
Appeal Decision

Hearing held on 25 October 2016

Site visit made on 25 October 2016

by Kenneth Stone BSc DipTP MRTPI

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

Decision date: 07 December 2016

Appeal Ref: APP/G2435/W/15/3137258

**Land on East Side of Butt Lane, Blackfordby, Asgby-de-la-Zouch,
Leicestershire DE11 8BH**

- 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 Mr Guy Mansfield against the decision of North West Leicestershire District Council.
 - The application Ref 15/00083/OUTM, dated 30 January 2015, was refused by notice dated 6 July 2015.
 - The development proposed is described as 'an Outline application with all matters reserved except for access, incorporating residential development (up to 81 dwellings) associated open space (incorporating community infrastructure) and drainage infrastructure'.
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Decision

1. The appeal is allowed and outline planning permission, with all matters reserved except for access, is granted for residential development (up to 81 dwellings) associated open space (incorporating community infrastructure) and drainage infrastructure at Land on East Side of Butt Lane, Blackfordby, Ashby-de-la-Zouch, Leicestershire DE11 8BH in accordance with the terms of the application, Ref 15/00083/OUTM, dated 30 January 2015, subject to the conditions contained in the schedule at the end of this decision.

Application for costs

2. At the Hearing an application for costs was made by Mr Guy Mansfield against North West Leicestershire District Council. This application is the subject of a separate Decision.

Procedural matters

3. The application which is the subject of this appeal was submitted in outline with all matters reserved except for access. The application was accompanied by a site location plan, C9772.13.001A which identified the site included within a red line area; and a site access layout plan, F13152/02 Rev B which provided details of the access arrangements. These two plans are the plans on which the Council took its decision. A proposed site plan, C9772.14.760, also accompanied the application but this was for illustrative purposes only and I have treated it as such.
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4. A certified copy of a signed and executed Unilateral Undertaking under section 106 of the Town and Country Planning Act 1990, as amended, dated as 25th October 2016, was submitted at the end of the hearing. I address the matters related to this below.
5. An addendum to the Statement of Common Ground was submitted at the hearing which amongst other matters updated the position on the emerging North West Leicestershire Local Plan which has now been published and submitted for examination, following the determination of the application. It was however agreed that whilst its policies can now be afforded weight, this would amount to no more than little weight, in respect of this appeal, and that these policies would not lead to a different outcome being reached on this appeal. Given the early stage of the plan and that it has yet to be tested and found sound I agree that the policies can be afforded little weight and would not affect the outcome of this appeal.
6. The Council refused planning permission for the development as the proposal related to an undeveloped greenfield site outside the limits of development, remote from services which would constitute un-sustainable development. However, the Council have withdrawn this reason for refusal and no longer contest the appeal.
7. The Statement of Common Ground makes it clear that the Council now accept that, for the purposes of this appeal, it cannot demonstrate a 5 year supply of housing land. It further agrees that the Council cannot therefore rely on policy S3 of the local plan for the reason the site lies outside of the limits to development. On this basis it is further agreed that paragraph 14 of the National Planning Policy Framework (the Framework) is engaged, and that the parties agree that the development represents sustainable development and therefore planning permission should be forthcoming, subject to conditions and a planning obligation.
8. A number of other matters were raised by interested parties at the hearing, including matters related to flooding, highways, accessibility to facilities and matters related to the validity of the appeal and the ability of the appellant to undertake work to certain footpath links.

Main Issue

9. On the basis of the above the main issue in this appeal is therefore whether the appeal site is an appropriate location for housing with regard to the development plan and the Framework.

Reasons

Housing Land supply and planning policy

10. There has been no evidence submitted that would conflict with the evidence of the main parties and the position being adopted that the Council cannot, for the purposes of this appeal, demonstrate a 5 year supply of housing land. I therefore have no evidence before me that would lead me to a different conclusion and conclude, for the purposes of this appeal, that the Council cannot demonstrate a 5 year supply of land for housing in accordance with paragraph 47 of the Framework.

11. Paragraph 47 of the Framework seeks to boost significantly the supply of housing. It identifies that Councils should ensure that their local plans meet the full, objectively assessed needs for market and affordable housing in the housing market area, as far as is consistent with the policies of the Framework. In addition, they must identify and update annually a supply of specific deliverable sites sufficient to provide a 5 year supply of land for housing against their housing requirements, with an additional buffer of either 5% or 20% (moved onward from later in the plan period), to ensure choice and competition in the market for land.
12. Following the Council's decision not to defend its reasons for refusal, it was common ground at the hearing that the Council was unable to demonstrate the provision of a 5 year supply of land for housing, measured against its housing requirements.
13. Policy S3 of the North West Leicestershire Local Plan, adopted in August 2002, is a saved countryside policy that seeks to restrict development outside the limits to development; only allowing development where it is in effect related to countryside matters. The appellant contends that the plan has passed its end date and that the Council cannot identify a 5 year supply of housing. The Council do not dispute these facts. In that regard relevant policies for the supply of housing are out of date, including policy S3 which identifies restrictions related to settlement boundaries. The weight attached to this policy is therefore significantly reduced. Given that its principle purpose is to restrict development and that the Council is failing to meet its needs, I afford the policy little weight. The Council is seeking to address the position through the adoption of a new plan, which is at examination. The situation may well be resolved in the future with the adoption of the emerging plan, however, in the interim I afford the restrictive policy little weight given the pressing need to significantly boost the supply of housing, where no other significant purpose of the policy has been identified to me.
14. In these circumstances, paragraph 14 of the Framework states that, the presumption in favour of sustainable development means that planning permission should be granted, unless any adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole or unless specific Framework policies indicate development should be restricted.
15. The provision of up to 81 dwellings, which would include 30% affordable housing, would make a significant contribution to the supply of housing in the context of the Council being unable to identify a 5 year housing land supply. This weighs significantly in favour of the proposal.

Location and access to facilities

16. Bladfordby is a small rural village in North West Leicestershire. It is relatively close to other villages in the wider rural hinterland. The appellant has produced a local facilities plan, as appended to the Statement of Common Ground. This sets out the distances and routes to various local facilities either in Blackfordby or the surrounding, nearby, settlements of Moira or Woodville. The statement of common ground makes clear that the Council agree that the site is not in a location which is remote from services and facilities and that the facilities proximity plan accurately illustrates the availability of and routes by

which access to a range of services and facilities, within convenient walking distances, can be achieved.

17. The local facilities plan identifies a range of services and facilities including schools, nursery, doctor's surgery, convenience shops, social and cultural facilities, including Public Houses and Churches, as well as employment locations. All of these are located within 2 Km and many are located within 1 Km.
18. Concerns are raised by local residents related to a number of the facilities relied upon in terms of safe routes to access such and spare capacity at the facilities. In particular with the local primary schools and doctors surgery. The appellant advised at the hearing that the local surgery were still taking patients and this was not disputed by the objectors.
19. In terms of St Margaret's primary school concerns were expressed that it was already over capacity and the site was constricted and would not be able to accommodate further extension. In terms of the next closest primary at Moira concerns were expressed at the walking route in terms of distance and safety.
20. The County Council have required financial contributions for additional school places and the appellant has agreed to pay the contributions. The County Council say the primary school contribution would be put to either St Margaret's or Moira dependant on a feasibility study. There is also a payment to provide for additional capacity improvements at the local High School, Ivanhoe College, and an upper school education contribution towards Ashby School. These are formula based calculations related to dwellings, occupancy and child yield and are thereby directly related to the scale and nature of the development. These are secured in the Unilateral Undertaking. I am satisfied that the contributions would address the need that arises from the development and are therefore necessary they therefore meet the CiL and Framework tests and I take them into account in my decision.
21. Whilst the access to Moira is along a narrow footpath, there is a dedicated footpath with reasonable visibility along a straight stretch of road. Whilst it is narrow it is sufficient to allow for pedestrians and pushchairs to be accommodated. Parents may choose to drive children to school but the distance and route is not such that would prevent such access.
22. To encourage use of means other than the private car the appellant has provided a travel plan which includes various incentives including free bus passes for a temporary period. There are also improvements to the nearest bus stops proposed to encourage use of the buses, including the installation of real time information and physical improvements to the stops. All of the travel plan measures and bus stop improvements are secured through the Unilateral Undertaking, including financial contributions, were required, including for monitoring. I am satisfied that these meet the appropriate CiL and Framework tests and will assist in underpinning and improving the sustainability credentials of the development. I have therefore taken them into account in my decision.
23. Locational sustainability is concerned with reducing the need to travel this may not necessarily eliminate the need, but the aim should be to reduce to the lowest possible level. The Framework identifies that to promote sustainable development in rural areas, housing should be located where it will enhance or

maintain the vitality of rural communities. It advises that where there are groups of smaller settlements, development in one village may support services in a village nearby. The proposals would not be isolated development in the Countryside but contiguous with the settlement of Bladfordby, the services in that settlement and surrounding settlements would be supported by the proposed development and they would in turn assist in supporting the community that would be introduced. In the absence of a 5 year housing land supply, development outside the settlement boundary but adjacent to it and supported by and supporting surrounding services and facilities is appropriate. I therefore conclude that the proposed development would be an appropriate location for housing with regard to the development plan and the Framework.

Other matters

24. The appeal site is located within the catchment area of the River Mease a Special Area of Conservation under the EC Habitats Directive. It is designated for its internationally important habitats and species. Poor water quality has been identified as a threat to the ability of the river to support the internationally important features, mainly due to the high levels of phosphorous. The Council along with adjacent local authorities the Environment Agency, Severn Trent Water and Natural England have implemented a River Mease Developer Contribution Scheme to fund various schemes to improve water quality and enable the conservation objectives for the SAC to be met. This first scheme enabled an identified amount of development to come forward whilst contributing towards programmes that would improve water quality and result in restricted phosphorous limits entering the river system. That scheme has now reached its limits and a second scheme has been developed and recently adopted by the Council referred to as the Developer Contribution Scheme 2 (DCS2). Severn Trent Water, Natural England and the Environment Agency have developed a solution to pump sewage flows out of the River Mease system in future years and this will take some time to develop in the interim the second tranche of the developer contribution scheme will enable further development to take place by funding further schemes to improve water quality and limit phosphorous input into the system.
25. The Appellant has provided for the contributions required under DCS2, through the Unilateral Undertaking, and has thereby met the requirements of the scheme. The contributions are justified on the basis of the calculation relating directly to the effect resultant from the development based on the number of dwellings and the payments are directed towards activities to improve the favourable conservation status of the River Mease SAC. The Contribution scheme details the nature of these actions and demonstrates they are not infrastructure under the terms of the Community Infrastructure Levy pooling restrictions and therefore not precluded by those. On this basis I have taken these contributions into account as they meet the CiL regulation 122 and paragraph 204 Framework tests and are not precluded by CiL regulation 123.
26. Concerns have also been raised in respect of the effect of the development on flooding in the village. The Framework requires that development should be avoided in areas at the highest risk of flooding. New development should be steered to areas with the lowest probability of flooding. It is further advised that local planning authorities should ensure that flood risk is not increased elsewhere.

27. The application was supported by a Flood Risk Assessment and the application was the subject of consultation with the Environment Agency, Natural England and Severn Trent Water as well as the Local Planning Authority and the County Council (Lead Local Flood Authority); none objected to the application. The appeal site is located in Flood Zone 1, the lowest flood zone.
28. Whilst it is not contested that the site is within Flood Zone 1 residents point to flooding events that have occurred in the village over the years and are concerned at the capacity of the existing surface water and foul water systems to cope with the additional demand, thereby leading to potential increases in flooding events. There are concerns that historic flooding events have not been properly documented, that the existing systems in terms of physical parameters, pipe diameters, direction of flow etc are not fully understood and that capacities at times of extreme flood events have been compromised by culverting, along with generally a lack of capacity to deal with such matters.
29. The Flood Risk Assessment considers overland flows, surface water runoff and capacities dealt with by the watercourses and combined sewers. The proposed drainage system suggests interceptor drains along the north and western boundaries to deal with water from the higher ground coming across the site, and within the site a system feeding into balancing ponds at the south eastern corner of the site; the low point of the site. The balancing ponds would be fitted with a hydro brake such that run off from the site would be restricted below the current runoff level.
30. The FRA demonstrates that there would be no on-site flooding and that with managed site levels and floor levels the proposed properties could be safe guarded from future flooding events. In terms of the effect on flooding elsewhere, with an appropriate designed system the potential run off from the site can be restricted and thereby not add to or overload the existing system over what is presently there. In that context this demonstrates the required policy position of not resulting in increased flood risk elsewhere, indeed there are potentially some improvements with restrictions that will reduce run off rates from the site.
31. The application was reviewed by competent authorities in the context of the Environment Agency, Severn Trent Water and the Council and County Council. None of those bodies objected in terms of such impacts. Whilst the objectors point out that the lack of a response is not agreement, similarly the lack of a comment is not an objection. If such concerns were to be expressed this should have resulted in an objection to or concerns being raised about the scheme, and it did not.
32. The application is in outline with all matters reserved for future consideration. The FRA demonstrates that in principle suitable measures can be employed to safeguard the development and surrounding area from an increased risk of flooding. The details of any future scheme will need to be designed and developed and this can take on board more detailed design constraints and considerations at the time of a fully engineered solution, which will be subject to further scrutiny and an opportunity to ensure it meets the appropriate requirements; this can be secured by condition. With these safeguards in place I am satisfied that this is not an impediment to the scheme proceeding.
33. Local concerns were expressed about the additional traffic that would be generated by the development and its impact both on the village and the wider

highway network and in particular some close by junctions. The appellant produced a Transport Assessment at the time of the application and a further addendum report, there was also a sustainability technical note and a travel plan, some of the details I have already referred to above. There was a further Transport Statement and a Statement of Common Ground on Highways and Transportation Matters submitted as part of the appeal documentation. The application is in outline with all matters except for access reserved. The Highway Authority accept that the development could be served by a single T-junction access, as shown, and that the development would not lead to a severe impact on the surrounding highway network.

34. Concerns have been raised that the observed vehicle speeds are below those of actual speeds and that other evidence demonstrates that vehicle speeds are significantly higher. The design of the junction provides for sight lines at the observed speeds which is above the 30 mph speed limit for the road. There are no objections from the Highway Authority and the access is designed to address observed data. Whilst other data has been referred to this has not been submitted in evidence and there has been no further work undertaken to address the speed levels identified. Indeed there is evidence before me of a request to implement road safety measures by local residents that was denied by the Highway Authority as there was no reason for such. On the basis of the information before me I am satisfied that the proposed access and visibility splays are safe.
35. The Unilateral Undertaking also includes for the provision of an equipped play area and for a national forest area. These matters include provisions for the transfer of such to public sector control if proposed. I am satisfied that these are required to meet the policy provisions of the Council and the local area and are reasonable and related to the development. They therefore meet the appropriate tests of the CiL regulations and the Framework and I have taken account of them in my decision.
36. It was suggested that at the time the appeal was submitted the appellant altered the scheme to introduce alternative matters to address sewage disposal in the absence of the DCS2 scheme being formally adopted. It was suggested this did not allow for proper consultation and consideration by affected parties and therefore failed the Wheatcroft¹ principles. The alternative drainage solutions to address foul drainage were submitted at the time of the appellant's hearing statement and were therefore in the public domain. This gave parties the opportunity to consider the matters and indeed the Council received comments on these matters from the Environment Agency. In any event the DCS2 scheme was adopted and the proposals now rely on a financial contribution and the terms of that scheme to address this issue and therefore the alternatives are no longer necessary as part of the scheme.
37. The question of the validity of the original application and therefore by implication the appeal was raised. I understand such concerns had previously been raised with the Council and indeed were also raised on a previous application. Concerns were expressed around the appropriate notice to be served and that in failing to do so the applicant had failed to follow the correct procedure. It was clear that the issue of ownership was a matter of contention between those involved however the appellant contended that no prejudice had

¹ Bernard Wheatcroft Limited v S of S for the Environment and Another (1982) 43P & CR233.

occurred. The party raising the issue was present at the hearing and had submitted representations on the application and appeal. They were fully aware of the scheme and had engaged in the planning process at both application and appeal stage. They were present and put forward their views at the hearing and I agree that their position was not prejudiced by the fact that notice was not served upon them. On this basis I see no reason not to proceed with the determination of the appeal.

38. The planning benefits of the scheme include the additional housing, including affordable housing, employment during construction, increased consumer spending and income in area from future residents, increased patronage of nearby services and facilities. The development also addresses the impact on services through the Unilateral Undertaking, albeit these are not directly benefits of the scheme as they are addressing the effects of the development.

Conclusion and conditions

39. I have found that the Council cannot demonstrate a five year supply of housing land and therefore that policies for the supply of housing are out of date. Paragraph 14 of the Framework is engaged and therefore planning permission should be granted unless any adverse impacts of the doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
40. As a point of clarity the site is located in the river Mease SAC however the Unilateral Undertaking includes provisions to ensure that there is no likely significant effect and that the actions would assist in restoring the favourable conservation status of the area. In this regard specific policies in the Framework do not indicate that development should be restricted.
41. Taking everything into account the benefits are considered in the light of a shortfall in housing provision as the Council is unable to demonstrate a 5 year supply of housing land. There has been no significant harm that has been identified. Whilst concerns have been expressed in terms of Flooding, Highway impacts and lack of services, amongst other matters, I have found that the scheme would not make the situation worse or potentially result in slight improvements in these matters. In this regard the adverse impacts of granting planning permission would not significantly and demonstrably outweigh the benefits of the proposed development when weighed against the policies in the Framework as a whole and therefore permission should be granted.
42. I have considered the conditions identified in the Statement of Common Ground and as discussed at the hearing in light of the advice contained in the Planning Practice Guidance and the Framework. The standard outline implementation conditions, removing access, are proposed; however the time limits are amended to two and one year respectively. This is suggested to bring forward development and have an immediate effect on the five year housing land supply and to ensure that the development is implemented quickly and does not hold up capacity in DCS2. These are reasonable requirements. It is necessary to require a master plan for the whole site to ensure development takes place in a consistent and comprehensive manner. In addition it is necessary for the avoidance of doubt and in the interests of proper planning to detail the plans with which the scheme should accord.

43. The reserved matters should demonstrate compliance with Building for Life 12 through an assessment and this should be required by condition. An ecological management plan should be secured to ensure protection of wildlife. A condition is required to limit the development in the context of its description to ensure no more than 81 dwellings are built. A programme of archaeological work is required to protect or record buried remains and a site investigation report related to historic coal mining is required to ensure the stability of the land.
44. Conditions are required in respect of arboricultural matters to protect trees within the site and on adjoining land as well as to address works to trees, in the interests of amenity and the health of the trees.
45. Various conditions related to highways and traffic matters including construction traffic, a travel plan, visibility splays are required to ensure the development does not cause highway safety issues and reduces or minimises the need to travel by the private car. A land contamination assessment and verification report are required to ensure the land is fit for purpose and accords with the objectives of the Framework. A similar report needs to address the potential effect on controlled waters.
46. Drainage details for surface water, mains sewers and infiltration are required to ensure that flooding and sewage disposal are adequately dealt with. Finally conditions are required in respect of removal of vegetation and construction mitigation measures to reduce the impact of the proposal on breeding birds on site and the potential for Great Crested Newts in the adjacent drainage basin.
47. A Condition on upgrading of a public footpath was originally suggested but the Local Planning Authority, appellant and residents were concerned about the authority to undertake the work outside of land not in the appellant's control. There was some discussion of this at the hearing and whilst the County Council maintained its request for the condition to be included there was no certainty as to the legal basis of the actions that would be required. On this basis I am not going to impose such a condition. The upgrading of the footpath does not go to the heart of the decision or the accessibility level of the site and therefore the lack of a condition secure such works is not fatal to the decision.
48. For the reasons given above I conclude that the appeal should be allowed.

Kenneth Stone

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Andrew Bypass	Of Counsel instructed by Christopher Lindley
Christopher Lindley BA(Hons), MSc, MRTPI	DPDS Consulting
Mark Bullen BEng(Hons)	Canham Consulting
Chris Bancroft adv.Dip TS FCILT	Bancroft Consulting

FOR THE LOCAL PLANNING AUTHORITY:

Timothy Leader	Of Counsel instructed by Sima Odedra
Sima Odedra	Planning Solicitor North West Leicestershire District Council
Ebbony Mattley BA, MA	Senior Planning Officer North West Leicestershire District Council
Andrew Tyrer	Section 106 Officer Leicestershire County Council
Simon Hill	Highways Engineer, Leicestershire County Council

INTERESTED PERSONS:

Robert Nettleton	Local Resident
Michael McCrea	Local Resident
Mary Tuckey	Ashby-de-la-Zouch Town Council
Sam McKendrick	Local Resident
David Whetton	Local Resident
William Chesterton	Local Resident
Shirley Kibble	Local Resident

DOCUMENTS

- 1 List of appearances submitted by appellant
- 2 Minutes of Committee meeting adopting The River Mease Water Quality Management Plan Developer Contributions Scheme 2. Including a copy of the officer report and a copy of the adopted developer contribution scheme document. Submitted by NWLDC.

- 3 Addendum to Canham Consulting Hearing Statement relating to adoption of DCS2, submitted by appellant.
- 4 Addendum to Statement of Common Ground to address adoption of DCS2 and publication version of NWL Local Plan. Including appendices of a copy of The version of the NWL Local Plan and a schedule of proposed minor modifications. Submitted by appellant.
- 5 Copy of access plan F13152/02 Rev B, submitted by appellant at Inspectors request.
- 6 Appeal decision letter APP/G2435/W/16/3151499 submitted by the appellant.
- 7 Outline of the Town Council's objections to the proposals submitted by Mary Tuckey
- 8 Written outline of application for costs by the appellant
- 9 Certified copy of executed Unilateral Undertaking dated 25th October 2016.

Richborough Estates

Schedule of conditions for Appeal APP/G2435/W/15/3137258

- 1) Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of two years from the date of this permission and the development hereby permitted shall begin before the expiration of one year from the date of approval of the last of the reserved matters to be approved.
- 2) Approval of the details of the layout, scale and appearance of the development and landscaping of the site (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority in writing before any development is commenced.
- 3) The reserved matter application(s) shall include precise details of finished ground levels across the site and the finished floor levels of all buildings in relation to an existing datum point.
- 4) Notwithstanding Conditions 1, 2 and 3 above, the first reserved matters application shall include a masterplan for the whole of the site setting out indicative details of site layout, areas of open space/children's play, surfacing and width of footpaths through the site, landscaping, density parameters and scale, as well as details of any proposed phasing of development. All subsequent reserved matters applications shall be in accordance with the approved masterplan unless any alteration to the masterplan is first agreed in writing by the Local Planning Authority. All development of the site shall thereafter be undertaken in accordance with the agreed phasing and timetable details (or any alternatives subsequently agreed in writing by the Local Planning Authority).
- 5) The first reserved matters application shall be accompanied by a further Building for Life 12 assessment.
- 6) The first reserved matters application in respect of the matter of landscaping shall provide for an ecological/landscape management plan, including long-term design objectives, management responsibilities and maintenance schedules for all landscaped areas (except privately owned domestic gardens), together with a timetable for its implementation. The development shall be carried out in accordance with the landscape management plan, or in accordance with any subsequent variations first submitted to and agreed in writing by the Local Planning Authority.
- 7) The proposed development shall be carried out strictly in accordance with the following drawings, unless otherwise required by a condition of this permission: Drawing number C9772.13.001 Rev A (Site Location Plan); Drawing number F13152/02 Rev B (Proposed Site Access Layout) received by the Authority on 05 February 2015.
- 8) A total of no more than 81 dwellings shall be erected.

- 9) No development shall take place/commence until a programme of archaeological work, commencing with an initial phase of trial trenching, has been detailed within a Written Scheme of Investigation, submitted to and approved by the Local Planning Authority in writing. The scheme shall include an assessment of significance and research questions; and:
- a. The programme and methodology of site investigation and recording (including the initial trial trenching, assessment of results and preparation of an appropriate mitigation scheme)
 - b. The programme for post-investigation assessment
 - c. Provision to be made for analysis of the site investigation and recording
 - d. Provision to be made for publication and dissemination of the analysis and records of the site investigation
 - e. Provision to be made for archive deposition of the analysis and records of the site investigation
 - f. Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.

No development shall take place other than in accordance with the approved Written Scheme of Investigation.

- 10) The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition (9) and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.
- 11) No development shall commence on site until a full and detailed site investigation and assessment has been carried out, at the developer's expense, and as set out in the Coal Mining Risk Assessment by Smith Grant LLP (dated March 2014), and submitted to the local Planning Authority. In the event that the site investigations confirm the need for remedial works to treat the mine workings, and/or any other mitigation measures to ensure the safety and stability of the proposed development, no development shall commence on site until details of such works have been submitted to and agreed in writing by the local Planning Authority and implemented at the site.
- 12) No work shall commence on site until trees on and adjacent to the site have been securely fenced off with protective barriers to form a construction exclusion zone in accordance with BS5837:2012 Trees in relation to design, demolition and construction, in accordance with a Tree Protection Plan. The Tree Protection Plan shall be submitted to and approved in writing by the Local Planning Authority. Within the protected areas there shall be no

alteration to ground levels, no compaction of the soil, no stacking or storing of any materials and no service trenches shall be dug unless first agreed in writing by the Authority.

- 13) No development shall commence on site until a detailed scheme of pruning works to be carried out in accordance with BS3998:2010 Tree Work - Recommendations have been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed scheme.
- 14) No works or development shall take place until an auditable system of arboricultural site monitoring by the appointed project arboriculturist has been approved in writing by the Local Planning Authority. This scheme will be appropriate to the scale and duration of the works and will include details of: (select as appropriate)
 - a. Induction and personnel awareness of arboricultural matters
 - b. Identification of individual responsibilities and key personnel
 - c. Statement of delegated powers
 - d. Timing and methods of site visiting and record keeping, including updates
 - e. Procedures for dealing with variations and incidents.
 - f. The scheme of supervision shall be carried out as agreed.
 - g. The scheme of supervision will be administered by a qualified arboriculturist instructed by the applicant and approved by the local planning authority.
- 15) Before first occupation of the development hereby permitted, drainage shall be provided within the site such that surface water does not drain into the Public Highway and thereafter shall be so maintained.
- 16) No development shall commence on the site until such time as a construction traffic management plan, including wheel cleansing facilities and vehicle parking facilities, and a timetable for their provision, has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details and timetable.
- 17) No part of the development as approved shall be occupied until details of an updated Residential Travel Plan has been submitted to and agreed in writing by the Local Planning Authority. The Plan, once agreed, shall be implemented in accordance with the approved details, and thereafter, the implementation of the proposals and the achievement of targets of the Plan shall be subject to regular monitoring and review reports to the LPA and, if invoked, to the implementation of the specified additional measures.

- 18) Before first use of the development hereby permitted, visibility splays of 2.4m metres by 46/48m metres shall be provided at the junction of the access with Butt Lane in general accordance with Bancroft Consulting plan F13152/02 rev B. These shall be in accordance with the standards contained in the current County Council design guide and shall thereafter be permanently so maintained. Nothing shall be allowed to grow above a height of 0.6 metres above ground level within the visibility splays.
- 19) No development shall commence on site until a Risk Based Land Contamination Assessment has been submitted to and approved in writing by the local Planning Authority, in order to ensure that the land is fit for use as the development proposes. The Risk Based Land Contamination Assessment shall be carried out in accordance with:
- a. BS10175:2011+A1:2013 Investigation Of Potentially Contaminated Sites Code of Practice;
 - b. BS 8576 Year 2013 Guidance on Investigations for Ground Gas- Permanent Gases and Volatile Organic Compounds (VOCs)
 - c. BS8485 Year 2007 Code of Practice for the Characterisation and Remediation from Ground Gas in Affected Developments; and
 - d. CLR 11 Model Procedures for the Management of land Contamination, published by The Environment Agency 2004.

Should any unacceptable risks be identified in the Risk Based Land Contamination Assessment, a Remedial Scheme and a Verification Plan must be prepared and submitted to and agreed in writing by the Local Planning Authority. The Remedial Scheme shall be prepared in accordance with the requirements of:

- e. CLR 11 Model Procedures for the Management of land Contamination, published by The Environment Agency 2004.

The Verification Plan shall be prepared in accordance with the requirements of:

- f. Evidence Report on the Verification of Remediation of land Contamination Report: SC030114/RI, published by the Environment Agency 2010;
- g. CLR 11 Model Procedures for the Management of Land Contamination, published by The Environment Agency 2004.

The development shall be carried out in accordance with the agreed Remedial Scheme and Verification Plan.

If, during the course of development, previously unidentified contamination is discovered, development must cease on that part of the site and it must be reported in writing to the Local Planning Authority within 10 working

days. Prior to the recommencement of development on that part of the site, a Risk Based Land Contamination Assessment for the discovered contamination (to include any required amendments to the Remedial Scheme and Verification Plan) must be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be implemented in accordance with the approved details and retained as such in perpetuity, unless otherwise agreed in writing by the Local Planning Authority.

- 20) Prior to occupation of any part of the completed development, a Verification Investigation shall be undertaken in line with the agreed Verification Plan for any works outlined in the Remedial Scheme and a report showing the findings of the Verification Investigation relevant to either the whole development or that part of the development shall be submitted to and approved in writing by the Local Planning Authority. The Verification Investigation Report shall:
- a. Contain a full description of the works undertaken in accordance with the agreed Remedial Scheme and Verification Plan;
 - b. Contain results of any additional monitoring or testing carried out between the submission of the Remedial Scheme and the completion of remediation works;
 - c. Contain Movement Permits for all materials taken to and from the site and/or a copy of the completed site waste management plan if one was required;
 - d. Contain Test Certificates of imported material to show that it is suitable for its proposed use;
 - e. Demonstrate the effectiveness of the approved Remedial Scheme; and
 - f. Include a statement signed by the developer, or the approved agent, confirming that all the works specified in the Remedial Scheme have been completed.
- 21) Operations that involve the destruction and removal of vegetation shall not be undertaken during the months of March to September inclusive, unless otherwise agreed in writing by the Local Planning Authority, to ensure that breeding birds will not be adversely affected by any works.
- 22) No construction works shall commence on the site until a construction mitigation scheme to protect Great Crested Newts in the adjacent drainage basin, to include precise details of any mitigation measures and a timetable for their implementation, has been submitted to and agreed in writing by the local Planning Authority. The development shall be carried out strictly in accordance with any agreed mitigation measures and timetable.

- 23) No development shall take place until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the local Planning Authority. The drainage scheme should demonstrate the surface water run-off generated up to and including the 100 year plus 30% (for climate change) critical rain storm will not exceed the run-off from the undeveloped site following the corresponding rainfall event. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.

The scheme shall include:

- a. Surface water drainage system/s to be designed in accordance with either the National SUDs Standards, or CIRIA C697 and C687, whichever are in force when the detailed design of the surface water drainage system is undertaken.
 - b. A minimum 4m wide watercourse corridor/easement protection to existing ditch course/surface water flow routes to the south eastern (rear of properties on Fenton Avenue) and south western (adjacent to Butt Lane) boundaries within the site- including trash screens to existing surface water culvert inlets (where necessary) designed in accordance with the trash/security screen guide 2009.
 - c. Limiting the surface water run-off generated by all rainfall events up to the 100 year plus 30% (for climate change) critical rain storm so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site.
 - d. Provision of surface water run-off attenuation storage to accommodate the difference between the allowable discharge rate/s and all rainfall events up to the 100 year plus 30% (for climate change) critical rain storm.
 - e. Detailed design (plans, cross, long sections and calculations) in support of any surface water drainage scheme, including details on any attenuation system, and the outfall arrangements.
 - f. Details of how the on-site surface water drainage systems shall be maintained and managed after completion and for the lifetime of the development, to ensure long term operation to design parameters.
- 24) The development hereby approved shall only use the mains sewer system for its foul drainage discharge.
- 25) No development approved by this planning permission shall take place until a remediation strategy that includes the following components to deal with

the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the Local Planning Authority:

- a. A site investigation scheme, based on the findings of the contamination assessment (report ref. R1956-R01-v2, dated February 2014) and mining risk assessment (letter ref. R1956-L02/afs, dated 13th March 2014), both prepared by Smith Grant LLP, to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
- b. The results of the site investigation and the detailed risk assessment referred to in (a.) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
- c. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (b.) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express written consent of the Local Planning Authority. The scheme shall be implemented as approved.

- 26) No infiltration of surface water drainage into the ground is permitted other than with the express written consent of the local planning authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters. The development shall be carried out in accordance with the approval details.

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