



Appeal Decision

Inquiry held on 6, 7 and 8 November 2012

Site visit made on 8 November 2012

by David Morgan BA MA MRTPI IHBC

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

Decision date: 20 December 2012

Appeal Ref: APP/X2410/A/12/2177327

Land off Iveshead Road, Shepshed, Leicestershire LE12 9ER

- 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 Bloor Homes Limited against the decision of Charnwood Borough Council.
 - The application Ref P/11/1583/2, dated 6 July 2011, was refused by notice dated 11 May 2012.
 - The development proposed is residential development for up to 75 dwellings with associated garages, landscaping, infrastructure and open space. Principal site access to be provided via Iveshead Road, with 4 plots to be accessed via Brick Kiln Lane.
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Decision

1. The appeal is allowed and outline planning permission is granted for residential development for up to 75 dwellings with associated garages, landscaping, infrastructure and open space. Principal site access to be provided via Iveshead Road, with 4 plots to be accessed via Brick Kiln Lane at Land off Iveshead Road, Shepshed, Leicestershire LE12 9ER in accordance with the terms of the application, P/11/1583/2, dated 6 July 2011, subject to the conditions set out in the schedule at the end of the decision.

Procedural matters

2. With the exception of the means of access and the layout of the dwellings on Brick Kiln Lane, all other matters of detail have been reserved for subsequent consideration.
3. A comprehensive signed and dated Statement of Common Ground (SoCG) was presented prior to the opening of the Inquiry which, inter alia, agreed that the Council did not have a five year supply of deliverable housing sites. This fact is fully considered in the reasoning below.
4. At the Inquiry the appellant submitted an Agreement under Section 106 of the Act between the appellant, the title holders, the Council of the Borough of Charnwood and Leicestershire County Council facilitating the provision of affordable housing and financial contributions towards local infrastructure, including healthcare facilities, open space, informal amenity area maintenance, local library services and transport measures. The Agreement also facilitates the transfer of the open space and informal amenity area within the red line area of land to the control of the Council. The affordable

housing provision is considered against the provisions of paragraph 204 of The Framework, whilst local infrastructure contributions are considered against the tests of the Community Infrastructure Levy Regulations 2010 (CIL) below.

Main Issues

5. These are a) whether or not, because of its spatial relationship with public and other services, the appeal site would be a sustainable location for housing development, b) its effect on the character and appearance of the area and c) if any harm would arise from a) and b) above, would this be outweighed by the Council's inability to demonstrate a five year supply of housing and any other benefits the scheme may offer.

Reasons

6. The site comprises open pasture and a former horticultural holding on the southern limits of Shepshed where the settlement abuts the open pastoral landscape of the Charnwood Forest. Towards the south west corner of the site lie some remaining glasshouses which abut the dwelling and outbuildings formally comprising part of the holding. The northern field is flanked to west and east by the residential development off Brick Kiln Lane and houses to the rear of the Jolly Farmer Public House; to the north, rising gently, is the eminence of Scouthouse Hill, a local landmark. To the east of Iveshead Road lies the rising ground containing Morley Quarry, a former stone extraction site, now a popular destination for walkers accessed by public footpaths. To the south and east of the site the open landscape, predominantly characterised by pastoral land management, rises in the characteristic undulating form of the Forest.

Local/national planning policy context

7. As set out in the Statement of Common Ground (SoCG), agreed by the Council and the appellant, the site lies outwith the defined limits of development and thus technically within open countryside. As such it is also agreed that the proposals stand contrary to policies ST/1, ST/2 and CT1 of the Charnwood Borough Local Plan 2004 (CBLP). However, it is also common ground that the Council cannot demonstrate a five year supply of housing land, present supply being agreed as 1.98 years for the period 2013-18, a shortfall of 2,980 homes against the East Midland Regional Plan (EMRP) target. Moreover, in recognition of a record of persistent under-delivery against the housing requirements of EMLP¹ the assessment of the five year supply includes a 20% buffer in accordance with paragraph 49 of the National Planning Policy Framework (henceforth referred to as '*The Framework*').
8. The CBLP made provision until 2006, though key policies were 'saved' by the Secretary of State, with the usual caveats that they be replaced 'promptly' and that saved policies be 'read in context' of new regional and national policy. In respect of replacement, no such plan is expected soon. Current projections suggest a draft Core Strategy (CS) will be presented to Cabinet in March 2013, with the prospect of formal adoption following in mid 2014. A Site Allocations Development Plan Document (SADPD) is further off still, not being anticipated until mid 2015 at the earliest.

¹ Still, notwithstanding the intention of the Secretary of State to abolish Region Spatial Strategies, part of the development plan, as again agreed in the SoCG.

9. In the context of paragraph 49 of The Framework, there was debate at the Inquiry as to what extent policies relevant to this case might or might not be considered out-of-date. ST1, certainly as far as criterion (ix) goes, dealing as it does with projected housing needs in the Borough up to 2006, and set against EMRP targets, is out of date.
10. Policies ST/2 and CT/1 must have a joint purpose of on the one hand serving to define the limits of development and on the other to define areas of countryside it presumes to safeguard. It is not right that the one confining development to specific sites may be considered out of date whilst the other be afforded more weight because of its wider generic countryside safeguarding function. CT/1 acts as a constraint on the supply of housing on the fringe of the Sub-Regional Centre identified as a growth centre in the saved policies of the CBLP. As such, it is a relevant policy for the supply of housing and may rightly be considered, in the context of paragraph 49, not up-to-date.
11. A similar corollary could be applied to CT/7, if it were to be considered appropriate to apply it to the appeal site. The Council's case is that because of the consistency of the site's landscape character with the adjacent countryside, the provisions of policy CT/7 should apply; this is reflected in the reference to this policy in the reasons for refusal. However, this is a generous interpretation of the policy at the very least. The site is excluded from the CT/7 designation of the CBLP proposals map and the jurisdiction of the policy is made clear in its wording; it states that 'Within the designated Areas of Particularly Attractive Countryside (APAC) planning permission will be granted for uses where the proposal would not detract from the essentially undeveloped character of the landscape.....'. The site lies outwith the APAC and for the Council to suggest it in fact merits inclusion is, to my mind, a further tacit admission that the demarcation of the policy is out of date. Notwithstanding this fact, in terms of a proper interpretation of the policy in regard to this case, the site does not come *within* the remit of CT/7 and reference to this policy can not be afforded any significant weight as a consequence.
12. Moreover, in closing the Council accept, in relation to ST/2 and CT/1, that 'Where the lines have been drawn on the Proposal Map reflects an assessment of development needs which is now outdated. To that extent only, the policies are out of date'². This seems to me a tacit admission of both policies' out-datedness, and indeed a principle that could apply equally to all the policies relevant to the supply of housing in this case.
13. In order to be considered against the requirements of the fourth bullet point of paragraph 14 of The Framework, which in general sets out the presumption in favour of sustainable development, the first matter to consider is whether the proposals can indeed be considered a sustainable location for housing development; this is considered below.

First Main Issue – Sustainable Location

14. Access to local services is a key yardstick of assessing site sustainability. The Council's principle concern here is that the site is simply too remote from local services, determining that most trips to them will be made by car. It is

² Council's closing submissions paragraph 10.

the case that the greatest distance of the site to one of the town's four primary schools is approximately 2 Km. The same approximate distances apply to main food stores, doctor's surgeries and dentists. Certainly against the Council's preferred measure of 800m as a reasonable walking distance set out in their Charnwood Local Development Framework (LDF) Core Strategy Service Centre Capacity Assessment (Dec 2011) (CSSCCA), the site does not meet this expectation. Indeed, there are other matters aside from the round-trip distance, such as exposure to traffic along the A512, especially on the route to Newcroft Primary School, which would deter walking, even with the attractions of a walking bus considered. Whilst Oxley Primary is closer, I accept here, as perhaps with other trips for shopping, that the preferred mode of transport would be the car. Again in relation to access to bus stops as the primary point of access to public transport, as defined in the CSSCCA, the Council assert the site lies beyond the optimally identified 400m, thus acting as a barrier or deterrent to public transport choices. Moreover, it is suggested, that all such facilities (excepting the Public House) would be to the north of the A512, a considerable barrier and deterrent to the connectivity of the site to the services in the centre.

15. But to apply such a yardstick as a measure of sustainability is over-simplistic, both in relation to the site itself and to other considerations relevant to an assessment of its relative sustainability in the wider context. Although the 2 Km measure of a reasonable walking distance established by Planning Policy Guidance 13 *Transport* has not been carried through into The Framework, there is no revised assessment at a national level that suggests this is no longer a reasonable, empirically-based assessment. Whilst the Council may adhere to the CSSCCA figure, this is not as yet carried forward in adopted policy and in any event applies to service centres rather than the Sub-Regional Centre, as Loughborough/Shepshed is defined. Such a distance may indeed prove a deterrent to those with small children but to adults, as an alternative to the car it still offers, in my view, a reasonable tolerance for walking. Moreover, these distances are much more readily achievable by bike and for such trips, supported by a local cycle network, the bicycle would also offer a credible alternative to the car.
16. The Council state that anticipated distances from the site to bus stops at between 510m and 680m, and with estimates of walking time at around six minutes, would deter public transport choices. But such distances are within the 800m tolerance of the Highway Authority's adopted policy (C6) in respect of Sub-Regional Centres and, notwithstanding the relatively low number of weekday public transport related trips anticipated for the site, this is still, in my view, within reasonable reach of the site. The site is also within approximately 700m of the main industrial estate serving Shepshed on the northern side of the A512. This is an active site with a range of enterprises apparently requiring a full spectrum of manual, technical, service and professional employees. The opportunity for these and future workers to live sufficiently close to walk to work is a legitimate consideration in this context.
17. The A512 is certainly a hindrance to accessing the town centre, schools, services, bus stops and shops to the south. However, this is as much perceptual as actual. I had no difficulty during my visits to the junction in traversing the road at peak times and any delay here would be momentary as the traffic signals change; the road is not in my view a significant barrier to accessing facilities to the north of it.

18. Certainly in isolation, particularly in relation to primary schools, and set against the Council's service centre parameters, the site could be considered some distance from local services, necessitating the use of the car by residents to access some of them. However, this has to be seen in a wider context. Sharing of trips, especially to school, is ubiquitous today, and the potential for multi-purpose trips, undertaken to services within the Sub-Regional Centre, an entirely plausible outcome. These factors, coupled with a number of pedestrian and cycle trips to services and the relative proximity of bus stops, all mitigate the perceptual sense of 'remoteness' the site may at first suggest.
19. Moreover, when the site is compared to others granted planning permission, especially within service centres, the proposals score reasonably well. When distances from the appeal site to primary schools are compared with those in the cases of Quarn and Rothley the appeal site fares less well. In relation to middle and upper schools however, the appeal site out-performs those in Rothley and Stanage. A similar picture emerges in relation to shopping, with local shopping being closer in the service centre locations but the appeal site doing significantly better for main shopping. For employment the appeal site significantly out-performs those other sites identified by the Council for comparison.³ In the balance of sustainability therefore, considering advantages and disadvantages, the appeal site compares reasonably favourably with other comparators. The Council themselves have had to make a similar decision in relation a substantial allocation of housing adjoining the western settlement boundary of Shepshed in their embryonic CS. This substantial tract of land between Tickow Lane and the A512 bares comparison with the appeal site. Although detailed distances cannot be determined, it is clear once again that Oxley Primary School would be closer to the extension site than the appeal site to identified schools. However, distances to Newcroft are comparable; whilst Shepshed High School is more distant from the proposed extension than to the appeal site. So when compared with the Council's own preferred major housing site, the appeal site can hold its own in sustainability terms.
20. Shepshed is identified with Loughborough as a major Sub-Regional Centre for growth in the draft CS and topping the hierarchy of settlements identified for future growth. This is explicitly recognised in the identification of the extension to Shepshed in the CS, as it can 'contribute to the western growth hub and share the infrastructure with the west Loughborough sustainable urban extension and Loughborough Science Park.....'. The benefits of concentrating growth in Regional and Sub-Regional Centres is well established: closer and wider access to jobs and services and transport links that connect then limit the need for car-borne travel and where that mode of travel is necessary, limit the distance of such trips. Despite some shortcomings in relation to specific services, the appeal site, on a balanced assessment, performs well against others granted planning permission in the borough; it also performs creditably against the Council's own favoured urban extension site in the town. On these terms, the site is relatively accessible and can be considered a sustainable location for development.

Second Main Issue - Effect on the character and appearance of the area

³ Charnwood Officers report page 26.

21. The relationship of the proposal to landscape is covered by the evidence of two Landscape Architects, each with a view on the nature of the landscape character, the degree of impact of the development and the range of receptors (people) likely to respond to it. These approaches differ in terms of methodology and terminology applied, though the Council and the Appellant both cite the 'Blue Book', the *Guidelines for Landscape and Visual Assessment* published by the Landscape Institute in support of their approach. The overarching aim of this document is to establish a set of principles that will help achieve consistency, credibility and effectiveness in landscape and visual impact assessment. At the same time however its introduction makes clear that the guidelines are not intended to be 'a prescriptive set of rules nor an exhaustive manual of techniques'. The aim is, I conclude, to set out the principles by which the thorough assessment of landscape and any impacts upon it may be achieved, though allowing latitude as to how this is undertaken and presented. In this context, both approaches set out in evidence have a credible basis for presenting an assessment.
22. The sum of evidence before me, though differing in details of approach, sets out a comprehensive analysis of local character (already underpinned by two landscape character studies of the area undertaken in 2008 and 2012), assesses the impact of the development, and identifies those perceiving it. As far as it can, this sets out (in terms of character assessment) an empirical framework for the decision-maker to form a subjective (as it must inevitably be) judgement on the impact of the development.
23. The Council's case is essentially that the two fields comprising the site form an integral part of the wider Forest landscape on the southern fringe of the settlement. Furthermore, they consider, from key identified views around the site, the development would be of 'high magnitude and major/moderate significance', an adverse impact perceived by a significant number of receptors.
24. However, this *integrity* with the wider landscape is overstated, and fails to properly reflect the historical view, established by the 1995 APAC designation and the subsequent and very recent 2012 landscape study, which excludes the site from its Zone 12, both of which effectively differentiate the site from the wider landscape. Such a conclusion is borne-out when the site is considered from the various view-points identified by both parties. Although there is a topographical continuity between the site and the wider open landscape, the appeal site is certainly lower than its wider context. Attenuated ribbons of development flank it in part to the east and west, and this sense of enclosure is at least supported by the presence of the former dwelling and outbuildings and glasshouses to the south west of the site. This sense of *otherness* is compounded in the southern field at least by its scrubby, tundra-like appearance, with areas of spoil and the vestiges of metalled surfaces across parts of it, marking it out in conspicuous contrast to the verdant managed character of the adjacent agrarian landscape beyond.
25. Although outwith the designated landscape character areas, the site nevertheless lies outside the boundary of the settlement and within the open country side; its development would inevitably have an urbanising effect on its character, and so its environs. This would be most acutely perceived when the development is seen in the context of Scouthouse Hill from views down Iveshead Road and from across the site from the paths adjacent to Morley

Quarry. Here the proposed houses would be partly seen cut into the rising ground of the picturesque, tree-populated eminence of Scouthouse Hill and here the more rural character of the site would be eroded. The development of the southern field would also undoubtedly give it a sense of urban structure, and this too would be apparent to walkers, cyclists and motorists from points along Iveshead Road and walkers using the paths to Morley Quarry and along Brick Kiln Lane. Unmitigated by planting, judicious open space and thoughtful urban design, the impact of the development on landscape character would indeed certainly be adverse, and potentially of major significance.

26. However, the proposals (though in outline for the greater part) are conscious of the need to mitigate the visual presence of the dwellings, and this is expressed in the Design and Access Statement (DAS) and the supporting iterations of the site layout and the visualisations of key elements of the scheme. Most significantly a deep band of Forest planting is proposed on the southern boundary of the site which will act as a strong filter from views down Iveshead Road. Built form is punctuated with open and play space with additional planting, all helping to break-up the mass of built form. Also, picking up a recommendation from the 2008 landscape character study section for Shepshed, the proposals incorporate a cluster of development framing the entrance to the site at its junction with Iveshead Road and Iveshead Lane. Here distinctive architectural form dressed in 'Forest vernacular' materials and detailing would, in conjunction with the planting to the west, create a distinct sense of arrival, or of a gateway to the town that it presently conspicuously lacks. Whilst the development would undoubtedly urbanise the site, it has the capacity to do so in a way that can be mitigate this adverse impact on landscape character to a significant degree. With these measures invested in the scheme, and given substance by their presentation in the DAS, I consider the adverse impact on landscape character to be moderate in significance. That said though, such a conclusion renders the proposals (by virtue of its scale and effect) contrary to policy CT/1 of the CBLP and in the context of paragraph 14 of the Framework, balanced against the benefits of the scheme.

Section 106 Agreement

Affordable housing

27. The BCLP is consistent with both the EMRP and the broad thrust of The Framework in seeking to secure affordable housing as part of its broader housing provision; policy ST/3 reflects this, whilst policy H5 (affordable housing on unallocated sites) requires, inter alia, that affordable housing be secured where 'the site is close to local services and facilities and easily accessible to public transport'. Detailed provision for affordable housing is also set out in the Council's adopted Affordable Housing Supplementary Planning Document (AHSPD), which identifies, again inter alia, that a minimum of 30% affordable housing will be sought as part of housing proposals.
28. The appellant proposes 21 affordable homes through the Agreement, of which 15 would be for social rent and 6 for shared ownership; this sum (just below the 30% anticipated by policy) and the breakdown of tenure is again in broad accord with the terms of the AHSPD. It is on this basis that the Council accept in evidence that the affordable housing provision proposed would meet

the criteria of paragraph 204 of The Framework, a conclusion I emphatically agree with. The SoCG also refers to the Leicester and Leicestershire Strategic Housing Market Assessment 2008, which identifies a district-wide need of 309 affordable homes per annum, whilst the Council's own strategy sets a target of 279 such homes per annum. Such targets underpin a significant need (the upper target equating to approximately 40% of the EMRP annual wider housing target for the Borough, and one which has been consistently unmet). In this context of the very clear need, this scheme, in bringing forward 21 such homes now should, in my view, rightly be afforded significant weight in its favour.

Healthcare contribution

29. The proposed development would place increased demand on existing local medical services and the site would be within the catchment of the Forest House Surgery practice, within approximately 2.2k of the site; the expectation is clearly that this facility would have to meet the increased demand. Healthcare contributions are sought under the auspice of EMRP, CBLP policy and criteria set out in adopted Developer Contributions Supplementary Planning Documents (DCSPD). A sum of £33,432.66 is made by the Agreement and the intention is that the monies will be directed at increasing capacity at the Surgery, specifically through the provision of additional clinical space the provision of self-assessment equipment. On this basis the contribution meets the regulatory tests and may rightly be taken into account.

Public Open space/recreation facilities and open space/balancing pond maintenance

30. I accept that open space and play facilities provision is a necessary component of the development provided for the use of its occupants. It is appropriate that with the anticipation that the local authority will take on the future management of that space contributions are sought to fund that management. Such an approach is supported by EMRP, CBLP policy and DCSPD. Within this framework a contribution of £15,000.00 is offered in respect of the play space and balancing pond and a further contribution is made at a rate of £63,380.11 per hectare for the management of the wider open space, the final sum to be agreed on the net area provided following approval of reserved matters. In all other respects the Council are content with the terms of the transfer and future management of the land, including the balancing pond, and I am satisfied that the Agreement is appropriately drafted in these respects.
31. Similarly, I accept that the development will generate a demand for the use of youth and adult recreation facilities and these will not be provided on site. The appellant offers a contribution of £49,500 towards off-site provision of such facilities. These are again supported by EMRP, CBLP policy and DCSPD and would be directed to the improvement of such facilities in Shepshed rather than elsewhere in the borough. On this basis of the above these contributions meet the regulatory tests and may rightly be taken into account

Local library services

32. It is reasonable to assume that occupants of the development will avail themselves of local library services and this will place increased demands upon them and that this local service is at or near capacity. Given the relationship of the proposed development to the centre of Shepshed the town library is likely to be the provider. Library contributions are sought under the

general auspice of EMRP, CBLP policy and specific criteria set out in DCSPD. A sum of £4,080.00 is presented by the undertaking and the intention is that the monies will be directed at increasing capacity at Shepshed library. On this basis the contribution meets the regulatory tests and may rightly be taken into account.

Transport measures

33. The development will necessarily give rise to greater use of the local transport network and it is appropriate that contributions are sought to both improve and expand existing transport capacity, and especially sustainable public transport capacity in the environs of the site. The pursuit of such contributions is supported by EMRP, CBLP policy and specific criteria set out in adopted DCSPD. Calculated on the basis of the latter, contributions are made the provision of individual travel packs (at £50.18 per dwelling and 6 month travel passes (at £360 per dwelling) for each dwelling. A contribution of £12,984 is made also for the improvement of bus shelter faculties on Ashby Road and Charnwood Road and a further contribution of £2,500 is also made towards the re-validation of the MOVA traffic light system at the junction of the A512/Iveshead Road to improve traffic management here. On this basis the contribution meets the regulatory tests and may rightly be taken into account.

Third main issue - Planning balance

34. The proposals have clear merits. They would deliver relatively sustainable housing development in an authority that has very significantly underperformed in that task on a persistent basis. Furthermore, this is in a context of an absence of an adopted CS/ SADPD, until mid 2015 at the earliest. Modest though the numbers represented in this proposal are in relation to the EMRP housing requirement, they are nevertheless a meaningful, deliverable contribution towards meeting that need. The delivery of market housing here merits very significant weight in the planning balance.
35. The proposals would also provide affordable housing in a relatively sustainable location for which there is also very significant demand, an outcome also meriting significant weight. Despite the incursion of the development in the landscape, there are also broader landscape/townscape benefits – there is scope within the reserved matters for new structural Forest planting along the southern boundary, giving strong definition between the development/settlement and the designated APAC Forest landscape beyond, whilst the ‘Forest vernacular’ of the buildings forming the entrance to the site would act as a distinctive gateway to both town and country, enhancing this demarcation where there is no clear one at present. The proposed traffic calming measures and improved pedestrian/cycle access along Iveshead Road are also benefits that weigh in favour of the proposals in the planning balance.
36. The development would be neutral in terms of its impact on local services, which will be fully mitigated through the provisions of the section 106 agreement.
37. However, the development would represent an incursion into the landscape of the settlement fringe and, despite the countervailing benefits identified, the picturesque setting of Scouthouse Hill would be eroded and this has to be

judged as an adverse impact of moderate significance which has to be weighed as a medium degree of harm in the balance against the proposal.

Conclusions

38. The Council accepts that it cannot demonstrate a five year supply of housing land. That supply, standing at less than two years, incorporates a 20% buffer reflecting a record of persistent under-delivery. Aside from the Framework's mechanism for gauging the up-to-datedness or otherwise of relevant development plan policies, the CBLP time-expired in 2006, and although some policies are saved, the expectation that they be replaced promptly has not been fulfilled. More worryingly, there is still no prospect of a CS before midway through 2014, with the further prospect of a SADPD, which would identify the long overdue and even now much needed new housing sites, even further off (mid 2015 at the earliest). Moreover, the undersupply of market housing is matched by that for affordable homes, for which there is considerable unmet demand. To delay addressing this shortfall pending the adoption of the CS and SADPD at some as yet only speculative future date risks worsening the shortfall in delivery, and so a failure to respond to one of the key objectives of the Framework: to boost significantly the supply of housing.
39. This proposal would cause harm to the character of the countryside and in the immediate context necessitate a modest measure of car-borne travel to access local services. However, this harm would not significantly or demonstrably outweigh the clear benefits of providing more strategically sustainable new market and affordable homes in Shepshed and, accepting the principle of development on this basis, the provision of a scheme that could, through landscaping and design, provide an attractive and enhanced entrance to the town. It is on this basis that I conclude, in accordance with paragraph 14 of The Framework, that planning permission should be granted, thus meaning the appeal should succeed.

Conditions

40. The appeal being allowed, a condition is attached requiring that reserved matters be submitted within one year of the date of this permission and that development is not begun later than 18 months from the approval of the last reserved matters approved, thus confirming the intent of the appellant, as set out in the agreed conditions in the SoCG, to commence the development promptly. A condition is also attached requiring that no development commence until approval of the reserved matters is secured and a condition is also attached requiring that the development, insofar as it relates to those matters not reserved, that it be carried out in accordance with the approved plans, in the interests of sound planning and for the avoidance of doubt.
41. Conditions are also attached requiring that details submitted pursuant to condition 2 shall broadly conform with the contents of the DAS and other associated details, to ensure the development is carried out in accordance with the principles of the statement and related documents so ensuring a satisfactory appearance to the development. Further conditions are attached in respect of condition 2 requiring the submission of details of open space and children's play space to agreed standards, both to ensure adequate provision of such facilities within the development.

42. Conditions are also attached requiring the submission, again in relation to condition 2, of details of a landscaping scheme and the provision for its short and longer term management through replacement of plant provision and through the submission of a landscape management plan, which shall include provision for safeguarding and enhancing biodiversity on the site through roosting and nesting provision, all to ensure a satisfactory appearance to the development, ensure that it integrates with its context and enhances biodiversity. Conditions are also attached requiring the submission of details for the disposal of surface and foul water drainage for the site, to prevent any increase to local flood risk and to safeguard the quality of adjacent watercourses.
43. A condition is also attached requiring, again in accordance with the provisions of condition 2, that the scheme complies with the design standards of Leicestershire County Council in relation to highway layouts, in order to achieve a satisfactory appearance to the development and also in the interest of highway safety. Similarly a condition is also attached requiring that redundant vehicular accesses are permanently closed to reduce the number of such access points so mitigating potential vehicular conflict; a condition is also attached requiring the highway to be kept clear of mud and other material during the course of the construction period for the same reasons.
44. Conditions are also attached securing the retention of existing hedges, trees and structural planting and their protection during construction, all in order to ensure a satisfactory appearance to the development and to ensure it integrates with its surroundings. Conditions are also attached requiring the construction of the access works prior to the commencement of development, the provision of the traffic calming measures the provision of the footway on Iveshead Road and the submission of a scheme for the improvement of the relevant section of Brick Kiln Lane, the latter to ensure a satisfactory access to the proposed dwellings here and all in the interests of highway safety. A condition is attached requiring the provision of a scheme for public art within the built fabric of the development to invest it with an element aesthetic and cultural value and lastly a condition is attached requiring the submission of a construction management plan to safeguard the living conditions of adjacent occupiers during the course of the construction of the development.
45. For the reasons given above I conclude that the appeal should be allowed.

David Morgan

Inspector

Schedule of conditions

1. Application for the approval of reserved matters shall be made within one year of the date of this permission and the development shall begin not later than 18 months form the approval of the last reserved matters to be approved.
2. The development shall not commence until approval of the following reserved matters has been obtained in writing from the local planning authority: - a. layout, except for the houses fronting Brick Kiln Lane which is approved, b. scale, c. appearance and d. landscaping.

3. The development hereby permitted shall be carried out in accordance with the following approved plan Nos STH2630-004E, NPT-11013-09D and revised location plan but only in respect of those matters not reserved for later approval.
4. The details required by condition 2 shall broadly conform to the contents of the Design and Access Statement submitted with the application as supplemented by the illustrative entrance sketch ref no 025.009 received by the local planning authority on the 22nd December 2011 the addendum showing the amended proposals for the northern boundary on the plan ref. no. 025.011 received on the 28th march 2012.
5. The landscaping scheme required to be submitted pursuant to condition 2 shall include those details specified below:
 - i) the treatment proposed for all ground surfaces, including hard areas;
 - ii) full details of tree planting and hedgerow planting including proposals for the reinforcing of existing hedgerows, using locally native species;
 - iii) planting schedules, noting the species, sizes, numbers and densities of plants;
 - iv) finished levels or contours;
 - v) any structures to be erected or constructed;
 - vi) functional services above and below ground; and
 - vii) all existing trees, hedges and other landscape features, indicating clearly any to be removed.
6. The landscaping scheme shall be fully completed, in accordance with the details agreed under the terms of the condition 5, in the first planting and seeding seasons following the first occupation of any part of the development or in accordance with a programme previously agreed in writing by the local planning authority. Any trees or plants removed, dying, being severely damaged or becoming seriously diseased, within 5 years of planting shall be replaced in the following planting season by trees or plants of a size and species similar to those originally required to be planted.
7. No dwelling or building on the site shall be occupied until a landscape management plan, including long term design objectives, proposals to enhance the biodiversity of the site, management responsibilities and maintenance schedules for all landscape areas, other than domestic gardens, has been submitted to and agreed in writing by the local planning authority. The agreed landscape management plan shall then be fully implemented.
8. Development shall not begin until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed. The scheme to be submitted shall demonstrate:
 - The utilisation of holding sustainable drainage techniques;
 - The limitation of surface water run-off to equivalent Greenfield rates;
 - The ability to accommodate surface water run-off on-site up to the critical 1 in 100 year event plus an appropriate allowance for climate change, based upon the submission of drainage calculations; and

- Responsibility for the future maintenance of drainage features.
9. No development shall take place until a scheme for foul water drainage has been submitted to, and approved in writing, by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details prior to the occupation of the dwellings. The scheme to be submitted shall demonstrate that any additional flows discharging into the foul sewerage drainage network will not cause deterioration in water quality.
 10. Notwithstanding any illustrative material submitted, the details of the proposed development required to be submitted pursuant to Condition 2 shall comply with the design standards of the Leicestershire County Council Highway Authority, as contained in its current highway design standards document. Such details must include parking and turning facilities, access widths, gradients, surfacing, signing and lining, visibility splays and the provision of traffic calming measures.
 11. Any existing vehicular accesses that become redundant as a result of this proposal shall be closed permanently and the existing vehicular crossings reinstated in accordance with a scheme that shall first have been submitted to and approved by the local planning authority, in consultation with the highway authority, before first occupation of any dwelling.
 12. No development, including site works, shall begin until each tree shown to be retained on any approved plan has been protected, in a manner which shall have first been submitted to and agreed in writing by the local planning authority. Each tree shall be retained and protected in the agreed manner for the duration of building operations on the application site. Within the areas agreed to be protected, the existing ground level shall be neither raised nor lowered, and no materials or temporary building or surplus soil of any kind shall be placed or stored thereon. If any trenches for services are required in the protected areas, they shall be excavated and back-filled by hand and any tree roots encountered with a diameter of 5cm or more shall be left un-severed.
 13. The hedges shown in the submitted Design and Access Statement to be retained shall be retained and maintained in accordance with the landscape management plan agreed pursuant to condition 7. Any part of the hedges removed, dying, being severely damaged or becoming seriously diseased shall be replaced, with hedge plants of such size and species as previously agreed in writing by the local planning authority, within one year of the date of any such loss.
 14. No development, including site works, shall begin until the hedges to be retained have been protected, in a manner previously agreed in writing by the local planning authority. The hedges shall be protected in the agreed manner for the duration of building operations on the application site.
 15. The details required pursuant to conditions 2 and 7 shall include proposals for the installation of bird boxes and facilities to encourage bat roosting throughout the development, in accordance with a scheme previously agreed, in writing, with the local planning authority. The scheme shall indicate a timetable for implementation and the development shall not be carried out other than with the implementation of the approved scheme to the approved timetable.
 16. No dwelling hereby permitted shall be occupied until the traffic management

measures shown on drawings numbered NTP - 11013 - 15 Rev A (sheets 1 and 2) have been installed and completed in accordance with the details shown. The speed cushions shown on the drawings shall be provided at the same time as the other measures and prior to the occupation of the first dwelling on the site.

17. None of the dwellings hereby permitted shall be occupied until a 2.0 metres wide footway has been completed on the western side of Iveshead Road, from the site access to Jolly Farmers Lane, I accordance with details previously agreed in writing with the local planning authority.
18. The construction of the dwellings taking access from Brick Kiln Lane shall not commence until such time as details of a scheme for the improvement of the Lane, including the widening of the carriageway to 4.8 metres and details of the access arrangements for the dwellings, has been submitted for the approval to the local planning authority. The dwellings shall not be occupied until the scheme approved by the local planning authority has been completed in accordance with the approved details.
19. No part of the development shall be occupied until a scheme for the provision of public art within that part or phase has been secured in such a manner as is approved by the local planning authority in writing. The scheme shall indicate a timetable for the provision of the pubic art and the development shall not be carried out other than in accordance with the scheme of public art, including the timetable for its implementation.
- 20) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
 - i. a scheme for the on-site management of surface water run-off generated during the construction phase including the treatment, removal of suspended solids and the maintenance of identified highways clear of mud and stones at all times;
 - ii. the routing of construction traffic;
 - iii. the times of construction work which shall not take place outside 08.00 hours to 19.00 hours Mondays to Fridays and 08.30 hours to 13.00 hours on Saturdays and not at any time on Sundays and Public Holidays;
 - iv. the parking of vehicles of site operatives and visitors within the site;
 - v. loading and unloading of plant and materials;
 - vi. storage of plant and materials used in constructing the development;
 - vii. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - viii. wheel washing facilities;
 - ix. measures to control the emission of dust and dirt during construction;
 - x. a scheme for recycling/disposing of waste resulting from demolition and construction works
 - xi. measures to protect; the hedge located along the eastern boundary of the application site during the duration of the construction works.

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Miss Melisa Murphy of Counsel Cornerstone Barristers

She called

Mr Iain McDonald Reid Ian Reid Landscape Planning Ltd
Dip T&RP Dip LD MRTPI
MLI

FOR THE APPELLANT:

Mr Ian Dove Queen's Counsel No. 5 Chambers Birmingham

He called

Mr A Williams BA (Hons) Define
Dip LA DipUD CMLI

Mr A Kirby BSc CEng Northern Transport Planning
MICE

Mr M Rose BA (Hons) Define
MA MRTPI

INTERESTED PERSONS:

Mr Smith

Councillor Mrs Radford

Councillor Mrs J Tassell

Documents submitted at the Inquiry

1. Opening submissions - Appellant
2. Opening submissions - Council
3. Design and Access Statement – Appellant
4. Service Centre Capacity Assessment – Council
5. CBLP Proposals map extract – Council
6. Extract policy TR/4 – Council
7. Modal Split table - Council
8. Revised site access arrangements plan NTP-11013-09D – appellant
9. Proposed traffic management measures plans (X2) – Appellant

10. Local Plan technical report (APAC) – Appellant
11. Draft 106 Agreement – Appellant
12. Census area profile – Council
13. Morley Quarry viewpoints – Appellant
14. Guidelines for Landscape and Visual Impact Assessment – Council
15. BIFFA Waste Services Appeal Decision - Appellant
16. Completed Section 106 Agreement - Appellant
17. Closing statement – Council
18. Closing statement – Mr Smith (R.A.G.E.S.)
19. Closing statement – Councillor Radford
20. Closing statement – Councillor Tassell
21. Closing statement – Appellant

Richborough Estates