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## Appeal Decision

Inquiry held on 26, 27 and 28 July 2016

Site visit made on 28 July 2016

by **L Gibbons BA (Hons) MRTPI**

**Decision date: 21 September 2016**

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### **Appeal Ref: APP/U2370/W/15/3133536**

#### **Land off Lambs Road, Thornton Cleveleys, Lancashire**

- 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 Wainhomes (North West) Ltd against the decision of Wyre Borough Council.
  - The application Ref 14/00553/OULMAJ, dated 30 June 2014, was refused by notice dated 11 August 2015.
  - The development proposed is an outline application for a residential development of up to 165 dwellings with access applied for off Lambs Road and Raikes Road.
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#### **Decision**

1. The appeal is allowed and planning permission is granted for an outline application for a residential development of up to 165 dwellings with access applied for off Lambs Road and Raikes Road at Land off Lambs Road, Thornton Cleveleys, Lancashire in accordance with the terms of the application, Ref 14/00553/OULMAJ, dated 30 June 2014, subject to the conditions set out in the schedule set out at the end of this decision.

#### **Procedural Matters**

2. The application seeks outline planning permission with access to be determined at this stage. Appearance, landscaping, layout and scale are reserved matters to be considered in the future. Although the application plans show a feasibility sketch layout, the appellant has indicated that this is for illustrative purposes. I shall determine the appeal on this basis.
  3. As part of the appeal proposal the appellant submitted a revision to plan A087347-SK002 Rev B incorporating very minor amendments which do not affect agreed visibility splays or the layout of the proposed access. At the Inquiry, the Council indicated that they did not object to the proposed changes. Other interested parties raised no objections. I am satisfied I can take the revised plan into account without prejudicing the interests of the Council and other interested parties. I have therefore dealt with the appeal on the basis of the revised plan.
  4. A completed legal agreement under section 106 (s106) of the Town and Country Planning Act 1990 (as amended) between the landowners, appellants, Lancashire County Council and Wyre Borough Council and dated 26 July 2016 was submitted to the Inquiry. The s106 contains obligations relating to a bus subsidy, primary and secondary education and travel plan contributions.
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5. At the Inquiry the Council confirmed that Policy H14 of the Wyre Local Plan (LP) 1999 is not a saved policy. I have dealt with the appeal on that basis.

### **Main Issues**

6. Based on all that I have seen and heard the main issues are:
  - i) The weight to be attributed to the location of the site in the countryside in the absence of a five year supply of housing land;
  - ii) The effect of the proposed development on the character and appearance of the area;
  - iii) The effect of the proposed development on highway safety; and,
  - iv) Whether any adverse impacts of the scheme would significantly and demonstrably outweigh any benefits.

### **Reasons**

*The weight to be attributed to the location of the site in the countryside in the absence of a five year supply of housing land*

7. Paragraph 47 of the National Planning Policy Framework (the Framework) indicates that in order to boost significantly the supply of housing, local planning authorities should ensure that they meet their full and objectively assessed housing needs for market and affordable housing. There is no up-to-date housing requirement in the LP. The statement of common ground addendum relating to housing land supply agreed by the Council and the appellant identifies that the Council is able to demonstrate only a 3.8 years supply of housing land for the purposes of this appeal.
8. Save Our Stanah and Little Thornton (SOS&LT) and Thornton Action Group (TAG) do not agree that the Council are unable to demonstrate a five year supply of housing land. SOS&LT argue that the Council's requirement was too high and proposed alternatives although they were not able to demonstrate that the Council's requirement was incorrect. Notwithstanding SOS&LT comments on this matter, it is not within the scope of this appeal to replicate the detailed process of establishing a housing requirement figure.
9. The Council's chosen method of applying the shortfall to the first five years was also queried by SOS&LT. There is no prescribed method of making up the shortfall within Government policy. However, the approach of the Council is in the spirit of the Framework to significantly boost housing supply and based on the evidence before me, it is pragmatic at this present time. In addition, in respect of highways and flooding I was not provided with detailed evidence on these strategic matters to indicate that there would be justification to depart from the Council's approach.
10. In respect of windfall sites, I consider that the amount proposed by the Council is justified and robust based on recent trends, albeit I note that the most recent year's figure was high. I accept that there is a duty to co-operate in the wider housing market. However, this applies particularly to the plan making process and agreement to take housing numbers from Wyre by other authorities does not appear to be in place. I note that the housing market area includes some authorities that are also unable to demonstrate a five year supply of housing land.

11. In conclusion, I consider that the Council's position in respect of the five year supply of housing land is fairly assessed and concur that they are unable to demonstrate a five year supply. I attach significant weight to the lack of a five year housing land in the Borough.
12. The Framework establishes that sustainable development should be seen as a golden thread running through both plan-making and decision-taking and furthermore, in the absence of a five year supply of deliverable housing sites, relevant policies for the supply of housing should not be considered up to date. Saved Policy SP13 of the LP seeks to control development in the countryside to certain uses including fulfilling a local housing need in accordance with saved Policy SP15.
13. The appellant and the Council agree that the proposal is not in accordance with saved Policy SP13 of the LP. However, the housing land supply statement of common ground indicates that saved Policy SP13 is a relevant policy for the supply of housing and that it is out of date. In the light of the above, I conclude that little weight should be attributed solely to the site being located in the countryside.

*Character and appearance*

14. Policy SP13 of the LP sets out that all proposals for development will be considered with regard to issues of amenity, scale, design and materials. The appellant referred to amenity as potentially relating to the effect of proposals on adjoining neighbours. However, the explanatory text indicates that the intention of this and related policies are to redirect development and investment to the settlements and, in doing so, to protect the inherent qualities and rural characteristics of the countryside. There is also reference to where development is considered acceptable in principle that the impact should not threaten or harm those intrinsic qualities of the countryside. In general terms, the policy is therefore consistent with the aims of the Framework in respect of the intrinsic character and beauty of the landscape being recognised.
15. The appeal site is located on the eastern edge of Thornton Cleveleys. There is a well-established residential area on the opposite side of Lambs Road to the west and a small modern housing development known as Furlong Green lies immediately to the south west of the site. Stanah lies to the north and the small settlement of Little Thornton is to the south.
16. The site is an irregular shape, is somewhat overgrown and is not managed for agricultural purposes. The land slopes up towards the north. When within the appeal site, it is possible to see the roofs of chalet bungalows to the west of Lambs Road. However, due to the separation by the road this does not create a strong physical connection with the appeal site. This is particularly the case when standing in the north of the appeal site even though the land is higher here. In the southwest corner of the site, where it is close to Furlong Green there is a stronger visual relationship between the built form of these houses and the field. However, this is tempered by the presence of agricultural buildings and the mature gardens, planting and the much more dispersed nature of properties along Raikes Road.
17. I accept that at the Inquiry, the Council conceded that the site was 'urban fringe' and that there is no public access to the site. In respect of urban

influences, the appellant refers to the car boot use which has previously been located in the northern part of the site. However, this is very limited in scope and I understand there was not an event last year. The material used to fence the access and movement of cars within the larger part of the field is similar to that found in agricultural use. There was a small amount of debris, including cones and a couple of chairs at the northern boundary which seemed to me to be remnants from the car boot use. However, this was not sufficient to demonstrate a more urban quality to the site. The appeal site itself does not feel enclosed by development and has an undeveloped appearance that is more in keeping with the surrounding fields and countryside beyond, than nearby development.

18. As part of the planning application a Landscape and Visual Impact Assessment was provided<sup>1</sup>. I acknowledge that views of the proposed development from Raikes Road to the east would be transitional and I consider it would not significantly weaken the visual experience of those travelling along this road whether by car or on foot. Southdown Road is higher than Lambs Road and views from this road looking east across the appeal site towards the Bowland Fells are limited in summer mainly due to the mature hedge of the appeal site being in full leaf. Nevertheless, it was still possible to see the eastern part of the site in the context of the wider countryside. The site would be more visible in the winter months.
19. The proposed housing would be clearly seen from the upper floors of the chalet bungalows to the west of Lambs Road and principally from the rear of the houses at Furlong Green. Due to the height of the land in the north part of the field the roofs and upper storeys of the housing would be highly visible. In addition, there would be a partial removal of the mature hedgerow on Lambs Road to accommodate the main access and introduction of a roundabout which would alter the street scene in this area significantly. I consider that landscaping would not be sufficient to mitigate this particular effect. There would be some moderate negative effects in terms of the proposal's visual impact arising from these factors which I consider would be harmful at the local level.
20. For the reasons given above, I conclude that the proposed development would cause some harm to the character and appearance of the area. It would be in conflict with saved Policy SP13 of the LP and it would be contrary to the Framework in respect of the intrinsic character and beauty of the landscape being recognised.

#### *Highway Safety*

21. The Highways Authority and the appellant have reached agreement on highway matters based on the proposed access of Lambs Road and also Raikes Road and a package of measures which includes off-site improvements to the surrounding road network and public transport. The Council do not object to the proposal in terms of highway safety. However, local residents' concerns remain and the appellant presented evidence on this matter.
22. In respect of the junction of Raikes Road and Woodhouse Road, there is a small area at the junction which does not have a pavement. However, the access to

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<sup>1</sup> Tyler Grange, October 2015

- the site from Raikes Road would serve 19 dwellings and would result in only a very modest increase in traffic. A pedestrian link from this part of the development would be provided to Lambs Road which would reduce the potential for accidents.
23. The appeal site is located some way to the north of a small development of houses known as Thornton Hall Mews located on Skippool Road. There is a pavement outside these houses, but it narrows considerably at one point. The pavement further north is also narrow. Thornton Hall Mews are also situated to the south of an acute bend in the road which means that traffic sometimes moves closer to the footway than might otherwise be expected.
24. I acknowledge that the narrow path would make it difficult for people with wheelchairs and with pushchairs to access any services and facilities in Poulton which is further to the south. On my visit I noted that pedestrians did make use of the footpath and would have to be aware of oncoming and passing traffic when using the narrow stretches of pavement. In terms of cycling to Poulton along this road there was no detailed information provided which would suggest that the road was not suitable for this use.
25. Local residents are concerned that the proposal would result in an increase in accidents particularly at the bend and the narrow point of the pavement. As part of the scheme, it is proposed to provide improvements at the bend. This includes the installation of permanent 'active' speed signs alerting drivers to their recorded speed, edge white lining, centre lane markings, hatching and 'slow' road markings. I accept that residents consider these proposals may not work. However, I was not provided with any evidence to be able to conclude that would be the case. Moreover, the narrowest point of the pavement is on a straight part of the road and the visibility is good albeit pedestrians would have to be aware of traffic passing from behind them. Taking account of the good safety record of the bend where none of the very limited number of accidents has involved pedestrians, I consider the proposals would help improve highway and pedestrian safety in this location.
26. The A585 is a trunk road to the south of the appeal site which provides connections to the M55 motorway and then to the M6. The A585 is identified as a road which suffers from congestion. However, Highways England which manages the A585 did not require improvements to the Skippool Road/A585 roundabout but did request that a Travel Plan should be put in place for the proposed development. The Highways Authority did raise concerns about the operation of the roundabout. TAG and SOS&LT and others consider that the Transport Assessment which accompanied the planning application is flawed including the use of the ARCADY model. However, I was not presented with an alternative model. Moreover, the Transport Assessment was produced and revised and validated on the basis of the participation of the County Council and Highways England.
27. That said, in 2014 TAG undertook a questionnaire survey of modern housing estates in the local area. The response rate to this was over 50%. This indicated that 68% of those surveyed used the Skippool Road/A585 roundabout to get to work when travelling by car and that as a result a greater number of trips may be made than was set out in the appellant's Transport Assessment. Information provided by SOS&LT indicates that some queuing and slow moving traffic does occur sometimes along Skippool Road for some

distance. Reference was also made to problems caused by traffic backing up from Mains Lane further east on the A585. I appreciate that existing residents consider that this is an unacceptable situation.

28. However, I was not provided with detailed evidence to determine that conditions at the Skippool Road/A585 roundabout or along Skippool Road would be demonstrably worsened by the proposal. Moreover, the proposals for the Skippool Road/A585 roundabout would provide for some highway capacity and also safety improvements. In addition, even using the results of the survey provided by TAG it was confirmed that the proposed improvements would be favourable in comparison to a 'no development' scenario.
29. For the reasons given above I conclude that the proposed development would not cause harm to highway safety. It would not be contrary to the Framework which at paragraph 32 sets out that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

*Whether any adverse impacts of the scheme would significantly and demonstrably outweigh any benefits*

30. The Framework identifies that there are three dimensions to sustainable development – economic, social and environmental. The Framework makes it clear that the three roles the planning system is required to perform in respect of sustainable development should not be undertaken in isolation, because they are mutually dependent.
31. In economic terms, the Council acknowledges that the proposal would provide temporary jobs during the construction phase. Although residents referred to the potential lack of quality employment opportunities within the area, the appeal site is within walking distance of the town centre of Thornton and is within easy reach of an industrial estate which may offer the opportunity for local employment.
32. In social terms, the proposal would result in the much needed delivery of market and affordable housing within the Borough. This weighs very heavily in favour of the appeal scheme. I note that the number of facilities in Thornton may be reduced in the near future. However a number of services and facilities remain which local residents would be likely to use.
33. I accept that there are local concerns relating to the capacity of the local schools. In particular, on the basis of the survey of local residents undertaken by TAG there are concerns that there may be an underestimate of potential pupil numbers. I also understand that the secondary school contribution is towards a project at the Baines School which is in Poulton and concerns were raised about travel to this school. Although the County Council initially raised concerns about the proposed development in respect of education this is no longer the case, subject to contributions towards projects for additional school places. In terms of the Baines School this is within the 3 mile radius of the appeal site which is used as the basis of the County Council's assessment of the proposal<sup>2</sup> and is therefore acceptable given this context.

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<sup>2</sup> Methodology for Education Contributions in Lancashire, Lancashire County Council, May 2016 Update

34. Residents have indicated that the availability of public transport within the area is reducing. However, although a local bus service has been withdrawn this has been replaced by a commercial service 24 which I understand offers more frequent trips into Poulton. Poulton has a wide range of services and facilities including a train station. There is an additional bus service 74, the future of which is being considered by the Council although it has not been confirmed whether this would be subject to further cuts.
35. In any event, as part of the s106 planning obligation it is proposed to fund the 74 service for a period of five years. This is in addition to proposing to increase the frequency of the 74 and to divert the 24 and 74 close to the appeal site. The provision of two quality bus stops on Lambs Road would help encourage the use of these services. I consider that these proposals would provide some benefits for existing residents as well as providing a reasonable alternative to the car for future occupiers of the proposed development. In addition, the proposed improvements for the Skippool Road/A585 roundabout and at Skippool Road/Thornton Hall Mews would be minor benefits of the scheme.
36. A Travel Plan is proposed which would introduce a series of measures and initiatives to help reduce reliance on the use of the private car. SOS&LT consider that the effect of this and the proposal to provide a combined cycle and pedestrian route along the appeal site to its northern boundary with a puffin crossing on Lambs Road would be limited. Nevertheless, these would facilitate linkages to the primary school to the north and the Travel Plan would provide opportunities to use alternatives to car travel.
37. SOS&LT raised concerns about the effect of the proposal on 'red listed' endangered species including farm birds, bats and other flora and fauna. I note the records provided by SOS&LT on species found in and around the area. However, no specific evidence was provided to demonstrate that birds and other species would be disturbed or harmed by the development including those which potentially use the designated sites of the Wyre Estuary and Morecombe Bay. As part of the planning application an Ecological Survey and Assessment<sup>3</sup> was submitted and was reviewed by the Greater Manchester Ecological Unit (GMEU) and it was considered by the GMEU that it was undertaken to a satisfactory standard. The Council raised no objections on these grounds. A condition which would secure a number of biodiversity enhancements as part of the development has also been proposed. Subject to this, I consider there is no reason to disagree with the Council on this matter.
38. I have found that the proposal would cause harm to the character and appearance of the area particularly at the local level. This weighs against the scheme. However, even when taken cumulatively the adverse effects of the proposed scheme would not significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework as a whole. Of particular importance is the provision of market and affordable homes which would address the housing need within the Borough and would help to reduce the housing supply deficit.

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<sup>3</sup> ERAP Ltd, June 2014

## Other matters

39. I have considered the s106 planning obligation in the light of the statutory tests contained in Regulations 122 and 123 of the Community Infrastructure Levy Regulations (CIL). The s106 planning obligation would be necessary to make the development acceptable in planning terms, is directly related to the development and fairly related in scale and kind. From the information provided by the County Council, the education contributions will be spent on projects where there has only been one other s106 obligation for both the primary and secondary schools. The contribution for the bus service and Travel Plan relate specifically to the scheme. I am satisfied that the obligation satisfies Regulation 123 of the CIL. I have taken the s106 planning obligation into account in coming to my decision.
40. I understand local residents and other interested parties are concerned that the scheme may be part of a larger site being considered by the appellant. Residents also referred to other potential proposals for development on separate parcels of land nearby and the consequences this all may have for infrastructure provision. However, this appeal is not the forum to test strategic levels of housing or infrastructure delivery. I have considered the development of the appeal site alone taking into account the policies of the development plan and any other material considerations.
41. I have been referred to a number of appeal decisions, including an appeal at Land at Worthen<sup>4</sup> and High Court and Court of Appeal judgements. Consistency between decision makers is important. Some of these have features in common with the appeal proposal and refer to housing land supply, character and appearance and sustainability amongst other things. However, each of these cases also has different factors which affect the nature of those developments and the decision makers' conclusions. In any event, I have considered the proposal on its own merits.

## Conditions

42. Planning conditions are set out in the statement of common ground between the appellant and the Council and were discussed at the Inquiry. I have considered the conditions in the light of the tests set out in paragraph 206 of the Framework and the Planning Practice Guidance. Where necessary, I have amended the suggested conditions in order to comply with the tests and to ensure clarity. The Council suggested conditions which would be before commencement of development. I have amended the order of the conditions to reflect this.
43. I have imposed a condition specifying the relevant drawings as this provides certainty. Given that the application is in outline, a condition is needed to ensure that the matters reserved for future approval remain subject to the Council's approval. It is reasonable and necessary to require the reserved matters approval within the standard time limits. A condition relating to a scheme for the phasing of development is also needed.
44. Due to the sloping nature of the site a condition is needed in relation to proposed ground, slab and finished floor levels. It is clear that the appellant intends that at least 30% of the new dwellings will be affordable homes.

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<sup>4</sup> APP/L3245/A/14/2220992



Taking into account of the position that overall phasing has yet to be established; a condition to secure the delivery and the arrangements for its phasing, management and occupation is therefore required.

45. Conditions are necessary to ensure that the site is adequately drained. Therefore I have attached separate conditions requiring separate surface water drainage scheme and foul sewage schemes to be implemented in accordance with each phase. As there are hedges and trees adjoining and within the appeal site protection measures are necessary during construction works. In respect of protecting the behaviour of bats a condition is needed in relating to limiting light pollution during construction and operational development.
46. In the interests of enhancing the nature conservation opportunities of the site a condition is needed for the submission and implementation of a Landscape and Habitat Creation plan. I have amended this condition to refer to the relocation of the hedgerow on Lambs Road which was discussed at the Inquiry and to ensure the implementation of the plan. A desk top study indicated that due to the nature of the former uses on site a condition is needed for site investigation of contamination, including remedial works and verification of those works if needed. A condition is needed to control the effects of construction works on neighbour's living conditions in the form of a Construction Environmental Management Plan.
47. In the interests of sustainability a condition is needed in relation to the submission and implementation of a Framework and Full Travel Plan. I agree that a condition requiring a scheme for the construction of all site access and the off-site works of highway improvements is needed. At the Inquiry it was agreed that the condition should refer to the plans showing the improvements at Thornton Hall Mews and the Skippool roundabout.
48. In order to reduce the risk of flooding, a condition is needed to ensure the mitigation measures contained within the Flood Risk Assessment are carried out. In the interests of biodiversity it is necessary to attach a condition relating to a survey of the existing buildings for evidence of barn owls and the submission of a method statement to the Council should they be found in the buildings.
49. In order to protect the character and appearance of the area and ensure access for all to the scheme, it is necessary for each phase to be accompanied by a Design and Access Statement. In the interests of highway safety, a condition is needed to ensure that visibility splays are not affected by any planting.
50. A condition was suggested relating to protecting birds' nests from construction works. However, this is not needed as it is covered by other legislation and I have therefore not attached it.

## **Conclusion**

51. I have concluded that the proposed development would cause harm to the character and appearance of the area. However, the proposal would not cause harm to highway safety and I have also concluded that the Council are unable to demonstrate a five year supply of housing land and that there are no adverse impacts which significantly and demonstrably outweigh the benefits. In accordance with paragraph 14 of the Framework when the three dimensions

of sustainable development are considered together, the proposal would be sustainable development to which the presumption in favour applies.

52. For these reasons and having regard to all other matters raised, I conclude that the appeal should be allowed and that outline planning permission should be granted.

*L Gibbons*  
INSPECTOR

Richborough Estates

## **APPEARANCES**

### **FOR THE LOCAL PLANNING AUTHORITY:**

Killian Garvey of Counsel, instructed by Wyre Borough Council

He called:

Councillor Tom Ingham

The following person took part in the roundtable discussion on conditions and planning obligations on behalf of the Council

Jonathan Pennick                      Urban Vision

### **FOR THE APPELLANT:**

Vincent Fraser of Queens Counsel, instructed by Paul Sedgwick of Sedgwick Associates

He called:

Clare Brockhurst FLI

Amjid Khan

Paul Sedgwick

Tyler Grange

White Young Green

Sedgwick Associates

### **INTERESTED PERSONS:**

Barry Hart

Ashley Cutts

Susan Walker

Jeremy Walker

Howard Phillips

Cllr John Shedwick

Save our Stanah and Little Thornton

Save our Stanah and Little Thornton

Save our Stanah and Little Thornton

Save our Stanah and Little Thornton

Thornton Action Group

(Amounderness Division) Lancashire County Council

Mr Alf Clempson

on behalf of Ben Wallace MP and also as a Lancashire County Councillor (Poulton-le-Fylde)

Mr Jim Swain (BA, Msc (Dist) CQP, MCQI)

Wendy Wade

Emma Sydney

Cllr Peter Gibson

Mr B Stevenson

Local Resident

Local Resident

Leader, Wyre Borough Council

Local Resident

## **DOCUMENTS SUBMITTED DURING THE INQUIRY**

- 1 Notification of the Inquiry submitted by Mr Garvey
- 2 Planning Obligation dated 26 July 2016 submitted by Mr Fraser
- 3 Rebuttal Proof of Evidence by Amjid Khan on Highway and Transport Matters submitted by Mr Fraser
- 4 Analysis of Housing Need and 5 Year Housing Land Supply in Wyre Addendum revised tables and Appendix 12 Statement of Common Ground and Appendix 13 Planning Committee Minutes 6 July 2016 submitted by Mr Cutts
- 5 Thornton Action Group spreadsheet of Survey Results submitted by Mr H Phillips
- 6 Thornton Action Group Projected Populations based on LPA Housing Requirements submitted by Mr H Phillips

- 7 Stroud District Council v Secretary of State for Communities and Local Government [2015] EWHC 488 (Admin) submitted by Mr Garvey
- 8 Suffolk Coastal District Council v Hopkins Homes Limited v Secretary of State for Communities and Local Government; Richborough Estates Partnership LLP v Cheshire East Borough Council, Secretary of State for Communities and Local Government [2016] EWCA Civ 168 submitted by Mr Garvey
- 9 Letter from Lancashire County Council to J Pennick dated 11 June 2015 submitted by Mr Walker
- 10 Letter from Highways Agency to J Pennick dated 19 January 2015 submitted by Mr Walker
- 11 Community Infrastructure Levy Regulation 122 – Compliance Statement submitted by Mr Garvey
- 12 Response to pre-Inquiry Questions submitted by Mr Garvey
- 13 Written Statement submitted by Cllr J Shedwick
- 14 Appendices to written statement– emails, correspondence and reports on education provision and traffic implications submitted by Cllr J Shedwick
- 15 Written Statement on behalf of Ben Wallace MP submitted by Mr Clempson
- 16 Written Statement submitted by Mr Clempson as County Councillor
- 17 Cawrey Limited v Secretary of State for Communities and Local Government, Hinckley and Bosworth Borough Council [2016] EWHC 1198 (Admin) submitted by Mr Garvey
- 18 Closing Statement on behalf of Thornton Action Group submitted by Mr Phillips
- 19 Closing Statement on behalf of Save Our Stanah and Little Thornton submitted by Mr Hart
- 20 Closing submissions on behalf of Wyre Borough Council submitted by Mr Garvey
- 21 Closing submissions on behalf of the Appellant submitted by Mr Fraser

## **SCHEDULE OF CONDITIONS**

- 1) Application for approval of the reserved matters for each phase shall be made to the Local Planning Authority not later than three years from the date of this permission and the development must be begun not later than the expiration of two years from the final approval of the reserved matters, or, in the case of approval on different dates, the final approval of the last such matter to be approved.
- 2) No development for which outline planning permission hereby granted shall be started on any phase within the development until full details of the following reserved matters, in respect of that phase within the development, have been submitted to and approved in writing by the Local Planning Authority:
  - i) Appearance;
  - ii) Scale;
  - iii) Layout; and,
  - iv) Landscaping.

The development shall be carried out as approved.

- 3) The development hereby permitted shall be carried out in accordance with the following approved plans: 14-029-OS-01 (Red Line Plan); A087347-P008 Rev A and A087347-SK002 Rev B.
- 4) No development shall commence until a phasing scheme for the development, including highways works, which sets out the sequence in which the various elements of the development will be constructed and brought into use. The development shall be implemented in accordance with the approved phasing scheme.
- 5) No development shall commence until details of the proposed ground, slab and finished floor levels have been submitted to and approved in writing by the Local Planning Authority. The scheme shall be constructed and completed in accordance with the approved details.
- 6) No development shall commence until a scheme for the provision of affordable housing as part of the development has been submitted to and approved in writing by the Local Planning Authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex 2 of the National Planning Policy Framework or any future guidance that replaces it. The scheme shall include:
  - i) the numbers, type, tenure and location on the site of the affordable housing provision to be made which shall consist of not less than 30% of housing units/bed spaces;
  - ii) the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;
  - iii) the arrangements for the transfer of the affordable housing to an affordable housing provider [or the management of the affordable housing];

- iv) the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
  - v) the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.
- 7) Prior to the commencement of the development hereby approved, a surface water drainage scheme for each phase, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, shall be submitted to and approved in writing by the Local Planning Authority. The drainage strategy should demonstrate the surface water run-off generated up to and including the 1 in 100 year critical storm will not exceed the run-off from the undeveloped site following the corresponding rainfall event. The approved scheme shall subsequently be implemented in accordance with the phasing details as provided by condition 4. The scheme shall also include details of how the scheme will be maintained and managed by whom after completion.
  - 8) Prior to the commencement of the development hereby approved, a scheme for the disposal of foul waters within the site shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall thereafter be implemented in accordance with phasing details as provided by condition 4.
  - 9) No development shall commence on site until a scheme which provides for the retention and protection of trees, shrubs and hedges within the site (or overhanging the site) which may be affected by the construction process, with the exception of those trees, shrubs and hedges clearly shown to be felled on the submitted plan, and any other trees the removal of which is approved through the approval of reserved matters applications, has been submitted to and approved in writing by the Local Planning Authority. The agreed protection measures shall remain in place until all development is completed within the phasing details as provided by condition 4 and no work, including any form of drainage or storage of materials, earth or topsoil shall take place within the perimeter of such protective fencing.
  - 10) Prior to the commencement of development hereby approved a scheme of site lighting to demonstrate avoidance of light pollution/artificial illumination during the construction and operational phases of development upon retained trees and hedgerows shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in full and maintained and retained thereafter.
  - 11) Prior to the commencement of development a Landscape and Habitat Creation Scheme shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall subsequently be implemented in accordance with the phasing details as provided by condition 4. The approved scheme shall identify the opportunities for biodiversity enhancement including:
    - i) Species rich hedgerow planting;
    - ii) Bolstering existing hedgerows and the relocation of the hedgerow on Lambs Road;

- iii) Wildflower seeding along hedge bottoms and fields boundaries;
  - iv) Bat boxes;
  - v) Bird boxes; and,
  - vi) Native tree and shrub planting.
- 12) Prior to the commencement of development a site investigation report shall be submitted to and approved in writing by the Local Planning Authority. The investigation shall address the nature, degree and distribution of land contamination on site and shall include an identification and assessment of risk to receptors focusing primarily on risks to human health and the wider environment. Details of any proposed Remedial Works shall be submitted to and approved in writing by the Local Planning Authority. Such remedial works shall be incorporated into the development during the course of construction and completed prior to the occupation of the development. A Verification Report shall be submitted to and approved in writing by the Local Planning Authority. The Verification Report shall validate that all remedial works undertaken on that phase were completed in accordance with the work agreed by the Local Planning Authority. The development shall be implemented in full accordance with the approved details.
- 13) No development shall commence, including any works of demolition, until a Construction Environmental Management Plan (CEMP) has been submitted to, and approved in writing by the Local Planning Authority. The approved CEMP shall be adhered to throughout the construction period to manage and mitigate the main environmental effects and in accordance with the phasing details as provided by condition 4. The CEMP shall provide for:
- i) The time of construction on site and deliveries to the site shall be restricted to the hours of 08:00 to 18:00 Monday to Friday; 08:00 to 13:00 on Saturdays and no construction shall take place and no deliveries or other vehicles shall visit the site on Sundays and Bank Holidays;
  - ii) The parking of vehicles of site operatives and visitors (all within the site), times of access/egress, penalties (arriving early/not parking within the site);
  - iii) loading and unloading of plant and materials;
  - iv) storage of plant and materials used in constructing the development;
  - v) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
  - vi) wheel washing facilities;
  - vii) measures to control the emission of dust and dirt during construction and procedures to be adopted in response to complaints of fugitive dust emissions;
  - viii) a scheme for recycling/disposing of waste resulting from demolition and construction works;
  - ix) measures to prevent disturbance to adjacent dwellings from noise and vibration, including any piling activity;
  - x) measures to prevent the pollution of water courses;
  - xi) the routing of construction vehicles and deliveries to the site; and

xii) On-site management presence.

- 14) No development shall commence until a Framework Travel Plan has been submitted to and approved in writing by the Local Planning Authority. The provisions for the Framework Travel Plan shall be implemented and operated in accordance with the timetable contained therein. The Framework Travel Plan must include a schedule for the submission of a Full Travel Plan within a suitable timeframe of first occupation, the development being brought into use or other identifiable stage of development. Where the Local Planning Authority agrees a timetable for the implementation for the Framework or Full Travel Plan, the elements are to be implemented in accordance with the approved timetable. All elements shall continue to be implemented at all times thereafter for as long as any part of the development is occupied or used/for a minimum of at least 5 years.
- 15) No part of the development hereby approved shall commence until a scheme for the construction of all site access and the off-site works of highway improvements has been submitted to and approved in writing by the Local Planning Authority. The details shall include the provision of two new bus stop shelters, signalised pedestrian crossing, lighting and new access roundabout on Lambs Road; two active speed signs at Thornton Hall Mews and Skippool Road improvements in accordance with drawing A087347-P011; A585 (Skippool Roundabout) improvements in accordance with drawing A087347-P009 Rev C and priority junction and lighting on Raikes Road. The site accesses and off-site highway works shall be constructed and completed as per the scheme as part of this condition.
- 16) No part of the development hereby approved shall commence until a scheme for the construction of internal access roads, cycleway and footway networks has been submitted to and approved in writing by the Local Planning Authority in consultation with the Highways Authority. The scheme shall satisfy the needs of all elements of the site and be constructed in accordance with the approved details and thereafter retained.
- 17) The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (ref: WAI09 Rev 1 dated 14 May 2014) and the mitigation measures detailed within the Flood Risk Assessment. The mitigations measures for that phase of development as provided by condition 4 shall be fully implemented prior to the occupation of any dwelling within that phase.
- 18) Prior to the demolition of existing buildings a pre-demolition survey of the buildings should be carried out for evidence of barn owls. If barn owls are found, a method statement shall be prepared and submitted to the Local Planning Authority for approval providing details of how harm to barn owls shall be avoided during the course of demolition works. The approved method statement shall thereafter be implemented in accordance with the phasing details as provided by condition 4.
- 19) Any application for the approval of reserved matters for any phase of development shall be accompanied by a Design and Access Statement for that phase and shall set out the design principles and concepts that have been applied include the appearance, scale, layout and landscaping of the



development. Development of each phase of development shall be carried out in accordance with the approved details.

- 20) There shall not be at any time in connection with the development hereby approved be planted hedges, trees or shrubs over 1 metre above the road level within any visibility splay required to maintain safe operation for all users.

Richborough Estates