



Appeal Decision

Inquiry held on 5 and 6 July 2016

Site visit made on 7 July 2016

by Susan Heywood BSc(Hons) MCD MRTPI

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

Decision date: 22 August 2016

Appeal Ref: APP/N4720/W/15/3137482

Land at Sandgate Drive, Kippax, Leeds

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Persimmon Homes (West Yorkshire) Ltd against the decision of Leeds City Council.
 - The application Ref 13/03846/FU, dated 16 August 2013, was refused by notice dated 2 July 2015.
 - The development proposed is the construction of 156¹ dwellings and other associated works.
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Decision

1. The appeal is allowed and planning permission is granted for the construction of 156 dwellings and other associated works on land at Sandgate Drive, Kippax, Leeds in accordance with the terms of the application, Ref 13/03846/FU, dated 16 August 2013, subject to the conditions set out at Annex 1 of this decision.

Preliminary Matters

2. Prior to the Inquiry the Secretary of State issued a decision on an appeal relating to land at Grove Road, Boston Spa, Leeds (appeal ref: APP/N4720/A/13/2208551) (hereafter referred to as the Boston Spa decision). Following consideration of that decision, the Council withdrew from defending its reasons for refusal in the appeal before me. However, the Sandgate Residents' Association sought to substantiate their concerns and I must determine the appeal having regard to the views of the interested parties.
3. The appellants made some minor amendments to the scheme following the refusal of planning permission by the Council in order to take on board some of the concerns expressed by the Council and local residents. The amended drawings were consulted upon for a period of 28 days and responses were received by the Planning Inspectorate. Whilst there appears to have been a mistake in the cross-sections which were consulted upon (some of the cross sections reflected an earlier version of the scheme), the layout drawing clearly showed and annotated the alterations made. Following an accurate survey of levels between the existing and proposed dwellings, a further plan was

¹ The application as originally submitted was for 166 dwellings, this was reduced to 156 before the application was determined by the Council.

submitted prior to the inquiry showing the correct cross-sections. Sandgate Residents' Association, whilst expressing concern relating to the ease of access of the plans and confusion regarding the cross-sections, expressed the view that the amended plans represented an improvement on previous versions.

4. Having regard to the nature of the amendments made and the consultation which has taken place, I am satisfied that interested parties have had an opportunity to make their views known. As such, it would not prejudice any party for me to consider the amended plans in this appeal. I have therefore determined the appeal on the basis of the amended plans which are listed in the Schedule of Plans attached to this decision.
5. A S106 Agreement was submitted during the Inquiry. I shall consider this further below having regard to the requirements of the Community Infrastructure Levy Regulations 2010 (CIL) and the advice of the National Planning Policy Framework (the Framework).

Main Issue

6. The main issue in this case is whether or not the proposed development represents sustainable development having regard to local and national planning policies.

Reasons

Housing Land Supply

7. For the purposes of this appeal, the Council confirmed that they accept the appellants' evidence in relation to the five year housing land supply. Thus no evidence was presented on this matter. The appellants' evidence demonstrates that there is a supply of around three years. Consequently, there is a significant shortfall in the supply of housing land.
8. Section 38(6) of The Planning and Compensation Act 2004 requires that, if regard is to be had to the development plan for the purposes of any determination to be made under the planning Acts, determination must be made in accordance with the development plan unless material considerations indicate otherwise. The Framework is a significant material consideration. Where the Council are unable to demonstrate a five year housing land supply, paragraph 49 of the Framework makes it clear that relevant policies for the supply of housing should not be considered up-to-date. The development plan for this area includes the Core Strategy, adopted November 2014, and the saved policies of the Unitary Development Plan Review (UDPR), 2006.
9. The Core Strategy sets out a number of policies for the supply of housing. Policy SP1 relates to the location of development, SP6 sets the housing requirement and SP7 identifies the distribution of housing land. The policies provide for housing to take place within the Smaller Settlements, of which Kippax is one. Furthermore, paragraph 4.8.6 states that sites identified as Protected Areas of Search for Long Term Development (PAS sites) will provide one of the prime sources for housing allocations. The Council do not dispute the appellants' view that the proposal would not conflict with these Core Strategy policies and I agree. Where development accords with the development plan, paragraph 14 of the Framework indicates that it should be approved without delay.

10. The appeal site is identified as a PAS site under policy N34 of the UDPR. The proposal would conflict with the designation in this policy. The reason for such a designation was to maintain the permanence of the Green Belt and to provide flexibility for the City's long-term development needs. The Secretary of State concluded, in the Boston Spa decision, that policy N34 is out of date having regard to an earlier Interim Policy of the Council to release PAS sites for housing. The appellants also argue that it is time expired and the Council do not dispute this. Policy N34 is therefore not up-to-date having regard to paragraph 49 of the Framework.
11. This has implications for the determination of the appeal under paragraph 14 of the Framework. For decision-taking this requires that, where the development plan is absent, silent or relevant policies are out-of-date, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole or where specific policies in the Framework indicate development should be restricted. It is not suggested that this latter point is relevant in this case.
12. The Publication Draft Site Allocations Plan (SAP), which allocates the site as safeguarded land, was consulted upon in late 2015. Having regard to the stage reached in the examination process, minimal weight can be given to this emerging plan.
13. This scheme would result in a significant boost to housing supply, including the provision of a policy compliant level of affordable housing on land that is deliverable and achievable. These benefits attract significant weight in this appeal having regard to the level of shortfall in housing land supply.
14. It is, therefore, necessary to consider whether there are any adverse impacts that would significantly and demonstrably outweigh the benefits of the proposal.

Highways

15. The proposed development would have two points of access. One at Baildon Avenue, serving plots 1-36, and the other at Bula Close serving the remainder of the development. From here traffic would pass along Sandgate Drive, Moorgate Drive or Holland Road, Gibson Lane and onto either Leeds Road or Longdike Lane. It is agreed with the Highway Authority that the layout, widths, geometry and operation of these roads are such that they can safely accommodate the proposed increase in traffic.
16. Residents have raised concerns regarding the existing parking situation around the Kippax Health Centre on Moorgate Drive / Gibson Lane. I saw that there were a number of vehicles parked on Moorgate Drive and the evidence demonstrates that this can extend into Manor Garth Road. The effect of such on-street parking is that drivers must stop and give way to oncoming traffic. However, this is a situation which exists on many residential roads and is not inherently unsafe. In fact it has the effect of slowing traffic down. I note that vehicles park on the pavement and this is likely to lead to pedestrians walking on the road. However, in very lightly trafficked situations as occur in this location this is unlikely to cause any significant highway safety concerns.

17. I noted that the junction geometry at Gibson Lane / Leeds Road is such that buses must enter the opposite carriageway in order to turn into Gibson Lane. Traffic exiting Gibson Lane must therefore wait a distance back from the junction to allow the bus to turn, or the bus would have to wait on Leeds Road for vehicles to leave the junction. Whilst this may not be ideal, it does not appear to cause any highway safety problems and I am not aware of any personal injury accidents which have occurred as a result of this situation. The Highway Authority do not raise any concerns in this regard.
18. In order to accommodate the increased traffic movements along the A63 and Leeds Road as a result of the development, improvements are proposed in the form of the signalisation of the junction known locally as Charlie Sweep's Corner. This junction is currently operating above capacity in the peak hour periods and the proposal would exacerbate existing problems. The impact on this junction was one of the reasons for the Highway Authority's initial refusal of planning permission for the scheme. Subsequent discussions have led to a scheme of improvement for the junction which the main parties agree would provide improved pedestrian crossing facilities, improved road safety, improved bus reliability, improved environment for cyclists and a reduction in road user delays. A condition can be imposed to ensure implementation of the agreed scheme.
19. Residents have raised concerns regarding the impact of construction traffic along residential roads and passing a number of schools. Whilst I acknowledge that there will be a level of disruption to existing residents during the construction period, this is no different to any other residential area where development takes place. A Construction Method Statement (CMS) can be secured by the imposition of a suitable condition and the Council have indicated that they would wish to involve the Residents' Association in discussions regarding the operation of the CMS. This would ensure that disruption is kept to a minimum during the construction period. I am not satisfied that it is necessary to prevent construction traffic visiting the site during school pick-up and drop-off times. There are footpaths either side of the roads near to the schools and I heard that there are school crossing patrols on the relevant roads. There are many situations where school children walk along roads which are used by HGVs and this is not necessarily unsafe.
20. Although residents have referred to accidents which have occurred on roads surrounding the site no specific incidents were drawn to my attention. Furthermore, these are not corroborated by the official accident records for personal injury accidents and the Highway Authority have raised no concerns in this regard. I can therefore give limited weight to these concerns.
21. I note residents' concerns regarding the accessibility of the site by public transport and the time taken to reach Leeds City Centre by bus. Nevertheless, the Highway Authority accepts that the site is located within a sustainable location having regard to accessibility by foot, cycle and public transport. Measures to encourage bus use and a Travel Plan to encourage the use of sustainable transport are incorporated within the S106 Agreement. It is also pertinent that the site is a PAS site in the UDPR. This allocation indicates that the site is not unsuitable for development in principle.
22. The Framework states that development should only be refused on transport grounds where the residual cumulative impact is severe. Despite local

concerns I am satisfied that the highways proposals are acceptable for this development and should not materially harm highway safety. I note that the Highway Authority are satisfied with the proposals and, even before the issue of the Boston Spa decision, had withdrawn from the reason for refusal in this respect. The proposal would therefore comply with Core Strategy policy T2 which requires development to be located in accessible locations, adequately served by existing highways, public transport and with safe and secure access.

Drainage

23. Foul drainage from the site would be connected to the existing combined drainage system in Baildon Avenue and Bula Close. Yorkshire Water has confirmed that there is sufficient capacity within the existing system to accommodate this. Surface water would be captured by a series of storage systems, including a detention basin, and would subsequently discharge to the existing watercourse to the west of the site, Kippax Beck, at greenfield run-off rates. The system is designed to cope with a 1 in 100 year storm event plus allowances for climate change. Although concerns were expressed regarding the maintenance of part of the beck, there is no evidence that the discharge of surface water to the beck, at greenfield run-off rates, would increase the potential for the beck to flood.
24. I note the evidence relating to previous flooding events in the neighbourhood. The majority of these relate to Gibson Lane, Moorleigh Close, Parkfield Close and Pondfields Drive. The evidence demonstrates that the development would not discharge any foul or surface water drainage into any of the existing sewers within the catchment for those areas. It would not therefore exacerbate the existing flooding situation in these areas.
25. It appears that the flooding experienced at 10 Bula Close is as a result of overland surface water flows from the site which discharges southwards when the ground is saturated. The proposed surface water drainage system is designed to capture and slowly release the surface water, even in 1 in 100 year storm events, plus a climate change allowance. In addition, a French Drain system is proposed to the northern and southern boundaries of the site to capture any overland flows. A temporary bund is proposed to ensure no run-off to adjoining properties during the construction phase. The evidence demonstrates the proposed development would be likely to improve the flooding situation at 10 Bula Close.
26. On Kempton Road the existing combined drainage system causes flooding when surface water run-off enters the system during exceptional rainfall events. The proposed development would not add any more surface water to this system. Foul water from the development would enter this system at low rates but Yorkshire Water has confirmed that there is sufficient capacity for this within the existing system.
27. I can understand the concerns of the local community regarding drainage from this site. Nevertheless, there is no evidence to demonstrate that the development would exacerbate any of the existing problems. The Environment Agency, Yorkshire Water and Leeds Land Drainage are all satisfied that the proposal can be designed to provide an adequate drainage system which does not increase flooding outside the site. The proposal would not therefore conflict with Core Strategy policy EN5 which, amongst other things, seeks to ensure that flood risk is considered and mitigated for all development proposals

and that the speed and volume of surface water run-off is reduced for new build developments.

Landscape, residential amenity, ecology

28. The site is located on the north eastern edge of Kippax. It comprises an area of land vegetated primarily with dense hawthorn bushes, trees and some grassland. The site slopes upwards from the existing edge of the built development on Baildon Avenue, Bula Close and Sandgate Drive to open agricultural land, within the Green Belt, on its northern boundary. Roach Lime Hills Site of Special Scientific Interest (SSSI) lies some 100 metres to the north. A public footpath (No. 36) runs north to south across the central portion of the site and a further footpath (No. 22) runs along the eastern site boundary. The site is also crossed by a number of informal footpaths. An area Tree Preservation Order (TPO) was made in 2009 covering the majority of the site.
29. The proposed development would move the settlement edge closer to the north than at present. The scheme includes the retention of a wide area of open space, incorporating footpath No. 36, running north to south splitting the site into two developable areas. Land to the north, west and east of the site would also remain open, creating a substantial linear area of open space between the housing development and the Green Belt to the north. Existing retained trees and shrubs in the open areas would be supplemented by further planting and the area would be accessible by the creation of paths linking it to the residential development and existing public footpaths. The Council have agreed that the most important trees, covered by the TPO, would be retained in the proposed scheme and this can be subject to an appropriate condition.
30. The site is visible from a number of locations within Kippax due to the surrounding topography. However, the proposed development would be in keeping with the surrounding residential area and it would not harm the character or appearance of the surroundings in these wider views.
31. Those most affected by the loss of the open land would include walkers on the footpaths and informal tracks on and around the site and the residents of adjoining properties. There is no doubt that the movement of the outer boundary of the urban area northwards would have an effect on views presently available from the land surrounding the site, and within and approaching footpath No. 36. Whilst the retention of large parts of the open space would soften these views to a large extent and enhancement planting would help to mitigate the effect over time, there would, nonetheless, be a change of character. However, the evidence does not demonstrate that the land has such visual landscape quality in its own right as to make its loss unacceptable on this ground. Nor does it demonstrate that the sensitivity of the users, and the adversity of the effect, would be so great as to prevent residents and visitors to the area from achieving normally acceptable levels of amenity. Accessibility to the countryside along the existing footpaths would remain, albeit at a greater distance than at present in relation to footpath No. 36.
32. Whilst the land is clearly valued by the local community, this would apply to many similar situations where open land adjoins an urban area. The site undoubtedly contributes to the landscape character of the area, but it does not have a particular landscape value in terms of the Framework paragraph 109.

Consequently, the proposal would not conflict to any great extent with that aspect of the Framework which seeks to recognise the intrinsic character and beauty of the countryside.

33. The proposal has been the subject of a comprehensive ecological assessment, including its impact on local bat and bird populations. Much of the site was found to be of relatively low ecological value and the proposed built development would be located within these lower value areas. Where the site does support habitats of ecological value, an area of Broad-leaved Woodland, Magnesian Limestone Grassland and an ancient hedgerow, the proposal would retain and enhance these.
34. The appellants' surveys indicate that the site is used for foraging by a small number of common bat species. Activity was seen to be highest along the site's northern boundary, where the existing mature hedgerow would be retained. The evidence demonstrates that loss of the central area of vegetation would be unlikely to have any major impact on local bats.
35. The Breeding Bird Survey concludes that the site forms a breeding and foraging area for small numbers of species of conservation concern (red and amber listed) and larger numbers of several common bird species. The evidence suggests that the red and amber list species are likely to be breeding in the adjoining gardens and houses and the overlapping habitat of gardens and the southern edge of the site. The more open scrub near to clearings or the edges of the site were also found to be occupied by some of these species. The proposed development would result in the loss of some of this habitat. However, new gardens would be created and areas of scrub would be opened up to create a mosaic of mixed habitats. This increased diversity of habitats would be likely to be favoured by the identified bird species. Overall, whilst the survey identifies a short term loss of habitat during the construction phase, this would be reversed in the medium to long term. The evidence concludes that the identified birds would be resilient to the short term impact.
36. Natural England are satisfied that the proposal would not have an adverse effect on the nearby SSSI, subject to the creation of a habitat management scheme to mitigate for the impacts of further public use of the SSSI from the increase in population in close proximity to it. This matter is addressed further in relation to the conditions below.
37. The Framework aims to ensure that development conserves and enhances biodiversity. Where significant harm cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused. In this case, there is no evidence that the proposal would cause significant harm to biodiversity. Natural England raised no objections to the proposal. Nevertheless, the scheme would provide mitigation for the loss of habitat in the form of enhanced habitat within the open space. The proposal would not therefore conflict with the Framework's objective of conserving and enhancing biodiversity. It would also comply with Core Strategy policies G8 and G9 relating to the protection and enhancement of species, habitats and biodiversity.
38. The proposal would alter the outlook from those properties adjoining the site to the south. The concerns of residents of these properties are therefore understandable. However, it must again be noted that this site has been a PAS site for some time. This acknowledges that the site would be developed at

some point. The proposal would comply with the Council's design guide Neighbourhoods for Living, which sets out satisfactory distances between dwellings. It has been designed so as not to create any unacceptable problems of overlooking or overshadowing of existing properties. The concerns of existing residents regarding their loss of outlook are not therefore grounds to dismiss the appeal. Similarly, the impact of headlights on the front windows of properties in Baildon Avenue would not be so severe as to warrant dismissing the appeal.

39. In summary, the proposal would not cause unacceptable harm in relation to its impact on landscape, ecology or the amenity of nearby residents.

Ground Conditions

40. Concerns have been raised that previous mining activity in the area would result in potential stability problems. However, there is no evidence that there are any existing subsidence problems in the surrounding area which may be attributable to former coal mines. Whilst mine shafts have been discovered in gardens to the south of the site, there are well-established methods of dealing with any such features discovered during the development of the site. Conditions can be imposed to ensure satisfactory ground investigation prior to development and the implementation of any required remedial measures.
41. Fears that coal seams near to the surface causing underground fires appear to be unfounded. I heard that the geology suggests otherwise and the fire authority have confirmed that they have no record of any such events occurring in the past.

Other matters

Prematurity and Neighbourhood Plan

42. Residents raised concern regarding the prematurity of the development having regard to the SAP process and the draft Neighbourhood Plan. The SAP has not yet progressed to a stage where it attracts anything but minimal weight.
43. In relation to the Neighbourhood Plan, I acknowledge that a significant amount of work has gone into its preparation to date. Nevertheless, I must consider the weight which can be given to it. Whilst a pre-submission draft plan has been produced, I heard that this has been submitted to the Council for their comment and that amendments were expected following those discussions. Consultation on the amended version of the draft plan was expected to take place in August. Thus the plan is currently at a very early stage in the process. The appeal site appears to be allocated within the plan as Green Space, but it was unclear from the evidence I heard whether this is likely to remain the case. In any case, one of the requirements for a Neighbourhood Plan is that it should support the strategic development needs set out in the Local Plan, plan positively to support local development and should not promote less development than set out in the Local Plan. On the basis of the evidence, I have doubts at present as to how far some policies in the plan would comply with these principles.
44. Having regard to advice in the Planning Practice Guidance, I do not consider that the development proposed is so substantial, or its cumulative impact so significant, that granting planning permission would undermine the plan-making process by predetermining decisions about the scale, location or

phasing of housing that are central to the emerging SAP or Neighbourhood Plan. Whilst it may have implications for the future development of Kippax, given the early stage of the Neighbourhood Plan, this does not currently attract weight in the decision making process.

45. My attention has also been drawn to the Parish Plan and Village Design Statement both produced by the community. The proposal would not appear to conflict with either of these documents.

Access to infrastructure

46. Concern was raised regarding access to facilities such as doctors' surgeries. The evidence suggests that there would be capacity in the local health centre to accommodate residents from the proposed development and I have no reason to doubt this. The Council have adopted a Community Infrastructure Levy Charging Schedule which sets a tariff system for development to provide for strategic infrastructure such as education. The adopted charging schedule would apply to this development.

S106 Agreement

47. The Agreement secures the provision of affordable housing or a contribution to the Council for affordable housing in lieu of provision on site. It also secures measures to encourage sustainable travel including contributions towards MetroCards for future occupiers of the proposed dwellings, a Travel Plan and a contribution towards the provision of two improved bus shelters. The Agreement also includes measures to ensure the layout and completion of the detention basin which forms part of the drainage scheme. It also secures the provision and maintenance of, and public access to, the on-site greenspace in accordance with the approved plans. I am satisfied that these contributions are justified by the Council's supplementary planning documents. They are necessary, directly related to the development, and fairly and reasonably related in scale and kind to the development. Consequently these obligations meet the three tests for planning obligations set out in Regulation 122(2) of the CIL Regulations 2010 and the Framework. I have therefore taken them into account in this decision.
48. Whilst the measures to develop an employment and training scheme to promote employment opportunities for local people during the construction works would be a benefit of the scheme, the appeal would not be unacceptable in the absence of this obligation. Consequently, I do not consider that this meets the test in the CIL Regulations of being necessary to make the development acceptable in planning terms. I have not therefore taken this part of the Agreement into account in this decision.

Planning Balance

49. The proposed development would comply with the identified relevant policies in the Core Strategy. However, it would conflict with policy N34 of the UDPR. Nevertheless, having regard to the agreed lack of a five year housing land supply, this policy is not up-to-date having regard to paragraph 49 of the Framework. Accordingly, paragraph 14 of the Framework states that 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, or where specific policies in the Framework indicate development should be restricted.

50. In this case there are no specific policies in the Framework which indicate that development should be restricted. I have also found that the development would cause only limited adverse impacts. In this case therefore, the adverse impacts would not significantly and demonstrably outweigh the significant benefit of providing new market and affordable dwellings to significantly boost the supply of housing as required by the Framework. The proposal would therefore constitute sustainable development. This would outweigh the conflict with policy N34 of the UDPR.

Conditions

51. A condition is required to specify adherence to the submitted plans in order to provide certainty regarding the development permitted. To ensure appropriate timing of many of the conditions a plan showing the different phases for the developed areas is required. In the interests of the character and appearance of the surroundings the following conditions are required: samples of materials, hard and soft landscaping and a landscape management plan, protection of trees, hedges and bushes.
52. In order to protect and enhance wildlife and habitats a scheme for the protection, enhancement and management of biodiversity is required. In order to protect breeding birds, the timing of clearance of vegetation is restricted. A 'Grampian' condition is required for off-site works to enhance the SSSI in order to mitigate the likely adverse impacts of an increase in usage as a result of the proposal.
53. In order to encourage sustainable transport modes, conditions are required to ensure the provision of electric charging points and cycle parking facilities. In the interests of highway safety, a 'Grampian' condition is required for off-site highway works. To protect historic heritage, a condition requiring a programme of archaeological recording is imposed. A condition is required to ensure satisfactory drainage of the site in accordance with the Flood Risk Assessment and Environment Agency's comments. In order to ensure satisfactory treatment of any adverse ground conditions, conditions are imposed to ensure site investigation and remediation where necessary.
54. To ensure minimal impact on adjoining properties, the following conditions are required: details of existing and proposed ground levels and finished floor levels, the submission of a Construction Method Statement including hours of construction. Because of the differences in levels between the existing properties to the south of the site and the southernmost properties on the appeal site, it would be appropriate to impose permitted development restrictions in order to protect the living conditions of nearby occupiers. However, I have imposed these on the affected plots only, rather than as blanket restrictions over the whole site as suggested by the Council. I have not included the suggested conditions to restrict or obscure glaze windows in side elevations other than on specific individual plots with gables facing and in reasonably close proximity to existing properties. The relationship between all other properties is such that these works would be unlikely to cause significant problems.

55. I have altered the wording of some of the conditions suggested by the parties and added implementation clauses to many of the conditions in order to ensure their enforceability. There is no need for a condition preventing the closure of the public footpath as this would be controlled by other legislation. I have added reference to phasing in some of the conditions in order to ensure that compliance can be linked to a particular phase of the development. I have removed this from the landscaping condition however, to ensure that the open space is landscaped in accordance with an agreed implementation programme. I have also removed reference to the Council's consultations with both Natural England (condition 14) and the Residents' Association (condition 20). The Council have indicated that they would carry out these consultations and this would be good practice. However, these are not matters which the developer would be able to comply with (as it relies on the actions of the Council). Consequently, such conditions would fail the test of enforceability. Finally, I have removed much of the detail from the condition relating to the mitigation scheme for the SSSI. This will allow the parties to develop an appropriate scheme having regard to the relevant issues at the time of submission of the scheme.

Overall conclusion

56. For the above reasons and having regard to all other matters raised, I conclude that the appeal should be allowed.

Susan Heywood

INSPECTOR

Richborough Estates

ANNEX 1 – CONDITIONS

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2) The development hereby permitted shall be carried out in accordance with the approved plans listed in the Plans Schedule at Annex 2 to this decision.
- 3) No development shall take place until a plan showing the different phases of both the developed areas and public open space areas of the site has been submitted to and approved in writing by the Local Planning Authority. Development shall thereafter be carried out in accordance with the approved phasing plan.
- 4) No building works shall take place on any phase until details and samples of all external walling and roofing materials for that phase have been submitted to and approved in writing by the Local Planning Authority. Samples shall be made available on site prior to the commencement of building works, for inspection by the Local Planning Authority which shall be notified in writing of their availability. The building works shall be constructed from the materials thereby approved.
- 5) No development shall take place on any phase until details of existing and proposed ground levels, including updated cross-sections, finished floor levels of houses and garages, paths, drives and walls for that phase have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
- 6) Notwithstanding the approved submitted drawings, the construction of all dwellings above ground level shall not commence until full details of both hard and soft landscape works, including an implementation programme, have been submitted to and approved in writing by the Local Planning Authority.

Hard landscape works shall include:

- (a) boundary details and means of enclosure,
- (b) car parking layouts,
- (c) other vehicle and pedestrian access and circulation areas including leisure routes,
- (d) hard surfacing areas,
- (e) minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting etc.),
- (f) proposed and existing functional services above and below ground (e.g. drainage, power cables, communication cables, pipelines etc., indicating lines, manholes, supports etc.).

Soft landscape works shall include:

- (g) planting plans
- (h) written specifications (including soil depths, cultivation and other operations associated with plant and grass establishment) and

(i) schedules of plants noting species, planting sizes and proposed numbers/densities.

All hard and soft landscaping works shall be carried out in accordance with the approved details, approved implementation programme and British Standard BS 4428:1989 Code of Practice for General Landscape Operations or any replacement. The developer shall complete the approved landscaping works and confirm this in writing to the Local Planning Authority prior to the date(s) agreed in the implementation programme.

- 7) Before the occupation of any dwelling a landscape management plan, including long term design objectives, management responsibilities and maintenance schedules, including a programme of implementation shall be submitted to and approved in writing by the Local Planning Authority. The landscape management plan shall be carried out as approved.
- 8) a) No works shall commence until all existing trees, hedges, bushes shown to be retained on the approved plans are fully safeguarded by protective fencing and ground protection in accordance with approved plans and specifications and the provisions of British Standard 5837 (2012) Trees in relation to design, demolition and construction, or its replacement. Such measures shall be retained for the duration of any demolition and/or approved works.
- b) No works or development shall commence until a written arboricultural method statement for a tree care plan has been submitted to and approved in writing by the local planning authority. Works or development shall then be carried out in accordance with the approved method statement.
- c) No equipment, machinery or materials shall be used, stored or burnt within any protected area. Ground levels within these areas shall not be altered, nor any excavations undertaken including the provision of any underground services, without the prior written approval of the Local Planning Authority.
- d) Seven days written notice shall be given to the Local Planning Authority that the protection measures are in place prior to demolition and/or approved works, to allow inspection and approval of the works.
- 9) a) No retained tree/hedge/bush shall be cut down, uprooted or destroyed, nor any tree be pruned, topped or lopped or suffer root severance other than in accordance with the approved plans and particulars, without the prior written approval of the Local Planning Authority. Any approved pruning, topping or lopping shall be carried out in accordance with current British Standards and any tree survey approved by the Local Planning Authority.
- b) If any retained tree/hedge/bush is removed, uprooted or destroyed or dies the Local Planning Authority shall be notified forthwith in writing. Another tree/hedge/bush of an agreed size and species shall be planted at the same place and at such time, as may be specified in writing by the Local Planning Authority.
- 10) No works on site, including works of site clearance and remediation, shall begin until a detailed plan for the protection, enhancement and management

of biodiversity including a programme of implementation has been submitted to and approved in writing by the Local Planning Authority. The plan shall be implemented as approved and in accordance with the approved timetable unless any subsequent variations are agreed in writing by the Local Planning Authority. The plan shall include all the following elements:

(i) aims and objectives including measures by which success of the plan will be assessed; and

(ii) details of all measures required to protect wildlife and habitats during construction works on the site; and

(iii) details of all habitat creation and enhancement measures. This shall include target habitat communities and species, details of ground preparation, methods of vegetation establishment and source(s) of plant material; and

(iv) details of all additional enhancement measures to be implemented, including provision of new bird-nesting and bat-roosting opportunities; and

(v) recommendations for future management, which shall be incorporated into the landscape management plan required by condition 7 above; and

(vi) a programme of monitoring to measure the success of the plan for the duration of construction and for at least the first five years following completion of the final phase of the development; and

(vii) a programme of implementation.

- 11) No site clearance or removal of any trees, shrubs or other vegetation shall be carried out during the period 1st March - 31st August inclusive unless there has first been submitted to and approved by the Local Planning Authority a management plan for nesting birds, prepared by a suitably qualified ecologist, to ensure that any such works are carried out without causing harm to nesting birds, including any mitigation works and a timetable for implementation. The works shall thereafter be carried out in accordance with the approved management plan and timetable.
- 12) The construction of all dwellings above ground level in any phase shall not take place until a programme of archaeological recording for that phase has been secured. This recording must be carried out by an appropriately qualified and experienced archaeological consultant or organisation, in accordance with a written scheme of investigation which has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved programme.
- 13) No building works shall take place until a detailed design of surface water drainage works consistent with the approved Flood Risk Assessment (FRA), ref E13/5852/FRA001rev A, dated October 2013 and its mitigation measures has been submitted to and approved in writing by the Local Planning Authority. This scheme shall limit the surface water run-off generated by the site to 4.1 litres/sec/ha so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site. This applies for up to and including the 1 in 100 year (plus climate change) rainfall event.

The scheme shall include a timescale for its implementation. The development shall be carried out in accordance with the approved scheme and timescale.

- 14) No dwelling shall be occupied until a scheme detailing a scheme of mitigation for Roach Lime Hills SSSI has been submitted to and approved by the Local Planning Authority including a timescale for its implementation. The mitigation measures shall be carried out in accordance with the approved scheme and timescale.
- 15) No dwelling shall be occupied on any phase until a scheme for the provision of electric vehicle charging points for that phase, either provided individually or communally, including timescales for implementation, has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall thereafter be provided in accordance with the agreed timetable and shall be retained for the lifetime of the development.
- 16) No dwelling shall be occupied on any phase until details of cycle parking and facilities for that phase, including timescales for implementation, have been submitted to and approved in writing by the Local Planning Authority. The approved cycle parking and facilities shall thereafter be provided in accordance with the agreed timetable and shall be retained for the lifetime of the development.
- 17) Notwithstanding the approved submitted details, the proposed windows to the south facing gable side elevations for the dwellings proposed on plot numbers 20, 72 and 73 shall be glazed with obscure glass and maintained thereafter as such for the lifetime of the development.
- 18) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Orders revoking or re-enacting that Order, with or without modification) planning permission shall be obtained before any windows, other than those hereby approved, are inserted in the south facing side elevations of the proposed dwellings on plot numbers 20, 72 and 73.
- 19) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Orders revoking or re-enacting that Order, with or without modification) planning permission shall be obtained before any development in Classes A, B or C of Part 1 of Schedule 2 of that Order is carried out in relation to plots 13, 20, 57, 72, 73, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91.
- 20) No works shall begin on the relevant phase of development until a Construction Method Statement for that phase has been submitted to and approved in writing by the Local Planning Authority. The Construction Method Statement shall include full details of:
 - a) the methods to be employed to prevent mud, grit and dirt being carried onto the public highway from the development hereby approved;
 - b) measures to control the emissions of dust and dirt during construction;
 - c) workforce and contractor parking;
 - d) interim drainage arrangements;

- e) location of site compound, turning and unloading areas, and plant equipment/storage; and
- f) how the Construction Method Statement will be made publicly available by the developer.

The approved details shall be implemented at the commencement of work on site, and shall thereafter be retained and employed until completion of works on site. The Construction Method Statement shall be made publicly available for the lifetime of the construction phase of the development in accordance with the approved method of publicity.

No site clearance or construction operations shall take place before 0800 hours on weekdays and Saturdays nor after 1800 hours on weekdays and 1300 hours on Saturdays. No demolition or construction operations shall take place on Sundays or Bank Holidays. No fires shall be lit on site at any time.

- 21) No development shall take place on any phase until the intrusive site investigation work relevant to that phase identified in the preliminary Geo-Environmental Investigation has been carried out and a Phase II Site Investigation Report for that phase submitted to and approved in writing by the Local Planning Authority.

Where remediation measures are shown to be necessary in the Phase II Report and/or where soil or soil forming material is being imported to site, development shall not commence on any phase until a Remediation Statement demonstrating how the site will be made suitable for the intended use has been submitted to, and approved in writing by, the Local Planning Authority. The Remediation Statement shall include a programme for all works and for the provision of Verification Reports. Development shall be carried out in accordance with the approved Remediation Statement and programme.

- 22) If remediation is unable to proceed in accordance with the approved Remediation Statement, or where significant unexpected contamination is encountered, the Local Planning Authority shall be notified in writing immediately and operations on the affected part of the site shall cease. An amended or new Remediation Statement shall be submitted to, and approved in writing by, the Local Planning Authority prior to any further remediation works which shall thereafter be carried out in accordance with the revised approved Statement.
- 23) Remediation works shall be carried out in accordance with the approved Remediation Statement. On completion of those works, the Verification Report(s) shall be submitted to the Local Planning Authority in accordance with the approved programme. The site or phase of a site shall not be brought into use until such time as all verification information has been approved in writing by the Local Planning Authority.
- 24) No construction of dwellings above ground level shall take place until the details for the highway scheme shown on drawing ref 12068/GA/11 are approved in writing by the Council. The approved works are to be carried out prior to the occupation of the 55th dwelling.

ANNEX 2 – SCHEDULE OF PLANS FOR CONDITION 2

Design Drawings

Ki-2013:01C Location Plan
Ki-2013:01K Planning Layout
KI-2014-03D Architectural Sections
409-Boun-01 Boundary Treatments
KI-2015:011 Street Scene

Planning House Types

600-WIL-2 Willow Planning Drawing
CCA-WD16 Rev F Clayton Corner Planning Drawing
1222-CHED-ASV Chedworth AS Planning Drawing
1222-CHED-OPV Chedworth OP Planning Drawing
128-CLE-OPV Cleveden OP Planning Drawing
106-HANPST-V Hanbury Planning Drawing
109-HAT-ASV Hatfield AS Planning Drawing
110-HAT-OPV Hatfield OP Planning Drawing
1190-KEN-ASV Kendal AS Planning Drawing
1190-KEN-OPV Kendal OP Planning Drawing
206-MOU2-V Moulton Planning Drawing
113-MOU4-V Moulton 4 Block planning Drawing
114-ROS-ASV Roseberry AS Planning Drawing
115-ROS-OPV Roseberry OP Planning Drawing
116-RUFS-V Rufford Semi Planning Drawing
117-RUF-ASV Rufford AS Planning Drawing
118-RUF-OPV Rufford OP Planning Drawing
119-SOU2-V Souter Planning Drawing
203-SWA2-V Swale Planning Drawing
121-WIN-ASV-A Winster AS Planning Drawing
122-WIN-OPV-A Winster OP Planning Drawing

Garages

300-SGAR1-V Single Side to Side Garage
301-SGAR2-V Single Front to Back Garage
302-SGAR3-V Single 6x3 Side to Side Garage
303-SGAR4-V Single 6x3 Front to Back Garage
304-DGAR1-V Double Front to Back Garage
306-DGAR3-V Double 6x3 Front to Back Garage
307-DGAR4-V Double 6x3 Pyramid Garage

APPEARANCES

FOR THE APPELLANT:

Richard Sagar

Walker Morris Solicitors

He called:

Philip Owen

Brian Denney

Trevor Haigh

Mark Perrin

Robert Weston

Mark Johnson

Optima Highways & Transportation

Pegasus Group (Landscape & Visual Impact)

Haigh Huddleston & Associates (Drainage)

Lithos Consulting Ltd (Ground Conditions)

Brooks Ecological Ltd (Ecology)

Johnson Mowat (Planning)

INTERESTED PERSONS:

Allison Payne

Susan Everett

Cllr Morley

Sandgate Residents' Association

Sandgate Residents' Association

Sandgate Residents' Association and Chair

Kippax Parish Council

FOR THE LOCAL PLANNING AUTHORITY SPEAKING TO PROVIDE INFORMATION ONLY:

Guy Williams

Catherine Witham

Andrew Crates

Barrister

City Solicitors

Principal Planner

DOCUMENTS

- 1 Opening Statement on behalf of appellants
- 2 List of appearances on behalf of appellants
- 3 Opening Statement on behalf of Sandgate Residents' Association
- 4 Kippax Parish Plan submitted by Sandgate Residents' Association
- 5 Letter from resident of 23 Moorgate Drive
- 6 Letter from Ward Councillors Harland, Wakefield and Lewis
- 7 Drainage connections plan submitted by appellants
- 8 Supplementary Guidance No. 22 'Sustainable Drainage in Leeds' Submitted by Council
- 9 Correspondence from West Yorkshire Fire Service submitted by appellants
- 10 CIL justification statement submitted by Council
- 11 S106 Agreement
- 12 Updated housing land position statement submitted by appellants
- 13 Appellants' Closing Submissions
- 14 List of Core Documents