these conclusions reached and indeed saw that a number of properties along Becchenlea Lane had curtains and blinds drawn during the early morning.
27. It was suggested that the Senior Environmental Health officer had not considered the issue of car headlights as it was not referred to in the consultation response. I am unable to agree with this conclusion. Had the Senior Environmental Health officer considered the issue of car headlights would cause material harm to the living conditions of neighbouring properties; this could have been raised in their consultation response directly. There would also have been an opportunity for the officer to present evidence on this issue to the inquiry. This did not occur. In my view, it is reasonable to assume that the lack of reference means that the Senior Environmental Health officer was not concerned regarding this issue.
28. The Council suggested that there is limited street lighting within the vicinity of the appeal site and referred me to the switching off times along residential streets. Be that as it may, the presence or otherwise of street lighting in the vicinity of the access road does not mean that the number of cars with headlights on would be materially more noticeable or intrusive. The Council's evidence also makes reference to the perception of a significant level of car use at the site. Given the location and positioning of the other properties referred to by the Council, I am of the view that these properties would be subject to minimal visual intrusion as a result of the additional car movements associated with the use of the access by the appeal proposal and car headlights. For the same reasons as set out above, I am also unable to conclude that these properties would be subject to excessive visual intrusion in accordance with policy EN2.
29. I therefore conclude that the proposed use of the access would not result in excessive visual intrusion as defined by policy EN2 of the DP. Accordingly, the proposal would have an acceptable effect on the existing and future occupiers of Rosedale, Hemvist, Colmar, Argent, Upland, Hawcroft and Mountain Ash.

Other appeal decisions

30. Both the appellants and the Council have provided me with a number of appeal decisions which they consider to be comparable to the appeal case under consideration. I have considered these and made reference to a number of them throughout this decision. However, notwithstanding the above, I do not consider any of these other decisions to be directly comparable to the specific nature of this appeal in either size or locational terms. I have thus determined this appeal on the basis of the evidence presented to me and on its own merits.

Planning Obligation

31. A signed Section 106 Agreement dated 12 May 2016 was submitted at the inquiry. This document makes provision for a number of matters and I have considered this document in light of the statutory tests contained in Regulations 122 and 123 (3) of the Community Infrastructure Levy (CIL) Regulations 2010 (as amended). The details of the commitments are set out below. Firstly, a commitment to provide 40% of the total number of units as affordable housing provision. This would be in accordance with policy SP3 of the CS. The document also provides up to 1.41 hectares of land within the appeal site to be made available for public access and use, which should be specified within a management plan to be submitted and approved by the Council. This would accord with policy SP10 of the CS which relates to green infrastructure and open space provision.
32. I am satisfied that in relation to both of these matters, the obligations sought would meet the tests in terms of being necessary, directly related to the development and fairly and reasonably related in scale and kind to the development. As such, they accord with paragraph 204 of the Framework, CIL Regulation 122 and the relevant development plan policies.

Other Matters

33. There are clearly a number of barriers to the supply of housing sites within the District, particularly given the fact that significant parts of the District are allocated as Green Belt or Areas of Outstanding Natural Beauty. The Council agreed that there remains a pressing need for both housing and affordable housing within the area. Both parties submitted evidence to the inquiry regarding the position in connection with 5 year housing land supply. The Council agreed that the evidence base supporting the CS was out of date as it was not based on the NPPF.
34. I am mindful of the progress in policy terms which the Council are making and note that a Strategic Housing Market Assessment (SHMA) was published in September 2015. I also note that the Council advised that the SHLAA will be completed in Summer 2016, with a draft Local Plan to be prepared for public consultation in Summer 2017. However, this document has yet to be tested by the Local Plan Examination process and accordingly, I can only attach limited weight to it. In accordance with the Framework, and as things stand today, there cannot be a 5 year supply of housing sites within the District.
35. In reaching the above view, I am also mindful of the conclusions reached by both the previous Inspectors in relation to the 2014 appeals and a subsequent decision referred to by the parties at Edenbridge³. This decision was issued in

³ APP/G2245/W/15/3130787

April 2016. I have no evidence before me which would suggest a different conclusion can be reached on the matter.

36. The Council contend the proposal would be delivery neutral as there already exists on site an extant permission for 61 dwellings. However, part of the land which would secure the delivery of that number of dwellings is outside of the appellant's control and does not form part of this application. Whilst I acknowledge that the extant scheme on the site could contribute to the housing supply in the area, I have no firm evidence on the timescales for delivery of that scheme, and as the appellants have no control over that land, I have no confidence that it could be delivered anytime soon.
37. A number of concerns were raised by interested parties regarding the effect of the proposal on the local highway network. A particular concern was raised regarding refuse trucks and lorries accessing the site. Kent County Council as highways authority has assessed the proposal and the supporting information provided. The conclusion reached is that the proposal would not result in any material harm in this regard and the Council agree with this conclusion. On the basis of the evidence before me, I can see no reason to disagree with the conclusions reached on this issue.
38. Additional concerns have been raised by interested parties in relation to amenity issues such as the effect of the proposal on existing privacy levels to the front garden areas of properties along Beechenlea Lane. However, these existing front garden areas are either screened by hedges or open to the public highway. In terms of the evidence presented in relation to traffic generation, I am unable to conclude that the use of the access for the additional car movements as proposed would cause any material harm in this regard. General concerns have been raised by interested parties relating to overshadowing, loss of light, loss of privacy and overlooking, an effect of the proposal on protected trees on the site. The appeal proposal is in outline form only and as such the layout, scale and siting of the proposed dwellings would be subject to a separate reserved matters application when these issues would be assessed.
39. In terms of ecological matters, updated ecological surveys have been submitted to identify if there have been any changes to the status of the site since the 2014 appeals. These reports have been assessed by the Biodiversity Officer at Kent County Council who has concluded that there have been no significant ecological changes within the site since the last surveys were undertaken. Conditions have been included to cover a landscape and ecological management plan for the proposed open space area and these will ensure the ecological interests of the site are fully addressed.
40. Turning to consider air quality, the officer's report to Committee notes that the site is on the edge of an Air Quality Management Area. The proposal is supported by a statement which recommends a number of mitigation measures during the construction phase. The report also concludes that the appeal proposal complies with the relevant air quality legislation as well as policy SP2 of the CS. Accordingly, I am satisfied that this matter has been adequately addressed.

Conditions

41. I have considered the suggested conditions presented at the inquiry in light of the discussions which took place at the Inquiry as well as paragraph 206 of the Framework. However as this is an outline application with all matters reserved (save for access). Many of the suggested conditions can be applied when the Council come to consider the submitted details, if in fact given those details they are still considered to be necessary. There would also be the option available to the Council to refuse to approve unsatisfactory details. On this basis, I shall therefore only apply those conditions which in my view are necessary at this outline stage. In addition, those conditions which require discharge pre commencement do so as they are integral to how the development will proceed.
42. As the details of the access are not a reserved matter, the development is to be undertaken in accordance with the submitted access drawing in the interests of highways safety. As this is an outline application only, a condition to secure the submission of reserved matters is necessary. These details shall include the layout, scale, appearance and landscaping details.
43. Conditions to ensure the means of access is constructed prior to the dwellings being occupied and also to ensure the car park layouts are completed prior to the dwellings being occupied are both necessary in the interests of highways safety. A condition requiring the submission of a ecological mitigation and enhancement strategy is reasonable and necessary in order to protect the ecological interests of the site. In order to ensure the long term management of the open space within the site, a condition has also been included to require the submission of a landscape and ecological management plan. A condition has also been included to require a bio-diversity monitoring strategy in order to ensure that biodiversity issues are adequately addressed on the site. Given the significant change in level across the site, conditions requiring details of earthworks and also the existing and proposed ground levels are necessary, in order to ensure the appearance of the development is acceptable. A condition to require measures to reduce transport related air pollution is necessary in order to address the impact of the development on air quality. Similarly, details of acoustic protection measures relating to the proposed new dwellings are necessary as well as the requirement for an acoustic validation report in order to protect the living conditions of the future residents.
44. A condition requiring the submission of a travel plan is necessary in the interests of sustainability. For the same reason, a condition has also been included to require improvements to the existing footway and kerb maintenance. A condition requiring the submission of a surface water drainage strategy is necessary to ensure the satisfactory disposal of surface water from the site. Conditions to cover any potential contamination arising at the site are reasonable and necessary to protect the ground water at the site. For the same reasons, conditions have also been included to cover piling methods of construction at the site.
45. The submission of a drainage strategy is also required in order to ensure that adequate capacity is made available for foul and surface water infrastructure. A standard condition has been including to require a construction method statement to be submitted. This is necessary to protect the living conditions of adjoining properties and I have including within this a requirement for the

hours of construction to be specified for the same reason. In addition, for the same reason I have also included a specific condition which relates to the acoustic fencing to be provided along the access road of the site.

46. The Council have suggested a condition to remove the permitted development rights on the site. The Guidance advises that conditions restricting the future use of permitted development rights will rarely pass the test of necessity and should only be used in exceptional circumstances. I do not consider such circumstances apply here and I have accordingly not attached the suggested condition. Similarly, conditions to require samples of the external surfaces of the dwellings permitted, hard and soft landscaping and boundary treatment are not necessary at this stage as these matters will be covered by the reserved matters submission.

Conclusion

47. In conclusion, I have not found any conflict with policy EN2 of the DP. In addition, I also conclude that the proposal would accord with the Framework and in particular paragraph 17 which seeks to secure, amongst other things, a good standard of amenity for all existing and future occupants of land and buildings.
48. For the reasons set out above and taking into account all other matters raised, I therefore conclude that the appeal should be allowed.

Christa Masters

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) Access to the site shall be carried out in full accordance with the details shown on drawing 1581-BG61-P-02 Rev H in so far as it relates to the access to the site only.
- 2) Application for approval of reserved matters shall be made within 3 years from the date of this permission and the development shall be begun not later than whichever is the later of the following dates: 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. 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.
- 3) Application for approval of the reserved matters shall be made to the local planning authority before the expiration of three years from the date of this permission.
- 4) The development hereby permitted shall be begun either before the expiration of five years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is later
- 5) The dwellings shall not be occupied until a means of access for vehicular and pedestrian traffic has been constructed in accordance with the approved plan. No buildings shall be occupied until space has been laid out within the site for cars to be parked, including garages, and for vehicles to turn so that they may enter and leave the site in forward gear. These details shall be submitted pursuant to condition 2 and the development shall be maintained thereafter at all times in accordance with the approved details.
- 6) No development shall commence until an ecological mitigation and enhancement strategy has been submitted to and approved in writing by the local planning authority. The ecological mitigation and enhancement strategy shall include the following (but not be limited to):
 - a) Purpose and conservation objectives for the proposed works.
 - b) Review of site potential and constraints.
 - c) Details of updated surveys (if required).
 - d) Detailed design or working methods to achieve stated objectives.
 - e) Extent and location/area of proposed works on appropriate scale maps and plans.
 - f) Timetable for implementation demonstrating that works are aligned with the proposed phasing of development.
 - g) Persons responsible for implementing the works.
 - h) Details of initial aftercare and long-term maintenance.
 - i) Details for disposal of any waste arising from works.The ecological mitigation strategy shall be implemented in accordance with the approved details and all features shall be retained in that manner thereafter.

- 7) No development shall commence until a Landscape and Ecological Management Plan (LEMP) shall be submitted to and approved in writing by the local planning authority. The purpose of the LEMP shall be to detail the contribution that the landscaping and management of the site's open spaces make to the ecological enhancement of the site and to ensure that the open space will be managed appropriately. The plan must include the following (but not be limited to):
- a) Description and evaluation of features to be managed.
 - b) Ecological trends and constraints on site that might influence management.
 - c) Aims and objectives of management.
 - d) Appropriate management options for achieving aims and objectives.
 - e) Prescriptions for management actions.
 - f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five year period).
 - g) Details of the body or organisation responsible for implementation of the plan.
 - h) On-going monitoring and remedial measures.
- The LEMP shall also include details of how the long term implementation of the plan will be secured by the developer with the management body responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the biodiversity objectives of the originally approved scheme. The approved plan shall be implemented in accordance with the approved details.
- 8) No development shall commence until a bio-diversity monitoring strategy has been submitted to, and approved in writing by, the local planning authority. The purpose of the strategy shall be to establish the effectiveness of the species mitigation and the acid grassland management plan. Aims and objectives of monitoring:-
- a) Identification of baseline conditions prior to the start of development.
 - b) Appropriate success criteria, thresholds, triggers and targets against which the effectiveness of the various conservation measures being monitored can be judged.
 - c) Methods for data gathering and analysis.
 - d) Timing and duration of monitoring, including a time table.
 - e) Responsible persons and lines of communication.
 - f) Review, and where appropriate, publication of results and outcomes.
- A report describing the results of monitoring shall be submitted to the local planning authority at intervals as identified in the Strategy. The report shall also set out (where the results from monitoring show that conservation aims and objectives are not being met) how contingencies and/or remedial action will be identified, agreed with the local planning authority, and then implemented so that the development still delivers the biodiversity objectives of the originally approved scheme. The monitoring strategy will be implemented in accordance with the approved details.
- 9) No development shall take place until details of any earthworks have been submitted to and approved in writing by the Local Planning authority. These details shall include the proposed grading and mounding

- of land areas, including the levels and contours to be formed, showing the relationship of proposed mounding to existing levels and surrounding landform. Development shall be carried out in accordance with the approved details.
- 10) No development shall commence until details have been submitted to and approved in writing by the LPA of the existing and proposed ground levels detailing any changes to levels and including finished ground floor slab levels. The development shall be implemented in accordance with the approved plans.
 - 11) No development shall commence until details have been submitted to and approved in writing by the LPA of a scheme detailing and, where possible, quantifying what measures or offsetting schemes are to be included in the development which will reduce the transport related air pollution of the development during construction and when in occupation. The construction works and use of the development shall be in accordance with the approved details/scheme.
 - 12) The details submitted pursuant to condition 2 shall include a detailed scheme of acoustic protection measures, including indicating the predicted attenuation to be afforded by those measures, for all dwellings and associated private amenity space in the development. Measures will include details of:-
 - Engineering works such as cuttings and bunds.
 - Acoustic glazing and ventilation schemes.
 - Reflective and absorbent barriers and treatments.
 - A programme of implementation for the acoustic protection measures and any proposed phasing.
 - A programme of implementation and any proposed phasing for the submission of a validation report to demonstrate the effectiveness of the acoustic protection measures. The development shall be carried out in accordance with the approved details.
 - 13) No residential units shall be occupied until an acoustic validation report has been submitted to the LPA to demonstrate the effectiveness of the acoustic protection measures. If the validation report identifies an adverse noise impact within the dwellings exceeding the previously agreed noise value by 3 dB(A) or more, details of the additional remediation measures required to achieve the agreed noise level shall be submitted to and approved in writing by the LPA, and this shall include a programme of implementation, which shall be followed. Residential units shall not be occupied until any approved acoustic protection measures have been implemented in accordance with the approved details and the approved programme(s) of implementation.
 - 14) Prior to the commencement of development, a Travel Plan shall be submitted to and approved in writing by the LPA in consultation with Kent County Council. The travel plan shall include measures proposed to promote and encourage sustainable methods of travel. The development shall be managed in accordance with the approved details.
 - 15) No development shall commence until a sustainable surface water drainage scheme for the site has been submitted to and approved in writing by the local planning authority. The drainage strategy should demonstrate that the surface water run-off generated up to and including

the 100 year critical storm (including an allowance for climate change) will not exceed the run-off from the undeveloped site following the corresponding rainfall event, and so not increase the risk of flooding either on or off site. The scheme shall subsequently be implemented in accordance with the approved details before the development is occupied.

- 16) If, during development, contamination is found to be present at the site then no further development shall be carried out, until a remediation strategy has been submitted to and approved in writing by the local planning authority, detailing how this contamination will be dealt with. The remediation strategy shall be implemented as approved.
- 17) If contamination is found pursuant to condition 16, the residential development shall not be occupied until a verification report demonstrating completion of works set out in the approved remediation strategy, and the effectiveness of the remediation, has been submitted to and approved, in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a "long-term monitoring and maintenance plan") for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan. The long-term monitoring and maintenance plan shall be implemented as approved.
- 18) No infiltration of surface water drainage into the ground at the site shall occur, other than if proposed details of such are submitted to and approved in writing by the LPA, prior to the development commencing. Any infiltration of surface water drainage into the ground shall be carried out in accordance with the approved details.
- 19) In order to protect ground water, piling or any other foundation design using penetrative methods shall not be undertaken, unless details of such works have been submitted to and approved in writing by the local planning authority prior to development commencing. The development shall be carried out in accordance with the approved details.
- 20) If piling is proposed, a piling method statement shall be submitted to and approved in writing by the LPA in consultation with Thames Water prior to the commencement of works. This shall detail the type of piling to be undertaken and the methodology by which such piling will be carried out, including measures to prevent and minimise the potential for damage to subsurface water infrastructure, and a programme for the works. Any piling must be undertaken in accordance with the terms of the approved piling method statement.
- 21) No development shall commence until a drainage strategy, detailing any on/off site drainage works, has been submitted to and approved in writing by the LPA (in consultation with the sewerage undertaker). No discharge of foul or surface water from the site shall be accepted into the public system until the drainage works referred to in the strategy have been completed.

- 22) No development shall commence until a site management plan has been submitted to and approved in writing by the Local Planning Authority. The management plan shall provide the following details:
- a) Parking for site personnel
 - b) Location of materials storage
 - c) Site personnel facilities
 - d) Turning and loading/unloading areas
 - e) Wheel washing facilities — such facilities to be implemented upon commencement of development and retained for the duration of building works. The works shall be undertaken in accordance with the approved management plan.
 - f) Hours of construction
- 23) Prior to the occupation of the first dwelling, the applicant should enter into a Section 278 Agreement with Kent County Council to improve the existing footway along the eastern side of Beechenlea Lane between the site access and London Road by repair, complete resurfacing and kerb maintenance; to adjust the kerb radius on the eastern side of Beechenlea Lane / London Road junction to a tighter radius in order to reduce the traffic speed of vehicles exiting into London Road; and to improve the pedestrian crossing facility at the Beechenlea Lane / London Road junction including the provision of tactile paving on both sides.
- 24) A scheme to provide acoustic fencing to protect existing residents from road traffic noise from the proposed access road into the site shall be submitted to and approved by the local planning authority prior to the commencement of the development. The approved scheme shall be fully implemented in conjunction with the proposed site access road and therefore after shall be permanently retained.

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Juan Lopez of Counsel Instructed by the Council's Solicitor

He called:

Mrs C Marchant BA(Hons) MRTPI Sevenoaks District Council

Mrs H Gooden MA (Cantab) Msc MRPTI Sevenoaks District Council

FOR THE APPELLANTS:

Gregory Jones QC Instructed by Mr Buchanan, Pro Vison

He called:

Mr A Blacker MSc MCIT MILT WSP Parsons Brinkerhoff

Mr T Lewis MSc LLM CSci MIOA MEnvSci MIAQM WSP Parsons Brinkerhoff

Mr R Buchanan BA (Hons) MRTPI Pro Vision Planning & Design

INTERESTED PERSONS:

Cllr T Searles – Councillor for Christchurch and Swanley Village

Mr B Goode – Local Resident

Mr M Bentley – Local Resident

Mr K Hutchins – Local Resident

Mr G Collins – Local Resident

Mr N Sivyver – Local resident

DOCUMENTS SUBMITTED AT THE INQUIRY

1. Opening Statement on behalf of the Appellant
2. Opening Statement on behalf of the Council
3. Sevenoaks District Local Plan, Allocations and Development Management Plan 2015
4. Statement on behalf of Mr Kenneth Hutchins, local resident
5. Statement on behalf of Mr Brian Goode, local resident
6. Statement on behalf of Mr Jim Hawley, local resident
7. Statement on behalf of Mr M Bentley, local resident
8. Statement on behalf of Geoff and Sandy Collins, local residents
9. Statement on behalf of Mr Sivyver, local resident
10. Minutes of Swanley Town Council meeting, 2 March 2016
11. Note regarding LED street lights
12. Note providing comparison of night time development traffic flows
13. Night time photos taken in Tunbridge Wells
14. Draft undated Section 106 Agreement
15. Signed Section 106 Agreement dated 12 May 2016
16. Draft condition regarding noise barrier
17. Extract from Kent Online, May 12 2016
18. Closing Statement on behalf of the Council
19. Closing Statement on behalf of the Appellant
20. Costs submission on behalf of the Appellant
21. Costs submission on behalf of the Council