

Appeal Decisions

Hearing held on 9 February 2017

Site visits made on 8 and 9 February 2017

by John Felgate BA(Hons) MA MRTPI

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

Decision date: 15th March 2017

APPEAL A: Ref. APP/W0340/W/16/3159722

Land known as 'Lakeside', off The Green, Theale, Berkshire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Central Corporation Estates Ltd, Central Corporation Securities Ltd, Alliance Security (The Green) Ltd, and Insistmetal2 Ltd, against West Berkshire Council.
 - The application Ref 15/02842/OUTMAJ, is dated 12 October 2015.
 - The development proposed is: "residential development of up to 325 houses and apartments (including 70 extra-care units), with associated access, parking, amenity space and landscaping".
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APPEAL B: Ref. APP/W0340/W/16/3163215

Land known as 'North Lakeside', off The Green, Theale, Berkshire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Central Corporation Estates Ltd, against West Berkshire Council.
 - The application Ref 16/01846/OUTMAJ, is dated 30 June 2016.
 - The development proposed is: "residential development comprising the erection of 25 dwellings with associated access, parking, and landscaping works".
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Decisions

1. Appeal A is allowed and planning permission is granted for residential development of up to 325 houses and apartments (including 70 extra-care units), with associated access, parking, amenity space and landscaping, on land known as 'Lakeside', off The Green, Theale, Berkshire, in accordance with the terms of the application, Ref 15/02842/OUTMAJ, dated 12 October 2015, subject to the conditions set out in Schedule 1 to this decision.
2. Appeal B is allowed and planning permission is granted for residential development comprising the erection of 25 dwellings with associated access, parking, and landscaping works, on land known as 'North Lakeside', off The Green, Theale, Berkshire, in accordance with the terms of the application, Ref 16/01846/OUTMAJ, dated 30 June 2016, subject to the conditions set out in Schedule 2 to this decision.

Costs applications

3. At the Hearing, applications for costs were made by the appellants, against the Council, in respect of both appeals. These applications will be the subject of a separate Decision.
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APPEAL A

Procedural matters

4. The planning application in Appeal A initially sought outline permission with all matters reserved except for access. This was subsequently amended, while the application was still with the Council, so that all matters including access are now reserved.
5. A number of plans have been submitted in support of the application, including 'parameter plans' relating to layout and building heights. Notwithstanding that layout and scale are reserved matters, the parties are agreed that these parameter plans should be incorporated into any permission by way of a condition. The application is also accompanied by indicative plans showing open space, parking, and possible access arrangements, and at the hearing it was agreed that these are purely illustrative.
6. The application originally specified that permission was sought for 325 houses and apartments. The description was subsequently amended to include the words "up to". This change is agreed by both parties.

Planning background

7. The site known as 'Lakeside' comprises about 8.5 ha of former mineral workings. The site has been disused since the 1990s, and the central part is now a lake. It lies on the edge of the village of Theale, a large village with a good range of shops, services, and sustainable transport opportunities, including a railway station. The site has its main frontage to The Green, which was once part of the A4, but has been down-graded since the village was by-passed. The site also has a secondary access from St Ives Close, and a shared boundary with a short private cul-de-sac also known as The Green.
8. The majority of the Lakeside site is covered by three existing planning permissions for residential development, comprising 350 dwellings on the southern part¹, plus 7 dwellings to the rear of St Ives Close², and 2 dwellings adjacent to No 41 The Green³. It is agreed that all three of these permissions remain extant. Together these permissions cover the whole of the present appeal site except for the area to the north of the lake and west of the private cul-de-sac section of The Green. The whole site also benefits from an earlier permission for a business park, on which a lawful start was made under a reserved matters approval granted in 2002⁴.

Relevant policies

9. In the saved policies of the West Berkshire District Local Plan (the WBDLP) adopted in 2002, the appeal site is outside the defined boundary of Theale. WBDLP Policy HSG1 provides that housing development will normally be permitted within settlement boundaries.
10. In the West Berkshire Core Strategy (the WBCS), adopted in 2012, Area Delivery Plan (ADP) Policy 1 states that most development will be within or adjacent to settlements included in the settlement hierarchy. Theale is

¹ Council ref. 04/01219/FULMAJ (appeal ref. APP/W0340/A/06/2030163)

² Council ref. 14/02195/OUTD (appeal ref. APP/W0340/W/15/3033307)

³ Council ref. 06/00236/FULD

⁴ Council ref. 01/01266/RESMAT

identified as a Rural Service Centre, the second tier of the hierarchy. ADP Policy 4 states that the Eastern Area will accommodate 1,400 new homes in order to support the growth of Reading and to sustain services in Theale. A 'broad location' for these homes is identified on the Area Diagram, and the appeal site is within this general area. Policy CS1 provides that new homes will be developed primarily on strategic sites and at the identified broad locations.

11. The draft Housing Site Allocations Plan (the HSAP) has passed through a public examination and proposed main modifications were consulted on in December 2016 to January 2017. The modifications propose that the whole of the appeal site be included within the Theale settlement boundary. This proposed change is not subject to any unresolved objections, and therefore carries substantial weight.

Main issues

12. At a meeting of the Eastern Area Planning Committee in January 2017, it was resolved that the Council would support the grant of planning permission, subject to conditions, and subject to various obligations being entered into.
13. The appellants have subsequently entered into two alternative legal undertakings. Both undertakings contain identical provisions for on-site affordable housing, open space and an education contribution, matching the Council's requirements. These main provisions are acceptable to the Council, but the education contribution is disputed by the appellants. The undertakings are subject to a provision that if the education contribution is found to be unjustified, unnecessary or inappropriate, it shall not take effect, and instead the amount of on-site affordable housing shall be increased.
14. The undertakings also make provision for a possible additional contribution towards off-site affordable housing, based on a revised viability assessment, at the stage where the development is 90% complete. The differences between the two undertakings relate to the methodology for calculating 'overage' in this revised assessment. The parties disagree as to which of these respective methodologies should be adopted. The Council has stated that it is willing to allow one or other of the undertakings to be cancelled, depending on the outcome of this appeal.
15. In the light of these respective positions, and all the submissions made, the main issues in the appeal are therefore:
 - Whether the education contribution specified in the undertakings meets the relevant legal and policy tests for planning obligations;
 - And which of the undertakings is to be preferred, with regard to the alternative methods of calculating the overage.

Reasons for decision

Whether the education contribution meets the tests for planning obligations

Regulation 123

16. The relevant regulations for the purposes of the appeal are those in the Community Infrastructure Levy (CIL) Regulations 2010. Regulation 123(2) states:

"(2) A planning obligation may not constitute a reason for granting planning permission.... [where] the obligation provides for the funding or provision of relevant infrastructure."

17. 'Relevant infrastructure' is defined as:

"(a) Where a Charging Authority has published.... a list of infrastructure projects or types of infrastructure that it intends will be, or may be, wholly or partly funded by CIL, those infrastructure projects or types of infrastructure."

18. In West Berkshire, the CIL regime was brought into effect locally from April 2015. The Regulation 123 List, which came into effect from the same date, lists the '*Projects or types of infrastructure to be funded from CIL receipts*', and one of these is '*Education, including: ...Primary and Secondary Education*'. In most cases therefore, primary and secondary schools will be 'relevant infrastructure'.
19. In the present case, the contribution sought by the Council, by way of a Section 106 obligation, would be for three additional classrooms at the planned new Theale Primary School. That project clearly falls within the general infrastructure type envisaged under the heading of Primary and Secondary Education. The Regulation 123 List sets out certain specific exclusions, for which funding is to be sought through Section 106 or other statutory provisions, instead of CIL. Three Primary and Secondary Education projects are identified, and these are therefore not 'relevant infrastructure', but Theale Primary School is not amongst these.
20. In addition, the List then specifies certain other exclusions, of a more general nature, and one of these is '*the delivery of facilities or infrastructure required off-site but required solely as a result of any large-scale development*'. I accept that large-scale development could be held to include the Lakeside scheme. But since the List does not contain any definition or size threshold, this is not something that can be said with any certainty. The Council states that the question is to be decided on a case-by-case basis, but this merely confirms that there is some element of doubt.
21. If the appeal scheme were judged not to be large-scale, the Council could, if it chose to, fund the additional classrooms at Theale Primary School out of CIL receipts, including the CIL payment which will be due from the appeal scheme itself. The Council says that it would not do this, because of other priorities, but there is nothing in the Regulation 123 List which prevents the project from being paid for wholly or partly in that way. In any event, given the lack of certainty to the contrary, it is difficult to escape the conclusion that the project for which the S.106 payment is required is one which '*may*' be either wholly or partly funded by CIL'.
22. In addition, it is salient in the present case that although the S.106 contribution is said to be for the 'expansion' of the new school, this is something of a moot point, because at present the new school itself is still only a future project. From the evidence before me, the school has been planned with an overall capacity for 420 places. The contribution sought from the appeal scheme would directly fund 90 of these places, and would indirectly trigger the fitting out of a further 15, but all of these would be part of the 420 which are planned in total. The potential need for the additional space, arising from the Lakeside development, has been known since 2007 when the original

350 dwelling scheme was permitted. The land needed for the new school, including that for the additional classrooms, is apparently all to be acquired in a single tranche, and was all included for the purposes of gaining planning permission. The land acquisition is to be funded by a contribution already made by the Lakeside development, related to the earlier permission. The school may be built in phases, with the three additional classrooms following after the main building programme, but that remains to be seen, as no firm programme appears to have been defined.

23. It is therefore by no means clear on what basis the additional classrooms for which the S.106 payment is now sought would in fact be a separate project. They could equally be seen as part and parcel of a single project for the new school as a whole. Although the Council says that no part of the school will be funded from CIL, it is nevertheless both a project and a type of infrastructure that falls within the scope of the Regulation 123 List. As such, it may be wholly or partly funded by CIL.
24. I conclude that the purpose of the education contribution sought by the Council would be for the provision of 'relevant infrastructure', as defined in Regulation 123. Consequently, given that a CIL charging regime is also in place, any such contribution under a S.106 obligation cannot lawfully be taken into account in granting planning permission, and it follows that such a contribution cannot properly be required. In this case therefore, the education contribution falls foul of Regulation 123.

Regulation 122

25. Regulation 122 of the same Regulations requires that any planning obligation must be necessary to make the development acceptable in planning terms, and directly related to the development, and fairly and reasonably related to it in scale and kind. These same tests are stated as a matter of national policy in paragraph 204 of the National Planning Policy Framework (NPPF).
26. In the present case, the Council argues that the additional 3 classrooms for Theale School would not be needed but for the Lakeside development, but would become necessary because of it. The existing village school is only 1-form entry (1 FE). Without Lakeside, the Council says it would build the new replacement school as a 1.5 FE, whereas with the development they propose to increase it to 2 FE.
27. In forecasting the need for places, the Council has evidently been hampered by what it sees as an unexplained anomaly in the data on future pupil numbers, which particularly affects the Theale Ward. Due to problems with the external supplier of the data, the Council was unable to obtain clarification. As a result of this, the Council has made some assumptions of its own, and has planned for a continuation of past trends. It has also attempted to corroborate these assumptions through local intelligence. In the circumstances, it may be that there was little more that the Council could have done. But nevertheless, it does seem that the forecasting process has been somewhat compromised. If, despite the Council's suspicions, the data were in fact correct, the future numbers would be significantly lower, and there is no concrete evidence that this is not the case. At the hearing it was acknowledged that the numbers in any area will fluctuate over time, and thus past trends are not necessarily a good guide to the future.

28. In addition, it is acknowledged that Theale School draws significant numbers of pupils from other catchment areas, and the Council has based its forecasts on this inward movement continuing at its present level. The Council defends this on the basis of ensuring that parental choice is maintained, and I appreciate how important a factor that may be to local residents. But nonetheless, it seems to me that the decision to plan new capacity on this basis is a policy choice, rather than an essential need, especially when some other nearby schools are forecast to have spare capacity in excess of their requirements. The decision to accommodate so many out-of-catchment children at Theale is a choice that the Council is entitled to make, but in the evidence currently presented, the effects of that choice are not fully transparent.
29. Putting these two factors together, the Council has not demonstrated that the Lakeside development could not be accommodated without expanding the new school beyond 1.5FE. I have no doubt that, from an educational point of view, the additional accommodation that they are seeking to provide is desirable. The extra space would provide additional choice for parents and increased flexibility for the school. But these are matters for the Council. Merely being advantageous is not the same as being necessary. The Council is perfectly entitled to expand Theale School to 2 FE if it considers the benefits worthwhile, but that does not necessarily mean that it is entitled to recoup the whole cost from this particular development, especially if there is a reasonable possibility that it could be accommodated in a less costly way.
30. Furthermore, according to the Council, the appeal scheme would generate 83 primary school age children. Even if this were correct, this would be less than the number of additional places for which the Council is seeking funding. I appreciate that school places can only be physically provided in classroom-sized increments. But it seems to me that this is precisely why Authorities are encouraged to deal with such matters through the CIL regime, so that developer contributions can be made directly proportionate to the scale of the development. In any event, the payment being sought in the present case is larger than would be needed simply to mitigate the development's own impact.
31. Moreover, the calculation of 83 children ignores the fact that 70 of the new dwellings are proposed to be extra-care units. The argument that the Council could not prevent these from becoming family units strikes me as somewhat disingenuous. Any reserved matters submission which failed to accord with the outline permission would have to be refused. So too is the contention that, even with a condition limiting occupancy to over-55s, there might still be dependent children of primary school age. For all practical purposes, the likelihood of that occurring is small. Taking account of the extra-care element, the pupil yield would only be around 76. This reinforces my concern that the contribution sought by the Council is disproportionate.
32. Finally I turn to the question of double-charging. The Planning Practice Guidance (PPG) makes it clear that requests for obligations should not give rise to what it calls 'double-dipping', either actual or perceived. In the present case, the development would be liable for a CIL charge, which was said to be in excess of £2m. The education contribution now sought by the Council under S.106 is for a further sum of around £1.4m. Irrespective of whether the CIL payment is spent on Theale School, it will be available to spend on primary education in the district. If the development were to make the S.106 payment, then it seems to me that this could justifiably be perceived as a form of double-

charging. The development would not only be paying to mitigate its own educational impact, through S.106, but would also be contributing through CIL to other primary school infrastructure unrelated to the development.

33. I appreciate that the Council's CIL tracking system allows it to ensure that the CIL payment from this development could be directed only to other types of relevant infrastructure rather than education. However, it would still form part of the same 'pot' from which education funding would be drawn. It would thus be contributing twice to the funds available for that purpose.
34. At the hearing, the Council maintained vigorously that double-charging or 'double dipping' can only occur as and when the money collected is actually spent. To my mind this argument is spurious. Self-evidently, double charging is primarily about the cost that falls on the person or company paying the bill. It would therefore occur as soon as money for a particular project or infrastructure type is collected twice from the same development. In the present case this would occur, or be perceived to occur, if the Section 106 contribution were allowed to stand.
35. I have had regard to the Council's supplementary guidance⁵, but I find nothing in this to outweigh the matters that I have set out above.
36. For these reasons therefore, I conclude that the proposed education contribution has not been shown to be necessary to make the appeal scheme acceptable; nor to be directly related to the development; nor to be fairly and reasonably related to it in scale and kind. As such, the contribution would be contrary to Regulation 122, and cannot lawfully be required, or taken into account.

Conclusion on the education contribution

37. For the reasons set out above, I conclude that the proposed education contribution fails to meet the relevant legal and policy tests for planning obligations, as contained in the CIL Regulations, under both Regulations 122 and 123, and in NPPF paragraph 204.
38. Having regard to the terms of the submitted undertakings themselves, the above conclusions mean that the education contribution is unjustified, unnecessary and inappropriate. As such, I have given no weight to it in coming to my decision on the appeal. I also note that this finding triggers the alternative provision for an enhanced level of on-site affordable housing.

The 'overage method' issue

39. The two alternative undertakings differ as to the method of calculating the 'overage', on which the amount of the off-site affordable housing contribution, if any, is to be based. The overage is essentially a measure of the additional profitability that the scheme may achieve over the course of development, beyond the level that was assumed for the purposes of the original viability appraisal, on which the level of on-site affordable housing was based.
40. In the version preferred by the appellants, the overage calculation would be based on a reassessment of the original baseline appraisal, taking account of all actual costs and receipts, including actual land acquisition costs. The

⁵ Planning Obligations Supplementary Planning Document, adopted December 2014

revised appraisal would also include updating the expectations as to developer's profit margin, in the light of any changes to accepted market norms. The alternative version excludes any changes to the land acquisition costs or developer profit.

41. I appreciate that over the life of a large development such as the Lakeside scheme, economic and market conditions may change, and assumptions made some years ago may become out of date. But by and large, these possible future changes are expected to be factored into the original viability appraisal, and the level of risk should thus be reflected in the assumptions made then as to the likely profit margin. Furthermore, viability appraisals, at any stage of a development, are often time-consuming and resource-intensive in nature, for all parties. For this reason, extending their scope beyond what is necessary is not to be undertaken lightly.
42. In the present case, a full viability appraisal has already been carried out and agreed, after fairly lengthy negotiations. There is a risk that revisiting matters that have already been dealt with, in what appears to have been a reasonable and satisfactory manner, would put a disproportionate burden on the planning system.
43. In any event, there is no evidence that widening the scope of the revised appraisal, in the manner sought by the appellants, is necessary to ensure that the development is able to proceed. Indeed, the revised appraisal would only take place when the scheme is nearly complete.
44. In the absence of any compelling evidence either way, I conclude that preference should be given to the second version of the undertaking⁶, which excludes any further review of land costs or developer profit. I understand that both parties have agreed to treat this finding as binding on them, and consequently that the alternative undertaking will be regarded as cancelled.

Other matters

Other matters relating to the undertakings

45. The other obligations contained in the undertakings, relating to on-site open space and affordable housing, are not contested. The affordable housing is less than the level sought by Core Strategy Policy CS6, but this is justified in the light of the previously agreed viability appraisal, and in any event will increase now due to my finding in respect of the education contribution. Based on the evidence before me, I am satisfied that these provisions are fully compliant with all the relevant legal and policy tests for planning obligations, and I have taken them into account accordingly.
46. I note the Council's other concerns with the wording of the undertakings. However, the dispute resolution provisions allow for recourse to the Courts if necessary, and the affordable housing provisions give the Council the right to approve or reject other providers. It is always possible that differences of interpretation could arise over other matters, but the points raised are minor and I see no reason why they cannot be dealt with if and when that occurs.

Matters raised by other interested parties

⁶ Reference 1:\041248\004\Docs\Lakeside_N_&_S_Nos_2_ Uni_Undertakingv01.RSS.docx

47. Based on the parameter plans and indicative plans, the proposed development would be quite intensive over most of the site, with buildings of over 14m high in some parts of the site, and fairly closely spaced in others. However, to the north of the lake, the density and the heights would be lower and more in keeping with the existing properties adjacent to this part of the site. The existing TPO trees and woodland could be retained, and some new open space could be created. The taller buildings would be quite prominent in the landscape, but subject to detailed design, that does not make the development unacceptable, even on a site just outside an AONB, as this is. To my mind, the layout and massing have been worked out with considerable care and skill, creating the basis for an attractive and coherent overall scheme. The development would therefore make good use of land which is otherwise effectively derelict. And although the density is relatively high, the viability appraisal shows that something on this kind of scale is likely to be necessary for the site to be developed at all.
48. Visibility for traffic emerging from St Ives Close is sometimes partly obstructed by parked cars. But planning permission already exists for 7 dwellings with access via this route, and based on the parameter plans for the current proposal, this would not need to change. The majority of the site can be most conveniently served from the main access point, further to the west, and I see no reason to doubt that the Council would be able to resist any greater vehicular use of the Close, on grounds of both highway safety and disturbance to neighbours.
49. The possible use of St Ives Close, or the cul-de-sac section of The Green, by pedestrians would not be likely to cause disturbance on the same scale as vehicles, and any such impact would be partly offset by the benefits of providing good permeability and easy access for future residents. But such matters would be for consideration at the detailed stage. So too would any highway works within the Close itself, or any changes relating to access to or through the existing Anglers' Club car park.
50. I appreciate the points raised by some objectors regarding the living conditions of future residents, especially in those parts of the site closest to the A4 dual carriageway, and the aggregates depot beyond. I particularly note the concerns of one industrial occupier with regard to the potential for complaints. But the extent of any harm will depend on the development's detailed design and layout. And any residual issues can be adequately addressed by conditions.
51. I note the concerns about the existing pressures on doctors' surgeries and other local services. But health services are another infrastructure type which is to be covered by CIL.
52. All other impacts, including on the sewerage network and on wildlife, can be dealt with by conditions.

Conclusion on Appeal A

53. Despite being outside the settlement boundary in the ageing WBDLP, the development would accord with the strategy of the WBCS, embodied in ADP Policy1 and Policy CS1, in so far as these policies support development at Rural

Service Centres and in the identified broad locations. The scheme would therefore accord with the development plan as a whole. The development is also supported by the site's inclusion in the revised boundary in the emerging HSAP, which is at an advanced stage and thus carries substantial weight. And in any event, there are existing permissions for housing on the appeal site, covering most parts of the site and totalling 359 dwellings. Those permissions remain extant, and there is no evidence that they are not capable of being a realistic fallback to the present appeal.

54. The development would bring a large area of derelict land back into use, and would provide a significant number of new homes in a sustainable location. Most of the scheme's potential effects can be adequately mitigated by conditions, and no unacceptable residual impacts have been identified. The two alternative undertakings both make proper provision for open space and affordable housing, and in the circumstances, these add some further weight to the scheme's benefits.
55. Consequently, the proposed scheme's accordance with the development plan is not outweighed by any other considerations, and indeed the overall planning balance strongly favours approval. The Council supports the grant of permission, and in the light of the above, I find no reason to disagree.
56. For the reasons set out in this decision, I have found that the contribution to primary education contained in the undertakings would not accord with the relevant legal and policy tests for planning obligations. However, I am satisfied that as a result of this finding, such a contribution will not be payable.
57. I have also found that, of the two alternative undertakings, the one which is preferable in planning terms is the version containing the more limited provisions as to the scope of the revised appraisal, as identified earlier in this decision. As a result of my finding on this point, it is this second version of the undertaking that should therefore take precedence over the other.
58. Having taken account of all the other matters raised, I conclude that outline planning permission should be granted, subject to conditions.

Conditions for Appeal A

59. The conditions that I have imposed on the permission granted in Appeal A are set out in Schedule 1 to this decision.
60. A number of draft conditions were proposed by the Council. Due to the large number, my questions on them, and the parties' comments, were dealt with mainly through written submissions after the close of the hearing. Having regard to these submissions, I agree that the majority of the draft conditions are necessary, and meet the other tests in NPPF paragraph 206, although I have edited some in the interests of brevity and clarity.
61. I have imposed a requirement for a phasing plan, to enable a phased approach to the development, and to the discharge of other conditions. A number of the other suggested conditions have also been adjusted to facilitate this approach.
62. Although all detailed matters are reserved, I agree that those details should be guided by the Parameter Plans in respect of building heights and overall layout, to ensure a high standard of development, and to minimise any adverse visual or physical impacts both within and beyond the site. A condition is therefore

imposed accordingly. However, it is not necessary to include any specific requirement for adherence to the approved location plan, since that plan contains no relevant details.

63. A condition securing the provision of the main site access is imposed for reasons of highway safety. Conditions are also imposed to ensure the provision of internal vehicular areas and footways, and storage for cycle s and refuse. These are necessary to ensure a high quality residential environment for future residents.
64. A Construction Environmental Management Plan (CEMP) is needed, to control impacts during construction. Amongst other things, this condition includes controls on the hours of work, and on activities close to the banks of the lake, and since these matters can be adequately covered in the CEMP, separate conditions for them are unnecessary.
65. A requirement for certain off-site pedestrian and cycle improvements is reasonable, in order to promote sustainable transport choices. The implementation of a Travel Plan is also necessary, for the same reason. However, there is no need for the latter condition to require any further details, as the Plan already submitted is adequate.
66. Conditions relating to contamination are imposed, for reasons of protecting human health, given the site's past use for minerals. In this case, I have substituted the recommended model conditions, for the purposes of clarity and consistency. A separate condition relating to piling is also needed, to prevent contamination of groundwater or water infrastructure.
67. A Landscape and Ecological Management Plan (LEMP) is needed to manage and mitigate the impacts on wildlife both during construction and afterwards. However, there is no need for this condition to specify the required measures in detail, because in this case they are adequately identified in the submitted ecological reports. I have also modified the suggested wording to make the monitoring requirements less prescriptive. In addition, separate conditions are needed to give specific protection to bats, through controls on tree works and lighting. A number of further conditions relating to trees are also imposed, to give the trees protection during construction, for both their visual and ecological value.
68. A condition relating to surface water drainage is necessary, to prevent any risk of flooding, and again I have modified the wording to omit unnecessary detail. A further condition relating to foul water drainage is also imposed for similar reasons, and to ensure a good residential environment. A requirement for fire hydrants is necessary, for reasons of public safety.
69. Conditions relating to noise are imposed, to ensure acceptable living conditions within the new dwellings and private amenity areas. I have modified these to incorporate target noise levels, in the interests of greater precision. A requirement for an archaeological investigation is also reasonable, to ensure that any significant remains are properly recorded.
70. In addition to the draft conditions on the Council's list, discussion took place at the hearing regarding a possible restriction on the occupancy of the proposed extra-care units. For the reasons given elsewhere in this decision, I consider

that such a condition is reasonable, to ensure that those dwellings are occupied by persons over 55. I have imposed the condition accordingly.

71. However, in the light of the submissions made, I consider that the suggested condition relating to water supply infrastructure is unnecessary as such matters are covered by other legislation. I have therefore not imposed this condition.
72. Appeal A is therefore allowed, subject to the conditions referred to above and set out in full at Schedule 1.

APPEAL B

73. Appeal B relates to a 1.56 ha sector of the larger Lakeside site, being that part which lies to the north of the lake, and west of the private cul-de-sac section of The Green. As such, the Appeal B site is wholly within the site of Appeal A.
74. Access is proposed to be from the existing main access point on The Green, as shown on plan no. 5232.002. All other matters are reserved, but the submitted plans include a parameters plan which shows building heights and distances from existing buildings and from the lake. The parties agree that these should be incorporated into any permission by way of a condition. All the other submitted plans are agreed to be illustrative.
75. The planning policies relevant to the site are identical to those applying in Appeal A. The Appeal B site is not covered by any of the previous permissions for housing, but in view of my decision to allow the larger Appeal A scheme, that distinction is now immaterial.
76. Following a resolution of the Area Planning Committee in January 2017, the Council's position is that planning permission should be granted, subject to various conditions and obligations.
77. A legal undertaking has been entered into, separate from those in Appeal A, which provides for 10 of the proposed dwellings to be affordable, and for the provision of on-site open space. These substantive provisions are not contested by either party. For the same reasons as in Appeal A, I am satisfied that these provisions are acceptable, and should be taken into account.
78. The Council raises some minor concerns in relation to the undertaking's detailed wording, but for the most part these are the same as in Appeal A, and I have addressed these above. A single additional point is raised, regarding references to the 22nd residential unit, but the references in question have not been identified, and in any event, the point does not appear to be of such substance as to change my view that the undertaking is acceptable.
79. The issues raised by other interested persons fall within the scope of those already considered in relation to Appeal A. The majority of these relate to matters that will be considered at the reserved matters stage. For the reasons already given, I do not find any of these to justify a refusal of outline permission on the terms sought in this appeal.
80. Having taken account of all the matters raised, I conclude that outline planning permission should be granted, subject to conditions.

81. The conditions that I have imposed in the case of Appeal B are set out in Schedule 2. For the most part, these conditions are similar to those in Appeal A, and in those cases the reasons for imposing them are identical. Since access is not a reserved matter, I have included a condition requiring the access works to accord with the submitted details. In this respect I consider that the details already submitted are sufficient for the scale of development proposed in Appeal B. A further condition is also necessary, to prevent vehicular access to the site via the private cul-de-sac and the angling car park, for reasons of safety and the living conditions of existing residents.
82. Appeal B is therefore allowed, subject to the conditions set out in full at Schedule 2.

John Felgate

INSPECTOR

Richborough Estates

SCHEDULE 1: CONDITIONS FOR APPEAL A.

The planning permission hereby granted in respect of Appeal A is subject to the following conditions:

- 1) No development shall take place until a phasing plan, showing how the development is to be divided into phases, has been submitted to the local planning authority and approved in writing. The phasing plan shall also include details of the number of dwellings (including affordable housing units), and the amount of public open space, to be provided within each phase.
- 2) Details of the access, appearance, landscaping, layout, and scale (hereinafter called "the reserved matters"), relating to each phase of the proposed development, shall be submitted to the local planning authority and approved in writing before any development within that phase takes place. The development shall be carried out in accordance with the details thus approved.
- 3) Application for approval of the reserved matters, for the first phase of the development, shall be made to the local planning authority not later than 3 years from the date of this permission. Application for approval of the reserved matters for all subsequent phases shall be made not later than 5 years from the date of this permission.
- 4) The development of each phase shall be commenced not later than 2 years from the date of approval of the last of the reserved matters for that phase to be approved.
- 5) The first reserved matters application shall include details of the primary vehicular access for the site as a whole, which shall be from the existing access point to the west of No 41 The Green. The access shall be laid out and constructed in accordance with these details.
- 6) The details of scale and layout to be submitted under Condition 2 shall generally accord with the parameters shown in the following submitted plans:
 - Building Heights Parameter Plan 30716 A-02-01 Revision P-01; and
 - Layout Parameter Plan 30716 A-02-02 Revision P-01.
- 7) No work on any phase of the development shall take place until a Construction Environmental Management Plan (CEMP) for that phase has been submitted to and approved in writing by the Local Planning Authority. Thereafter the CEMP shall be adhered to throughout the construction period. The statement shall provide for:
 - Temporary construction access arrangements to the site, including any temporary hard-standing and wheel washing facilities;
 - Parking arrangements during construction;
 - Loading and unloading arrangements for construction plant and materials;
 - Storage arrangements for construction plant and materials, including measures to prevent any such storage within 10m from the banks of the lake;
 - A signage strategy for a preferred haul route for construction vehicles;
 - A lighting strategy for the construction phase;

- Erection and maintenance of security hoardings including any decorative displays and facilities for public viewing;
 - Measures to control the emission of dust and dirt;
 - Hours of work for construction operations;
 - A scheme of precautionary measures to protect reptiles during site clearance works;
 - A scheme of ecological and environmental mitigation during construction.
- 8) No piling or any other foundation construction using penetrative methods shall take place other than in accordance with a piling method statement, which shall have been submitted to and approved in writing by the Local Planning Authority. Any such method statement shall include:
- details of the depth and type of excavation or penetration, and the method by which this is to be carried out;
 - evidence that there would be no resultant unacceptable risk to groundwater, or to any underground water utility infrastructure;
 - measures to prevent damage to any subsurface water infrastructure or underlying ground or controlled waters;
 - a programme for the necessary works.
- 9) No more than 100 dwellings in total shall be occupied until a scheme of off-site highways works has been carried out in accordance with details to be submitted to the Local Planning Authority and approved in writing. The scheme shall provide for the following:
- Improvements to the two bus stops on The Green, adjacent to the existing site access, including enclosed bus shelters, high kerbing, relocation of the eastbound bus stop, and widening of the footway to the westbound bus stop to 2 metres in width;
 - A new pedestrian and cycle route from the south-eastern corner of the site to Station Road, running parallel and adjacent to the A4;
 - A new pedestrian crossing facility at Station Road, in close proximity to the end of the aforementioned pedestrian and cycle route.
- 10) The 'Framework Travel Plan' dated January 2016, submitted with the application, shall be implemented in full. No dwelling shall be occupied until the date 6 months after a Travel Plan implementation timetable has been submitted to the Local Planning Authority and approved in writing. The implementation timetable shall specify the programme for bringing into effect each of the measures within the Travel Plan, including the appointment of a Travel Plan Co-ordinator, and the arrangements for future monitoring and review. The Travel Plan and implementation timetable shall thereafter be adhered to as agreed.
- 11) The details of access and layout to be submitted under Condition 2 shall include provision for all necessary estate roads, footways, turning spaces, and vehicle parking. No dwelling shall be occupied until these facilities serving that dwelling have been laid out, surfaced, and brought into use, in accordance with the approved details. The estate roads, footways, turning spaces, and vehicle parking areas shall thereafter be kept available for these purposes at all times.
- 12) The details of access and layout to be submitted under Condition 2 shall include provision for the parking and storage of cycles. No dwelling shall be occupied until the cycle parking and storage facilities for that dwelling have

been provided in accordance with the approved details. The cycle parking and storage facilities shall thereafter be kept available for this purposes at all times.

- 13) The details of access and layout to be submitted under Condition 2 shall include provision for the storage of household refuse. No dwelling shall be occupied until the refuse storage facilities for that dwelling have been provided in accordance with the approved details. The refuse storage facilities shall thereafter be kept available for this purposes at all times.
- 14) No work on any phase of the development shall commence until an assessment of the risks posed by any contamination within that phase shall have been submitted to and approved in writing by the local planning authority. This assessment must be undertaken by a suitably qualified contaminated land practitioner, in accordance with *British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice* and the Environment Agency's *Model Procedures for the Management of Land Contamination (CLR 11)* (or equivalent British Standard and Model Procedures if replaced), and shall assess any contamination on the site, whether or not it originates on the site. The assessment shall include:
 - i) a survey of the extent, scale and nature of contamination;
 - ii) the potential risks to:
 - human health;
 - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes;
 - adjoining land;
 - ground waters and surface waters;
 - ecological systems; and
 - archaeological sites and ancient monuments.
- 15) No work on any phase of the development shall take place where (following the risk assessment) land affected by contamination is found within that phase which poses risks identified as unacceptable in the risk assessment, until a detailed remediation scheme shall have been submitted to and approved in writing by the local planning authority. The scheme shall include an appraisal of remediation options, identification of the preferred option(s), the proposed remediation objectives and remediation criteria, and a description and programme of the works to be undertaken including the verification plan. The remediation scheme shall be sufficiently detailed and thorough to ensure that upon completion the site will not qualify as contaminated land under Part IIA of the Environmental Protection Act 1990 in relation to its intended use. The approved remediation scheme shall be carried out, and upon completion a verification report by a suitably qualified contaminated land practitioner shall be submitted to and approved in writing by the local planning authority, before the relevant phase of development is occupied.
- 16) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These

approved schemes shall be carried out before any work on the relevant phase of the development is resumed.

- 17) No development shall take place until a monitoring and maintenance scheme to demonstrate the effectiveness of the proposed remediation shall have been submitted to and approved in writing by the local planning authority. The scheme shall include a timetable for reporting on each monitoring stage. The approved scheme shall be implemented, and the reports produced as a result, shall be submitted to the local planning authority in accordance with the agreed timetable.
- 18) No development shall take place until the following have all taken place:
- (i) a Landscape and Ecological Management Plan (LEMP) has been submitted to and approved in writing by the Local Planning Authority;
 - (ii) any pre-development requirements within the LEMP have been carried out;
 - (iii) and a contract has been let for the management, monitoring, reporting and supervision of the LEMP.
- Thereafter, the LEMP shall be fully implemented in accordance with the approved details. The LEMP shall cover all of the land within both the red and blue areas shown on Plan No.30716 A-02-000 (Revision P-00), and as a minimum, shall include the following:
- detailed creation and management prescriptions for the meadows, lake edges, and woodland areas, for a period of 25 years;
 - provision for implementing the measures and actions recommended in the following reports, submitted with the application: Section 6 of the *Survey of Invertebrate Interest* by David Clements Ecology Ltd and dated September 2015; Sections 4.12 & 4.14 of the *Ecological Appraisal* by Richard Tofts Ecology Ltd and dated September 2015; and Section 4.9 of the *Bat and Reptile Surveys* by Richard Tofts Ecology Ltd and dated October 2015;
 - identify the measures to be taken in the event that any reptiles are encountered during site clearance or construction;
 - detailed proposals for the eradication of Japanese Knotweed, including a timetable for implementation of such measures;
 - procedures for monitoring, reporting and review, at intervals to be agreed.
- 19) No tree on the site shall be felled until a further bat survey of that specific tree has been carried out, and a report submitted to and approved by the Local Planning Authority in writing. Thereafter, any such felling shall be carried out only in accordance with those approved details, including any necessary mitigation measures.
- 20) No dwelling shall be occupied until a biodiversity-related lighting strategy for that phase of the development has been submitted to and approved in writing by the Local Planning Authority. The lighting strategy for each phase shall identify those areas that are particularly sensitive for bats, and any measures necessary to minimise and mitigate the impact of lighting on them. All external lighting shall be installed in accordance with the details thus approved, and shall thereafter be maintained in accordance with those

details. Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking, re-enacting or modifying that Order with or without modification), no other external lighting (except that expressly authorised by this permission) shall be installed, without the written approval of the Local Planning Authority.

- 21) No work on any phase of the development shall take place until tree protection fencing relating to that phase has been erected in accordance with the details shown on drawing no. 8301/02 and in the arboricultural report by Ian Keen reference AP/8301/AP. Notice of commencement shall be given to the Local Planning Authority at least 2 working days after the erection of the protective fencing, and before any development takes place. The fencing shall be retained for the full duration of the building and engineering works within that phase. Within the areas thus protected, there shall be no excavation, alteration to ground levels, storage of materials, or other construction-related activities of any kind, except with the prior written approval of the local planning authority.
- 22) No work on any phase of the development shall take place until details of the proposed access, roadways, hard surfacing, drainage and services for that phase have been submitted and approved in writing by the Local Planning Authority. Such details shall show how harm to the tree roots within the protected zones is to be avoided. The development shall be carried out in accordance with these approved details.
- 23) No work on any phase of the development shall take place until an arboricultural method statement for that phase has been submitted to the Local Planning Authority and approved in writing. The statement shall include details of the implementation, supervision and monitoring of all temporary tree protection and any special construction works within any defined tree protection area. The development shall be carried out in accordance with these approved details.
- 24) No work on any phase of the development shall take place until an arboricultural watching brief for that phase has been secured, in accordance with a written scheme of site monitoring, which has first been submitted to the Local Planning Authority and approved in writing. Thereafter, site monitoring shall be carried out in accordance with these approved details.
- 25) No work on any phase of the development shall take place until a surface water drainage scheme has been submitted to the Local Planning Authority and approved in writing. The scheme shall incorporate 'sustainable urban drainage' (SUDS) methods and attenuation measures, to restrict run-off from the site to no more than the equivalent greenfield rate, based on a 1 in 100 year storm plus 30% for possible climate change. The scheme shall also include measures to prevent any contamination from entering the soil or groundwater. It shall also provide a SUDS management and maintenance plan for the lifetime of the development, and a timetable for implementation. The surface water drainage scheme shall thereafter be carried out as approved, and no dwelling shall be occupied until the relevant surface water infrastructure serving that dwelling has been installed and brought into operation. Thereafter, the surface water drainage system shall be retained and maintained in proper working order.

26) No work on any phase of the development shall be commenced until a programme of archaeological work for that phase has been implemented in accordance with a written scheme of investigation that has been approved by the Local Planning Authority in writing.

27) The details to be submitted under Condition 2 shall include any measures necessary to limit externally generated noise to the following maximum levels:

- Rear gardens : L_{AeqT} 55 dB
- Living rooms: L_{AeqT} 35 dB
- Bedrooms: L_{AeqT} 30 dB
 L_{Amax} 45 dB

No dwelling shall be occupied until details showing how these levels will be achieved have been submitted to the Local Planning Authority and approved in writing.

28) Noise from the use of plant, machinery or equipment, attached to or forming part of any building, shall not exceed a level of 5dB(A) below the existing background level (or 10dB(A) below if there is a particular tonal quality), when measured according to British Standard BS4142, at a point one metre external to the nearest noise sensitive premises.

29) No work on any phase of the development shall commence until a detailed scheme of foul water drainage has been submitted to the Local Planning Authority and approved in writing. No dwelling shall be occupied until the foul drainage infrastructure to serve that dwelling has been installed and brought into operation in accordance with the approved details.

30) No dwelling on any phase of the development shall be occupied until fire hydrants to serve that phase have been installed in accordance with details to be submitted to the Local Planning Authority and approved in writing.

31) The proposed 'extra-care' units shall not be occupied other than by persons over the age of 55 years, and by the spouse, partner, or dependants of such a person.

SCHEDULE 2: CONDITIONS FOR APPEAL B

The planning permission hereby granted in respect of Appeal B is subject to the following conditions:

- 1) Details of the appearance, landscaping, layout and scale (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the Local Planning Authority before any development is commenced.
- 2) Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of 3 years from the date of this permission. The development shall thereafter be carried out in accordance with the details thus approved.
- 3) The development shall be begun before the expiration of 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The site access shall be laid out and constructed in accordance with the approved plan, Stuart Michael Associates Drawing No. 5232.002 (included within the SMA Transport Statement reference 5458.TS, issue 03, dated May 2016). No dwelling shall be occupied until the access has been provided in accordance with these approved details.
- 5) The details of scale and layout to be submitted under Condition 1 shall generally accord with the submitted Parameters Plan, no. 31814, A-02-002, Revision P-01.
- 6) No development shall take place until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. Thereafter the CEMP shall be adhered to throughout the construction period. The statement shall provide for:
 - Temporary construction access arrangements to the site, including any temporary hard-standing and wheel washing facilities;
 - Parking arrangements during construction;
 - Loading and unloading arrangements for construction plant and materials;
 - Storage arrangements for construction plant and materials, including measures to prevent any such storage within 10m from the banks of the lake;
 - A signage strategy for a preferred haul route for construction vehicles;
 - A lighting strategy for the construction period;
 - Erection and maintenance of security hoardings including any decorative displays and facilities for public viewing;
 - Measures to control the emission of dust and dirt;
 - Hours of work for construction operations;
 - A scheme of precautionary measures to protect reptiles during site clearance works;
 - A scheme of ecological and environmental mitigation during construction.
- 7) No piling or any other foundation construction using penetrative methods shall take place other than in accordance with a piling method statement, which shall have been submitted to and approved in writing by the Local Planning Authority. Any such method statement shall include:

- details of the depth and type of excavation or penetration, and the method by which this is to be carried out;
 - evidence that there would be no resultant unacceptable risk to groundwater, or to any underground water utility infrastructure;
 - measures to prevent damage to any subsurface water infrastructure or underlying ground or controlled waters;
 - a programme for the necessary works.
- 8) There shall be no motorised vehicular access to the site from the existing cul-de-sac road known as The Green, except for access to the to the anglers' car park.
- 9) The details of layout to be submitted under Condition 1 shall include provision for all necessary estate roads, footways, turning spaces, and vehicle parking. No dwelling shall be occupied until these facilities serving that dwelling have been laid out, surfaced, and brought into use, in accordance with the approved details. The estate roads, footways, turning spaces, and vehicle parking areas shall thereafter be kept available for these purposes at all times.
- 10) The details of layout to be submitted under Condition 1 shall include provision for the parking and storage of cycles. No dwelling shall be occupied until the cycle parking and storage facilities for that dwelling have been provided in accordance with the approved details. The cycle parking and storage facilities shall thereafter be kept available for this purposes at all times.
- 11) The details of layout to be submitted under Condition 1 shall include provision for the storage of household refuse. No dwelling shall be occupied until the refuse storage facilities for that dwelling have been provided in accordance with the approved details. The refuse storage facilities shall thereafter be kept available for this purposes at all times.
- 12) No work on any phase of the development shall commence until an assessment of the risks posed by any contamination within that phase shall have been submitted to and approved in writing by the local planning authority. This assessment must be undertaken by a suitably qualified contaminated land practitioner, in accordance with *British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice* and the Environment Agency's *Model Procedures for the Management of Land Contamination (CLR 11)* (or equivalent British Standard and Model Procedures if replaced), and shall assess any contamination on the site, whether or not it originates on the site. The assessment shall include:
- i. a survey of the extent, scale and nature of contamination;
 - ii. the potential risks to:
 - human health;
 - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes;
 - adjoining land;
 - ground waters and surface waters;
 - ecological systems; and
 - archaeological sites and ancient monuments.
- 13) No work on any phase of the development shall take place where (following the risk assessment) land affected by contamination is found within that phase which poses risks identified as unacceptable in the risk assessment,

until a detailed remediation scheme shall have been submitted to and approved in writing by the local planning authority. The scheme shall include an appraisal of remediation options, identification of the preferred option(s), the proposed remediation objectives and remediation criteria, and a description and programme of the works to be undertaken including the verification plan. The remediation scheme shall be sufficiently detailed and thorough to ensure that upon completion the site will not qualify as contaminated land under Part IIA of the Environmental Protection Act 1990 in relation to its intended use. The approved remediation scheme shall be carried out, and upon completion a verification report by a suitably qualified contaminated land practitioner shall be submitted to and approved in writing by the local planning authority, before the relevant phase of development is occupied.

- 14) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before any work on the relevant phase of the development is resumed.
- 15) No development shall take place until a monitoring and maintenance scheme to demonstrate the effectiveness of the proposed remediation shall have been submitted to and approved in writing by the local planning authority. The scheme shall include a timetable for reporting on each monitoring stage. The approved scheme shall be implemented, and the reports produced as a result, shall be submitted to the local planning authority in accordance with the agreed timetable.
- 16) No development shall take place until the following have all taken place:
 - (i) a Landscape and Ecological Management Plan (LEMP) has been submitted to and approved in writing by the Local Planning Authority;
 - (ii) any pre-development requirements within the LEMP have been carried out;
 - (iii) and a contract has been let for the management, monitoring, reporting and supervision of the LEMP.

Thereafter, the LEMP shall be fully implemented in accordance with the approved details. The LEMP shall cover all of the land within both the red and blue areas shown on Plan No.30716 A-02-000 (Revision P-00), and as a minimum, shall include the following:

- detailed creation and management prescriptions for the meadows, lake edges, and woodland areas, for a period of 25 years;
- provision for implementing the measures and actions recommended in the following reports, submitted with the application: Section 6 of the *Survey of Invertebrate Interest* by David Clements Ecology Ltd and dated September 2015; Sections 4.12 & 4.14 of the *Ecological Appraisal* by Richard Tofts Ecology Ltd and dated September 2015; and Section 4.9 of the *Bat and Reptile Surveys* by Richard Tofts Ecology Ltd and dated October 2015;

- identify the measures to be taken in the event that any reptiles are encountered during site clearance or construction;
 - detailed proposals for the eradication of Japanese Knotweed, including a timetable for implementation of such measures;
 - procedures for monitoring, reporting and review, at intervals to be agreed.
- 17) No tree on the site shall be felled until a further bat survey of that specific tree has been carried out, and a report submitted to and approved by the Local Planning Authority in writing. Thereafter, any such felling shall be carried out only in accordance with those approved details, including any necessary mitigation measures.
- 18) No dwelling shall be occupied until a biodiversity-related lighting strategy for that phase of the development has been submitted to and approved in writing by the Local Planning Authority. The lighting strategy for each phase shall identify those areas that are particularly sensitive for bats, and any measures necessary to minimise and mitigate the impact of lighting on them. All external lighting shall be installed in accordance with the details thus approved, and shall thereafter be maintained in accordance with those details. Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking, re-enacting or modifying that Order with or without modification), no other external lighting (except that expressly authorised by this permission) shall be installed, without the written approval of the Local Planning Authority.
- 19) No work on any phase of the development shall take place until tree protection fencing relating to that phase has been erected in accordance with the details shown on drawing no. 8301/02 and in the arboricultural report by Ian Keen reference AP/8301/AP. Notice of commencement shall be given to the Local Planning Authority at least 2 working days after the erection of the protective fencing, and before any development takes place. The fencing shall be retained for the full duration of the building and engineering works within that phase. Within the areas thus protected, there shall be no excavation, alteration to ground levels, storage of materials, or other construction-related activities of any kind, except with the prior written approval of the local planning authority.
- 20) No work on any phase of the development shall take place until details of the proposed access, roadways, hard surfacing, drainage and services for that phase have been submitted and approved in writing by the Local Planning Authority. Such details shall show how harm to the tree roots within the protected zones is to be avoided. The development shall be carried out in accordance with these approved details.
- 21) No work on any phase of the development shall take place until an arboricultural method statement for that phase has been submitted to the Local Planning Authority and approved in writing. The statement shall include details of the implementation, supervision and monitoring of all temporary tree protection and any special construction works within any defined tree protection area. The development shall be carried out in accordance with these approved details.

- 22) No work on any phase of the development shall take place until an arboricultural watching brief for that phase has been secured, in accordance with a written scheme of site monitoring, which has first been submitted to the Local Planning Authority and approved in writing. Thereafter, site monitoring shall be carried out in accordance with these approved details.
- 23) No work on any phase of the development shall take place until a surface water drainage scheme has been submitted to the Local Planning Authority and approved in writing. The scheme shall incorporate 'sustainable urban drainage' (SUDS) methods and attenuation measures, to restrict run-off from the site to no more than the equivalent greenfield rate, based on a 1 in 100 year storm plus 30% for possible climate change. The scheme shall also include measures to prevent any contamination from entering the soil or groundwater. It shall also provide a SUDS management and maintenance plan for the lifetime of the development, and a timetable for implementation. The surface water drainage scheme shall thereafter be carried out as approved, and no dwelling shall be occupied until the relevant surface water infrastructure serving that dwelling has been installed and brought into operation. Thereafter, the surface water drainage system shall be retained and maintained in proper working order.
- 24) No work on any phase of the development shall be commenced until a programme of archaeological work for that phase has been implemented in accordance with a written scheme of investigation that has been approved by the Local Planning Authority in writing.
- 25) The details to be submitted under Condition 2 shall include any measures necessary to limit externally generated noise to the following maximum levels:
- Rear gardens : LAeqT 55 dB
 - Living rooms: LAeqT 35 dB
 - Bedrooms: LAeqT 30 dB
LAm_{ax} 45 dB
- No dwelling shall be occupied until details showing how these levels will be achieved have been submitted to the Local Planning Authority and approved in writing.
- 26) Noise from the use of plant, machinery or equipment, attached to or forming part of any building, shall not exceed a level of 5dB(A) below the existing background level (or 10dB(A) below if there is a particular tonal quality), when measured according to British Standard BS4142, at a point one metre external to the nearest noise sensitive premises.
- 27) No work on any phase of the development shall commence until a detailed scheme of foul water drainage has been submitted to the Local Planning Authority and approved in writing. No dwelling shall be occupied until the foul drainage infrastructure to serve that dwelling has been installed and brought into operation in accordance with the approved details.
- 28) No dwelling on any phase of the development shall be occupied until fire hydrants to serve that phase have been installed in accordance with details to be submitted to the Local Planning Authority and approved in writing.

APPEARANCES

FOR THE APPELLANT:

Mr Ian Sowerby	Bell Cornwell LLP
Mr Oliver Nicholson	EPDS Consultants
Mr Malcolm McPhail	Central Corporation Estates Ltd

FOR THE LOCAL PLANNING AUTHORITY:

Mr Bob Dray	Principal Planning Officer
Mr Bryan Lyttle	Planning & Transport Policy Manager
Ms Fiona Simmonds	Education Place Planning Team Leader

INTERESTED PERSONS:

Mr Norman Tilby	Resident of St Ives Close
Mrs Margaret Tilby	Resident of St Ives Close

DOCUMENTS TABLED AT THE HEARING AND SUBSEQUENTLY

- 1 Unilateral undertaking – Appeal A undertaking No 1
- 2 Unilateral undertaking – Appeal A undertaking No 2
- 3 Unilateral undertaking – Appeal B
- 4 Costs application – Appeal A
- 5 Costs application – Appeal B
- 6 Council's comments on the undertakings, dated 15 February 2017
- 7 The appellants' further comments on the undertakings, dated 15 February 2017
- 8 Council's response to the costs applications, dated 17 February 2017
- 9 Appellants' final comments on costs applications, received 20 February 2017
- 10 Appellants' response to Inspector's queries re the draft conditions