



Appeal Decision

Inquiry held on 21-23 and 28 February, and 1 March 2017

Site visits made on 20 and 24 February 2017

by John Felgate BA(Hons) MA MRTPI

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

Decision date: 11 July 2017

Appeal Ref: APP/J2210/W/16/3156397

Land at Blean Common, Blean, Kent

- 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 Gladman Developments Limited against the decision of Canterbury City Council.
 - The application Ref CA/15/02523/OUT, dated 20 November 2015, was refused by notice dated 19 February 2016.
 - The development proposed is the erection of up to 85 residential dwellings (including 30% affordable housing), structural planting and landscaping, informal public open space, surface water attenuation, vehicular access point from Blean Common and associated ancillary works.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of up to 85 residential dwellings (including 30% affordable housing), structural planting and landscaping, informal public open space, surface water attenuation, vehicular access point from Blean Common and associated ancillary works on land at Blean Common, Blean, Kent, in accordance with the terms of the application, Ref CA/15/02523/OUT, dated 20 November 2015, subject to the conditions set out in the attached Schedule.

Preliminary Matters

2. The appeal seeks planning permission in outline, with all detailed matters reserved except for access. The application is accompanied by a Development Framework plan, but in so far as this shows details relating to matters other than access, it is agreed to be illustrative.
3. As originally submitted, details of the proposed vehicular access were shown on Plan No. 1463/01 Revision A, but at the inquiry it was agreed that this be superseded by Revision B. The differences between these two plans are minor, and not such as to cause prejudice to any party. I have dealt with the appeal on the basis of the revised plan.
4. In the application, the description of the proposed development included the words "...up to 30% affordable housing". At the inquiry, it was agreed that in this phrase the words "up to" should be deleted, because they were not consistent with the Statement of Common Ground, in which the appellants had committed to provide 30%. This amendment does not alter the remainder of the description, which allows for up to 85 dwellings in total.

5. At the inquiry, an executed unilateral undertaking (UU) dated 1 March 2017 was tabled. The UU provides for on-site open space, and for financial contributions to play area improvements, recreation, Special Protection Areas (SPAs), Travel Plan measures, bus stop improvements, education, libraries, pedestrian and cycle works, and public rights of way. These provisions are considered in more detail later in this decision.
6. Before the UU was formally submitted, a discrepancy was discovered which necessitated a manuscript amendment to it. The necessary legal authority was obtained from the original signatories, and the amendment was made accordingly. The Council confirmed that it was content with this procedure.
7. The Council's refusal notice cited 7 refusal reasons (RRs). Of these, RR4 relating to SPA impacts, RR5 relating to local infrastructure, and RR7 relating to open space, have all been withdrawn in the light of the appellants' UU. RR3, relating to shortcomings in the ecological information, was also withdrawn, in response to further surveys carried out subsequently. In addition, with regard to RR1, the Council withdrew that part of the RR that related to cycle links and other transport matters, including accessibility to local services and reliance on the private car.
8. The remaining RRs which are not withdrawn (the remainder of RR1, plus RRs 2 and 6) relate to policy compliance, the effects on the character and appearance of the settlement and of the landscape, and affordable housing.
9. Following the close of the inquiry, my attention was drawn to an appeal decision dated 14 June 2017, relating to land at Wrington Lane, Congresbury¹, which might be considered a material consideration in the present appeal. The parties were given the opportunity to comment on this decision, and their responses have been taken into account². The response from the appellants was accompanied by a further UU, dated 27 June 2017, dealing with affordable housing³. This UU was executed on behalf of Gladman Developments Ltd under a Power of Attorney dated 6 September 2016⁴.
10. On 15 June 2017, also after the end of the present inquiry, the Inspector's report on the Examination into the Canterbury District Local Plan was published⁵. The parties were given an opportunity to comment on the report's contents, and their responses⁶ have been taken into account.

Planning Background

11. For the purposes of the appeal, the statutory development plan comprises the saved policies of the Canterbury District Local Plan, adopted in July 2006 (the adopted LP). The relevant policies are discussed below.
12. Also of relevance to the appeal is the emerging draft replacement local plan, also called the Canterbury District Local Plan (the draft LP). The draft LP was submitted in June 2014. Hearing sessions were held in July 2015, and in July and September 2016. The Examining Inspector issued his interim findings in August 2015, and proposed Main Modifications in December 2016. The Main

¹ APP/D0121/W/16/3151600 (Doc 20)

² Docs 21 - 23

³ Doc. 24

⁴ Doc.25

⁵ Doc. 26

⁶ Docs 27 - 30

Modifications and proposed changes to the proposals maps were published for consultation in February 2017. The Inspector's final report was published in June 2017. The Inspector found that the plan had a number of deficiencies in respect of soundness and/or legal compliance, and recommended that it be not adopted as submitted. However, he recommended that it could be made sound, with the benefit of Modifications.

13. Against this background, the application which is now the subject of this appeal was submitted in November 2015, and the appeal was lodged in August 2016.
14. Subsequently, the appellants also submitted a further application, for 75 dwellings, in May 2016. This application was refused in October 2016, for reasons which are similar in many respects to those in the appeal application, but omitting any reference to impact on the landscape.

Main Issues

15. In the light of all the evidence before me, I find that the main issues are:
 - i) whether the proposed development would accord or conflict with the existing and emerging planning policies for the area;
 - ii) the effects on the character and appearance of the village and the surrounding landscape ;
 - iii) and whether the development would help to meet a need for more housing land in the district .

Reasons for decision

(i) Accordance with policy

The Adopted Local Plan

Policy H1

16. In the Adopted LP, Policy H1 states that residential development will be permitted on allocated sites and on previously developed land within urban areas. As such, the policy is permissive of development within these locations, and silent on development elsewhere.
17. The appeal site is not allocated for development, nor is it previously developed land. And although the village of Blean does not have any defined boundary, there is no dispute that the site is outside the existing built up area. The proposed development therefore does not fall within any of the categories where development is expressly permitted by Policy H1. However, given the policy's purely permissive nature, this does not amount to a conflict.
18. The Council argues that there is an implicit 'negative corollary': that because some locations are identified for development, it must follow that all others are to be precluded. But nothing within the policy itself, or its explanatory text, supports that interpretation. It is well established case law that planning policies are to be read objectively, having regard to their language and context, and it is difficult to see how the concept of an implicit policy could sit comfortably with this doctrine.
19. Furthermore, as the Council's planning witness acknowledged, there is nothing in the National Planning Policy Framework (the NPPF), to support the proposition for a negative corollary. Indeed in the circumstances, it seems to

me that this would effectively amount to a negative presumption, against any development other than that expressly proposed in a local plan. Such a presumption would run counter to the NPPF's presumption in favour of sustainable development.

20. It is also argued that broadening the scope of Policy H1 in the way the Council suggest, is necessary so as to give effect to the LP's strategic objective and 'long term vision' of protecting the countryside. But the strategic objectives and vision are not identified amongst the plan's saved policies. Nor is Policy H1 specifically linked to these by anything in the plan. It may well be unfortunate that, as a result of the revocation of the former Kent Structure Plan and South East Regional Strategy, the Council now finds itself with no policies to protect the countryside. But that does not justify mis-applying Policy H1.
21. I appreciate that the appellants themselves failed to argue the point about Policy H1 in their Planning Statement at the application stage, but that does not preclude them from doing so now. I am aware of the Daventry judgement⁷, but in that case one of the policies in question expressly precluded development in the countryside, whereas Policy H1 does not. I also note the comments of the Inspector in the written representations appeal for 8 dwellings at Thanington⁸. But in deciding the present appeal, I must have regard for all the evidence before me, and the balance of the evidence leads me to the view that I have expressed above.
22. For these reasons therefore, although the appeal proposal does not specifically accord with Policy H1, neither do I find any conflict with that policy.

Policy H9

23. Policy H9 states that permission for new residential development, in excess of minor development, on previously developed sites within villages, will only be granted where various requirements are complied with. Read in conjunction with the accompanying text at paragraph 2.56, it seems likely that what this was intended to mean is that the requirements specified in the policy are to be applied to any residential proposal which is either outside a village, or exceeds minor development, or is not on brownfield land. Consequently, despite some ambiguity, I agree with the Council that Policy H9 is relevant to the appeal proposal.
24. However, the Council is wrong, in my opinion, in suggesting that the policy seeks to prevent such developments. The policy is permissively worded, and does no more than to set out a list of relevant considerations. These include the effects on social and physical infrastructure, character and appearance, the historic environment, and the LP's design and environmental objectives. Provided a scheme is assessed with regard to these matters, and they are taken into account in any decision, it seems to me that Policy H9 will be satisfied. In the present case the matters specified, where relevant, have all been considered, through the present appeal.
25. Consequently, subject to my findings on the relevant matters, on which I will comment later in my decision, I find no in-principle conflict with Policy H9.

⁷ Gladman Developments v Daventry DC and SoS: [2016] EWCA Civ 1146

⁸ APP/J2210/W/15/ 3006515

Policy BE1

26. Policy BE1 states that developments will be expected to be of high quality design, responding to the principles of sustainable development. The policy then lists various planning considerations related to these aims, which are to be taken into account.
27. The Council contends that the policy goes to the principle of development as well as to the detail. I accept that criteria (c) and (e), relating to landscape character and visual impact, are ones that could be applied in that way. But to do so would be to ignore the fact that the policy is positioned within the 'Built Environment' section of the LP, which is clearly directed to matters of design rather than principle. This is also made clear in the policy's own opening sentence, which focuses on good design. The great majority of the criteria relate only to matters of design and layout.
28. Considering the policy as a whole therefore, I consider that Policy BE1 is intended as a design policy, and that its aims are fully capable of being addressed at the detailed stage. In the present appeal, the only matter where the details are not reserved is the proposed access, and no issues relevant to BE1 have been raised in relation to that element of the scheme.
29. I therefore find that the appeal scheme is not in conflict with Policy BE1.

Policy R6

30. Policy R6 relates to the Special Landscape Areas (SLAs) defined on the Proposals Map. The appeal site is adjacent to, but outside, the Blean Woods SLA. The policy sets out the approach to development within the SLAs, and then states that development which would cause unacceptable harm will not be permitted.
31. I note the Council's contention that this latter part of the policy applies equally to development either within or outside the SLA boundary. But this is not evident from anything within the policy itself or its supporting text. Given that the policy refers specifically to the area defined on the proposals map, the more obvious inference to draw is that its application is limited to that area. As such, it seems to me that Policy R6 cannot reasonably be applied to the appeal site.
32. The question of the proposed development's impact on the SLA will be considered later in this decision, and my conclusions on that issue are not dependent on whether or not Policy R6 is applicable. However, for the purposes of assessing policy compliance, I conclude that Policy R6 is not relevant to the present appeal, and in policy terms therefore, no conflict arises.

The Draft Local Plan

33. Draft Policy SP1 of the emerging draft LP largely mirrors paragraph 14 of the National Planning Policy Framework (NPPF). A presumption in favour of sustainable development is to apply. Proposals that accord with the draft LP are to be approved, and those that undermine its strategy are to be resisted. Compliance or otherwise with Policy SP1 can therefore only be determined by reference to other policies of the draft LP. As such, the present proposal does not give rise to any in-principle conflict.

34. Draft Policy SP4 provides that the principal focus of development will be at the main urban areas, together with some development at the rural service centres. Blean is identified as one of the latter. At the service centres, the policy gives general support to small-scale housing provision, of a scale and location appropriate to the settlement's built form. What constitutes small-scale is not stated. On other developments, the policy is silent. With regard to the present appeal, Policy SP4 therefore gives no specific support, but neither does it preclude such development. Again I find no conflict.
35. Draft Policy DBE3 requires that the District's character, diversity and quality be protected and enhanced through high quality design, having regard to a list of relevant criteria. All of these matters can be addressed at the reserved matters stage, and as such, the draft policy is not directly relevant to the present outline application. Hence no conflict arises.
36. Draft Policy LB2 relates to the Areas of High Landscape Value (AHLVs) which are defined on the Proposals Map. The policy seeks, amongst other things, to protect and enhance the character and appearance of the landscape within the designated areas. The appeal site is adjacent to, but excluded from, the Blean Woods AHLV. The explanatory text (paragraph 10.12) confirms that land which is considered to be important to the AHLVs' setting is already included in the boundaries of the designated area. Consequently, draft Policy LB2 is not relevant to the appeal. Although the effect of the development on the AHLV is potentially a relevant consideration, in the context of the effects on the character and appearance of the area as a whole, no conflict with Policy LB2 arises.

Conclusions on policy compliance

37. Of the key policies on which the Council relies, there are none in either the adopted or the emerging LPs that directly support the proposed development, but nor are there any with which the present outline proposal is in conflict. All of these policies are therefore essentially neutral, weighing neither for nor against the development. It follows therefore, that in this case the final planning balance will turn on other material considerations.

(ii) Effects on the character and appearance of the area

38. The appeal site comprises a gently sloping but otherwise largely featureless arable field on the edge of Blean village. One of its three sides is bounded by existing development, and another by woodland. The third side is enclosed by substantial hedgerows, beyond which are Thimble Hall and its grounds, and the lane leading to Butlers Court Farm. Consequently, although the site is outside the existing built up area, it is well contained within the landscape, and is clearly separated from the more open countryside beyond.
39. Public views of the site are obtainable from the A290, and from the car park of the Royal Oak, and from the two public footpaths that run along the site's boundaries. From the A290, the view is limited to a short section of road, and the site is seen in the context of the existing frontage development. From the car park and footpaths, the view is of an unremarkable enclosed field, set between buildings and woodland. All of these views are from close range, and in none does the site appear as part of any wider landscape.

40. The woodland to the north of the site is part of the Blean Woods Complex, which is included in the Special Landscape Area, and in the proposed Area of High Landscape Value, and is classified as ancient woodland. However, as already noted, the site itself does not encroach on that area. The illustrative Framework Plan shows that a planted buffer zone could be provided, and indeed it was agreed that this could be increased if necessary. Any development on the appeal site would be seen in the foreground of views towards the woodland, from the limited viewpoints previously identified. But to my mind the value of the SLA lies primarily in its contribution to views of the wider landscape, and in its intrinsic value as woodland. In the present case, for the reasons already explained, these would not be affected.
41. Within the site there is also a small area of young woodland and scrub, on the A290 road frontage, but this is separate from the designated woodland. Although the proposed new access road would have to pass through this area, and the Framework plan envisages that the remainder would be replaced with open space, there is no reason why some of this vegetation could not be retained if preferred, at the detailed planning stage.
42. With regard to the effects on the village itself, it is evident that Blean was originally a linear settlement, strung out along the main road, with buildings at intervals and open land between. In the 20th century, the pattern changed, with modern estate development on both sides of the A290, and especially to the east where the appeal site is located, giving the village a more consolidated form. For the most part, this more recent development is undistinguished in its style and character. The new housing now proposed would adjoin the existing development, and would neither elongate the village nor extend any further back from the main road. To my mind this would not have any material adverse effect on the village's form or character.
43. In itself, the appeal site is certainly not unattractive, but equally it has no particular qualities or visual interest. Its most significant characteristic is its openness, but this is not in itself a distinctive feature, being typical of the great majority of the District's countryside. Overall, I find nothing to justify treating the site as part of any 'valued landscape'.
44. New housing on the site would be seen from the close-range viewpoints that I have identified, and would markedly change the character of the site itself. But the development would be seen primarily in the context of the adjoining settlement, and no landscapes or views of any special value would be affected. The rooftops would also be potentially visible from slightly further to the northwest, around Arbele Farm, but at that distance the effect would be negligible.
45. I acknowledge the analysis and recommendations contained in the landscape character appraisals carried out for Kent in 2004 and for Canterbury District in 2012. These reports assess the area as having moderate sensitivity to change, and recommend that the landscape should be 'conserved and reinforced', or 'conserved and improved'. However, neither of these reports has any status as policy, and their recommendations have to be weighed against other planning considerations.
46. Similarly, I acknowledge that the previous Local Plan Inspector, in 2004, concluded that the site should not be allocated for development at that time.

But that does not mean the site must remain undeveloped for ever. His report was written in the context of the needs and priorities of that time; whereas I must judge the appeal in the light of the considerations that are most relevant now.

47. I appreciate that the users of public footpaths are regarded as especially sensitive to landscape change. But it would seem somewhat perverse if the existence of such footpaths were seen as a bar to development; in the present case, the link to village facilities via Badger Close is one of the site's strengths. Rather, the effects on walkers should be weighed against other planning considerations, including the need for housing. I accept that footpath users in the vicinity of the appeal site would notice a significant change in the character of the site itself, but in the context of the area as a whole, that change would be limited. Similar considerations also apply to the effects on views from adjoining properties. In the present case, none of these considerations are determinative.
48. In relation to all the above matters, I also note the Council's decision on the subsequent application for the same site, ref. 16/01153, which was for outline permission for 75 dwellings. In that case, the Council again refused consent, but unlike the appeal proposal, none of the refusal reasons refers to the effects on the character or appearance of the village or rural environment, or on the visual amenity of the locality, or the setting of the SLA. The Council initially sought to explain this difference on the grounds of the reduction in the number of dwellings, but this explanation is not convincing, because it is clear from the two illustrative plans that the differences between the schemes would probably not be readily noticeable. At the inquiry, it was said that this aspect of the decision on 16/01153 was now seen by the Council as a mistake. But this too is unconvincing, because it is evident in the officers' report on that application that the point did not escape consideration. This inconsistency in the Council's decisions on the issue of character and appearance, between the two applications, reinforces the view that I have come to for the reasons above.
49. Having regard to all of these matters, I conclude that the proposed development would have no more than a minor effect on the character and appearance of the landscape or of the village. In neither of these respects would it cause any significant harm. The development would thus not conflict with the relevant provisions of Policy H9 of the adopted LP, nor with any policy in the draft LP, nor with the advice in the NPPF.

(iii) Supply of land for housing

The housing requirement

50. The need for, and supply of, land for housing were debated extensively at the draft Local Plan's public examination. Following the Stage 1 hearing sessions in 2015, the Examining Inspector wrote to the Council on 10 August of that year, with his preliminary findings and views. Although he found that the draft LP did not at that time properly provide for a 5-year supply, he commented that the evidence base and general methodology were robust and technically competent, such that they formed a satisfactory basis from which to carry out the further work that would be needed to take the draft plan forward and make it sound.

51. With regard to the overall housing requirement, the Inspector recommended that the 'objectively assessed need' (OAN) figure should be increased to 800 per annum. Since then, the Council has accepted this recommendation, and its evidence to the further LP hearing sessions in July and September 2016 was presented on the basis that the plan would now seek to meet the OAN in full. This was further reflected in the proposed Modifications produced in November 2016. The Inspector's subsequent final report makes it clear that he is satisfied with these changes. The Inspector also acknowledges that the most recent, 2014-based household projections suggest a further increase in the dwelling requirement, although in the interests of pragmatism he is content to leave this to a future review.
52. With specific regard to the 5-year supply assessment, notwithstanding his recommended change to the OAN, the Inspector found in his August 2015 letter that the Council's approach to all the other elements of the requirement side was acceptable. This included the preference for a 5% buffer, the 'Liverpool method' for making up the past shortfall, and the windfall allowance. He therefore did not require any change to the Council's methodology in respect of any of these matters. Subsequently, at the July and September 2016 sessions, the Council produced its further calculations on this basis, and again the Inspector's final report confirms that he is now content with these aspects.
53. In the present appeal, the Council's evidence as to the requirement side of the assessment is fully consistent with the position that has emerged through the LP examination process, both as to the basic numbers of dwellings required, and as to the technical aspects of the calculation. To my mind considerable weight must be attached to the position that has been reached on these matters.
54. As the appellants point out, until the new LP becomes formally adopted, it is not part of the development plan. This being so, the advice in the NPPF and Planning Practice Guidance (PPG) is that the 5-year supply calculation should be based on OAN, rather than a 'policy-on' housing requirement figure in a draft plan which might yet still change. But in the present case, the housing requirement in the draft plan and the Inspector's OAN figure are one and the same; substituting a different figure for the purposes of this appeal would only be justified if a more credible alternative figure was before me. In this context, it is clear from the Inspector's report that, in coming to his OAN figure of 800 dwellings per annum, he took account of the latest evidence of the District's housing needs, including the need for affordable housing, and the position in neighbouring authorities and London, and also the effects of market signals and different economic scenarios. I see no reason to question these judgements.
55. The appellants make much of the scale of the need for affordable housing, and certainly it appears that to fully meet the needs of that sector, based on a 30/70 per cent split between affordable and open-market housing, the overall level of provision would have to rise further. But this argument ignores the fact that the need for affordable housing is a part of the overall OAN, and is already embraced within that assessment. In reality it seems likely that the obstacle to meeting the affordable housing need is not so much the overall target figure, but rather the 30% threshold on individual sites, and the issues this raises in terms of viability. These are not matters for the present appeal. None of the evidence before me gives me any reason to depart from the OAN

figure which has been properly tested through a very recent and thorough examination.

56. Similar considerations apply to all other aspects of the requirement side of the 5-year supply assessment. The appellants dispute the LP Inspector's interim conclusions on some points, including the buffer and the Liverpool method. But by all accounts, the same arguments were put before the examination. These matters have therefore been considered fully through the local plan process. There is no suggestion that circumstances have changed. In the absence of any new evidence, or obvious error, there is no basis for me to take a different view.
57. Based on the above, the Council argues that the 5-year requirement, including part of the previous backlog, and the 5% buffer, amounts to 4,624 dwellings. For the purposes of this appeal, and for the reasons explained above, I accept this figure.

Land supply and disputed sites

58. On the supply side, although the Inspector's August 2015 letter raised issues in respect of some of the proposed sites, these were addressed by the Council and taken account of in its revised LP proposals, in the summer of 2016. In turn these changes were reflected in the August 2016 Housing Trajectory report, which was put before the Inspector at the final LP hearing session in September 2016, which indicated a supply of 4,981 units, or 5.39 years' worth. In response, in his December 2016 letter, the Inspector recommended the deletion of one site, for 40 dwellings at Brickfield Farm, but made no further comments on any other sites. For the present appeal, the Council has revised its 5-year supply calculation to exclude the Brickfield Farm site, which reduces the claimed supply to 4,941 units or 5.34 years, leaving a surplus of about 317 units over the minimum 5-year requirement. In his final report, the Inspector accepts this figure, albeit somewhat tentatively⁹.
59. Having regard to the way that these events unfolded, and the stage that the draft LP has reached, it seems to me that the Council was justified in interpreting the Inspector's December 2016 letter as an in-principle endorsement of the draft LP's housing proposals, and of its ability to provide the requisite 5-year supply, based on the most recent evidence available at that time. However, the 5-year supply position in any district is rarely static. Inevitably the situation can change, and indeed may do so even within the space of a few months or weeks. In his final report, the LP Inspector explicitly acknowledges that the supply figure is 'a snapshot at a particular moment in time'¹⁰.
60. At the date of the Inspector's letter in December 2016, the most recent evidence that he had before him was the August 2016 Trajectory report. That evidence included a site-by-site breakdown of the numbers of dwelling completions that were expected over the relevant 5-year period. I have no doubt that, at that time, these numbers were regarded as achievable, and were accepted by the Inspector on that basis. But between the date of the August 2016 report and the close of the present appeal inquiry in March 2017, there passed a period of some 6 months or so. In the context of the present appeal

⁹ Doc 26, para 98

¹⁰ Doc 26, para 97

it is not unreasonable for the appellants to revisit the assumptions underlying the Trajectory in the light of this time lag.

61. At the inquiry, a number of large sites were identified where progress towards the start of development had not lived up to the expectations on which the August 2016 Trajectory was based. These sites include 'North of Thanet Way' (400 dwellings in total), 'South of Canterbury' (4,000), 'Sturry/Broad Oak' (1,000), Howe Barracks (500), Hillborough 'A' & 'C' (1,000), Hillborough 'B' (300), Strode Farm (800), Greenhill (300), Hersden (950), and Ridlands (310). In the Trajectory, these sites are variously projected to produce their first completions in either 2016/17, 2017/18, or 2018/19. By the Council's own admission, this programme was a challenging one, for many reasons.
62. From the evidence before me, it is clear that in all these cases, for the assumptions behind the Trajectory to be borne out would have required early, rapid progress through the remaining planning and pre-development stages. As at the close of the appeal inquiry in March 2017, that progress had not materialised. In the light of this lack of tangible progress, there are cogent reasons to be less confident now about the August 2016 Trajectory figures than at the time they were formulated. To my mind this lost period of 6-months casts some doubt over the continued reliability of the August 2016 Trajectory figures, and thus also over the Council's 5-year supply calculations for the appeal.
63. The Council argues that, at worst, the number of completions that would need to be deducted from the 5-year supply are only those that were projected for the first year of construction in each case. However, it is acknowledged that the maximum annual building rate on any site will not be reached before the second or subsequent years. Where there is a delay in starting construction, self-evidently the effect will normally be to push back the whole programme for that site; there is no evidence to suggest that the numbers lost at the start will be made up by faster building rates later in the programme. It follows therefore, for the purposes of the 5-year supply, that any completions that are lost from the calculation would effectively come from those that were expected in Year 5, as these will be pushed beyond the relevant 5-year period altogether. The Council therefore underestimates the scale of the potential impact of the loss of these 6 months.
64. In the case of the above group of sites, the total number of completions projected in Year 5 was just under 1,100 units. The effect of losing 6 months' worth of completions from the 5-year supply calculation could potentially amount to around half that figure, i.e over 500 units. If this figure were adopted as an adjustment to the calculation, it would more than cancel out the Council's small surplus. Even if a lower deduction were assumed, it seems to me that 6 months with little tangible progress must have some effect. Indeed, the loss of anything over about 250 units would leave the 5-year calculation either finely balanced or in deficit. On the evidence before me this is an outcome that cannot be ruled out.
65. However, to proceed on that basis would be to ignore a significant weakness in the evidence, which is that the August 2016 Trajectory is predicated on a base date of April 2015, and it therefore deals with a 5-year delivery period of 2015-2020. Two years of that period have now already gone, and the fact that those were two years of relatively low housing completions cannot help but skew the

outcome of the 5-year calculation. Clearly the purpose of a 5-year supply calculation is to assess the prospects of future delivery, rather than past performance. If the exercise were able to be carried out for a period that looked a full five years ahead rather than just three, then given the various new developments in the pipeline, it is difficult to disagree with the Council that that the picture would probably become more favourable. Undoubtedly it is the Council who must bear the responsibility for the lack of up-to-date information. But nonetheless, the shortcomings of the existing data have the effect of tempering my conclusions on the matter.

Conclusions on housing land issue

66. For the above reasons, the evidence before me is not fully conclusive. On the requirement side, I see no reason not to agree with the Council's figures. On the supply side, whatever the merits of the evidence put to the LP examination, I have some reservations as to whether that evidence can still be relied on. But my confidence in both parties' supply-side evidence is reduced anyway, due to the out-datedness of the information base. Consequently, the evidence on these matters is ultimately inconclusive. However, having regard to my conclusions on the other main issues, it is not necessary for me to come to a definitive conclusion here.
67. From the evidence before me it is clear that, if there is any surplus in the 5-year supply, then even on the Council's figures, that surplus is at best fairly marginal. In this situation, granting permission for the development now proposed would provide an element of extra flexibility, and help to compensate for any further slippage in any of the other planned sites.
68. Although the LP Inspector did not identify a need for the appeal site to be allocated for development, his report does not rule out the possible need for additional sites, including greenfield sites, if the District's housing requirement is to be met. The appeal development could therefore play a beneficial role in meeting the District's housing needs.

Other Matters

Foul and surface water drainage

69. Surface water run-off from the development is proposed to drain via a system of land drains, to a balancing pond on the site's northern boundary, from where it would be discharged to the existing network of off-site ditches. This strategy is agreed in principle with the Lead Local Flood Authority (LLFA). I see no reason to doubt the calculations undertaken as to the size of pond required. Nor do I doubt that the rate of discharge could be controlled so as not to exceed the existing greenfield rate, and to allow for exceptional storm events. In all these respects, the solution proposed would make use of well-proven technology, and is supported by clear technical evidence. A surface water drainage system along these lines could be secured by means of a suitable planning condition.
70. Foul sewage is proposed to be drained within the site to a new pumping station, and then by a new rising main, to connect to the existing public sewer system. The sewerage undertaker, Southern Water, has confirmed that at least two options are feasible. Depending on the option chosen, there could be a need for some sections of the existing network to be upgraded, but providing

those works were carried out, Southern Water appears to accept that the development could take place without detriment to the way the network operates currently. Again, I have no reason to doubt the technical evidence on these matters, and it appears that an acceptable foul drainage scheme could be secured by condition.

71. In the past Blean has been subject to numerous incidents of flooding, and I can fully sympathise with local residents' concerns over this. However, it appears that the cause of this is due to excess surface water infiltrating the foul sewer system during heavy rainfall. As described above, the system which is now proposed would be able to ensure that all run-off from the roads, buildings and paved areas would be carried away from the existing built up area, and thus away from the faulty sewage pipes. The potential volume of surface water that could continue to reach the foul system would thus be considerably reduced. It is not disputed that the volume of foul water generated by the development would be small in comparison. The development would therefore have the potential to reduce the frequency and severity of the existing flooding.
72. I saw on my site visit, that some of the ditches to the north are in poor condition, and indeed some appear to have been deliberately blocked up. I accept that if these sections of ditch were to remain in their present condition, there would be a risk that some of the surface water from the new pond could find its way back towards the village, potentially negating any benefits of the scheme. However, the experts on each side were agreed that legal rights are available, to both the developer and the LLFA, to procure the restoration of these ditches to proper working order. Despite the scepticism expressed by some residents, I can see no reason why these powers, backed up by the above condition relating to surface water, should not be effective in achieving a workable solution.
73. Subject to the conditions that I have mentioned, I find no conflict with Policy C37 of the adopted LP, or Policy CC13 of the draft LP or relevant advice in the NPPF relating to flood risk and drainage infrastructure.

Traffic and highway safety

74. I recognise the sincere concerns of residents regarding traffic and highway safety. Blean Common is part of the A290, a well-used main route between Canterbury and Whitstable. It carries moderate volumes of traffic, particularly in the peak hours. Although there is a 30 mph speed limit, a high proportion of vehicles exceed this. The footway on the east side is narrow, and for much of the west side it is non-existent. During the three years 2012-15, the village as a whole had a total of 26 recorded injury-accidents.
75. However, these features do not necessarily make the appeal site unsafe. The accidents occurred over a 6km-stretch, and most were well outside the main built-up area of the village. Only one was in the vicinity of the site, and this was classified as 'slight'. Whilst all accidents are to be regretted, the numbers here do not seem unusually high, and the locations do not suggest any specific problems relating to this particular site.
76. The details of the proposed new access have been subject to scrutiny by the Highway Authority, and subject to a transport assessment and safety audit. These studies were based on traffic counts and speed surveys, whose accuracy has not been challenged. Visibility splays of 2.4 x 46m and 2.4 x 52m

- respectively have been agreed, and there is no dispute that these can be achieved. The road width and kerb radii are also agreed. I see no reason to doubt that the proposed access would meet the relevant safety requirements.
77. Although the existing footway is narrow, it is just wide enough for wheelchairs, mobility scooters, and most buggies. A parent walking with a child would have to pause to let another person pass, but there is no shortage of places where this can happen. Along the appeal site frontage, it is proposed to widen the footway to 1.8m, and this would provide some improvement, including a benefit to existing users. For crossing the main road, there is an existing pedestrian refuge, which is reasonably well positioned for those wishing to reach the northbound bus stop. In all these respects, some care is needed. However, the Highway Authority has not objected, and I regard this as significant because that body has statutory responsibility for highway safety and related matters. On balance, although the narrowness of the footway is far from ideal, the evidence does not show the situation to be so unsafe as to warrant refusal on this ground.
78. I appreciate that, for many residents, the concern that is uppermost is simply that the development would add yet more traffic to a stretch of road which is far from perfect. But the same could be said of many other sites throughout the district. An increase of 13% in Blean's population would clearly not increase the traffic flows through the village by anything like the same percentage, because most are straight-through movements. Indeed the transport report indicates that in these terms the increase would not be significant. I acknowledge that the A290 is sometimes used for diversions, and that stationary buses or waiting passengers may present an extra hazard, but these do not alter my overall view.
79. I note the appeal decision relating to a proposed golf course in 1992, which was dismissed on grounds of highway safety. But in that case the reasoning turned on poor visibility for traffic emerging from Chapel Lane. In the present scheme there would not be any vehicular access from that direction.
80. I therefore conclude that the proposed development would not cause unacceptable harm in terms of traffic impact or highway safety. No relevant policies have been identified in the adopted or emerging LPs, but in view of this conclusion it seems unlikely that there could be any conflict with any such policies. In any event, I see no conflict with the relevant policies of the NPPF.

Accessibility to local facilities

81. Blean has a range of existing facilities within the village, including a primary school, a village hall, a doctors' surgery, a 'Londis' convenience shop with Post Office, a recreation ground with children's play area, the Parish Church and two pubs. This appears to me to be a reasonable range of facilities for day-to-day needs, as reflected in the village's classification as a rural service centre in the draft LP.
82. Although the primary school is located at the opposite end of the village, it is not beyond walking distance from the appeal site. The other facilities are clustered around the centre of the village, which is considerably closer.
83. For the reasons already given, I do not regard the existing footways as excessively dangerous. But in any event, the Section 106 undertaking provides

for a financial contribution to enable the upgrading the existing footpath link to Badgers Close, and a further contribution to upgrading other pedestrian and cycle routes in the vicinity. With the benefit of these works, I consider that the appeal site would have reasonably good accessibility to all local facilities.

84. As regards other facilities located beyond the village, it is generally agreed that Blean has a very good bus service to the centre of Canterbury. There are bus stops very close to the appeal site, and the undertaking provides for their upgrading. The Travel Plan also provides for introductory free passes for new residents. Although the buses that serve Blean may not provide direct access to all areas of the town, the town centre has a range of connecting services.
85. Overall, I am satisfied that the appeal site is well located in terms of its accessibility.

Ecology and biodiversity

86. The Blean Complex, part of which is adjacent to the appeal site, is designated as a Special Area of Conservation (SAC), and four other internationally designated sites are within 10km. The latter include SACs, Ramsar sites and Special Protection Areas (SPAs). Two other nationally designated Sites of Special Scientific Interest (SSSIs) are within 2km. I agree that there is a need to ensure that these sites are protected, and any impact adequately mitigated.
87. However, the appeal site itself is not included within any of these designations. The site is predominantly just arable land. Although it has hedgerows and scrub on some of its boundaries, according to the submitted ecological report, these areas are of low botanical diversity and negligible ecological value. There is no evidence that disputes this assessment.
88. Development in close proximity to the adjoining woodland would have the potential to increase pressure on it. But the illustrative plan shows that the site could be laid out to incorporate a buffer zone for protection, and other on-site open space to provide alternative recreation opportunities. To my mind a variable width of 15-25m would ensure adequate protection for the woodland, whilst also giving a natural appearance. The effects on the more distant ecological sites would be mitigated by the proposed contributions to two Strategic Access Management and Monitoring (SAMM) schemes, in accordance with Policy S7 of the draft LP. On this basis, Natural England does not object.
89. I note that the appeal site is included within the Blean Biodiversity Opportunity Area (BOA), which is designated by the Kent Nature Partnership. However, the BOA Statement states that the designation should not be seen as a planning constraint. In my view this must be right, because the BOAs are not part of the development plan, nor are they supplementary planning documents, and therefore they have not been through the same formal processes of public consultation and scrutiny. With regard to the BOA's stated objectives, it does not seem to me that the development now proposed would fragment any existing habitats. There is also no evidence that, if the site were not developed for housing, it would realistically be likely to be turned over to woodland or habitat creation.
90. I therefore conclude that the proposed development would not be likely to have any unacceptable effects on ecology or biodiversity. In this respect it would accord with draft Policy S7, and with the relevant provisions of the NPPF.

Compliance with Policy H9 criteria

91. Earlier in this decision, I found that the only adopted or emerging local plan policy relevant to the principle of development on the appeal site is Policy H9 of the adopted LP. That policy specifies four matters that are to be considered.
92. Criterion (a) relates to the effects on social and physical infrastructure in the village and the surrounding area. The original S.106 undertaking, dated 1 March 2017, provides for contributions to mitigate the impacts on local infrastructure, including education, libraries, recreation and play areas. The Council has confirmed that these overcome RR5. I see no reason to disagree.
93. Criterion (b) relates to the effects on the character, appearance and historic environment of the village. Matters of character and appearance generally have been dealt with above. Badgers Farmhouse is a listed building, but there is little intervisibility between it and the appeal site. No objection has been raised by the Council or English Heritage on grounds relating to the building's setting. I consider that its setting would be preserved.
94. Criterion (c) relates to LP design and environmental objectives. In this case however, as explained above, design is not before me, and for the reasons already given, no harm would be caused to any environmental objectives.
95. The final requirement is for a development brief, but in the context of this appeal, it seems to me that this is satisfied by the illustrative Framework Plan and the other material submitted with the application, which I have taken into account in coming to my decision.
96. I therefore find no conflict with Policy H9.

Affordable housing

97. The Council contends that the development as currently proposed would fail to secure the required level of affordable housing, because no such provision is contained in the undertaking dated 1 March 2017. Accordingly, it was confirmed at the inquiry that RR6 is maintained.
98. However the subsequent undertaking, dated 27 June 2017, provides for 30% affordable housing, in accordance with Policy HD2 of the draft LP, and there is no dispute that this level of provision is acceptable. Although the Council has declined to comment on this second undertaking, I can see no reason why it would not be effective in securing the affordable housing required by the Council. I note that it generally follows the format of an agreement entered into by the Council in respect of another development¹¹.
99. There is no evidence to suggest that the new undertaking would not comply with the requirements of the Community Infrastructure Levy Regulations 2010 (the CIL Regulations). In view of draft Policy HD2, the affordable housing provision is necessary to make the development acceptable in planning terms. This provision is also directly related to the development and reasonable in scale and kind. Consequently, notwithstanding clause 3.2.2 of the undertaking, I find no reason to disapply that requirement.
100. I conclude that the proposed development would make adequate provision for affordable housing in accordance with draft Policy H2.

¹¹ Doc. 23, Appendix B

The financial contributions

101. For the reasons given elsewhere in this decision, and in the light of the evidence presented, I am satisfied that the obligations contained in the Section 106 undertaking of 1 March 2017 are necessary to make the development acceptable, and are directly related to it, and are reasonable in scale and kind. I am also satisfied that neither the Council nor the County Council has entered into more than five other agreements, or accepted undertakings, for funding towards the same relevant infrastructure. The undertaking therefore complies with Regulations 122 and 123 of the CIL Regulations.
102. Although all of the proposed financial contributions are properly required, to mitigate the development's own impacts, some would also have benefits for existing residents. In particular these include the contributions towards widening the footway along the site frontage, improving other local public footpaths, pedestrian and cycle facilities, the upgrading of bus stops, and also to improvements to the village recreation ground and play area, and the provision of public open space within the site itself. In the overall planning balance, these public benefits weigh in favour of the appeal.

Economic benefits of the development

103. The appellants contend that the development would generate £8.8m worth of direct investment in the construction industry, with a multiplier ratio of 2.09 generating more than double that amount in terms of additional indirect spending. It is also estimated that the development would directly support 78 full-time equivalent jobs over the length of the construction period, with the potential for double that number of indirect jobs. After completion, it is suggested that the development would bring to the local economy an annual household expenditure of around £2.4m.
104. The Council acknowledges these as benefits, and does not challenge the figures, but sees them as modest in scale, and argues that they should carry limited weight. To my mind this seems a somewhat grudging response. The NPPF makes it clear that building a strong, responsive and competitive economy is a key element of sustainable development, and that house-building is to be seen as an important contributor to this aim. On this basis, I see no reason not to give significant weight to the economic benefits.
105. I note the Council's contention that similar benefits would accrue from any other development. But that is not relevant here, because the development now proposed is not being considered as an alternative to other sites, but in addition.
106. I note the appellants' further submissions regarding the benefits that would accrue to the Council through the New Homes Bonus. However, this would be achieved through the redistribution of funds from elsewhere within the public purse. I therefore give this relatively little weight. However, this does not change my view that the overall economic benefits arising from the development would be significant.

Conditions

107. I have considered the conditions discussed at the inquiry against the advice in paragraph 206 of the NPPF. I have also had regard for the desirability of

achieving clarity and conciseness, and of avoiding repetition and over-prescription. For these reasons I have considerably reduced the number of conditions, and those that remain have been simplified and re-ordered. Those that I intend to impose are set out in the attached Schedule.

Conditions to be imposed

108. The reasons for imposing conditions relating to surface and foul water drainage are fully explained earlier in this decision. With regard to the latter I note the Appellants' concerns regarding the possible role of the sewerage undertaker in the approval of the further details required by condition. But the approval required is that of the local planning authority, who are not bound by the views of any other body. In the event of any disagreement, a further appeal process is available.
109. A requirement for further archaeological investigations is justified by the need to ensure that any important remains are properly dealt with. A further contamination study is reasonable, in view of the recommendations made in the submitted Phase 1 study, and the need to safeguard the health of future residents and those working on the site. Conditions relating to pre-development ecological mitigation and tree and hedgerow protection are justified by the need to protect the area's biodiversity and visual amenity. A noise mitigation scheme is needed to ensure proper living conditions within the development. The provision of the proposed access and visibility splays in accordance with the approved plans is necessary to ensure highway safety. All of these requirements need to be carried out prior to any other development, to ensure that decisions regarding the development are taken in an orderly sequence.
110. Conditions relating to the provision of roads and footways within the site are necessary to ensure an acceptable quality of residential environment for future occupiers. A requirement for the upgrading of the link to Badgers Close is needed, alongside the obligations in the legal undertaking relating to off-site footpaths, to secure a choice of routes to local facilities, and to help reduce vehicle emissions.
111. Conditions relating to the provision of open space and landscaping are necessary to ensure a high quality of development, and because the quantity of open space to be provided is not specified in the undertaking. A requirement for a buffer zone is justified to protect the biodiversity of the ancient woodland. The provision of bird boxes is needed to provide ecological enhancement in accordance with the NPPF. Controls over lighting are justified by the need to protect the habitat of bats in the adjacent woodland, and to minimise light pollution.
112. A condition relating to the Travel Plan is needed to ensure that the Plan's recommendations are brought into effect.

Conditions not imposed

113. On the other hand, there is no need for conditions relating to car parking, or storage for cycles and household refuse, because the provision of these facilities can be adequately dealt with at the reserved matters stage. I also see no need for a condition limiting the number of dwellings, since the

maximum number of 85 is already stated in the application. In this respect, the present appeal is clearly distinguishable from the *'I'm Your Man'* case.

114. The suggested construction management plan does not meet the NPPF's tests, because the matters which it would cover are either unrelated to planning, or would duplicate other controls, or are already dealt with adequately in the other conditions to be imposed. Similarly, the suggested conditions relating to sewer protection works and infiltration are not necessary, given the powers available under other legislation and the other drainage-related conditions that I intend to impose. The gradient of the access road can be dealt with through the procedures for highway adoption.
115. A landscape and ecological management plan does not need to be secured by condition, because a similar provision is already contained in the legal undertaking. A requirement for an air quality management plan would serve little purpose, since the matters that the Council would wish to secure through it, including the proposed on- and off-site pedestrian and cycle measures, are already secured through other conditions or through the undertaking.
116. The proposed condition requiring details of levels is unnecessary given the nature of the site and its relationship to adjoining properties. In any event, where specific information is needed, it can be sought as part of any reserved matters submission. Similarly the Council's proposed condition 6, listing the types of information to be covered in reserved matters applications, is unjustifiable, being both overly prescriptive and duplicatory of other conditions.
117. A condition requiring adherence to either the Framework Plan or the Design and Access Statement (DAS) would not meet the relevant tests, given that all matters other than access are reserved. There is no evidence that the form of development shown is the only one that would be acceptable, and indeed it appears that some items, such as the play area and the size of the balancing pond, no longer represent either party's preferred scheme. A requirement to accord with the DAS would in any event be too vague to be meaningful. The key elements such as the pedestrian/cycle routes, the buffer zone, and the amount of open space can be adequately secured through the other, redrafted conditions that I intend to impose.
118. Finally, a condition relating to affordable housing is unnecessary in the light of the undertaking entered into on 27 June 2017.

Conclusions

119. For the reasons set out in this decision, I find that there is only one Development Plan policy that is directly relevant to the principle of development on the appeal site, and that is adopted Policy H9. However, the development now proposed does not conflict with that policy. On the key issue of development in the countryside, adjoining larger villages such as Blean, the Adopted LP is otherwise silent or absent. So too is the emerging Draft LP.
120. The development now proposed would provide a significant boost to the local housing supply, in an area where some extra flexibility in the land supply would be valuable. The dwellings would be provided in a sustainable village

location, with a good level of local service provision, and good public transport. The development would be in scale with the existing settlement, and would be well contained by existing landscape features. The scheme would provide some significant improvements to the local footpath/cycleway network, the upgrading of two existing bus stops, enhancements to the village recreation ground and play area, and some on-site public open space. It would also provide around 25 units of affordable housing, and a significant boost to the local economy. Together, these benefits would be substantial.

121. On the other side of the planning balance, the development would have no significant adverse consequences. The harm to the landscape, and to the area's character and appearance, would be negligible. The issues with foul and surface water drainage, in so far as they are relevant to the development, are capable of being dealt with through conditions. There is no evidence of any unacceptable risks to highway safety. Any potential impact on nearby sites of ecological importance would be mitigated by the proposed SAMM contributions, and localised impacts can be avoided through conditions and detailed site planning.
122. The development would therefore make a positive contribution to the locality in terms of its social and economic impacts, while its overall environmental impact would be neutral.
123. Having regard to NPPF paragraph 14, no material adverse impacts would arise. It follows that the likely adverse impacts would not significantly or demonstrably outweigh the development's benefits; indeed the reverse is true. No specific NPPF policies indicate that permission should be restricted. The presumption in favour of sustainable development therefore applies, and this is a consideration that weighs heavily in support of the appeal.
124. I have considered all the matters raised, but none points to any other conclusion than that permission should be granted. The appeal is therefore allowed.

John Felgate

INSPECTOR

SCHEDULE OF CONDITIONS

The planning permission to which this decision relates is granted 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 takes place and the development shall be carried out in accordance with the details thus approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall be commenced not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) No development shall be commenced until an archaeological field evaluation has taken place, in accordance with a scheme of archaeological investigation to be submitted to the local planning authority and approved in writing. If the field evaluation shall indicate a need for any further investigations, or safeguarding measures for important remains, those works shall be carried out in accordance with a timetable, which shall be agreed with the local planning authority in writing prior to the start of development or any other works.
- 5) No development shall be commenced until a Phase 2 contamination study has been carried out, in accordance with the recommendations set out in Section 6 of the Ground Conditions Desk Study by Hydrock Consultants, dated November 2015. Any such contamination found to be present shall be removed or rendered harmless, in accordance with details and a timetable to be submitted to the local planning authority and approved in writing. In addition:
 - i) If, during the course of construction, any contamination is found which has not been identified previously, no further work shall take place until that contamination has been removed or rendered harmless, in accordance with additional measures to be submitted to and approved in writing by the local planning authority; and
 - ii) If any contamination has been found to be present at any stage, either before or during construction, no dwelling shall be occupied until a verification report has been submitted to and approved by the local planning authority, showing that all such contamination has been treated, and the site rendered safe for occupation, in accordance with the contamination study and any further measures subsequently agreed.
- 6) No development shall commence until a detailed surface water drainage strategy has been submitted to the local planning authority and approved in writing. The detailed strategy shall be based on the outline proposals in Section 6 of the 'Flood Risk Assessment and Outline Drainage Strategy' by LK Consult Ltd, dated November 2015. The detailed strategy shall also contain detailed proposals for the unblocking of the existing network of drainage ditches to the north of the site. No dwelling shall be occupied until the surface water infrastructure serving that dwelling has been installed and

- brought into operation, and all relevant ditches have been restored to proper working order.
- 7) No development shall commence until a detailed foul water drainage strategy has been submitted to the local planning authority and approved in writing. No dwelling shall be occupied until the foul sewerage infrastructure serving that dwelling has been installed and brought into operation.
 - 8) No development shall take place until a tree and hedgerow protection scheme has been submitted to the local planning authority and approved in writing. The scheme shall contain details of measures for the retention of all of the existing trees and hedgerows on and adjacent to the site, and for their protection during construction, except those identified for removal on the Tree Retention Plan contained in the Arboricultural Assessment report by FPCR, dated November 2015. In addition:
 - i) The measures to be contained in the tree and hedgerow protection scheme shall include protective fencing. All such fencing shall be erected in accordance with the approved details before any equipment, machinery or materials are brought on to the site, and shall remain in place until otherwise agreed by the local planning authority.
 - ii) Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made.
 - iii) No retained tree or hedgerow shall be cut down, uprooted or destroyed, nor be topped, lopped or pruned other than with the written consent of the local planning authority. If any retained tree is removed, uprooted or destroyed during construction, or dies within 2 years after the completion of development, replacement planting shall be carried out in accordance with details to be approved by the local planning authority.
 - 9) No development shall be commenced until a detailed scheme for protecting future occupiers from external noise has been submitted to the local planning authority and approved in writing. The scheme shall incorporate the measures recommended in Section 5 of the Noise Assessment Report by Wardell Armstrong, dated November 2015, and shall demonstrate that the target levels for bedrooms and living rooms can be met in accordance with BS8233. No dwelling shall be occupied until the agreed measures relevant to that dwelling have been implemented.
 - 10) No development shall be commenced until a scheme of ecological mitigation, to be carried out before and during construction, has been submitted to the local planning authority and approved in writing. The scheme shall specify:
 - i) the measures to be taken if any site clearance operations are to be carried out during the bird nesting season;
 - ii) the measures to be taken if any reptiles are discovered during construction;
 - iii) the arrangements for the supervision of works by a qualified ecologist;
 - iv) and the measures to be taken for the eradication or control of 'variegated yellow archangel' (*Lamium Galeobdolon*).
 - 11) No other development shall be commenced until the proposed site access has been constructed, at least to base course level, and visibility splays of 2.4 x

- 52m (South) and 2.4 x 46m (North) have been created, all in accordance with the submitted plan No 1463/01, Revision B. Thereafter, the visibility splays shall be retained and kept clear of any obstruction above a height of 600mm.
- 12) The layout details to be submitted for approval under Condition 1 shall include details of the internal estate roads and footways to be provided within the site. No dwelling shall be occupied until the roads and footways serving that dwelling have been provided, at least to base course, in accordance with the details thus approved.
 - 13) The layout details to be submitted for approval under Condition 1 shall also include provision for a system of footpaths and cycleways around the edges of the site, set within 'green infrastructure' corridors, and pedestrian/cycle links to the external network, as shown for illustrative purposes on the Development Framework Plan, No 6581-L-02-F. These footpaths and cycleways shall be provided in accordance with the details thus approved, and in accordance with a timetable to be agreed with the local planning authority in writing.
 - 14) No dwelling shall be occupied until Public Footpath CB18, connecting the site to Badgers Close, has been hard-surfaced in accordance with details to be submitted to the local planning authority and approved in writing.
 - 15) The layout details to be submitted for approval under Condition 1 shall also include provision for a planted buffer zone on the site's northern boundary, to protect the adjacent ancient woodland. The buffer zone shall have an average width of 15-25m, and shall be located generally as shown on the Development Framework Plan, No 6581-L-02-F. The zone shall be planted and brought into use in accordance with detailed proposals and a timetable to be submitted to the local planning authority and approved in writing.
 - 16) The layout details to be submitted for approval under Condition 1 shall also include provision for the open space referred to in the legal undertaking attached to this planning permission. The open space shall include at least 1.24 ha of informal amenity space for use by the general public. The open space shall be laid out and managed in accordance with the undertaking.
 - 17) The details of landscaping to be submitted under Condition 1 shall include a phased timetable for the implementation of the landscaping works, and these works shall be carried out in accordance with the timetable thus approved. Within a period of 5 years from the date of planting, any trees, shrubs or plants forming part of the landscaping scheme which die, or become seriously diseased or damaged, or are removed or lost for any other reason, shall be replaced by others of the same type and species, during the next available planting season.
 - 18) Provision shall be made within the development for the provision of bird boxes, in accordance with details to be submitted to the local planning authority and approved in writing. The details shall include details of the numbers, locations, types, and timing of provision. The bird boxes shall be installed in accordance with the approved details, and thereafter shall be kept in position for so long as they remain capable of being used.
 - 19) No external lighting shall be installed in any of the public areas of the development, including roads, footways, open spaces and the buffer zone, other than in accordance with a lighting scheme to be submitted to the local

planning authority and approved in writing. The submitted details shall information as to the possible effects on bats.

- 20) No dwelling shall be occupied until the Travel Plan by Ashley Helme Associates, dated November 2015, has been brought into effect. Thereafter, the recommendations set out in Section 10 of the Travel Plan shall be implemented and adhered to.

Richborough Estates

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Ms Isabella Tafur, of Counsel She called:	Instructed by Canterbury City Council
Martin Taylor BSc MSc MRTPI	Nathaniel Lichfield & Ptnrs
Richard Thompson LLB Pdi(Law) MA	Planning Obligations Officer
Jon Etchells MA BPhil CMLI	Landscape Consultant
Ms Ceri Williams	Principal Planning Officer (Development Management)

FOR THE APPELLANT:

Mr John Barrett, of Counsel He called:	Instructed by Ms Richardson
Benjamin Jackson BEng MSc MCIHT	Ashley Helme Associates Ltd
Alex Day	Utility Law Solutions
Matthew Travis BSc(Hons) MSc C.WEM M.CIWEM CSci CEnv	Enzygo Ltd
Gary Holliday MA BPhil CMLI	FPCR Environment & Design Ltd
Ms Laura Wilkinson BA MSc MRTPI (substituting for Mr Desmond Dunlop)	D2 Planning
Ms Diana Richardson BA(Hons) MA MRTPI	Gladman Developments Ltd

FOR BLEAN PARISH COUNCIL:

Miss Barbara Flack	Chair
Geoffrey Fox CEng MICE	Local resident
Timothy Bentley FCCA	Local resident

OTHER INTERESTED PERSONS:

Cllr Nick Eden-Green	Canterbury City Council (member for Wincheap Ward)
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DOCUMENTS TABLED AT THE INQUIRY AND AFTERWARDS

- 1 Opening statement for the appellants
- 2 Opening statement for the Council
- 3 Laura Wilkinson – qualifications and experience
- 4 SoS appeal decision – Lichfield (*APP/K3415/W/15/3024063*)
- 5 *Alwyn de Souza v SoS and Test Valley BC; [2015]EWHC 2245 (Admin)*
- 6 *Cawrey Ltd v SoS and Hinckley & Bosworth BC; [2016] EWHC 1198 (Admin)*
- 7 Canterbury Local Plan Examination - Council's statement on affordable housing, July 2015
- 8 Heads of terms relating to the Sturry Relief Road
- 9 Plan – proposed Sturry Link Road
- 10 Sturry Relief Road – build-out rates and S.106 contributions
- 11 Statement of apportionment: Herne and Sturry Relief Roads
- 12 Thanet Way – air quality damage costs assessment
- 13 Strode Farm – SoS' recovery direction, dated 27 June 2016
- 14 Email correspondence with Southern Water
- 15 Closing statement – Blean Parish Council
- 16 Closing submissions on behalf of Canterbury City Council
- 17 Closing submissions on behalf of Gladman Developments
- 18 Letters authorising manuscript amendment to S.106 undertaking
- 19 Executed and amended S.106 undertaking, dated 1 March 2017
- 20 Appeal decision re Wrington Lane, Congresbury (*APP/D0121/W/16/3151600*)
- 21 Letter from Canterbury City Council, dated 26 June 2017
- 22 Letter from Blean Parish Council, received 27 June 2017
- 23 Letter from Gladman Developments Ltd, dated 27 June 2017 (with attached Appendices A, B and C)
- 24 Unilateral Undertaking dated 27 June 2017
- 25 Power of Attorney dated 6 September 2016
- 26 Inspector's report on the Examination into the Canterbury District Local Plan, dated 15 June 2017
- 27 Email from Gladman Developments dated 4 July 2017, at 11.27
- 28 Email from Blean Parish Council, dated 4 July 2017
- 29 Email from Gladman Developments dated 4 July 2017, at 13.21
- 30 Email from Canterbury City Council, dated 10 July 2017